

TO: City Council
FROM: James L. App, City Manager
SUBJECT: North County (a.k.a., Paso Robles) Groundwater Basin Management District
DATE: August 5, 2014

NEEDS: For City Council to consider supporting formation of a locally managed water district, and in parallel, a Joint Powers Authority covering a portion of the North County (a.k.a., Paso Robles) Groundwater Basin.

FACTS:

1. In recent years, reports of declining groundwater levels and some rural residential wells going dry put into motion actions at the local level.
2. In August 2013, the County Board of Supervisors adopted Ordinance No. 3246, establishing a temporary moratorium on new or expanded irrigated crop production and other activities throughout the unincorporated area and other portions of the Paso Robles Groundwater Basin.
3. Recognizing that Ordinance No. 3246 will expire and that its focus is limited to crop irrigation, stakeholders throughout the Groundwater Basin have been exploring options for more comprehensive basin management.
4. Formation of a California Water District¹ was proposed to organize local property owners in order to develop supplemental water projects, promote and administer conservation programs, and generally manage basin resources.
5. The landowners proposing formation of a California Water District submitted information showing the new district would encompass approximately 460 square miles of the overall 790 square mile North County (a.k.a., Paso Robles) Groundwater Basin, specifically excluding (i) land within the City limits; (ii) the identified "subbasin" from which Atascadero Mutual Water Company, Templeton Community Services District and the City pump; (iii) Monterey County; and (iv) areas served by existing water retailers.
6. On February 18, 2014, City Council adopted Resolution No. 14-021, supporting formation of a California Water District over a portion of the North County (a.k.a., Paso Robles) Groundwater Basin.
7. The coalition of local landowners sought a variation in the composition and election of the future governing board. Variation from the prescribed election and board composition provisions of a California Water District requires Legislative action.

¹ California Water District is a term describing a form of agency established under the California Water Code.

8. State Assembly Member Katcho Achadjian agreed to carry legislation to support formation of a new California Water District in North County, referred to as the Paso Robles Basin Water District. The legislation was introduced on February 21, 2014 as Assembly Bill 2453 (AB 2453), which contained language to form the new district and address local land owner board composition and election preferences.
9. Around the same time, and independent of AB 2453, two other bills were introduced in the legislature proposing new statewide requirements for “sustainable groundwater management.” Those bills are Senate Bill 1168 (Pavley; D-Agoura Hills) and Assembly Bill 1739 (Dickinson; D-Sacramento). (See **Attachment A**.) As currently drafted (as of July 24, 2014), both SB 1168 and AB 1739 would require local agencies to prepare and adopt new plans to achieve sustainable groundwater management within basins that the California Department of Water Resources has designated as either medium or high priority. Local agencies in charge of implementing sustainable groundwater management plans would have broad new powers to implement and enforce the plans. Notably, both SB 1168 and AB 1739 would authorize the State to step-in and manage a groundwater basin if local agencies fail to act.
10. Since the time the local basin management bill (AB 2453) was introduced, it has undergone substantial amendments (**Attachment B**), noteworthy among which are:
 - a. Formation shall be by majority of landowners – one vote per landowner; 6 of the 9 directors shall be elected by landowners of varying size parcels; 3 directors elected by registered voters within the district; all 9 directors are subject to residency requirements. This differs from that which local stakeholders submitted to the legislature for consideration.
 - b. The District would have authority to monitor and regulate groundwater extraction. In some ways the new authority is similar to the language in AB 1739 and SB 1168 (see above) and in other ways it is different. These additional authorities were not proposed by local stakeholders.
11. A strong possibility exists that some form of new statewide legislation will be passed in 2014 regarding sustainable groundwater management and that the new requirements will apply to the North County (a.k.a., Paso Robles) Groundwater Basin. Accordingly, the City should initiate and support a joint powers agreement with the County of San Luis Obispo and/or other public water purveyors that pump groundwater or otherwise manage water resources in the basin. If local landowners are successful in forming a new California Water District in North County, that district could also participate in the joint powers agreement to manage basin resources as required by the proposed statewide groundwater management law.

ANALYSIS &

CONCLUSION:

Successfully addressing water resource issues in the North County (a.k.a., Paso Robles) Groundwater Basin will require a combination of vigorous conservation, supplemental supplies, and groundwater management. It will also require funding.

In their current form, SB 1168 and AB 1739 would enact new state law requiring the development and implementation of a sustainable groundwater management plan for the basin.² The existing AB 3030 groundwater management plan adopted by the City and County Flood Control and Water Conservation District in March 2011 will provide a foundation for the new plan, but an entirely new sustainability plan will need to be prepared to comply with new legal requirements.

With regard to AB 2453, the fundamental issue is neither the district formation process nor board composition, but water supply, and the means to effectively manage it for the long term. In its current form, AB 2453 would appear to provide the type of powers needed to achieve that end. However, the draft bill includes groundwater extraction management powers not sought by local landowners; they are concerned that inclusion of these powers could fracture support for the district. Moreover, in its current form AB 2453 may have provisions that are not fully consistent with the provisions of SB 1168 and AB 1739, and thus the possibility exists for the measures to have competing language and potentially inconsistent results. A modification of AB 2453 to enable, *rather than require*, a future district to implement specific new powers could reduce the risk of formation failure and yet preserve the ability of a future district to exercise management and regulatory powers under new statewide laws (that are likely to pass).

Under SB 1168 and AB 1739, agencies such as the City and County that already have adopted a local groundwater management plan pursuant to AB 3030 will be presumed as the local agencies responsible for preparing and implementing a "sustainable groundwater management plan" for the North County (a.k.a., Paso Robles) Basin. In this light, the formation of a new California Water District in North County would help implement the requirements of new statewide laws in the unincorporated area, and would do so in a way that represents the interest of those stakeholders. If a new water district is formed for the unincorporated area, an opportunity would exist for the City, the County, and the new district to form a Joint Powers Authority and carry out a sustainable groundwater management plan for the benefit of all stakeholders and in compliance with new state laws. If a new water district is not formed, the City and County will be required to undertake these tasks on their own. In the absence of local action, SB 1168 and AB 1739 would authorize the State Water Resources Control Board to manage local water resources and water resource decisions.

