



Mayor: Ann Nevero
Vice Mayor: Sharon Crull
City Council: Greg Pitts
Mario Sculatti
Peter White

**REGULAR MEETING
ST. HELENA CITY COUNCIL
VINTAGE HALL BOARD ROOM – SECOND FLOOR
465 MAIN STREET, ST. HELENA
JANUARY 14, 2014
5:00 PM CLOSED SESSION
6:00 PM REGULAR MEETING**

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the “Oral Communication” portion of the agenda may voluntarily complete a “Speaker Card” and submit it to the City Clerk BEFORE that portion of the agenda is called. Speaker cards are available on the table in back of the room. Please observe the time limit of three minutes.

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL**
- 3. PUBLIC COMMENTS PERTAINING TO THE CLOSED SESSION**
- 4. CLOSED SESSION (5:00 P.M.)**

Conference with Negotiator (City Manager and Finance Director)
Negotiations with St. Helena Employees Association (SHEA)
Brown Act Section: 54957.6
- 5. OPEN SESSION – COUNCIL WILL RETURN TO OPEN SESSION AND ANNOUNCE ACTIONS TAKEN IF ANY (6:00 P.M.)**
- 6. PUBLIC FORUM:** Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Forum. Each person’s comments shall be limited to 3 minutes. Each person is entitled to speak on any non-agendized item only once at any meeting. Brief questions by Councilmembers for clarifications may be posed and answered, and Councilmembers may make requests that items be placed on future agendas, but in accordance with State Law, no substantive discussion or action may take place unless and until the matter properly appears on the agenda.
- 7. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, and AB 1234 REPORTS:** Reports by staff and/or Councilmembers on items of general interest. Brief questions for clarification may be posed and answered, and Councilmembers may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the City Council.

8. PRESENTATIONS AND PUBLIC RECOGNITIONS

- Oath of office to Police Officer James Hartley
- Oath of office to Lieutenant William Imboden
- Proclamation recognizing outgoing Finance Director Karen Scalabrini for her tenure with the City of St. Helena

CONSENT ITEMS: Members of the Council or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)

9. City Council Minutes of November 26, 2013

Recommended Action: Approve

10. City Council Minutes of December 10, 2013

Recommended Action: Approve

11. Approval of Amendment No. 1 to elder care agreement between the City of St. Helena, Napa County and Area Agency on Aging

Recommended Action: Adopt

12. Consideration/action on a resolution denying the appellants Steve and Judy Padis (Applicant) and W&W Four Seas Limited Partnerships (Property Owner) challenging the Planning Commission decision granting the appeal of Bobbi and David Clark and overturning the determination of the Interim Planning Director and finding that a proposed high-end wedding gifts and bridal jewelry business is inconsistent with an existing Use Permit to allow a jewelry store and gift shop in the Central Business (CB) Zoning District at 1269 Main Street

Recommended Action: Approve

13. Approval of water agreement for the Harvest Inn, No. 1 Main Street (APN: 027-560-008)

Recommended Action: Approve

14. Adoption of Zoning Ordinance Text Amendment to Municipal Code Title 17 Zoning, Chapter 17.180: Small Winery Ordinance; and Chapter 17.20 Twenty-acre Agricultural (A-20) District (CEQA Exemption Section 15061 (b)(5))

Recommended Action: Adopt

SCHEDULED MATTERS

15. Resolution appointing members to the Active Transportation Committee

Lead Staff: Mayor

Estimated Time: 30 minutes

16. Consideration/action on resolution establishing a water shortage emergency condition requiring the implementation of Phase I water regulations

Lead Staff: Assistant Public Works Director

Estimated time: 30 minutes

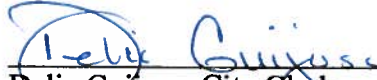
17. Update/discussion on Tunnel of the Elms tree maintenance

Lead Staff: Assistant Public Works Director

Estimated time: 15 minutes

ADJOURNMENT

The next Regular City Council meeting is scheduled for January 28, 2014 at 6:00 p.m. in the Vintage Hall Board Room located at 465 Main Street. This agenda was posted at City Hall, 1480 Main Street, and at Vintage Hall, 465 Main Street, St. Helena, California on January 9, 2014.



Delia Guifosa, City Clerk

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk's Office located at 1480 Main Street, St. Helena, California, during normal business hours. In addition, such writings or documents will be made available on the City's web site at <http://cityofsthelena.org> and will be available for public review at the respective meeting.

**REGULAR MEETING
ST. HELENA CITY COUNCIL
VINTAGE HALL BOARD ROOM – SECOND FLOOR
465 MAIN STREET, ST. HELENA
NOVEMBER 26, 2013
6:00 P.M. REGULAR MEETING**

A complete video recording of this meeting can be found at www.cityofstheleena.org or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

Mayor Nevero called the meeting to order at 6:02 p.m. and the flag was saluted.

ROLL CALL

Present: Councilmembers Sculatti, White, Crull, Pitts, Mayor Nevero

Absent: None

PUBLIC FORUM

Tunnel of the Elms – Sandra Ericson

Stated that as of now she had gathered 273 signatures from people interested in the maintenance of the trees in the tunnel of the elms and will continue to gather signatures through December 1. She said she had attended the Tree Committee meeting and learned that the City is responsible for inoculations of said trees, Caltrans for pruning of the trees and Beringer Winery waters them. Her goal, she said, is to generate support of a new approach of tree care with regard to CalTrans.

The City Manager stated that he would meet with the Assistant Public Works Director and bring back a recommendation.

**REPORTS BY STAFF AND CITY COUNCIL AND FUTURE AGENDA ITEMS and AB
1234 REPORTS:**

WICC Meeting – Councilmember White

Stated that he had attended the WICC meeting last week and reported that the City was awarded \$800,000 for the York Creek project from Proposition 84 funds.

Economic Summit – Councilmember Sculatti

Stated that he was looking forward to the economic summit meeting that will be held on January 31, 2014. He invited the public to submit topic ideas to the Council.

Police Report – Chief Rubin

Reviewed the police department activities for November 2013.

PRESENTATIONS AND PUBLIC RECOGNITIONS - None

CONSENT ITEMS

Councilmember White moved to approve Consent Items 6 – 9 as submitted. The motion was seconded by Councilmember Crull and on roll call carried by the following vote:

AYES: Councilmembers White, Crull, Sculatti, Pitts, Mayor Nevero

NOES: None

Those items approved were as follows:

6. Approved the City Council minutes of November 12, 2013;

7. Adopted Resolution No. 2013-74 accepting Library Grant Funds and approving associated budget adjustment;

8. Adopted Ordinance No. 2013-3 enacting Chapter 12.12, Street and Sidewalk Excavations and Encroachments, of Title 12 of the City of St. Helena Municipal Code; and

9. Approved Cancellation of the December 24, 2013 Council Meeting.

PUBLIC HEARINGS

10. Consideration of the appeals of Steve and Judy Padis and W&W Four Seas Limited Partnerships of the Planning Commission upholding the appeal of David Clark and overturning the Interim Planning Director's determination that the existing use permit for a jewelry store is valid for 1269 Main Street (Continued from the meeting of November 12, 2013)

Councilmember Sculatti recused himself stating he leases office space on Main Street within 500 feet of this property.

Interim Planning Director Desmond reported that Attorney David Blackwell, Allen Matkins Leck Gamble Mallory & Natsis LLP, had submitted a letter via email late this afternoon; however, prior to that, he had not received any other information/correspondence from the applicant.

The Council reviewed that this matter had been continued to this evening to provide Attorney Anglin an opportunity to speak to his client and the property owner regarding correspondence from Mrs. Judy Padis (dated August 8, 2013) stating that the proposed use would adhere to sale of items listed in Exhibit B of the 1987 Use Permit for 1269 Main Street.

Councilmember Crull read the letter from Attorney Blackwell addressed to the Council that in summary states that the firm had been hired by Steve Padis and the intent of the letter was to exhaust appellant's administrative remedies prior to commencing litigation against the City. The correspondence states that the letter incorporates by reference all of appellant's prior communications to the City including but not limited to correspondence from Rob Anglin dated 10-14-2013 and 11-8-13 in addition to correspondence provided by property owner W&W Four Seas Limited Partnership to the City and states that the Planning Commission lacked jurisdiction to consider the appeal filed by David Clark.

The Council was troubled that the Padis family was not in attendance to review/clarify their business plan since they were aware that the matter was specifically continued to this meeting to provide them the opportunity to review and respond to the Council's inquiry and instead the appellant chose the litigation process.

Discussion ensued.

City Attorney Brown stated that his firm would prepare a resolution with detailed findings including but not limited to issues related to jurisdiction, timeliness of appeal, specifying what the 1987 Use Permit states, etc. for the January agenda.

Councilmember Crull moved to deny the Padis appeal for the reasons discussed this evening. The motion was seconded by Councilmember White and on roll call carried by the following vote:

AYES: Councilmembers Crull, White, Pitts, Mayor Nevero

NOES: None

ABSTAIN: Councilmember Sculatti

SCHEDULED MATTERS

11. Adoption of: (a.) Ordinance No. 2013-4 amending the St. Helena Municipal Code Title 15, to amend Chapters 15.04 through 15.55 through adoption of the 2013 California Building Standards Code Title 24, including local amendments specific to St. Helena; and b.) a Resolution of findings for the local amendments to the 2013 California Building Standards Code Title 24 (CEQA Section 15061(b)(3) Exemption) (b.) Resolution No. 2013-75 with findings to make local Amendment to the 2013 California Building Standards Code

Councilmember White moved to adopt Ordinance No. 2013-4 amending the St. Helena Municipal Code Title 15, to amend Chapters 15.04 through 15.55 through adoption of the 2013 California Building Standards Code Title 24, including local amendments specific to St. Helena and to adopt Resolution No. 2013-75 setting forth findings for amendments to the St. Helena Municipal Code Title 15, to amend Chapters 15.04 through 15.55 through adoption of the 2013 California Building Standards Code Title 24, including local amendments specific to the City of

St. Helena. The motion was seconded by Councilmember Crull and on roll call carried by the following vote:

AYES: Councilmembers White, Crull, Sculatti, Pitts, Mayor Nevero

NOES: None

12. Review of Draft General Plan Update

It was the Council's consensus to meet on December 5, 2013 at 8:00 a.m. The purpose of that meeting would be to ensure that the edits reviewed over the past several meetings are correct.

Once that review is done the document will be compiled in its final form and the Final General Plan Update document will be placed on a future agenda for approval.

ADJOURNMENT

Mayor Nevero adjourned the meeting at 7:53 p.m.

APPROVED:

ATTEST:

Ann Nevero, Mayor

Delia Guijosa, City Clerk

**REGULAR MEETING
ST. HELENA CITY COUNCIL
VINTAGE HALL BOARD ROOM – SECOND FLOOR
465 MAIN STREET, ST. HELENA
DECEMBER 10, 2013
5:00 P.M CLOSED SESSION
6:00 P.M. REGULAR MEETING**

A complete video recording of this meeting can be found at www.cityofstheleena.org or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

Mayor Nevero called the meeting to order at 5:01 p.m. and the flag was saluted.

ROLL CALL

Present: Councilmembers White, Pitts, Mayor Nevero

Absent: None

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:
One case: Whether to intervene in the case entitled: In re The Matter of the Jean Phillips Trust Created Under the Dorothy L. Tweed 2000 Revocable Trust, Napa County Superior Court Case No. 26-60863

PUBLIC COMMENTS PERTAINING TO THE CLOSED SESSION

Mayor Nevero asked if there were any public comments regarding the Closed Session matters listed above.

Jean Phillip's Trust - Polly Keegan & Lowell Smith

Ms. Keegan, Chair of the Friends of the Library, addressed the Council stating that she hoped the closed session discussion would not pertain to how the Friends handle the money. She said the Friends have no objection to submitting all financials to the Finance Director and can submit monthly financial statements as well. She said the Friends want to facilitate the response given to the City Manager and are not trying to be adversarial or greedy; the goal is to preserve the library. She said the vineyard was included because the trust involves three parts: land, money and a long term lease.

Lowell Smith stated that monies had been raised in the 1970's for the library and he encouraged the Council to assist the Friends.

Councilmember Crull arrived at this time (5:15 p.m.)

Councilmember Sculatti arrived at this time (5:45 p.m.)

There being no other public comments the Council convened into Closed Session. The Regular Meeting was reconvened at 6:00 p.m. and no action was reported.

REPORTS BY STAFF AND CITY COUNCIL AND FUTURE AGENDA ITEMS and AB 1234 REPORTS:

NCTPA Shuttle – Assistant Public Works Director

Assistant Public Works Director Hight stated that there had been a 47% increase in ridership on the shuttle in September and 57% in October. She reported that the morning route is fixed and the afternoon and evening routes are by appointment and a \$1.00 fee is charged.

Completion of Phase I of the Hwy 29 Underground Project - Assistant Public Works Director

On December 12, 2013 at 1:30 pm Caltrans is having a milestone celebration for completion of the first phase of the undergrounding project. The event will take place at the corner of Mills and Highway 29 at 10:00 a.m.

Tunnel of Elms Assistant - Public Works Director

Next week Caltrans will be removing 6 dying trees and will also be doing tree trimming and other maintenance. Next year, the City will replace the 6 trees that will be removed.

PRESENTATIONS AND PUBLIC RECOGNITIONS

Recognition to Retiring Street Supervisor Jim Burke

Proclamation recognizing Jim Burke for 30 years of tenure with the City of St. Helena
Retiring Street Supervisor Jim Burke was commended for his 30 year tenure with the City of St. Helena.

CONSENT ITEMS

Councilmember Crull moved to approve Consent Items 9-11. The motion was seconded by Councilmember White and on roll call carried by the following vote:

AYES: Councilmembers Crull, White, Crull, Sculatti, Pitts, Mayor Nevero

NOES: None

Those items approved were as follows:

9. Approved City Council Special Meeting Minutes of April 9, 2013;

10. Adopted Resolution No. 2013-74 approving out-of-state travel for library employee, Mari Martinez, to attend the American Library Association Conference in Philadelphia, PA in January 24 -28, 2014; and

11. Adopted Resolution No. 2013-75 approving annexation of territory to the St. Helena Municipal Sewer District No. 1 (1290 Grayson Avenue) MSD Annexation No. 115.

PUBLIC HEARINGS - None

SCHEDULED MATTERS

12. Resolution appointing members to the Active Transportation Committee

It was the Council's consensus to continue this matter to the January 14, 2014 meeting and to extend the application period.

13. Consideration of introduction and waiving reading of a Zoning Ordinance Text Amendment to Municipal Code Title 17 Zoning, Chapter 17.180: Small Winery Ordinance; and Chapter 17.20 Twenty-acre Agricultural (A-20) District. (CEQA Exemption Section 15061 (b)(5))

Councilmember White moved to introduce and waive the reading of a Zoning Ordinance Text Amendment to Municipal Code Title 17 Zoning, Chapter 17.180: Small Winery Ordinance; and Chapter 17.20 Twenty-acre Agricultural (A-20) District. (CEQA Exemption Section 15061 (b)(5) with the amendments discussed this evening and that the ordinance be brought back for adoption at the January 14, 2014 meeting. The motion was seconded by Councilmember Sculatti and on roll call carried by the following vote:

AYES: Councilmembers White, Sculatti, Pitts, Mayor Nevero

NOES: Councilmember Crull

14. Review of Draft General Plan Update

The Council directed staff contract for assistance in compiling the edits requested by the Council over the past several meetings and bring back a summary at the January 14, 2014 Council meeting.

ADJOURNMENT

Mayor Nevero adjourned the meeting at 9:50 p.m.

APPROVED:

ATTEST:

Ann Nevero, Mayor

Delia Guijosa, City Clerk

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STAFF REPORT



DATE: January 14, 2014

TO: Mayor and City Council

FROM: Chief Jacqueline Rubin

Item: 11

RE: Amendment to City of St. Helena, County of Napa and the Area Agency on Aging MOU – Agreement No. 7447

BACKGROUND:

The City of St. Helena, County of Napa and the Area Agency on Aging have an MOU agreement (#7447) setting forth the respective obligations of the parties for the implementation and administration of a permitting system for persons who provide personal and domestic services to persons 65 years of age or older.

DISCUSSION/ANALYSIS:

The County of Napa made some amendments to the ordinance for clean-up purposes. There were no fundamental changes to the ordinance. Since St. Helena's ordinance directly references the County of Napa's ordinance, St. Helena does not need to make amendments each time the County does.

The changes to the ordinance include:

- Website changes requested by AAANS(Area Agency on Aging Serving Napa & Solano)
- Photograph size change requested by County Clerk
- Termination of the County's IT assisting with AAANS website
- City of Napa wanted termination language eliminated

None of the changes have any effect on the City of St. Helena.

FISCAL IMPACT:

None

RECOMMENDED COUNCIL ACTION:

Approve MOU Agreement #7447 with County of Napa and Area Agency on Aging

ATTACHMENTS/EXHIBITS:

Amendment No. 1 to MOU Agreement No. 7447.

AMENDMENT NO. 1 TO AGREEMENT NO. 7447

This Amendment No. 1 to Napa County Agreement No. 7447/ City of St. Helena Agreement No. _____ (hereinafter "Amendment") is dated this _____ day of _____, 2013, by and between the City of St. Helena, a municipal corporation (hereinafter "City"), Napa County, a political subdivision of the State of California (hereinafter "County") and the Area Agency on Aging Serving Napa and Solano (hereinafter "AAANS") (collectively, City, County and AAANS may be referred to as "the Parties").

RECITALS

A. The Parties entered into an Agreement entitled "Memorandum of Understanding between the Area Agency on Aging Serving Napa and Solano, Napa County, a political subdivision of the State of California, and the City of St. Helena, a Municipal Corporation of the State of California (hereinafter "MOU") generally setting forth the respective obligations of the parties for the implementation and administration of a permitting system for persons who provide personal and domestic services to persons 65 years of age or older.

B. The Parties wish to update and clarify certain provisions of the MOU.

C. After negotiations between the parties, the Parties have agreed to amend relevant provisions of the MOU.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. INCORPORATION BY REFERENCE. This Amendment hereby incorporates by reference all terms and conditions set forth in the MOU, unless specifically modified by this Amendment. All terms and conditions set forth in the MOU which are not specifically modified by this Amendment shall remain in full force and effect.

2. AMENDMENT. Section B(1) of the MOU is hereby repealed in its entirety, and replaced with a new Section B(1), to read as follows:

"B(1) Maintain a website that contains information for caregiver businesses about applying for employee caregiver permits. AAANS will establish set hours for taking and processing permit applications. AAANS will collect a processing fee from the business owner or representative."

3. AMENDMENT. Section C(4) of the MOU is hereby repealed in its entirety, and replaced with a new Section C(4), to read as follows:

"C(4) County Clerk will issue an unrestricted, limited or business employee permit to approved caregivers. For the County Clerk to issue any of the above permits, an applicant or the caregiver business operator must personally appear, and must bring photo identification, two identification type photographs (one and one-half inches high by one inch wide), an AAANS approval letter and payment for the Board of Supervisors authorized permit fee. The business applicant must provide the approval letter to the County Clerk before the employees are issued business caregiver permits."

4. AMENDMENT. Section C(8) of the MOU is hereby repealed in its entirety.

5. AMENDMENT. Section D(3) of the MOU is hereby repealed in its entirety, and replaced with a new Section D(3) to read as follows:

"D(3) Continue to maintain an ordinance which contains substantially the same provisions as the Napa County Code, Title Five, commencing with Chapter 5.60. CITY will from time to time make such amendments to such City Code as will keep it in substantial conformance with any future amendments of County Code provisions. City shall make such revision within ninety (90) days after notice from County of such changes."

6. **AMENDMENT.** The first clause of the first sentence of Section E(2) (preceding the semicolon) of the MOU is hereby amended and replaced with a new sentence to read as follows [note: none of the remaining sentences or clauses in Section E(2) is amended]:

"The term of this Agreement shall commence on July 1, 2013 and shall expire on July 1, 2014, unless terminated earlier in accordance with Paragraph ten (10) below;"

7. **ENTIRE AGREEMENT.** This Amendment (including the Agreement as amended herein and all documents incorporated herein by reference) comprises the entire integrated understanding between the parties concerning the services described in this Amendment. This Amendment supersedes all prior negotiations, agreements and understandings regarding the additional services described herein, whether written or oral. The documents incorporated by reference into this Amendment are complementary; what is called for in one is binding as if called for in all.

8. **SIGNATURES.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities. This Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, this Amendment was executed by the parties through their duly authorized representatives in the County of Napa, State of California on the day and year first written below.

"AAANS":

Area Agency on Aging, Serving Napa and Solano

LEANNE MARTINSEN,
Executive Director, Area Agency on Aging
Serving Napa and Solano

Date: _____

"CITY":

CITY OF ST. HELENA, a Municipal Corporation

ANN NEVERO, Mayor of the
City of St. Helena

City Clerk

By _____

APPROVED AS TO FORM
Office of City Attorney

By: _____

Date: _____

"COUNTY":

NAPA COUNTY, a political subdivision of the
State of California

BRAD WAGENKNECHT, Chair of the
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By _____

APPROVED BY THE NAPA COUNTY
BOARD OF SUPERVISORS

Date: _____

Processed by: _____
Deputy Clerk of the Board

APPROVED AS TO FORM
Office of County Counsel

By: *Carrie R. Gallagher*, Deputy
(via e-signature)

Date: November 14, 2013

STAFF REPORT

DATE: January 14, 2014

TO: Mayor and City Council

FROM: Greg Desmond, Interim Planning Director

Item: 11



RE: Resolution denying the appeal of appellants Steve & Judy Padis (applicant) and W & W Four Seas Limited Partnerships (property owner) challenging the Planning Commission decision granting the appeal of Bobbi and David Clark and overturning the determination of the Interim Planning Director and finding that a proposed high-end wedding gifts and bridal jewelry business is inconsistent with an existing use permit to allow a jewelry store and gift shop in the CB: Central Business zoning district at 1269 Main Street.

BACKGROUND

At the November 12, 2013 meeting, the City Council held a public hearing to review and consider appeals (the "Appeals") from both Steve and Judy Padis (the "Padises") and from W&W Four Seas Limited Partnership ("Property Owner"). The Padises and the Property Owner are collectively referred to as "Appellants".

The Appeals were specific to the Planning Commission's granting of an appeal to Bobbi and David Clark (the "Clark Appeal") which overturned the Interim Planning Director's determination that the existing use permit for a jewelry store and gift shop was valid for the tenant space located at 1269 Main Street (the "Site").

The City Council continued the item from the November 12, 2013 meeting to the November 26, 2013 meeting in an effort to allow the appellant's time to discuss and confirm that the items to be sold at the 1269 Main Street tenant space would be consistent with those identified in the existing use permit.

On November 26, 2013 the Interim Planning Director received a letter via email from the firm of David Blackwell, Allen Matkins Leck Gamble Mallory & Natsis LLP. The letter stated that the firm had been hired by Steve Padis and that the intent of the letter was to exhaust appellant's administrative remedies prior to commencing litigation against the City.

The Council discussed the item and moved to deny the Appeals. Staff was directed to prepare a resolution with detailed findings including but not limited to issues related to jurisdiction, timeliness of appeal, specifying what the 1987 Use Permit states, etc. for the January agenda.

DISCUSSION

The property at 1269 Main Street is a 1,968 square foot commercial space located in the Central Business (CB) zoning district (the "Site"). The City approved a use permit for the Site in 1987 (the "1987 Use Permit"). Subject to certain conditions set forth in that approval, the 1987 Use Permit authorizes a "jewelry store and gift shop" at the Site.

The 1987 Use Permit was granted to Discoveries Unlimited, a gift shop that sold furniture, decorative accessories, and limited jewelry. The 1987 Use Permit expressly limited the merchandise carried at the Site to the items listed in Exhibit B to the approval. Exhibit B, among

other things, restricted the jewelry component of the business at the Site to “sterling silver earrings, bracelets, and necklaces; semi-precious and 14-k earrings, bracelet, necklaces, and rings; watches; and jewelry repair and custom work.” The Site has subsequently been occupied by William Pacific Co. (a retail gifts and jewelry store), Holly GoLightly (a retail gifts and jewelry store), and Findings (a retail home accessories, gifts, and jewelry store). Each of these businesses relied on the 1987 Use Permit to conduct their respective businesses at the Site; and to the extent these business carried jewelry, their inventory conformed to the limitations imposed by Exhibit B to the 1987 approval. In February 2013, Findings received approval to relocate its existing business to another location on Main Street. Findings officially abandoned the Site on June 25, 2013, as evidenced by the Notice of Abandonment recorded against the Site.

