



City of Greenfield

599 El Camino Real
Greenfield, CA 93927

City Council Special Meeting Agenda February 12, 2019 6:00 P.M.

Mayor Lance Walker
Mayor Pro-Tem, Yanelly Martinez

Councilmembers

Angela M. Untalon
Andrew Tipton
Robert White

PLEASE TURN OFF CELL PHONES AND PAGERS.

- A. CALL TO ORDER
- B. ROLL CALL - CITY COUNCIL
- C. INVOCATION
- D. PLEDGE OF ALLEGIANCE
- E. AGENDA REVIEW

**City Council Special Meeting Agenda
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F. PUBLIC COMMENTS FROM THE AUDIENCE REGARDING ITEMS ONLY ON THE AGENDA

This portion of the Agenda allows an individual the opportunity to address the Council on any item on the agenda.

PLEASE NOTE: For record keeping purposes and in the event that staff may need to contact you, we request that all speakers step up to the lectern and use the microphone, stating your name and address, which is strictly voluntary. This will then be public information. A three-minute time limit may be imposed on all speakers other than staff members.

G. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered routine and may be approved by one action of the City Council, unless a request for removal for discussion or explanation is received prior to the time Council votes on the motion to adopt.

G-1. APPROVE Resolution Authorizing the City to (1) Amend and Restate the Memorandum of Understanding with Clark Colony and the Petitioned Landowners and (2) File a Revised Notice of Intent

H. ADJOURNMENT

In compliance with the American With Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (831) 674-5591. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (CFR 35.102-35.104 ADA Title II).

This agenda is duly posted outside City Hall and on the City of Greenfield web site.



City Council Memorandum

599 El Camino Real Greenfield CA 93937 831-674-5591
www.ci.greenfield.ca.us

MEETING DATE: February 12, 2019

TO: Mayor and Councilmembers

PREPARED BY: Mary F. Lerner, Office of the City Attorney

TITLE: **RESOLUTION AUTHORIZING THE CITY TO (1) AMEND AND RESTATE THE MEMORANDUM OF UNDERSTANDING WITH CLARK COLONY AND THE PETITIONED LANDOWNERS AND (2) FILE A REVISED NOTICE OF INTENT**

RECOMMENDATION:

That the City Council approve Resolution No. 2019-17 thereby approving the amended and restated Memorandum of Understanding with Clark Colony Water Company (“CCWC”), reinstating the Arroyo Seco Groundwater Sustainability Agency (“ASGSA”) as formed and in its current composition without any interruption to that agency’s process and approving modification of the filed NOIs as directed by the Department of Water Resources (“DWR”).

BACKGROUND:

On September 16, 2014, the Governor signed into law, three bills (SB 1168, AB 1739, and SB 1319) collectively referred to as the “Sustainable Groundwater Management Act” (“SGMA”), that initially became effective on January 1, 2015, and that has been amended from time-to-time thereafter. The stated purpose of SGMA, as set forth in California Water Code section 10720.1, is to provide for sustainable management of groundwater basins at a local level by providing local groundwater agencies with the authority, and technical and financial assistance necessary, to sustainably manage groundwater.

California Water Code sections 10723 and 10723.8 allow a local public agency to decide to become a Groundwater Sustainability Agency (“GSA”) to undertake sustainable groundwater management. The City is a local agency qualified to become a GSA because the City manages water, has a water supply, and has land use responsibilities over a certain portion of the Forebay Subbasin [Subbasin Number 3-4.04, DWR Bulletin 118 (update 2016)] of the Salinas Valley Groundwater Basin.

California Water Code section 10726.5 allows for GSAs to enter into written agreements with private parties to assist in the funding of groundwater sustainability plans (“GSPs”), their development, facilitation and implementation. (Water Code §10726.5.) SGMA was amended through SB 13, which was signed into law on September 3, 2015, to expressly allow mutual water companies such as CCWC to participate in a GSA through a memorandum of agreement or other legal agreement. (Water Code §10723.6(b).) In addition, and of utmost importance, the City’s municipal well is located within the CCWC service area and outside of the City’s sphere of influence. Section 10723.8(a)(1) of SGMA allows a local agency which decides to become or form a GSA to notify the DWR of “the boundaries of the basin or portion of the basin the agency intends to manage.” (Water Code §10723.8(a)(1).)