The City Council can urge:

1. Adoption of an amended version of AB 2453 that is fully consistent with pending statewide legislation regarding sustainable groundwater management, and that would authorize a newly formed California Water District to exercise all powers within its territory that are provided under new statewide groundwater management laws; and
2. Action by local property owners to form such a district; and

² As of the date of this analysis (July 24, 2014), there are indications that the authors of SB 1168 and AB 1739 may be in agreement to coordinate or consolidate the language of the two bills. In the absence of amended legislative language, this analysis is based on the provisions of the bills as they currently exist in the official legislative record.

3. Development of a Basin Management Joint Powers Authority with the County and, if formed, a new California Water District, to carry out a new sustainable groundwater management plan for the North County (a.k.a., Paso Robles) Groundwater Basin in accordance with applicable state law.

POLICY

REFERENCE: City of Paso Robles 2007 Integrated Water Resources Plan; 2010 Urban Water Management Plan; City Ordinance No. 1002 N.S.

FISCAL

IMPACT: Formation of a new California Water District in the unincorporated area would have no direct fiscal impact on the City. Its formation could result in a potential supplemental supply partner for future sustainable groundwater management efforts.

Partnering with the County and/or a newly formed California Water District on a Joint Powers Authority will require City staff and legal time.

OPTIONS:

- a. Adopt a resolution in support of:
 - An amended version of AB 2453 that is fully consistent with pending statewide legislation regarding sustainable groundwater management, and that would authorize a newly formed California Water District to exercise all powers within its territory that are provided under new statewide groundwater management laws; and
 - Action by local property owners to form such a district; and
 - Developing a Basin Management Joint Powers Authority with the County and, if formed, a new California Water District, to carry out a new sustainable groundwater management plan for the North County (a.k.a., Paso Robles) Groundwater Basin in accordance with applicable state law;

or;

- b. Amend, modify, or reject the above option.

Attachments:

- A. Key Points of Proposed Groundwater Legislation, AB 1739 and SB 1168 (as of July 24, 2014)
- B. AB 2453 as amended in Senate July 2, 2014
- C. Resolution No. 2014-XXXX

Attachment A Paso Robles Groundwater Basin Proposed Statewide Groundwater Legislation

Since 1914, California has implemented a statewide permitting system for the use of surface waters, but not for groundwater. That has left California in an unusual position – one in which complex, court-ordered adjudications have become a primary means of “managing” groundwater. In 1992, the state legislature adopted a general groundwater management statute known as “AB 3030” which allows local agencies to prepare groundwater management plans. AB 3030 has been expanded in some ways in recent years and has gone a long way in empowering local agencies to manage groundwater. However, because AB 3030 does not expressly authorize local agencies to regulate groundwater extractions (except in extreme situations), many believe the statewide groundwater management laws must be strengthened.

Two different bills currently are under consideration in Sacramento that propose new statewide requirements for “sustainable groundwater management” throughout California – Senate Bill 1168 and Assembly Bill 1739. Each bill would provide broad new powers to implement and enforce groundwater management.

Full text of each bill can be found at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1168
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1739

In their current form (last amended June 17, 2014), key points of the proposed bills are as follows:

- 1) For groundwater basins defined by the California Department of Water Resources as medium or high priority, the bills would require adoption of a *sustainable groundwater management plan* no later than January 2020 to achieve sustainability within 20 years of plan adoption. (The Paso Robles Basin is designated as a “high priority” basin.)
- 2) “Sustainability” generally means the management and use of a groundwater basin to provide for long-term benefits without causing or aggravating negative effects such as long-term overdraft, degradation of water quality, land subsidence, disruption of surface water flows, or harm to ecosystems.

- 3) Local groundwater management agencies must be formed to develop and carry out the plans.
- 4) Local groundwater management agencies may be granted new powers to achieve sustainability such as:
 - requiring measurement and reporting of groundwater extractions;
 - restricting extractions;
 - allocating groundwater based on the sustainable yield of the basin;
 - imposing fees to fund the costs of groundwater management; and
 - filing suit to stop extraction if a groundwater user fails to pay.
- 3) The legislation will also likely impose reporting requirements on groundwater management agencies, both to the public and to the State Water Resources Control Board and/or Dept of Water Resources.
- 4) The legislation seeks to integrate land use planning and groundwater management, and would require land use agencies to refer general plan proposals to the groundwater management agency prior to adoption. Planning agencies could also be required to revise their land use, conservation, and open-space elements to address the sustainable groundwater management plan.
- 5) The State Water Resources Control Board would be given authority to step in and manage a groundwater basin when local agencies are not moving toward achieving sustainability.

Prepared by City of Paso Robles

Attachment B

AMENDED IN SENATE JULY 2, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL**No. 2453****Introduced by Assembly Member Achadjian**

February 21, 2014

An act to add Part 8.2 (commencing with Section 37900) to Division 13 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2453, as amended, Achadjian. **Paso Robles Basin Water District.**

Existing law, the California Water District Law, provides for the formation of California water districts and grants these districts authority relating to, among other things, the production, storage, transmission, and distribution of water. That district law generally requires the members of the board of a California water district, and the voters of that district, to be landowners, but provides for the modification of these requirements by the board of that district.

This bill would *provide for the formation of the Paso Robles Basin Water District, and would set forth the composition of, and method of election by landowners and registered voters for, the board of directors for the Paso Robles Basin Water District, the boundaries of which shall would be established and may be modified by the San Luis Obispo County Local Agency Formation Commission. The bill would require the district to be formed in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, except as specified. The bill would prescribe various powers of the district relating to the use and extraction of groundwater that the district, by ordinance, would*

be authorized to exercise, including, among others, collecting data, conducting investigations, and requiring conservation practices and measures under specified circumstances.

