

[AMENDED]



**SPECIAL AND REGULAR MEETINGS OF THE
SONOMA CITY COUNCIL
&
CONCURRENT SPECIAL MEETING OF
SONOMA CITY COUNCIL AS THE SUCCESSOR
AGENCY TO THE DISSOLVED SONOMA
COMMUNITY DEVELOPMENT AGENCY**

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

**February 6, 2012
5:30 P.M.**

Be Courteous - **TURN OFF** your cell phones and pagers while the meeting is in session.

5:30 – 6:00 P.M. – SPECIAL JOINT MEETING WITH THE SONOMA VALLEY HEALTH CARE DISTRICT

Location: Emergency Operations Center, 177 First Street West, Sonoma CA 95476

Topics for Discussion:

- a. Hospital updates Council on Vision and Master Facility Plan
- b. Hospital updates Council on Operations and need for Parcel Tax
- c. Current services for Senior Citizens including potential opportunities for partnering
- d. Comments from Councilmembers and Board Members, if time permitting

6:00 P.M. – CONCURRENT REGULAR MEETING OF SONOMA CITY COUNCIL AND SPECIAL MEETING OF THE SONOMA CITY COUNCIL AS SUCCESSOR AGENCY TO THE DISSOLVED SONOMA COMMUNITY DEVELOPMENT AGENCY

Location: Community Meeting Room, 175 First Street West, Sonoma CA 95476

OPENING

CALL TO ORDER & PLEDGE OF ALLEGIANCE
ROLL CALL (Barbose, Rouse, Brown, Gallian, Sanders)

1. COMMENTS FROM THE PUBLIC

At this time, members of the public may comment on any item not appearing on the agenda. It is recommended that you keep your comments to three minutes or less. Under State Law, matters presented under this item cannot be discussed or acted upon by the City Council at this time. For items appearing on the agenda, the public will be invited to make comments at the time the item comes up for Council consideration. Upon being acknowledged by the Mayor, please step to the podium and speak into the microphone. Begin by stating and spelling your name.

2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS

Item 2A: Councilmembers' Comments and Announcements

3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS INCLUDING ANNOUNCEMENTS FROM SUCCESSOR AGENCY STAFF

4. PRESENTATIONS

- Item 4A:** Recognition of Anne Appleman's service on the Design Review Commission
- Item 4B:** Recognition of Sarah Summer's service on the Community Services and Environment Commission
- Item 4C:** Presentation by Sonoma Valley Dog Owners and Guardians (SVD OG) regarding recommendations for changes to dog policies and practices

5. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL

All items listed on the Consent Calendar are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of the Council, staff, or public request specific items to be removed for separate action. At this time Council may decide to change the order of the agenda.

- Item 5A:** Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only. (Standard procedural action - no backup information provided)
- Item 5B:** Approval of the Minutes of the November 7, 2011, December 19, 2011 and the January 18, 2012 City Council / CDA Meetings.
Staff Recommendation: Approve the minutes.
- Item 5C:** Ratification Action of City Council from January 18, 2012 by approving the Resolution for a Refuse Rate Increase and Related Program Elements.
Staff Recommendation: Approve resolution ratifying action from January 18, 2012.
- Item 5D:** Approval of application by Destination Races for temporary use of City streets for the Napa to Sonoma Wine Country Half Marathon on Sunday, July 15, 2012.
Staff Recommendation: Adopt the resolution approving the use of city streets and recommending Caltrans approval subject to conditions included in the staff report.
- Item 5E:** Adoption of an ordinance to regulate the placement, appearance, number, size and servicing of newsracks on the public rights-of-way.
Staff Recommendation: Adopt the ordinance.
- Item 5F:** Adoption of a resolution of the City Council of the City of Sonoma and the City Council as Successor Agency establishing the regular meetings of the City Council for the 2012 calendar year.
Staff Recommendation: Adopt resolution.

6. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL AS SUCCESSOR AGENCY

All items listed on the Consent Calendar are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of the Council, staff, or public request specific items to be removed for separate action. At this time Council may decide to change the order of the agenda.

- Item 6A:** Approval of the Minutes of the November 7, 2011, December 19, 2011 and the January 18, 2012 City Council / CDA Meetings.
Staff Recommendation: Approve the minutes.

6. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL AS SUCCESSOR AGENCY, Continued

- Item 6B:** Adoption of a resolution of the City Council of the City of Sonoma and the City Council as Successor Agency establishing the regular meetings of the City Council for the 2012 calendar year.
Staff Recommendation: Approve the resolution.

7. PUBLIC HEARING

- Item 7A:** Continued discussion, consideration and possible introduction of amendments to the Sonoma Municipal Code establishing new and modified regulations addressing live music performances and special events. (Planning Director)
Staff Recommendation: Review ordinance, provide direction with respect to any revisions and refer to the Planning Commission for final review.

8. REGULAR CALENDAR – CITY COUNCIL

(Matters requiring discussion and/or action by the Council)

- Item 8A:** Discussion, consideration and possible action on a proposal to amend the Municipal Code by creating a permit process for street performers.
Staff Recommendation: Council discretion.

- Item 8B:** Discussion, consideration and possible action providing direction to the Mayor regarding the City's vote on appointments by the City Selection Committee at their February 9, 2012 meeting.
Staff Recommendation: Discuss and consider, and provide direction to the Mayor regarding appointment recommendations.

9. REGULAR CALENDAR – CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED SONOMA COMMUNITY DEVELOPMENT AGENCY

(Matters requiring discussion and/or action by the Council)

No items scheduled.

10. COMMENTS FROM THE PUBLIC

11. COUNCILMEMBERS' REPORTS AND FINAL REMARKS

- Item 11A:** Reports Regarding Committee Activities.

- Item 11B:** Final Councilmembers' Remarks.

12. ADJOURNMENT

I do hereby certify that a copy of the foregoing agenda was posted on the City Hall bulletin board on February 2, 2012.

GAY JOHANN, CITY CLERK

Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are available for public inspection the Monday before each regularly scheduled meeting at City Hall, located at No. 1 The Plaza, Sonoma CA. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the City Council regarding any item on this agenda after the agenda has been distributed will be made available for inspection at the City Clerk's office, No. 1 The Plaza, Sonoma CA during regular business hours.

If you challenge the action of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described on the agenda, or in written correspondence delivered to the City Clerk, at or prior to the public hearing.

In accordance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (707) 933-2216. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 4A

Meeting Date: 02/06/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Recognition of Anne Appleman's service on the Design Review Commission

Summary

The City Council desires to publicly recognize the volunteers who so selflessly serve on the various City commissions.

Anne Appleman has served on the Design Review commission since January 18, 2006.

Recommended Council Action

Mayor Sanders to present a certificate of appreciation to Anne Appleman

Alternative Actions

N/A

Financial Impact

N/A

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

Certificate

cc:

Anne Appleman via email

City of Sonoma
CERTIFICATE OF APPRECIATION

Is Hereby Presented To

ANNE APPLEMAN

For Her Dedicated Service to the City

DESIGN REVIEW COMMISSION
January 18, 2006 – January 18, 2012

Presented This 6th Day of February 2012

Joanne Sanders, Mayor





City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 4B

Meeting Date: 02/06/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Recognition of Sarah Summer's service on the Community Services and Environment Commission

Summary

The City Council desires to publicly recognize the volunteers who so selflessly serve on the various City commissions.

Sarah Summers has served on the Community Services and Environment Commission as the youth representative since May 5, 2010.

Recommended Council Action

Mayor Sanders to present a certificate of appreciation to Sarah Summers

Alternative Actions

N/A

Financial Impact

N/A

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

Certificate

cc:

Sarah Summers via email

City of Sonoma
CERTIFICATE OF APPRECIATION

Is Hereby Presented To

SARAH SUMMERS

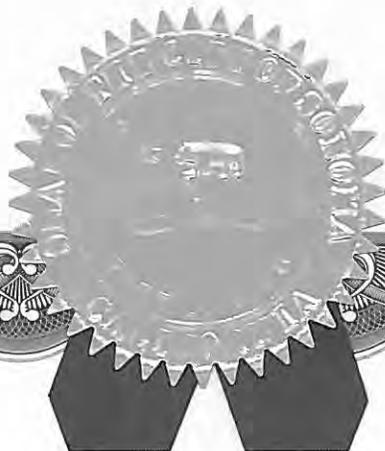
For Her Dedicated Service to the City

COMMUNITY SERVICES & ENVIRONMENT COMMISSION

May 5, 2010 – January 9, 2012

Presented This 6th Day of February 2012

Joanne Sanders, Mayor





City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 4C

Meeting Date: 2/6/12

Department

Administration

Staff Contact

Linda Kelly, City Manager

Agenda Item Title

Presentation by Sonoma Valley Dog Owners and Guardians (SVDOG) regarding recommendations for changes to dog policies and practices

Summary

Bob Edwards of SVDOG is scheduled to present recommendations to the City Council regarding changes to the City's dog policies and practices. The attached report contains 23 recommendations, including proposals for Municipal Code amendments, establishment of new or revised policies and procedures and establishment of new programs.

Recommended Council Action

Receive presentation.

Alternative Actions

Reschedule presentation.

Financial Impact

N/A for presentation. Staff has not conducted a fiscal analysis of the impact of implementing the recommendations.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Letter from SVDOG
Recommendations from Bob Edwards of SVDOG

cc: Bob Edwards, SVDOG via email

12/11/11

Dear City Council & Staff -

Attached are Recommendations developed by local dog lovers in response to a discussion at City Council's meeting of September 7, 2011. At that time, then-Mayor Pro Tem Sanders asked Council to consider amending the City's current ordinance dealing with vicious dogs.

While Police statistics established that the City of Sonoma does not have a vicious dog problem, some residents spoke of personal experience in situations in which they had felt menaced by dogs. Incidents occurring in other counties and cities were referenced by Ms. Sanders and others.

Asked to explore options for Council's consideration, Staff noted that any breed-specific ban would be an unlawful response to such concerns. For a variety of reasons, a (permissible) breed-specific spay/neuter mandate was strongly opposed by dog groups and other members of the public who spoke, particularly in the absence of evidence of a dog or breed overpopulation problem in Sonoma. Council eventually declined to take action on the agenda item.

At the meeting, representatives of [SVDOG](#) and [Pets Lifeline](#) offered to explore practical ways to address whatever concerns might exist regarding dogs in Sonoma, and to develop recommendations for Council's consideration. They subsequently hosted a public meeting on October 25 in the Sonoma Community Meeting Room, where a small but enthusiastic group proposed numerous positive ideas. Those ideas are included in the Attached, augmented by additional proposals from an *ad hoc* Steering Committee consisting of two representatives from SVDOG and two from Pets Lifeline.

While the Attached proposals are by no means exhaustive, they all relate to elements necessary to a safe and welcoming community for dogs and people: (1) Responsible dog ownership, (2) informed behavior-based (not breed-based) regulations, and (3) a recognition of the important contribution of all breeds of well-socialized dogs to a community's quality of life. The importance of these elements to Sonoma residents is reflected in the fact that -- if national statistics are any guide -- there are probably as many or more dogs than children living in City households.

It is hoped these ideas are useful references in any revisions of the City's ordinances Council may elect to undertake. The undersigned believe that the specific ordinance changes recommended are necessary and/or highly desirable. The implementation of other of the proposals would not require specific legislation by Council, but rather a collaboration with or among the City, public and/or private entities, interested citizens and/or dog professionals. [NOTE:

The Attached has been provided in Word.doc format for Staff & Council's cut-&-paste convenience.]

The below members of the ad hoc Steering Committee are available to Staff & Council should additional input or information be desired.

Bob Edwards - SVDOG - r.edwards@comcast.net

Nancy King - Pets Lifeline - nancyking@petslifeline.org

Ellen Brantley - Pets Lifeline - ellen@winwindogtraining.com

Julie Maneker - SVDOG - dixndaze@yahoo.com

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Purpose

The purpose of the public meeting hosted on October 25 by SVDOG and Pets Lifeline with the assistance of the Sonoma Police Dept was to gather community ideas and viewpoints to develop specific recommendations for City Council that would:

- Create effective, efficient, fair and humane procedures for reporting, investigating and responding to specific concerns and complaints about dogs who may present a danger to public safety in the City.
- Promote canine health, safety and well-being by expanding affordable voluntary spay/neuter programs for dogs residing in the City.
- Make the City of Sonoma more Dog Friendly for residents and visitors by improving opportunities for canine socialization and exercise important to developing and maintaining healthy, well-behaved dogs

Recommendations¹

The following recommendations are presented in no particular order. They are a mix of proposals, some of which can be implemented only by action of City Council and others which would require action by community businesses, non-profits and other entities, in collaboration with the City and/or each other. Some are general/conceptual, while others are more specific. A number of them augment and expand upon the initial purposes and suggest additional means to accomplish them.

We believe that through public understanding, consensus and collaboration, Sonoma can be recognized as a community that is safe and welcoming for dogs and for people.

1. Amend Sonoma's Vicious Dog Ordinance to Protect Dogs and the Public

Though there has been no documented problem of vicious dogs in Sonoma, the City should be guided by successful methods and ordinances of other communities who have dealt with the issue. E.G., Calgary, Alberta has excellent suggestions which can be read on The National Canine Research Council's website².

The current ordinance (Municipal Code Section 8.12.050) is vague as to the handling of complaints against specific dogs or their owners. As such, it places an unfair burden on Animal Control officers responding to complaints, provides no due process protection for dogs or their owners and provides only limited guidance to the general public. The community would benefit from greater clarity as to how complaints about vicious dogs will be handled should they occur, and the consequences of violations. This is

¹ For a comprehensive understanding of the basis for many of the recommendations made, please visit the website of the **National Canine Research Council** at: <http://nationalcanineresearchcouncil.com/>

² A copy of Calgary's Information Folder provided to dog owners by the City of Calgary Animal Services Dept. has been obtained, courtesy of Vintage Kennel and Spa, and is available for review on request

particularly important for any ordinance that subjects a dog to impoundment and forfeiture, which might mean that a dog can be taken from its family and euthanized.

It is recommended that the City's current vicious animals ordinance be replaced with language such as contained in the Healdsburg ordinance, which is included for reference in the **APPENDIX** to these recommendations.

2. “Operation Socialization”

Early and continuing socialization is critical in developing and maintaining good behavior in dogs. In cooperation with the Chamber of Commerce, the Visitors Bureau, Pets Lifeline and local dog owners, we recommend that the City sponsor an “Operation Socialization,” a collaboration of local businesses, dog-lovers and dog trainers that emphasizes socialization for puppies and dogs of all ages. Businesses would receive stickers for their storefronts advertising that their location welcomes dog visits. Trainers who become Operation Socialization certified receive handouts, training protocols, and marketing materials. Owners get a puppy passport that allows them to track valuable steps in their young dog's socialization process. SVDOG currently posts a list on its website of known dog friendly businesses. A sticker type program would allow dog owners to easily see and patronize businesses that are amenable to socializing visits.

3. Increase Community Canine Safety Information.

Increase educational opportunities about canine behaviors for those who come in frequent contact with dogs. E.G., provide information to the public (via dog licensing material, adoption material, newspaper articles and on websites for the City and various local dog organizations) on how to read dog body language and how to avoid dog bites, especially for children.³ Ethology (the science of animal behavior) teaches that dogs offer many signals before they actually bite. Being able to “read” dogs helps change responses to them and lowers their stress.

4. Add a “Traffic School” Educational Component to Dog Law Enforcement.

For owners whose dogs are judged to be a public safety concern, or for owners who have violated dog-related ordinances (e.g., leash laws, licensing, etc.), include a “traffic school model” of enforcement that combines enforcement (fines) with an option/alternative of education to address problem behavior (dog and/or human) and reduce the likelihood of future incidents that can create hazards for dogs or the general public. The education component of enforcement could be provided by Pets Lifeline or other certified dog trainers, with cost to be born by owner.

³ E.G., see accompanying information folder from the City of Calgary

5. Evaluate Cost/Benefits of Contracting the City's Dog Licensing Function to Pets Lifeline

In collaboration with Pets Lifeline and the Police Dept., evaluate the costs-benefits of gradually shifting the licensing function to Pets Lifeline. Currently, the function is performed by the Police Dept. for fees that only cover its staff clerical costs. If contracted to Pets Lifeline, the licensing process might (a) provide revenue to PLL to support periodic low-cost voluntary spay/neuter clinics, (b) distribute educational and resource information important to Responsible Dog Ownership, and (c) maintain the City's dog population registry for use by Animal Control Officers for enforcement purposes, with a portion (To Be Determined) of the licensing fee returned to the City for the general fund and animal control functions.

At a minimum, dog license applications and licenses, for the City and the County, should be made available through PLL -- and through trainers, veterinarians, pet-sitters, pet supply stores, etc., willing to serve as licensing agents -- in order to maximize license compliance opportunities and reduce police clerical burden.

Benefits of contracting the licensing function might include:

- a) Converting the perception of the licensing function from negative one (a "tax" on dog ownership) to a positive one that invites owners to protect their dogs by integrating them into the community "pack."
- b) "One-stop-shopping" convenience that would incentivize/encourage those who do not now license their dogs to do so, helping to reduce non-compliance.
- c) Relieve city police staff of licensing clerical duties
- d) Increase revenue opportunity for Pets Lifeline to support voluntary spay/neuter & responsible ownership education.
- e) Promote the protective benefit of licensing, which creates a "lost dog" registry to assist in reunification.
- f) PLL might eventually be able to maintain a central registry of all licensed dogs, including those adopted at PLL, send out/publicize annual reminders to owners to renew license, and make various reports to Animal Control as required for enforcement or other purposes.

6. Offer "Lifetime" Dog Licenses.

Provide owners an option to purchase a "lifetime" license for a dog, at a higher fee (TBD), with the only annual renewal obligation being provision of periodic rabies vaccination certificate.

7. Announce a License Amnesty.

Provide a One-Time-Only-No-Questions-Asked “amnesty” for those who may be harboring unlicensed dogs in the City, in an effort to increase voluntary licensing compliance.

8. Encourage Micro-chipping.

Encourage owners to microchip their dogs to aid in reunification, perhaps by offering a reduced license fee for dogs that are both spayed/neutered and chipped.

9. License Fee Waiver.

At the time of initial licensing or at any subsequent annual renewal, the fee should be waived for any intact dog whose owner agrees to pay the low-cost fee to have it spayed/neutered.

10. On-line Licensing/Registration to Facilitate Compliance

Provide an option of self-licensing dogs on-line, with the proviso that rabies vaccination certificates be submitted by a date certain thereafter. An online form would allow owner to provide all registration information currently gathered, and to upload pictures/description of the dog to be used in event dog is lost/strays. Owner could also provide contact information to be used for reunification. Tags could be mailed to the owner upon receipt of the rabies certification.

11. Add Dog-related Information Page or Links to City’s Website

Create a “Dog Page” and/or links on the City’s website to enable dog-owners and the general public to:

- a) check the registration of dogs residing at a given address (thus reinforcing licensing enforcement),
- b) access information relevant to Responsible Dog Ownership, e.g., care, feeding, training, licensing, poop-scooping, etc.
- c) locate professionals and businesses in and around the City, such as trainers, veterinarians, groomers, etc, who provide services for dogs & their owners,
- d) identify pet-friendly hoteliers and businesses that welcome dogs,
- e) quickly access all City ordinances & laws relevant to dogs,
- f) publish contact numbers and procedures for reporting lost/found dogs and filing complaints about dogs/dog-owners

12. Increase Fines for Violation Dog Regulations.

In amounts TBD, increase all license fees and fines, to the degree permitted by state law, especially for violating leash laws, picking up poop, etc.

13. Breeding Permit Fees

Research the legality of establishing a “breeding permit fee” (in addition to the regular dog license fee) for any intact dog residing in the City. Its purpose would be to (a) incentivize owners to spay/neuter their animals and (b) assist Animal Control Officers in identifying dogs in the City who could present a behavior or at-large enforcement problem.

14. Change the Three-Dog Limit

Amend the City ordinance that currently limits the number of dogs per dwelling to three.⁴ While dog-lovers and the general public strongly oppose animal “hoarding,” public health and safety, responsible dog ownership and neighborhood peace and quiet should be the primary considerations for limiting the number of dogs allowed in a dwelling. It is recommended that the City change the ordinance in one of the following ways:

(i) Raise the limit of dogs per dwelling to four dogs, and delete the provision for keeping additional dogs by permit or otherwise, or

(ii) Give trained animal control officers the authority -- after investigation, inspection, review of past complaints, input from neighbors, etc. -- to grant a permit for one or more additional dogs without regard to lot size. Such permit could be subject to conditions as the officer may impose. Denial of a permit or objections to conditions could be appealed to the City Planning Commission. Immediate neighbors opposed to the grant of a permit or required conditions could likewise appeal.

15. Amend Leash Laws

Amend the City’s leash laws to prohibit flexible leashes extended beyond the current 8-foot leash limit.

16. Re-name “Animal Control”

Change references to “Animal Control” in the City ordinances to “Animal Care and Control,” to reflect the fact that dogs and other animals are valued members of many City families and households, and are in need of care and protection as well as “control.” The change would recognize that, in addition to enforcing dog laws, investigating and prosecuting animal abuse and neglect is a primary and important function of these officers.

⁴ Currently, additional dogs are allowed by special permit if the lot size is at least ¼ acre, in which case an additional dog is allowed for each 6,000 square feet or fraction thereof by which a residential parcel of land exceeds 12,000 square feet in area. Hardship permits are also possible without regard to lot size, if approved by the Planning Commission.

17. Establish Annual Dog Behavior and Safety presentation in local elementary schools.

Animal Control, in cooperation with Pets Lifeline, the county Humane Society Shelter and local dog professionals, and the Sonoma Valley Unified School District should establish a formal, annual Dog Behavior and Safety presentation as a regular part of the elementary school curriculum in designated grades, and the presentation should be open to parents. National statistics suggest that many dog bites are incurred by children who are often bitten/nipped by dogs in their own families. The course would benefit child safety, expose young children to the joys and responsibilities of having a dog, and teach them respect for animals.⁵

18. Expand On- and Off-Leash Access and Exercise Opportunities for Dogs in the City

Exercise, recreation and human contact in a variety of situations are critically important to developing well-socialized, well-behaved dogs. It is therefore recommended that:

- a) Sonoma Valley Unified School District open one or more its fields in the City to registered City dog owners during non-school hours, under a program that could generate revenue for schools while providing a benefit to the community. A model of such a program is APPENDED hereto
- b) The City, on its own or in collaboration with other entities and interested citizens, should expand public off-leash space in the City. The current off-leash dog-park next to the police station is widely regarded by dog professionals and owners alike as inadequate to safely accommodate the number and variety of dogs living in the City, as well as those of tourists surprised to find no public dog-park comparable to those in their own communities. Sonoma is alone among nearby destination towns in virtually excluding dogs – on or off-leash – from public recreational space.⁶
- c) With the exception of the Plaza and the current Overlook Trail east of Norrbom Rd, the blanket prohibition on dogs in City parks and open spaces should be lifted to allow residents to take leashed dogs with them to any of the City’s public parks and trails.
- d) The total ban on dogs on the Plaza should be modified, to provide that City Council may - from time to time – vote to permit leashed dogs on the Plaza on special days or occasions, to the same extent it has discretion to permit or deny other requested uses on an *ad hoc* basis. Because people picnic there, The Plaza should *not* become a *de facto* dog park. However, there are

⁵ The therapeutic benefit of dogs for children with a variety of developmental needs is well established. Teaching children to respect animals benefits the community, as studies have shown that cruelty to animals by children often portends violent behavior in adults. Pets Lifeline and various animal professionals have conducted such programs, though not as a required part of the curriculum.

⁶ Dogs are allowed on the bike path only by unspoken agreement of City authorities that language describing the bike path as a City “park,” and technically off-limits to dogs, is a “mistake.”

occasions when the presence of dogs on the Plaza is an asset to the community. E.G., on the 4th of July, when dogs belonging to regional tourists mingle with throngs of people. The ordinance should allow Council the discretion to permit leashed dogs on the Plaza for special occasions.

19. Encourage and Promote Dog-Related Events that Enhance Tourism.

In public space provided by the City (e.g., Field of Dreams) or the County (e.g., the Veteran’s Building) local organizations, dog-related businesses and dog-fanciers should be permitted to organize and sponsor dog-related events and exhibitions popular with dog-lovers, with the potential to draw increased tourism and public attention to Sonoma as a welcoming place for those with dogs.⁷

20. Designate Sonoma as a “No-Kill City.”

Council should adopt an ordinance declaring it to be the public policy of the City that no dog licensed and living in the City of Sonoma shall be destroyed for any reason unless and until the dog (i) has been examined by a licensed veterinarian and found to be suffering in a terminal condition, or (ii) has been adjudicated to be a vicious dog presenting a clear and present danger to public safety and Animal Control Officers have certified that alternative means to preserve the life of the dog through safe management, adoption and/or placement in sanctuary, have been explored and exhausted. This current goal/practice of Animal Control should be codified in an ordinance.

21. Clarify the Barking Dog Ordinance.

Dogs are often valued because they bark and alert their families to possible dangers. Section 8.12.50 (Barking or Howling Dogs) unfairly and impractically targets dogs whose barking – even if provoked and not continuous -- can be heard at 100 feet. Nearly every dog bark can be heard at that distance. Other offensive noises permitted by the Noise ordinance (Chapter 9.56) can be heard much further and/or be far more continuous or offensive (e.g., leaf-blowers). Section 8.12.50 should be repealed or re-written to clarify that barking is not a violation of the ordinance unless it is (by some measure TBD) continuous over some period of time, as reported in neighbor complaints.

22. Allow Puppies Out For Training

Section 8.12.060 (Dogs under four months to be confined) should be amended to codify the current Animal Control practice that allows puppies to attend puppy socialization and training classes, even though their vaccination regimen is incomplete. Socialization of puppies in their early weeks and months is critical to their development as well-behaved dogs at ease around humans and other canines.

⁷ Activities suggested included canine agility demonstrations, regional dog shows and obedience trials, sheep-herding trials, “dancing-with-your-dog,” exhibitions, etc.

23. Amend the Tethering Ordinance.

Section 8.16.020 (A) (Tethering) should be modified to permit brief (to be defined) tethering of dogs in public places in a manner that does not endanger the health or safety of the dog or of passers-by, including pedestrians and other animals or vehicles. This would allow owners to briefly enter a shop or store that does not admit dogs, provided the dog is safely restrained. Section 8.16.020 (B) Restrictions on leaving dogs in vehicles, should also be expanded to conform to state law, and to authorize any person reasonably believing that the confined dog is in eminent danger of death or serious injury due to such confinement and unable to locate the owner or an Animal Control Officer, to break and enter the vehicle to rescue the dog.

* * * *

APPENDIX

I. Healdsburg Dangerous or Vicious Dog Ordinance

ORDINANCE NO. 1053

ARTICLE IX—POTENTIALLY DANGEROUS AND VICIOUS DOGS

Section 3.54 Authority and Purpose.

