

# Agenda Report

September 22, 2008

**TO:** CITY COUNCIL

**FROM:** CITY MANAGER

**SUBJECT:** Set a Schedule of Penalties for Violation of Water Shortage Plan II (PMC 13.10.045)

## **RECOMMENDATION**

It is recommended that the City Council:

1. Conduct a public hearing pursuant to Pasadena Municipal Code (P.M.C.) Section 13.10.035 Water Shortage Plan Implementation for the purposes of determining an appropriate schedule of penalties for violation of Water Shortage Plan II; and
2. Approve the schedule of penalties described herein

## **RECOMMENDATION OF THE ENVIRONMENTAL ADVISORY COMMISSION**

At its meeting of September 16, 2008 the Environmental Advisory Commission supported the recommendation of staff that the City Council approve the penalty schedule, described herein, for violation of Water Shortage Plan II.

## **BACKGROUND**

Notice of this public hearing was published Tuesday, August 26, 2008 in the *Pasadena Star News* pursuant to PMC Chapter 13.10.035.

On December 17, 2007, the City Council declared that the potential for a water shortage exists and ordered implementation of Water Shortage Plan I as described in Pasadena Municipal Code (PMC) Section 13.10.040. Water Shortage Plan I is a voluntary restriction on eight water waste activities, including watering lawns more than three days per week, hosing down driveways and sidewalks, and allowing landscape water to run onto sidewalks or streets.

Staff recommended implementation of Water Shortage Plan I so that customers could voluntarily change their water use habits to achieve both short-term water savings as well as long-term behavioral changes. Through the end of July 2008, the short-term water savings target of 10% water use reduction has not been achieved. In fact consumption has increased about 3%. For that reason, staff recommends the City Council approve the schedule of penalties described herein for violation of Water

Shortage Plan II. Water Shortage Plan II is a mandatory restriction on the same eight water waste activities described in Water Shortage Plan I. The reason for setting the penalty schedule prior to implementing Plan II is the hope that the penalty schedule will serve as a final warning that the water supply situation is dire and that voluntary restrictions need to be followed. If voluntary restrictions do not result in water savings, even with the penalty schedule in place, staff will be prepared to recommend implementation of Plan II mandatory restrictions.

On August 11, 2008, the City Council directed the City Attorney to amend the Water Shortage Procedure Ordinance to better achieve the conservation target. City Council will entertain the first reading of the amendments at tonight's meeting. The amendments would revise Plan II to read as follows:

- A. No customer of the department shall use or allow the use of water from the department to hose or wash sidewalks, walkways, driveways, parking areas or other paved surfaces unless doing so with a high-efficiency water broom.
- B. No customer of the department shall use or allow the use of water from the department to fill or maintain levels in decorative fountains, ponds, lakes, and similar structures unless such structure is equipped with a water recycling system.
- C. No restaurant, hotel, cafe, cafeteria, or other public place where food is sold, served, or offered for sale shall serve drinking water from the department unless at the express request of its customer.
- D. No customer of the department shall allow water from the department to leak from any facility on his premises or on premises under his control or fail to effect a timely repair of any such leak.
- E. No customer of the department shall cause or allow the use of water from the department to run off landscape areas into adjoining streets, sidewalks, parking lots or alleys due to incorrectly directed or maintained sprinklers or excessive watering.
- F. No customer of the department shall use or allow the use of water from the department for landscape watering more often than once every 3 days.
- G. No customer of the department shall use or allow the use of water for landscape watering between the hours of 8:00 a.m. and 7:00 p.m.

Staff recommends the following schedule of penalties for customers who violate the amended provisions of Water Shortage Plan II:

First Violation: Written Warning

Second Violation: \$50

Third Violation: \$100

Fourth Violation: \$200 and the mandatory installation of a flow restrictor

Fifth Violation: \$500 and the mandatory installation of a flow restrictor for the remainder of the declared water shortage period

Subsequent violations will be subject to a \$500 penalty.

The goal for setting the penalties at the proposed levels is to have them large enough to discourage repeat offenses, but not too large as to become a financial hardship. These

penalties are also similar to those imposed by the City of Azusa and Los Angeles Water and Power.

Per PMC section 13.10.070, customers will be notified of any violation by regular mail. Any customer who receives a notice of violation has the right to a hearing to contest the penalty (PMC 13.10.075). Requests for a hearing must be received in writing within 10 days of receipt of the notice of violation.

### **FISCAL IMPACT**


Based on the experience of the City of Azusa, who had implemented a plan similar to Water Shortage Plan II, PWP might expect to write between 10 and 25 first-time violations and 4-6 second-time violations per week. Based on the proposed penalty schedule, PWP could collect \$10,400 to \$15,600 in penalties per year.

The cost of implementing Plan II is approximately \$65,000 and includes personnel costs for a new City Service Worker, overtime costs related to appeal hearings and miscellaneous costs such as printing and postage. Sufficient funds are available in the FY 2009 Operating Budget.

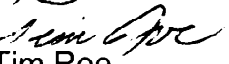
If targeted water savings of 10% are achieved, revenues from water sales will be reduced by about \$3.96 million including a reduction of about \$1.0 million in Capital Improvement Charge revenue. Associated purchased water costs will be reduced by about \$2.34 million and purchased power costs will be reduced by about \$100,000. Also, non-operating income will be reduced by about \$300,000. Therefore, net income will be reduced by about \$1.8 million.

In addition, the General Fund Transfer for the year following the first full year of implementation of the water shortage plan will decrease by about \$237,000 per year due to the approximately \$3.96 million decrease in operating revenues resulting from the conservation efforts.

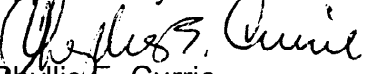
Respectfully submitted,

  
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