



CITY COUNCIL AGENDA REPORT

MEETING DATE: JULY 19, 2011

ITEM NUMBER:

SUBJECT: APPROVE CERTIFICATION OF SPECIAL ASSESSMENTS FOR DELINQUENT CIVIL FINES FOR MUNICIPAL CODE VIOLATIONS

DATE: JULY 1, 2011

FROM: FINANCE DEPARTMENT, OPERATIONS DIVISION

PRESENTATION BY: COLLEEN O'DONOGHUE, ASSISTANT FINANCE DIRECTOR

FOR FURTHER INFORMATION CONTACT: COLLEEN O'DONOGHUE, ASSISTANT FINANCE DIRECTOR, (714)754-5219

RECOMMENDED ACTION:

- 1) Hold Public Hearing
- 2) Adopt Resolution No.____ entitled "A Resolution of the City Council of the City of Costa Mesa certifying Special Assessments for Collection of Delinquent Civil Citations for Municipal Code Violations."

BACKGROUND:

Pursuant to State law, certain delinquent fines, interest, and penalties may be collected as part of nuisance abatement procedures authorized by Government Code section 38773.5. These procedures authorize municipalities to levy and collect delinquent Civil Citation fines plus interest and penalties as a Special Assessment lien against the real property of those so assessed.

Staff has made repeated attempts without success to collect the Civil Citation fines due from the property owners listed in Attachment 1 entitled "2011 Civil Citation Special Assessment List". There are a total of 65 delinquent civil citations that are recommended to be assessed against 31 properties. The total amount now delinquent equals \$32,000.

Each property owner was notified in writing of their rights to a hearing pursuant to Municipal Code Section 1-45 through Section 1-47 when the citations were initially issued. Also, each property owner has been advised in writing by certified mail of this hearing and further, that their right to an administrative hearing and judicial review of the citation issued against them has now expired.

The purpose of the public hearing is to consider a resolution to certify the Special Assessments and authorize recording such assessments against the respective properties as liens. This action will also authorize the Tax Collector for the County of Orange to place the assessments on the tax roll and proceed to collect the assessments as property tax liens against their properties. Should the assessments be added to the tax roll as liens, penalties and interest will continue to accrue until paid at the maximum rate allowed by state law.

Those property owners who so choose may appear before City Council at this public hearing and contest the amount and/or validity of any lien or assessment for a civil fine.

However, pursuant to Municipal Code Section 1-48(4), such contests shall be limited to the issue of the amount and/or validity of the lien or assessment (whether the civil citation can legally be added to the tax roll as a special assessment) and may not consider whether the underlying Code violation occurred. All administrative hearings and rights of appeal have been exhausted for those parties listed in Attachment 1.

ANALYSIS:

Pursuant to State law, the City may choose to collect delinquent fines, interest, and penalties as special assessments against the real property involved. The assessments are limited to property related violations, wherein the fines exceed \$250 cumulatively and are at least sixty days past due. In addition, for those proposed Special Assessments, all administrative hearing or appeal rights of the cited persons must have been exhausted.

For each of the Civil Citations listed in Attachment 1, the fines plus interest and penalties have not been paid. The total amount now delinquent equals \$32,000. Staff has made repeated attempts to collect the fines without success.

If the resolution is approved, these fine amounts will be levied as Special Assessments against the properties as listed. Once certified, the fines will be reported to the Orange County Tax Assessor for inclusion on the property tax bills as Special Assessments.

A Public Hearing is required prior to adoption of the resolution certifying the Special Assessments to the Orange County Tax Assessor for inclusion on the Tax Roll. Each of the property owners listed in Attachment 1 have received certified letters notifying them of the proposed Special Assessment against their property for delinquent Civil Citations and the date and time of the public hearing.

Those property owners who so choose may appear before City Council at this public hearing and contest the amount and/or validity of any lien or assessment for a civil fine.

However, pursuant to Municipal Code Section 1-48(4), such contests shall be limited to the issue of the amount and/or validity of the lien or assessment (whether the civil citation can legally be added to the tax roll as a special assessment) and may not consider whether the underlying Code violation occurred.

Also, the legal notice advertising the public hearing which is required pursuant to the State Code has been published in the Daily Pilot.

ALTERNATIVES CONSIDERED

Council may choose to reject the resolution and direct staff to proceed to collect delinquent civil citations through the collection agency currently used by the City. However, this would severely reduce the maximum amount that could be collected by the City. No further alternatives were considered.

FISCAL REVIEW

By certifying the Special Assessments to the Orange County Tax Assessor for inclusion on the Property Tax Roll, the City will collect approximately 75% of the total amount due of \$32,000.

LEGAL REVIEW

The City Attorney has reviewed and approved the attached resolution as to form.

CONCLUSION:

By adopting the attached resolution, the City will be able to collect approximately 75% of the delinquent receivables for Civil Citations less the County's Property Tax Administrative Fee. Therefore, adoption of the attached resolution certifying the Special Assessments to the Orange County Tax Assessor for inclusion on the Property Tax Roll is recommended.

COLLEEN O'DONOGHUE
Assistant Finance Director

THOMAS DUARTE
City Attorney

Attachment 1: [2011 Civil Citation Special Assessment List](#)

Attachment 2: [Resolution Certifying Special Assessments for Collecting Delinquent Fines](#)