



MEMORANDUM

TO: Honorable Mayor and Council
Members

DATE: August 10, 2009

FROM: Mike Letcher
City Manager

SUBJECT: Interim Water Service Policy

The purpose of this memorandum is to clarify how the City's Interim Water Service Policy is being implemented and discuss next steps for Mayor and Council formalization of this policy.

Background

In December 2007, the City implemented an interim water service policy stating that Tucson Water will not provide water service outside of its Obligated Area until further guidance is provided by the City/County Water and Wastewater Study and by the Mayor and Council.¹ Legal opinions from Marvin Cohen and Chris Avery served to define the Tucson Water Obligated Service Area, which includes: 1) the Tucson city limits; 2) areas where the City is contractually obligated to serve such as Continental Ranch, Dove Mountain and Corona de Tucson; and 3) infill within the existing service area (see Obligated Service Area map attached).

At the same time, the Mayor and Council authorized the City/County Water and Wastewater Study, which may help inform future direction regarding the Water Service Policy. Phase 2 of the Study (the City/County portion) is scheduled to be completed in November 2009.

Interim Policy Implementation

I have directed Tucson Water to continue to implement the interim water service policy and have worked with Tucson Water staff and the City Attorney to ensure the policy is being implemented clearly, consistently, and as efficiently as possible. This is important from both a customer service and legal perspective. Toward that end, Tucson Water has developed a water service decision flow chart and infill guidance graphics to make the decision process transparent and predictable. I am also establishing a formal appeals board to review cases where customers disagree with a decision by Tucson Water to refuse service. Appeals will be reviewed by a three-member committee consisting of the City Attorney, a representative of the City Manager's Office, and the Director of Housing and Community Development.

¹ The City of Tucson is unique among Arizona cities in serving water to such an extensive area outside the City limits. Most other Arizona cities either refuse to serve any water to customers located outside their incorporated boundaries or do so only under limited circumstances.

Concurrently, staff is working to streamline the PADA (Pre-Annexation and Development Agreement) process for developers interested in signing this agreement, so that the City is not burdening customers with an overly time-consuming process.

I have asked City staff to reach out to stakeholders in the community to make sure they understand how the interim policy is being implemented and to return comments that can help us streamline and improve the review and appeal processes.

City/County Water and Wastewater Study

In April 2009, the Mayor and Council endorsed the City/County Water Study Phase 1 Report, which included a recommendation that expanding the Tucson Water service area be done thoughtfully and deliberately, and that before decisions to extend service beyond the obligated area are made, the City needs to understand the economic, social, and environmental implications of extending service.

Recent technical papers prepared as part of Phase 2 of the Water Study have further addressed the Obligated Service Area issue. The July technical paper entitled *Integrating Land Use Planning with Water Resources and Infrastructure* proposes that the City look holistically at the implications of extending water service, considering all aspects of this decision. The paper suggests the following factors be considered in making decisions to extend water service outside of the Obligated Area. Ideally, these factors would be considered in a long range land use planning context identifying areas of future water service which could be incorporated into the General Plan update, rather than being done incrementally for each development request that comes in.

- *Is the new development within a suitable growth area?* The June technical report, *Location of Growth, Urban Form and Cost of Infrastructure*, identified four areas most suitable for development – infill into the existing built environment, Houghton Corridor, Southlands and the Southwest Area. Some of these future growth areas are within the Tucson city limits and some are not including the Southwest Area and portions of the Southlands.
- *How will the addition of more customers affect the need to acquire additional water?* In the four scenarios modeled in the Growth paper, the population build-out for the Tucson Water Obligated Service Area ranges from approximately 330,000 in the status quo scenario to just over 500,000 in the transit-oriented development scenario. The Phase 1 report indicated that based on conservative (i.e., high) gallons per capita per day use projections, Tucson Water can serve 366,000 more people with its currently available renewable water resources. Given these numbers, it is apparent that a decision to serve outside the Obligated Area either could limit the amount of water supply available to serve the City's commitments within the Obligated Area or could require the City to acquire additional, and most likely more costly, water resources to meet its current obligations to serve.