On or about August 8, 2013, the Planning Department received a written request from Steve and Judy Padis (“Applicants” or the “Padises”) seeking confirmation that the 1987 Use Permit for the Site: (a) remained valid and (b) was sufficient to authorize use of the Site for their proposed high-end wedding gifts and bridal jewelry business (the “Project”).

In response to the Applicants’ inquiry, the Interim Planning Director requested additional information from the Applicants to determine whether the proposed business was a “formula business” which is prohibited by the St. Helena Municipal Code (the “Municipal Code”). Based on the additional information provided by the Applicants, the Interim Planning Director (i) determined the Project was not a “formula business” as defined by the Municipal Code; (ii) confirmed that the 1987 Use Permit was still valid; and (iii) found the Project consistent with the 1987 Use Permit for the Site.

On September 18, 2013, the Padises obtained Building Permit No. BD1309-025 to perform electrical work as part of the tenant improvements to the Site to accommodate the Project.

On September 19, 2013, Bobbi and David Clark filed a letter with the City seeking to appeal the determination of the Interim Planning Director pursuant to the procedures set forth in Section 17.08.180 of the Municipal Code (the “Clark Letter”). Said letter stated both the Clark’s intent and the grounds for their appeal. The Clarks contended, among other things, that: (1) the 1987 Use Permit had lapsed from non-use for periods in excess of six-months; (2) even if the 1987 Use Permit had not lapsed from such non-use, it did lapse from the use of the predecessor business (Findings) which was not a jewelry store; and (3) that the proposed inventory for the Project violated the limitations imposed by the conditions on the 1987 Use Permit on the type of jewelry that could be sold from the Site. On September 19, 2013, the Interim Planning Director notified the Padises’ representative, Jeff Redding, by email of the Clark Letter.

On September 23, 2013, the Clarks formally filed their appeal on the City’s official appeal form (the “Clark Appeal”). The Clark Appeal set forth the same grounds provided in the Clark Letter. On September 26, 2013, after consulting with the City Attorney’s office to ensure the Clark Appeal was complete, the Interim Planning Director notified the Padises’ representative, Jeff Redding, that the Clark Appeal had officially been received by the City.

The Planning Commission held a duly noticed public hearing on October 1, 2013 (the “Planning Commission Public Hearing”), at which it considered the Clark Appeal. At the conclusion of the Planning Commission Public Hearing, having considered the record of the proceedings before the Planning Commission, the written evidence submitted for the Planning Commission Public

Hearing, and the testimony and other evidence submitted at said hearing, and having deliberated the matter, the Planning Commission voted 5-0 to grant the Clark Appeal and overturn the determination of the Interim Planning Director that the Project was consistent with and permitted by the 1987 Use Permit. The Planning Commission's decision focused solely on the scope of the 1987 Use Permit and did not reach the issue of whether the 1987 Use Permit had lapsed.

The Appellants filed timely Appeals of the decision of the Planning Commission to the City Council. The City Council considered the Applicants' Appeals de novo at duly noticed public hearings on November 12, 2013, and November 26, 2013 (the "Council Public Hearings"). At the November 12, 2013 hearing, the City Council specifically asked the Applicants' representative to clarify the Padises' planned inventory and whether it would comply with Schedule B from the 1987 Use Permit. The Applicants' representative told the City Council that he could not answer their question at that time and further stated that he would need to consult with the Property Owner and the Padises. The City Council continued the public hearing to November 26, 2013, to allow the Applicants and their representative to meet and answer the Council's question. However, neither the Applicants nor any other person answered the Council's inquiry regarding the planned inventory at the Site at the continued hearing on November 26, 2013. Indeed, neither the Applicants nor the Property Owner, who had appealed the Planning Commission decision to the City Council, even appeared at the continued hearing on November 26.

The City Council, after reviewing materials provided from the Planning Commission Public Hearing, as well as considering the record of the proceedings before the City Council, the written evidence submitted for the Council Public Hearings, and the testimony and other evidence submitted at the Council Public Hearings, deliberated on the matter at their November 26, 2013 meeting and voted 4-0 to direct staff to prepare a resolution setting forth the Council's findings to deny the Appeals and uphold the decision of the Planning Commission (the "Resolution"). The Resolution setting forth those findings is attached to this staff report and is hereby incorporated into and forms a part of the staff report by this reference. The findings embodied in the Resolution are based on substantial evidence in the record. All of the facts set forth in the Resolution were presented at or before the Planning Commission and City Council Public Hearings.

COUNCIL ACTION

Adopt the resolution denying the appeal of appellants Steve & Judy Padis (applicant) and W & W Four Seas Limited Partnerships (property owner).

ATTACHMENTS

1. Resolution denying the appeal of appellants Steve & Judy Padis (applicant) and W & W Four Seas Limited Partnerships (property owner).
2. Minutes from November 26, 2013 City Council meeting specific to this item.

RESOLUTION NO. 2014-__

CITY OF ST. HELENA

DENYING THE APPEALS OF APPELLANTS STEVE & JUDY PADIS (APPLICANT) AND W & W FOUR SEAS LIMITED PARTNERSHIPS (PROPERTY OWNER) CHALLENGING THE PLANNING COMMISSION DECISION GRANTING THE APPEAL OF BOBBI AND DAVID CLARK AND OVERTURNING THE DETERMINATION OF THE INTERIM PLANNING DIRECTOR AND FINDING THAT A PROPOSED HIGH-END WEDDING GIFTS AND BRIDAL JEWELRY BUSINESS IS INCONSISTENT WITH AN EXISTING USE PERMIT TO ALLOW A JEWELRY STORE AND GIFT SHOP IN THE CENTRAL BUSINESS (CB) ZONING DISTRICT AT 1269 MAIN STREET

APN: 009-250-015

APPLICANTS: Steve and Judy Padis

PROPERTY OWNER: W & W Four Seas Limited Partnerships

RECITALS

1. The property at 1269 Main Street is a 1,968 square foot commercial space located in the Central Business (CB) zoning district (the "Site"). The City approved a use permit for the Site in 1987 (the "1987 Use Permit"). Subject to certain conditions set forth in that approval, the 1987 Use Permit authorizes a "jewelry store and gift shop" at the Site.
2. The 1987 Use Permit was granted to Discoveries Unlimited, a gift shop that sold furniture, decorative accessories, and limited jewelry. The 1987 Use Permit expressly limited the merchandise carried at the Site to the items listed in Exhibit B to the approval. Exhibit B, among other things, restricted the jewelry component of the business at the Site to "sterling silver earrings, bracelets, and necklaces; semi-precious and 14-k earrings, bracelet, necklaces, and rings; watches; and jewelry repair and custom work."
3. The Site has subsequently been occupied by William Pacific Co. (a retail gifts and jewelry store), Holly GoLightly (a retail gifts and jewelry store), and Findings (a retail home accessories, gifts, and jewelry store). Each of these businesses relied on the 1987 Use Permit to conduct their respective businesses at the Site; and to the extent these business carried jewelry, their inventory conformed to the limitations imposed by Exhibit B to the 1987 approval. In February 2013, Findings received approval to relocate its existing business to another location on Main Street. Findings officially abandoned the Site on June 25, 2013, as evidenced by the Notice of Abandonment recorded against the Site.
4. On or about August 8, 2013, the Planning Department received a written request from Steve and Judy Padis ("Applicants" or the "Padises") seeking confirmation that the 1987 Use Permit for the Site: (a) remained valid and (b) was sufficient to authorize use of the Site for their proposed high-end wedding gifts and bridal jewelry business (the "Project").
5. In response to the Applicants' inquiry, the Interim Planning Director requested additional information from the Applicants to determine whether the proposed business was a "formula

business” which is prohibited by the St. Helena Municipal Code (the “Municipal Code”). Based on the additional information provided by the Applicants, the Interim Planning Director (i) determined the Project was not a “formula business” as defined by the Municipal Code; (ii) confirmed that the 1987 Use Permit was still valid; and (iii) found the Project consistent with the 1987 Use Permit for the Site.

6. On or about September 18, 2013, the Padises obtained Building Permit No. BD1309-025 to perform electrical work as part of the tenant improvements to the Site to accommodate the Project.
7. On or about September 19, 2013, Bobbi and David Clark filed a letter with the City seeking to appeal the determination of the Interim Planning Director pursuant to the procedures set forth in Section 17.08.180 of the Municipal Code (the “Clark Letter”). Said letter stated both the Clark’s intent and the grounds for their appeal. The Clarks contended, among other things, that: (1) the 1987 Use Permit had lapsed from non-use for periods in excess of six-months; (2) even if the 1987 Use Permit had not lapsed from such non-use, it did lapse from the use of the predecessor business (Findings) which was not a jewelry store; and (3) that the proposed inventory for the Project violated the limitations imposed by the conditions on the 1987 Use Permit on the type of jewelry that could be sold from the Site. On September 19, 2013, the Interim Planning Director notified the Padises’ representative, Jeff Redding, by email of the Clark Letter.
8. On or about September 23, 2013, the Clarks formally filed their appeal on the City’s official appeal form (the “Clark Appeal”). The Clark Appeal set forth the same grounds provided in the Clark Letter. On September 26, 2013, after consulting with the City Attorney’s office to ensure the Clark Appeal was complete, the Interim Planning Director notified the Padises’ representative, Jeff Redding, that the Clark Appeal had officially been received by the City.
9. The Planning Commission of the City of St. Helena, State of California, held a duly noticed public hearing on October 1, 2013 (the “Planning Commission Public Hearing”), at which it considered the Clark Appeal. At the conclusion of the Planning Commission Public Hearing, having considered the record of the proceedings before the Planning Commission, the written evidence submitted for the Planning Commission Public Hearing, and the testimony and other evidence submitted at said hearing, and having deliberated the matter, the Planning Commission voted 5-0 to grant the Clark Appeal and overturn the determination of the Interim Planning Director that the Project was consistent with and permitted by the 1987 Use Permit. The Planning Commission’s decision focused solely on the scope of the 1987 Use Permit and did not reach the issue of whether the 1987 Use Permit had lapsed.
10. Both the Applicants and the W & W Four Seas Limited Partnership (“Property Owner”) filed timely appeals (collectively, the “Applicants’ Appeals”) of the decision of the Planning Commission to the City Council.
11. The City Council considered the Applicants’ Appeals *de novo* at duly noticed public hearings on November 12, 2013, and November 26, 2013 (the “Council Public Hearings”). At the November 12, 2013 hearing, the City Council specifically asked the Applicants’ representative to clarify the Padises’ planned inventory and whether it would comply with Schedule B from the 1987 Use Permit. The Applicants’ representative told the City Council

that he could not answer their question at that time and further stated that he would need to consult with the Property Owner and the Padises. The City Council continued the public hearing to November 26, 2013, to allow the Applicants and their representative to meet and answer the Council's question. However, neither the Applicants nor any other person answered the Council's inquiry regarding the planned inventory at the Site at the continued hearing on November 26, 2013. Indeed, neither the Applicants nor the Property Owner, who had appealed the Planning Commission decision to the City Council, even appeared at the continued hearing on November 26.

12. The City Council, after reviewing materials provided from the Planning Commission Public Hearing, as well as considering the record of the proceedings before the City Council, the written evidence submitted for the Council Public Hearings, and the testimony and other evidence submitted at the Council Public Hearings, deliberated on the matter at their November 26, 2013 meeting and voted 4-0 to direct staff to prepare the attached resolution denying the Applicants' and Property Owner's Appeal and upholding the decision of the Planning Commission with the following findings.

RESOLUTION

The City Council of the City of St. Helena, State of California, hereby denies the Appeals of Steve and Judy Padis and W & W Four Seas Limited Partnerships (collectively, the Applicants' Appeals) and upholds the decision of Planning Commission finding that the Project, as proposed, is neither consistent with nor permitted by the 1987 Use Permit for the Site, on the following basis:

- A. Incorporation of Recitals. The foregoing Recitals are true and correct and are incorporated herein and form a part of this Resolution.
- B. Compliance with CEQA. The City Council hereby finds that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303, Class 3 of the CEQA guidelines, which exempts operation and minor alterations to existing facilities, and Section 15061(b)(5), which exempts projects that will be denied from the requirements of CEQA.
- C. Findings. The City Council finds that: (1) the Padises and the Property Owner (collectively, the "Appellants") failed to carry their burden as Appellants of demonstrating that the Planning Commission erred in granting the Clark Appeal because they failed to appear at the second meeting on November 26, 2013, and failed to answer Council questions regarding the Padises' actual intention and business plan/proposed merchandise inventory for the Site; (2) substantial evidence was introduced at both the Planning Commission and Council Public Hearings to support the Council's finding that the term "bridal" jewelry," as used in the jewelry industry and as proposed by the Padises, will consist of precious jewelry (diamonds and other precious stones), which is not permitted under the 1987 Use Permit; (3) the Clark Appeal was timely and properly within the jurisdiction of both the Planning Commission and the City Council; (4) the 1987 Use Permit was intentionally very specific and explicit regarding the merchandise that could be sold at the Site (expressly limiting the sale of jewelry to non-precious jewelry) and did not support the Interim Planning Director's interpretation that the 1987 Use Permit more broadly allowed the sale of all types of jewelry at the Site; (5) the 1987 Use Permit remains valid and may be exercised at the Site by the Appellants or any other person in strict compliance with its terms, including the specific merchandise

limitations embodied in Exhibit B to the 1987 approval; and (6) denial of the Applicants' Appeals extends only to the scope of the 1987 Use Permit, and is without prejudice, and the Appellants or any other lawful holder of the 1987 Use Permit may apply to modify the 1987 Use Permit or seek a new use permit for the Site.

D. Supporting Evidence and Discussion. The City Council's findings in Paragraph C, above, are supported by the following evidence in the record:

1. *Appellants have proffered no evidence to demonstrate that the Planning Commission incorrectly found the Project to be inconsistent with the jewelry use authorized by the 1987 Use Permit and, in fact, failed to appear at the November 26, 2013 Council Public Hearing and respond to a direct question from the City Council regarding their planned inventory. Substantial evidence was introduced in the record of these proceedings through public testimony and written materials to support the Council's finding that the Padises proposed "bridal" jewelry will consist of precious jewelry (diamonds and other precious stones), which is not permitted under the 1987 Use Permit.*

The 1987 Use Permit authorizes use of the Site for a jewelry store and gift shop, but strictly limits the merchandise that may be carried at the Site. Specifically, Exhibit B to the 1987 Use Permit limits the merchandise that may be marketed at the Site as follows: (1) Furniture consisting of "occasional tables, chairs, chests, settees, wall cabinets, étagères, lamps, mirrors, wood & porcelain stools, and folding screens;" (2) Decorative Accessories consisting of "vases, flower arrangements, planters, wood stands, figurines, ash trays, pillows, baskets, and wall art;" and (3) Jewelry consisting of "sterling silver earrings, bracelets, and necklaces; semi-precious and 14-k earrings, bracelet, necklaces, and rings; watches; and jewelry repair and custom work. [Emphasis added.]" The Interim Planning Director construed the 1987 Use Permit broadly, finding that it was sufficient to permit the sale of all types of jewelry from the Site.

On appeal, the Planning Commission disagreed, finding that the 1987 Use Permit, and Exhibit B thereto, intentionally limited the scope of the jewelry business at the Site to encourage the operation of a more locally serving jewelry component, rather than a high-end jewelry store targeting tourists. The Planning Commission acknowledged that nothing in the 1987 Use Permit requires a business at the Site to carry all of the inventory set forth in Exhibit B to the 1987 approval; however, the Planning Commission found that the Project's proposed "bridal" jewelry inventory would be directly at odds with the 1987 Use Permit. The City Council concurs with and adopts those findings.

Appellants offered no evidence at the Council Public Hearings to suggest that Planning Commission's findings were in error. As noted, the 1987 Use Permit explicitly limits the sale of jewelry at the Site to "sterling silver earrings, bracelets, and necklaces; semi-precious and 14-k earrings, bracelet, necklaces, and rings; watches; and jewelry repair and custom work." Appellants, however, propose a high-end wedding gifts and bridal jewelry business. Substantial evidence was introduced during the Planning Commission and Council Public Hearings, both through public

testimony and written evidence submitted during the proceedings, demonstrating that in the jewelry industry “bridal jewelry” commonly consists of diamonds and other precious jewelry. In order to carry this type of inventory at the Site, the 1987 Use Permit would have to be modified or replaced by a new Use Permit. Appellants introduced no evidence, oral or written, to rebut this evidence or to suggest that they intend to carry an inventory of “bridal jewelry” that would conform to the merchandise limitations imposed by Exhibit B to the 1987 approval rather than the industry standard for “bridal jewelry.” To the contrary, the City Council directly asked Appellants to provide such information, and they failed to do so.

At the November 12, 2013 hearing, the City Council specifically asked the Appellants’ representative to clarify the inventory Appellants’ planned to carry at the Site and further inquired whether that inventory would comply with Schedule B from the 1987 Use Permit. The Appellants’ representative told the City Council that he could not answer their questions at that time and stated that he would need to consult with the Property Owner and the Padises. The City Council then continued the public hearing to November 26, 2013, expressly to allow the Appellants and their representative to meet and answer the Council’s question. However, the Appellants neither appeared at the November 26, 2013 Council Public Hearing nor provided an answer to the Council’s inquiries regarding the planned inventory at the Site.

The Council finds that Appellants’ failure to appear and introduce evidence to contradict substantial evidence in the record that “bridal jewelry” is comprised of diamonds and other precious stones amounts to an abandonment of, and/or failure to carry their burden of persuasion on their appeal. In reaching this determination, the City Council is aware of and expressly acknowledges the California court decisions that hold the reviewing body “[is] not bound to develop appellants’ arguments for them.”¹ Absent evidence to controvert substantial evidence in the record that “bridal jewelry” is comprised of diamonds and other precious stones, this Council finds that the Planning Commission correctly ruled that the scope of the Project’s proposed bridal jewelry component goes beyond what was contemplated by and is not authorized under the 1987 Use Permit. Accordingly, the City Council hereby denies the Applicants’ Appeals and upholds the decision of the Planning Commission with respect to the scope of the 1987 Use Permit.

2. *The Clark Appeal was both timely and properly before the Planning Commission.*

In reaching its decision, the City Council expressly rejects Appellants’ assertions that (1) the Interim Planning Director’s August 22, 2013 decision was not appealable to the Planning Commission and (2) even if said decision was appealable it was not timely filed and, therefore, absolutely time barred. Appellants cite St. Helena Municipal Code (“SHMC”) Section² 17.08.180 to support their argument that the

¹ *In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830. *See also Niko v. Foreman* (2006) 144 Cal.App.4th 344, 368 [absence of legal argument and citation to authorities in support of contention results in its forfeiture].

² All further section references are the SHMC unless otherwise noted.

City's zoning ordinance only allows limited appeals from decisions by the Planning Director. The plain language of the SHMC undercuts Appellants' assertions.

- a. *The decision of the Interim Planning Director was appealable to the Planning Commission.*

Appellants themselves requested that the Interim Planning Director render a determination that the 1987 Use Permit for the Site: (a) remained valid and (b) was sufficient to authorize use of the Site for the Project. Yet on appeal, they challenge both the authority of the Interim Planning Director to make such a determination and the authority of both the Planning Commission and the City Council to review that determination. For the reasons discussed below,³ the Council rejects Appellants' inconsistent argument that the Interim Planning Director lacked the authority to make the determination in question and finds that such determination was (and is) properly before the Planning Commission and this Council.

Section 17.08.180 broadly authorizes appeals by any person to any action taken under the zoning ordinance. Subdivision (A) of said Section 17.08.180 specifically provides:

“Unless otherwise indicated, appeals from the decision of the planning director or any other administrative official in taking any of the actions authorized by this title shall be made to the planning commission through the planning director. Appeals from the decision of the planning commission in taking any of the actions authorized by this title shall be made to the city council through the city clerk.”

Several provisions of the SHMC authorize the underlying decision of the Interim Planning Director at issue here—a request by Appellants themselves seeking a determination that the 1987 Use Permit authorized the Project—.⁴

- Section 17.04.110 vests the City Planner with authority to determine compliance with the provisions of the zoning ordinance.
- Section 17.04.060 authorizes and envisions that the zoning ordinance requires interpretation in its day-to-day administration.
- Sections 17.04.130 and 17.04.040 authorize the Planning Director to determine whether uses are in violation of the zoning ordinance.
- Subsections (C) and (F) of section 2.28.020 authorize the Planning Director to ensure development proposals conform to City laws and “planning documents,” to interpret planning documents and laws, and to advise citizens.

³ While the City Council finds that the Interim Planning Director and Planning Commission had authority to make the determination, any error would have been invited and waived by the Padises' request for the determination.

⁴ August 8, 2013 letter from Steve & Judy Padis to Interim Planning Director Greg Desmond.

The City Council finds that the foregoing provisions, viewed together and in concert, vest the Interim Planning Director with the authority to initially make the determination that the Project was authorized by the 1987 Use Permit, as requested by Appellants. The City Council further finds that the request by Appellants required the Interim Planning Director to exercise discretion in the discharge of his duties. Unlike a ministerial decision—which merely requires the administrative officer to apply a fixed set of rules to specific facts and render a decision—the exercise of discretion involves making policy decisions to interpret and administer the zoning ordinance. As the bodies charged with the drafting and adoption of the zoning ordinance, the Planning Commission (in its advisory capacity to the Council) and the City Council (in its capacity as legislator) must review such discretionary actions of the Interim Planning Director. To hold otherwise would usurp the authority and accountability for such decisions vested in the elected and appointed officials of the City by the electorate.

Here, the SHMC divides the City into districts and prescribes regulations governing the uses permitted therein, and that zoning ordinance. Jewelry stores are permitted in the Central Business (CB) district only with a Use Permit. The 1987 Use Permit authorized the operation of a jewelry store and gift shop at the Site, subject to the restrictions on inventory imposed by Exhibit B. The Interim Planning Director construed the 1987 Use Permit broadly, finding that it was sufficient to permit the sale of all types of jewelry from the Site. As noted, the Planning Commission and this Council disagree and find otherwise. Exhibit B explicitly limited the type of jewelry that could be carried at this Site. Appellants' bridal jewelry component exceeds the scope of the jewelry component contemplated by the 1987 Use Permit and is not authorized by that approval.

It is well settled under California law that “‘a municipality may divide land into districts and prescribe regulations governing the uses permitted therein, and that zoning ordinances, when reasonable in object and not arbitrary in operation, constitute a justifiable exercise of police power.’ [Citations.]”⁵ The City Council takes notice that the Court of Appeal recently upheld the authority of the City of Monterey to make a similar determination under its zoning regulations, opining that: “50 commercial use classifications are specified under City Code section 38-29 as being available for property located in a C-2 District, either as permitted uses or as uses of property permitted after the City’s approval of a use permit. Such a regulatory scheme would be pointless unless it were construed as defining permitted commercial uses of property in a C-2 District with the corollary that unlisted commercial uses that cannot reasonably be included in any listed use classification are not permitted.”⁶ The court in that case further held that Monterey, “as evidenced by its actions here in denying appellants’ application for a business license and in demanding that it cease its ... operations, acted consistently with its interpretation that

⁵ *City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1099 (“*Carrnshimba*”) (citing *Hernandez v. City of Hanford* (2007) 41 Cal.4th 279, 296; and *Wilkins v. San Bernardino* (1946) 29 Cal.2d 332, 337).

⁶ *Id.* at 1091. [Emphasis added.]

uses not listed in section 38-29.B of the City Code as permitted uses or uses subject to obtaining a use permit, are prohibited uses of C-2 District property.”⁷

The City Council determination here is consistent with the City’s historical interpretation of the Central Business (CB) district provisions in the SHMC. As noted, jewelry stores are permitted in the Central Business (CB) district only with a Use Permit. The 1987 Use Permit authorized the operation of a jewelry store and gift shop at the Site, subject to the strict, explicit restrictions on inventory imposed by Exhibit B. The initial broad interpretation of the 1987 Use Permit applied by the Interim Planning Director and urged by Appellants would render the limitations imposed by Exhibit B meaningless, and the Council declines to adopt this position. If the Applicants/Appellants wish to sell other inventory such as “bridal” jewelry consisting of diamonds and precious stones, they must first seek to obtain a new Use Permit or a modification of the 1987 Use Permit by means of the normal public process mandated by the SHMC.