The bill would authorize the district to develop, adopt, and implement a groundwater management plan to control extractions from the Paso Robles Groundwater Basin aquifers, as specified. The bill would also authorize the district to impose groundwater extraction charges, to establish extraction allocations, and to impose extraction surcharges to, among other things, discourage the use of groundwater beyond the extraction allocation. The bill would provide that the moneys collected by the district shall be available for expenditure by the district to carry out its groundwater management functions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Luis Obispo.

Because an intentional violation of the act's provisions would be a crime, and because the bill would expand the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Part 8.2 (commencing with Section 37900) is
2 added to Division 13 of the Water Code, to read:

3

4 PART 8.2. PASO ROBLES BASIN WATER DISTRICT

5

6 CHAPTER 1. GENERAL PROVISIONS

7

8 37900. (a) For purposes of this part, ~~“district” means the Paso~~
9 *the following definitions apply:*

10 (1) *“Aquifer” means a geologic formation or structure that*
11 *transmits water in sufficient quantities to supply pumping wells*
12 *or springs.*

1 (2) "Available supply" means that quantity of groundwater that
2 can be withdrawn in any given year from a groundwater basin or
3 aquifer without resulting in or aggravating conditions of overdraft,
4 subsidence, or groundwater quality degradation. Available supply
5 of a groundwater basin or aquifer includes the natural water
6 supply, imported water, or other water that has been spread to a
7 basin or aquifer or otherwise added to a basin or aquifer, and
8 return flows to the basin or aquifer attributable to these sources
9 reaching the groundwater basin or aquifers in the course of use.

10 (3) "Board" means the board of directors of the Paso Robles
11 Basin Water District.

12 (4) "Conjunctive use" means the coordinated operation of a
13 groundwater basin and groundwater and surface water supplies.
14 Conjunctive use includes increased groundwater use or decreased
15 groundwater replenishment with surface supplies in years when
16 surface supplies are less than normal and, in years of more
17 abundant surface supplies, the increased use of surface water in
18 lieu of groundwater, either to allow groundwater levels to recover
19 or to replenish artificial groundwater supplies. Conjunctive use
20 also includes long-term storage of water in a groundwater basin.

21 (5) "County" means the County of San Luis Obispo.

22 (6) "District" means the Paso Robles Basin Water District, the
23 boundaries of which shall be established and may be modified by
24 the San Luis Obispo County Local Agency Formation Commission.

25 (7) "Excess extractions" means those extractions in excess of
26 an operator's extraction allocation or adjusted extraction
27 allocation.

28 (8) "Extraction" means the act of obtaining groundwater by
29 pumping or other controlled means.

30 (9) "Extraction allocation" means the amount of groundwater
31 that may be extracted from an extraction facility during a calendar
32 year before a surcharge is imposed.

33 (10) "Extraction surcharge" means a surcharge assessed
34 annually each time an operator exceeds his or her extraction
35 allocation.

36 (11) "Extraction facility" means any device or method for the
37 extraction of groundwater within a groundwater basin or aquifer.

38 (12) "Groundwater" means water beneath the surface of the
39 earth within the zone below the water table in which the soil is
40 completely saturated with water.

1 (13) "Groundwater basin" means a geologically and
2 hydrologically defined area containing one or more aquifers that
3 store and transmit water yielding significant quantities of water
4 to wells.

5 (14) "Groundwater management activities" means programs,
6 measures, or actions taken to preserve, protect, and enhance
7 groundwater resources within the territory of the district.

8 (15) "Groundwater rights adjudication" means the
9 determination of substantially all rights in a groundwater basin
10 or the area subject to the adjudication.

11 (16) "Operator" means a person who operates a groundwater
12 extraction facility. In the event the district is unable to determine
13 who operates a particular extraction facility, then "operator"
14 shall mean the person to whom the extraction facility is assessed
15 by the county assessor or, if not separately assessed, the person
16 who owns the land upon which the extraction facility is located.

17 (17) "Overdraft" means the condition of the groundwater basin
18 or aquifer where the average annual amount of water extracted
19 exceeds the average annual supply of water to a basin or aquifer.

20 (18) "Program" means a groundwater management program
21 prepared by the district pursuant to this act.

22 (19) "Recharge" means the natural or artificial replenishment
23 of groundwater storage by percolation or injection of one or more
24 sources of water at the surface.

25 (20) "Replenishment" means spreading water over a permeable
26 area for the purpose of allowing it to percolate to groundwater
27 basins or aquifers, or otherwise adding water to groundwater
28 basins or aquifers.

29 (21) "Safe yield" means the condition of a groundwater basin
30 when the total average annual groundwater extractions are equal
31 to, or less than, the total average annual groundwater recharge,
32 either naturally or artificially.

33 (22) "Supplemental water" means surface water or groundwater
34 imported from outside the watershed or watersheds of the
35 groundwater basin or aquifer and flood waters that are conserved
36 and saved within the watershed or watersheds that would otherwise
37 have been lost or would not have reached the groundwater basin
38 or aquifers.

1 (23) *“Well interference” means a substantial water level decline*
2 *in a short time period in a localized area caused by pumping from*
3 *extraction facilities.*

4 (b) This part shall apply only to the Paso Robles Basin Water
5 District.

6 ~~37902.~~

7 37901. The Legislature finds and declares that the provisions
8 of this part are enacted in order to provide a governmental
9 framework for the district to balance the supply to and consumption
10 of groundwater within the basin underlying the district, and thereby
11 pursue stabilizing that basin and sustaining its resources for the
12 beneficial use of all who use water within the district.

13 ~~37904.~~

14 37902. The creation of the district is not intended to and shall
15 not modify the powers of the County of San Luis Obispo and the
16 San Luis Obispo County Flood Control and Water Conservation
17 District, carried out consistent with applicable law, to manage and
18 protect groundwater resources within the County of San Luis
19 Obispo, including the Paso Robles Groundwater Basin.

