



City of St. Helena
Regular City Council Meeting
Tuesday, August 9, 2022 @ 6:00 PM
Vintage Hall Board Room - Second Floor,
465 Main Street, St. Helena

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 do so, but please observe the time limit of four minutes.

Simultaneous Spanish interpretation services during meetings can be scheduled upon request. To ensure interpreters are available, requests must be made at least 72 hours in advance by calling the Office of the City Clerk at (707) 968-2640 or emailing cityclerk@cityofstheleena.org.

The schedule of upcoming meetings and published meeting agendas can be found on the City of St. Helena website at <https://stheleena.civicweb.net/portal/>.

Servicios de interpretación en español durante la reunión pueden ser solicitados por el público. Para asegurar que los intérpretes estén disponibles, los servicios tienen que ser solicitados al menos 72 horas antes de la reunión llamando a la oficina de la Secretaria de la Ciudad al (707) 968-2640 o por correo electrónico a cityclerk@cityofstheleena.org.

El horario de las reuniones publicadas y próximas puede ser localizado en el sitio de web de la Ciudad en <https://stheleena.civicweb.net/portal/>.

Page

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ADOPTION OF THE AGENDA
4. ROLL CALL
Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, Eric Hall and Lester Hardy
5. 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 4 minutes. Each person is entitled to speak on any non-agendized item only once at any meeting. Brief questions by Council Members for clarifications may be posed and answered, and Council Members 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.
 - 5.1. [Public Comment.Norm Manzer](#)
6. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, AND AB 1234 REPORTS:
Reports by staff and/or Council Members on items of general interest. Brief questions for clarification may be posed and answered, and Council Members

5 - 8

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.

7. PRESENTATIONS AND PUBLIC RECOGNITIONS

- 7.1. Proclamation Recognizing Julie Spencer's Many Contributions to Rianda House and the Community of St. Helena 9

[Proclamation](#)

- 7.2. Oaths of office for:
- Nathan Bowyer, Firefighter
 - Daniel Martinez, Firefighter
 - Bryan Sahagun, Firefighter

8. 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)

- 8.1. Consideration and proposed approval of Regular Meeting Minutes of July 26, 2022 11 - 14

Prepared By: Cindy Tzaferopoulos, City Clerk

Recommendation:

Approve.

[Minutes Regular City Council - 07-26-2022](#)

- 8.2. Consideration and Proposed Approval of a Resolution Declaring Intention to Reimburse Expenditures Relating to Infrastructure Projects from the Proceeds of Tax-Exempt Obligations. 15 - 18

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Assistant City Manager

Recommendation:

Adopt the attached resolution.

[Staff Report - Pdf](#)

- 8.3. Designation of voting delegates at the League of California Cities Annual Conference business meeting 19 - 24

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaferopoulos, City Clerk

Recommendation:

Staff recommends for the City Council to designate Council Member Eric Hall as the voting delegate and Council Member Anna Chouteau as the alternate voting delegate.

[Staff Report - Pdf](#)

- 8.4. Consideration and proposed adoption of a Resolution Authorizing (1) the City Manager to execute Amendment No. 3 to STH Contract: FY2021-077 in the amount of \$270,750, to the Professional Service Agreement with Operational Technical Services for temporary Wastewater Treatment Operators for a total amount not-to-exceed \$730,000; (2) a 25 - 37

Wastewater Fund budget increase of \$248,850 to 571-5029-2020; and (3) use of Wastewater Operations Fund balance of \$248,850; (4) the City Manager to execute Amendment No. 4 to STH Contract: FY2021-048 in the amount of \$807,250 to the Professional Service Agreement with Operational Technical Services for temporary Water Treatment Operators for a total amount not-to-exceed \$2,153,355; (5) a Water Fund budget increase of \$765,189 to 561-5034-2020; and (6) use of Water Operations Fund balance of \$765,189.

CEQA Determination: Not a CEQA project
Prepared By: Mark Rincon-Ibarra, Public Works Director and City Engineer
Recommendation:
Staff recommends adoption of the attached Resolution.

[Staff Report - Pdf](#)

9. OLD BUSINESS

- 9.1. Introduction and Proposed Approval for the First Reading of a Safe Firearm Storage Ordinance 39 - 54

CEQA Determination: Not a CEQA project
Prepared By: Chris Hartley, Chief of Police
Recommendation:
Introduce and conduct the first reading of the proposed Safe Firearm Storage Ordinance, by title only and waive further reading.

