

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



**Community Meeting Room, 177 First Street West
Monday, November 5, 2012
5:00 p.m. Closed Session (Special Meeting)
6:00 p.m. Regular Session**

AGENDA

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

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

5:00 P.M. – SPECIAL MEETING - CLOSED SESSION AGENDA

1. CALL TO ORDER

The Mayor will open the meeting and take public testimony on closed session items only. The Council will then recess into closed session.

2. CLOSED SESSION

Item 2A: CONFERENCE WITH LABOR NEGOTIATOR, pursuant to Government Code §54957.6. Agency designated representative: Karen Walker. Employee Organizations: City of Sonoma Employees' Association (SEIU 1020), and Non-represented Confidential, Executive, Management and Administrative personnel.

6:00 P.M. – REGULAR MEETING AGENDA

RECONVENE, CALL TO ORDER & PLEDGE OF ALLEGIANCE

ROLL CALL (Rouse, Brown, Gallian, Barbose, Sanders)

REPORT ON CLOSED SESSION

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 – None Scheduled

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 October 15, 2012 Meeting.**
Staff Recommendation: Approve the minutes.

Item 5C: **Request by Sonoma Community Center for City-subsidized use of the Sonoma Valley Veterans Memorial Building on January 13, 2013.**
Staff Recommendation: Approve the request subject to applicant's compliance with the City's standard insurance requirements.

Item 5D: **Approval and Ratification of the appointment of James K. Cribb to the Planning Commission for a two-year term effective November 5, 2012.**
Staff Recommendation: Nomination by the Mayor, ratification by the City Council.

Item 5E: **Approve the Notice of Completion for the 2012 Citywide Slurry Seal Project Constructed by Valley Slurry Seal Company and Direct the City Clerk to File the Document.**
Staff Recommendation: Approve the Notice of Completion for the 2012 Citywide Slurry Seal Project constructed by Valley Slurry Seal Company and Direct the City Clerk to File the Document.

Item 5F: **Consideration of actions by the City Council to authorize purchase and sale of Pension Obligation Bonds in an amount not to exceed \$3,250,000.**
Staff Recommendation: Approve the Bond Purchase Agreement and related documents as previously directed by the City Council at its meeting of September 5, 2012.

Item 5G: **Approve a Resolution of the City Council of the City of Sonoma Authorizing the Examination of Sales or Transactions and Use Tax Records By Designated Positions.**
Staff Recommendation: Adopt Resolution providing for authorized staff and consultants to receive confidential information regarding one-half percent sales tax authorized by Measure J. Authorize City Manager to sign updated MuniServices, LLC Consultant Agreement.

Item 5H: **Second reading and adoption of an ordinance to Amend Title 8 of Sonoma Municipal Code pertaining to Animal Care and Control.**
Staff Recommendation: Hold second reading and adopt ordinance amending Title 8 of the Sonoma Municipal Code pertaining to Animal Care and Control.

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 portions of the Minutes of the October 15, 2012 City Council / Successor Agency Meetings pertaining to the Successor Agency.
Staff Recommendation: Approve the minutes.

7. PUBLIC HEARING

Item 7A: Discussion, consideration and possible action on an appeal of the Planning Commission’s decision to approve, as an adaptive re-use, administrative offices and wine tasting by appointment within a historic residence (143 West Spain Street / 138 Church Street), along with the development of associated off-street parking. (Planning Director)
Staff Recommendation: Uphold the decision of the Planning Commission, with direction to staff to prepare an implementing resolution for adoption at a subsequent meeting.

8. REGULAR CALENDAR – CITY COUNCIL

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

9. REGULAR CALENDAR – CITY COUNCIL AS THE SUCCESSOR AGENCY

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

10. COUNCILMEMBERS’ REPORTS AND FINAL REMARKS

Item 10A: Reports Regarding Committee Activities.

Item 10B: Final Councilmembers’ Remarks.

11. COMMENTS FROM THE PUBLIC

12. PUBLIC COMMENTS REGARDING CLOSED SESSION

Public testimony on closed session item(s) only.

13. CLOSED SESSION

Item 13A: PUBLIC EMPLOYEE PERFORMANCE EVALUATION, pursuant to Government Code §54957. Title: City Attorney.

14. RECONVENE IN OPEN SESSION & REPORT ON CLOSED SESSION

15. ADJOURNMENT

I do hereby certify that a copy of the foregoing agenda was posted on the City Hall bulletin board on October 30, 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 normally available for public inspection the Wednesday 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: 5B

Meeting Date: 11/05/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Approval of the Minutes of the October 15, 2012 Meeting.

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

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



Community Meeting Room, 177 First Street West
Monday, October 15, 2012
5:00 p.m. Closed Session (Special Meeting)
6:00 p.m. Regular Session

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

MINUTES

SPECIAL MEETING - CLOSED SESSION

1. CALL TO ORDER

At 5:00 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 Manager Kelly and City Attorney Walter were also present.

2. CLOSED SESSION

Item 2A: PUBLIC EMPLOYEE PERFORMANCE EVALUATION, pursuant to Government Code §54957. Title: City Manager.

Item 2B: CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, Initiation of Litigation, one case. Pursuant to Government Code 54956.9(b)(3)(E).

REGULAR MEETING

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

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

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

REPORT ON CLOSED SESSION – Assistant City Attorney Abaci stated that by a vote of 5 to 0, the City Council authorized the City Manager to sign a Tolling Agreement with the County of Sonoma tolling the time for the City to make a claim challenging the manner in which the County calculates the Property Tax Administration Fee.

1. COMMENTS FROM THE PUBLIC

Deirdre Sheerin and Bob Edwards invited everyone to the November 10 ribbon cutting ceremony for Sweetwater Spectrum.

Ed Kenney thanked Mayor Sanders for her service and commented on City Council candidates.

2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS

Item 2A: Councilmembers' Comments and Announcements

Cm. Brown announced support for City Council candidates Cook and Gallian and First District Supervisor candidate Gorin.

Cm. Gallian reported attendance at the Battle of Bartenders, Skypark Family Day, and the Sons of Italy dance.

Cm. Rouse reported it had been with great pleasure that he presented proclamations in the Mayor's absence to two retired deputies at the B.R. Cohn concert and to Sam and Carol Morphy, owners of The Red Grape, at the Business of the Year luncheon.

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

City Manager Kelly announced that the Police Department, in conjunction with the Alcohol Beverage Control agency would be offering a servers workshop. The Tourism Improvement District established a website where its agendas and minutes, as well as other information, were accessible to the public.

4. PRESENTATIONS

Item 4A: Recognition of the Sonoma Overlook Trail Task Force

Mayor Sanders presented a Certificate of Appreciation to Joanna Kemper, Fred Allebach, and Scott Summers, members of the Sonoma Overlook Trail Stewards, for putting together and making available to the public the Mountain Cemetery Walking Tour brochure.

Item 4B: Proclamation Declaring October 24, 2012 United Nations Day

Mayor Sanders presented the proclamation to a representative of the Sonoma County Chapter, UNA-USA who expressed appreciation for the acknowledgement.

5. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL

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

Item 5B: Request by Sonoma International Film Festival for City-subsidized use of the Sonoma Valley Veterans Memorial Building on April 13, 2013. (Removed from the agenda)

Item 5C: Request by Pets Lifeline for City-subsidized use of the Sonoma Valley Veterans Memorial Building on April 20, 2013. Approved subject to applicant's compliance with the City's standard insurance requirements.

Item 5D: Biennial Review of the City of Sonoma Conflict of Interest Code and Acceptance of the 2012 Biennial Notice from the Oversight Board to the Dissolved Sonoma Community Development Agency. Authorized the City Manager to execute the 2012 Local Agency Biennial Notice indicating that no amendments to the City's Conflict of Interest Code were necessary and accepted the 2012 Local Agency Biennial Notice for the Oversight Board to the Dissolved Sonoma Community Development Agency

Item 5E: **Approval to Purchase Financial Accounting Software from Springbrook Software.** Approved purchase of financial accounting software to Springbrook Systems and authorize the City Manager to sign purchase agreement.

Item 5F: **Approval of the Minutes of the October 1, 2012 Meeting.**

Item 5G: **Resolution upholding the decision of the Planning Commission’s decision to approve an application of the First Congregational Church for a Use Permit to operate a school within Burlingame Hall, at 252 West Spain Street, subject to revised conditions of approval (implementing the City Council action of October 1, 2012).** (Res. No. 42-2012)

City Manager Kelly removed Item 5B and reported that the rent subsidy had been previously approved by the Council. She also brought to Council’s attention that staff had made a minor revision to the resolution for Item 5G and copies of the amended resolution were on the dais.

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

It was moved by Clm. Rouse, seconded by Clm. Brown, to approve the Consent Calendar except for Item 5B and Item 5G as amended. The motion carried unanimously.

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

Item 6A: **Approval of the portions of the Minutes of the October 1, 2012 City Council / Successor Agency Meetings pertaining to the Successor Agency.**

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

7. PUBLIC HEARING – NONE SCHEDULED

8. REGULAR CALENDAR – CITY COUNCIL

Item 8A: **Discussion, consideration and possible first reading of an ordinance to Amend Title 8 of Sonoma Municipal Code pertaining to Animal Care and Control.**

Police Chief Sackett reported that subsequent to a September 2011 City Council discussion relating to control of vicious dogs; members of the community and representatives of Sonoma Valley Dog (SV Dog) and Pets Lifeline conducted community meetings. They came up with a list of recommendations, some of which, the City Council directed to be incorporated into the Municipal Code. Sackett stated that the Police Department worked with interested citizens and the City Attorney to craft a proposed update to Title 8. He then provided a detailed description of the various provisions being proposed which included creation of an Animal Hearing Officer position and public notice requirements, a list of a variety of prohibited conduct, and a new chapter pertaining to vicious and potentially dangerous dogs.

Clm. Barbose stated he felt the definition of “vicious dog” should include “attacks on other dogs that resulted in hospitalization”. Chief Sackett stated they used the definition from the Food and Agriculture Code and pointed out the situation resulting in hospitalization of another dog would fall with the definition of “potentially dangerous dog”.

Clm. Rouse questioned the number of dogs and cats allowed at a residence. Sackett explained the ordinance allowed up to three of each and additional animals could be applied for through the permit process. Clm. Rouse pointed out the ordinance proposed allowing dogs in all parks except for the

Plaza and Overlook Trail and inquired who would be sponsoring the clean up stations (a plastic bag dispenser). Sackett responded the ordinance did not require clean up stations but it did include a requirement that people clean up after their animals. Public Works Director Bates indicated that the City was already spending approximately \$8,500 annually for dog waste bags.

Mayor Sanders inquired why goats were not allowed. Chief Sackett stated they had not previously been allowed and there had not been a request to allow them. Attorney Abaci stated that goats were included in the definition of "livestock" and as such, were not permitted within the City.

Mayor Sanders invited comments from the public. Bob Edwards, President of SV Dog, thanked everyone involved in the update of the code. He said the ordinance was not perfect but represented a step in the right direction. Edwards stated he did not feel clean up stations would be necessary in the neighborhood parks but if it did become a problem SV Dog would look into providing them.

David Cook expressed his support for the proposed changes to the Municipal Code.

Lynn Clary stated that the number of dogs allowed should be proportional to the back yard size and that allowing two attacks within a thirty-six month period was too many.

Nancy King, Pets Lifeline, stated that the ordinance would encourage responsible dog ownership, was a fair proposal and she supported it.

Joan Tillman complimented staff and the City Council for all the work that went into the ordinance.

Cameron Stuckey supported the ordinance and stated the City should allow chickens and goats.

Julie Maneker, SV Dog, stated that the proposed ordinance allows for due process and for the possibility for a dog to be rehabilitated. She felt the number of dogs allowed per household should be considered on a case-by-case basis.

Cm. Barbose stated the definition of "vicious dog" should be restated to include "a serious unprovoked injury requiring medical treatment or hospitalization". He supported allowing dogs in parks but felt clean up stations were necessary. Cm. Rouse agreed that providing cleanup bags was a necessity.

Discussion ensued amongst Councilmembers regarding the need for clean up stations and how to address the subject. A brief recess was called to allow staff time to consider Council's direction.

RECESS: The meeting recessed from 7:50 to 8:05 p.m.

Chief Sackett stated that the proposed definition for "vicious dog" mirrors the definition in the Food and Agriculture Code and staff felt comfortable leaving it as proposed. Cm. Barbose disagreed and reiterated the change he had requested (above). A straw vote indicated a Council majority supported the change. A straw vote showed no support for allowing dogs in parks without clean up stations. Mayor Sanders stated that she would drop the issue of allowing goats but would like the subject to be revisited at a future time.

Cm. Barbose suggested the ordinance be amended to state that dogs would be allowed in parks with clean up stations. City Manager Kelly requested time for staff to consider and draft proposed language to that effect. It was moved by Cm. Rouse, seconded by Cm. Gallian, to table the subject until after the next agenda item. The motion carried unanimously.

Item 8B: Discussion, consideration and possible action on options for a new dog park location and the estimated value of City-owned properties located at 872-880 Fifth Street West.

Planning Director Goodison reported that pursuant to prior Council direction, the Community Services and Environment Commission had considered the possible location of a dog park at the 5th Street West property. They determined that the site was not well suited for use as a dog park. In looking at other possible locations, the only one identified as meriting further investigation was the portion of the Bond property not currently leased by the Sonoma Ecology Center.

CIm. Rouse confirmed that the Bond Property was surrounded by unincorporated property. He questioned if it was a good idea to place a dog park on property surrounded by residential neighborhoods.

Mayor Sanders invited comments from the public. Richard Dale, Executive Director of the Sonoma Ecology Center (SEC), stated they had been eyeing the property for a number of years and hoped to incorporate it into their master plan. He said they would be open to a conversation about use of the property and added that the magnificent old oak tree at the site would require special consideration so as not to impact it negatively.

Bob Edwards stated the Bond Property was a gorgeous site but they had not had much time to consider it as a dog park. He said that the City needed a large dog park nearer the center of town.

Mark Newhouser, SEC Restoration Program Manager, stated they had invested heavily in the Garden Park and had been eyeing the remaining Bond Property for a number of years.

Julie Maneker stated that without a nice centrally located dog park, Sonoma would lose visitors to Napa.

CIm. Rouse stated he did not support either the 5th Street West or the Bond Property as possible dog park locations. He would support selling the 5th Street property. Councilmembers Brown, Gallian and Barbose agreed. Mayor Sanders stated she felt the 5th Street property would be a good location for a dog park but she would go along with referring the sale of the property to the Facilities Committee for their consideration.

Item 8A: Discussion, consideration and possible first reading of an ordinance to Amend Title 8 of Sonoma Municipal Code pertaining to Animal Care and Control.

It was moved by CIm. Barbose, seconded by CIm. Gallian, to place Item 8A back on the table. The motion carried unanimously. City Attorney Abaci described the various amendments to the ordinance as had been directed by the City Council. It was moved by CIm. Barbose, seconded by CIm. Gallian, to introduce the ordinance entitled An Ordinance of the City of Sonoma Repealing Section 9.12.180 and Title 8 and Reenacting Title 8 (Animal Care and Control) of the Sonoma Municipal Code as amended. The motion carried unanimously.

9. REGULAR CALENDAR – CITY COUNCIL AS THE SUCCESSOR AGENCY

There were no agenda items for the Successor Agency.

10. COUNCILMEMBERS' REPORTS AND FINAL REMARKS

Item 10A: Reports Regarding Committee Activities.

CIm. Brown announced that effective October 24, 2012, the meetings of the Sonoma Valley Citizens Advisory Committee would be held in the Community Meeting Room.

CIm. Barbose reported learning at the North Bay Watershed Association meeting that Valley of the Moon Water District Executive Director Kumar had accepted a position with the Marin Water District.

CIm. Gallian reported attendance at the Sonoma County Transportation Authority and Regional Climate Protection Campaign meetings.

Item 10B: Final Councilmembers' Remarks.

CIm. Gallian reported that many local schools participated in the California Shakeout drill; the Traveling Wall would be coming November 7-11, and the Dance for the Troops would be held November 3.

Mayor Sanders reported the purchase of a Chevrolet Volt.

11. COMMENTS FROM THE PUBLIC

David Cook thanked Councilmembers Rouse, Gallian and Brown for their endorsements.

Bob Edwards thanked the Council for spending three plus hours on dogs.

12. ADJOURNMENT

The meeting was adjourned at 9:11 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 2012.

Gay Johann, MMC
City Clerk



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5C

Meeting Date: 11/05/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Request by Sonoma Community Center for City-subsidized use of the Sonoma Valley Veterans Memorial Building on January 13, 2013.

Summary

In 1991, the City entered into a Development and Use Agreement with Sonoma County to undertake a major renovation of the Sonoma Valley Veterans Memorial Building. The agreement also provided that the City would pay the County \$10,000 annually to offset operational expenses and in return the City would be allowed use of the facility up to twenty times per fiscal year. Through the years, the City developed a program whereby many, if not all, the City's allocated days were assigned to local students and non-profit or charitable organizations. In June 2010, the City Council approved a three-year extension of the agreement.

Sonoma Community Center requested City-subsidized use of the Veteran's Building on January 13, 2012 for their Dancing With The Stars fundraising event.

If this request is approved, the City will have one rent-subsidized days remaining for the fiscal year ending June 30, 2013.

Recommended Council Action

Approve the request subject to applicant's compliance with the City's standard insurance requirements.

Alternative Actions

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

Financial Impact

The City pays \$10,000 annually to the County in return for the use of the Veteran's Building for twenty days throughout the year. The value of each City-subsidized day provided to an outside organization is \$500.

Environmental Review

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

Status

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

Attachments:

Request from Tom Montan

cc: Tom Montan, via email



SONOMA COMMUNITY CENTER

www.sonomacommunitycenter.org

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Michael Ross

Nancy Ryan

Megan Segre

Elizabeth Smith

Joseph Valentine

Lilla Weinberger

Walter Williams

Kathy Witkowitz

Jennifer Yankovich

August 22, 2012

City Council /City Hall

Attn: Gay Johann

No.1 The Plaza

Sonoma, CA 95476

Dear City Council Members,

We are applying for a rental subsidy from the City of Sonoma for the Sonoma Veteran's Memorial Hall. We have secured the date of January 13, 2012 with the Sonoma Veteran's Memorial Hall for the newly revised Dancing with our Stars. We are sponsoring this as one of our few fundraising events of the year. As a new event for our center, and one which requires suitable space we need to move the event out of our center to a larger location that will be able to provide the requisite dance floor that an event of this nature requires.

This event, loosely based on the television show "Dancing with the Stars" pairs local luminaries who may not be such great dancers with professional dancers that are. Together their goal is to "WOW" judges and audiences alike. This is all done in the spirit of fun and a greater effort to fund. This event brings together a wealth of local talent and is another way to for us to showcase local performing arts.

As most of you know the Community Center works hard to provide cultural enrichment, and continued community engagement through our center and its programming. Events like this are pivotal, as they provide a rare base of entertainment while also helping us provide affordable programming for the larger Sonoma community. This effort ramps up our final push to provide all the needed funding for the exciting renovation of Andrews Hall, creating a state of the art venue that will continue to provide exciting and innovative programming in the heart of Sonoma.

Thank you for your time and consideration,

Tom Montan

Events Manager

Sonoma Community Center

(707)938-4626x4

<http://sonomacommunitycenter.org>

Cc: Debra Rogers



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

City Council Agenda Item: 5D

Meeting Date: 11/05/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Approval and Ratification of the appointment of James K. Cribb to the Planning Commission for a two-year term effective November 5, 2012.

Summary

The Planning Commission consists of 7 members and one alternate who serve at the pleasure of the City Council. Commissioners may serve for a total of eight years (Two-year term, Four-year term, Two-year term). At least six members and the alternate must reside within the City limits.

This appointment will fill the position recently vacated by Michael George. Mayor Sanders interviewed six candidates and has nominated James Cribb for appointment to a regular seat on the Planning Commission for a two-year term effective November 5, 2012.

Recommended Council Action

Nomination by the Mayor, ratification by the City Council.

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:

James K. Cribb's Commission Application

cc:

James K. Cribb (via email)



CITY OF SONOMA

COMMISSION APPLICATION

SEP - 5 2012
CITY CLERK

NAME: JAMES K CRIBBS

ADDRESS: 1061 BROADWAY SONOMA CA 95476

MAILING ADDRESS: PO BOX 1465 SONOMA CA 95476

CONTACT INFO (Please include daytime & evening phone numbers and email address):

DAY: 707.935.3645 MOBILE: 707.225.7141

EMAIL: james@sonomadogcamp.com

COMMISSION OF INTEREST: PLANNING

HAVE YOU EVER ATTENDED A MEETING OF THIS COMMISSION? YES HOW MANY? 12 MOL

If you are not selected for the commission listed above, would you be interested in serving on any of our other commissions? If so, please indicate which commission(s): NO

HOW MANY YEARS HAVE YOU RESIDED IN SONOMA? 10 YEARS

PRESENT OCCUPATION: BUSINESS OWNER, SONOMA DOG CAMP

EDUCATION

SCHOOL	MAJOR	GRADUATION DATE & DEGREE
UNIVERSITY OF So. Florida	ENGLISH ED	1977, BA
UNIVERSITY OF CENTRAL FLORIDA	INSTRUCTIONAL DESIGN	1988, MA

COMMUNITY SERVICE EXPERIENCE

ORGANIZATION	DATES SERVED	POSITION
CALIFORNIA ACADEMY OF SCIENCES	1992-1996	DOCENT
TELEGRAPH HILL NEIGHBORHOOD CENTER	1996-2001	BOARD OF DIRECTORS
CITY OF SONOMA DESIGN REVIEW COM. .	2004-2012	COMMISSIONER

(Use additional paper if necessary)

OTHER RELEVANT EXPERIENCE OR EXPERTISE: _____

BUSINESS OWNER IN SONOMA FOR EIGHT YEARS

WHAT IS YOUR UNDERSTANDING OF THE ROLE AND RESPONSIBILITY OF THIS COMMISSION?

TO REVIEW, MAKE RECOMMENDATIONS, AND APPROVE
PROJECTS RELATED TO LAND USE IN THE CITY.