The keeping of a dog defined as potentially dangerous or vicious under this chapter shall be declared a public nuisance and shall be abated in accordance with the provision of this article. The procedure for abatement set forth in this article shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other ordinances or abating public nuisances in any other manner provided by law or under this chapter. Furthermore, this article shall not preempt or preclude a person from filing a private lawsuit seeking to abate as a private nuisance any dog that is dangerous. Pursuant to California Food and Agricultural Code Section 31683, the city is granted the authority to adopt its own program for the control of potentially dangerous or vicious dogs.

Section 3.55 Purpose—Exemptions.

a. This article does not apply to kennels, humane society shelters, the Animal Shelter, or veterinarians, or to dogs while utilized by the sheriff, any police department or any law enforcement officer in the performance of police work.

b. A “potentially dangerous dog” or “vicious dog” does not mean any dog in a situation in which it is shown that the person or domestic animal suffering the injury or damage had, at the time of the injury or damage:

1. Provoked, tormented, teased, abused or assaulted the dog into the behavior alleged;
2. Committed a willful trespass or other tort upon the private property of the owner of the dog;
3. Committed or attempted to commit a crime; or
4. Threatened or committed an unjustified attack or assault against the owner or person in control of the dog.

Section 3.56 Investigation, Hearing, and Designation of Potentially Dangerous and Vicious Dogs.

a. An Animal Control Officer shall investigate any reported incident regarding a potentially dangerous or vicious dog.

b. During the investigation, the Animal Control Officer shall compose a report to be permanently retained pursuant to adopted procedures. The report shall be signed under penalty of perjury by the Animal Control Officer. The Animal Control Officer shall make his best efforts to take a photograph of the dog to include with the report.

c. The Animal Control Officer shall append to the report the statements of witnesses, victims and the dog owner. These statements shall also be signed under penalty of perjury.

d. If after conducting an investigation, the Animal Control Officer determines that probable cause exists that the dog is a potentially dangerous or vicious dog, the Animal

Control Officer may impose reasonable conditions to protect the public health, safety and welfare upon the animal owner pending an administrative hearing as provided for in Section 3.57. These conditions shall be in the form of a provisional abatement order and may include any reasonable conditions, including those contained in Section 3.58. Notice of the provisional abatement order shall be provided by the Animal Control Officer pursuant to Section 3.6. Within thirty (30) days of receipt of the provisional abatement order, an administrative hearing shall be held to determine whether the dog is potentially dangerous or vicious. The administrative hearing shall follow the procedures of Section 3.57. If the dog owner fails to appear at the administrative hearing or waives their right to the administrative hearing then the provisional abatement shall remain in effect.

e. If after conducting an investigation, the Animal Control Officer determines that probable cause exists that the dog is potentially dangerous or vicious, the Animal Control Officer shall request and be granted an administrative hearing to determine whether an animal is potentially dangerous or vicious.

f. The Animal Control Officer shall also immediately impound any dog found to be presenting an imminent threat to the public health, safety and welfare.

Section 3.57 Hearing Procedure.

a. Pursuant to Section 3.56, where the Animal Control Officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the Animal Control Officer shall request an administrative hearing by the Animal Hearing Officer for the purpose of determining whether the dog should be declared potentially dangerous or vicious.

b. The Animal Hearing Officer shall notify the owner of the dog that a hearing will be held, at which time the Animal Control Officer and the dog owner may present evidence as to whether the dog should be declared potentially dangerous or vicious. The notice, together with a copy of the petition, shall be provided pursuant to Section 3.6. The hearing shall be held promptly within no less than ten (10) working days and no more than thirty (30) working days after service of the notice on the owner of the dog.

c. The Animal Hearing Officer shall conduct the hearing in an informal manner and shall afford the owner of the animal an opportunity to present evidence as to why the dog shall not be declared potentially dangerous or vicious. The formal rules of evidence shall not apply; however, whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the Animal Control Officer to find probable cause shall be sworn to and verified by the complainant and attached to the petition filed by the Animal Control Officer. The Animal Hearing Officer may admit into evidence all relevant evidence, including incident reports and the affidavits or declarations of witnesses; limit the scope of discovery; shorten the time to produce records or witnesses; exclude witnesses from the hearing when not testifying; exclude disorderly or disruptive persons from the hearing; and make other orders necessary to ensure the fair and orderly conduct of the hearing. The hearing shall be open to the public.

d. The proceedings of the hearing may be tape recorded if ordered by the Animal Hearing Officer or requested by the owner of the dog. A stenographic reporter shall also record the proceedings if ordered by the Animal Hearing Officer or requested by the owner. A copy of the tape recording or transcript of the proceedings shall be made available to any person upon request and upon payment of the cost of preparation thereof.

e. The Animal Hearing Officer may decide all issues for or against the owner of the dog even if the owner fails to appear at the hearing.

f. In making a determination that a dog is potentially dangerous or vicious, evidence of the following shall be considered:

1. Any previous history of the dog attacking, biting or causing injury to a human being or other domestic animal;
2. The nature and extent of injuries inflicted and the number of victims involved;

3. The place where the bite, attack or injury occurred;
4. The presence or absence of any provocation for the bite, attack or injury;
5. The extent to which property has been damaged or destroyed;
6. Whether the dog exhibits any characteristics aggressive or unpredictable temperament or behavior in the presence of human beings or other domestic animals;
7. Whether the dog can be effectively trained or retrained to change its temperament or behavior;
8. The manner in which the dog had been maintained or cared for by its owner;
9. Any other relevant evidence concerning the maintenance or care of the dog; and
10. Any other relevant evidence regarding the ability of the owner or the Animal Control Officer, to protect the public safety in the future if the dog is permitted to remain in the city.

g. After the hearing, the Animal Hearing Officer may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious. The Hearing Officer may order the abatement of the nuisance created by the potentially dangerous or vicious dog by imposing some or all of the abatement conditions found in Section 3.58 for the continued ownership of the animal. The abatement order shall replace any provisional abatement order issued by an Animal Control Officer unless the abatement order is stayed by judicial action or pending judicial review. Within fifteen days of the hearing, the determination and abatement order shall be served upon the dog owner pursuant to Section 3.6(a)(1). The determination order of the Animal Hearing Officer shall be final and conclusive.

h. If, following the hearing, the subject dog is determined by a preponderance of the evidence to be vicious and, if released to the owner, even where reasonable abatement conditions were imposed, would create a significant threat to the public health, safety, or welfare, the Hearing Officer may order that the dog be humanely euthanized as permitted under California Food and Agricultural Code Section 31645 or its successor provisions.

i. A rebuttable presumption that a dog creates a significant threat to the public health, safety and welfare exists where:

1. The dog has been involved in an attack resulting in the death of a person, regardless of the circumstances involved.
2. The dog has been involved in a second attack, without provocation, on another animal or livestock which occurs off the property of the owner and that results in the death of the other animal or livestock;
3. The dog has been involved in a third attack, without provocation, that results in a non-severe injury to a person in a place where such person is acting lawfully;
4. A third attack, without provocation, on another animal or livestock which occurs off the property of the owner of the attacking dog;
5. The owner of a dog previously deemed vicious fails, refuses or is incapable of complying with the terms of an abatement order issued pursuant to this chapter;
6. The animal has been previously found vicious and subsequently exhibits any of the behaviors listed as determinative of potentially dangerous or vicious under Section 3.4 (“Definitions”).

7. Such remedy shall be in addition to all other remedies at law or in equity and shall not limit or restrict other remedies.

j. Within ten days of the hearing, notice of the order of humane euthanization shall be served upon the owner pursuant to Section 3.6(a)(1).

k. Any order made by the Hearing Officer to humanely euthanize an animal shall be final unless an appeal is made to a court of competent jurisdiction.

Section 3.58 Abatement Orders and Conditions.

a. Pursuant to Section 3.57(g), the owner of a dog determined to be potentially dangerous or vicious by the Hearing Officer, shall be required to comply with the abatement order of the Animal Hearing Officer which contains any or all of the following conditions:

1. To immediately register the dog that is found to be potentially dangerous or vicious with the Animal Control Officer to comply with the Animal Control Officer's requirements for potentially dangerous or vicious dogs, and to keep such dog properly vaccinated at all times. Should the dog die in any twelve-month term, the owner shall notify the Animal Control Officer of the death within five working days of the death.

2. To keep the dog securely confined on its premises in a locked enclosure approved by the Animal Hearing Officer or the Animal Control Officer from which the dog cannot escape and into which children cannot trespass. Such a kennel or structure must have secure sides and a secure top attached to the sides. All structure used to confine a potentially dangerous or vicious dog must be locked with a key or combination lock when such dogs are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house a dangerous animal must comply with all zoning and building regulations of the city. All such structures must be adequately lighted, ventilated, and kept in a clean and sanitary condition;

3. To keep the dog securely muzzled, restrained by a substantial leash of no longer than six feet in length and under the control of a responsible person eighteen years of age or older who is physically capable of restraining the dog when the dog is not contained in a locked, secure enclosure;

4. To have the animal spayed or neutered by a licensed veterinarian and to present proof to the Animal Control Officer;

5. To provide and maintain financial responsibility for injuries to the public by obtaining and showing proof of liability insurance in the form and amount deemed to be acceptable by the Animal Hearing Officer or city attorney in light of all the circumstances. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days written notice is first given to Animal Services and the city clerk's office;

6. The posting of a bond or other proof of ability to pay a damage award in the amount of fifty thousand dollars;

7. To immediately inform any city, county, postmaster or utility company meter readers and anyone else that lawfully comes onto the property, of the dog's dangerousness and to inform Animal Control and/or the Chief of Police if the dog is moved to another location inside or outside the city limits as provided by this chapter;

8. To display in a prominent place on the premises a sign easily readable by the public using the words "Beware of Dog" in letters at least three inches high;

9. To have a microchip assigned by Animal Services, implanted into the dog for identification purposes. The identifying information listed on the microchip shall be noted in the licensing files for that dog.

10. To consent and agree to the entry upon the premises to any police officer or Animal Control Officer for the purpose of inspecting the dog and/or premises at any time;

11. To make reasonable payment of costs incurred by the city and animal control agent in the hearing process, not to exceed one thousand dollars;

12. To take any other steps deemed reasonably necessary to prevent injuries to the public.

b. The owner of the dog shall comply with the conditions imposed by the hearing officer within thirty (30) days of the order. All owners of potentially dangerous or vicious dogs must within ten days of the effective date of the abatement order provide the Animal Control Officer with two photographs of the registered dog clearly showing the color and approximate size of the dog.

c. No potentially dangerous or vicious dog shall be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or screen doors are the only obstacle preventing the animal from exiting the structure.

Section 3.59 Failure to comply with Potentially Dangerous or Vicious Dog Order.

a. It is unlawful for the owner of a dog deemed potentially dangerous or vicious under this chapter to fail to comply with conditions set forth in an abatement order. Any dog found to be the subject of a violation of an order shall be subject to immediate seizure and impoundment. The Animal Hearing Officer shall notify the dog owner to show cause whether the dog shall be humanely euthanized for a failure to comply with the conditions contained in the potentially dangerous or vicious dog order.

b. The Animal Hearing Officer shall provide written notice pursuant to Section 3.6(a)(1) that the dog will be humanely euthanized unless, within fourteen days from the date of notice:

1. The owner has demonstrated to the satisfaction of the Animal Hearing Officer that the owner has fully complied with the requirements and conditions set forth in the abatement order; or

2. The owner has filed in a court of competent jurisdiction a petition that seeks to stay the euthanization of the animal and has served a copy of such petition upon the Animal Hearing Officer. If, after fourteen days from the date of such notice, the owner has not complied with the provisions of subdivision (1) or (2) of this subsection, the Hearing Officer may, without further notice or process, have the animal humanely euthanized.

Section 3.60 Transfer and Training of Potentially Dangerous and Vicious Dogs.

a. No person shall sell, transfer or in any other way dispose of a dog deemed potentially dangerous or vicious under this article to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog.

b. The owner of a dog that has been deemed potentially dangerous or vicious under this article may sell, transfer, or otherwise dispose of such dog or the offspring thereof to persons who do not reside within the city, provided the owner first notifies the Animal Hearing Officer and the Animal Control Officer of the proposed sale or transfer. Such notice shall be given not less than fifteen days in advance of the sale or transfer and shall specify the name and address of the recipient person. Upon receipt of such notice, the Hearing Officer or the Animal Control Officer may notify the governmental jurisdiction in which the recipient person is located or resides. Failure to comply with these notification provisions shall be grounds for immediate impoundment of the dog by the Animal Control Officer.

c. It shall be unlawful for a person to possess, own or control any dog for the purpose of either temporary or permanent care in the city limits that has been deemed by another governmental jurisdiction to be potentially dangerous, dangerous, vicious, or a threat to the safety of human beings or domestic animals. The Animal Control Officer may order the person having possession, ownership or control of the dog to remove the dog immediately from the city. Should such person fail to comply with the Animal Control Officer's order, the Animal Control Officer may summarily and immediately impound the

dog. The owner of the dog shall be liable for the costs and expenses of impounding and keeping the dog including any necessary veterinary fees. Such impounded dog may then be disposed of in accordance with the provisions of this chapter.

Section 3.61 Restrictions on Further Ownership of Dogs.

The owner of a dog determined to be a vicious dog shall be prohibited from owning, possessing, controlling, or having custody of any dog for a period of three (3) years, when it is found, after hearing proceedings conducted pursuant to this article that ownership or possession of a dog by that person would create a significant threat to the public health, safety and welfare.

Section 3.62 Keeping a Potentially Dangerous or Vicious Dog by Minors Prohibited.

No dog found to be potentially dangerous or vicious pursuant to this chapter shall be owned by a minor.

Section 3.63 Enforcement and Penalties.

a. Unless otherwise specified, any violation of this chapter shall be a misdemeanor.

b. The owner of any dog determined to be potentially dangerous ordered humanely euthanized pursuant to this chapter shall be prohibited from owning, possessing, controlling or having custody of any other dog of the type to which the violation applies for a period of three years from the date of violation when it is found after the hearing conducted pursuant to this article that ownership or possession of such animal by that person would create a significant threat to public health, safety, or welfare.

c. Any provisions of this chapter may be enforced by the police department, fire department, the Animal Control Officer or any authorized designee of the Animal Services Director. Complaints of any violations of this article which are subject to the penalties under this section may be presented to the District Attorney's Office or to the city attorney for prosecution.

d. In any action, administrative proceeding, or special proceeding initiated by the city under this chapter, the prevailing party may recover attorneys' fees. Recovery of attorneys' fees by the prevailing party is limited to those individual actions or proceedings in which the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. The award of attorneys' fees to the prevailing party shall in no circumstance exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

e. The penalties and remedies specified herein shall not be exclusive but shall be cumulative with all other remedies at law or in equity. The city may, in its discretion, elect to pursue any one or more of the penalties or remedies provided for herein or at law or in equity.

f. Notwithstanding the preceding, the Animal Control Officer may settle any matter scheduled for a hearing at any time prior to the hearing by written agreement with the applicant, license holder, or owner of the animal, as the case may be. In the event of a settlement, the executed agreement shall become the decision of the Animal Hearing Officer and shall be mailed pursuant to Section 3.6(a)(1).

II. A Proposal to Open School District Property to City Dog Owners

Submitted by Katheryn Jones
Sonoma CA
katherync23@yahoo.com

PROPOSAL: For Sonoma Valley High School to open the field to registered neighborhood dog owners during non-school hours.

The large playing field and fenced-in track field at Sonoma Valley High are ideal locations for dogs to play and socialize. The close proximity to surrounding neighborhoods also makes it incredibly convenient as dog owners can easily walk to the field rather than making a special trip to drive to a dog park. I propose that Sonoma Valley High School implement a program to allow registered neighborhood dog owners to bring their dogs to the grassy field for exercise and socialization. This proposal is modeled after a similar program at an elementary school in my home town.

RULES

1. Dog owners must live within walking distance to the school.
2. Dog owners must be registered with and approved by the school director and/or board.
3. Dog owners must wear a school-issued badge while on school property with their dog(s).
4. The field may only be used during daylight hours and not while school is in session.

SUPPORTIVE ARGUMENTS

1. Dog owners must live within walking distance to the school - The field would not be open to the public. Access would be limited exclusively to residents within walking distance from the school. This would foster a sense of community and give local residents an opportunity to get to know their neighbors. It would also help create good-will and a spirit of cooperation between dog owners and the school by putting both parties on the same team, as opposed to the current attitude of "us against them."
2. Dog owners must be registered with and approved by the school director and/or board - Dog owners must register in person by completing an information form, submitting a photo of their dog and paying a small one-time fee to cover badge materials (see below). Information will be kept on file in the school office to serve as a master list of approved visitors. The list will have a secondary benefit of providing a list of emergency contacts in case a dog gets loose or is found by someone at the school.

3. Dog owners must wear a school-issued badge while on school property with their dog(s) - Once registered, the school will issue an authorized badge consisting of lanyard with ID card, which must be worn by the owner at all times the dog is present on campus. The school maintains the right to approve or revoke privileges at the school's discretion. Because budgets are already tight, the cost of the badges should be paid by the dog owner so the school would incur no additional cost. Personally, I would be happy to cover the cost of my badge in exchange for the right to visit the field with my dog.
4. The field may only be used during daylight hours and not while school is in session – For security and safety purposes, owners may only bring their dogs to the field during daylight hours. They must not interfere with students, classes or school-related activities such as team practices.

SUMMARY

This proposal is based on a program that was implemented at Mount Tamalpais School in Mill Valley. The program ran successfully there for approximately 5-8 years but was eventually revoked due to enforcement problems. The success of this program would depend on the full cooperation of dog owners who must remember that we are guests on the property and respect that the field is first and foremost for the students. If this proposal passes, enforcement would be based on the “honor system.” Those who don't want their privileges revoked must take it upon themselves to become a mini-task force and make sure all visitors are authorized to be there. My personal experience with this kind of program is that it creates a sense of accountability. Dog owners that visited the elementary school in my neighborhood wasted no time in confronting someone not wearing a badge. I am proposing this for Sonoma Valley High because it is close to me, but I believe this program could also work at other schools and in public parks.

For more information or questions, please contact:
Mount Tamalpais School
Rosie Nicolini, administrative assistant
(415) 383-9434



City of Sonoma
City Council/Successor Agency
Agenda Item Summary

City Council Agenda Item: 5B

Meeting Date: 02/06/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Approval of the Minutes of the November 7, 2011, December 19, 2011 and the January 18, 2012 City Council Meetings.

Summary

The minutes have been prepared for Council review and approval.

Recommended Council Action

Approve the minutes.

Alternative Actions

Correct or amend the minutes prior to approval.

Financial Impact

N/A

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

Minutes



**Concurrent Meetings Of
SONOMA CITY COUNCIL**
(regular)
COMMUNITY DEVELOPMENT AGENCY
(special)
Community Meeting Room, 177 First Street West
November 7, 2011
5:00 p.m. Closed Session
6:00 p.m. Regular Session

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

MINUTES

CLOSED SESSION AGENDA

1. CALL TO ORDER

At 5:00 p.m. Mayor Gallian 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 Manager Kelly and Jack Hughes were present for Closed Session Item 2A. City Attorney Walter was present for Closed Session Item 2D.

2. CLOSED SESSION

- A: CONFERENCE WITH LABOR NEGOTIATORS**, pursuant to Government Code §54957.6. Agency designated representatives: Jack Hughes, City Manager Kelly, and Assistant City Manager Giovanatto. Employee Organizations: Sonoma Professional Firefighters Association, City of Sonoma Employees' Association (SEIU 1020), and Non-represented Confidential, Executive, Management and Administrative personnel.
- B: PUBLIC EMPLOYEE PERFORMANCE EVALUATION**, pursuant to Government Code §54957. Title: City Manager.
- C: CONFERENCE WITH LABOR NEGOTIATORS**, pursuant to Government Code §54957.6. Agency designated representatives: Laurie Gallian, Joanne Sanders, Tom Rouse, Steve Barbose, Ken Brown. Unrepresented Employee: City Manager.
- D: CONFERENCE WITH REAL PROPERTY NEGOTIATORS**, pursuant to Government Code §54956.8. Property: Sebastiani Theater, 476 First Street East, Sonoma. Agency Negotiators: Councilmember Steve Barbose & City Attorney Walter. Negotiating Parties: Sebastiani Building Investors, Inc. Under Negotiation: Price and terms of lease.

REGULAR SESSION AGENDA

The City Council reconvened in open session and Mayor Gallian called the meeting to order at 6:10 p.m. Gerry Simmel led the Pledge of Allegiance.

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

ALSO PRESENT: City Manager Kelly, City Clerk Johann, City Attorney Walter, Community Services Director Wirick, Planning Director Goodison, and Public Works Director Bates.

REPORT ON CLOSED SESSION

Mayor Gallian reported that while in Closed Session, the Council completed the City Manager performance evaluation and provided direction to staff.

1. COMMENTS FROM THE PUBLIC

Trina Saldana and son Aaron requested that items not be removed from loved ones' gravesites.

Herb Golenpaul asked Council to consider using some of the recently announced budget surplus to provide drinking water for residents of Rancho de Sonoma.

Dusty Wroten asked that the City stop removing memorabilia from the cemeteries.

2. COUNCILMEMBERS' REPORTS, COMMENTS AND ANNOUNCEMENTS

Item 2A: Councilmembers' Comments and Announcements

Mayor Gallian announced a nationwide test of the emergency broadcast system and a Disaster Council meeting on Thursday, and Community Conversations With The Mayor at the Community Cafe Sunday evening.

Item 2B: Reports Regarding Committee Activities

Clm. Brown reported on the Sonoma Valley Citizens Advisory Committee meeting.

Clm. Barbose reported on the Waste Management Agency meeting.

Mayor Gallian reported on Water Advisory Committee meeting.

3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS

City Manager Kelly reported that the final meeting of the Ad Hoc Formula Store Committee would be held on November 16 and the reception for the Treasure Artist was November 18 at the Community Center.

4. PRESENTATIONS – None Scheduled

Item 4A: Presentation of Sonoma Valley County Sanitation District Pilot Project on Billing Method Changes to Sanitation Rates.

Spencer Bader, Sonoma County Water Agency Division Manager, reported that historically annual sanitation rates had been based upon a fixed charge correlating to the type of business or residence on record. Due to the persistent demand from some of its customers, the Sanitation District decided to establish a more accurate and equitable method for determining annual sanitation rates based on actual winter water usage by its customers.

In order to improve its method of establishing sanitation rates, the Sanitation District asked the City of Sonoma and the Valley of the Moon Water District to participate in a pilot project to provide water usage data of its customers. He reported that Valley of the Moon Water District Board of Directors and the City Council had previously approved a Cooperative Agreement to Share Data for Sanitation Rates.

Mr. Bader then explained the old and the new methods of calculating sanitation rates. He said the new rate structure would be based upon the average winter water usage and would result in lowering sanitation rates for many City residents and increasing the rates of some. Mr. Bader also reported that the County would pay the City \$2,000 as one-time set-up cost and approximately \$700 annually

to cover incidental expenses to provide the information. He said they would be sending out letters explaining the changes and informing customers what their future sanitation charges would be.

Mayor Gallian invited comments from the public. Gerry Simmel stated he was still unhappy about the rates but he was happy for the change in the rate calculation method.

5. CONSENT CALENDAR/AGENDA ORDER

- Item 5A:** Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.
- Item 5B:** Approval of the Minutes of the October 3, and October 17, 2011 City Council Meetings.
- Item 5C:** Approval and Ratification of the Reappointment of Christopher Petlock to the Community Services and Environment Commission as the Alternate for a term ending 11/18/2015.
- Item 5D:** Approval and ratification of the appointment of Christopher Woodcock to the Traffic Safety Committee for a term ending November 7, 2013.
- Item 5E:** Request by Sonoma Valley Hospital Foundation for City-subsidized use of the Sonoma Valley Veterans Memorial Building on October 14, 2012. Approved subject to applicant's compliance with the City's standard insurance requirements.
- Item 5F:** Approval and ratification of the appointment of Ditty Vella to the Sonoma Valley Citizens Advisory Commission for a term ending November 7, 2013.
- Item 5G:** Approval and ratification of the appointment of Nellie Cravens to the Cultural and Fine Arts Commission as the Alternate for a term ending November 7, 2013.
- Item 5H:** Approval and ratification of the reappointment of Lisa Carlsson to the Cultural and Fine Arts Commission for a term ending November 5, 2015.

It was moved by Clm. Sanders, seconded by Clm. Rouse, to approve the consent calendar as presented. The motion carried unanimously.

6. PUBLIC HEARING

- Item 6A:** Discussion, consideration, and possible introduction of amendments to the Sonoma Municipal Code establishing new and modified regulations addressing live music performances and special events.

Planning Director Goodison reported that the Planning Commission had conducted an evaluation of the Development Code provisions relating to live music and special events and were recommending revisions to the Municipal Code that would: 1) Establish a licensing requirement and process for the on-going presentation of live music; 2) Clarify existing provisions of the Development Code pertaining to temporary use permits; and 3) Establish a new use definition of "Special Event Venue" to regulate facilities providing special events on an on-going basis.

Clm. Barbose expressed concern regarding the use of the term "insufficiently compatible" in the proposed finding of incompatibility and stated it should be made clearer and made more of an objective standard.

Clm. Rouse confirmed that the proposed ordinance would not apply to tasting rooms and that Hop Monk, which was operating under a temporary use permit, would fall under the regulations if adopted.

Mayor Gallian confirmed that the proposed ordinance would not apply to the Sonoma Community Center.

Clm. Sanders inquired about the former dance studio property on East Napa Street. Planner Goodison stated that had this ordinance been in place at the time it would have been clear that special events were not an allowed activity at that location.

Mayor Gallian opened the public hearing. Herb Golenpaul asked if this had anything to do with street musicians. Goodison responded in the negative.

Loyce Haran stated that events were frequently held at the Women's Club and the Maysonnave House and questioned if the new regulations would have any effect on that. Goodison responded it would not.

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

Clm. Sanders suggested that Council direct that this be sent back with Clm. Barbose's suggestion.

Mayor Gallian concurred and said if there were to be a termination of a license; it should be fair to all. She liked the fact that temporary use permits were limited to two events per year. Goodison explained that the provision applying to residential properties limited special events to no more than one day and not more than two times per year.

Clm. Barbose stated this was an improvement in that it was not guaranteed that a use was carried over when a property was sold. He asked what the procedure would be in the event that someone with a music venue license wanted to sell their property and the person wanting to buy it only wanted to buy it if they could continue the use. Goodison stated that in making an offer on the property, it should be made contingent upon obtaining the license.

Clm. Sanders asked if someone purchased the business if they would get the music license. Clm. Barbose stated no; the license did not run with the land or the business it was personal with the property owner. He said it would have an impact on the potential sale of a business. Clm. Sanders inquired why Council did not make it to follow the business.