For the foregoing reasons, the City Council finds that the Interim Planning Director had the authority to initially interpret the scope of the 1987 Use Permit as requested by the Padises and, further, that such determination of the Interim Planning Director (which the Council finds to be incorrect) was appealable to the Planning Commission, and ultimately the City Council.

b. The Clark Appeal of the Interim Planning Director’s decision was timely, and, further, the timelines in SHMC Section 17.08.180 are purely directory not jurisdictional.

The Appellants additionally assert that the Clarks failed to timely file their appeal under SHMC Section 17.08.180B. Said provision provides for a 14-day time limit for filing appeals. Appellants assert that said 14-day filing period in the instant case commenced on August 22, 2013, when the Interim Planning Director issued his letter to the Padises.

The City Council, however, interprets Section 17.08.180B such that the 14-day period only commences upon notice of the determination to effected parties. Thus, the Clark Appeal was timely since there was no meaningful notice of the Interim Planning Director’s determination prior to the Padises commencing construction activity at the Site.

The Padises obtained Building Permit No. BD1309-025 on September 18, 2013. The Clark Letter stating the Clarks’ intent to appeal was submitted to the City Clerk on September 19, 2013, and the Clark Appeal was formally filed September 23, 2013, well within 14 days of any commencement of construction activities at the Site. No other notice of the Interim Planning Director’s decision was issued that would have put the Clarks on notice that the determination in question had been made. California law has long required cities acting in their adjudicatory capacity to ensure that both the property owner and affected citizens have notice and an opportunity to be heard

⁷ *Ibid.*

before a particular decision is made.⁸ If City were to adopt Appellants' argument with respect to the commencement of the 14-day time limit, the public would be deprived of its right to a fair hearing on the Project without notice. The City Council declines to adopt such an unreasonable and unfair interpretation of the SHMC appeal provisions.

In addition, Section 17.08.180B's 14-day appeal provision does not specify a penalty or consequence for failure to file within the prescribed time frame. Thus, under law, the 14-day provision is deemed to be directory rather than mandatory.⁹

Appellants' reliance upon the Court of Appeal decision in *Edwards v. Steele* (1979) 25 Cal.3d 406 ("*Edwards*"), is misplaced. Contrary to Appellants' assertions, the *Edwards* decision does not support Appellants' position that the failure of the Clarks to file an appeal within 14-days of the date the Interim Planning Director issued his letter deprived the Planning Commission of jurisdiction to consider the Clark Appeal. The *Edwards* decision, in fact, reaches the opposite conclusion and confirms that administrative appeal timing provisions that do not contain clear language making them mandatory and jurisdictional, are deemed to be neither, and to the contrary are merely directory.¹⁰ Indeed, the *San Mateo* decision (cited in footnote 9 above) relies heavily on *Edwards* as a basis for its conclusion in support of this finding by the Council.

Appellants' reliance on *Mumaw v. City of Glendale* (1969) 270 Cal.App.2d 454 ("*Mumaw*"), for the proposition that all City timelines are absolute and jurisdictional, is equally misguided. Unlike the St. Helena ordinance at issue here, the Glendale ordinance at issue in *Mumaw* explicitly stated that it was jurisdictional and failure to comply with the prescribed timeline deprived Glendale of any ability to act after the lapse of the time period.

Finally, the City Council finds that the City has complied with all City ordinances and all applicable State laws, despite Appellants' general allegation that the City has ignored such rules on an *ad hoc* basis. For the reasons set forth above, the City's interpretation of Section 17.08.180B respects neighbors' and stakeholders' fair hearing/due process rights to notice and an opportunity to be heard on matters that affect their interests and neither ignores the provisions of the SHMC or the general laws of this State.¹¹

⁸ See, e.g., *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612 (neighbors entitled to notice of hearing on subdivision map application).

⁹ See generally *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1184-1185; *San Mateo County Coastal Landowners Assn. v. County of San Mateo* (1995) 38 Cal.App.4th 523, 544-545 ("*San Mateo*").

¹⁰ *Edwards*, *supra*, 25 Cal.3d at ____.

¹¹ See, e.g., *Horn v. County of Ventura* (1979) 24 Cal.3d 605; *Calvert v. County of Yuba* (2006) 145 Cal.App.4th 613 (improper for county to make a determination conferring a vested right without first providing interested neighbors due process notice and opportunity to be heard).

3. *Appellants have no vested right to proceed with the Project.*

The City Council further rejects Appellants' related claim that issuance of the Building Permit on September 18, 2013, and the subsequent work and expenditures in reliance thereon, created vested rights in Appellants to proceed with the Project.

Section 15.04.110 expressly prohibits issuance of any building permit that is inconsistent with the zoning ordinance. Sections 17.04.040 and 17.04.050 contain similar provisions in the zoning ordinance. The courts have consistently held that no vested rights or estoppel claims may be based on an invalid permit or permit issued in violation of law.¹²

The decision cited by Appellants—*Congregation Etz Chaim v. City of Los Angeles* (9th Cir. 2004) 371 F.3d 1122 (“*City of Los Angeles*”)—is readily distinguishable. Unlike the case at hand that case involved no argument that the permit issued was inconsistent with city law. Subsequent cases have similarly distinguished the *City of Los Angeles* decision on its facts.

The seminal case on vested rights remains *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785 (“*Avco*”). The *Avco* court held that where “a property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon a permit issued by the government, he acquires a vested right to complete construction in accordance with the terms of the permit. [Citations.]”¹³

Here, Appellants obtained their building permit on September 18, 2013. They assert that, in reliance upon the building permit, they expended substantial sums to renovate the Site to accommodate the Project. The Council rejects these this argument fails on several grounds.

First, they have introduced no evidence to establish that their reliance on the building permit was reasonable, or to establish the chronology for the expenditure of the funds in question, other than their conclusory statements in a letter from their legal counsel, Rob Anglin, dated November 8, 2013. As noted, the Clark Letter was delivered to the City on September 19, 2013, just one day after Appellants obtained the building permit. On September 19, 2013, the Interim Planning Director notified Appellants representative, Jeff Redding, by email that the City had received the Clark Appeal. The email to Mr. Redding put the Applicants/Appellants on notice that there was an imminent likelihood that the Building Permit would be challenged. The Clark Appeal was formally filed on City forms on September 23, 2013, setting forth the same grounds summarized in the September 19, 2013 Clark Letter as the sole grounds for said appeal. On September 26, 2013, the Interim Planning Director notified Mr. Redding that the Clark Appeal had been formally filed and accepted by the City. To

¹² See *Golden Gate Water Ski Club v. Contra Costa County* (2008) 165 Cal. App. 4th 249; *Feduniak v. California Coastal Com.* (2007) 148 Cal.App.4th 1346; *Toigo v. Town of Ross* (1998) 70 Cal.App.4th 309; *Pettit v. City of Fresno* (1973) 34 813, 821-822.

¹³ *Avco, supra*, 17 Cal.3d at 791. [Emphasis added.]

the extent Appellants claim to have incurred expenses in reliance on the building permit *after* the City expressly notified them that the appeal was in the process of being filed, such reliance was unreasonable and thus conferred no vested right.

Absent evidence that Appellants incurred their expenses during the one-day period between permit issuance and being advised of the Clark objections, any reliance upon the building permit is unreasonable. The City Council finds that Appellants submitted no evidence during the Council Public Hearings on the chronology of expenditures, namely, when exactly they incurred their expenses and whether they did so before or after the Interim Planning Director notified them of the Clark Appeal.

In addition, the Council finds that Appellants, through their representative, failed to disclose to the Council or the Planning Commission that they in fact had notice of the Clark Appeal within 24 hours of the issuance of the building permit. This failure to provide the City with a complete, full and fair representation of all material facts again leads the Council to conclude and find that Appellants' have failed to satisfy their burden of persuasion on the issue of vested rights and, further, that the record is devoid of evidence establishing the chronology of notice of the Clark Letter and the Clark Appeal and the timing of Appellants' expenditures in in reliance on the building permit. In reaching this determination, the City Council expressly notes the California court decisions discussed above that hold the reviewing body "[is] not bound to develop appellants' arguments for them."¹⁴ Absent evidence to establish both the timing of the expenditures and the reasonableness of Appellants' reliance upon the building permit, this Council finds that Appellants have obtained no vested rights under the building permit.

Even if Appellants can establish they expended some or all funds in question before they received notice of the Clark Appeal, the law is clear that they cannot obtain vested rights to proceed with a use that is not authorized by the existing zoning. Even the *Avco* court rejected a similar argument that the developer in that case acquired vested rights to a building permit that were inconsistent with the applicable zoning ordinance merely because it had subdivided and graded property and expended sums for storm drains, culverts and street improvements. There, the court concluded that "neither the existence of a particular zoning nor work undertaken pursuant to governmental approvals preparatory to construction of buildings can form the basis of a vested right to build a structure which does not comply with the laws applicable at the time a building permit is issued."¹⁵

More recently, the Court of Appeal rejected a similar vested rights claim in *City of Monterey v. Carrnshimba*.¹⁶ The *Carrnshimba* court found telling the appellants' failure to disclose to Monterey in the application for a business license or in response to a follow up inquiry the use they intended to operate. Since the actual intended use

¹⁴ *In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830. *See also Niko v. Foreman* (2006) 144 Cal.App.4th 344, 368 [absence of legal argument and citation to authorities in support of contention results in its forfeiture].

¹⁵ *Id.* at 793.

¹⁶ *Carrnshimba, supra*, 215 Cal.App. 4th 1068.

of the premises was not a permissible use under the Monterey Municipal Code, appellants obtained no vested rights to operate such use.¹⁷

Like the *Carrnshimba* appellants, the Council finds that Appellants here have not been completely forthcoming in their characterization of the planned use and the inventory to be carried at the Site, or as discussed above in their other factual arguments about their claimed vested right. Appellants have been elusive about the exact nature of the “bridal” jewelry inventory they intend to carry. While Appellants have to a limited extent acknowledged the limitations on inventory imposed by Exhibit B to the 1987 Use Permit, they have nevertheless failed to respond to direct inquiries from both the Interim Planning Director and this Council to clarify the inventory Appellants’ planned to carry at the Site and to determine whether that inventory would comply with Schedule B from the 1987 Use Permit.

In any event, substantial evidence in the record supports Council’s finding that “bridal jewelry” is comprised of diamonds and other precious stones amounts, a use that is neither permitted under the Central Business (CB) district without a valid use permit nor authorized by the 1987 Use Permit. Based on the authority set forth above, Council finds that Appellants’ apparent effort to conceal their exact proposed use and inventory do not and cannot establish a vested right to sell bridal jewelry at the Site without a modification to the 1987 Use Permit.

Further, the City Council has determined that the public had a right to notice and a fair hearing on the Interim Planning Director’s determination—a right could only be meaningfully exercised when the public received notice of the Interim Planning Director’s determination. The public did not receive notice of the Project until Appellants commenced construction activities at the Site. A building permit issued in derogation of that appeal right is “inconsistent” with zoning ordinance under the plain language of Section 15.04.110. The Planning Commission further found, and this Council concurs, that the 1987 Use Permit did not authorize Appellants’ proposed use, so again the building permit was “inconsistent” with zoning ordinance under the plain language of Section 15.04.110. Appellants’ additional tacit argument that their use became vested merely by the issuance of a City Business License finds no support in the law and is directly at odds with the express language of Section 5.08.170, which states, to the contrary, that possession of a Business License “shall not be considered as permission to engage in any business activity contrary to any other law, ordinance or regulation.”

¹⁷ *Id.* at 1097-1098 (citing *Acker v. Baldwin* (1941) 18 Cal.2d 341, 346 [115 P.2d 455] [“[n]o vested right to violate an ordinance may be acquired by continued violations”]). See also *Autopsy/Post Services, Inc. v. City of Los Angeles* (2005) 129 Cal.App.4th 521, 524 and 527 [owner failed to disclose in building permit applications its intent to use property to perform autopsies]; *Avco, supra*, 17 Cal.3d at 794 [before date statute’s requirements became effective, developer failed to apply to county for building permits or even to disclose “elementary details” concerning buildings].)

For all the foregoing reasons, the City Council finds that the proposed business is contrary to the zoning ordinance and the 1987 Use Permit. Accordingly, Appellants have no vested right to proceed with the Project as proposed.

4. *The 1987 Use Permit was very specific and requires explicit compliance with the limitations imposed on the type of merchandise that may be sold from the Site.*

The Council finds that the scope of the 1987 Use Permit was purposely narrow. The 1987 Use Permit authorizes use of the Site for a jewelry store and gift shop, but strictly limits the merchandise that may be carried at the Site. Specifically, Exhibit B to the 1987 Use Permit limits the merchandise that may be marketed at the Site as follows: (1) Furniture consisting of “occasional tables, chairs, chests, settees, wall cabinets, étagères, lamps, mirrors, wood & porcelain stools, and folding screens;” (2) Decorative Accessories consisting of “vases, flower arrangements, planters, wood stands, figurines, ash trays, pillows, baskets, and wall art;” and (3) Jewelry consisting of “sterling silver earrings, bracelets, and necklaces; semi-precious and 14-k earrings, bracelet, necklaces, and rings; watches; and jewelry repair and custom work. [Emphasis added.]”

The Planning Commission found, and this Council concurs, that the 1987 Use Permit intentionally limited the scope of the jewelry business at the Site to encourage the operation of a more locally serving jewelry component, rather than a high-end jewelry store targeting tourists at this location. While the Council acknowledges that nothing in the 1987 Use Permit requires a business at the Site to carry all of the inventory set forth in Exhibit B to the 1987 approval, Exhibit B is purposely narrow and restricts the inventory that may be marketed at the Site to those items listed in or consistent with the inventory described in Exhibit B. The Project’s proposed “bridal jewelry” (which substantial evidence on the record established would consist of diamonds and other precious jewelry) is directly at odds with the 1987 Use Permit’s limitations. Exhibit B limits jewelry at the Site to “sterling silver earrings, bracelets, and necklaces; semi-precious and 14-k earrings, bracelet, necklaces, and rings; watches; and jewelry repair and custom work.” Appellants proposed bridal jewelry component is beyond the scope that was contemplated by Exhibit B. While unusual, the City Council finds that the intent in imposing the merchandise limitations embodied in Exhibit B of the 1987 Use Permit was to strictly limit the nature and type of merchandise carried at the Site. The City Council further finds the 1987 Use Permit was purposely narrow and requires explicit compliance with the limitations imposed on the type of merchandise that may be sold from the Site. As currently proposed, the Project does not comply with these limitations and, therefore, exceeds the scope of the 1987 Use Permit.

5. *The 1987 Use Permit remains valid and may be exercised by the Appellants or any other valid holder of the permit.*

In addition to asserting that the Project did not conform to the 1987 Use Permit limitations on jewelry inventory, the Clark Appeal also contended that: (1) the 1987 Use Permit had lapsed from non-use for periods in excess of six-months; and (2) even if the 1987 Use Permit had not lapsed from such non-use, it did lapse from the use of

the predecessor business (Findings) which was not a jewelry store. The Planning Commission did not reach these issues. However, for the reasons discussed below, the City Council finds that each of these arguments lack merit and hereby determines that the 1987 Use Permit remains valid.

Under *Community Development Commission of Mendocino County vs. City of Fort Bragg* (1988) 204 Cal.App.3d 1124 (“*Fort Bragg*”), an existing Use Permit may not be deemed automatically expired or revoked in the absence of notice and a public hearing at which the evidence establishes that the permit holder had no subjective intention to exercise the rights under the permit.

Here, the 1987 Use Permit has been continuously exercised since it was issued to Discoveries Unlimited in 1987. The Site has subsequently been occupied by William Pacific Co. (a retail gifts and jewelry store), Holly GoLightly (a retail gifts and jewelry store), and Findings (a retail home accessories, gifts, and jewelry store). Each of these businesses relied on the 1987 Use Permit to conduct their respective businesses at the Site. In February 2013, Findings received approval to relocate its existing business to another location on Main Street. Findings officially abandoned the Site on June 25, 2013, as evidenced by the Notice of Abandonment recorded against the Site. The Property Owner has actively marketed the Site since Findings obtained its approval to relocate in February of 2013, and the Padises made a timely inquiry to the Interim Planning Director on August 8, 2013.

Based on the evidence above, it appears that the Property Owner has never manifested a subjective intent to abandon the 1987 Use Permit. Each of the businesses that have occupied the Site since the 1987 Use Permit was issued to Discoveries Unlimited has relied upon the 1987 Use Permit to occupy the space. While this Council acknowledges that not all of those businesses have carried jewelry as a major part of its inventory, nothing in the 1987 Use Permit requires that a business carry all of the items set forth in Exhibit B to the 1987 approval. To the contrary, this Council finds that Exhibit B merely prohibits inventory that exceeds the scope of the inventory described therein. Furthermore, at no time has there been a gap in use at the Site with a corresponding manifestation of intent on the part of the Property Owner or a tenant in lawful possession to abandon the 1987 Use Permit. Thus, based on the evidence in the record, the City Council finds that the 1987 Use Permit remains valid and may be exercised by the Appellants or any other valid holder of the permit in strict compliance with the with the terms and conditions thereof, including the merchandise limitations imposed by Exhibit B to the 1987 Use Permit.

6. *Denial of the Applicants’ Appeals is goes solely to the scope of the 1987 Use Permit and is without prejudice, and the Padises, the Property Owner, or any other lawful holder of the permit may apply to modify the 1987 Use Permit or seek a new use permit for the Site.*

The City Council expressly denies the Applicants’ Appeals without prejudice and acknowledges that said denial goes solely to the scope of 1987 Use Permit, and whether the 1987 Use Permit allows the Applicants’ proposed use and inventory. The Padises, the Property Owner, and/or any other lawful older of the 1987 Use Permit (i)

remain authorized to establish a use authorized by and in strict compliance with the terms of the 1987 Use Permit; (ii) may submit an application to modify the 1987 Use Permit; or (iii) may, alternatively, seek a new use permit for the Site.

Approved at a Regular Meeting of the St. Helena City Council on January 14, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Ann Nevero
Mayor

Delia Guijosa
City Clerk

Item No. _____

**REGULAR MEETING
ST. HELENA CITY COUNCIL
VINTAGE HALL BOARD ROOM – SECOND FLOOR
465 MAIN STREET, ST. HELENA
NOVEMBER 26, 2013
6:00 P.M. REGULAR MEETING**

A complete video recording of this meeting can be found at www.cityofstheleena.org or by calling the City Clerk at (707) 967-2792. The City Council video is the official record of the Council meeting.

Mayor Nevero called the meeting to order at 6:02 p.m. and the flag was saluted.

ROLL CALL

Present: Councilmembers Sculatti, White, Crull, Pitts, Mayor Nevero

Absent: None

PUBLIC HEARINGS

10. Consideration of the appeals of Steve and Judy Padis and W&W Four Seas Limited Partnerships of the Planning Commission upholding the appeal of David Clark and overturning the Interim Planning Director's determination that the existing use permit for a jewelry store is valid for 1269 Main Street (Continued from the meeting of November 12, 2013)

Councilmember Sculatti recused himself stating he leases office space on Main Street within 500 feet of this property.

Interim Planning Director Desmond reported that Attorney David Blackwell, Allen Matkins Leck Gamble Mallory & Natsis LLP, had submitted a letter via email late this afternoon; however, prior to that, he had not received any other information/correspondence from the applicant.

The Council reviewed that this matter had been continued to this evening to provide Attorney Anglin an opportunity to speak to his client and the property owner regarding correspondence from Mrs. Judy Padis (dated August 8, 2013) stating that the proposed use would adhere to sale of items listed in Exhibit B of the 1987 Use Permit for 1269 Main Street.

Councilmember Crull read the letter from Attorney Blackwell addressed to the Council that in summary states that the firm had been hired by Steve Padis and the intent of the letter was to exhaust appellant's administrative remedies prior to commencing litigation against the City. The

correspondence states that the letter incorporates by reference all of appellant's prior communications to the City including but not limited to correspondence from Rob Anglin dated 10-14-2013 and 11-8-13 in addition to correspondence provided by property owner W&W Four Seas Limited Partnership to the City and states that the Planning Commission lacked jurisdiction to consider the appeal filed by David Clark.

The Council was troubled that the Padis family was not in attendance to review/clarify their business plan since they were aware that the matter was specifically continued to this meeting to provide them the opportunity to review and respond to the Council's inquiry and instead the appellant chose the litigation process.

Discussion ensued.

City Attorney Brown stated that his firm would prepare a resolution with detailed findings including but not limited to issues related to jurisdiction, timeliness of appeal, specifying what the 1987 Use Permit states, etc. for the January agenda.

Councilmember Crull moved to deny the Padis appeal for the reasons discussed this evening. The motion was seconded by Councilmember White and on roll call carried by the following vote:

AYES: Councilmembers Crull, White, Pitts, Mayor Nevero

NOES: None

ABSTAIN: Councilmember Sculatti

ADJOURNMENT

Mayor Nevero adjourned the meeting at 7:53 p.m.

APPROVED:

Ann Nevero, Mayor

ATTEST:

Delia Guijosa, City Clerk

STAFF REPORT



DATE: January 14, 2014

TO: Mayor and St. Helena City Council

FROM: Gary Broad, City Manager

Item No: 13

RE: Approval of Water Agreement for the Harvest Inn, 1 Main Street

BACKGROUND:

As reflected in attached Resolution No. 2004-17, in 2004 the City agreed to enter into a water agreement with Harvest Inn for 6,900,000 gallons of water per year. An agreement was drafted and signed by Harvest Inn. However, the City never followed through with signing or recording the agreement. This oversight was just brought to light last month when the Harvest Inn approached the City for a copy of the recorded agreement.

DISCUSSION/ANALYSIS:

City staff (planning, public works, city attorney and city manager) have all been involved in reviewing the unsigned 2004 agreement and updating it to reflect include legal language in particular that the City has included in more recent water agreements. As indicated in the attached letter from the Harvest Inn, subsequent to the 2004 hotel expansion approval, they drilled wells for landscape irrigation which has reduced overall city water system use by more than one million gallons. The hotel did expand as approved in resolution 2004-17 and therefore staff believes the hotel operation was found compliant with the conditions of the resolution and water agreement. Staff supports memorializing the water agreement which should have been completed in 2004.

FISCAL IMPACT:

None

RECOMMENDED COUNCIL ACTION:

Council approve a water agreement for Harvest Inn

ATTACHMENTS/EXHIBITS:

Letter from Harvest Inn to City Manager

Harvest Inn Water Agreement

City of St. Helena Resolution No. 2004-17 Approving Harvest Inn Expansion

C:\Users\GaryB\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\A72H5FRC\PS\Staff Report for Elder Abuse MOU 7447.docx

HARVEST INN

Heart of Napa Valley

December 31, 2013

Mr. Gary Broad, City Manager
City of St. Helena
1480 Main Street
St. Helena, CA 94574

Re: Harvest Inn Water Agreement

Dear Gary:

The ownership of the Harvest Inn has asked me to provide written confirmation that there has been full compliance to all items in the original Water Agreement with the City of St. Helena, which was created in 2004.

Not only was compliance required before issuance of the certificate of occupancy for the 20-room Harvest Inn expansion, but voluntarily the Harvest Inn ownership developed two separate wells, which provide all water for landscaping on the Harvest Inn's grounds. This has resulted in a reduction of over one million gallons per year from the city water system and kept utilization well below the maximum guidelines of the Water Agreement.

Regards,


Debbie Greene, General Manager

Cc: Rick Swig - Managing Partner, Not Another Winery LLC

One Main Street, Street, St. Helena, CA 94574 707-963-9463

EXEMPT FROM RECORDING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City Clerk
City of St. Helena
1480 Main Street
St. Helena, California 94574

Assessor's Parcel No. **027-560-008**
(Merged parcels 027-560 003, 027-560-004,
027-560-005, 027-560-006, 027-560-007)

AGREEMENT

(HARVEST INN WATER AGREEMENT)

THIS AGREEMENT, entered into on _____, 2005, between the City of St. Helena, a municipal corporation (City), and Not Another Winery, LLC, a California limited liability company (Customer), provides as follows:

RECITALS

A. Customer is the owner of real property (the Property) located at One Main Street, St. Helena, Napa County, known as Assessor's Parcel No. 027-560-008, as more particularly described in Exhibit A attached hereto.