20 37903. *If formed, the district shall not involve itself in activities*
21 *normally and historically undertaken by the county, the San Luis*
22 *Obispo County Flood Control and Water Conservation District,*
23 *or other local agency, without the agreement of the agency.*

24 37904. *If formed, the board shall provide by resolution the*
25 *dates on which and the time and place at which regular meetings*
26 *of the board shall be held. A copy of each resolution establishing*
27 *the date, time, and place of a regular meeting shall be filed with*
28 *the secretary of the board and the clerk, or secretary of the*
29 *legislative body of each of the members. The board shall comply*
30 *with the provisions of the Ralph M. Brown Act (Chapter 9*
31 *(commencing with Section 54950) of Part 1 of Division 2 of Title*
32 *5).*

33
34 CHAPTER 1.5. FORMATION

35
36 37905. *The formation process shall comply with the*
37 *Cortese-Knox-Hertzberg Local Government Reorganization Act*
38 *of 2000, with the exception of the following provisions:*

39 (a) *A majority of landowners may petition for the formation of*
40 *a district, consistent with the following definitions:*

1 (1) "Landowner" means any person who holds title to land
2 within the boundaries of the proposed district as shown on the last
3 assessment roll prepared by the county assessor, or a legal
4 representative of a landowner who holds title to land within the
5 boundaries of the proposed district as shown on the last assessment
6 roll prepared by the county assessor.

7 (2) "Landowner" does not include individuals, partnerships,
8 corporations, or public agencies holding easements or less than
9 fee interests, including leaseholds of any nature.

10 (3) "Legal representative" means either of the following:

11 (A) A duly appointed and acting guardian, executor, or
12 administrator of the estate of a holder of title to land.

13 (B) One of the following:

14 (i) If the holder of title is a trust, any trustee of the trust may
15 vote on behalf of the trust.

16 (ii) If the holder of title is a corporation, the president, vice
17 president, secretary, or other duly designated officer may vote on
18 behalf of the corporation.

19 (iii) If the holder of title is a limited liability company, any
20 managing member may vote on behalf of the limited liability
21 company.

22 (iv) An officer or partner with managerial responsibilities of a
23 legal entity not listed in clauses (i) to (iii), inclusive, may vote on
24 behalf of the entity.

25 (b) Following a successful petition, an election among
26 landowners shall be conducted on the matter of whether to form
27 the district.

28 (c) For purposes of a petition to form the district and a vote on
29 the matter to form the district, the following applies:

30 (1) Each voter, who shall be a landowner as defined in Section
31 37905 may cast one vote on the matter of a petition and one vote
32 on the matter of an election to form the district. Ownership of
33 multiple parcels of land, in full or in part, shall not entitle any
34 voter to more than one vote.

35 (2) For land held jointly, owners collectively get one vote.
36 Nothing in this section should be construed to indicate that multiple
37 owners of a property get more than one vote.

38 (3) In the event any landowner that is a member of the same
39 commonly controlled group, as defined in Section 25105 of the
40 Revenue and Taxation Code, or is a member of a combined

1 reporting group, as defined in paragraph (3) of subdivision (b) of
 2 Section 25106.5 of Title 18 of the California Code of Regulations,
 3 or under common ownership with, another landowner in the
 4 district, all members of the commonly controlled group or
 5 combined reporting group will be deemed a single landowner for
 6 the purpose of this subdivision.

7 (4) Each public agency that holds title to land within the district
 8 shall be entitled to one vote.

9 (5) No person shall vote by proxy unless his or her authority to
 10 cast that vote is evidenced by an instrument acknowledged and
 11 filed with the board of election.

12 (6) If from the election returns a majority of the votes cast at
 13 the election were in favor of the formation of the district, the
 14 formation of the district shall be complete.

15 (d) Recognizing that an election is needed to form the Paso
 16 Robles Basin Water District, the protest provisions of the
 17 Cortese-Knox-Hertzberg Reorganization Act of 2000 as they
 18 pertain to the formation of a district, do not apply.

19
 20 CHAPTER 2. ELECTIONS

21
 22 37910. Notwithstanding any other law or the bylaws of the
 23 district, all elections for the board of directors of the district shall
 24 be conducted in accordance with this part.

25 ~~37912.~~

26 37911. The composition of the board of directors shall be as
 27 follows:

28 (a) ~~There shall be a total of nine directors, each of whom shall~~
 29 ~~be qualified for office by being a person who holds title to land~~
 30 ~~within the district or a person authorized to vote in elections by~~
 31 ~~landowners as provided in Section 37916.~~ directors. A person may
 32 only be a candidate for one director.

33 (b) Six of the directors shall be *qualified for office by being*
 34 *persons who hold title to land within the district or persons*
 35 *authorized to vote in elections by landowners, as provided in*
 36 *Section 37913. Each director shall be elected by landowners within*
 37 *the district as provided by Article 1 (commencing with Section*
 38 *35003) of Chapter 1 of Part 4, except that each voter shall be*
 39 *entitled to cast one vote for each acre owned by the voter within*
 40 *the district. If the voter owns less than one acre, the voter shall be*

1 entitled to one vote and any fraction shall be rounded to the nearest
2 full acre.

3 (1) For the purposes of election of the six directors described
4 by this subdivision, landowners within the district shall be divided
5 into three classes as follows:

6 (A) "Large landowners," meaning holders of title owning a total
7 of 400 acres or more.

8 (B) "Medium landowners," meaning holders of title owning a
9 total of 40 acres or more but less than 400 acres.

10 (C) "Small landowners," meaning holders of title owning a total
11 of less than 40 acres of land.

12 (2) Of the six directors elected pursuant to this subdivision,
13 large landowners shall elect two directors, medium landowners
14 shall elect two directors, and small landowners shall elect two
15 directors.

16 (3) Candidates for the six directors elected pursuant to this
17 subdivision may be within any landowner class.

18 (c) Three of the directors shall be elected by registered voters
19 within the district at large.