Goodison asked if Council was seeking a way to transfer the license to a new owner if the business was operated in exactly the same manner.

Attorney Walter stated if the license transferred to the new business there was no point in having it terminate. The point in having the license terminate was to allow the City Council an opportunity to review how the business was going.

Clm. Brown asked if this dealt with grandfathering in places like Mayas, Murphys and Steiners to allow their ability to have live music if the business was sold. Goodison stated that staff had identified a few existing approved bars that also allow live music and noted that Mayas had a use permit to offer live music that would not be effected by this ordinance.

Clm. Rouse confirmed that Steiners was exempt from the ordinance and that if Maya's was to change owners it would retain its permit because they had a use permit which goes with the land.

Clm. Brown asked about Cucina Viansa. Goodison stated that because the business had been closed for more than a year their use permit had expired.

Clm. Sanders stated it was important to have the business community weigh in on this subject because it was not only taking the right away from running with the land; it was also taking it away from running with the business. She said that if a business had built up a clientele based upon

providing music; it could evaporate when the business was sold. She said that was a big deal that people need to be aware of.

Clm. Brown agreed. Goodison stated that outreach had been made to the existing businesses that stood to be affected by the regulations and to the Chamber of Commerce. He said it was a policy decision that Council could make. Clm. Barbose stated that a compromise position could be to add language providing that if there were no grounds to terminate the music license at the time of sale, there will be a presumption that the existing music license would be transferred to the new owner.

Goodison stated that he would review that suggestion with the City Attorney.

~~Councilmembers unanimously concurred with the suggestion made by Clm. Sanders to direct this matter back to the Planning Commission with the suggestion of Clm. Barbose. Clm. Barbose suggested adding "in event a business that has a license that has not been a problem there will be a presumption that the license will continue". Goodison stated he would review the issue with the City Attorney.~~

7. REGULAR CALENDAR

- Item 7A: Reconsideration of City Council Authorization to Apply for Demolition Permit Approval with the Design Review Commission, Develop Bid Documents and Solicit Bids for the Demolition of the Pauline Bond House and Barn located at 19990 Seventh Street East, Sonoma, Requested by Mayor Pro Tem Sanders.**
- A. Consideration, discussion and possible action on motion to suspend Council's rules of order requiring that motion for reconsideration be made at the Council meeting at which the item was first acted upon or at the immediately following Council meeting (requires 2/3rd vote).**
 - B. If the said rule is suspended, then consideration, discussion and possible action on motion to reconsider City Council's Oct. 3, 2011, decision authorizing application for demolition permit, development of bid documents and solicitation of bids for demolition of above-referenced property.**
 - C. If the said motion to reconsider is approved, then consideration, discussion and possible action on whether or not to authorize application for demolition permit, development of bid documents and solicitation of bids for demolition of above-referenced property.**

City Attorney Walter described the process for reconsideration of an item. It was moved by Clm. Brown, seconded by Clm. Sanders, to suspend Council's rules of order and allow the request for reconsideration. There were no comments from the public. The motion carried unanimously.

It was moved by Clm. Sanders, seconded by Clm. Rouse, to reconsider City Council's Oct. 3, 2011 decision authorizing application for demolition permit, development of bid documents and solicitation of bids for demolition. There were no comments from the public. The motion carried unanimously.

Development Services Director Wirick provided the staff report and recommended that Council authorize demolition of the structures. Mayor Gallian invited comments from the public.

Pat Pulvirenti, speaking as a private citizen, stated that demolition by neglect was not the right message to send to the community. She said it had become a disturbing trend throughout the State.

Herb Golenpaul stated the structures were beyond repair.

CIm. Rouse stated that he hoped the City would be a better steward of any properties acquired in the future. CIm. Barbose agreed and said the City needed to be careful when accepting ownership of things people want to donate.

CIm. Sanders stated she did not support demolition of the structures and said the City did not live up to its responsibility to maintain them. She added that she believed in historic preservation and felt the City should explore additional options.

It was moved by CIm. Barbose, seconded by CIm. Brown, to 1) Authorize the filing of a demolition permit application to be considered by the Design Review Commission; and 2) If the demolition permit application is approved by the Design Review Commission, authorize the City Manager to carry out the following actions: a) Prepare bid documents, including plans and specifications, for the hazardous materials abatement and demolition of the subject buildings; and b) Solicit bids from contractors for the hazardous materials abatement and demolition project. If the demolition permit application is not approved by the Design Review Commission, direct the City Manager to place the item on the next available City Council agenda for further Council consideration. The motion carried four to one, CIm. Sanders dissented.

Item 7B: Authorization to Apply for Demolition Permit Approval with the Design Review Commission, Develop Bid Documents and Solicit Bids for the Demolition of the Maysonnave Cottage and Barn located at 289 First Street East, Sonoma.

Development Services Director Wirick provided the staff report. He stated that the subject buildings were bequeathed to the City by Henri Maysonnave with the stipulation that the property be used as a “memorial park or museum facility.” He said a housing code review of the cottage and barn conducted in 2008 determined that the buildings were substandard and in need of repair or removal. Staff estimated the total probable project cost to repair the structures for public use, perform the hazardous materials abatement and mitigate the other substandard conditions could be as high as \$720,000. Wirick stated that an historic structure report was prepared in 2008 that concluded the subject cottage and barn were not considered to have historic significance and were not eligible to be listed in the California Register of Historical Resources. A subsequent hazardous materials assessment survey and report for the buildings indicated that a portion of the cottage roof had asbestos-containing material and that interior and exterior surfaces of the building contained lead-based paint, which are regulated materials that must be mitigated and disposed of by state-licensed abatement contractors prior to remodeling or demolishing a structure.

Wirick also reported that both the Sonoma League for Historic Preservation (SLHP) and the Sonoma Historical Society had indicated they do not have sufficient resources to perform the repairs necessary to convert the buildings and operate them as a museum use. The Facilities Committee and staff evaluated the options for mitigating the substandard conditions and have concluded that while it is usually desirable to preserve older structures within the City, the significant cost to repair the subject buildings is not warranted given the “memorial park or museum” limitation placed on use of the property. In August of 2011, the City Council approved a relocation agreement with the tenant to vacate the Maysonnave cottage and barn and the premises have subsequently been vacated. The Sonoma Municipal Code requires that prior to demolishing or deconstructing buildings on the site, approval must be obtained from the Design Review Commission (DRC) prior to issuance of a demolition permit.

In response to the question by CIm. Sanders, Wirick confirmed the property was in an historic district but did not fall within the historic national landmark district. CIm. Sanders suggested use of the cottage similar to the coffee cafe at the Sonoma Valley Museum of Art. Further discussion ensued regarding possible uses of the property.

Mayor Gallian invited comments from the public. Loyce Haran, Sonoma League for Historic Preservation, stated that the League had considered a possible renovation and reuse of the structure; however felt it would be too costly to renovate and maintain it. She said they recommended installation of a garden in the memory of Henry Maysonnave or possibly another Bocce Ball court.

Bill Mannina spoke in favor of renovation of the buildings and renting them out.

It was moved by Clm. Barbose, seconded by Clm. Brown, to 1. Authorize the filing of a demolition permit application to be considered by the Design Review Commission; and 2. If the demolition permit application is approved by the Design Review Commission, authorize the City Manager to carry out the following actions: a. Prepare bid documents, including plans and specifications, for the hazardous materials abatement and demolition of the subject buildings; and b. Solicit bids from contractors for the hazardous materials abatement and demolition project. 3. If the demolition permit application is not approved by the Design Review Commission, direct the City Manager to place the item on the next available City Council agenda for further Council consideration.

Clm. Sanders stated her objection to tearing down a structure in the middle of historic Sonoma and without having a firm cost estimate for its renovation. The motion carried three to two, Councilmembers Rouse and Sanders dissented.

RECESS: The meeting recessed from 8:45 to 9:00 p.m.

Item 7C: Discussion, consideration and possible direction to staff regarding medicine disposal options for residents of the City, requested by Councilmember Sanders.

City Manager Kelly reported that Clm. Sanders was requesting support for directing staff to pursue establishing unused medication drop-off locations for City of Sonoma residents. Clm. Sanders added that she would like staff to conduct additional research and bring back some options. She stated concerns relating to the ill effects on the water supply and environment when medicines were not disposed of correctly.

Herb Golenpaul and Diedre Sheran spoke in favor of the idea.

Council reached unanimous consensus to approve the request and direct staff to conduct additional research of the matter.

Item 7D: Discussion, consideration, and possible adoption of a five-year update to the City of Sonoma Hazard Mitigation Plan.

City Manager Kelly reported the five-year update of the City's Hazard Mitigation Plan (HMP) had been developed in accordance with the federal Disaster Mitigation Act of 2000, which required that jurisdictions prepare and adopt an HMP to remain eligible for various pre- and post-disaster grants and community aid from the Federal Emergency Management Agency (FEMA). In addition, the Act requires that each HMP be updated at least once every five years. Once approved by FEMA, the updated HMP will maintain the City's eligibility for federal assistance hazard mitigation assistance. She said the 2011 update of the HMP continued focus on earthquake, flood, and fire hazards as these are considered the greatest risk to the City based on past disaster events, future probabilities and scale of vulnerability.

The public comment session was opened and closed with none received.

It was moved by Clm. Barbose, seconded by Clm. Rouse, to adopt the resolution entitled A RESOLUTION OF THE CITY COUNCIL APPROVING THE ABAG REPORT "TAMING NATURAL

DISASTERS” AS THE CITY OF SONOMA’S LOCAL HAZARD MITIGATION PLAN. The motion carried unanimously.

8. COMMENTS FROM THE PUBLIC

Herb Golenpaul stated that the City would have problems maintaining the Montini property in the future.

9. COUNCILMEMBERS’ FINAL REMARKS

Cm. Brown stated it had been a wonderful Veterans Day celebration and he was pleased that all positions on City commissions were filled.

10. ADJOURNMENT

The meeting was adjourned at 9:30 p.m.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the day of 2011.

Gay Johann, MMC
City Clerk



Concurrent Special Meetings Of
SONOMA CITY COUNCIL
&
COMMUNITY DEVELOPMENT AGENCY
Community Meeting Room, 177 First Street West
December 19, 2011, 5:00 p.m.

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

MINUTES

1. OPENING

Mayor Sanders called the meeting to order and led the pledge of allegiance. She announced that, pursuant to the Government Code, no comments by members of the public could be made except for comments on items on the agenda during the special meeting.

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

ALSO PRESENT: City Manager Kelly, Assistant City Manager Giovanatto, City Clerk Johann, City Attorney Walter, Fire Chief Garcia, and Planning Director Goodison.

2. REGULAR CALENDAR

Item 2A: Discussion, consideration and possible action selecting the 2012 City of Sonoma Alcalde.

City Manager Kelly reported that the nominating committee had forwarded the names of David Donnelley, Whitney Evans and Steve Page to the Mayor for consideration.

Mayor Sanders invited comments by the public. 2011 Alcaldesa Mary Evelyn Arnold thanked the City Council for the opportunity to serve and said it had been a great honor for her.

Mayor Sanders stated that all three suggested candidates were deserving; however she was nominating Whitney Evans because he stood out for his passionate volunteerism in leadership positions in numerous community organizations. It was moved by Clm. Barbose, seconded by Clm. Rouse, to ratify the nomination. The motion carried unanimously.

RECESS: The Mayor called a very brief recess so she could telephone Mr. Evans to inform him.

Item 2B: Discussion, Consideration and possible action Annual Assignment of Councilmembers to various Boards and Committees.

Councilmembers discussed their preferences for committee assignments. There were no comments from the public. It was moved by Clm. Rouse, seconded by Clm. Gallian, to ratify the appointments shown below. The motion carried unanimously.

Board/Committee/Commission	2012 Representative
AB 939 Local Task Force (Sonoma County Waste Management Agency)	Ken Brown City Manager, Alternate

DRAFT MINUTES

Board/Committee/Commission	2012 Representative
Association of Bay Area Governments (ABAG), General Assembly	Laurie Gallian, Delegate Joanne Sanders, Alternate
Cemetery Subcommittee	Laurie Gallian Ken Brown
Cittaslow Sonoma Valley Advisory Council	Laurie Gallian Ken Brown, Alternate
City Audit Committee	Laurie Gallian Tom Rouse
City Facilities Committee	Steve Barbose Ken Brown
CDA Loan Subcommittee	Tom Rouse Joanne Sanders Steve Barbose, Alternate
Community Choice Aggregation Focus Group	Steve Barbose
League of California Cities N.B. Division Liaison	Tom Rouse Joanne Sanders, Alternate
North Bay Watershed Assn. Board of Directors	Steve Barbose Public Works Director, Alt.
Sonoma Community Center Subcommittee (Ad Hoc)	Steve Barbose Ken Brown
Sonoma County Health Action	Patricia Talbot Ken Brown, Alternate
Sonoma County Mayor and Councilmembers Association Board of Directors	Joanne Sanders Ken Brown
Sonoma County Mayor and Councilmembers Association Legislative Committee	Joanne Sanders Tom Rouse, Alternate
Sonoma County Transportation Authority & Regional Climate Protection Authority	Laurie Gallian Steve Barbose, Alternate
Sonoma County Waste Management Agency	Steve Barbose City Manager, Alternate Public Works Dir., 2 nd Alt.
Sonoma County/City Solid Waste Advisory Group (SWAG)	Steve Barbose Laurie Gallian, Alternate
Sonoma Disaster Council	Joanne Sanders Ken Brown, Alternate
Sonoma Housing Corporation	Joanne Sanders Ken Brown
Sonoma Valley Citizens Advisory Commission	Ken Brown Tom Rouse, Alternate
Sonoma Valley County Sanitation District Board of Directors	Joanne Sanders Ken Brown
S.V. Economic Development Steering Committee	Joanne Sanders Tom Rouse, Alternate
Sonoma Valley Fire & Rescue Authority Oversight Committee	Joanne Sanders Ken Brown
Sonoma Valley Library Advisory Committee	Joanne Sanders Ken Brown, Alternate
Substance Abuse Prevention Coalition	Ken Brown

Board/Committee/Commission	2012 Representative
Valley of the Moon Water District / City of Sonoma Ad Hoc Committee	Laurie Gallian Steve Barbose
Water Advisory Committee	Laurie Gallian Steve Barbose, Alternate

Item 2C: Discussion, consideration and possible adoption of Annual City Council Meeting Calendar for 2012.

City Manager Kelly presented the draft meeting calendar for 2012. By unanimous consensus, Councilmembers directed that a study session on pension reform be held February 22, 2012, 5 – 7 p.m. with February 27 as an alternate date; a joint meeting with the Planning Commission and Design Review Commission be held April 30, 2012, 5-7 p.m.; and that staff attempt to schedule a joint session with the Sonoma Valley Unified School District Board on March 19, 2012 at 5:30 p.m. They agreed to cancel the first meeting in August 2012 for observation of a summer recess and that the first meeting of 2013 would be held on Wednesday January 9, 2013.

Acknowledging the arrival at the meeting of Whitney Evans, Mayor Sanders congratulated him on being named the 2012 Alcalde. He thanked the City Council.

3. ADJOURNMENT TO 6:00 MEETING

The Special Meeting was adjourned at 5:45 p.m. to the Regular Meeting.



**Concurrent Meetings Of
SONOMA CITY COUNCIL
(Regular Meeting)
COMMUNITY DEVELOPMENT AGENCY
(Special Meeting)
Community Meeting Room, 177 First Street West
December 19, 2011, 6:00 p.m.**

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

MINUTES

At 6:00 p.m. Mayor Sanders called the meeting to order.

1. COMMENTS FROM THE PUBLIC

Lin Marie deVincent thanked the City Council for their commitment to public service. She noted that she had been nominated for the Sonoma County Poet Lauriat; however did not win the distinction. She then read a poem entitled Song of the Builders.

Bill Mannina requested that the City provide access to video recordings of the Council meetings on its website.

Michael Sexton announced that Echelon Grand Fondo would like to move their May 2012 event to Sonoma. City Manager Kelly stated that the City was in receipt of their event application and staff was processing it.

2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS

Item 2A: Councilmembers' Comments and Announcements

Clm. Rouse dedicated the meeting to Howie Ehret and announced that a memorial service in his memory would be held at the Community Center on January 21, 2012. Each Councilmember expressed fond and loving memories of Mr. Ehret and extended their deepest condolences to his family.

Clm. Brown reported the visit from Ukranian Consul General's office went well and he wanted to invite them back for another visit.

Clm. Gallian also mentioned the visit with the Ukranian Consul General and dedicated the meeting in the memory of Joseph "Bill" Kohut.

Clm. Rouse thanked Mayor Sanders and City staff for their efforts in the establishment of safe medicine drop off locations in Sonoma.

Clm. Barbose, noting receipt of a report from Bob Edwards on behalf of Sonoma Valley Dog, suggested he be invited to make a ten-minute presentation at a future meeting to present their recommendations.

Mayor Sanders reported attendance at the Skate Park meeting and stated that a front-page article in the North Bay Business Journal indicated that the tourism investment in Napa was paying off.

3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS

City Manager Kelly announced that Rancho de Sonoma owners had received their water grant, selected a contractor and work would begin that week. She congratulated Maintenance Worker John Trueblood upon the occasion of his retirement and announced that the next meeting of the City Council would be on January 18, 2012.

4. PRESENTATIONS – None Scheduled

5. CONSENT CALENDAR/AGENDA ORDER

Item 5A: Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.

Item 5B: By Resolution Approve Agency Surcharge Agreement with Sonoma County Waste Management Agency to Pay to Agency Surcharge Amount for Refuse Disposed of by Sonoma Garbage Company, Inc. outside of Sonoma County. Removed from Consent, see below.

Item 5C: Approval of a Resolution to Tax Defer Member Paid Contributions in Accordance with Internal Revenue Code [IRC] 414[h][2]. Resolution No. 42-2011.

Item 5D: Approve Transitional Memorandum of Understanding with Sonoma Fire/IAFF Local 3593 and Transitional Management Agreement for the position of Division Chief for Outsourcing of All Association 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 5E: Presentation of Annual Report to the Sonoma Community Development Board in Accordance with Requirements of State Health and Safety Code Section 33080.1 as Determined by the Office of the State Controller.

Item 5F: Adoption of Plans and Specifications and Award of Contract to Quimu Contracting Inc., lowest responsible bidder, for the Maxwell Village Pedestrian Improvements Project No. 0928, for the Base Bid in the amount of \$74,967.

Mayor Sanders removed Consent Item 5B and invited comments from the public. Bill Mannina asked if the agreement contained in Consent Item 5D was for one employee or all of them. Assistant City Manager Giovanatto responded that it was for all the Fire Department employees. Mayor Sanders pointed out the agreement would only go into effect if the contract for services further down on the agenda was approved.

It was moved by Clm. Gallian, seconded by Clm. Rouse, to approve the items remaining on the Consent Calendar. The motion carried unanimously.

Item 5B: By Resolution Approve Agency Surcharge Agreement with Sonoma County Waste Management Agency to Pay to Agency Surcharge Amount for Refuse Disposed of by Sonoma Garbage Company, Inc. outside of Sonoma County.

Mayor Sanders requested clarification regarding the financial impact of this item. Assistant City Manager Giovanatto stated that the fees paid to the County would come from Sonoma Garbage Company. It was moved by Clm. Rouse, seconded by Clm. Gallian, to adopt Resolution No. 41-2011 entitled A Resolution of the City Council of the City of Sonoma Approving the Agency Surcharge Agreement With Sonoma County Waste Management Agency. The motion carried unanimously.

6. PUBLIC HEARINGS

Item 6A: Appeal by Sebastiani Winery of the Planning Commission's decision to approve a Temporary Use Permit to allow a seasonal outdoor food truck event ("Food Truck Fridays") within the main parking lot of the Sebastiani Winery located at 389 Fourth Street East.

Associate Planner Atkins presented the staff report and responded to a few questions from Councilmembers.

Mayor Sanders opened the public hearing. Erin McTaggart spoke against allowing music or food trucks at the winery and urged Council to uphold the decision of the Planning Commission.

Linda McGarr also spoke against the winery events. She stated the food trucks take business away from the local restaurants.

Christopher Johnson, Hospitality Manager, Sebastiani Winery, stated they had been holding Friday Night events for several years with no complaints and this last year added the Food Truck Fridays once a month. He said the events had been very popular with the locals and tourists. Mr. Johnson said they were asking the Council to reverse two of the conditions of approval of their use permit application by the Planning Commission. They want to be allowed to use generators and to keep the doors to the winery tasting room open. Clm. Barbose inquired about the use of electricity. Mr. Johnson responded that the existing GFI outlets could not handle the load and their entire electrical infrastructure would have to be redone to accommodate the food trucks.

Clm. Gallian inquired about complaints regarding not being properly licensed. Mr. Johnson assured the Council that the proper licenses had been obtained from the City and the Health Department.

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

Clm. Rouse commented that the issue for him was not the use of generators or whether the doors remained open; it was that the food truck vendors were not local and did not generate any sales tax for the City. He said they took business away from the local restaurants which do generate sales tax. It was moved by Clm Rouse, seconded by Clm. Barbose, to deny the appeal and uphold the decision of the Planning Commission. Clm. Barbose commented that the events generated income for the winery and they should install whatever was necessary to accommodate the power needs of the food trucks. He also pointed out the scrutiny other music venues, like Hop Monk, had been put through and that he felt that was why the Planning Commission wanted the doors closed during music events.

Clm. Brown pointed out that the events increased winery sales which did generate sales tax. He stated he would support closing the doors; but that requiring the winery to switch over to an alternate source of power by April was arduous.

Mayor Sanders stated that residents in the vicinity accepted the winery operations but the ongoing events had changed the nature of the property use. She said if she had been on the Planning Commission, she probably would not have allowed the events to go this far. The motion carried four to one; Clm. Brown dissented.

Item 6B: Discussion, consideration and possible action adopting a resolution in support of the City's Community Development Block Grant [CDBG] Application for FY 2012/13.

Assistant City Manager Giovanatto reported on the City's prior use of the grant funds and stated that, if awarded, this year staff recommended the funds go towards completion of the second phase of the accessibility improvements at Depot Park.

The public hearing was opened and closed with no comments received.

It was moved by Clm Gallian, seconded by Clm. Brown to adopt Resolution No. 43-2011 entitled A Resolution of the City Council of the City of Sonoma Endorsing and Prioritizing Applications for the Community Development Block Grant Consolidated Application for FY 2012/13. The motion carried unanimously.

RECESS: The meeting recessed from 7:30 to 7:40 p.m.

7. REGULAR CALENDAR

Item 7A: Discussion, consideration and possible action on the recommendations of the Ad Hoc Committee on Formula Businesses.

Planning Director Goodison reported that he and Economic Development Manager Decker had provided staff support for the committee. He reported on the meetings of the committee and summarized their recommendation as follows: Formula businesses (limited to retail, personal services and restaurants) to be regulated by use permit through a two-tiered approach that would be more restrictive in the vicinity of the Plaza. A business within a chain of nine or fewer locations would not be subject to any new form of review. A business within a chain of 10-X stores would be defined as a Formula Business and would be allowed subject to use permit review except within shopping centers having five or more tenant spaces. Businesses within a chain of greater than X stores would be prohibited in the Plaza Retail Overlay zone, but allowed subject to use permit elsewhere except within shopping centers having five or more tenant spaces. Goodison pointed out that the committee left the decision on the threshold number of stores (represented by the X above) up to the City Council.

Goodison and Decker responded to a few questions posed by the Councilmembers.

Mayor Sanders invited comments from the public. Ken Niles stated that the Planning Commission and past City Councils had maintained the historic character of the City for many years and he hoped they would continue to do so by whatever means necessary.

Bill Mannina stated that the benefits a company provided to their employees should be weighed when deciding if a business could come in or not.

Ben Boyce stated that he was puzzled by the rigidly ideological position some took in opposition to what was being proposed.

Nancy Simpson stated that she was pro-business but not at the expense of ruining the City's historic resources. She felt that the City was missing an important foundation of protection of historic resources. It has an historic district and an overlay zone but was missing basic business-friendly ordinances and guidelines for historic resources.

Loyce Haren stated that obtaining Certified Local Government status would be helpful.

Jennifer Yankovich stated that the Chamber felt the City had adequate regulations already in place and did not support the committee's recommendation. She pointed out that at times it was the large anchor stores that were the dealmakers for small locally owned businesses.

Dick Cuneo stated he owned property on the square and felt the proposal was too restrictive and would prevent businesses from coming in and adding value to the Plaza and the City.

Tom Anderson, appearing as a private citizen, did not support the proposed regulations.

Mayor Sanders took a straw poll to see if Council was interested in moving ahead with an ordinance. Councilmembers Barbose, Brown and Gallian indicated that they were in favor of

moving ahead. Clm. Barbose stated that a clear majority on the committee wanted to protect the Plaza from large chain stores and that the use permit approach would allow an opportunity to weigh a business based on its merits and the required findings.

Following a discussion of individual suggestions, Council reached a majority consensus that the definition for Formula Business would be a chain of between ten and two hundred fifty stores. It was moved by Clm. Barbose, seconded by Clm. Brown, to direct staff to move forward in formulation of the ordinance.

Clm. Rouse said he did not like bans because they lead to unintended consequences and he felt the use permit process would be enough to protect the Plaza. He stated the ban could lead to additional foreclosures and asked Councilmembers to rethink their positions on the matter.

Mayor Sanders agreed with Clm. Rouse. She noted that she has been steadfast in her support for protecting the historic nature of the City and she felt it could continue to be protected through a very stringent design review process. The motion carried three to two, Rouse and Sanders dissented.

It was moved by Clm. Barbose, seconded by Clm. Brown, to direct staff to bring back a moratorium ordinance at the next meeting. The motion carried three to two, Rouse and Sanders dissented.

RECESS: The meeting recessed from 8:50 to 8:55 p.m.

Item 7B: Discussion, consideration, and possible action regarding entering into a contract for Fire Services with the Valley of the Moon Fire Protection District.

Fire Chief Garcia thanked the City Council, the Valley of the Moon (VOM) Fire Protection District Board, City Manager Kelly and Assistant City Manager Giovanatto for their support throughout the process that it took to get to this point. He stated that the process began in 2002 because the two departments felt they could do things better together. Garcia stated there would be huge benefits of coming together.

Assistant City Manager Giovanatto reported that the five-year contract had already been approved by the VOM Board. She stated that the City would save \$100,000 the first year from the economy of scale.

Mayor Sanders assured the public that Councilmembers had spent considerable time through the last several years considering this merger. She invited comments from the public.

Bill Mannina stated that the City had done a great job running its Fire Department and should not contract with VOM. He questioned the cost calculation and distribution and commented that he did not believe the City save money by contracting with the Sheriff's Department for law enforcement services.

It was moved by Clm. Gallian, seconded by Clm. Brown, to approve the contract for fire services as offered by Valley of the Moon Fire Protection District. The motion carried unanimously.

City Manager Kelly, in response to comments made by Mr. Mannina, stated that the Police Department budget had only seen annual increases averaging 2%.

