

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JENNIFER BURKE, DEPUTY DIRECTOR - WATER AND
ENGINEERING RESOURCES,
WATER DEPARTMENT
SUBJECT: DIRECTION REGARDING THE SANTA ROSA PLAIN
GROUNDWATER SUSTAINABILITY AGENCY

AGENDA ACTION: MOTION

RECOMMENDATION

It is recommended by Santa Rosa Water that the Council, by motion, consider the funding and administrative options for the Santa Rosa Plain Groundwater Sustainability Agency (GSA) and provide direction to Santa Rosa's GSA Board member.

EXECUTIVE SUMMARY

The Sustainable Groundwater Management Act of 2014 (SGMA) provides a framework for sustainable management of groundwater supplies by local authorities and required some groundwater basins, including the Santa Rosa Plain basin, throughout California to form Groundwater Sustainability Agencies (GSAs) by June 30, 2017. In the Santa Rosa Plain basin, the cities of Santa Rosa, Rohnert Park, and Cotati, the Town of Windsor, Sonoma County, the Sonoma County Water Agency, the Goldridge and the Sonoma Resource Conservation Districts (RCD) entered into a Joint Power Agreement (JPA) which formed the Santa Rosa Plain GSA. As part of the JPA, the member agencies agreed to provide funding for the GSA start-up costs for the first two years, anticipating that the GSA would commission a fee study in the first year with the goal of implementing fees/rates that would allow the GSA to become self-sustaining in year three. The GSA is working with a rate consultant to explore options for rates and fees to provide funding for the GSA after the first two years. The GSA Board is also considering options for administrative services to include the preparation and distribution of meeting agendas and overseeing other administrative functions necessary to operation of the GSA.

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) required eligible agencies in medium and high priority groundwater basins across the State to form one or more local Groundwater Sustainability Agencies (GSAs) by June 30, 2017. Locally within Sonoma County, three basins, the Santa Rosa Plain, the Petaluma Valley and the Sonoma Valley groundwater basins, have been designated as medium priority, and must comply with SGMA. The Santa Rosa Plain 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 basin.

In the Santa Rosa Plain basin, the cities of Santa Rosa, Rohnert Park, and Cotati, the Town of Windsor, Sonoma County, the Sonoma County Water Agency, and the Goldridge and the Sonoma Resource Conservation Districts entered into a Joint Power Agreement (JPA) which formed the Santa Rosa Plain GSA. Each of the member agencies has a seat on the GSA Board. Councilmember Schwedhelm is the City's GSA Board member. In addition, the GSA signed an agreement with Public Utilities Commission Regulated (PUC-R) and mutual water companies (private water companies) in the Santa Rosa Plain basin, which provides for one board member seat to represent these entities.

The Santa Rosa Plain GSA is a self-funded agency, with the initial funding for the first two years coming from each of the member agencies of the GSA. The first year of the GSA budget included funding for a rate setting process. The three GSAs in Sonoma County conducted a Request for Qualifications (RFQ) for a rate consultant and selected Raftelis Financial Consultants (Raftelis). Raftelis has provided an overview and gathered input from the GSA Board as well as the Advisory Committee regarding possible rate/fee options. In addition, a community meeting was held on March 21, 2018, to gather feedback on possible options.

At the April 12, 2018 GSA Board Meeting, the GSA Board was presented four policy issues related to the rate study and one policy issue related to GSA administration, as follows:

- GSA member agencies to consider foregoing any reimbursement of initial start-up costs in the near term.
- Consider dropping the parcel fee or tax from further consideration in the rate study due to legal and practical issues
- Consider using groundwater use as the rate-setting metric for the GSA
- GSA member agencies to consider funding the GSA for five years as opposed to the agreed upon two years for startup costs
- Consider an option for GSA administrative services

These policy issues were not provided to the GSA Advisory Committee nor the member agency staffs prior to the GSA Board meeting. Initial feedback was provided by some GSA Board members and these issues are tentatively scheduled to be brought back to the GSA Board at the June 14, 2018 Board meeting for further discussion and possible direction.

PRIOR CITY COUNCIL REVIEW

On October 20, 2015, the City Council adopted Resolution No. 28702 (attached to this staff report) supporting the SGMA 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.

