

TO: James L. App, City Manager

FROM: Ed Gallagher, Community Development Director

SUBJECT: Interim Well Ordinance

DATE: January 21, 2014

Needs: For the City Council to consider an Interim Ordinance establishing a moratorium on well drilling.

- Facts:
1. The Paso Robles Groundwater Basin ("Basin") is currently one of the main sources of water for the City's water system, the others being an allocation from the Nacimiento Water Project and Salinas River underflow pursuant to a state permit. The Basin also serves as a primary source of water for communities and properties outside of the City.
 2. Due to a combination of factors, including extremely low rainfall in the last two years and increased demands on the Basin, there are indications that water levels in the Basin have been dropping.
 3. There is currently great debate throughout San Luis Obispo County regarding the condition of the Basin and ways in which demands upon the Basin can be managed. Litigation has been filed.
 4. While most of the City's parcels are served by the City's water system, there are approximately 1,000 acres within the City that are irrigated with water from private wells that are not metered and permit applications for additional private wells are anticipated.
 5. Municipal Code Section 14.06.040 provides that no well can be constructed, repaired, modified or destroyed without a permit issued by the City Department of Public Works.
 6. Additional time is required to prepare the reports and studies required to consider an ordinance and/or general plan amendment addressing private wells within the City in order to avoid a threat to public health, safety or welfare.
 7. California Government Code Section 65858(b) authorizes the City Council, in order to protect the public safety, health, and welfare, to adopt an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable period of time.
 8. Section 65858(b) provides that an interim ordinance shall be in effect for a period of 45 days from its adoption. After 45 days, the City Council, by a four-fifths vote, may extend the term of an interim ordinance for up to 22 months and 5 days.
 9. The proposed interim ordinance provides that, during the time that it would be in effect, the City shall not (i) accept, process, approve or issue any permit application for the **construction** of a new well (as defined in Section 14.06.020 of the Paso Robles Municipal Code) within the boundaries of the City; or (ii) accept, process, issue or approve any permit application for the **modification, rehabilitation or reconstruction** of an existing well that would increase the amount of groundwater capable of being extracted from the Paso Robles Groundwater Basin.

10. Public notice of the proposed interim ordinance was given as required by California Government Code Sections 65858 and 65090. An affidavit of publication of this notice is attached
11. The proposed interim ordinance is exempt from review under the California Environmental Quality Act (CEQA) because there is no possibility that it will have a significant impact upon the environment as it will protect the Paso Robles Groundwater Basin from further depletion, contains restrictions on activities to assure the maintenance, restoration, or enhancement of groundwater, a natural resource, and contains restrictions to assure the maintenance, restoration or enhancement of the environment, including the water resources within the Paso Robles Groundwater Basin and all of the people, species and environs that rely on that resource.

Analysis and

Conclusions: As noted in Fact #6, the purpose of the proposed interim ordinance is to provide the City with sufficient time to prepare the reports and studies required to consider an ordinance and/or general plan amendment addressing private wells within the City in order to avoid a threat to public health, safety or welfare. The condition of the Basin and pending litigation appear to warrant such action on the part of the City.

Reference: Municipal Code Chapter 14.06 (Regulation of Well Construction, Repair, Modification and Destruction); Government Code Section 65858

Fiscal

Impact: None.

Options: After opening the public hearing and taking public testimony, the City Council is requested to take one of the actions listed below:

- a. Introduce for the first reading Ordinance No. XXX, for , and set February 4, 2014, as the date for adoption of said ordinance.
- b. Amend, modify, or reject the above-listed action.

Attachments:

1. Draft Ordinance
2. Affidavit of Public Hearing Notice

ORDINANCE NO. _____

**AN INTERIM ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ADOPTING A TEMPORARY MORATORIUM ON THE ISSUANCE OR APPROVAL
OF PERMITS FOR CONSTRUCTION OF NEW WATER WELLS OR
MODIFICATION/REHABILITATION OF EXISTING WELLS TO INCREASE
GROUNDWATER EXTRACTION**

THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. This interim Ordinance is adopted pursuant to Section 65858, subsection (b) of the California Government Code which authorizes a legislative body of a city, to protect the public safety, health, and welfare, to adopt an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable period of time.

Section 2. During the time this Ordinance is in effect, the City of El Paso de Robles shall not (i) accept, process, approve or issue any permit application for the construction of a new well (as defined in Section 14.06.020 of the Paso Robles Municipal Code) within the boundaries of the City; or (ii) accept, process, issue or approve any permit application for the modification, rehabilitation or reconstruction of an existing well that would increase the amount of groundwater capable of being extracted from the Paso Robles Groundwater Basin. This Ordinance shall not apply to any “city well” as defined in subsection G. of Section 14.06.0020.