WHICH ACTIVITIES OF THIS COMMISSION INTEREST YOU THE MOST? ABILITY

TO SHAPE CHARACTER OF COMMUNITY AND CONTRIBUTE
TO UPDATES TO GENERAL PLAN

WHICH ACTIVITIES INTEREST YOU THE LEAST? NONE

WHAT WOULD BE YOUR GOAL AS A COMMISSIONER? TO GUIDE & FACILITATE

APPROVAL OF PROJECTS THAT WOULD BRING NEW ECONOMIC
VITALITY TO SONOMA WITHOUT DAMAGING ITS HISTORIC
AND PERSONAL CHARACTER

WHAT DO YOU FEEL YOU COULD CONTRIBUTE TO SEE THESE GOALS REALIZED?

MY EIGHT YEARS AS A BUSINESS OWNER AND EIGHT YEARS
OF EXPERIENCE ON THE DESIGN REVIEW COMMISSION

PLEASE LIST TWO LOCAL REFERENCES AND THEIR PHONE NUMBERS:

CHIP ROBERSON 707.933.8011

EARL SHUTTLEWORTH 707.939.2522

Applicant Signature



Date

AUGUST 23, 2012

Submitted applications will be kept in the active file for one year. All submitted applications are available for public inspection.

Return completed form to:
City Clerk
City of Sonoma
No. 1 The Plaza
Sonoma CA 95476



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5E

Meeting Date: 11/05/2012

Department

Public Works

Staff Contact

Milenka Bates, Public Works Director

Agenda Item Title

Approve the Notice of Completion for the 2012 Citywide Slurry Seal Project Constructed by Valley Slurry Seal Company and Direct the City Clerk to File the Document.

Summary

The City Council awarded the contract to Valley Slurry Seal Company on August 20, 2012. The work generally consisted of street surface treatment (slurry seal) for various streets through the City, including crack seal, slurry seal, removal and replacement of pavement striping and markings, protection of existing utility structures, curb and gutter and cross gutter, traffic control and other related work, as set forth on the project Plans and Specifications. Final punch-list items have been completed and signed off by the Public Works Inspector. At this time, all work has been completed in accordance with the contract and it is recommended that the Notice of Completion (NOC) be approved and the City Clerk directed to file the NOC at the County Recorder's Office. There was one (1) contract change order (CCO) for this project. A summary of the final contract amount, including approved CCO to date, are shown on the table below.

Contract Summary Table

	General Description	Amount
	Approved Original Contract and Contract Pay Items	\$79,500.00
CCO #1	Add Pear Tree Court and Fifth Street East Segments	\$16,287.11
	Final Contract Amount	\$95,787.11

Recommended Council Action

It is recommended that Council approve the Notice of Completion for the 2012 Citywide Slurry Seal Project constructed by Valley Slurry Seal Company and Direct the City Clerk to File the Document.

Alternative Actions

None.

Financial Impact

Funding for this project is under the approved Streets Operating and Maintenance budget line item for construction and materials No. 100-43021-703. The property owners for Pear Tree Court paid their share of \$2,500 towards the slurry seal of Pear Tree Court, since this street was not identified as a priority street in the City's Pavement Management Program. There are sufficient funds in the streets budget for this work.

Environmental Review

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

Status

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

Attachments:

Notice of Completion

When recorded, return to:

Public Works Director
City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476

OFFICIAL BUSINESS: Exempt from Recording Fees Pursuant to California Government code §6103.

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

1. On the 5th day of November, 2012, the public project known as: 2012 Citywide Slurry Seal Project No. 1102 was completed.
2. The name and address of the party filing this Notice is:
City of Sonoma, No. 1 The Plaza, Sonoma, CA 95476
3. The name and address of the Contractor responsible for the construction of said public project is: Valley Slurry Seal Company, P.O. Box 981330, West Sacramento, CA 95798.
4. The name and address of said Contractor's insurance carrier is:

Andreini & Company – San Mateo (Broker)
License 0208825
220 West 20th Ave
San Mateo, CA 94403
5. The general description of the public project was: street surface treatment (slurry seal) for various streets through the City, including crack seal, slurry seal, removal and replacement of pavement striping and markings, protection of existing utility structures, curb and gutter and cross gutter, traffic control and other related work, as set forth on the project Plans and Specifications.
6. The original contract amount was: \$ 79,500.00

Recording of this document is requested for **CITY OF SONOMA** and on behalf of the **City of Sonoma**, a Municipal Corporation, under Section 6103 of the Government Code.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Linda Kelly, City Manager

Dated: _____, 2012

ATTEST:

City Clerk



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5F

Meeting Date: 11/05/2012

Department

Administration

Staff Contact

Carol E. Giovanatto, Assistant City Manager

Agenda Item Title

Consideration of actions by the City Council to authorize purchase and sale of Pension Obligation Bonds in an amount not to exceed \$3,250,000

Summary

On September 5th, the City Council authorized the issuance of Pension Obligation Bonds for an estimated amount not to exceed \$3,250,000 order to refund certain pension side fund obligations. Following the specific review of issuance-related costs and definition of the financing, the City Council approved moving forward with the proceedings to issue the Bonds. The action requested is to approve the Bond documents by Resolution.

Recommended Council Action

Approve the Bond Purchase Agreement and related documents.

Alternative Actions

Do not authorize the Bond issuance

Financial Impact

Projected cost savings of approximately \$382,000 or 9.71% in reduced retirement payments over a nine year period

Attachments:

Resolution

Bond Documents: All Bond documents transmitted to the City Council only under separate cover.

Public may view all documents at the City Clerks Office.

CITY OF SONOMA

RESOLUTION NO. __ - 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA AUTHORIZING THE SALE OF ITS CITY OF SONOMA 2012 TAXABLE PENSION OBLIGATION BONDS AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT RELATING THERETO AND PROVIDING OTHER MATTERS RELATING THERETO

WHEREAS, the City of Sonoma (the "City") is a contracting member of the California Public Employees' Retirement System ("PERS"), and the City is obligated to make certain payments to PERS in respect of retired public safety and miscellaneous employees under the Side Fund program of PERS which amortizes such obligations over a fixed period of time (the "PERS Side Fund Obligations"); and

WHEREAS, the City is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to issue its bonds for the purpose of refunding certain outstanding obligations of the City, including the PERS Side Fund Obligations; and

WHEREAS, in order to provide funds to refund the PERS Side Fund Obligations and thereby realize savings in respect of the PERS Side Fund Obligations, this City Council (the "City Council") pursuant to Resolution No. 36-2012, adopted September 5, 2012, authorized the issuance of its City of Sonoma 2012 Taxable Pension Obligation Bonds (the "Bonds") under the Bond Law and pursuant to an Indenture of Trust, dated as of September 1, 2012, by and between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Indenture"); and

WHEREAS, in Resolution No. 36-2012, the City Council approved the forms of and authorized the execution and delivery of the documents relating to the issuance and sale of the Bonds (now designated in the proceedings as the "City of Sonoma 2012 Taxable Pension Obligation Bonds"), subject to the City Council's final approval of the sale of the Bonds and subject, also, to a judicial determination of the validity of the Bonds; and

WHEREAS, it is anticipated that the Superior Court of Sonoma County will, in the near future, rendered its judgment in Case No. SCV 252339 approving the validity of the Bonds; and

WHEREAS, the City Council now desires to provide for the sale of the Bonds to Stinson Securities, LLC (the "Underwriter") in accordance with the terms of a Bond Purchase Agreement (the "Bond Purchase Agreement"), the form of which is on file with the City Clerk;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sonoma as follows:

Section 1. Sale of the Bonds. The City Council hereby approves the Bond Purchase Agreement between the City and the Underwriter and authorizes the sale of the Bonds to the Underwriter pursuant to the Bond Purchase Agreement, provided that the true interest cost of the Bonds shall not exceed 5.50%. The Mayor or the City Manager (each, an "Authorized Officer") is hereby authorized and directed to execute and deliver the Bond Purchase Agreement for and in the name and on behalf of the City, in substantially the form on file with the City Clerk, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer shall approve, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement.

Section 2. Delivery of the Bonds upon Final Judgment. The Bonds shall be delivered to the Underwriter promptly following the entry of judgment in Case No. SCV 252339 approving the validity of the Bonds and the termination of the period for appealing such judgment.

Section 3. Confirmation of Resolution No. 36-2012. The City Council hereby confirms the provisions of Resolution No. 36-2012 and each of the actions taken or to be taken pursuant thereto in connection with the issuance of the Bonds and the sale and delivery of the Bonds to the Underwriter.

Section 4. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Sonoma this 5th day of November, 2012, by the following vote:

AYES:

NOES:

ABSENT:

Joanne Sanders, Mayor

Attest:

Gay Johann, City Clerk



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: **5G**

Meeting Date: **11/5/12**

Department

Administration

Staff Contact

Carol Giovanatto, Assistant City Manager

Agenda Item Title

Approve a Resolution of the City Council of the City of Sonoma Authorizing the Examination of Sales or Transactions and Use Tax Records By Designated Positions

Summary

The City maintains a contract with MuniServices for examination of Sales and Use Tax records for the purpose of verifying accurate collection of sales tax revenue. In addition, certain designated City officials are authorized to receive this confidential information. Since the implementation of Measure J Sales Tax, the State Board of Equalization is requiring an updated resolution accompanied by an updated agreement with MuniServices to receive the additional data on the Measure J collections.

Recommended Council Action

Adopt Resolution providing for authorized staff and consultants to receive confidential information.
Authorize City Manager to sign updated MuniServices, LLC Consultant Agreement

Alternative Actions

Request additional information

Financial Impact

Potential capture of additional sales and use tax through examination of records at State Board of Equalization

Environmental Review

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

Status

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

Attachments:

Resolution
MuniServices Consultant Agreement

cc:

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

**A Resolution of the City Council of the City of Sonoma Authorizing the
Examination of Sales or Transactions and Use Tax Records**

WHEREAS, pursuant to Resolution 30-2012 the City of Sonoma entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local transactions and use taxes; and

WHEREAS, the City Council of the City of Sonoma deems it necessary for authorized representative of the City to examine confidential sales and transactions and use tax records of the Board pertaining to sales and transactions and use taxes collected by the Board for the City; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board records and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from sales or transactions and use tax records of the Board; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code requires that any person designated by the City shall have an existing contract to examine the City's sales and transactions and use tax records.

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the City Manager, Assistant City Manager, Accountant or other officer or employee of the City designated in writing by the City Manager to the State Board of Equalization (hereafter referred to as Board) is hereby appointed to represent the City with authority to examine all of the sales or transactions and use tax records of the Board pertaining to sales or transactions and use taxes collected for the City by the Board of Equalization pursuant to the contract between the City and the Board under the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law. The information obtained by examination of Board records shall be used only for purposes related to the collection of City sales or transactions and use taxes by the Board pursuant to the contract.

Section 2. That MuniServices, LLC is hereby designated to examine the sales and transactions and use tax records of the Board pertaining to sales and transactions and use taxes collected for the City by the Board. The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with the City to examine sales and transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from those sales and transactions and use tax records only to the officer or employee authorized under Section 1 (or Section 2) of this resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales and transactions and use tax records after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of Board records shall be used only for purposes related to the collection of City's sales and transactions and use taxes by the Board pursuant to the contracts between the City and the Board of Equalization.

ADOPTED this 5th day of November 2012, by the following vote:

AYES:
NOES:
ABSENT:

Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk

**MuniServices, LLC
Consultant Services Agreement**

1. Us.

We are MuniServices, LLC, a Delaware limited liability company, and a wholly owned subsidiary of Portfolio Recovery Associates, Inc.; with an office at 7335 N. Palm Bluffs Avenue, Fresno, California 93711. In this Agreement we are referred to as “MuniServices” or “we”, “our”, “us”. We use our sister company, RDS, to assist us with work. Sometimes we will refer to you and us as the “Parties.”

If you need to contact us a short list of helpful contacts is attached as Attachment 3.

If you are sending us a notice required by this Agreement, send it to:

MuniServices, LLC
Attn: Legal Department
7335 N. Palm Bluffs Avenue
Fresno, CA 93711
Facsimile: 559.312.2852
Email: legal@muniservices.com

When providing notice to us, you must also provide a copy of the notice to: PRA General Counsel, 120 Corporate Blvd., Suite 100, Norfolk, VA 23502. All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by regular mail, or the next day if sent overnight delivery. We do not accept notices by email or facsimile. Notice of rate changes or distribution changes must be sent by certified mail.

2. You.

You are the City of Sonoma. You are a municipal corporation of the State of California. In this Agreement we will refer to you as “you”, “your”, “yours”. If we are sending you a notice required by this Agreement, we will send it to:

City of Sonoma

Attn: Carol Giovanatto, Asst. City Manager

1 The Plaza

Sonoma, CA 95476

Facsimile: [707] 938-8775

Email: carolg@sonomacity.org

3. Our Services and your payment.

We will provide you with the services listed in Attachment 1 (the “Services”). You will pay us the fees listed in that same Attachment. If we are providing more than one Service, each service will have a separate attachment and will be labeled Attachment 1-1, 1-2, etc.

4. What our Services do not include.

We do not provide to you or any third-parties any legal advice or services. We also do not provide tax advice to you or third parties. Also we cannot and therefore do not establish: the tax rates due from taxpayers; and the penalties and fees that are assessed against taxpayers (though we will calculate these amounts for you as part of the Services once you have established the rates). We also do not determine either the amount of refunds or the proper government account(s) that taxpayer receipts shall be deposited into.

5. Term of this Agreement.

The initial term of this Agreement begins on _____, 2012 (the “Effective Date”) and continues for a period of three years from the Effective Date. Thereafter this Agreement will automatically renew for successive three year terms (each a “Renewal Term”), unless either party notifies the other in writing of its intent not to renew 90 days prior to the end of the initial term or any Renewal Term. There are some other ways this Agreement can end and those are found in Article I of the General Provisions, Attachment 2.

6. General Provisions.

The parties are also bound by the General Provisions as set forth in Attachment 2 of this Agreement, which are by this reference incorporated into this Agreement. If something in this Agreement contradicts the General Provisions, set forth in Attachment 2 or any other provision contained in the Attachments then what is said in this Agreement governs rather than the General Provisions.

The Parties are signing this Agreement on the Effective Date indicated in Section 5 above.

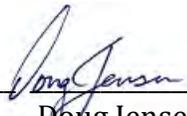
MuniServices, LLC

City of Sonoma
a Municipal Corporation

By:  _____
Marc Herman, President

By: _____

Name: _____

By:  _____
Doug Jensen, SVP Client Services

Title: _____

ATTACHMENT 1
LOCAL DISTRICT TAX AUDIT SERVICES

Article 1-Scope of Work

District Tax Detection and Documentation

MuniServices shall represent the City for purposes of examining State Board of Equalization (SBE) records pertaining to district tax to identify errors and omissions. The procedures for detecting and documenting misallocations typically consist of the following:

- Meet with designated City official(s) to review service objectives and scope, MuniServices work plan schedule, public relations and logistical matters.
- Procure a computer tape of district tax permit records from the State Board of Equalization (SBE).
- Clean-up, standardize and computerize data from City's quarterly transaction tax distribution reports provided by SBE for previous quarters, current quarter and each future quarter service is provided.
- Develop a target list of potential point-of-sale/delivery/use taxpayer reporting errors of transactions and use tax generating businesses located in the City's jurisdiction. These businesses are to be analyzed based on proprietary guidelines established by MuniServices, formulated through expert knowledge of corporate mergers and acquisitions, transactions versus use tax, businesses marking organization and methods, commercial/industrial transactions and use tax reporting practices, and other conditions contributing to reporting errors.
- Clean, standardize and integrate, in address-order, each entity's business name, address and payment file information, to eliminate redundancies, using MuniServices' proprietary software.
- Contact personnel in sales, operations and/ or tax accounting at each target business to determine whether a destination based reporting error exists. (Note: this is accomplished with the highest regard to discretion and professional conduct. MuniServices' allocation audits are predicated on a non-controversial, constructive public relations approach which emphasizes the importance of each business to the City and the mutual benefits of correcting reporting errors.)
- Provide to the City and SBE reports addressing each taxpayer reporting error individually, including the business name, address, telephone number, California sales tax permit number, individuals contracted, date(s) of contract, nature of business, reason(s) for error, and estimated district tax revenue which should be forthcoming to the City.
- MuniServices may also provide suggested language for letters to be sent to the taxpayers and/or the SBE from the City (or from MuniServices on behalf of the City) urging cooperation in promptly correcting the distribution error.
- Respond to negative findings by the SBE with timely reconfirmation documentation in order to preserve the City's original dates of knowledge.
- Receive and process registration control record information monthly.
- Receive and process transaction tax distribution reports quarterly.
- Coordinate with the taxpayer and the SBE to make the necessary corrections and collect eligible back quarters' amounts.

- Monitor and analyze the quarterly distribution reports with an audit focus on the following:
 1. Accounts with previously reported destination based distribution errors to ensure that the corrections are made for current quarters and all eligible back quarters.
 2. Major accounts comprising 90% or more of the City's total transaction, sales and use tax revenue to identify any irregularities or deviations from the normal pattern (e.g. negative fund transfers, significant decreases, unusual increases, etc.) and ensure that the City is not receiving less revenue that it is entitled to.
 3. Those accounts receiving deficiency assessments to ensure that the City receives its local allocation.

Confidentiality Provisions

MuniServices is authorized by this Agreement to examine district tax, sales tax and use tax records of the State Board of Equalization provided to City pursuant to contract under the Bradley-Burns Uniform Sales and Use Tax Law and California Revenue & Taxation Code applicable to transactions and use taxes.

MuniServices is required to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the City who is authorized by resolution to examine the information.

MuniServices is prohibited from performing consulting services for a retailer during the term of this Agreement.

MuniServices is prohibited from retaining the information contained in, or derived from, those sales and use tax records, after this Agreement has expired.

This Agreement, and MuniServices' and City's obligations with respect to confidentiality of taxpayer data pursuant to the Bradley Burns Revenue and Taxation Code, shall continue until final payment for all services rendered hereunder.

Article 2-Deliverables

District Tax Correction of Misallocations/Underreporting

For each misallocated or underreporting account detected, MuniServices will coordinate with the taxpayer and the SBE to make the necessary corrections plus retroactive adjustments for transactions and use tax amounts improperly distributed or uncollected in prior quarters. This task is simply stated, but enormously complex and time-consuming to administer.

When MuniServices detects taxpayer-reporting errors, together with the reasons therefore, less than half of MuniServices' audit work is accomplished. Most of MuniServices' audit work is devoted to facilitating corrective action. This is largely due to the preponderance, of reporting errors by out-of-state headquartered distributors, contractors, processors, manufacturers and lessors engaged in business-to-business sales in California. These companies account for more that 90% of misallocation dollars.

For these companies, there is confusion due to the complexities posed by California's transactions and use tax regulations. The reporting problems are further compounded when the regulations are applied to multiple California locations, with each having a product/customer mix of business-to-business sales, while some of the transactions are subject to transactions tax, and others are subject to use tax and some are exempt.

District Tax Detection Timing Considerations

For each misallocated account detected, MuniServices will coordinate with the business and the SBE to make the necessary corrections plus retroactive adjustments for eligible amounts of district tax improperly distributed in prior quarters. MuniServices coordinates and communicates between typically four parties; sales/operations personnel at the taxpayer's local operation, tax personnel at the company's corporate headquarters, and SBE

personnel and the in-state/out-of-state district offices. Correction of the account is considered to have been made once the taxpayer is properly allocating the payments on identified taxpayer accounts to the City in the period in which the payment was made.

As needed, MuniServices will represent the City before state officials, boards, commissions and committees for the purpose of correcting sales tax distribution errors that have deprived the City of revenue to which it is entitled.

Timing

MuniServices shall commence auditing the district tax and within 10 working days of receipt of a fully executed contract and Confidentiality Resolution designating MuniServices as the authorized City Consultant to examine district tax records.

Article 3-Compensation

Local District Tax Audit Services

MuniServices' compensation for the City District Tax Audit Services is a 25% contingency fee. This fee applies to six quarters after the Date of Correction and all eligible prior quarters back to and including all corrected quarters prior to the Date of Knowledge quarter for district tax revenues.

The Date of Knowledge is the quarter during which MuniServices notifies the SBE of the existence of a misallocation. The Date of Correction refers to the quarter in which the taxpayer has correctly reported the local tax and the SBE distributes the local tax properly to the City based on the taxpayer's reporting. For QDR Misallocations detected and corrected, MuniServices' compensation shall only include the quarters in which the misallocation actually occurred.

For clarification and to encourage communication and collaboration between MuniServices and the City, MuniServices shall be entitled to full payment of all compensation as provided herein even if any one or more of City, its personnel, agents, or representatives, or any third party or parties provide(s) information to MuniServices that assists or is used by MuniServices in the identification, detection, and correction of point-of-sale distribution errors or the reporting and/or misallocation of revenue.

In the event that the City identifies, documents, and notifies the SBE of a point-of-sale distribution error, reporting error or misallocation as those terms are used herein, the City agrees to notify MuniServices of the City's discovery no later than ten (10) days after the Date of Knowledge as defined in Title 18 of the California Code of Regulations, Regulation 1807 ("Date of Knowledge"). The City also agrees to notify MuniServices promptly if it is working on a local tax misallocation issue independently of MuniServices and to maintain and promptly make available to MuniServices on request contemporaneous documentation of such work and its timing so that the duplication of work can be avoided. If the City fails to so notify MuniServices as provided above and MuniServices later detects, documents, and reports the misallocation or reporting error to the State Board of Equalization, or if MuniServices has established a Date of Knowledge with the SBE prior to notification to the Board by the City, then MuniServices is entitled to full compensation for the affected account as provided herein.

Additional Consulting

The City may request that MuniServices provide additional consulting services at any time during the term of the Agreement. If MuniServices and the City agree on the scope of the additional consulting services requested, then MuniServices shall provide the additional consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, MuniServices' standard hourly rates range from \$75 per hour to \$300 per hour.

These additional consulting services will be invoiced at least monthly based on actual time and expenses incurred. All reimbursable expenses shall receive prior approval from the City and shall be reimbursed at cost to MuniServices.

Article 4 – Completion of Services

Notwithstanding any other provision of this Agreement, because the services performed hereunder result in corrections of misallocations and other revenue after cessation of services by MuniServices for the City, the City agrees that with regards to misallocations identified to the SBE whose Date of Knowledge occurred during MuniServices performance of services for the City or for other revenue resulting from MuniServices actions taken during the term of this Agreement, that the City's obligation to pay MuniServices in accordance with the compensation language of this Agreement shall survive expiration or termination of this Agreement for any reason. Additionally, notwithstanding any other provision of this Agreement, if this Agreement is terminated or expires, MuniServices shall continue to pursue corrections of accounts identified during the term of this Agreement that have not been corrected by the SBE as of the effective date of termination or expiration. The period after termination during which MuniServices is pursuing correction of accounts identified before termination is referred to as the "completion period." The City shall compensate MuniServices in accordance with the compensation language of this Agreement for corrected misallocations that result from MuniServices' efforts during the completion period. The City will also take all necessary steps to allow MuniServices to continue to receive the required information from the SBE during this completion period.

