



DATE: November 14, 2007

TO: Honorable Mayor and City Council Members

FROM: Water Utilities Department

SUBJECT: **INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 37 OF THE OCEANSIDE CITY CODE BY ESTABLISHING THE INTERIM AGRICULTURAL WATER PROGRAM REDUCTION PLAN AND IMPLEMENTING PENALTIES IMPOSED BY THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AS A PASS-THROUGH PENALTY RATE TO CITY OF OCEANSIDE AGRICULTURAL CUSTOMERS FOR EXCEEDING MANDATORY AGRICULTURAL WATER REDUCTIONS**

SYNOPSIS

Staff recommends that the City Council introduce an ordinance (Exhibit A) establishing the Interim Agricultural Water Program Reduction Plan and implementing penalties imposed by the Metropolitan Water District as a pass-through penalty rate to City of Oceanside agricultural customers for exceeding mandatory agricultural water reductions; and direct staff to implement the penalties.

BACKGROUND

In May 1994, the Metropolitan Water District of Southern California (Metropolitan), the wholesale water supplier to the San Diego County Water Authority, adopted an Interim Agricultural Water Program (IAWP). The IAWP offers a discounted water rate to agricultural customers in exchange for the customers' agreement to reduce their agricultural water use upon notice by Metropolitan during a water supply shortage. On June 9, 1994, the San Diego County Water Authority (Authority), which is the wholesale water supplier to the City of Oceanside, adopted Resolution No. 94-22 to implement Metropolitan's Interim Agricultural Water Program by providing procedures for the Authority's member agencies to participate in the IAWP by certifying certain agricultural deliveries to Metropolitan through the Authority and to establish the terms, conditions and rates to govern the delivery of water under the IAWP. On June 3, 1994, the City of Oceanside notified its agricultural customers that the City would administer the IAWP on behalf of Metropolitan and of the requirements to participate in the IAWP. The City agreed to pass-through the discounted water rate from Metropolitan as a credit on agricultural customers' water bills.

On June 15, 2007, Metropolitan requested the Authority and its member agencies to prepare Interim Agricultural Water Program Reduction Plans in response to a potential mandatory reduction to IAWP customers beginning in January 2008. On October 9, 2007, Metropolitan amended its Administrative Code to implement the IAWP Reduction Plan to facilitate a 30 percent reduction in IAWP deliveries beginning January 1, 2008, and to establish penalties for non-compliance.

On September 24, 2007, all City agricultural customers were sent letters notifying them that a reduction in water use was expected and explaining how the reduction plan would be implemented. An informational meeting on the cutbacks was held by the Farm Bureau of San Diego County on September 27, 2007, for all area growers. The City held a special meeting for its customers on October 4, 2007, to further explain the reduction plan and to answer questions. Water Utilities staff has been working with agricultural customers on an individual basis to assist them with meeting their allocation targets.

ANALYSIS

Since June 15, 2007, Water Utilities staff has been working with the Authority to develop an Interim Agricultural Water Program Reduction Plan as required by Metropolitan, including penalties for agricultural customers who exceed their water allocation. From July 2006 through June 2007, the City's 139 agricultural customers used about 2,760 acre-feet of water, which is approximately 8 percent of Oceanside's total consumption. Each agricultural customer will be provided with a report of its respective monthly allocations. Water usage under the monthly allocation will be rolled forward to offset over-usage and penalties in successive months. If a customer has exceeded the allocation at the end of a twelve-month period, that customer's allocation will be permanently reduced by the amount of water used over the allocation. Agricultural customers will be assessed a pass-through penalty monthly by the City for water use exceeding their allocation.

Metropolitan has set the penalty rate at two times the Tier 2 water rate, less the applicable IAWP rate. This penalty will be passed through to the City's agricultural customers as a \$1.87 charge per unit of water over their allocation in addition to the current non-agricultural rate of \$1.95 per unit of water. That combined cost is \$3.82 per unit of water used in excess of the allocation. If Metropolitan's Tier 2 water rate increases or any other charges are assessed, these increases would automatically be passed through to the agricultural customers.