8. COUNCILMEMBERS' REPORTS AND FINAL REMARKS

Item 8A: Reports Regarding Committee Activities.

Clm. Gallian reported on the Ag and Open Space District and announced a Cittaslow workshop would be held in February 2012.

Mayor Sanders reported that two Cultural and Fine Arts Commission members appeared at the Library Advisory Committee meeting to discuss the Public Art project at the library. Also discussed at the meeting was the issue of the blue book donation bins in town that were taking book donations away from the Friends of the Library.

Item 8B: Final Councilmembers' Remarks.

Mayor Gallian congratulated City Clerk Johann for receiving the 2011 Wes McClure Outstanding Assistant award and she thanked Ukraine Sister City Chair Tarney Baldinger for her efforts in facilitating the visit from the Ukrainian Consul General.

At 9:34 p.m. Mayor Sanders announced the City Council would convene in closed session as listed on the agenda and invited comments from the public on the topic. There were no comments from the public.

9. CLOSED SESSION

Item 9A: CONFERENCE WITH REAL PROPERTY NEGOTIATORS, pursuant to Government Code §54956.8. Property: Sebastiani Theater, 476 First Street East, Sonoma. Agency Negotiators: Councilmember Steve Barbose, City Manager Kelly & City Attorney Walter. Negotiating Parties: Sebastiani Building Investors, Inc. Under Negotiation: Price and terms of lease.

10. ADJOURNMENT

At 10:00 p.m. the City Council reconvened in open session. Mayor Sanders announced that direction was provided to staff while in Closed Session and adjourned the meeting in the memory of Howie Ehret and Joseph "Bill" Kohut to Wednesday, January 18, 2012.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the day of 2011.

Gay Johann, MMC
City Clerk



**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

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 4th 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.

Cllm. 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 Cllm. Barbose, seconded by Cllm. 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.

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.

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.

Cm. 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.

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

Cm. 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. Cm. 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.

Clm. 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.

Clm. Barbose pointed out that even with the proposed increases, the rates were lower than in most other Sonoma County cities. It was moved by Clm. Barbose, seconded by Clm. 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 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 day of 2012.

Gay Johann, MMC
City Clerk



**City of Sonoma
City Council
Agenda Item Summary**

City Council Agenda Item: 5C
Meeting Date: 2-06-2012

Department

Administration

Staff Contact

Assistant City Manager/ City Attorney

Agenda Item Title

Ratification Action of City Council from January 18, 2012 by approving the Resolution for a Refuse Rate Increase and Related Program Elements

Summary

At the Public Hearing held on January 18, 2012, the City Council considered a rate increase proposal submitted by the City's franchise Refuse Hauler, Sonoma Garbage Company, Inc. [SGC] for the 2012 annual period.

Following review and consideration of the item and receiving public testimony, the Council unanimously approved the rate increase and related elements as follows:

- (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

Based on the approvals, the City Attorney has prepared the necessary resolution incorporating all the elements of the action.

Recommended Council Action

Approve resolution ratifying action from January 18, 2012.

Alternative Actions

Request additional information.

Financial Impact

Potential increase in Franchise Tax revenue

Attachments

Resolution
Fourth Amendment to Contract with Sonoma Garbage Collectors, Inc.

cc:

Sonoma Garbage Collectors

**CITY OF SONOMA
RESOLUTION NO. ____ - 2012**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SONOMA APPROVING REFUSE RATE ADJUSTMENTS
AND FOURTH AMENDMENT TO FRANCHISE AGREEMENT**

WHEREAS, the City of Sonoma has a franchise agreement with Sonoma Garbage Collectors, Inc., to perform solid waste collection services in the City of Sonoma; and

WHEREAS, pursuant to said agreement, Sonoma Garbage Collectors, Inc. ("SGC") is entitled to seek certain adjustments in the rates it charges its customers for such services; and

WHEREAS, it is in the best interests of the City that said agreement be amended in certain respects; and

WHEREAS, SGC has made application for adjustments in the rates it charges to its customers to become effective January 1, 2012; and

WHEREAS, based on the financial data submitted by SGC, the increased services SGC is agreeable to providing, and other considerations appropriately factored into analyzing SGC's rate adjustment application, rate adjustments are justified:

NOW, THEREFORE, the City Council of the City of Sonoma resolves as follows:

For the reasons specified in the staff report (and attachments) submitted to the City Council at its meeting on January 18, 2012, pertinent to SGC's request for refuse rate adjustments, effective January 1, 2012, the rates that SGC charges its residential customers may be increased 4.5% and the rates SGC charges its commercial customers may be increased 7.55%. The rates for the various services provided by SGC as approved herein are set forth in **Exhibit A** incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Fourth Amendment to Contract, a true and correct copy of which is attached hereto as **Exhibit B**, is approved and the City Manager is authorized to execute same on behalf of the City.

ADOPTED this 6th day of February, 2012, by the following vote:

AYES:

NOES:

ABSENT:

Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk

Effective January 1, 2012Monthly Rates for Weekly Curbside Pick-up

Service Level	Adopted Rates effective January 2012
Rate for refuse collection once each week	
20 gallon can	7.29
32 gallon can	11.95
64 gallon can	25.94
90 gallon can	39.80
2 cubic yard bin	154.35
3 cubic yard bin	231.32
4 cubic yard bin	308.69
Rate each pickup for refuse bins on a variable pickup schedule	
Each 2 cy bin	35.78
Each 3 cy bin	53.68
Each 4 cy bin	71.57
Debris Box	
Debris Box 20 yd (includes 2 tons of waste)	391.12
Debris Box 30 yd (includes 3 tons of waste)	525.29

An additional charge of \$10 per month for each bin will be applied to bin service. Bin service includes curbside collection of food scraps and green waste, up to two additional containers (32, 64, or 94 gal.) provided. Waste in debris boxes above the included quantity will be charged at the prevailing Sonoma County waste disposal rate.

FOURTH AMENDMENT TO CONTRACT

This fourth amendment is executed at Sonoma, California on January 18, 2012, by and between the City of Sonoma, a municipal corporation, ("City") and Sonoma Garbage Collectors, a California corporation, ("Contractor").

RECITALS

WHEREAS, City entered into a contract on October 19, 1994 with John D. Curotto, Margaret Curotto, and John D. Curotto, Jr. (Sonoma Garbage Collectors) for the exclusive right to collect and remove garbage and rubbish within the City. Said contract has been amended three times (collectively, the October 19, 1994, agreement and its three amendments shall be referred to as the "Contract"); and

WHEREAS, on November 18, 2002, the City consented to an assignment of the Contract from John D. Curotto, Margaret Curotto, and John D. Curotto, Jr. (Sonoma Garbage Collectors) to Sonoma Garbage Collectors, a California corporation; and

WHEREAS, Section 13 of the Contract provides that Contractor shall dispose of all garbage and rubbish Contractor collects in the City at the County of Sonoma transfer station in the Sonoma Valley; and

WHEREAS, by Resolution No. 47-2010, City acknowledged that Contractor intended to redirect up to fifty percent (50%) of the garbage and rubbish waste stream Contractor collects in City ("City's waste stream") to an alternative collection site other than the County of Sonoma transfer station. Contractor has informed the City that this alternative collection site will be located outside of Sonoma County and shall not be a disposal site owned and/or operated by the County of Sonoma ("Non-Sonoma County Waste Facility"); and

WHEREAS, City is a member of the Sonoma County Waste Management Agency, a joint powers agency comprised of the nine incorporated cities in Sonoma County and the County of Sonoma, ("Agency"); and

WHEREAS, funding for the Agency is partially derived from a surcharge ("Agency surcharge fee") on the tip fee charged for the disposal of garbage and rubbish at the County of Sonoma transfer station; and

WHEREAS, as a result of Resolution No. 47-2010, and Contractor's redirection of up to fifty percent (50%) of the City's waste stream to a collection site outside of Sonoma County, Agency will not be paid Agency surcharge fees that Agency would have received had Contractor deposited all of the City's waste stream at the County of Sonoma transfer station; and

WHEREAS, in order to reimburse Agency for the monies it will not be paid as a result of Contractor's redirection of the City's waste stream as acknowledged by

EXHIBIT B

Resolution No. 47-2010, City and Agency entered into an Agency Surcharge Agreement (“Surcharge Agreement”) through which the City agreed to pay the Agency an amount equal to the number of tons of City’s waste stream Contractor delivers to a Non-Sonoma County Waste Facility multiplied by the then current per-ton Agency surcharge fee, plus the Agency’s legal fees incurred in drafting, negotiating and implementing said Surcharge Agreement. A copy of the Agency Surcharge Agreement is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Contractor has agreed to reimburse City for any amounts it must pay the Agency pursuant to the Surcharge Agreement; and

WHEREAS, Contractor initiated a pilot program for a one year period for food scraps collection from commercial establishments located in the City on a voluntary basis and at no additional charge to the City or the participating commercial establishments.

NOW, THEREFORE, City and Contractor agree as follows:

Section 1. Section 13 of the Contract is amended to read as follows:

Contractor agrees that he will dispose of all garbage and rubbish at a place satisfactory to the City, and until further notice, the County of Sonoma transfer station in the Sonoma Valley is designated as the place of disposal. *Notwithstanding the foregoing, however, for the period covered by Section 27 of this Contract, Contractor retains the right to, in the exercise of its sole discretion, divert up to fifty percent (50%) of the garbage and rubbish Contractor collects in City to a place of disposal other than the County of Sonoma transfer station in the Sonoma Valley. This place of disposal may be located outside of Sonoma County and shall be referred to as the “Non-Sonoma County Waste Facility”.*

Section 2. Section 26.E is added to the Contract to read as follows:

Commencing on January 1, 2011, and continuing through January 1, 2012, Contractor initiated and conducted a pilot program collecting food scraps from commercial establishments located in the downtown area of the City on a voluntary basis and at no additional charge to the City or the participating commercial establishments. Without cost to the City or the participating commercial establishments, among other things, the Contractor provided collection bins or containers for each participant, established pick up schedules, cooperated with the affected establishments in implementing the program, collected the bins or containers, advertised the availability and details of the program to each commercial establishment located in the affected area, and disposed of the food scraps through a composting program consistent with the terms of the Contract.

Commencing on January 2, 2012 and continuing until terminated by mutual agreement of the parties hereto, Contractor shall continue offering said food scrap collection program to all commercial establishments located within the City’s corporate boundaries desirous of participating in it. At the end of each quarter during which this program is in effect,

EXHIBIT B

Contractor shall submit to the City a written report briefly describing the program, the number and identity of the establishments participating in it, whether the program has met the Contractor's and the City's objectives, what steps the Contractor is intending to implement to improve the program, and any other information that, in his/her reasonable judgment, the City Manager deems necessary.

Section 3. Section 27 shall be added to the Contract to read as follows:

27. AGENCY SURCHARGE AGREEMENT BETWEEN CITY AND SONOMA COUNTY WASTE MANAGEMENT AGENCY (“AGENCY”)
 - A. Contractor hereby agrees to reimburse City for all of the costs, fees and charges the City is obligated to pay the Agency in accordance with the Surcharge Agreement.
 - B. By the 15th day of each month, Contractor shall report to City in writing, in the form and manner required by City, the amount of garbage and rubbish Contractor deposited during the preceding month at the County of Sonoma transfer station in the Sonoma Valley and the amount of garbage and rubbish Contractor deposited during the preceding month at Out of County Waste Facilities. In said report, the Contractor shall specify the address and location of each Out of County Waste Facility utilized during the preceding month. The City may require the Contractor to verify the information the Contractor discloses in these monthly reports and, if so, the Contractor, at its sole cost, shall provide that verification to the City in the manner and by the date specified by the City.
 - C. When City receives a monthly invoice from Agency of the amount City is required to pay Agency pursuant to the Surcharge Agreement, City shall promptly mail, fax, e-mail or personally deliver a copy of the invoice to Contractor.
 - D. Contractor shall pay to City the full amount of the invoice within five (5) calendar days of the date the City mailed, faxed, e-mailed or personally delivered the Agency invoice to the Contractor.
 - E. The parties shall, in good faith, attempt to resolve any dispute arising out of the parties' performance under this Section 27 by mediation prior to commencing litigation, using the procedures set forth in Section 14 of the Surcharge Agreement. The parties shall mutually agree upon the mediator and shall divide the costs of mediation equally.

- F. Any failure by Contractor to comply with the terms and conditions of this Section 27 shall be deemed by City to be a breach of the Contract and City may terminate the Contract in accordance with Section 20 of the Contract.
- G. The terms of this Section 27 shall be effective from December 1, 2010 and continue until November 30, 2012 ("Effective Period") unless the Agency Surcharge Agreement is (i) extended by the City and Agency in which case the Effective Period shall likewise be extended or (ii) terminated before the end of the Effective Period by either the City or Agency in accordance with Section 4 of the Agency Surcharge Agreement, in which case this Section 27 shall automatically be terminated at the same time.

Section 4. Section 28 shall be added to the Contract to read as follows:

HAZARDOUS WASTE INDEMNIFICATION

Contractor shall indemnify, defend with counsel selected by City, protect and hold harmless City, its officers, agents and employees (collectively, "Indemnitees") from and against all claims, damages (including special, consequential, natural resources and punitive damages), injuries, costs (including any and all response, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) (collectively, "Damages"), of any kind whatsoever paid, incurred or suffered by, or asserted against, Indemnitees, arising from, or attributable to the acts or omissions of Contractor or its officers, directors, employees or agents, whether or not negligent or otherwise culpable, in connection with, related to, or attributable to: (i) any operations, repair, clean-up or detoxification, or preparation and implementation of any removal, remedial, response, closure, post-closure or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Waste, Hazardous Materials, Hazardous Substances or Toxic Materials or Substances (collectively, "Hazardous Waste") (as those terms may be defined in any law, regulation or code) at any place where Contractor transports, processes, stores or disposes of solid waste, garbage, recyclables, green waste or rubbish collected under this Agreement and/or (ii) Hazardous Waste relating in any way to Contractor's performance of this Agreement. This indemnity afforded Indemnitees shall only be limited to exclude coverage for intentional wrongful acts and active negligence of Indemnitees. The foregoing indemnity is intended to operate as an agreement pursuant to section 107(e) of CERCLA, 42 U.S.C. § 9607(e), and California Health & Safety Code § 25364, to defend, protect, hold harmless and indemnify City from liability. The foregoing indemnity shall not apply to Damages arising out of the operation of waste facilities owned or operated by the County of Sonoma to which Contractor transports garbage and rubbish generated in the City. This provision shall survive the termination of this Agreement.

Section 5. Section 29 shall be added to the Contract to read as follows:

EXHIBIT B

EXAMINATION OF RECORDS

A. Contractor shall maintain a proper set of books and records in accordance with generally accepted accounting principles, accurately reflecting the business done by it under this Agreement.

B. Contractor shall maintain all records relating to the services provided hereunder, including customer lists, billing records, maps, AB 939 records, and written customer complaints, for the full term of this Agreement, and for an additional period of not less than three (3) years, or for any longer period required by law. City or its agent(s) shall have the right, upon ten (10) business days' advance notice, to inspect all maps, AB 939 records, Contractor's books and records, written customer complaints, and other like materials of Contractor that reasonably relate to Contractor's compliance with the provisions of this Agreement. Such records shall be made available to City at Contractor's regular place of business, but in no event outside the County of Sonoma. Contractor shall further maintain and make available to City records as to number of customers, total and by type, route maps, service records, tonnage disposal and collection records and other materials and operating statistics in such manner and in such detail as City may require.

C. Should any examination or audit of Contractor's records reveal an underpayment of any fee required under this Agreement, the amount of such underpayment shall become due and payable to City not later than thirty (30) days after written notice of such underpayment is sent to Contractor by City.

D. Should any examination or audit of Contractor's records reveal an underpayment or under-reporting to City of more than three percent (3%) of the correct amount owed or the correct amount being reported, respectively, Contractor shall reimburse City for the entire cost of City's audit or examination within thirty (30) days of demand therefor, and, with respect to the situation where the audit reveals an underpayment to the City, in addition to paying the amount of the underpayment as provided above, Contractor shall also reimburse City for the entire cost of City's audit or examination within thirty (30) days of demand therefor, and said cost shall not be recoverable through rate setting. Notwithstanding the foregoing, in the event said examination or audit reveals an underpayment to the City of \$2,000 or less, then Contractor shall pay to the City two times the amount of the underpayment, plus 50% of the cost of the City's audit or examination, which said sums Contractor shall pay to the City within thirty (30) days of demand therefor, and said payments shall not be recoverable through rate setting. Should any examination or audit of Contractor's records reveal an overpayment by Contractor of any fee required under this Agreement, the amount of such overpayment shall be credited against the next quarterly installment of the Franchise Fee, or, if this Agreement has terminated, shall be promptly refunded to Contractor.

E. (1) The information required by this Section 29 shall pertain to Contractor's

EXHIBIT B

operations covered and regulated by this Agreement, and nothing contained herein shall require Contractor to provide City with information pertaining to Contractor's operations that are not regulated by City, except in conformance with this Section 29.

(2) City or its agents may examine Contractor's books, records and financial statements pertaining to operations not regulated by City for the sole purpose of gathering information necessary to allow City to ascertain whether income, expenses, assets and liabilities are reasonable or reasonably and consistently allocated among operations regulated by City and those not regulated by City. Contractor shall obtain City's written approval prior to any substantial change of its method of segregating its financial records between City-regulated and non-City-regulated operations.

(3) Without limiting Section 29.H., information gained from examination of records pertaining to operations not regulated by City shall be treated by City and its agents as confidential information, and Contractor may require City and its agents to execute a confidentiality agreement as a condition for receipt of such information.

(4) For review of books and other financial records necessary to verify Contractor's income, expense, assets and liabilities, "agent" means an independent Certified Public Accountant, public accountancy firm or designated City employee. For all other information or records, including the results of financial verification, "agency" means any consultant designated by City or City employees.

F. Nothing in this Section 29 shall prevent City from allowing public access to City records as required by the California Government Code, and in the event any dispute arises as to legally required public access to information provided by Contractor under the terms of this Agreement, City shall in its discretion provide public access to said information according to law, or tender the defense of any claims made against City concerning said information to Contractor. Prior to releasing any information pursuant to this Section 29.F, City shall make a good-faith effort to notify Contractor of the intended release.

G. Upon reasonable notice or as otherwise agreed herein, and at those times designated by City, Contractor shall supply to City lists of the names of all customers of Contractor who are provided any service by Contractor within the Franchise Area. At the same or other time, City may request and Contractor shall provide information specifying each customer's address, type of service provided to each customer, the number and type of authorized solid waste, garbage and/or rubbish containers used by or provided to each customer, whether and which customers are believed to be violating this Agreement, any mandatory subscription ordinance, or any other provision of the law that City, in its sound discretion, reasonably requires to monitor implementation of this Agreement or discharge City's responsibilities under the law.

H. City shall treat all information concerning Contractor or Contractor's operations or customers to which it has access under this Section 29, or which it receives

EXHIBIT B

as part of the rate-making process (“Contractor Information”) in accordance with the California Public Records Act (Government Code §§ 6250 et seq.) (for the purposes of this Section 29.H, the “Act”). To the extent permitted by law, including any available exemptions under the Act that have been determined by the City within its reasonable discretion, City shall keep all Contractor Information strictly confidential and shall not disclose any Contractor Information to any person requesting the information.

Section 6. Section 30 shall be added to the Contract to read as follows:

GENERAL INDEMNIFICATION

A. Contractor shall defend, with counsel reasonably acceptable to City, and indemnify City from and against, any and all liabilities, costs, claims and damages that are caused by Contractor’s failure to comply (i) with applicable federal, state and local laws, statutes, ordinances, codes, rules and regulations, and the orders and decrees of all courts or administrative bodies or tribunals in any manner in effect during the term of this Agreement and affecting the performance of this Agreement, as they may from time to time be amended, including without limitation CERCLA, 42 U.S.C. §§ 9601, et seq., the RCRA, 42 U.S.C. §§ 6901, et seq., the California Integrated Waste Management Act of 1989, and all other applicable laws of the State of California and the County of Sonoma or (ii) with any other section of this Agreement.

B. Contractor shall protect, defend with counsel reasonably acceptable to City, indemnify and hold harmless City and its officers, employees and agents from and against, any and all losses, liabilities, fines, penalties, claims, damages, or judgments, including attorney’s fees (collectively “losses”), arising out of or resulting in any way from (i) Contractor’s exercise of the franchise, or (ii) City’s grant of the franchise to Contractor, or (iii) any services provided by Contractor pursuant to the terms of this Agreement. The obligations of Contractor in the foregoing sentence shall not apply to losses that are due to the sole negligence or willful misconduct of City or its officers, employees, agents or contractors, or to Contractor taking or not taking action at the direction of City, over the written objection of Contractor. For purposes of this Section 30.B, Contractor shall not be considered a “contractor” of City.

C. In addition, Contractor shall release and defend, with counsel reasonably acceptable to City, indemnify and hold City harmless from and against, any and all litigation and claims, damages and liabilities arising therefrom, brought to enforce or to challenge this Agreement and/or Contractor’s exclusive rights granted hereunder, including any alleged violation by City and/or Contractor of any federal, state or municipal law, statute or constitutional provision, or other cause. Notwithstanding the foregoing, Contractor’s obligations under this Section 30.C extend only to actions brought against or by persons or entities not parties to this Agreement.

D. Without limiting Section 30.A and in addition thereto, Contractor shall defend, with counsel reasonably acceptable to City, indemnify and hold City harmless from and against, any and all fines, penalties and assessments levied against or threatened to be levied against City for City’s failure to meet the requirements of AB 939, its

EXHIBIT B

amendments or any successor legislation or all rules and regulations promulgated thereunder if said failure is caused by Contractor, or its failure to comply with this Agreement or Contractor's failure to comply with applicable laws, rules or regulations, including failing to timely supply to City the reports and information required by City in order to comply with AB 939.

E. Notwithstanding anything stated to the contrary by Section 30.D, the obligations of Contractor to indemnify City under Section 30.D shall be subject to the provisions of Public Resources Code section 40059.1, as it may be amended or modified. It is the intent of the parties that this paragraph be construed to not be inconsistent with state law and be construed in a manner that this indemnification obligation be applied to the fullest extent permitted by law.

F. This Section 30 shall survive termination of this Agreement.

Section 7. All other terms and conditions of the Contract not expressly amended herein shall continue in full force and effect.

Section 8. The Recitals are incorporated into this Agreement.

CITY OF SONOMA

CONTRACTOR

Linda Kelly, City Manager

John D. Curotto, Jr., President

ATTEST:

Gay Johann, City Clerk

APPROVED AS TO FORM

City Attorney

AGENCY SURCHARGE AGREEMENT

THIS AGENCY SURCHARGE AGREEMENT ("Agreement") is entered into and is effective as of December 1, 2010 ("Effective Date"), by and between the City of Sonoma, a municipal corporation ("City") and Sonoma County Waste Management Agency, a joint powers agency of the nine incorporated cities in Sonoma County and the County of Sonoma ("Agency"), (collectively, the "Parties"). The members of the Agency shall be referred to herein as the "Members".

WHEREAS, City pays its share of Agency's funding through a surcharge on the tip fee charged on solid waste collected in the City and disposed of in or through the Sonoma County waste disposal system; and

WHEREAS, City has arranged to permit up to fifty percent (50%) of the solid waste collected in City to be disposed of outside of Sonoma County and without passing through the Sonoma County waste disposal system for a period of two (2) years from the Effective Date of this Agreement; and

WHEREAS, the Agency's surcharge will no longer be collected on this up to 50 % portion of the solid waste collected in City during this two year period; and

WHEREAS, City desires to pay directly to Agency an amount equal to the amount of surcharge that would have been collected on this up to 50% portion of the solid waste collected in City and disposed outside of the Sonoma County waste disposal system.

THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **Services.** Agency shall provide the same services to City as the other Agency Members receive and as City normally receives.
2. **Compensation.** City shall compensate Agency as provided in this section. The monthly compensation under this Agreement shall be calculated by applying the Agency tipping fee surcharge rate on the actual tonnages of solid waste collected in City and disposed of by City's franchised waste hauler, Sonoma Garbage Collectors, outside of the Sonoma County waste disposal system. The amount of solid waste disposed outside of the Sonoma County waste disposal system each month shall be reported to Agency for invoicing purposes by the 20th of the succeeding month. The Agency's current approved rate of \$5.95 per ton will be used for calculating invoices until such time as the rate is modified by Agency. Any tipping fee surcharge rate modification shall automatically be effective under the terms of this Agreement when such modification is effective in Sonoma County and obligatory on all the Members. Agency shall submit monthly invoices to City and City shall pay Agency the invoiced amount within thirty (30) days of receipt of the invoice.

City agrees to reimburse Agency, upon presentation of invoice, for legal expenses incurred in the drafting and implementation of this Agreement.

In the event that the City's franchise agreement with Sonoma Garbage Collectors ("SGC") grants to the City the right to audit or inspect SGC's books and records pertaining to the amounts of solid waste collected and disposed of by SGC, then, upon notice from the Agency to the City, the City shall inspect SGC's books and records only for the purpose of determining the amount of solid waste SGC has collected and disposed of and the location of said disposition, and within sixty (60) days after the City's receipt of the Agency's notice, the City shall deliver to the Agency an accounting of same and any records the City was able to obtain from SGC verifying said accounting. Any costs that the City incurs in conducting said audit through the retention of persons other than City employees shall be reimbursed to the City by Agency within thirty (30) days of the Agency's receipt of the City's invoice, provided that Agency agreed in advance and in writing to the retention of persons other than City employees.

In the alternative, upon notice from the Agency to the City, Agency staff shall inspect SGC's books and records only for the purpose of determining the amount of solid waste SGC has collected and disposed of and the location of said disposition. Any such review of SGC's books and records by Agency staff shall take place at City offices. City shall be responsible for ensuring SGC delivers the applicable books and records, or true and correct copies thereof, to City offices at the requested date and time.

3. **Term.** The term of this Agreement commences on the Effective Date, and terminates on November 30, 2012, unless sooner terminated in accordance with Section 4.

4. **Termination.** City or Agency may terminate this Agreement without cause upon ninety (90) days' written notice to the non-terminating party. City or Agency may immediately terminate or suspend this Agreement for cause. Cause for immediate termination or suspension shall include, but not be limited to, any breach of this Agreement by either Party or either Party's bankruptcy or insolvency. In the event of early termination of this Agreement by City, Agency shall be entitled to payment for the Agency surcharge on solid waste disposed outside of the Sonoma County waste disposal system to the date of termination.

5. **Assignment/Transfer.** No assignment or transfer in whole or in part of this Agreement shall be made without the prior written consent of both Parties.

6. **Compliance With All Laws.** The Parties shall fully comply with all applicable local, state and federal rules, laws, regulations and ordinances pertaining to the performance of the obligations created by this Agreement.