[Staff Report - Pdf](#)

[Safe Storage Ordinance Model.10.1.19.1](#)

[Attachment 1 - Mothers Letter of Request for a Gun Safe Storage Ordinance](#)

- 9.2. Consideration and Proposed Approval of a Resolution Amending the Appointment Process for City Commissions, Boards and Committees 55 - 110

CEQA Determination: Not a CEQA project
Prepared By: Ethan Walsh, City Attorney
Recommendation:
That the Council consider the enclosed resolution, and if desired, adopt the attached resolution with the preferred option.

[Staff Report - Pdf](#)

10. ADJOURNMENT

The next Regular City Council meeting is scheduled for August 23, 2022, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on August 5, 2022.



Cindy Tzafopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

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.

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 1572 Railroad Avenue, St. Helena, California, during normal business hours and by appointment. In addition, such writings or documents will be made available on the City's web site at <https://sthelena.civicweb.net> and will be available for public review at the respective meeting.

August 9, 2020

City Council
City of St Helena, CA

RE: Blue Note Jazz Festival and Charles Krug Winery and Event Center

Hello Geoff, Paul, Anna, Lester, and Eric,

Unless you were out of town July 29-30-31, you surely experienced the same disruption in your quality of life as the rest of our St Helena residents.

We are all old enough to understand that when there is a problem, if you ignore it, the problem only gets larger. Attached is my letter to all of you of June 13, 2021 – more than a year ago inquiring of the burgeoning activity and noise from Charles Krug Winery. Attached to that letter was their schedule of BLUE NOTE AT CHARLES KRUG with 31 performances from June 11 until October 1, 2021.

I asked for your help in this problem, and you ignored my letter. None of you reached out to me personally, and no one in City administration responded either. In late August I called Mayor Geoff, and he said that amongst the other four of you there was no interest in pursuing my inquiry. Your silence was no doubt an encouragement of the status quo for Charles Krug as evidenced by the recent 20,000+ attendees at the Blue Note Jazz Festival and its effect upon our small town.

Also enclosed is my August 8, 2022 Letter to the Editor of the Star briefly explaining only a portion of what did and did not happen under the Temporary Use Permit you issued to Blue Note. While the TUP is for three days only, Thursday, July 28 was also a day of noise from that venue as the bands rehearsed one after the other. Surely you also heard the Wine Train horns after 10:30pm as they hauled revelers back to Napa, sharing their noise along those 18 miles.

Lest we not forget Charles Krug Winery also hosting the Festival Napa Valley July 15-24.

So, isn't it about time that all of you respond to this expanding problem? Until such time as you can determine exactly what are the permitted uses (Comedy Club, Pizza Restaurant, Jazz Festival venue, . . .), I ask that you not approve any further Temporary Use permits at Charles Krug and that they not be allowed to expand their own offerings until you clarify their permitted use. Do Beringer, Merryvale, Spottswoode and other St Helena sited wineries also have carte blanche at what activities they can produce?

Will any action be taken against Blue Note for their violations of their Jazz Festival TUP? This is not a rhetorical question.

Encl. - 3

Sincerely,



Norm Manzer
103 Camino Vista
St Helena, CA 94574
Manzer103@comcast.net

August 8, 2022 - Letter to the Editor, St Helena Star

Well, fellow St Helenans, what was your experience with the Blue Note Jazz Festival AKA BottleRock/St Helena two weekends ago? At 6,000 partygoers daily, plus musicians, vendors and staff, the body count that overwhelmed St Helena exceeded 20,000 people. Everyone I have talked to wondered how in blazes something like that could take over the air waves and streets of our St Helena. Yes, Charles Krug Winery again showed us that wine profits are down and Event Center shindigs are what is needed for our town of less than 6,000. Ticket prices ranged from \$225 to \$1,500.

Our home is half a mile from the event across the Napa River and the Silverado Trail. Hard to believe that a neighbor would do such a thing. And while the Jazz Festival promotor, Blue Note, is not our neighbor, hard to believe that Charles Krug owner Marc Mondavi would do this to us. But he did.