FISCAL IMPACT

Metropolitan will assess penalties at six-month intervals. The City will collect the penalties monthly and establish a restricted account for these funds. The City will be required to pay Metropolitan any assessed penalties six months and twelve months after the beginning of the reduction program. At the twelve-month reconciliation, if the customer's combined debits and credits result in an over-payment of penalties, the City

will refund that amount to the customer. The penalties collected from customers will pay for Metropolitan's penalty charges to the City. The 30 percent loss in water sales will be offset by the City not having to purchase the same percentage of water.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATIONS

Staff recommends that the City Council introduce an ordinance establishing the Interim Agricultural Water Program Reduction Plan and implementing penalties imposed by the Metropolitan Water District as a pass-through penalty rate to City of Oceanside agricultural customers for exceeding mandatory agricultural water reductions; and direct staff to implement the penalties.

PREPARED BY:



Greg Blakely
Administration Manager

SUBMITTED BY:



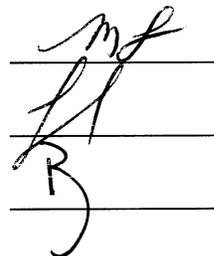
Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Lonnie Thibodeaux, Water Utilities Director

Paul Bussey, Interim Financial Services Director



1 WHEREAS, on October 9, 2007, Metropolitan amended its Administrative Code to
2 implement the IAWP Reduction Plan to facilitate reductions in IAWP deliveries;

3 WHEREAS; Metropolitan will impose penalties on the Authority if the mandatory
4 reductions in agricultural water use are not met, which penalties the Authority will pass through
5 to the City of Oceanside;

6 WHEREAS, the City's IAWP Reduction Plan will include the pass-through penalties to
7 agricultural customers for exceeding the mandatory water reductions set by Metropolitan;

8 WHEREAS, the City Council has determined to establish by ordinance the City's IAWP
9 Reduction Plan, including the pass-through of any penalties on excessive water use.

10 NOW, THEREFORE, the City Council of the City of Oceanside DOES ORDAIN as
11 follows:

12 SECTION 1. Section 37.113 is added and shall read as follows:

13 **“Sec. 37.113. Metropolitan Water District's Interim Agricultural Water Program**
14 **Reduction Plan and Pass-through Penalties**

15 (a) Formal Notification

16 At the point in time when MWD makes a formal call for the Interim Agricultural Water
17 Program reduction and determines the parameters for the IAWP, each participant in the IAWP
18 will be provided a formal notice which will include a description of the method of
19 implementation, the month-by-month water allocations for that specific customer, as well as the
20 penalty rate structure and enforcement provisions.

21 (b) Entering and Leaving the IAWP

22 When the City is under an actual cut or the threat of a reduction, participants may not
23 enter or leave the IAWP. All customers in the IAWP program as of December 31, 2006 are
24 subject to cutbacks. Customers who exited the program prior to December 31, 2006 are not
25 subject to the reduction.

26 (c) Reduction Targets

27 1. Reduction targets will be determined by the percentage of reduction required and the
28 base measurement period utilized by Metropolitan and the Authority. These two factors will

1 result in a monthly allocation of supply for a twelve-month period, which will be allocated to
2 individual customers based upon the relative usage levels in the base year.

3 2. Reduction targets may change based on the percentage of reduction required by
4 Metropolitan.

5 (d) Methodologies for Administering Reduction and Monitoring and Verifying
6 Reduction

7 1. The City will provide month-to-month water allocations to each customer, with
8 allocations determined by the percentage reduction against the selected base year.

9 2. Customers who are currently in the IAWP, but were not in the IAWP during the
10 selected base year, will receive an allocation of water that is to be determined based upon the
11 IAWP allocation for existing customers for that year.

