



**CITY OF SAN DIEGO
COUNCILMEMBER SHERRI S. LIGHTNER
DISTRICT ONE**

MEMORANDUM

DATE: October 1, 2009

TO: Honorable Jerry Sanders, Mayor
Honorable Jan Goldsmith, City Attorney
Honorable Donna Frye, Chair, Natural Resources & Culture Committee
Honorable Todd Gloria, Chair, Land Use & Housing Committee
Honorable Ben Hueso, Chair, Rules, Open Government & Intergovernmental Relations Committee

FROM: Councilmember Sherri S. Lightner 

SUBJECT: Updating the City Council's Water Policies

I have reviewed the San Diego City Council water policies and have reached three distressful conclusions.

1. The policies are outdated and do not work together to form a comprehensive water plan that can sustain San Diego's economy and quality of life.
2. The policies are silent regarding gray water reuse and nonpotable (purple pipe) water, including the use and exchange of purple pipe credits for land development. Furthermore, there is no mechanism for tracking the amount of purple pipe water allocated to existing or proposed projects throughout the city.
3. The City might incur legal liability for approving development projects without a nonpotable water policy and tracking system.

Attachment 1 to this memo contains a summary of council policies which mention water. Many were enacted over 30 years ago. A large number of these policies need to be updated. The table in the attachment indicates suggested actions for each of the Council Policies. A time and cost estimate for the updating is requested. None of these policies address the use of water credits or exchanges, or the tracking of purple pipe water.

For clarity, I want to define some terms used in this memo. Nonpotable water is water which has not approved for consumption. Purple pipe is used to transport nonpotable water, usually for irrigation, to differentiate it from regular drinking water. Gray water is non-industrial, non-toilet wastewater generated from showers, sinks, faucets and laundry.

Currently, it has been estimated that 55% of San Diego's drinking water is used for landscaping. Gray water comprises 70-80% of residential wastewater. Gray water reuse could help San Diego avoid mandatory water restrictions and help provide for sustainable development, but without a strong policy we cannot capitalize on this underutilized resource.

By California State law, every development project larger than 500 units must show it can provide enough water to meet the needs of that development for at least 20 years. Within the last few years, the City has developed a habit of approving these sorts of projects by using nonpotable/potable water exchanges. It is critical that the Council and the public understand the long term consequences of approving additional potable/nonpotable water exchanges for developers without an accounting of previous purple pipe commitments made by the City.

A number of projects have been approved or conditioned on the installation of purple pipes for irrigation and the promise to connect those pipes to the City's purple pipe system once it is accessible. These existing developments have claim to the finite amount of purple pipe water.

For example, on July 28, 2009, the City Council approved a major land development project that proposes to meet the State's water requirements by installing purple pipes at three sites outside of both the community area plan and the district in which the development will occur. This project required a community plan amendment to significantly increase the dwelling unit density for the project site and a change in use that increased the site's water use requirements. It is not clear when the mitigation (watering three school sites with nonpotable, rather than potable, water) must be completed or how the requirement will be enforced.

Since the amount of nonpotable water is finite, it is important to know how much total nonpotable water exists, how much has already been promised to existing developments, and how much is actually being used. The 2006 Kroll Report criticized San Diego for lacking financial accountability systems. Now we see that, yet in another area, there is no tracking system for nonpotable water and no financial accountability through a comprehensive water policy for meeting the water and related development needs of our community. It is imperative that the Council develop a policy to address, and be able to track, the use of purple pipe water credits and exchanges and that it develop a comprehensive plan that is able to sustain our residents, business and quality of life.

To address these concerns, and to lay the foundation for developing a comprehensive water policy for the City of San Diego, I respectfully request the following information and responses by Oct. 29, 2009.

1. The number of projects with purple pipe irrigation systems that have been approved by the City.
2. The number of projects with purple pipe irrigation systems that are connected to the City's nonpotable water distribution system and the amount of water used annually by each project.
3. The number of projects with purple pipe irrigation systems that are not yet connected to the City's nonpotable water distribution system; the amount of potable water that will be saved annually after these projects are connected; and the timeline for connecting these projects.
4. The number of dual-use projects which have been approved; which of those projects have been connected to the City's nonpotable water distribution; and the annual potable water savings for each project that has been connected to the City's nonpotable water distribution system. Additionally, for those projects that have not been connected to the nonpotable water distribution system, what are the expected annual potable water savings and the timeline for connection to the nonpotable water distribution system?

5. The number of projects approved which allowed some form of off-site nonpotable/potable water exchange, as was exemplified by the recently approved Alvarado Apartments project. Also, for each such project, the amount of potable water credited to the project and the timeline for completing the mitigation, i.e. when is potable water use to be replaced by nonpotable and how much potable water will be saved annually?

The above-requested data is necessary to develop a data base which can be used to evaluate projects that "trade" nonpotable elsewhere for potable on site.