ATTACHMENT 2
GENERAL PROVISIONS

Article I

Within 5 business days after signing this agreement.	You will designate, in writing, one individual to whom we may address communications concerning this Agreement. This person or such person's designee will be the principal point of contact for us in obtaining decisions, information, approvals, and acceptances.
10 business days after you receive our invoice.	You have until this date to dispute in the invoice, or a portion of it, in writing. Your written dispute must be post-marked by this date and must be sent to the addresses in paragraph 1 of the Agreement. (Paragraph 1 is located on the front page of the agreement and is titled "Us".)
10 business days after we receive your written notice that you dispute an invoice or part of an invoice.	We will either correct the error or explain to you why we think the invoice is correct. During this time, we will not try to collect the amount being disputed.
30 days after receiving our invoice.	You must pay our invoice(s) by this date. If you do not pay by that time, we have the right to charge you interest at the rate of one and one-half percent (1.5%) per month, or the maximum amount permitted by law, on any amounts you do not pay within thirty days. If we refer your account to an attorney for collection of past due amounts, we may charge you for our reasonable attorney fees, including costs for attorneys who are employed by us, and court costs incurred by us to the extent permitted by law. Any settlement of your account balance for less than what is owed requires our written consent.
40 days after receiving our invoice	If you have not paid, and have not disputed an invoice as provided above, then we may terminate this Agreement with no further notice and we have no further obligation to you.
When you provide us with information for use in the Services.	By providing us information, you represent that: <ul style="list-style-type: none">• you have the right to provide us the information without violating the rights of third-parties;• your release of the information to us does not violate any applicable laws and regulations; and• to the best of your knowledge the information is accurate and not defamatory. You will notify us immediately if there is a change in the information you have provided to us.
If we send you a report or other deliverable.	You will review all reports we provide to you in a timely fashion and you will notify us immediately if you find a discrepancy in any of the information we have provided to you. Upon payment therefor, we will grant you all right, title, and interest in and to the reports, charts, graphs, and other deliverables we are required to produce under this Agreement.
While the Agreement is effective.	We will keep in full force and effect insurance coverage during the term of this Agreement including without limitation statutory workers' compensation insurance; employer's liability and commercial general liability insurance; comprehensive automobile liability insurance; professional liability and fidelity insurance. You may at any time request copies of our certificates.
90-days after prior written notice.	This Agreement terminates for convenience but only if the terminating party sends the notice to the person designated to receive notices under this Agreement (see paragraph 1 or 2, as applicable, of this Agreement).

After giving written notice of a breach other than a failure to pay.	<p>The non-breaching party may immediately terminate this Agreement if:</p> <ul style="list-style-type: none"> • the written notice of the breach was sent to the person designated to receive notices for the breaching party under this Agreement (see paragraph 1 or 2, as applicable, of this Agreement); and the breach is not your failure to pay (that situation is addressed separately below.); and • the breach has not been cured in a reasonable time after the breaching party received notice. <p>Ordinarily, 30 days will be a reasonable time to cure the breach but if the party receiving notice of the breach can demonstrate that the breach will take more than 30 days to cure, the non-breaching party and breaching party will agree on an extended period to cure the breach.</p>
After the occurrence of a “financial default”	<p>A party may terminate this Agreement immediately if the other party experiences a “financial default.” A “financial default” means:</p> <ul style="list-style-type: none"> • a material adverse change in a party’s financial condition that adversely affects its ability to perform hereunder; or • a party becomes or is declared insolvent or bankrupt; or • a party is the subject of any proceedings relating to liquidation or insolvency or for the appointment of a receiver; or • a party makes an assignment for the benefit of all or substantially all of its creditors; or • a party enters into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations. <p>If you experience a “financial default” then we may, at our option, declare the entire outstanding amounts and costs owing to us hereunder immediately due and payable.</p>
This Agreement is terminated or expires.	<p>You remain obligated to: (1) pay us for Services performed through the effective date of the termination or expiration; (2) if applicable, provide us with all the information necessary for us to calculate what you owe us on revenue you receive after the termination or expiration; and (3) if applicable pay invoices we send you after the expiration or termination of this Agreement for Services performed before termination or expiration or for continuing payments required by the Scope of Work or for both.</p>

Article II. The parties also agree to the following miscellaneous terms.

1. *Independent Contractor.* We are an independent contractor. Nothing in this Agreement is to be interpreted as: creating the relationship of employer and employee between you and us or between you and any of our employees or agents; or creating a partnership or joint venture between you and us. We are responsible for any subcontractors we use in performing Services for you and we are solely responsible to pay those subcontractors. We may perform similar services for others during this Agreement and you agree that our representation of other government sector clients is not a conflict of interest.

2. *Compliance with Laws.* The parties agree to comply with all applicable local, state and federal laws and regulations during the term of this Agreement.

3. *Intellectual Property.* We retain all right, title, and interest in and to the processes, procedures, models, inventions, software, ideas, know-how, and any and all other patentable or copyrightable material used, developed, or reduced to practice in the performance of this Agreement.

4. *Waiver.* Either party's failure to insist upon strict performance of any provision of this Agreement are not to be construed as a waiver of that or any other of a party's rights under this Agreement at any later date or time.

5. *Force Majeure.* Neither party is liable for failing to perform its obligations hereunder (other than payment obligations) where performance is delayed or hindered by war, riots, embargoes, strikes or acts of its vendors or suppliers, accidents, acts of God, or any other event beyond its reasonable control.

6. *Counterparts.* This Agreement may be signed in separate counterparts including facsimile copies. Each counterpart (including facsimile copies) is deemed an original and all counterparts are deemed on and the same instrument and legally binding on the parties.

7. *Assignment.* MuniServices may assign this Agreement, in whole or in part, without your consent to any corporation or entity into which or with which MuniServices has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of MuniServices; or any corporation or entity which acquires all or substantially all of the assets of MuniServices. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.

8. *Public Release and Statements.* Neither you nor we nor each of our representatives or agents shall disseminate any oral or written advertisement, endorsement or other marketing material relating to each other's activities under this Agreement without the prior written approval of the other party. Neither party shall make any public release or statement concerning the subject matter of this Agreement without the express written consent and approval of the other party. No party or its agent will use the name, mark or logo of the other party in any advertisement or printed solicitation without first having prior written approval of the other party. The parties shall take reasonable efforts to ensure that its subcontractors shall not disseminate any oral or written advertisement, endorsement or other marketing materials referencing or relating to the other party without that party's prior written approval. In addition, the parties agree that their contracts with all subcontractors will include appropriate provisions to ensure compliance with the restrictions of this Section.

9. *Entire Agreement.* This Agreement is the entire Agreement between us and you for the Service(s). This Agreement supersedes and replaces any prior Agreements, of whatever kind or nature, for the Service(s). Any prior Agreements, discussions, or representations not expressly set forth in this Agreement are of no force or effect. No additional terms, Purchase Order Terms and Conditions, or oral or written representations of any kind are of any force and effect unless in writing and signed with the same formality as this Agreement.

10. *No Oral Modification.* No modification of this Agreement is effective unless set forth in writing and signed with the same formality as this Agreement.

11. *Invalidity.* If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential provisions of this Agreement for each party remain valid, binding, and enforceable.

12. *Construction.* This Agreement is to be construed in accordance with the laws of the State of California without regard to its conflict of laws principals.

13. *Headings.* The section headings herein are for convenience and reference purposes only and are not to serve as a basis for construction or interpretation.

Attachment 3
MuniServices Helpful Contacts

Contact	Project Role	Phone	Email
Jerry Peeler	Client Services Manager	559.287.7773	jerry.peeler@muniservices.com
Doug Jensen	Sr. Vice President Client Services	559.288.8943	doug.jensen@muniservices.com
Janis Varney	Vice President Misallocation - SUTA	559.271.3011	janis.varney@muniservices.com
	Billing Department	559.271.6946	billing@muniservices.com
Francesco Mancia	VP Government Relations	559.288.7296	fran.mancia@muniservices.com
Brenda Narayan	Director of Government Relations	916.261.5147	brenda.narayan@muniservices.com
Patricia A. Dunn	Contracts Manager	559.271.6852	patricia.dunn@muniservices.com



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5H

Meeting Date: 11/05/2012

Department

Police

Staff Contact

Chief Bret Sackett

Agenda Item Title

Second reading and adoption of an ordinance to Amend Title 8 of Sonoma Municipal Code pertaining to Animal Care and Control

Summary

On October 15, 2012, the City Council held the first reading of an ordinance to Amend Title 8 of the Sonoma Municipal Code pertaining to Animal Care and Control. At the meeting, the Council approved the first reading, but made the following amendments:

- The definition of a Vicious Dog was amended to include "serious or life-threatening injury"
- SMC 8.06.060 was amended to clarify where a dog may be off-leash
- SMC 8.06.070 was amended to limit dogs in public parks to only those parks with dog waste bag dispensers
- SMC 8.08.050 was deleted to provide further clarity regarding livestock
- SMC 8.08.060 was renumbered in light of the deletion referenced above

All those amendments have been incorporated in the new draft.

Recommended Council Action

Hold second reading and adopt ordinance amending Title 8 of the Sonoma Municipal Code pertaining to Animal Care and Control.

Alternative Actions

Council Discretion

Financial Impact

None

Environmental Review

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

Status

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

Attachments:

Draft of Title 8 of the Sonoma Municipal Code

cc:

CITY OF SONOMA

ORDINANCE NO. 05 -2012

**AN ORDINANCE OF THE CITY OF SONOMA
REPEALING SECTION 9.12.180 AND TITLE 8 AND REENACTING
TITLE 8 (ANIMAL CARE AND CONTROL) OF THE
SONOMA MUNICIPAL CODE**

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

Section 1. Section 9.12.180 of Title 9 (Animals in parks) is hereby repealed in its entirety.

Section 2. Title 8 of the Sonoma Municipal Code is repealed in its entirety and reenacted to read as follows:

**Title 8
ANIMAL CARE AND CONTROL**

Chapters:

8.02 General Provisions

8.04 Administrative Provisions

8.06 Prohibited Conduct

8.08 Keeping of Livestock, Fowl and Other Animals

8.10 Dogs and Cats

8.12 Potentially Dangerous and Vicious Dogs

8.14 Impoundment

8.18 Rabies Control

8.20 Violations

Chapter 8.02

GENERAL PROVISIONS

Sections:

- 8.02.010 Purpose—Construction.
- 8.02.020 Relationship to other laws.
- 8.02.030 Authority to set fees.
- 8.02.040 Definitions.

8.02.010 Purpose – Construction.

This chapter is intended to protect, regulate and control animals existing within the City of Sonoma.

8.02.020 Relationship to other laws.

This chapter is not intended to, nor shall it be construed or given effect in a manner that causes it to, apply to any activity which is regulated by federal or state law to the extent that application of this chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. It is the intention of the City Council that this chapter shall be interpreted to be compatible with federal, county, and state enactments, and in furtherance of the public purposes which those enactments express. Where an activity is a violation of this chapter and a federal or state enactment, the citation for such violation shall be deemed to be a citation under this chapter and that enactment, even if not expressly stated in the citation. Nothing in this chapter is intended to supersede any other provisions of this code.

8.02.030 Authority to set fees.

The City Council may by resolution establish a schedule of fees and charges for services performed and licenses issued under this chapter. The fees and charges so established may recover the reasonable cost of providing such services and issuing such licenses and for the operation of the Animal Care and Control activities.

8.02.040 Definitions.

“Animal” means any nonhuman mammal, bird, reptile, amphibian or fish including, but not limited to, dog, cat, horse, goat, sheep and chicken and all animals defined in California Penal Code Section 597.

“Animal care and control” means the Sonoma animal shelter and/or the agency who is responsible for animal care and control.

“Animal care and control officer” means any person authorized by the Chief of Police , to administer or enforce the provisions of this chapter and applicable state laws and regulations pertaining to animal care and control or rabies control.

“Animal hearing officer” means a person directed by the Chief of Police to conduct hearings under this chapter. The animal hearing officer shall not be a presently employed animal care and control officer and shall either volunteer his/her services or be retained for this purpose.

“Animal shelter” means the facility where animals impounded pursuant to this chapter or voluntarily surrendered by their owners are placed for humane care and keeping.

“Assistance animal” means any guide dog, signal dog, search and rescue dog or dog or other animal described by the federal American with Disabilities Act of 1990 (42 U.S.C. Section 12101-12213; 28 C.F.R. Section 36.104) which is specially trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, alerting individuals with impaired hearing to intruders or sounds, guiding individuals with impaired sight to obstacles, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

“At large” or “run at large” means for an animal to be off-leash or otherwise free from restraint or confinement off the premises of its owner or custodian.

“Commercial kennel” means any lot or premises on which three or more dogs and/or three or more cats over four months of age are kept by the owner or occupant for commercial purposes, including, but not limited to, boarding, breeding, buying, selling, renting, exhibiting or training.

“Cruelty” means the intentional or grossly negligent mistreatment of any animal by any act or omission whereby unjustifiable physical pain, suffering, or death is caused to or permitted upon such animal.

“Dangerous animal” means any animal which, because of its behavior, constitutes a danger to persons or property.

“Exotic animal” means any wild animal which the California Fish and Game Commission has declared to be a prohibited wild animal and the importation, transportation, or possession of which is unlawful except under authority of a revocable permit issued by the California Department of Fish and Game.

“Fowl” includes but is not limited to chickens, turkeys, ducks, geese, and other birds.

“Health officer” means the Sonoma County public health officer or his designee.

“Hobby kennel” means any lot or premises on which four or more, but not exceeding 10, dogs and/or four or more, but not exceeding 10, cats over four months of age are owned

and kept by the owner or occupant for personal, noncommercial purposes, including, but not limited to, hunting, tracking, exhibiting at shows, exhibitions, field trials or other competitions, or enhancing or perpetuating a given breed, other than dogs or cats used in conjunction with an agricultural operation on the lot or premises. No hobby kennel shall sell, display, offer for sale, barter or give away more than one litter of puppies and/or one litters of kittens in any calendar year.

“Household pets” shall mean any household pet customarily kept by humans for companionship including, but not limited to, dogs, cats, birds, hamsters, mice, and turtles.

“Impounded” shall mean for an animal to be taken into custody by animal care and control.

“Kennel” means any commercial kennel or hobby kennel or both, but excludes any kennel maintained and operated by a non-profit animal shelter or animal rescue organization registered with and licensed by the City

“Licensed premises” means any lot or premises on which a commercial kennel, hobby kennel, animal shelter or pet shop is maintained or proposed to be maintained by the person owning or occupying such lot or premises.

“Livestock” means any cattle, sheep, or goat, or any horse, mule or other equine, or any llama or other camelidae, or any domestic fowl or rabbit.

“Owner” means any person over 18 years of age owning, keeping, harboring or having custody of, or possession of, any animal. This definition shall not apply to a veterinarian or his/her employees in the regular practice of his/ her profession as to any animal in his/ possession while being treated or cared for. This definition shall not apply to any operator of a kennel as to any animal that is being boarded in the regular practice of his business.

“Park” means any body of water, land, campsite, recreation area, building, structure, or other real property owned, managed, leased, controlled or operated by the City of Sonoma.

“Person” means and includes any individual, firm, association, organization, partnership, joint venture, business trust, corporation or company.

“Pet shop” means a place or premises where live animals are offered, kept or displayed for purposes of wholesale or retail sale as household pets, livestock or exotic animals.

“Police dog” means any dog under the control of a peace officer in the performance of, or training for, public service.

“Potentially dangerous dog” shall mean any dog, except a police dog actively assisting a peace officer engaged in law enforcement duties, which demonstrates any or all of the following:

A. On two separate occasions engages in behavior, without provocation, within a 12-month period, which requires a defensive action by any person to prevent bodily injury and/or injury or damage to another animal at a location where such person is acting lawfully;

B. On two separate occasions engages in behavior, without provocation, within a 36-month period, which inflicts injury on another animal or livestock, occurring off the property of the owner of the attacking animal and which does not result in the death of the attacked animal;

C. On any one occasion engages in behavior, without provocation, that inflicts an injury that is less than a severe injury (as that term is defined by this section) on a person while such person is acting lawfully during such occasion.

Exempt from the definition of “potentially dangerous dog” is any dog in a situation in which it is shown that the person or domestic animal suffering injury or damage immediately preceding the injury or damage:

1. Provoked, tormented, teased, abused or assaulted the dog into the behavior alleged;
2. Committed a 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.

“Premises” means any property owned or leased by any person.

“Secure enclosure” means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a potentially dangerous or vicious dog in conjunction with other measures which may be taken by the owner of the dog and/or the City pursuant to a potentially dangerous or vicious dog abatement order. The enclosure shall be designed to prevent the dog from escaping. The dog shall be housed pursuant to Penal Code Section 597t.

“Severe injury” means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

“Veterinarian” means any person licensed to practice veterinary medicine in California.

“Veterinary facility” means a clinic or hospital for the provision of inpatient or outpatient medical services to domestic and exotic animals. Animals may be kenneled on site.

“Vicious dog” shall mean any dog, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any or all of the following:

- A. On a single occasion engages in behavior, without provocation, that results in a severe injury or death to a person in a place where such person is acting lawfully;
- B. On a single occasion engages in behavior, without provocation, on another animal or livestock which occurs off the property of the owner of the attacking animal and that results in the serious or life-threatening injury or death of the other animal or livestock;
- C. Any dog previously determined to be and currently listed as a potentially dangerous dog, as herein defined, which after its owner has been notified of such determination, continues any behavior defined as a dangerous dog behavior or is maintained in violation of the conditions of abatement.

Exempt from the definition of “vicious dog” is any dog in a situation in which it is shown that the person or domestic animal suffering 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 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.

Chapter 8.04

ADMINISTRATIVE PROVISIONS

Sections:

- 8.04.010** **Animal care and control officers—Powers and duties.**
- 8.04.020** **Public Notice—Public notice—Hearing by animal hearing officer.**
- 8.04.030** **Contents of notice.**
- 8.04.040** **Hearing by animal hearing officer—General; Decision.**

8.04.010 Animal care and control officers – Powers and duties.

- A. The animal care and control officers shall enforce this chapter and any other provisions of this code, the Sonoma zoning ordinance, and the laws of this state relating

to the care, control and keeping of animals and investigate complaints of violations thereof. Animal care and control officers are authorized to issue warnings or citations of the aforesaid ordinance and state laws.

B. The animal care and control officer shall not be deemed to be a police officer, but pursuant to Penal Code Section 830.9 he/she may exercise the powers of arrest of a police officer as specified in Penal Code Section 836 and the power to serve warrants as specified in Penal Code Sections 1523 and 1530 during the course and within the scope of his/her employment.

C. Animal care and control officers shall issue all licenses and permits, and collect all fees and charges as authorized by this chapter, unless otherwise specified by this Title.

D. The animal care and control officer shall have the right to enter upon and inspect any premises where an animal is kept or harbored when such entry is necessary to investigate complaints and enforce the provisions of this chapter or state laws relating to the care, control and treatment of animals, or to save an animal, or to protect the public health, safety and welfare. All entries and inspections shall be carried out in accordance with applicable laws, including, but not limited to, the laws pertaining to search warrants and inspection warrants.

E. A search warrant is not required when the animal care and control officer has probable cause to believe that the keeping or maintaining of an animal on private property is so hazardous or dangerous to the animal, other animals or the general public as to require immediate inspection and/or impoundment of the animal in order to safeguard the safety of the animal, other animals or the public safety.

F. Animal care and control officers may seize, impound, and humanely destroy any animal when authorized by provisions of this chapter or the laws of this state relating to the care, control and keeping of animals.

8.04.020 Public notice – Hearing by animal hearing officer.

A. When a provision of this chapter requires notice of a hearing to be given pursuant to this section, notice shall be given in all of the following ways:

1. Notice of the hearing shall be mailed or delivered personally at least 10 days prior to the hearing to the applicant, license holder or owner of the animal, as the case may be. The notice of the hearing shall be served either personally or by first class mail in a sealed envelope with postage prepaid, addressed to the animal owner at his/her last known mailing address and deposited in a facility maintained by the United States Department of Postal Service. The person providing such notice or service shall sign a declaration under penalty of perjury that notice or service has been made. In the event that the last known address of the animal owner cannot be ascertained, the hearing officer or animal care and control officer shall sign a declaration under penalty of perjury that best efforts were made to

provide notice or service to the animal owner. In the case of service by mail, notice or service is complete at the time the notice is deposited in the United States mail.

2. Notice of the hearing shall be posted at least 10 days prior to the hearing in a public area at the police station, on or near the doors of the meeting room where the hearing will be held. If the hearing is to be held at a location other than the police station, then the notice shall be posted in a public area in the location in which the hearing will be held.

B. The notice shall include the information specified in Section [8.04.030](#).

C. In addition to the notice required by this section, notice may also be given in any other manner deemed necessary or desirable.

8.04.030 Contents of notice.

When a provision of this chapter requires notice of a hearing to be given, the notice shall include the date, time and place of the hearing, the identity of the animal hearing officer, a general explanation of the matter to be considered, a general description, in text or by diagram, of the location of the licensed premises, if any, that is the subject of the hearing, and a notice that if the applicant, license holder or owner of the animal, as the case may be, fails to appear at the hearing, the hearing shall proceed in such person's absence and such absence shall be further considered a waiver by that person of his or her right to present evidence at the hearing.

8.04.040 Hearing by animal hearing officer – General; Decision.

Any person sitting as an animal hearing officer shall be familiar with the provisions of this chapter. If the hearing relates to Chapter 8.12 – Potentially Dangerous and Vicious Dogs – the hearing officer should also have a basic understanding of canine behavior in order to render an informed decision. When a provision of this chapter requires that a hearing be conducted pursuant to this section, the hearing shall be conducted as follows:

A. At the time and place set for the hearing, the animal hearing officer shall consider the matter at issue. The animal hearing officer shall swear witnesses, hear testimony, and receive relevant sworn statements of witnesses or police incident reports as evidence. The formal rules of evidence need not be applied. Additional procedural rules may be adopted by resolution of the City Council. The animal hearing officer may electronically record the hearing and shall preserve all photographs and other documentary evidence introduced at the time of the hearing. A stenographic report shall also record the proceedings if ordered by the animal hearing officer or requested by the owner, with the costs thereof to be borne by the person making the order or request. A copy of the electronic recording or transcript of the proceedings shall be made available to any person upon request and upon payment of the cost of preparation thereof. The animal hearing officer or their designee shall not have had any direct involvement in the matter

being heard. The animal hearing officer may decide all issues for or against the applicant, license holder, or owner of the animal, as the case may be, even if such person fails to appear at the hearing.

