

**ADJOURNED REGULAR MEETING OF THE
SONOMA CITY COUNCIL**

**Community Meeting Room, 177 First Street West
Sonoma CA 95476**



**Monday, August 12, 2013
6:00 p.m.**

MINUTES

City Council
Ken Brown, Mayor
Tom Rouse, Mayor Pro Tem
Steve Barbose
David Cook
Laurie Gallian

OPENING

Mayor Brown called the meeting to order at 6:00 p.m. Derek Moore led the Pledge of Allegiance.

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

ALSO PRESENT: City Manager Giovanatto, City Clerk/Assistant to the City Manager Johann, City Attorney Walter and Planning Director Goodison.

1. COMMENTS FROM THE PUBLIC

Darryl Ponicsan stated he had been trying for eight months to get the Council to take up the issue of leaf blowers. He stated that his faith in the Council was waning and he may have to go the voter initiative process.

David Eicher stated that the Council should loosen up regarding the three-minute limitation on public comments.

2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS

Item 2A: Councilmembers' Comments and Announcements

Mayor Brown dedicated the meeting in the memory of Michael Hinton and Reva Metzger.

3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS - None

4. REGULAR CALENDAR

Item 4A: Discussion, consideration and possible action to receive the Impact Reports as described in Elections Code section 9212 (and any others identified by the Council) of the proposed Hotel Limitation Measure.

City Manager Giovanatto reported that at the July 15, 2013 meeting, Council directed staff to order an impact report regarding the Hotel Limitation Measure at a cost not to exceed \$17,500. She stated that staff had contracted with Keyser Marston Associates who prepared a report entitled "Assessment of the Large Hotel Growth Management Initiative's Potential Impact on Development Opportunities". Giovanatto added that Planning Director Goodison had also prepared a report addressing the initiative's relationship with the City's General Plan and Development Code.

Debbie Kern, Keyser Marston Associates, stated that a key provision of the initiative was a limitation on the development of hotels over twenty-five rooms and on the expansion of existing hotels to exceed a total of twenty-five rooms unless an annual occupancy rate of 80% was achieved. She reported that information utilized in evaluating the impact of the initiative included the conditions of the lodging market in Sonoma, the experiences of other lodging markets in California, and the underwriting criteria of new institutional investment-grade lodging development. The data in the report regarding Sonoma's hotel inventory, occupancy rates and transient occupancy tax revenue had been provided by the City. Information regarding other lodging markets had been obtained from data published by nationally recognized firms. Ms. Kern provided data and statistics relating to room supply, occupancy rates, room revenues, and

Item 4A: Impact Reports Regarding Hotel Limitation Measure, Continued

Transient Occupancy Tax (TOT). She explained that Sonoma was considered a leisure-driven market area with peak occupancy occurring during the summer and fall crush.

Ms. Kern stated that the lodging stock in Sonoma had not achieved the 80% threshold in any year during the past decade and the stock's peak annual rate of 66% was far below the initiative's 80% threshold. The average annual occupancy rate over the past decade was 62% and the annual average rate in 2012 was 65%. It was her judgment that it was highly unlikely that Sonoma's existing lodging properties would achieve the 80% average annual occupancy prescribed by the initiative. As a result, if the initiative was approved by the voters, it would be unlikely that any hotels over 25 rooms would be built in Sonoma.

Ms. Kern stated that if the ballot measure was approved and the 25 room cap became effective, it was likely that new lodging development would continue to be comprised of independently operated small inns and hotels. She pointed out that the depth of the investor pool for these types of properties was limited.

Planning Director Goodison reported on the potential impacts of the proposed initiative with respect to existing land use and development planning policies. The revisions to the General Plan were consistent with its existing structure and formatting although they appeared to run counter to the objectives of Policy 1.5 of the Community Development Element which established the Urban Growth Boundary developed to "*protect the health, safety, welfare, and quality of life of the residents of Sonoma by concentrating future residential, commercial, and industrial growth in areas already served by urban services*" by forcing development of any new large hotels to occur outside the City limits. Goodison stated the proposed initiative would also undercut policies in the Local Economy Element.