I got a copy of the Use Permit issued by the City of St Helena, and while there is a 10:00pm curfew for the noise to end, there is no limit as to how loud it can be. None. And while there are all kinds of warnings to Blue Note of performing as promised, there are no penalties stated in the Use Permit. Is there any reason why someone like Blue Note would care to abide by such a nebulous "Permit" if there are no penalties? All three nights had the noise continuing until after 10:00pm.

On Saturday evening at 10:10pm I called the SHPD about the noise. The Dispatcher said that all three of our officers were besieged with trying to direct traffic on Hwy 29 and could not reach the promotor to end the music. It finally ended that night at 10:25pm.

Normally our little town has two police officers on duty for the entire business and residential areas. That Saturday night they had a third new officer, but all of them were consumed with traffic duties at the Krug end of town. SHPD Chief Hartley said that in the event of a serious issue in town, the officers would have responded, but how? If you tried to maneuver Hwy 29 that weekend, you would have seen that red lights and sirens would have had a difficult time responding and penetrating the jazz fans who had plugged up the Hwy, Deer Park Road and the Silverado Trail.

Blue Note's application to the City stated that all attendees would be notified that there was no on-street parking in St Helena, yet Main, Elmhurst, Park and Pratt Avenues plus Deer Park Rd, Silverado Trail and Fawn Park Road were all bumper to bumper.

Deer Park Rd and Silverado Trail had cars parked on the Bike Lanes causing partygoers to walk in the traffic lanes in their varying state of sobriety. There was no enforcement of this by any agency. Chief Hartley said it was out of the City's jurisdiction. The only cars towed were those parked on the Deer Park Rd/Napa River bridge. The City's Use Permit required that all event parking must be at Krug. It obviously didn't go down as promised. No surprise.

So where do we go from here? Is there another Blue Note or similar application in the works? Wouldn't it have been appropriate that a City employee be on-scene during this event to note all problems and lack of compliance? Does the SHPD have an after-the-fact report being submitted to our City Planner that would preclude a repeat of such a fiasco in the future?

Unless you want to have another one of these bombshells dropped on us again, I urge you to make your thoughts known to our Mayor and City Council. Norm Manzer, St Helena

June 13, 2021

City Council
City of St Helena
1480 Main Street
St Helena, CA 94574

COPY

Members of our St Helena City Council:

What is the City's definition of a winery?

From all appearances, aside from the purpose of making and selling wine it is also a carte blanche license to do most anything else. If we might take a look at the Charles Krug Winery for a moment.

Going back a couple of years Krug had a banner atop their sign welcoming people to the deli service they had established at the winery. Soon thereafter their Comedy Club banner was a common theme, and now we are subject to the night club events of Blue Note performances on an almost nightly basis. Attached is the article from last week's St Helena Star detailing the Krug events from now until October – of which in the nine days from June 11-19 seven of those evenings are full scale outdoor performances.

Our family home is about half a mile from their concerts, and we can hear them within our home. Is this what St Helena intends to be standard operating procedure for a winery or any other business in town? Is a permit required for such events? If so, are the effects of such events upon our local families a criterion in determining the feasibility of approving such a permit?

I ask that the you determine if what we see happening at Charles Krug is allowable for this business and any others within our city limits. Thank you.

Sincerely,

Norm Manzer
Manzer103@comcast.net

Encl. – Star article

Winery uses the winery's main building as a backdrop. Here, Pink Martini performs with guest singers such as Ari Shapiro, singing backup vocals, left.

Blue Note at Charles Krug Winery

June 11: Pacific Mambo Orchestra	July 18: Mama Said
June 12-13: Damien Escobar	July 25: KT Tunstall
June 15, 17: Legacy Dance Collective	Aug. 21-22: Taj Mahal
June 18-19: Karl Denson's Tiny Universe	Aug. 28-29: Dave Koz and Friends Summer Horns with Mindi Abair, Kirk Whalum and Vincent Ingala
June 25: Fortune Feimster	Sept. 4-5: Brian McKnight
June 26: Jody Watley	Sept. 11-12: The Stanley Clarke Band
June 27: Anuhea with special guest Justin Kawika Young	Sept. 17-18: Arturo Sandoval
July 3: Tony! Toni! Toné!	Sept. 19: Chris Botti
July 9-11: Kenny G.	Oct. 1: WellRED

31 performances from June 11 → Oct 1, 2021
 Recalling that some dates had afternoon
 and night performances

City of St. Helena PROCLAMATION

In Recognition of Julie Spencer's Many Contributions to Our City August 9, 2022

WHEREAS, Julie Spencer, now retired, joined the Rianda House senior activity center as its founding Executive Director in October 2008.

