



**Concurrent Meetings Of  
SONOMA CITY COUNCIL**  
*(regular)*  
**COMMUNITY DEVELOPMENT AGENCY**  
*(special)*  
**Community Meeting Room, 177 First Street West**  
**January 18, 2012**  
**5:30 p.m. Closed Session**  
**6:00 p.m. Regular Session**

City Council  
Joanne Sanders, Mayor  
Ken Brown, Mayor Pro Tem  
Steve Barbose  
Laurie Gallian  
Tom Rouse

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**MINUTES**

**CLOSED SESSION**

At 5:30 p.m. Mayor Sanders called the meeting to order. No one from the public was present to provide public testimony on closed session items. The Council recessed into closed session with all members present. City Attorney Walter was also present.

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**, pursuant to Government Code §54956.8. Property: Sebastiani Theater, 476 First Street East, Sonoma. Agency Negotiators: Councilmember Barbose, City Attorney Walter & City Manager Kelly. Negotiating Parties: Sebastiani Building Investors, Inc. Under Negotiation: Price and terms of lease, sublease and assignment of sublease.

**REGULAR SESSION**

The City Council reconvened in open session and Mayor Sanders called the meeting to order at 6:45 p.m. Clm. Barbose led the Pledge of Allegiance.

PRESENT: Mayor Sanders and Councilmembers Barbose, Brown, Gallian, and Rouse  
ABSENT: None

ALSO PRESENT: City Manager Kelly, City Clerk Johann, City Attorney Walter, Public Works Director Bates, Police Chief Sackett, Planning Director Goodison.

**REPORT ON CLOSED SESSION**

Mayor Sanders stated that no reportable action had been taken.

**1. COMMENTS FROM THE PUBLIC**

Ed Kenney commented on the Veteran's flag being flown at the cemetery and the parcel tax being proposed by the Sonoma Valley Hospital.

Mr. Maffei stated concern for the safety of pedestrians at the intersection of Brazil and 4<sup>th</sup> Street East and asked the City to look into it.

**2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS**

Clm. Brown stated that the lack of rain and the City backing off water conservation measures were a concern to him that he would like to see addressed.

Councilmembers announced upcoming community events.

**3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS**

The City Manager did not make any announcements.

**4. PRESENTATIONS**

**Item 4A: Proclamation Declaring January 21, 2012 as Howie Ehret Day**

Mayor Sanders stated the proclamation would be read and Howie Ehret would be remembered at the celebration of his life at the Community Center on January 21, 2012.

**Item 4B: Proclamation Declaring January 2012 as Human Trafficking Awareness Month.** Proclamation was presented later, see below.

**Item 4C: Presentation of the Tuesday Night Valley of the Moon Certified Farmers Market for 2011**

Bill Dardon, Manager of the Valley of the Moon Certified Farmers Market, presented a report on the first year of the market. He stated the market had been highly successful and reported that having the City Party and Jazz concerts in conjunction with the Tuesday Market did not go so well. He said the larger crowds were too hard to manage and he felt had a damaging effect on the Plaza lawn in addition to increasing the market's costs due to increased use of the bathroom supplies and the need for additional recycling containers. He reported they would donate \$5,000 to a variety of charities. Mr Dardon reported that for the upcoming year they have added the use of walkie-talkies for staff; will be ramping up the recycling program and will reduce vendor fees across the board.

**5. CONSENT CALENDAR/AGENDA ORDER**

- Item 5A: Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.**
- Item 5B: Approve Transitional Memorandum of Understanding with SEIU Employees Georgette Darcy and Ann Marie Crudo for Outsourcing of All Associated Work Functions Encompassing All Negotiable Wages, Hours, Term and Conditions of Employment in conjunction with the City of Sonoma transition to Contracting all Fire Services with the Valley of the Moon Fire District.**
- Item 5C: Resolution Amending the City Manager Agreement to Comply With Changes in State Law. (Res. No. 03-2012)**
- Item 5D: Approval of the Execution of a Purchase Agreement for a New 2012 Chevrolet 4x4 Command/utility vehicle for the Fire Department. Removed from consent, see below.**
- Item 5E: Resolution adopting a new Engineering and Traffic Surveys to allow enforcement of speed limits on certain segments of roads. (Res. No. 04-2012)**
- Item 5F: Approval of the Minutes of the December 19, 2011 City Council / CDA Meeting. Removed from consent and carried over.**
- Item 5G: Resolution upholding the decision of the Planning Commission to approve a Temporary Use Permit allowing a seasonal outdoor food truck event within the main parking lot of the Sebastian Winery (implementing the City Council action of December 19, 2011). (Res. No. 05-2012)**
- Item 5H: Adoption of a Resolution of the City Council determining that the City of Sonoma shall not retain the housing assets and functions of the dissolved Sonoma Community Development Agency resulting in transfer of the housing assets and functions of the dissolved Sonoma Community Development Agency to the Housing Authority of the County of Sonoma, pursuant to Health and Safety Code Section 34176. Removed from Consent, see below.**

