Mayor
Rick Rosenberg

City Manager
Brock Jacobsen

CITY OF
SANTA CLARA
FOUNDED 1854

City Council
Denny Drake
Leina Mathis
Ben Shakespeare
Jarett Waite
Christa Hinton

CITY COUNCIL

Meeting Date: November 2, 2022 **Agenda Item: 2**

Applicant: Dustin Mouritsen **Requested by:** Dustin Mouritsen

Subject: Continue discussion on requirement for developer's to bring their own water shares or water rights.

Description:

Currently we have a temporary ordinance in effect as of July 13th 2022 that requires developer's to bring their own water shares or water rights. Continue discussion to consider adopting a permanent ordinance.

Recommendation: Discussion

Attachments:

Cost: 0

Legal Approval: N/A

Finance Approval: N/A

Budget Approval: N/A

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Phone (435) 673-6712 Fax (435) 628-7338

CITY OF SANTA CLARA, UTAH
ORDINANCE NO. 2022-15

AN ORDINANCE ENACTING A TEMPORARY LAND USE REGULATION TO ALLOW FOR THE STUDY OF A PERMANENT ORDINANCE REQUIRING DEDICATION OF WATER OR A FEE IN LIEU OF DEDICATION, IN RESPONSE TO SEVERE DROUGHT CONDITIONS IN THE SOUTHERN UTAH AREA

WHEREAS, Utah in general, and Washington County in particular, is in the midst of an extended period of drought, classified by the U.S. Drought Monitor as "severe" to "extreme" throughout of 2021 and into the current year; and

WHEREAS, Governor Spencer J. Cox, in March 2021, issued an Executive Order declaring a State of Emergency due to drought conditions, recommending, among other things, that water suppliers should encourage efficient landscape watering, cities should consider developing and implementing water restriction plans, and residents should seek to conserve water through various means; and

WHEREAS, the State of Emergency was extended by the Utah Legislature through Joint House Resolution 101; and

WHEREAS, the Governor once again, on April 21, 2022, issued Executive Order 2022-04, declaring a State of Emergency due to continuing drought conditions; and

WHEREAS, as part of its efforts to address the effect of the continuing drought conditions on the City and its residents and businesses, the City recently adopted a water efficient landscape ordinance; and

WHEREAS, the City Council also recognizes the critical need to continue to adopt ordinances which ensure the acquisition and preservation of water resources by the City, to ensure that the City can continue to meet the demands of Santa Clara residents and businesses for culinary and secondary water service, and is concerned that if adoption is delayed the value of such ordinances will be negatively impacted, to the detriment of the public interest in preserving our precious water resources; and

WHEREAS, in accordance with the requirements of Utah Code § 10-9a-504, the City Council desires to adopt a temporary land use regulation under which potential development applications may still be considered until the Planning Commission and City Council can complete the process of considering a permanent ordinance requiring the dedication of water resources or the payment of a fee in lieu of such dedication for each new development project in the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Santa Clara, pursuant to Utah Code § 10-9a-504 as follows:

SECTION 1. Finding of Compelling, Countervailing Public Interest:

The City Council hereby finds that there is a compelling, countervailing public interest in temporarily regulating development applications as set forth in this Ordinance.

The City Council's findings include the following:

a. The City of Santa Clara has a compelling interest in regulating the land uses within the City's municipal boundaries, and in providing clean, safe, and adequate culinary and secondary water services in order to protect and promote the health, safety and welfare of the citizens and residents of the City.

b. The drought conditions present in the City, county, and state threaten the health, safety, and welfare of the City's citizens in that the City's precious water resources are at risk.

c. Adopting a temporary ordinance will:

    a. Ensure that developments for which applications are submitted prior to a permanent ordinance being put into place shall be subject to water resource dedication requirements, or fees in lieu of such dedication, which will help to conserve and grow the City's water resources until a permanent ordinance can be adopted;

    b. Protect and enhance the community's environmental, economic, recreational, and aesthetic resources by helping to ensure that new development projects are required to dedicate sufficient culinary water or replacement secondary water to the City to allow the City to service such new projects with culinary water;

    c. Incentivize the preservation and conservation of water resources already existing in the City by providing a mechanism for such water resources to be transferred to the City and protected in the City's water bank; and

    d. Establish standards to determine the amount of water resources that may be required to be dedicated to the City for any particular project, and, potentially, a fee in lieu of such dedication in certain circumstances, to be used for acquisition and preservation of City water resources.

d. The City's current ordinances do not adequately address the drought conditions currently facing the City. The need for the City Council to establish temporary standards is therefore time sensitive.

SECTION 2. Temporary Land Use Regulation Requiring Water-efficient Landscaping in All New Development.

A. Each applicant for a development approval during the period in which this Ordinance is in effect, shall be subject to the requirement to comply with any permanent ordinance addressing

the matter described herein which is adopted before the expiration of this temporary regulation (a "Permanent Ordinance").

B. Any applicant for a development approval who files an application subject to paragraph A. shall have the right to either:

> (1) have its application reviewed, and denied or approved, in the ordinary course of the City's review process, but to have such application conditioned on successfully negotiating with the City a dedication of water rights or local water company shares equivalent to the water required to service the applicant's project, or a fee in lieu of such dedication, on a case-by-case basis for each application; or
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> (2) to have its application reviewed but a final decision on such application postponed until a Permanent Ordinance is adopted and to comply with such Permanent Ordinance as a condition of approval of the application, or until this temporary regulation expires without adoption of a Permanent Ordinance, whichever occurs first.

C. No development application of any kind filed with the City during the period in which this Ordinance is in effect shall be considered fully vested unless complying with the foregoing paragraphs.

SECTION 3. Effective Date and Duration:

This Ordinance shall become effective immediately upon adoption, recording and posting in the manner prescribed by law, and shall expire on a date which is (a) six (6) months from the date of adoption of this Ordinance, or (b) the date on which a Permanent Ordinance adopted by the City Council becomes effective, whichever is earlier, at which time the regulations set forth herein shall automatically expire by operation of law.

ADOPTED and approved by a duly constituted quorum of the City Council of the City of Santa Clara, Utah, this 13th day of July 2022.

IN WITNESS THERETO:

_____
RICK ROSENBERG, Mayor

ATTEST:

_____
CHRIS SHELLEY, City Recorder