

Agenda Report Reviewed by:
City Manager: 

**CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM**

Meeting Date: March 19, 2019
To: Honorable Mayor and City Councilmembers
From: Engineering Manager Henry J. Mikus
Subject: Discussion and Approval of the Annual GSA Fee Assessment resulting from Sebastopol joining the Santa Rosa Plain GSA Basin: Amount Not to Exceed: \$119,000.00
Recommendation: Provide direction to staff regarding what fee level is acceptable to Council.
Funding: Currently Budgeted: *X Yes **X No N/A
 Net General Fund Cost: N/A Amount: N/A

*The City Council during mid-year budget review approved a set aside of \$33,000 for this fee.

**An additional \$86,000 is requested for the annual fee which has not been budgeted for in FY18-19.

The Water Fund would be used for additional funds if approved by City Council. This does not include the yearly usage fee estimated between \$18,000 and \$25,000.

Introduction: This item is for City Council Discussion and Consideration of the Annual GSA Fee Assessment resulting from the City of Sebastopol joining the Santa Rosa Plain GSA Basin. The requested funding amount is as follows: \$119,000 GSA fee, paid in three annual installments of \$39,667 as well as Council direction to staff to follow the requisite steps so that the City is part of the Santa Rosa Groundwater Sub-Basin.

Background:

At the City Council meeting of September 4, 2018 a Public Hearing was held, and Council approved staff preparing and submitting a Jurisdictional Boundary Adjustment Request so that the City would become part wholly and solely of the Santa Rosa Plain Sub-Basin Groundwater Sustainability Agency (GSA). A Resolution of Approval was discussed and approved by Council at the meeting held September 18, 2018. Staff prepared the Boundary Adjustment Request and submitted it to the California Department of Water Resources (DWR) by late September 2018. The Final Approval of the adjustment request was made public mid-February 2019.

The GSA was formed in July 2017 as a Joint Powers Authority (JPA). Members from the start have been:

- County of Sonoma
- Sonoma County Water Agency
- City of Cotati
- City of Rohnert Park
- City of Santa Rosa
- Town of Windsor
- Independent Water Systems
- Gold Ridge Resource Conservation District
- Sonoma Resource Conservation District

These groups each have one representative on the GSA governing Board. In addition the GSA utilizes a Technical Advisory Committee (TAC) which has representatives from each of the members plus representatives from other groups with a real interest. Due to its proximity to the Santa Rosa Basin, Sebastopol has participated on the TAC.

Discussion:

Funds for the initial two years' GSA efforts were covered from two sources: a \$1M DWR grant to aid GSA formation and plan preparation, and annual assessments on the GSA members. For FY 17-18 this fee was approximately \$55,000 per member, and for the current FY 18-19 the annual members' fee is \$64,000 each. Beginning with FY 19-20, it is anticipated revenue will be generated by groundwater usage fees. A process is ongoing via a rate study to establish these user fees. It is anticipated the fee range will be between \$18 and \$25 per acre-foot of groundwater used. For Sebastopol, which historically uses about 1,000 acre feet of groundwater each year, the annual GSA cost going forward would be between \$18,000 and \$25,000 per year.

Beginning last December, in anticipation of eventual DWR approval of the Boundary Request, City staff had several initial conversations and meetings with GSA management to initiate discussions about whatever procedural steps had to occur for Sebastopol to formally join the GSA. One action is a formal vote of approval by the GSA Board, which does not appear to be a problem. However, GSA staff expressed an expectation Sebastopol would have to pay a fee to support GSA activities similar to other current members. In these initial discussions, with the expectation that Sebastopol would join the GSA for about half of FY 18-19, City staff suggested a fee assessment of \$33,000 to equate to the half-year membership. However, in subsequent negotiations, GSA staff have indicated their desired fee level is the per member assessed total for the first two years at \$119,000. This has been unacceptable to Sebastopol, as City staff believe there are multiple compelling reasons for any fee to be less than two years' full price. However, it has become clear the GSA is unwilling to make any fee adjustment or accommodation, although the offer has been tendered to allow Sebastopol to meet this demand via three annual payments of \$39,667 rather than one lump sum.