Clm. Barbose removed Consent items 5D and 5H for separate discussion and 5F to allow him time to prepare amendments to the minutes. There were no comments from the public. It was moved by Clm. Rouse, seconded by Clm. Brown, to approve the items remaining on the Consent Calendar. The motion carried unanimously.

**Item 5D: Approval of the Execution of a Purchase Agreement for a New 2012 Chevrolet 4x4 Command/utility vehicle for the Fire Department.**

Clm. Barbose asked for clarification on the purchase price. Chief Garcia stated that Sonoma Chevrolet had underbid the out-of-town dealers and the \$35,600 purchase price included the cost of necessary equipment.

Mayor Sanders invited comments from the public. Herb Golenpaul inquired why the Valley of the Moon Fire District was not purchasing the vehicle. David Cook stated it was great that the City was able to shop locally.

City Manager Kelly responded to Mr. Golenpaul by stating that, pursuant to the contract with VOM for fire services, each entity was responsible for its own fixed assets and equipment. It was moved by Clm. Barbose, seconded by Clm. Gallian, to approve purchase of the vehicle. The motion carried unanimously.

**Item 5H: Adoption of a Resolution of the City Council determining that the City of Sonoma shall not retain the housing assets and functions of the dissolved Sonoma Community Development Agency resulting in transfer of the housing assets and functions of the dissolved Sonoma Community Development Agency to the Housing Authority of the County of Sonoma, pursuant to Health and Safety Code Section 34176.**

Clm. Barbose explained that since the last meeting certain things had come to light that changed his opinion regarding this matter. He said there was a lot to be said about local control and there were other options available should the City become the successor agency. Clm. Barbose stated that it appeared a deal had been struck that would allow development of affordable housing on the Broadway property. Also, he said he had learned that there were non-profit organizations that would be willing to take over management of Village Green. Another factor influencing his opinion was that the County had its hands full and would not necessarily have the best interests of the community in mind.

Clm. Rouse asked how the housing function would be funded if the City kept it. City Manager Kelly responded that there would be no ongoing funding source and noted that the current fund balance (\$580,000) would be transferred to the County Auditor-Controller for distribution to the taxing agencies. She stated that salaries, professional services and miscellaneous costs to run the current program were approximately \$250,000 per year. She added that if the Council chose to retain the housing function, staff recommended that administration of the program be contracted out. Attorney Walter pointed out that property owned by the County was not subject to City zoning or General Plan designations.

Mayor Sanders invited comments from the public. David Brigode stated it was imperative that the City maintain control of its housing function. He said the County did not have a plan or experience in managing properties.

Susie Merrill, owner of property adjacent to City-owned property on Broadway, stated that if it the process were delayed by transference of the city property to the County; they would probably end up selling to someone else.

Laurie Zito of UCH, stated they had designed a good project and lined up tax credits that would be available in 2012.

Herb Golenpaul stated his opposition to the City giving up any affordable housing.

It was moved by Clm. Barbose, seconded by Clm. Gallian, to maintain the City's housing function. Attorney Walter stated that because of the way the item had been agendized; it would be necessary to carry it over to another meeting to make that decision. City Manager Kelly clarified that there was no guarantee that Ms. Zito would be the developer handling the Broadway property because the City would have to do a Request for Proposals before awarding a contract for its development.

The Council reached unanimous consensus to discuss the matter with the option to go in either direction at an adjourned meeting to be held January 30, 2012 at 5:00 p.m. They also agreed to carry over Agenda Item 7D to that meeting.