B. Within 15 days after the hearing is closed, the animal hearing officer shall render a written decision containing findings of fact and conclusions of law. The evidentiary standard used to make the decision shall be a preponderance of the evidence. A copy of the decision shall be mailed by certified mail to the applicant, license holder or owner of the animal, as the case may be, and a brief summary of the decision shall be mailed by first class mail to all persons noticed pursuant to Section [8.04.020](#). Personal service of said decision will satisfy the requirement.

C. The decision of the animal hearing officer shall determine whether any permit at issue shall be denied or revoked, whether the animal at issue shall be released to its owner or forfeited to a recognized non-profit specializing in animal care and adoption, or released to another governmental agency pursuant to an agreement as necessary to protect the public health, safety and welfare, or whether the animal at issue constitutes a public nuisance as further described in Chapter [8.20](#). The animal hearing officer may make the release of an animal to its owner subject to such conditions as the animal hearing officer deems necessary to effectuate the purposes of this chapter and to protect the public health, safety and welfare. Except as provided in subsection (D) of this section, the decision of the animal hearing officer shall be final and conclusive.

D. Notwithstanding the preceding, the animal care and control officer may settle any matter scheduled for hearing, including a hearing pursuant to Chapter 8.12 – Potentially Dangerous and Vicious Dogs – 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 and posted pursuant to subsection (B) of this section.

Chapter 8.06

PROHIBITED CONDUCT

Sections:

- 8.06.010 Interference with animal care and control officer—Prohibited.
- 8.06.020 Removal of animal in custody of animal care and control officer—Prohibited.
- 8.06.030 Aid in escape of animal sought for custody—Prohibited.
- 8.06.040 Refusal to present animal for inspection—Prohibited.
- 8.06.050 Abandonment of dog or cat—Prohibited.
- 8.06.060 Dogs at large prohibited—Exceptions.
- 8.06.070 Dogs in park facilities—Exceptions.
- 8.06.075 Dogs in designated off-leash areas.
- 8.06.080 Livestock, Fowl, and other Animals at large prohibited—Exceptions.
- 8.06.090 Interference with quarantine prohibited.

- 8.06.100 Animals in City buildings prohibited—Exceptions.
- 8.06.110 Selling animals without license prohibited.
- 8.06.120 Maintenance of exotic animals without proof of proper approvals prohibited.
- 8.06.130 Biting animals—Notification to animal care and control officer.
- 8.06.140 Barking, howling, and other nuisance.
- 8.06.150 Animal waste.
- 8.06.160 Animals in vehicles.
- 8.06.170 Hitching, fastening, tethering in public places.

8.06.010 Interference with animal care and control officer – Prohibited.

No person shall prevent, obstruct, hinder or interfere with an animal care and control officer in the performance of the officer’s duties under this chapter or state law.

8.06.020 Removal of animal in custody of animal care and control officer – Prohibited.

No person shall remove or attempt to remove any animal taken into custody by an animal care and control officer without the officer’s authorization.

8.06.030 Aid in escape of animal sought for custody – Prohibited.

No person shall cause or aid in the escape of any animal sought for custody by an animal care and control officer.

8.06.040 Refusal to present animal for inspection – Prohibited.

No person shall fail to comply with any lawful order of an animal care and control officer to present an animal for inspection.

8.06.050 Abandonment of dog or cat – Prohibited.

No person shall abandon any dog or cat in or upon any public street or other public place, or upon any private property or premises.

8.06.060 Dogs at large prohibited – Exceptions.

Except as provided by Section 8.06.070, no person shall cause, permit, or allow any dog to run at large upon any public street or other public place, or upon any private property without the permission of the property owner or premises other than those of the owner or other person in control of such dog, nor shall any person cause, permit, or allow any dog to be upon any public street or other public place unless the dog is restrained by a leash not to exceed six feet in length. This section does not apply to Guide or service

dogs while performing their duties for blind, hearing impaired and physically disabled people or police dogs while in the performance of their duties

Any dog found at large in violation of this section may be impounded.

8.06.070 Dogs in park facilities – Exceptions.

A. Dogs are prohibited in all areas of Plaza Park and on the Sonoma Overlook Trail, regardless of whether they are restrained by a leash. Dogs are permitted in all other City park facilities, except in children’s playground areas of any City park, provided that a waste bag dispensary is located within the park facility, and such dog is under the control of a competent person and under restraint by a leash not to exceed six feet in length. As used in this section, Plaza Park shall mean that property used for park purposes surrounded by 1st Street East, 1st Street West, Napa Street, and Spain Street, but excludes the sidewalks nearest the roadway and the area inside the park used for vehicular traffic or parking.

B. Notwithstanding the foregoing, the City Council may prohibit or permit, as the case may be, dogs in certain parks pursuant to an approved Special Use Permit or Plaza Use Permit.

8.06.075 Dogs in designated off-leash areas.

A. Notwithstanding anything stated by this Chapter, dogs shall be permitted off-leash in any area of a City park facility that has been designated a dog park by the City Council.

B. When any dog is within the boundaries of any area designated an off-leash area pursuant to subsection A, the dog owner or person in possession of the dog shall at all times remain in compliance with the following use regulations:

1. Dogs must wear a visible and current license attached to a collar or harness;
2. Aggressive, violent or attacking dog behavior shall not be permitted; and
3. Dog owners or persons in possession must remain within the designated off-leash area and supervise their dogs at all times.

8.06.080 Livestock, Fowl, and other Animals at large prohibited – Exceptions.

No person shall cause, permit, or, through failure to exercise due care or control, allow any livestock, fowl, or other animals to run at large upon any public street or other public place, or upon any private property or premises other than those of the owner or other person in control of such livestock, fowl, or animal.

8.06.090 Interference with quarantine prohibited.

No person shall refuse to obey the conditions of any lawfully imposed quarantine or remove, tear, deface, mutilate, obscure or destroy or in any other manner whatsoever interfere with any placard, notice or proclamation declaring such quarantine, placed on or about the premises on which any of the animals so quarantined are located.

8.06.100 Animals in City buildings prohibited – Exceptions.

No owner of any animal shall permit or allow such animal to enter or remain in any City building, except the City animal shelter and any other City building or part thereof designated by the City Council. This section shall not apply to totally or partially blind persons, deaf or hearing impaired persons, or other disabled persons using assistance animals, law enforcement officers engaged in police work using dogs to assist them and such other persons as may be authorized by the animal care and control officer.

8.06.110 Selling animals without license prohibited.

No person shall sell, display, offer for sale, barter or give away any animal as a pet, prize, toy, premium or novelty, unless such person is the owner of such animal and such sale, display, offer for sale, barter or gift occurs on the owner's premises or on the premises where the animal is boarded or kept.

8.06.120 Maintenance of exotic animals without proof of proper approvals prohibited.

No owner of any exotic animal shall maintain such animal without proof of proper federal and state permits, inspections and other required approvals.

8.06.130 Biting animals – Notification to animal care and control officer.

The owner or other person in custody or control of any animal that bites a human being shall immediately notify the animal care and control officer of such bite, giving the name and address of the person bitten, if known to him/her, and shall comply with any quarantine instructions given by the animal care and control officer. Failure to comply with such quarantine instructions is cause for impoundment of the animal for the quarantine period. A violation of this section is an infraction punishable by applicable law.

8.06.140 Barking, howling, and other nuisance.

No owner or person in control of any animal shall permit such animal to interfere with the reasonable use and enjoyment of private residential property by continuous barking or howling.

It is the policy of the City to investigate or enforce this section only as follows:

1. Whenever the animal care and control officer has witnessed or otherwise has reasonable cause to believe this section has been violated, the animal care and control officer may issue a citation.
2. Whenever an alleged violation of this section is made, in writing, to the animal care and control officer by two or more persons residing in separate residences within the same street block or on properties adjoining the animal owner's property, the animal care and control officer shall investigate and may issue a citation. As used in this paragraph, "adjoining" shall mean any property that shares a common property line with the owner's property, or is divided from the owner's property by a public or private street, roadway or public right-of-way.

8.06.150 Animal waste.

No owner shall permit any animal to defecate on any public street or other public property without immediately cleaning or removing the excrement to a proper receptacle; or defecate on any private property other than that of its owner without the consent of the owner, lessee or other person in control of the private property. This section does not apply to a disabled person whose disability prevents compliance with this section.

8.06.160 Animals in vehicles.

A. No person shall leave any animal confined in an unattended motor vehicle without adequate ventilation or in such a manner as to subject the animal to extreme temperature that may adversely affect the health or well-being of the animal.

1. If an animal is confined in an unattended vehicle in a manner giving an animal care and control officer or peace officer reasonable cause to believe that the health or well-being of the animal is being adversely affected, the officer may enter the vehicle to release the animal(s). The City shall not be liable for any damages resulting from the use of reasonable force to make such entry.
2. Any animal that has been confined in a vehicle in violation of this section may be immediately impounded in accordance with Section [8.14.050](#).

8.06.170 Hitching, fastening, tethering in public places.

No person shall hitch, fasten or tether any dog or other animal in his possession or under his control at any location or place normally used by pedestrians and general public,

including, but not limited to, street crossings, sidewalks, park paths, public grounds, store entrances and lobbies, and other such places open to the public for sales or services, and pathways frequently used by the public on either public or private property.

A. This section does not apply to assistance animals while in the service of their owners or masters.

Chapter 8.08

KEEPING OF LIVESTOCK, FOWL AND OTHER ANIMALS

Sections:

- 8.08.010 Keeping of animals within the city.
- 8.08.020 Dairies, animal farms and stockyards prohibited.
- 8.08.025 Excepting certain existing farms and abandonment.
- 8.08.030 Condition and care required.
- 8.08.040 Livestock in streets—restrictions.

8.08.010 Keeping of animals within the city.

A. The city council has determined that the keeping of animals within the city, unless properly regulated as to location and sanitary conditions and as to certain animals, unless definitely limited in number or entirely prohibited, is detrimental to public health, safety and general welfare.

B. It is unlawful for any person to keep or maintain any animal within the city except as provided herein, or in accordance with a Special Use Permit or Plaza Use Permit.

C. It is unlawful for any person to keep or maintain or cause or permit to be kept or maintained honey bees, fowl, rabbits, or livestock, except as provided in this chapter.

D. Any person may keep or maintain household pets provided that such person remains in compliance with all applicable provisions of this Title.

E. Any animal kept or maintained in the city in violation of this section shall be subject to impoundment or forfeiture in accordance with the provisions of this Title or in accordance with other applicable state or federal laws.

8.08.020 Dairies, animal farms and stockyards prohibited.

It is unlawful for any person to establish, operate, or maintain or to permit to be established, operated, or maintained, upon any premises within the city any cow or goat dairy, any stockyards or horse farm, or any hog farm.

8.08.025 Excepting certain existing farms and abandonment.

A. The foregoing prohibition in Section 8.08.020 of dairies, animal farms or stockyards shall not be retroactive or effective as to the same if actually in operation now and as of July 1, 1951, and provided a permit for such operation and maintenance was issued by the city planning commission. No enlargement of any existing farms so excepted shall be permitted by adding to the number of animals kept upon any premises in connection with the excepted dairies, stock farms or stockyards.

B. Notwithstanding subsection A, any cessation of operations of existing dairies, stock farms or stockyards, coupled with a change in the use of the premises for other purposes for a period of six months, shall be construed to be an abandonment of such original purpose in connection with the premises and thereafter no use of the premises for dairy, stock farm or stockyard shall be permitted.

8.08.030 Condition and care required.

A. Fowl. The limitations and minimum standards applicable to the keeping of fowl shall be as set forth in Table 1:

Table 1: Limitations and Standards for the Keeping of Fowl		
Area of Regulation	Lot Size of 10,000 Square Feet or Greater	Lot Size of Less Than 10,000 Square Feet
Zoning District:	Prohibited in commercial, mixed use, multifamily and mobile home zoning districts.	
Setback of Henhouse and Pen from Side or Rear Property Line:	10 feet, minimum.	
Allowed Yard Location:	Rear yard.	
Maximum Flock Size:	An additional 16 hens shall be allowed for each additional 10,000 square feet of lot area, up to a maximum of 50.	Up to 16.
Allowance for Roosters:	The keeping of roosters is prohibited, except that permits for the keeping of roosters issued prior to October 3, 2008, shall remain valid as long as the conditions associated with such permits continue to be met.	
Habitation Requirements:	A henhouse and a pen are both required. The henhouse shall be roofed and shall provide for a minimum of four square feet per hen. The pen shall be fully enclosed, including a roof covering. The henhouse and pen shall be designed, constructed and maintained such that the flock is securely contained.	
Ongoing Maintenance and Care:	The flock shall be contained within a henhouse and pen of an adequate size. The henhouse and pen shall be maintained in a clean and sanitary condition. The flock shall be cared for in a humane manner, to include, at minimum, regular feeding and watering, regular cleaning of waste, protection from the elements and predators, and the treatment of disease.	
Protection from Pests:	All enclosures for the keeping of poultry shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. All feed and other items associated with the keeping of poultry that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.	
Slaughtering:	Slaughtering shall be conducted humanely and only for purposes of home consumption.	

B. Rabbits. The limitations and minimum standards applicable to the keeping of rabbits shall be as set forth in Table 2, following:

Table 2: Limitations and Standards for the Keeping of Rabbits		
Area of Regulation	Lot Size of 10,000 Square Feet or Greater	Lot Size of Less Than 10,000 Square Feet
Zoning District:	Prohibited in commercial, mixed use, and mobile home zoning districts.	
Setback of Pen from Side or Rear Property Line:	10 feet, minimum.	
Allowed Yard Location:	Rear yard.	
Maximum Number:	An additional 8 rabbits shall be allowed for each additional 10,000 square feet of lot area, up to a maximum of 50.	Up to 8.
Habitation Requirements:	If kept outdoors, a pen is required. The pen shall be roofed and shall provide for a minimum of four square feet per rabbit. The pen shall be fully enclosed, including a roof covering, and shall be designed, constructed and maintained such that the rabbits are securely contained.	
Ongoing Maintenance and Care:	Rabbits kept outdoors shall be contained in a pen of an adequate size. The pen shall be maintained in a clean and sanitary condition. Rabbits shall be cared for in a humane manner, to include, at minimum, regular feeding and watering, regular cleaning of waste, protection from the elements and predators, and the treatment of disease.	
Protection from Pests:	All pens or other enclosures for the keeping of rabbits shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. All feed and other items associated with the keeping of rabbits that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.	
Slaughtering:	Slaughtering shall be conducted humanely and only for purposes of home consumption.	

C. Honey Bees. The limitations and minimum standards applicable to the keeping of honey bees shall be as set forth in Table 3, following:

Table 3: Limitations and Standards for the Keeping of Honey Bees		
Area of Regulation	2 – 4 Hives	5 – 10 Hives

Zoning District:	Prohibited in commercial, mixed-use, multifamily and mobile home zoning districts.	Allowed only in the agricultural and public zones.
Lot Size:	A maximum of two hives shall be allowed on lots of 10,000 square feet or less. A maximum of four hives shall be allowed on lots of greater than 10,000 square feet in area.	Two acres, minimum.
Setback of Hives from Side or Rear Property Line:	10 feet, minimum.	
Yard Location:	Rear yard.	
Screening and Orientation of Hives:	The beehive entrance shall be directed away from the neighboring property and hives shall be situated behind a fence, hedge or similar screen that is a minimum of six feet in height running parallel to the property line.	
Habitation Requirements:	Hives shall be of adequate size and shall be positioned so that the first 25 feet of the flight path is directed away from on-site or neighboring residences. Hives shall be fully enclosed including a roof covering or weatherproof top, and shall be designed, constructed, and maintained such that the bees can be properly contained.	
Ongoing Maintenance and Care:	It shall be the duty of every person on whose property bees are kept to: (1) maintain bees in a condition that will reasonably prevent swarming and aggressive behavior; (2) provide adequate water for the bees to reasonably prevent them from seeking water on neighboring properties; (3) maintain hive boxes and the area around them in a clean and sanitary condition.	
Protection from Pests:	Hives shall be constructed so as to prevent rats, mice, and other rodents from being harbored underneath or within the walls of the hives or their enclosures. All items associated with the keeping of bees that are likely to attract, or become infested by, rats, mice or rodents shall be protected so as to prevent such rodents from gaining access to, or coming into contact with, them.	

D. The keeping of swine shall be prohibited.

8.08.040 Livestock in streets – Restrictions.

No person shall drive or herd any animal or animals on or along any public street, roadway or alley. Animals may be ridden or driven in harness or by means of rope, halter or similar device, subject to the provisions of the California Vehicle Code or applicable sections of this Code

Chapter 8.10

DOGS AND CATS¹

Sections:

- 8.10.010 Dog license required.
- 8.10.020 Permit required to keep more than three dogs or cats.
- 8.10.030 Responsibility for issuance of license.
- 8.10.040 License—Vaccination required.
- 8.10.050 License fee.
- 8.10.060 License fee—Waiver or reduction of fees.
- 8.10.070 Securing license tag to collar.
- 8.10.080 Replacement of lost license tag.

8.10.010 Dog license required.

Except as provided herein below, every person owning a dog over four months of age which is kept within the City shall obtain a license for such dog from the animal care and control officer, and shall pay the annual fee as set by the City Council. This license shall be obtained within 30 days after the dog reaches the age of four months or within 30 days of becoming a resident of the City if a license is otherwise required under this chapter. Every dog license issued pursuant to this chapter shall be annual, expiring 12 months following the date of rabies vaccination. The procedure for renewal of a dog license shall be the same as for obtaining an original license. If the owner of any dog fails to make application for the renewal of a dog license prior to its expiration, such owner shall pay a penalty for late renewal, the amount of which shall be established by resolution of the City Council.

A City license shall not be required:

- A. For any dog having a valid license issued by another city or county when its owner has moved to the City of Sonoma in the preceding 12 calendar months; or
- B. Any dog owned or in possession of a nonresident of the City which is to be maintained in the City for a period not exceeding 30 days, provided that such dog has been vaccinated consistent with the requirements of this chapter and its owner presents proof of such vaccination upon demand.

8.10.020 Permit required to keep more than three dogs or cats.

A. No more than three dogs or three cats over the age of four months shall be permitted at a dwelling unit. Dogs or cats in greater numbers may be kept only in kennels lawfully established and maintained in places permitted by the zoning ordinance or in accordance with a permit issued pursuant to subsection B of this section.

B. Notwithstanding the foregoing restrictions, the Chief of Police may, after investigation of the circumstances, grant a permit to keep one dog or cat in addition to three dogs or three cats over the age of four months if he or she finds that the keeping of such additional dog or cat will not result in violation of other provisions of this title, or amount to a nuisance, or otherwise tend to impair the objectives of this title. This permit may be subject to conditions as deemed appropriate by the Chief of Police.

1. Applicants must submit a permit application to the Chief of Police and may submit additional documents or information in support of their application request.
2. If after investigation the Chief of Police denies the permit to keep an additional dog or cat, the reasons for denial will be provided in writing to the requesting party, who may appeal that decision. The appeal must be filed with the city clerk within seven calendar days after the denial of such permit. The appeal may be in the form of a letter or similar writing, and should contain specific statement of the ground(s) upon which the appeal is made.
3. All permits granted for more than three dogs or cats over the age of four months may be accompanied by such conditions as the Chief of Police may prescribe and may be revoked by the Chief of Police upon determination by the Chief of a violation of any permit condition after notice and hearing pursuant to the provisions of Chapter 8.04.
4. Requests for permits under this Section filed after the additional animals in question are already in residence at the premises in question must be accompanied by a fee to be set by City Council. In lieu of paying such fee, the owner of the animals may remove the additional animals from the premises or consent to the impoundment of the additional animals at the owner's expense pending completion of the permitting process. This section does not apply in situations where the owner moved into the City of Sonoma within the preceding 12 calendar months and can show proof that four or more dogs or cats were properly licensed in the jurisdiction for which they previously lived.
5. Any appeal of the decision to deny a permit application or to revoke an existing permit shall be heard by the animal hearing officer. Upon receipt of an appeal, the animal hearing officer shall hold a public hearing in accordance with the notice and hearing provisions of Chapter 8.04. All determinations of the animal hearing officer shall be final. The filing of appeal shall stay all administration action, except in cases where life or property is endangered.

8.10.030 Responsibility for issuance of license.

Pursuant to Chapter 3 (commencing with Section 30801) of Division 14 of the Food and Agricultural Code, the animal care and control officer is designated to issue dog licenses under this chapter.

8.10.040 License – Vaccination required.

A prerequisite to the issuance of a dog license under this chapter is the presentation of a certificate of vaccination signed by a veterinarian showing one of the following for the dog to be licensed:

A. That such dog has been vaccinated with an approved rabies vaccine and the period of time from the date of vaccination to the date of expiration of the license being issued does not exceed the interval of time prescribed by the State Department of Health for revaccination.

B. That such dog should not be vaccinated with an approved rabies vaccine because such vaccination may jeopardize the health of the dog due to infirmity or other disability. Where a certificate of vaccination shows that a dog should not be vaccinated due to infirmity or other disability, the nature of the infirmity or other disability and the estimated date of termination thereof shall be shown on the face of the certificate to the satisfaction of the animal services director or his designee.

8.10.050 License fee.

A. An annual dog license fee set by resolution of the City Council shall be imposed upon every dog four months and older which is kept in the City by any person who is the owner as provided in Section [8.10.010](#). If a certificate is presented from a licensed veterinarian that the dog has been spayed or neutered, the annual license fee shall be reduced by 50 percent. The license fee is due and payable on the day upon which the dog is four months old, or as otherwise provided in Section [8.10.010](#).

B. If the owner of any dog fails to make application for a dog license within 30 days after receipt of notice from the animal care and control officer to obtain a license, such owner shall pay a penalty for late licensing; the penalty amount shall be established by City Council resolution. The penalty shall be paid in addition to the license fee required in this section.

8.10.060 License fee – Waiver or reduction of fees.

A. License fees shall be waived for any guide or service dog in service to a specific disabled person; provided, however, that a license tag is required to be worn by all such dogs to aid in reuniting them should they become lost, strayed or stolen. License fees shall be waived for police dogs owned and used by police department or law enforcement officers exclusively for police work if all other requirements for licensing under this chapter are met.