On April 5, 2017 and April 12, 2017, the City posted notices of its intent to become a GSA over the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin), comprising the area located within the City limits and the CCWC service area. On April 18, 2017, the City Council held a public hearing and adopted Resolution #2017-08, authorizing the City to become a GSA to manage the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin), comprising the area located within the City limits and the CCWC service area; form the Arroyo Seco Groundwater Sustainability Agency (“ASGSA”); and enter into a MOU with CCWC. The Notice of Intent to become the GSA was filed with the DWR, and the DWR subsequently accepted and posted the NOI on April 27, 2017.

At a duly noticed public meeting on May 23, 2017, comments were made by a member of the public who requested the ASGSA Board consider landowner petitions to add lands overlying or benefiting from the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin) to the area managed by the ASGSA. Section 10723.2 of the SGMA requires that a GSA consider the interest of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs. (Water Code §10723.2.)

On May 30, 2017, the ASGSA held a special meeting to discuss the petitions. At that meeting, the ASGSA Board considered becoming the GSA for those petitioned lands overlying or benefiting from the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin) and contiguous to the area managed by the ASGSA to the north, east and west, with the southern boundary of the area to end at the boundary of the Forebay and Upper Valley subbasins.

Subsequent to the May 30, 2017 meeting, additional landowners submitted petitions to the ASGSA to request that their lands, which overlie or benefit from the Arroyo Seco Cone Basin, be added to the area managed by the ASGSA. The City-ASGSA published notices in local newspapers on June 14th and 21st, 2017, to notify the public of a public hearing on whether to become the GSA for these lands petitioned by landowners for inclusion to the area of the Arroyo Seco Cone Basin (portion of the Forebay Subbasin) managed by the ASGSA.

On June 27, 2017, the ASGSA held a public hearing and decided to become the GSA for the certain petitioned lands which overlie or benefit from the Arroyo Seco Cone and located contiguous to the area managed by the ASGSA (“Petitioned Lands”) by adopting Resolution 2017-08. On the same day, the City Council held a public hearing and decided to become the GSA for the Petitioned Lands by adopting Resolution #2017-51. The MOU between the Parties was amended to reflect

the same. The second Notice of Intent which included the petitioned landowners was filed with the Department of Water Resources (“DWR”), and the DWR subsequently accepted and posted the NOI on June 30, 2017.

After almost two years, the City has now been directed by the DWR to modify the City-filed notices of intent despite the DWR having previously accepted the filings as stated above.

ATTACHMENTS:

1. Resolution No. 2019-17

RESOLUTION #2019-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENFIELD AUTHORIZING THE CITY TO (1) AMEND AND RESTATE THE MEMORANDUM OF UNDERSTANDING WITH CLARK COLONY AND THE PETITIONED LANDOWNERS AND (2) FILE A REVISED NOTICE OF INTENT

WHEREAS, on September 16, 2014, the Governor signed into law, three bills (SB 1168, AB 1739, and SB 1319) collectively referred to as the “Sustainable Groundwater Management Act” (“SGMA”), that initially became effective on January 1, 2015, and that has been amended from time-to-time thereafter.

WHEREAS, the stated purpose of SGMA, as set forth in California Water Code section 10720.1, is to provide for sustainable management of groundwater basins at a local level by providing local groundwater agencies with the authority, and technical and financial assistance necessary, to sustainably manage groundwater.

WHEREAS, California Water Code sections 10723 and 10723.8 allow a local public agency to decide to become a Groundwater Sustainability Agency (“GSA”) to undertake sustainable groundwater management.

WHEREAS, the City is a local agency qualified to become a GSA because the City manages water, has a water supply, and has land use responsibilities over a certain portion of the Forebay Subbasin [Subbasin Number 3-4.04, DWR Bulletin 118 (update 2016)] of the Salinas Valley Groundwater Basin. The Forebay Subbasin is a DWR-designated high priority basin.