20 (d) (1) ~~All directors, whether directors~~ qualified under
21 subdivision (b) ~~or (c)~~, shall reside within the district, within two
22 miles of the district boundary, or within the boundaries of the City
23 of Paso Robles, the Atascadero Mutual Water Company, the
24 Templeton Community Services District, the San Miguel
25 Community Services District, or the San Luis Obispo County
26 Service Area 16.

27 (2) *All directors qualified under subdivision (c) shall reside*
28 *within the district.*

29 ~~37914.~~

30 37912. District elections shall be conducted in conformance
31 with the Uniform District Election Law (Part 4 (commencing with
32 Section 10500) of Division 10 of the Elections Code) and the laws
33 generally applicable to districts created and operated pursuant to
34 this division, provided the following shall apply:

35 (a) Separate ballots shall be prepared and separate elections
36 shall be conducted for those director positions which will be elected
37 by resident voters and for those which will be elected by landowner
38 voters. Notwithstanding Section 10555 of the Elections Code,
39 these landowner voter elections and resident voter elections shall
40 be conducted simultaneously.

1 (b) District elections may be conducted by all-mailed ballots
2 pursuant to Section 4108 of the Elections Code. Separate voter
3 lists of resident voters and landowner voters eligible to vote within
4 the district shall be prepared and maintained according to
5 applicable provisions of law, including Section 10525 of the
6 Elections Code. Separate all-mailed ballot elections shall be held
7 for the directors to be elected by resident voters and for those to
8 be elected by landowner voters.

9 (c) The directors elected upon formation of the district shall
10 hold office pursuant to Section 10505 of the Elections Code. For
11 the purposes of implementing this section, the director positions
12 elected by large landowners shall be divided into two director term
13 classes, the directors elected by medium landowners shall be
14 divided into two director term classes, the directors elected by
15 small landowners shall be divided into two director term classes,
16 and the directors elected by registered voters shall be divided into
17 two director term classes.

18 (d) Elections of directors shall be held on the first Tuesday after
19 the first Monday in October of each odd-numbered year.

20 (e) The voters list used for *the* purpose of an election of directors
21 shall be based upon the last assessment roll prepared by the county
22 assessor, which shall be conclusive evidence of ownership and *the*
23 acreage for ~~purpose of carrying out the election.~~ *purposes of*
24 *electing directors in accordance with subdivision (b) of Section*
25 *37911.* The voters list shall be amended if satisfactory evidence
26 of a change in ownership is presented at least 45 days prior to the
27 election to the elections official in the case of the formation
28 election, and thereafter to the district secretary. The county assessor
29 shall be ~~compensated~~ *reimbursed by the district* for all costs
30 incurred in determining the ownership and acreage information
31 and providing the information to the county clerk.

32 (f) *For purposes of the Uniform District Election Law (Part 4*
33 *commencing with Section 10500) of Division 10 of the Elections*
34 *Code), the district is a landowner voting district.*

35 ~~37916.~~

36 ~~37913.~~ Notwithstanding any other provision of this division
37 or the Uniform District Election Law (Part 4 (commencing with
38 Section 10500) of Division 10 of the Elections Code), election
39 participation by landowners as provided in subdivision (b) of
40 Section 37912 shall be carried out as follows:

1 (a) If the holder of title is a trust, any trustee of the trust may
2 vote on behalf of the trust.

3 (b) If the holder of title is a corporation, the president, vice
4 president, secretary, or other duly designated officer may vote on
5 behalf of the corporation.

6 (c) If the holder of title is a limited liability company, any
7 managing member may vote on behalf of the limited liability
8 company.

9 (d) An officer or partner with managerial responsibilities of a
10 legal entity not listed in subdivisions (a) to (c), inclusive, may vote
11 on behalf of the entity.

12
13 CHAPTER 3. GROUNDWATER MANAGEMENT AUTHORITY
14

15 ~~37920. The district shall have the authority afforded to local~~
16 ~~agencies as provided in Part 2.75 (commencing with Section~~
17 ~~10750) of Division 6, as that part may be amended, consistent with~~
18 ~~the requirements and limitations of applicable law.~~

19 *37920. All powers in this part are subject to review and*
20 *approval by the San Luis Obispo County Local Agency Formation*
21 *Commission, upon formation, change of organization, or*
22 *reorganization under the Cortese-Knox-Hertzberg Local*
23 *Government Reorganization Act of 2000 (Division 3 (commencing*
24 *with Section 56000) of Title 5 of the Government Code).*

25 *37921. The board may adopt ordinances for the purpose of*
26 *regulating, conserving, managing, and controlling the use and*
27 *extraction of groundwater within the territory of the district. All*
28 *ordinances shall be adopted, after noticed public hearings by a*
29 *majority vote of the board. Notice of the adoption of all ordinances*
30 *shall be given. The ordinances of the district shall become effective*
31 *on the 31st day after adoption except that the board may, by the*
32 *vote of at least four members of the board, dispense with notice*
33 *of public hearing and adopt an emergency ordinance that shall*
34 *become effective immediately upon adoption, if the board*
35 *determines that the public health, safety, or welfare so requires.*

36 *37922. Any person who intentionally violates any provision of*
37 *this act or any district ordinance shall be guilty of an infraction*
38 *and may be required to pay a fine to the district not to exceed five*
39 *hundred dollars (\$500).*

1 37923. Any person who negligently or intentionally violates
2 any provision of this act or any district ordinance may also be
3 liable civilly to the district for a sum not to exceed one thousand
4 dollars (\$1,000) per day for each day of violation, in addition to
5 any other penalties that may be prescribed by law.

6 37924. Upon the failure of any person to comply with any
7 provision of this act or any district ordinance, the district may
8 petition the superior court for a temporary restraining order,
9 preliminary or permanent injunction, or other equitable relief as
10 may be appropriate. The right to petition for injunctive relief is
11 an additional right to those that may be provided elsewhere in this
12 act or otherwise allowed by law.

13 37925. The district may petition the superior court of the county
14 to recover any sums due the district. In order to preserve and
15 manage the groundwater resources within its territory, the district
16 may also commence, maintain, intervene in, defend, compromise,
17 and assume the costs and expenses of legal actions and
18 administrative proceedings now or hereafter begun involving
19 groundwater, including, but not limited to, groundwater rights
20 adjudication.