Staff has lobbied vigorously for there to be some reasonable middle ground acceptable to all. Several emails are attached to give greater detail to some of the conversations and points in our favor for a fee less than full price. The perspectives City staff have presented include:

1. The right to have a seat on the GSA Board comes with payment of annual fees. Sebastopol has not had this right as a non-member, so should not pay the full member fee.
2. Any money from Sebastopol joining is a bonus as it was unanticipated in the GSA budget. Similarly, going forward Sebastopol will be contributing \$18,000 to \$25,000 per year in usage fees; over 10 years this would be nearly \$200,000 contributed by Sebastopol, which is also income not currently counted on. Even with a reduced initial fee, the GSA will still be quite ahead financially? if Sebastopol did not participate in the future.
3. Sebastopol paid fees and participated in the GSA discussions from 2015 through 2017 for GSA formation. Sebastopol still expends effort via membership in the GSA TAC. Thus Sebastopol already has made contributions to the GSA which should be recognized in any joining fees.
4. The GSA plan has long been to reimburse members for their initial years' contributions once a stable funding mechanism is working. According to this language in the GSA JPA Agreement, "new Member agrees to the terms of this Agreement, including applicable financial obligations, which may be determined based at no more than an equal share of the unreimbursed Funding Commitments of the other Members pursuant to Section 10.02". Since reimbursement is the

plan, Sebastopol should not need to pay anything.

At this juncture staff believes the City has exhausted all possibilities for a fees resolution in the City's favor. Despite this though, staff still believes joining the Santa Rosa GSA is the best path for Sebastopol even with the difficult fee level. As was discussed during the initial Boundary Adjustment discussions with Council in September 2018, the alternative to participate in a Wilson Grove Formation GSA would still be prohibitively expensive even considering high GSA fees. With cost estimates for the initial two years of GSA formation and GSP development in the \$2M to \$3M range, the potential cost to Sebastopol would be onerous. Even if grant monies could be obtained (similar to the Santa Rosa GSA) and costs were on the low side, the annual exposure to Sebastopol could easily be \$115,000 or more. If grant monies did not work out, the annual expense could double to greater than \$200,000 per year.

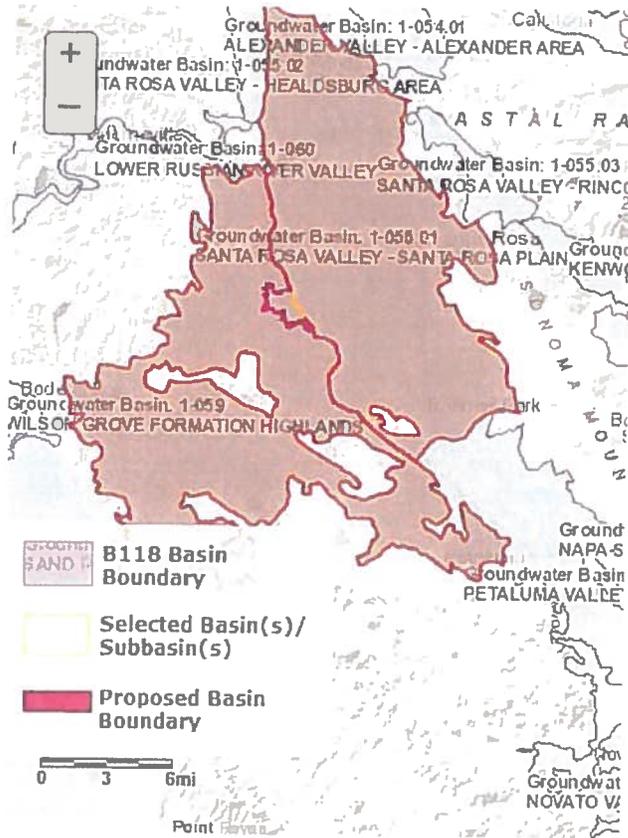
Recommendation: Staff recommends that the City Council approves a \$119,000 GSA fee, paid in three annual installments of \$39,667, and direct staff to follow the requisite steps so that the City is part of the Santa Rosa Groundwater Sub-Basin.

