

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JENNIFER BURKE, DEPUTY DIRECTOR - WATER AND
ENGINEERING RESOURCES,
WATER DEPARTMENT
SUBJECT: APPROVAL OF THE JOINT EXERCISE OF POWERS
AGREEMENT CREATING THE SANTA ROSA PLAIN
GROUNDWATER SUSTAINABILITY AGENCY

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by Santa Rosa Water that Council, by resolution, (1) approve the Joint Exercise of Powers Agreement (JPA) creating the Santa Rosa Plain Groundwater Sustainability Agency (GSA) to act as the single GSA for the Santa Rosa Plain sub-basin, (2) approve the City of Santa Rosa's membership in the Santa Rosa Plain GSA, and (3) delegate authority to the Mayor to appoint the Director and Alternate Director to the Santa Rosa Plain GSA Board of Directors, and delegate authority to the Director of Santa Rosa Water to appoint the Santa Rosa Plain GSA advisory committee member and alternate.

EXECUTIVE SUMMARY

The Sustainable Groundwater Management Act of 2014 (SGMA) provides a framework for sustainable management of groundwater supplies by local authorities and requires that high and medium priority groundwater basins throughout California form one or more Groundwater Sustainability Agencies (GSAs) within each basin by June 30, 2017. Within Sonoma County, the Santa Rosa Plain, Petaluma Valley and Sonoma Valley groundwater basins have been designated as medium priority basins and must comply with SGMA. SGMA provides that only local public agencies that have either land use, water supply or water management authorities are permitted to form a GSA. In the Santa Rosa Plain sub-basin, the cities of Santa Rosa, Rohnert Park, Cotati, Sebastopol, the Town of Windsor, Sonoma County, the Sonoma County Water Agency, the Goldridge Resource Conservation District, and the Sonoma Resource Conservation District are eligible to form a GSA. Santa Rosa Water staff have been meeting with staff of the other GSA-eligible entities to discuss the establishment of a GSA for the Santa Rosa Plain sub-basin through a joint exercise of powers agreement.

This item is related to Council Goal #3: Provide Leadership for Environmental Initiatives by establishing Santa Rosa as a leader in the formation of a Groundwater Sustainability Agency whose primary function is to sustainably manage groundwater supplies in the Santa Rosa Plain sub-basin.

BACKGROUND

The 2014 Sustainable Groundwater Management Act (SGMA) requires that eligible agencies in medium and high priority groundwater basins across the State form one or more local Groundwater Sustainability Agencies (GSAs) by June 30, 2017. The priority status of groundwater basins was established by the Department of Water Resources. Locally within Sonoma County, three basins have been designated as medium priority, and must comply with SGMA. These basins (including sub-basins) are the Santa Rosa Plain sub-basin, the Petaluma Valley and the Sonoma Valley groundwater basins. The Santa Rosa Plain sub-basin covers an area of approximately 80,000 acres and is home to approximately half the population of Sonoma County. The majority of the City of Santa Rosa overlies the Santa Rosa Plain sub-basin.

Agencies that are eligible to participate in the formation of a GSA must have authority over land use planning, water supply or water management. In the Santa Rosa Plain, the eligible agencies that can form a GSA include the cities of Santa Rosa, Rohnert Park, Sebastopol, Cotati, and the Town of Windsor, as well as the Sonoma County Water Agency, the County of Sonoma, the Gold Ridge Resource Conservation District and the Sonoma Resource Conservation District. Although only the agencies listed above may form a GSA (either individually or in collaboration), SGMA provides that Public Utilities Commission Regulated (PUC-R) and mutual water companies (private water companies) may join a GSA by agreement. Cal American Water, an investor-owned PUC-R, has led an effort to organize the mutual water companies and investor owned PUC-R utilities in the Santa Rosa Plain sub-basin into an organized group that has requested participation in the GSA. These entities anticipate entering into a memorandum of understanding to facilitate their participation in the GSA.

The intent of SGMA is to provide local and regional agencies the authority to sustainably manage groundwater. If GSA eligible agencies do not form a GSA, SGMA provides that the County would be the default GSA. If local agencies or the County do not form a GSA within the required timeframe, the State has the authority to develop and implement an interim plan until such time that local agencies assume management over the groundwater basins/sub-basins.

GSAs must develop and adopt a Groundwater Sustainability Plan (GSP) by January 31, 2022, and demonstrate successful groundwater management by 2042. The purpose of the GSP will be to describe the basin's geology, analyze short and long-term trends of the basin's water balance and other measures of sustainability, and compile data necessary to resolve disputes regarding sustainable yield, beneficial uses and water rights.