- *Will the proposed new development be fiscally sustainable from a public service and infrastructure perspective?* The City of Tucson has a concern that when development occurs adjacent to but outside City limits, the region doesn't receive the full range of revenues needed to pay for the public services the new development will require. Forgone revenues from development outside the City limits include sales tax, construction sales tax, additional state shared revenue and additional property tax. The current budget situation has demonstrated that the City cannot afford to ignore looking at future growth from a fiscal sustainability perspective, not only how infrastructure needed to serve growth gets funded but how the ongoing provision of public services and maintenance of facilities are funded. We must ensure that future growth areas are self-sustaining and are not subsidized by current City residents, either indirectly or directly. Committing the City's limited renewable water supplies to enable additional residential or commercial development outside the City limits may further threaten the City's financial sustainability.
- *Is the timing of development in this area logical considering City and County planned infrastructure and public facilities?* "Leapfrog" development and development further away from the existing urban environment is difficult and more costly to serve from an infrastructure and public service perspective compared with infill development and development taking place closer to the existing built environment.
- *Will the new development create new jobs and economic opportunities?* A significant amount of industrial land lies just outside of the City limits along the I-19, Valencia Corridor, and the airport areas. How water will be provided to these areas, as well as implications for City residents if these developments are not located in the City, must be considered.
- *Will the new development be designed to include smart growth and sustainable urban form concepts?* The June technical paper on Growth goes into detail on the importance of future development being designed around smart growth and sustainable urban form principles, from a water resource as well as public services and infrastructure perspective.
- *What are the implications of the water service options for this development if Tucson Water declines to serve?* The service policy does not necessarily inhibit growth outside of Tucson Water's Obligated Service Area. In many areas, developers can seek service from private water companies or may create a new water company to serve the new development. A potential result is that these private companies and the associated growth may not develop the infrastructure necessary to utilize renewable water supplies and may instead rely on the CAGRD, with the possibility that groundwater pumping and aquifer replenishment may occur in locations within the Tucson AMA which are not in hydrologic proximity. Depending on the location of the development, such a situation may or may not impact the City's groundwater resources. The paper explores the idea that these circumstances could be mitigated through recharge and wheeling agreements between the City of Tucson and these other water users, assuming that appropriate cost-of-service principles can be agreed to.

Additional technical papers being prepared for Phase 2 on *Additional Water Resources, Cost of Growth* and *Environmental Restoration* will further inform this issue.

Next Steps

I have directed City staff to continue to implement the Interim Water Service Policy, and to not extend water service beyond the Obligated Area until further direction is provided by the Mayor and Council. To improve implementation of the Interim Policy from a legal and customer service perspective, we are now implementing a formal appeals process for decisions of no service, and I have asked Tucson Water and annexation staff to work with stakeholders to clarify and streamline the processes for customers.

I recommend that the Mayor and Council consider formalizing the Water Service Policy in early 2010 following completion of Phase 2 of the City/County Water Study. The factors described in the bulleted list above, along with the final Phase 2 report can help inform Mayor and Council deliberation on this topic.

Please contact Nicole Ewing Gavin in my office if you have any questions or comments about this memorandum, or my decision to continue to proceed under the Interim Policy, pending a final Mayor and Council decision.

ML:NEG

Attachments:

Tucson Water Obligated Service Area Map

C: Richard Miranda, Deputy City Manager
Nicole Ewing Gavin, Assistant to the City Manager
Mike Rankin, City Attorney
Jeff Biggs, Director, Tucson Water
Chris Avery, Deputy Director, Tucson Water
Sandy Elder, Deputy Director, Tucson Water
Albert Elias, Director, Housing and Community Development
Byron Howard, Special Projects Coordinator/Annexation

Tucson Water Obligated Service Area

EXPLANATION

- TUCSON
- MARANA
- ORO VALLEY
- SOUTH TUCSON
- MAJOR WASH
- HIGHWAY
- INTEGRATED LONG RANGE PLANNING AREA
- CURRENT SERVICE AREA
- OBLIGATED AREA CURRENTLY NOT SERVED