Attachments:

DWR Announcement of the Basin Boundary Adjustment Approval
GSA-Sebastopol emails

2018 Basin Boundary Modifications - Final

Basin(s): 1-055.01 SANTA ROSA VALLEY – SANTA ROSA PLAIN; 1-059 WILSON GROVE FORMATION HIGHLANDS



Requesting Agency:
City of Sebastopol

Modification Category: Jurisdiction Internal

Agency Description:
Modify the Santa Rosa Plain Sub-basin to incorporate the jurisdictional areas of the City of Sebastopol, Belmont Terrace MWC, Fircrest MWC, and Kelly MWC that are currently in the Wilson Grove Formation Highlands Basin.

Other Affected Basins: None

DWR Final Decision: Approve

Basis for Decision: The basin boundary modification request would revise a portion of the existing shared boundary between the Santa Rosa Plain subbasin and the Wilson Grove Formation Highlands basin. The request would modify a portion of the western boundary of the Santa Rosa Plain subbasin such that the City of Sebastopol, Belmont Terrace Mutual Water Company (MWC), Fircrest MWC, and Kelly MWC would be entirely within the Santa Rosa Plain subbasin. Six letters of support are associated with this request. The request meets regulatory requirements.

From: [Henry Mikus](#)
To: ["Andy Rodgers"](#)
Cc: [Lawrence McLaughlin](#)
Subject: GSA joining
Date: Thursday, February 07, 2019 11:29:00 AM

Andy,

Thank you for the call earlier to discuss the mechanism for Sebastopol joining the SRP GSA. From your explanation, it appears you have a range of opinions regarding the possible Sebastopol fee for membership. However, to hear that there is some sentiment that the entire member fee for the past two years be applied to Sebastopol was completely unexpected, with the amount around \$130,000. After you and I talked through different pros and cons to differing fee levels, you suggested we make a formal recommendation from our perspective including the logic.

As you would expect, after our call I spoke with our City Manager Larry McLaughlin. He was as surprised as I was to hear about the one viewpoint regarding a full two years' payment. Please be aware that amount has never been in any conversation or briefing on this subject we have had with the City Council. However, he and I are agreeable to furthering the conversation, and will follow your suggestion to provide our views on payment levels to you.

Given that we are in the midst of budget formulation, it is our plan to send you something by the end of next week. Please let me know if this is a problem time wise.

Henry Mikus

Engineering Manager

City of Sebastopol | 714 Johnson St. | Sebastopol, CA 95472

Engineering Division

707-823-2151 Ofc | 707-823-4721 Fax

Office Hours: Monday - Thursday 7:00 a.m. - 5:30 p.m.

From: [Henry Mikus](#)
To: [Andy Rodgers](#)
Cc: [Lawrence McLaughlin](#)
Subject: GSA membership and fees
Date: Thursday, February 14, 2019 4:06:00 PM

Andy,

Thank you for the time for a conversation earlier today about the mechanics of Sebastopol joining the SRP GSA, particularly the fee aspect. I was truly sorry there was no new perspective or information from the GSA Board on the fee situation.

As we discussed, we are still quite far apart on the City's financial contribution as part of joining the GSA. I did speak with our City Manager about having a Council discussion March 5, and he and I agree this is still far too open ended. We are concerned that without some better focus on a narrower range of amounts the conversation would not be effective or conclusive.

Given that the report to Council would need to be done this Tuesday in order for discussion at the March 5 Council meeting, it is our belief the best path forward would be to have the Council discussion at the next scheduled meeting on March 19 instead. That gives us both until March 5 to have something more refined to propose for Council to consider.

Going forward in your discussions, please consider the following pertinent information.

The GSA is in its second fiscal year of existence. Costs for conducting GSA business, mainly the rate study and start of the Groundwater Sustainability Plan (GSP) preparation, were covered partly by a large state grant, with the balance made up from fees assessed on GSA members. The total fee assessed per member for the two years was about \$120,000, with the FY 17-18 fee at \$54,000 and the current FY 18-19 fee at \$66,000. Moving forward into the upcoming fiscal year it is anticipated the fee structure will be in place, based on groundwater use. From the numbers that have been shared publicly, the fees will likely be in the neighborhood of \$18-\$26 per acre foot of water use. For Sebastopol, which uses 1,000 acre feet per year, that equals an annual cost of \$18,000 to \$26,000. Prior to the GSA formation, during the time the "working group" of prospective GSA participants occurred, costs were paid for by a combination of grants, in kind efforts, and some assessments to participants.