Goodison reported that the two key regulatory thresholds established by the measure 1) defining Large Hotel as having more than twenty-five guest rooms and 2) the 80% annual occupancy threshold seemed arbitrary and no rationale had been offered to support them. The annualized occupancy rate of 80% was unlikely to be achieved; resulting in a ban on any new hotels of twenty-six rooms or more. In response to the statement included in the initiative that "*one of the biggest development pressures facing the City of Sonoma and surrounding areas has been large hotel developments*", Goodison presented a list of lodging facility applications for the last ten years indicating that three applications had been made that met the initiative's definition of Large Hotel. Of those, two had been withdrawn and one approved. The one application approved allowed expansion of an existing nineteen-room hotel by the addition of eight rooms.

Goodison also provided information regarding trip generation and noted that hotels were in the lower range of traffic generation among uses normally expected in commercial and mixed use zoning districts. He then compared the effect of the initiative to the planning process in existence and stated that the existing planning process has several advantages for allowing a case-by-case review of development applications as well as multiple opportunities for public input and participation.

Clm. Rouse, referring to a proposed fifty-nine room hotel on West Napa, confirmed that if the initiative were approved, it would be possible to construct a twenty-five room hotel with the same scope and size as the proposed fifty-nine room hotel and could incorporate mixed-uses.

Clm. Barbose confirmed that the limitation on existing large hotels to add an additional use component that would occur if the initiative passed, could be eliminated by amending the Development Code.

Mayor Brown invited comments from the public. Bob Edwards stated that hotel occupancy and room rates were governed by the law of supply and demand. According to Smith Travel Research, year-to-date occupancy rates had risen 11.8% over the previous year in Sonoma County. Without the addition of large hotels, a stabilized inventory within good economic tidal forces would result in a steady rise in annual occupancy rate, thus an increase in TOT. Cities had attempted to stabilize budgets that suffered from the loss of redevelopment funds and rising staff salaries and operational costs by building new hotels and increasing TOT revenue. That was an act of desperation that Sonoma need not join because its finances were stable.

Karla Noyes stated that the consultant's report referenced Average Daily Rates (ADR). Under current visitor demand with 527 rooms available in Sonoma, adding one new hotel with 25 rooms would reduce the annual occupancy rate by 2.9 percentage points. A 60-room hotel

Item 4A: Impact Reports Regarding Hotel Limitation Measure, Continued

would drop the occupancy rate by 6.6 percentage points. As occupancy rates drop, the drop in ADR accelerates which decreases the TOT collected.

David Eicher stated that the sudden increase in room inventory would risk lowering TOT. The risk of over-building was a drop of ADR and TOT lasting many years. Yountville was an example of this.

Ned Forrest disputed the consultant's statement that only three cities had reached an annualized occupancy rate of 80% and stated that Pasadena, Santa Monica, Las Vegas, Santa Clarita and others had reached it. He said the consultant's report was inadequate and misleading. Hotels under 25 rooms carry common characterizations such as restaurants but not gyms and event centers. They were not generally developed by large development companies.

Gerry Bernhaut stated that large development-grade hotel developers build to sell cash cows. He stated that The Lodge was developed by a local couple with a vision to create a local hotel for locals even allowing close-by neighbors to use the pool and with low family-style room rates. Some who lived here cautioned it was too large and unfortunately, The Lodge eventually came under the ownership of Marriott International which is not a local business and whose profits leave Sonoma.

Ed Clay stated that the consultant's report ignored the topic of untapped sources of TOT. At present, only the room rate was included in TOT calculation and he suggested that the formula be changed to include parking fees, mini-bar sales, spa use, in-room movies and other incidentals customarily part of the charges paid by guests.

Norma Barnett stated that another TOT opportunity ignored by the consultant were the illegal vacation rentals. At least twenty-one were currently advertising on the internet. She stated that the City had not developed a methodology or strategy to capture past taxes due or penalties, unlike the County.

Jim Kent stated that neither the consultant or staff covered the potential financial impacts of a Large Hotel. They included: Noise, traffic, overuse of the Plaza, water and public works department costs, road and park maintenance, police and fire services, increased operating costs for Plaza merchants, and the seasonal nature of tourism and its effects on worker's income.

Georgia Kelly stated that the issue of how Large Hotels would fit in had not been addressed. The recently adopted Plan Bay Area recognized that some communities were more appropriate for increased development than others. High level development and job growth were being directed to Priority Development Areas (PDA) while low PDA areas were designated for low or very limited development and job growth. She stated that Sonoma had been designated as a non-PDA area, ABAG's lowest level of development.

