

**SEPTEMBER 15, 2009**  
**CITY COUNCIL AGENDA PACKET *REVISED***

**Revised Agenda; Closed Session to meet at 5:30p.m. Regarding  
Anticipated Litigation**

**Supplemental Staff Report to Consent Agenda Item #E24  
Consideration & Possible Action regarding adoption of Ordinance No.  
1433 Regulating Water Conservation Methods**



# **REVISED AGENDA**

## **EL SEGUNDO CITY COUNCIL**

### **COUNCIL CHAMBERS - 350 Main Street**

---

The City Council, with certain statutory exceptions, can only take action upon properly posted and listed agenda items. Any writings or documents given to a majority of the City Council regarding any matter on this agenda that the City received after issuing the agenda packet, are available for public inspection in the City Clerk's office during normal business hours. Such Documents may also be posted on the City's website at [www.elsegundo.org](http://www.elsegundo.org) and additional copies will be available at the City Council meeting.

Unless otherwise noted in the Agenda, the Public can only comment on City-related business that is within the jurisdiction of the City Council and/or items listed on the Agenda during the **Public Communications** portions of the Meeting. Additionally, the Public can comment on any Public Hearing item on the Agenda during the Public Hearing portion of such item. The time limit for comments is five (5) minutes per person.

*Before speaking to the City Council, please come to the podium and state: Your name and residence and the organization you represent, if desired. Please respect the time limits.*

Members of the Public may place items on the Agenda by submitting a **Written Request** to the City Clerk or City Manager's Office at least six days prior to the City Council Meeting (by 2:00 p.m. the prior Tuesday). The request must include a brief general description of the business to be transacted or discussed at the meeting. Playing of video tapes or use of visual aids may be permitted during meetings if they are submitted to the City Clerk two (2) working days prior to the meeting and they do not exceed five (5) minutes in length.

---

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk, 524-2305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

### **REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL**

#### **TUESDAY, SEPTEMBER 15, 2009 – 5:30 P.M.**

**NOTE: The Closed Session Agenda has been revised to meet at 5:30 p.m. regarding: ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to Government Code §54956.9(b): -2- potential cases (no further public statement is required at this time)**

Next Resolution # 4615  
Next Ordinance # 1434

**5:30 P.M. SESSION**

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total)** *Individuals who have received value of \$50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of \$250.*

**SPECIAL ORDER OF BUSINESS:**

**CLOSED SESSION:**

*The City Council may move into a closed session pursuant to applicable law, including the Brown Act (Government Code Section §54960, et seq.) for the purposes of conferring with the City's Real Property Negotiator; and/or conferring with the City Attorney on potential and/or existing litigation; and/or discussing matters covered under Government Code Section §54957 (Personnel); and/or conferring with the City's Labor Negotiators; as follows:*

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov't Code §54956.9(a) -0- matter**

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code §54956.9(b): -2- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -0- matter.

**DISCUSSION OF PERSONNEL MATTERS (Gov't Code §54957): - 0- matters**

**CONFERENCE WITH CITY'S LABOR NEGOTIATOR (Gov't Code §54957.6): -0 matters**

**CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov't Code §54956.8): - 0-matter**

**SPECIAL MATTERS: - 0- matter**

POSTED:

DATE: 9-10-09

TIME: 5:10 P.M.

NAME: Cathy Domann

**AGENDA DESCRIPTION:**

Supplemental staff report for Consent Agenda Item No. 24 regarding consideration and possible action regarding the adoption of Ordinance No. 1433 adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods and amending ESCMC §§ 1-2A-1, 1-2A-2, and 1-2A-3 to enforce Chapter 10-5 with administrative citations. (Fiscal Impact: None)

**RECOMMENDED COUNCIL ACTION:**

1. Waive second reading and adopt Ordinance No. 1433;
2. Alternatively discuss and take other action related to this item.

**ATTACHED SUPPORTING DOCUMENTS:**

Letter dated February 3, 2009 from MWD regarding grants

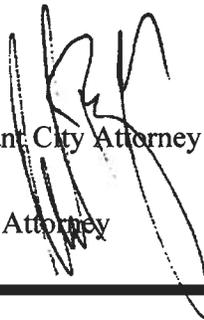
**FISCAL IMPACT:** Included in Adopted Budget

**Amount Budgeted:** \$N/A  
**Additional Appropriation:** N/A  
**Account Number(s):** N/A

**ORIGINATED BY:** Karl H. Berger, Assistant City Attorney

**REVIEWED BY:**

**APPROVED BY:** Mark D. Hensley, City Attorney



---

**BACKGROUND AND DISCUSSION:**

At the September 1, 2009, staff informed the City Council that, if adopted, the proposed Ordinance would not make the City eligible to receive MWD grants. That information appears to have been in error.