Section 3. The City Council hereby finds, determines and declares that this interim ordinance adopted pursuant to California Government Code section 65858 is necessary to address a current and immediate threat to the public health, safety and welfare of the City and its residents. The Paso Robles Groundwater Basin (the “Basin”) is currently one of the main sources of water for the City’s water system, the others being an allocation from the Nacimiento Water Project and Salinas River underflow pursuant to a state permit. The Basin also serves as a primary source of water for communities and properties outside of the City. Due to a combination of factors, including extremely low rainfall in the last two years and increased demands on the Basin, there are indications that water levels in the Basin have been dropping. There is currently great debate throughout San Luis Obispo County regarding the condition of the Basin and ways in which demands upon the Basin can be managed. Litigation has been filed. While most of the City’s parcels are served by the City’s water system, there are approximately 1000 acres within the City that are irrigated with water from private wells that are not metered and permit applications for additional private wells are anticipated. Pursuant to the Paso Robles Municipal Code section 14.06.040, no well can be constructed, repaired, modified or destroyed without a permit issued by the City Department of Public Works. The City Council therefore finds and declares that additional time is required to prepare the reports and studies required to consider an ordinance and/or general plan amendment addressing private wells within the City in order to avoid a threat to public health, safety or welfare and avoid further depletion of groundwater from the Basin.

Section 4. Notice of the public hearing on this Ordinance was given pursuant to Government Code section 65090. This Ordinance shall be in effect for a period of 45 days from its adoption. After notice pursuant to Section 65090 of the Government Code and public hearing, the City Council, by a four-fifths vote, may extend the term of this Ordinance for up to 22 months and 5 days, pursuant to Government Code section 65858(b).

Section 5. This Ordinance is exempt from the California Environmental Quality Act ("Public Resources Code section 21000 *et seq.*") ("CEQA") because there is no possibility that it will have a significant impact upon the environment as it will protect the Paso Robles Groundwater Basin from further depletion (2 Cal. Code Regs. §15061(b)(3); contains restrictions on activities to assure the maintenance, restoration, or enhancement of groundwater, a natural resource (2 Cal. Code Regs. § 15307); and contains restrictions to assure the maintenance, restoration or enhancement of the environment, including the water resources within the Paso Robles Groundwater Basin and all of the people, species and environs that rely on that resource (2 Cal. Code Regs. 15308).

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

Section 7. Publication. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California and cause the same to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code Section 36933.

Introduced at a regular meeting of the City Council held on __January 21, 2014 and passed and adopted by the City Council of the City of El Paso de Robles on the 4th day of February, 2014 by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Duane Picanco, Mayor

Caryn Jackson, Deputy City Clerk

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION PROJECT NOTICING

Newspaper: The Tribune

Date of Publication: 01/12/2014

Meeting Date: 01/21/2014
City Council

Project: Interim Ordinance adopting a temporary moratorium for Construction of New Water Wells or Modification/Rehabilitation of Existing Wells

I, Kristen L. Buxkemper, employee of the Community Development Department, Engineering Division, of the City of El Paso de Robles, do hereby certify that this notice is a true copy of a published legal newspaper notice for the above named project.

Signed: _____
Kristen L. Buxkemper

CITY OF EL PASO DE ROBLES NOTICE OF PUBLIC HEARING

Interim Ordinance Adopting Temporary Moratorium on Issuance or Approval of Permits for Construction of New Water Wells or Modification/Rehabilitation of Existing Wells to Increase Groundwater Extraction

NOTICE IS HEREBY GIVEN that the City Council of the City of El Paso de Robles will hold a Public Hearing to consider the adoption of an Interim Ordinance adopting a temporary moratorium on the issuance or approval of permits for construction of new water wells or modification/rehabilitation of existing wells to increase groundwater extraction.

The hearing will take place on Tuesday, January 21, 2014, at the hour of 7:30 pm, in the Council Chambers at City Hall, 1000 Spring Street, Paso Robles, California.

All interested parties may appear and be heard at the above hearing.

At this hearing on January 21, 2014, the City Council will consider adoption of the interim ordinance described above. The interim ordinance is proposed to be adopted pursuant to Government Code Section 65858, to protect the public safety, health and welfare by prohibiting the issuance or approval of permits for construction of new water wells or modification/rehabilitation of existing wells to increase ground water extraction, in order to allow the City additional time to prepare reports and studies required to consider adoption of an ordinance and/or general plan amendment addressing private wells within the City.

The proposed ordinance and related materials may be reviewed at the Community Development Department, 1000 Spring Street, Paso Robles, California between the date of publication of this notice and the date of the hearing.

Comments on the proposed interim ordinance may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446 or e-mailed to CDdirector@prcity.com provided that such comments are received prior to the time of the hearing.

If you challenge the adoption of the interim ordinance in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.

Ed Gallagher, Community Development Director
January 12, 2014 7041366