**CHANGE OF AGENDA ORDER AND ISSUANCE OF PROCLAMATION:**

Mayor Sanders asked to move up Agenda Item 7A. All agreed. Noting the presence of Kathy Hargitt, Mayor Sanders called her forward to receive the proclamation declaring January 2012 as Human Trafficking Awareness and Prevention Month. Ms. Hargitt thanked the City Council and spoke briefly on the issues involving human trafficking being addressed in Sonoma County.

**RECESS:** The meeting recessed 7:20 to 7:25 p.m.

**7. REGULAR CALENDAR**

**Item 7A: Discussion, consideration and possible action on an urgency ordinance placing a temporary moratorium on Formula Businesses. (Taken out of order)**

Planning Director Goodison reported that, pursuant to Council direction provided at the December 19, 2011 meeting, staff had prepared an urgency ordinance placing a temporary moratorium on Formula Businesses.

**Item 7A:      Discussion, consideration and possible action on an urgency ordinance placing a temporary moratorium on Formula Businesses, continued**

Clm. Barbose stated that a majority of the Council had expressed support for the adoption of a Formula Store ordinance and he supported the moratorium to allow time to take a deep breath while moving toward a finalization of the ordinance. He suggested limiting the moratorium to apply only to large-scale restaurants within the Plaza Overlay District.

In response to inquiries by Mayor Sanders, Attorney Walter explained: 1) that urgency ordinances required a four-fifths vote primarily because they bypass the normal planning process for an ordinance to be put in place; 2) the Council could make the finding that “formula retail businesses are currently applying for land use entitlements to locate and establish in the City, pose a current and immediate threat to the health, safety, and/or welfare of the citizens of Sonoma” because allowing the businesses would undermine and render ineffective the solution that was being sought through adoption of a permanent ordinance; and 3) the City had been sued for \$25 million by the owners of Rancho de Sonoma mobilehome park after it enacted an urgency ordinance preventing subdivision of mobilehome parks with an approximate cost to the City of \$60,000 in legal fees.

Mayor Sanders asked if the proposed ordinance would prevent a Williams-Sonoma store from locating on Broadway. Planning Director Goodison responded that not enough was known about the proposal to make a determination but he did not feel that the moratorium as drafted would prevent them from establishing a retail store at the proposed location.

Clm. Barbose pointed out that the lawsuit filed by the mobilehome park owner was not based solely on the moratorium; they also sued because of some of the conditions that were placed on their application for conversion to resident ownership.

Mayor Sanders invited comments from the public. Bonnie Krupp stated her disagreement with the moratorium. She claimed the City had not conducted any analysis of the financial implications, sales tax revenue or vacant properties. Ms. Krupp stated the Council should ask Sonoma residents what they want.

Deirdre Sheerin spoke in support of the moratorium as a method to protect the specialness of the Plaza area. She stated that big box stores could be located outside the Plaza area.

Regina Baker spoke in favor of allowing the Williams-Sonoma store and questioned how many wine tasting rooms the City was going to allow on the square.

Gina Cuclis stated that no one wanted to prevent Williams-Sonoma from locating here or to have the Plaza look like “everywhere USA”. She suggested the City Council take time to regroup and look for another solution.

David Cook stated that some review of new businesses should be required but he did not support a ban. He supported use of the City’s current regulations with the closure of a few loopholes.

Herb Golenpaul urged the Council to proceed cautiously.

Kathy Hargitt stated she opposed chain stores because most products that they sold were made in China.

Mara Cohn asked how the proposal would impact wine tasting rooms of small wineries owned by large constellation brands.

Stuart Teitelbaum spoke in support of the moratorium stating it would give the Council time to work out details for the formula store ordinance.

Nancy Simpson stated there must be a balance between our historic charm, fiscal responsibility and property rights. She said that bans were fiscally irresponsible to the City. She suggested requiring a conditional use permit for all new businesses, implementation of stronger historic guidelines and an update of the historic district guidelines. Ms. Simpson stated the Council should not adopt the moratorium and should rethink the entire process.