B. On February 24, 2004, the St. Helena City Council approved Resolution 2004-17, which authorized the expansion of the Harvest Inn, which is owned by Customer. As a condition of approval of the use permit amendment and design review approval for the expansion of facilities on the Property, Condition No. 12(a) requires Customer to execute a water agreement with the City limiting city potable water use on the Property to 6,900,000 gallons of water per year.

C. The parties hereto wish to enter into this Water Agreement to fulfill the Resolution condition of approval requiring such an agreement and Agreement to describe the rights and obligations of the parties regarding the provision of water by City to Customer.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

AGREEMENT

1. Subject to the limitations on water usage imposed by Chapter 13.04 of the St. Helena Municipal Code ("SHMC") during a declared water shortage emergency, City shall provide water to the Property as specified in Condition No. 12(a) of Resolution 2004-17, up to the approved annual limitation (Annual Limitation) of six million nine hundred thousand (6,900,000) gallons of water per Water Year upon the terms and conditions set forth in this Agreement. As used herein, the term Water Year shall mean the twelve-month period between the City's last water meter reading of a calendar year and the last water meter reading of the following calendar year. At present, City's last meter reading in a calendar year is in mid-December; a Water Year will run from mid-December to the following mid-December.
2. City water shall be used only for those uses as authorized by Resolution 2004-17. City shall not be obligated to provide water service for any other use nor for any further expansion of the uses allowed by said Resolution 2004-17. Under no circumstances shall Customer be entitled to use more than 6,900,000 gallons in any Water Year.
3. Customer shall install at its expense, on all new construction and existing facilities only low volume flush toilets and urinals, showerheads and faucets. All existing faucets and showerheads shall be equipped with flow restrictors. The retrofitting of all new construction and existing facilities and showerheads shall be completed within one year after date of this agreement.
4. While water is furnished to Customer pursuant to this Agreement, Customer shall be bound by and subject to all lawful resolutions, rules, regulations, directives, ordinances and orders of the City pertaining to water services as may be enacted from time to time for all other applicable users of City water, including, without limitation, provisions relating to rate charges and water shortage emergencies.
5. Customer shall monitor its water usage on a bimonthly basis and employ all measures necessary to ensure that the Annual Limitation is not exceeded. In the event the City Director of Public Works or his/her designee reasonably determines that the Annual Limitation inevitably will be exceeded or that the Annual Limitation has been exceeded, City may require Customer to undertake reasonable additional conservation measures and may require Customer, upon ten (10) days prior written notice, to terminate water service for nonessential uses. For purposes of this Agreement, the term "nonessential uses" shall mean uses for which non-potable water would suffice. At any time that City determines pursuant to the SHMC that a water shortage emergency condition exists, as provided by SHMC Chapter 13.04, and that it is necessary to limit usage by the customers of the municipal water department, the maximum delivery Annual Limitation of 6,900,000 gallons will be adjusted as provided in Article 2 of SHMC Chapter 13.04.
6. Consistent with St. Helena Municipal Code Section 13.12.050, Water Use and Efficiency Guidelines for New Development, Customer is required to retrofit the equivalent of 46

single family dwelling units prior to receiving a certificate of occupancy. All Harvest Inn Guest Rooms shall be retrofit. Credit of 13 retrofits is given for the retrofit of existing guest rooms; 33 retrofits shall either be completed prior to the issuance of building permits or an in-lieu fee of \$33,000 shall be paid at the time of issuance of building permits. Mitigation for the 33 retrofits may also be achieved through an equivalent innovative method of mitigation of water use to be approved by the Public Works Director. In-lieu fees must be paid prior to issuance of building permit and retrofits must be completed prior to issuance of certificate of occupancy.

7. Customer shall consolidate meters into one water municipal water service. Customer shall cause a landscape irrigation well to be constructed on the Property and connected to the thirteen irrigation valves at time clock irrigation region #1, and to the fifteen irrigation valves at time clock irrigation region #2. Such connections shall be made and the system shall be operational prior to issuance by City of a Certificate of Occupancy. Customer shall also cause a backflow prevention device to be installed unless such requirement is waived by the City Director of Public Works. The irrigation piping connecting to the landscape irrigation well described in this Paragraph shall be planned to allow future connection to reclaimed water for landscape irrigation, and Customer shall convert all irrigation systems to use of reclaimed water within a reasonable time after such reclaimed water becomes available.

8. Without limitation on and in addition to City's other rights and remedies under this Agreement, in the event Customer exceeds its Annual Limitation, it shall pay to City a penalty surcharge equal to 60% of the water rate charge for each hundred cubic feet, or portion thereof, used in excess of the Annual Limitation. Such penalty surcharge shall be due and payable within 30 days after calculation and demand by City. In addition to the 60% surcharge, City may avail itself of all rights and remedies set forth in Paragraph 9 of this Agreement.

9. Remedies; Prohibition on Damages.

A. As part of the bargained for consideration for this Agreement, the parties agree that any action or proceeding to cure, correct, or remedy any default or to enforce any covenant or promise herein shall be limited solely and exclusively to those remedies expressly provided herein. Either party may institute legal or equitable proceedings to cure, correct or remedy any default of this Agreement; or to enforce any covenants or promises herein, enjoin any threatened or attempted violation, or to enforce by specific performance, injunction, declaratory relief, writ of mandate, and/or other similar non-monetary relief, the obligations and rights of the parties under this Agreement.

B. Without limitation and in addition to its other rights under this Agreement, the City shall have the right to enter Customer's Property, to read the water meter on Customer's Property, and take such action as City deems reasonably necessary for the remaining portion of a particular Water Year as may be necessary to ensure that Customer does not use water in excess of its 6,900,000 gallon Annual Limit in any Water Year.

C. In no event shall the City, or any of their officers, agents, representatives, officials, employees, or insurers, be liable to Customer for damages for any breach or violation of this Agreement. In the event Customer seeks damages in any action or proceeding brought for breach or violation of this Agreement or to enforce any provision hereof, and does not amend its complaint to delete such request within 15 days' of receipt of written notice from City to delete such request for damages, which notice must specifically cite this Paragraph 9, then such request shall destroy the consideration supporting the City's agreement to enter into this Agreement, and shall, in turn, entitle the City to immediately terminate and end all obligations under this Agreement, irrespective of any provision to the contrary contained herein. The enforceability and validity of the above limitations on the remedies available to the parties, including, without limitation, the specific provision prohibiting the recovery of damages, is part of the bargained for, negotiated consideration for the City's agreement to enter into this Agreement, and it is acknowledged that the City would not have entered this Agreement if it were to be liable in damages under this Agreement.

10. Force Majeure.

A. "Force Majeure Event" means a cause of non-performance or delay that is not the fault of the party who is required to perform under this Agreement and is beyond that party's reasonable control, including the elements (including floods, earthquakes, windstorms, **drought or water shortage** and unusually severe weather), fire, energy shortages or rationing, riots, acts of terrorism, war or war-defense conditions, acts of any public enemy, epidemics, the actions or inactions of any governmental entity (excluding City) or that entity's agents, litigation, labor shortages (including shortages caused by strikes or walkouts), and materials shortages.

B. If the performance of any act required by this Agreement to be performed by either City or Customer is prevented or delayed because of a Force Majeure Event, then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. An extension of time for any such Force Majeure Event shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Lease may also be extended in writing by the mutual agreement of City and Customer.

C. This Section does not excuse (1) Customer's obligation to pay for water provided under this Agreement when due and payable; or (2) either party's obligation to perform an act when performance is rendered difficult or impossible solely because of the party's financial condition. Customer expressly agrees that adverse changes in economic conditions, either of Customer specifically or the economy generally, or changes in market conditions or demand, shall not constitute grounds of enforced delay pursuant to this Section. Customer expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the effective date of this Agreement.

11. Notices.

All notices and other communications provided for herein shall be in writing and shall be sent to the address set forth below (or such other address as a party may hereafter designate for itself by notice to the other parties as required hereby) of the party for whom such notice or communication is intended:

If to City:

City of St. Helena
Attn: City Manager
1480 Main Street
St. Helena, CA 94574
Facsimile No.: 707-963-7748
E-mail: GaryB@cityofsthelena.org

If to Customer:

[fill in appropriate address]

Any such notice or communication shall be sufficient if sent by registered or certified mail, return receipt requested, postage prepaid; by hand delivery; by overnight courier service; or by facsimile transmission or by email. Any notice given by facsimile transmission or by email shall be deemed given on the day sent, provided it is sent on a business day during normal business hours, otherwise it will be deemed sent on the next business day. Any notice given by registered or certified mail, return receipt requested, shall be deemed to have been given on the date receipt was acknowledged to the postal authorities. Any notice given by overnight courier service shall be deemed to have been given on the business day following deposit with the courier service. Customer and City agree that any notice provided by their respective legal counsel shall be deemed to be notice given by Customer or City, respectively. Either party may, by written notice to the other in the manner aforesaid, change the address to which notices addressed to it shall thereafter be mailed.

12. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the prevailing party in such action shall be entitled to all reasonable attorney's fees, court costs and necessary disbursements in connection with such action.

13. The parties hereto agree that the provisions of this Agreement are severable. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected and shall remain in full force and effect unless amended or modified by mutual consent of the parties in writing.

14. The provisions of this Agreement shall be binding on all tenants, heirs, assigns and successors in interest to the parties hereto and shall be a covenant that runs with the land.

15. Customer shall defend (with counsel approved by City, which approval is not to be unreasonably withheld), indemnify, and hold harmless the City, its officials, employees, volunteers and agents from and against any and all loss, liability, expenses, claims, costs (including reasonable attorney's fees), suits and damages of every kind, nature, and description, directly or indirectly arising from any third party legal challenge to the City's approval of this Agreement.

Executed the day and year first above written.

CUSTOMER:

NOT ANOTHER WINERY, LLC,
A California limited liability company

Dated: _____

By: _____

Richard L. Swig, Jr.

Its: Owner

CITY:

CITY OF ST. HELENA,
A municipal corporation,

Dated: _____

By: _____

Gary Broad

Its: City Manager

ATTEST:

Delia Guijosa, City Clerk

APPROVED AS TO FORM:

Thomas B. Brown, City Attorney

CITY OF ST. HELENA

RESOLUTION NO. 2004 -17

**APPROVING AN INCREASE TO THE HOTELS, MOTELS, AND B&B
INVENTORY CAP AND APPROVING A USE PERMIT AMENDMENT
AND DESIGN REVIEW FOR THE EXPANSION OF
HARVEST INN, 1 MAIN STREET**

PROPERTY OWNER: Richard Swig, Not Another Winery LLC
APN: 027-560-003, 004, 005, 006, 007

Recitals

1. This project include a request for an increase in the City of St. Helena Hotels, Motels and B&B Inventory cap on transient occupancy rooms, and a Use Permit Amendment and Design Review to expand the Harvest Inn, located at 1 Main Street.

The expansion will add 20 new guest rooms to the existing 54 rooms. The new rooms will average 475 square feet in size. The proposed development will be clustered in four buildings as follows:

- One 2,500 square foot building with meeting room, kitchen, and bathrooms.
- One 4,000 square foot building with eight guest rooms averaging 475 square feet each in size.
- Two buildings, each approximately 2,850 square feet in size, each with six guest rooms averaging 475 square feet in size.

Staff for the hotel will increase by two full time housekeepers. No new uses of the facilities are requested. Forty-five new parking spaces will be constructed.

2. The Planning Commission of the City of St. Helena, State of California, opened the noticed public hearing on December 16, 2003, received testimony and continued the public hearing to January 6, 2004. On January 6, 2004, the Planning Commission recommended approval of the project to the City Council.

3. The City Council opened the noticed public hearing on February 24, 2004, received testimony, closed the public hearing and took the following actions to approve the project.

Resolution

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

A. The City Council of the City of St. Helena, State of California, approves an increase to the Hotels, Motels, and B&B Inventory cap to accommodate twenty additional rooms at the Harvest Inn.

B. The City Council hereby approves a Negative Declaration for the project as required under CEQA, the California Environmental Quality Act. The review period for the Initial Study and Negative Declaration closed on December 19, 2003. No state agencies submitted comments. No written comments were received from the public. The City Council finds that on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration reflects the lead agency's independent judgment and analysis.

C. The City Council makes the following Use Permit findings, Section 17.168.050, to support the motion to approve a Use Permit Amendment:

1. That the proposed use would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the community.
2. That the proposed use would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties or uses.
3. That the proposed use would not generate traffic noise in excess of the "normally acceptable" range identified in the General Plan.
4. That the proposed use would not make excessive demands on the provision of public services including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.
5. That the proposed use would provide adequate ingress and egress to and from the proposed location.
6. That allowing the proposed use would not conflict with the City's goal of maintaining the economic viability of a local serving economy.
7. That the proposed use would be compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located.
8. That the proposed use would not be in conflict with the City's General Plan.
9. That the proposed use would not be injurious to public health, safety, or welfare.
10. That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City or would be in conflict with the General Plan.
11. That, as demonstrated on a detailed plan submitted by the applicant, adequate off-street parking to accommodate the long term parking needs of employees and business owners and customers is available.
12. That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use.

D. The City Council makes the following special findings pursuant to Sec. 17.52.100 for approval of a Use Permit Amendment in the Service Commercial District:

1. The business is an automobile oriented business, consistent with the Service Commercial District.
2. It is likely that significant revenues from this business will be derived from residents within the St. Helena service area.
3. It is likely that the business will provide services or products which satisfy the day-to-day needs of local residents within the St. Helena service area.

4. It is likely that the majority of customers will be from the St. Helena service area and patronize the business on a regular basis.
5. This is a smaller scale business commensurate with the character of the Service Commercial District and the needs of the St. Helena service area.
6. Necessities are emphasized over novelty items in the business merchandise. The proposed use is not listed in Section 27.75, Prohibited Uses.
7. The business is consistent with the unique character of St. Helena.
8. The business would locate in St. Helena if a visitor-based population did not exist.
9. It is likely that the business will provide services or products which will complement existing businesses in the Service Commercial District.
10. There is a need for the type of business proposed given the number of same or similar businesses existing in St. Helena.
11. The location of this business is appropriate given the type of use and the proximity of the same or similar businesses.

E. The City Council approves the Use Permit Amendment and Design Review subject to compliance with the following conditions. Permit shall be in conformance with all City ordinances, rules, regulations and policies in effect at the time of issuance of a building permit. The conditions noted below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

1. The Use Permit Amendment and Design Review shall be vested within one (1) year from the date of approval. A building permit for the use allowed under this Use Permit shall have been obtained within one (1) year from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 17.08.130, Extension of Permits and Approvals.
2. This permit are valid for this use only. New permits must be applied for upon any change in use. These permits will expire if the use is discontinued pursuant to then existing ordinances and regulations.
3. This permit shall not become effective until fourteen (14) calendar days after approval, providing that the action is not appealed by the City Council or any other interested party within that 14 day period.
4. Any request for an extension of this permit must be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
5. All required fees, including planning fees, development fees, building fees toilet retrofit fees, and St. Helena Unified School District fees shall be paid prior to issuance of building permit. Pursuant to City Council Resolution 2003-65, the owner and applicant are informed of the following:
In recognition of the need for additional affordable housing, and to mitigate the effects of this development on the supply and demand of affordable housing, the permittee shall be subject to a Housing Impact Fee, an inclusionary requirement, an in-lieu fee, and/or similar fair and appropriate mechanisms, to provide funds for or to develop additional

affordable housing, should such mechanisms be established by the City.

The Housing Fee that is recommended by the Housing Task Force for hotel development is \$11.77 per square foot. The estimated Housing Fee for this project is \$143,600.

6. Compliance with all permit conditions shall occur in accordance with specific regulations but in all cases no later than prior to occupancy or initiation of use unless another time is set by law or by this approval. Occupancy or final inspection of a project may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.
7. The applicant will defend and indemnify and hold the City, its agents, officers, and employees harmless against any claim, action or proceedings to attack, set aside, void or annul an approval so long as the City promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
8. Provided they are in general compliance with the Use Permit, minor modifications may be approved by the Planning Director.
9. This Use Permit shall run with the land and shall be binding upon all parties having any right, title or interest in the real property or any part thereof, their heirs, successors and assigns, and shall inure to their benefit and the benefit of the City of St. Helena.
10. The primary purpose of this review is for compliance with the General Plan and Zoning Ordinance. The owner/applicant is responsible for meeting with the Building Official / Fire Inspector to review compliance with Building and Fire Codes, including fire protection systems and the accessibility standards of Title 24.
11. Construction shall be in compliance with plans marked Exhibits A – E, dated 01/06/04, as amended to show the elimination or relocation of seven parking spaces in front setback, consistent with code. The number of parking spaces for the entire site shall not be reduced to less than 102 spaces.
12. The following conditions are imposed to offset any increase in municipal water use that may result from the proposed project:
 - a. The property owner shall enter into a water use agreement with the City of St. Helena for one (1) consolidated municipal water service and limited to use of municipal water. The allowable municipal water use shall not exceed 6,900,000 gallons of water per year. This number is based on the historic use of water on the property, less the anticipated water savings resulting from the connection of a portion of the irrigation system to well water. The water agreement shall also be structured to encourage other means of water conservation, including the use of reclaimed water for irrigation when it becomes available.
 - b. A landscape irrigation well shall be constructed and connected to the thirteen irrigation valves at time clock irrigation region #1 and to the fifteen irrigation valves at time clock irrigation region #2. Connections shall be made and the system shall be operational

prior to issuance of certificate of occupancy. A backflow prevention device shall be installed unless waived by the Public Works Director. Irrigation piping connecting to the well shall be planned to allow future connection to reclaimed water for landscape irrigation and all irrigation systems shall be converted to use of reclaimed water when it becomes available. The use of well water and reclaimed water for irrigation will reduce the demand on the City's potable water resources

- c. Consistent with St. Helena Municipal Code Article IV, Water Conservation Section 18.44, New Development, the applicant shall be required to retrofit the equivalent of 46 single family dwelling units prior to receiving a certificate of occupancy. All Harvest Inn guest rooms shall be retrofit. Appeals to this requirement may be made pursuant to Article IV, Section 18.46. In lieu fees must be paid prior to issuance of building permit and retrofits must be completed prior to issuance of certificate of occupancy.
12. The meeting room kitchen plan shall be reviewed by the Napa County Department of Environmental Management prior to issuance of building permit. If the plans include installation of a grease trap system, maintenance of the grease trap system shall be verified by quarterly reports acceptable to the City Engineer. Reports shall be submitted not less than 30 days following each such maintenance event providing the details of such maintenance.
13. Plant materials shall be purchased from a source that verifies they have been inspected for glassy winged sharpshooter to ensure that they will not contribute to the spread of Pierce's disease to the surrounding vineyards.
14. Each tree or group of trees to be preserved within the vicinity of the construction site, shall be protected by enclosure with a six (6) foot chain link fence prior to grading or movement of heavy equipment. The minimum distance of the fence from the tree shall be at the drip line, but may be extended an additional 10' to include the root zone which shall be determined by the project or City Arborist. Fencing shall remain in place until such time as the Building Inspector is assured the trees are no longer in danger of construction damage.
15. The following activities are prohibited under the drip line of protected trees unless authorized by the Planning Director under the advice of the City Arborist or project arborist:
- a. Change in the amount of irrigation provided to the protected tree from that which was provided prior to the commencement of construction activity.
 - b. Trench, grade or pave into the drip line of a protected tree.
 - c. Change the grade elevation by more than 6" within the drip line of the tree and for a distance of 30' outward from the drip line of the tree.
 - d. Park or operate any motor vehicle within the drip line area of a protected tree, except within designated parking areas.
 - e. Place or store any equipment or construction materials within the drip line area of the tree.
 - f. Attach any signs, ropes, cables or any other items to the tree.

- g. Cut or trim any branch of the tree for temporary construction purposes.
 - h. Place or allow flowing into or over the root zone area of any tree any oil, fuel, concrete mix, paint, solvent, plaster or other deleterious substance.
16. Prior to issuance of a building permit, the owner shall enter into a deferred improvement agreement with the City of St. Helena for construction of a sidewalk along the Main Street frontage. A sidewalk shall only be required if it does not require the removal of trees and if it connects to Main Street sidewalks to the north and/or south of the property.
 17. Exterior lighting shall be directed or shielded to prevent glare onto the public roadway or adjacent properties.
 18. The applicant shall provide for the enclosed storage of trash and separated recyclable materials. The design of the trash storage and recycling area shall be reviewed and approved by the Planning Director.
 19. Installation of a rapid entry Knox Box system is required prior to certificate of occupancy, unless such requirement is waived by the Fire Chief. Fire equipment shall be inspected annually by the Fire Department.
 20. The builder shall submit manufacturer information pertaining to the noise generation of any mechanical equipment that is proposed to be located on the exterior of the structure. The information will help the building official determine whether the ambient noise level at any property line will be increased by more than 5 dBa. If it is determined that the noise level will be increased by more than this amount, appropriate measures shall be imposed to reduce the increase in the ambient noise level to less than 5 dBa. These measures could include replacement, relocation, removal or shielding of the equipment.
 21. A drainage, grading, erosion control plan and Stormwater Pollution Prevention Plan shall be submitted for review and approval by the City Engineer prior to the issuance of a building permit. These Plans shall be prepared under the Responsible Charge of and wet-sealed by a Civil Engineer registered in the State of California and qualified to prepare such documents.
 22. Plans shall comply with all applicable Caltrans encroachment permit requirements for those improvements for which the City of St. Helena does not have authority. The City Engineer may require plans for traffic control measures to be taken during the construction.
 23. All easements and rights-of-way rendered obsolete or redundant by the lot merger and proposed new construction shall be extinguished.
 24. Sewage discharges shall be consolidated into one (1) connection to the City of St. Helena Sewer System if deemed feasible by the City Engineer. This consolidation shall include the actions necessary to abandon, render inoperable or destroy all septic tank and other private sewage collection and discharge facilities and appurtenances rendered obsolete by the consolidated Sewer System connection.

25. If existing wells are to be abandoned, or abandoned and have not been properly destroyed, the applicant shall provide the City with a true and correct copy of a permit approved by the Napa County Department of Environmental Management for destruction of the well(s) in conformance with the applicable State of California Water Well Standards as well as confirmation of such destruction in the form of a true and correct copy of the State of California Department of Water Resources Form-188 filed by the Applicant's contractor for each such destruction.
26. The property owner and/or construction manager shall notify all contractors and subcontractors that no trespassing is allowed on adjoining properties.
27. To preserve air quality, the following practices shall be observed during construction:
- a. Water all active construction areas at least twice daily.
 - b. Cover all trucks hauling soil, sand, and other loose materials.
 - c. Apply water three times daily to all unpaved access roads, parking area, and staging areas at the construction site.
 - d. Sweep adjacent public streets daily with water sweepers if visible soil material is carried onto streets.
28. To reduce disturbance of residents in the project vicinity, construction activities which generate noise that can be heard at the property line of any parcel of real property within the City limits shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Saturday. Delivery of materials/equipment and cleaning and servicing of machines/equipment shall be limited to 7:00 a.m. to 6:00 p.m. Exceptions to these time restrictions may be granted by the Public Works Director for one of the following reasons: (1) inclement weather affecting work, (2) emergency work, or (3) other work, if work and equipment will not create noise that may be unreasonably offensive to neighbors as to constitute a nuisance. No construction activities shall occur on Sundays or federal or local holidays that generate noise that can be heard at the property line of any parcel of real property within the City limits.
29. In the event that archeological artifacts are unearthed during the construction of the project, the work shall cease and the Planning Director shall be immediately notified. Work may subsequently commence only after an archaeologist approved by the Planning Director has inspected the site and given authorization for work to commence.
30. This property adjoins an agricultural district. There exists a right-to-farm the adjoining property. There is a good faith expectation that no complaints will occur regarding legal, normal agricultural activities on the adjacent land. Such activities may include day or night disbursement of chemicals, and creation of dust, noise, or fumes.
31. In compliance with Title 25, Housing and Community Development law, a manager, janitor, housekeeper or other responsible person shall be on premises 24 hours per day, seven days per week.

32. No signs, awnings, or façade modifications shall be installed or constructed without approval of a Sign Permit, Design Review, or authorization of the Planning Director as required.