WHEREAS, California Water Code section 10726.5 allows for GSAs to enter into written agreements with private parties to assist in the funding of groundwater sustainability plans (“GSPs”), their development, facilitation and implementation. (Water Code §10726.5.)

WHEREAS, SGMA was amended through SB 13, which was signed into law on September 3, 2015, to expressly allow mutual water companies to participate in a GSA through a memorandum of agreement or other legal agreement. (Water Code §10723.6(b).)

WHEREAS, CCWC is a mutual water company qualified to participate in a GSA because it is a mutual water company as defined in California Public Utilities Code section 2725. CCWC is organized for the purposes of delivering irrigation water to its shareholders at cost and is not a public utility. (Public Utilities Code §2705.)

WHEREAS, the City’s municipal well is located within the CCWC service area and outside of the City’s sphere of influence.

WHEREAS, the City and CCWC service area overlie the Arroyo Seco Cone Basin, which is located within the Forebay Subbasin. The Arroyo Seco Cone Basin was identified by the DWR in Bulletin 52 to be hydrologically distinct from the other subbasins of the Salinas Valley Groundwater Basin because the principal source of groundwater replenishment in the Arroyo Seco

Cone Basin is percolation from the channels of the Arroyo Seco River and its tributary, Reliz Creek.

WHEREAS, section 10723.8(a)(1) of SGMA allows a local agency which decides to become or form a GSA to notify the DWR of “the boundaries of the basin or portion of the basin the agency intends to manage.” (Water Code §10723.8(a)(1).)

WHEREAS, on April 5, 2017 and April 12, 2017, the City posted notices of its intent to become a GSA over the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin), comprising the area located within the City limits and the CCWC service area.

WHEREAS, on April 18, 2017, the City Council held a public hearing and adopted Resolution #2017-08, authorizing the City to become a GSA to manage the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin), comprising the area located within the City limits and the CCWC service area; form the Arroyo Seco Groundwater Sustainability Agency (“ASGSA”); and enter into a MOU with CCWC.

WHEREAS, the Notice of Intent to become the GSA was filed with the Department of Water Resources (“DWR”), and the DWR subsequently accepted and posted the NOI on April 27, 2017.

WHEREAS, at a duly noticed public meeting on May 23, 2017, comments were made by a member of the public who requested the ASGSA Board consider landowner petitions to add lands overlying or benefiting from the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin) to the area managed by the ASGSA.

WHEREAS, section 10723.2 of the SGMA requires that a GSA consider the interest of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs. (Water Code §10723.2.)

WHEREAS, on May 30, 2017, the ASGSA held a special meeting to discuss the petitions. At that meeting, the ASGSA Board considered becoming the GSA for those petitioned lands overlying or benefiting from the Arroyo Seco Cone Basin (a portion of the Forebay Subbasin) and contiguous to the area managed by the ASGSA to the north, east and west, with the southern boundary of the area to end at the boundary of the Forebay and Upper Valley subbasins.

WHEREAS, subsequent to the May 30, 2017 meeting, additional landowners submitted petitions to the ASGSA to request that their lands, which overlie or benefit from the Arroyo Seco Cone Basin, be added to the area managed by the ASGSA.

WHEREAS, the City-ASGSA published notices in local newspapers on June 14th and 21st, 2017, to notify the public of a public hearing on whether to become the GSA for these lands petitioned by landowners for inclusion to the area of the Arroyo Seco Cone Basin (portion of the Forebay Subbasin) managed by the ASGSA.

WHEREAS, on June 27, 2017, the ASGSA held a public hearing and decided to become the GSA for the certain petitioned lands which overlie or benefit from the Arroyo Seco Cone and located contiguous to the area managed by the ASGSA (“Petitioned Lands”) by adopting Resolution 2017-08. On the same day, the City Council held a public hearing and decided to

become the GSA for the Petitioned Lands by adopting Resolution #2017-51. The MOU between the Parties was amended to reflect the same.

WHEREAS, the second Notice of Intent which included the petitioned landowners was filed with the Department of Water Resources (“DWR”), and the DWR subsequently accepted and posted the NOI on June 30, 2017.

WHEREAS, the City has been directed by the DWR to modify the City-filed notices of intent despite the DWR having previously accepted the filings as stated above.