21 37926. The district may contract with the county, the San Luis
22 Obispo County Flood Control and Water Conservation District
23 or other local district for staff and other services and may hire
24 other contractors and consultants as it considers appropriate.

25 37927. The district may exclude from any of the requirements
26 of this act, or the operation of any ordinance, any operator who
27 extracts less than a minimum amount of groundwater as specified
28 by ordinance adopted by the board.

29 37928. The district may collect data and conduct technical and
30 other investigations deemed necessary in order to carry out the
31 provisions of this act. All hydrological investigations and studies
32 carried out by or on behalf of the district shall be conducted by
33 or under the supervision of licensed engineers or other persons
34 qualified in groundwater geology or hydrology.

35 37929. The district may prepare annually or receive reports
36 on groundwater and supplemental water supplies and conditions
37 in the territory of the district, including groundwater management
38 and conjunctive use objectives and a plan for implementation of
39 those objectives.

1 37930. *The district may recommend and encourage waste*
2 *water reuse and other water development projects, if those projects*
3 *will enhance and contribute to the responsible management of*
4 *groundwater resources, as part of its annual plan for*
5 *implementation of groundwater management objectives.*

6 ~~37931. In addition to the powers identified here, the district~~
7 ~~shall have the authority afforded to local agencies as provided in~~
8 ~~Part 2.75 (commencing with Section 10750) of Division 6 as that~~
9 ~~part may be amended, consistent with the requirements and~~
10 ~~limitations of applicable law.~~

11

12 CHAPTER 4. GROUNDWATER MANAGEMENT PLANS

13

14 37940. *In order to balance the water supply and demand within*
15 *the Paso Robles Groundwater basin, the district may do the*
16 *following:*

17 (a) *Develop, adopt, and implement a groundwater management*
18 *plan to control extractions from the Paso Robles Groundwater*
19 *Basin aquifers with the objective of balancing water supply and*
20 *demand in the region.*

21 (b) *The groundwater management plan may also include and*
22 *address the following:*

23 (1) *Existing groundwater storage.*

24 (2) *Long-term recoverable storage, including an estimate of*
25 *nonrecoverable storage.*

26 (3) *The expected adverse effects of projected extractions.*

27 37941. *The groundwater management plan may establish*
28 *distinct zones or regions based on the geology of the basin, land*
29 *use, water use, the location of extraction facilities, or other*
30 *concerns as determined by the board.*

31 37942. *The groundwater management plan may include a*
32 *policy for the issuance of new well permits that takes into*
33 *consideration the location of proposed wells and area of use,*
34 *projected extractions from the wells, and the effect of the*
35 *extractions on existing users and on storage. In developing the*
36 *management plan, the district may consider a ban on new irrigated*
37 *acreage or new municipal water system wells. The district may*
38 *include a contingency plan to deal with seawater intrusion, basin*
39 *contamination, or other risks that could impair the ability to rely*
40 *on the basin for groundwater.*

CHAPTER 5. GROUNDWATER MANAGEMENT

1
2
3 37950. *If the board determines after a noticed public hearing,*
4 *and consideration of any relevant investigations, studies, and*
5 *evidence, that groundwater management activities are necessary*
6 *in order to improve or protect the quantity or quality of*
7 *groundwater supplies within a groundwater basin or aquifer, the*
8 *board may, by ordinance, exercise any of the following powers:*

9 (a) *Require conservation practices and measures within the*
10 *affected portion of its territory.*

11 (b) *Control groundwater extractions by regulating, limiting, or*
12 *suspending extractions from extraction facilities, the construction*
13 *of new extraction facilities, the enlarging of existing extraction*
14 *facilities, and the reactivation of abandoned extraction facilities.*

15 (c) *Commence and prosecute legal actions to enjoin*
16 *unreasonable uses or methods of use of water within the district*
17 *or outside the territory of the district to the extent those uses or*
18 *methods of use adversely affect the groundwater supply within the*
19 *district.*

20 (d) *Impose spacing requirements on new extraction facility*
21 *construction to minimize well interference.*

22 (e) *Impose reasonable operating regulations on extraction*
23 *facilities to minimize well interference, including requiring*
24 *pumpers to operate on a rotation basis.*

25 (f) *Require extraction facilities to be registered with the district*
26 *within 30 days of notice being given to the operator of the*
27 *extraction facility.*

28 (g) *Require that the operator of a registered extraction facility*
29 *provide the district annually with the following information*
30 *regarding the extraction facility:*

31 (1) *The name and address of the operator of the extraction*
32 *facility.*

33 (2) *The name and address of the owner of the land upon which*
34 *the extraction facility is located.*

35 (3) *A description of the equipment associated with the extraction*
36 *facility.*

37 (4) *The location of the water extraction facility.*

38 (h) *Require extraction facilities to be equipped with waterflow*
39 *measuring devices installed and calibrated by the district or, at*
40 *the district's option, by the extraction facility operator.*

1 37951. *When an extraction facility is equipped with a waterflow*
2 *measuring device, the record of extraction, as disclosed by the*
3 *waterflow measuring device, may, at the election of the board, be*
4 *presumed to be accurate, and shall be used as the basis for*
5 *computing the water extraction of the extraction facility in*
6 *completing the groundwater extraction statement.*

7 37952. *The district may, by ordinance, require proof of the*
8 *accuracy of the waterflow measuring device from the operator*
9 *and may, absent adequate proof of accuracy, order the operator,*
10 *at the operator's sole cost, to have the waterflow measuring device*
11 *calibrated in a manner acceptable to the district. If the district has*
12 *probable cause to believe that the extraction of groundwater from*
13 *any extraction facility is in excess of the amount reported in*
14 *groundwater extraction statements, or if no statements are filed*
15 *covering an extraction facility, the district may investigate the*
16 *extraction of water from each extraction facility.*