Conditions of approval contained in prior use permits that remain pertinent to the continued operation of the Harvest Inn:

33. Installation and maintenance of a solid wood fence or masonry wall along the southerly property line.
34. Swimming pool area to be posted "Quiet Hours – 10:00 P.M. to 8:00 A.M."
35. Access drive to Sulphur Springs Road shall be blocked with a breakaway barrier. Access shall only be used by emergency vehicles as needed and shall not be used by the general public.
36. Use of the lobby, registration building, and meeting room shall be limited to use of guests of the Inn and their guests and shall not allow retail sales, conventions, conference activities or other uses which draw or serve persons other than registered guests of the Inn, their guests and local membership organizations. The following uses are allowed:
- a. Casual use activities of registered guests and their guests of the Inn;
 - b. Organized use by local membership organizations;
 - c. Serving of beer and wine and operation of a wine bar for use by registered guests of the Inn, their guests and local membership organizations. All beer and wine sales, use and consumption shall be in compliance with license issued by Alcoholic Beverage Control.
 - d. Food service normally associated with bed and breakfast inns, and catered food service for events for registered guests of the Inn, their guests and local membership organizations. All food service and preparation shall be in compliance with regulations of the Napa County Department of Environmental Management.
 - e. Operation of a gift shop.

Approved at a Regular Meeting of the St. Helena City Council on February 24, 2004, by the following vote:

AYES: Councilmembers Potter, Schoch, Savidge, Sklar, Mayor Slavens

NOES: None

ABSENT: None

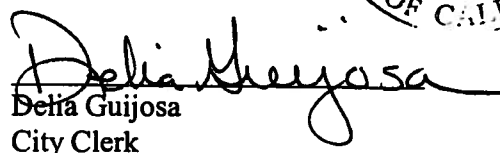
ABSTAIN: None

APPROVED:



Ken Slavens
Mayor

ATTEST:



Delia Guijosa
City Clerk



STAFF REPORT

DATE: January 14, 2014

TO: Mayor and City Council

FROM: Greg Desmond, Interim Planning Director

Item: ~~13~~ 14



RE: Adoption of Zoning Ordinance Text Amendments to Municipal Code Title 17 Zoning, Chapter 17.180: Small Winery Ordinance; and Chapter 17.20 Twenty-acre Agricultural (A-20) District (CEQA Exemption Section 15061 (b)(5))

BACKGROUND

The Council introduced this item at their meeting on December 10, 2013. At that meeting the council made minor revisions and directed staff to present this item at the January 14, 2014 meeting for adoption.

The revisions made at the December 10, 2013 meeting were as follows:

1. Add the following sentence to Section 17.180.010:

The City Council shall review this chapter within one year of its effective date.

2. Add the following to Section 17.180.080 (L):

The A-20 Winery owner shall keep on file with the city of St Helena and shall notify neighbors within 300' of an A-20 Winery parcel, the name and contact information of a local person who shall be responsible for responding to questions or concerns regarding operation of the A-20 Winery. The local contact person shall be available 24 hours a day to accept phone calls and respond physically to the A-20 Winery within 30 minutes when a Marketing Event is occurring.

3. Add the following to Section 17.180.080 (M):

Visual impacts associated with A-20 Winery uses and/or development shall be mitigated through the use of vegetative screening, increased setbacks and/or other measures.

4. Add the term "Tours and Tastings" wherever the term "Marketing Events" is used.

5. Add the term "under one ownership" in conjunction with the term "contiguous parcels".

6. Move the third sentence in the second paragraph of Section 17.180.010 to Section 17.180.040.

CEQA

Staff finds that the amendments are exempt from the requirements of CEQA as provided by Section 15061 (b) (3).

NEXT STEPS

Adopt the zoning ordinance text amendments.

ATTACHMENTS

Chapter 17.180: A-20 Wineries Amendments

Chapter 17.20: A-20 Twenty-Acre Agricultural District Amendments

CHAPTER 17.180: A-20 WINERIES

- Section 17.180.010. Purpose**
- Section 17.180.020. Definitions**
- Section 17.181.030. Applicability**
- Section 17.182.040. Use Permit Required**
- Section 17.183.050. Design Review Required**
- Section 17.184.060. Pre-Prohibition Wineries**
- Section 17.185.070. Uses Prohibited**
- Section 17.186.080. Development and Use Standards**
- Section 17.187.090. Application Requirements**
- Section 17.188.100. On-Premise Events and Sales**
- Section 17.189.110. Inspections, Fees and Licenses**

Amendment Notes:

Purple underlined text is new language proposed at the 121013 meeting.

Section 17.180.010. Purpose

An A-20 Winery is a winery on 5 acres or greater pursuant to Chapter 17.180.

The intention of the A-20 Winery regulations is to promote and implement the policies of the General Plan which aim to preserve agricultural land uses within the City of St. Helena. The establishment of A-20 Wineries on A-20 zoned property supports continuing agricultural use of the land and promotion of the wine industry within the city limits.

Allowing the development of A-20 Wineries on agricultural parcels 5.0 acres or larger is intended to support the establishment of smaller, locally-owned and operated wineries. The size of the winery is determined by Section 17.180.080 of this A-20 Winery Ordinance.

From time to time, the City Council of St. Helena shall have the right to evaluate the cumulative impacts of A-20 Wineries on the city of St. Helena and determine the effectiveness of this 17.180 A-20 Winery Ordinance.

The City Council shall review this chapter within one year of its effective date.

Section 17.180.020. Definitions

Accessory Use means any use subordinate to the main use and customarily a part thereof. An accessory use must be clearly incidental, related and subordinate to the main use, reasonably compatible with the other principal uses in the zoning district and with the intent of the zoning district, and cannot change the character of the main use. Unless provided otherwise in this title, accessory uses may be conducted in the primary structure or in structures other than the primary structure. Where the zoning regulations applicable

Winery is defined as an agricultural processing facility used for the fermenting and processing of grape juice into wine, and the re-fermenting of still wine into sparkling wine.

Section 17.180.030. Applicability

A-20 Wineries shall only be permitted as defined herein and as specifically allowed within the regulations pertaining to the established A-20: Twenty-Acre Agriculture District. The re-establishment of Pre-prohibition Wineries may be permitted within any district, except the W: Winery zoning district, in compliance with the regulations of Section 27.284.

The re-establishment of pre-prohibition wineries in the W: Winery zoning district shall comply with the W: Winery district regulations in Article II, Division 3.

Section 17.180.040. Use Permit Required

A winery specific use permit application shall be submitted to the City of St. Helena Planning Department and a conditional use permit, if granted according to the process described in Chapter 17.180 of the St Helena Municipal Code, shall be required prior to the establishment of an A-20 Winery in any agricultural district.

Specific conditions, related to the winery, that will be considered when the applicant applies for their conditional use permit, will include but are not limited to: if the winery is located in reasonable proximity to a major roadway or highway; if the winery demonstrates that there are no potentially significant environmental impacts; and/or if the other land uses in proximity to the winery parcel are other than agricultural.

Section 17.180.050. Design Review Required

Pursuant to Chapter 17.164 all signs, new structures or buildings, or exterior revisions or modifications of any existing structures or buildings for both permitted and conditional uses shall require design review.

Section 17.180.060. Uses Permitted Upon Grant of Use Permit.

The following uses may be permitted at the A-20 Winery, but only upon grant of a use permit pursuant to Section 17.180.040:

- (a) Crushing of grapes outside or within a structure.
- (b) On-Site disposal of waste water generated by the A-20 Winery.
- (c) Aging, processing, and storage of wine in bulk.

- (e) Pre-prohibition wineries shall not be automatically entitled to the prior annual production capacity, or type or intensity of prior social or marketing activities. Pre-prohibition winery operations must be consistent with all A-20 Winery regulations contained in sections 27.285 through 27.290.
- (f) Conditions of approval for a use permit to re-establish a pre-prohibition winery shall provide for the continued preservation of the historic nature of the structure through rezoning to include an HP: Historic Preservation overlay or other means deemed suitable.
- (g) Construction must comply with the California Uniform Building Code and/or the State Historic Building Code, as amended and adopted by the City of St. Helena.

Section 17.180.080. Development and Use Standards

- (a) A-20 Wineries shall be allowed only on parcels of five (5.0) acres or greater in size.
- (b) The development of A-20 Wineries shall be consistent with the development standards outlined in Chapter 17.20.060 A-20: Twenty-Acre Agriculture, except that more restrictive and/or additional standards may be applied depending on the size, scale and location of the A-20 Winery and if it is determined that the winery building or operations will have a negative impact upon other properties in the vicinity.
- (c) Only one A-20 Winery is permitted per parcel.
- (d) A minimum of 50% of the grape source utilized for the wine produced, sold, and offered for tasting at the A-20 Winery shall be grown on the Premises or the Contiguous Parcel(s) under one ownership with modifications only approved through the use permit process and a minimum of 85% of the grape source utilized for the wine produced, sold, and offered for tasting at the A-20 Winery shall be grown in Napa County. During the use permit process, the A-20 Winery's maximum production limit shall be established. Existing A-20 wineries may request modifications to the grape sourcing rule stated herein for hardships and extenuating circumstances.
- (e) Pursuant to Municipal Code Section 13.104.100(f), no municipal water may be utilized for the A-20 Winery operations or vineyard irrigation.
- (f) All employees and A-20 Winery visitors shall be required to park on-site. The number of on-site parking spaces shall be determined during the use permit process depending on the size, scale, and location of the A-20 Winery.
- (g) Accessory uses, buildings and structures. The maximum square footage of structures used for accessory uses that are related to an A-20 Winery shall not exceed forty percent (40%) of the area of the production facility. "Production facility" for the purpose of this section means crushing, fermenting, bottling, bulk and bottle storage,

- (b) Application for an A-20 Winery use permit shall include a Phase I Water Availability Analysis (WAA-1). The report shall describe all current and estimated future water use on the parcel, including residential, A-20 Winery, and irrigation uses. The WAA-1 shall be reviewed by the City Engineer, and if it is determined that water use is likely to exceed one acre foot of water per acre of land per year, the applicant shall be required to complete a Phase II Water Availability Analysis (WAA-2) to determine the impact of the proposed water use upon neighboring monitoring wells. If, through the WAA-2, it is determined that the proposed project will have a significant impact on neighboring wells the applicant will be required to mitigate that impact by revising the project. This mitigation plan is a Phase III Water Availability Analysis (WAA-3). Mitigation could include scaling back the size of the winery or phasing the vineyard development. All phases of a Water Availability Analysis shall be prepared or conducted by a licensed civil engineer or hydrologist on forms prescribed by the City or with methodology approved by the City Engineer.
- (c) A grading and drainage plan shall be submitted for review and approval with the use permit application.
- (d) A traffic analysis, completed by a licensed traffic engineer, shall be submitted with the use permit application. The analysis should define the projected Average Daily Trips that will be generated by the A-20 Winery traffic, and should include a determination as to whether the estimated increase in traffic will result in a significant adverse impact on the streets and intersections in the vicinity of the project site.
- (e) The use of mobile bottling lines shall be reviewed during the use permit process to determine impact upon residential uses in the vicinity of the property. If the use of mobile bottling lines is to be allowed, the size and parking of trucks, frequency of use and hours of operations shall be subject to limitations established in the use permit process.
- (f) Disposal of pomace and wastewater shall be reviewed during the use permit process. Wastewater treatment and disposal shall occur on the Premises or shall be distributed through the municipal wastewater system. A-20 Winery operations shall generate no discernible odors of sewerage or putrefying organic material origin, other than normal fermentation odors, at the property line.
- (g) The construction of caves shall require use permit review. Use Permit applications for caves shall include information pertaining to disposal of spoils.

Section 17.180.100. On-Premise Events and Sales.

- (a) The establishment of on-premise wine sales shall be determined through the use permit process.
- (b) The hours of sales shall be by appointment only as reviewed during the use permit process.

in equity, by statute or otherwise, shall be cumulative and shall not preclude the City from exercising any other rights or remedies provided for in this code or now or hereafter existing at law or in equity, by statute or otherwise.

CHAPTER 17.20 TWENTY-ACRE AGRICULTURE (A-20) DISTRICT

Section 17.20.010.	Purpose.
Section 17.20.020.	Permitted uses.
Section 17.20.030.	Conditional uses.
Section 17.20.040.	Design Review required.
Section 17.20.050.	Accessory uses, buildings and structures.
Section 17.20.060.	Development standards.
Section 17.20.070.	Other uses, standards and requirements.

Amendment Notes:

Blue underlined text is new language proposed prior to the 102213 meeting

Section 17.20.010. Purpose.

The twenty-acre agriculture district (A-20) provides for agricultural and residential uses. With the exception of those hillside areas designated woodlands and watershed, and wineries designated winery, all lands outside the urban limit line are designated A-20 regardless of their size or use. The purpose of the A-20 district is to promote and implement the policies of the general plan to preserve agricultural land uses and provide for future orderly development as the urban limit line is adjusted to accommodate urban growth. This district restricts the density of residential use and stipulates the location and area of residential development to promote preservation of agricultural land use and reduce impacts to the provision of infrastructure as the urban area of the city expands. (Prior code § 27.20)

Sec.17.20.020. Permitted uses.

The following are the permitted uses in the A-20 district:

- A. One single-family dwelling per parcel in existence on October 1, 1993 consistent with the development standards and density regulations of the agriculture general plan land use designation;
- B. Cultivated agriculture including, but not limited to farming, pasturage, horticulture, floriculture and viticulture; retail sales area in excess of two hundred (200) square feet regulated by use permit;
- C. Animal husbandry and livestock farming; provided, that not more than one horse, one mule, one cow, one steer or similar large animal shall be kept for each one-half acre of area;
- D. One second unit, as defined in Section 17.04.160, and consistent with the provisions of 17.116.030.

Sec. 17.20.040 Design Review required.

Pursuant to Chapter 17.164 all subdivisions, signs, new structures or buildings, or exterior revisions (not including change in exterior color) of any existing structures or buildings for both permitted and conditional uses shall require design review.

Sec. 17.20.050 Accessory uses, buildings, and structures.

The following are the accessory uses, buildings, and structures permitted in the A-20 district:

- A. Garages, carports, workshops, pool houses, gazebos, patio covers, and other accessory buildings or structures without plumbing or cooking facilities.
- B. Home occupations subject to the provisions of Chapter 17.116;
- C. Roadside stands, not to exceed two hundred (200) square feet in floor area, for the sale of agricultural products produced on site;
- D. Signs subject to the provisions of Chapter 17.148;
- E. Swimming pools when located at least five feet from the property boundary and are fenced in a fashion to protect children in compliance with the Uniform Building Code;
- F. Other uses and structures which are customarily incidental and clearly subordinate to permitted and conditional uses pursuant to Chapter 17.08. (Prior code § 27.23)

Sec. 17.20.060. Development standards.

The following requirements shall be observed in the A-20 district, except as otherwise provided in this title:

- A. Parcel Size.
 - 1. The minimum parcel size for new lots created after October 1, 1993 is twenty (20) acres.
 - 2. Parcels created as a result of lot line adjustments may be less than twenty (20) acres, provided the number of parcels existing prior to the lot line adjustment does not increase.
 - 3. As set forth in Section 17.20.060, the density allowed on a legal parcel ten (10) acres or larger existing on October 1, 1993 shall be limited to one dwelling unit

1. Maximum density of one unit for every five acres of base parcel area;
 2. New parcels created after October 1, 1993. Parcels created for new development shall not exceed one-half acre in area unless consistent with policy 2.6.62;
 3. For a legal parcel existing on October 1, 1993 the total area for new residential developments shall not exceed a ratio of one-half acre per unit allowed. To determine the area of the parcel which can be used for residential development, the maximum number of units allowed shall be multiplied by one-half acre per unit. After determining the area of the parcel which can be used for residential development, any number of units below the maximum permitted may be located within that area;
 4. Existing unit(s) on the base parcel shall be included when determining compliance with the criteria establishing the permitted number of parcels;
 5. New parcels shall be contiguous and accessible from existing streets;
 6. New parcels shall be located so that they minimize the impact on the agricultural viability of the base parcel and adjoining properties;
 7. Adequate provision of utilities shall be considered prior to approval of creation of new parcels and/or building sites.
- C. Outside Urban Limit Line. In areas outside the urban limit line, new parcels can be created to separate residential development that existed prior to the adoption of the 1993 general plan from remaining agricultural lands. The area of the new parcel on which the existing residential development is located may exceed one-half acre, provided the area does not include existing agricultural land except land which is restricted to agricultural use. The area of the new parcel on which the existing residential development is located and the number of units existing within the area of the new parcel(s) shall be counted against the development potential of the base parcel as set forth in guiding policy 2.6.61. Neither the area (one-half acre per unit) nor the number of units (one unit per five acres) shall be exceeded, except as provided for residential development which existed prior to the adoption of the general plan.
- D. Right to Farm. Property owners within this A-20 district shall recognize that there exists a right to farm properties within the district and in the vicinity of the district. There is a good faith expectation that no complaints will occur regarding legal normal agricultural activities on properties in the district or in the vicinity of the district. Such activities may include day or night disbursement of chemicals, and creation of dust, noise, or fumes. (Prior code § 27.25)

STAFF REPORT



DATE: January 14, 2014

TO: Mayor and City Council

FROM: Delia Guijosa, City Clerk

Item No. 15

RE: Resolution Appointing Members to the Active Transportation Committee

BACKGROUND:

On November 12, 2013 the City Council adopted Resolution No. 2013-72 establishing an Active Transportation Committee. At the December 10, 2013 meeting the application submittal was extended with the understanding that appointments would be made at the January 14, 2014 meeting.

Applications were received from:

- Kathleen Carrick
- Patricia Clarey
- Christopher Cole
- Norma Ferriz
- Ric Henry
- John Newlin
- Duke Nishimura
- Aaron Pott
- Evan Roades-Brown
- Kelly Schaeffer
- Jake Scheideman

Committee members shall reside within the City Limits. However, the Council may approve an exception to this rule on a case-by-case basis. One of the above applicants resides outside the City Limits but within the boundaries of the St. Helena Unified School District.

RECOMMENDED COUNCIL ACTION:

Mayor Nevero should nominate members to the Active Transportation Committee and the Council should adopt the Resolution appointing members to the Active Transportation Committee.

ATTACHMENTS

Resolution
Applications

CITY OF ST. HELENA

RESOLUTION NO. 2014-

**APPOINTING MEMBERS TO
THE ACTIVE
TRANSPORTATION
COMMITTEE**

RECITALS

A. On November 12, 2013 the City Council adopted Resolution No. 2013-72 establishing an Active Transportation Committee.

B. The Active Transportation Committee is a five-member committee with two Alternates appointed by the Mayor with the consent of the City Council. The members shall reside within the City Limits; however, the Council may approve an exception to this rule on a case-by-case basis.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

1. Mayor Nevero hereby nominates _____ and _____ to the Active Transportation Committee with terms expiring on January 14, 2015.
2. Mayor Nevero hereby nominates _____, _____ and _____ to the Active Transportation Committee with terms expiring on January 14, 2016.
3. Mayor Nevero hereby nominates _____ as an Alternate with a term expiring on January 14, 2015.
4. Mayor Nevero hereby nominates _____ as the second Alternate with a term expiring on January 14, 2016.

Approved at a Regular Meeting of the St. Helena City Council on January 14, 2014 by the following vote:

AYES:

NOES:

APPROVED:

Ann Nevero, Mayor

ATTEST:

Delia Guijosa, City Clerk



CITY OF
ST. HELENA

NOV 25 2013

OFFICE OF
CITY CLERK

CITY HALL, 1480 MAIN STREET
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Active Transportation Committee

Name: Kathleen Carrick

Home Address: 1321 Stockton St St Helena CA 94574

Mailing Address: Same

Occupation: Retired Parks & Recreation Director

Business Address: _____

Home Telephone: 963-2823 Business Telephone: _____

E-mail: Kathleen.carrick@live.com

Please indicate if above numbers can be made available to the public upon request: yes

Are you a resident of St. Helena? yes If yes, how long have you lived in St. Helena? 33

Current occupation (within last 12 months) retired, volunteer
for Rianda House Senior Activity Center

Business interests in last 12 months: none

Previous Committee/Commission Experience:

Recycling Committee for St Helena, Found Board member for
SH Boy & Girls Club, SH Family Resource Center,
Rianda House Senior Center, Committee to create

Education/Experience: A resume may be attached containing this and any other information to create
that would be helpful in evaluating your application. open space

BA in Fine Art, Calif. Secondary Teaching
Credential, MS in Municipal Recreation & Park
Administration

Professional and/or community service activities:

Volunteers for Rianda House, Chair of Friends of Rianda House

Local government related experience:

Worked as Parks and Recreation Director for City of St Helena 30 Yr

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I am very interested in expanding walking and bicycling opportunities for StH residents. I am interested in developing a safe "Bike To School" program for our kids.

Names, addresses, and phone numbers of three individuals familiar with your background:

Jake Schaideman 1156 Main St SH 963-7736
Janet Todd 1767 Stockton St SH 967-9422
Bonnie Schoch 2290 Boyson Ln SH 942-2450

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.

Kathleen Carrick
Signature of Applicant

Nov. 21, 2013
Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574



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JAN 03 2014

CITY HALL, 1480 MAIN STREET
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

CITY OF ST. HELENA

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Active Transportation Advisory Cmte

Name: Patricia Clarey

Home Address: 1925 Sulphur Springs Ave

Mailing Address: St Helena, CA 94574

Occupation: health care executive

Business Address: _____

Home Telephone: 415-244-2353 Business Telephone: 818-676-5394

E-mail: pat.clarey@yahoo.com

Please indicate if above numbers can be made available to the public upon request: prefer no

Are you a resident of St. Helena? Yes If yes, how long have you lived in St. Helena? 2yrs

Current occupation (within last 12 months) Healthnet Inc

Sr Vice President & Chief Compliance Officer

Business interests in last 12 months: Healthcare policy, Medicaid, Regulatory Issues

Previous Committee/Commission Experience:

CA State Personnel Board, CalPERS, Measure Commission (CA)

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

resume attached

Professional and/or community service activities:

CA Chamber Board member
Miguel Contreras Foundation - board member

Local government related experience: LA mayor appointed me to
Measure L Commission in 2008 and as chair in 2013.

Please explain your reasons for wishing to serve on this committee/commission and how you
feel that you may contribute.

I moved to St Helena in 2012 and am interested
in serving my community. I have experience on public
boards and commissions and government and regulatory
experience.

Names, addresses, and phone numbers of three individuals familiar with your background:

Congressman Mike Thompson 202/225-3311, 707/226-9898
Sen Patrick Johnston (retired) - 916/420-0337
Jay Cellert - CEO HealthNet - 818/676-6703

Appointments to this position may require you to file a Conflict of Interest Disclosure
Statement, which is of public record.

Patu Rey

Signature of Applicant

1-3-14

Date

If you have any questions regarding the appointment procedure, please telephone the City
Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574

PATRICIA T. CLAREY
1925 Sulphur Springs Avenue
St. Helena, CA 94574
(c) 415-244-2353

Pat.Clarey@yahoo.com

Professional Experience

2008 – Present	Health Net Inc. Senior Vice President Chief Regulatory and External Affairs Officer Chief Compliance Officer	Woodland Hills, CA
2006 – 2008	Health Net of California Chief Operating Officer	Woodland Hills, CA
2003 – 2006	Governor Arnold Schwarzenegger Chief of Staff	Sacramento, CA
2001 – 2003	Health Net Incorporated Vice President – Government Relations	Woodland Hills, CA
1998 – 2001	Transamerica Corporation Vice President – Public Affairs President – Transamerica Foundation	San Francisco, CA
1991 – 1998	Governor Pete Wilson Deputy Chief of Staff	Sacramento, CA
1989 – 1991	Chevron Corporation Government Affairs Representative	San Francisco, CA
1986 – 1989	Department of the Interior Deputy Director of the National Park Service Deputy Director, Office of Congressional and Legislative Affairs Special Assistant to the Secretary	Washington, DC
1975 – 1982	Ashland Oil Inc.	Washington, DC
1983 – 1986	Associate Washington Representative	

Boards and Commissions

2006 – present California State Personnel Board
President

- Appointed by Governor Schwarzenegger
- Confirmed by the California State Senate
- 10 year term

**2013 City of Los Angeles Measure L Commission
Chair**

- Voter Approved Measure calling for citizen's commission to determine the salary for LA Unified School District Board Members
- Appointed by Mayor Villaraigosa
- Confirmed by the LA City Council
- 60 day appointment

**2009 – 2011 California Public Employees' Retirement System (CalPERS)
Board Member**

- Manages retirement benefits for more than 1.6 million California public employees, retirees, and their families and health benefits for nearly 1.3 million members
- Investment portfolio market value over \$200 Billion
- Chair of the Performance and Compensation Committee
- Member of Investment Committee, Benefits and Program Administration Committee, Risk Management Committee and the Investment Policy Subcommittee

**2008 City of Los Angeles Measure L Commission
Member**

- Voter approved measure
- Appointed by Mayor Villargiorossa
- Confirmed by LA City Council
- 60 day appointment

**Academic
Appointments**

**2006 Harvard University Cambridge, MA
Institute of Politics
Kennedy School of Government
Visiting Fellow**

**2006 – 2007 UCLA Los Angeles, CA
School of Public Affairs
Senior Fellow**

Education

**Harvard University
John F. Kennedy School of Government
Cambridge, MA
Master of Public Administration – 1983**

**Union College
Schenectady, NY
Bachelor of Science – 1975**

References Available upon request



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ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

CITY OF ST. HELENA

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Bicycle Action Committee

B.A.C.