B. License fees may include a reduced rate for dogs owned by persons 62 years of age or older if all other requirements for licensing under this chapter are met. This section shall apply to the first dog license issued to the applicant.

C. The animal care and control officer shall require such proof of qualification as deems necessary prior to waiving or reducing the license fee for any dog.

8.10.070 Securing license tag to collar.

The dog owner shall secure the tag to a collar, harness or similar device attached to the dog for which the license tag was issued. The dog owner shall ensure that the dog wears such a license tag at all times in the City, except when the dog is confined to the owner's property, in a commercial kennel, hobby kennel, or veterinary facility, or the dog is being exhibited at a show, field trial or other competition. The identification tag shall be shown by the owner at any time upon demand by the animal care and control officer. A violation of this section is an infraction punishable as provided by Chapter 1.12.

8.10.080 Replacement of lost license tag.

In case the metallic dog license tag for any dog licensed under this chapter is lost or destroyed, a replacement tag for such dog shall be procured from the animal care and control officer within 30 days after the loss or destruction. Upon receiving proof of loss, made in writing, and upon payment of a replacement fee, which shall be set by resolution of the City Council, the animal care and control officer shall issue a replacement tag to the owner. A violation of this section is an infraction punishable as provided by Chapter 1.12.

Chapter 8.12

POTENTIALLY DANGEROUS AND VICIOUS DOGS.

Sections:

- 8.12.010 Authority and purpose.
- 8.12.020 Purpose—Exemptions.
- 8.12.030 Investigation, hearing, and designation of potentially dangerous and vicious dogs.
- 8.12.040 Hearing procedure.
- 8.12.050 Abatement orders and conditions.
- 8.12.060 Failure to comply with potentially dangerous or vicious dog order.
- 8.12.070 Transfer and training of potentially dangerous and vicious dogs.
- 8.12.080 Restrictions on further ownership of dogs.
- 8.12.090 Keeping a potentially dangerous or vicious dog by minors prohibited.
- 8.12.100 Enforcement and penalties.

8.12.010 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 chapter. The procedure for abatement set forth in this chapter 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 chapter 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.

8.12.020 Purpose – Exemptions.

This chapter does not apply to kennels, humane society or other shelters, the animal shelter, or veterinarians, or to police dogs while utilized by the sheriff, any police department or any law enforcement officer in the performance of police work.

8.12.030 Investigation, hearing, and designation of potentially dangerous and vicious dogs.

- A. An animal care and control officer shall investigate any reported incident or complaint regarding a potentially dangerous or vicious dog.
- B. During the investigation, the animal care and control officer shall compose a report to be permanently retained pursuant to adopted procedures. The animal care and control officer shall make his best efforts to take a photograph of the dog to include with the report.
- C. The animal care and control officer shall append to the report the statements of witnesses, victims and the dog owner. Such statements shall be signed under penalty of perjury.
- D. If, after conducting an investigation, the animal care and control officer determines that probable cause exists to believe that the dog is potentially dangerous or vicious, the animal care and control officer shall prepare a petition and request an administrative hearing to determine whether the animal is potentially dangerous or vicious.
- E. If the animal care and control officer determines that probable cause exists that the dog is a potentially dangerous or vicious dog, the animal care and control officer may impose reasonable conditions to protect the public health, safety and welfare upon the animal owner pending an administrative hearing held in accordance with Section [8.12.040](#). These conditions shall be in the form of a provisional abatement order and may include any reasonable conditions, including those contained in Section [8.12.050](#). Notice of the provisional abatement order shall be provided by the animal care and control officer pursuant to Section [8.04.020](#).

F. Within 30 days of receipt of the provisional abatement order, an administrative hearing pursuant to Section 8.12.040 shall be held to determine whether the dog is potentially dangerous or vicious. If the dog owner fails to appear at the administrative hearing or waives his/her right to the administrative hearing then the provisional abatement shall remain in effect.

G. Pending a hearing pursuant to Section [8.12.040](#) the animal care and control officer shall also immediately impound any dog found to present an imminent threat to the public health, safety and welfare.

8.12.040 Hearing procedure.

A. Pursuant to Section [8.12.030](#), where the animal care and control officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the animal care and control officer shall file a petition and request an administrative hearing by the animal hearing officer for the purpose of determining whether the dog should be declared potentially dangerous or vicious. A complaint from any member of the public furnishing the basis for the animal care and control officer's probable cause determination shall be sworn to and verified by the complainant and attached to the petition.

B. The animal hearing officer shall notify the owner of the dog that a hearing will be held, at which time the animal care and 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 [8.04.020](#). The hearing shall be held promptly within no less than 10 business days or more than 30 business days after service of the notice and petition 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 need not be applied. 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 electronically 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 and the cost of such service shall be borne by the requestor. A copy of the

electronic 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. 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 [8.12.050](#) for the continued ownership of the animal. The abatement order shall replace any provisional abatement order issued by an animal care and control officer unless the abatement order is stayed by judicial action or pending judicial review. Within 15 days of the hearing, the determination and abatement order shall be served upon the dog owner pursuant to Section [8.04.020](#). The determination order of the animal hearing officer shall be final and appealable in accordance with the provisions of Section 31622 of the Food and Agricultural Code within ten (10) business days of the date of mailing or personal service of the decision.

G. 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. The order shall specify the effective date of euthanasia which shall allow sufficient time for: (i) the notice of the order to be served pursuant to subsection I and the ten (10) business days appeal period pursuant to subsection F to run prior to euthanasia occurring; and/or (ii) to permit the owner time to locate a licensed and insured sanctuary specializing in confining and caring for vicious dogs unable to be safely maintained in society, willing and able to accept ownership, custody and responsibility for the dog with safe transport expenses, if any, to be borne by the owner. If the dog is placed in sanctuary, the order of euthanasia will be suspended, subject to reinstatement if the dog returns to the jurisdiction.

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

1. The dog has committed an act resulting in the death of a person, regardless of the circumstances involved;
2. The dog has committed acts on two separate occasions, without provocation, which has resulted in the death of another animal or livestock occurring off the property of the dog's owner;

3. The dog has committed acts on three separate occasions, without provocation, that results in nonsevere injuries to any one or more persons at a location where such persons are acting lawfully;
4. The dog has attacked on three separate occasions, without provocation, another animal or livestock 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 [8.02.040](#);
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 10 days of the hearing, notice of the order of humane euthanization shall be served upon the owner pursuant to Section [8.04.020](#).

K. An 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 pursuant to Section 31622 of the Food and Agricultural Code.

8.12.050 Abatement orders and conditions.

A. Pursuant to Section [8.12.040](#), 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 care and control officer; to comply with the animal care and 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 12-month term, the owner shall notify the animal care and 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 care and 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 structures 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 with access to potable food and water;

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 18 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 care and 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 10 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 \$50,000;
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 care and 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 implanted into the dog by a veterinarian or other qualified animal services professional 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 by any police officer or animal care and 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 care and control agent in the hearing process, not to exceed \$1,000;
12. To take any other steps deemed reasonably necessary to prevent injuries to the public.

13. Euthanization of the animal designated a vicious dog and ordered to be euthanized pursuant to Section 8.12.040.

B. The owner of the dog shall comply with the conditions imposed by the hearing officer within 30 days of the order. All owners of potentially dangerous or vicious dogs must within 10 days of the effective date of the abatement order provide the animal care and control officer with two photographs (which may be in digital format) of the registered dog clearly showing the color and approximate size of the dog and any distinguishing markings

8.12.060 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 of the City's options to dispose of the dog for a failure to comply with the conditions contained in the potentially dangerous or vicious dog order. The City's options for disposal of the potentially dangerous or vicious dog if the owner does not satisfy either of the requirements in subsection B shall include: 1) sanctuary as provided by Section 8.12.040(G); 2) owner's sale or transfer of ownership of the dog subject to City's approval; 3) release to a recognized non-profit agency or other governmental organization as provided by Section 8.14.090; and, if no other options are available, 4) euthanization.

B. The animal hearing officer shall provide written notice to the owner pursuant to Section [8.04.020](#) that the City may avail itself of any of the options set forth by subsection A, unless within 14 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.

C. If, after 14 days from the date of such notice, the owner has not complied with the provisions of subsection (B)(1) or (2) of this section, the hearing officer may, without further notice or process, make an order that includes any one or more of the options set forth by Section 8.12.060(A).

8.12.070 Transfer and training of potentially dangerous and vicious dogs.

A. No person shall sell or otherwise transfer ownership or custody or in any other way dispose of a dog deemed potentially dangerous or vicious under this chapter 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 under this chapter 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 care and control officer of the proposed sale or transfer. Such notice shall be given not less than 15 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 care and control officer may notify the recipient person and the governmental jurisdiction in which the recipient person is located or resides, that the dog in question has been adjudicated as potentially dangerous under this Chapter. Failure to comply with these notification provisions shall be grounds for immediate impoundment of the dog by the animal care and 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 care and 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 care and control officer's order, the animal care and 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.

8.12.080 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 of the same or similar breed for a period of three years, when it is found, after hearing proceedings conducted pursuant to this chapter, that ownership or possession of a dog by that person would create a significant threat to the public health, safety and welfare.

8.12.090 Keeping a potentially dangerous or vicious dog by minors prohibited.

No minor shall own or at any time have sole custody or control of any dog found to be potentially dangerous or vicious pursuant to this chapter.

8.12.100 Enforcement and penalties.

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

B. 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.

C. Notwithstanding the preceding, the animal care and 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 [8.04.020](#).

Chapter 8.14

IMPOUNDMENT

- 8.14.010 Animals subject to impoundment.
- 8.14.020 Suspected rabid animals—Examination and impoundment.
- 8.14.030 Enforcement of Penal Code Section 597.1.
- 8.14.040 Care of impounded animals.
- 8.14.050 Procedures for immediate impoundment.
- 8.14.060 Hearing prior to animal deprivation
- 8.14.070 Notification of impoundment.
- 8.14.080 Duration of impoundment.
- 8.14.090 Redemption of impounded animal.
- 8.14.100 Disposition of impounded animals.
- 8.14.110 No redemption or disposition of impounded animals without proof of proper care.
- 8.14.120 Absence of liability for redemption or disposition.
- 8.14.130 Relief from fees during natural calamities.

8.14.010 Animals subject to impoundment.

Any animal which is engaged in an activity or existing in a condition prohibited by this chapter or state law may be impounded pursuant to the provisions of this chapter.

8.14.020 Suspected rabid animals – Examination and impoundment.

The animal care and control officer shall seize any animal when there is reason to believe it is infected with rabies, and take that animal to a veterinarian for examination. If the veterinarian concurs that the animal may be infected with rabies, the animal care and control officer shall impound such animal for the period mandated by the laws of this state and shall notify Sonoma County animal regulation, the agency responsible for rabies monitoring in this county. The animal's owner shall be charged for all costs incurred or fees applicable, with respect to the examination, confinement, or impoundment of the animal. The redemption fees in Section [8.14.100](#) do not apply to an animal quarantined for rabies observation.

8.14.030 Enforcement of Penal Code Section 597.1.

California Penal Code Section 597.1 shall be operative and enforced by the Chief of Police. Seizure and impoundment shall be made pursuant to Section 597.1. If requested, a hearing regarding the impoundment of the subject animal shall be held pursuant to this chapter.

8.14.040 Care of impounded animals.

Every impounded animal shall be inspected for the presence of a license, tattoo, implant or other form of identification at the time of impoundment. Animal care and control officer shall ensure that all impounded animals receive suitable and adequate food, water, shelter, and medical care.

8.14.050 Procedures for immediate impoundment.

The animal care and control officer may immediately seize and impound an animal for violation of this chapter or the laws of this state without providing a pre-impoundment notice of hearing under the following circumstances:

- A. The owner and/or possessor of the animal provides consent for the impoundment;
- B. The animal is at large;
- C. The animal care and control officer has reasonable grounds to believe that the animal may be rabid;
- D. The animal care and control officer has reasonable grounds to believe that the dog is a potentially dangerous or vicious dog in accordance with the provisions of Chapter 8.12 ;
- E. To protect an animal which is injured, sick, starving or suffering from heat, cold or confinement, which is in need of immediate care.
- F. When the animal care and control officer has reasonable grounds to believe that immediate impoundment is necessary to protect the public health or safety of any person or animal;
- G. Pending an administrative hearing for a potentially dangerous or vicious dog pursuant to Section [8.12.040](#) or pending any judicial proceeding.

8.14.060 Hearing prior to animal deprivation.

Except as provided in Chapter [8.12](#) or Section [8.14.050](#), an animal care and control officer may not seize or impound an animal for any violation of this chapter or state law

except with the consent of the owner of the animal, unless a hearing on the impoundment is first held.

If the owner of any animal refuses to consent to the impoundment of such animal, the animal care and control officer may issue a notice setting the time and place for a hearing and commanding such owner to appear before the animal hearing officer at that time. The animal care and control officer shall cause notice of such hearing to be given pursuant to Section 8.04.020. The hearing shall be conducted pursuant to Section 8.04.040.

8.14.070 Notification of impoundment.

A. When an animal is impounded pursuant to this chapter, except for Section [8.14.030](#), the animal care and control officer shall, except as otherwise provided, notify the owner of the animal of the impoundment within 24 hours. The owner of the animal shall be served with notice of the impoundment, either personally or by first-class mail with return receipt requested, if known. Such notice shall state the following:

1. The animal has been impounded;
2. The date and location of impoundment;
3. A description of the animal;
4. The location of where the animal is being held;
5. The name, address, and telephone number of the agency or person to be contacted regarding the redemption of the animal;
6. An indication of the ultimate disposition of the animal if no action is taken to redeem it by the owner within the requisite holding period pursuant to Section [8.14.080](#);
7. A summary of the estimated fees to be expected from the impoundment.

B. If the owner of an impounded animal is unknown (a stray), the above notice, in lieu of mailing, shall be posted on a bulletin board in a public area at the police department.

C. When an animal is impounded pursuant to this chapter and the animal is of a type referred to in Food and Agricultural Code Section 17003, the animal care and control officer shall immediately notify the Sonoma County agriculture commissioner and request assistance from the county for care and impoundment of the animal.

D. In addition to the notice required by this section, notice may also be given in any other manner deemed necessary or desirable.

8.14.080 Duration of impoundment.

- A. Any impounded dog shall be kept at the City animal shelter for a period of not less than 6 business days (excluding the day of impoundment) unless redeemed within such period. During that time, the animal care and control officer shall make reasonable attempts to identify and contact the dog's owner.
- B. Any impounded livestock shall be kept at the City animal shelter or such other place as may be approved by the animal care and control officer for a period of not less than 14 days unless redeemed within such period. During that time, the animal care and control officer shall make reasonable attempts to identify and contact the livestock's owner.
- C. Any other impounded animal shall be kept at the City animal shelter or such other place as may be approved by the animal care and control officer for a period of not less than six days, not including the day of impoundment. During that time, the animal care and control officer shall make reasonable attempts to identify and contact the animal's owner.
- D. Any animal which is voluntarily surrendered to or deposited with the animal care and control officer shall be held for not less than six days, not including the day of surrender or deposit, and shall be made available for owner redemption for the entire holding.
- E. Kittens (cats less than eight weeks old) or puppies (dogs less than eight weeks old) relinquished by the purported owner, or brought in by any other person with authority to relinquish them, may be released immediately to a recognized non-profit specializing in animal care and adoption or another governmental organization pursuant to an agreement.
- F. None of the provisions of this section shall apply to impoundment pursuant to Section [8.14.030](#).

8.14.090 Redemption of impounded animal.

The owner of any impounded animal may, at any time prior to the disposition of the animal, redeem the same upon compliance with this chapter and state law, presentation of proof of ownership satisfactory to the animal care and control officer and payment of a redemption fee, and all other proper fees and charges accrued as provided for by this chapter. If the impounded animal is subject to licensure under this chapter, the owner shall comply with the licensing requirements for the animal prior to its release. Upon such redemption being made, animal care and control officer shall release the animal.

8.14.100 Disposition of impounded animals.

- A. Any impounded animal (with the exception of those described within subsection B) which is not redeemed within the impoundment period specified within this chapter shall, wherever possible, be released to a recognized non-profit agency specializing in animal services and adoption or another governmental organization pursuant to an agreement.

B. Any impounded bovine animal which is not redeemed within the holding period specified in this chapter shall be turned over to the State Bureau of Livestock Identification for disposition by the office.

8.14.110 No redemption or disposition of impounded animals without proof of proper care.

No impounded animal shall be redeemed by its owner, placed for adoption or sold unless the person receiving the animal provides proof satisfactory to the animal care and control officer that the animal will be maintained in accordance with the provisions of this chapter and state law.

8.14.120 Absence of liability for redemption or disposition.

No liability shall be incurred by the animal care and control officer or the City for the redemption or disposition of any animal made pursuant to this chapter.

8.14.130 Relief from fees during natural calamities.

Upon the recommendation of the animal care and control officer and with the approval of the City Council, the fees provided for in this chapter may be waived when animals have been impounded because of civic disorganization, disruption, or other conditions of devastation within the City due to fire, flood, earthquake, storm or other natural calamity.

Chapter 8.18

RABIES CONTROL

Sections:

8.18.010 Rabies control to be responsibility of health officer.

8.18.020 Rabies control fee.

8.18.010 Rabies control to be responsibility of health officer.

The health officer shall be responsible for supervising rabies control activities within the City in accordance with Chapter 1 (commencing with Section 121575) of Part 6 of Division 105 of the Health and Safety Code, Subchapter 1 (commencing with Section 2500) of Chapter 4 of Title [17](#) of the California Code of Regulations, such other laws, rules and regulations relating to rabies control as may be enacted or promulgated by the state, and the policies and procedures established by the board. The animal care and control officer shall cooperate with and assist the health officer in carrying out any measures necessary for rabies control, including, but not limited to, quarantining of animals and complying with directives of the health officer.

8.18.020 Rabies control fee.

The owner of any animal which has or is suspected of having rabies shall pay a rabies control fee to cover the costs incurred by the animal care and control officer in effecting quarantine and in performing other associated rabies control activities in connection with such animal. The rabies control fee shall be in addition to any other fee charges imposed by this chapter.

Chapter 8.20

VIOLATIONS

Sections:

Section 8.20.010	Penalties and Remedies.
Section 8.20.020	Separate offense.
Section 8.20.030	Public nuisance—Prohibited.
Section 8.20.040	Notice and service requirements.
Section 8.20.050	Enforcement.
Section 8.20.060	Cost recovery of abatement.

8.20.010 Penalties and Remedies.

A. Any violation of this Title shall be enforceable as a criminal offense pursuant to Chapter 1.12. Unless specifically stated otherwise, a violation of any of the provisions in this Title shall be deemed a misdemeanor.

B. Any violation of this Title shall constitute a public nuisance and be subject to the abatement procedures set forth by Chapter 1.12 or elsewhere in this Code.

C. Any violation of this Title may be made subject to proceedings under Chapter 1.30 (Administrative Penalties).

D. 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.

8.20.020 Separate offense.

Every person violating any provision of this Title shall be deemed guilty of a separate offense for each day, or portion thereof, during which the violation continues, and shall be punishable therefor as provided in this chapter.

8.20.030 Public nuisance – Prohibited.

A. In addition to the grounds deemed a public nuisance by Section 8.20.010, a public nuisance shall be deemed to exist when an owner of an animal:

1. Has been convicted or found guilty of three violations of this chapter within a 12 month period of time.
2. Permits unsanitary conditions to exist on the premises where such animal is kept which cause odors, attract flies or vermin, or which are otherwise injurious to the public health or offensive to the senses of adjacent property owners.
3. Keeps or maintains any animal in violation of the zoning code of the City of Sonoma.

B. Whenever an animal care and control officer has reasonable cause to believe that a public nuisance as defined in this section exists, the animal care and control officer may conduct an investigation of the alleged nuisance. Whenever it is alleged in writing by two or more persons residing in separate residences within the same street block or on properties adjoining the animal owner's property that a public nuisance as defined in this section exists, the animal care and control officer may issue an order to the owner of the animal directing that such nuisance be abated. In the event that the owner does not comply with the abatement order, the animal care and control officer may immediately initiate proceedings for a hearing, as is set forth in Chapter 8.04. The notice and hearing shall comply with the requirements set forth in Chapter 8.04. As used in this paragraph, "adjoining" shall mean any property that shares a common property line with the owner's property, or is divided from the owner's property by a street or roadway.

C. Any person may maintain an action under Civil Code Section 3493 for compliance with the requirements of this section.

8.20.040 Notice and service requirements.

When this chapter requires the provision of notice or service, the notice or service shall be in writing. If a right may be exercised or an act is to be done and the notice or service of it is required to be given but the time within which the notice or service must be given is not specified, the notice or service shall be given at least 10 days before the time the right must be exercised. The notice or service shall be served either personally or by first class mail in a sealed envelope with postage prepaid, addressed to the animal owner at his last known mailing address and deposited in a facility maintained by the United States Department of Postal Service. The person providing such notice or service shall sign a declaration under penalty of perjury that notice or service has been made. In the event that the last known address of the animal owner cannot be ascertained, the animal hearing officer or animal care and control officer shall sign a declaration under penalty of perjury that best efforts were made to provide notice or service to the animal owner. In the case of service by mail, notice or service is complete at the time the notice is deposited in the United States mail.

8.20.050 Enforcement.

Any provisions of this chapter may be enforced by the police department, fire department, the animal care and control officer or any authorized designee of the animal services director. Complaints of any violations of this chapter which are subject to penalties under this section may be presented to the district attorney's office or to the City attorney for prosecution.

8.20.060 Cost recovery of abatement.

The costs of abating a public nuisance deemed to exist pursuant to this Title may be recovered from the owner of the animal causing the public nuisance. 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.

1

For statutory provisions regarding the authority of the city to impose license fees, see California Food and Agricultural Code § 30804 and California Government Code § 38792

Section 3. Severability.

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. 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 5TH day of November, 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 November 5, 2012 by the following vote:

AYES:
NOES:
ABSENT:

Gay Johann, City Clerk



City of Sonoma
City Council/Successor Agency
Agenda Item Summary

City Council Agenda Item: 6A

Meeting Date: 11/05/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Approval of the portions of the Minutes of the October 15, 2012 City Council / Successor Agency Meetings pertaining to the Successor Agency.