Helen Marsh stated they would be following up with more detailed analysis. She stated there was an apparent bias on the part of City staff who appeared to be campaigning against the initiative and she hoped the City would correct that. She went on to state that the City Manager's report did not include any positives and the Planning Director's not pointing out the increased pedestrian traffic seemed argumentative in nature. Information regarding vacation rentals and B&Bs should not have been included in the consultant's report and the report included the misinformation that only three cities had ever reached the 80% occupancy rate.

Marilyn Goode stated one of their greatest frustrations was the difficulty in trying to be heard. Their request for a block of time to present their analysis was denied which required them to break up their statements into three minute segments. She commented that it appeared the Council's minds were already made up.

Larry Barnett stated that the fact that the Hotel Limitation Measure would slow growth was intentional. Unless limitations were established, it would destroy the very reasons that visitors want to come to Sonoma. He said he and his group were pleased to create the condition that placed this matter on a ballot. He stated that he had heard the consultant had a relationship with someone who had an application before the City and he would like to find out more about that.

Rosemary Pedranzini stated the project was wrong for the City and would cause too much additional traffic.

Item 4A: Impact Reports Regarding Hotel Limitation Measure, Continued

Tina Shone stated that hotel project applications would fall within the General Plan and Zoning Ordinance which directed development towards the downtown. It would require traffic mitigation but that would be paid for by the developer. Hotels and restaurants create jobs and the benefits spill over onto other merchants.

Linda Moore stated she visited Napa and was appalled by the development there. She chose to move here because of the character of the City.

Bill Blum, MacArthur Place, stated that the impact report clearly showed that the City would never achieve the 80% occupancy. Sonoma tourism was seasonal and occupancy dropped to very low levels in the late fall and winter months. He stated the report also showed that there was not a hotel problem and there had not been one new hotel in the last ten years. Sadly, if the initiative was passed it would not allow an existing hotel to expand however, an out of town developer could come in and build right next door. He stated that the existing sales tax measure would expire in a few years however, the costs for public services would continue to increase. Blum stated that the Visitor Bureau, Vintners and Growers Association, Tourism Improvement District all agreed the initiative would not be good for Sonoma.

Nancy Simpson questioned the concerns stated by the initiative proponents that hotels of more than twenty-five rooms would ruin the quality of life and destroy Sonoma. She said this disrespect caused one to question the motives of the proponents. Under existing regulations all developments were reviewed which demonstrated the authenticity of Sonoma. She questioned what other development would replace hotel projects on available sites. If the measure passed there would be an imbalance in the way developments were handled and the best way to manage growth was to utilize the General Plan and existing regulations.

It was moved by Clm. Rouse, seconded by Clm. Gallian, to receive the impact reports. The motion carried unanimously.

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

Item 4B: Discussion, Consideration and Possible Action on the Hotel Limitation Measure including:

- a. Adopt an Ordinance amending the Sonoma General Plan and Development Code, or**
- b. Adopt resolutions calling for a Special Election, and if so, identifying authors and signers of ballot argument and directing measure to City Attorney for impartial analysis.**

City Manager Giovanatto explained that the Council had two options. It could adopt the proposed ordinance or call for a special election. If a special election was called, the Council could then identify the authors of a ballot argument and direct the City Attorney to prepare an impartial analysis.

Clm. Barbose confirmed that the preparation of a ballot argument was optional. He inquired if the Council were to prepare an argument if it would be unbiased. City Attorney Walter responded that an argument would advocate a particular position based on facts and state why the Council believed the ordinance should be supported or not supported. He said that it had been incorrectly stated that the City was precluded from taking a position.

Mayor Brown invited comments from the public. Larry Barnett urged the Council not to prepare a ballot argument and added that individual councilmembers would be allowed to sign arguments for or against. Otherwise, the Council would be taking a position and place itself in opposition with a majority of its constituents. It would also make it a race against City Hall. He said that people were already suspicious and felt the "fix was in".

Bob Edwards questioned if Councilmember Cook could participate since he, as the President of the Chamber, had already taken a position against the initiative.

David Eichar stated that the City Council could take a position but staff reports would have to be fair and not argumentative.

John Dunning stated the issue should go to a vote. Anderson's first and second proposals looked pretty good and he wanted to see the third proposal. He stated he wanted to see more affordable hotel rates and felt the addition of some rooms would keep the price in check. Adding more parking spaces downtown would improve things too.

