

TO: James L. App, City Manager
FROM: Ed Gallagher, Community Development Director
SUBJECT: Interim Well Ordinance
DATE: March 4, 2014

Needs: For the City Council to consider extending the effective period of Interim Ordinance 1000 N.S., which established a moratorium on issuing permits for new private wells or modifying existing private wells to increase groundwater extraction.

- 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. At its meeting of February 4, 2014, the City Council adopted Interim Ordinance 1000, N.S., which provides that the City shall not (i) accept, process, approve or issue any permit application for the *construction* of a new private 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 private well that would increase the amount of groundwater capable of being extracted from the Paso Robles Groundwater Basin. Pursuant to Government Code section 65858, unless extended, Ordinance 1000 N.S. would only remain in effect for a 45 day period, which would expire March 21, 2014.
 5. 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.
 6. California Government Code Section 65858(b) authorizes the City Council, if approved by a four-fifths vote, to extend the term of an interim ordinance for up to 22 months and 15 days.

7. Public notice of the proposal to extend the period of Interim Ordinance 1000 N.S. was given as required by California Government Code Sections 65858 and 65090. An affidavit of publication of this notice is attached
8. The 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 #5, the purpose of the 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: Ordinance No. 1000 N.S.; 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, to extend Interim Ordinance No. 1000 N.S., and set March 18, 2014, as the date for adoption of said ordinance.
- b. Amend, modify, or reject the above-listed action.

Attachments:

1. Draft Ordinance Extending Interim Ordinance No. 1000 N.S.
2. Affidavit of Public Hearing Notice

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
EXTENDING INTERIM ORDINANCE NO. 1000 N.S. IMPOSING A MORATORIUM
ON THE ISSUANCE OR APPROVAL OF PERMITS FOR CONSTRUCTION OF NEW
WATER WELLS OR MODIFICATION/REHABILITATION OF EXISTING WELLS
TO INCREASE GROUNDWATER EXTRACTION**

WHEREAS, on February 4, 2014, pursuant to California Government Code section 65858, the City Council of the City of El Paso de Robles ("City Council") adopted Ordinance No. 1000 N.S., an interim urgency ordinance, which temporarily prohibits the issuance or approval of permits for construction of new water wells or modification/rehabilitation of existing wells to increase groundwater extraction; and

WHEREAS, Government Code section 65858 provides that Ordinance No. 1000 N.S. will expire and be of no further force and effect 45 days from its date of adoption, which will be March 21, 2014; and

WHEREAS, Government Code sections 65858 and 36937 expressly authorize the City Council to adopt and extend an interim ordinance prohibiting any uses which may be in conflict with any contemplated general plan, specific plan or zoning proposal that the City Council is considering studying or intends to study within a reasonable period of time; and

WHEREAS, after notice pursuant to Government Code section 65090 and a public hearing, the City Council, by a four-fifths vote, may extend the term of Ordinance No. 1000 N.S. for up to 22 months and 15 days, pursuant to Government Code section 65858(b); and

WHEREAS, an extension of Ordinance No. 1000 N.S. is necessary 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 Paso Robles Groundwater Basin; and

WHEREAS, all of the findings cited in Ordinance No. 1000 N.S. concerning the existence of a current threat to the public safety, health and welfare continue to exist and be valid; and

WHEREAS, the notice and public hearing required by Government Code section 65858 for the extension of Ordinance No. 1000 N.S. have been provided in accordance with law; and

WHEREAS, a public hearing on the ordinance to extend Ordinance No. 1000 N.S. was held on March 4, 2014;

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

Section 1. Adoption of this ("Ordinance") shall constitute an extension of Ordinance No. 1000 N.S. for a period of 22 months and 15 days, pursuant to Government Code section 65858(b), to February 5, 2016.

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 ("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 extension of Ordinance No. 1000 N.S. pursuant to 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 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 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 to avoid a threat to public health, safety or welfare and avoid further depletion of groundwater from the Basin.

Section 4. 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 Basin from further depletion (14 Cal. Code Regs. § 15061(b)(3); contains restrictions on activities to assure the maintenance, restoration or enhancement of groundwater, a natural resource (14 Cal. Code Regs. § 15307); and contains restrictions to assure the maintenance, restoration or enhancement of the environment, including the water resources within the Basin and all of the people, species and environs that rely on that resource (14 Cal. Code Regs. § 15308).

Section 5. Ten (10) days prior to the expiration of Ordinance No. 1000 N.S., as extended by this Ordinance, the City Council shall issue a written report describing the measures which the City has taken to alleviate the conditions which led to the adoption of Ordinance No. 1000 N.S.

Section 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 7. Effective Date. This Ordinance shall take effect immediately upon adoption if adopted by at least a four-fifths vote of the City Council.

Section 8. 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 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 __March 4, 2014 and passed and adopted by the City Council of the City of El Paso de Robles on the 18th day of March, 2014 by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION
PROJECT NOTICING

Newspaper: The Tribune

Date of Publication: 02/21/2014

Meeting Date: 03/04/2014
City Council

Project: Extension of Interim Ordinance imposing Moratorium on Issuance or Approval of Permits for Construction of New Water Wells or Modification/ Rehabilitation of Existing Wells to increase Groundwater Extraction.

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

Extension of Interim Ordinance Imposing 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 extension of Ordinance No. 1000 N.S. imposing 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, March 4, 2014, at the hour of 7:30 pm., in the Council Chambers at City Hall, 1000 Spring Street, Paso Robles, California, or as soon thereafter as the matter may be heard.

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

On February 4, 2014, the City Council adopted Ordinance No. 1000 N.S. which remains in effect for 45 days. Unless extended, the moratorium would expire on March 21, 2014. Pursuant to Government Code 65858 (b), after notice pursuant to Government Code section 65080 and public hearing, upon a four-fifths vote, an interim ordinance may be extended for 22 months and 15 days.

At this hearing on March 4, 2014, the City Council will consider extension of the interim ordinance described above. The extension is necessary 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 ordinance to extend Ordinance No. 1000 N.S. 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 extension of the Ordinance No. 1000 N.S. 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
February 21, 2014 7043346