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:

See Agenda Item 5B for the minutes



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 7A

Meeting Date: 11/05/2012

Department

Planning

Staff Contact

David Goodison, Planning Director

Agenda Item Title

Discussion, consideration and possible action on an appeal of the Planning Commission's decision to approve, as an adaptive re-use, administrative offices and wine tasting by appointment within a historic residence (143 West Spain Street/138 Church Street), along with the development of associated off-street parking.

Summary

At its meeting of August 9, 2012, the Planning Commission held a public hearing on a Use Permit application to allow the adaptive re-use of a historic residence as an office with a limited wine tasting component. After holding a public hearing on the application and discussing the matter itself, the Planning Commission continued the item for further discussion, giving direction to the applicant to revise the proposal with respect to off-street parking. At a subsequent meeting, held on September 13, 2012, the Planning Commission reviewed a modified proposal and, following a public hearing and discussion, voted 7-0 to approve a use allowing the adaptive re-use the property. An appeal of this decision was filed by Philip Rososco and Lisa Valenti, of 144 West Spain Street. The attached Supplemental Report provides further details on the project as well as an analysis of the issues raised in the appeal.

Recommended Council Action

Uphold the decision of the Planning Commission, with direction to staff to prepare an implementing resolution for adoption at a subsequent meeting.

Alternative Actions

1. Uphold the decision of the Planning Commission, with or without changes to the conditions of approval.
2. Uphold the appeal, thereby denying the use permit.
3. Refer the matter back to the Planning Commission or direct staff to provide additional information.

Financial Impact

Neither the application nor the appeal raise any significant issues with respect to financial impacts on the City.

Environmental Review

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

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

1. Supplemental report
2. Location map
3. Appeal
4. Applicants' response to the appeal
5. Minutes of the Planning Commission of September 13, 2012
6. Final conditions of approval
7. Revised project narrative/analysis of adaptive re-use findings
8. Site plan/Site plan alternative

cc:

Philip Rososco/Lisa Valenti
144 West Spain Street
Sonoma, CA 95476

Three Sticks Wines/Price Family Vineyards
Attn. Prema Behan
35 Patten Street
Sonoma, CA 95476

Steve Martin, P.E.
130 South Main Street
Sebastopol, CA 95472

Robert and Leslie Demler
143 West Spain Street
Sonoma, CA 95476

Sid Hoover (via email)

League for Historic Preservation
Attn. Barbara Wimmer (Via email)

SUPPLEMENTAL REPORT

Discussion, consideration and possible action on an appeal of the Planning Commission's decision to approve, as an adaptive re-use, administrative offices and wine tasting by appointment within a historic residence (143 West Spain Street/138 Church Street), along with the development of associated off-street parking

For the City Council meeting of November 5, 2012

Background

At its meeting of August 9, 2012, the Planning Commission held a public hearing on a Use Permit application to allow the adaptive re-use of a historic residence as an office with a limited wine tasting component. After holding a public hearing on the application and discussing the matter itself, the Planning Commission continued the item for further discussion, giving direction to the applicant to revise the proposal with respect to off-street parking. At a subsequent meeting, held on September 13, 2012, the Planning Commission reviewed a modified proposal and, following a public hearing and discussion, voted 7-0 to approve a use allowing the adaptive re-use the property. An appeal of this decision was filed by Philip Rososco and Lisa Valenti, of 144 West Spain Street.

Property Description and Environs

The subject property is developed with a residence known as the Vallejo-Castenada adobe. Constructed circa 1842, it is one of the oldest buildings in Sonoma. Due to its age, its associations with the Vallejo family, and its adobe construction, this building possesses tremendous historical significance. Although some changes have been made to the residence over the years it has been carefully maintained and it possesses exceptional integrity. In addition to being on the League for Historic Preservation's inventory of historic structures, it has been identified as a contributing building to the Plaza National Landmark District and is eligible for listing on the California Register of Historic Resources. The property and the adjoining vacant parcel at 138 Church Street, on which parking for the use would be developed, are zoned Medium Density Residential (R-M). The site is located in a transition area between downtown commercial uses on the east and residential uses on the west. Adjoining uses include multi-family development and commercial uses to the north, across West Spain Street; single-family residences to the south; the Eldorado Hotel and a single-family residence on the east, across the Church Street alley; and single-family residences to the west (one of which is operated as a vacation rental).

Project Description

The applicant applied for a Use Permit, through the adaptive re-use provisions of the Development Code (section 19.42.020), to convert the structure into offices for the Three Sticks Wine Company, which use would include by-appointment wine tasting for groups of 4-6 persons. No public tasting or public retail component is authorized under the use permit. However, the project narrative states that the residence would be made available for public tours

and viewings, which is provided for in the conditions of approval. The allowed hours of operation are 8 a.m. to 6 p.m., Monday through Friday and 9 a.m. to 3 p.m. on Saturdays. Three to four full-time employees would work in the office, and occasionally, two part-time employees. (The company's offices are currently located at 35 Patten Street.) No external modifications are proposed to the building. Internally, the existing floor plan would be retained, although it is possible that the bathroom would need to be modified to comply with accessibility requirements. Approximately 70% of the building area (including the entirety of the guest cottage) would be devoted to the office component. (The residence has an area of approximately 1,940 square feet.)

In conjunction with the conversion of the residence, a seven-stall parking lot would be developed on vacant parcel adjoining the residence on the south, accessed from the Church Street alley. The parking lot would be screened with landscaping and a stucco wall, matching the design of existing walls associated with the residential property. The wall would wrap around the south side of the parking lot and connect with an existing wood property line fence on the east side of the site. The north side of the parking lot would also be screened with a fence and landscaping, but a gate would provide a connection to the residential property. At the September Planning Commission meeting, two variations of the site plan were presented:

- *Alternative 1.* Along the Church Street alley, the wall and a three-foot landscaped strip would extend from the parking lot north along the frontage of the residential property to West Spain Street. The existing garage on the residential property, which has a zero-set back on Church Street, would be removed and replaced with a smaller building—integrated into the frontage wall—mainly be devoted to storage, but also including a small office area and a handicapped accessible restroom (the inclusion of this feature would avoid the need to remodel the restroom within the residence). The entrance to the parking lot would be gated and the gate would be closed and locked during off-hours.
- *Alternative 2.* The parking lot on the vacant parcel would be developed with the landscaping, wall, and gate, but the existing garage would be retained rather than demolished. Under this alternative, the landscaping strip and wall would not be extended to West Spain Street, but would be limited to the parking lot frontage. This alternative was presented because the demolition of the garage is subject the review and approval of the League for Historic Preservation, pursuant to a conservation easement that encompasses the residential parcel.

In its approval of the Use Permit, the Planning Commission identified Alternative 1 as its preference, but authorized the second alternative in the event that League approval of the garage demolition is not forthcoming. As of the writing of this staff report, while the League president has expressed support for the adaptive re-use concept, the Board has not yet made a determination regarding the demolition of the garage.

General Plan and Zoning Consistency

Use—General Plan: The property has a land use designation of Medium Density Residential. Normally, retail and office uses are not allowed in this designation. However, the following General Plan policies allow for the concept of the adaptive re-use of historic structures, in which uses that are not normally permitted may be authorized as an incentive for historic preservation:

- *Community Development Element Policy 5.4:* Preserve and continue to utilize historic buildings as much as feasible.
- *Community Development Element Policy 5.8:* Develop incentives for property owners to preserve historic resources.

Staff would note that the implementation mechanism associated with these policies is the Development Code, which, at the time that the current General Plan update was adopted, included the provisions for adaptive re-use described below. In addition, the Housing Element through Program #4 (“Adaptive Reuse”) recognizes the concept of the adaptive re-use of historic structures. While the purpose of this program is to promote higher density housing as an adaptive re-use type, the program acknowledges that other forms of adaptive re-use “permitting uses not otherwise allowed through the base zone” are possible. In summary, there is a clear basis in the General Plan for the adaptive re-use provisions of the Development Code.

Use—Development Code: The property is zoned Medium Density Residential and it is also located within the Historic Overlay Zone. Normally, office and retail uses are not permitted in the R-M zone. However, pursuant to Section 19.42.020 of the Development Code (Adaptive Reuse of Historic Structures), limited nonresidential uses, including office and retail, are allowed on properties within the Historic Overlay Zone with a use permit, provided that the use is consistent with the intent of preserving existing historic structures and the historic context of the site. Structures eligible for adaptive reuse include officially designated structures and structures with potential historical value. (Note: in 2004, the Planning Commission approved a use permit under the adaptive re-use provisions allowing the property to be used as a vacation rental. In practice, however, the property is has been occupied as a single-family residence for the last several years.)

Adaptive Re-use—Required Findings: In order to approve the adaptive reuse of an historic structure, the Planning Commission had to make the following findings:

1. *Enhance, perpetuate, preserve, protect, and restore those historic districts, neighborhoods, sites, structures, and zoning districts which contribute to the aesthetic and cultural benefit of the City.*

The Vallejo-Castaneda adobe possesses considerable historic significance. The Planning Commission found that allowing an intensified use of the property through its conversion to office use would make it more likely that the building will be adequately preserved in the long-term.

2. *Stabilize and improve the economic value of historic districts, neighborhoods, sites, structures, and zoning districts.*

The Planning Commission found that the conversion of the residence to office use would stabilize and improve its economic value.

3. *Preserve diverse architectural design reflecting phases of the City's history, and encourage design styles and construction methods and materials that are compatible with the surrounding neighborhood(s).*

The Planning Commission found that the proposal for conversion of the residence to an office use would not entail any external alteration to the building. Internally, the existing floor plan and finishes would be retained.

4. *Promote and encourage continued private ownership and utilization of structures now so owned and used.*

The Planning Commission found that the conversion of the residence to office use would increase its economic value and would facilitate the utilization and preservation of the historic residence.

In summary, the Planning Commission determined that all of the required findings for an adaptive reuse could be made with respect to the application. (Note: the applicants provided additional analysis with respect to these findings, attached.) In order to uphold the Planning Commission's decision, the City Council must also make all of the required findings.

Parking: For office and retail uses (wine-tasting is considered to be a form of retail), the Development Code specifies a parking requirement of one space for every 300 square feet of building area. Based on the size of the residence and the existing guesthouse (which would be converted to office use), this ratio suggests a requirement for seven off-street parking spaces. Currently, the subject property features a detached one-to-two-car garage and a driveway apron. While this parking could be suitable for employees, is not well-suited for public parking and, in any event, does not meet the standards to be considered as such. In order to provide off-street parking in compliance with Development Code standards, the applicant proposed developing a seven-stall parking on the vacant Church Street lot. As discussed above, the lot would be screened with landscaping and a stucco wall designed to match existing walls on the residential property. It would also feature a gate that would be closed and lock during off-use hours. While the proposed parking lot would be sufficient to accommodate the conversion of the main residence and the guesthouse to office use, the applicants had proposed a small office area in the replacement structure. If that were to be implemented, the parking requirement would increase to eight spaces. Because they did not wish to approve any parking exception, the conditions of approval adopted by the Planning Commission prohibit any office use in the replacement structure.

Environmental Review

When it considered the application, the Planning Commission determined that it was exempt from environmental review. (Class 3: New Construction/Conversion of Small Structures).

Issues Raised in the Appeal

The basis for the appeal provided by the appellants reads as follows:

The Planning Commission has allowed a use permit for this project which presents a conflict with the General Plan and Housing Element. The General Plan includes the Housing Element to protect medium density residential neighborhoods from urbanization, to provide housing opportunity within commercial zones, and to reduce auto use and discourage heavy vehicle through traffic. Retail and office space is not allowable. No Variance may be allowed for land use. No hardship for lot or structure exists for re-adaptive use. The issue for this privately owned historical home is the sale; however no financial or personal situations are permitted. No private interest may be accommodated by rezoning a district to allow the land to be developed where before land use was prohibited by zoning.

With respect to the issues raised by the appellants, staff's views are as follows:

General Plan/Housing Element Conflict. The Housing Element is part of the General Plan. As discussed in the preceding section, because the concept of adaptive re-use is recognized in both the Community Development Element and the Housing Element, there is no internal conflict within the General Plan regarding that concept. The policies in the General Plan that refer to adaptive re-use identify the Development Code as the mechanism for setting forth the detailed requirements needed to implement it.

Retail and office space not allowable/No variance may be allowed for land use. The provisions of the Development Code that allow for consideration of adaptive re-use specifically identify retail and offices as being potentially allowable through that process. The type of permit that is used to authorize an adaptive re-use is a use permit, not a variance.

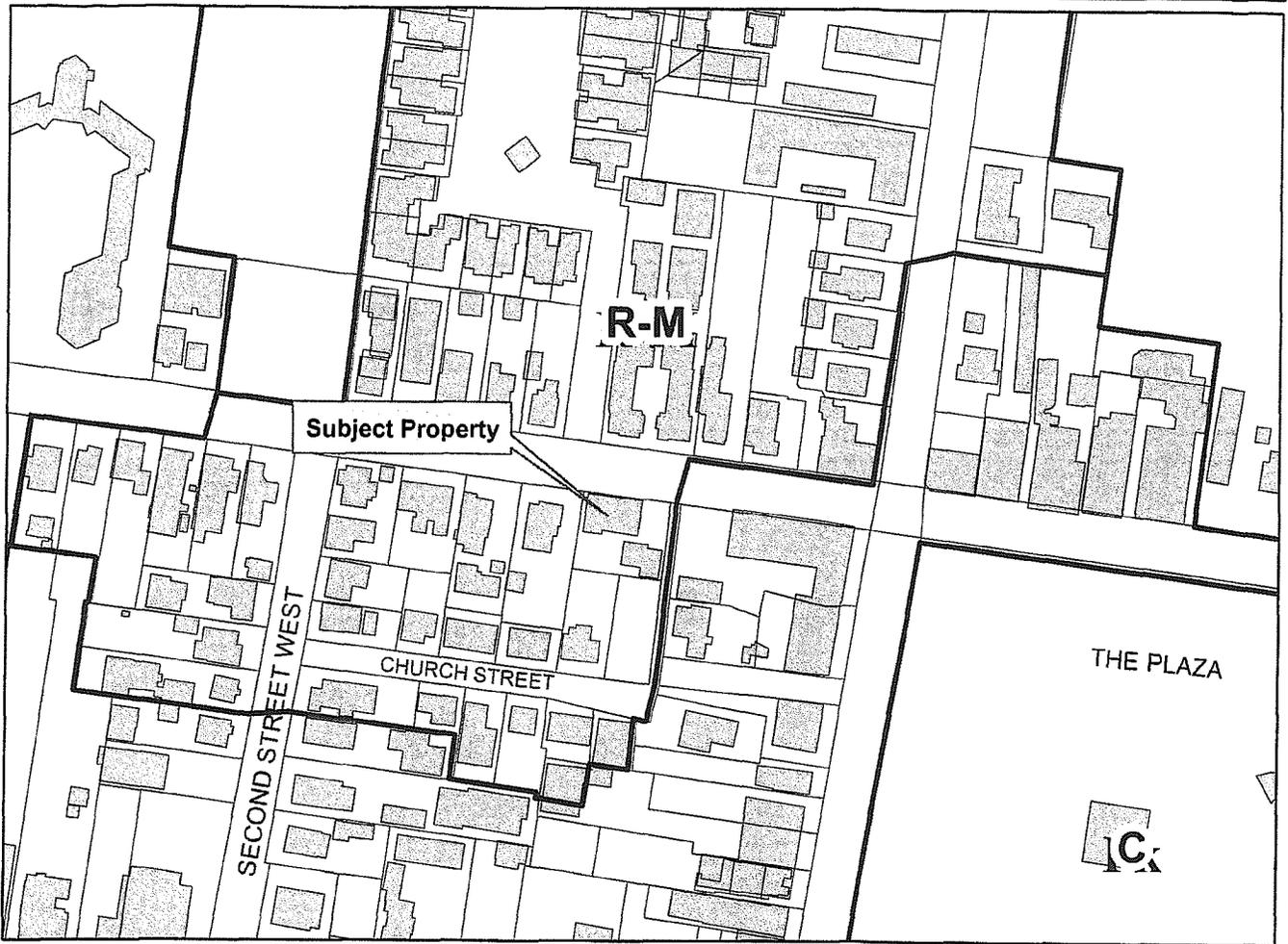
No hardship exists to support the approval of an adaptive re-use. The findings needed to approve an application for adaptive re-use do not require a demonstration of hardship.

Accommodation of private interest/Rezoning. The findings that the Planning Commission made in support of the application for adaptive reuse make no reference to the private circumstances of the current property owner or the applicant, nor were those circumstances an element of the Planning Commission's deliberations. The approval of a use permit authorizing an adaptive re-use does not constitute a rezoning.

Recommendation

Staff recommends that the City Council uphold the decision of the Planning Commission to approve a use permit allowing for the adaptive re-use of the subject property, thereby denying the appeal. Whatever decision the City Council ultimately chooses to make, staff will return with a resolution at a subsequent Council meeting, formalizing its direction.

Vicinity Map



Project Name: **Project Summary**
Three Sticks Winery Use Permit

Property Address: 143 West Spain Street

Applicant: Steve Martin Associates

Property Owner: Leslie and Robert Demler

General Plan Land Use: Medium Density Residential

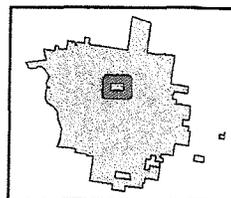
Zoning - Base: Medium Density Residential

Zoning - Overlay: Historic

Summary:
Consideration of a Use Permit to convert the residence to a wine tasting facility through the adaptive re-use provisions for historic structures in conjunction with a request to develop a parking lot on the adjacent property at 138 Church Street.

Zoning Designations

- R-HS Hillside Residential (1 D.U./10 acres, maximum)
- R-R Rural Residential (2 D.U./acre, maximum)
- R-L Low Density Residential (2-5 D.U./acre)
- R-S Sonoma Residential (3-8 D.U./acre)
- R-M Medium Density Residential (6-10 D.U./acre)
- R-H High Density (9-12 D.U./acre)
- R-O Housing Opportunity (15-20 D.U./acre)
- R-P Mobile Home Park (7 D.U./acre, maximum)
- MX Mixed Use (12 D.U./acre, maximum)
- C Commercial (15 D.U./acre, maximum)
- C-G Commercial-Gateway (15 D.U./acre, maximum)
- W Wine Production
- P Public Facility
- Pk Park
- A Agriculture



0 100 200 400 Feet

1 inch = 200 feet

City of Sonoma Appeal Application Form

RECEIVED
SEP 27 2012
TELETYPE
[Signature]

For City Use
Date Received _____
By _____

- A copy of the rights of appeal and the City's appeal procedures may be found on the reverse of this form
 - The fee to file an appeal is \$100.00 and must accompany this form
 - Appeals must be filed with the City Clerk within fifteen (15) calendar days of the action
 - Appeals must address issues raised or decisions made at previous hearings. Appeal hearings cannot be used as a forum to introduce new issues
 - In order for your appeal to be valid this form must be filled out completely.
- Feel free to attach additional sheets or supporting documentation as may be necessary.

APPELLANT INFORMATION: (Please Print)

Name: Cypress Apts / Philip Rosario Name: Cypress Apts / Lisa Valenti
 Address: 144 W SPAIN ST Address: 144 W SPAIN ST
 Phone: 707 938 7788 Phone: 707 938 7788

I/We the undersigned do hereby appeal the decision of the:

- Planning Commission Design Review Commission
 City Planner or Department Staff Other: _____

Regarding: Vallejo - Custanada Adobe
(Title of project or application)
 Located at: 1430 W SPAIN ST.
(Address)
 Made on: 9/13/2012
(Date decision was made)

I/We hereby declare that I/We are eligible to file an appeal because:
(Refer to Section 19.84.30-A, Eligibility, on the reverse)

We have responded in writing & in person as
representatives and residents

The facts of the case and basis for the appeal are:

Attachment #1

I/We request that the Appeal Body take the following specific action(s):

Attachment #2

Signed: *[Signature]* 9/27/2012
Signature Date
9.27.12 *[Signature]*
Signature Date

Attachment #1

The Planning Commission has allowed a use permit for this project which presents a conflict with the General Plan and Housing Element.

The General Plan includes the Housing Element to protect medium density residential neighborhoods from urbanization, to provide housing opportunity within commercial zones, and to reduce auto use and discourage heavy vehicle through traffic.

Retail and office space is not allowable.

No Variance may be allowed for land use.

No hardship for lot or structure exists for re-adaptive use

The issue for this privately owned historical home is the sale; however no financial or personal situations are permitted.

No private interest may be accommodated by rezoning a district to allow the land to be developed where before land use was prohibited by zoning.

Attachment #2

Please reverse the decision by the Planning Commission to allow the Use Permit for Three Stix Wine Co.

Thank you

LAW OFFICE
MICHAEL R. WOODS
A Professional Corporation
18880 CARRIGER ROAD
SONOMA, CALIFORNIA 95476-6246
(707) 996-1776
FACSIMILE
(707) 935-0523

Direct extension: 300
Email:mrwoods@mrwlawcorp.com

October 18, 2012

Bill Price
Three Sticks Wines
Price Family Vineyards
35 Patten Street
P. O. Box 1869
Sonoma, California 95476

Re: Three Sticks Wines/Price Family Vineyards –
Appeal of Use Permit Approval, 143 West Spain Street, Sonoma

Dear Bill:

On September 13, 2012, the Planning Commission of the City of Sonoma unanimously approved an application on behalf of Three Sticks Wines/Price Family Vineyards for a use permit under the City's Development Code ("Code") to allow the adaptive reuse of the historic Vallejo-Casteñada adobe at 143 West Spain Street, with associated parking on the adjacent parcel bordering Church Street to the south. An appeal has been filed which questions whether the approved use permit is consistent with the City's General Plan. In order to address that question, you asked me to review relevant General Plan provisions and respond.

In my view, the Planning Commission's approval of the use permit under the Code is consistent with the City's General Plan.

The approved use permit is consistent with numerous provisions of the General Plan. This list is not intended to be exhaustive, but provides examples of relevant provisions:

- In adopting the General Plan, the City Council stated its vision that Sonoma would be a place where: "The community's history and its role as a cultural center are enhanced through public art, special events, *and careful preservation of historic features.*" (Content and Purpose, p. 2.)¹
- "Sonoma should continue to be characterized by *variety in terms of land uses, building types, and housing, and this diversity should be consistent with preserving the town's small scale and historic character.*" (Community Development Element, p. 3.)

¹ All references are to the "2006-2020 General Plan Update" unless otherwise noted. Italics indicate emphasis added.