Once formed, the GSAs will have broad discretionary authorities, pursuant to SGMA, to implement the GSPs and achieve sustainability. The authorities include:

- Require registration of wells and measurement of extractions
- Request revisions to basin boundaries
- Regulate extractions
- Implement capital projects
- Assess fees

PRIOR CITY COUNCIL REVIEW

On October 20, 2015, the City Council adopted Resolution No. 28702 (attached to this staff report) supporting the Sustainable Groundwater Management Act Principles for Developing Governance Options.

On October 25, 2016, City staff presented, in study session, an overview of SGMA and the draft recommendations on the formation of the GSA for the Santa Plain Groundwater sub-basin.

ANALYSIS

Beginning in early 2015, staff from each of the GSA-eligible entities began meeting together regularly to discuss important issues and develop a framework for establishing a GSA. Guided by the Sustainable Groundwater Management Act Principles for Developing Governance Options (SGMA Principles), it was recommended by staffs of the GSA-eligible entities that each medium priority groundwater basin/sub-basin in Sonoma County should establish its own GSA through the creation of a Joint Powers Authority in order to maximize local control since issues germane to one individual basin may not necessarily apply to the other basin(s). For example, issues related to saline groundwater found in the Sonoma Valley basin are not relevant in the Santa Rosa Plain sub-basin. It is also recommended that each GSA would agree to certain areas of coordination between the GSAs, but would retain its own authorities and prepare its own GSP.

A series of public workshops have been conducted in 2015, 2016 and 2017 in each of the three basins to inform the public about the requirements of SGMA, and to solicit feedback and receive public input regarding the development of the GSAs. Public participation was robust, and a dedicated website which includes information from these public meetings, as well as monthly updates on GSA formation and other SGMA-related information, can be found at www.sonomacountygroundwater.org.

Guided by the SGMA Principles and input from the public meetings, staffs of the GSA-eligible entities within the Santa Rosa Plain sub-basin developed a JPA for the Santa Rosa Plain. The JPA has been developed to allow the GSA to comply with SGMA, to provide the GSA Board flexibility to use the authorities granted under SGMA, and to balance the interests of all beneficial uses and users of groundwater within the basin.

The major elements of the JPA include the following:

- **JPA Members** – The JPA proposes that the new GSA will be composed of the following GSA eligible entities: the cities of Cotati, Rohnert Park, Santa Rosa and Sebastopol, the Town of Windsor, Sonoma County, Sonoma County Water Agency, Goldridge Resource Conservation District and Sonoma Resource Conservation District. At this time, Sebastopol staff are not recommending that their agency join the JPA because only a small portion of Sebastopol overlies the Santa Rosa Plain sub-basin and its wells are outside of the sub-basin. Sebastopol City Council will be considering the GSA JPA at their April 18th Council meeting. Should Sebastopol not sign on to the JPA, they will participate on the Advisory Committee.
- **PUC-R and Mutual Water Companies** – The JPA anticipates that the PUC-R and Mutual Water Companies will participate in the GSA through a participation agreement with the GSA, a draft of which is attached to this staff report. Once the participation agreement is approved by the GSA Board, the PUC-R and Mutual Water Companies will have one seat on the GSA Board of Directors as well as an Advisory Committee member.
- **GSA Board of Directors** – the GSA will be governed by a Board of Directors. Each signatory to the JPA will appoint one director and one alternate from among their respective elected boards to the GSA Board of Directors. In addition, once the MOU with the PUC-R and Mutual Water Companies is approved by the GSA, the PUC-R and Mutual Water Companies will appoint one director and one alternate to the GSA Board.
- **New Members** – The JPA provides that any entity that is GSA eligible can join the JPA in the future, provided they agree to the terms of the JPA and make any required financial contribution. The JPA also provides that any new GSA eligible entities that are in the process of forming within the sub-basin either through the Local Agency Formation Commission (LAFCO) or through the legislative process, can join the GSA Board in an ex-officio non-voting capacity provided they meet the requirements outlined in the JPA.
- **Voting** – The JPA defines the quorum of the Board as a majority of the Directors. Depending on Sebastopol's decision, a quorum would consist of 5 directors out of 9 (Sebastopol not joining the JPA) or 6 directors out of 10 (Sebastopol joining the JPA). Each board member will have one equal vote. Approval of items will require a majority vote for non-substantial items and a supermajority vote consisting of 75% for substantial items. The following items require a supermajority vote:
 - Bylaws adoption, modification or alteration
 - GSP adoption, modification or alteration
 - Removal of Advisory Committee members

- Modifications to the composition and number of Advisory Committee members
- Adoption of assessments, charges and fees
- Adoption of regulations and ordinances
- Adoption or modification of annual budget, including capital projects
- Property acquisition (excepting rights of way)
- Appointment of Fiscal Agent and Treasurer,
- Minor, administrative amendments to the JPA

In addition, the JPA requires a unanimous vote to assess financial contributions upon members. For termination of members for failing to meet financial obligations, the JPA also requires a unanimous vote minus the member proposed to be terminated.