WHEREAS, over the course of nearly 14 years, under Julie's clear-eyed leadership, Rianda House grew to become not only a respected and beloved social center for seniors, with its warm and inviting atmosphere, but also a valuable resource for caregivers and an important hub for access to senior services from a multitude of non-profits.

WHEREAS, Julie grew weekly attendance at Rianda House programs, classes and events from approximately 100 clients in 2008 to 637 clients in 2020. During that year, these 637 clients had 5505 interactions with Rianda House.

WHEREAS, Julie, respected by all for her deep passion for older adults and her collaborative nature and creativity, substantially contributed to Rianda House's positive impact on the UpValley community by advocating for and providing services for older adults and partnering with 22 Napa Valley resource organizations.

WHEREAS, during Julie's tenure, Rianda House forged partnerships with the City of St Helena and nonprofits like the UpValley Family Center and the St. Helena Hospital Foundation and joined networks like the Upvalley Senior Collaborative, the Happy Aging Population Initiative (HAPI), and Community Organizations Active in Disaster (COAD). Additionally, Julie partnered with the Culinary Institute of America (CIA) to provide monthly lunches for Rianda House participants and with Meals on Wheels to provide weekly congregate meals.

WHEREAS, Julie and her team at Rianda House particularly shined through the COVID-19 pandemic by partnering with the St. Helena Hospital Foundation to educate and encourage local seniors to become vaccinated, by initiating wellness calls to local seniors and by quickly transforming Rianda House into a virtual network of Zoom meetings to keep our seniors connected and engaged.

WHEREAS, Julie created the Rianda House recycling program, and with her mother, Carol Spencer, worked with a group of dedicated volunteers to establish its beautiful garden.

WHEREAS, Julie greatly increased Rianda House's reach and influence by producing a monthly newsletter featuring a wide selection of classes and special events and expanding Rianda House services, programs and resources into Calistoga.

WHEREAS, with the bulk of the county's population and social services being based in Napa and American Canyon, Rianda House, under Julie's leadership, has provided UpValley seniors with increased confidence in their ability to thrive and age in their homes and communities.

NOW, THEREFORE, BE IT RESOLVED that I, Geoff Ellsworth, Mayor of the City of Saint Helena, along with the entire City Council, issue this Proclamation on behalf of the City and ask all our residents to join us in expressing our eternal gratitude for Julie Spencer's many contributions to our city, and especially for her efforts in making Rianda House an indispensable resource for UpValley residents who wish to stay in their homes as they age.

Dated: August 9, 2022

Geoff Ellsworth, Mayor
City of St. Helena

MINUTES
City of St. Helena
Regular City Council Meeting
Tuesday, July 26, 2022 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at <https://sthelena.civicweb.net/Portal/> or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member Lester Hardy, and Council Member Eric Hall

Absent: Mayor Geoff Ellsworth

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ADOPTION OF THE AGENDA**

4.1

City Clerk Cindy Tzafopoulos noted that there's no changes to the agenda.

Council Member Anna Chouteau moved to adopt the agenda. The motion was seconded by Council Member Eric Hall and on roll call carried by the following vote:

AYES: Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member Lester Hardy, and Council Member Eric Hall

NOES: None

ABSENT: Mayor Geoff Ellsworth

ABSTAIN: None

RECUSE: None

- 5. PRESENTATIONS AND PUBLIC RECOGNITIONS**

- 5.1** Oath of Office for incoming City Manager Anil Comelo administered by City Clerk Cindy Tzafopoulos

- 6. PUBLIC FORUM:**

Susan Kenward addressed the City Council.

Regular City Council
July 26, 2022

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

City Attorney Ethan Walsh noted there was no action taken during the July 26, 2022 special City Council closed session meeting.

Reports were made by staff and City Council.