Although Sebastopol initially did not join the GSA, the City did participate in the pre-GSA work and contributed its share for covering costs. Also, Sebastopol did keep participating with the GSA via membership on the GSA TAC since the GSA formation June 2017.

In my initial discussions late last Fall with Mr. Jasperse it looked like Sebastopol would join the GSA upon DWR approval, and that it would be for the second half of the year. With that in mind my fee start point was pay the half year of membership; \$66,000 split in two is \$33,000.

When we met with you and Mr. Jasperse recently we were quite surprised to learn there were GSA members that believed paying the full \$120,00 for the first two years was appropriate. We also

learned that there were other members who recognized a reduced fee was appropriate, but certainly not as low as a half-year.

We recognize being a GSA member is not free. We also understand (but do not necessarily agree with) the opinion that any new members should bear the FULL cost of developing the GSP as they would benefit from the plan. However, it is also a consideration that being a member, and paying the fees, also carries privileges and rights as members. An example is the right to have a seat on the Board and have a vote in any Board decisions. That right has value, and is in fact one of the drivers for being a member. Sebastopol has not been a member, so has not exercised any right to participate in decisions. It is not fair for Sebastopol to pay the same fee without membership rights as other pay WITH membership rights.

Sebastopol had participated and paid its share until the point the GSA was formed. Sebastopol also has willingly participated in the TAC, which has been motivated by the desire to be a good neighbor from the recognition adjacent basins are not "silos" as there are varying degrees of ground water interaction, so our input might be pertinent. Sebastopol believes this participation has provided some value and must be considered in the fee conversation.

Even if no fee was paid by Sebastopol to join, the equation STILL would have the GSA financial picture impacted quite positively by Sebastopol's membership. For example, at a conservative figure of \$20 per acre foot the annual Sebastopol contribution would be \$20,000 going forward. At six years, Sebastopol would have paid \$120,000 so equal to the high end of the "joining fee" conversation. Every year after that, the City would still pay its \$20,000 annually. After ten years the GSA coffers would be ahead by \$80,000, an amount of income that would be added to \$20,000 per subsequent year. If Sebastopol did not join, that income would never be paid to the GSA. Thus the bottom line is that Sebastopol joining is a positive impact to GSA funds. The guarantee of the added income over a long term – that would otherwise not materialize - is worth consideration in the fee debate.

We do appreciate the offer you have made to spread any fee assessed over three years so as to minimize any sudden, single financial impact.

You asked if there was some range above \$33,000 we could accept. I can only respond with another question: is there a range anywhere less than \$120,00 that the GSA Board would be comfortable with? We certainly did not start by saying we owe no fee, so it is reasonable to ask if there is a fee that is less than full price that could work. I would hope with all our common goals there is some middle ground that would be acceptable to both sides.

I would request when you need to speak with me again you call my cell, 707-328-8105. We are closed tomorrow and Monday so the cell is the only way for me to get a message in real time. Also, given our time frame, please do not hesitate to call me at any time, whether it is evening, holiday, or weekend.

Henry Mikus
Engineering Manager

From: [Henry Mikus](#)
To: ["Andy Rodgers"](#)
Cc: [Lawrence McLaughlin](#)
Subject: GSA
Date: Monday, March 04, 2019 10:07:00 AM

Andy,

Sorry to be pesky, but time marches. Council is due to discuss the GSA fee and joining in two weeks so my agenda item staff report has to be done & be sensible by tomorrow morning.

When I last communicated, I asked for some payment number other than "everything". Have you had any further discussions on your end? Thank you.

Henry Mikus

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From: [Henry Mikus](#)
To: ["Andy Rodgers"](#)
Cc: [Lawrence McLaughlin](#)
Subject: RE: GSA
Date: Monday, March 04, 2019 12:36:00 PM

Andy,

Another thought to share. It is my understanding that the plan all along has been to reimburse member jurisdictions for the first two years' payments once finances are self-supporting. With that in mind, why does it make sense to make us pay a large amount, at some hardship, only to give it back in a couple years?