Jennifer Yankovich, Executive Director, Sonoma Valley Chamber of Commerce, stated the City need only use its design review, zoning and general plan regulations and should focus on the Plaza area. She stated that the message that was currently being sent was negative and was causing collateral damage. She urged the Council to consider other options.

**Item 7A: Discussion, consideration and possible action on an urgency ordinance placing a temporary moratorium on Formula Businesses, continued**

City Manager Kelly responded to some of the comments made by the public. She stated that staff met regularly with a consultant that studied and provided reports on sales tax revenue. The City also maintains a current vacancy database on its website. Mayor Sanders added that a survey conducted by the Chamber indicated that the number one loss of sales to out of town businesses was for office supplies. Planning Director Goodison stated that tasting rooms were considered retail and as such, a use permit was not required. He said the moratorium would not affect a small wine brand even if owned by bigger brand.

CIm. Rouse agreed with the comments made by Ms. Yankovich and stated that if the moratorium was imposed, the headlines would say "Sonoma Bans Corporate America From Coming Through The Gates". He added that he did not want to limit the entrepreneurial spirit and believed that uses could be limited around the Plaza through the permitting process.

CIm. Brown stated that the conversation could have stopped long ago since nothing had changed the minds of two councilmembers. CIm. Gallian agreed and added that it had become a significant issue and she wanted to deal with the loopholes that had been exposed.

CIm. Barbose stated that if a restaurant left the Plaza they would be allowed back because they already had a use permit. He questioned if it was bad messaging to say that we want to preserve what we have while we are working on a solution.

Mayor Sanders stated she would not support a moratorium and would like to see the Formula Store ordinance rethought. She pointed out that the two hundred fifty number (to meet the definition of a Formula Business subject to the use permit process) would preclude Williams-Sonoma from coming in. CIm. Barbose confirmed with Attorney Walter that the Formula Store ordinance would be reviewed by the City Council again before being sent to the Planning Commission for their consideration.

Mayor Sanders announced that there would be no moratorium and the draft Formula Store ordinance would come before the City Council for additional consideration.

**6. PUBLIC HEARINGS**

**Item 6A: Review and Consideration of: (1) a Refuse Rate Adjustment and Certain Program Modifications for 2011-2012 with City Franchisee Sonoma Garbage Company, Inc. ("SGC"); (2) Fourth Amendment to Contract (Franchise Agreement with SGC); and (3) Indemnification Agreements with Keller Canyon and Redwood Landfills.**

City Manager Kelly reported the City's franchise refuse hauler, Sonoma Garbage Company, Inc. [SGC] submitted a proposed rate increase for the 2012 annual period. The proposal included three components for consideration; 1) an increase to the 2012 Refuse Collection Rates; 2) Completion of the Outhaul Provision and Return to Sonoma County Landfill Disposal; and 3) Implementation of the Commercial Food Waste Composting Service.

CIm. Rouse confirmed that the proposed rate increase for commercial customers would apply to all even if they did not participate in the food waste program.

Mayor Sanders opened the public hearing. Herb Golenpaul complained that because he lives in a mobilehome park he did not have any say in whether he subscribed to garbage service or not. He said there should be no rate increases.

John Curatto stated that it was not a mandatory service; that it was up to individuals to call and subscribe. Ken Wells stated that "commercial" was defined by the type of service that someone signed up for. Those with big dumpsters were subject to the surcharge. He said they considered the matter extensively and decided that the best way to encourage businesses to divert food scraps and reduce greenhouse gas emissions was to charge all commercial businesses.

Seeing there were no additional comments, Mayor Sanders closed the public hearing.

CIm. Barbose pointed out that even with the proposed increases, the rates were lower than in most other Sonoma County cities. It was moved by CIm. Barbose, seconded by CIm. Gallian, to approve all program components and rate increase comprised of the following elements: 1) Residential Rate increase of 4.54% effective January 1, 2012, and Commercial Rate increase of

### **Item 6A, Garbage Rates, Continued**

7.55%; 2) Complete final year of outhaul to Napa Transfer Station; 3) Implement Commercial Food Waste Composting Service; 4) Amendment to Franchise Agreement; 5) Approve the indemnification agreements with Keller Canyon and Redwood Landfills. Attorney Walter stated that staff would bring back a resolution incorporating all the elements of the action at a future meeting. Clm. Rouse stated he wanted to see the food scrap surcharge spread throughout the entire City. After Mr. Wells clarified that residential customers were already paying for the food waste program; he changed his mind and the motion carried unanimously.