6. By approving a project conditioned on the installation of purple pipes for irrigation and the promise to connect those pipes to the City's purple pipe system, is the City guaranteeing a certain amount of potable water for the site?
7. If permits are conditioned on the use of purple pipe water and there is none available, should the project be denied until nonpotable water is available? Or, alternatively, should the permit be granted without the purple pipe condition?
8. In the case of projects approved or conditioned on the installation of purple pipes for irrigation and the promise to connect those pipes to the City's purple pipe system, what is the City's plan for connecting such developments to the purple pipe system? Is the purple pipe distribution system network planned, and if so, what would it take to implement construction?

I also request an opinion from the City Attorney on this question:

1. Could the City of San Diego be held legally liable for approving development projects that involve purple pipe water in some way, without having a nonpotable water policy and tracking system?

The City should not continue approving development project after development project without reasonable and measurable assurance that water supplies will be able to support San Diego's economy and quality of life. The City Council must update its policies, and the Municipal Code may also need updating, so that San Diego has a comprehensive, legally sufficient, interrelated system of water policies that promote long term planning, sustainability, oversight and accountability.

SL:jm

cc: Honorable Councilmembers
Bill Anderson, Director, City Planning and Community Investment
Kelly Broughton, Director, Development Services
Jay Goldstone, Chief Operating Officer
Andrea Tevlin, Independent Budget Analyst

Attachment 1

COUNCIL POLICY	DATE	TITLE	PURPOSE	QUESTIONS OR SUGGESTED ACTION
000-19	10/2/2000	Legislative Policy Guidelines – 2000-2001	"Legislative Policy Guidelines provide policy direction to City Departments and IRD in evaluating State and Federal proposed legislation and in preparing a timely response which sets forth the support or opposition of the City to this legislation."	Update the CP – especially Policy IV. B 3. Water Supply
400-01	11/14/1974	Service of Water Outside of Political Boundaries	Identifies specific instances for which the City will provide water outside of its political boundaries – otherwise because of the need to conserve water at all times, the City will not.	Review for current applicability.
400-02	2/27/1995	Biosolids Beneficial Uses	"to express the City's commitment to a diversified biosolids management program that recognizes that biosolids are a resource suitable for beneficial use" – This is to be implemented through the <u>Biosolids Beneficial Use Plan</u> .	Does the <u>Biosolids Beneficial Use Plan</u> exist? Does it need to be updated?
400-03	12/15/2008	Self-sustaining Reservoir Recreation Program	"The General Fund will reimburse the Water Department Enterprise Fund for all costs associated with basic levels of public access, community usage and related grounds and facility maintenance (Tier I)." Fees will offset direct costs of Tier II and III activities.	How much money does the General Fund reimburse the Water Department Enterprise Fund and what fees are collected for the Reservoir Recreation Program?
400-04	12/27/1973	Emergency Storage of Water	"To provide a minimum quantity of stored, untreated water to provide for emergencies such as aqueduct failure or aqueduct pump stations outage." This is set at 0.6 of the annual requirement for the City of San Diego.	Query to MWD – do we meet the goal?
400-06	5/2/1974	Replacement, betterment and expansion of water and sewer facilities in previously developed areas	"to provide for an equitable and expeditious means for financing the betterment and expansion of water and sewer facilities in previously developed areas of the City."	

Attachment 1

COUNCIL POLICY	DATE	TITLE	PURPOSE	QUESTIONS OR SUGGESTED ACTION
400-07	11/10/1970	Reimbursement Financing of Water and Sewer Facilities in Undeveloped Areas	"It is in the City's interest to provide for an equitable formula whereby water and sewer facilities serving undeveloped lands may be paid for entirely by developers of such lands; and whereby the developer constructing oversized or off-site water and sewer facilities may be reimbursed by those subsequently benefiting from any portion of such facilities."	This should be reviewed and updated, if needed.
400-09	10/06/1998	Action Plan for City's Future Water Supply	<p>"To establish policies to assure an adequate water supply for the City of San Diego." This includes policies categorized as:</p> <ul style="list-style-type: none"> • General • Related to water importation, conservation, surface runoff and groundwater development • Related to reclamation, re-use and desalination • 	Update to assure reflects current objectives and use to update CP 000-19
400-10	3/11/1985	Claims related to Water Main Break and Sewer Backups	"to provide uniformity in the investigation and disposition of claims related to water main breaks and sewer backups."	What is the history of implementation and should any policy changes be considered?
400-11	9/21/1987	Action Plan for Implementation of Water Conservation Techniques	"To establish policies which assure that effective City water conservation techniques are identified and implemented."	Update to reflect requirements in SDMC
400-12	11/28/1988	Implementation of Water Reclamation/Reuse	<p>"To establish policies to encourage water reclamation/reuse." The City Council is to:</p> <ul style="list-style-type: none"> • Prepare a Reclamation Facilities Master Plan • Target Goals for Water Reclamation and Reuse • Draft a Mandatory Use Ordinance • Require a Mandatory Water Quality Management Plan 	<p>Implement:</p> <ul style="list-style-type: none"> • Is there a Master Plan? • Reuse 70,000 AF/yr min • C.1, C.2, C.3 • D.2 • F