8. 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)

- 8.1 Consideration and proposed approval of Regular and Special Meeting Minutes of June 28, 2022

Prepared By: Cindy Tzaferopoulos, City Clerk

- 8.2 Consideration and Proposed Approval of a Resolution Extending the Waiving of Sign Fees for Business Recovery

CEQA Determination: Exempt

Prepared By: Maya DeRosa, Planning & Building Director

Recommendation:

Staff recommends the City Council approve the attached resolution.

- 8.3 Consideration and Proposed Approval of a Resolution (1) Approving Amendment #11 to the Unrepresented Compensation Program for a Three-year Program Period Commencing on July 1, 2022 and Expiring on June 30, 2025 and (2) Adopting and Approving Publicly Available Pay Schedule in Accordance with the Requirement of California Code of Regulations, Title 2, Section 570.5, for members covered under the Unrepresented Compensation Program.

CEQA Determination: Not a CEQA project

Prepared By: James C. McCann, Interim City Manager

Recommendation:

Staff recommends approval of the attached resolution.

- 8.4 Consideration and proposed approval of a Resolution of the City Council of the City of St. Helena reciting the fact of the primary election held on June 7, 2022, certifying and declaring the result of the election

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaferopoulos, City Clerk

Recommendation:

Adopt the resolution accepting the certification of the vote for Measure G and Measure H.

- 8.5 Consideration and Proposed Approval of a Resolution of the City Council of the

Regular City Council
July 26, 2022

City of St. Helena, State of California, Calling and Giving Notice of a General Municipal Election to be Held on Tuesday, November 8, 2022; Requesting the Consolidation by the Napa County Supervisors for the Statewide General Election and that Napa County Provide Election Services with full Reimbursement by the City of St. Helena

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzaferopoulos, City Clerk
Recommendation:
Approve the resolution.

- 8.6 Approval of the Measure T Master Funding Agreement and Authorization for the City Manager to execute the Agreement with Napa Valley Transportation Authority-Tax Agency

CEQA Determination: Not a CEQA project
Prepared By: Martin Beltran, Senior Management Analyst
Recommendation:
Staff recommends City Council adopt the attached resolution.

- 8.7 Consideration and proposed adoption of a Resolution approving plans and specifications for the Pavement Restoration, Project R22-79, and authorizing advertisement for bids.

CEQA Determination: Class I Categorical Exemption under Section 15301 of CEQA
Prepared By: Mark Rincon-Ibarra, Public Works Director and City Engineer
Recommendation:
Staff recommends City Council adopt the attached Resolution.

- 8.8 June 2022 Review and Forecasting of City Water Supply Availability

CEQA Determination: Exempt
Prepared By: Martin Beltran, Senior Management Analyst
Recommendation:
Receive and file.

- 8.9 Consideration and Proposed Approval of Resolution to Enter into Memorandum of Understanding between the City of St. Helena and the St. Helena Unified School District Establishing the Duties and Responsibilities of the School Resource Officer and 50% Shared Costs of Overtime Incurred while Performing School Resource Officer Duties for the Fiscal Years 2022-23 and 2023-24.

CEQA Determination: Not a CEQA project
Prepared By: Chris Hartley, Chief of Police
Recommendation:

Regular City Council
July 26, 2022

Staff recommends approval of resolution and Authorizing the City Manager to Execute the Agreement.

Council Member Eric Hall moved to approve Consent as presented. The motion was seconded by Council Member Lester Hardy and on roll call carried by the following vote:

AYES: Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member Lester Hardy, and Council Member Eric Hall

NOES: None

ABSENT: Mayor Geoff Ellsworth

ABSTAIN: None

RECUSE: None

9. NEW BUSINESS

- 9.1 Informational presentation and overview of the City's Pavement Management Program.

CEQA Determination: Not a CEQA project

Prepared By: Mark Rincon-Ibarra, Public Works Director and City Engineer

Recommendation:

Receive presentation, discuss, and provide input and direction as appropriate.

Public Works Director Mark Rincon reported on this item.

No public comment was received.

A Council discussion item identifying scenarios of additional funding sources for the City's pavement needs will come back to the City Council at a later date.

10. ADJOURNMENT

Vice Mayor Dohring adjourned the meeting at 6:52 p.m.

The regular City Council meeting minutes of July 28, 2022 were approved at the regular City Council meeting of August 8, 2022.