WHEREAS, the MOU between the City and CCWC has been amended and restated accordingly.

NOW, THEREFORE, BE IT HEREBY RESOLVED that:

1. The Amended and Restated Memorandum of Understanding with Clark Colony Water Company (Exhibit A) is approved and the City Manager is hereby directed to execute the MOU;
2. The City hereby reinstates the Arroyo Seco Groundwater Sustainability Agency as formed and in its current composition without any interruption to that agency’s process; and
3. The City will modify the City-filed NOIs as directed by the DWR. The NOIs are to be amended to include (a) the City; and (b) the management area comprising the CCWC service area (inclusive of the City’s well) and the previously accepted petitioned landowners as referenced above.

PASSED AND ADOPTED by the Board of the Arroyo Seco Groundwater Sustainability Agency at a regular meeting held on the _____ day of February 2019 by the following vote:

AYES, and all in favor, thereof, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

Lance Walker, Mayor

Attest:

Ann F. Rathbun, Clerk

Amended and Restated

Memorandum of Understanding By and Between City of Greenfield and Clark Colony Water Company

RECITALS

- A. On September 16, 2014, the Governor signed into law, three bills (SB 1168, AB 1739, and SB 1319) collectively referred to as the “Sustainable Groundwater Management Act” (“SGMA”), that initially became effective on January 1, 2015, and that has been amended from time-to-time thereafter.
- B. The stated purpose of SGMA, as set forth in California Water Code section 10720.1, is to provide for sustainable management of groundwater basins at a local level by providing local groundwater agencies with the authority, and technical and financial assistance necessary, to sustainably manage groundwater.
- C. California Water Code sections 10723 and 10723.8 allow a local public agency to decide to become a Groundwater Sustainability Agency (“GSA”) to undertake sustainable groundwater management.
- D. The City of Greenfield (“City”) is a local agency qualified to become a GSA because the City manages water, has a water supply, and has land use responsibilities over a certain portion of the Forebay Subbasin [Subbasin Number 3-4.04, DWR Bulletin 118 (update 2016)] of the Salinas Valley Groundwater Basin. The Forebay Subbasin is a DWR-designated high priority basin.
- E. California Water Code section 10726.5 allows for GSAs to enter into written agreements with private parties to assist in the funding of groundwater sustainability plans (“GSPs”), their development, facilitation and implementation. (Water Code §10726.5.)
- F. SGMA was amended through SB 13, which was signed into law on September 3, 2015, to expressly allow mutual water companies to participate in a GSA through a memorandum of agreement or other legal agreement. (Water Code §10723.6(b).)
- G. Clark Colony Water Company (“CCWC”) is a mutual water company qualified to participate in a GSA because it is a mutual water company as defined in California Public Utilities Code section 2725. CCWC is organized for the purposes of delivering irrigation water to its shareholders at cost and is not a public utility. (Public Utilities Code §2705.) CCWC’s service area is also over a portion of the Forebay Subbasin of the Salinas Valley Groundwater Basin.

- H. The City's municipal well is located within the CCWC service area and outside of the City's sphere of influence.
- I. On April 5, 2017 and April 12, 2017, the City posted notices of its intent to become a GSA for the management area comprising the City and CCWC service area consistent with California Water Code section 10723(b).
- J. On April 18, 2017, the City Council held a public hearing and adopted Resolution #2017-08, authorizing the City to become a GSA; form the Arroyo Seco Groundwater Sustainability Agency ("ASGSA"); and enter into a Memorandum of Understanding ("MOU") with CCWC.
- K. The Notice of Intent to become the GSA was filed with the Department of Water Resources ("DWR"), and the DWR subsequently posted the NOI on April 27, 2017.
- L. At a duly noticed public meeting on May 23, 2017, comments were made by a member of the public who requested the ASGSA Board consider landowner petitions to add lands to the management area of the ASGSA.
- M. Section 10723.2 of the SGMA requires that a GSA consider the interest of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs. (Water Code §10723.2.)
- N. On May 30, 2017, the ASGSA held a special meeting to discuss the petitions. At that meeting, the ASGSA Board considered becoming the GSA for those petitioned lands contiguous to the ASGSA management area to the north, east and west, with the southern boundary of the management area to be located at the boundary between the Forebay and Upper Valley subbasins.
- O. Subsequent to the May 30, 2017 meeting, additional landowner petitions were received.
- P. The City-ASGSA published notices in local newspapers on June 14th and 21st, 2017, to notify the public of a public hearing on whether to become the GSA for these lands petitioned by landowners for inclusion in the ASGSA's management area.
- Q. On June 27, 2017, the ASGSA held a public hearing and decided to become the GSA for the certain petitioned lands located contiguous to the ASGSA's management area ("Petitioned Lands") by adopting Resolution 2017-08. On the same day, the City Council held a public hearing and decided to become the GSA for the Petitioned Lands by adopting Resolution #2017-51. The MOU between the parties was amended to reflect the same.