Attachment 1

COUNCIL POLICY	DATE	TITLE	PURPOSE	QUESTIONS OR SUGGESTED ACTION
600-04	3/19/1990	Standards for Rights of Way and Improvements Installed Therein	Prescribes the general standards for improvements installed in the ROW. Specifically the easements required for the placement of water and sewer pipes and drainage. Refers to the "Drainage Design Manual."	Is the Drainage Design Manual current and is this policy up to date?
600-21	11/25/1993	Subdivision Agreements	"To establish a uniform policy and criteria for the appropriate actions on subdivision agreements which may be any of the following...: (I) Time extension, (II) Agreement amendment, (III) Legal default, (IV) Subdivision map revocation, or (V) Rezoning of property.	Update to include impact of amount of water to be used – especially for rezoning.
600-28	8/11/1980	Requirements for Development Approval in Planned Urbanizing Areas	"to specify the requirements for approval and financing of development in the Planned Urbanizing Area of the City in accordance with the <u>Progress Guide and General Plan</u> , "Guidelines for Future Development."	Are there any "Planned Urbanizing Zones" and where are they? Update policy or eliminate.
600-30	10/26/1993	General Plan Amendments to Shift Land from Future Urbanizing to Planned Urbanizing Area	"to specify the guidelines and requirements for effecting a shift of land from the Future Urbanizing to the Planned Urbanizing in accordance with the progress Guide and General Plan. This policy applies to all such shifts of land prior to the General Plan Amendment."	Are there any "Future Urbanizing" zones to shift? If so, where are they? Update to reflect changes since 1990 or eliminate. Include provisions for potable and nonpotable water use.
600-37	6/6/1989	Development Agreements	"To address and clarify the current [1989] issues concerning development agreements and provide guidelines" for when development agreements are appropriate and to broaden the categories of projects that can be included in the agreements.	Update to include, as a minimum the appropriate section of the SDMC referenced by the CP, and water use planning/costs

Attachment 1

COUNCIL POLICY	DATE	TITLE	PURPOSE	QUESTIONS OR SUGGESTED ACTION
600-44	5/14/2002	Placement of Wire Communications in Sewer and Storm Water Pipes	"to establish criteria for the installation of wire communications within the City sewer and storm water pipes which safeguard public health and safety while recognizing the advantages of such installations over trenching of City streets."	How many of such installations are there?
600-45	6/27/2005	Protection of Water, Agricultural, Biological and Cultural Resources within the San Pasqual Valley	"to ensure the long-term protection of the significant water resources within the San Pasqual Valley" "... This Council Policy will reinforce the goals of both the General Plan and the San Pasqual Valley Community Plan, which identify the San Pasqual Valley as an agricultural preserve with significant open space values."	Why do the Plans need this CP and do other open space areas require this as well? e.g. Otay River Valley, San Diego River Valley, Mission Trails, Los Penasquitos Canyon, San Dieguito River Valley Why is zoning discussed in the CP?
800-04	7/25/1978	Drainage Facilities	<ol style="list-style-type: none"> 1. "To establish guidelines for the construction and maintenance of storm water drainage facilities. 2. To identify and assign general financial responsibilities for the construction of various types of drainage facilities." 	

Attachment 1

COUNCIL POLICY	DATE	TITLE	PURPOSE	QUESTIONS OR SUGGESTED ACTION
800-14	5/30/2008	Prioritizing CIP [Capital Improvement Projects] Projects	"to establish an objective process for ranking CIP projects." Sets up guidelines for the evaluation of projects. "In order to implement a prioritization system, there must be an understanding of the constraints associated with each project's funding source(s), asset type (project category), or phase of development. Projects will not compete across the different funding sources, the different project categories, or the different project phases."	How is this CIP prioritization methodology working?
900-01	6/15/1992	Economic Development	"To provide the framework for a comprehensive economic development program which encourages sustainable economic prosperity throughout San Diego." A part of this Council Policy is to "Provide for a comprehensive Economic Development Program and Strategic Plan which promotes and sustains a healthy diversified economy throughout San Diego."	There is to be an annual review and a biennial submittal of the Economic Development Strategic Plan. Has this been done and where are these plans and their reviews?
900-12	5/15/2001	Business and Industry Incentive Program	"To provide for a Business and Industry Incentive Program designed to attract and retain major revenue, job generating, and revitalization projects throughout the City, along with criteria and procedures to ensure that the Program is equitably and efficiently administered.	City Attorney opinion re: Water and sewer capacity charges on page 2
900-14	5/20/2003	Sustainable Building Policy	"The purpose of this policy is to reassert the City's commitment to green building practices in City facilities, and to provide leadership and guidance in promoting, facilitating, and instituting such practices in the community."	Update so that private sector incentives are only for projects that meet sustainability goals – including those of water use