

## Permit Sonoma Well Ordinance Public Trust Policy Development

# Charter (draft)

Developed by: Permit Sonoma Staff in consultation with the Consensus Building Institute

Updated: 11/15/2022 for presentation on 11/17/22 to Working Group members

### Intent

The purpose of this document is to outline the process to advise the Permit Sonoma Director (“Director”) on proposed revisions to Sonoma County’s well ordinance in relation to the County’s obligations under the Public Trust Doctrine. Permit Sonoma will convene two working groups to advise on these issues: a Policy Working Group and a Technical Working Group.

The intent of the Policy Working Group is to represent stakeholder interests and make recommendations that the Director will consider for a well ordinance public trust policy. The intent of the Technical Working Group is to advise on the analytical processes necessary to implement any potential policies. The policy developed by the Director will be brought to the Sonoma County Board of Supervisors for their consideration and final decision.

The Working Groups are expected to review and provide recommendations to the Director on the update to the well ordinance including the following topics:

- Definitions of key terms contained within the ordinance related to public trust resources and the Public Trust Doctrine.
- Areas of the County where evaluation of impacts to public trust resources should be required.
- Types of wells that should require discretionary public trust review.
- Discretionary public trust review process.
- Definition of adverse impacts.
- Types of wells that should require groundwater metering and monitoring, and standard requirements.
- Types of wells requiring water conservation measures and standard requirements.

### Open Process

Policy Working Group meetings will be held virtually and open to the public. Permit Sonoma will announce meetings through its regular communication channels including by email and latest news and press release web page. The Policy Working Group will adopt a schedule and share meeting agendas at least 1 day prior to the date of the meeting.

The director selected members of the Policy and Technical Working Groups. Because the Board of Supervisors did not select members, meetings are not subject to the Brown Act. However, Policy Working Group meetings will be open, and the public is welcome to attend. As needed, the Technical Working Group will present to and attend the Policy Working Group and, in addition, may periodically hold a public meeting depending on interest once technical information is ready.

## Roles and Responsibilities

### Policy Working Group (PWG)

The responsibility of the PWG is to advise the Director on well policy related to public trust doctrine. The role and responsibility of PWG members are to represent, solicit, and integrate community and stakeholder interests into recommendations on the revised well ordinance. The PWG members will also integrate the best available science to inform policy for the goal of groundwater sustainability and availability for people and the environment in Sonoma County.

PWG members reflect the diverse interests of local public agencies and groundwater users. The criteria for PWG members are to:

- Serve as a strong, effective advocate for the interest groups represented
- Working collaboratively with each other
- Commit time needed for ongoing discussions
- Collectively reflect diversity of interests

As part of membership, members agree to:

- Arrive at each meeting fully prepared to discuss the issues on the agenda. Preparation may include reviewing meeting summaries, technical information, and draft documents distributed in advance of each meeting.
- Present their constituent members' views on the issues being discussed and be willing to engage in respectful, constructive dialogue with other members of the group.
- Develop a problem-solving approach in which they consider the interests and viewpoints of all group members, in addition to their own.
- Keep their constituencies informed about the deliberations and actively seek their constituents' input.

### Technical Working Group

The Technical Working Group (TWG) will focus on technical development through data compilation, modeling, and other measures to better understand the interconnection of Public Trust surface waters and groundwater. TWG would also form criteria for determining a significant negative impact of well development on Public Trust resources, if any. TWG will collaborate with the PWG members to answer questions and assist in formulating policy and ordinance provisions.

The TWG will be comprised of practitioners with expertise in hydrogeology, hydrology, ecosystems, groundwater management, well drilling, and well operations.

### Chairs

The Director will appoint a chair or co-chairs. The chair agrees to:

- Work with the Director and facilitator to develop the agenda, presentations, or materials to ensure effective deliberations in working group meetings.
- Assist in framing issues so members are able to have a productive conversation and develop recommendations.
- At the request of the Director, review draft materials to make sure that the input of working groups is reflected in the development of the draft ordinance or summary materials.

