ROSEVILLE

REQUEST FOR COUNCIL ACTION

Date: 12/21/09
Item No.: 12.c

Department Approval | City Manager Approval

Item Description: Final Consideration on Certifying Unpaid Utility and Other Charges to the Property Tax Rolls

BACKGROUND

On November 23, 2009 the City Council certified unpaid utility and other charges for collection on the 2010 property tax rolls. During the discussion, the Council heard from two property owners who indicated that they had recently purchased the property and that the delinquent charges were incurred by the previous property owner. Those property owners subsequently asked if the Council would waive the assessment considering the circumstances. The properties in question included:

- 841 County Road B2
- 2011 Brenner Avenue

In response to this request, the Council directed the City Attorney to determine whether they had the discretion to waive assessments for these particular instances. The City Attorney's Office has completed their review and has issued a legal opinion on the matter. A copy of their opinion is included in *Attachment A*.

As described in the Attorney's opinion, because of the way the City Code is written, the City Council does NOT have the authority to waive the assessment for any circumstances. Based on this conclusion, all proposed assessments should remain in place.

POLICY OBJECTIVE

Certifying delinquent charges is consistent with City Code.

FINANCIAL IMPACTS

Not applicable.

STAFF RECOMMENDATION

Staff recommends the Council certify all unpaid utility and other charges for collection on the 2010 property taxes.

REQUESTED COUNCIL ACTION

Motion adopting a secondary resolution approving the certification of unpaid utility and other charges to the County Auditor for collection on the 2010 property taxes for the properties noted in the Staff Report.

Prepared by: Chris Miller, Finance Director
Attachments: A: Resolution adopting delinquent utilities and other charges
B: City Attorney opinion, dated December 9, 2009
C: E-Mail from Mr. Mark Hadler

EXTRACT OF MINUTES OF MEETING OF THE CITY COUNCIL OF THE CITY OF ROSEVILLE

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Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota was duly held on the 21st day of December, 2009 at 6:00 p.m.

The following members were present: and the following were absent:

Member introduced the following resolution and moved its adoption:

RESOLUTION _______

RESOLUTION DIRECTING THE COUNTY AUDITOR TO LEVY UNPAID WATER, SEWER AND OTHER CITY CHARGES FOR PAYABLE 2010 or BEYOND

WHEREAS, the City Code of the City of Roseville, Sections 506, 801, 802, and 906 provides that the City may certify to the County Auditor the amounts of unpaid sewer, water, and other charges to be entered as part of the tax levy on said premises:

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Roseville, Minnesota, as follows:

1. Exhibit "A" attached hereto and made a part thereof by reference is a list of parcels of real property lying within the City limits which are served by the City of Roseville, and on which there are unpaid city water, sewer, and other charges as shown on the attached Exhibit "A".

2. The Council hereby certifies said list and requests the Ramsey County Auditor to include in the real estate taxes due the amount set forth in Schedule A.

The motion for the adoption of the foregoing resolution was duly seconded by member and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

WHEREUPON, said resolution was declared duly passed and adopted.

State of Minnesota)
) SS
County of Ramsey)

I, undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the 21st day of December, 2009 with the original thereof on file in my office.

WITNESS MY HAND officially as such Manager this 21st day of December, 2009.

____

William J. Malinen
City Manager

Seal

Exhibit A

Lot Address	PIN #	Amount
841 County Road B2	112923130031	$ 50.79
2011 Brenner	042923220037	$ 33.43

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Christian R. Shafer
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RRM
Ratwik, Roszak & Maloney, P.A.

December 9, 2009

Mr. Christopher K. Miller
Finance Director
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113-1899

RE: Assessment Waiver Question
Our File No. 4002(1)-0001

Dear Mr. Miller:

At a recent Council meeting, the Council asked whether the City Council has the authority to waive assessments levied pursuant to City Code Sections 801.16(D) and 802.12(E). The short answer is no, the City Council does not have such authority.

Pursuant to Section 801.16(D), "[a]ny amount due for water charges in excess of 90 days past due *shall* be certified to the County Auditor for collection with real estate taxes." Similarly, Section 802.12(E) requires that "[a]ny amount due for sewer charges…in excess of 90 days past due *shall* be certified to the County Auditor for collection with real estate taxes."

The word "shall" is mandatory. *See* Minn. Stat. § 645.44, subd. 16. Therefore, any sewer or water charges that are more than 90 days overdue must be certified to the County Auditor for collection as an assessment. The City Code does not give the Council the choice.

Please feel free to contact us with any questions or concerns.

Very truly yours,

Scott T. Anderson
Christian R. Shafer

STA/crs

RRM: 137728/crs

Chris Miller

From:
Sent: Monday, December 14, 2009 8:40 PM
To: Chris Miller
Subject: utility assessment

Chris, I am writing to express my frustration with the manner in which the city handled a delinquent water bill for the property my wife and I own at 2011 Brenner Ave in Roseville. We purchased this home on March 11th, 2008. At the time of closing $334.10 was directed towards the outstanding water bill for the property and an additional $110 was held in escrow for the payment of the final water bill. After we moved in we established an account with the city and have paid every water bill we have received. On October 9th, 2009 we received notice that we owe $33.43 from a deleted account for this property. This was 20 months after the final water bill should have been prepared for the previous owner/occupant. I am unsure if the city ever attempted to collect this bill. I am certain we never received a bill at this location. If we had received a bill, the money to pay it would have been available in the escrow account. Because the city failed to act on this for this length of time we have no recourse to pass this final bill on to the proper party. I attended the city council meeting on November 23rd, 2009 to express my desire to have this delinquent amount waived because it was for utility service prior to my owning the property and because of the city's delay in informing me of the delinquent amount. I was informed in a letter dated December 11th, 2009 that the city council has no ability to waive this assessment because of the way the city code is written. I feel this matter was handled poorly by the city and I now bear the cost. I understand it is only $33.43 but I do not like to see the city handle situations in this manner. I will be out of town during the next city council meeting. Please pass this information along to the council members.

Thank you,

Mark Hadler