Name:

Christopher Cole

Home Address:

140 Rose Lane St. Helena CA 94574

Mailing Address:

same

Occupation:

Professional Land Surveyor

Business Address:

P.O. Box 533 St. Helena CA 94574

Home Telephone:

963-2331

Business Telephone:

963-7565

E-mail:

ck cole @ comcast. net

Please indicate if above numbers can be made available to the public upon request:

No. email only

Are you a resident of St. Helena? No If yes, how long have you lived in St. Helena? —

Current occupation (within last 12 months)

Terra Firma Surveys, Inc.
Principal

Business interests in last 12 months:

same

Previous Committee/Commission Experience:

None

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

1978 B.S. Humboldt State University

1981 Post Graduate Fresno State University

1998 - present: Terra Firma Surveys. St. Helena

Professional and/or community service activities:

Active: St. Helena Community Garden

2004-2013: Track Coach, St. Helena High School

1995-2003: St. Helena Community Playground Maintenance Director

Local government related experience:

Planning & D.P.W. on a regular professional basis.

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

30 year bicycle commuter in greater St. Helena.

Names, addresses, and phone numbers of three individuals familiar with your background:

Greg Desmond, City Planner 968-2659

John Ferrons, City DPW Director 968-2658

Bob Beckstrom, 1508 Main St. St. Helena 94574 967-1340 1331

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.

Christopher J. Cole

Signature of Applicant

October 22, 2013

Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena

City Clerk

1480 Main Street

St. Helena, CA, 94574



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OCT 10 2013

CITY OF ST. HELENA

CITY HALL, 1480 MAIN STREET
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

BICYCLE ACTION COMMITTEE

Name: Norma Ferriz

Home Address: 1085 Crinella Ct. St. Helena, CA 94574

Mailing Address: 1085 Crinella Ct. St. Helena, CA 94574

Occupation: Site and operations manager of the St. Helena Family Center

Business Address: 1440 Spring St. St. Helena, CA 94574

Home Telephone: (707) 9637218 Business Telephone: (707) 963-1919

E-mail: nferriz@hotmail.com

Please indicate if above numbers can be made available to the public upon request: _____

Are you a resident of St. Helena? ☒ If yes, how long have you lived in St. Helena? 6 years

Current occupation (within last 12 months) Site and Operations Manager St. Helena Family Center
& translator Spanish-English

Business interests in last 12 months:

Social services, translation

Previous Committee/Commission Experience:

Current member of St. Helena Public Library Board

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

- see attached resume. In addition I am an avid cyclist, I commute daily from house to work on bicycle. Promoter of bicycle use among Girl Scouts.

Professional and/or community service activities:

Treasurer - Scriptorium International St. Helena Sunrise
Troup Leader - Girl Scouts Troop 10688 St. Helena

Local government related experience: - Library Board - Trustee member

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I am very interested in the environment and in safe/sustainable transportation. I believe St. Helena offers a fantastic opportunity to develop environmentally friendly policies and infrastructure.

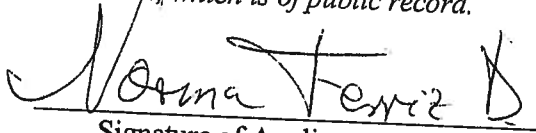
Names, addresses, and phone numbers of three individuals familiar with your background:

Sara Cakebread - (707) 254-5309

Kristen Georges - (415) 990-2666

Louanne Stuart - (707) 963-0293

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.


Signature of Applicant

10/9/13

Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574

PROFESSIONAL EXPERIENCE

Full time with different regional offices of Pronatura (Mexican conservation organization)

- **Executive Director.** Pronatura Veracruz (Veracruz, México) **2002- 2007**
- **Associate Director.** Pronatura Noreste A.C. (Nuevo León, México) **2000-2001**
- **Development Director.** Pronatura Península de Yucatán A.C. (Yucatán, México) **1998-2000**
- **Development Director.** Pronatura Chiapas A.C. (Chiapas, Mexico) **1994-1995**
- **International Youth Exchange Coordinator.** Pronatura Chiapas A.C. (Chiapas) **1992-1994**

Full time with other organizations

- **Consultant.** National Commission of Natural Protected Areas (Mex. City, Mexico)
Strengthened institutional relations with environmental non profits attending the events of the "Conservation National Week". Organized and systematized donor information. **2001-2002**
- **Education and Community Service Coordinator.** Up With People (Colorado, US) **1997-1998**
- **Teacher's Assistant, Invertebrate Zoology and Reef Biology.** Universidad Nacional Autónoma de México. ENEP Iztacala (Mexico City, Mexico) **1990-1991**
- **Owner and SCUBA instructor of a Diving School.** Grupo Argos. Escuela de Buceo. (Mexico City and Chiapas, Mexico) **1990-1995**

Part time experience

- **Site and Operations Manager.** St. Helena Family Resource Center (St. Helena, CA) **2008-**
- **Owner and translator of a Spanish-English Translation business.** **2010-**
- **Consultant. Mexican Conservation Learning Network IMAC (Mx City)**Feb. 2002-June 2002
Establishment of the Conservation Networks Learning Community
- **Instructor.** Parque Nacional Marino Arrecifes de Cozumel (Q.Roo, México) **Jan. 2002**
Instructor on "Project design and Fundraising".
- **Instructor.** DUMAC (Yucatán, México) **Aug. 1999, Sep. 2000, Nov 2001, Sep. 2002, May 2002, May 2003, Apr 2004**
Instructor on "Strategic Planning and Fundraising" and "Fundraising for organizations that work on conservation of Natural Resources" Participants: Managers of Natural Protected Areas and technical staff from 7 countries of Latin America.
- **Consultant.** Harmony Foundation (México) **1999, June - Sep. 2000, Aug. 2001**
Translator of the 1st. and 2nd. Edition of the "Manual for community action workshops", and the "Train the trainers" manual of the package "Building Sustainable Societies: Training for Community Leadership".
- **Training Associate.** The Nature Conservancy. LA Division (WA DC) **June-July 1996**
Ran workshops on communications and marketing for project managers of environmental non-profit organizations in Mexico.

EDUCATION

- **ITESM.** Diploma: Social leaders: Management for non-profit organizations. Virtual University. World Bank-The Nature Conservancy-CEMEFI, Monterrey, N.L., Mexico **2001**

NORMA FERRIZ

- **University of Washington.** Master in Public Administration. Non-profit Management Gateway. Graduate School of Public Affairs. Seattle, WA., USA **1997**
- **Universidad Nacional Autónoma de México.** BS. Biology. Graduated with honors. Senior Thesis: Aggressive behavior among scleractinian corals. Mexico City, Mexico **1989**

ACADEMIC ACHIEVEMENTS

- Ford Motor Company International Fellowship Program of the 92nd Street Y to attend the Leadership in Non Profit Organizations Program. **2005**
- Quebec-Labrador Foundation scholarship to attend the Land Conservation and Stewardship program. Atlantic Center for the Environment **2003**
- GE Fund scholarship to attend the Building Sustainable Societies program. Harmony Fdtn. **1998**
- WW Stout Fellowship to attend the Institute for Environmental Values Education. H.F. **1996**
- Fulbright Scholarship to obtain a Master's Degree at University of Washington **1995**
- McArthur-Ford-Hewlett Scholarship to obtain a Master's Degree at University of WA **1995**
- CIDA Fellowship to attend the Institute for Environmental Values Education. H.F. **1994**
- Medalla Gabino Barreda. Highest Academic Award Universidad Nacional de México **1987**

COMMUNITY SERVICE AND PROFESSIONAL MEMBERSHIPS

- St. Helena Public Library Trustee **2011-**
- Girl Scouts of Northern California - Girl Scout Troop Leader, Troop 10688 **2009-**
- Soroptimist Int. of St. Helena Sunrise-Director (2008), Treasurer (2009, 2010, 2013) **2008-**
- Golden Gate Raptor Observatory – Raptor banding and nest monitoring volunteer **2008-2010**
- Song Bird Clinic of Napa volunteer **2008-2010**
- Nonprofit sector representative at the Consejo Consultivo de Desarrollo Sustentable, Veracruz office of the National Environmental Secretariat SEMARNAT. **2004-2007**
- Non profit sector representative at the Consejo Estatal Forestal, Veracruz office of the National Forestry Agency CONAFOR. **2004-2007**
- Fish populations monitoring volunteer. Sistema Arrecifal Veracruzano and REEF **2004-**
- Founding member of Club de Observadores de Aves de Xalapa, Xalapa, Ver., Mx. **2003-**
- Founding Member and Secretary on the Board of Trustees. Monterrey chapter. Association for Fundraising Professionals, Mty. N.L., Mx. **2001 - 2002**
- Scout troop leader. Tropa Scout Femenina. Grupo No. 20, Mérida, Yucatán, Mx. **1999 – 2000**
- Lead counselor. Juniors, Young Presidents' Organization Family University. Salzburg **1998**
- Youth facilitator and counselor. Earth Service Corps summer program. YMCA Washington **1997**
- Youth facilitator. Leadership Initiative for Earth Environmental Education Prog.Canada **1997**
- Co-chair of "Partnership for cultural diversity" student organization. University of WA **1996**
- Elected as student senator to the graduate student government. University of WA **1995-1996**
- Member of the National Association of Environmental Educators (US) **1994-1995**
- Support team for leadership workshops at Mobility International Mexico, Morelia, Mx. **1992**

LANGUAGE AND COMPUTER SKILLS

- Native proficiency in Spanish and English.
- Proficient in Quick Books, Gift Works, Word, Excel, Power Point. Familiar with Access, Page Maker, Publisher.
- Expert user of the internet for research and communication.



CITY HALL, 1480 MAIN STREET
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Bike

Name:

Ric Henry

Home Address:

1021 Allison Ave. St

Mailing Address:

Same

Occupation:

househusband

Business Address:

none

Home Telephone:

none

Business Telephone:

none

E-mail:

richenry@comcast.net cell 738-8239

Please indicate if above numbers can be made available to the public upon request: yes

Are you a resident of St. Helena? yes If yes, how long have you lived in St. Helena? 11 yrs

Current occupation (within last 12 months)

Business interests in last 12 months:

partner in Karl Lawrence Cellars

Previous Committee/Commission Experience:

3 Kate park

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

'73 BSW - Pacific Union College, '77 MSW Atlanta University
'89 Ph.D. University of Southern Cal.

Professional and/or community service activities:

None recently

Local government related experience: Skate park

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Do not want the bad planning that has happened @ SF & Napa to be repeated here.

Names, addresses, and phone numbers of three individuals familiar with your background:

Cathy Smith Bob Bressler 707/967-8748

Pam Smithers 707/696-0530

Ann Nevoso 408/394-5926

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.


Signature of Applicant

10/20/13
Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574



CITY OF
ST. HELENA

DEC -2 2015

OFFICE OF
CITY CLERK

CITY HALL, 1480 MAIN STREET
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

TRANSPORTATION COMMITTEE

Name: JOHN NEWLIN

Home Address: 1675 SYLVANER ST HELENA 94574

Mailing Address: SAME AS ABOVE

Occupation: RETIRED

Business Address: N/A

Home Telephone: (CALL) 415-830 1146 Business Telephone: N/A

E-mail: newlini @ AOL.COM

Please indicate if above numbers can be made available to the public upon request: YES

Are you a resident of St. Helena? YES If yes, how long have you lived in St. Helena? 1 yr.

Current occupation (within last 12 months) RETIRED

Business interests in last 12 months: MANAGE REAL ESTATE INVESTMENTS

Previous Committee/Commission Experience:

PRESIDENT, S.F. ENTERTAINMENT COMMISSION

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

SEE ATTACHED

Professional and/or community service activities:

SEE ATTACHED

Local government related experience:

SEE ATTACHED

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I feel I can offer decades of experience and a wealth of knowledge on all facets of transportation which would benefit the City of St. Helena and its residents.

Names, addresses, and phone numbers of three individuals familiar with your background:

SEE ATTACHED

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.


Signature of Applicant

11/23/2013
Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574

Application for Transportation Committee/City of Saint Helena

1. Education/Experience:

Bachelor of Science / Economics and Business Ad./ St Mary's College, Ca. 1965

Masters of Public Administration/ Golden Gate University 1978

Capatin of Police SFPD 35 years

Executive Director, San Francisco Department of Parking and Traffic, 4.5 years

Numerous committees involving coordination with various city and state entitiies to enact traffic changes, bike lanes and traffic calming etc.

Conducted public hearing on the implementation of many of the above programs as well as testifying before the San Francisco Board of Supervisors.

2. Professional and/or community service activities:

SFPD, 35 years, commanded the traffic enforcement division for several years

Executive Director of SF Department of Parking and Traffic. Directed a staff of over 1000 persons in every facit of traffic including enforcement, engineering, street painting, traffic signals, meter, sign installation and maintance, etc.

Memeber of local community group, Inner Sunset neighbors, overseeing improvements in the community.

3. Local goverment related experience: see above

4. Background:

Richard Hillis, Executive Direction Fort Mason SF, memeber of San Francisco Planning commission. 415-269-3367
Landmark Bld A, Fort Mason Ctr SF, CA 94123-1382

Bond Yee, City Traffic Engineer, MTA,CCSF 415-701-4677
#1 South Van Ness, SF CA 94103

Tom Folks, Direction Sustainable Streets Program MTA,CCSF 415-701-4688
#1 South Van Ness, SF, CA 94103

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Re: Active Transportation Committee

City Hall, 1480 Main Street

St. Helena, California 94574

(707) 967-2792

www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Active Transportation Committee

Name: Duke Nishimura

Home Address: 4115 Silverado Trail, Calistoga, CA 94515

Mailing Address: 4115 Silverado Trail, Calistoga, CA 94515

Occupation: President and CEO, US DNA Biotech, Inc. / ROS Emerging Technologies, LLC

Business Address: 4115 Silverado Trail, Calistoga, CA 94515

Mobile: 817-235-5367

E-mail: DukeNishi@aol.com

Please indicate if above numbers can be made available to the public upon request: No

Are you a resident of St. Helena? No, but almost equidistant between St Helena and Calistoga.

If yes, how long have you lived in St. Helena? 2 years.

Current occupation (within last 12 months):

President and CEO, US DNA Biotech, Inc. (www.USDNABiotech.com)

President and CEO, ROS Emerging Technologies, LLC (Cancer research / business development)

Board Member DBC America, Inc. (Spine therapy research, technology and treatment company)

Business interests in last 12 months:

US DNA Biotech, Inc., Fort Worth, TX (www.USDNABiotech.com)

ROS Emerging Technologies, LLC, Calistoga, CA (Cancer research / business development)

DBC America, Inc., Fort Worth, TX (Spine therapy research, technology and treatment company)

Previous Committee/Commission Experience:

1991-2010: Executive Board Member – Streams and Valleys, Inc. (www.streamsandvalleys.org)

2000-2002: Chairman – Streams and Valleys, Inc. – Revised and developed Trinity River Master Plan during term as Chairman resulting in the Trinity River Vision Authority (<http://www.trinityrivervision.org>)

2001-2004: Board Member – Trinity River Master Plan (<http://www.trinityrivervision.org>).

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Please see referenced web sites above outlining projects specifically pertaining to this potential project, mission and committee. Also attached are references outlining the agencies with whom we worked (Corp of Engineers, TX Department of Transportation, City of Fort Worth, Tarrant Regional Water District, Chamber of Commerce, Intermodal Surface Transportation Efficiency Act of 1991 authority, etc. In case it is pertinent, attached also is a current resume'.

Professional and/or community service activities:

Streams and Valleys: 2001-2010

Local government related experience: Please see above.

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I am submitting my application for the Active Transportation Committee because I think I would be able to bring some experience from other successful projects (Streams and Valleys and Trinity River Visions) which took what was once an unsightly floodway ditch and created what is now a linear park with 40 miles of trails, 8,000 trees and a common culture with a vision to serve the community. The impacts in such projects may be revitalization, development, enhancement, city culture, tourism support, safety, recreation, public health or simply beautification. Our group became the consulting reference for other cities such as Dallas, San Antonio, Denver, and others with a common question of "How did you manage to accomplish so much with so little in such a short time?" The critical factors are proper organization, willingness of leaders to do the right things for the community, acceptance of prioritizing the community over self-serving agenda and building good synergy among the positive parties. As part of the City Council's due diligence, I will disclose that I have no conflicts of interest in any properties in St. Helena or Napa Valley and simply offer my services for the betterment of the community. That said, I would be quick to withdraw my application if this committee or process should become political, power plays or wrought with agenda because I've seen these issues become the very obstacles of progress on these types of projects.

Names, addresses, and phone numbers of three individuals familiar with your background:

Rene' Johnson – 4115 Silverado Trail, Calistoga, CA 94515, 520-403-0214

Carma Anderson – 1936 Forest Park Boulevard, Fort Worth, TX 76110, 817-235-5367

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.

*Electronically signed by Duke Nishimura via DukeNishi@aol.com (signed hard copy to follow)

Signature of Applicant Date

December 27, 2013

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena

City Clerk

1480 Main Street

St. Helena, CA, 94574

Duke Nishimura

4115 Silverado Trail, Calistoga, California 94515

Mobile: 817-235-5367

Email: DukeNishi@aol.com

Emerging Technologies – Business Development and Integration

Summary

Over 25 year career integrating emerging technologies between international and U.S. companies, creating innovative mutual solutions through technology, Establishing emerging Technology companies and consulting with technology companies for national and international strategic business development. Adept at understanding new technologies, envisioning innovative applications, matching needs with solutions, creating mutual solutions and orchestrating win-win cooperative relationships between national and international entities in the fields of new technologies, biotechnology, science and health care and industry. Experienced Managing Director/CEO of several emerging technology companies and advisor for international companies. Familiar with integrating technologies between U.S. and international companies across various goals, technologies and cultures.

Professional History

- **Cancer Research** – Partner ROS Biotechnologies, LLC (2009-Present). New approach to soft tissue cancer diagnostic technology with over 3,000 current human samples showing high detection rate at the pre-molecular level. Established a new company to partner with Principle Investigators and academic institutions to arrange research and cooperative technology efforts.
- **Biotechnology** – CEO of US DNA, Inc. (2007-Present). Established a biotech business development company to provide innovative business solutions leveraging advantages of new advanced technologies in DNA Polymerases and reagents. Clients include Lawrence Berkeley, Red Labs, Universities of California, Harvard, Columbia and public, private and independent companies in the US and internationally. Business Development role includes creating a business model to help raise \$32 million for a public biotech company.
- **Medical/Scientific Emerging Care** – CEO of DBC America, Inc. (1987-2012). U.S. affiliate of international cooperative effort for a break-through scientific spine research, FDA-registered, rehabilitation protocol. Integrated technology and team to create medical technology licensing, clinical certification and business development. US portion of international team with over 100 medical/scientific publications (Volvo® Award for Excellence in Scientific Research) and clinical trials with unprecedented 92% outcomes with over 300,000 patients in over 100 medical clinics in 24 countries.

-
- **International Business and Liaison** – Met with, presented to, and developed strategic plans economic advisor to the President of a Scandinavian country, board-level discussions with Chairman of a large investment company in U.K., and corporate liaison with one of the largest sports medicine companies in Japan.
 - **G-Force Loss of Consciousness Program** – Integrated technologies between aerospace and bio-science companies, US Air Force, Royal Canadian Air Force and military industrial complex to create a solution-based Anti-G Loss of Consciousness (G-LOC) Program for US Air Force. Later adopted by US Naval Air Force.
 - **Integration Development** – Principle role in integrating emerging technologies into existing entities to create mutual value for technologies, companies, countries and society. Created co-operative efforts, joint ventures, companies or contracts as appropriate.
 - **Industrial Medicine** – Created an innovative multi-disciplinary, outcome-based industrial medicine program leveraging new sciences into a skeptical US Army which evolved into a mandatory managers' course and program for the 13,000 person organization. Awarded Army Commendation Medal.
 - **Emerging Technology Integration** – Presentations/Speaker: International Society of Minimally Invasive Spinal Surgery, over 20 hospital CEO/CFO/COO/Board presentations and over 100 presentations for medical specialists in a CME/CEU/education programs as well as Military Symposium on Fitness and Readiness, Firefighter Association of Kyoto, Japan, Wellness Symposium for US Military in Europe.

PROFESSIONAL EXPERIENCE

ROS Biotechnologies, LLC, Fort Worth, Texas / Calistoga, California **CEO/Partner (2009-Present):**

- Organized emerging cancer research technologies, scientists and entity.
- Currently in grant application phase for expanded trials.
- Ongoing responsibilities will be management, board level review and facilitation.

US DNA, Inc., Fort Worth, Texas / Calistoga, California **CEO (2007-Present):**

- Introduced emerging international DNA technologies to US market.
- Created strategic plan for public biotech company to raise \$32 million.
- Negotiated license agreement with one of the world's largest bio-medical technology companies. Terms complete, roll out phase to be launched.

DBC of America, Inc., Fort Worth, Texas

CEO/Partner (1997-May 2012):

- Development/Licensing company for international health care technology.
- Integration of emerging technology into current health care industry.
- Liaison between international and national health care parties.

Kinetic Resources, Inc., Fort Worth, Texas

CEO/Partner (1989-February 2012):

- Industrial Medicine/Rehabilitation/Medical Billing Company.
- Outperformed medical billing industry standard by 40%.

Genesis Systems

Consultant (1985-1987):

- Developed and implemented Anti-G-Induced Loss of Consciousness (G-LOC) Program for US Air Force and US Navy Air Force.
- Liaison between US and Canadian forces.

Other Previous Experiences:

- Actions Officer: G-1, III Corps and G-1, 1st Cavalry Division
- Army Officer: Helicopter Pilot (AH-1 Cobra, UH-1 Huey, Hughes 300)
- Nuclear Biological Chemical Warfare Officer

EDUCATION/Licenses

- **Bachelor of Science:**
Aerospace Engineering/VSTOL/Mechanical Engineering
US Military Academy at West Point, 1981
- DBC Certified Clinician Faculty: 1997, 2011
- DBC Certified Clinician: 1991
- Armor Officer – Top in Class Armor Office Basic Course: 1981
- Engineer-In-Training License: State of Virginia: 1981
- National Ski Patrol-Advanced Patroller/VP-West Point Ski Patrol 1978-1981
- Hang Gliding Hang II License: 1979
- SCUBA Basic License – PADI: 1978
- Secret Clearance US – 1977-1986

Hobbies and Interests

- Hobbies: Soccer / Tennis / Cycling / Music / Skiing / Fly Fishing
- Interests: Emerging Technologies / Business Development and Integration

The Tarrant Regional Water District (TRWD), in association with Streams and Valleys (S&V), the City of Fort Worth, and U. S. Army Corps of Engineers, has undertaken a comprehensive Master Plan of the Trinity River and major tributaries, known as the Trinity River Vision. The Master Plan has been closely coordinated with the City of Fort Worth, adjoining cities, and other local governments. Approximately 88 miles of river are included in this planning process. Fort Worth is fortunate that the river and its major tributaries traverse through all quadrants of the City, including the historic confluence area that defines Downtown. The recently adopted Fort Worth Comprehensive Plan addresses the need to expand and implement the Trinity River Vision Master Plan.

As an important identifying feature for the City, the Trinity River has entered a new era of serving cultural and recreational roles. The river has places to boat and fish, sites for picnics, miles of trails for walking and biking, natural settings for parks, and peaceful hideaways. Some stretches of the river, however, still lie unattended and unrealized. Accessibility is awkward, views of the river are too rare, and much of the river is underutilized.

