

Meeting Date: 09/22/09

Agenda Item 15

REQUESTED COMMISSION ACTION:

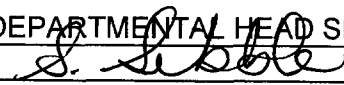
Consent Ordinance Resolution Consideration/Discussion Workshop

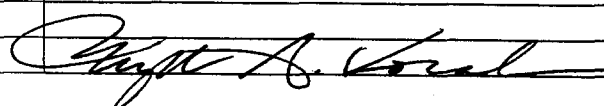
SHORT TITLE An ordinance of the City Commission of the City of Pompano Beach amending Chapter 32, "Departments," of the Pompano Beach Code of Ordinances by amending Section 32.36, "Service Fees for Collection," to increase service fees imposed by the City whenever delinquent accounts are referred for collection; Providing for severability; Providing an effective date.

Summary of Purpose and Why:

It is the intention of City staff to refer various delinquent accounts for collections. Florida Statute allows for the imposition of collection fees to the debtor(s) not to exceed 40%, when accounts are referred to a collection agent. The revision to this section of the City Ordinance will allow the City to operate the collection program in accordance with applicable State regulations.

- (1) Origin of request for this action: Finance Department
- (2) Primary staff contact: Suzette Sibble, Finance Director 954 786-4680
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Finance	8/26/09	Approve	
City Attorney	8/26/09	Approve	Memo #2009-1917

<input type="checkbox"/>	Advisory Board	
<input type="checkbox"/>		
<input type="checkbox"/>		
<input checked="" type="checkbox"/>	City Manager <u>-Interim</u>	

ACTION TAKEN BY COMMISSION:

<u>Ordinance</u>	<u>Resolution</u>	<u>Consideration</u>
Workshop		
1 st Reading <u>09/08/09</u>	1 st Reading <u> </u>	Results: <u> </u>
APPROVED		Results: <u> </u>
2 nd Reading <u>09/22/09</u>		



**FINANCE DEPARTMENT
MEMORANDUM 09-381**

Date: September 1, 2009
To: Mayor and City Commission
Via: Phyllis Korab, Interim City Manager
From: Suzette Sibble, Finance Director

A handwritten signature in black ink, appearing to be "SS", is written over the name "Suzette Sibble" in the "From:" line.

Re: Revision of City Ordinance Regarding Assessment of Collection Fees

If you will recall, in May 2009 the Commission approved a contract with Penn Credit Corporation (Penn) to serve as a collection agent (non-litigation services) on the City's behalf to assist with the collection of various delinquent accounts (utility bills, unsafe structure, nuisance abatement etc.). At that point in time it was contractually agreed that Penn would "add on" a seventeen percent (17%) collection fee to the amount of the debt placed for collection and in effect recover its collection fee directly from the debtor. Based on due diligence procedures, it was determined that a 17% collection fee was reasonable and was actually at the low end of the scale, when compared to other collection agencies in the industry.

I mentioned in my back-up documentation to the Commission in May 2009 that the City was also in the process of issuing a Request for Proposals (RFP) to engage collection attorneys to possibly perform litigation services for selective delinquent accounts. This RFP has since been issued and is scheduled to close in late September 2009.

Florida Statute, Chapter 938.35, allows the City recover its collection costs up to a maximum of forty percent (40%) of the amount owed to the City at the time the delinquent account is referred to an attorney or collection agent(s) for collection. It is important to point out that the actual collection fee to be passed on to the debtor will vary based on the circumstances and actual steps employed by the City (i.e. 17%, 25%, 30%, 40% etc.) and ultimately the collection attorney or agent(s) for collection. In other words, the collection fee could be less than 40%, but would never exceed the 40% cap allowable by state law. In all cases, the City will simply be attempting to recover its out of pocket expenses to force collection of outstanding debts, within the parameters of Florida Statutes.

The revision of Chapter 32.36, "*Service Fees for Collection*", is necessary in order to allow City staff to operate the delinquent accounts collections program in accordance with applicable state regulations, while recovering 100% of the debt owed the City, when possible.

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 32, "DEPARTMENTS," OF THE POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 32.36, "SERVICE FEES FOR COLLECTION," TO INCREASE SERVICE FEES IMPOSED BY THE CITY WHENEVER DELINQUENT ACCOUNTS ARE REFERRED FOR COLLECTION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 32.36, "Service Fees For Collection," of Chapter 32, "Departments," of the Pompano Beach Code of Ordinances, is hereby amended as follows:

§ 32.36 SERVICE FEES FOR COLLECTION.

A service fee not to exceed the maximum collection fee allowed in accordance with § 938.35, Florida Statutes, as amended from time to time, in the amount of \$10 shall be imposed upon any delinquent account owed to the city whenever such account is turned over to a collection agency for the collection of monies past due. This service fee shall be in addition to all other costs and penalties which are imposed by law.

SECTION 2. That any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2009.

PASSED SECOND READING this _____ day of _____, 2009.

LAMAR FISHER, MAYOR

ATTEST:

MARY L. CHAMBERS, CITY CLERK

FP:jrm
08/26/09
l:ord/ch32/2009-311f



August 28, 2009



This website will be unavailable Friday, September 4, 2009, 5:00 pm to Tuesday, September 8, 2009, 6:00 am due to scheduled maintenance.

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CRIMINAL PROCEDURE AND CORRECTIONS COURT COSTS

938.35 Collection of court-related financial obligations.--The board of county commissioners or the governing body of a municipality may pursue the collection of any fees, service charges, fines, or costs to which it is entitled which remain unpaid for 90 days or more, or refer the account to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the board of county commissioners or the governing body of a municipality must determine this is cost-effective and follow applicable procurement practices. The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the board of county commissioners or the governing body of a municipality may be added to the balance owed, in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agents for collection.

History.--s. 1, ch. 98-84; s. 130, ch. 2003-402; s. 87, ch. 2004-265.

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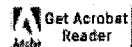
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**CITY OF POMPANO BEACH, FLORIDA
NOTICE OF PUBLIC HEARING**

YOU ARE HEREBY NOTIFIED of a Public Hearing before the City Commission on **Tuesday, September 8, 2009, at 7:00 p.m.**, in the City Commission Chamber of the City Hall Complex, 100 West Atlantic Boulevard, Pompano Beach, Florida, to consider the Ordinances entitled:

P.H. 2009-74: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 32, "DEPARTMENTS," OF THE POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 32.36, "SERVICE FEES FOR COLLECTION," TO INCREASE SERVICE FEES IMPOSED BY THE CITY WHENEVER DELINQUENT ACCOUNTS ARE REFERRED FOR COLLECTION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

The Ordinance is available for public inspection at the City Clerk's Office, 100 West Atlantic Boulevard, Suite 253, Pompano Beach, Florida 33060. All interested persons are urged to attend the Public Hearing, send a representative, or express their views by letter.

You may either be present in person at the Public Hearing, represented by counsel or letter. All interested persons take due notice of the time and place of this Public Hearing and govern yourselves accordingly.

Any person, who decides to appeal any decision of the City Commission with respect to any matter considered at this meeting, will need a record of the proceedings and for this reason, may need to ensure that a verbatim record of the proceedings is made. This record will include the testimony and evidence upon which the appeal is to be based.

Any person requiring auxiliary aids and services at this meeting may contact the City Clerk's Office at (954) 786-4611 at least 24 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771.

**CITY OF POMPANO BEACH, FLORIDA
BY: MARY L. CHAMBERS, CMC, CITY CLERK**

Published: August 28, 2009
Sun Sentinel