APPROVED:

ATTEST:

Paul Jamison Dohring, Vice Mayor

Cindy Tzafopoulos, City Clerk



Report to the City Council
Regular City Council - 09 Aug 2022

Agenda Section: CONSENT ITEMS

Subject: Consideration and Proposed Approval of a Resolution Declaring Intention to Reimburse Expenditures Relating to Infrastructure Projects from the Proceeds of Tax-Exempt Obligations.

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Assistant City Manager

Reviewed By: Anil Comelo, City Manager

Approved By: Anil Comelo, City Manager

BACKGROUND

On June 7, 2022, Measure H, a \$19.15 million General Obligation Bond (GO Bond) was presented to St. Helena voters for consideration. In accordance with Government Code Section 10263, On July 26, 2022, the City Council adopted a resolution reciting the fact of the election which included the declaration of results that Measure H received a sufficient amount of votes and was approved by the voters.

DISCUSSION

The City needs to comply with certain Internal Revenue Service (IRS) requirements in order for bonds to be issued tax-exempt. The IRS allows a bond issuer to use the proceeds of its bond issuance to reimburse expenditures made prior to the time bonds are issued, but only so long as the City expresses an intent to do so prior to the actual bond issuance.

A reimbursement resolution is the required expression of intent and is needed if the City will want to use bond proceeds to reimburse itself for costs it actually pays prior to the issuance of bonds. It then can use the bond proceeds to reimburse itself for costs of the project paid up to 60 days prior to the date the resolution is adopted, subject to certain limitations, the main one being: reimbursement (bond issuance) must occur not later than

18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date on which the project is placed in service, but in no event more than three (3) years after the expenditure was paid. No reimbursement resolution is required for reimbursement of soft costs (with a 20% limit for soft costs older than 60 days prior to the resolution) or if a developer, rather than the City, is to be reimbursed. The resolution is not required for reimbursement of "soft" costs (e.g. design, environmental review); however, it is good practice to adopt the resolution well in advance of the expenditure of "hard" costs (e.g., construction, utility relocation).

In order to reimburse from proceeds of the proposed tax-exempt bonds, the City has been advised by its bond counsel that the Council should adopt a resolution indicating the City's intent to so reimburse. There is no consequence to the City if bonds are ultimately not issued.

The proposed resolution meets the IRS requirement enabling the reimbursement for prior expenditures. The reimbursement will be only from proceeds of the bond and is not a general obligation of the City.

FISCAL IMPACT

None

RECOMMENDED ACTION

Adopt the attached resolution.

ATTACHMENTS

[Attachment 1 - Reimbursement Resolution St. Helena](#)

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ST. HELENA DECLARING INTENTION TO
REIMBURSE EXPENDITURES RELATING TO
INFRASTRUCTURE PROJECTS FROM THE
PROCEEDS OF TAX-EXEMPT OBLIGATIONS**

WHEREAS, the City of St. Helena (the "City") intends to proceed with repairing/replacing components of its water system, stormwater system, and sewage infrastructure (the "Project") within the City, as recently approved in a bond measure; and

WHEREAS, in order to provide funds to finance the construction and/or acquisition of the Project, the City intends to enter into a tax-exempt financing in the aggregate principal amount of approximately \$19,150,000 which will be payable from legally available funds of the City (the "Tax-Exempt Obligations"); and

WHEREAS, the Tax-Exempt Obligations are expected to take the form of General Obligation Bonds which are issued by the City and which are secured by a specific taxes to be levied on property within the City; and

WHEREAS, in order to use the proceeds of the Tax-Exempt Obligations to reimburse advances made by the City for the Project before the date of issuance of the Tax-Exempt Obligations, but not more than 60 days before the date of adoption of this Resolution, Section 1.150-2 of the United States Income Tax Regulations requires that City Council declare its intention to reimburse such advances from the proceeds of the Tax-Exempt Obligations; and

WHEREAS, it is in the public interest and for the public benefit that the City declare its official intent to reimburse the expenditures referenced herein;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. HELENA AS FOLLOWS:

Section 1. Declaration of Intent. The City Council hereby declares that it reasonably expects to issue or cause the City to issue the Tax-Exempt Obligations and to use a portion of the proceeds thereof to reimburse expenditures made by the City for the construction and/or acquisition of the Project and related expenditures before the date of issuance of the Tax-Exempt Obligations, and not more than 60 days before the date of adoption of this Resolution.