VISION

The vision of the Trinity River Vision Master Plan is to preserve and enhance the river and its corridors so they remain essential greenways for open space, trails, neighborhood focal points, wildlife, and special recreation areas. These riparian corridors are critical elements in preserving environmental quality and a high quality of life that attracts people to locate and stay in Fort Worth. Downtown waterfront initiatives will help accomplish a renaissance of the greater Downtown area that result in a sustainable mix of people living, working, playing, and learning in the Central City area.

PURPOSE/ OBJECTIVES

The purpose of the Trinity River Vision Master Plan is to help assure the river greenways fulfill the vision summarized above. As development, redevelopment, and capital projects proceed, it is imperative the Master Plan be implemented. When implemented, the Master Plan will:

- Help assure the greater Fort Worth area has open space, recreation and conservation areas to support a growing population and economy, while continuing to provide essential flood protection
- Provide trails and greenways that link attractions of the City together (such as major recreation areas, parks, neighborhoods, and districts)
- Preserve the river's natural beauty and provide and preserve the open space and vegetation that is needed to attain air quality, water quality, wildlife habitat, and temperature moderation that will all help assure we can sustain environmental health over the long term
- Improve the river's accessibility to the public, attract more people to its banks, and increase its prominence within the City
- Provide these quality of life elements and environmental integrity, while assuring the watercourses can manage storm water runoff, water conservation, and flood control in a manner that protects public safety and property.

PROCESS

The Trinity River Vision Master Plan was commenced in August 2000 by the Tarrant Regional Water District with the architecture/ planning firm of GideonToal. A Steering and Advisory Committee was formed and a kick-off meeting was held in February 2001. Segment Chairs were selected for each segment to facilitate public meetings and act as a liaison for their area. A total of 10 public meetings were held between April and June 2001.

The purpose of these meetings was to gather information from the public on things they liked, disliked, were concerned about, and their vision for the river's future. Draft concepts were then created and taken back to the public in a series of meetings during January 2002. The purpose of the second series of public meetings was to ensure that all of the previous ideas, thoughts, and concerns were addressed and captured in the Concept Plans.

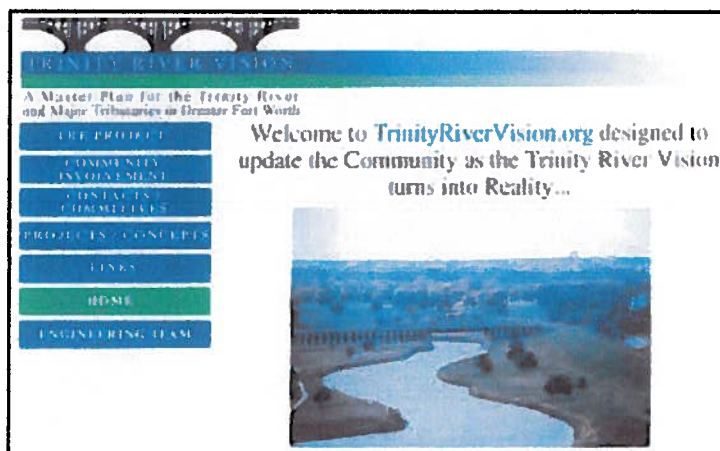


TRINITY RIVER VISION PUBLIC MEETING

A few of these community and agency input groups include:

- Steering Committee
- Advisory Committee
- Segment Groups (8 segments)
- Interest Groups
 - Trail Users
 - Runners, Walkers, Cyclists, Boaters (Canoe, Kayak, other), Fly Fishers, and other recreational users
 - Naturalists / Environmental Quality Interests
 - Urban Waterfront Task Force (Central City area)
- Federal Summit Committee
- Corps of Engineers
- TRWD, Streams & Valleys, Park Board, City, County, and others

A website (www.trinityrivervision.org) was maintained throughout the process to keep the public informed of current status and meeting dates.

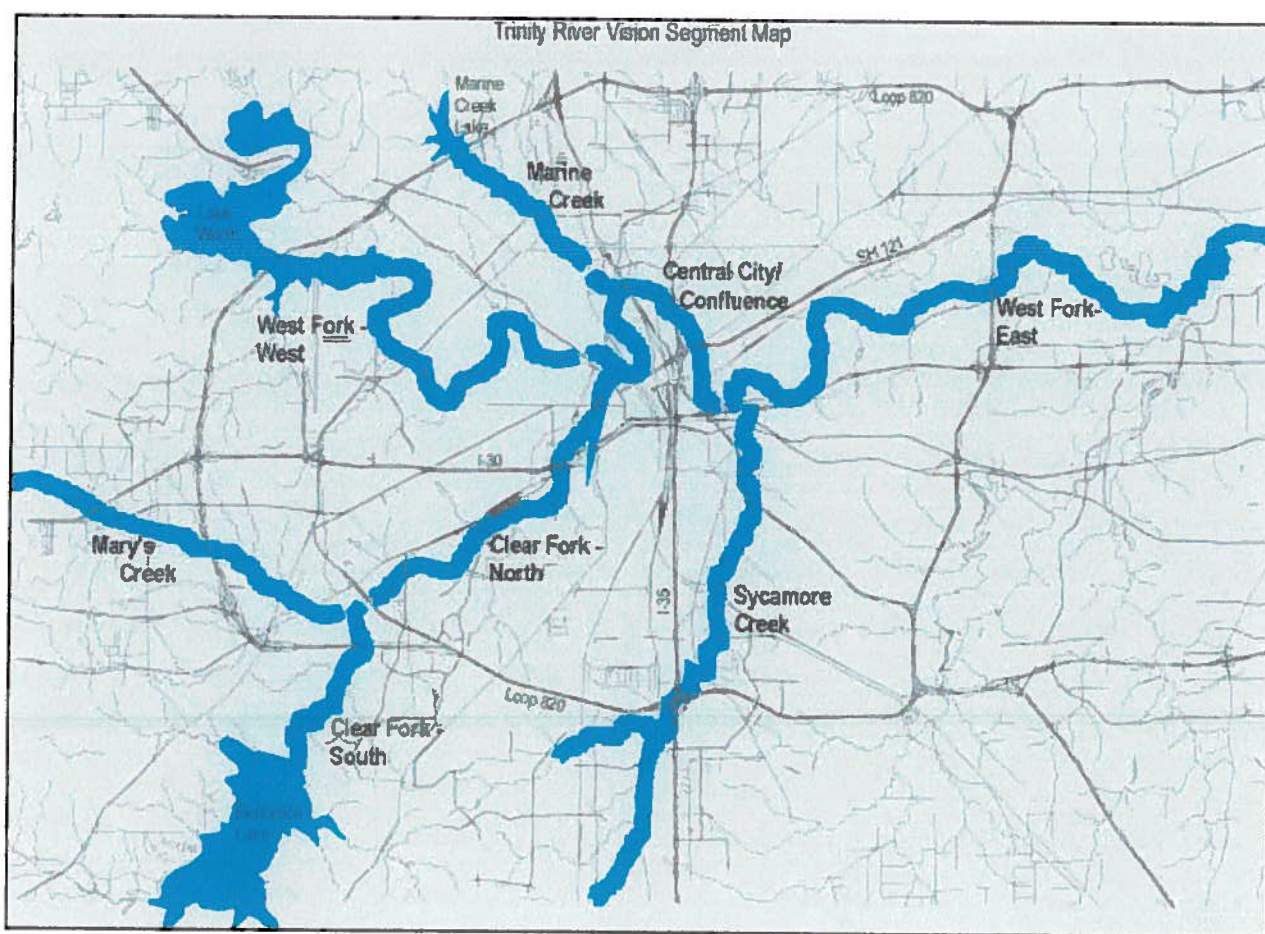


TRINITY RIVER VISION WEBSITE

SCOPE

The Master Plan encompasses approximately 88 miles of river and major tributary corridors in Tarrant County, including the Clear Fork of the Trinity River, West Fork of the Trinity River, Mary's Creek, Marine Creek, and Sycamore Creek. The Scope of Work extends from Parker County to the west, Fort Worth Nature Center/ Lake Worth to the north, River Legacy Park in the City of Arlington to the east, and Benbrook Lake to the south. Because of the vast area of this plan, the river and tributaries were divided by geographical "segments" (see map below) to facilitate public meetings and make the concept plans more manageable.

The scope of the study includes considerations about environmental quality, conservation, recreation facilities, trail extensions, beautification, ecosystem restoration, linkage to neighborhoods, Downtown urban waterfront initiatives, and economic development potential using the river as a focal point. The plan will also address how adjoining land uses, transportation facilities, and other adjoining and crossing facilities can best complement and benefit the greenways.



TRINITY RIVER VISION SCOPE OF WORK



[Home](#) | [About Us](#) | [Projects](#) | [News And Info](#) | [Blog](#) | [Contracting](#) | [Development](#) | [Contact Us](#)

About Us

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[History](#)
[Awards](#)
[TRVA Staff](#)
[Project Partners](#)
[Board of Directors](#)
[Citizens Advisory Committee](#)

A Vision for the Future

And a plan for success

The Trinity River Vision Authority (TRVA) is the organization responsible for the implementation of the Trinity River Vision (TRV) – a master plan for the Trinity River in Fort Worth, Texas. It is underway now – connecting every neighborhood in the city to the Trinity River corridor. The primary purpose of the project is to provide needed flood protection but it also adds new recreational amenities, improves infrastructure, provides environmental enhancements and programs events. The TRV will create a vibrant, pedestrian oriented urban waterfront neighborhood adjacent to Downtown Fort Worth, expand Gateway Park into one of the largest urban-programmed parks in the nation and enhance the river corridor with over 90 user-requested projects along the Trinity Trails. TRVA aims to attract business and entertainment to the district and is in charge of programming public spaces including the Panther Island Pavilion, a waterfront music venue and festival space directly adjacent to downtown Fort Worth.

The "Master Plan" for the Trinity River is a concept literally decades in the making. Encouraged by community volunteers in the 1980's, developed by urban designers and specialty consultants in the 1990's, and adopted by City Council in 2003, the Trinity River Vision Master Plan encompasses 88 miles of the Trinity River and its greenbelts and tributaries throughout the Fort Worth area. The "vision" has always been to advocate for this natural resource, keeping the river beautiful, accessible, enjoyable, and productive. Making sure it remains a valuable asset for the entire community.



The plan focuses on eight segments of the Trinity River and its tributaries: Clear Fork North, Clear Fork South, Marine Creek, Sycamore Creek, West Fork East, West Fork West, and the Central City area now called Panther Island.

Co-CHAIRS

STEVE BERRY, Streams & Valleys

ELAINE PETRUS, Streams & Valleys

STEERING COMMITTEE

MAYOR KENNETH BARR, City of Fort Worth

DAVID BASS, Fort Worth Chamber of Commerce

COUNCILWOMAN WENDY DAVIS, City of Fort Worth

J. D. G RANGER, Streams & Valleys

DEE GULLEDGE, Streams & Valleys

JENNIFER HARNISH, Parks Board

CHUCK LIVELY, Trinity Improvement Association

BRIAN NEWBY, Tarrant Regional Water District

DUKE NISHIMURA, Streams & Valleys

RICHARD SAWEY, Streams & Valleys

GEORGE SHANNON, Tarrant Regional Water District

JOHN STEVENSON, Downtown Fort Worth Inc.

COLONEL GORDON WELLS, U. S. Army Corps of Engineers

COUNCILMAN JEFF WENTWORTH, City of Fort Worth

SEGMENT CHAIRS

TERESA AYALA, Marine Creek

JIM BECKMAN, Mary's Creek

MARK CARTER, Clear Fork (North)

FRED CLOSUIT, West Fork (West)

MICHELLE GOODWIN, Clear Fork (South)

J. D. G RANGER, Central City

BILL HADLEY, Sycamore Creek

ERMA JOHNSON HADLEY, Sycamore Creek

GARY KUTILEK, West Fork (East)

TOM PURVIS, Clear Fork (North)

JOHN RUTLEDGE, Clear Fork (South)

LOFTIN WITCHER, West Fork (West)

ADVISORY COMMITTEE

JUDY BARTON

CAL CAMPBELL

KATHY CASH

LUE ANN CLAYPOOL

PATTI CRABTREE

DEAN DETAR

JOE DULLE

CHARLES DREYFUS

TIM ERDMAN

FLORA MARIA GARCIA

KEN GARLINGTON

DAVID GATTIS

MADelyn GIBBS

JIM GILLILAND

ERIC HAHNFELD

CAROL HALE

JUDY HARMON

CYNTHIA KIMBLE

MARY ANN KLEUSER

ALAN LIVELY

GRAY MCBRIDE

DAN MEEKS

JANICE MICHEL

DAVID PEREZ

GWEN PEREZ

MICHAEL POLANSKY

HARRIMAN RADFORD

BILL RICHESON

JIM SHIPP

LEE SMITH

WANDA STOVALL

NORM TREMBLAY

JOHN VANDER PAN

KELLY WARREN

MARK WOODS

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CITY HALL, 1480 MAIN STREET
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:
Active Transportation Committee

Name: Aaron Pott

Home Address: 1849 Pine St. St. Helena CA. 94574

Mailing Address: Same as above

Occupation: Vignerone/Consulting Winemaker

Business Address: 2272 Mt. Veeder Road Napa CA. 94558

Home Telephone: 967-9378 Business Telephone: (707) 318-6680

E-mail: aaron@pottwine.com

Please indicate if above numbers can be made available to the public upon request: YES

Are you a resident of St. Helena? YES If yes, how long have you lived in St. Helena? 12 years

Current occupation (within last 12 months) Owner Pott Wine, Partner in La Tarasque,
Chester's Anvil, Blackbird Vineyards and Owner Huis Clos Consulting

Business interests in last 12 months: _____

Previous Committee/Commission Experience:

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Master's Degree in Viticulture Université de Bourgogne, Dijon France

Professional and/or community service activities:

Local government related experience: _____

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I am an avid cyclist and would like to help the city design a more
bicycle friendly community and encourage cycling to save our lungs and
our planet.

Names, addresses, and phone numbers of three individuals familiar with your background:

John Kongsgaard 4375 Atlas Peak Road Napa, CA. 94558 707 363 9323

Ann Mitchell Ryan 1127 Edwards St. St. Helena, CA. 94574 707 287 7037

Carroll and Christina Ballard 4001 Spring Mtn. Rd. St. Helena CA. 94574 707 963 9347

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.



Signature of Applicant

Dec. 10, 2013

Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena

City Clerk

1480 Main Street

St. Helena, CA, 94574



CITY HALL, 1480 MAIN STREET
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Active Transportation Committee

Name: Evan W Roades-Brown

Home Address: 1856 Pine Street #2, St Helena, CA 94574

Mailing Address: Same

Occupation: Accounting Specialist

Business Address: 1201 Dowdell Lane, St Helena, CA 94574

Home Telephone: 707 758 6987 Business Telephone: 707 967 1812

E-mail: evanwhitney33@gmail.com

Please indicate if above numbers can be made available to the public upon request: _____

Are you a resident of St. Helena? ☒ If yes, how long have you lived in St. Helena? ^{current - 8 mos} ~~previous - 22 yrs, 5 yr~~

Current occupation (within last 12 months) Accounting Specialist at
Wilson Daniels

Business interests in last 12 months: none

Previous Committee/Commission Experience:

none

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

see attached resume

Professional and/or community service activities:

Certified Specialist of Wine - CSW

Local government related experience: None

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

As a longtime Napa Valley resident and avid cyclist, I have always enjoyed getting around the valley without my vehicle. However, the current state of local roads / traffic make it largely unsafe for most non-drivers. I would like to help change that.

Names, addresses, and phone numbers of three individuals familiar with your background:

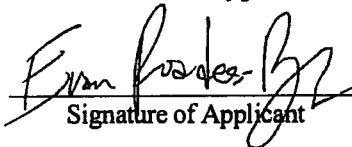
Kim Medeiros Thomas, 1201 Dowdell Ln, SH 707 967 1015

Dr Barry A Brown, 1221 Pine St, SH 707 963 2711

Larry Varland, 1370 Garden Ave, SH 707 963 3151

Bonnie Schoch

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.


Signature of Applicant

January 7, 2014
Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574

EVAN W ROADES-BROWN

PROFILE

Bilingual English and Spanish. Inquisitive, creative, resourceful and imaginative. Adept at working well independently and with a team. Enjoy using new ideas and solving technical problems. Strong attention to detail and memorization skills. Able to pick up new concepts and ideas quickly.

WORK EXPERIENCE

Accounting Specialist

Wilson Daniels

December 2012 - Present

Responsible for processing \$500k in monthly chargebacks for Wine & Spirits divisions. Creating wine parts, setting up pricing/cost, activating new labels for 23 wineries. Updating monthly regional and brand contribution reports. Main backup for Compliance Department.

Vineyard Technician

Geovit Vineyard Services

April – October 2011, 2012

Responsible for soil moisture testing with Neutron Probe and leaf-water analysis using a pressure bomb in multiple vineyards throughout Napa, Sonoma and Mendocino counties. Reported insect, vegetation, soil, irrigation or other vineyard issues for presentation to Vineyard Managers. Approx 500 miles driving/week.

Shipping Coordinator / Hospitality

St Clement Vineyards

May 2008 – April 2009

Systemized, updated and handled all shipping procedures; received/processed incoming wine deliveries; organized wine inventory and itemized wine list; guided groups through tours and tastings. Forklift certified.

Winemaking/Cellar Worker *Beringer Vineyards, Stags' Leap Winery* *Fall 2005, 2007 – 2008, Fall 2010*

Daily brix/temperature checks; pulled tank& barrel samples for blending, tasting and lab analysis; blended and bottled wines for bulk wine shipments; Barrel, tank, & equipment sanitation; load/unload trucks, yeast/nutrient inoculations. Forklift certified

EDUCATION & SKILLS

Napa Valley College Viticulture Program

- Fundamentals of Enology, Cultural Appreciation of Wine
- General Viticulture, Vineyard Soils, Spring Viticulture Operations

Santa Clara University Bachelor's of Arts – Spanish Language & Literature

- Fluent Speaking/Reading/Writing Spanish
- Certified Specialist of Wine - December 2013
- Microsoft Office: Excel, Word, Outlook

INTERESTS / ACTIVITIES

Travel; International Wine Enthusiast; Sustainable living

Running, Cycling, Hiking and Camping

Photography; Organic Gardening; Cooking

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ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

CITY OF ST. HELENA

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Active Transportation

Name: Kelly Schaeffer

Home Address: 1512 Stockton St

Mailing Address: _____

Occupation: stay @ home mom

Business Address: _____

Home Telephone: 968 9533 Cell: 815. 1734

E-mail: kellyschaeffer1@mac.com

Please indicate if above numbers can be made available to the public upon request: home only

Are you a resident of St. Helena? yes If yes, how long have you lived in St. Helena? 16 yrs

Current occupation (within last 12 months) mom + brand development consultant VP PTG St Helena Primary Site Council President member Strategic Planning School

Business interests in last 12 months: brand development consultant VP PTG St Helena Primary

Previous Committee/Commission Experience:

VP St Helena PTG, member Strategic Planning Committee for StHUSD, President STHS Site Council

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

BA, University of Florida 1992
20 years experience in entrepreneurial start-ups

Professional and/or community service activities:

See above

Local government related experience:

NA

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I'm interested in St. Helena becoming
a more like friendly city and
increase ^{the} safety, especially
for our children.

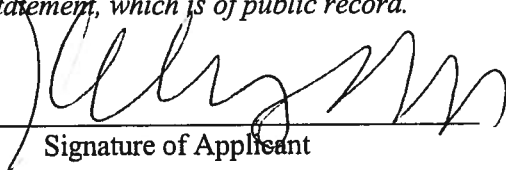
Names, addresses, and phone numbers of three individuals familiar with your background:

Greg Pitts 815.8825

George David 963.3707

Ana Canales 760.967.2707

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.


Signature of Applicant

12/10/13
Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574

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DEC 17 2013



CITY HALL, 1480 MAIN STREET CITY OF ST. HELEN.
ST. HELENA, CALIFORNIA 94574
(707) 967-2792
www.sthelenacity.com

APPLICATION FOR APPOINTMENT

Note: Your application will be copied for the City Council and made available to the press and public.

Committee/Commission To Which You Are Applying:

Bicycle Advisory

Name: Jake Scheideman

Home Address: 1829 Adams, SH 94574

Mailing Address: 1156 Main, SH 94574

Occupation: Owner ST Helena Cycles

Business Address: 1156 Main, ST Helena 94574

Home Telephone: 963-1974 Business Telephone: 963-7736

E-mail: Jake @ST Helena cycles.com

Please indicate if above numbers can be made available to the public upon request: yes

Are you a resident of St. Helena? ☒ If yes, how long have you lived in St. Helena? 24 yrs

Current occupation (within last 12 months) OWNER - ST Helena Cycles

Business interests in last 12 months: Same

Previous Committee/Commission Experience:

Park Rec Commission 1992-1996

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Professional and/or community service activities:

Local government related experience:

None

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I know I can contribute to the future of safe routes for cyclists in St Helena. Fairly aware of the local & non local needs for the cyclist

Names, addresses, and phone numbers of three individuals familiar with your background:

Greg Pitts, 1512 Stockton, 968-9533
Norm Krause, 2520 Pinor way, 695-2569
Pam Smithers, 1819 Vallejo ST, 696-0530

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.

Signature of Applicant

Date

12/16/13

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 967-2792.

Please return the completed application to:

City of St. Helena
City Clerk
1480 Main Street
St. Helena, CA, 94574

STAFF REPORT

OFFICE OF THE DIRECTOR OF PUBLIC WORKS



DATE: January 14, 2014

TO: Mayor and City Council

Item No: 16

FROM: Debra Hight, Assistant Director of Public Works

RE: Resolution Establishing a Water Shortage Emergency Condition Requiring the Implementation of Phase I Water Regulations

BACKGROUND

St. Helena Municipal Code Section 13.04.220 establishes that at any time that the city council finds and determines a water shortage emergency condition exists within the criteria of Sections 13.04.230 through 13.04.250, and that it is necessary to limit usage by the customers of the municipal water department, the city council shall adopt a resolution setting forth the applicable phase.

St. Helena Municipal Code Section 13.04.230 requires implementation of Phase I Emergency Water Regulations where conditions requiring the establishment of a Phase II water emergency, as determined by the director of public works, appear to be imminent.

The analysis shows that the City is facing potential Phase II triggers in April.

The Water Shortage Emergency (WSE) is determined pursuant to the analytical methodology created by the Safe Yield Committee as identified in its report dated March 17, 2011. This calculation requires compilation and evaluation of multiple data sources including: annual production volumes for Louis Stralla Water Treatment Plant, Stonebridge Wells & Napa Water; monthly Bell Canyon water levels; monthly groundwater use; production water at the treatment plant; operational water in the distribution system; water loss; and delivery to the water enterprise customers. The result of this analysis is the annual water supply/usage balance which then dictates if a water shortage emergency exists.

DISCUSSION/ANALYSIS

As the State of California entered in to the 2014 New Year with reports of 2013 being the driest year on record and no rainfall predicted for the month of January, staff felt it prudent to have an initial analysis performed to determine whether current conditions warranted establishment of formal water restrictions.

Some facts:

- Bell Canyon, one of three St. Helena water sources, currently sits at 40.4% capacity. Note that past years have Bell Canyon on record at 34% in early December 2006, 38% in February 2009.

- The City has drawn 350 ac-ft of the 600 ac-ft allotted from Napa water since July 1.
- As of December 31, 2013 total rainfall season to date is 2.07” vs. 25.77” in 2012.
- Water usage for November 2013 was 36.6% higher than for the same month the in 2012 and 25% higher in December 2013 than that same month in 2012.

The analysis showed that though the current situation is not dire, St. Helena is facing potential Phase II triggers in April (the next time the triggers are in play). Staff is in agreement with the analysis that moving into Phase I is warranted at this time and recommends City Council pass a resolution to that effect.

The actions taken by residents and the City during a Phase I Water Emergency are formally outlined in the attached copy of municipal code sections 13.04.220-250. With Phase I restrictions, most water conservation actions are recommended, not mandatory, with the exception of prohibiting filling pools and surface cleaning using potable water sources. New development must meet water neutrality standards, as has been required over the past 20 months. Generally, the City must notify residents of the emergency and encourage conservation, notify of the imminent Phase II emergency and its restrictions. The City Council shall also form a water advisory board consisting of one city council member, one planning commissioner, one winery customer, and two public members, one of whom shall be solely a residential customer. The director of public works shall be an ex officio member of this board. The board will be tasked with appeals regarding connections and violations in Phase II and Phase III conditions.

