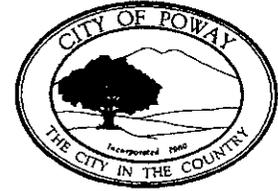


CITY OF POWAY



MICKEY CAFAGNA, Mayor
BOB EMERY, Deputy Mayor
MERRILEE BOYACK, Councilmember
DON HIGGINSON, Councilmember
BETTY REXFORD, Councilmember

March 26, 2008

Attention: Judy Colvin
Department of Water Resources
Office of Water Use Efficiency and Transfers
PO Box 942836
Sacramento, CA 94236-0001

RE: Proposed Model Water Efficient Landscape Ordinance

Dear Ms. Colvin:

This letter is on behalf of the City of Poway, located in north San Diego County, regarding the Department of Water Resources (DWR) proposed model water efficient landscape ordinance.

Background

In addition to the traditional services provided by a municipality, the City of Poway is also the water agency for this area, serving approximately 14,000 customers. Poway is a semi-rural community that prides itself on being "the City in the Country."

Lot sizes in Poway range from 4,500 square feet to 40 acres. Although lot sizes vary dramatically, the average lot is one-acre. Maximum lot coverage varies from 35% to 50%.

In the early 1990s, the City of Poway incorporated the requirements of the model water efficient landscape ordinance set forth by AB 325 into its landscape guidelines. Those guidelines remain in effect today and have been uniformly applied to all new development. Additionally, Poway has invested in recycled water infrastructure to serve the landscaped areas in our 900-acre business park.

The San Diego County Water Authority Conservation Action Committee has worked for over 18 months to develop a model water efficient landscape ordinance in compliance with AB 1881. Stakeholders include water agencies, local governments, landscape industry professionals, and conservation advocates. **In addition to this letter, the City of Poway supports the comments submitted by the Conservation Action Committee regarding DWR's proposed model ordinance.**

Summary of Concerns

The City of Poway finds that the regulations set-forth in DWR's proposed model ordinance are **overly prescriptive** and **exceed the scope of AB 1881**. Poway has three areas of concern with the ordinance:

- The **applicability and enforcement provisions are burdensome**;
- The **technical requirements are onerous**; and
- Adhering to the requirements of the ordinance would be an **unfunded mandate**.

City Hall Located at 13325 Civic Center Drive
Mailing Address: P.O. Box 789, Poway, California 92074-0789 • (858) 668-4400

Applicability and Enforcement

The applicability and enforcement provisions proposed in the model ordinance are burdensome. As discussed in great detail in the Conservation Action Committee's letter, the proposed DWR ordinance exceeds the scope of AB 1881 and the recommendations of the AB 2717 Task Force in two ways: 1) significantly expands the types of projects this ordinance would apply to; and 2) requires that 20% of all landscapes greater than 2,500 square feet be audited each year.

- The proposed model ordinance would apply to all new, rehabilitated and existing landscapes with a minimum of 2,500 square feet of landscaped area. Therefore, a significant portion of existing single-family residences in Poway, and most of the State, would be subject to these provisions. **At a minimum, the threshold should be no less than 5,000 square feet of landscaped area, and all single-family properties should be exempt.**
- Including homeowner self-installed projects is unrealistic.
- Poway's most significant concern is the post-installation enforcement that this ordinance would require. Tracking the properties, filing the documentation, conducting the five-year audit, etc, would be labor intensive and require additional staffing. This would be an unfunded mandate.

Technical Requirements

- The proposed Landscape Documentation Package is extremely complicated.
 1. Landscape architect review of the required Landscape Documentation Package would necessitate twice as much time as our existing requirements, resulting in increased plan review costs for the applicant. The applicant would also incur additional consultant costs to prepare plans in compliance with these requirements.
 2. The required paperwork and worksheets would be onerous.
 3. The submittal requirements are not understandable or user-friendly for the average homeowner or small commercial property owners. The "Water Efficient Landscape Worksheet" is confusing and would essentially mandate that the average person hire an expert to complete these items.
- Section 492.7 – The proposed ordinance would require that soils testing be conducted prior to grading, which does not make sense. Some projects involve a significant amount of grading, and the soil to be landscaped is different than the soil that was graded.
- Section 492.10 – The proposed ordinance would require that a grading plan be submitted with the landscape design package. This makes no sense since grading is usually completed much earlier in the process than landscape plans. The proposed ordinance should be clarified so that grading design plans are not required for projects that would not normally require a grading permit and to state that grading plans would be used by landscape designers for reference only.

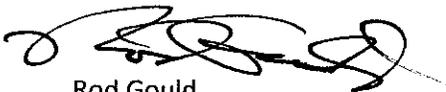
Unfunded Mandate

Enforcement of this proposed ordinance would be an unfunded State mandate. DWR's conclusion that "no reimbursement is required because...local agencies collect fees for permits sufficient to pay the cost associated with adopting and implementing the Model Ordinance," is inaccurate. Implementing this ordinance – including the application process and enforcement – would be a significant cost burden for the City of Poway. The City does not have adequate staffing to implement these requirements. Hiring additional staff would be required. Raising fees in an amount sufficient to cover this cost would not be palatable to the public. This is particularly true in the case of a program which involves unsolicited services, such as the mandated audits of all private properties. Poway residents will consider the audits to be intrusive and a violation of their private property rights.

The future of water conservation in California centers on water-efficient landscaping. Poway strongly supports California-friendly landscaping. The City's existing landscape guidelines establish minimum standards for designing, installing, and maintaining water-efficient landscapes in new projects. Poway is actively promoting conversion of existing landscaping to more water-wise designs. The City offers financial incentives and resources for low water use landscaping, such as California-friendly landscaping classes and rebates for artificial turf and smart irrigation controllers for commercial properties. Progress is being made; public perception of water-wise landscaping is changing. DWR's model ordinance is overly-prescriptive and would be cost-prohibitive, burdensome, and not sustainable.

Thank you for your consideration of the City of Poway's comments, as well as those of the San Diego County Water Authority Conservation Action Committee. If you need clarification regarding Poway's comments, please contact Kristen Crane, Water Conservation Administrator, at (858) 668-4415 or kcrane@ci.poway.ca.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Rod Gould", with a stylized flourish at the end.

Rod Gould
City Manager