12 3. The City will provide monthly information regarding the status of each customer's
13 allocation.

14 4. Accounts under the same ownership may be grouped into one master account to
15 consolidate total allocation, allowing customers to move water allocation among accounts and
16 properties under their ownership.

17 5. In cases of customers repeatedly or flagrantly exceeding monthly allocations, the City
18 has the authority to impose additional fines or, at the direction of the Water Utilities Director, to
19 install a flow restrictor on the customer's meter.

20 6. A monthly report reflecting the total IAWP usage reduction compliance will be
21 produced and provided to the Authority and Metropolitan. A similar report will be provided at
22 the end of each six month IAWP segment.

23 (e) Penalty Assessment

24 1. Agricultural water usage exceeding the monthly allocations will be billed by the City
25 of Oceanside at the same penalty rate imposed by Metropolitan on the Authority, and the
26 penalty rate that the City of Oceanside passes through to agricultural customers will be
27 automatically adjusted if the basis for Metropolitan's penalty rate changes.

28

1 2. The current IAWP pass-through penalty rate for water used in excess of each
2 customer's allocation is two times Metropolitan's Tier 2 bundled rate per acre-foot of water,
3 less the applicable IAWP rate. This pass-through penalty rate shall be charged in addition to
4 the City of Oceanside's current unit rate for non-agricultural water.

5 3. The City of Oceanside shall collect each agricultural customer's penalty monthly and
6 hold the accrued penalties in a restricted account that will be paid to Metropolitan after the six-
7 and twelve-month reconciliation has been completed.

8 4. Usage under the monthly allocation shall be a usage credit which will roll forward to
9 offset over-usage and penalties in successive months, or rolled forward into the succeeding six-
10 months.

11 5. The IAWP Reduction Plan and the pass-through penalty rates shall be in effect for as
12 long as the IAWP reductions are required by Metropolitan.

13 SECTION 6. The City Clerk of the City of Oceanside is hereby directed to publish this
14 ordinance, or the title hereof as a summary, pursuant to state statute, once within ten (10) days
15 after its passage in the North County Times, a newspaper of general circulation published in the
16 City of Oceanside.

17 SECTION 7. Severability.

18 If any section, sentence, clause or phrase of the Ordinance is for any reason held to be
19 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
20 shall not affect the validity of the remaining portions of this Ordinance. The City Council
21 hereby declares that it would have adopted this Ordinance and each section, sentence, clause or
22 phrase thereof, irrespective of the fact that any one or more section, subsections, sentences,
23 clauses or phrases be declared invalid or unconstitutional.

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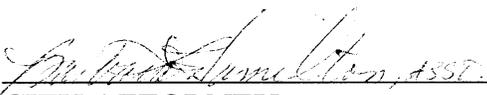
1 INTRODUCTION at a regular meeting of the City Council of the City of Oceanside held
2 on the _____ day of _____, 2007, and, thereafter,

3 PASSED, AND ADOPTED by the City Council of the City of Oceanside, California
4 this _____ day of _____, 2007, by the following vote:

5
6 AYES:
7 NAYS:
8 ABSENT:
9 ABSTAIN:

10 _____
MAYOR, CITY OF OCEANSIDE

11 ATTEST:
12 _____
13 CITY CLERK

14 APPROVED AS TO FORM:
15 
16 _____
17 CITY ATTORNEY

18 AN ORDINANCE OF THE CITY OF OCEANSIDE AMENDING OCEANSIDE CITY CODE,
19 CHAPTER 37, ESTABLISHING THE INTERIM AGRICULTURAL WATER PROGRAM
20 REDUCTION PLAN AND IMPLEMENTING PENALTIES IMPOSED BY THE
21 METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AS PASS-THROUGH
22 PENALTY RATES FOR AGRICULTURAL CUSTOMERS FOR EXCEEDING MANDATORY
23 AGRICULTURAL WATER REDUCTIONS
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