RECOMMENDED COUNCIL ACTION

Council adopt the attached resolution establishing a water shortage emergency condition requiring the implementation of Phase I water regulations.

ATTACHMENTS/EXHIBITS

1. Resolution 2014-_____ Establishing a Water Shortage Emergency Condition Requiring the Implementation of Phase I Water Regulations
2. Municipal Code Section 13.04.220-250 Water Shortage Emergencies

CITY OF ST. HELENA

RESOLUTION NO. 2014-

ESTABLISHING A WATER SHORTAGE EMERGENCY CONDITION REQUIRING THE IMPLEMENTATION OF PHASE I WATER REGULATIONS

RECITALS

- A. St. Helena Municipal Code Section 13.04.220 establishes that at any time that the city council finds and determines a water shortage emergency condition exists within the criteria of Sections 13.04.230 through 13.04.250, and that it is necessary to limit usage by the customers of the municipal water department, the city council shall adopt a resolution setting forth the applicable phase; and
- B. St. Helena Municipal Code Section 13.04.230 requires implementation of Phase I Emergency Water Regulations where conditions requiring the establishment of a Phase II water emergency, as determined by the director of public works, appear to be imminent; and
- C. The analysis shows that the City is facing potential Phase II triggers in April.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

- 1. To establish Phase I Water Emergency Regulations
- 2. That the City Clerk shall cause to be published at least once, in a newspaper of general circulation published and circulated in the city, a notice declaring the establishment of such regulatory phase. Such notice shall set forth the limitations of water use applicable to the particular phase being established and shall further declare that violations of such limitations are punishable in accordance with the provisions of Sections 13.04.290 and 13.04.310 of St. Helena Municipal Code. The establishment of a particular phase shall be completed and effective at midnight of the day on which the newspaper containing such notice is distributed.

Approved at a Regular Meeting of the St. Helena City Council on January 14, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Ann Nevero
Mayor

Delia Guijosa
City Clerk

Article 2

Water Shortage Emergencies

13.04.220 Procedure for establishing water emergency phases.

At any time that the city council finds and determines that a water shortage emergency condition exists within the criteria of Sections 13.04.230 through 13.04.250, and that it is necessary to limit usage by the customers of the municipal water department, the city council shall adopt a resolution setting forth the applicable phase. As soon as is practicable after adoption of such resolution, the city clerk shall cause to be published at least once, in a newspaper of general circulation published and circulated in the city, a notice declaring the establishment of such regulatory phase. Such notice shall set forth the limitations of water use applicable to the particular phase being established and shall further declare that violations of such limitations are punishable in accordance with the provisions of Sections 13.04.290 and 13.04.310. The establishment of a particular phase shall be completed and effective at midnight of the day on which the newspaper containing such notice is distributed.

Whenever the cumulative rainfall for the current water year (beginning November 1st) is less than the median amount for the same time period, the director of public works shall report at least monthly to the city council and recommend whether the city should enter into a water shortage phase, and if so, which phase is recommended. (Ord. 11-7 (part): Ord. 02-7A § 1 (part): prior code § 18.23)

13.04.230 Phase I water regulations.

A. The criteria for establishing Phase I shall be that:

1. The supply/usage balance, as calculated at the beginning of the fiscal year, is in deficit;
2. The volume of water to be delivered by the city of Napa in any fiscal year will not exceed four hundred (400) AF;
3. The volume of water anticipated to be available prior to the next November 1st, as determined by the director of public works, is not sufficient to meet projected demand through November 1st without demand reduction measures being implemented; or
4. Conditions requiring the establishment of a Phase II water emergency, as determined by the director of public works, appear to be imminent.

B. During the Phase I water emergency, the following mandatory conservation measures by customers of the department shall be enforced by the department and publicized by the city:

1. All customers must be in compliance with all water use efficiency requirements of Chapter 13.12 (Water Use Efficiency and Use Guidelines). If a customer is found to be out of compliance with any part of Chapter 13.12 or provisions of these water shortage emergency requirements, the customer must immediately install the appropriate water-saving devices in their plumbing, appliances, or improvements, or take other such actions to bring about full compliance.

2. All customers are prohibited from expanding or installing new water-using appliances, plumbing or improvements, such as lawns, gardens, landscaping, pools, sprinkler irrigation systems, wash-down equipment, larger washing machines or garbage disposal units where the installation may result in an increase in water use. Replacement of existing appliances, plumbing, or improvements shall be allowed only if the change can be documented to the satisfaction of the director of public works to result in more efficient water using fixtures or systems.

3. Any new water connection for new development must offset new demand by an amount of water equal to the new demand on the city water system using the methodology defined in Section 13.12.050. The offset must be clearly demonstrated, to the satisfaction of the director of public works.

4. Customers are encouraged to wash cars and other vehicles only at a commercial wash facility which recycles wash water on site.

5. Customers may not wash hard surfaces such as sidewalks and patios unless conditions of public health hazard are documented.

6. Customers may install new landscaping in existing or new development that is water efficient within the meaning of the water efficient landscape ordinance.

7. Customers are encouraged to cease the operation of air-cooling outdoor misting systems using treated water supplied by the city.

C. During the Phase I water emergency, the following actions shall be carried out by the city:

1. The city shall notify customers that one or more of the criteria for Phase I has been met, and shall identify and explain in sufficient detail each criterion that forms a basis for establishing a Phase I water emergency.

2. The city shall notify customers of the water usage allocation for each account that would be allowed under a Phase II water emergency if a Phase II water emergency appears to be imminent.

3. The city shall advise customers of the Phase I water shortage and of restrictions and opportunities for exception permits that are available under Section 13.04.280 if a Phase II water emergency appears to be imminent.

4. Any applicant for, or holder of, a building permit for construction that may be affected by the existence of this or future water emergency phases shall be informed of the impact of such phases, but lack of such notice shall not permit a new water connection that is otherwise prohibited.

5. The city shall not issue permits for construction of any new swimming pool unless the pool is to be supplied with water other than treated water supplied by the city. Customers are encouraged to fill existing pools from water other than treated water.

6. The city shall make plans for implementation of a water shortage disaster plan, which shall include provisions for:

- a. Emergency water stations;
- b. Acquisition of private property under the right of eminent domain, with immediate possession to alleviate the emergency; and
- c. Application for relief assistance from county, state, and federal sources.

7. The city council shall give notice to any customer that has a terminable contract with the department (whereby the department is the supplier) that such contract will be terminated upon implementation of Phase III by the city council.

8. If the declaration of a Phase II emergency appears reasonably imminent, the city council shall cause a water advisory board to be formed consisting of one city council member, one planning commissioner, one winery customer, and two public members, one of whom shall be solely a residential customer. The director of public works shall be an ex officio member of this board. Unless the city council otherwise directs, the board will disband when the water emergency is no longer in effect. The water advisory board shall have access to all records in the possession of the water enterprise necessary in its judgment to perform its duties, including customer records. The board shall maintain the confidentiality of individual customer records unless the board determines by resolution that release of such information is necessary in the pursuit of its duties.

D. In addition to the mandatory measures defined in subsections B and C of this section, customers of the department and members of the community are encouraged to do the following:

- 1. Reduce all indoor water use to not more than an average of seventy-five (75) gallons per person per day within the residence, including single-family residences, apartments, condominiums, townhomes, and mobile homes.
- 2. Reduce indoor water use in the work places and commercial establishments by a minimum of ten percent (10%) from customary consumption.
- 3. Eliminate or defer all nonessential water use such as topping off swimming pools.
- 4. All schools, social and professional groups, churches, etc., are encouraged to discuss water conservation as a regular agenda item and to forward worthwhile suggestions to the department for consideration.

5. All sites with irrigated landscapes or gardens are encouraged to establish the following irrigation practices:

- a. Turn off irrigation systems during the nonirrigation season.
- b. Encourage customers to invest in SMART controllers or equivalent water-saving devices to control the operation of outdoor sprinkler systems. (Ord. 11-7 (part): Ord. 02-7A § 1 (part): prior code § 18.23.1)

13.04.240 Phase II water regulations.

A. The criteria for establishing Phase II shall be:

1. The volume of water anticipated to be available prior to the next November 1st from all potable water sources is not sufficient to meet the projected demands through November 1st without demand reduction measures beyond the Phase I reductions being implemented; or
2. Conditions requiring the establishment of a Phase III water emergency appear imminent.
3. In assessing the need to impose Phase II restrictions due weight shall be accorded to the trigger system developed by the safe yield committee for use by the director of public works. The trigger system is based on water levels in Bell Canyon Reservoir, with the level necessary to trigger a water emergency being adjusted each month to reflect the supply capacity of groundwater and water to be delivered by the city of Napa at that time. Details of the system can be obtained from the director of public works.

B. All mandatory and voluntary measures established by Phase I, Section 13.04.230(B), (C) and (D) shall be included in Phase II and publicized by the city except insofar as they are inconsistent with subsections C and D of this section.

C. The following mandatory conservation measures by customers of the department shall be enforced by the department:

1. The mandatory conservation measures in Section 13.04.230(B) shall be enforced by the city, except insofar as they are inconsistent with this subsection C.
2. Commercial, industrial, and institutional users other than dedicated irrigation accounts will receive an allocation per billing period which will be ten percent (10%) less than the average use during the four winter months of the preceding nonshortage year; provided, that no commercial, industrial, or institutional user will be required to reduce usage to less than sixty (60) gallons per day. Users with no prior record of use shall be governed by comparable facilities' usage records as determined by the department. Commercial, industrial, and institutional customers with irrigation and domestic use provided by the same water meter may receive an additional landscape allocation of up to seventy (70) gallons day per thousand (1,000) square feet of

landscaped area during April through October by documenting the landscaped square footage served by city water to the satisfaction of the director of public works. For purposes of landscape allocation, the April allocation period will begin on the date the water meter is read in April, and the October allocation period will end on the date the water meter is read in November.

3. Residential users in the single-family residential, multifamily residential, and mobile home customer classes will receive an allocation per billing period which will be limited to sixty-five (65) gallons per person per day. Single-family residences will receive an additional twenty-five hundred (2,500) gallons per month from April through October for landscape irrigation. Multifamily residential and mobile home customers may receive a landscape allocation of up to seventy (70) gallons per day per thousand (1,000) square feet of landscaped area during April through October by documenting the landscaped square footage served by city water to the satisfaction of the director of public works. For purposes of landscape allocation, the April allocation period will begin on the date the water meter is read in April, and the October allocation period will end on the date the water meter is read in November.

4. For a lawn, landscaping, vineyard or field watered or irrigated through a meter dedicated to that use, usage shall be limited to sixty percent (60%) of current reference evapotranspiration as measured at California Irrigation Management Information Systems (CIMIS) Station No. 77 (in Oakville).

5. No new water connections shall be permitted during a Phase II water emergency.

D. During the Phase II water emergency, the following actions shall be carried out by the city:

1. The city shall notify customers of the water usage allocation for each account that would be allowed under a Phase III water emergency.
2. The department of public works shall make available, or arrange to have delivered, nonpotable water from either lower reservoir or, if permitted and available, tertiary treated wastewater to city-owned properties for irrigation purposes.
3. Nothing herein shall restrict the authority of the director of public works from imposing more severe usage restrictions on each class of water customer if circumstances so warrant. (Ord. 11-7 (part); Ord. 02-7A § 1 (part))

13.04.250 Phase III water regulations.

A. The criteria for establishing Phase III shall be:

1. The volume of water anticipated to be available prior to the next November 1st from all potable water sources is not sufficient to meet the projected demands through November 1st without demand reduction measures beyond the Phase II reductions being implemented.

2. In assessing the need to impose Phase III restrictions due weight shall be accorded the trigger system developed by the safe yield committee for use by the director of public works. The trigger system is based on water levels in Bell Canyon Reservoir, with the level necessary to trigger a water emergency being adjusted each month to reflect the supply capacity of groundwater and water to be delivered by the city of Napa at that time. Details of the system can be obtained from the director of public works.

B. All mandatory and voluntary measures established by Phases I and II, Sections 13.04.230(B), (C) and (D) and 13.04.240(B), (C) and (D), shall be included in Phase III and publicized by the city, except insofar as they are inconsistent with subsections C and D of this section.

C. The following mandatory conservation measures by customers of the department shall be enforced by the department:

1. The mandatory conservation measures in Sections 13.04.230 and 13.04.240 shall be enforced by the city, except insofar as they are inconsistent with this subsection C.

2. Commercial, industrial, and institutional users other than dedicated irrigation accounts will receive an allocation per billing period which will be twenty percent (20%) less than the average use during the four winter months of the preceding nonshortage year; provided, that no commercial, industrial, or institutional user will be required to reduce usage to less than fifty (50) gallons per day. Users with no prior record of use shall be governed by comparable facilities' usage records as determined by the department. The allocation for landscape irrigation will be fifty percent (50%) of the allocation in Phase II and will be based on the same meter reading period as for Phase II. Landscape allocations are provided for established nonturf plants only.

3. Residential users in single-family residential, multifamily residential, and mobile home customer classes will receive an allocation per billing period which will be limited to sixty (60) gallons per person per day. The allocation for landscape irrigation will be fifty percent (50%) of the allocation in Phase II and will be based on the same meter reading period as for Phase II. Landscape allocations are provided for established nonturf plants only.

4. For a vineyard or approved field (as approved by the water advisory board) watered or irrigated through a meter dedicated to that use, the allocation shall be limited to thirty percent (30%) of current reference evapotranspiration as measured at California Irrigation Management Information Systems (CIMIS) Station No. 77—Oakville, and irrigation will be allowed for established nonturf plants only.

5. All nonessential uses of water shall be prohibited. Nonessential uses shall include, but not be limited to, the following:

a. The use of water for irrigation of turf, lawns, or landscaping;

b. The refilling of swimming pools, hot tubs and spas, except as required by the fire chief for use as standby neighborhood fire protection. The fire chief shall cause a list of such pools to be on file at the fire department.

6. No new water connections for new development shall be permitted.

D. During the Phase III water emergency, the following actions shall be carried out by the city:

1. The department shall terminate all nonessential contracts which are terminable. (Ord. 11-7 (part): Ord. 02-7A § 1 (part): prior code § 18.25)

13.04.270 Termination of water emergency phases.

Water emergency phases shall be terminated or changed to a less critical phase in the same manner as they are established in accordance with criteria set forth in the preceding sections and at the discretion of the city council. (Ord. 11-7 (part): Ord. 02-7A § 1 (part): prior code § 18.28)

13.04.280 Exception permits.

A. Under a Phase II or Phase III water emergency, the director of public works shall, with such conditions as seem to him or her to be reasonable, grant exception permits in addition to any basic allocation, on application of a water customer submitted under penalty of perjury, based on the conditions defined in this section. The city may provide a process for certification of efficiency, lot size, medical condition, or efficient and essential use prior to declaration of a water shortage emergency condition which could result in a customer being prequalified for exception.

1. For any customer with an allocation based on previous water use, if it can be demonstrated to the satisfaction of the director of public works that water conservation measures beyond those required in Chapter 13.12 were in place prior to the preceding nonshortage year, an additional quantity of water may be allocated to recognize the higher efficiency in place prior to the water emergency condition.
2. For single-family residential parcels exceeding seven thousand (7,000) square feet in area, the quantity of up to twenty (20) gallons per day for each one thousand (1,000) square feet that the property area exceeds seven thousand (7,000) square feet for the purpose of maintaining mature landscape or orchard plants. For purposes of this subsection, multiple parcels maintained and fully landscaped as one property may be computed as being one parcel. An exception granted based on this subsection shall allow the use of no more than an additional two hundred fifty (250) gallons per day for this purpose.
3. For medical conditions of a resident, a quantity as required to maintain health standards.
4. For any customer with an allocation based on previous winter water use, if it can be demonstrated to the satisfaction of the director of public works that efficient and essential water

uses are not represented in average winter water use, an additional quantity of water may be allocated to provide for these efficient and essential needs.

B. The water advisory board shall meet at least monthly and may grant permits for uses of water or for exceptions to water conservation measures or for water connections otherwise prohibited by Sections 13.04.230, 13.04.240, and 13.04.250 if it finds and determines that such regulations would:

1. Cause an unnecessary and undue hardship to the applicant or to the public;
2. Cause an emergency condition affecting the health, sanitation, fire protection, or safety of the applicant or public; or
3. Promote water conservation by providing for the establishment of water efficient landscaping meeting the standards of Section 17.112.140 and such policies and regulations as have been adopted to implement the provisions of that chapter, replacing more water-intensive landscaping.

C. The water advisory board of the city shall prescribe necessary procedures for application for and use of exception permits.

D. Any decision of the director of public works in granting or denying exceptions may be appealed by the applicant or any other person to the water advisory board by filing a written appeal with the city clerk within ten (10) calendar days after the date of mailing of written notice to the applicant of the decision rendered. The water advisory board shall use its best efforts to hear and determine such appeal within twenty (20) days, and shall affirm, reverse, or modify the decision.

E. Any decision of the water advisory board may be appealed by the applicant to the city council according to the provisions of Chapter 1.16. (Ord. 11-7 (part): Ord. 02-7A § 1 (part): prior code § 18.28.1)

13.04.290 Noncompliance with mandatory water conservation measures.

In addition to the provisions of Section 13.04.310, any person who fails to comply with any of the mandatory water conservation measures imposed by the implementation of this article, including the allocations assigned in Phases II and III, shall be subject to an improper water user's fee or charge as hereinafter set forth. Absence of a customer from the city, existence of an undetected leak, or other circumstance does not relieve the customer of the responsibility for ensuring that mandatory water conservation measures are observed and complied with and shall not serve as a basis for reversal of any action or the imposition of any fee or charge.

A. The following charges are not imposed as a penalty but as a charge for excessive or improper use of water. The charges are necessary in order to recover the reasonable cost of enforcement of the mandatory water provisions and in order to obtain the goals of the water conservation measures contained in this section:

1. First Violation. The city shall issue a written warning to the customer for the first violation.

2. Second Violation. The city shall issue a written notice and assess an improper water use fee of fifty cents (\$0.50) for each gallon by which the customer's usage exceeded the amount allowed per billing period. If the fee is not paid in full within fifteen (15) days of issuance of the notice, the amount will be added to the customer's water bill.

3. Third Violation. The city shall issue a written notice, charge an improper water use fee of one dollar (\$1.00) for each gallon by which the customer's usage exceeded the amount allowed per billing period and install a flow-restricting device on the customer's water service, or otherwise restrict the flow of water through a meter, for a period of not less than seventy-two (72) hours. Such flow-restricting device or other means shall reduce water flow to one gallon per minute for metered services one and one-half inches or under. Similar devices or restrictions will be placed on larger meters. The fee shall be paid prior to the resumption of normal water service.

4. Fourth Violation. The city shall issue a written notice, charge an improper water use fee of one dollar and twenty-five cents (\$1.25) for each gallon by which the customer's usage exceeded the amount allowed per billing period, and install a flow-restricting device on the customer's water service, or otherwise restrict the flow of water through a meter, for a period of not less than five days. Such flow restriction device or other means shall reduce water flow to one gallon per minute for the metered services one and one-half inches or under. Similar devices or restrictions will be placed on larger meters. The fee shall be paid prior to resumption of normal water service.

5. Fifth or Subsequent Violation. The city shall issue a written notice, charge an improper water use fee of one dollar and fifty cents (\$1.50) for each gallon by which the customer's usage exceeded the amount allowed per billing period, and may either install a water-flow-restricting device on the customer's water service, or otherwise restrict the flow of water through a meter, for an indefinite period or discontinue water service under the provisions of Section 13.04.130. Such flow-restricting device or other means shall reduce water flow to one gallon per minute for metered services one and one-half inches or under. The fee shall be paid prior to restoration of unrestricted water service.

B. Notification of Violation. Notification shall include a description of the facts in regard to the violation, a statement of the possible penalties for each violation and the statement of the customer's rights to hearing on the merits of the violation as stated in Section 13.04.300.

1. Notice of violation shall be given in writing by personal delivery of the notice to the customer at the service address and by first-class mail to the billing address, excepting that notice of a first violation may be by first-class mail to the billing address only.

2. If the customer is absent from or unavailable at the service address, the notice can be left with a responsible person at the premises.

3. If a responsible person is not available at the service address, then the notice can be left in a conspicuous place on the premises.

4. Failure of any notice to so state shall not constitute a defense to the validity of any written notice. A copy of all written notices of violation shall be delivered to the water advisory board. All written notices of violation shall state that a copy is being provided to the water advisory board. (Ord. 11-7 (part); Ord. 02-7A § 1 (part); prior code § 18.29)

13.04.300 Violation hearings.

Any customer receiving a second or subsequent violation notice shall be entitled to file an appeal with the city council according to the provisions of Chapter 1.16. The following shall apply in the case of such appeal:

A. All such appeals shall be automatically referred by the city council to the water advisory board (if in existence) for review and disposition. Any person dissatisfied with the disposition as determined by the water advisory board may seek review of the board's disposition by the city council by filing a petition for review with the city clerk no later than ten (10) calendar days following disposition by the board. The city council shall not entertain evidence not first presented to the water advisory board, and shall give due deference to the disposition of the board in resolving any petition seeking review of the board's disposition.

B. An appeal shall automatically stay installation of a flow-restricting device or shutoff on the customer's water service until the decision is final. The appeal must be filed prior to installation of the restricting device or before shutoff has occurred.

C. The customer's appeal shall not stay the imposition of a fee. If it is determined that a fee is wrongly assessed, the city will refund any fee paid by the customer. (Ord. 11-7 (part); Ord. 02-7A § 1 (part); prior code § 18.29.1)

13.04.310 Violation—Misdemeanor.

Notwithstanding any provision of this code to the contrary, the provisions of Section 377 of the California Water Code shall be applicable to any violation of this article. Any person violating any of the provisions of this article shall be guilty of a misdemeanor. Upon conviction thereof, such person shall be punished by imprisonment in the county jail and/or fined in accordance with the penalties as set forth in the provisions of Section 377 of the California Water Code. (Ord. 11-7 (part); Ord. 02-7A § 1 (part); prior code § 18.30)

STAFF REPORT

OFFICE OF THE DIRECTOR OF PUBLIC WORKS



DATE: January 14, 2014

TO: Mayor and City Council

Item No: 17

FROM: Debra Hight, Assistant Director of Public Works

RE: Update/discussion on Tunnel of Elms Tree Maintenance

BACKGROUND

The public expressed concern at the November 12, 2013 Council meeting about the maintenance of the Tunnel of Elms. Council asked staff to report on the routine maintenance required for the Tunnel of Elms. Details are discussed below.

DISCUSSION/ANALYSIS

The Tunnel of Elms is a component of the Beringer Winery Historic District listed on the National Register of Historical Places.

Each year the Caltrans and City Arborists coordinate on needed maintenance and tree removals. All removals must meet the State Historic Preservation Office (SHPO) guidelines and Caltrans applies for a "Finding of No Adverse Effect" from SHPO, generally in early fall.

Trimming and removals are performed by Caltrans Maintenance between December and March while the trees are dormant and bug infestations are less likely. Following the trimming and removals by Caltrans, the City Arborist orders replacement trees in a species of elm that has been found to be more disease resistant. Since the initial 55 trees provided by Caltrans in 2012, the replacement trees have been funded by the St. Helena Beautification Committee through private donations. The City Arborist generally plants trees during the early winter rainy season. In a year such as 2013-14 when early drought conditions persist, the City Arborist waters newly planted trees through the season and into the summer to provide the best outcome as possible.

Caltrans Maintenance and the City Arborist identified six trees for removal this past fall. Caltrans completed the SHPO approval and permitting process to remove the six trees in October and removed the six dead or dying trees and trimmed needed branch and suckers during December. Due to an extended equipment repair, stump grinding is scheduled for mid January. Following that action, the City Arborist will order six new 15-gallon trees and plant as soon as the rain begins. Barring normal rainfall, the City Arborist will water the trees on a regular basis and check the moisture condition of the soil between waterings to ensure the adequacy of the frequency until he determines the trees are strong enough to grow on their own naturally.

City staff and Caltrans recognize the need to preserve the iconic Tunnel of Elms on a short- and long-term basis as the original trees near the end of their natural lifespan and are ravaged by Dutch Elm disease. The two agencies formed a partnership in 2011 to provide for maintenance, preservation and restoration of the historic elms in a way that meets current safety requirements. Yearly inspections, maintenance and replanting in a coordinated effort between the two agencies should perpetuate the Tunnel into the future. The Tunnel remains a high priority item for City Public Works and its Arborist.