7. **Notice.** Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Party in accordance with this Section. All such notices shall be sent by:

- (i) personal delivery, in which case notice is effective upon delivery;
- (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt;
- (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective upon delivery if delivery is confirmed by the delivery service; or
- (iv) facsimile or electronic transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile or electronic transmission shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

City: City of Sonoma, City Clerk
1 The Plaza
Sonoma, California 95476
Telephone: (707) 938-3681
Facsimile: (707) 938-8775
Email: Gjohann@sonomacity.org

Agency: Sonoma County Waste Management Agency
Executive Director
2300 County Center Drive, #B100
Santa Rosa, CA 95403
Telephone: 707-565-3788
Facsimile: 707-565-3701
Email: hmikus@sonoma-county.org

8. **Amendment.** This Agreement may be amended only by a written instrument executed by both Parties.

9. **Construction.** This Agreement is the product of negotiation and compromise on the part of both Parties and the Parties agree that, notwithstanding Civil Code section 1654, any uncertainty in the Agreement shall not be construed against the drafter of the Agreement.

10. **Governing Law; Venue.** This Agreement shall be enforced and interpreted under the laws of the State of California. Any action arising from or brought in connection with this Agreement shall be verified in a court of competent jurisdiction in the County of Sonoma, State of California.

11. **Non-Waiver.** Either Party's failure to enforce any provision of this Agreement or the waiver thereof in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.

12. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

13. **No Third Party Beneficiaries.** The Parties do not intend to create, and nothing in this Agreement shall be construed to create any benefit or right in any third party.

14. **Mediation.** The Parties agree to make a good faith attempt to resolve any dispute arising out of this Agreement through mediation prior to commencing litigation. The Parties shall mutually agree upon the mediator and shall divide the costs of mediation equally.

15. **Headings.** The headings used in this Agreement are for convenience only and are not intended to affect the interpretation or construction of any provisions herein.

16. **Entire Agreement.** This Agreement, including the exhibits attached hereto and incorporated herein, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all prior agreements or understandings, oral or written, between the Parties in this regard.

IN WITNESS WHEREOF, the parties hereto have executed this document the day, month and year first above written.

CITY OF SONOMA

SONOMA COUNTY WASTE
MANAGEMENT AGENCY

City Manager

Chair

ATTEST:

APPROVED AS TO FORM

City Clerk

Agency Counsel

APPROVED AS TO FORM

City Attorney



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5D

Meeting Date: 02/06/12

Department

Public Works

Staff Contact

Milenka Bates, Public Works

Agenda Item Title

Approval of application by Destination Races for temporary use of City streets for the Napa to Sonoma Wine Country Half Marathon on Sunday, July 15, 2012.

Summary

Destination Races has requested temporary use of city streets for the Napa to Sonoma Wine Country Half Marathon as follows:

1. Closure of East Napa Street between First Street East and the Plaza Entrance 7:00 a.m. until 11:30 a.m. on Sunday July 15, 2012.
 2. Closure of the number 2 lane of Broadway, north-bound, between East MacArthur and the Plaza 7:00 a.m. until 11:30 a.m. on Sunday July 15, 2012.
 3. The Parking Lane on the East side of Broadway between East MacArthur and East Napa Street 7:00 a.m. until 11:30 a.m. on Sunday July 15, 2012.
 4. Closure of East MacArthur between Second St. East. and Broadway 7:00 a.m. until 11:30 a.m. on Sunday July 15, 2012
-

Recommended Council Action

Adopt the resolution approving the use of city streets and recommending Caltrans approval subject to the following conditions:

1. Applicant shall contact Police Department as soon as possible to finalize traffic control plan and contract with the Sonoma County Sheriff's Department for services as required.
 2. Applicant shall provide a written request for special barricading to the Public Works Department at least thirty days prior to the event and meet with the Street & Police Dept.
 3. Applicant shall provide notice of the event and the street closure to all businesses located on Broadway and on all sides of the Plaza no later than thirty days prior to the event.
 4. Applicant shall comply with City of Sonoma standard insurance requirements.
-

Alternative Actions

- 1) Delay action pending receipt of additional information
 - 2) Deny the request
-

Financial Impact

The applicant is required to reimburse the City for additional personnel costs incurred as a result of this event.

Environmental Review

- Environmental Impact Report
 Negative Declaration
 Exempt
 Not Applicable

Status

- Approved/Certified
 No Action Required
 Action Requested
-

Attachments:

2012 Resolution
2012 Wine Country Half Marathon Street Use Permit

cc: Matt Dockstader
Destination Races
1905 Sperring Road
Sonoma, CA 95476

CITY OF SONOMA

RESOLUTION NO. XX - 2012

RESOLUTION APPROVING AND CONSENTING
TO THE USE OF CITY STREETS
2012 Wine Country Half Marathon

WHEREAS, Destination Races has made application to conduct the Wine Country Half Marathon, which will involve use of State Route 12; and

WHEREAS, the Wine Country Half Marathon will temporarily impede and restrict the free passage of traffic over State Route 12 on July 15, 2012 between the hours of 7:00 a.m. and 11:30 a.m.

NOW THEREFORE be it resolved that the City Council of the City of Sonoma approves and consents to the proposed Wine Country Half Marathon and recommends approval of and consents to the proposed restriction of State Route 12 upon terms and conditions deemed appropriate and necessary by the State of California, Department of Transportation.

The foregoing Resolution was duly adopted this 6th day of February 2012, by the following vote:

Ayes:
Noes:
Absent:

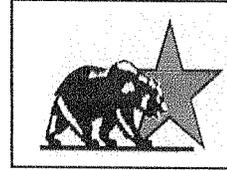
Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk



**City of Sonoma
No. 1 The Plaza
Sonoma CA 95476**



**PERMIT APPLICATION
FOR USE OF CITY STREETS**

Application Fee: \$373.00
(Encro 100 30203)

Note: Events utilizing any portion of Highway 12 must also obtain permission from Caltrans, District 4, 111 Grand Avenue, Oakland 94612, (510) 286-4404.

Name of Applicant: Matt Dockstaeder / Wine Country Half Marathon

Name of Sponsoring Organization: Destination Races / Hanna Boys Center

Address: 1224 Sperring Rd.

Telephone Numbers: Day: 707 933-1769 Night: _____ Fax: _____ Email: mattd@destinationraces.com

Napa to Sonoma
Name of Event: Wine Country Half Marathon

Type of Event – Mark Appropriate Box

- Run or Walk Rally or Assembly Parade
 Other _____

Date(s) of Event: Sunday July 15, 2012

Street Closure(s) Requested:

Northeast
Right lane
MacArthur between 2nd St. E and Broadway from 8:00 am/pm to 10:45 am/pm
Broadway between MacArthur and Plaza from 8:00 am/pm to 10:45 am/pm
Denmark between High School and Napa Rd. from 7:45 am/pm to 10:45 am/pm

Complete Description of Event. Using additional sheets if necessary, describe the number of participants; duration of the event; the number, type, size and material of all entries including any floats or banners; the number and type of animals and a plan for cleaning up after them; any seating being provided; and Judges Tables. Attach a map of the route to be used and indicating the location of the staging area, announcer's stand, barricade placement, vendors, banners, signs and booths, etc.:

9th annual half marathon running from Napa to Sonoma Plaza. Race finishes at 10:45am. Post-race festival runs from 9:30am to Noon. Announcer begins at 7:50.

Estimated Daily Attendance: 3,000 runners 8,000 total in Plaza

If a Sound Amplification is be used, describe the type, location, purpose and hours of use: Announcer at race finish from 7:50 am to 10:30am. Band in amphitheatre from 9:30am - 10:30am and 11:30 - Noon.

General Conditions of Approval:

Applicant is responsible for obtaining permission from Caltrans for use of any portion of Highway 12. All facilities placed upon a City street are subject to continuing safety approval and inspection by the appropriate City departments. A clear path of a minimum width of 20 feet through the length of the portion of roadway being used must be maintained for emergency vehicle access. Obstructions shall not be placed along the curb or the roadway within 10 feet of any fire hydrant. All facilities used for the event shall be removed from City streets immediately after the close of the event. All costs for barricading, traffic control, street sweeping and clean up shall be borne by the applicant. Applicant will be required to submit a deposit equal to the amount estimated by the City for services performed by City personnel in relation to the event. The deposit is due no later than two weeks before the first day of the event. If actual costs exceed the amount of the deposit, applicant will be required to pay the difference. If actual costs are less than the deposit, the excess will be returned to applicant or applied to any other fees or charges owed to the City. Applicant must provide a certificate of insurance and a policy endorsement naming the City of Sonoma as additional insured as described in the City of Sonoma Facility Use Insurance Requirements.

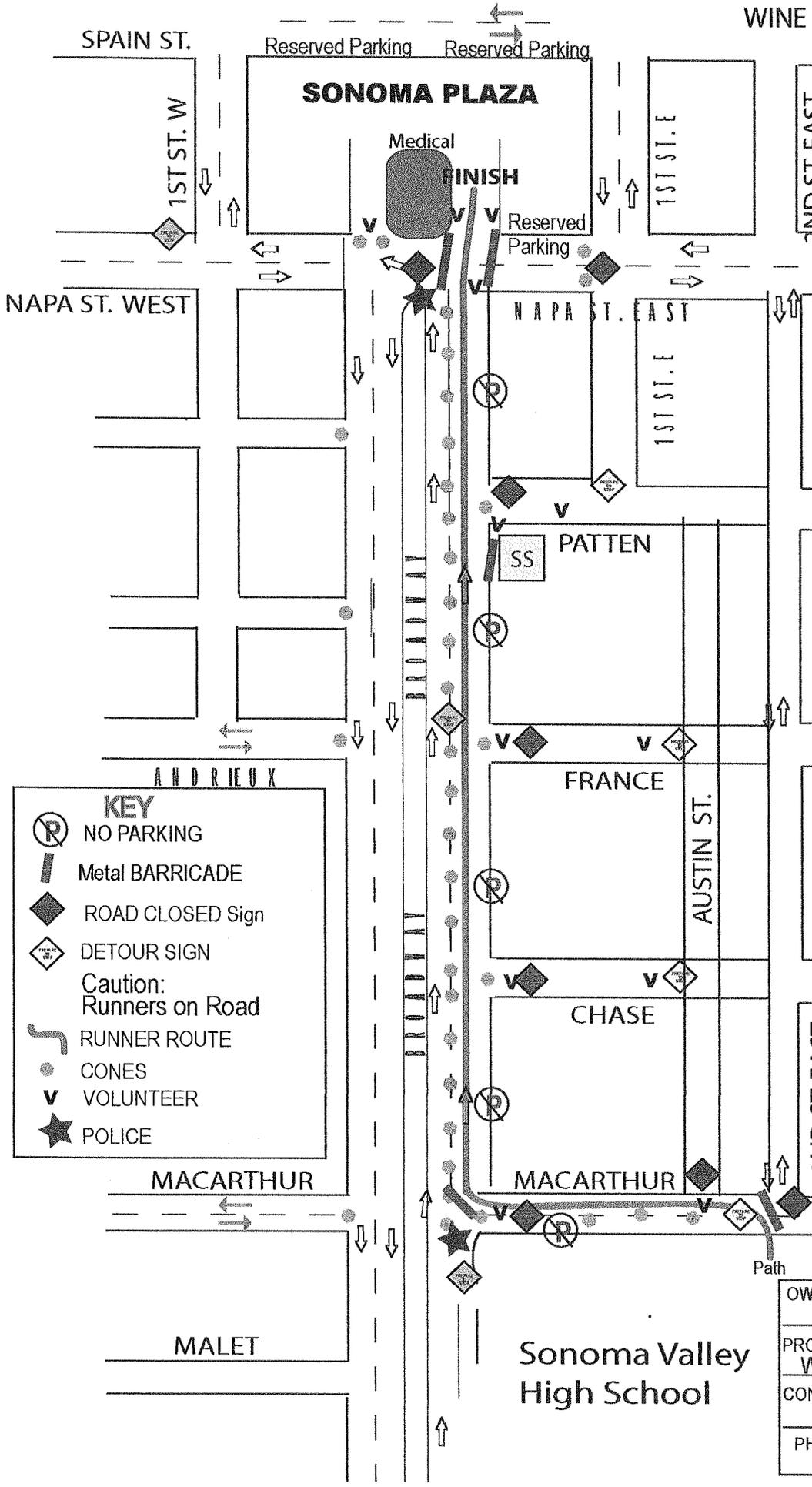
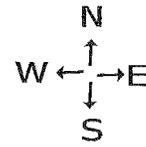
I do hereby acknowledge and affirm that all information contained herein is accurate to the best of my knowledge and agree to assume full responsibility and liability for and indemnify, and suits for or by reason of injury to any person or damages to any property of the parties hereto or of the third persons for any and all cause or causes whatsoever on in any way connected with the holding of said event or any act or omission or thing in any manner related to said event and its operation irrespective of negligence, actual or claimed, upon the part of the City, its agents or employees.

Matt Dubois
 Applicant's Signature

1/20/12
 Date
1/25/12

For City Use Only	
POLICE DEPARTMENT RECOMMENDATION:	<input type="checkbox"/> Approve <input type="checkbox"/> Deny
Amount of Deposit Required _____	
COMMENTS:	
_____	_____
Authorized Signature	Date
PUBLIC WORKS DEPARTMENT RECOMMENDATION:	<input checked="" type="checkbox"/> Approve <input type="checkbox"/> Deny
Amount of Deposit Required _____	
COMMENTS:	
_____	_____
Authorized Signature <u>NEWS</u>	Date <u>1/26/12</u>
Date Approved by CSEC _____	
Date Approved by City Council _____	

WINE COUNTRY HALF MARATHON



NOTES

1. Close Northbound far right lane of Broadway to vehicles - 7:30 - 11:00 am
2. Patten, France, Chase and MacArthur closed at Broadway 7:50 - 11:00 am. Detour signs and volunteers posted at intersections
3. Napa St. E closed from Broadway to 1st. St. E - 7:00 am to 11:30 am. Barricades and police officer at Broadway and Napa St.
4. Detour sign at 1st St. E. Vehicles use Spain St. to access Plaza
5. Sonoma Police officer positioned MacArthur and Broadway. Thru Traf Eastbound closed. McArthur Place access open on south lane.
6. Volunteers and signs placed at all other intersections on Broadway and 2nd St. East to detour traffic.
7. NO Parking signs posted by city along northbound side of Broadway and on MacArthur section for closure Sun 2am to Sun 11:30am.
8. Use A-frame barricades for road signs. Use metal barricades for key closures (red).

KEY

- NO PARKING
- Metal BARRICADE
- ROAD CLOSED Sign
- DETOUR SIGN
- Caution: Runners on Road
- RUNNER ROUTE
- CONES
- VOLUNTEER
- POLICE

OWNER CALTRANS / City of Sonoma	
PROJECT WINE COUNTRY HALF MARATHON	
CONTRACTOR Destination Races	
PHONE 707 933-1769	DATE 7/15/12

Sonoma Valley High School



Course Information:

Date: July 15, 2012

Start Time: 7:00 am Half Marathon, 8:15-8:30 GunBunFunRun 5K

Course Route: Cuvaision Carneros Winery in Napa to Sonoma Plaza

ROAD DELAYS AND ROLLING CLOSURES

CHP will direct intersections and lead and SAG vehicles for the rolling closure from Cuvaision in Napa to the end of Denmark St. at the junction of Sonoma Valley high school path. Sonoma Police will provide an office at MacArthur and Broadway and at the intersection of Broadway and Napa St. to direct traffic. Cones, barricades, directional arrows and signage will be placed along the course by Destination Races operations crews and City of Sonoma Public works will provide NO PARKING signs in city limits. CHP, police and course monitors will be positioned on course and must be obeyed at all times for the safety of runners, pedestrians and vehicles.

Mileage	Times	Location (direction)
0.0-2.0	6:00 – 7:30am	Duhig Road closed to vehicles
0.0	7:00 - 7:30 am	Start at Cuvaision Carneros Winery
2.0-7.0	7:00-8:30 am	Ramal Rd. rolling closure Rolling closure from Duhig to Dale Ave.
6.8-7.2	7:30-9:00 am	L on Dale Ave. (westbound) Close Dale Ave and Ramal Rd to vehicle traffic
7.2	7:30-9:50 am	R on Burndale Rd. to right lane (northbound) Close Burndale Rd. from Dale to Old Burndale – Runners stay right. Emergency access out in southbound direction
7.5	7:45-9:15 am	Burndale Rd. across Hwy 121 Signs will direct vehicles to prepare to stop on Hwy 121. CHP controls intersection and crossings at their discretion.
10.2	7:45-9:50 am	Old Burndale Rd. across Napa Rd. to Denmark CHP controls vehicle and runner crossings at Napa Rd. Close Denmark to vehicles. Emergency access out only against runners.
11.2	7:50-10:10 am	Denmark Rd westbound across 8 th St. East CHP stops cars on 8 th St. East when runners are present
11.8	7:55-10:20 am	Denmark westbound across 5 th St. East to path Police stop cars on 5 th St. East when runners are present
12.2	7:55-10:40 am	Exit path at SVHS High at MacArthur St. Close MacArthur St. from Broadway to 2 nd St. East
12.5-13.1	8:00-10:45 am	Finish down Broadway to Plaza Close right lane of Broadway from MacArthur St to Plaza
Finish	7:00-11:00 am	E. Napa St. closed to vehicles at Plaza entrance to 2 nd St. East

NO PARKING ZONES in SONOMA

Request for posting of signs by Public Works for Sunday 2:00am to 11:00am.

- 1. Denmark St. from Eastin Dr. to HS path (north side of street only)**
- 2. E. MacArthur St. from 2nd St. East to Broadway (north side of street only)**
- 3. Broadway from E. MacArthur St. to Plaza on east side of road. Runners use right lane and parking lanes.**
- 4. SONOMA PLAZA:**
 - North end of Plaza along Spain St. on parking spaces adjacent to Plaza**
 - 1st St. East from Spain to Napa St. for parking spaces adjacent to Plaza**
 - Napa St. parking spaces adjacent to Plaza for buses**



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5E

Meeting Date: 02/06/2012

Department

Administration

Staff Contact

Laurie Decker, Economic Development Manager

Linda Kelly, City Manager

Agenda Item Title

Adoption of an ordinance to regulate the placement, appearance, number, size and servicing of newsracks on the public rights-of-way.

Summary

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 was introduced by the City Council at the January 18, 2012 meeting. It will enact regulations relating to the placement, appearance, number, size and servicing of newsracks on the public rights of way.

Recommended Council Action

Hold second reading and adopt the ordinance.

Alternative Actions

Defer action to a future date.

Financial Impact

Staff time associated with issuing permits should be offset by the administrative fee charged. Although the ordinance specifies that the cost of removal and storage of noncompliant newsracks shall be borne by the permittee, there may be some costs associated with removal and disposal of existing racks that do not apply for permits, or for abandoned racks where the permittee has gone out of business.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Ordinance

cc:

CITY OF SONOMA

ORDINANCE NO. 01 - 2012

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 CITY COUNCIL OF THE CITY OF SONOMA DOES ORDAIN AS FOLLOWS:

Section 1. Findings

A. Findings. The City Council of the City of Sonoma finds and declares that:

1. The uncontrolled placement and maintenance of newsracks in the public right-of-way can constitute a threat to public health, safety and welfare by interfering with and obstructing the use of the public rights-of-way and by offending community aesthetic sensibilities and adversely affecting tourism which is one of the major sources of economic viability of the community.

2. The City Council recognizes, however, that the use of such rights-of-way is so historically associated with the sale and distribution of newspapers and news periodicals that access to those areas for such purposes should not be absolutely denied. The City Council further finds that these strong and competing interests require a reasonable accommodation which can be satisfactorily achieved only through the means of this chapter, which is designed to accommodate such interests by regulating the place and manner of using such newsracks.

B. Purpose. The purpose of this chapter is to promote the public health, safety and welfare through the regulation of placement, appearance, number, size and servicing of newsracks on the public rights-of-way so as to:

1. Protect the right to distribute information protected by the United States and California Constitutions, through the use of newsracks.

2. Provide for pedestrian and driving safety and convenience.

3. Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic, including but not limited to ingress into or egress from any place of business or residence, from the street to the sidewalk, or from parked vehicles to the sidewalk.

4. Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs and signals, hydrants, mail boxes, and similar appurtenances, and access to locations used for public transportation purposes.

5. Reduce visual blight on the public rights-of-way, encourage well-designed and aesthetically compatible newsracks and protect the aesthetics and value of surrounding properties.

6. Reduce exposure of the City to personal injury or property damage claims and litigation.

C. Preservation of Constitutional Rights. It is not the intent of this chapter to in any way discriminate against, regulate, or interfere with the publication, circulation, distribution, or dissemination of any printed material that is constitutionally protected.

Section 2. Chapter 12.24, Newsracks, is added to read as follows:

Chapter 12.24

NEWSRACKS

Sections:

12.24.010	Purpose and Intent
12.24.020	Definitions
12.24.030	General Provisions
12.24.040	Permit Required
12.24.050	Standards for the Placement, Installation, Maintenance and Operation of Newsracks
12.24.060	Removal and Hearing
12.24.070	Notices
12.24.080	Applicability
12.24.090	Abandoned Newsracks
12.24.100	Severability
12.24.110	Enforcement Authority
12.24.120	Appeals and Judicial Review
12.24.010	Purpose and Intent.

12.24.020 Definitions.

As used in this chapter, unless the context otherwise clearly indicates, the following words and phrases shall be construed as defined in this section:

"Block" shall mean one side of a street between two consecutive intersections.

"City Manager" shall mean the City Manager or his or her designee.

"Director of Public Works" shall mean the Director of the Public Works Department or his or her designee.

"Double-slotted newsracks" shall mean single newsracks containing separate provisions for two tabloid-style (vertically formatted) publications, where each side has a separate coin slot, merchandise receptacles, or places where the publications are dispersed. A double-slotted newsrack shall be considered one newsrack, cabinet, or compartment for purposes of this chapter.

"Modular newsracks" shall mean an attached group of two or more newsracks supported by a pedestal.

"Newsrack" shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale or free distribution of newspapers, news periodicals, commercial handbills, or other publications.

"Newsrack permit" shall mean a permit which was issued under this chapter of the Sonoma Municipal Code.

"Person" shall mean any person or persons, or entity, including but not limited to, a corporation, partnership, unincorporated association, or joint venture.

12.24.030 General Provisions.

A. Roadway and Driveway Prohibition. No person shall install, use, or maintain any newsrack which projects onto, into, or over, or which rests, wholly or in part, upon any part of the roadway of any public street, or upon any driveway.

B. Parkway Prohibition. No person shall install, use, or maintain any newsrack on a parkway, planter strip, or similar area designated for landscaping in a public right-of-way.

C. Sidewalk Restrictions. No person shall install, use, or maintain any newsrack which in whole or in part rests upon, in, or over any public sidewalk in any manner inconsistent with or in violation of the provisions of this chapter.

12.24.040 Permit Required.

A. No person shall install, use or maintain any newsrack which in whole or in part rests upon, in, or over any public sidewalk without a newsrack permit from the Public Works Department as required in this chapter.

B. The newsracks which are specifically identified in Exhibit "A" attached to the ordinance codified in this chapter are deemed to have a newsrack permit for a period of three months from the effective date of this chapter, at which time a new newsrack permit must be filed as provided in this chapter.

C. Applications for a new newsrack permit may be filed on or after the effective date of the ordinance codified in this chapter. Applications shall be filed with the Director of Public Works upon a form provided by the Public Works Department for that purpose and shall include the following information:

1. The name, address, and telephone number of the applicant;
2. The address and telephone number of a responsible person whom the City may notify or contact at any reasonable time concerning the applicant's newsracks;
3. The number of proposed newsracks and the names and frequency of publications to be contained in each newsrack, including any existing newsracks;
4. Type or brand of newsrack, including a photograph and a description of the newsrack and supporting structure;
5. A site plan showing the exact location of each newsrack and supporting structure, and sufficient information to determine that the location complies with SMC 12.24.050;
6. Such application shall also contain a statement that the applicant will, in consideration of being issued a newsrack permit for the use of space, be responsible for any damage or repairs caused by the installation, maintenance or removal of any newsrack and

agree to indemnify and hold harmless the City of Sonoma, its officers and employees from any loss, liability, or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person caused by the installation, use, or maintenance of the applicant's newsrack within the City of Sonoma.

7. Such application shall also include a copy of the policy or a certificate of the comprehensive general liability insurance policy in the amount prescribed by city council resolution to protect against personal injury and property damages and not more than the amount required for other obstructions on City property. Such insurance shall name on the policy or by endorsement as insured the city of Sonoma, its officers, employees and agents. Insurance coverage must be maintained for the duration of the newsrack placement. Proof of insurance coverage as specified in this subsection must be verified by the city prior to issuance of a newsrack permit.

D. An administrative fee may be imposed where such a fee is imposed merely to defray the expenses of administering constitutional regulation of newsracks and shall be strictly limited to the actual cost of administering such constitutional regulatory scheme. A fee may only be set subsequent to a hearing by the City Council to determine said actual cost. Written findings setting forth the basis of the fee shall be sent to all distributors.

E. Existing newsracks which have been determined to meet the criteria for both Design and Placement provided in the City of Sonoma's January 1, 1990 Newspaper Rack Policy are so indicated by an asterisk in Attachment A. These newsracks are exempt from the application requirements in sections C(4) (type and brand of newsrack) and C(5) (site plan) of this section, and the administrative fee for their application shall be waived. All other application requirements apply. Applications for these newsracks that are complete and consistent with the provisions of this chapter, and are filed within 3 months of the effective date of this chapter, shall be approved.

F. Except as otherwise provided in section (E), applications for new newsrack permits which are complete, consistent with the provisions of this chapter, and for locations at which space for one or more newsracks is available shall be approved on a first-come, first-serve basis.

G. Applications for a new newsrack location may be denied if there is a vacant and available newsrack in an existing modular newsrack on the same block.

H. At the request of the applicant, an application for a new newsrack permit which is complete and consistent with the provisions of this chapter, but for a location at which space for a new newsrack is not available, shall be placed on a waiting list. If the requested location becomes available, the applicant will be notified according to its placement on the waiting list and a newsrack permit shall be issued; provided that the newsrack complies with the provisions of this chapter. Said applicant shall have fifteen (15) days after the mailing of the notification letter to obtain a newsrack permit for the space by notifying the Director of Public Works in writing and by paying the newsrack permit fee. Failure to obtain a newsrack permit within this period shall be deemed a withdrawal of the application.

I. If a newsrack permit is denied, in whole or in part, the Director of Public Works shall notify the applicant in writing within ten (10) business days of the decision explaining the reasons for the denial.