- At the request of the Director, attend Board of Supervisor’s hearings and present and summarize recommendations from the PWG and TWG.
- As requested by the Director, serve as a point of contact for media or public meetings in cooperation with Permit Sonoma’s communications lead.

### Director and Staff

The Permit Sonoma Director has convened the two working groups. The Director’s role is to:

- Maintain a current roster of working group members.
- In coordination with the facilitator and chair, advise on the agendas and overall process design for working group meetings to ensure a productive outcome.
- Notice all meetings in accordance with this charter.
- Prepare meeting materials and presentations.
- Coordinate with the technical working group and Permit Sonoma technical staff to respond to working group member questions.
- In coordination with the chair and facilitator, prepare a recommendations report representing the work of the working groups.
- At the discretion of the Director, incorporate working groups’ recommendations into a revised well ordinance to be brought to the Board of Supervisors for consideration.

Staff will assist the Director in these efforts and provide staffing assistance to the working groups.

### Facilitator

As resources allow, a third-party facilitator will provide impartial facilitation services for working group meetings. The facilitator’s primary responsibility is to ensure an open process where all member interests are heard and thoughtfully considered. To this end, the facilitator works on behalf of the process and the members contributing to the well ordinance efforts. Specific responsibilities include:

- Support the Director, Permit Sonoma staff and Chairs in developing and distributing working group agendas and relevant materials.
- Advocate for a fair, effective, and credible process, but remain impartial with respect to the outcome of the deliberations.
- Apply collaborative, interest-based negotiation methods that foster openness and identify areas of preliminary and final consensus agreement for advice and recommendations to the Director.
- In the absence of consensus, help identify areas of agreement and disagreement.
- Check in with members as needed to ensure all issues are identified and explored.
- Coordinate with the Director and Chair(s) to ensure accurate, impartial documentation of meetings and agreements (i.e. meeting summaries and recommendation reports).
- Ensure all members uphold the tenets of the charter.

### Ad Hoc Subcommittees

The PWG can form ad hoc subcommittees to assist with delving into a particular topic under the charge of the Director. Subcommittee composition should be representative of diverse interests and may also include members from the Technical Working Group. On an as needed basis, and in coordination with the Director, the facilitator, and PWG members, the chair will call for, solicit interested member participation, and affirm the charge and duration of the ad hoc subcommittee. The number of members on any ad hoc

subcommittee will generally be limited to five to ensure manageable group size and efficiency of working effort.

The Director, facilitators, and technical experts will provide assistance to ad hoc subcommittees as needed. A simple summary will be prepared for any ad hoc subcommittee meeting that takes place. The summary will memorialize the date of the meeting, who attended, topics, and key outcomes. Any ad hoc subcommittee products will be presented to the PWG for consideration. Ad hoc subcommittees will abide by the PWG process and working agreements.

## Decision-Making

Working groups will strive for consensus recommendations. Working toward consensus is a fundamental principle. Consensus means that working group members either fully support or can live with a recommendation. In reaching consensus, some members may strongly endorse a particular proposal while others may accept it as "workable." Others may be only able to "live with it." Still others may choose to "stand aside" by verbally noting a disagreement yet allowing the other members of the working group to reach a consensus. Any of these actions constitutes a consensus agreement.

Any member or members that disagree with a recommendation must provide an alternative that attempts to meet his/her interests while also meeting the interests of other members. The working groups will strive for consensus, but shall not limit to strict consensus if 100% agreement among all participants cannot be reached after all interests and options have been thoroughly identified, explored, and discussed. When unable to reach consensus on advice or recommendations, the recommendations report will outline the areas in which the working group does not agree, providing some explanation of both majority and minority viewpoints to inform the Director's policy recommendation.

The Director will prepare a recommendation report that will reflect the opinions of working group members and will identify areas of agreement and disagreement. The Director may request that the chair or co-chairs present recommendations to the Board of Supervisors, including areas of agreement and disagreement, consistent with working group deliberations. If the Director deems necessary, Permit Sonoma may prepare a supplemental report reflecting its guidance to the Board in complement to the recommendations report.