- R. The parties wish to amend and restate the MOU to have the City reinstate the ASGSA and ensure compliance with SGMA.

NOW THEREFORE, incorporating the above recitals herein, it is mutually understood and agreed as follows:

1. Purpose. This MOU is entered into by and between the Parties to facilitate a cooperative and ongoing working relationship that will allow compliance with SGMA and State law, both as amended from time to time
2. Arroyo Seco Groundwater Sustainability Agency. The City is the local agency with the authority under SGMA to determine the management area it intends to manage. The City established the ASGSA, which includes participation by the CCWC, to manage the portion of the Forebay Subbasin that covers the City limits. The City also established the ASGSA to manage the CCWC service area (in which the City's municipal well is situated) and Petitioned Lands (collectively, "Management Area"). The City shall consider and if approved, adopt a resolution to (a) reinstate the ASGSA as originally formed, which includes the CCWC as participants on the Board of ASGSA in its current composition and without any disruption to the current ASGSA Board process and (b) amend the NOIs submitted to the DWR to further validate the City's decision to be the GSA for the sustainable management of groundwater for the City and the Management Area consistent with SGMA.
3. Funding of ASGSA. Consistent with Water Code section 10726.5, the CCWC is committed to paying the City fifty percent (50%) of the costs incurred by the ASGSA for the development, facilitation and implementation of the GSP. If an additional party elects to participate in this MOU, they shall pay their fair share of prior and future expenses of the ASGSA through an agreement with the ASGSA. Cost and expenses of ASGSA may also be funded from: (i) voluntary contributions from third parties or (ii) grants; taxes, assessments, fees and/or charges levied by the ASAGA under the provisions of SGMA or as otherwise authorized by law. Sharing of resources, including staff, is allowed to meet this obligation.
4. Ongoing Cooperation and Dispute Resolution. The Parties acknowledge activities under this MOU will require the frequent interaction between them in order to pursue opportunities and resolve issues that arise. The Parties agree that any dispute regarding the enforcement or interpretation of any term, covenant or condition of this MOU shall first, for a period of not less than thirty (30) days, be submitted to mediation before a mutually acceptable mediator. If they are unable to resolve such matter(s) through mediation, resolution shall be sought through binding arbitration before a third party arbiter mutually agreed to by both Parties.

5. Term. This MOU shall remain in effect unless terminated by the mutual consent of the Parties and as allowed by State law provided that provision has been made by the Parties for the payment, refunding, retirement, or other disposition of any bonded debt or other long term liability in the name of the ASGSA.

6. Entire Agreement and Amendments. This MOU incorporates the entire and exclusive agreement of the Parties with respect to the matters described herein and supersedes all prior negotiations and agreements (written, oral, or otherwise) related thereto. This MOU may be amended only in writing executed by the Parties.

7. Counterpart. This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto, pursuant to resolutions duly adopted by their respective boards, have caused their names to be affixed by their proper and respective officers as of the day and year so indicated.

CITY OF GREENFIELD

By _____
Mayor

Dated: _____

APPROVED AS TO FORM

Mary Lerner, City Attorney

CLARK COLONY WATER COMPANY,
A California Corporation

By _____
Michael Griva, President

Dated: _____

APPROVED AS TO FORM

Pamela H. Silkwood, Attorney