J. The applicant may appeal the denial of a newsrack permit pursuant to SMC12.24.120.

K. A newsrack permittee may not assign its permits to another of its publication(s).

12.24.050 Standards for the Placement, Installation, Maintenance and Operation of Newsracks.

Any newsrack which in whole or in part rests upon, in, or over any public sidewalk shall comply with all of the following standards:

A. Placement and Total Numbers.

1. No newsrack shall be chained, bolted, or otherwise attached to any property not owned by the permittee of the newsrack. For newsracks located in the public right-of-way, the pedestal shall be securely bolted to the sidewalk or a concrete footing under pavers, tiles, or similar surfaces as the case may be; provided that the permittee of the newsrack restores the sidewalk, pavers, tiles or similar surfaces to their original condition upon removal of the newsrack.

2. Where there are two or more newsracks in one location, newsracks shall be clustered into modular newsracks subject to the following conditions and limitations:

a. Modular newsracks shall be designed in such a manner as to utilize two rows with an equal number of compartments in each row.

b. No modular newsrack shall contain more than eight newsracks.

3. No newsrack may be installed within 200 feet of another single or modular newsrack on the same block except as specifically provided elsewhere in this chapter, including without limitation SMC 12.24.040(B) and subsection (A)(4) of this section.

4. Any person, publication or agency may apply for a variance from the 200-foot separation requirement of subsections (A)(3) of this section. A variance may be granted by the Director of Public Works if the applicant can establish that the variance would not violate (a) SMC 12.24.010, Purpose and Intent, or (b) subsection (B) of this section, Location. The applicant can appeal the denial of a variance pursuant to SMC 12.24.120.

B. Location. Other than those existing newsracks identified under section 12.24.040 (E), no newsrack shall be installed, used, or maintained:

1. When such site or location is used for public utility purposes, public transportation purposes, or other governmental use.

2. When such newsrack unreasonably interferes with or impedes ingress or egress to or from any business, residence or legally parked or stopped vehicle or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects at or near the location.

3. Within 15 feet of the curb ramp of any street intersection, or in any location that interferes with or impairs the vision of operators of vehicles at street intersections.

4. Within 5 feet of any of the following: fire hydrant, emergency call box or other emergency facility, any marked crosswalk not at an intersection, any driveway or midblock curb

ramp, any area designated by curb markings or signage to be handicapped parking, bus stop sign pole, or existing Plaza Periphery Business Wayfinding Signs.

5. With the back to the roadway along the curb, if located within 2 feet from any curb where marked parking is parallel to the sidewalk.

6. Within 18 inches from trees and other vegetation installed in permanent planters in the public right-of-way, tree wells, supporting posts for covered walkways or canopies, or other similar elements at or near the location.

7. So as to obstruct, shield, or block a window of any business or residence where such newsrack is located within 6 feet from the face of the building on which the window is located.

8. At any location which creates less than a 4-foot wide path of travel as required by Title 24 of the California Code of Regulations and the Americans with Disabilities Act.

9. At any location in front of a State Park of California, Sonoma City Hall or on the sidewalks on either the interior perimeter or crossing within the Sonoma Plaza.

C. Dimensions and Design.

1. Each newsrack shall be a pedestal-mounted and stackable, of metal construction, and of a style that is either the KJ-50 as manufactured by K-Jack, or the Traditional 49-16 as manufactured by Sho-Rack, or substantially similar thereto.

2. The color of any newsrack shall be brown; identified as "brown" or "federal brown" (as manufactured by "Sho-Rack"). An alternative color may be allowed by the Director of Public Works; provided that the alternative color is complementary to the surroundings.

3. No single or modular newsrack shall exceed 58 inches in height measured from the surface of the sidewalk or ground to the top surface of the newsrack, or 20 inches in depth.

4. Use of double-slotted newsracks is encouraged for smaller, vertically formatted publications.

5. All units in modular racks shall open in the same direction.

D. Maintenance. Every newsrack shall be maintained by the permittee in a clean and neat condition free from dents, cracks, corrosion, rust, graffiti, dirt, or grease; chipped, discolored or peeling paint; information flyers or stickers that are not the property of the newsrack permittee; broken, cracked, or misshapen parts; and similar conditions that detract from the aesthetic quality of the commercial area. The newsrack shall be in working order at all times or locked in a closed position. Upon removal of a newsrack, the right-of-way shall be restored to its original condition prior to installation of the newsrack.

E. Advertising. Newsracks shall carry no advertising or public notices, other than a logo or similar information identifying the newspaper or publication, covering no more than 50% of the back and/or sides of the newsrack. No logos or similar information identifying the newspaper shall be allowed on the tops of the newsracks.

F. Identification. The address and telephone number of a responsible person who may be contacted at any time concerning the newsrack shall be displayed on the front of the newsrack

in such manner as to be readily visible and readable to a prospective customer. The size of the identifying information shall not exceed 12 square inches.

12.24.060 Removal and Hearing.

In addition to any enforcement remedies available to the City as set forth in this code, any newsrack and the publications therein installed, or maintained in violation of this chapter may be removed by the City subject to the notice and appeal procedures set forth in this section.

A. Notice of Violation. If at any time it is determined by the Director of Public Works that any newsrack is in violation of the requirements of this chapter, a written "notice of violation" shall be mailed to the permittee of the newsrack, and posted on the newsrack, or if no identification is displayed on the newsrack, merely posted on the newsrack. The notice shall state the violation or violations which constitute the basis of the notice, the City's intent to revoke the newsrack permit and to remove the newsrack if the violation is not corrected or a hearing has not been requested within 15 days of the date of the mailing or posting of the notice of violation.

B. Hearing. A timely request for a hearing shall stay any removal of the newsrack. The request for a hearing shall be in writing, shall state the basis thereof, and shall be filed with the City Clerk. The hearing shall take place before the City Manager within 15 calendar days of the request. The hearing shall be informal, but oral and written evidence may be given the Director of Public Works and the permittee. The City Manager shall issue a written decision within 10 calendar days of the hearing. If the City Manager finds that the newsrack is in violation of this chapter and the violation is not corrected within 10 calendar days after the written decision is mailed to the permittee, the newsrack permit may be revoked and the newsrack and any publications therein, if not a modular newsrack, may be summarily removed. The newsrack permittee may appeal the City Manager's determination pursuant to SMC 12.24.120. A timely appeal to the City Council shall stay the summary removal of the newsrack.

C. Removal. Any newsrack which is not brought into compliance with this chapter within 15 days after notice of violation has been posted on the newsrack if no hearing or appeal is requested pursuant to subsection (B) of this section or 12.24.120 shall be removed by the Director of Public Works and stored in a convenient place. The cost of removal and storage shall be borne by the permittee.

D. Notification of Removal. The Director of Public Works shall notify the permittee of the removal by mailing a "notice of removal" to the last known address of the permittee if any, or to the address displayed on the newsrack. Such notice shall be mailed within five (5) business days after removal of the newsrack and shall state: (1) the date the newsrack was removed; (2) the reasons for the removal; and (3) the locations of and procedure for claiming the newsrack.

E. Release. Any newsrack removed and stored pursuant to these provisions shall be released thereof within six (6) months after the mailing of the written "notice of removal" upon satisfactory proof of authority to claim the newsrack and payment of an impoundment fee in an amount equal to the reasonable cost to the City of removing and storing the newsrack. If such newsrack remains unclaimed after this 6-month period, it shall be deemed to be unclaimed property and may be disposed of by the City.

F. Removal in Exigent Circumstances. In the case of any newsrack which, in violation of the provisions of this chapter, creates an immediate danger to the health, safety or welfare of the public, such newsrack may be summarily removed and stored in a convenient location so as to eliminate the danger to the health, safety and welfare of the public. The Director of Public

Works shall notify the permittee of the removal by mailing a "notice of removal" to the last known address of the permittee. Such notice shall be mailed within five (5) business days after the removal of the newsrack and shall contain the same information as set forth in subsection (D) of this section. The permittee of the newsrack may request a hearing pursuant to the procedures of subsection (B) of this section for a determination of whether the newsrack was legally placed and, therefore, improperly seized. If the City Manager determines that the seizure was improper, the City Manager shall order the newsrack released and reinstalled by the City with no charge to the permittee.

12.24.070 Notices.

Unless otherwise stated, notices required pursuant to the provision of this chapter shall be given in writing by United States Certified Mail, Return Receipt Requested, addressed to the person to be notified at his or her last known address. The giving of notice under this chapter shall be deemed to have occurred as of the date of deposit in the United States Mail.

12.24.080 Applicability.

The provisions of this chapter shall apply to all newsracks within public rights-of-way, whether installed and maintained prior to or after the effective date of any of the provisions herein.

12.24.090 Abandoned Newsracks.

A newsrack shall be deemed abandoned when no printed material of the type listed on the permit is contained therein for a period of more than thirty (30) consecutive days, or contains only outdated issues for more than thirty (30) consecutive days. If the Director of Public Works determines that no printed material of the type listed on the permit is contained in a newsrack for a period of more than thirty (30) consecutive days, or contains only outdated issues for more than thirty (30) consecutive days, the Director of Public Works shall mail to the newsrack permittee and post on the newsrack a notice stating his or her finding that the newsrack has been abandoned. If the newsrack permittee does not respond in writing to the Director of Public Works with a statement of intention not to abandon the newsrack within ten (10) days of the mailing and posting of said notice, the newsrack permit shall be deemed revoked and the Director of Public Works may summarily impound such newsrack, and shall mail a notice of removal as set forth in SMC 12.24.060(D). If the newsrack permittee timely provides a statement of intention not to abandon the newsrack, and there is not printed material contained in the newsrack for more than thirty (30) consecutive days thereafter, or contains only outdated issues for thirty (30) consecutive days, the newsrack permit shall be deemed revoked, and the Director of Public Works (1) may, without first mailing or posting notice of abandonment, summarily impound such newsrack, (2) shall mail a notice of removal as set forth in SMC 12.24.060(D), and (3) shall determine whether a newsrack permit should be issued to an applicant on the waiting list, if one exists for the site, in accordance with SMC 12.24.040(F).

12.24.100 Severability.

Each phrase, clause, sentence, section, and provision of this chapter is hereby declared to be severable. Therefore, if any phrase, clause, sentence, section, or provision of this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other phrase, clause, sentence, section, provision, or application of this chapter.

12.24.110 Enforcement Authority.

Except as specifically provided herein, the provisions of this chapter shall be enforced by the City Manager or his or her designee.

12.24.120 Appeals and Judicial Review.

Unless otherwise provided herein, any person who is aggrieved by a determination made pursuant to SMC 12.24.040(G), 12.24.050(A)5, or 12.24.060 shall have ten (15) calendar days within which to appeal the decision to the City Council in accordance with the appeals provisions of this code. Any appeal of a newsrack permit or variance denial under this chapter shall be set for a public hearing before the City Council.

Section 3. Effective Date.

This ordinance shall become effective thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Sonoma this 6th day of February 2012.

Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk

State of California)
County of Sonoma)
City of Sonoma)

I, Gay Johann, City Clerk of the City of Sonoma, do hereby certify that the foregoing ordinance was adopted on the 6th day of January 2012 by the following vote:

AYES:
NOES:
ABSENT:

Gay Johann, City Clerk



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5F

Meeting Date: 2/6/12

Department

Administration

Staff Contact

Linda Kelly, City Manager

Agenda Item Title

Adoption of a resolution of the City Council of the City of Sonoma and the City Council as Successor Agency establishing the regular meetings of the City Council for the 2012 calendar year

Summary

It is advisable that the City Council adopt a resolution officially setting its 2012 calendar of regular meetings. Dates were set at the City Council meeting of December 19, 2011, and a resolution is in order to officially adopt these regular meeting dates.

Recommended Council Action

Adopt resolution.

Alternative Actions

N/A

Financial Impact

None.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Resolution

cc:

CITY OF SONOMA

RESOLUTION NO. 09 - 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA AND THE CITY COUNCIL AS SUCCESSOR AGENCY ESTABLISHING THE REGULAR MEETINGS OF THE CITY COUNCIL FOR THE 2012 CALENDAR YEAR

WHEREAS, Section 2.01.010 of the Sonoma Municipal Code requires the City Council to establish, by resolution, the date and time of regular Council meetings; and

WHEREAS, pursuant to AB1x26, the City Council elected to have the City act as the Successor Agency to the former Community Development Agency, as "successor agency" is defined in AB1x26; and

WHEREAS, the City Council and City Council as Successor Agency desire to establish the date and time of their regular meetings; and

WHEREAS, City Council Resolution No. 03-2011 sets forth the days and times of regular meetings of the City Council pursuant to Section 2.01.010 of the Sonoma Municipal Code and established the Council's meeting schedule for calendar year 2011; and

WHEREAS, at its regular meeting of December 19, 2011, the City Council adopted a calendar of regular City Council meeting dates for calendar year 2012.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sonoma and the City Council as Successor Agency that:

1. Regular meetings of the City Council and the City Council as Successor Agency shall begin at 6:00 p.m. and take place at 177 First Street West, Sonoma, California.
2. For the calendar year 2012, the regular meetings of the City Council and the City Council as Successor Agency shall be held on the dates set forth on Exhibit A to this resolution.
3. This resolution shall supersede and render null and void the provisions of any prior resolution establishing dates and times of regular City Council meetings.

ADOPTED this 6th day of February, 2012 by the following vote:

AYES:
NOES:
ABSENT:

Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk

REGULAR CITY COUNCIL AND CITY COUNCIL AS SUCCESSOR AGENCY MEETING SCHEDULE - 2012		
Wednesday	January 18, 2012	Monday, January 2, 2012 is an official City Holiday. Monday, January 16, 2012 is an official City Holiday.
Monday	February 6, 2012	
Wednesday	February 22, 2012	Monday, February 20, 2012 is an official City Holiday.
Monday	March 5, 2012	
Monday	March 19, 2012	
Monday	April 2, 2012	
Monday	April 16, 2012	
Monday	May 7, 2012	
Monday	May 21, 2012	
Monday	June 4, 2012	
Monday	June 18, 2012	
Wednesday	July 2, 2012	
Monday	July 16, 2012	
The regular meeting of August 6, 2012 shall be cancelled for a Summer Recess		
Monday	August 20, 2012	
Wednesday	September 5, 2012	Monday, September 3, 2011 is an official City Holiday
Monday	September 17, 2012	
Monday	October 1, 2012	
Monday	October 15, 2012	
Monday	November 5, 2012	
Monday	November 19, 2012	
Monday	December 3, 2012	
Monday	December 17, 2012	



City of Sonoma
City Council
as Successor Agency
Agenda Item Summary

City Council Agenda Item: 6B

Meeting Date: 2/6/12

Department

Administration

Staff Contact

Linda Kelly, City Manager

Agenda Item Title

Adoption of a resolution of the City Council of the City of Sonoma and the City Council as Successor Agency establishing the regular meetings of the City Council for the 2012 calendar year

Summary

It is advisable that the City Council as the Successor Agency to the dissolved Sonoma Community Development Agency adopt a resolution officially setting its 2012 calendar of regular meetings. Dates were set at the City Council meeting of December 19, 2011, and a resolution is in order to officially adopt these regular meeting dates.

Recommended Council Action

Adopt resolution.

Alternative Actions

N/A

Financial Impact

None.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Resolution

cc:

CITY OF SONOMA

RESOLUTION NO. 09 - 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA AND THE CITY COUNCIL AS SUCCESSOR AGENCY ESTABLISHING THE REGULAR MEETINGS OF THE CITY COUNCIL FOR THE 2012 CALENDAR YEAR

WHEREAS, Section 2.01.010 of the Sonoma Municipal Code requires the City Council to establish, by resolution, the date and time of regular Council meetings; and

WHEREAS, pursuant to AB1x26, the City Council elected to have the City act as the Successor Agency to the former Community Development Agency, as "successor agency" is defined in AB1x26; and

WHEREAS, the City Council and City Council as Successor Agency desire to establish the date and time of their regular meetings; and

WHEREAS, City Council Resolution No. 03-2011 sets forth the days and times of regular meetings of the City Council pursuant to Section 2.01.010 of the Sonoma Municipal Code and established the Council's meeting schedule for calendar year 2011; and

WHEREAS, at its regular meeting of December 19, 2011, the City Council adopted a calendar of regular City Council meeting dates for calendar year 2012.

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1. Regular meetings of the City Council and the City Council as Successor Agency shall begin at 6:00 p.m. and take place at 177 First Street West, Sonoma, California.
2. For the calendar year 2012, the regular meetings of the City Council and the City Council as Successor Agency shall be held on the dates set forth on Exhibit A to this resolution.
3. This resolution shall supersede and render null and void the provisions of any prior resolution establishing dates and times of regular City Council meetings.

ADOPTED this 6th day of February, 2012 by the following vote:

AYES:
NOES:
ABSENT:

Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk

REGULAR CITY COUNCIL AND CITY COUNCIL AS SUCCESSOR AGENCY MEETING SCHEDULE - 2012		
Wednesday	January 18, 2012	Monday, January 2, 2012 is an official City Holiday. Monday, January 16, 2012 is an official City Holiday.
Monday	February 6, 2012	
Wednesday	February 22, 2012	Monday, February 20, 2012 is an official City Holiday.
Monday	March 5, 2012	
Monday	March 19, 2012	
Monday	April 2, 2012	
Monday	April 16, 2012	
Monday	May 7, 2012	
Monday	May 21, 2012	
Monday	June 4, 2012	
Monday	June 18, 2012	
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The regular meeting of August 6, 2012 shall be cancelled for a Summer Recess		
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Monday	September 17, 2012	
Monday	October 1, 2012	
Monday	October 15, 2012	
Monday	November 5, 2012	
Monday	November 19, 2012	
Monday	December 3, 2012	
Monday	December 17, 2012	



City of Sonoma
City Council/CDA
Agenda Item Summary

City Council Agenda Item: 7A

Meeting Date: 2/06/12

Department

Planning and Community Services

Staff Contact

David Goodison, Planning Director

Agenda Item Title

Continued discussion, consideration, and possible introduction of amendments to the Sonoma Municipal Code establishing new and modified regulations addressing live music performances and special events.

Summary

Over the last twelve months, the Planning Commission has engaged in an evaluation of the Development Code provisions pertaining to live music and special events. Over the course of several study sessions, the Commission has discussed concerns that have been raised about the current regulations and developed recommendations with respect to new approaches in regulating these activities. At its meeting of November 7, 2011, the City Council reviewed the draft revisions to the Municipal Code recommended by the Planning Commission, at which time two areas of concern were identified:

- The Council felt that there should be greater certainty with respect to the issuance of a music license for a successor business when no substantial changes were proposed with respect to the operation of the music venue. (See section 5.34.090—Change of Ownership)
- The Council was concerned that the second finding associated with the revocation of a Music Venue License was too open-ended. (See section 5.34.120—Review and Termination)

In consultation with the City Attorney, revisions were developed to address these concerns that were reviewed by the Planning Commission at its meetings of December 12, 2011 and January 12, 2012. At the January meeting, the Planning Commission voted unanimously to forward the amended ordinance to the City Council.

Recommended Council Action

Review the attached ordinance, provide direction to staff with respect to any revisions that may be deemed necessary, and refer to the Planning Commission for final review.

Alternative Actions

N.A.

Financial Impact

This ordinance has been developed as part of the normal work effort of the Planning Department.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

1. Minutes of the City Council meeting of November 7, 2011 (Draft)
 2. Planning Commission staff report (January 12, 2012)
 3. Draft Ordinance
-

cc: Music License mailing list

to cover incidental expenses to provide the information. He said they would be sending out letters explaining the changes and informing customers what their future sanitation charges would be.

Mayor Gallian invited comments from the public. Gerry Simmel stated he was still unhappy about the rates but he was happy for the change in the rate calculation method.

5. CONSENT CALENDAR/AGENDA ORDER

- Item 5A:** Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only.
- Item 5B:** Approval of the Minutes of the October 3, and October 17, 2011 City Council Meetings.
- Item 5C:** Approval and Ratification of the Reappointment of Christopher Petlock to the Community Services and Environment Commission as the Alternate for a term ending 11/18/2015.
- Item 5D:** Approval and ratification of the appointment of Christopher Woodcock to the Traffic Safety Committee for a term ending November 7, 2013.
- Item 5E:** Request by Sonoma Valley Hospital Foundation for City-subsidized use of the Sonoma Valley Veterans Memorial Building on October 14, 2012. Approved subject to applicant's compliance with the City's standard insurance requirements.
- Item 5F:** Approval and ratification of the appointment of Ditty Vella to the Sonoma Valley Citizens Advisory Commission for a term ending November 7, 2013.
- Item 5G:** Approval and ratification of the appointment of Nellie Cravens to the Cultural and Fine Arts Commission as the Alternate for a term ending November 7, 2013.
- Item 5H:** Approval and ratification of the reappointment of Lisa Carlsson to the Cultural and Fine Arts Commission for a term ending November 5, 2015.

It was moved by Clm. Sanders, seconded by Clm. Rouse, to approve the consent calendar as presented. The motion carried unanimously.

6. PUBLIC HEARING

- Item 6A:** Discussion, consideration, and possible introduction of amendments to the Sonoma Municipal Code establishing new and modified regulations addressing live music performances and special events.

Planning Director Goodison reported that the Planning Commission had conducted an evaluation of the Development Code provisions relating to live music and special events and were recommending revisions to the Municipal Code that would: 1) Establish a licensing requirement and process for the on-going presentation of live music; 2) Clarify existing provisions of the Development Code pertaining to temporary use permits; and 3) Establish a new use definition of "Special Event Venue" to regulate facilities providing special events on an on-going basis.

Clm. Barbose expressed concern regarding the use of the term "insufficiently compatible" in the proposed finding of incompatibility and stated it should be made clearer and made more of an objective standard.

Clm. Rouse confirmed that the proposed ordinance would not apply to tasting rooms and that Hop Monk, which was operating under a temporary use permit, would fall under the regulations if adopted.

Mayor Gallian confirmed that the proposed ordinance would not apply to the Sonoma Community Center.

CIm. Sanders inquired about the former dance studio property on East Napa Street. Planner Goodison stated that had this ordinance been in place at the time it would have been clear that special events were not an allowed activity at that location.

Mayor Gallian opened the public hearing. Herb Golenpaul asked if this had anything to do with street musicians. Goodison responded in the negative.

Loyce Haran stated that events were frequently held at the Women's Club and the Maysonnave House and questioned if the new regulations would have any effect on that. Goodison responded it would not.

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

CIm. Sanders suggested that Council direct that this be sent back with CIm. Barbose's suggestion.

Mayor Gallian concurred and said if there were to be a termination of a license; it should be fair to all. She liked the fact that temporary use permits were limited to two events per year. Goodison explained that the provision applying to residential properties limited special events to no more than one day and not more than two times per year.

CIm. Barbose stated this was an improvement in that it was not guaranteed that a use was carried over when a property was sold. He asked what the procedure would be in the event that someone with a music venue license wanted to sell their property and the person wanting to buy it only wanted to buy it if they could continue the use. Goodison stated that in making an offer on the property, it should be made contingent upon obtaining the license.

CIm. Sanders asked if someone purchased the business if they would get the music license. CIm. Barbose stated no; the license did not run with the land or the business it was personal with the property owner. He said it would have an impact on the potential sale of a business. CIm. Sanders inquired why Council did not make it to follow the business.

Goodison asked if Council was seeking a way to transfer the license to a new owner if the business was operated in exactly the same manner.

Attorney Walter stated if the license transferred to the new business there was no point in having it terminate. The point in having the license terminate was to allow the City Council an opportunity to review how the business was going.

CIm. Brown asked if this dealt with grandfathering in places like Mayas, Murphys and Steiners to allow their ability to have live music if the business was sold. Goodison stated that staff had identified a few existing approved bars that also allow live music and noted that Mayas had a use permit to offer live music that would not be effected by this ordinance.

CIm. Rouse confirmed that Steiners was exempt from the ordinance and that if Maya's was to change owners it would retain its permit because they had a use permit which goes with the land.

CIm. Brown asked about Cucina Viansa. Goodison stated that because the business had been closed for more than a year their use permit had expired.

CIm. Sanders stated it was important to have the business community weigh in on this subject because it was not only taking the right away from running with the land; it was also taking it away from running with the business. She said that if a business had built up a clientele based upon

providing music; it could evaporate when the business was sold. She said that was a big deal that people need to be aware of.

Cm. Brown agreed. Goodison stated that outreach had been made to the existing businesses that stood to be affected by the regulations and to the Chamber of Commerce. He said it was a policy decision that Council could make. Cm. Barbose stated that a compromise position could be to add language providing that if there were no grounds to terminate the music license at the time of sale, there will be a presumption that the existing music license would be transferred to the new owner.

Goodison stated that he would review that suggestion with the City Attorney.

7. REGULAR CALENDAR

- Item 7A: Reconsideration of City Council Authorization to Apply for Demolition Permit Approval with the Design Review Commission, Develop Bid Documents and Solicit Bids for the Demolition of the Pauline Bond House and Barn located at 19990 Seventh Street East, Sonoma, Requested by Mayor Pro Tem Sanders.**
- A. Consideration, discussion and possible action on motion to suspend Council's rules of order requiring that motion for reconsideration be made at the Council meeting at which the item was first acted upon or at the immediately following Council meeting (requires 2/3rd vote).**
 - B. If the said rule is suspended, then consideration, discussion and possible action on motion to reconsider City Council's Oct. 3, 2011, decision authorizing application for demolition permit, development of bid documents and solicitation of bids for demolition of above-referenced property.**
 - C. If the said motion to reconsider is approved, then consideration, discussion and possible action on whether or not to authorize application for demolition permit, development of bid documents and solicitation of bids for demolition of above-referenced property.**

City Attorney Walter described the process for reconsideration of an item. It was moved by Cm. Brown, seconded by Cm. Sanders, to suspend Council's rules of order and allow the request for reconsideration. There were no comments from the public. The motion carried unanimously.

It was moved by Cm. Sanders, seconded by Cm. Rouse, to reconsider City Council's Oct. 3, 2011 decision authorizing application for demolition permit, development of bid documents and solicitation of bids for demolition. There were no comments from the public. The motion carried unanimously.

Development Services Director Wirick provided the staff report and recommended that Council authorize demolition of the structures. Mayor Gallian invited comments from the public.

Pat Pulvirenti, speaking as a private citizen, stated that demolition by neglect was not the right message to send to the community. She said it had become a disturbing trend throughout the State.

Herb Golenpaul stated the structures were beyond repair.

Cm. Rouse stated that he hoped the City would be a better steward of any properties acquired in the future. Cm. Barbose agreed and said the City needed to be careful when accepting ownership of things people want to donate.

Cm. Sanders stated she did not support demolition of the structures and said the City did not live up to its responsibility to maintain them. She added that she believed in historic preservation and felt the City should explore additional options.

MEMO

To: Planning Commission
From: Planning Director Goodison
Re: Continued review of City Council directions concerning Development Code amendments addressing music licenses and special events

Background

At its meeting of November 7, 2011, the City Council held a preliminary review of the recommendations developed by the Planning Commission to address the regulation of live music venues and of special events. As set forth in the attached minutes, the Council's discussion focused on issues related to the proposed licensing process for music venues, identifying two areas of specific concern:

1. *Issuance of a License upon Change of Ownership.* The Council felt that there should be greater certainty with respect to the issuance of a license for a successor business when no substantial change is proposed to with respect to the operation of the music venue.
2. *Revocation of a Music Venue License.* The Council was concerned that the second finding associated with the revocation of a Music Venue License was too open-ended.