Attached for your information is a February 3, 2009 letter from MWD regarding water conservation ordinances. Attachment 2 of that letter outlines the minimum requirements for water conservation ordinances that would qualify cities to obtain grants. The City's ordinance must include four minimum requirements:

1. Prohibited water uses (no washing down hard or paved surfaces; fix leaks within reasonable time);
2. Outdoor irrigations practices (irrigation restrictions; no excessive water flow or runoff);
3. Enforcement and penalties (may be elsewhere in the municipal code); and
4. Be complemented by a public information campaign.

ITEM E24

A review of the proposed Ordinance shows that it meets all four of these criteria. Consequently, it appears that the City *could* obtain MWD grants with the proposed ordinance.

These requirements closely mirror State law. Water Code § 10631.5 sets forth what's required to obtain state grants, including complying with Water Code § 10631. That Section (Water Code § 10631(f)) requires, among other things, that a potential grantee have in place "water waste prohibitions" and "conservation pricing."

MWD adopted a "Water Supply Alert" resolution on June 10, 2008 which "urges" jurisdictions to adopt and enforce "conservation and drought ordinances" that include

"tiered rate structures that promote conservation; restrictions on the hours of outdoor watering; prohibitions on landscape irrigation runoff; provisions for water efficient landscapes in new construction and landscape retrofits; hotlines or other mechanisms for the public to report inefficient or prohibited water use; restrictions on use of potable water for street cleaning; new or enhanced rebate programs for water saving devices; new or enhanced incentives to maximize the use of recycled water."

There is nothing that requires the City to adopt the MWD model ordinance verbatim. Indeed, the model ordinance itself states that "[t]he model ordinance is a tool that can be adapted or revised by member agencies and local governments to improve water use efficiency within their jurisdictions"; "[t]he number of escalating water restriction levels and the actual triggers for determining particular water supply conditions is left to the discretion of the adopting entity."



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

**Date:** February 3, 2009  
**To:** Member Agency Managers  
**From:** Stephen N. Arakawa, Manager, Water Resource Management  
**Subject:** Ordinance Prerequisite for Extraordinary Conservation Programs

On January 13, 2009, Metropolitan's Board authorized ordinance implementation criteria as a prerequisite to participation in three extraordinary conservation programs:

- Phase II Public Sector Program
- Turf Removal Pilot Program
- New Enhanced Conservation Program.

Please note that board direction resulted in changes to the information letter submitted in January and from our prior communications. A copy of our implementation schedule is provided in Attachment 1. All of Metropolitan's other conservation programs do not require the prerequisite for eligibility.

#### **Ordinance Prerequisite Options**

Metropolitan is initiating implementation of the three extraordinary conservation programs within its budget capability. To comply with the Board's ordinance prerequisite, we request that member agencies provide one of the following for each local jurisdiction, which can be a city, water agency or county covering the proposed project site seeking an incentive.

1. Copy of the conservation ordinance and written description of the implementation plan for a city, county, or water agency. Agencies that previously submitted ordinances to Metropolitan must resubmit their ordinance and an implementation plan. Attachment 2 lists the required ordinance provisions. The implementation plan must enumerate the applicable sections that address each of the required ordinance provisions. Metropolitan will rely on written member agency assessments that local water efficiency requirements are publicly communicated and enforced. Where agencies have ordinances with phased implementation, the information provided must explain the phase currently in effect. To be eligible for incentive funding, the phase in effect must comply with minimum requirements at the time of funding.
2. Written pledge to develop an action plan and to work with a specific constituent jurisdiction that would adopt a conservation ordinance and implementation plan including the timeline for the following milestones:

Member Agency Managers

Page 2

February 3, 2009

- Inform all local jurisdictions of need for conservation ordinance and implementation
  - Each jurisdiction secure commitment from its governing body to begin drafting ordinance and implementation plan
  - Develop draft ordinance and implementation plan
  - Receive public input on draft ordinance and implementation plan
  - Governing body adopt ordinance
  - Enact ordinance
  - Submit adopted ordinances and implementation plans to Metropolitan
3. Written statement attesting to and describing an alternative method or strategy that will achieve at least 5 percent of additional water conservation savings in the local jurisdiction over calendar year 2008 levels.

#### **Prioritization**

Priority for issuing financial incentives under the extraordinary programs will be given to applicants that comply with Option 1.

#### **Progress Reporting**

Staff will provide a progress report to Metropolitan's Board in June 2009. Sample progress reports are provided in Attachment 3.

For jurisdictions that elect Option 1, member agencies must report on the status of public communication and enforcement of the ordinance to Metropolitan by April 30 and October 30, 2009, and annually thereafter.