- “The City of Sonoma Development Code carries out the policies and implementation measures of the General Plan by classifying and regulating the use of land and structures in the city. Specifically, the Code contains standards and provisions to . . . [e]ncourage the use of land as designated by the General Plan Land Use Plan and ensure compatibility between neighboring land uses.” (Community Development Element, p. 18.)
- The General Plan observes that the Code also contains standards and provisions to: “*Protect historic buildings and sites, and carry the historic character of the Plaza and old Sonoma into the rest of the city through careful attention to urban design.*” (Community Development Element, p. 19.)
- Several other provisions of the General Plan’s Community Development Element directly support the Planning Commission’s approval:
 - “Reinforce the historic, small-town characteristics that give Sonoma its unique sense of place.” (Table CDE-5, Goal CD-5, p. 22.)
 - “Preserve and enhance the scale and heritage of the community without imposing rigid stylistic restrictions.” (Table CDE-5, Policy 5.1, p. 22.)
 - “*Preserve and continue to utilize historic buildings as much as feasible.*” (Table CDE-5, Policy 5.4, p. 22.)
 - “Encourage the designation and *preservation of local historic structures and landmarks, and protect cultural resources.*” (Table CDE-5, Policy 5.8, p. 23.)
 - “*Develop incentives for property owners to preserve historic resources.*” (Table CDE-5, Implementation Measure 5.8.1, p. 23.)

The Planning Commission’s approval of the use permit was consistent with each of these General Plan goals, policies and implementation measures. As specifically found by the Commission, this use permit encourages the preservation of the historic Vallejo-Casteñada adobe, which is in need of critical repairs in order to assure its continued viability as one of Sonoma’s oldest historic resources.

The Local Economy Element and the Circulation Element of the General Plan also support the Planning Commission’s approval of the use permit, as reflected in the following policies and implementation measures:

- “Ensure that city regulations do not unduly burden local business operation and development and provide incentives for business development.” (Table LE-3, Policy 1.6, p. 30.)

- "Update the [Code] . . . to streamline or reduce regulation of business where feasible, in a manner consistent with other City policies." (Table LE-3, Implementation Measure 1.6.1, p. 30.)
- "*Preserve and enhance the historic Plaza area as a unique, retail-oriented commercial and cultural center that attracts both residents and visitors.*" (Table LE-3, Policy 1.8, p. 30.)
- "Improve parking availability and traffic and pedestrian circulation around the Plaza area while maintaining the historic, small-town character of the area." (Table CE-5, Policy 3.10, p. 53.)

Approval of this use permit supports a local business enterprise, helps preserve the historic Plaza area and adds parking in the vicinity of the Plaza.

Contrary to the position taken in the appeal, the Housing Element of the General Plan specifically authorizes adaptive reuse as approved by the Planning Commission. Under the Housing Element, Sonoma "*encourages the adaptive reuse of historic structures, permitting uses not otherwise allowed through the base zone as well as allowing for increased residential densities.*" (Housing Element, p. 37.) The Housing Element specifically acknowledges Sonoma's "successful adaptive reuse ordinance." (Housing Element, p. 37.)

Thus, the Housing Element of the General Plan calls out and specifically supports the Planning Commission's adoption of findings and approval of a use permit under Code Chapter 19.42 to authorize the adaptive reuse of an historic structure, such as the Vallejo-Casteñada adobe. Upholding the Planning Commission's approval will help the city safeguard the historic character of Sonoma by preserving historic buildings, which is one of the key purposes of adaptive reuse (Code, Section 19.42.010).

In furtherance of the referenced General Plan provisions, adaptive reuse within the Historic Overlay district is allowed for an "eligible structure" (Code, Section 19.42.020). Eligibility of this structure is not in question, since it is on the League for Historic Preservation's inventory of historic structures, has been identified as a contributing building to the Plaza National Landmark District, and is eligible for listing on the California Register of Historic Resources. The application approved by the Commission and before the Council on appeal falls within the enumerated non-residential uses specifically allowed for adaptive reuse, including professional offices and wine tasting facilities (Code, Section 19.42.020.B.2, subsections (e) and (g)).

The Three Sticks use permit would retain the residential character, scale and style of the historic adobe (Code, Section 19.42.020.C). While no exterior modifications to the adobe itself are proposed, reconstruction of the garage and the addition of a wall along the alley and around the adjacent parking are all compatible in design with the adobe itself. The provision of suitable parking on the adjoining lot meets the requirements of the Code (at Section 19.42.020.D). The parking configuration would avoid any conflict

with and enhance the existing improvements on the adobe parcel, and would be screened and gated to avoid any conflict with other land uses in the vicinity. Parking as provided under the approved use permit would support the General Plan's circulation element concerning the addition of parking in the vicinity of the historic Plaza area.

The Planning Commission made each of the four findings required to authorize the adaptive reuse of an historic structure (Code, Section 19.42.020.E), and its judgment in that regard has not been questioned on appeal. Each such finding is discussed briefly below:

1. *Enhance, perpetuate, preserve, protect, and restore those historic districts, neighborhoods, sites, structures, and zoning districts which contribute to the aesthetic and cultural benefit of the city.*

The historic nature of the Vallejo-Casteñada adobe and its contribution to the aesthetic and cultural benefit of the city are well documented in the staff report and elsewhere. It is an original contributor to the Sonoma Plaza National Historic Landmark District. It is also one of the oldest buildings in Sonoma, constructed circa 1842.

However, this valued community asset is in need of immediate attention in order to be perpetuated, preserved and protected. On August 6, 2012, at the request of Three Sticks, Garavaglia Architecture issued a report on its inspection of the property. While generally complementing the outstanding condition of the adobe and the care taken by its owners present and past, the report raised several issues that require attention. For example, the report noted that water is the primary reason for the failure of an adobe and suggested maintenance activity for the west exterior wall in order to address weathering of the wood elements. The inspection revealed minor paint bubbling on the exterior of one north-facing window. As to maintenance overall, the report called for *immediate* repair of exterior finishes; regular inspections of the site drainage system; paint maintenance; and roof replacement in-kind. As stated in the report, "roof maintenance is one of the key activities to protect adobe structures from damage. The existing roof is worn and shingles are starting to warp."

Three Sticks has indicated its willingness to take the necessary steps to perpetuate, preserve and protect this historic property. It has also indicated its commitment to making available the necessary financial resources. There is ample evidence in the record to support this required finding.

2. *Stabilize and improve the economic value of historic districts, neighborhoods, sites, structures, and zoning districts.*

The discussion above is equally applicable to this finding. In addition, as indicated in the staff report for the Planning Commission, the conversion of the residence to an office use would increase its economic value. I understand that Three Sticks would be acquiring this property as a long-term owner and occupant, and so is not focused on short-term profit from increased economic value of the property. However, the ability to adaptively reuse the property for Three Sticks' intended purposes is the driving force

behind the financial investment that will be necessary to maintain the property, and thus also improve the economic value of the district and neighborhood in general.

3. *Preserve diverse architectural design reflecting phases of the city's history, and encourage design styles and construction methods and materials that are compatible with the surrounding neighborhood(s).*

The adobe is one of the oldest buildings in Sonoma and thus reflects a distinct phase of the city's history. No modifications are proposed to the exterior of the building. The addition of a wall and reconstruction of the deteriorated garage have been designed by Three Sticks' architects to incorporate and reflect the characteristics of the existing structures, and to be consistent with the city's guidelines for preservation and adaptive reuse to the extent applicable (Code, Sections 19.42.030). Approval of the application would further the preservation of one of the city's diverse architectural designs, and encourage design styles and construction methods and materials compatible with both the existing structures and the surrounding neighborhood.

4. *Promote and encourage continued private ownership and utilization of structures now so owned and used.*

The property is currently in private ownership, and would remain in private ownership with the approval of this application. This project is privately funded and involves no use of public funds.

The Planning Commission made the necessary findings for the adaptive reuse of this very same property in a previous proceeding. As pointed out in the staff report for its August 9, 2012, meeting, the Planning Commission approved a use permit in 2004 under the adaptive reuse provisions of the Code to allow the property to be used as a vacation rental. The Commission's previous findings in 2004 provide further support for upholding its decision here.

The record for this application, as discussed above and as further elaborated in the staff report, contains substantial factual support and evidence to enable the City Council to determine that the application is consistent with the City's General Plan and to thus uphold the Planning Commission's approval of this conditional use permit.

Please let me know if I can be of any further assistance.

Very truly yours,



Michael R. Woods

MRW:m

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**CITY OF SONOMA
PLANNING COMMISSION
REGULAR MEETING OF
Community Meeting Room, 177 First Street West
September 13, 2012**

I hereby declare under penalty of perjury that the agenda for this meeting was posted on Friday, September 7, 2012, on the bulletin board outside the front of Sonoma City Hall, No.1 The Plaza, Sonoma, California. Chair Felder called the meeting to order at 6:30 p.m. in the Community Meeting Room, 177 First Street West.

Roll Call:

Present:	Chair Felder, Comms. Willers, George, Roberson, Henevald, Tippell
Absent: Chair	Comm. Howarth
Others	Planning Director Goodison, Associate Planner Atkins, Administrative
Present:	Assistant Morris

Chair Felder stated that no new items would be heard after 10:30 p.m. unless the Planning Commission so decides. Any decisions made tonight can be appealed within 15 days to the City Council. He reminded everyone to turn off cell phones and pagers. Comm. Henevald led the Pledge of Allegiance.

COMMENTS FROM THE PUBLIC: NONE

APPROVAL OF MINUTES: Comm. Edwards made a motion to approve the minutes of August 9, 2012. Comm. Roberson seconded. The motion was unanimously approved.

CORRESPONDENCE/CHANGES TO AGENDA ORDER:

No late correspondence was received.

Item #4, (344 Napa Road) was continued to a future meeting and will be renoticed; item #5 (524 Broadway) was withdrawn at the request of the applicant; item #7 (463 Second Street East) was withdrawn at the request of the applicant.

Item #1 – Public Hearing – Continued consideration of a Use Permit allowing the adaptive re-use of a single-family residence as an office with a limited wine tasting component, including consideration of an off-street parking lot and associated landscaping at 143 West Spain Street and 138 Church Street.

Applicant/Property Owner: Three Sticks Wine Company/Price Family Vineyards

Planning Director Goodison presented staff's report.

Comm. Tippell asked whether the use of the parking lot was restricted in the conditions of approval.

Planning Director Goodison stated that while it seemed logical that it would be used primarily by employees, the conditions did not limit it to employee parking.

Comm. George noted that in 2004 an adaptive reuse allowing the property to be used as a vacation rental had been approved. He confirmed that this use permit, if approved, would replace the prior vacation rental permit.

Chair Felder opened the public hearing.

Bill Price, owner of Three Sticks Winery, stated that they had consulted further with neighbors and he believes that there is general support for the project. He expressed the view that the proposed use would not be a significant change in intensity from a residential home and preserving the character of the building is very important. The revised plan would improve the appearance of the alley by creating a landscaped buffer. They hired a local attorney to examine the applicable rules who concluded they have met all the elements for an adaptive re-use. He sees an overall improvement of the property with the revised plan.

Robert Demler, owner, appreciates everyone's attention to this matter, He perceives this process as being more emotional for him rather than as a purely objective business transaction. He thanked staff for their efforts and feels that all the code requirements have been met. He thanked the Sonoma League for Historic Preservation for acknowledging his restoration of the adobe and is of the opinion that it will continue to be preserved with the change in ownership. He asked for the approval of the Three Stick Winery use and stated that the comments received from the Planning Commission and the neighbors were constructive and have led to a better proposal.

Chair Felder closed the public hearing.

Comm. Henevald confirmed that no special events are being proposed in the application.

Comm. Willers stated that the redesigned parking area was a big improvement that relates well to the residence and enhances the appearance of the alley. He suggested that the applicants consider inseting the driveway entrance.

Comm. Roberson concurs that replacing the garage, as called for in alternative #1, would be an improvement. However, he is concerned that an additional parking space would be required. He also asked about the remainder area of the vacant lot.

Planning Director Goodison stated that no additional parking would be needed if the replacement building is limited to storage and a restroom. He noted that the conditions of approval require the remainder area of the vacant lot to be landscaped.

Comm. George asked whether the economics of the project was an appropriate point of consideration in an application for adaptive re-use.

Planning Director Goodison says in comparing the current use to the proposed use, economics is relevant with respect to the issue of ensuring the continued preservation of the structure that is proposed for the adaptive re-use.

Chair Felder stated that he favored demolition of the existing garage and the extension of the planter strip along the alley, as that would dramatically improve the area. He stated that he was, however, not in favor.

Comm. Edwards made a motion to approve the project, subject to the additional condition that office uses shall not be allowed in the replacement structure. Comm. Willers seconded. The motion was unanimously approved, 7-0. (Comm. Howarth absent.)

Item #2 – Public Hearing – Consideration of an ordinance effecting comprehensive changes to the City of Sonoma’s animal control regulations, including changes to Title 8 of the Sonoma Municipal Code.

Applicant/Property Owner: City of Sonoma

Police Chief Sackett presented staff’s report.

Planning Director Goodison noted that the ordinance only changes Title 8, not Title 19 (the Development Code). However, because the changes do make reference to zoning designations, the ordinance is subject to Planning Commission review.

Comm. Henevald confirmed that, with respect to the Plaza, dogs are allowed on the perimeter sidewalk but excluded from the lawn area of the Plaza park.

Comm. George says that the ordinance appears to prohibit the keeping of horses and goats, even on a temporary basis as might occur with keeping vegetation down.

Chief Sackett stated that, in this area, the revised ordinance retains the existing provisions of the Municipal Code.

Chair Felder opened the public hearing.

Bob Edwards, President of the Sonoma Valley Dog Association, thanked the Police Chief for his efforts in re-shaping the ordinance with respect to the provisions pertaining to dogs. He stated that the Police Department says there is not a vicious dog problem in Sonoma and it should remain dog friendly.

Chair Felder closed the public hearing.

Comm. Roberson asked about the Castagnasso property on Second Street East. Mr. Goodison stated that as an existing farm, horses may continue to be kept there.

Comm. Tippell made a motion to forward the draft ordinance to the City Council with a recommendation for approval. Comm. Edwards seconded. The motion was approved 6-1. Comm. George dissenting. (Comm. Howarth absent.)

Item #3- Public Hearing- Application for a Use Permit allowing a formula restaurant on a commercial property (Peet’s Coffee & Tea) at 591 Broadway.

Applicant/Property Owner: Chris Koneeny/ Henry Mayo

Associate Planner Atkins presented staff’s report.

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City of Sonoma Planning Commission
CONDITIONS OF APPROVAL
Three Sticks Wines--Use Permit for Adaptive Re-Use
143 West Spain Street
September 13, 2012

1. The office use shall operate in conformance with the project narrative and site plan as set forth in the staff report dated September 13, 2012, except as modified by these conditions and the following:
 - a. Public hours for all use components shall be limited 8 a.m. to 6 p.m. Monday through Friday and from 9:00 a.m. to 3:00 p.m. on Saturdays, except as modified below.
 - b. The primary use of the structure shall be as an administrative office.
 - c. As a secondary use, not to exceed 35% of the building area, wine-tasting shall be allowed within the approved business hours of operation. Wine-tasting shall be limited to groups not to exceed eight persons and shall be by appointment only. Wine-tasting shall be limited to 11 a.m. to 5 p.m. Monday through Friday and from 11:00 a.m. to 3:00 p.m. on Saturdays.
 - d. Retail sales to the general public are prohibited.
 - e. The parking lot on the vacant parcel, as shown on the site plan, shall be gated and the gate shall be closed and locked during hours when the business is closed.
 - f. Food preparation shall not be allowed on the property and food service shall occur only in conjunction with the wine-tasting activity and shall be limited to small, pre-prepared items such as breads and cheeses.
 - g. The alternative site plan, dated 9/4/12, in which the existing garage is retained, is authorized. However, the site plan providing for the demolition of the garage (also dated 9/4/12) is preferred.
 - h. If the preferred site plan is implanted, the new storage building, no office use shall be allowed in the new storage building.
 - i. The area south of the parking lot on the Church Street parcel shall be landscaped and/or used as a garden until such time as an alternative use may be authorized.

Enforcement Responsibility: *Planning Department*
Timing: *Ongoing*

2. The applicant shall obtain any necessary permits and/or clearances from the Sonoma County Health Department and the State Department of Alcoholic Beverage Control for the wine-tasting component of the use. Food/beverage preparation and service shall conform to the limitations of the permit.

Enforcement Responsibility: *Planning Division; Sonoma County Health Dept.*
Timing: *Prior to occupancy; Ongoing*

3. The applicant shall comply with the following requirements of the Sanitation Division of Sonoma County Permit & Resource Management Department (PRMD) and the Sonoma County Water Agency (SCWA):
 - a. The applicant shall submit a Wastewater Discharge Survey to PRMD. The Applicant shall obtain a **Survey for Commercial/Industrial Wastewater Discharge Requirements** ("Green form") from PRMD, and shall submit the completed Survey, along with two (2) copies of the project site plan, floor plan and plumbing plan to the Sanitation Section of PRMD. The Survey evaluation must be completed by the Sonoma County Water Agency and submitted to the PRMD Engineering Division before a building permit for the retail expansion can be approved.
 - b. If additional sewer pre-treatment and/or monitoring facilities (i.e. Grease trap, Sampling Manhole, etc.) are required by the Sonoma Valley County Sanitation District per this Survey, the Applicant shall comply with the terms and requirements of the Survey prior to commencing any food service. If required, the Sampling Manhole shall be constructed in accordance with Sonoma County Water Agency *Design and Construction*

Standards for Sanitation Facilities, and shall be constructed under a separate permit issued by the Engineering Division of PRMD.

- c. In accordance with Section 5.05, "Alteration of Use", of the Sonoma Valley County Sanitation District Ordinances, the Applicant shall pay increased sewer use fees for conversion of the existing single-family dwelling to a winery administration and wine tasting facility. The square footage of the existing dwelling shall be converted to "office space" by a factor of 0.26 ESD (Equivalent Single-family Dwelling billing unit) per 1,000 square feet. The increased sewer use fees shall be paid the Engineering Division of PRMD prior to the commencement of the winery administration and wine tasting facility operations.
- d. A sewer clearance shall be provided to the City of Sonoma Building Department verifying that all applicable sewer fees have been paid prior to the issuance of any building permit. **Note: Substantial fees may apply for new sewer connections and/or the use of additional ESDs from an existing sewer connection. The applicant is encouraged to check with the Sonoma County Water Agency immediately to determine whether such fees apply.**

Enforcement Responsibility: Sanitation Division of Sonoma County Planning & Management Resource Department; Sonoma County Water Agency/City of Sonoma Building Department

Timing: Prior to issuance of a building permit

4. The Applicant shall pay any required increased water fees in accordance with the latest adopted rate schedule. The existing water meter and connection to the City water main shall be upgraded to current standards and appropriate size as deemed necessary, with payment of applicable fees. A dedicated irrigation meter/line shall also be provided.

Enforcement Responsibility: Public Works Department; Water Operations Supervisor; City Engineer

Timing: Prior to issuance of the Encroachment Permit and commencement of construction

5. All Fire Department requirements shall be met, including the provision of a fire sprinkler system throughout the structure if the total building permit valuation of all work within the structure exceeds \$100,000 over any three-year period. If sprinklers are required, a separate fire service water line/connection with approved backflow prevention device shall also be required in accordance with City standards, subject to review and approval by the Fire Chief and City Engineer.

Enforcement Responsibility: Fire Department; Building Department

Timing: Prior to issuance of a building permit

6. All Building Code requirements shall be met, including accessibility requirements. A building permit shall be required for any necessary tenant improvements associated with the change in use. The applicant shall contact the Building Department regarding permit requirements.

Enforcement Responsibility: Fire Department; Building Department

Timing: Prior issuance of a building permit

7. The design details of the screening walls, the screening landscaping, and the replacement structure (if implemented), and any exterior changes to the residence shall be subject to the review of the Design Review Commission (DRC). Proposed signs shall be subject to DRC review or staff review, as applicable.

Enforcement Responsibility: Planning Department; DRC

Timing: Prior to installation of signage or exterior alterations to the building

8. If new exterior lighting is proposed, it shall be addressed through a lighting plan, subject to the review and approval of the Design Review Commission (DRC). All proposed exterior lighting for the building and/or site shall be indicated on the lighting plan and specifications for light fixtures shall be included. The lighting shall conform to the standards and guidelines contained under Section 19.40.030 of the Development Code (Exterior Lighting). No light or glare shall be directed toward, or allowed to spill onto any offsite areas. All exterior light

fixtures shall be shielded to avoid glare onto neighboring properties, and shall be the minimum necessary for site safety and security. Light standards shall not exceed a maximum height of 15 feet.

Enforcement Responsibility: Planning Department; DRC
Timing: Prior to issuance of an occupancy permit

9. Damaged portions of the curb, gutter and sidewalk along the West Spain Street frontage of the property shall be repaired or replaced as deemed necessary by the Streets Supervisor and/or City Engineer. An encroachment permit shall be required for all work within the public right of way, including the installation of a driveway cut to serve the parking lot.

Enforcement Responsibility: Streets Supervisor; City Engineer; Public Works Department
Timing: Prior to issuance of an occupancy permit

10. The addition to those already identified, the following agencies must be contacted by the applicant to determine permit or other regulatory requirements of the agency prior to issuance of a building permit, including the payment of applicable fees:

- a. Sonoma Valley Unified School District [For school impact fees].

Enforcement Responsibility: Building Department; Public Works Department
Timing: Prior to issuance of a building permit

11. The applicant shall work with the City of Sonoma and the Sonoma League for Historic Preservation to develop a protocol to allow periodic public access to the historic building.

Enforcement Responsibility: Planning Department
Timing: Prior to issuance of an occupancy permit

12. Bicycle parking shall be provided.

Enforcement Responsibility: Planning Department
Timing: Prior to issuance of an occupancy permit

13. The commercial use of the parcel located at 143 West Spain Street, as allowed for under this Use Permit for Adaptive Re-use, is contingent upon the provision of and on-going access to the off-street parking on the property at 138 Church Street, as shown on the approved site plan. Should the property at 138 Church Street be sold or transferred to a different ownership without the recordation of an easement, subject to the prior review and approval of the City Engineer, that secures the continued use of the approved off-street parking on a permanent basis, the commercial use shall immediately cease.