At its meeting of December 12, 2011, the Planning Commission reviewed alternative revisions to these sections of the draft ordinance addressing these concerns. The Commission's discussion focused on the provisions related to the issuance of a license upon a change of ownership, as set forth in section 5.34.090. Two alternatives were discussed:

While the approval of a new music license is required under this Chapter upon a change in control of the ownership of a Music Venue or change in control of the ownership of the licensee, such approval shall be granted by the Planning Commission, as long as the Commission makes the following findings, based on substantial evidence in the record...

While the approval of a new music license is required under this Chapter upon a change in control of the ownership of a Music Venue or change in control of the ownership of the licensee, such approval shall not be unreasonably withheld by the Planning Commission, as long as the Commission makes the following findings, based on substantial evidence in the record...

After discussing these options, the Planning Commission concluded that it preferred the second option, as it would provide the Commission with greater flexibility in its decision making should there be issues with the prospective licensee (e.g., a history of violating ABC permits.) Since that time, the City Attorney has identified yet another option for the Planning Commission's consideration. In essence, it attempts to both provide greater certainty with respect to the transfer of a license while specifically allowing for the background and permitting history of the prospective

licensee to be considered by the Planning Commission. This would be accomplished by the addition of two findings, as set forth below:

While the approval of a new music license is required under this Chapter upon a change in control of the ownership of a Music Venue or change in control of the ownership of the licensee, such approval shall not be withheld by the Planning Commission, as long as the Commission makes the following findings, based on substantial evidence in the record:

- A. There was no pattern of significant complaints or violations associated with the Music Venue as operated by the predecessor business, operator, and/or licensee; and
- B. No substantial changes are proposed by the proposed, new licensee with respect to: 1) the nature, scale and operating characteristics of the music venue, and 2) the previously-approved management plan, unless those changes are necessary to remedy problems or shortcomings of the previous licensee's management plan and/or operations; and
- C. The proposed new licensee possesses the resources, background and qualifications to comply with the previously-approved management plan (as may be amended by the Commission) and this Chapter; and
- D. There is no evidence that the proposed new licensee has violated the material terms and conditions of any permit, license or entitlement relevant to the operation of a music venue and previously granted to the proposed new licensee by any public agency.

Recommendation

Provide direction to staff on the alternatives regarding the transfer of a Music Venue License.

cc: Music license mailing list

Attachments:

1. Draft Ordinance (Music License Chapter)

CITY OF SONOMA

ORDINANCE NO. 06 - 2010

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA
AMENDING TITLE 5 AND TITLE 19 OF THE SONOMA MUNICIPAL CODE BY
ESTABLISHING A LICENSING PROCESS FOR LIVE MUSIC VENUES AND BY
AMENDING ZONING REGULATIONS PERTAINING TO THE REGULATION OF
MUSIC VENUES AND OF SPECIAL EVENTS

The City Council of the City of Sonoma does ordain as follows:

Section 1. Music Venue Licensing (Title 5).

Chapter 5.34, "Music Venue" licensing is hereby established added to the Sonoma Municipal Code to read as set forth in Exhibit "A".

Section 2. Amendments to "Zones and Allowable Uses" (Title 19, Division II) of the Sonoma Municipal Code.

A. Table 2-2 is amended to add "Music Venue" and "Special Event Venue" and delete "Restaurant with live music" as follows:

<i>Allowed Uses and Permit Requirements for Commercial Zoning Districts</i>	<i>Permit Required by District</i>		<i>P</i>	<i>Use Permitted</i>
			<i>UP</i>	<i>Use Permit required</i>
			<i>L</i>	<i>License required</i>
			—	<i>Use not allowed</i>
<i>Land Use</i>	<i>C</i>	<i>CG</i>	<i>Specific Use Regulations</i>	
<i>Music Venue</i>	<u><i>L</i></u>	<u><i>L</i></u>	<u><i>SMC 5.34</i></u>	
<i>Special Event Venue</i>	<u><i>UP</i></u>	<u><i>UP</i></u>		
<i>Restaurant, with live music</i>	<i>UP</i>	<i>UP</i>		

B. Table 2-3 is amended to add "Music Venue" and "Special Event Venue" and to delete "Nightclubs and Bars" and "Restaurant with live music", as follows:

<i>Allowed Uses and Permit Requirements for Commercial Zoning Districts</i>	<i>Permit Required by District</i>		<i>P</i>	<i>Use Permitted</i>
			<i>UP</i>	<i>Use Permit required</i>
			<i>L</i>	<i>License required</i>
			—	<i>Use not allowed</i>
<i>Land Use</i>	<i>MX</i>		<i>Specific Use Regulations</i>	
<i>Nightclubs and Bars</i>	<i>UP</i>			
<i>Music Venue</i>	<u><i>L</i></u>		<u><i>SMC 5.34</i></u>	
<i>Special Event Venue (9)</i>	<u><i>UP</i></u>			
<i>Restaurant, with live music</i>	<i>UP</i>			

(9) On sites of one acre in size or larger.

Section 3. Amendments to “Special Use Standards” (Title 19, Division IV) of the Sonoma Municipal Code.

Section 19.50.040.1.1.c (Home Occupations) is hereby amended to read as follows:

I.2 Examples of prohibited home occupation uses. The following are examples of nonresidential uses that are not incidental to or compatible with residential activities, and are therefore prohibited as home occupations:

c. Dance or night clubs and music venues;

Section 4. Amendments to “Special Use Standards” (Title 19, Article IV).

Section 19.50.050.F.2.d (Live/Work) is hereby amended to read as follows:

F.2 Examples of prohibited uses. The following are examples of uses that are not compatible with residential activities, and are therefore prohibited as within Live/Work developments:

d. Dance or night clubs and music venues;

Section 5. Amendments to “Planning Permit Procedures” (Title 19, Division V) of the Sonoma Municipal Code.

Section 19.54.030 (Temporary Use Permits) is hereby amended in its entirety to read as set forth in Exhibit “B”.

Section 6. Amendments to “Definitions” (Title 19, Division VIII) of the Sonoma Municipal Code.

Section 19.92.020 (Definitions of Specialized Terms and Phrases) is hereby amended to include the following definitions:

A. Special Event

Special Event. The rental or other use of a property by a third-party for an activity such as a wedding, reception, retreat, conference, fund-raising event or musical performance.

B. Special Events Venue

Special Events Venue. A building, building complex, and/or outdoor area used to regularly accommodate events such as weddings, receptions, retreats, conferences, fund-raising events, and musical performances, including the rental of the venue to third parties for such purposes. A special events venue may be a stand-alone use or may be associated with another use such as a hotel.

Section 7. Exemption from Environmental Review.

The amendments to the Municipal Code effected by this ordinance are exempt from environmental review pursuant to Section (b)(3) of title 14 of the California Code of Regulations, as it can be determined with certainty that there is no possibility that establishing more restrictive regulations on music venues and special events may have a significant effect on the environment.

Section 8. Effective Date.

This ordinance shall become effective thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Sonoma this XX day of XX 2012.

Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk

State of California)
County of Sonoma)
City of Sonoma)

I, Gay Johann, City Clerk of the City of Sonoma, do hereby certify that the foregoing ordinance was adopted on XXX, 2012 by the following vote:

AYES:
NOES:
ABSENT:

Gay Johann, City Clerk

Chapter 5.34 Music Venue Licensing

5.34.010 Purpose.

Music Venue Licenses are intended to provide uniform and comprehensive regulations to ensure that live music performances are conducted in a manner that is compatible with adjacent land uses. The procedures of this Chapter provide for the review of the location, design, configuration, and potential impacts of the Music Venue to be licensed, to evaluate the compatibility of the proposed activity with surrounding uses and the suitability of the activity to the site.

5.34.020 Music Venue Defined.

Music Venue. For the purpose of this chapter, a “Music Venue” shall be defined as follows: A building, building complex, and/or an indoor or outdoor area used to accommodate musical performances, including live music, the presentation of music played on sound equipment operated by the owner or by an employee, an agent or a contractor of the venue commonly known as a “disc jockey” or “DJ”, and karaoke. A Music Venue may be a stand-alone use or may be associated with another use such as a restaurant. “Nightclubs and Bars”, “Special Event Venues”, and “Winery Accessory Uses” as defined and regulated in Title 19 of the Municipal Code shall not be considered Music Venues and shall not be regulated by this Chapter.

5.34.030 License Requirement.

No person shall operate a Music Venue within the city limits without a valid Music Venue License, except on those properties for which a use permit was issued allowing music performances prior to the adoption of this Chapter and in accordance with any applicable conditions.

5.34.040 Applicability.

A Music Venue License may only be granted within those zoning districts identified in Title 19, Division II (Zones and Allowable Uses) as allowing Music Venues, subject to the approval of a License in compliance with the provisions of this Chapter.

5.34.050 Application Requirements.

An application for a Music Venue License shall be filed and processed in compliance with SMC 19.52 Applications: Filing and Processing. In addition to the requirements specified in SMC 19.52, the submittal of a management plan shall be required that fully describes the operation of the proposed music venue, including hours of operation, placement of stage areas, proposed amplification (if any), noise buffering, days and hours of music performances, security arrangements, annual reporting to the City in accordance with SMC 5.34.130, and controls for ensuring compliance with this Chapter and the SMC and compatibility of the proposed activity with surrounding uses.

5.34.060 Application Review, Notice and Hearing.

Each Music Venue License application shall be analyzed by the City Planner to ensure that the application is consistent with the purpose and intent of this Chapter and shall be circulated for comment to other City Departments as necessary. The Planning Commission shall conduct a public hearing on an application for a Music Venue License. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with [Chapter 19.88 \(Public Hearings\)](#).

5.34.070 Findings, decision.

Following a public hearing, the Planning Commission may approve or disapprove an application for

a Music Venue License. The Planning Commission shall record the decision and the findings upon which the decision is based. The Planning Commission may approve a Music Venue License only if the Planning Commission first finds that:

- A. The proposed Music Venue License is consistent with the General Plan and the Development Code (SMC Chapter 19);
- B. The nature, scale and operating characteristics of the proposed Music Venue are compatible with the existing and future land uses in the vicinity; and
- C. When implemented, the management plan sufficiently assures ongoing compliance with hours of operation, security, noise control, and all other conditions that may be attached to the License.

5.34.080 Conditions of approval.

In approving a Music Venue License, the Planning Commission may adopt any conditions of approval deemed necessary to achieve consistency with the General Plan and any applicable Specific Plan, compliance with the provisions and purposes of this Chapter and any applicable provisions of the Development Code, and the protection of the public health, safety, and/or welfare.

5.34.090 Change of Ownership.

While the approval of a new music license is required under this Chapter upon a change in control of the ownership of a Music Venue or change in control of the ownership of the licensee, such approval shall not be unreasonably withheld by the Planning Commission, as long as the Commission makes the following findings, based on substantial evidence in the record:

- A. There was no pattern of significant complaints or violations associated with the Music Venue as operated by the predecessor business, operator, and/or licensee; and
- B. No substantial changes are proposed by the proposed, new licensee with respect to: 1) the nature, scale and operating characteristics of the music venue, and 2) the previously-approved management plan, unless those changes are necessary to remedy problems or shortcomings of the previous licensee's management plan and/or operations; and
- C. The proposed new licensee possesses the resources, background and qualifications to comply with the previously-approved management plan (as may be amended by the Commission) and this Chapter; and
- D. There is no evidence that the proposed new licensee has violated the material terms and conditions of any permit, license or entitlement relevant to the operation of a music venue and previously granted to the proposed new licensee by any public agency.

5.34.100 Expiration.

A Music Venue License shall be exercised (namely, the activity or one of the activities for which the license was granted actually takes place) within six months from the final date of approval or the License shall become void, unless an extension is approved in compliance with SMC Chapter 19.56--Permit Implementation, Time Limits, Extensions.

5.34.110 Initial Review.

Once a Music Venue License has been approved, the Planning Commission shall review the license within one year of it being exercised for compliance with conditions and a re-evaluation of its compatibility with adjoining uses. The Planning Commission shall conduct a public hearing on the initial review of a Music Venue License. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with [Chapter 19.88 \(Public Hearings\)](#). Following a public hearing, the Planning Commission may extend the Music License or it may terminate the Music Venue License, based on consideration of the findings set forth in Section 5.34.110. The Planning Commission shall record the decision and the findings upon which the decision is based. In renewing

a Music Venue License, the Planning Commission may amend the conditions of approval as deemed necessary to achieve consistency with the General Plan, compliance with the provisions and purposes of the this Chapter, Development Code, and the protection of the public health, safety, and welfare.

5.34.120 Review and Termination.

A Music Venue License may be reviewed and terminated by the Planning Commission in a public hearing at any time, subject to the notice requirements set forth in Chapter 19.88 (Public Hearings). A Music Venue License may be terminated by the Planning Commission based on any of the following findings, supported by substantial evidence in the record:

- A. The licensee has failed to comply with the conditions of approval attached to the Music Venue License, the management plan made part of the Music Venue License or any other regulations applicable to the activity authorized by the Music Venue License; or
- B. The findings set forth in Section 5.34.070 can no longer be made with respect to the Music Venue or the manner in which the Music Venue has been or is being operated, ~~documented by, among other things, complaints from residents and businesses in its vicinity~~ based on specific evidence in the record that demonstrates that the Music Venue is having significant adverse effects on the health, safety, or welfare of residences and/or businesses in its vicinity; or
- C. The licensee made misrepresentations in its application for a Music Venue License or otherwise failed to disclose thereon facts material to the decision whether or not to grant the Music Venue License to the licensee.

5.34.130 Term and Renewal.

A Music Venue License is valid for one year, after which it expires if not renewed prior to the completion of the one-year term. Following the initial Planning Commission review required under section 5.34.110, the annual renewal of a Music Venue license shall be processed administratively and shall not be subject to a public hearing requirement, provided that staff finds that the applicant is in compliance with the conditions of approval associated with the license and all other requirements of this Chapter. Otherwise, the renewal of the license shall be referred to the Planning Commission for review, subject to the notice requirements set forth in Chapter 19.88 (Public Hearings).

5.34.140 Licenses not Transferrable.

A Music Venue License is personal to the person or entity to whom or to which it is granted. Only the licensee is permitted to engage in the activities described in the license and those activities may only occur on or at the premises described in the License. A Music Venue License may not be transferred and is not transferrable, except as specifically provided for in Section 5.34.090 (Change of Ownership). For purposes of this Chapter, “transfer” shall also include a change in control of the ownership of any entity to which a Music Venue License is granted. For purposes of this Chapter, “control” shall mean the ownership, directly or indirectly, of at least twenty-five percent (25%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least twenty-five (25%) of the voting interest in, any person or entity.

5.34.150 Fees.

Fees for an application for a Music Venue License and for the renewal of a Music Venue License shall be as established by the City Council, and amended from time-to-time, through the adoption of a Resolution.

19.54.030--Temporary Use Permits

- A. *Purpose.* A Temporary Use Permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district, but may be acceptable because of their temporary nature. In addition, a Temporary Use Permit may be granted by the Planning Commission in order to test the compatibility of a conditionally-allowed use.
- B. *Permitted temporary uses.* The following temporary uses may be permitted in any zoning district (except as otherwise stated below) subject to the issuance of a Temporary Use Permit. Uses that do not fall within the categories defined below shall instead comply with the use and development restrictions and permit requirements that otherwise apply to the property, in compliance with Division II (Community Design).
1. Construction yards. Off-site contractors' construction yards in conjunction with an approved construction project.
 2. Seasonal sales lots and activities. Christmas tree sales lots or the sale of other seasonal products, haunted houses, along with temporary residence/security trailers. A permit shall not be required when the sales are in conjunction with an established commercial business holding a valid business license, provided the activity does not consume more than 15 percent of the total parking spaces on the site and does not impair emergency vehicle access.
 3. Festivals ~~Special events~~ on private property. Carnivals, circuses, festivals, ethnic celebrations, and other similar special events on private property may be approved in mixed use, wine production, and commercial zoning districts provided that they do not continue for more than five consecutive days, and do not occur more often than four times per year. These uses shall also comply with any requirements of other City departments.
 4. Temporary offices and work trailers. A trailer, coach or mobile home as a temporary office facility, or work site for employees of a business:
 - a. During construction or remodeling of a permanent commercial or industrial structure or residential development when a valid building permit is in force; or
 - b. Upon demonstration by the applicant that this temporary facility is a short-term necessity while a permanent facility is being obtained or constructed.
 5. Special Events. The rental or other use of property by third parties for weddings, receptions, private parties, music performances, and similar events may be approved in any zoning district provided that they do not continue for more than one day and do not occur more often than two times per year. These uses shall also comply with any requirements of other City departments. The requirement for a Temporary Use Permit shall not apply to special events conducted in accordance with applicable conditions of approval within an approved Special Events Venue or other site for which a use permit for the same or substantially similar special events has previously been issued.
 6. Similar temporary uses. Similar temporary uses to those specified above which, in the opinion of the City Planner, are compatible with the zoning district and surrounding land uses.
 7. Trial Use. At its discretion, the Planning Commission may approve a Temporary Use Permit in order to verify the compatibility of a proposed Conditional Use. This allowance shall not apply to applications involving new structures or building modifications for which a building permit is required.

- C. *Duration.* A Temporary Use Permit may be granted for up to one year. An extension, not to exceed one year, may be authorized by the Planning Commission, subject to the findings set forth in subsection J, below through Conditional Use Permit approval. The extension of a Temporary Use Permit by the Planning Commission shall be subject to the public notice and hearing requirements set forth in Chapter 19.88 (Public Hearings).
- D. *Temporary uses regulated by other provisions of the Municipal Code.* The following temporary uses are subject to the referenced Municipal Code provisions instead of the requirements of this Section:
1. Location filming. Location filming is subject to the provisions of Chapter 7.40 of the Municipal Code.
 2. City Parks and Playing Fields. The use of City parks, playing fields and other City-owned property is subject to the provisions of Section 9.12.280 of the Municipal Code.
 3. Parades. Parades on City streets are subject to the provisions of Chapter 12.20.030 of the Municipal Code.
- E. *Development standards.* Standards for structure setbacks, heights, floor areas, parking and other structure and property development standards that apply to the type of use or the zoning district of the site may be applied to temporary uses, as deemed appropriate by the review authority.
- F. *Application requirements.* A Temporary Use Permit application shall be filed with the Planning Department. The application shall be accompanied by the following:
1. Illustrations. Sketches or drawings of sufficient size and clarity to show without further explanation the following: size and location of the property, location of adjacent streets, location and size of all structures on the site, location of structures on adjacent lots, location and number of parking spaces, and location of any temporary fences, signs, or structures to be installed as part of the temporary use;
 2. Statement of operations. Letter describing the hours of operation, days that the temporary use will be on the site, number of people staffing the use during operation, anticipated number of people using the facility during commercial operation, and other information about the operation of the use that pertains to the impact of the use on the community or on adjacent uses; and
 3. Notice to abutting property owners. ~~For uses proposed to last more than 30 consecutive days per calendar year,~~ the applicant shall be responsible for providing notice to abutting property owners of the proposed use. This notice shall describe the proposed use, including dates and times of operation.
- G. *Administrative Approval.* At the discretion of the City Planner, an application for a Temporary Use Permit may be approved administratively, except for "Trial Uses" and any activity of more than one year in duration.
- H. *Referral to Planning Commission.* At the discretion of the City Planner, a Temporary Use Permit may be referred to the Planning Commission for a hearing and decision.
- I. *Project review, notice and hearing.* Each Temporary Use Permit application shall be analyzed by the City Planner to ensure that the application is complete and proposes a use that is consistent with the purpose and intent of this Section and shall be circulated to other City Departments and outside agencies as applicable. For a Temporary Use Permit application or extension that is subject to the review of the Planning Commission, the Planning Commission shall conduct a public hearing. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with [Chapter 19.88 \(Public Hearings\)](#).

J. Findings, decision. A Temporary Use Permit may be approved, modified, conditioned, or disapproved by the review authority (City Planner or Planning Commission, as applicable). The review authority may approve or conditionally approve a Temporary Use Permit application, only if all the following findings are made:

1. That the establishment, maintenance or operation of the temporary use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use; ~~and~~
2. The temporary use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
3. The temporary use does not involve the construction of new permanent structures for which a building permit is required.

In making these determinations, the review authority shall take into consideration the limited duration of the proposed use.

K. Conditions of approval. In approving an application for a Temporary Use Permit, the review authority may impose conditions deemed necessary to ensure that the permit will be in compliance with the findings required by Subsection J, above.

L. Condition of site following temporary use. Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Development Code. A bond may be required prior to initiation of the use to ensure cleanup after the use is finished.

M. Revocation. A Temporary Use Permit may be revoked by the City Planner at any time for failure to comply with the conditions of approval, this section, or the SMC.

N. Temporary Use Permits Not Transferrable. A Temporary Use Permit granted in compliance with this Section and all of the rights and privileges granted thereunder are restricted to and operate only in favor only of the applicant and shall not be transferable upon a change of ownership or tenancy of the site that was the subject of the permit application.



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 8A

Meeting Date: 02/06/12

Department

Planning

Staff Contact

David Goodison, Planning Director

Agenda Item Title

Discussion, consideration and possible action on a proposal to amend the Municipal Code by creating a permit process for street performers.

Summary

At its meeting of September 19, 2011, the City Council discussed the suggestion of Councilmember Brown to develop an ordinance establishing a licensing process for street musicians. (This item was prompted by a request by a street musician made during the public comment portion of the City Council meeting of September 7, 2011.) The proposed concept was to amend the Municipal Code to make an allowance for street performers to operate on public sidewalks in the downtown area and the Plaza park. Although street performances are not specifically prohibited in the Municipal Code, neither are they specifically allowed for and under most circumstances a street performer would not comply with the decibel limits set forth in the City's Noise Ordinance. Councilmember Brown requested that the street performer regulations recently adopted by the City of Santa Rosa be presented as an example (attached). At the conclusion of the discussion, the Council voted unanimously to direct staff to begin the preparation of an ordinance with input from appropriate City commissions. The Cultural and Fine Arts Commission (CFAC) considered this matter at its meetings of November 4, 2011 and December 8, 2011. At its December meeting, the Commission voted unanimously to recommend that the City not pursue the preparation of an ordinance. In essence, it was the view of the CFAC that although the activity is currently unregulated, there do not seem to be any problems raised by street musicians that cannot be addressed under existing regulations (see attached minutes). This recommendation is being reported to the City Council to determine whether the Council still wishes to proceed with the development of an ordinance. If the City Council directs staff to prepare such an ordinance, input with respect to issue areas identified in the staff report to the CFAC (attached) is requested. Staff would then draft an ordinance based on that input, modeled after the Santa Rosa example.

Recommended Council Action

Council discretion.

Alternative Actions

The Council may accept the recommendation of the CFAC or it may direct staff to continue with the preparation of an ordinance regulating street musicians. While it is true that the development of an ordinance regulating street performers would establish a new regulatory process, it is also the case that any complaints that may arise about street performers under the current rules can only be responded to on an ad hoc basis, which can lead to questions of fairness and consistency.

Financial Impact

The research, preparation and processing of an amendment to the Municipal Code to allow for street performances would be accomplished as part of the normal workload of the Planning Department. If the Council directs that an ordinance be prepared, any associated City Attorney time in drafting such ordinance is invoiced on an hourly basis and is a General Fund expense. Any additional cost related to enforcement, permit processing, and record-keeping with respect to a new ordinance have not been calculated or analyzed.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

1. Memo to CFAC
2. CFAC minutes of November 2, 2011 and December 8, 2011
3. Santa Rosa Ordinance

cc:

Krishna Montmorency (via email)

Jennifer Yankovich, Sonoma Valley Chamber of Commerce (via email)

Wendy Peterson, Sonoma Valley Visitors Bureau (via email)

November 4, 2011

MEMO

To: Cultural and Fine Arts Commission
From: Planning Director Goodison
Re: Consideration of regulations allowing street musicians

Background

In the course of the public comment portion of the City Council meeting of September 7, 2011, it was suggested that the Municipal Code should be amended to make allowance street musicians to operate on public sidewalks in the downtown area and the Plaza park. Although street performances are not specifically prohibited in the Municipal Code, neither are they specifically allowed for. There is no business license classification for a street performer, but in the absence of any rule to the contrary, a business license would technically be needed in order for a street musician to solicit donations from passersby or sell recordings. In addition, under most circumstances a street musician would not comply with the decibel limits set forth in the City's Noise ordinance. Councilmember Brown sponsored an item on the Council agenda of September 19, 2011, asking that the Council direct staff to develop an amendment to the Municipal Code that would allow street musicians, subject to regulation. After discussing the matter, the Council voted 5-0 to endorse that direction.

This item has been referred to the CFAC in order to obtain the Commission's input on key issues that would be associated with developing a street musician ordinance. Areas identified by staff where direction is needed are as follows:

- **Scope.** The initial request related to street musicians, but it raises the question as to whether other types of street performers would be allowed.
- **Location.** Where should performances be allowed (downtown, the Plaza, commercial properties subject to property owner permission)? Are there locations where they should be prohibited?
- **Business License.** If a business license is charged for this activity it would most likely fall under classification "A" for which a fee of \$74.00 annually is charged, unless this was exempted or modified through the development of a street performer ordinance. Alternatively, street musicians might be exempted from the requirement for a business license.
- **Noise limitations.** Issues in this area include allowed times of performances, decibel limits, and whether there should be a prohibition on amplification.
- **Location issues.** An ordinance would need to define sidewalk clearances, prevent obstructions, and establish clearances from business entrances.

Of course, the CFAC may identify other issue areas in its discussion. To provide examples of how other communities have addressed these issues, a recently adopted ordinance by the City of Santa Rosa is attached, as are the City of Healdsburg's regulations.

Police Department Recommendations

The Police Chief has recommended that the ordinance limit performance types to street musicians and that amplification be prohibited. The Police Department may have some additional recommendations and if that turns out to be the case, they will be reported to the Commission at the meeting.

Recommendation

Discuss and provide direction to staff.

Attachments:

1. City Council minutes of September 19, 2011
2. Santa Rosa Street Performer Regulations
3. Email from Krisha Montmorency

**CITY OF SONOMA
CULTURAL & FINE ARTS COMMISSION**

**November 3, 2011
MINUTES**

Call to Order – Chair Sheridan called the meeting to order at 5:30 p.m.

Roll Call:

Present: Carlsson, Ontko, Ransom, Sheridan, Simmel

Absent: Personette, Swett

Also Present: City Clerk Johann, Nellie Cravens, Dave Robbins, Mayor Gallian, Planning Director Goodison, Development Services Director Wirick

Public Communications – Commissioners reviewed incoming mail. City Clerk Johann introduced Nellie Cravens who would soon be the Alternate Commissioner.