## Membership

Working group members are selected, added, or removed at the discretion of the Director. Working group composition is intended to reflect the diverse interests of stakeholders as well as technical expertise on groundwater management and revisions to Sonoma County's well ordinance as it pertains to the Public Trust Doctrine.

## Process and Working Agreements

To conduct a successful collaborative process, the facilitator and all working group members will working together to create a constructive, problem solving environment. To this end, all members agree to the following process agreements which the PWG and TWG will use, and to ground rules which will guide individual and group behavior.

## Process Agreements

- **Everyone agrees to negotiate in good faith.** All participants agree to participate in decision making, to act in good faith in all aspects of this effort and to communicate their interests during meetings. Good faith also requires that members not make commitments they do not intend to follow through with, and that members act consistently in the meetings and in other forums where the issues under discussion in these meetings are also being discussed.
- **Everyone agrees to address the issues and concerns of the participants.** Everyone who is joining in the PWG is doing so because s/he has a stake in the issue at hand. For the process to be successful, all the members agree to validate the issues and concerns of the other members and strive to reach an agreement that takes all the issues under consideration. Disagreements will be viewed as problems to be solved, rather than battles to be won.
- **Everyone agrees to inform and seek input from their constituents about the outcome of the facilitated discussions.** To the extent possible, scheduling will allow for members to inform and seek input from their constituents, scientific advisors, and others about discussions.
- **Everyone agrees that members can meet with other organizational or interest group members.** Members may find it helpful to meet with other organizations or interest group members and to consult with constituents outside of the meeting so the member is better able to communicate community concerns on the issues at hand.
- **Everyone agrees to attend all the meetings to the extent possible.** Continuity of the conversations and building trust are critical to the success. Members are encouraged to turn off cell phones and focus on the issue at hand. The Director or the facilitator will coordinate the meeting schedule.

## Working Agreements

- **Use Common Conversational Courtesy.** Treat each other with mutual respect as you discuss and deliberate groundwater issues.
- **All Ideas and Points of View Have Value.** All ideas have value in this setting. We are looking for innovative ideas. The goal is to achieve understanding. Simply listen, you do not have to agree. If you hear something you do not agree with or you think is "silly" or "wrong," please remember that the purpose of the forum is to share ideas.
- **Be Honest, Fair, and as Candid as Possible.** Put your interests forward, help others understand you and listen actively in order to understand others.
- **Avoid Editorials.** It will be tempting to analyze the motives of others or offer editorial comments. Please talk about *your own* ideas and thoughts. Avoid commenting on why you believe another participant thinks something.
- **Honor Time, Be Concise and Share the Air.** Help ensure an inclusive discussion by being cognizant of time constraints, stating your views clearly and concisely, and sharing the air so others can participate as well.
- **Think Innovatively and Welcome New Ideas.** Creative thinking and problem solving are essential to success. "Climb out of the box" and attempt to think about the problem in a new way.
- **Invite Humor and Good Will.** Don't hesitate to bring levity and humor to the process when warranted, as this often helps collaborative discussions.
- **Be Comfortable.** Please feel to help yourself to refreshments or take personal breaks. If you have other needs please inform the facilitator.
- **Be Engaged.** Please turn off (or place on vibrate mode) your cell phones and other mobile devices. If you must take a call or check emails, please take a personal break.

## Communication

Members are asked to speak only for their organization or themselves when asked by external parties, including the media, about the working group's progress, unless there has been a formal adoption of a statement, concepts, or recommendations. Members will refer media inquiries to the Director's communications lead. Members should be careful to present only their own views and not those of other participants. The temptation to discuss someone else's statements or position should be avoided. The Director's communications lead may refer media to the Chairs to speak on behalf of the working group.

## Amendments

The working groups can recommend and adopt future changes to the charter. Suggested changes may be put forward by the members, the facilitator, or the Director. The working groups will utilize its decision-making procedure to adopt changes to the charter. In the absence of consensus on suggested changes to the charter amendments, majority and minority views will be communicated to the Director, and the Director will have final decision making authority on charter content.