**RECESS:** The meeting recessed 9:10 to 9:15 p.m.

### **Item 7B: Discussion, consideration, and possible introduction of an ordinance to regulate the placement, appearance, number, size and servicing of newsracks on the public rights-of-way.**

Economic Development Manager Decker reported that the City's Newspaper Rack Policy had been in place since adopted by the City Council in 1990. The policy established guidelines regarding design and placement of newspaper vending machines in the public right-of-way, required an encroachment permit, and identified a procedure for removal of non-conforming newspaper vending machines. Issues relating to the racks had negatively impacted the City's efforts to maintain and improve the appearance and vitality of the downtown area, pose potential safety hazards, and led to complaints by businesses and property owners. Staff felt that an ordinance was needed.

Decker stated that the draft ordinance had been developed over the past several months with feedback from publishers and was designed to meet First Amendment obligations while addressing the issues in a way that did not create burdensome administrative or enforcement requirements for City staff. She responded to a few questions posed by the City Council.

Mayor Sanders invited comments from the public. Nancy Simpson, Tom Haeuser, Herb Golenpaul and Jennifer Yankovich all spoke in favor of the ordinance and thanked the City Council for addressing the issue.

It was moved by Clm. Rouse, seconded by Clm. Brown, to introduce the ordinance entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA AMENDING TITLE 12 OF THE SONOMA MUNICIPAL CODE BY ADDING A SECTION REGULATING NEWSRACKS. The motion carried unanimously.

### **Item 7C: Discussion, consideration and possible approval of a new event at Plaza Park for the 2012 Gran Fondo Bike Ride.**

Public Works Director Bates reported that Planetz/Echelon (Hunter Ziesig) had filed an application to conduct a Gran Fondo Bike Ride on Saturday, May 12, 2012. She explained that Gran Fondo was a European-style mass start cycling ride. The event would offer fanfare and frivolity that will include food, wine, and entertainment on the Plaza and was expected to attract 1,200 riders with 2,500 or more in attendance. The Special Event Committee met with the event organizers and discussed conditions and fees. Their application included a request for use of the turf during the "off season" and the use of two large blow-up arches in addition to a request for a fee waiver. The Community Services and Environment Commission conducted a general review of the event at their January 11, 2012 meeting and recommended denial of the fee waiver request due to the size of the event and potential impact to the Plaza.

Mayor Sanders invited comments from the public. Michael Sexton and Hunter Ziesing addressed the Council further describing past events and the plans for May 12, 2012. Mr. Ziesing stated they would like this to become an annual event and stated they would use local vendors. Regarding the request for a fee waiver, he explained that it would cost over \$150,000 to produce the event and whatever the Council could do in that regard would be appreciated.

Clm. Brown expressed concern that by designating "charity of choice" they could make the required charitable contribution to any organization. Mayor Sanders stated that the City was not in a position to waive the fees given the demise of the redevelopment agency.

It was moved by Clm. Barbose, seconded by Clm. Gallian, to approve: 1) the 2012 Gran Fondo Bike Ride; 2) the use of two blow-up arches at entrance/exit of City Hall; and 3) the Street Use Permit; but to deny the request for a fee waiver. At the recommendation of City Manager Kelly, the motion was amended to include a waiver of the rule requiring a 40% donation to a local non-profit organization. The motion carried unanimously.

Noting that it was after 10:00 p.m., it was moved by Clm. Barbose, seconded by Clm. Rouse, to adjourn the meeting. The motion carried four to one, Clm. Brown dissented.

**Item 7D: Adoption of amended Enforceable Obligation Payment Schedule for former Sonoma Community Development Agency, pursuant to AB1X 26.**

Carried over to January 30, 2012 adjourned meeting.

**8. COMMENTS FROM THE PUBLIC - None**

**9. COUNCILMEMBERS' REPORTS AND FINAL REMARKS - None**

**10. ADJOURNMENT**

The meeting was adjourned at 10:20 p.m. to January 30, 2012.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the 6<sup>th</sup> day of February 2012.

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Gay Johann, MMC  
City Clerk