17 37953. *The board may, by ordinance, establish reasonable*
18 *methods to be used in computing the amount of water extracted*
19 *by extraction facilities.*

20 37954. *The district may, by ordinance, require the operator*
21 *of each extraction facility to file semiannually, or more frequently,*
22 *with the district, a groundwater extraction statement that contains,*
23 *but is not limited to, the following information:*

24 (1) *Total extraction in acre-feet of water from the extraction*
25 *facility for the preceding groundwater extraction statement period.*

26 (2) *The static groundwater level for the extraction facility.*

27 (3) *A description of the location of the extraction facility.*

28 (4) *The crop types or other uses and the acreage served by the*
29 *extraction facility.*

30 (5) *The method of measuring or computing groundwater*
31 *extraction.*

32 (6) *Other information deemed reasonable and necessary by the*
33 *board to meet the purposes of this act.*

34 37955. *If required by ordinance, each groundwater extraction*
35 *statement shall be verified by a written declaration under penalty*
36 *of perjury that the information contained in the statement is true*
37 *and correct. The operator of an extraction facility that has been*
38 *permanently abandoned after January 1, 2015, shall give written*
39 *notice of the abandonment to the district.*

1 CHAPTER 6. GROUNDWATER EXTRACTION CHARGES

2
3 37960. *The district may, by ordinance, levy groundwater*
4 *extraction charges, including volumetric charges intended to*
5 *provide an incentive for reduced water use, on the extraction of*
6 *groundwater from all water extraction facilities within the territory*
7 *of the district for the purposes of paying the costs of initiating,*
8 *carrying on, and completing any of the powers, purposes, and*
9 *groundwater management activities described in this act. Any*
10 *groundwater extraction charges shall be uniform for groundwater*
11 *extraction within the territory of the district.*

12 37961. *The Legislature hereby finds and determines that the*
13 *groundwater management activities of the district are of equal*
14 *benefit to all operators of groundwater extraction facilities within*
15 *the territory of the district.*

16 37962. *If any operator of any extraction facility fails to pay a*
17 *groundwater extraction charge when due, the district may charge*
18 *and collect interest at the rate of 1½ percent each month on the*
19 *delinquent amount of the groundwater extraction charge. In*
20 *addition, the district may exercise any of the provisions of Sections*
21 *75630 to 75633, inclusive, for the purpose of collecting delinquent*
22 *groundwater extraction charges.*

23 37963. *All moneys collected by the district pursuant to this act*
24 *shall be available for expenditure by the district to carry out its*
25 *groundwater management functions pursuant to this act.*

26 37964. *Groundwater extraction charges shall not exceed six*
27 *dollars (\$6) per acre-foot pumped per year.*

28 37965. *The district may, by ordinance, establish an operator's*
29 *extraction allocation for each groundwater extraction facility*
30 *located within the district. The district may, by ordinance, impose*
31 *upon the operator of any groundwater extraction facility located*
32 *within the district, extraction surcharges, including volumetric*
33 *surcharges intended to provide an incentive for reduced water*
34 *use, for extractions in excess of his or her extraction allocation*
35 *and late penalties for nonpayment of extraction surcharges.*

36 37966. *The Legislature hereby finds and declares the following:*

37 (a) *Extraction allocations and extraction surcharges authorized*
38 *pursuant to this chapter are necessary to eliminate overdraft*
39 *caused by excess extractions from the aquifer systems within the*
40 *district and to bring the groundwater basins underlying the*

1 territory to safe yield by the year 2017 and to sustain that safe
2 yield thereafter.

3 (b) The extraction surcharges are intended to discourage the
4 use of groundwater beyond the extraction allocation. They are not
5 intended to generate tax revenues or proceeds from regulatory
6 licenses, user charges, or user fees. Consequently, they are not
7 special taxes for purposes of Section 4 of Article XIII A of the
8 California Constitution or proceeds of taxes for purposes of Section
9 8 of Article XIII B of the California Constitution.

10 37967. The maximum amount of the extraction surcharge shall
11 be two hundred dollars (\$200) per acre-foot of groundwater
12 extracted in excess of the extraction allocation, except that the
13 district may increase the maximum amount of the extraction
14 surcharge to an amount that is necessary to achieve safe yield.

15 37968. If an operator of a groundwater extraction facility fails
16 to pay the extraction surcharge when due, the district shall charge
17 and collect a late penalty at the rate of 1 ½ percent each month,
18 or portion thereof, on the delinquent amount of the extraction
19 surcharge.

20 37969. The district may bring a cause of action, in any court
21 having jurisdiction, against an operator of a groundwater
22 extraction facility for the collection of any delinquent extraction
23 surcharge, and Article 5 (commencing with Section 75630) of
24 Chapter 3 of Part 9 of Division 21 applies to those actions.

25 37970. In addition to any other authority, the district may order
26 that an extraction surcharge or late penalty be a personal
27 obligation of the operator or an assessment against the property,
28 on which the extraction facility is located. The assessment
29 constitutes a lien upon the property, and the lien attaches upon
30 recordation in the office of the county recorder. The assessment
31 may be collected at the same time and in the same manner as
32 ordinary ad valorem taxes are collected, and shall be subject to
33 the same penalties and the same procedure and sale in case of
34 delinquency as provided for those taxes. All laws applicable to the
35 levy, collection, and enforcement of ad valorem taxes shall be
36 applicable to an assessment, except that, if any real property to
37 which the lien would attach has been transferred or conveyed to
38 a bona fide purchaser for value, or if a lien of a bona fide
39 encumbrancer for value has been created and attaches thereon
40 prior to the date on which the first installment of the taxes would

1 *become delinquent, the lien that would otherwise be imposed by*
2 *this section shall not attach to the real property and an assessment*
3 *relating to the property shall be transferred to the unsecured roll*
4 *for collection.*

5 *SEC. 2. The Legislature finds and declares that a special law*
6 *is necessary and that a general law cannot be made applicable*
7 *within the meaning of Section 16 of Article IV of the California*
8 *Constitution because of the unique circumstances in the service*
9 *area of the Paso Robles Basin Water District.*

