



City of Sierra Madre

Public Works Department

January 18, 2010

Mr. Simon Eching
California Department of Water Resources
Water Use and Efficiency Branch
P.O. Box 942836
Sacramento, CA 94236

RE: Water Efficient Landscape Ordinance

Dear Mr. Eching:

The City of Sierra Madre has adopted a Water Efficient Landscape Ordinance. First reading of the ordinance took place November 24th, with second reading and adoption occurring December 8, 2009.

The Deputy City Attorney has provided the following statement regarding the Ordinance:

“Ordinance No. 1300 is at least as effective as the Model Water Efficient Landscape Ordinance, adopted pursuant to Government Code section 65595, because Ordinance No. 1300 provides for water budgets, efficient irrigation systems, and water efficient plant selection to increase water use efficiency and reduce water waste that occurs by irrigation runoff and overspray.”

Included with this cover letter is a copy of the adopted Ordinance 1300, along with the staff reports for the City Council agenda items at first and second reading. Included also are the approved minutes from those two City Council Meetings.

If you have any questions or need further documentation regarding the adoption of this ordinance, please contact me at 626.355.5839 (direct) or binman@cityofsierramadre.com.

Regards,

Bruce Inman
Director of Public Works

232 W. Sierra Madre Blvd., Sierra Madre, CA 91024
Telephone (626) 355-7135 Fax (626) 355-2251

ORDINANCE NO. 1300

AN ORDINANCE OF THE CITY OF SIERRA MADRE, CALIFORNIA ADDING CHAPTER 15.60 (WATER EFFICIENT LANDSCAPE ORDINANCE) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) AND AMENDING CHAPTER 15.04 (BUILDING CODE AND PERMITS) AND CHAPTER 15.48 (EXCAVATIONS AND GRADING) OF THE SIERRA MADRE MUNICIPAL CODE

WHEREAS, the waters of the City are of limited supply and are subject to ever increasing demands;

WHEREAS, the continuation of the City's economic prosperity is dependent on the availability of adequate supplies of water for future uses;

WHEREAS, landscapes are essential to the quality of life in the City by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development;

WHEREAS, landscape design, installation, maintenance and management can and should be water efficient;

WHEREAS, the State Legislature has passed Assembly Bill 1881 requiring the City to adopt the model local water efficient landscape ordinance adopted by the California Department of Water Resources (DWR) or another equally effective ordinance by January 1, 2010;

WHEREAS, this Ordinance is at least as effective in conserving water as the DWR model local water efficient landscape ordinance;

**THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA DOES
HEREBY ORDAIN AS FOLLOWS:**

Section 1. Chapter 15.60 is hereby added to Title 15 of the Sierra Madre Municipal Code to read as set forth in Exhibit "A" attached hereto and incorporated by reference herein.

Section 2. Section 15.04.070 is hereby amended to read as set forth in Exhibit "B" attached hereto and incorporated by reference herein.

Section 3. Section 15.04.130 is hereby added to Title 15 to read as set forth in Exhibit "C" attached hereto and incorporated by reference herein.

Section 4. Section 15.48.240 is hereby amended to read as set forth in Exhibit "D" attached hereto and incorporated by reference herein.

Section 5. CEQA. The City Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 *et seq.*), because pursuant to Section 15307 of the CEQA Guidelines and the Sierra Madre CEQA Guidelines, this Ordinance is categorically exempt as an action taken to assure the maintenance, restoration,

enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment. The adoption of this Ordinance will result in the enhancement and protection of water resources in the City, and will not result in cumulative adverse environment impacts. Further, pursuant to Section 15308 of the CEQA Guidelines and the Sierra Madre CEQA Guidelines, this Ordinance is categorically exempt as an action taken to assure the maintenance, restoration, enhancement, or protection of the environment.

Section 6. Severability; Continuation of Provisions. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance. The City Council of the City of Sierra Madre hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable. To the extent the provisions of the Sierra Madre Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 7. Effective Date. This Ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

Section 7. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED and ADOPTED this 8th day of December, 2009.



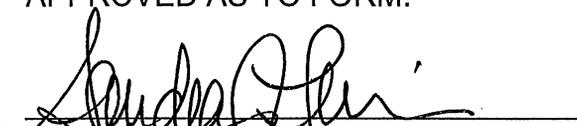
Mayor MaryAnn MacGillivray

ATTEST:



Nancy Shollenberger, City Clerk

APPROVED AS TO FORM:



Sandra J. Levin, City Attorney

I, NANCY SHOLLENBERGER, CITY CLERK of the City of Sierra Madre, do hereby certify that Ordinance No. 1300 was introduced at the regular meeting of the City Council on 11/24, 2009, and was thereafter adopted and passed at the regular meeting of the City Council held on 12/8, 2009, by the following votes:

AYES: Mayor, MaryAnn MacGillivray, Mayor Pro Tem, Donald Watts
Council Members, John Buchanan and Joseph Mosca
NOES: None
ABSENT: Council Member, Kurt Zimmerman
ABSTAIN: None

I DO FURTHER CERTIFY that within 15 days of the date of its passage, I caused a copy of Ordinance No. 1300 to be published or posted as required by law a locally adjudicated paper.

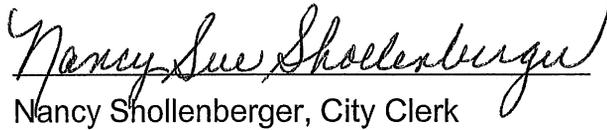

Nancy Shollenberger, City Clerk

EXHIBIT A

NEW CHAPTER 15.60

Chapter 15.60 WATER EFFICIENT LANDSCAPE ORDINANCE

Sections

- 15.60.005 Short Title.
- 15.60.010 Purpose and Intent.
- 15.60.020 Definitions.
- 15.60.030 Applicability.
- 15.60.040 Landscape Design and Plant Requirements.
- 15.60.050 Irrigation Requirements.
- 15.60.060 Soil and Grading Requirements.
- 15.60.070 Implementation.
- 15.60.075 Compliance and Enforcement.
- 15.60.080 Irrigation Audit and Maintenance.
- 15.60.090 Recycled Water.
- 15.60.100 Stormwater Management.
- 15.60.110 Water Waste Prevention.
- 15.60.120 Public Education.

15.60.005 Short Title.

This Ordinance shall be known as the "City of Sierra Madre Water Efficient Landscape Ordinance".

15.60.010 Purpose and Intent. The purpose of the City of Sierra Madre Water Efficient Landscape Ordinance is:

- A. That this Ordinance be at least as effective in conserving water as the model local water efficient landscape ordinance adopted by the California Department of Water Resources (DWR) pursuant to Government Code §65595;
- B. To assure beneficial, efficient, and responsible use of water resources for all water users within the City of Sierra Madre;
- C. To retain the land's natural hydrological role within the San Gabriel River Watershed and promote the infiltration of surface water into the groundwater in the Raymond Groundwater Basin;

- D. To recognize that landscapes enhance the aesthetic appearance of developments and communities;
- E. To encourage the appropriate design, installation, maintenance, and management of landscapes so that water demand can be decreased, runoff can be retained, and flooding can be reduced without a decline in the quality or quantity of landscapes;
- F. To preserve existing natural vegetation and the incorporation of native plants, plant communities and ecosystems into landscape design, where possible;
- G. To promote and encourage the use of low water use plants;
- H. To minimize the use of cool season turf;
- I. To promote the conservation of potable water by maximizing the use of recycled water and other water conserving technology for appropriate applications.
- J. To promote public education about water conservation and efficient water management; and
- K. To reduce or eliminate water waste.

15.60.020 Definitions.

"Amendments" means any material added to a soil to improve its physical properties, such as water retention, permeability, water infiltration, and drainage.

"Anti-drain check valve" means a valve located under a sprinkler head to hold water in the system to prevent drainage from the lower elevation sprinkler heads when the system is off.

"Applicant" means the individual or entity submitting a Landscape Documentation Package required under Section 15.60.040, to request a permit, plan check, or design review from the Public Works Department. Applicant can be the property owner or an agent of the property owner.

"Application rate" means the depth of water applied to a given area, measured in inches per minute, or inches per hour, or gallons per hour.

"Applied Water" as used in Estimated Annual Applied Water Use and Maximum Annual Applied Water Allowance, means the portion of water supplied by the irrigation system to the landscape.

"Botanical gardens and arboretums" means gardens open to the public in which a variety of plants are grown for scientific and educational purposes.

"Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited educational institution or a professional trade organization.

"Control valve" means a device used to control the flow of water in the irrigation system. It may also mean all of the sprinklers or emitters in a line controlled by the valve.

"Controller" means an automatic timing device used to remotely control valves or heads according to an irrigation schedule. A weather-based controller is a controller that uses

evapotranspiration or weather data. A self-adjusting irrigation controller is a controller that uses sensor data (i.e. soil moisture sensor).

"Developer" means a property owner or an agent of the property owner responsible for the development of the property. Such property does not include a single-family home.

"Discretionary permit" means any permit requiring a decision making body to exercise judgment prior to its approval, conditional approval, or disapproval.

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Estimated Annual Applied Water Use" or "EAWU" means the portion of the Estimated Total Water Use that is derived from applied water. The EAWU is calculated according to the formula set out in the Landscape Documentation Package. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

"Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

"Hydrozone" means a section or zone of the landscaped area having plants with similar water needs that are served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or non-irrigated.

"Infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (i.e., inches per hour).

"Invasive species" means non indigenous species that adversely affect the habitats they invade economically, environmentally, or ecologically.

"Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum irrigation efficiency for purposes of this Ordinance is 0.71.

"Irrigation system" means the network of piping, valves, and irrigation heads.

"Landscape architect" means a person licensed to practice landscape architecture in this state pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code.

"Landscape Concept Plan" means the portion of a Landscape Documentation Package that includes a design statement, irrigation notes, planting notes, and the plant palette.

"Landscape Construction Drawings" means the portion of a Landscape Documentation Package that includes the irrigation plan, plant and soils plan, and water management plan.

"Landscape Documentation Package" or "documentation package" means the complete packet of documents required under Sections 15.60.040, 15.60.050, and 15.60.060 to be submitted to the Public Works Department to apply for a permit for landscaping projects under this Ordinance. Documentation packages include the Landscape Concept Plan and Landscape Construction Drawings.

"Landscape water audit" means an in depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. Audits include, but are not limited to, inspection, system tune-up, system test with distribution uniformity and verification of minimal overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

"Low-head drainage" means drainage from a sprinkler that is caused by water flowing down an irrigation system from a higher level of elevation.

"Mulch" means any organic material such as leaves, bark, or inorganic material such as pebbles, stones, gravel, decorative sand or decomposed granite left loose and applied to the soil surface to reduce evaporation.

"Operating pressure" means the designed pressure of the sprinkler in an irrigation system, usually indicated at the base of a sprinkler.

"Overspray" means the irrigation water which is delivered beyond the target area onto pavements, walks, structures, or other non-landscaped areas.

"Planting plan" means a plan submitted with the construction drawings indicating a list and quantity of plants.

"Potable water" means water intended for human consumption that is treated to legal standards for human consumption.

"Pressure regulator" means a device used in sprinkler systems for radius and high pressure control.

"Project net landscape area," "landscaped area," or "landscape project area" means all of the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

"Recycled water" means water that, as a result of treatment of waste water, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

"Reference evapotranspiration" or "ET_o" means a standard measurement of environmental parameters which affect the water use of plants. ET_o is expressed in inches per month as represented in Table A below, and is an estimate of the evapotranspiration of a large field of four to seven-inch tall, cool-season grass that is well watered.

Table A – Sierra Madre reference evapotranspiration												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Year
2.15	2.5	3.75	4.5	5.3	5.95	7	6.55	5.35	3.7	2.35	2	51.3

"Runoff" means water that is not absorbed by the soil or landscape to which it is applied and flows from the area.

"SMART irrigation controller" means a weather-based or soil moisture-based irrigation controller that monitors and uses information about the environmental conditions at a specific location and landscape to automatically adjust watering schedules.

"Soil Management Plan" means the plan submitted with the construction drawings indicating results from soil tests and recommended soil amendments.

"Soil test" means test done by soil test lab that indicates at minimum: soil texture, water holding capacity, pH, and soluble salts

"Soil type" the classification of soil based on the percentage of its composition of sand, silt, and clay.

"Special landscape area" means an area of the landscape dedicated to edible plants, areas irrigated with recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, where turf provides a playing surface.

"Sprinkler head" means a device which delivers water through a nozzle.

"Static water pressure" means the pipeline or municipal water supply pressure when water is not flowing.

"Turf" means a surface layer of earth containing mowed grass or grasslike sedge with its roots, a groundcover surface of mowed grass, or grass-like sedge.

Common types of "cool season turf" are Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue.

Common types of "warm season turf" are Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, Carex pansa, and Buffalo grass.

"Water Efficient Landscape Worksheet" means a worksheet which calculates a site's water budget.

"Water feature" means any water applied to the landscape for non-irrigation, decorative purposes. Fountains, streams, ponds, lakes, and swimming pools are considered water features.

"Water Management Plan" means a plan submitted with the construction drawings as part of the Landscape Documentation Package.

"Water schedule" means schedule of irrigation times throughout a given year.

15.60.030 Applicability.

A. After January 1, 2010, this Ordinance shall apply to all of the following landscape projects:

1. New construction and rehabilitation of landscapes for public agency projects and private developer projects with a total project net landscape area equal to or greater than 2,500 square feet. Such projects will require a landscape permit.
- 2.

New construction and rehabilitation of landscapes for residential projects by developers with a total project net landscape area equal to or greater than 2,500 square feet. Such projects will require a landscape permit.

3. New landscapes for residential projects by individual homeowners with a total project net landscape area equal to or greater than 5,000 square feet. Such projects will require a landscape permit.

4. Existing landscapes equal to or greater than one acre, with a dedicated or mixed use water meter. Such landscapes are limited to preparing a water efficient landscape worksheet according to the specifications for existing landscapes in the Landscape Documentation Package.

5. New and rehabilitated cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries shall require the preparation of a water efficient landscape worksheet, an irrigation maintenance schedule, and an irrigation audit, survey and water use analysis. Existing cemeteries are limited to preparing a water efficient landscape worksheet according to the specifications for existing landscapes in the Landscape Documentation Package.

B. This Ordinance does not apply to:

1. registered local, state, or federal historical sites;
2. ecological restoration projects that do not require a permanent irrigation system;
3. mined-land reclamation projects that do not require a permanent irrigation system; or
4. botanical gardens and arboretums open to the public.

15.60.040 Landscape Design and Plant Requirements.

A Landscape Documentation Package prepared by a licensed landscape architect shall include the following landscape design criteria:

1. Plant Selection and Grouping.

a. Any plant may be used in the landscape, providing the Estimated Annual Applied Water Use (EAWU) does not exceed the Maximum Annual Applied Water Allowance (MAWA) and that the plants meet the specifications set forth in (b), (c), and (d) below.

b. Plants having similar water needs shall be grouped together in distinct hydrozones.

c. Plants shall be selected appropriately based upon their adaptability to the climate, geologic, and topographical conditions of the site. Protection and preservation of existing native species and natural areas is encouraged. The planting of appropriate trees is encouraged.

d. Minimize the use of turf. Turf shall be used wisely in response to functional needs and shall not be planted if the EAWU exceeds the MAWA. Turf shall not be used on slopes greater than 25%, as calculated by rise divided by run, if non-permeable pavements are installed adjacent to the toe of the slope. Where turf is planted, the use of warm season turf is strongly encouraged.

e. Fire prevention needs shall be addressed in fire-prone areas. Design should be consistent with regulations from the Fire Department and incorporate the defensible space as required by Public Resource Code section 4291(a).

f. The use of invasive and/or noxious plant species is strongly discouraged. Such plant species should be avoided especially near parks, buffers, greenbelts, water bodies, and open spaces because of their potential to cause harm in sensitive areas.

2. Water Features.

a. Recirculating water systems shall be used for water features.

b. Where available, recycled water shall be used as the source for decorative water features. Recycled water is not to be used for swimming pools and spas.

c. Covers for swimming pools and spas are highly recommended.

d. The surface area of a water feature shall be included in the MAWA and the EAWU calculations. For the purposes of the Water Use Calculation Sheet, water features are deemed to have the highest plant category, which is equivalent to an average plant factor of 0.8.

3. Mulch.

a. A minimum two (2) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.

b. Stabilizing mulch shall be planted on slopes.

15.60.050 Irrigation Requirements.

A. All irrigation systems shall be designed to prevent runoff, over-spray, low head drainage and other similar conditions. Soil types and infiltration rates shall be considered when designing irrigation systems. Irrigation systems shall be designed, constructed, managed, and maintained to achieve the maximum possible overall efficiency.

B. A dedicated landscape water meter shall be installed for each landscape project greater than 5,000 square feet, except for single family residences. Dedicated

landscape water meters are also highly recommended on landscape areas less than 5,000 square feet to facilitate water management.

C. All irrigation systems shall include:

1. A SMART irrigation controller, or other equivalent technology which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions. The planting areas shall be grouped and irrigated in relation to hydrozones based on similarity of water requirements (i.e. turf separate from shrub and groundcover, full sun exposure areas separate from shade areas; top of slope separate from toe of slope);
2. Anti-drain check valves to prevent low-head drainage in sprinkler heads;
3. A pressure regulator to prevent the static water pressure from exceeding the maximum recommended operating pressure of the irrigation system; and,
4. Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation during unfavorable weather conditions. Irrigation should be avoided during wind, freeze, or rain.

D. Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance as provided by Section 15.60.080.

15.60.060 Soil and Grading Requirements.

A. To ensure the selection of appropriate plants suitable for the site, soil testing shall be performed prior to the installation of landscaping and reported in a soil management plan. The soil management plan shall include:

1. A determination of soil texture, indicating the available water holding capacity;
2. An approximate soil infiltration rate, either measured or derived from soil texture/infiltration rate tables, indicating a range of infiltration rates where appropriate;
3. The measure of pH, total soluble salts, and sodium; and
4. Any recommended amendments to the soil.

B. Grading on site shall be designed to minimize unnecessary soil compaction, erosion and water waste. Grading plans must satisfy the City ordinances relating to grading and be submitted as part of the Landscape Documentation Package.

15.60.070 Implementation.

Applicants subject to the requirements of this Ordinance shall submit a complete Landscape Documentation Package to the Public Works Department. The Application may be submitted in two parts: (1) A Landscape Concept Plan, which is submitted with a discretionary permit application or when otherwise required by the Public Works

Department, and (2) Landscape Construction Drawings, submitted as a ministerial application. All applications and plans shall conform to the plant, irrigation, and water budget formula requirements set forth in this Ordinance and the Landscape Documentation Package.

A. Landscape Concept Plan shall include:

1. Design statement;
2. Irrigation notes;
3. Planting notes;
4. Conceptual plant palette identifying proposed hydrozones; and
5. The MAWA calculation for the landscape project area.

B. Landscape Construction Drawings

1. Landscape Construction Drawings shall include:

- a. an irrigation plan,
- b. a planting and soils plan; and
- c. a water management plan with detailed notes and legends necessary for a complete landscape plan review.

2. The Landscape Construction Drawings shall be consistent with the Landscape Concept Plan. If the Public Works Department determines that the Landscape Construction Drawings significantly differ from the Landscape Concept Plan, the Applicant must resubmit an overall water budget calculation in accordance with the Landscape Documentation Package.

C. Irrigation Plan shall include pressure calculations and the location, installation details, and specifications of control valves, irrigation heads, piping, irrigation controllers, and power supply.

D. Planting Plan shall include:

1. A description of any existing plant material to be retained or removed;
2. A plan showing the planting areas and hydrozones, plant spacing, plant location and size, natural features, water features and all paved areas;
3. A legend listing the common and botanical plant names and total quantities by container size and species;
4. A description of the seed mixes with application rates and relevant germination specifications;
5. Soil management plan, including the soil test results and recommendations; and
6. A grading plan, submitted for reference.

E. Water Management Plan shall include:

1. An introduction and statement of site conditions or a Landscape Concept Plan;

2. The party(ies) responsible for implementation of the Water Management Plan;
3. The anticipated water requirements in inches per year, and water budget for the various hydrozones identified in the Landscape Concept Plan, including calculations demonstrating an overall water budget that requires irrigation of no more than the 0.7 of the ET adjustment factor.
4. A description of the water delivery systems, including the type of irrigation system to be used, water conservation methods to be applied, and precipitation rates for each hydrozone; and
5. Seasonal irrigation water schedules or procedures for programming of proposed SMART controllers.

F: The permit fee for landscape project shall be established by resolution of the City Council, and shall be based on the estimated cost of reviewing the landscape documentation package and issuing the permit.

15.60.075 Compliance / Enforcement.

The City Manager or designee shall have the duty and authority to administer and enforce this Ordinance.

A. Prior to the issuance of a permit for a project subject to this Ordinance, a complete Landscape Documentation Package prepared by an independent licensed landscape architect shall be submitted to the Public Works Department for review and approval. The licensed landscape architect shall ensure that all components of the package adhere to the requirements of this Ordinance. Any documentation packages submitted without the signature of a licensed landscape architect shall not be accepted for review.

B. Prior to issuance of a certificate of occupancy or final inspection for a project subject to this Ordinance, a Certificate of Completion shall be submitted to the Public Works Department certifying that the landscaping has been completed in accordance with the approved Planting and Irrigation Plans for the project. The Certificate of Completion shall be signed by a licensed landscape architect and shall indicate that:

1. The landscaping has been installed in conformance with the approved Planting and Irrigation Plans;
2. The SMART irrigation controller has been set according to the irrigation schedule;
3. The irrigation system has been adjusted to maximize irrigation efficiency and eliminate overspray and runoff; and
4. A copy of the irrigation schedule has been given to the property owner.

C. Upon notice of the Applicant, the City shall have the right to enter the project site to conduct inspections for the purpose of enforcing this Ordinance before, during, and immediately after installation of the landscaping.

D. A copy of the completed Landscape Documentation Package shall be given to the Department of Public Works. If the property is found to be exceeding its established

MAWA, the property shall be subject to a landscape water audit by the Department of Public Works.

15.60.080 Irrigation Audit and Maintenance.

A. When submitting the Certificate of Completion to the Public Works Department, the project applicant seeking a permit for new construction or rehabilitation of a landscape, as described in Section 15.60.030, shall submit a report of an irrigation audit conducted by a certified landscape irrigation auditor. The irrigation audit may include, but is not limited to, inspection, system tune-up, system test with distribution uniformity, reporting overspray or runoff, and preparation of an irrigation schedule.

B. A Landscape and Irrigation Maintenance Schedule shall also be submitted with the Certificate of Completion. The Landscape and Irrigation Maintenance Schedule shall include, but not be limited to, routine inspection, adjustment and repair of the irrigation system and its components, aerating and dethatching turf areas, replenishing mulch, fertilizing, pruning, weeding in all landscape areas, and obstruction to emission devices.

C. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents.

15.60.090 Recycled Water.

A. The installation of recycled water irrigation systems (i.e., dual distribution systems) are required, unless a written exemption has been granted by the City stating that recycled water meeting all public health codes and standards will not be available in the foreseeable future.

B. The recycled water irrigation systems shall be designed and operated in accordance with all City, County, and State codes.

15.60.100 Stormwater Management.

A. Stormwater management combines practices to minimize runoff and water waste to recharge groundwater, and to improve water quality. Project applicants are highly encouraged to implement stormwater best management practices into the landscape, irrigation, and grading design plans to minimize runoff, and effectively retain and reuse stormwater in landscaping.

B. For effective stormwater management, project applicants are referred to Section 15.48.240 of this Code. Project applicants shall further refer to the Department for Public Works or the Regional Water Quality Control Board for information on other stormwater ordinances and stormwater management plans.

15.60.110 Water Waste Prevention.

A. Runoff shall not leave the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures.

B. Failure to comply with Section 15.60.010(A) can result in the assessment of civil or administrative fines up to \$1,000. Willful or repeat offenses of Section 15.60.010(A) can result in revocation of permit provided under this Ordinance.

15.60.120 Public Education.

A. Publications. Education is a critical component to promote the efficient use of water in landscapes. The use of appropriate principles of design, installation, management, and maintenance that save water are encouraged in the community.

1. The Department of Public Works shall provide information to owners of new, single-family residential homes regarding the design, installation, management and maintenance of water efficient landscapes.

B. Model Homes. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this Ordinance.

1. Signs shall be used to identify the model as an example of a water efficient landscape, featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient landscape theme.

2. Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.

EXHIBIT B

AMENDMENT TO SECTION 15.04.070

15.04.070 Stormwater Retention. A. New development, after January 1, 2010, must incorporate design elements for:

1. Prevention of stormwater runoff onto pavements and other non-permeable areas;
2. Stormwater retention and reuse for irrigation of landscaped areas; and
3. Rooftop designs, rain gutters, and other stormwater retention designs that can be directed towards landscaped areas and thereby reuse the stormwater.

B. The building department is authorized to withhold, deny or grant conditional approval to any application for a building permit which involves:

1. Construction upon, destruction of or curtailment in the capacity of storm drain facilities installed under and by virtue of Title 17 of this code;
2. Construction, excavation or fill which changes the grade of the natural slope of the surface of any lot or lots so that the water drainage thereon is changed to run onto a different location or in greater quantity or at an accelerated rate, or in a way that creates a hazard to the public health, safety or property. The decision of the building inspector shall be based upon the recommendation of the city engineer concerning the continued necessity of such drainage installations or of reasonable substitutes therefor.

EXHIBIT C

NEW SECTION 15.04.130

15.04.130 Permit for Landscape Project.

A. A written permit shall be obtained from the Department of Public Works prior to development of landscapes as specified in Section 15.60.030.

B. The Director of Public Works shall issue a permit if the applicant has submitted the landscape documentation package as required by Section 15.60.040 and the landscape project satisfies the requirements set out in Chapter 15.60 of this title.

C: The permit fee for landscape project shall be established by resolution of the City Council, and shall be based on the estimated cost of reviewing the landscape documentation package and issuing the permit.

EXHIBIT D

AMENDMENT TO SECTION 15.48.240

15.48.240 Design standards for drainage.

- A. Retention and Reuse of Stormwater. All drainage provisions shall be designed to retain stormwater onsite or carry stormwater to the nearest onsite landscaped area. All drainage provisions shall be designed to retain stormwater onsite or carry stormwater to the nearest onsite landscaped area
- B. To the extent reasonably practicable, there shall be no stormwater runoff onto pavements or other non-permeable areas. To the extent that stormwater exceeds the amount that can be retained by the onsite drainage provision or carried to the nearest onsite landscape area, the overflow runoff may be carried by a secondary drainable provision to a public area, such as a street or natural watercourse. Drainage facilities designed to carry stormwater to a natural watercourse approved by the city engineer and/or other appropriate governmental agency, as a safe place to deposit such waters. At least two percent grade toward the approved disposal area will be required for building pads, except as waived by the city engineer for nonhilly terrain.
- C. Erosion Prevention. Adequate provision shall be made to prevent any surface waters from damaging the face of an excavation or fill. All slopes shall be protected from surface water runoff from above by berms or swales.
- D. Terrace Drains. All swales or ditches on drainage terraces shall have a minimum grade of five percent and must be paved. Drainage devices shall be paved with concrete with a minimum thickness of four inches or approved equal. They shall have a minimum depth at the deepest point of one foot. If the drain discharges onto natural ground riprap may be required.
- E. Grading shall not increase, concentrate or divert drainage across lot lines, unless there is a drainage easement provided over the receiving property.
- F. Pervious pavements must be used in driveways, walkways, patios, and other areas of similar use to reduce surface water runoff.



City of Sierra Madre Agenda Report

*MaryAnn MacGillivray, Mayor
Donald Watts, Mayor Pro Tem
John Buchanan, Council Member
Joe Mosca, Council Member
Kurt Zimmerman, Council Member*

*Nancy Shollenberger, City Clerk
George Enyedi, City Treasurer*

TO: Honorable Mayor MacGillivray and Members of the City Council

FROM: Elaine I. Aguilar, City Manager 

INITIATED BY: Bruce Inman, Director of Public Works

DATE: December 8, 2009

**SUBJECT: SECOND READING AND ADOPTION ORDINANCE 1300,
MUNICIPAL CODE AMENDMENT ADDING WATER EFFICIENT
LANDSCAPING REQUIREMENTS IN CONFORMANCE WITH
ASSEMBLY BILL 1881**

SUMMARY

The Water Conservation in Landscaping Act (the Act) was approved by Governor Schwarzenegger on September 28, 2006. The City Attorney and staff have prepared Ordinance 1300 to meet the requirements of the Act. Staff recommends that the City Council read by title only and adopt Ordinance 1300.

ANALYSIS

The 2006 Water Conservation in Landscaping Act (Laird, Chapter 559, Statutes of 2006) charged the California Department of Water Resources (DWR), with among other things, to update the State's 1992 Model Water Efficient Landscape Ordinance. DWR has just completed the preparation of the updated Model Water Efficient Landscape Ordinance in consultation with stakeholders and through the rulemaking process. The DWR document was approved by the state Office of Administrative Law on September 10, 2009.

The major provisions of the DWR Ordinance as now approved by the OAL are:

- 1.) The ordinance generally applies to new and rehabilitated public agency and private development projects with a landscape area greater than 2,500 square feet; or new construction landscapes for homeowner-hired in landscape projects equal to or greater than 5,000 square feet; and existing landscapes over one acre in size.

- 2.) Establishes criteria for determining the Maximum Applied Water Allowance (MAWA) for all landscaped areas. The design of any landscape plan must ensure that the MAWA is not exceeded for the landscaped area.
- 3.) Requires the submittal of a soil management report with each landscape plan, including soil sampling and laboratory analysis to determine infiltration rates, soil pH, total soluble salts, sodium, and percent organic matter.
- 4.) Includes specific landscape plan content requirements.
- 5.) Includes formulas for determination of anticipated water use for landscaped area.
- 6.) Requires installation of dedicated water meters for landscaped areas of 5,000 square feet or greater, for determination of compliance with MAWA.
- 7.) Requires that grading be designed to capture all normal rainfall onsite and not discharge normal rainfall runoff to impermeable surfaces.
- 8.) Requires the approving agency to perform or have performed by certified irrigation auditors, irrigation audits on landscape projects installed after January 1, 2010.

AB 1881 requires local agencies, not later January 1, 2010, to adopt the updated model ordinance or an equivalent ordinance or it will be automatically adopted locally by statute. Therefore, the City has until next January 1st to either adopt its own equivalent ordinance or if no action is taken by the City, the State Model Ordinance will go into effect and will have to be enforced by the City just as if it had been locally adopted.

The Act further requires DWR, not later than January 31, 2011, to prepare and submit a report to the Legislature relating to the status of water efficient landscape ordinances adopted by local agencies and on the DWR's recommendation regarding the landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs (AB 1881, section 65595 (a)(2) and (B), section 65596 (b)).

Ordinance 1300 underwent first reading on November 24th. At that time there were two revisions directed by the City Council. Those revisions have been incorporated into the attached ordinance:

"Director of Public Works" was substituted for "City" in §15.04.130B
Section 15.60.110A(2) was deleted, changing 15.60.110A(1) to 15.60.110B

Chapter 15.02 of the Municipal Code provides an appeal procedure for all decisions under Title 15. Therefore, the decision of the Director of Public Works to grant or deny a permit for a landscape project under Chapter 15.60 will be final unless appealed according to the appeal procedure set out in Chapter 15.02.

During the City Council discussion at first reading, there was a question raised regarding how plants would be selected for water efficient landscapes, essentially, is there a resource available to assist residents and landscapers. There is a resource that is approved by the State for this information. The document is titled:

A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California
(The Landscape Coefficient Method and WUCOLS III*)

*WUCOLS being "Water Use Classification for Landscape Species"

That document is available on line through the Department of Water Resources website and is available in hard copy in the Public Works office in City Hall. It is this document that will be utilized as reference in the review of landscape plans submitted to the Sierra Madre Public Works Department.

REQUIRED FINDINGS

Any Water Efficient Ordinance adopted by a local agency, if different from the state-approved DWR Ordinance, must be found by the local agency to be at least as effective as the DWR Ordinance in conserving water. The Department of Water Resources provided the following list of findings at a workshop held October 20, 2009. Each statement of finding is accompanied with an italicized section designation for where the finding is met in the proposed ordinance.

- 1.) The Ordinance is applicable to all landscapes identified in the applicability section of the Model Ordinance. *§15.04.130, §15.60.030*
- 2.) The most efficient and appropriate irrigation equipment is required. *§15.60.050C*
- 3.) The necessary design plan will require the use of improved technology. *§15.60.050*
- 4.) Irrigation scheduling shall be based on CIMIS or other reliable ETo data or soil moisture sensors. *§15.60.050C, §15.60.060E(5)*
- 5.) The ordinance has a Maximum Applied Water Allowance (MAWA) water budget based on ETAF of 0.7 for new and rehabilitated landscapes. *§15.60.050E(3)*
- 6.) There is a water budget that can support an average 0.5 plant factor palette without wasting or overusing water. *§15.60.070(E)(3)*.
- 7.) Overspray and runoff is prohibited. *§15.60.110*
- 8.) The audit and maintenance sections of the proposed Ordinance meet the minimum requirements of the Model Ordinance. *§15.60.80*
- 9.) The landscape documentation component complies with the Model Ordinance requirements. *15.60.070(E)(3)*
- 10.) Plants will be grouped in hydrozones. *§15.60.040(1)(b)*
- 11.) Recycled water will be required when available. *§15.60.040(2)(b), §15.60.080*
- 12.) Opportunities for stormwater retention will be taken advantage of. *§15.60.090, §15.48.240, §15.60.060B, §15.04.070*
- 13.) Mulch is required where appropriate. *§15.60.040(3)*
- 14.) Soils will be assessed and amended as necessary prior to planting. *§15.60.060A*
- 15.) Mechanisms are in place to ensure compliance. *§15.60.010, §15.60.075*

CEQA

These ordinances are measures taken to assure the maintenance, restoration, enhancement, or protection of a natural resource, which carry a Class 7 exemption from CEQA under Section 15307. Further these ordinances are measures taken to protect the environment, which carry a Class 8 exemption under Section 15308.

PUBLIC NOTICE PROCESS

This item has been noticed through the regular agenda notification process. Copies of this report are available at the City Hall public counter and the Sierra Madre Public Library.

STAFF RECOMMENDATION

Staff recommends that the City Council read by title only and adopt Ordinance 1300.

Attachments: Ordinance 1300

ORDINANCE NO. 1300

**AN ORDINANCE OF THE CITY OF SIERRA MADRE, CALIFORNIA
ADDING CHAPTER 15.60 (WATER EFFICIENT LANDSCAPE
ORDINANCE) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) AND
AMENDING CHAPTER 15.04 (BUILDING CODE AND PERMITS) AND
CHAPTER 15.48 (EXCAVATIONS AND GRADING) OF THE SIERRA
MADRE MUNICIPAL CODE**

WHEREAS, the waters of the City are of limited supply and are subject to ever increasing demands;

WHEREAS, the continuation of the City's economic prosperity is dependent on the availability of adequate supplies of water for future uses;

WHEREAS, landscapes are essential to the quality of life in the City by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development;

WHEREAS, landscape design, installation, maintenance and management can and should be water efficient;

WHEREAS, the State Legislature has passed Assembly Bill 1881 requiring the City to adopt the model local water efficient landscape ordinance adopted by the California Department of Water Resources (DWR) or another equally effective ordinance by January 1, 2010;

WHEREAS, this Ordinance is at least as effective in conserving water as the DWR model local water efficient landscape ordinance;

**THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA DOES
HEREBY ORDAIN AS FOLLOWS:**

Section 1. Chapter 15.60 is hereby added to Title 15 of the Sierra Madre Municipal Code to read as set forth in Exhibit "A" attached hereto and incorporated by reference herein.

Section 2. Section 15.04.070 is hereby amended to read as set forth in Exhibit "B" attached hereto and incorporated by reference herein.

Section 3. Section 15.04.130 is hereby added to Title 15 to read as set forth in Exhibit "C" attached hereto and incorporated by reference herein.

Section 4. Section 15.48.240 is hereby amended to read as set forth in Exhibit "D" attached hereto and incorporated by reference herein.

Section 5. *CEQA*. The City Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 *et seq.*), because pursuant to Section 15307 of the CEQA Guidelines and the Sierra Madre CEQA Guidelines, this Ordinance is categorically exempt as an action taken to assure the maintenance, restoration,

enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment. The adoption of this Ordinance will result in the enhancement and protection of water resources in the City, and will not result in cumulative adverse environment impacts. Further, pursuant to Section 15308 of the CEQA Guidelines and the Sierra Madre CEQA Guidelines, this Ordinance is categorically exempt as an action taken to assure the maintenance, restoration, enhancement, or protection of the environment.

Section 6. *Severability; Continuation of Provisions.* If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance. The City Council of the City of Sierra Madre hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable. To the extent the provisions of the Sierra Madre Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 7. *Effective Date.* This Ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

Section 7. *Certification.* The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2009.

Mayor MaryAnn MacGillivray

ATTEST:

Nancy Shollenberger, City Clerk

APPROVED AS TO FORM:

Sandra J. Levin, City Attorney

I, NANCY SHOLLENBERGER, CITY CLERK of the City of Sierra Madre, do hereby certify that Ordinance No. 1300 was introduced at the regular meeting of the City Council on _____, 2009, and was thereafter adopted and passed at the regular meeting of the City Council held on _____, 2009, by the following votes:

AYES:

NOES:

ABSENT: --

ABSTAIN:

I DO FURTHER CERTIFY that within 15 days of the date of its passage, I caused a copy of Ordinance No. 1300 to be published or posted as required by law a locally adjudicated paper.

Nancy Shollenberger, City Clerk

EXHIBIT A

NEW CHAPTER 15.60

Chapter 15.60 WATER EFFICIENT LANDSCAPE ORDINANCE

Sections

- 15.60.005 Short Title.
- 15.60.010 Purpose and Intent.
- 15.60.020 Definitions.
- 15.60.030 Applicability.
- 15.60.040 Landscape Design and Plant Requirements.
- 15.60.050 Irrigation Requirements.
- 15.60.060 Soil and Grading Requirements.
- 15.60.070 Implementation.
- 15.60.075 Compliance and Enforcement.
- 15.60.080 Irrigation Audit and Maintenance.
- 15.60.090 Recycled Water.
- 15.60.100 Stormwater Management.
- 15.60.110 Water Waste Prevention.
- 15.60.120 Public Education.

15.60.005 Short Title.

This Ordinance shall be known as the "City of Sierra Madre Water Efficient Landscape Ordinance".

15.60.010 Purpose and Intent. The purpose of the City of Sierra Madre Water Efficient Landscape Ordinance is:

A. That this Ordinance be at least as effective in conserving water as the model local water efficient landscape ordinance adopted by the California Department of Water Resources (DWR) pursuant to Government Code §65595;

B. To assure beneficial, efficient, and responsible use of water resources for all water users within the City of Sierra Madre;

C. To retain the land's natural hydrological role within the San Gabriel River Watershed and promote the infiltration of surface water into the groundwater in the Raymond Groundwater Basin;

- D. To recognize that landscapes enhance the aesthetic appearance of developments and communities;
- E. To encourage the appropriate design, installation, maintenance, and management of landscapes so that water demand can be decreased, runoff can be retained, and flooding can be reduced without a decline in the quality or quantity of landscapes;
- F. To preserve existing natural vegetation and the incorporation of native plants, plant communities and ecosystems into landscape design, where possible;
- G. To promote and encourage the use of low water use plants;
- H. To minimize the use of cool season turf;
- I. To promote the conservation of potable water by maximizing the use of recycled water and other water conserving technology for appropriate applications.
- J. To promote public education about water conservation and efficient water management; and
- K. To reduce or eliminate water waste.

15.60.020 Definitions.

"Amendments" means any material added to a soil to improve its physical properties, such as water retention, permeability, water infiltration, and drainage.

"Anti-drain check valve" means a valve located under a sprinkler head to hold water in the system to prevent drainage from the lower elevation sprinkler heads when the system is off.

"Applicant" means the individual or entity submitting a Landscape Documentation Package required under Section 15.60.040, to request a permit, plan check, or design review from the Public Works Department. Applicant can be the property owner or an agent of the property owner.

"Application rate" means the depth of water applied to a given area, measured in inches per minute, or inches per hour, or gallons per hour.

"Applied Water" as used in Estimated Annual Applied Water Use and Maximum Annual Applied Water Allowance, means the portion of water supplied by the irrigation system to the landscape.

"Botanical gardens and arboretums" means gardens open to the public in which a variety of plants are grown for scientific and educational purposes.

"Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited educational institution or a professional trade organization.

"Control valve" means a device used to control the flow of water in the irrigation system. It may also mean all of the sprinklers or emitters in a line controlled by the valve.

"Controller" means an automatic timing device used to remotely control valves or heads according to an irrigation schedule. A weather-based controller is a controller that uses

evapotranspiration or weather data. A self-adjusting irrigation controller is a controller that uses sensor data (i.e. soil moisture sensor).

"Developer" means a property owner or an agent of the property owner responsible for the development of the property. Such property does not include a single-family home.

"Discretionary permit" means any permit requiring a decision making body to exercise judgment prior to its approval, conditional approval, or disapproval.

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Estimated Annual Applied Water Use" or "EAWU" means the portion of the Estimated Total Water Use that is derived from applied water. The EAWU is calculated according to the formula set out in the Landscape Documentation Package. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

"Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

"Hydrozone" means a section or zone of the landscaped area having plants with similar water needs that are served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or non-irrigated.

"Infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (i.e., inches per hour).

"Invasive species" means non indigenous species that adversely affect the habitats they invade economically, environmentally, or ecologically.

"Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum irrigation efficiency for purposes of this Ordinance is 0.71.

"Irrigation system" means the network of piping, valves, and irrigation heads.

"Landscape architect" means a person licensed to practice landscape architecture in this state pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code.

"Landscape Concept Plan" means the portion of a Landscape Documentation Package that includes a design statement, irrigation notes, planting notes, and the plant palette.

"Landscape Construction Drawings" means the portion of a Landscape Documentation Package that includes the irrigation plan, plant and soils plan, and water management plan.

"Landscape Documentation Package" or "documentation package" means the complete packet of documents required under Sections 15.60.040, 15.60.050, and 15.60.060 to be submitted to the Public Works Department to apply for a permit for landscaping projects under this Ordinance. Documentation packages include the Landscape Concept Plan and Landscape Construction Drawings.

"Landscape water audit" means an in depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. Audits include, but are not limited to, inspection, system tune-up, system test with distribution uniformity and verification of minimal overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

"Low-head drainage" means drainage from a sprinkler that is caused by water flowing down an irrigation system from a higher level of elevation.

"Mulch" means any organic material such as leaves, bark, or inorganic material such as pebbles, stones, gravel, decorative sand or decomposed granite left loose and applied to the soil surface to reduce evaporation.

"Operating pressure" means the designed pressure of the sprinkler in an irrigation system, usually indicated at the base of a sprinkler.

"Overspray" means the irrigation water which is delivered beyond the target area onto pavements, walks, structures, or other non-landscaped areas.

"Planting plan" means a plan submitted with the construction drawings indicating a list and quantity of plants.

"Potable water" means water intended for human consumption that is treated to legal standards for human consumption.

"Pressure regulator" means a device used in sprinkler systems for radius and high pressure control.

"Project net landscape area," "landscaped area," or "landscape project area" means all of the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

"Recycled water" means water that, as a result of treatment of waste water, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

"Reference evapotranspiration" or "ET_o" means a standard measurement of environmental parameters which affect the water use of plants. ET_o is expressed in inches per month as represented in Table A below, and is an estimate of the evapotranspiration of a large field of four to seven-inch tall, cool-season grass that is well watered.

Table A – Sierra Madre reference evapotranspiration												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Year
2.15	2.5	3.75	4.5	5.3	5.95	7	6.55	5.35	3.7	2.35	2	51.3

"Runoff" means water that is not absorbed by the soil or landscape to which it is applied and flows from the area.

"SMART irrigation controller" means a weather-based or soil moisture-based irrigation controller that monitors and uses information about the environmental conditions at a specific location and landscape to automatically adjust watering schedules.

"Soil Management Plan" means the plan submitted with the construction drawings indicating results from soil tests and recommended soil amendments.

"Soil test" means test done by soil test lab that indicates at minimum: soil texture, water holding capacity, pH, and soluble salts

"Soil type" the classification of soil based on the percentage of its composition of sand, silt, and clay.

"Special landscape area" means an area of the landscape dedicated to edible plants, areas irrigated with recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, where turf provides a playing surface.

"Sprinkler head" means a device which delivers water through a nozzle.

"Static water pressure" means the pipeline or municipal water supply pressure when water is not flowing.

"Turf" means a surface layer of earth containing mowed grass or grasslike sedge with its roots, a groundcover surface of mowed grass, or grass-like sedge.

Common types of "cool season turf" are Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue.

Common types of "warm season turf" are Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, Carex pansa, and Buffalo grass.

"Water Efficient Landscape Worksheet" means a worksheet which calculates a site's water budget.

"Water feature" means any water applied to the landscape for non-irrigation, decorative purposes. Fountains, streams, ponds, lakes, and swimming pools are considered water features.

"Water Management Plan" means a plan submitted with the construction drawings as part of the Landscape Documentation Package.

"Water schedule" means schedule of irrigation times throughout a given year.

15.60.030 Applicability.

A. After January 1, 2010, this Ordinance shall apply to all of the following landscape projects:

1. New construction and rehabilitation of landscapes for public agency projects and private developer projects with a total project net landscape area equal to or greater than 2,500 square feet. Such projects will require a landscape permit.
- 2.

New construction and rehabilitation of landscapes for residential projects by developers with a total project net landscape area equal to or greater than 2,500 square feet. Such projects will require a landscape permit.

3. New landscapes for residential projects by individual homeowners with a total project net landscape area equal to or greater than 5,000 square feet. Such projects will require a landscape permit.

4. Existing landscapes equal to or greater than one acre, with a dedicated or mixed use water meter. Such landscapes are limited to preparing a water efficient landscape worksheet according to the specifications for existing landscapes in the Landscape Documentation Package.

5. New and rehabilitated cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries shall require the preparation of a water efficient landscape worksheet, an irrigation maintenance schedule, and an irrigation audit, survey and water use analysis. Existing cemeteries are limited to preparing a water efficient landscape worksheet according to the specifications for existing landscapes in the Landscape Documentation Package.

B. This Ordinance does not apply to:

1. registered local, state, or federal historical sites;
2. ecological restoration projects that do not require a permanent irrigation system;
3. mined-land reclamation projects that do not require a permanent irrigation system; or
4. botanical gardens and arboretums open to the public.

15.60.040 Landscape Design and Plant Requirements.

A Landscape Documentation Package prepared by a licensed landscape architect shall include the following landscape design criteria:

1. Plant Selection and Grouping.

a. Any plant may be used in the landscape, providing the Estimated Annual Applied Water Use (EAWU) does not exceed the Maximum Annual Applied Water Allowance (MAWA) and that the plants meet the specifications set forth in (b), (c), and (d) below.

b. Plants having similar water needs shall be grouped together in distinct hydrozones.

c. Plants shall be selected appropriately based upon their adaptability to the climate, geologic, and topographical conditions of the site. Protection and preservation of existing native species and natural areas is encouraged. The planting of appropriate trees is encouraged.

d. Minimize the use of turf. Turf shall be used wisely in response to functional needs and shall not be planted if the EAWU exceeds the MAWA. Turf shall not be used on slopes greater than 25%, as calculated by rise divided by run, if non-permeable pavements are installed adjacent to the toe of the slope. Where turf is planted, the use of warm season turf is strongly encouraged.

e. Fire prevention needs shall be addressed in fire-prone areas. Design should be consistent with regulations from the Fire Department and incorporate the defensible space as required by Public Resource Code section 4291(a).

f. The use of invasive and/or noxious plant species is strongly discouraged. Such plant species should be avoided especially near parks, buffers, greenbelts, water bodies, and open spaces because of their potential to cause harm in sensitive areas.

2. Water Features.

a. Recirculating water systems shall be used for water features.

b. Where available, recycled water shall be used as the source for decorative water features. Recycled water is not to be used for swimming pools and spas.

c. Covers for swimming pools and spas are highly recommended.

d. The surface area of a water feature shall be included in the MAWA and the EAWU calculations. For the purposes of the Water Use Calculation Sheet, water features are deemed to have the highest plant category, which is equivalent to an average plant factor of 0.8.

3. Mulch.

a. A minimum two (2) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.

b. Stabilizing mulch shall be planted on slopes.

15.60.050 Irrigation Requirements.

A. All irrigation systems shall be designed to prevent runoff, over-spray, low head drainage and other similar conditions. Soil types and infiltration rates shall be considered when designing irrigation systems. Irrigation systems shall be designed, constructed, managed, and maintained to achieve the maximum possible overall efficiency.

B. A dedicated landscape water meter shall be installed for each landscape project greater than 5,000 square feet, except for single family residences. Dedicated

landscape water meters are also highly recommended on landscape areas less than 5,000 square feet to facilitate water management.

C. All irrigation systems shall include:

1. A SMART irrigation controller, or other equivalent technology which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions. The planting areas shall be grouped and irrigated in relation to hydrozones based on similarity of water requirements (i.e. turf separate from shrub and groundcover, full sun exposure areas separate from shade areas; top of slope separate from toe of slope);
2. Anti-drain check valves to prevent low-head drainage in sprinkler heads;
3. A pressure regulator to prevent the static water pressure from exceeding the maximum recommended operating pressure of the irrigation system; and,
4. Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation during unfavorable weather conditions. Irrigation should be avoided during wind, freeze, or rain.

D. Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance as provided by Section 15.60.080.

15.60.060 Soil and Grading Requirements.

A. To ensure the selection of appropriate plants suitable for the site, soil testing shall be performed prior to the installation of landscaping and reported in a soil management plan. The soil management plan shall include:

1. A determination of soil texture, indicating the available water holding capacity;
2. An approximate soil infiltration rate, either measured or derived from soil texture/infiltration rate tables, indicating a range of infiltration rates where appropriate;
3. The measure of pH, total soluble salts, and sodium; and
4. Any recommended amendments to the soil.

B. Grading on site shall be designed to minimize unnecessary soil compaction, erosion and water waste. Grading plans must satisfy the City ordinances relating to grading and be submitted as part of the Landscape Documentation Package.

15.60.070 Implementation.

Applicants subject to the requirements of this Ordinance shall submit a complete Landscape Documentation Package to the Public Works Department. The Application may be submitted in two parts: (1) A Landscape Concept Plan, which is submitted with a discretionary permit application or when otherwise required by the Public Works

Department, and (2) Landscape Construction Drawings, submitted as a ministerial application. All applications and plans shall conform to the plant, irrigation, and water budget formula requirements set forth in this Ordinance and the Landscape Documentation Package.

A. Landscape Concept Plan shall include:

1. Design statement;
2. Irrigation notes;
3. Planting notes;
4. Conceptual plant palette identifying proposed hydrozones; and
5. The MAWA calculation for the landscape project area.

B. Landscape Construction Drawings

1. Landscape Construction Drawings shall include:

- a. an irrigation plan,
- b. a planting and soils plan; and
- c. a water management plan with detailed notes and legends necessary for a complete landscape plan review.

2. The Landscape Construction Drawings shall be consistent with the Landscape Concept Plan. If the Public Works Department determines that the Landscape Construction Drawings significantly differ from the Landscape Concept Plan, the Applicant must resubmit an overall water budget calculation in accordance with the Landscape Documentation Package.

C. Irrigation Plan shall include pressure calculations and the location, installation details, and specifications of control valves, irrigation heads, piping, irrigation controllers, and power supply.

D. Planting Plan shall include:

1. A description of any existing plant material to be retained or removed;
2. A plan showing the planting areas and hydrozones, plant spacing, plant location and size, natural features, water features and all paved areas;
3. A legend listing the common and botanical plant names and total quantities by container size and species;
4. A description of the seed mixes with application rates and relevant germination specifications;
5. Soil management plan, including the soil test results and recommendations; and
6. A grading plan, submitted for reference.

E. Water Management Plan shall include:

1. An introduction and statement of site conditions or a Landscape Concept Plan;

2. The party(ies) responsible for implementation of the Water Management Plan;
3. The anticipated water requirements in inches per year, and water budget for the various hydrozones identified in the Landscape Concept Plan, including calculations demonstrating an overall water budget that requires irrigation of no more than the 0.7 of the ET adjustment factor.
4. A description of the water delivery systems, including the type of irrigation system to be used, water conservation methods to be applied, and precipitation rates for each hydrozone; and
5. Seasonal irrigation water schedules or procedures for programming of proposed SMART controllers.

F: The permit fee for landscape project shall be established by resolution of the City Council, and shall be based on the estimated cost of reviewing the landscape documentation package and issuing the permit.

15.60.075 Compliance / Enforcement.

The City Manager or designee shall have the duty and authority to administer and enforce this Ordinance.

A. Prior to the issuance of a permit for a project subject to this Ordinance, a complete Landscape Documentation Package prepared by an independent licensed landscape architect shall be submitted to the Public Works Department for review and approval. The licensed landscape architect shall ensure that all components of the package adhere to the requirements of this Ordinance. Any documentation packages submitted without the signature of a licensed landscape architect shall not be accepted for review.

B. Prior to issuance of a certificate of occupancy or final inspection for a project subject to this Ordinance, a Certificate of Completion shall be submitted to the Public Works Department certifying that the landscaping has been completed in accordance with the approved Planting and Irrigation Plans for the project. The Certificate of Completion shall be signed by a licensed landscape architect and shall indicate that:

1. The landscaping has been installed in conformance with the approved Planting and Irrigation Plans;
2. The SMART irrigation controller has been set according to the irrigation schedule;
3. The irrigation system has been adjusted to maximize irrigation efficiency and eliminate overspray and runoff; and
4. A copy of the irrigation schedule has been given to the property owner.

C. Upon notice of the Applicant, the City shall have the right to enter the project site to conduct inspections for the purpose of enforcing this Ordinance before, during, and immediately after installation of the landscaping.

D. A copy of the completed Landscape Documentation Package shall be given to the Department of Public Works. If the property is found to be exceeding its established

MAWA, the property shall be subject to a landscape water audit by the Department of Public Works.

15.60.080 Irrigation Audit and Maintenance.

A. When submitting the Certificate of Completion to the Public Works Department, the project applicant seeking a permit for new construction or rehabilitation of a landscape, as described in Section 15.60.030, shall submit a report of an irrigation audit conducted by a certified landscape irrigation auditor. The irrigation audit may include, but is not limited to, inspection, system tune-up, system test with distribution uniformity, reporting overspray or runoff, and preparation of an irrigation schedule.

B. A Landscape and Irrigation Maintenance Schedule shall also be submitted with the Certificate of Completion. The Landscape and Irrigation Maintenance Schedule shall include, but not be limited to, routine inspection, adjustment and repair of the irrigation system and its components, aerating and dethatching turf areas, replenishing mulch, fertilizing, pruning, weeding in all landscape areas, and obstruction to emission devices.

C. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents.

15.60.090 Recycled Water.

A. The installation of recycled water irrigation systems (i.e., dual distribution systems) are required, unless a written exemption has been granted by the City stating that recycled water meeting all public health codes and standards will not be available in the foreseeable future.

B. The recycled water irrigation systems shall be designed and operated in accordance with all City, County, and State codes.

15.60.100 Stormwater Management.

A. Stormwater management combines practices to minimize runoff and water waste to recharge groundwater, and to improve water quality. Project applicants are highly encouraged to implement stormwater best management practices into the landscape, irrigation, and grading design plans to minimize runoff, and effectively retain and reuse stormwater in landscaping.

B. For effective stormwater management, project applicants are referred to Section 15.48.240 of this Code. Project applicants shall further refer to the Department for Public Works or the Regional Water Quality Control Board for information on other stormwater ordinances and stormwater management plans.

15.60.110 Water Waste Prevention.

A. Runoff shall not leave the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures.

B. Failure to comply with Section 15.60.010(A) can result in the assessment of civil or administrative fines up to \$1,000. Willful or repeat offenses of Section 15.60.010(A) can result in revocation of permit provided under this Ordinance.

15.60.120 Public Education.

A. Publications. Education is a critical component to promote the efficient use of water in landscapes. The use of appropriate principles of design, installation, management, and maintenance that save water are encouraged in the community.

1. The Department of Public Works shall provide information to owners of new, single-family residential homes regarding the design, installation, management and maintenance of water efficient landscapes.

B. Model Homes. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this Ordinance.

1. Signs shall be used to identify the model as an example of a water efficient landscape, featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient landscape theme.

2. Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.

EXHIBIT B

AMENDMENT TO SECTION 15.04.070

15.04.070 Stormwater Retention. A. New development, after January 1, 2010, must incorporate design elements for:

1. Prevention of stormwater runoff onto pavements and other non-permeable areas;
2. Stormwater retention and reuse for irrigation of landscaped areas; and
3. Rooftop designs, rain gutters, and other stormwater retention designs that can be directed towards landscaped areas and thereby reuse the stormwater.

B. The building department is authorized to withhold, deny or grant conditional approval to any application for a building permit which involves:

1. Construction upon, destruction of or curtailment in the capacity of storm drain facilities installed under and by virtue of Title 17 of this code;
2. Construction, excavation or fill which changes the grade of the natural slope of the surface of any lot or lots so that the water drainage thereon is changed to run onto a different location or in greater quantity or at an accelerated rate, or in a way that creates a hazard to the public health, safety or property. The decision of the building inspector shall be based upon the recommendation of the city engineer concerning the continued necessity of such drainage installations or of reasonable substitutes therefor.

EXHIBIT C

NEW SECTION 15.04.130

15.04.130 Permit for Landscape Project.

A. A written permit shall be obtained from the Department of Public Works prior to development of landscapes as specified in Section 15.60.030.

B. The Director of Public Works shall issue a permit if the applicant has submitted the landscape documentation package as required by Section 15.60.040 and the landscape project satisfies the requirements set out in Chapter 15.60 of this title.

C: The permit fee for landscape project shall be established by resolution of the City Council, and shall be based on the estimated cost of reviewing the landscape documentation package and issuing the permit.

EXHIBIT D

AMENDMENT TO SECTION 15.48.240

15.48.240 Design standards for drainage.

- A. -- Retention and Reuse of Stormwater. All drainage provisions shall be designed to retain stormwater onsite or carry stormwater to the nearest onsite landscaped area. All drainage provisions shall be designed to retain stormwater onsite or carry stormwater to the nearest onsite landscaped area
- B. To the extent reasonably practicable, there shall be no stormwater runoff onto pavements or other non-permeable areas. To the extent that stormwater exceeds the amount that can be retained by the onsite drainage provision or carried to the nearest onsite landscape area, the overflow runoff may be carried by a secondary drainable provision to a public area, such as a street or natural watercourse. Drainage facilities designed to carry stormwater to a natural watercourse approved by the city engineer and/or other appropriate governmental agency, as a safe place to deposit such waters. At least two percent grade toward the approved disposal area will be required for building pads, except as waived by the city engineer for nonhilly terrain.
- C. Erosion Prevention. Adequate provision shall be made to prevent any surface waters from damaging the face of an excavation or fill. All slopes shall be protected from surface water runoff from above by berms or swales.
- D. Terrace Drains. All swales or ditches on drainage terraces shall have a minimum grade of five percent and must be paved. Drainage devices shall be paved with concrete with a minimum thickness of four inches or approved equal. They shall have a minimum depth at the deepest point of one foot. If the drain discharges onto natural ground riprap may be required.
- E. Grading shall not increase, concentrate or divert drainage across lot lines, unless there is a drainage easement provided over the receiving property.
- F. Pervious pavements must be used in driveways, walkways, patios, and other areas of similar use to reduce surface water runoff.



City of Sierra Madre Agenda Report

*MaryAnn MacGillivray, Mayor
Donald Watts, Mayor Pro Tem
John Buchanan, Council Member
Joe Mosca, Council Member
Kurt Zimmerman, Council Member*

*Nancy Shollenberger, City Clerk,
George Enyedi, City Treasurer*

TO: Honorable Mayor MacGillivray and Members of the City Council

FROM: Elaine I. Aguilar, City Manager. *EIA*

INITIATED BY: Bruce Inman, Director of Public Works *B.I.*

DATE: November 24, 2009

SUBJECT: **FIRST READING ORDINANCE 1300, MUNICIPAL CODE
AMENDMENT ADDING WATER EFFICIENT LANDSCAPING
REQUIREMENTS IN CONFORMANCE WITH ASSEMBLY BILL 1881**

SUMMARY

The Water Conservation in Landscaping Act (the Act) was approved by Governor Schwarzenegger on September 28, 2006. A copy of that legislation is attached to this report. The City Attorney and staff have prepared Ordinance 1300 to meet the requirements of the Act. Staff recommends that the City Council read by title only and approve Ordinance 1300; and that the City Council designate the City Attorney to prepare a summary of Ordinance No. 1300 pursuant to Government Code section 36933(c)(1).

ANALYSIS

The 2006 Water Conservation in Landscaping Act (Laird, Chapter 559, Statutes of 2006) charged the California Department of Water Resources (DWR), with among other things, to update the State's 1992 Model Water Efficient Landscape Ordinance. DWR has just completed the preparation of the updated Model Water Efficient Landscape Ordinance in consultation with stakeholders and through the rulemaking process. The DWR document was approved by the state Office of Administrative Law on September 10, 2009.

The major provisions of the DWR Ordinance as now approved by the OAL are:

- 1.) The ordinance generally applies to new and rehabilitated public agency and private development projects with a landscape area greater than 2,500 square feet; or new construction landscapes for homeowner-hired in landscape projects

- equal to or greater than 5,000 square feet; and existing landscapes over one acre in size.
- 2.) Establishes criteria for determining the Maximum Applied Water Allowance (MAWA) for all landscaped areas. The design of any landscape plan must ensure that the MAWA is not exceeded for the landscaped area.
 - 3.) Requires the submittal of a soil management report with each landscape plan, including soil sampling and laboratory analysis to determine infiltration rates, soil pH, total soluble salts, sodium, and percent organic matter.
 - 4.) Includes specific landscape plan content requirements.
 - 5.) Includes formulas for determination of anticipated water use for landscaped area.
 - 6.) Requires installation of dedicated water meters for landscaped areas of 5,000 square feet or greater, for determination of compliance with MAWA.
 - 7.) Requires that grading be designed to capture all normal rainfall onsite and not discharge normal rainfall runoff to impermeable surfaces.
 - 8.) Requires the approving agency to perform or have performed by certified irrigation auditors, irrigation audits on landscape projects installed after January 1, 2010.

AB 1881 requires local agencies, not later January 1, 2010, to adopt the updated model ordinance or an equivalent ordinance or it will be automatically adopted locally by statute. Therefore, the City has until next January 1st to either adopt its own equivalent ordinance or if no action is taken by the City, the State Model Ordinance will go into effect and will have to be enforced by the City just as if it had been locally adopted.

The Act further requires DWR, not later than January 31, 2011, to prepare and submit a report to the Legislature relating to the status of water efficient landscape ordinances adopted by local agencies and on the DWR's recommendation regarding the landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs (AB 1881, section 65595 (a)(2) and (B), section 65596 (b)).

The City has three options available to comply with AB1881. One option is to take no action, which will result in automatic 'adoption' of the State model ordinance. The second option for the City is to adopt an ordinance of its own, which must be found to be at least as effective as the State model. A third option would be to take action to adopt the State model ordinance.

Compliance with AB 1881 will not be enforced by the State. DWR staff has publically stated on multiple occasions that the State does not intend to directly enforce local compliance. Rather, DWR staff states that they fully expect that local compliance will be achieved through third party legal action. Perhaps to that end, staff received a telephone inquiry on this matter from a Sierra Club member on October 1.

Staff and the City Attorney's office have reviewed the 4 following options for compliance with the Act:

1. The DWR Model Ordinance

AB 1881 directed the DWR to revise an existing model local water efficient landscape ordinance to incorporate new requirements set out in AB 1881. The revised model ordinance turned out to be a cumbersome piece of legislation. It is, for example, packed with technicalities relating to the format of the Landscape Documentation Package. Further, the provisions are not set out in a logical manner, making it incomprehensible and thus difficult to implement. In evaluating the ordinance, the Inland Empire Landscape Alliance (IELA) found that it is expensive to implement. Consequently, the IELA opted for drafting an alternative ordinance, which is currently the prevailing option in the region. At this time, staff is not aware of any cities that are adopting the DWR model ordinance and does not recommend the City to adopt it. It is worth noting, however, that even if there are no cities considering the DWR model ordinance, it might still come into effect in some cities if they do not adopt an alternative ordinance before January 1, 2010.

2. The Chino Basin Model Ordinance

The Chino Basin water efficient landscape ordinance (CBMO) was developed by a Technical Committee of the IELA to incorporate the requirements of the AB 1881 and promote the best interests of the Inland Empire region. This ordinance is very similar to the DWR model ordinance, but it is more comprehensible and less cumbersome to implement. The technical format requirements for the application form as set out in the DWR model ordinance are not included in the CBMO. Instead, the IELA have prepared a sample application package in accordance with the format requirements and attached it to the CBMO. Some of the recommendations have also been moved to this sample application package. Overall, this ordinance sets out the provisions in a more logical manner. However, as we previously mentioned, the CBMO might not be quite as effective as the DWR model ordinance and we have proposed amendments to deal with such deficiencies. Furthermore, because AB 1881 stresses the "benefits of consistent local ordinances in neighboring areas" and several cities in the area are currently considering adopting a revised CBMO, this ordinance or a slightly modified version thereof appears to be the best option for the City.

3. The MWDOC Ordinance

The Municipal Water District of Orange County (MWDOC) has drafted an alternative model ordinance, which is being considered by a number of cities in Orange County. This ordinance appears much simpler and shorter. In reality, however, it is very similar to the DWR model ordinance. The main difference is that most provisions included in the DWR model ordinance are not included in the body of the MWDOC ordinance and instead are set out in separate "Guidelines for Implementation of the Water Efficient Landscape Ordinance." As a result, the actual ordinance only requires an application

for certain landscape projects, whereas the provisions relating to the standard and procedure for the application is set out in the Guidelines. Without the Guidelines, the MWDOC ordinance has no effect. On the other hand, when read together with the Guidelines, the MWDOC ordinance is just as onerous and technical as the DWR model ordinance. Moreover, from the findings set out in the MWDOC ordinance, it appears to be relying on the fact that "Orange County [already] has an established, large reclaimed water infrastructure system," that the "current local design practices in new landscapes typically achieve the State Model Water Efficient Landscape Ordinance water use goals," and that "Orange County is a leader in researching and promoting the use of the smart automatic irrigation controllers with more than 4,500 installations as of June 2009." Therefore, this ordinance might not be a good alternative for cities such as Sierra Madre that cannot make those same claims.

4. A Custom-Made Ordinance

If the City Council finds that the CBMO does not fully promote the best interests of the City, staff is happy to draft an ordinance to address the City's specific concerns. However, because AB 1881 requires the local ordinance to be at least as effective as the model ordinance and sets out very detailed requirements, we do not have much leeway in drafting a separate ordinance, and it will likely not be much different from the Chino Basin and the DWR model ordinances. Furthermore, the City might not want to adopt a completely separate ordinance in light of that AB 1881 encourages regional consistency. Therefore, staff believes that this option is not cost-efficient and does not recommend this approach.

Staff is therefore recommending that the City Council adopt Ordinance 1300. The ordinance is based on the CBMO, with modifications in the following areas to make the ordinance compliant with the DWR model.

1. Mulch requirements

The CBMO has been modified to include provisions for onsite soil assessment and soil management plans that include . . . the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate." Consequently, Ordinance 1300 requires a 2 inch mulch layer to be applied to all exposed soil surfaces except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. Stabilizing mulching is also to be applied to slopes.

2. Runoff prohibition

The CBMO has been modified to prohibit runoff due to low head drainage or overspray, and to establish penalties for violation of such prohibitions.

3. Irrigation functions

Also to prevent overspray and runoff, Ordinance 1300 requires irrigation systems to have sensors that suspend them during unfavorable weather conditions, such as rain, wind, or freeze, including wind sensors which are important because strong winds can change the irrigation's direction, causing overspray onto hardscape and resulting in runoff. Similarly, Ordinance 1300 regulates irrigation for narrow or irregularly shaped areas, areas close to non-permeable surfaces, and slopes greater than 25%. Irrigation in such areas is more likely to cause overspray and runoff, and thus is addressed by the revised CBMO.

4. Public Education

Ordinance 1300 will seek to educate water users on the efficient use of water and the benefits of doing so, through providing them with publications regarding the design, installation, and maintenance of water efficient landscapes.

Effects of Ordinance 1300

Aside from its desired effect on water conservation in Sierra Madre, the ordinance is expected to have impacts in other areas. Staff has discussed the subject of water efficient landscape ordinances with a landscape architect who has done work in Sierra Madre. The architect, whose firm provides landscape plan review services for a number of cities, indicated that these ordinances result in higher design, plan review, and permitting costs for applicants. The cost of water efficient planting materials is equivalent to the cost of conventional plants, with the cost of irrigation materials, particularly "smart" irrigation controllers being significantly higher.

In addition to applicants' costs for landscape design and installation being higher, it should be noted that the City does not currently require permits for landscaping. Adoption of a water efficient landscape ordinance will of necessity institute a whole new plan review and permit process, along with accompanying code enforcement issues.

As the landscaping permit process is currently envisioned, Public Works will be required to review all development plans to determine whether or not the projects reach the threshold of applicability of the landscape ordinance. If a project will disturb or modify all or part of landscaped area equal to or greater than 2500 square feet, the ordinance will apply. At this time, there are no landscape architects on staff, so it will be necessary to contract with a landscape architecture firm to provide plan review services. Also, it will be necessary to contract for certified water auditing services until such a time as a staff member can be trained and certified.

Code Enforcement will be required to check all observed "landscape-only" projects, and stop work on any qualifying projects which do not have permits. Code enforcement will be assisted in spotting non-compliant landscape projects by Public Works/Water Division staff.

Implementation of the water efficient landscape ordinance is certain to impact already shorthanded staffing in Development Services, Code Enforcement, and Public Works. As the mandated ordinance and all of its implications are as yet untested in the City, staff cannot determine the extent of the man hour impacts the ordinance will have.

Ordinance 1300 enacts specific provisions regarding landscape and irrigation system design. Those provisions are included in Exhibit A to the Ordinance, which is a new Chapter 15.60 to the Municipal Code. Exhibit C to the Ordinance adds a new section to Chapter 15.04 (Building Code and Permits) requiring permits for projects meeting the Model Ordinance thresholds.

The State Model Ordinance requires that site grading practices be designed to capture/utilize as much natural irrigation (rainfall) as possible. In order to meet that requirement, Ordinance 1300 includes Exhibit A, which modifies Municipal Code Section 15.04.070 regarding permitting of drainage facilities, as well as Exhibit D, which amends Municipal Code Section 15.48.240 regarding drainage design standards.

REQUIRED FINDINGS

Required Findings:

Any Water Efficient Ordinance adopted by a local agency, if different from the DWR Ordinance, must be found by the local agency to be at least as effective as the DWR Ordinance in conserving water. The Department of Water Resources provided the following list of findings at a workshop held October 20, 2009. Each statement of finding is accompanied with an italicized section designation for where the finding is met in the proposed ordinance.

- 1.) The Ordinance is applicable to all landscapes identified in the applicability section of the Model Ordinance. *§15.04.130, §15.60.030*
- 2.) The most efficient and appropriate irrigation equipment is required. *§15.60.050C*
- 3.) The necessary design plan will require the use of improved technology. *§15.60.050*
- 4.) Irrigation scheduling shall be based on CIMIS or other reliable ETo data or soil moisture sensors. *§15.60.050C, §15.60.060E(5)*
- 5.) The ordinance has a Maximum Applied Water Allowance (MAWA) water budget based on ETAF of 0.7 for new and rehabilitated landscapes. *§15.60.050E(3)*
- 6.) There is a water budget that can support an average 0.5 plant factor palette without wasting or overusing water. *§15.60.070(E)(3)*.
- 7.) Overspray and runoff is prohibited. *§15.60.110*
- 8.) The audit and maintenance sections of the proposed Ordinance meet the minimum requirements of the Model Ordinance. *§15.60.80*
- 9.) The landscape documentation component complies with the Model Ordinance requirements. *15.60.070(E)(3)*
- 10.) Plants will be grouped in hydrozones. *§15.60.040(1)(b)*

- 11.) Recycled water will be required when available. §15.60.040(2)(b), §15.60.080
- 12.) Opportunities for stormwater retention will be taken advantage of. §15.60.090, §15.48.240, §15.60.060B, §15.04.070
- 13.) Mulch is required where appropriate. §15.60.040(3)
- 14.) Soils will be assessed and amended as necessary prior to planting. §15.60.060A
- 15.) Mechanisms are in place to ensure compliance. §15.60.010, §15.60.075

CEQA

These ordinances are measures taken to assure the maintenance, restoration, enhancement, or protection of a natural resource, which carry a Class 7 exemption from CEQA under Section 15307. Further these ordinances are measures taken to protect the environment, which carry a Class 8 exemption under Section 15308.

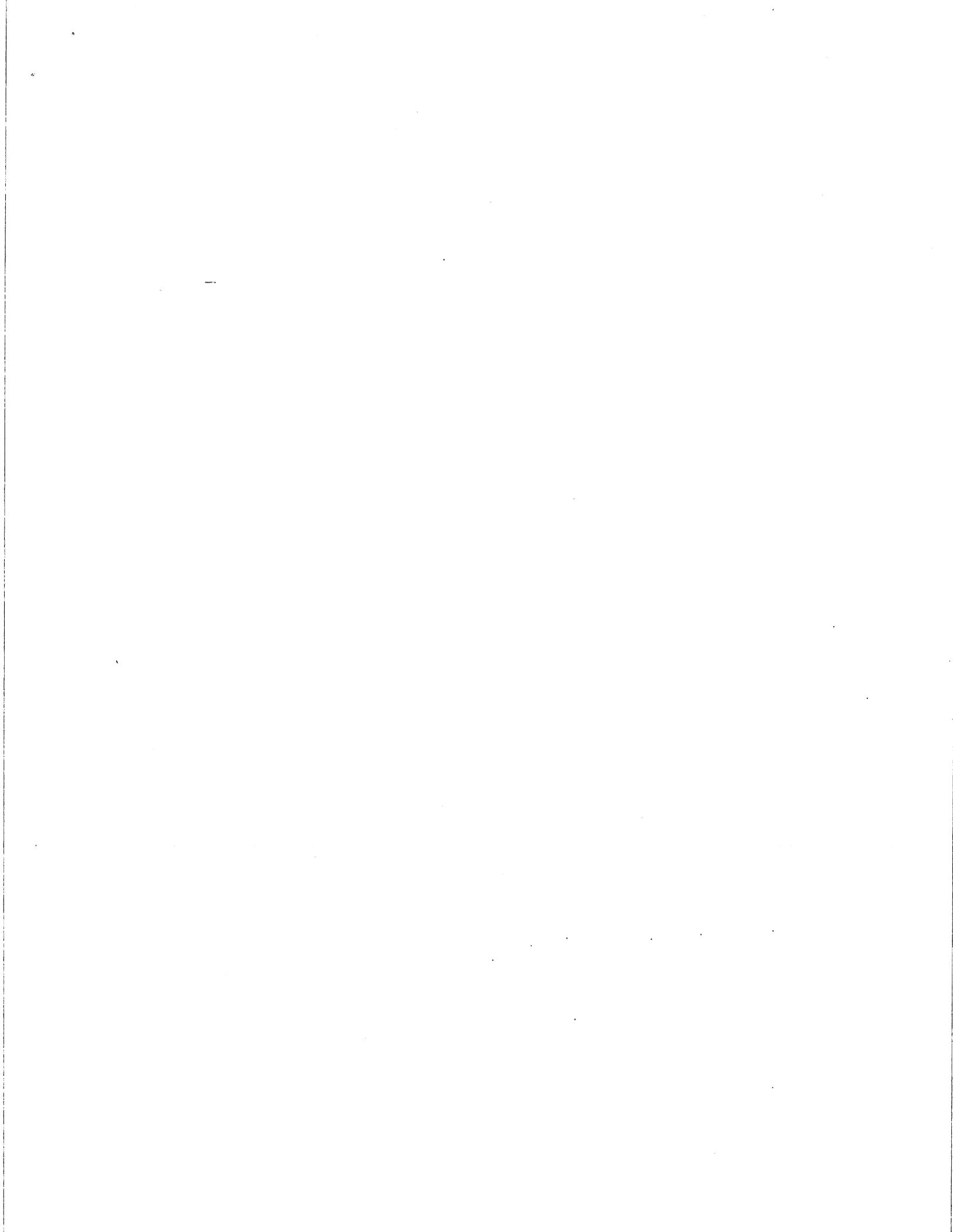
PUBLIC NOTICE PROCESS

This item has been noticed through the regular agenda notification process. Copies of this report are available at the City Hall public counter and the Sierra Madre Public Library.

STAFF RECOMMENDATION

Staff recommends that the City Council read by title only and approve Ordinance 1300; and that the City Council designate the City Attorney to prepare a summary of Ordinance No. 1300 pursuant to Government Code section 36933(c)(1).

Attachments: Ordinance 1300
 AB1881



ORDINANCE NO. 1300

**AN ORDINANCE OF THE CITY OF SIERRA MADRE, CALIFORNIA
ADDING CHAPTER 15.60 (WATER EFFICIENT LANDSCAPE
ORDINANCE) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) AND
AMENDING CHAPTER 15.04 (BUILDING CODE AND PERMITS) AND
CHAPTER 15.48 (EXCAVATIONS AND GRADING) OF THE SIERRA
MADRE MUNICIPAL CODE**

WHEREAS, the waters of the City are of limited supply and are subject to ever increasing demands;

WHEREAS, the continuation of the City's economic prosperity is dependent on the availability of adequate supplies of water for future uses;

WHEREAS, landscapes are essential to the quality of life in the City by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development;

WHEREAS, landscape design, installation, maintenance and management can and should be water efficient;

WHEREAS, the State Legislature has passed Assembly Bill 1881 requiring the City to adopt the model local water efficient landscape ordinance adopted by the California Department of Water Resources (DWR) or another equally effective ordinance by January 1, 2010;

WHEREAS, this Ordinance is at least as effective in conserving water as the DWR model local water efficient landscape ordinance;

**THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA DOES
HEREBY ORDAIN AS FOLLOWS:**

Section 1. Chapter 15.60 is hereby added to Title 15 of the Sierra Madre Municipal Code to read as set forth in Exhibit "A" attached hereto and incorporated by reference herein.

Section 2. Section 15.04.070 is hereby amended to read as set forth in Exhibit "B" attached hereto and incorporated by reference herein.

Section 3. Section 15.04.130 is hereby added to Title 15 to read as set forth in Exhibit "C" attached hereto and incorporated by reference herein.

Section 4. Section 15.48.240 is hereby amended to read as set forth in Exhibit "D" attached hereto and incorporated by reference herein.

Section 5. CEQA. The City Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 *et seq.*), because pursuant to Section 15307 of the CEQA Guidelines and the Sierra Madre CEQA Guidelines, this Ordinance is categorically exempt as an action taken to assure the maintenance, restoration,

enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment. The adoption of this Ordinance will result in the enhancement and protection of water resources in the City, and will not result in cumulative adverse environment impacts. Further, pursuant to Section 15308 of the CEQA Guidelines and the Sierra Madre CEQA Guidelines, this Ordinance is categorically exempt as an action taken to assure the maintenance, restoration, enhancement, or protection of the environment.

Section 6. *Severability; Continuation of Provisions.* If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance. The City Council of the City of Sierra Madre hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable. To the extent the provisions of the Sierra Madre Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 7. *Effective Date.* This Ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

Section 7. *Certification.* The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2009.

Mayor MaryAnn MacGillivray

ATTEST:

Nancy Shollenberger, City Clerk

APPROVED AS TO FORM:

Sandra J. Levin, City Attorney

I, NANCY SHOLLENBERGER, CITY CLERK of the City of Sierra Madre, do hereby certify that Ordinance No. 1300 was introduced at the regular meeting of the City Council on _____, 2009, and was thereafter adopted and passed at the regular meeting of the City Council held on _____, 2009, by the following votes:

AYES:

NOES:

ABSENT: ---

ABSTAIN:

I DO FURTHER CERTIFY that within 15 days of the date of its passage, I caused a copy of Ordinance No. 1300 to be published or posted as required by law a locally adjudicated paper.

Nancy Shollenberger, City Clerk



EXHIBIT A

NEW CHAPTER 15.60

Chapter 15.60 WATER EFFICIENT LANDSCAPE ORDINANCE

Sections

- 15.60.005 Short Title.
- 15.60.010 Purpose and Intent.
- 15.60.020 Definitions.
- 15.60.030 Applicability.
- 15.60.040 Landscape Design and Plant Requirements.
- 15.60.050 Irrigation Requirements.
- 15.60.060 Soil and Grading Requirements.
- 15.60.070 Implementation.
- 15.60.075 Compliance and Enforcement.
- 15.60.080 Irrigation Audit and Maintenance.
- 15.60.090 Recycled Water.
- 15.60.100 Stormwater Management.
- 15.60.110 Water Waste Prevention.
- 15.60.120 Public Education.

15.60.005 Short Title.

This Ordinance shall be known as the "City of Sierra Madre Water Efficient Landscape Ordinance".

15.60.010 Purpose and Intent. The purpose of the City of Sierra Madre Water Efficient Landscape Ordinance is:

A. That this Ordinance be at least as effective in conserving water as the model local water efficient landscape ordinance adopted by the California Department of Water Resources (DWR) pursuant to Government Code §65595;

B. To assure beneficial, efficient, and responsible use of water resources for all water users within the City of Sierra Madre;

C. To retain the land's natural hydrological role within the San Gabriel River Watershed and promote the infiltration of surface water into the groundwater in the Raymond Groundwater Basin;

- D. To recognize that landscapes enhance the aesthetic appearance of developments and communities;
- E. To encourage the appropriate design, installation, maintenance, and management of landscapes so that water demand can be decreased, runoff can be retained, and flooding can be reduced without a decline in the quality or quantity of landscapes;
- F. To preserve existing natural vegetation and the incorporation of native plants, plant communities and ecosystems into landscape design, where possible;
- G. To promote and encourage the use of low water use plants;
- H. To minimize the use of cool season turf;
- I. To promote the conservation of potable water by maximizing the use of recycled water and other water conserving technology for appropriate applications.
- J. To promote public education about water conservation and efficient water management; and
- K. To reduce or eliminate water waste.

15.60.020 Definitions.

"Amendments" means any material added to a soil to improve its physical properties, such as water retention, permeability, water infiltration, and drainage.

"Anti-drain check valve" means a valve located under a sprinkler head to hold water in the system to prevent drainage from the lower elevation sprinkler heads when the system is off.

"Applicant" means the individual or entity submitting a Landscape Documentation Package required under Section 15.60.040, to request a permit, plan check, or design review from the Public Works Department. Applicant can be the property owner or an agent of the property owner.

"Application rate" means the depth of water applied to a given area, measured in inches per minute, or inches per hour, or gallons per hour.

"Applied Water" as used in Estimated Annual Applied Water Use and Maximum Annual Applied Water Allowance, means the portion of water supplied by the irrigation system to the landscape.

"Botanical gardens and arboretums" means gardens open to the public in which a variety of plants are grown for scientific and educational purposes.

"Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited educational institution or a professional trade organization.

"Control valve" means a device used to control the flow of water in the irrigation system. It may also mean all of the sprinklers or emitters in a line controlled by the valve.

"Controller" means an automatic timing device used to remotely control valves or heads according to an irrigation schedule. A weather-based controller is a controller that uses

evapotranspiration or weather data. A self-adjusting irrigation controller is a controller that uses sensor data (i.e. soil moisture sensor).

"Developer" means a property owner or an agent of the property owner responsible for the development of the property. Such property does not include a single-family home.

"Discretionary permit" means any permit requiring a decision making body to exercise judgment prior to its approval, conditional approval, or disapproval.

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Estimated Annual Applied Water Use" or "EAWU" means the portion of the Estimated Total Water Use that is derived from applied water. The EAWU is calculated according to the formula set out in the Landscape Documentation Package. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

"Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

"Hydrozone" means a section or zone of the landscaped area having plants with similar water needs that are served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or non-irrigated.

"Infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (i.e., inches per hour).

"Invasive species" means non indigenous species that adversely affect the habitats they invade economically, environmentally, or ecologically.

"Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum irrigation efficiency for purposes of this Ordinance is 0.71.

"Irrigation system" means the network of piping, valves, and irrigation heads.

"Landscape architect" means a person licensed to practice landscape architecture in this state pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code.

"Landscape Concept Plan" means the portion of a Landscape Documentation Package that includes a design statement, irrigation notes, planting notes, and the plant palette.

"Landscape Construction Drawings" means the portion of a Landscape Documentation Package that includes the irrigation plan, plant and soils plan, and water management plan.

"Landscape Documentation Package" or "documentation package" means the complete packet of documents required under Sections 15.60.040, 15.60.050, and 15.60.060 to be submitted to the Public Works Department to apply for a permit for landscaping projects under this Ordinance. Documentation packages include the Landscape Concept Plan and Landscape Construction Drawings.

"Landscape water audit" means an in depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. Audits include, but are not limited to, inspection, system tune-up, system test with distribution uniformity and verification of minimal overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

"Low-head drainage" means drainage from a sprinkler that is caused by water flowing down an irrigation system from a higher level of elevation.

"Mulch" means any organic material such as leaves, bark, or inorganic material such as pebbles, stones, gravel, decorative sand or decomposed granite left loose and applied to the soil surface to reduce evaporation.

"Operating pressure" means the designed pressure of the sprinkler in an irrigation system, usually indicated at the base of a sprinkler.

"Overspray" means the irrigation water which is delivered beyond the target area onto pavements, walks, structures, or other non-landscaped areas.

"Planting plan" means a plan submitted with the construction drawings indicating a list and quantity of plants.

"Potable water" means water intended for human consumption that is treated to legal standards for human consumption.

"Pressure regulator" means a device used in sprinkler systems for radius and high pressure control.

"Project net landscape area," "landscaped area," or "landscape project area" means all of the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

"Recycled water" means water that, as a result of treatment of waste water, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

"Reference evapotranspiration" or "ET_o" means a standard measurement of environmental parameters which affect the water use of plants. ET_o is expressed in inches per month as represented in Table A below, and is an estimate of the evapotranspiration of a large field of four to seven-inch tall, cool-season grass that is well watered.

Table A – Sierra Madre reference evapotranspiration												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Year
2.15	2.5	3.75	4.5	5.3	5.95	7	6.55	5.35	3.7	2.35	2	51.3

"Runoff" means water that is not absorbed by the soil or landscape to which it is applied and flows from the area.

"SMART irrigation controller" means a weather-based or soil moisture-based irrigation controller that monitors and uses information about the environmental conditions at a specific location and landscape to automatically adjust watering schedules.

"Soil Management Plan" means the plan submitted with the construction drawings indicating results from soil tests and recommended soil amendments.

"Soil test" means test done by soil test lab that indicates at minimum: soil texture, water holding capacity, pH, and soluble salts

"Soil type" the classification of soil based on the percentage of its composition of sand, silt, and clay.

"Special landscape area" means an area of the landscape dedicated to edible plants, areas irrigated with recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, where turf provides a playing surface.

"Sprinkler head" means a device which delivers water through a nozzle.

"Static water pressure" means the pipeline or municipal water supply pressure when water is not flowing.

"Turf" means a surface layer of earth containing mowed grass or grasslike sedge with its roots, a groundcover surface of mowed grass, or grass-like sedge.

Common types of "cool season turf" are Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue.

Common types of "warm season turf" are Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, Carex pansa, and Buffalo grass.

"Water Efficient Landscape Worksheet" means a worksheet which calculates a site's water budget.

"Water feature" means any water applied to the landscape for non-irrigation, decorative purposes. Fountains, streams, ponds, lakes, and swimming pools are considered water features.

"Water Management Plan" means a plan submitted with the construction drawings as part of the Landscape Documentation Package.

"Water schedule" means schedule of irrigation times throughout a given year.

15.60.030 Applicability.

A. After January 1, 2010, this Ordinance shall apply to all of the following landscape projects:

1. New construction and rehabilitation of landscapes for public agency projects and private development projects with a total project net landscape area equal to or greater than 2,500 square feet. Such projects will require a landscape permit.

2. New construction and rehabilitation of landscapes for residential projects by developers with a total project net landscape area equal to or greater than 2,500 square feet. Such projects will require a landscape permit.

3. New landscapes for residential projects by individual homeowners with a total project net landscape area equal to or greater than 5,000 square feet. Such projects will require a landscape permit.

4. Existing landscapes equal to or greater than one acre, with a dedicated or mixed use water meter. Such landscapes are limited to preparing a water efficient landscape worksheet according to the specifications for existing landscapes in the Landscape Documentation Package.

5. New and rehabilitated cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries shall require the preparation of a water efficient landscape worksheet, an irrigation maintenance schedule, and an irrigation audit, survey and water use analysis. Existing cemeteries are limited to preparing a water efficient landscape worksheet according to the specifications for existing landscapes in the Landscape Documentation Package.

B. This Ordinance does not apply to:

1. registered local, state, or federal historical sites;
2. ecological restoration projects that do not require a permanent irrigation system;
3. mined-land reclamation projects that do not require a permanent irrigation system; or
4. botanical gardens and arboretums open to the public.

15.60.040 Landscape Design and Plant Requirements.

A Landscape Documentation Package prepared by a licensed landscape architect shall include the following landscape design criteria:

1. Plant Selection and Grouping.

a. Any plant may be used in the landscape, providing the Estimated Annual Applied Water Use (EAWU) does not exceed the Maximum Annual Applied Water Allowance (MAWA) and that the plants meet the specifications set forth in (b), (c), and (d) below.

b. Plants having similar water needs shall be grouped together in distinct hydrozones.

c. Plants shall be selected appropriately based upon their adaptability to the climate, geologic, and topographical conditions of the site. Protection and preservation of existing native species and natural areas is encouraged. The planting of appropriate trees is encouraged.

d. Minimize the use of turf. Turf shall be used wisely in response to functional needs and shall not be planted if the EAWU exceeds the MAWA. Turf shall not be used on slopes greater than 25%, as calculated by rise divided by run, if non-permeable pavements are installed adjacent to the toe of the slope. Where turf is planted, the use of warm season turf is strongly encouraged.

e. Fire prevention needs shall be addressed in fire-prone areas. Design should be consistent with regulations from the Fire Department and incorporate the defensible space as required by Public Resource Code section 4291(a).

f. The use of invasive and/or noxious plant species is strongly discouraged. Such plant species should be avoided especially near parks, buffers, greenbelts, water bodies, and open spaces because of their potential to cause harm in sensitive areas.

2. Water Features.

a. Recirculating water systems shall be used for water features.

b. Where available, recycled water shall be used as the source for decorative water features. Recycled water is not to be used for swimming pools and spas.

c. Covers for swimming pools and spas are highly recommended.

d. The surface area of a water feature shall be included in the MAWA and the EAWU calculations. For the purposes of the Water Use Calculation Sheet, water features are deemed to have the highest plant category, which is equivalent to an average plant factor of 0.8.

3. Mulch.

a. A minimum two (2) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.

b. Stabilizing mulch shall be planted on slopes.

15.60.050 Irrigation Requirements.

A. All irrigation systems shall be designed to prevent runoff, over-spray, low head drainage and other similar conditions. Soil types and infiltration rates shall be considered when designing irrigation systems. Irrigation systems shall be designed, constructed, managed, and maintained to achieve the maximum possible overall efficiency.

B. A dedicated landscape water meter shall be installed for each landscape project greater than 5,000 square feet, except for single family residences. Dedicated

landscape water meters are also highly recommended on landscape areas less than 5,000 square feet to facilitate water management.

C. All irrigation systems shall include:

1. A SMART irrigation controller, or other equivalent technology which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions. The planting areas shall be grouped and irrigated in relation to hydrozones based on similarity of water requirements (i.e. turf separate from shrub and groundcover, full sun exposure areas separate from shade areas; top of slope separate from toe of slope);
2. Anti-drain check valves to prevent low-head drainage in sprinkler heads;
3. A pressure regulator to prevent the static water pressure from exceeding the maximum recommended operating pressure of the irrigation system; and,
4. Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation during unfavorable weather conditions. Irrigation should be avoided during wind, freeze, or rain.

D. Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance as provided by Section 15.60.080.

15.60.060 Soil and Grading Requirements.

A. To ensure the selection of appropriate plants suitable for the site, soil testing shall be performed prior to the installation of landscaping and reported in a soil management plan. The soil management plan shall include:

1. a determination of soil texture, indicating the available water holding capacity;
2. an approximate soil infiltration rate, either measured or derived from soil texture/infiltration rate tables, indicating a range of infiltration rates where appropriate;
3. the measure of pH, total soluble salts, and sodium; and
4. any recommended amendments to the soil.

B. Grading on site shall be designed to minimize unnecessary soil compaction, erosion and water waste. Grading plans must satisfy the City ordinances relating to grading and be submitted as part of the Landscape Documentation Package.

15.60.070 Implementation.

Applicants subject to the requirements of this Ordinance shall submit a complete Landscape Documentation Package to the Public Works Department. The Application may be submitted in two parts: (1) A Landscape Concept Plan, which is submitted with a discretionary permit application or when otherwise required by the Public Works

Department, and (2) Landscape Construction Drawings, submitted as a ministerial application. All applications and plans shall conform to the plant, irrigation, and water budget formula requirements set forth in this Ordinance and the Landscape Documentation Package.

A. Landscape Concept Plan shall include:

1. design statement;
2. irrigation notes;
3. planting notes;
4. conceptual plant palette identifying proposed hydrozones; and
5. the MAWA calculation for the landscape project area.

B. Landscape Construction Drawings

1. Landscape Construction Drawings shall include:

- a. an irrigation plan,
- b. a planting and soils plan; and
- c. a water management plan with detailed notes and legends necessary for a complete landscape plan review.

2. The Landscape Construction Drawings shall be consistent with the Landscape Concept Plan. If the City determines that the Landscape Construction Drawings significantly differ from the Landscape Concept Plan, the Applicant must resubmit an overall water budget calculation in accordance with the Landscape Documentation Package.

C. Irrigation Plan shall include pressure calculations and the location, installation details, and specifications of control valves, irrigation heads, piping, irrigation controllers, and power supply.

D. Planting Plan shall include:

1. A description of any existing plant material to be retained or removed;
2. A plan showing the planting areas and hydrozones, plant spacing, plant location and size, natural features, water features and all paved areas;
3. A legend listing the common and botanical plant names and total quantities by container size and species;
4. A description of the seed mixes with application rates and relevant germination specifications;
5. Soil management plan, including the soil test results and recommendations; and
6. A grading plan, submitted for reference.

E. Water Management Plan shall include: 1. An introduction and statement of site conditions or a Landscape Concept Plan;

2. The party(ies) responsible for implementation of the Water Management Plan;
 3. The anticipated water requirements in inches per year, and water budget for the various hydrozones identified in the Landscape Concept Plan, including calculations demonstrating an overall water budget that requires irrigation of no more than the 0.7 of the ET adjustment factor.
 4. A description of the water delivery systems, including the type of irrigation system to be used, water conservation methods to be applied, and precipitation rates for each hydrozone; and
 5. Seasonal irrigation water schedules or procedures for programming of proposed SMART controllers.
- F: The permit fee for landscape project shall be established by resolution of the City Council, and shall be based on the estimated cost of reviewing the landscape documentation package and issuing the permit.

15.60.075 Compliance / Enforcement.

The City Manager or designee shall have the duty and authority to administer and enforce this Ordinance.

A. Prior to the issuance of a permit for a project subject to this Ordinance, a complete Landscape Documentation Package prepared by an independent licensed landscape architect shall be submitted to the Public Works Department for review and approval. The licensed landscape architect shall ensure that all components of the package adhere to the requirements of this Ordinance. Any documentation packages submitted without the signature of a licensed landscape architect shall not be accepted for review.

B. Prior to issuance of a certificate of occupancy or final inspection for a project subject to this Ordinance, a Certificate of Completion shall be submitted to, the Public Works Department certifying that the landscaping has been completed in accordance with the approved Planting and Irrigation Plans for the project. The Certificate of Completion shall be signed by a licensed landscape architect and shall indicate that:

1. The landscaping has been installed in conformance with the approved Planting and Irrigation Plans;
2. The SMART irrigation controller has been set according to the irrigation schedule;
3. The irrigation system has been adjusted to maximize irrigation efficiency and eliminate overspray and runoff; and
4. A copy of the irrigation schedule has been given to the property owner.

C. Upon notice of the Applicant, the City shall have the right to enter the project site to conduct inspections for the purpose of enforcing this Ordinance before, during, and immediately after installation of the landscaping.

D. A copy of the completed Landscape Documentation Package shall be given to the Department of Public Works. If the property is found to be exceeding its established

MAWA, the property shall be subject to a landscape water audit by the Department of Public Works.

15.60.080 Irrigation Audit and Maintenance.

A. When submitting the Certificate of Completion to the City, the project applicant seeking a permit for new construction or rehabilitation of a landscape, as described in Section 15.60.030, shall submit a report of an irrigation audit conducted by a certified landscape irrigation auditor. The irrigation audit may include, but is not limited to, inspection, system tune-up, system test with distribution uniformity, reporting overspray or runoff, and preparation of an irrigation schedule.

B. A Landscape and Irrigation Maintenance Schedule shall also be submitted with the Certificate of Completion. The Landscape and Irrigation Maintenance Schedule shall include, but not be limited to, routine inspection, adjustment and repair of the irrigation system and its components, aerating and dethatching turf areas, replenishing mulch, fertilizing, pruning, weeding in all landscape areas, and obstruction to emission devices.

C. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents.

15.60.090 Recycled Water.

A. The installation of recycled water irrigation systems (i.e., dual distribution systems) are required, unless a written exemption has been granted by the City stating that recycled water meeting all public health codes and standards will not be available in the foreseeable future.

B. The recycled water irrigation systems shall be designed and operated in accordance with all City, County, and State codes.

15.60.100 Stormwater Management.

A. Stormwater management combines practices to minimize runoff and water waste to recharge groundwater, and to improve water quality. Project applicants are highly encouraged to implementing stormwater best management practices into the landscape, irrigation, and grading design plans to minimize runoff, and effectively retain and reuse stormwater in landscaping.

B. For effective stormwater management, project applicants are referred to Section 15.48.240 of this Code. Project applicants shall further refer to the Department for Public Works or the Regional Water Quality Control Board for information on other stormwater ordinances and stormwater management plans.

15.60.110 Water Waste Prevention.

A. Runoff shall not leave the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures.

1. Failure to comply with Section 15.60.010(A) can result in the assessment of civil or administrative fines up to \$1,000. Willful or repeat offenses of Section 15.60.010(A) can result in revocation of permit provided under this Ordinance.

2. Offenses may be enforced by the City or by private parties upon having given notice to the City.

15.60.120 Public Education.

A. Publications. Education is a critical component to promote the efficient use of water in landscapes. The use of appropriate principles of design, installation, management, and maintenance that save water are encouraged in the community.

1. The Department of Public Works shall provide information to owners of new, single-family residential homes regarding the design, installation, management and maintenance of water efficient landscapes.

B. Model Homes. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this Ordinance.

1. Signs shall be used to identify the model as an example of a water efficient landscape, featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient landscape theme.

2. Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.

EXHIBIT B

AMENDMENT TO SECTION 15.04.070

15.04.070 Stormwater Retention. A. New development, after January 1, 2010, must incorporate design elements for:

1. Prevention of stormwater runoff onto pavements and other non-permeable areas;
2. Stormwater retention and reuse for irrigation of landscaped areas; and
3. Rooftop designs, rain gutters, and other stormwater retention designs that can be directed towards landscaped areas and thereby reuse the stormwater.

B. The building department is authorized to withhold, deny or grant conditional approval to any application for a building permit which involves:

1. Construction upon, destruction of or curtailment in the capacity of storm drain facilities installed under and by virtue of Title 17 of this code;
2. Construction, excavation or fill which changes the grade of the natural slope of the surface of any lot or lots so that the water drainage thereon is changed to run onto a different location or in greater quantity or at an accelerated rate, or in a way that creates a hazard to the public health, safety or property. The decision of the building inspector shall be based upon the recommendation of the city engineer concerning the continued necessity of such drainage installations or of reasonable substitutes therefor.

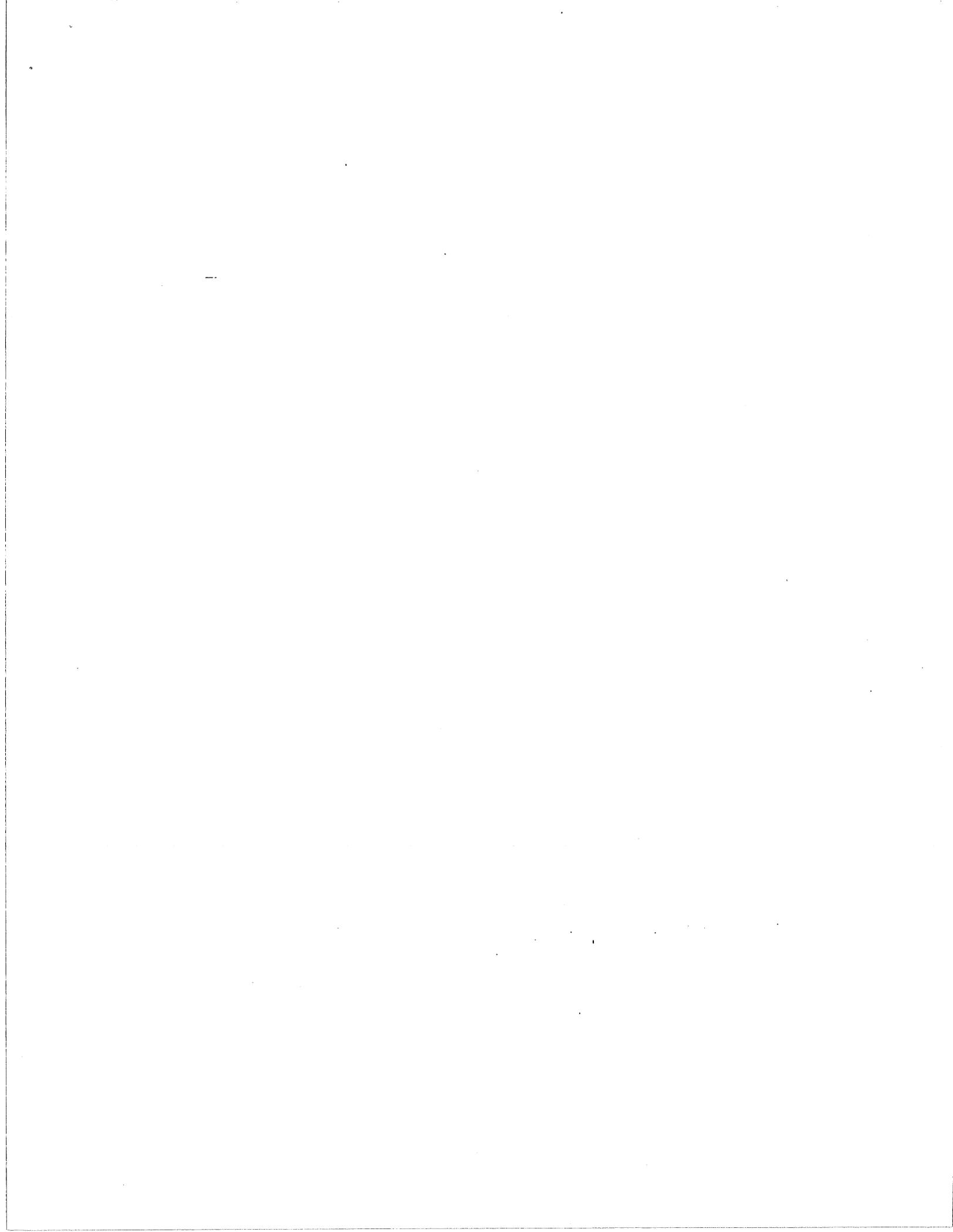


EXHIBIT C

NEW SECTION 15.04.130

15.04.130 Permit for Landscape Project.

- A. A written permit shall be obtained from the Department of Public Works prior to development of landscapes as specified in Section 15.60.030.
- B. The City shall issue a permit if the applicant has submitted the landscape documentation package as required by Section 15.60.040 and the landscape project is satisfies the requirements set out in Chapter 15.60 of this title.
- C: The permit fee for landscape project shall be established by resolution of the City Council, and shall be based on the estimated cost of reviewing the landscape documentation package and issuing the permit.

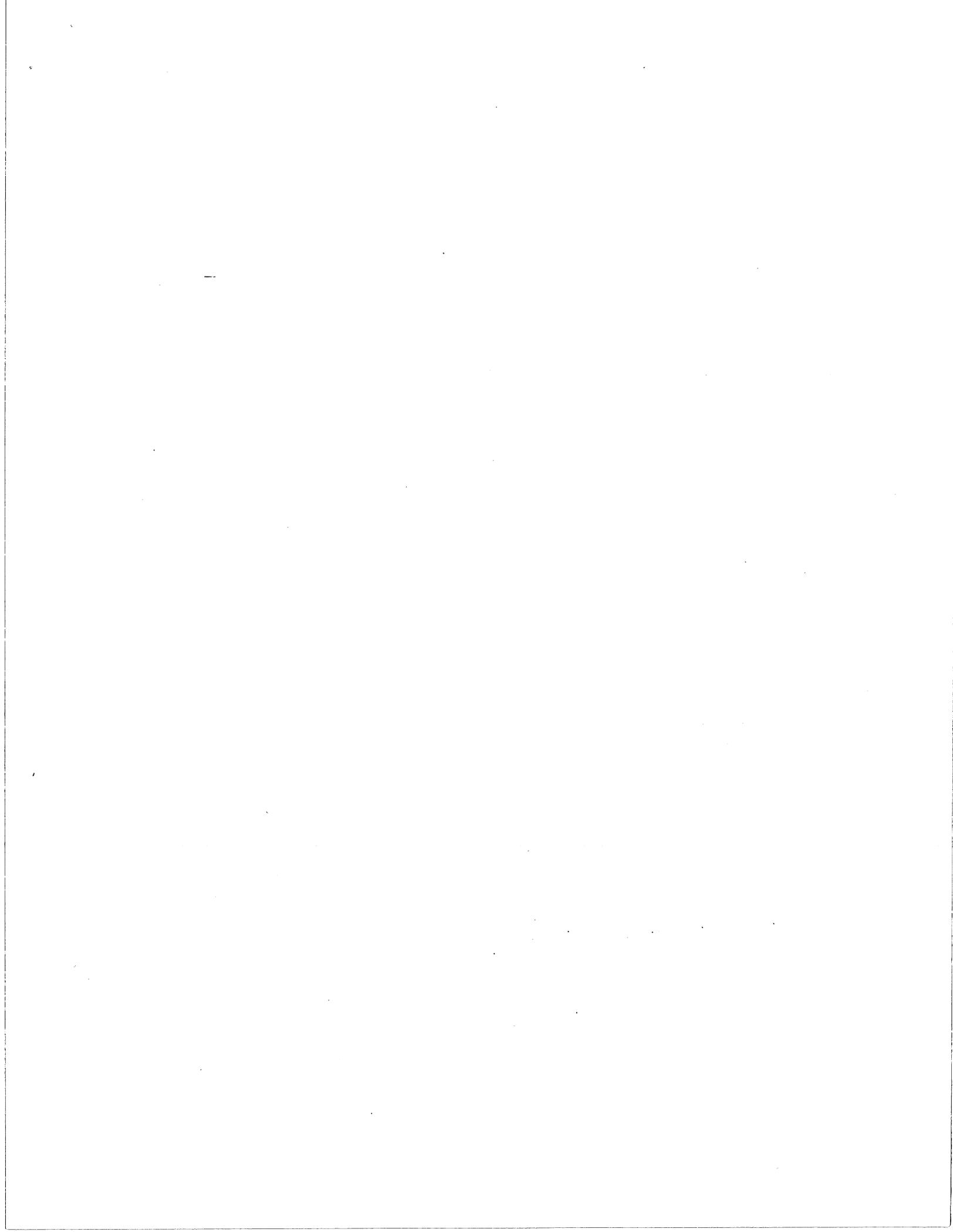


EXHIBIT D

AMENDMENT TO SECTION 15.48.240

15.48.240 Design standards for drainage.

- A. Retention and Reuse of Stormwater. All drainage provisions shall be designed to retain stormwater onsite or carry stormwater to the nearest onsite landscaped area. All drainage provisions shall be designed to retain stormwater onsite or carry stormwater to the nearest onsite landscaped area
- B. To the extent reasonably practicable, there shall be no stormwater runoff onto pavements or other non-permeable areas. To the extent that stormwater exceeds the amount that can be retained by the onsite drainage provision or carried to the nearest onsite landscape area, the overflow runoff may be carried by a secondary drainable provision to a public area, such as a street or natural watercourse. Drainage facilities designed to carry stormwater to a natural watercourse approved by the city engineer and/or other appropriate governmental agency, as a safe place to deposit such waters. At least two percent grade toward the approved disposal area will be required for building pads, except as waived by the city engineer for nonhilly terrain.
- C. Erosion Prevention. Adequate provision shall be made to prevent any surface waters from damaging the face of an excavation or fill. All slopes shall be protected from surface water runoff from above by berms or swales.
- D. Terrace Drains. All swales or ditches on drainage terraces shall have a minimum grade of five percent and must be paved. Drainage devices shall be paved with concrete with a minimum thickness of four inches or approved equal. They shall have a minimum depth at the deepest point of one foot. If the drain discharges onto natural ground riprap may be required.
- E. Grading shall not increase, concentrate or divert drainage across lot lines, unless there is a drainage easement provided over the receiving property.
- F. Pervious pavements must be used in driveways, walkways, patios, and other areas of similar use to reduce surface water runoff.

BILL NUMBER: AB 1881 CHAPTERED
BILL TEXT

CHAPTER 559
FILED WITH SECRETARY OF STATE SEPTEMBER 28, 2006
APPROVED BY GOVERNOR SEPTEMBER 28, 2006
PASSED THE ASSEMBLY AUGUST 30, 2006
PASSED THE SENATE AUGUST 28, 2006
AMENDED IN SENATE AUGUST 23, 2006
AMENDED IN SENATE AUGUST 7, 2006
AMENDED IN SENATE JUNE 12, 2006
AMENDED IN ASSEMBLY MAY 4, 2006
AMENDED IN ASSEMBLY APRIL 6, 2006

INTRODUCED BY Assembly Member Laird

JANUARY 23, 2006

An act to add Section 1353.8 to the Civil Code, to repeal and add Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of the Government Code, to add Section 25401.9 to the Public Resources Code, and to add Article 4.5 (commencing with Section 535) to Chapter 8 of Division 1 of the Water Code, relating to water conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1881, Laird Water conservation.

(1) Existing law, the Davis-Sterling Common Interest Development Act, defines and regulates common interest developments, which include community apartment projects, condominium projects, planned developments, and stock cooperatives.

This bill would provide that the architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low water-using plants as a group.

(2) The Water Conservation in Landscaping Act requires the Department of Water Resources to appoint an advisory task force to work with the department to draft a model local water efficient landscape ordinance that local agencies may adopt, requires the task force to submit the ordinance to the department on or before May 1, 1991, and requires the task force to cease to exist on the date the department adopts the model ordinance or January 1, 1992, whichever occurs first. The act requires the department, not later than January 1, 1992, to adopt a model local water efficient landscape ordinance which each local agency may adopt. The act makes the model local water efficient landscape ordinance adopted by the department applicable within the jurisdiction of a local agency if that local agency, by January 1, 1993, has not adopted a water efficient landscape ordinance or has not adopted certain findings that the adoption of the ordinance is unnecessary.

This bill would specify that the provision making the model ordinance applicable to a local agency on and after January 1, 1993, does not apply to chartered cities. The bill would require the department, to the extent funds are appropriated, not later than January 1, 2009, by regulation, to update the model ordinance in accordance with specified requirements. The bill would require the

department to prepare and submit to the Legislature a prescribed report before the adoption of the updated model ordinance. The bill would require a local agency, not later than January 1, 2010, to adopt the updated model ordinance or other water efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance. The bill would make the updated model ordinance applicable within the jurisdiction of a local agency, including a chartered city, if, by January 1, 2010, the local agency has not adopted its own water efficient landscape ordinance or the updated model ordinance. The bill would require each local agency, not later than January 31, 2010, to notify the department as to whether the local agency is subject to the department's updated model ordinance and, if not, to submit to the department a copy of the water efficient landscape ordinance adopted by the local agency, among other documents. The bill would require the department, to the extent funds are appropriated, not later than January 31, 2011, to prepare and submit a report to the Legislature relating to the status of water efficient landscape ordinances adopted by local agencies.

By imposing requirements on local agencies in connection with the adoption of water efficient landscape ordinances, the bill would impose a state-mandated local program.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission), after one or more public hearings, to take specified action to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy. Existing law requires the Energy Commission, by January 1, 2004, to amend specified regulations to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers, and to take certain other related action.

This bill would require the Energy Commission, in consultation with the department, to adopt, to the extent funds are available, by regulation performance standards and labeling requirements for landscape irrigation equipment, including irrigation controllers, moisture sensors, emission devices, and valves to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water. The bill would require the Energy Commission to adopt those requirements for landscape irrigation controllers and moisture sensors by January 1, 2010, and, on and after January 1, 2012, would prohibit the sale or installation of an irrigation controller or moisture sensor for landscape use unless the controller or sensor meets those adopted requirements. The bill would require the Energy Commission, on or before January 1, 2010, to prepare and submit to the Legislature a report that sets forth a proposed schedule for adopting performance standards and labeling requirements for emission devices and valves.

(4) Existing law generally requires an urban water supplier to install water meters on all municipal and industrial service connections located within its service area on or before January 1, 2025.

This bill would require a water purveyor as defined, to require as a condition of new retail water service on and after January 1, 2008, the installation of separate water meters to measure the volume of water used exclusively for landscape purposes. The bill would make this requirement applicable to specified service connections.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates

determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1353.8 is added to the Civil Code, to read:

1353.8. The architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low water-using plants as a group.

SEC. 2. Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 3. Article 10.8 (commencing with Section 65591) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 10.8. Water Conservation in Landscaping

65591. This article shall be known and may be cited as the Water Conservation in Landscaping Act.

65592. Unless the context requires otherwise, the following definitions govern the construction of this article:

(a) "Department" means the Department of Water Resources.

(b) "Local agency" means any city, county, or city and county, including a charter city or charter county.

(c) "Water efficient landscape ordinance" means an ordinance or resolution adopted by a local agency, or prepared by the department, to address the efficient use of water in landscaping.

65593. The Legislature finds and declares all of the following:

(a) The waters of the state are of limited supply and are subject to ever increasing demands.

(b) The continuation of California's economic prosperity is dependent on adequate supplies of water being available for future uses.

(c) It is the policy of the state to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.

(d) Landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development.

(e) Landscape design, installation, maintenance, and management can and should be water efficient.

(f) Section 2 of Article X of the California Constitution specifies that the right to use water is limited to the amount reasonably required for the beneficial use to be served and the right does not and shall not extend to waste or unreasonable use or unreasonable method of use.

(g) (1) The Legislature, pursuant to Chapter 682 of the Statutes of 2004, requested the California Urban Water Conservation Council to convene a stakeholders work group to develop recommendations for improving the efficiency of water use in urban irrigated landscapes.

(2) The work group report includes a recommendation to update the model water efficient landscape ordinance adopted by the department pursuant to Chapter 1145 of the Statutes of 1990.

(3) It is the intent of the Legislature that the department promote the use of this updated model ordinance.

(h) Notwithstanding Article 13 (commencing with Section 65700), this article addresses a matter that is of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Accordingly, it is the intent of the Legislature that this article, except as provided in Section 65594, apply to all cities and counties, including charter cities and charter counties.

65594. (a) Except as provided in Section 65595, if by January 1, 1993, a local agency did not adopt a water efficient landscape ordinance and did not adopt findings based on climatic, geological, or topographical conditions, or water availability that state that a water efficient landscape ordinance is unnecessary, the model water efficient landscape ordinance adopted by the department pursuant to Chapter 1145 of the Statutes of 1990 shall apply within the jurisdiction of the local agency as of that date, shall be enforced by the local agency, and shall have the same force and effect as if adopted by the local agency.

(b) Notwithstanding subdivision (b) of Section 65592, subdivision (a) does not apply to chartered cities.

(c) This section shall apply only until the department updates the model ordinance.

65595. (a) (1) To the extent funds are appropriated, not later than January 1, 2009, by regulation, the department shall update the model water efficient landscape ordinance adopted pursuant to Chapter 1145 of the Statutes of 1990, after holding one or more public hearings. The updated model ordinance shall be based on the recommendations set forth in the report prepared pursuant to Chapter 682 of the Statutes of 2004 and shall meet the requirements of Section 65596.

(2) Before the adoption of the updated model ordinance pursuant to paragraph (1), the department shall prepare and submit to the Legislature a report relating to both of the following:

(A) The extent to which local agencies have complied with the model water efficient landscape ordinance adopted pursuant to Chapter 1145 of the Statutes of 1990.

(B) The department's recommendations regarding the landscape water budget component of the updated model ordinance described in subdivision (b) of Section 65596.

(b) Not later than January 31, 2009, the department shall distribute the updated model ordinance adopted pursuant to subdivision (a) to all local agencies and other interested parties.

(c) On or before January 1, 2010, a local agency shall adopt one of the following:

(1) A water efficient landscape ordinance that is, based on evidence in the record, at least as effective in conserving water as the updated model ordinance adopted by the department pursuant to subdivision (a).

(2) The updated model ordinance described in paragraph (1).

(d) If the local agency has not adopted, on or before January 1, 2010, a water efficient landscape ordinance pursuant to subdivision (c), the updated model ordinance adopted by the department pursuant to subdivision (a) shall apply within the jurisdiction of the local agency as of that date, shall be enforced by the local agency, and shall have the same force and effect as if adopted by the local agency.

(e) Nothing in this article shall be construed to require the local agency's water efficient landscape ordinance to duplicate, or to conflict with, a water efficiency program or measure implemented by a public water system, as defined in Section 116275 of the Health

and Safety Code, within the jurisdictional boundaries of the local agency.

65596. The updated model ordinance adopted pursuant to Section 65595 shall do all the following in order to reduce water use:

(a) Include provisions for water conservation and the appropriate use and groupings of plants that are well-adapted to particular sites and to particular climatic, soil, or topographic conditions. The model ordinance shall not prohibit or require specific plant species, but it may include conditions for the use of plant species or encourage water conserving plants. However, the model ordinance shall not include conditions that have the effect of prohibiting or requiring specific plant species.

(b) Include a landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs.

(c) Promote the benefits of consistent local ordinances in neighboring areas.

(d) Encourage the capture and retention of stormwater onsite to improve water use efficiency or water quality.

(e) Include provisions for the use of automatic irrigation systems and irrigation schedules based on climatic conditions, specific terrains and soil types, and other environmental conditions. The model ordinance shall include references to local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment. The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System.

(f) Include provisions for onsite soil assessment and soil management plans that include grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff, and the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate.

(g) Promote the use of recycled water consistent with Article 4 (commencing with Section 13520) of Chapter 7 of Division 7 of the Water Code.

(h) Seek to educate water users on the efficient use of water and the benefits of doing so.

(i) Address regional differences, including fire prevention needs.

(j) Exempt landscaping that is part of a registered historical site.

(k) Encourage the use of economic incentives to promote the efficient use of water.

(l) Include provisions for landscape maintenance practices that foster long-term landscape water conservation. Landscape maintenance practices may include, but are not limited to, performing routine irrigation system repair and adjustments, conducting water audits, and prescribing the amount of water applied per landscaped acre.

(m) Include provisions to minimize landscape irrigation overspray and runoff.

65597. Not later than January 31, 2010, each local agency shall notify the department as to whether the local agency is subject to the department's updated model ordinance adopted pursuant to Section 65595, and if not, shall submit to the department a copy of the water efficient landscape ordinance adopted by the local agency, and a copy of the local agency's findings and evidence in the record that its water efficient landscape ordinance is at least as effective in conserving water as the department's updated model ordinance. Not later than January 31, 2011, the department shall, to the extent

funds are appropriated, prepare and submit a report to the Legislature summarizing the status of water efficient landscape ordinances adopted by local agencies.

65598. Any model ordinance adopted pursuant to this article shall exempt cemeteries from all provisions of the ordinance except those set forth in subdivisions (h), (k), and (l) of Section 65596. In adopting language specific to cemeteries, the department shall recognize the special landscape management needs of cemeteries.

65599. Any actions or proceedings to attach, review, set aside, void, or annul the act, decision, or findings of a local agency on the ground of noncompliance with this article shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 4. Section 25401.9 is added to the Public Resources Code, to read:

25401.9. (a) To the extent that funds are available, the commission, in consultation with the Department of Water Resources, shall adopt by regulation, after holding one or more public hearings, performance standards and labeling requirements for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves, for the purpose of reducing the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water.

(b) For the purposes of complying with subdivision (a), the commission shall do all of the following:

(1) Adopt performance standards and labeling requirements for landscape irrigation controllers and moisture sensors on or before January 1, 2010.

(2) Consider the Irrigation Association's Smart Water Application Technology Program testing protocols when adopting performance standards for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves.

(3) Prepare and submit a report to the Legislature, on or before January 1, 2010, that sets forth on a proposed schedule for adopting performance standards and labeling requirements for emission devices and valves.

(c) On and after January 1, 2012, an irrigation controller or moisture sensor for landscape irrigation uses may not be sold or installed in the state unless the controller or sensor meets the performance standards and labeling requirements established pursuant to this section.

SEC. 5. Article 4.5 (commencing with Section 535) is added to Chapter 8 of Division 1 of the Water Code, to read:

Article 4.5. Irrigated Landscape

535. (a) A water purveyor shall require as a condition of new retail water service on and after January 1, 2008, the installation of separate water meters to measure the volume of water used exclusively for landscape purposes.

(b) Subdivision (a) does not apply to either of the following:

(1) Single-family residential connections.

(2) Connections used to supply water for the commercial production of agricultural crops or livestock.

(c) Subdivision (a) applies only to a service connection for which both of the following apply:

(1) The connection serves property with more than 5,000 square feet of irrigated landscape.

(2) The connection is supplied by a water purveyor that serves 15 or more service connections.

(d) For the purposes of this section, "new retail water service" means the installation of a new water meter where water service has not been previously provided, and does not include applications for new water service submitted before January 1, 2007.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**AGENDA
REGULAR MEETING
SIERRA MADRE CITY COUNCIL &
COMMUNITY REDEVELOPMENT AGENCY**

**Closed Session – 5:00 PM
Open Session – 6:30 PM
Tuesday, December 8, 2009
City Hall Council Chambers
232 W.-Sierra Madre Boulevard**

*MaryAnn MacGillivray, Mayor
Don Watts, Mayor Pro-Tem
John Buchanan, Council Member
Joe Mosca, Council Member
Kurt Zimmerman, Council Member*

*Nancy Shollenberger, City Clerk
George Enyedi, City Treasurer*

PUBLIC COMMENT

The Council will listen to the public on any item on the agenda. The City Council cannot legally take action on any item not scheduled on the agenda. Such items may be referred for administrative action or scheduled on a future agenda. Comments will generally be limited to three minutes per speaker.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA:

Persons wishing to speak on any item on the agenda will be called at the time the agenda item is brought forward. Persons wishing to speak on closed session items have a choice of doing so either immediately prior to the closed session or at the time for comments on items at the open session.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Time shall be devoted to audience participation early on the agenda. If additional time is needed, the Mayor will allow for same at the end of the agenda.

CLOSED SESSION 5:00 PM

CALL TO ORDER/ROLL CALL

Council Member/Board Members of the Community
Redevelopment Agency

PUBLIC COMMENT

Regarding Closed Session Items

RECESS TO CLOSED SESSION REGARDING:

CONFERENCE WITH LEGAL COUNSEL

The City Council/Agency finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the local agency in the litigation for the following matters:

Pursuant to Calif. Government Code Section 54956.9(c)

Number of Potential Cases – One (1)

CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

The City Council/Agency finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the local agency in the litigation for the following matters:

Pursuant to Calif. Government Code Section 54956.9 (a)

Case Name: Stonehouse Homes LLC v. Sierra Madre et al

Case #'s: BC355516, (Appellate Case No. B195552) BS105493, BS105770, BC361569, BS108294, BS106081, and BC362808

Pursuant to Calif. Government Code Section 54956.9(a)

Case Name: John Ellins and Does 1 through 10 Inclusive v. City of Sierra Madre; Marilyn Diaz; and Does 1 through 10, Inclusive

Case #: CV08-06720

PERSONNEL HEARING

Pursuant to Calif. Government Code Section 54957

Public Employee Performance Evaluation

Title: City Manager

**AGENDA
REGULAR MEETING
SIERRA MADRE CITY COUNCIL &
COMMUNITY REDEVELOPMENT AGENCY
Closed Session – 5:00 PM
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Council Member/Board Members of the Community
Redevelopment Agency

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Case #: CV08-06720

PERSONNEL HEARING

Pursuant to Calif. Government Code Section 54957

Public Employee Performance Evaluation

Title: City Manager

OPEN SESSION 6:30 PM

**PLEDGE OF ALLEGIANCE &
INVOCATION/INSPIRATION**

Council Member Joe Mosca

APPROVAL OF AGENDA

Majority vote of the Council to proceed with City business.

APPROVAL OF MINUTES

Approval of Minutes from the closed session, Community Redevelopment Agency session, and the regular City Council meeting of November 24, 2009.

MAYOR AND CITY COUNCIL REPORTS

Brief reports of individual Council Member activities relating to City business occurring since the last City Council meeting.

PUBLIC COMMENT

Regarding items not on the Agenda.

PRESENTATION

Sierra Madre Rose Float Association Royal Court

- Princess Bassant Ibrahim
- Princess Filomena Pirrone
- Princess Tracy Sullivan
- Princess Tiffani Trypucko

ACTION ITEMS

CONSENT CALENDAR

- 1. a. ADOPTION OF RESOLUTION NO. 09-88 OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE APPROVING CERTAIN DEMANDS**

Recommendation that the City Council approve Resolution No. 09-88 for payment of City Warrants #25168 - #25273 in aggregate amount of \$113,150.13; Sierra Madre Library warrants #25275 - #25276 in the aggregate amount of \$24,820.00 and Payroll Transfer in the aggregate amount of \$319,816.57 for the fiscal year ending June 30, 2010.
 - b. AUTHORIZATION OF PAYMENTS ON BEHALF OF CRA**

Recommendation that the City Council approve the \$130.00 addition to the revolving note for the demands paid by the City on behalf of the Community Redevelopment Agency.
 - c. PUBLIC WORKS DEPARTMENT PURCHASE OF CATERPILLAR 924H LOADER**

Recommendation that the City Council approve the purchase of a Caterpillar 924H wheel loader from Quinn Caterpillar for the amount of \$158,765.82
 - d. SECOND READING AND ADOPTION OF ORDINANCE 1300, MUNICIPAL CODE AMENDMENT ADDING WATER EFFICIENT LANDSCAPING REQUIREMENTS IN CONFORMANCE WITH ASSEMBLY BILL 1881**

Recommendation that the City Council read by title only and adopt Ordinance 1300 adding Chapter 15.60 to Title 15 and amending Chapter 15.04 and Chapter 15.48 of the Sierra Madre Municipal Code.
 - e. ADOPTION OF RESOLUTION NO. 09-86 AUTHORIZING YOUTH EMPLOYMENT PLANS**

Recommendation that the City Council approve Resolution No. 09-86 authorizing Youth Employment Plans
- 2. PUBLIC HEARING – PUBLIC HEARING AND ADOPTION OF RESOLUTION 09-85 SETTING FEES ASSOCIATED WITH ORDINANCE NO. 1300**

Recommendation that the City Council conduct a Public Hearing, receive testimony regarding the adoption of new fees, and adopt Resolution No. 09-85 setting fees associated with Ordinance No. 1300
- 3. DISCUSSION – CONSIDERATION OF BALLOT MEASURE PROHIBITING USE OF EMINENT DOMAIN FOR PRIVATE PURPOSES IN THE CITY OF SIERRA MADRE**

Recommendation that the City Council provide staff with direction.
- 4. DISCUSSION – CONSIDERATION OF ESTABLISHING COMMERCIAL PROPERTY MAINTENANCE STANDARDS**

Recommendation that the City Council provide staff with direction regarding the drafting of a Commercial Property Maintenance ordinance.
- 5. DISCUSSION – CONSIDERATION OF CONTRACT AMENDMENTS FOR ARAKELIAN ENTERPRISES, INC. (DBA ATHENS SERVICES)**

Recommendation that the City Council provide staff with direction.

6. **DISCUSSION –
REQUEST TO ACCEPT AND
NEGOTIATE CONTRACT FOR
ENTERPRISE RESOURCE PLANNING
REPLACEMENT OF ACCOUNTING
SOFTWARE**

Recommendation that the City Council authorize the distribution of RFP for acquisition of an ERP and project management services.

7. **DISCUSSION –
STRATEGIC PLAN FROM THE
NOVEMBER 30, 2009 RETREAT**

Recommendation that the City Council approve Strategic Plan Objectives as discussed at the November 30, 2009 Strategic Planning Retreat.

PUBLIC COMMENT

Under the Brown Act, Council is prohibited from taking action on items not on the agenda, but the matter may be referred to staff or to a subsequent meeting. Each speaker will be limited to three continuous minutes, which may not be delegated. These rules will be enforced but may be changed by appropriate City Council action.

PUBLIC HEARING

The appellant and/or applicant will each be provided a total of ten (10) minutes to address their item. A portion of their allotted time may be reserved for rebuttal or a summary conclusion at the close of public comment. All other speakers will be limited to a total of three continuous minutes, which cannot be delegated. These rules will be enforced but may be changed by appropriate City Council action.

ACTION ITEMS

Regardless of a staff recommendation on any agenda item, the City Council will consider such matters, including action to approve, conditionally approve, reject, or continue such item. Further information on each item may be procured from the Office of the City Manager.

AVAILABILITY OF AGENDA MATERIALS

Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet, are available for public inspection at the public counter at City Hall, 232 W. Sierra Madre Blvd., and at the Library, 440 W. Sierra Madre Blvd., during normal business hours.

LIVE BROADCASTS

Regular City Council meetings are broadcasted live on Cable Channel 3 and rebroadcast on Wednesday and Saturday at 5:30 p.m.

MEETING ASSISTANCE

The City Hall Council Chamber is physically accessible and assistive listening devices are available at the meeting. If you require special assistance to participate in this meeting, please call the City Manager's office at (626) 355-7135 at least 48 hours prior to the meeting.

ADJOURNMENT

The Regular Meeting scheduled for Tuesday, December 22, 2009 is cancelled. The City Council/CRA will adjourn to a Regular Meeting at this same place on Tuesday, January 12, 2010.

As a courtesy to others, we ask that cellular phones be turned off during the meeting.

**REGULAR MEETING
SIERRA MADRE CITY COUNCIL AND
COMMUNITY REDEVELOPMENT AGENCY
Closed Session: 5:00 p.m.; Open Session 6:30 p.m.
Tuesday, December 8, 2009
City Hall Council Chambers, 232 W. Sierra Madre Blvd.**

Mayor, MaryAnn MacGillivray called the Regular Meeting of the Sierra Madre City Council and Community Redevelopment Agency Meeting to order at 5:00 p.m. She immediately adjourned the meeting to a closed session. The City Council returned from closed session at 6:30 p.m. and the Mayor called the open session to order.

CALL TO ORDER; ROLL CALL:

Present: Mayor, MaryAnn MacGillivray, Mayor Pro Tem, Donald Watts
Council Members, John Buchanan and Joseph Mosca

Absent: Council Member, Kurt Zimmerman (Excused)

Also Present: Elaine Aguilar, City Manager, Sandra Levin, City Attorney
Bruce Inman, Director of Public Works
Larry Giannoni, Captain, Sierra Madre Police Department
Karin Schnaider, Director of Finance
Danny Castro, Director of Development Services
Veenita Singh, Deputy Director of Administrative Services
Elisa Weaver, Director of Personnel & Community Services
George Enyedi, City Treasurer
Nancy Sue Shollenberger, City Clerk

PLEDGE OF ALLEGIANCE & INVOCATION/INSPIRATION:

Council Member Mosca led the Pledge of Allegiance and he reminded everyone as he traveled in California and outside Boston, he became aware of how so many people are unemployed. There is the feeling of tremendous despair and hopelessness. This holiday season please think about how we can do more to help those with less than we do. Talk to local County and State representatives – it's all about jobs.

APPROVAL OF AGENDA: Mayor MacGillivray announced that Item 5 (Consideration of Contract Amendments for Arakelian Enterprises, Inc. "DBA Athens Services") be moved forward to the first meeting in January 2010. Council Member Buchanan moved and it was seconded by Council Member Mosca for approval of the Agenda with the amendment made by the Mayor. The motion passed by voice vote.

APPROVAL OF MINUTES: Council Member Buchanan moved and it was seconded by Council Member Mosca for approval of the Regular City Council Meeting Minutes of November 24, 2009 as presented. The motion passed by voice vote.

SPECIAL PRESENTATION:

Phyllis Chapman, E. Grand View

Ms. Chapman was present this evening on behalf of the Sierra Madre Historical Society and on behalf of the new book, "Southern California Story – Seeking a Better Life in Sierra Madre". This would be a good choice for Christmas gifts. The author has a wonderful writing style and you will enjoy the many photographs. It is a coffee table size book and costs \$45.00 plus tax. It is available at Sierra Madre Books, Library, Arnolds, Savor The Flavor, Sierra Madre Fitness, Mary's Market and Vromans. Please call Phyllis with any questions (355-3928). She encouraged all to purchase. The next book signing is in February 2010.

MAYOR AND CITY COUNCIL REPORTS:

- 1). Mayor MacGillivray reported on SCAG (Southern California Association of Governments). Over the last four decades the SCAG has evolved as the largest of nearly 700 councils of government in the United States, functioning as the Metropolitan Planning Organization for six counties; Los Angeles, Orange, San Bernardino, Riverside, Ventura and Imperial. The region encompasses a population exceeding 18 million persons in an area of more than 38,000 square miles. As the designated metropolitan Planning Organization, the Associations of Governments is mandated by the Federal government to research and draw up plans for transportation, growth management, hazardous waste management, and air quality. Additional mandates exist at the state level. The underlying issue is, of course, development because without development there would be no need for transportation. In simple terms, a pro-development agenda is aided by transportation planning which is protected by Federal law, established with Federal funding and imposed on regions, counties and cities within the MPO. Hence my report on the joint meeting of the Regional Council of SCAG, Southern California Leadership Council and GLUE, which is the global Land Use and Economic Council. It was touted as an historic meeting and a forum for comments and discussion on the challenges of implementing SB375 during recessionary times. In fact it was a dog and pony show with a list of impressive Who's Who folks from a variety of agencies and arenas including: Dave Fleming, Co-Chair of SCLC (Southern California Leadership Council), Former Governor, Pete Wilson, Former Governor, Gray Davis; Greg Williams, GLUE Chair; Mary Nichols, ARB (Air Resources Board); and Assembly Speaker, Karen Bass. With the exception of Former Governor Wilson, who advocated caution in the implementation of SB375, the above, as expected, were cheerleaders for implementation. Comments advocating caution were reinforced by several members of the LA and Orange County business communities. Supervisor Antonovich offered some short term, cost effective solutions for implementation to reduce greenhouse gases while the data surrounding the whole issue is evaluated and also suggested that caution be exercised before quality of life issues are significantly compromised. A number of comments embraced prioritizing quality of life issues and the economy, lack of jobs and discretionary income make regional planning more so what Mayor Pro Tem Watts has termed "fantasy meeting absurdity". A number of speakers called out the discrepancy in data framing the whole global warming agenda (which is the basis for the Air Resources board to establish a methodology to reduce greenhouse gases and the underpinnings of SB375). They indicated that to craft legislation on faulty, incomplete or misinterpreted data is simply not smart and advocated deadline extensions and re-evaluation. Having said all that, I will offer SCAG President Jon Edney's summary of the historic meeting. Paraphrased but accurate in sentiment: It's true that the data on global warming is under debate and that there are two opposing views. But no matter what side you sit on SB375 is not a bad thing, SB375 is a GOOD thing and we should move forward.
- 2). Mayor Pro Tem Watts noted that there is a cheery side – the Census of homeless has dropped 38%. Also there is a light exchange program – turn your iridescent lights in and get LED lights free. Wednesday 12/9 to go Temple City Park from 5:00-8:00 p.m. and exchange lights. Also Friday, Dec. 11th, City of Puente City Hall – 5:30 to 7:00 p.m. The meetings of the SCAG are open to the public.
- 3). Council Member Buchanan remarked about the new book the Sierra Madre Historical Preservation Society has released – it is eight years in the making. Lots of work went into it at many levels. It is truly a history of Sierra Madre. Also, Friends of the Library Pot Luck was last evening and he encouraged all to join if you are not a member. The City Council held a Strategic Planning Meeting and a report will be given later. The Volunteer Fire Association Ball was last Saturday – they had a great band and it was a nice event.

- 4). Council Member Mosca announced that he would be in Kersting Court on Sunday at 2:00; or call him 836-8580; or e-mail joemosca@joemosca.com. The book signing was successful; regional organization dealt with this issue since 1996; we have chosen not to grow downtown; SCAG is a planning organization. He shared the Mayor's comments on SB375 – it wasn't productive. On behalf of Sierra Madre and 31 cities I will continue at the table discussing solutions. There is no quick fix.

Mayor MacGillivray remarked that "we will look forward to hearing you speak at those meetings".

Robert Young, E. Sierra Madre Blvd.

Mr. Young thanked the Mayor for allowing him to speak in the past when he arrived late. We are working on the Float every day. He shared the schedule for New Year's Day. Our Float is #64 in the Parade. We are proud of the quality of people and products. He reviewed the size of the Float. He announced that the Royal Court was present this evening to give their backgrounds. They were Tracy Sullivan, Tiffani Trypucko, Bassant Ibrahim and Filomena Pirrone. Talbots in Pasadena donated their outfits. Sharp Seating is giving away two tickets, front row and we are selling tickets \$1.00; or 6 for \$5.00, with parking. Mr. Young gave the City Council, staff and City Clerk a Float pin.

Bill Tice, Hermosa

Mr. Tice gave a Civil War Bugle to Robert Young for his dedicated and devoted service to the Sierra Madre Rose Float.

Gary Hood, Park Avenue

Mr. Hood announced that the first Monday of each month the Fire Safe Council meets and this is their fifth year. At the last meeting a lady from Cal Tech spoke, and a Civil Defense Representative also spoke. We are looking forward to our 5th Year and invite all to attend. Kiwanis, City Council and Fire Safe Council are working on the emergency radio station. The horn is the secure way to notify the community in the event of an emergency. FEMA has a rep in town. Sierra Madre is preparing the community for a disaster. Lots of volunteers are furnishing supplies. Maybe radio station will be on the computer, maybe solar panel, cameras, thermal imaging, website for radio station – we have thermometer in Kersting Court. We are pleased with the response and are excited.

Mayor MacGillivray closed public comment portion of meeting.

ACTION ITEMS AND REPORTS:

1. **CONSENT CALENDAR**

Elaine Aguilar, City Manager, gave the following report under the Consent Calendar.

1a. **WARRANTS**

The City Council of the City of Sierra Madre does hereby approve payment of City Warrants #25168-#25273 in the aggregate amount of \$113,150.13; Sierra Madre Library Warrants #25275-#25276 in aggregate amount of \$24,820.00 and Payroll Transfer in the aggregate amount of \$319,816.57 for the fiscal year ending June 30, 2010.

Staff recommends approval of Resolution No. 09-88 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE APPROVING CERTAIN DEMANDS".

1b. AUTHORIZATION OF PAYMENTS ON BEHALF OF CRA

The city paid \$130.00 on behalf of the agency under the demands authorized for payment December 8, 2009. Staff recommends that the City Council approve the \$130.00 addition to the revolving note for the demands paid by the City on behalf of the Community Redevelopment Agency.

1c. PUBLIC WORKS DEPARTMENT PURCHASE OF CATERPILLAR 924H LOADER

The Public Works Department is seeking to update its heavy equipment fleet by replacing outdated equipment that is approaching the end of its service life. Staff recommends that the city Council approve the purchase of a Caterpillar 924H wheel loader from Quinn Caterpillar in the amount of \$158,765.82. Staff recommends that the City Council approve this purchase.

1d. SECOND READING AND ADOPTION ORDINANCE 1300, MUNICIPAL CODE AMENDMENT ADDING WATER EFFICIENT LANDSCAPING REQUIREMENTS IN CONFORMANCE WITH ASSEMBLY BILL 1881.

The Water Conservation in Landscaping Act (the Act) was approved by Governor Schwarzenegger on September 28, 2006. The City Attorney and staff have prepared Ordinance 1300 to meet the requirements of the Act. Staff recommends that the City Council read by title only and adopt Ordinance No. 1300.

Ordinance No. 1300 "AN ORDINANCE OF THE CITY OF SIERRA MADRE, CALIFORNIA ADDING CHAPTER 15.60 (WATER EFFICIENT LANDSCAPE ORDINANCE) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) AND AMENDING CHAPTER 15.04 (BUILDING CODE AND PERMITS) AND CHAPTER 15.48) EXCAVATIONS AND GRADING) OF THE SIERRA MADRE MUNICIPAL CODE."

1e. ADOPTION OF RESOLUTION NO. 09-86 AUTHORIZING YOUTH EMPLOYMENT PLANS

Staff recommends the City Council approve Resolution No. 09-86 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, AUTHORIZING YOUTH EMPLOYMENT PLANS".

Mayor MacGillivray opened for public comment and there was none.

Council Member Buchanan questioned with regard to the drought resistant ordinance – he would like staff and City Council to think about ways we can give residents credit for water drought landscapes. Maybe track volunteer efforts in the community.

Council Member Mosca remarked that maybe Bruce Inman could come up with a program to give residents incentives.

Council Member Buchanan moved and it was seconded by Mayor Pro Tem Watts for approval of the Consent Calendar as presented by staff. The motion passed by voice vote with Council Member Mosca abstaining on Warrant #25205 – he is employed by The Gas Company.

2. PUBLIC HEARING AND ADOPTION OF RESOLUTION NO. 09-85, SETTING FEES ASSOCIATED WITH ORDINANCE NO. 1300.

Bruce Inman, Director of Public Works, gave the staff report.

The City should recover its costs in implementation of State-mandated Ordinance No. 1300, the Water Efficient Landscape Ordinance which is set for second reading and adoption this evening. Staff recommends that the city Council open a public hearing, receive testimony regarding the adoption of new fees, and adopt Resolution No. 09-85, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA AMENDING RESOLUTION NO. 09-044 TO ADOPT A LANDSCAPE PERMIT FEE TO THE DEPARTMENT OF PUBLIC WORKS FEE SCHEDULE".

The City does not have a licensed landscape architect on staff in order to be able to provide landscape/irrigation plan check, landscape/irrigation construction inspection, or irrigation audit services. In order to provide these services which will be required under Ordinance 1300, it will be necessary to contract with a landscape architecture firm to provide professional staffing to supplement the City's in-house staff.

In the interim, covering the period from January 1 through the date of Council selection of a "City Landscape Architect" and adoption of a subsequent fee resolution, staff recommends adoption of Resolution 09-85. Under this resolution, staff will process plans through a landscape architecture firm that has worked with the City in the past (Lawrence R. Moss and Associates) and which has provided similar services for other cities (Arcadia, Santa Clarita, San Dimas, La Verne, and others). Fees will be based on the hourly rate charged by LMA plus actual city administrative costs.

Utilizing the current hourly rates of LMA and the hours estimated for each phase of the landscape review process (and using 15% as an estimate of actual administrative costs, based on staff's use of a 15% factor for other public works services) applicant's costs under Resolution 09-85 might be as follows for a single family residence landscape project:

Plan Check and permit issuance	\$	1,080.00 (two plan reviews)
Inspection	\$	700.00 (two site visits)
Irrigation Audit	\$	675.00

Under Resolution 09-85 these estimated fees would be covered under a deposit of \$2,500.00 payable at time of permit application. Upon completion of the landscape project and final inspection thereof, any unused balance of the \$2,500.00 deposit would be refunded to the applicant, less the \$675 which will be retained by the City to cover the cost of irrigation audit which will be required one year following final inspection.

These costs may be high in comparison to costs that will be provided under a contract awarded by the City Council in early 2010. It will be staff's goal to recommend to the City Council the qualified firm that will contract to provide the best level of service at the lowest cost to Sierra Madre's residents.

Mayor MacGillivray noted that we should not have the need for this charge often. The resident can do the project in pieces to eliminate costs.

Council Member Mosca noted that if the City hires a consultant, it is the expense of the landowner. There is no cost to the City. This won't apply to many properties. There should be a brochure available when residents come into the City.

Mayor Pro Tem Watts agrees with Council Member Mosca. Even though the landowner hires the landscape architect, they will have administrative fees. How will this work.

Mr. Inman noted that the Public Works Department signs off on all development projects. This will add to our review. It is based on square footage of the project.

Mayor MacGillivray stated that this will not apply to projects under 2,500 sq. ft. and residential area is 5,000 sq. ft. The ordinance will not kick in until the project is over this square footage.

Council Member Buchanan stated that he hopes to have the process streamlined. He questioned Section 2 and would like "City in retaining" added on line 2. The City Attorney will make this amendment.

Bill Tice, Hermosa

Mr. Tice thinks you need a committee to work on this. Put water storage areas on the property so water percolates into the soil.

Barbara Leigh, E. Sierra Madre Blvd.

Ms. Leigh handed out templates from other cities. It is a simplified way to do.

Mayor Pro Tem Watts noted that this is being done for State mandate. He feels there should be something else in the ordinance. What about a drought period, new lots, water meters – we should have a moratorium. We have to preserve. Just another layer of loss of freedom.

Mayor MacGillivray agreed "You are right on loss of freedom".

Council Member Mosca moved and it was seconded by Council Member Buchanan for approval of Resolution No. 09-85. The motion passed by voice vote with Mayor Pro Tem Watts voting no.

3. CONSIDERATION OF BALLOT MEASURE PROHIBITING USE OF EMINENT DOMAIN FOR PRIVATE PURPOSES IN THE CITY OF SIERRA MADRE

City Attorney, Sandra Levin, gave the staff report.

At its meeting on November 24, 2009, Mayor MacGillivray requested and the Council concurred that an agenda item be prepared regarding prohibiting the use of eminent domain for private purposes in the City of Sierra Madre. In particular, an agenda item was requested for the next regular meeting to consider a ballot measure and all necessary related documents to place the measure on the ballot as prepared by the City Attorney's office.

The City's ability to use eminent domain is already restricted. The State Constitution was amended several years ago to read:

"The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person."

This prohibits the exercise of eminent domain to acquire owner-occupied homes for the purpose of conveying them to private parties, but leaves open the possibility of the City exercising eminent domain to acquire residences that are not owner-occupied as well as non-residential property (e.g., commercial) for conveyance to private parties. As discussed below, in some communities, the exercise of eminent domain for conveyance to private parties has been further restricted or eliminated.

The State constitution also leaves open the possibility of exercising eminent domain for public use or necessity (e.g. to repair or realign roads, build water facilities, etc.). Staff is aware of no local measure attempting to eliminate or restrict the use of eminent domain for strictly public purposes and such use has generally been recognized as a necessary power of government to provide basic services.

The following measure was approved by the voters of the City of Yorba Linda in 2008:

“Shall the voters of the City of Yorba Linda adopt Ordinance No. 2008-920 relating to the elimination of eminent domain for private economic development purposes?”

The Sierra Madre Redevelopment Agency voluntarily abandoned its right to exercise eminent domain by adopting a redevelopment plan that did not include any plans or guidelines for the exercise of eminent domain. It is theoretically possible that the power of eminent domain could be reinstated at some point in the future, but it is not at all clear that the Sierra Madre Redevelopment Agency would be able to make all the necessary findings. Moreover, there is a fairly long and complicated process under State law that is required to amend the development plan to reinstate the power of eminent domain. Regardless, since the redevelopment agency is created by State law and is treated for many legal purposes as a state entity, it cannot be deprived of its powers by a City ballot measure.

Similarly, neither the city Council nor the voters of the City have the authority to prohibit by ordinance other government agencies from exercising their powers of eminent domain within the city. Thus, although staff is not aware of any current plans, it is possible that even without the City exercising eminent domain, another agency (e.g., the school district, redevelopment agency or county) could at some point in the future exercise its powers of eminent domain within the City's borders.

Although the exercise of eminent domain by other agencies cannot be prohibited by a voter approved ballot measure in Sierra Madre, the voters can prohibit the city from participating in, funding or facilitating such an exercise. Accordingly, the attached draft ordinance includes language prohibiting the city from facilitating, funding or consenting to the sue of City property or resources in connection with, another agency's exercise of eminent domain to convey the property to a private party.

Although the official last day to call election for ballot measures pursuant to the election code is January 15, 2010, it is simply not feasible for the election's official to allow time for supporting and opposing arguments and rebuttal, coordinating with the County and complying with all of the election requirements in such a condensed timeframe. Accordingly, Martin & Chapman recommends, and the City Attorney concurs, that December 22 should be considered the last day to call an election for a ballot measure.

The following Resolutions are presented for approval:

Resolution No. 09-89: A RESOLUTION OF THE CITY COUNCIL TO PLACE BEFORE THE VOTERS OF THE CITY OF SIERRA MADRE, CALIFORNIA, AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 13, 2010, AN ORDINANCE PROHIBITING THE EXERCISE OF EMINENT DOMAIN FOR PRIVATE PURPOSES”

Resolution No. 09-90 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, AUTHORIZING CERTAIN COUNCIL MEMBERS TO SUBMIT ARGUMENTS REGARDING A MEASURE TO PROHIBIT THE EXERCISE OF EMINENT DOMAIN FOR PRIVATE PURPOSES WHICH WILL BE ON THE BALLOT FOR THE APRIL 13, 2010, MUNICIPAL ELECTION AND DIRECTING AN IMPARTIAL ANALYSIS OF THE MEASURE BY THE CITY ATTORNEY

Resolution No. 09-91: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

Ordinance No. 1302 (voter approved)
AN ORDINANCE OF THE CITY OF SIERRA MADRE, CALIFORNIA PROHIBITING THE EXERCISE OF EMINENT DOMAIN FOR PRIVATE PURPOSES

Barbara Leigh, E. Sierra Madre Blvd.

Ms. Levin, I like what I have heard. Maybe you should check with Yorba Linda on SCAG. Thank you for acting on this.

De Alcorn, E. Grandview Avenue

I think this is well thought out and we need to do. Make sure this happens. Hope it is ironclad.

Carol Parker, Mariposa Avenue

This issue scares me to death. Find this extremely disturbing. It is a lie that we need SB375. She quoted a myth.

Council Member Buchanan would like to put this on the ballot. We don't need an arm of the government to get involved. What we should do if goes out to voters approval, can't change by future councils. This is the right policy for the City of Sierra Madre.

Mayor Pro Tem Watts feels the threat of eminent domain makes the people afraid not to sell property. My family was involved in eminent domain. I am not a fan of eminent domain.

Council Member Mosca noted that it is fundamentally unfair to me to take over property. The City should not use their authority. I support the ballot measure.

Council Member Buchanan moved for approval of staff's recommendations.

The City Attorney noted that we need to schedule a meeting for arguments and signatures.

Mayor MacGillivray noted that two people can draft the arguments and all City Council members sign. The Mayor and Mayor Pro Tem will draft the arguments in favor.

Council Member Mosca asked if he and Council Member Buchanan could be involved.

Mayor MacGillivray stated, "I will draft the arguments singularly."

Mayor MacGillivray moved for approval of staff's recommendations to adopt the resolutions presented, placing the ballot measure on the ballot, directing the City Attorney to provide an impartial analysis, authorizing Mayor to submit arguments and providing for rebuttal arguments. The motion was seconded by Mayor Pro Tem Watts and passed by voice vote.

The City Attorney noted that staff will agendize the ordinance for the January, 2010 agenda packet.

4. CONSIDERATION OF ESTABLISHING COMMERCIAL PROPERTY MAINTENANCE STANDARDS

Elaine Aguilar, City Manager, gave the staff report.

This item was originally requested by Council Member Zimmerman, and the Council may recall considering an agenda item pertaining to foreclosed property. After consideration, the Council did not pursue the foreclosed property ordinance, and instead, staff was directed to return with options for enforcement of property maintenance standards for vacant commercial properties. (In this report, "commercial properties" is intended to refer to all non-residential uses, such as commercial, institutional, and manufacturing uses.)

Due to a slowing economy, many cities have experienced increased vacancies in commercial areas. There has also been an increase in the amount of time it takes to find new tenants/owners. This has resulted in properties remaining vacant for longer periods of time, which can result in the property's deterioration. Sierra Madre has not been immune to this trend, as there are currently at least four vacant commercial properties in the downtown area. Cities are beginning to implement new procedures and regulations that pertain to the maintenance of vacant commercial properties.

There are two basic approaches that cities are implementing. One approach establishes a "vacant property registration program", that requires the owners of vacant commercial property to provide a written plan that describes how the property will be maintained while vacant. A second approach involves adopting an ordinance that specifically addresses how vacant commercial properties are to be maintained.

Staff will be seeking Council direction regarding which type of program should be implemented. The implementation of either program (or a combination of both programs) will require the preparation of an Ordinance for the Council's consideration.

Some provisions would be similar to the current property maintenance standards, however other requirements specific to vacant commercial property can be added such as: Specify that the owner of vacant property is responsible for:

- Performing regular (for example weekly or monthly) inspections.
- Securing the services of a maintenance company (This could be specified in situations when the property is not owned by an identifiable individual, or when the owner is unable to satisfy the ordinance requirements because of distance, or other issues).
- Posting a notice identifying a 24-hour contact phone number for any issues pertaining to the property.
- Maintaining landscaping (free of weeds, dry brush, no dead vegetation, etc. If the landscaping dies or is dead, the property owner would be required to replace the previously existing landscaping). Defining landscaping, so it does not include weeds, dead or overgrown vegetation, etc.
- Maintaining the general appearance of the building, including, but not limited to regular painting, repairs, and removal of graffiti, etc. (The term "regular" would need to be defined).
- Maintaining the property free of debris, trash, junk, accumulation of mail, flyers, newspapers, discarded items, etc.
- Maintaining the property free of any items that give the appearance that the building or property is vacant.

It is recommended that the City Council provide staff with direction regarding the drafting of a Commercial Property Maintenance ordinance.

Council Member Buchanan remarked that the way it is worded – commercial – we have four vacant lots, Howie's is a question of "vacancy", other issues – mixed use properties, also, do rental properties apply.

The City Manager noted that we need to define "vacancy". Our request was to look at commercial, but it could be expanded to residential/commercial. We would look at use.

Mayor MacGillivray remarked that the intent is not to invade on residential. The intent is to look at commercial buildings.

The City Attorney stated that we can define types of buildings it should apply to – commercial.

Mayor MacGillivray stated that it should be commercial buildings in commercial district is the way we should go.

Mayor Pro Tem Watts stated that it has to do with the way the building looks on the outside. What about abandoned buildings.

The City Manager noted that we can pursue "criminally" or "civically".

Council Member Mosca stated that if we levy fees – the City can put liens on properties. The incentive is to comply. The second approach is more direct.

Mayor MacGillivray stated that we want to control blight. She followed by opening up for public comment.

Barbara Leigh, E. Sierra Madre Blvd.

Ms. Leigh remarked that she is glad this is on the agenda. She sees lots of brown and dead plants. We need recourse – there are six foreclosures in Sierra Madre. Put teeth into it.

Gary Hood, Park Avenue

Mr. Hood stated that instead of singling out vacant, it should be all commercial property. They all need to be maintained and up to code in the City.

Heather Allen, Grove Street

Ms. Allen asked what the fines were.

The City Attorney stated that the fines are on uniform basis: 1st is warning without a fine; then there would be a time limit on \$100.00, \$200.00 and \$500.00.

Mayor MacGillivray noted that the consensus is Option two – motion to return with an Ordinance reflecting the second approach.

Council Member Buchanan moved for approval of the second approach which is to develop an ordinance that specifically details property maintenance requirements and an enforcement program for vacant commercial properties. It would only address the maintenance of commercial property. Council Member Mosca seconded the motion and it passed by voice vote.

BREAK: The Mayor requested a break at 8:35 p.m. and the City Council reconvened at 8:40 p.m.

5. CONSIDERATION OF CONTRACT AMENDMENTS FOR ARAKELIAN ENTERPRISES, INC. (DBA ATHENS SERVICES)

This item was postponed to the first meeting in January, 2010.

6. REQUEST TO ACCEPT AND NEGOTIATE CONTRACT FOR ERP (ENTERPRISE RESOURCE PLANNING) REPLACEMENT OF ACCOUNTING SOFTWARE.

Karin Schnaider, Administrative Services Director, gave the staff report.

On August 11, City Council authorized staff to distribute an RFP (Request for Proposal) for a new ERP (Enterprise Resource Planning) which would replace the current accounting software installed in 1998. By definition, an Enterprise Resource Planning (ERP) system is a City-wide computer software system used to manage and coordinate all the resources, information, and functions of a business from shared data stores. An ERP system has a service-oriented architecture with modular hardware and software units and "services" that communicate on a local area network. The modular design allows the City to add or reconfigure modules while preserving data integrity in one shared database that may be centralized or distributed. The purpose of this contract is to ensure that the City is accurately accounting for all City provided services through one comprehensive accounting software purchase.

The City currently has General Ledger, Payroll, Utility Billing, Cash Register, Accounts Receivable including Animal and Business Licenses, Accounts Payable/Purchasing and Budget Modules. In the ERP, the City is looking to expand the current accounting system and add Personnel (HR) including Recruitment; Building Permit or Planning modules with consideration of GIS interface, Code (By-Law) Enforcement; Project/Grant Management; Work Orders; Bank Reconciliation; Requisitions; and E-Government Solutions including Web Payments and remote customer access. The City is pursuing an ERP that will crossover functionality between all departments allowing for one comprehensive electronic database. The City will see an immediate impact on efficiency; and, over time, the improved efficiencies will result in quantifiable work hour savings. Finally, the City will be replacing Comcate as community communication tool.

The vendor which most fulfilled the RFP requirements was Tyler Technologies, Inc.'s Incode software. The ERP software system to be provided by Incode, without modifications, costs \$395,870 (which includes an estimated travel cost of \$55,000). The proposal also includes an option to finance the ERP for five years at 5% for \$7,846 per month (\$94,152 per year; estimated interest paid is \$74,890). There is also an annual maintenance cost \$54,231 starting 12 months after the contract agreement. The current software annual maintenance cost is \$47,364 plus \$6,000 for Comcate. Upon review of the ERP proposal, staff is asking for appropriations of an estimated \$100,000 for hardware upgrades to enhance the performance of the software.

Staff is requesting approval from City Council to negotiate and enter contract documents with Tyler Technologies, Inc. for the acquisition of new for the ERP system, Incode; and open discussions for establishing a master lease agreement of five years at 5% terms. In addition, staff is asking to encumber \$100,000 for Hardware purchases to be employed during the implementation of the ERP.

Ms. Schnaider followed with a slide presentation from Tyler.

Barbara Leigh, E. Sierra Madre Blvd.

Ms. Leigh feels this proposal is fantastic and should be expanded to the Police and Fire. This is moving forward. This is the best way to spend the money.

Council Member Mosca stated that with respect to financing over five years – not sure this is road you want to go. To finance costs \$74,000. It increases the debt load of the City. We should use the money we have.

Ms. Aguila noted that staff recommends finance, but we can pay up front.

Council Member Mosca wants to spend the money the City has set aside for the purchase of this software.

Mayor Pro Tem Watts questioned 'security'.

Ms. Schnaider noted that the City will have an on-site recovery – we can track all work being done. It is secure environment. We will have identity protection. All departments will work as one. Josh will be working on system upgrades.

Council Member Buchanan noted that this is good and he hopes we can demonstrate to the residents. He also feels it is better not to buy over time.

Council Member Mosca moved for approval of staff's recommendation, excluding proposal to finance. Council Member Buchanan seconded the motion and upon voice vote it passed 3-1 with Mayor MacGillivray voting no because she felt it was prudent to finance.

Council Member Mosca asked if we could defer the next item, Strategic Plan for November 30, 2009 Retreat.

It was felt that the item should be discussed this evening.

7. STRATEGIC PLAN FROM NOVEMBER 30, 2009, RETREAT

Elaine Aguilar, City Manager, gave the staff report. Approve the revised Strategic Plan Objectives as discussed at the November 30, 2009, Strategic Planning Retreat.

Ms. Aguilar stated that the City of Sierra Madre's elected leaders and management staff have met and participated in a Strategic Planning process for the past three years. The most recent session was held on November 30, 2009, at the Youth Activity Center. The retreat was a noticed public meeting that was held from 8:30 a.m. to 3:00 p.m. As provided in the Brown Act, the agenda for this meeting was posted outside City Hall, on the City's website, and at the Youth Activity Center.

Council Member Mosca moved and it was seconded by Council Member Buchanan for approval to accept the approved revised Strategic Plan Objectives. The motion passed by voice vote.

FUTURE AGENDA ITEMS:

Mayor Pro Tem Watts asked that the item of Water Meter Control be agendized for discussion.

ADJOURNMENT:

Council Member Mosca moved and it was seconded by Council Member Buchanan for approval of adjournment at 9:30 p.m. and it passed by voice vote.

Mayor, MaryAnn MacGillivray

Minutes taken and typed by:

Nancy Sue Shollenberger
Nancy Sue Shollenberger, City Clerk

**AGENDA
REGULAR MEETING
SIERRA MADRE CITY COUNCIL &
COMMUNITY REDEVELOPMENT AGENCY
Closed Session – 5:30 PM
Open Session – 6:30 PM
Tuesday, November 24, 2009
City Hall Council Chambers
232 W. Sierra Madre Boulevard**

*MaryAnn MacGillivray, Mayor
Don Watts, Mayor Pro-Tem
John Buchanan, Council Member
Joe Mosca, Council Member
Kurt Zimmerman, Council Member*

*Nancy Shollenberger, City Clerk
George Enyedi, City Treasurer*

PUBLIC COMMENT

The Council will listen to the public on any item on the agenda. The City Council cannot legally take action on any item not scheduled on the agenda. Such items may be referred for administrative action or scheduled on a future agenda. Comments will generally be limited to three minutes per speaker.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA:

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PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Time shall be devoted to audience participation early on the agenda. If additional time is needed, the Mayor will allow for same at the end of the agenda.

CLOSED SESSION 5:30 PM

CALL TO ORDER/ROLL CALL

Council Member/Board Members of the Community
Redevelopment Agency

PUBLIC COMMENT

Regarding Closed Session Items

RECESS TO CLOSED SESSION REGARDING:

CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

The City Council/Agency finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the local agency in the litigation for the following matters:

Pursuant to Calif. Government Code Section 54956.9(a)

Case Name: John Ellins and Does 1 through 10 Inclusive v. City of Sierra Madre; Marilyn Diaz; and Does 1 through 10, Inclusive

Case #: CV08-06720

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COMMUNITY REDEVELOPMENT AGENCY
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Case #: CV08-06720

OPEN SESSION 6:30 PM

PLEDGE OF ALLEGIANCE &
INVOCATION/INSPIRATION

Council Member John Buchanan

APPROVAL OF AGENDA

Majority vote of the Council to proceed with City business.

APPROVAL OF MINUTES

Approval of Minutes from the closed session, Community Redevelopment Agency session, and the regular City Council meeting of November 10, 2009.

MAYOR AND CITY COUNCIL REPORTS

Brief reports of individual Council Member activities relating to City business occurring since the last City Council meeting.

PUBLIC COMMENT

Regarding items not on the Agenda.

ACTION ITEMS

CONSENT CALENDAR

1.
 - a. **ADOPTION OF RESOLUTION NO. 09-84 OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE APPROVING CERTAIN DEMANDS**

Recommendation that the City Council approve Resolution No. 09-84 for payment of City Warrants # 25061 - #25065; #25066-#25156 in aggregate amount of \$192,546.80; Sierra Madre Library warrants #25159 - #25167 in the aggregate amount of \$2,921.49 and Payroll Transfer in the aggregate amount of \$269,818.86 for the fiscal year ending June 30, 2010.
 - b. **AUTHORIZATION OF PAYMENTS ON BEHALF OF CRA**

Recommendation that the City Council approve the \$2,775.00 addition to the revolving note for the demands paid by the City on behalf of the Community Redevelopment Agency.
 - c. **ADOPTION OF RESOLUTION NO. 09-78 REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 13, 2010; RESOLUTION 09-79 PROVIDING FOR THE CONDUCT OF A SPECIAL RUNOFF ELECTION FOR ELECTIVE OFFICES IN THE EVENT OF A TIE VOTE AT ANY MUNICIPAL ELECTION;**

Recommendation that the City Council approve Resolution No. 09-78 requesting the Board of Supervisors of the County of Los Angeles to render specified services to the City relating to the conduct of a general election to be held April 13, 2010; Resolution No. 09-79 providing for the conduct of a special runoff election for elective offices in the event of a tie vote at any municipal election; Resolution No. 09-80 calling for the holding of a general municipal election to be held April 13, 2010 for the election of certain officers as required by provisions of the laws of the State of California relating to general law cities; and Resolution No. 09-81 adopting regulations for candidate statements submitted to the voters at an election to be held April 13, 2010.

RESOLUTION NO. 09-80 CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 13, 2010, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES; AND RESOLUTION NO. 09-81 ADOPTING REGULATIONS FOR CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD APRIL 13, 2010

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|---|--|
| <p>d. APPROVAL OF RESOLUTION NO. 09-83 GRANTING A TEMPORARY USE PERMIT FOR THE CANDLELIGHT WALK PROCESSION (TUP 09-36)</p> | <p>Recommendation that the City Council approve Resolution No. 09-83, the Temporary Use Permit for the Candlelight Walk, authorize the necessary street closures and no parking signs.</p> |
| <p>e. NOTICE OF COMPLETION FOR DEBRIS DIVERSION STRUCTURE, 801 SKYLAND DRIVE</p> | <p>Recommendation that the City Council direct staff to issue a Notice of Completion for this phase of the National Resource Conservation Service (NRCS) Skyland Hillside Restoration Project.</p> |
| <p>f. CONSIDERATION OF REQUEST FOR USE OF CITY LOGO</p> | <p>Recommendation that the City Council approve the use of the City's logo to be included on any printed material that is first reviewed and approved by City staff and is intended for the educational and fund-raising efforts pertaining to the Sierra Madre Emergency Radio Station.</p> |
| <p>2. PUBLIC HEARING – FIRST READING ORDINANCE NO. 1300, MUNICIPAL CODE AMENDMENT ADDING WATER EFFICIENT LANDSCAPING REQUIREMENTS IN CONFORMANCE WITH ASSEMBLY BILL 1881</p> | <p>Recommendation that the City Council read by title only and approve Ordinance No. 1300; and that the City Council designate the City Attorney prepare a summary of Ordinance No. 1300 pursuant to Government Code Section 36933(c)(1).</p> |
| <p>3. PUBLIC HEARING – CONSIDERATION OF ORDINANCE NO. 1301-U; ESTABLISHING AN INTERIM MORATORIUM ORDINANCE REGARDING LAND IN THE CANYON AREA OF THE CITY</p> | <p>Recommendation that the City Council conduct a Public Hearing, take testimony, and consider for approval Ordinance No. 1301-U, establishing an interim moratorium regarding land in the Canyon area and declaring the urgency thereof.</p> |
| <p>4. DISCUSSION – REVISED FEE STUDY PROPOSAL</p> | <p>Recommendation that the City Council award a Professional Service Agreement with NBS for an amount not to exceed \$40,000</p> |

5. **DISCUSSION –
DISCUSSION REGARDING THE
SOUTHERN CALIFORNIA
ASSOCIATION OF GOVERNMENTS
(SCAG)**

Recommendation that the City Council provide staff with direction regarding the payment of membership dues to the Southern California Association of Governments.

6. **DISCUSSION –
CALIFORNIA LEAGUE OF CITIES
LEGISLATIVE UPDATE 2009**

Recommendation that the City Council receive and file.

7. **DISCUSSION –
SUMMARY OF STATE WATER
LEGISLATION**

Recommendation that the City Council receive and file.

PUBLIC COMMENT

Under the Brown Act, Council is prohibited from taking action on items not on the agenda, but the matter may be referred to staff or to a subsequent meeting. Each speaker will be limited to three continuous minutes, which may not be delegated. These rules will be enforced but may be changed by appropriate City Council action.

PUBLIC HEARING

The appellant and/or applicant will each be provided a total of ten (10) minutes to address their item. A portion of their allotted time may be reserved for rebuttal or a summary conclusion at the close of public comment. All other speakers will be limited to a total of three continuous minutes, which cannot be delegated. These rules will be enforced but may be changed by appropriate City Council action.

ACTION ITEMS

Regardless of a staff recommendation on any agenda item, the City Council will consider such matters, including action to approve, conditionally approve, reject, or continue such item. Further information on each item may be procured from the Office of the City Manager.

AVAILABILITY OF AGENDA MATERIALS

Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet, are available for public inspection at the public counter at City Hall, 232 W. Sierra Madre Blvd., and at the Library, 440 W. Sierra Madre Blvd., during normal business hours.

LIVE BROADCASTS

Regular City Council meetings are broadcasted live on Cable Channel 3 and rebroadcast on Wednesday and Saturday at 5:30 p.m.

MEETING ASSISTANCE

The City Hall Council Chamber is physically accessible and assistive listening devices are available at the meeting. If you require special assistance to participate in this meeting, please call the City Manager's office at (626) 355-7135 at least 48 hours prior to the meeting.

ADJOURNMENT

The City Council/CRA will adjourn to a Regular Meeting at this same place on Tuesday, December 8, 2009

As a courtesy to others, we ask that cellular phones be turned off during the meeting.

REGULAR MEETING
SIERRA MADRE CITY COUNCIL &
COMMUNITY REDEVELOPMENT AGENCY
Closed Session: 5:30 p.m.; Open Session: 6:30 p.m.
Tuesday, November 24, 2009
City Hall Council Chambers, 232 W. Sierra Madre Blvd.

Mayor, MaryAnn MacGillivray called the meeting of the Sierra Madre City Council & Community Redevelopment Agency to order at 5:30 p.m. The Mayor immediately adjourned the meeting to a closed session. The City Council returned from closed session at 6:55 p.m. and immediately opened the Regular Meeting.

CALL TO ORDER/ROLL CALL:

Present: *Mayor, MaryAnn MacGillivray, Mayor Pro Tem, Donald Watts
Council Members, John Buchanan, Joseph Mosca and Kurt Zimmerman*

Absent: *None*

Also Present: *Elaine Aguilar, City Manager; Sandra Levin, City Attorney
Steve Heydorff, Fire Chief
Marilyn Diaz, Police Chief
Bruce Inman, Director of Public Works
Karin Schnaider, Director of Finance
James Carlson, Management Analyst
Danny Castro, Director of Development Services
Veenita Singh, Deputy Director of Administrative Services
Elisa Weaver, Director of Personnel & Community Services
George Enyedi, City Treasurer
Nancy Sue Shollenberger, City Clerk*

PLEDGE OF ALLEGIANCE/INVOCATION/INSPIRATION: *Council Member Buchanan led the Pledge of Allegiance and noted that as Thanksgiving approaches, he selected a article on "Gratitude".*

APPROVAL OF AGENDA: *Mayor MacGillivray requested that Item c be pulled for the Consent Calendar for separate discussion. Council Member Mosca moved and it was seconded by Council Member Zimmerman for approval of the Agenda as amended. The motion passed by unanimous voice vote.*

APPROVAL OF MINUTES: *Council Member Mosca moved and it was seconded by Council Member Zimmerman for approval of the Minutes of November 10, 2009 as presented. The motion passed by unanimous voice vote.*

MAYOR AND CITY COUNCIL REPORTS:

- 1). *Mayor MacGillivray wanted to call attention to the fact that there is no clock, but she encouraged all to speak your mind fairly and don't use the time for your own benefit.*
- 2). *Council Member Zimmerman and Mayor Pro Tem Watts didn't have anything to report.*
- 3). *Council Member Buchanan congratulated the people on Dapper Field fund raiser. It was very successful. He also thanked the Sierra Madre Woman's Club for the Prayer Breakfast. He also announced that the Sierra Madre Historical Preservation Society will be having a book signing on their new book. It will be held at the Library on Dec. 6th.*
- 4). *Council Member Mosca also wished to thank the Woman's Club for the Prayer Breakfast and announce the book signing. He also noted that he will be available on Sunday at 2:00 at Kersting Court if anyone wishes to talk with him; or he can be reached at 836-8580; or e-mail joemosca@joemosca.com. He also wished all a "Happy Thanksgiving."*

PUBLIC COMMENT:

Nanch Walsh, Grove Street

Ms. Walsh is a concerned, confused citizen – she sat in her family room at the last City Council Meeting – she voted for Measure V – she didn't think the city would change their policy. The residents want managed change in parameters of Measure V. The City sent out a letter that has stressed "no growth" in Sierra Madre. I didn't like the message. The Skilled Nursing Facility is an eyesore. I don't want Sierra Madre to regress and I expect you to correct the message.

Bill Tice, Hermosa Drive

Mr. Tice presented a replica of the Civil War "Bugle" to the City Manager, Council Member Zimmerman and Mayor MacGillivray. He feels the ambulance service is good. He feels MaryAnn and Kurt have been the best Mayors.

Barbara Leigh, E. Sierra Madre Blvd.

Ms. Leigh asked that the residents go to the Library and look at Measure V. We haven't changed anything. She asked that when the City Council discusses SCAG and COG that they spell them out as some residents don't know who they are.

The Mayor closed Community Communication portion of the meeting.

ACTION ITEMS AND REPORTS:

1. CONSENT CALENDAR

Elaine Aguilar, City Manager, gave the following report under the Consent Calendar:

1a. WARRANTS

Resolution No. 09-84 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE APPROVING CERTAIN DEMANDS" and approval for payment of City Warrants #25061-#25065; #25066-#25156 in the aggregate amount of \$192,546.80; Sierra Madre Library Warrants #25159-#25167 in aggregate amount of \$2,921.49; and Payroll Transfer in the aggregate amount of \$269,818.86 for the fiscal year ending June 30, 2010.

Staff recommends approval of Resolution No. 09-84.

1b. AUTHORIZATION OF PAYMENTS ON BEHALF OF CRA

The City paid \$2775.00 on behalf of the Agency under the demands authorized for payment November 24, 2009. Staff recommends that the City Council approve the \$2775.00 addition to the revolving note for the demands paid by the City on behalf of the Community Redevelopment Agency.

1c. ELECTION RESOLUTIONS

This item was pulled for separate discussion.

1d. APPROVAL OF RESOLUTION 09-83 GRANTING A TEMPORARY USE PERMIT FOR THE CANDLELIGHT WALK PROCESSION (TUP 09-36).

Staff recommends that the City Council approve Resolution No. 09-83 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE GRANTING A TEMPORARY USE PERMIT FOR THE 2009 CANDLELIGHT WALK ON SUNDAY, DECEMBER 20, 2009 (TUP 09-36).

1e. NOTICE OF COMPLETION FOR DEBRIS DIVERSION STRUCTURE, 801 SKYLAND DRIVE.

The Contractor has completed construction of the debris diversion structure at 801 Skyland. Staff recommends that the city Council direct staff to issue a Notice of Completion for the phase of the National Resource Conservation Service (NRCS) Skyland Hillside Restoration Project.

1f. CONSIDERATION OF REQUEST FOR USE OF CITY LOGO

Staff requests that the City Council consider and approve the use of the City's logo to be included on the printed material attached to the Agenda and any future printed material that is reviewed and approved by staff and is intended for the educational and fund raising efforts pertaining to the Sierra Madre Emergency Radio Station.

The City Attorney noted that the City does not normally have the custom of outside groups using the City seal, however, staff is involved in this material and participating.

Elaine Aguilar noted that the City wants to be proactive, it is a volunteer effort, but the City is in control.

Mayor Pro Tem Watts asked if we received funding from Homeland Security and Ms. Aguilar stated "no".

There was no public comment and the Mayor asked for a motion.

Council Member Zimmerman moved and it was seconded by Mayor Pro Tem Watts for approval of the Consent Calendar as presented by staff. The motion passed unanimously by voice vote with Council Member Buchanan abstaining on Warrant #25068 and Council Member Mosca abstaining on Warrant #25067.

1c. ELECTION RESOLUTIONS FOR CITY COUNCIL APPROVAL

Nancy Sue Shollenberger, City Clerk, asked for this item to be pulled for separate discussion because she was concerned about the last-minute changes to a Resolution. She noted that after the fiasco of the last Election, and Council Member Zimmerman's asking if what the City Clerk did for the election was given to the City Attorney for her inspection and approval, she decided to give the City Attorney the Resolutions for her review. She e-mailed them to her on November 4th and the day of the City Council Meeting, at 4:15 p.m., she was informed there were some minor changes. I was upset because I don't like to do things at the last minute. I made the effort to make the changes and they are in final for you this evening. Also, while we are talking about the election, the mail service is received at City Hall at approximately 10:30 a.m. and there have been days when it is not sorted until 4:00 p.m. During the absentee ballot process, I will be processing them daily and I need them before 4:00 p.m.

City Attorney, Sandra Levin, stated that indeed what the City Clerk noted above is correct. She thought her staff had handled the Resolutions and they had not so she will inform them of the deadlines.

The City Council reviewed the changes and Council Member Mosca moved for approval of Resolution No. 09-78 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 13, 2010; Resolution No. 09-79 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, PROVIDING FOR THE CONDUCT OF A SPECIAL RUNOFF ELECTION FOR ELECTIVE OFFICES IN THE EVENT OF A TIE VOTE AT ANY MUNICIPAL ELECTION; Resolution No. 09-80 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 13, 2010, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES"; Resolution No. 09-81 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, APRIL 13, 2010". The motion was seconded by Council Member Buchanan and passed by unanimous voice vote.

2. FIRST READING ORDINANCE 1300, MUNICIPAL CODE AMENDMENT ADDING WATER EFFICIENT LANDSCAPING REQUIREMENTS IN CONFORMANCE WITH ASSEMBLY BILL 1881.

Bruce Inman, Director of Public Works, gave the staff report. The Water Conservation and Landscaping Act (the Act) was approved by Governor Schwarzenegger on September 28, 2006. A copy of that legislation is attached to the Agenda. The City Attorney and staff have prepared Ordinance 1300 to meet the requirements of the Act. Staff recommends that the City Council read by title only and approve Ordinance 1300 "AN ORDINANCE OF THE CITY OF SIERRA MADRE, CALIFORNIA ADDING CHAPTER 15.60 (WATER EFFICIENT LANDSCAPE ORDINANCE) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) AND AMENDING CHAPTER 15.04 (BUILDING CODE AND PERMITS) AND CHAPTER 15.48 (EXCAVATIONS AND GRADING) OF THE SIERRA MADRE MUNICIPAL CODE"; AND THAT THE City Council designate the City Attorney to prepare a summary of Ordinance No. 1300 pursuant to Government Code Section 36933©(1).

- 1). The ordinance generally applies to new and rehabilitated public agency and private development projects with a landscape area greater than 2,500 square feet; or new construction landscapes for homeowner-hired in landscape projects equal to or greater than 5,000 square feet; and existing landscapes over one acre in size.
- 2). Establishes criteria for determining the Maximum Applied Water Allowance (MAWA) for all landscaped areas. The design of any landscape plan must ensure that the MAWA is not exceeded for the landscaped area.
- 3). Requires the submittal of a soil management report with each landscape plan, including soil sampling and laboratory analysis to determine infiltration rates, soil pH, total soluble salts, sodium, and percent organic matter.
- 4). Includes specific landscape plan content requirements.
- 5). Includes formulas for determination of anticipated water use for landscaped area.
- 6). Requires installation of dedicated water meters for landscaped areas of 5,000 square feet or greater, for determination of compliance with MAWA.
- 7). Requires that grading be designed to capture all normal rainfall onsite and not discharge normal rainfall runoff to impermeable surfaces.
- 8). Requires the approving agency to perform or have performed by certified irrigation auditors, irrigation audits on landscape projects installed after January 1, 2010.

The City reviewed the following options:

- The DWR Model Ordinance*
- The Chino Basin Model Ordinance*
- The MWDOC Ordinance*
- A Custom-Made Ordinance*

Staff is recommending that the City Council adopt Ordinance 1300. The ordinance is based on the CBMO, with modifications in the following areas to make the ordinance compliant with the DWR model: mulch requirements, runoff prohibition, irrigation functions, public education.

Mr. Inman reviewed the effects of Ordinance 1300, required findings and staff recommends that the City Council read by title only and approve Ordinance 1300; and that the City Council designate the City Attorney to prepare a summary of Ordinance No. 1300 pursuant to Government code Section 36933©(1).

Council Member Mosca feels that whatever we pass must be consistent with the State's ordinance. Chino Basin Ordinance offers most amount of flexibility. He asked what "rehabilitation means? Storm Water Management portions – we are in a drought. We try to capture run-off, but in ordinance the rain runoff would be my responsibility to save, it sounds confusing to me.

Mr. Inman stated, "Rehabilitation is if you tear up what you have and redo." We want to get rain water out of town as quickly as we can. It goes to the ocean.

Council Member Zimmerman's thinking is that the City has a guide book, perhaps the Tree Advisory Commission could be in charge of it. There are plants that have an adverse effect on the environment and economy. It questioned "dedicated landscape".

Mr. Inman stated that it applies to City facilities and schools. The intent is to see how much water is used for landscaping.

Council Member Zimmerman stated that it relates to the cost of reviewing and permitting applications. This is an ordinance based primarily on another ordinance – it is time consuming. How will the City recoup costs?

Mr. Inman noted that the service will be provided by a consultant and we will get a deposit from the resident. It would probably be on an hourly basis.

Council Member Zimmerman asked who would be responsible for permitting – Public Works or Community Service.

Council Member Mosca felt it should be kept within the Development Department.

Mayor Pro Tem Watts feels this is an "overkill".

The City Attorney stated that unfortunately the ordinance was proposed by the State and the Chino ordinance is the most user friendly. The City can review if necessary. The Director of Public Works would review, it would be under his authority with consultants.

Mayor Pro Tem Watts stated, "I am totally against this".

Mayor MacGillivray noted that we must pass an ordinance. It is an unfunded mandate. Residents could landscape and stay within packages less than the requirement. Everything needs to be defined. I noted the comment, "To the extent that funds are available". This speaks of a ton of money - must be inspected by licensed person. The beauty of the landscaping job will be compromised. Let's sprinkle in there "To the extent that funds are available". We must comply. The Cemetery will need to submit a plan.

The City Attorney noted that we have tried our best to make it user friendly. For an individual family home the requirement for new landscape is greater than 5,000 sq. ft. Probably won't apply to many in Sierra Madre.

Mayor MacGillivray noted that all residents have to do is keep their landscaping projects to less than the limit.

The City Attorney noted that the State's ordinance will kick in if we don't do this.

Council Member Buchanan feels it is targeted to larger institutions. Overspray and leaking sprinklers – enforced by City or private parties?

Council Member Zimmerman noted that the Statute is contemplating right of action. City takes enforcement.

The City Attorney noted that a private party could complain that it is a nuisance. I discussed this with Bruce Inman and we will take out the "private party" issue.

Council Member Buchanan asked if we could amend the ordinance later and the City Attorney said "yes". She said that guidelines not part of ordinance can be changed administratively.

Mayor opened for public input.

De Alcorn, E. Grandview Avenue

Mr. Alcorn noted that there is a handicapped guy black-mailing people – this should be thoroughly thought out.

The Mayor noted that we are taking this part out of ordinance.

Mayor Pro Tem Watts feels it is another level of bureaucracy.

Barbara Leigh, E. Sierra Madre Blvd.

Ms. Leigh handed out several flyers for the City Council's review.

Fay Angus, N. Canon Drive

Ms. Angus stated that she appreciates the in-dept analysis. She sees the necessity to enact something. The Attorney has alerted us. The Sierra Madre Garden Club should receive input. We have many beautiful gardens in Sierra Madre. They need to be maintained. Thanks for removing neighbors spying on neighbors.

Mayor MacGillivray noted that the suggestion to stay below the limit was great. We don't have funding for gray water. On November 17th, recycled water came to Rosemead. She read the article. We should look at recycled water for new development. We have Carter and Stonehouse – consider an ordinance to use gray water on subdivisions, massive projects. It could be mandated. Truck in water for development, grading, etc. Recycled water is up and coming solution to our drought situation.

Bill Tice recommended passing the ordinance with cleaning it up.

The Mayor closed public comment portion.

Mayor Pro Tem Watts stated that the way the permitting process works – this will be part of process.

The City Attorney noted that there is no liability to the City.

Council Member Mosca moved for approval of staff's recommendation with the City Attorney's amendments as follows:

Substituted "Director of Public Works" for City in Section 15.04.130B and Deleted 15.60.110A(2). Changed 15.60.110A(1) to 15.60.110B.

The City Attorney noted that there will be other minor corrections prior to second reading. Yana or Bruce will send the City Clerk the final version when the staff report is prepared prior to second reading.

Council Member Buchanan seconded the motion and upon voice vote, Mayor Pro Tem Watts voted no – the motion passed 4-1.

3. **CONSIDERATION OF ORDINANCE NO. 1301-U; ESTABLISHING AN INTERIM MORATORIUM ORDINANCE REGARDING LAND IN THE CANYON AREA OF THE CITY.**

Danny Castro, Director of Development Services, gave the staff report.

The City Council approved Interim Moratorium Ordinance 1299-U at their meeting on October 13, 2009, which prohibits construction in the Canyon area, with certain exceptions. The Ordinance took immediate effect as a 45-day moratorium, pursuant to CA Government Code Section 65858. The Ordinance will expire on November 27, 2009. Since April, 2009, the Canyon Zone Committee has been committed to developing new zoning standards that would apply only in the Canyon area. Since then, the committee has been meeting every month, and as of their November 17th meeting, they have reached significant progress in making their recommended amendments to the draft Canyon Zone.

The Committee established a timeline for completing the draft Canyon Zone. At their October meeting, the Committee anticipates holding a community outreach meeting by January 2010, to provide an update of their progress and present their draft zoning Code to date. The Committee also passed a motion declaring that its goal is to finalize the draft Canyon Zone by March 2010. Once the Committee completes its draft, it will be forwarded to the Planning Commission for review. The Planning Commission will review and make any necessary amendments, whereupon the Canyon Zone is expected to be referred to the City Council for approval. Based on this estimated timeline, it will take at least eight months before a new Canyon Zone Ordinance is adopted by the City Council.

The Ordinance for consideration would extend the moratorium for the balance of a year, which is until October 9, 2010 (per CA Gov. Code Sec. 65858). The moratorium could be prematurely terminated upon the effective date of the new Canyon Zone Ordinance, or by action of the City Council upon its determination that the moratorium is no longer needed. If a new Canyon Zone becomes effective before October 9, 2010, the moratorium could be lifted at such time.

Staff seeks the City Council's consideration of Ordinance No. 1301-U, establishing an interim moratorium regarding land in the Canyon area and declaring the urgency thereof.

Council Member Mosca noted that there is no definitive deadline. Also, I feel you should have more than one outreach meeting. You also need to do mailings.

Mr. Castro noted that if the draft is finalized by March, 2010, then the Planning Commission could take a couple meetings until it reaches the City Council. Maybe June or July.

Council Member Mosca just wanted to residents to know that we are moving forward with the Canyon Zone Ordinance and outreach is important. When we approach controversial issues, should we notify the residents?

Mayor MacGillivray noted that this Agenda item is to consider Ordinance 1301-U. The committee will hold outreach meetings in January. They will define more meetings. They are a no nonsense committee. They are simply asking for more time.

Council Member Mosca stated that we are being asked to extend for one year. This is a critical issue in the City. I want progress and maximum buy-in from residents. It sounds like we are doing that.

Elaine Aguilar noted that the committee has not met to discuss outreach and she will relay this information to them.

Mayor MacGillivray asked the City Council to attend these meetings.

John Herman, Chairman of Canyon Zone Committee

Mr. Herman stated, "It is a great pity that we don't have subpoena power." We are at half stage. We will move on to new material, then we are ready for outreach. Nature Friends is where the meetings can be held. It is a good place to meet and is accessible by foot. We are considering the parking issue. We're going to have it to the Planning Commission by the end of the first quarter of next year. We need a moratorium in place in case we encounter any problems. Thank you.

Council Member Buchanan stated that he is in favor of six month moratorium, rather than one year. It is a check on our progress.

Mayor MacGillivray stated that the committee has no intention to delay. If they can complete in less than one year we can cancel the moratorium.

Mayor MacGillivray moved for approval of Ordinance No. 1301-U, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA, ESTABLISHING AN INTERIM MORATORIUM ORDINANCE PURSUANT TO GOVERNMENT CODE SECTION NO. 65858 REGARDING LAND GENERALLY IN THE CANYON AREA OF THE CITY AND DECLARING THE URGENCY THEREOF". The motion was seconded by Council Member Zimmerman and passed 4-1 by voice vote, with Council Member Buchanan voting no.

The City Attorney read the above Ordinance for the record.

4. REVISED FEE STUDY PROPOSAL

Elaine Aguilar, City Manager, gave the staff report.

At the November 10th City Council meeting, the City Council directed staff to work with NBS to reduce the cost of the Fee Study project. NBS has worked with staff to reduce the cost of the study from \$43,500 to \$36,800.

Staff recommends that the City Council award a Professional Service Agreement with NBS for an amount not to exceed \$40,000.

Ms. Aguilar noted the changes will affect changes in training, reduction of one City Council meeting and survey of neighboring cities.

Jeanette Hahn, Project Manager, NBS

Ms. Hahn wanted to clarify the points discussed tonight. There are different levels of staff. To shave the fee to \$35,000, we can sharpen the pencil. It won't jeopardize the quality of the work at this point, but more could make mistakes. We can't streamline analysis. I am happy to work with staff on reducing more, but the current figure justifies the fee.

Council Member Buchanan stated that the key point is that we won't need you after this is done. The staff will be able to do. It doesn't include a manual.

Ms. Aguilar noted that we will get a basic manual.

Ms. Hahn noted that it is very rare for agencies to request a manual at this level. Offered instead, we will make pains to be specific on models. Because of amount of on-site time, we recommend staff is actively involved to understand the program.

Mayor Pro Tem Watts noted that he is curious about the flexibility of the software. Do you need to add?

Ms. Hahn noted that we don't use proprietary model. As budgets change, we build formulas to be expanded upon. Staff can maintain for 5-10 years. Environment might change.

Fay Angus, North Canon

Ms. Angus stated that in this particular instance is it valuable to have software. However, I am opposed to continuous use of consultants to run the City. There is a form of financial terrorism that is victimizing small communities such as ours, with intimidation through threat of litigation. All one has to say is, "we have retained legal council..." to throw City Administration into a reluctance to make managerial decisions, and rightfully so, as they are fully aware that however frivolous the lawsuit, or whether or not the City wins such a lawsuit, the cost of defending such a suit runs into thousands, and sometimes hundreds of thousands of dollars. This is a predominant reason that more and more administrative decisions are being handed over to consultants, who not only take responsibility of researching the necessary material involved, but who are willing to bear the cost of any litigation. In essence, part of the high cost of their services is "protection" money to save the City litigation costs. I would estimate that consultant fees for the past year have exceeded \$100,000.00. It does not take many \$40,000 here, and \$35,000 there, in various multiples to reach this amount. In some years, it could match the salary of our City Manager which is I believe currently around \$145,000.00 per year.

There are some few and far between valid reasons for hiring a specialty consultant. Mostly, I believe administrative staff is well qualified to do much of the work involved, especially clerical research into records and networking through the Internet. We surely do not have to pay consultant assistants \$150.00 to \$200.00 per hour to do this. Our Mayor has focused on this possibility which I hope will reflect in the fees discussed this evening, and project into the future. City staff doing as much of the research as possible, with a final tweaking of the material and input of consequence by a consultant could well reduce their fee from \$40,000 range to say \$10,000 or less. This is an acceptable solution.*

Council Member Buchanan moved and it was seconded by Council Member Zimmerman for approval of staff's recommendation and the consultant agreeing to approach the \$35,000 figure. Upon voice vote, the motion passed 4-1, with Mayor Pro Tem Watts voting no.

5. DISCUSSION REGARDING THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG).

Elaine Aguilar, City Manager, gave the staff report. At a previous meeting, the City Council considered whether the City's annual dues payment should be processed for the Southern California Association of Governments (SCAG). No action was taken at the meeting, and staff was directed to place the item on a future agenda. Additionally, during the past two months, members of the Council have attended SCAG meetings. The annual SCAG dues ofr Fiscal Year 2009-2010 are \$1,007.10.

It is recommended that the City Council provide direction regarding the payment of membership dues to the Southern California Association of Governments.

Mayor MacGillivray recommended that the \$1,000.00 membership dues to SCAG be held until the City gets a response to the housing and employment numbers submitted to SCAG by the City. The numbers are significantly lower than the numbers dictated by SCAG; SCAG is preaching a "collaborative" process which implies a two-day dialogue. To date the dialogue has gone one way: SCAG dictating to the City. Additionally, it would be prudent for us to take a "wait and see" posture regarding SCAG's dealings overall since, most recently, they wanted the SGVCOG, as a sub-region of the SCAG Metropolitan Planning Organization, to take the responsibility for developing the Sustainable Community Strategy that would comply with SB375 without indemnification. A typical "unfunded mandate with no accountability" strategy. The San Gabriel Valley Council of governments declined for obvious reasons. So, again, the "collaborative" process is lacking. The City is not saying it will not pay the membership dues, we are just saying that we want to wait and see if the "collaborative" process will work for us so that we can maintain control of the growth of our community.

Council Member Buchanan stated, "All members of COG are members of SCAG". SCAG works for all interests of cities. Lots of outreach has been done.

Mayor Pro Tem Watts stated that his fear is that SCAG has told COG's they will not indemnify. We need to express our dissatisfaction.

Mayor MacGillivray noted that we can't pull out of SCAG – we cannot be held hostage. We were told that SCAG is softening its approach and we haven't seen it.

Council Member Buchanan noted that we are subject to SCAG, but we are not paying our dues.

Mayor Pro Tem Watts stated, "We are being dictated to".

Council Member Zimmerman remarked that we need to let SCAG know we are unhappy. SCAG hasn't listened to us. Sierra Madre was allocated housing units. SCAG applied their methodology and made revisions. Sierra Madre appealed the allocation because the numbers were high and it was rejected. The President of SCAG appeared at our meeting and stated it was a summary.

Council Member Buchanan noted that what happened initially was that the figures were high. Staff caused the figures to be lowered. I was at the meeting. Most cities didn't get a reduction.

Council Member Zimmerman stated, "Opinion by SCAG doesn't say that. They said methodology was flawed".

Council Member Buchanan noted that the governance of SCAG is governed by elected city officials.

Mayor MacGillivray again repeated that we are waiting to hear the collaborative process. Very little change happens. We are vocal at meetings and get response. We need to speak up. Let's wait and see if their approach is reality.

Mayor Pro Tem Watts also remarked that a lot of cities feel the way we do, but don't want to do anything about it. We show it by not paying our dues. We don't get listened to. If you don't do anything, you are part of the status quo. I want them to know we are not happy.

Council Member Buchanan feels the City Council is arguing State and Federal laws and this should be at the League.

Mayor MacGillivray recommended that the City Council hold off on paying dues until we hear from SCAG by our letter. She followed by opened for public comment.

Fay Angus, N. Canon

Ms. Angus applauds the Mayor, Mayor Pro Tem and Council Member Zimmerman on making a statement. The issue is exercising leadership for change, and I certainly applaud you for doing this. The money is inconsequential. I am hoping, individually, people contact their representatives and initiate change in Sacramento.

Barbara Leigh, E. Sierra Madre Blvd.

Ms. Leigh thanked Fay Angus and the City Council. She is happy to hear this. Change starts with small government. We need to be represented. We need to make a statement. We vote official in and can vote them out.

Mayor MacGillivray stated that we should wait and see their feedback when they receive our letter.

6. CALIFORNIA LEAGUE OF CITIES LEGISLATIVE UPDATE 2009

Elaine Aguilar, City Manager, gave the staff report and she noted that this is a receive and file. The California League of Cities recently released its 2009 Legislative Report on Monday, November 16, 2009, and provided City staff an opportunity to hear a presentation from various League staff members on new legislation that may affect our City. Sierra Madre City staff elected to participate to this presentation via the Internet on Tuesday, November 17, 2009. The entire report is included with this staff report as Attachment A. Should City Council wish to receive additional information on any of the items in the League Report, the city Manager's office can provide the information at a future meeting.

Council Member Buchanan noted that the staff is looking out for legislation. Let us know test cases on Water COP's funding. Will it exist after 2011.

Ms. Aguilar noted that COPS' program funding is for small cities.

The Mayor noted that this is a receive and file.

7. SUMMARY OF STATE WATER LEGISLATION

Elaine Aguilar, City Manager, gave the staff report and this is a receive and file item.

On November 4, the Legislature approved a package of 5 bills designed to address water issues facing the state. These bills reflect almost ten months of negotiations between legislators and stakeholders. The package is financed through an \$11.14 billion bond. This bond will be presented to the voters in November of 2010 for approval. Copies of the complete report are available at City Hall public counter and the Sierra Madre Public Library.

Mayor MacGillivray noted that this is a receive and file.

FUTURE AGENDA ITEMS:

- 1). Mayor MacGillivray asked that the following item be agendized at the December 8, 2009 meeting. She asked the City Council to entertain the City's ability not to use eminent domain and she directed the staff to present the language at the December 8th meeting. There is time for this item to be on the April ballot. If we need to schedule another meeting in December, we will.

ADJOURNMENT:

Council Member Zimmerman moved and it was seconded by Council Member Mosca for approval of adjournment at 9:40 p.m. and it passed by unanimous voice vote.


MaryAnn MacGillivray, Mayor

Minutes taken and typed by:



Nancy Sue Shollenberger
City Clerk