On May 2, 2017, the City Council adopted Resolution No. RES-2017-065 (attached to this staff report) approving the JPA creating the Santa Rosa Plain GSA to act as the single GSA for the Santa Rosa Plain basin, approving the City's membership in the Santa Rosa Plain GSA, and delegating authority to the Mayor to appoint the Director and Alternate Director to the Santa Rosa Plain GSA Board of Directors, and delegating authority to the Director of Santa Rosa Water to appoint the Santa Rosa Plain GSA advisory committee member and alternate.

On March 27, 2018, City staff presented, at a joint study session of the Board of Public Utilities and City Council, an overview of the initial rate and fee options that were being considered by the GSA.

ANALYSIS

The JPA was guided by the SGMA Principles for Developing Governance Options which were 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. When the JPA was formed, all GSA eligible entities staffs indicated support for the GSA to become "self-funding" as soon as possible and recommended that the GSA Board 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 were established, it was agreed that the GSA member agencies would fund start-up costs for the GSA, with the further understanding that reimbursement of such costs could be part of any future fee study.

Member Agency Reimbursement

The JPA included the initial two year funding commitment from the member agencies, consisting of a first-year budget of \$460,000 and a second-year budget of approximately \$533,000. Based on the budget, the contribution from each member agency, except the

Sonoma RCD, was \$55,000 in the first year and will be \$64,000 in the second year. Regarding the Sonoma RCD, since the Sonoma RCD 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. The JPA includes the possibility of reimbursement of member agency funding contributions as future revenue may allow.

Delaying the reimbursement would reduce the demand for current rate revenue and, because the City, as a groundwater user, will be charged any applicable GSA rate or fee, reimbursements could be used to offset some of the City's future GSA charges. Staff recommends deferring reimbursement until after the Groundwater Sustainability Plan (GSP) is complete to alleviate the need for initially higher rates and charges. SGMA requires GSAs to develop and submit GSPs by 2022.

GSA Funding Options

Since the execution of the JPA in June 2017, the GSA has secured a \$1 million state grant to fund preparation of the required Groundwater Sustainability Plan and all three basins have hired the same rate consultant, Raftelis, to conduct a rate and fee study. Working with the GSA Board and GSA Advisory Committee, Raftelis explored several funding options, including regulatory fees, charges on groundwater usage, a parcel fee or tax, and also looked at State intervention fees should the GSA be unable to meet the requirements of SGMA.

SGMA provides the ability for the State Water Resources Control Board (State Water Board) to intervene and manage a groundwater basin, including charging applicable fees, should the local GSA be unable to meet requirements. The State Water Board has recently published its fee schedule, which includes an annual filing fee per well and a charge per acre-foot of metered or estimated groundwater usage. One of the primary drivers of forming the GSA was to maintain local control of our region's groundwater resources. Allowing for state intervention and the charging of corresponding fees would not achieve this goal of maintaining local control. A successful local rate-setting process is key to maintaining local control and avoiding state intervention. Staff recommends that the GSA continue to explore development of GSA rates and fees, with a goal of implementation within the next year.

Dropping the parcel fee or parcel tax from consideration

At the April 12 GSA Board meeting, Raftelis reviewed the parcel fee and parcel tax options for funding the GSA. The parcel fee would be a regulatory fee charged to all parcel owners in the basin and does not require voter approval. The parcel tax would be charged to all parcel owners in the basin and would require a 2/3rd voter approval. Both options propose an estimated charge of \$5 to \$9 per parcel, however there are challenges and concerns with both of these options. The parcel tax is estimated to cost between \$350,000 to \$650,000 to place on the ballot and it is unknown if voters would approve a parcel tax. Currently, the GSA does not have budget to place a measure on the ballot.

The parcel fee has potential legal challenges. A 2017 California Supreme Court decision (*City of San Buenaventura v. United Water Conservation District*) ruled that in certain instances, groundwater pumping fees are subject to the requirements of article XIII C of the California Constitution, which requires a “fair or reasonable relationship” to the benefit provided to the payor, but not the stricter proportionality requirements of article XIII D that are applied to charges for a property-related service. Even if this decision finds that groundwater rates set by the GSA may not be subject to article XIII D requirements, there is concern that due to the Court decision there may be constitutional issues with a per-parcel fee that is charged equally to each parcel. Raftelis and GSA staff recommended that both the parcel fee and parcel tax options be removed from consideration. Due to the cost and legal concerns associated with both structures, staff agrees with the recommendation to remove these options from consideration.