10 *SEC. 3. No reimbursement is required by this act pursuant to*
11 *Section 6 of Article XIII B of the California Constitution because*
12 *the only costs that may be incurred by a local agency or school*
13 *district will be incurred because this act creates a new crime or*
14 *infraction, eliminates a crime or infraction, or changes the penalty*
15 *for a crime or infraction, within the meaning of Section 17556 of*
16 *the Government Code, or changes the definition of a crime within*
17 *the meaning of Section 6 of Article XIII B of the California*
18 *Constitution.*

O

RESOLUTION NO. 14-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
SUPPORTING FORMATION OF A WATER DISTRICT OVER A PORTION OF THE NORTH
COUNTY (a.k.a., PASO ROBLES) GROUNDWATER BASIN

WHEREAS, in recent years declining groundwater levels have been reported in certain areas of the North County (a.k.a., Paso Robles) Groundwater Basin; and

WHEREAS, in August 2013, the San Luis Obispo County Board of Supervisors adopted Ordinance No. 3246 (the "County Ordinance"), establishing a temporary moratorium on new or expanded irrigated crop production and other activities throughout the unincorporated area and other portions of the Paso Robles Groundwater Basin; and

WHEREAS, recognizing that the County Ordinance will expire and that its focus is limited to crop irrigation, stakeholders throughout the Basin have been exploring options for more comprehensive basin management; and

WHEREAS, formation of a California Water District¹ was proposed by local property owners to develop supplemental water projects, promote and administer conservation programs, and generally manage basin resources; and

WHEREAS, the landowners proposing formation of a California Water District submitted information showing the new district would encompass approximately 460 square miles of the overall 790 square miles North County (a.k.a., Paso Robles) Groundwater Basin, specifically excluding (i) land within the City limits; (ii) the identified "sub-basin" from which Atascadero Mutual Water Company, Templeton Community Services District and the City pump; (iii) Monterey County; and (iv) areas served by existing water retailers; and

WHEREAS, on February 18, 2014, City Council adopted Resolution No. 14-021, supporting formation of a California Water District over a portion of the North County (a.k.a., Paso Robles) Groundwater Basin; and

WHEREAS, the coalition of local landowners sought a variation in the composition and election of the future governing board of the proposed California Water District, where such variation from the general provisions of the California Water District law would requires legislative action; and

WHEREAS, State Assembly Member Katcho Achadjian agreed to carry legislation to support formation of a new California Water District in North County, referred to as the "Paso Robles Basin Water District," where such legislation was introduced on February 21, 2014 as Assembly Bill 2453 (AB 2453), and which legislation contained language to form the new district and address local land owner board composition and election preferences; and

WHEREAS, independent of AB 2453, two other bills have been introduced in the legislature proposing new statewide requirements for "sustainable groundwater management," which bills are Senate Bill 1168 (Pavley; D-Agoura Hills) and Assembly Bill 1739 (Dickinson; D-Sacramento), which, as currently drafted (last amended June 17, 2014), would require local agencies to prepare and adopt new plans to achieve sustainable groundwater management within basins that the California Department of Water Resources has designated as either medium or high priority, and which would authorize the State to step-in and manage a groundwater basin if local agencies fail to act; and

¹ A California Water District is a type of water district established under the California Water Code.

WHEREAS, since the time the local basin management bill (AB 2453) was introduced, it has undergone substantial amendments, such as formation by a majority of landowners within the proposed district according to one vote per landowner, and providing additional groundwater management authorities to the proposed new district, some of which are similar to and some of which differ from the provisions of AB 1739 and SB 1168 (above); and

WHEREAS, the coalition of local landowners that originally proposed the formation of a new water district currently have withdrawn support for AB 2453 as presently amended; and

WHEREAS, the County Board of Supervisors has not yet formally adopted a formal position on AB 2453, as presently amended; and

WHEREAS, a strong possibility exists that some form of new statewide legislation will be passed in 2014 regarding sustainable groundwater management and that the new requirements will apply to the entire North County (a.k.a., Paso Robles) Groundwater Basin; and

WHEREAS, new statewide groundwater management laws would authorize multiple local agencies to coordinate efforts in carrying out sustainable groundwater management in accordance with new requirements, which coordination could occur by way of joint powers agreement or other similar agreement; and

WHEREAS, a modification of AB 2453 to enable, rather than require, a newly formed district to implement specific powers in portions of the unincorporated area could reduce the risk of formation failure yet preserve the ability of a future district to exercise management and regulatory powers under new statewide groundwater management laws that are likely to pass, and in a manner that represents the interest of those stakeholders; and

WHEREAS, the formation of a new water district with groundwater management authorities in portions of the unincorporated area consistent with state law is a sensible option to help address groundwater basin and other local water resource issues; and

WHEREAS, as a matter of policy the City Council steadfastly asserts that local solutions to local challenges are the preferred means of addressing local mutual interests;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of El Paso de Robles does hereby support legislation enabling formation of a new water district in portions of the unincorporated area provided the legislation is amended to be consistent with new statewide legislation regarding sustainable groundwater management, and provided the new district once formed would be authorized to exercise all powers within its boundaries in accordance with the new statewide legislation; and

BE IT FURTHER RESOLVED that the City Council urges local land owners to promptly form the proposed local groundwater district, and

BE IT FURTHER RESOLVED that the City Council supports the development of a joint powers or similar agreement with the County of San Luis Obispo and/or the County Flood Control and Water Conservation District, and, if formed, a newly formed water district in the unincorporated area, to carry out sustainable groundwater management for the Paso Robles Groundwater Basin in accordance with applicable state laws; and

BE IT FURTHER RESOLVED that the City Council supports immediate action to review the 2011 Paso Robles Groundwater Basin Management Plan prepared and adopted by the City and the County Flood

Control and Water Conservation District as a foundational document for additional sustainable groundwater management planning and action in the Paso Robles Groundwater Basin.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles at a regular meeting of said City Council held on the 5th day of August, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk