



City of Mission Viejo

Office of the Mayor and City Council

Frank Ury
Mayor

Lance R. MacLean
Mayor Pro Tem

Trish Kelley
Council Member

John Paul "J.P." Ledesma
Council Member

Cathy Schlicht
Council Member

September 9, 2009

The Honorable Kim Dunning
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

RE: Response to Grand Jury report - "*Paper Water – Does Orange County have a Reliable Future?*"

Dear Judge Dunning,

This letter is submitted in response to the recent Grand Jury report "*Paper Water – Does Orange County have a Reliable Future?*" The Mission Viejo City Council considered the Orange County Grand Jury's report at our September 8, 2009 meeting. We appreciate the opportunity to provide the following responses to the findings and recommendations in this thought-provoking report.

Findings:

F.1 There is inadequate coordination between local land-use planning agencies and local water supply agencies, resulting in a process that fails to fully engage the issues.

Response. The City of Mission Viejo disagrees with the finding. The City of Mission Viejo has three water district agencies serving the City. These water district agencies are El Toro, Moulton Niguel, and Santa Margarita. Each of these water district agencies prepare an Urban Water Management Plan that is updated every five years and is used by the City in its General Plan preparation and environmental analysis.

Although the City of Mission Viejo is mostly built-out, the City does coordinate review of new development projects with the local water districts. Water supply assessment is also considered in the environmental review process per the California Environmental Quality Act. For new development, the City also requests the developer / subdivider to provide the City with a "will-serve" letter from the applicable water district prior to commencing construction on the project.

The City has partnered with water districts in advocating the use of drought plants for landscaping, and homeowner grants for smart timer irrigation. The City has also been applying Low Impact Development techniques in the design of projects with the goal of zero water runoff in compliance with State regional water quality control board NPDES requirements.

State housing law requires that the City be responsible for providing for the development of new housing for a growing population. This is implemented via the City's General Plan Housing Element and periodic Regional Housing Needs Assessment (RHNA). Water agencies view their role as accommodating growth. The City provides its water agencies with a copy of our Housing



Element to assist them with planning as required by State law.

F.1(a) Water agencies have tended to avoid interfering with or participating in growth-management decisions.

Response. The City of Mission Viejo disagrees with the finding. We would not characterize as “interference.” Water agencies do participate in long-term land use planning through Urban Water Management Plans, and provision of information for General Plan updates and environmental analysis.

F.1(b) Cities and the County have tended to not critically evaluate the limitations of the water agencies’ supply projections.

Response. The City of Mission Viejo agrees with the finding. As a planning agency, the City relies on water agencies for their technical expertise on water supply and delivery, just as we rely on archaeologists, biologist, geologists, hydrologists, traffic engineers, and other as experts in their applicable fields. The City is mindful of short-term water problems and includes mitigation measures and conditions of approval for new development that require water conservation. The City is not qualified to second-guess water agencies with regard to long-term analysis and their progress in developing and securing new sources of water supply.

F.2 California’s looming water supply crisis receives very little, if any, expressed concern from the public in comparison to the numerous other environmental issues presented during development project reviews.

Response. The City of Mission Viejo agrees with the finding. The California Environmental Quality Act charges planning agencies with presenting information on all potential impacts. It is true that more detailed discussion is often provided on issues such as traffic and noise because these are the issues that are most often raised by the public in response to notices of preparation of the project’s Environmental Impact Report (EIR). Planning agencies are required to address issues raised during the EIR process. It would not be appropriate for the City to suggest that significant environmental impacts would occur when information from reliable sources (i.e. water districts) demonstrate that such impacts would not occur.

F.2(a) Orange County’s citizens and interest groups do not appear to grasp the seriousness of the water supply situation or the complexity and urgency of the necessary solutions.

Response. The City of Mission Viejo neither agrees nor disagrees with the finding. As a planning agency, we have no information on which to comment or base a more detailed response. It would seem that education and pricing affect consumer decisions and behavior.

F.2(b) Several recent, substantial water supply awareness efforts are underway (e.g. the O.C. Water Summit) that show promise but appear targeted to audiences that are already informed.

Response. The City of Mission Viejo neither agrees nor disagrees with the finding. As a planning agency, we have no information on which to comment or base a more detailed response.

Recommendations:

R.1. Each Orange County municipal planning agency, in cooperation with its respective water supply agency, should prepare for adoption by its city council, a dedicated Water Element to its General Plan in conjunction with a future update, not to exceed June 30, 2010. This document should include detailed implementation measures based on objective-based policies that match realistic projections of the County's future water supplies. These objectives, policies, and implementation measures should address imported supply constraints, including catastrophic outages and incorporate the realistic availability and timing of "new" water sources such as desalination, contaminated groundwater reclamation and surface water recycling, (Findings F.1, F.1(a), F.1(b), F.2, F.2(a) and F.2(b)).

Response. The City of Mission Viejo will not implement the recommendation.

Urban Water Management Plans, which are required for water districts, are intended to serve the long-range planning function for water supply issues. Water planning is more appropriately and effectively done by water agencies, which are special districts under State law. City and water district boundaries often do not coincide as is the case in Mission Viejo, so cities would have to work with multiple water agencies that may have conflicting policies on water. Cities do not have jurisdiction to set policy for water districts which are separate governmental entities.

Water supply is a statewide and regional issue. Policies and implementation measures adopted by local governments cannot change state or regional policies.

State law mandates what elements are required for a General Plan. Requiring another General Plan element would constitute an unfunded mandate at a time when cities are struggling to meet other State requirements. In addition, it would not be realistic to adopt a Water Element by June 30, 2010. From our experience, it typically takes 18 to 24 months to create, process, and adopt a new General Plan element that is internally consistent with the other elements of the City's General Plan.

The City of Mission Viejo does have a goal and policies related to water in the Public Facilities Element of our General Plan. Below is an excerpt from this Element related to water service and conservation:

"Potable water distribution and wastewater collection and treatment are provided to the City by three water districts: Moulton-Niguel Water District, Santa Margarita Water District, and El Toro Water District. The City's water and wastewater infrastructure is modern and no known deficiencies exist. The maintenance and replacement of existing facilities, including lateral water and sewer lines, will continue as the City ages.

As Southern California's demand for imported water grows, the conservation of water has become an important issue particularly during drought conditions. Water conservation can be accomplished at a local, as well as regional level. The following goal and policies are directed toward maintaining quality water and sewer service in the City.

GOAL 5: Maintain a consistent level of quality water and sewer services.

Policy 5.1: Work closely with local water districts in determining future area needs.

Policy 5.2: Continue to identify and implement water conservation programs.

Policy 5.3: *Continue to utilize reclaimed wastewater for irrigation wherever possible on public and private lands.*

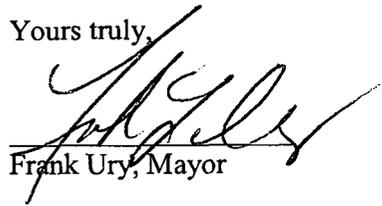
Policy 5.4: *Encourage the use of drought resistant landscaping to reduce overall City water use.*

Policy 5.5: *Coordinate with the local water districts on the replacement of water and sewer facilities concurrent with other City capital improvement projects.*

Policy 5.6: *Ensure that adequate water and sewer service is available as new and infill development occurs."*

Thank you again for bringing this important topic to the attention of local governments in Orange County.

Yours truly,



Frank Ury, Mayor

cc: James R. Perez
Foreman, Orange County Grand Jury
700 Civic Center Drive West
Santa Ana, CA 92701

City Council
City Manager
Director of Community Development
Director of Public Works