Also, your jurisdictions' fees and the budget are currently balanced, the fees were calculated to make that occur. So any money from us is not for budget balancing, it is extra. It is not like any money we might pay is a necessity to make up a deficit or balance a budget. That also begs the same question, why collect it only to give it back?

You mentioned a staff meeting, we discussed that previously and I am amenable.

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From: Andy Rodgers <arodgers@westyost.com>
Sent: Monday, March 04, 2019 12:13 PM
To: Henry Mikus <hmikus@cityofsebastopol.org>
Cc: Lawrence McLaughlin <lmclaughlin@cityofsebastopol.org>
Subject: RE: GSA

Hi Henry, Thank you for checking back in.

I have looped back to members with that question and have received feedback that is consistent with feedback received before. Though certainly sympathetic, board members and staff are having a hard time finding a clear justification for inviting the City join the board at a rate lower than other members with similar financial constraints.

You made some excellent points regarding the City's on-going participation and the collective value of working closely in to the future. I believe all members feel this way about their jurisdictions. As we previously discussed (though I cannot make any promises), there may be flexibility in the timing. If you have other suggestions for how we can approach this important membership, I'm all ears. The possibility of holding a special GSA staff meeting to discuss with other member agency staff is also available.

For your staff report, please let me know if you wish to discuss further or have questions.
If you don't already have it, here is DWR's boundary modification press release:

<https://water.ca.gov/News/News-Releases/2019/February/Final-Basin-Boundary-Modifications-Released>

Here is a link to the list: https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Basin-Boundary-Modifications/Files/2018_BBM_SummaryTable.pdf?la=en&hash=5DAF7E8CA73DB0FED363D5C6BF78C25E96A33ADD

Thanks, and hope town is starting to dry out!
Andy

Andy Rodgers

Administrator

Santa Rosa Plain Groundwater Sustainability Agency

office 707.543.8506

direct 707.508.3672

arodgers@westyost.com

From: Henry Mikus <hmikus@cityofsebastopol.org>

Sent: Monday, March 04, 2019 10:07 AM

To: Andy Rodgers <arodgers@westyost.com>

Cc: Lawrence McLaughlin <lmclaughlin@cityofsebastopol.org>

Subject: GSA

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From: [Henry Mikus](#)
To: ["Andy Rodgers"](#)
Cc: [Lawrence McLaughlin](#)
Subject: RE: GSA
Date: Tuesday, March 05, 2019 9:57:00 AM

Andy,

Here is some perspective as to why I mentioned the planned reimbursement of payments relative to our fee, this is right from the GSA JPA Agreement (note my highlights):

“new Member agrees to the terms of this Agreement, including applicable financial obligations, which may be determined **based at no more than an equal share of the unreimbursed Funding Commitments** of the other Members pursuant to Section 10.02”

Some key words there. “based at no more than” says the fee can be less. “share of unreimbursed funding” is interesting since the GSA has been quite public about the plan to reimburse the first two years’ member payments. If there is to be no unreimbursed funding a new member share would be zero.

One could argue based on public statements and the JPA language that a new member would need to pay nothing at this point.

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From: Andy Rodgers <arodgers@westyost.com>
Sent: Monday, March 04, 2019 12:49 PM
To: Henry Mikus <hmikus@cityofsebastopol.org>
Cc: Lawrence McLaughlin <lmclaughlin@cityofsebastopol.org>
Subject: RE: GSA

Thanks Henry. There are unbudgeted expenses occurring, this week’s 3 community meetings for example. But that is a small component.

The main answer to your question about reimbursable contributions is cash flow. The secondary one is to help the GSA address new programs such as the groundwater user registration program, which may involve a greater level of effort to respond to and engage with parcel inquiries and possibly correct assessment records through an appeals process. We’re entering new territory later this year.

I hope this is helpful.

Andy Rodgers

Administrator

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From: Henry Mikus <hmikus@cityofsebastopol.org>
Sent: Monday, March 04, 2019 12:37 PM
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Subject: RE: GSA

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