- **Advisory Committee** – The JPA defines a strong advisory committee representing the beneficial uses and users of groundwater that would provide input and recommendations to the GSA Board of Directors. The advisory committee consists of one member appointed from each GSA eligible agency (likely technical staff from each agency), a member from Graton Rancheria, and interest based members that would be appointed by the GSA Board of Directors. Applicants interested in serving in the interest based positions would submit an application to the GSA Board of Directors for consideration and appointment. The interest based members are defined in the JPA as follows:

- Two Environmental representatives
- Two Rural residential well owners
- One Business community representative
- Two Agricultural interest representatives

Due to the technical expertise needed to develop the GSP, Santa Rosa Water staff recommends that technical staff serve on the advisory committee and recommends that the Water Director be delegated the authority to appoint the advisory committee member and alternate.

- **Funding** - All GSA eligible entities staffs have indicated support of having the GSA be “self-funding” as soon as possible. The GSA eligible entities staffs are recommending that the GSA Board initially focus on completing the technical and financial work necessary to make a final decision on needed rates, fees and/or charges for the GSA as well as pursuing grant funding for the GSA. Until rates, fees and/or charges are established, it is necessary to fund start-up costs for the GSA.

GSA eligible entities staffs have developed a first-year budget of \$460,000 and a second-year budget of approximately \$533,000 for the GSA. Based on the budget, the contribution from each member agency, except the Sonoma RCD, will be \$55,000 in the first year and \$64,000 in the second year. The financial commitment

can be made by making a payment to the GSA or by providing in-kind services to the GSA through an agreement with the GSA. The JPA contemplates the possible reimbursement of Member funding contributions as future revenue may allow.

Regarding the Sonoma Resource Conservation District, since the Sonoma Resource Conservation District is participating in the GSAs for all three groundwater basins (Santa Rosa, Petaluma and Sonoma), its total contribution will be \$60,000 per year, divided evenly across the three basins.

- **Termination of Members and Suspension of Voting** – To ensure participation by GSA members, the JPA allows for the GSA Board to suspend a director's or alternate director's voting rights should the director or alternate miss three consecutive GSA Board meetings. The JPA also includes provisions that allow the GSA Board to terminate a member should a member fail to meet its financial obligations.
- **Review of the JPA** – To ensure that the GSA governance structure represents the beneficial uses and users of groundwater, the JPA provides for the periodic review of the terms and conditions of the JPA by the GSA Board to determine if any amendments are recommended. The JPA requires a public meeting to review the terms and conditions of the JPA upon completion of the initial rate study, within three years of submittal of the GSP to the Department of Water Resources and at least once every ten years after adoption of the GSP.
- **Amendments to the JPA** – The JPA provides that minor, administrative amendments by a supermajority of the GSA Board. Amendments to the JPA regarding the following provisions require unanimous consent of the JPA members, acting through their governing bodies:
 - Any change in Powers
 - Any change in Board composition, except as included in the JPA
 - Any change in Voting requirements
 - Any changes to Liabilities and Indemnification provisions
 - Any changes to Termination and Withdrawal provisions
 - Elimination of the Advisory Committee
- **Public Process** – All GSA Board meetings and advisory committee meetings will be open to the public and subject to the Brown Act.

Should Council approve the JPA, staff is requesting that the Council authorize the Mayor to appoint the Director and Alternate Director to the GSA Board of Directors. The Director or Alternate will need to participate in the first meeting of the GSA board which will tentatively take place on Thursday, June 1, 2017 from 5:00 – 8:00 p.m. at a location to be determined.

FISCAL IMPACT

Funds for the initial contribution of \$55,000 are available in the FY 2016-17 adopted budget within the Water Department.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On October 20, 2016, the Board of Public Utilities conducted a study session on the Groundwater Sustainability Agency Formation and provided direction to staff.

On April 20, 2017 the Board of Public Utilities adopted a Resolution recommending that the City Council, by resolution, approve the Joint Exercise of Powers Agreement (JPA) creating the Santa Rosa Plain Groundwater Sustainability Agency (GSA), approve the City of Santa Rosa's membership in the GSA, delegate authority to the Mayor to appoint the Director and Alternate Director to the GSA Board of Directors, and delegate authority to the Director of Santa Rosa Water to appoint the GSA Advisory Committee member and alternate.

NOTIFICATION

Not applicable

ATTACHMENTS

- Attachment 1 - City Council Resolution No. 28702.
- Attachment 2 – Final Draft Joint Exercise of Powers Agreement creating the Santa Rosa Plain Groundwater Sustainability Agency
- Attachment 3 – Draft Participation Agreement with the CUPC-R and MWCs

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