For jurisdictions that elect Option 2, member agencies must report status on progress to Metropolitan on April 30, 2009. The report should include progress on each milestone established above and remaining actions needed to complete work by July 1, 2009, in order for that jurisdiction to remain eligible for the extraordinary conservation programs. Upon adoption, member agencies must submit to Metropolitan a copy of the ordinance and implementation plan and provide progress reports thereafter as outlined for Option 1.

For jurisdictions that elect Option 3, member agencies must provide reports on actual water savings as compared to calendar 2008 levels by April 30 and October 30, 2009, and annually thereafter.

Member Agency Managers

Page 3

February 3, 2009

**Program Status**

Currently, applications for Phase II Public Sector Program funding exceed \$11 million. Since program funding will be released on a fiscal year basis in increments of \$5 million beginning this fiscal year, it is in your best interest to submit the requested information outlined above as soon as possible. With regards to the Enhanced Conservation Program, Metropolitan issued a competitive Request for Proposals earlier this month and anticipates making selections and negotiating agreements as early as April 2009. Additionally, we are awaiting execution of our Turf Removal Pilot Program agreement with the Department of Water Resources, which has indicated that funds will likely be suspended until further notice due to the unprecedented state budget and financial crisis.

Please submit information in support of the ordinance prerequisite to the attention of Mr. Raymond Jay. If you have any questions, please call Mr. Jay at (213) 217-5777 or via email at [rjay@mwdh2o.com](mailto:rjay@mwdh2o.com).

*Stephen M. Arakawa*

Stephen N. Arakawa

AMH:vs

o:\a\sl\m\2009\AMH\_MemoMAOrdImplementRequest.doc

Attachments

cc: Board of Directors  
Member Agency Conservation Coordinators

**Attachment 1**  
**Implementation Schedule**

The key implementation milestones are summarized as follows:

January 2009	Participating member agencies must provide one of the following: <ol style="list-style-type: none"><li>1. Copy of conservation ordinance and written description of the implementation plan that meets the basic requirements; or</li><li>2. Written pledge to develop an action plan and to work with its constituent jurisdictions (to be listed) to adopt conservation ordinances and implementation plans; or</li><li>3. A written statement attesting to and describing an alternative method or strategy that will achieve at least 5 percent of additional water conservation savings in a local jurisdiction over calendar year 2008 levels.</li></ol>
April 2009	Participating member agencies submit progress reports on ordinance and implementation plan development and adoption within their respective jurisdictions. Reports must include progress toward the milestones. Agencies choosing an alternative method or strategy must provide a written report on water savings achieved over 2008 levels.
June 2009	Member agencies must submit one of the following: <ol style="list-style-type: none"><li>1. Copy of conservation ordinance and description of implementation plan to meet the basic requirements; or</li><li>2. A written statement attesting to and describing an alternative method or strategy that will achieve at least five percent of additional water conservation savings in a local jurisdiction over calendar year 2008 levels.</li></ol> Metropolitan staff report to Board on service area progress.
July 2009	Ordinance prerequisite or alternative method or strategy required to participate in the extraordinary conservation programs. Begin FY 09/10 \$5 million funding for Phase II Public Sector Program.

Note: After July 1, 2009, the written pledge to develop an action plan and to work with its constituent jurisdictions to adopt conservation ordinances and implementation plans will no longer be the basis for meeting the Board's ordinance prerequisite requirements.

## **Attachment 2**

### **Basic Ordinance and Implementation Requirements for Extraordinary Conservation Programs**

The objective of the ordinance prerequisite is to achieve immediate and widespread efficiency practices by retail water users and achieve water savings to contend with recent and potential further water supply reductions to the region. Ordinance provisions are expected to be complemented with public communication on the need for water-use efficiency and how to achieve it. Examples of ordinance provisions have been provided to member agencies in the form of model ordinances.

The measures described below are identified as basic requirements that would meet the criteria for conservation ordinances and implementation:

1. Prohibited water uses
  - No washing down hard or paved surfaces
  - Fix leaks within reasonable time
2. Outdoor irrigation practices
  - Irrigation restrictions
  - No excessive water flow or runoff
3. Enforcement and penalty mechanisms; one or more of the following (these provisions may be addressed by implementation practices separate from the ordinance):
  - Administrative penalties
  - Civil fines
  - Flow restrictors
  - Disconnection of service
  - Misdemeanor
  - Water allocation and penalties for exceeding allotment
  - Escalating retail water rates

### **Alternative Compliance**

A member agency would submit a written statement attesting to an alternative method or strategy that a local jurisdiction would use to achieve at least 5 percent of additional water conservation savings over calendar year 2008 levels. This would represent a proportionate share of the 200,000 acre-feet per year objective of new savings sought as a result of ordinance implementation.

\* Email notification of Agenda Packet posted to the City of El Segundo Website.