Minutes of September 22, 2011 – The minutes were approved as submitted.

Public Art Project at Sonoma Valley Library – Development Services Director Wirick discussed possible locations for a public art item at the library. No decision was made.

Consideration of Regulations Allowing Street Musicians - Planning Director Goodison presented a draft ordinance and explained the City Council was seeking input from the Commission. Dave Robbins spoke in support of the ordinance. The item was continued to the next meeting.

Treasure Artist Reception – City Clerk Johann reported that plans were underway for the November 18 Treasure Artist reception to be held at the Sonoma Community Center.

Student Art Award Program – Commissioners fine-tuned the application form and reached a majority consensus that all students would be asked to attend an interview.

Adjournment - The meeting was adjourned at 6:45 p.m.

Respectfully submitted,

Gay Johann
City Clerk

**CITY OF SONOMA
CULTURAL & FINE ARTS COMMISSION**

**December 8, 2011
MINUTES**

Call to Order – Chair Sheridan called the meeting to order at 5:30 p.m.

Roll Call:

Present: Carlsson, Ontko, Personette, Ransom, Sheridan, Simmel, Swett

Absent: None

Also Present: City Clerk Johann and Alternate Nellie Cravens

Public Communications – Commissioner Carlsson reported that 2010 Student Art Award winner Sarah Summers had, through her own fundraiser, and earned \$460 for the Student Art Award program. Commissioner Simmel donated another \$30.

Minutes of November 3, 2011 – The minutes were approved as amended.

Consideration of Regulations Allowing Street Musicians - Commissioner Simmel commented that the ordinance should not restrict performers to just musicians. Alternate Craven stated that in discussion of this proposed ordinance with people; two had very strong reactions against it. Commissioner Swett stated that she did not support the proposed ordinance for the following reasons: It was not needed; it would create another layer of bureaucracy and rules that would not be enforced; and it would be onerous on City personnel. It was moved by Commissioner Swett, seconded by Commissioner Carlsson, to recommend that the City Council not pursue creation of a Street Performer ordinance. The motion carried unanimously.

Public Art Project at Sonoma Valley Library – Commissioner Swett reported that she met with Library Commissioner Mary Evelyn Arnold and that she and Chair Sheridan attended the Library Commission meeting. She said they were fine with the public art not being installed until after the library renovation was completed. Swett stated that for preparation of the Request for Proposals, she would need the library to provide information regarding their background, vision and goals. She requested City Clerk Johann to obtain information regarding lighting and/or electrical service; colors and texture of the exterior of the building; proposed signage; and a rendering of the building. Chair Sheridan stated that City Manager Kelly had stated the City may be able to provide additional funding for the cement slab and she would follow up with her.

Future Agenda Items – For the January 26, 2012 meeting: Library Public Art Selection Panel; Use of the money donated for the Student Art Award program.

Adjournment - The meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Gay Johann
City Clerk

ORDINANCE NO. 3956

**ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING
CHAPTER 6-50 STREET PERFORMERS, OF THE SANTA ROSA CITY CODE**

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Chapter 6-50 is added to the Santa Rosa City Code to read in full as follows:

**“CHAPTER 6-50
STREET PERFORMERS**

Sections:

6-50.010	Purpose and Intent
6-50.020	Definitions
6-50.030	Prohibition
6-50.040	Permit
6-50.050	Inspection of Permit
6-50.060	Permitted Performances
6-50.070	Exclusion of Public Areas
6-50.080	Violation – Penalties
6-50.090	Appeal from Denial or Revocation of Permit

6-50.010 Purpose and Intent.

The Council of the City of Santa Rosa finds that the existence in the City of street performers provides a public amenity that enhances the character of the City and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes or to the ability of businesses to conduct their businesses uninterrupted. This section seeks to balance the interests of the performers with those of the residents and businesses of the City.

The City Council designates the Recreation, Parks & Community Services Department to be the agent of the City primarily charged with the responsibility of supervising the provisions of this section.

6-50.020 Definitions.

- (A) “Perform” includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry and reciting. Perform shall not include the production of items for sale.
- (B) “Performer” means a person who has obtained a permit pursuant to this section.
- (C) “Public Areas” means public sidewalks, parks, and other Downtown Santa Rosa pedestrian areas.

6-50.030 Prohibition.

- (A) No performer who intends to receive, or who actually receives, any monetary contributions, donations or anything of value from the public in exchange for or as a tip for the performance, or who intends to place any structure, chair, stool, table, or other physical object in a public area, may perform in a public area without a permit issued pursuant to Subsection 6-50.060 of this section.

6-50.040 Permit.

- (A) A permit shall be issued by the City of Santa Rosa to each applicant therefore in exchange for a completed application. A photo ID shall be presented at the time of application.
- (B) A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.
- (C) A permit shall be valid from the date on which it is issued through the end of that calendar year.
- (D) A permit shall be nontransferable, and shall contain the permit number of the applicant and the year in which the permit is valid. Each member of a group of performers who play together shall be required to obtain an individual permit.
- (E) Upon issuing a permit, the City shall also give the performer a copy of this section.
- (F) If a performer loses his or her permit, one replacement permit per year may be obtained for a processing fee of five dollars or as amended from time to time by resolution.
- (G) If the applicant is under the age of 18, the permit application shall be signed by the parent or guardian of the minor who will assume full responsibility for the minor's performance and agree to not hold the City responsible for any liability arising from minor's performance.

6-50.050 Inspection of Permit.

- (A) A performer shall allow inspection of the permit and photo ID by any Santa Rosa police officer or staff person of the Recreation, Parks & Community Services Department on request.

6-50.060 Permitted Performances.

- (A) Performances may take place in the following locations:

- (1) In public areas, except within one hundred feet of an elementary and/or secondary school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Council, the Director of Public Works, or the Chief of Police pursuant to subsection 6-50.070 of this section;
- (2) On private property, only with the written permission of the owner or other person in control of such property;
- (3) In public areas where an authorized street fair or public festival is being conducted, only with the permission of the sponsor of such fair or festival. An event that has received a Master Permit overrides this section.

(B) Performances may take place at the following times:

- (1) Monday through Thursday, between 9:00 a.m. and 10:00 p.m.
Friday, between 9:00 a.m. and 12:00 midnight
Saturday, between 9:00 a.m. and 12:00 midnight
Sunday, between 12 noon and 10:00 p.m.

(C) Length of Performance

- (1) Performers may perform in one location for up to 2 hours, after which time performers shall move to a different location (at least five storefronts or 150 feet, whichever is farther, from previous location).

(D) Noise Level

- (1) The sound level generated by a performer or group of performers shall be inaudible at a distance of 50 feet.
- (2) The use of sound amplification is permissible if the performer obtains a registration pursuant to section 17-16.180.

(E) Public Area Impact

- (1) A performer shall not create an undue interference with the passage of the public through a public area.
- (2) If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

(F) Distance Between Performers

- (1) No performer or group of performers may perform less than 50 feet from another performer or group of performers.

(G) Receiving Donations/Tips

- (1) Permitted street performers may perform for donations; however, donations must be voluntary. Aggressive panhandling or solicitation is prohibited pursuant to Chapter 10-36. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (2) If performers wish to offer for sale recordings of their own work in the form of records, cassettes, videotapes, or compact discs, appropriate vendor permits and/or business licenses must be obtained. Displays shall not obstruct free passage on sidewalks, handicap ramps, doorways, or windows (i.e., performers shall not tape or post signs or posters on windows or lean displays against windows). Notwithstanding the foregoing, a performer may set up a display on the public sidewalk in front of a doorway to a business if the business is not open, assuming the display meets all other requirements of this section. In public areas other than sidewalks, no such display shall exceed twenty-five square feet (5' x 5'). Placing a carpet, rug, blanket, or other such covering over grass in a public place is prohibited.
- (3) A permitted performer who performs and accepts donations according to this section is considered not guilty of aggressive panhandling or disturbing the peace.

6-50.070 Exclusion of Public Areas.

(A) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing, notice of which shall be advertised once in a local newspaper no less than fourteen days prior to said hearing; or

- (1) On sidewalk areas where less than 5 feet in width remain, including items such as parking meters, news racks, light poles and planters, due to the restriction of free passage through a public area;
- (2) Within 5 feet of any doorway to a commercial business, inclusive of audience, unless the business is not open, in order to eliminate the obstruction of entrances to commercial buildings.
- (3) During periods of construction, emergencies, encroachment, or when a master permit is in effect, the City Council finds that issues of serious public safety will occur and the temporary exclusion of performances will be necessary.
- (4) By decision of the Chief of Police in the case of a public safety emergency.
- (5) By decision of the Director of Public Works in the case of an emergency regarding a park or playground.

6-50.080 Violation -- Penalties.

(A) A violation of the provisions of this chapter shall be an infraction punished as follows:

- (1) For the first violation, a fine not exceeding \$25.00

- (2) For a second violation occurring within one year of being found guilty of a prior violation, by a fine not exceeding \$50.00
- (3) For the purposes of this section, the following officials shall be enforcing persons: City police officers.

(B) Revocation of Permit

- (1) The City of Santa Rosa may revoke a permit, or refuse to issue a new permit for twelve months if a performer has been found to be in violation under this section twice during any 12-month period.
- (2) In the case of a revocation of a permit, the Director of Parks and Recreation shall inform the permittee in writing of the revocation of the permit which will be effective 10 days following the date of such notice. The notice shall state the reasons for such revocation. During that 10-day period, the permittee may offer evidence to the Director of Parks and Recreation showing why the permit should not be revoked. Based upon sufficient evidence, the Director of Parks and Recreation may withdraw the revocation.

(C) A performer may not receive a permit unless all fines from the previous year have been paid.

6-50.090 Appeal from Denial or Revocation of Permit.

(A) Any person whose application for a permit is denied, or whose permit is revoked after appeal to the Director of Parks and Recreation, may appeal to the City Council within 15 days from the date of the mailing of notice of such denial or revocation in accordance with Section 1-20.010 of this code. The City Council's decision after such hearing shall be final and conclusive."

Section 2. Exclusivity. The provisions of this section take precedence over any other City regulations or ordinance applicable to street performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by street performances shall be governed by this section and not by the City of Santa Rosa noise ordinance.

Section 3. Peace and Quiet. A performance in accordance with this ordinance shall be presumed not to constitute a disturbance of the peace or quiet.

Section 4. Severability. If any section, subsection, sentence, clause phrase, or word of this ordinance is for any reason held to be invalid, the validity of the remaining portions of the ordinance shall not be affected.

Section 5. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines section 15060(c)(2) in that the Council

finds there is no foreseeable possibility that the implementation of this ordinance may have a significant effect on the environment.

Section 6. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

Section 7. Review. Once in effect, this ordinance may be reviewed after 6 months for possible amendments.

IN COUNCIL DULY PASSED AND PASSED THIS 19th day of October, 2010.

AYES: (6) Mayor Gorin, Vice Mayor Wysocky, Councilmembers Bender, Sawyer, Jacobi and Vas Dupre

NOES: (0)

ABSENT: (1) Councilmember Olivares

ABSTAIN: (0)

ATTEST: Susan Stoneman, City Clerk APPROVED: Susan Gorin, Mayor

APPROVED AS TO FORM:

Caroline Fowler, City Attorney

STREET PERFORMER PERMIT

On October 19th, 2010 the Santa Rosa City Council approved a new ordinance permitting Street Performers in Santa Rosa. The ordinance has been in effect since November 19th, 2010. Permit applications are available online at www.srcity.org/arts and at the Finley Community Center. Permits are free, and you must apply in person with a photo ID at the Finley Community Center.

The key provisions of the ordinance are as follows:

- You must obtain a permit if you intend to receive, or actually receive any monetary contributions, donations or anything of value from the public in exchange for or as a tip for the performance, or place any structure, chair, stool, table, or other physical object in a public area.
- Permits are available at no cost through the Recreation, Parks & Community Services Department. A photo ID is required at the time of issuance. Acceptable forms of ID include: driver's license or state ID card, student ID (if a current student). A fee of \$5.00 shall be charged to cover the cost of reissuing lost permits.
- Permits shall be valid from the date issued through the end of that calendar year and are non-transferable. Each member of a group of performers who play together shall have their own, individual permits.
- Performances may take place in public areas *except*: on sidewalk areas where less than 5 feet in width remain due to the restriction of free passage through a public area; within 5 feet of any doorway to a commercial business, unless the business is closed; within 100 feet of a school or church while in session; within 100 feet of a hospital; during periods of construction, emergencies, encroachment or when a master permit is in effect.
- Performances may take place at the following times: Monday through Thursday, 9am to 10pm; Friday and Saturday, 9am to 12 midnight; Sunday, 12 noon to 10pm.
- Only non-amplified sound is permissible under this ordinance. However, powered instruments such as a keyboard are allowable given they do not need access to electricity (must be battery powered) and the volume is under the sound limit as listed below. The use of sound amplification equipment is allowed only if the performer obtains a sound permit from the Police Department.
- The sound level generated by a performer or group of performers must be inaudible at a distance of 50 feet.
- You may perform for donations; however, donations must be voluntary. Aggressive panhandling or solicitation is prohibited. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- Violations are as follows: 1st violation- a fine of \$25.00; 2nd violation in one year- a fine of \$50.00. Enforcement of the ordinance will be by Santa Rosa Police Officers.
- Once in effect, this ordinance may be reviewed after 6 months for possible amendments.

Visit www.srcity.org/arts for more information. Please direct all questions to (707) 543-4512, or tmatheny-schuster@srcity.org.



APPLICATION FOR STREET PERFORMER PERMIT

Date: _____

Name: _____

Stage Name (if different): _____

Group Name (all members of a group must have individual permits): _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Email Address: _____

Phone (day): _____ Phone (eve): _____

Date of Birth: _____

Have you previously received a Street Performer Permit in Santa Rosa, CA? YES NO (circle one)

TYPE OF PERFORMANCE (circle all that apply):

Music Dance Theater Variety Other: _____

If you are a musician, please specify the style of music and types of instruments to be used:

ALL PERFORMERS, please describe performance: _____

The applicant, by signing this application, indicates that the above performer has received, read and understands the regulations governing issuance of this Permit in the City of Santa Rosa (Municipal Code section 6-50) as set forth in Ordinance 3956 (October 19, 2010).

Permits are issued for the calendar year, or the unexpired portion thereof. Applications MUST be submitted in person to the Santa Rosa Recreation, Parks & Community Services Department at the Finley Community Center, 2060 W. College Avenue, Santa Rosa. A valid Photo ID is required at the time of application. All outstanding citations from the previous year must be paid before permit can be issued. Applicants under 18 must have a legal guardian present.

Signature: _____

Parent/Guardian: _____
(if under 18)

OFFICE USE ONLY

Photo ID#: _____ Date Issued: _____ Issued by: _____



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 8B

Meeting Date: 02/06/2012

Department

Administration

Staff Contact

Linda Kelly, City Manager

Agenda Item Title

Discussion, consideration and possible action providing direction to the Mayor regarding the City's vote on appointments by the City Selection Committee at their February 9, 2012 meeting.

Summary

The Sonoma County Mayors' and Councilmembers' Association will hold its first regular meeting of 2012 on February 9, 2012 in Rohnert Park. The evening will include a meeting of the City Selection Committee, the Association Board of Directors and the General Membership.

At that meeting, the City Selection Committee will consider appointments for the following Boards and Commissions:

1. An appointment to the RAN Board (must be a Mayor). A letter of interest from Rohnert Park Mayor Jake Mackenzie has been received.
 2. Submittal of a name to ABAG as a nominee for the S.F. Bay Conservation and Development Commission (only nominees from Petaluma are allowed). Petaluma Councilmember Teresa Barrett has submitted a letter of interest.
-

Recommended Council Action

Discuss and consider, and provide direction to the Mayor regarding appointment recommendations.

Alternative Actions

Council discretion.

Financial Impact

N/A

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

1. Letter of interest from Jake Mackenzie
 2. Letter of interest from Teresa Barrett
 3. 11/10/11 letter from Clerk of the Selection Committee
 4. 12/8/11 letter from ABAG
 5. 12/20/11 letter from Clerk of the Selection Committee
-

cc: n/a



City Council

Jake Mackenzie
Mayor

Pam Stafford
Vice-Mayor

Amy O. Ahanotu
Gina Belforte
Joseph T. Callinan

Council Members

Gabriel Gonzalez
City Manager

Carol Adams
Interim City Clerk

Michelle Marchetta Kenyon
City Attorney

Alexandra Barnhill
Assistant City Attorneys

Darrin W. Jenkins
Director of Development Services /
City Engineer

Sandra M. Lipitz
Director of Administrative Services

Brian Masterson
Director of Public Safety

John McArthur
Director of Public Works &
Community Services

December 14, 2012

Tori Bartholomew, Clerk
City Selection Committee
575 Administration Drive, Room 100A
Santa Rosa, CA 95403

Subject: Remote Access Network (RAN) Board

To Whom It May Concern:

I am submitting my name for appointment to the Remote Access Network (RAN) Board.

I note that one of the positions on the Board, required under Section 9250.19, must be filled by a Mayor appointed by the City Selection Committee. I am the current Mayor of the City of Rohnert Park.

Thank you for your consideration. I look forward to your support.

Sincerely,


Jake Mackenzie,
Mayor

JM/bl
Mayor Laurie Gallian, City of Sonoma
Rohnert Park City Council
Gabriel Gonzalez, City Manager

RECEIVED

DEC 20 2011

BOARD OF SUPERVISORS
COUNTY OF SONOMA



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

30 December 2011

Teresa Barrett
Councilmember

Dear Mayors and Councilmembers,

I am asking for your City's support as Sonoma County's City Select Committee nominee for the Association of Bay Area Government's appointment to the Bay Conservation and Development Commission (BCDC).

BCDC deals with policy and land use issue along the San Francisco Bay and its tidal influences. My background as a Petaluma City Councilmember, Petaluma Planning Commissioner, Sonoma County Local Agency Formation Commissioner (LAFCO) and Committee member on Sonoma County Water Agency's Zone 2A makes me uniquely qualified for this position to serve on BCDC. As a San Francisco native, I am very familiar with the Bay Area.

I am aware this position requires a time commitment to travel to and from San Francisco which I am prepared to undertake. I am familiar with the issues before the Commission including implementation of the recent approval of the Vulnerability and Adaptation Strategy for the Bay Area, balancing business interests with public access along the shorelines, bay land restorations and permitting challenges. BCDC also works closely with the other three regional agencies, the Metropolitan Transportation Commission, Bay Area Air Quality Management District and Association of Bay Area Governments.

It is important to be involved in decision making on regional committees as well as those of our city. To this end, I seek this nomination and know I will listen to divergent interests and make good decisions for the entire bay area. Regional planning and coordination on these important issues are necessary for the sustainable long term vision of the San Francisco Bay Area.

If you have any questions, please contact me by phone at 707.953.0846 or at teresa4petaluma@comcast.net.

Again, I would appreciate your support for this appointment. Thank you for your consideration.

Sincerely,


Teresa Barrett
Councilmember
City of Petaluma

Petaluma City Hall
11 English Street
Petaluma, CA 94952

Phone (707) 778-4345
Fax (707) 778-4419

E-Mail
teresa4petaluma@comcast.net

COUNTY OF SONOMA
BOARD OF SUPERVISORS

575 ADMINISTRATION DRIVE, RM. 100A
SANTA ROSA, CALIFORNIA 95403

(707) 565-2241
FAX (707) 565-3778



MEMBERS OF THE BOARD

Efren Camillo
CHAIR

Shirree Zane
VICE CHAIR

Valerie Brown

David Rabbitt

Mike McGuire

November 10, 2011

Mayor Laurie Gallian
City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476-9000

Dear Mayor Gallian:

The City Selection Committee will hold its regular yearly meeting on February 9, 2012. At that meeting, the Committee will consider making appointments and recommendations to the following Boards and Commissions:

City Selection Chair – Laurie Gallian's term expires January 2012 (one year term).

City Selection Vice-Chair – Steve Allen's term expires January 2012 (one year term).

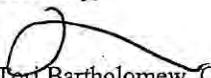
Remote Access Network (RAN) Board – to replace Gina Belforte (no specific term, but must be filled by a Mayor)

The City Selection Committee will need to receive letters of interest to facilitate the nomination process at the February 9, 2012 meeting no later than **January 6, 2012**. I ask that you please send a request for letters of interest to the Mayors in the Sonoma County Mayors' and Councilmembers' Association. Letters should be sent to my attention and mailed to:

Tori Bartholomew, Clerk
City Selection Committee
575 Administration Drive, Room 100A
Santa Rosa, CA 95403

Should you have any questions, please contact me at 707-565-2241.

Sincerely,


Tori Bartholomew, Clerk
City Selection Committee

ASSOCIATION OF BAY AREA GOVERNMENTS

Celebrating 50 Years of Service to the Region



December 8, 2011



Laurie Gallian
Mayor, City of Sonoma
Chair, Sonoma County City Selection Committee
No. 1 The Plaza
Sonoma, CA 95476

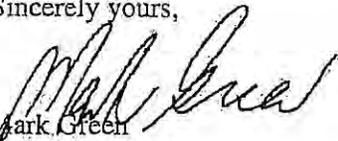
Dear Mayor Gallian:

The Association of Bay Area Governments is seeking nominations to fill the North Bay representative seat on San Francisco Bay Conservation and Development Commission. Nominations from the City Selection Committees from the counties of Marin, Sonoma, Napa, and Solano will be considered for ABAG's appointment to this seat.

In Sonoma County, nominees from Petaluma are eligible for consideration.

Please submit the name of your nominee to Ezra Rapport, ABAG Executive Director, at your earliest convenience. Interviews will be held with nominees from all four counties. Approval of the appointment will be made by the ABAG Executive Board. If you have any questions, please contact Pat Jones, ABAG Assistant Executive Director, at 510 464 7933.

Sincerely yours,


Mark Green
ABAG President
Mayor, City of Union City

Copy:
Gay Johann

Representing City and County Governments of the San Francisco Bay Area

Mailing Address: P.O. Box 2050 Oakland, California 94604-2050 (510) 464-7900 Fax: (510) 464-7985 info@abag.ca.gov
Location: Joseph P. Bort MetroCenter 101 Eighth Street Oakland, California 94607-4756

COUNTY OF SONOMA
BOARD OF SUPERVISORS

575 ADMINISTRATION DRIVE, RM. 100A
SANTA ROSA, CALIFORNIA 95403

(707) 565-2241
FAX (707) 565-3778



MEMBERS OF THE BOARD

EFREN CARRILLO
CHAIR

SHIRLEE ZANE
VICE CHAIR

VALERIE BROWN

DAVID RABBITT

MIKE MCGUIRE

December 20, 2011

David Glass, Mayor
City of Petaluma
11 English Street
Petaluma, CA 94952

Re: Letters of Interest for ABAG San Francisco Bay Conservation and Development
Commission

Dear Mayor Glass:

The City Selection Committee received a letter dated December 8, 2011 from Mark Green, President of the Association of Bay Area Governments (ABAG) requesting nominations for a North Bay Representative seat on the San Francisco Bay Conservation and Development Commission. In Sonoma County, nominees from the City of Petaluma are only eligible. ABAG is requesting to receive names of nominees prior to their January 19, 2012 Board meeting, however should someone from Petaluma express interest, ABAG has indicated that they will delay the nominee interview process until March 2012.

I ask that you please send a request for letters of interest for the Commission mentioned above to the City of Petaluma Councilmembers. **The City Selection Committee will need to receive letters of interest to facilitate the nomination process by January 6, 2012.** If letters of interest are received by the deadline, the City Selection Committee will consider making nominations to the ABAG San Francisco Bay Conservation and Development Commission at the February 9, 2012 meeting.

Letters should be mailed to:

Chris Anderson, Clerk
City Selection Committee
575 Administration Drive, Room 100A
Santa Rosa, CA 95403

Should you have any questions, please contact me at 707-565-2241.

Sincerely,

Michelle Arellano

Michelle Arellano
City Selection Committee

C: Laurie Gallian, Chair, City Selection Committee

Enclosure: Association of Bay Area Governments letter dated December 8, 2011



City of Sonoma
City Council
Agenda Item Summary

Agenda Item: 11A
Meeting Date: 02/06/2012

Department Administration	Staff Contact Mayor and Council Members
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Agenda Item Title

Council Members Report on Committee Activities.

Summary

Council members will report on activities, if any, of the various committees to which they are assigned.

MAYOR SANDERS	MPT. BROWN	CLM. BARBOSE	CLM. GALLIAN	CLM. ROUSE
ABAG Alternate	AB939 Local Task Force	City Facilities Committee	ABAG Delegate	City Audit Committee
Community Dev. Agency Loan Subcommittee	Cemetery Subcommittee	Community Dev. Agency Loan Subcommittee, Alt.	Cemetery Subcommittee	Community Dev. Agency Loan Subcommittee
LOCC North Bay Division Liaison, Alternate	Cittaslow Sonoma Valley Advisory Council, Alt.	Community Choice Aggregation Focus Grp.	Cittaslow Sonoma Valley Advisory Council	LOCC North Bay Division Liaison
Sonoma County Mayors & Clm. Assoc. BOD	City Facilities Committee	North Bay Watershed Association	City Audit Committee	Sonoma County M & C Assoc. Legislative Committee, Alt.
Sonoma County M & C Assoc. Legislative Committee	Sonoma Community Center Subcommittee	Sonoma Community Center Subcommittee	Sonoma County Transportation Authority	Sonoma Valley Citizens Advisory Comm. Alt.
Sonoma Disaster Council	Sonoma County Health Action, Alternate	Sonoma County Transportation Authority, Alt.	(SCTA) Regional Climate Protection Authority	S.V. Economic Development Steering Committee, Alt.
Sonoma Housing Corporation	Sonoma County Mayors & Clm. Assoc. BOD	(SCTA) Regional Climate Protection Authority, Alt.	LOCC North Bay Division, LOCC E-Board, Alternate (M & C Appointment)	
S.V.C. Sanitation District BOD	Sonoma Disaster Council, Alternate	Sonoma County Waste Management Agency	Sonoma County/City Solid Waste Advisory Group (SWAG), Alt.	
S.V. Economic Development Steering Committee	Sonoma Housing Corporation	Sonoma County/City Solid Waste Advisory Group (SWAG)	Sonoma County Ag Preservation and Open Space Advisory Committee (M & C Appointment)	
S.V. Fire & Rescue Authority Oversight Committee	S. V. Citizens Advisory Commission	VOM Water District Ad Hoc Committee	VOM Water District Ad Hoc Committee	
S. V. Library Advisory Committee	S.V.C. Sanitation District BOD, Alt.	Water Advisory Committee, Alternate	Water Advisory Committee	
	S.V. Fire & Rescue Authority Oversight Committee			
	S. V. Library Advisory Committee, Alternate			
	Substance Abuse Prevention Coalition			

Recommended Council Action – Receive Reports

Attachments: None