

TO: James L. App, City Manager
FROM: Doug Monn, Public Works Director
SUBJECT: Procedures for Private Well Permit Applications
DATE: October 7, 2014

NEEDS: That the City Council consider adopting Procedures for Private Well Permit Applications as consistent with the provisions of City Ordinance No. 1002 N.S.

FACTS:

1. On February 4, 2014, the City Council adopted Ordinance No. 1000 N.S., an interim urgency ordinance which temporarily prohibited the construction of new wells; or the modification, rehabilitation, or reconstruction of existing wells that would increase the amount of groundwater capable of being extracted from the North County (a.k.a. Paso Robles) Groundwater Basin.
2. On March 4, 2014, the City Council adopted Ordinance No. 1002 N.S. which extends the provisions of Ordinance No. 1000 N.S. until February 5, 2016. Ordinance Nos. 1000 N. S. and 1002 N. S. are referred to collectively as the “City Ordinance”.
3. Earlier this year and on behalf of Gary Eberle, Doug Filipponi submitted a well permit application proposing an agricultural replacement well with a depth of 1,000 feet and an estimated maximum pumping rate of 600 gallons per minute.
4. City staff determined that the potential issuance of a well permit would need to be conditioned on terms reasonably necessary to comply with the City Ordinance and relayed those conditions to Mr. Filipponi.
5. Mr. Filipponi appealed staff’s determination to the City Council, claiming that the City should issue a well permit without any conditions.
6. At its meeting of August 19, 2014, the City Council denied the appeal but stated that it would allow a replacement well that met the provisions of the City Ordinance.

ANALYSIS &

CONCLUSION: Because other well permit applications may be submitted, there is a need to clearly define the conditions under which a new private well could be drilled to replace an existing well, such that, the replacement well would not *“increase the amount of groundwater capable of being extracted from the Paso Robles Groundwater Basin”* and therefore be permitted under the terms of the City Ordinance.

Public Works staff has developed guidelines (attached) that outline the proposed procedures and conditions under which a new well can be permitted under the provisions of the City Ordinance. Those procedures are as follows:

1. Determine whether the City may extend potable or recycled water service to the property in question. If feasible, this shall be the preferred course of action, particularly if peak demand for the applicant does not overlap historic summertime peak demand periods Citywide.
2. If extension of City water service is deemed infeasible, seek information from the applicant demonstrating that the proposed well is indeed a “modification, rehabilitation or reconstruction” of an existing well that would not increase the amount of groundwater capable of being extracted. Such information would include, but not be limited to:
 - a) Original driller’s log of the well to be replaced or other information acceptable to the City describing the diameter, depth, perforated zones, and historic water level of the well being replaced.
 - b) Proposed well construction (depth, casing diameter, perforated zones, etc.) under present water levels and other supporting evidence that the proposed well will have similar extraction capabilities as the well to be replaced.
3. If satisfactory evidence of like extraction capability is provided, condition issuance of permit upon proper destruction and abandonment of the existing well in accordance with a County Health Department permit. In addition, metering and regular reporting of on-site usage to the City shall be required, as well as, measurement and reporting of water levels in April and October of each year to the City.

The procedures and conditions outlined in the September 22nd memo would provide the Public Works Director guidance for the review and processing of new well permits in compliance with the City Ordinance No. 1002, maintain the integrity of the Ordinance and assure the public that the City is fulfilling its commitment to be a responsible steward of the Groundwater Basin.

POLICY

REFERENCE: City Ordinance No. 1002 N.S.

FISCAL

IMPACT: None.

OPTIONS: a. Adopt Resolution No. 14-xxx as approving and adopting Review Procedures for Private Well Permit Applications

b. Amend, modify or reject the above options.

ATTACHMENTS:

1. Ordinance 1002 N.S.
2. Public Works Memo Dated September 22, 2014
3. Resolution

ORDINANCE NO. 1002 N.S.

**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: Steinbeck, Hamon, Martin, Picanco
NOES:
ABSENT: Strong
ABSTAIN:



Duane Picanco, Mayor

ATTEST:


Caryn Jackson, Deputy City Clerk



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

September 22, 2014

SUBJECT: Ordinance Nos. 1000 N.S. and 1002 N.S. ("Interim Ordinance")
Review Procedures for Private Well Permit Applications

The Interim Ordinance is in effect through February 5, 2016, and prohibits the issuance of City permits for construction of new private wells as well as 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".

The following procedures shall be followed in the review of private well applications for "modification, rehabilitation or reconstruction" to determine if a permit may be issued under the Interim Ordinance:

1. Determine whether the City may extend potable or recycled water service to the property in question.¹ If feasible, this shall be the preferred course of action, particularly if peak demand for applicant does not overlap historic summertime peak demand periods citywide.
2. If extension of City water service is deemed infeasible, seek information from the applicant demonstrating that the proposed well is indeed a "modification, rehabilitation or reconstruction" of an existing well that would not increase the amount of groundwater capable of being extracted. Such information would include, but not be limited to:
 - a. Original driller's log for the well to be replaced or other information acceptable to the City describing the diameter, depth, perforated zones, and historic water level of the well to be replaced.
 - b. Proposed well reconstruction (depth, casing diameter, perforated zones, etc.) under present water levels and other supporting evidence that the proposed well will have similar extraction capabilities as the well to be replaced.

For example, if a well proposed for replacement is 8" in casing diameter and 200 feet deep and its historic water levels were 110 feet below the ground surface, that means it had a "wetted depth" of 90 feet.

If present water levels are 180 feet below the ground surface, then the proposed replacement well would be considered to have an equal extraction capability if it also had an 8" casing diameter and was drilled to a depth of 270 feet:*

¹ Muni Code Section 14.06.132 "It is the goal of the city of El Paso de Robles to supply water to all premises within the boundaries of the city."

$$\begin{array}{l} 180' \text{ current depth to groundwater} + \\ 90' \text{ of original wetted depth} \end{array} = 270' \text{ replacement well depth}$$

3. If satisfactory evidence of like extraction capability is provided, condition issuance of permit upon proper destruction and abandonment of the existing well in accordance with a County Health Department permit. In addition, metering and regular reporting of on-site usage to the City shall be required as well as measurement and reporting of water levels in April and October of each year to the City.

RESOLUTION NO. 14-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES ADOPTING
REVIEW PROCEDURES FOR PRIVATE WELL PERMIT APPLICATIONS

WHEREAS, on March 4, 2014, the City Council adopted City Ordinance No. 1000 N.S., as extended by Ordinance No. 1002 N.S., (collectively, the “City Ordinance”) which prohibits the construction of new wells and the modification, rehabilitation, or reconstruction of existing wells that would increase the amount of groundwater capable of being extracted from the North County Groundwater Basin; and

WHEREAS, the City recognizes there are conditions and circumstances under which the construction of a new well can be designed to satisfy the requirements of the City Ordinance, and it is appropriate that those conditions and circumstances be clarified and defined; and

WHEREAS, the Director of Public Works has prepared draft “Review Procedures for Private Well Permit Applications,” in a memorandum dated September 22, 2014.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the City Council of the City of Paso Robles does hereby find that the proposed “Review Procedures for Private Well Permit Applications” dated September 22, 2014 and attached hereto as Exhibit “A” and incorporated herein by reference, are consistent with the provisions of City of Paso Robles Ordinance No. 1002, and hereby approves and adopts such review procedures..

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 7th day of October, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Duane Picanco, Mayor

Caryn Jackson, Deputy City Clerk