Colvin, Judith

From: mweo-bounces@water.ca.gov on behalf of Nelson, Job [NelsonJ@sandiego.gov]
Sent: Wednesday, March 26, 2008 5:10 PM
To: mweo@water.ca.gov
Subject: [MWEO] Model Landscape Ordinance
Attachments: Model Water Ordinance Letter.pdf

Attached are the City of San Diego's comments on the Model Landscape Ordinance. Please email back a confirmation of receipt.

Job Nelson
Director, Intergovernmental Relations
Mayor Jerry Sanders Office
City of San Diego

THE CITY OF SAN DIEGO

March 26, 2008

Ms Judy Colvin
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-001

Dear Ms Colvin:

Subject: Comments on the Draft Landscape Model Ordinance

The City of San Diego represents 1.3 million residents. We are both a Land Use Agency and a Water Purveyor under the direction of a single Mayor. As a purveyor of water, we service 269,911 accounts, with one or more meters, including 6,427 dedicated irrigation accounts. We have participated in the development of comments coming from the San Diego Conservation Action Committee (CAC) and urge you to look closely at the issues presented in the CAC letter and Detailed Comments. As a major land use regulator, as well as sizeable water agency, the City of San Diego has prepared additional comments to highlight our concerns and specific issues. These are summarized below:

Determination of Local Landscape Ordinance adequacy to State Model Landscape Ordinance

We have participated, over the last year, in the development of a county wide ordinance that would create a uniform regional approach to landscape efficiency issues. It is anticipated that a version of this regional ordinance, with some modifications, would be considered for adoption by the City. Our concern is that the State Ordinance has become extremely specific and prescriptive, leaving little room for regions to adopt a plan that reflects the local climate, development patterns, and professional input. We would recommend a SMO that retains the specifics for agencies that choose to follow the SMO, but also sets performance levels as an alternative to the specific requirements outlined in the ordinance.

Second, the *process* to determine if a local ordinance is 'at least as effective' should be delineated. The larger goals of the ordinance should be as outlined in Recommendation 29.1 of

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the AB 2717 Landscape Task force Findings, Recommendations and Actions. Who will conduct this review process and will local agencies have the opportunity to discuss and explain the adequacy of their proposed ordinance?

Applicability of the Ordinance

Property size inclusion
The SLO is an outcome of AB 2717 and AB 1881 which directs the Department of Water Resources to update the model water efficient landscape ordinance adopted in 1993. This earlier ordinance applied to private commercial, industrial and multi-family residential projects. There is no direction to increase the applicability of the ordinance beyond inclusion of public projects. Yet, the SLO sets design standards for all sites, including residential, that meet or exceed 2,500 square feet of landscape area. This places a burden on prospective home buyers, and an increased work load on land use agencies to review and monitor the activities of home owners, who often complete their landscapes over time and without professional assistance. While the broadening of the ordinance to achieve landscape water savings at the residential level may be appropriate to the intent of the ordinance, the method of achieving this should be less onerous to the public and the oversight agencies.

The Recommendations of the Task Force does promote educational tools, incentives and outreach. The City recommends that any site with less than 5,000 square feet of landscape area be excluded from the design review process, unless required by other jurisdictional permit requirements, as long as evidence of an educational and/or incentive program is in place at either the local agency or water purveyor level.

Monitoring of existing landscapes
The draft SLO also requires monitoring of *existing* landscapes, which was not addressed in the previous landscape ordinance or directed in the language of AB 1881. The SLO requires annual analysis of water use consumption and required audits paid for by the customer. Water consumption analysis requires data from the water agencies, which in many cases is not available and creates an excessive burden on both the water agency and land use agency to track and process information on an ongoing basis.

The audit component for existing accounts places the expense on the customer. Further, the SLO requires the customer to pay for and complete the recommendations of the audit. This becomes an expense to customers both residential and commercial. There would also have to be a funding mechanism to pay for staff time to track and enforce the audit.

The City recommends a water waste ordinance in conjunction with tiered water rates, be considered as an alternate approach for agencies not choosing to monitor existing water consumption. A jurisdiction that has a cooperating water purveyor, with appropriately tiered water rates, and a coordinated enforcement of water waste would be considered to have met the

condition of long term monitoring. Audits would be used as a tool offered to a customer who is cited for water waste, or to assist in meeting the tiered rate structure.

Compliance with Landscape Documentation Package

The SLO has developed a detailed and extensive landscape documentation package that is required to prove that an owner has met the requirements of the ordinance. This package requires professional assistance on the part of the owner, and lengthy review on the part of the local agency. The core elements called for in AB 1881 appear to be:

Grouping of plants by water requirement
A water budget that does not exceed the Maximum Applied Water Allowance
The capture and retention of storm water
Automatic irrigation systems
Soil assessment and management
Use of mulches
Use of recycled water where available
Provisions to avoid overspray and run off

The City proposes that local agencies be allowed to develop a landscape documentation package that is more stream lined and coordinated with existing local requirements, as long as the core elements of AB 1881 are met.

Un-funded Mandate and cost impact on private persons or businesses

The state of California is required to provide a subvention to reimburse local governments for all existing mandated costs or regulatory actions. The proposed model ordinance requires a number of unfunded mandates which the City of San Diego would be forced to appeal to the State Mandates Board. I am sure that San Diego would be joined by local governments across the state in such an effort. For instance, the number of site visits required by the Certificate of Completion is an onerous mandate and will result in increased fees and expenses for local agencies that conduct the reviews.

Additionally, a full audit requirement for the single family homeowner is an expensive and an onerous mandate. The Statement of Reasons failed to consider less expensive alternatives that could be implemented including implementation of an aggressive water waste ordinance and homeowner education and technical assistance. In fact the audit requirement in Sections 492.14 and 493.1 are a significant mandate on local agencies to track and implement this program that is unprecedented. In addition, some local agencies may not be able to provide "for payment" services based on their city charter. Local agencies under Prop 218 are required to have revenue neutral budgeting. Current budgets do not contemplate these new mandated programs which would force agencies to seek a Prop 218 fee increase. Such an increase could be rejected by

ratepayers leaving local governments in the unfortunate position of being out of compliance with the ordinance with no means of getting back into compliance.

For all of the above reasons we urge you to reconsider the Model Ordinance you are moving forward.

Sincerely,

Job Nelson
Director of Intergovernmental Relation
Mayor's Office- City of SanDiego