Groundwater use as the rate setting metric

At the April 12 GSA Board meeting, Raftelis presented several options to set rates based on groundwater use. Using groundwater use as a metric is a fair approach as groundwater users are the primary beneficiaries of GSA activities. Some groundwater usage, such as groundwater used by municipalities, is already metered and some groundwater use is not metered and would need to be estimated. Staff recommends using groundwater usage as the rate setting metric.

Member Agency Funding through FY 21/22

At the April 12 GSA Board meeting, GSA staff presented a proposal to have the member agencies continue to fund the GSA through the end of FY21/22. This option would also defer member agency reimbursement until after FY21/22 and would use the same funding allocation outlined in the JPA for the first two years of funding. GSA staff budget estimates for FY19/20 through FY21/22 are estimated between \$255,000 - \$290,000 per year. Using the same allocation as outlined in the JPA, each member agency except the Sonoma RCD would contribute between \$30,000 - \$35,000 annually.

There are several concerns related to continuing member agency contributions. The proposal does not achieve the goal of having the GSA be “self-funding” as soon as possible, does not share costs among those that benefit from the GSA activities, goes beyond the initial startup costs that were agreed to by member agencies, and could make it more difficult to set rates in the future. In addition, the Section 7.07 of the GSA JPA requires a unanimous decision of the GSA Board to assess financial commitments on the member agencies. If a unanimous decision of the GSA Board is not reached and a funding mechanism is not determined, it is possible that State intervention could occur in the future which could result in higher costs and a loss of local control. Due to the above reasons, as well as the recommendation to defer reimbursement of member agency initial contributions, staff recommends that the GSA continue to explore development of GSA rates and fees as opposed to member agency contributions to fund the GSA through FY21/22.

GSA administrative services

At the initial GSA Board meeting, the GSA Board contracted with the Goldridge RCD as the interim administrator of the GSA, with the Sonoma County Water Agency as the Plan Manager, overseeing the development of the Groundwater Sustainability Plan and for technical support, and the Sonoma County Water Agency for outreach and grant writing services. The contract with the Goldridge RCD was for one year, from July 1, 2017 to June 30, 2018. At the February 8, 2018 GSA Board meeting, it was announced that the interim administrator from the Goldridge RCD would be taking maternity leave from March 5 to June 26 and the GSA Board approved a contract with the Sonoma County Water Agency to fulfill the interim administrator role through June 30, 2018.

At the April 12, 2018 GSA Board meeting, GSA staff brought forward an item regarding administrator services for FY18/19. During the presentation, it was announced that Goldridge RCD was no longer interested in serving as the interim administrator. The GSA Board briefly discussed having the Water Agency serve as the interim administrator for FY18/19. Should the Water Agency serve as the interim administrator, all technical and administrative services will be provided by a single member agency. The Santa Rosa Plain groundwater basin is a large, diverse area that contains a wide range of interests. The GSA Board and Advisory Committee were developed to represent the wide range of interests, including urban, rural agricultural and environmental interests. While City staff believe that Water Agency has competent staff to serve in these roles, City staff nonetheless believes it may be difficult for all interests to be equitably represented if one member agency provides all administrative and technical services and that procurement of an independent third party for the role of the administrator would be better positioned to balance the complexities presented given the number of potentially divergent interests and that this would increase the potential success of the GSA in achieving its goals under SGMA. Staff recommends that the GSA Board provide for a 6-month extension for the Water Agency to serve as the interim administrator from July 1, 2018 through December 31, 2018 and that, during that time, a procurement for an independent third party for the role of the administrator be conducted.

FISCAL IMPACT

Funds for the initial contribution are available in IFAS Water Key JL55523 – Groundwater Supply Development.

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.

On March 27, 2018, City staff presented, at a joint study session of the Board of Public Utilities and City Council, an overview of the initial rate and fee options that were being considered by the GSA.

NOTIFICATION

Not applicable

ATTACHMENTS

- Attachment 1 – City Council Resolution No. 28702.
- Attachment 2 – City Council Resolution No. RES-2017-065

CONTACT

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