Section 2. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

* * * * *

Approved at a Regular Meeting of the St. Helena City Council on August 9, 2022, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Chouteau:

Councilmember Hall:

Councilmember Hardy:

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafopoulos, City Clerk



Report to the City Council
Regular City Council - 09 Aug 2022

Agenda Section: CONSENT ITEMS

Subject: Designation of voting delegates at the League of California Cities Annual Conference business meeting

CEQA Not a CEQA project
Determination:

Prepared By: Cindy Tzaopoulos, City Clerk

Reviewed By: April Mitts, Assistant City Manager

Approved By: Anil Comelo, City Manager

BACKGROUND

DISCUSSION

The League of California Cities provides legislative advocacy, professional development, and educational resources for incorporated cities and towns in California, including the City of St. Helena.

The League of California Cities Annual Conference is scheduled for September 7 - 9, 2022, at the Long Beach Convention Center. The League's General Assembly will convene on the last day of the conference for the annual business meeting. The business meeting is conducted in order to consider and take action on resolutions that establish League policy. To date, there are no resolutions for consideration, but resolutions may be submitted at the business meeting. Each member city of the League of California Cities may, with the approval of the City Council, designate a city official as their Designated Voting Delegate and, in the event that the Designated Voting Delegate is unable to serve in that capacity, up to two Alternate Voting Delegates may vote.

Designated Voting Delegates and Alternates must be registered to attend the Annual Conference. A staff member can be appointed to fill the voting role in the event that no Council Member plans to attend, or as an alternate delegate. Council Member Eric Hall

is registered to attend the conference and is the City's voting delegate. Council Member Anna Chouteau is also registered to attend the conference and will be the City's alternate voting delegate.

FISCAL IMPACT

No fiscal impact.

RECOMMENDED ACTION

Staff recommends for the City Council to designate Council Member Eric Hall as the voting delegate and Council Member Anna Chouteau as the alternate voting delegate.

ATTACHMENTS

[Attachment 1 - League of California Cities Annual Conference Voting Delegate](#)



Council Action Advised by August 31, 2022

DATE: June 1, 2022

TO: City Managers and City Clerks

RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference & Expo – September 7-9, 2022

Cal Cities 2022 Annual Conference & Expo is scheduled for September 7-9, 2022 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly) on Friday, September 9. At this meeting, Cal Cities membership considers and acts on resolutions that establish Cal Cities policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to Cal Cities office no later than Friday, September 2. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please view Cal Cities' event and meeting policy in advance of the conference.

- **Action by Council Required.** Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration will open by June 1 on the Cal Cities website. In order to cast a vote, at least one voter must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.



- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Long Beach Convention Center, will be open at the following times: Wednesday, September 7, 8:00 a.m. – 6:00 p.m.; Thursday, September 8, 7:00 a.m. – 4:00 p.m.; and Friday, September 9, 7:30 a.m.–12:30 p.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to Cal Cities office by Friday, September 2. If you have questions, please call Darla Yacub at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: St. Helena

**2022 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to Cal Cities office by Friday, September 2, 2022. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

To vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: Eric Hall
Title: Council Member

2. VOTING DELEGATE - ALTERNATE

Name: Anna Chouteau
Title: Council Member

3. VOTING DELEGATE - ALTERNATE

Name: _____
Title: _____

ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: Cindy Tzaopoulos Email: ctzaopoulos@cityofsthelena.org

Mayor or City Clerk _____ Date _____ Phone 707-312-1252
(circle one) (signature)

Please complete and return by Friday, September 2, 2022 to:

Darla Yacub, Assistant to the Administrative Services Director

E-mail: dyacub@calcities.org; Phone: (916) 658-8254



Report to the City Council
Regular City Council - 09 Aug 2022

Agenda Section: CONSENT ITEMS

Subject: Consideration and proposed adoption of a Resolution Authorizing (1) the City Manager to execute Amendment No. 3 to STH Contract: FY2021-077 in the amount of \$270,750, to the Professional Service Agreement with Operational Technical Services for temporary Wastewater Treatment Operators for a total amount not-to-exceed \$730,000; (2) a Wastewater Fund budget increase of \$248,850 to 571-5029-2020; and (3) use of Wastewater Operations Fund balance of \$248,850; (4) the City Manager to execute Amendment No. 4 to STH Contract: FY2021-048 in the amount of \$807,250 to the Professional Service Agreement with Operational Technical Services for temporary Water Treatment Operators for a total amount not-to-exceed \$2,153,355; (5) a Water Fund budget increase of \$765,189 to 561-5034-2020; and (6) use of Water Operations Fund balance of \$765,189.