Enforcement Responsibility: Planning Department
Timing: On-going

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Three Sticks Wines/Price Family Vineyards

Proposed Adaptive Reuse

143 West Spain Street

Sonoma, California

Project Narrative – Updated from the August 9th Meeting:

(This document replaces the previous Project Narrative submitted in August.)

Three Sticks Wines and Price Family Vineyards, based in Sonoma since 1997, greatly appreciated the City of Sonoma Planning Commission's consideration of our application for a conditional use permit at its meeting of August 9, 2012 and for taking up this issue at the upcoming meeting of September 13, 2012. We also value and have carefully considered the comments of other members of our community concerning the project.

During this 'continuation' period, we have provided Planning staff with revised site plans (discussed further below) in our earnest effort to address various concerns. This revised Project Narrative is intended to describe the project as proposed. For convenience, we indicate below where a section of the previous narrative submitted for the August 9 meeting has not changed.

We propose to make use of the Vallejo-Casteñada Adobe: a historical residence located at 143 West Spain Street, Sonoma, for professional offices and limited non-public wine tasting. We intend to relocate our administrative offices to the property and use the existing dining room and living room to host occasional private tastings for our winery's clientele as well as to provide a space for displaying items of local historical interest on both a permanent and rotating basis. The property is currently zoned R-M, Residential Medium Density.

We are pleased to present our application for a conditional use permit to authorize the adaptive reuse of the property.

One of the questions raised at the August 9th meeting was whether the Planning Commission was able to make the necessary findings to approve adaptive reuse in these circumstances. In order to address this question, we engaged Michael Woods, an attorney, and we attach his letter analyzing the City's Development Code provisions for adaptive reuse as applied to this project.

About Three Sticks Wines *(This section has not changed from the August meeting)*

Bill Price is the owner and innovator of Three Sticks Wines and Price Family Vineyards. He purchased the Durell Vineyard in 1997 with the intention of honoring Ed Durell's legacy and elevating his vision to the next level. Bill has enhanced this already superb vineyard by assembling a team of partners that strive

toward the same goals: quality, expression and authenticity. Their collective efforts have brought Durell increased attention and great recognition over the years including being acknowledged for having five of *Wine Spectator's* best chardonnays in California (July Issue).

In 2002 Bill sought to produce small lots of wine from this property and thus created Three Sticks. Together with original Vineyard Manager Steve Hill, present Vineyard Manager Rob Harris, esteemed winemaker Don Van Staaveren and dedicated C.O.O. Prema Behan, Bill has built a focused and truly special winery. We believe the adobe is the perfect home for our business and will truly thrive with our careful attention.

Three Sticks Wines, based in Sonoma since 2002, has roots in the city; it is home to most of our team. Please see our website for more extensive introductions of our team members: <http://www.threestickswines.com/Story/Our-People>. We value Sonoma's unique heritage and cultural relevance and understand its historical significance for the County and the state of California.

Recently rated by *Wine Spectator* (July issue) as one of California's top 30 Chardonnay producers, Three Sticks is a boutique winery that creates three high-end, top-rated varietals, available for purchase at a few select retail outlets, in fine dining restaurants and through our private allocation list. Currently, we produce 2,000 cases of wine each year with plans to increase production to a maximum of 5,000 by 2015. Our business plan has always been to be small and precious, just as we see the Vallejo-Casteñada adobe.

Our Proposal for the Property (Revised)

At 143 West Spain Street, we would conduct the day-to-day administrative activities for the winery and vineyards as well as provide daytime tastings for our allocation members. Such tastings would generally be no more than two a day, Monday through Friday, during regular business hours for small groups. Our hours of operation are regularly Monday through Friday from 8 to 5 with occasional office use before or after hours when employees work overtime to finish administrative tasks. We would like to occasionally host Saturday visits from guests who only travel to Sonoma on the weekends. Our tasting visits would be available by appointment only, as opposed to a drop-in, public tasting room that would increase traffic from the Plaza. In fact, Three Sticks Wines does not produce the volume of wine necessary to support a public tasting business. Rather, our intention is to provide our clientele an opportunity to enjoy our award-winning wine in the beautiful, intimate, history-steeped environment that the Vallejo-Casteñada Adobe affords.

To support the commercial use of the structure, we would propose new off-street parking on the adjacent lot that is under the same ownership. This will be the designated use of this otherwise valuable lot so that we can contribute to and even alleviate parking congestion in the city and surrounding neighborhood. We heard the concerns and interest of neighbors and the Planning Commission with regard to the proposed parking lot at our initial meeting on August 9th and have thus thought through the ways in which we could satisfactorily address these concerns and hopefully exceed expectations with regard to this very sensitive issue.

There are currently two plans for submission. One plan includes the reconstruction of the existing garage (which is currently in need of repair). This plan was initially designed to address what we thought was an encroachment of the existing garage onto the city-owned alleyway. Upon further research via a field survey the garage does not encroach onto the alleyway but does encroach on the required set-back area.

However, the new revised plan provides for an elegant wall along the alleyway, designed to be consistent with the existing structures and to seamlessly tie in with walled parking proposed for the rear lot. This plan has been submitted to the Sonoma League for Historic Preservation for review consistent with the existing Historic Easement on the property. As an alternative to this plan the other plan excludes changes to the current outbuilding and structures on the property (garage and wall work) and reflects just the enhancements to the vacant lot (not subject to the Historic Easement) that addresses the parking.

We took very seriously Deanna Felder's concerns about a parking "lot" that would create an eye-sore for her and other neighbors and potentially attract late-night revelers from nearby bars. We have therefore designed a parking area that is aesthetically pleasing, enhances the existing vacant lot and that would have plenty of security to deter vagrants (including a wall, a hedge, surrounding landscaping, a gate, and a security system). The area would also be aesthetically appropriate to achieve consistency with the historic look and feel of the adobe and its existing walls. The two site plans have identical changes to the back parcel.

Our firm has a strong commitment to sustainability; both our winery and vineyards are in the final stages of sustainability certification. We plan to add an electric car charging station to the proposed parking area to encourage low impact commuting and an underground water storage tank (beneath the parking area) that would use rainwater recapture for irrigation. We will also be sure to add sufficient bicycle parking as required by the city and to encourage local members and employees to visit or commute without using their vehicles. We look forward to any further enhancements in the way of energy and resource efficiency that we can bring to the property.

Preserving the Vallejo-Casteñada Adobe *(This section has not changed from the August meeting)*

While seeking out a new space for our company's offices, we conducted an extensive search of private residences and commercial sites in Sonoma. We feel we have found our home on West Spain Street. While we hope to conduct our operations here, our respect and reverence for this property extend well beyond our business interests. We are deeply committed to preserving the legacy that is Vallejo-Casteñada Adobe.

To this end, we have asked Mr. Robert Demler, the home's owner, to serve as Advisory Chairman for the home. In addition to his role as the Vice President and Board Member of the Sonoma League for Historic Preservation, he has a very personal investment in the home where he and his family resided for nearly 20 years. Recognizing our passion for the home and genuine commitment to its preservation, he accepted our company's proposal for purchasing the property.

Mr. and Mrs. Demler know and are pleased that we bring the financial resources to fund necessary repairs and improvements; more importantly, they understand we will take great pains to ensure any such work preserves the home's historical integrity. Such integrity is part and parcel to our company's culture. We are tireless in our efforts to create exceptional wines, deliberately limiting our focus to three varietals. This focus on "quality versus quantity" has helped us to achieve tremendous recognition among clients, the industry and our peers. We would apply these same principles of care and precision to our upkeep of the Spain Street home.

The Home's Historical Significance *(This section has not changed from the August meeting)*

We know that, at its heart, this home belongs to Sonoma. Its breathtaking beauty and historical relevance belong to the people of this county. In addition to our wine interests, we will take special care to preserve the home. In fact, our vision for the property includes offering the home for tours to visitors, residents, students, and others who may be interested in Sonoma's rich history. The Demlers have been wonderful stewards of the Vallejo-Casteñada Adobe for so long and they have expressed their appreciation and support for our plans that are based on our sensitivity to the historic fabric of the house and our willingness to continue sharing it with Sonoma as they have.

Thank you in advance for your consideration of our proposal. We welcome discussion of the project and look forward to hearing your feedback. We share your passion for the city of Sonoma and interest in protecting its legacy and hope to work in partnership to preserve the Vallejo-Casteñada Adobe, and we respectfully request your approval.

For questions please call me at 707-996-3328 ext. 101.

Signed: _____



Prema Behan

COO/Three Sticks Wines

Date: _____

9/6/12

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September 6, 2012

Bill Price
Three Sticks Wines
Price Family Vineyards
35 Patten Street
P. O. Box 1869
Sonoma, California 95476

Re: Three Sticks Wines/Price Family Vineyards –
Application for a Use Permit, 143 Spain Street, Sonoma

Dear Bill:

On August 9, 2012, the Planning Commission of the City of Sonoma considered an application on behalf of Three Sticks Wines/Price Family Vineyards for a use permit to allow the adaptive reuse of the historic Vallejo-Casteñada adobe at 143 Spain Street, with associated parking on the adjacent parcel bordering Church Street to the south. I understand that a question was raised concerning whether the project qualified under the provisions of the city's Development Code ("Code") for adaptive reuse. In order to address that question, you asked me to review the relevant Code provisions and respond.

In my view, there is ample support for the Planning Commission to make the necessary findings to approve the adaptive reuse of this historic structure, as provided in Section 19.42.020 of the Code. Approval of the Three Sticks application for adaptive reuse will help the city safeguard the historic character of Sonoma by preserving historic buildings, which is one of the key purposes of adaptive reuse (Code, Section 19.42.010).

Adaptive reuse within the Historic Overlay district is allowed for an "eligible structure" (Code, Section 19.42.020). Eligibility of this structure is not in question, since it is on the League for Historic Preservation's inventory of historic structures, has been identified as a contributing building to the Plaza National Landmark District, and is eligible for listing on the California Register of Historic Resources. The application before the Commission falls within the enumerated non-residential uses specifically allowed for adaptive reuse, including professional offices and wine tasting facilities (Code, Section 19.42.020.B.2, subsections (e) and (g)).

The Three Sticks proposal would retain the residential character, scale and style of the historic adobe, as would any other improvements under consideration (Code, Section 19.42.020.C). While no exterior modifications to the adobe itself are proposed, possible reconstruction of the garage and the addition of a wall along the alley and around the

adjacent parking are all compatible in design with the adobe itself. The provision of suitable parking on the adjoining lot meets the requirements of the Code (at Section 19.42.020.D). The parking configuration would avoid any conflict with and enhance the existing improvements on the adobe parcel, and would be screened and gated to avoid any conflict with other land uses in the vicinity.

The Code requires that four findings be made in order to approve adaptive reuse of an historic structure (Code, Section 19.42.020.E), and one additional finding in the case of adaptive reuse as a vacation rental (not relevant for the current application).

1. *Enhance, perpetuate, preserve, protect, and restore those historic districts, neighborhoods, sites, structures, and zoning districts which contribute to the aesthetic and cultural benefit of the city.*

The historic nature of the Vallejo-Casteñada adobe and its contribution to the aesthetic and cultural benefit of the city are well documented in the staff report and elsewhere. It is an original contributor to the Sonoma Plaza National Historic Landmark District. It is also one of the oldest buildings in Sonoma, constructed circa 1842.

However, this valued community asset is in need of immediate attention in order to be perpetuated, preserved and protected. On August 6, 2012, at the request of Three Sticks, Garavaglia Architecture issued a report on its inspection of the property. While generally complementing the outstanding condition of the adobe and the care taken by its owners present and past, the report raised several issues that require attention. For example, the report noted that water is the primary reason for the failure of an adobe and suggested maintenance activity for the west exterior wall in order to address weathering of the wood elements. The inspection revealed minor paint bubbling on the exterior of one north-facing window. As to maintenance overall, the report called for *immediate* repair of exterior finishes; regular inspections of the site drainage system; paint maintenance; and roof replacement in-kind. As stated in the report, "roof maintenance is one of the key activities to protect adobe structures from damage. The existing roof is worn and shingles are starting to warp."

Three Sticks has indicated its willingness to take the necessary steps to perpetuate, preserve and protect this historic property. It has also indicated its commitment to making available the necessary financial resources. There is ample support for the Commission to make this required finding.

2. *Stabilize and improve the economic value of historic districts, neighborhoods, sites, structures, and zoning districts.*

The discussion above is equally applicable to this finding. In addition, as indicated in the staff report for the August 9 meeting, the conversion of the residence to an office use would increase its economic value. I understand that Three Sticks would be acquiring this property as a long-term owner and occupant, and so is not focused on short-term profit from increased economic value of the property. However, the ability to adaptively reuse the property for Three Sticks' intended purposes is the driving force behind the

Bill Price
Three Sticks Wines
Price Family Vineyards
September 6, 2012
Page 3 of 3

financial investment that will be necessary to maintain the property, and thus also improve the economic value of the district and neighborhood in general.

3. *Preserve diverse architectural design reflecting phases of the city's history, and encourage design styles and construction methods and materials that are compatible with the surrounding neighborhood(s).*

The adobe is one of the oldest buildings in Sonoma and thus reflects a distinct phase of the city's history. No modifications are proposed to the exterior of the building. The addition of a wall and reconstruction of the deteriorated garage have been designed by your architects to incorporate and reflect the characteristics of the existing structures, and to be consistent with the city's guidelines for preservation and adaptive reuse to the extent applicable (Code, Sections 19.42.030). Approval of the application would further the preservation of one of the city's diverse architectural designs, and encourage design styles and construction methods and materials compatible with both the existing structures and the surrounding neighborhood.

4. *Promote and encourage continued private ownership and utilization of structures now so owned and used.*

The property is currently in private ownership, and would remain in private ownership with the approval of this application. This project is privately funded and involves no use of public funds.

It is noteworthy that the Commission has already made the necessary findings for the adaptive reuse of this very same property in a previous proceeding. As pointed out in the staff report for the August 9 meeting, the Planning Commission approved a use permit in 2004 under the adaptive reuse provisions of the Code to allow the property to be used as a vacation rental. The Commission's previous findings in 2004 are equally applicable here and provide further support for approval of the Three Sticks application.

The record for this application, as discussed above and as further elaborated in the Planning Director's report, contains substantial factual support and evidence to enable the Planning Commission to make each of the required findings and approve this application for a conditional use permit.

Please let me know if I can be of any further assistance.

Very truly yours,



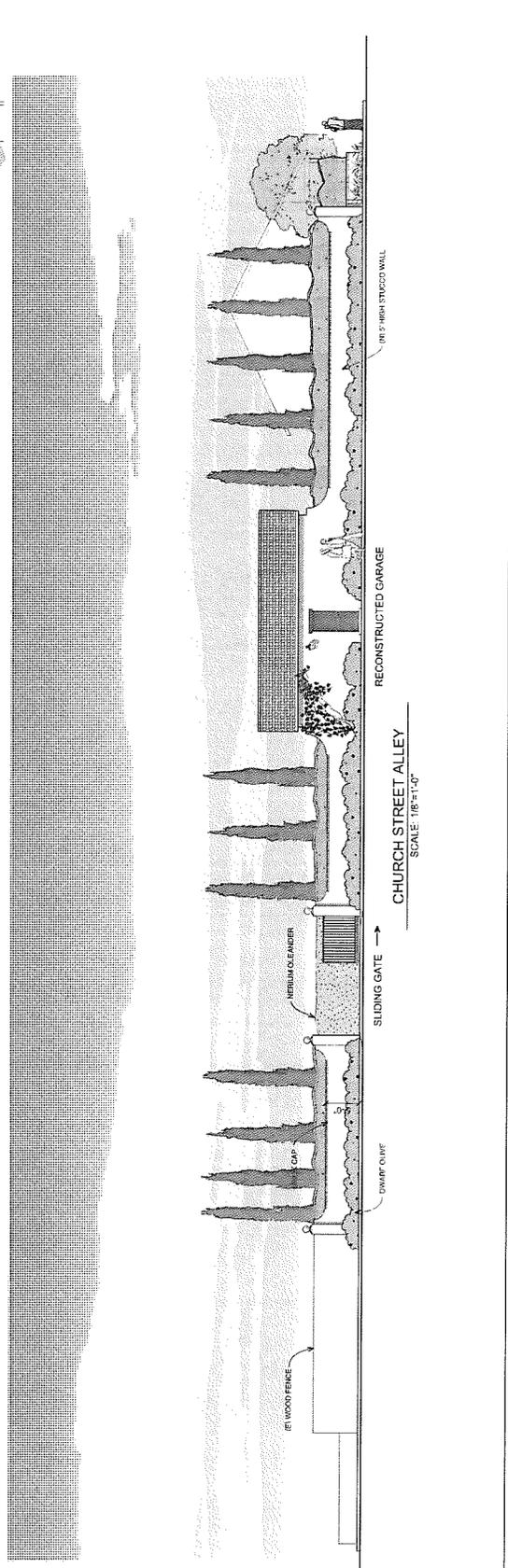
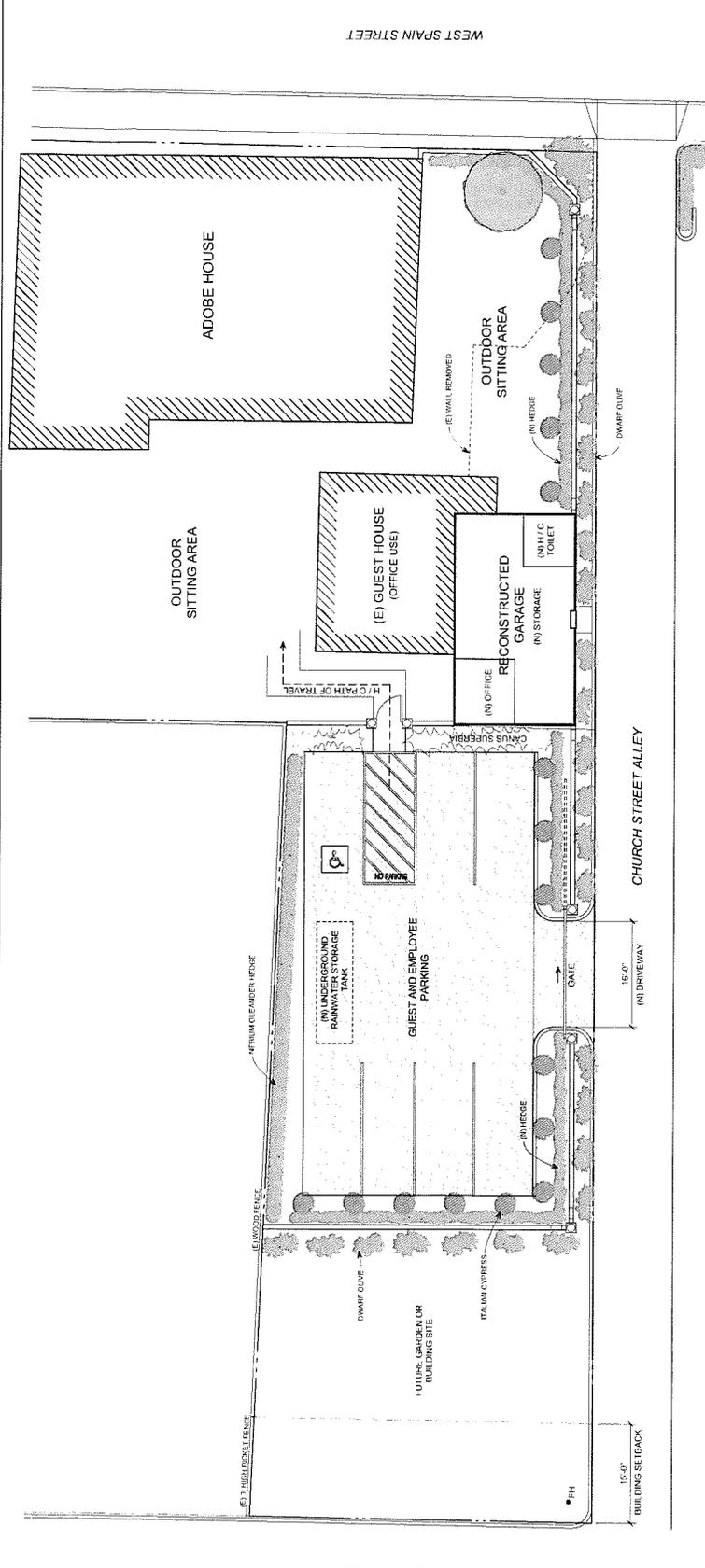
Michael R. Woods

MRW:m

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NO.	REVISIONS





City of Sonoma
City Council
Agenda Item Summary

Agenda Item: 10A
Meeting Date: 11/05/2012

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
LOCC North Bay Division Liaison, Alternate	Cemetery Subcommittee	Community Choice Aggregation Focus Grp.	Cemetery Subcommittee	Community Dev. Agency Loan Subcommittee
Sonoma County Mayors & Clm. Assoc. BOD	Cittaslow Sonoma Valley Advisory Council, Alt.	North Bay Watershed Association	Cittaslow Sonoma Valley Advisory Council	LOCC North Bay Division Liaison
Sonoma County M & C Assoc. Legislative Committee	City Facilities Committee	Sonoma Community Center Subcommittee	City Audit Committee	Sonoma County M & C Assoc. Legislative Committee, Alt.
Sonoma Disaster Council	Sonoma Community Center Subcommittee	Sonoma County Transportation Authority, Alt.	Sonoma County Transportation Authority	Sonoma Valley Citizens Advisory Comm. Alt.
Sonoma Housing Corporation	Sonoma County Health Action, Alternate	(SCTA) Regional Climate Protection Authority, Alt.	(SCTA) Regional Climate Protection Authority	S.V. Economic Development Steering Committee, Alt.
S.V.C. Sanitation District BOD	Sonoma County Mayors & Clm. Assoc. BOD	Sonoma County Waste Management Agency	LOCC North Bay Division, LOCC E-Board, Alternate (M & C Appointment)	
S.V. Economic Development Steering Committee	Sonoma Disaster Council, Alternate	Sonoma County/City Solid Waste Advisory Group (SWAG)	Sonoma County/City Solid Waste Advisory Group (SWAG), Alt.	
S.V. Fire & Rescue Authority Oversight Committee	Sonoma Housing Corporation	VOM Water District Ad Hoc Committee	Sonoma County Ag Preservation and Open Space Advisory Committee (M & C Appointment)	
S. V. Library Advisory Committee	S. V. Citizens Advisory Commission	Water Advisory Committee, Alternate	VOM Water District Ad Hoc Committee	
Successor Agency Oversight Board	S.V.C. Sanitation District BOD, Alt.		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