Item 4B: Hotel Limitation Measure, Continued

Mayor Brown requested the City Attorney to address the issue brought up by Mr. Edwards. City Attorney Walter explained that he and Councilmember Cook had discussed the issue of his vote as the Chamber President and it was his belief that Cook had not participated in that vote. He added that this action was a ministerial duty, not a discretionary act and the fact of whether Cook participated in the Chamber vote did not affect his ability to participate in this ministerial act; so, unless Cook believed he suffered from actual bias it was not a significant issue. Clm. Cook stated he did participate in the Chamber vote but did not believe he was biased and that he came to the meeting with open arms. He felt he could be fair.

City Attorney Walter cited a Supreme Court case in which the City Manager of the City of Salinas had prepared impact reports and the City was sued by initiative proponents who claimed that taxpayer funds had been used to campaign against their measure. He stated that the Court's decision did not preclude the City from publicly expressing an opinion or prevent staff from preparing factual analysis of the ballot measure.

Clm. Barbose questioned if Clm. Cook should be allowed to vote on this matter. City Attorney Walter stated he did not see a nexus between Cook voting against the initiative as the Chamber President and voting on whether the Council should prepare a ballot argument.

It was moved by Clm. Rouse, seconded by Clm. Gallian, to adopt Res. No. 31-2013 entitled A Resolution of the City Council of the City of Sonoma California Calling for the Holding of a Special Municipal Election for the Submission to the Voters of a Proposed Ordinance and Requesting That the Board of Supervisors of the County of Sonoma Authorize and Direct Its Election Department to Conduct Said Special Election on Tuesday November 19, 2013. The motion carried unanimously.

City Attorney Walter stated that the next step was to determine if the Council would author an argument.

Clm. Barbose strongly urged the Council to not put an argument on the ballot. He said this situation arose because a large number of people felt they could not trust the Council and if they place an argument on the ballot, it would only encourage that belief. He said the people of the City of Sonoma needed to decide the matter. Clm. Rouse disagreed. He said it was the Council's right and duty to present their argument against the measure. Clm. Gallian stated her agreement with Clm. Barbose.

It was moved by Clm. Rouse, seconded by Clm. Cook, to adopt Resolution No. 32-2013 entitled A Resolution of the City Council of the City of Sonoma, California, Setting Priorities for Filing Written Arguments Related to the November 19, 2013 Special Municipal Election and Directing the City Attorney to Prepare an Impartial Analysis, directing that an argument against the measure and rebuttal argument be authored by Mayor Brown and Mayor Pro Tem Rouse. The motion carried three to two, Barbose and Gallian dissented.

Item 4C: Providing Information About a Ballot Measure by a Public Agency.

City Attorney Walter presented information regarding the activities allowed and not allowed to be conducted by the City in relation to the ballot measure. He said an individual could do anything they want on their own time and on their own dime.

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

5. COUNCILMEMBERS' FINAL REMARKS

Item 5A: Final Councilmembers' Remarks.

Clm. Barbose stated a mistake had been made and it was ironic that the Council would make the other people's case for them. Clm. Gallian stated she was happy the measure would be placed on a ballot and she sat there representing both sides. Mayor Brown stated he was adhering to the fact that the measure was not about a particular hotel and he did not see any reason his support for placing an argument on the ballot would degrade confidence in the City Council.

6. COMMENTS FROM THE PUBLIC

Larry Barnett said he was disappointed in Council's decision and stated he would mount as vigorous of a campaign as he could. He said his was a grass root effort not supported by development or business. Council's decision just gave his campaign a big boost. The perception coming out of this meeting was that the Council just approved every big hotel coming down the line.

Gary Edwards stated he had served as President of the 1999 Hillside preservation committee and that he agreed with Mayor Brown's comments. It was about the process not a particular hotel and he did not want his job as a Planning Commissioner to be taken away. Edwards offered to sign the argument against the measure.

Teresa Parks said it was sad that Barnett came to trash the Council and that she supported the position taken tonight.

Bob Edwards stated that some had said that the initiative would take away the public's ability to participate in the process but it would not. Another comment was that there was no hotel problem but he said the \$400,000 TID was a problem.

David Eichar stated that the consultant did not disclose the source of the information included in the impact report.

7. ADJOURNMENT

The meeting was adjourned at 8:37 p.m. in the memory of Michael Hinton and Reva Metzger.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the 4th day of September 2013.

Gay Johann, MMC
City Clerk/Assistant to the City Manager