CEQA Determination: Not a CEQA project

Prepared By: Mark Rincon-Ibarra, Public Works Director and City Engineer

Reviewed By: April Mitts, Assistant City Manager

Approved By: Anil Comelo, City Manager

BACKGROUND

Wastewater Treatment Plant Staffing Agreement (STH FY2021-077)

On April 27, 2021, the City and Operational Technical Services (OTS) entered into an initial agreement (STH FY2021-077) for OTS to provide temporary Wastewater Treatment Operator services with SWRCB Wastewater Treatment Grade 4 Certification or higher for an amount not-to-exceed \$100,620. At the time the initial agreement with OTS was signed, two of the City's three positions at the Wastewater Treatment Plant (WWTP) were vacant. Similar to the WTP, the City needs assistance with temporary Wastewater

Treatment Plant Operators to remain in compliance with the State Water Resources Control Board (SWRCB).

On January 25, 2022, City Council approved Amendment No. 1 with OTS in the amount of \$100,293 for a total amount not-to-exceed \$200,913 to continue providing a temporary CPO and a temporary Plant Operator with the corresponding SWRCB certifications until a time when the positions are filled.

On February 22, 2022, City Council approved Amendment No. 2 with OTS in the amount of \$258,337, for a total amount not-to-exceed \$459,250 to continue providing a temporary CPO and a temporary Plant Operator with the corresponding SWRCB certifications until a time when the positions are filled.

Water Treatment Plant Staffing Agreement (STH FY2021-048)

On January 26, 2021, the City and (OTS entered into an initial agreement in an amount not-to-exceed \$25,000 to provide temporary staffing assistance for a vacancy in the City's Chief Water Plant Operator (CPO) position. At the time the initial agreement with OTS was signed, the City had two full-time plant operators and an active recruitment for the CPO. One plant operator had a T3 Certification and the other plant operator had a T2 Certification. Since the execution of the initial OTS agreement, it became necessary to increase the scope and contract amount with OTS due to the subsequent resignation of the City's T3 and T2 shift operators. The City currently has three approved, but vacant, positions at the Water Treatment Plant (WTP) which are under recruitment. The City needs assistance with temporary Water Treatment Plant Operators to remain in compliance with the State of California Water Resources Control Board until these positions are filled.

The temporary CPO oversees the water treatment facilities in accordance with the State of California Water Resources Control Board (SWRCB). The SWRCB requires the CPO possess a valid Grade 4 (T4) Water Treatment Operator Certification and all shift operators (WTO) are required to possess a valid Grade 3 (T3) Certification. OTS is able to provide the City with a temporary CPO who possess at least a Grade 4 SWRCB Water Treatment Operator Certification. Additionally, each temporary Senior WTO will possess a minimum SWRCB Grade 3 Water Treatment Certification.

On March 23, 2021, City Council approved Amendment No. 1 in the amount of \$409,929.58 to STH Contract: FY2021-048 for a total not-to-exceed amount of \$434,929.58 to allow OTS to continue to provide temporary Water Treatment Operators to the City.

Following the approval of Amendment No. 1 on March 23, 2021, the City has incurred significant staffing costs due to unforeseen emergencies, required repair work due to aging equipment, and a continued need for interim staffing which has exceeded the current contract limit.

As noted in the Wastewater summary above, the WTP also continues to face significant operational challenges in which OTS has fulfilled their professional obligation to meet State of California potable water regulations.

On January 25, 2022, City Council approved Amendment No. 2 in the amount of \$348,561 to STH Contract: FY2021-048 for a total not-to-exceed amount of \$783,491.

On February 22, 2022, City Council approved Amendment No. 3 with OTS in the amount of \$562,614, for a total amount not-to-exceed \$1,346,105 to continue providing a temporary CPO and temporary Plant Operators with the corresponding SWRCB certifications for the Water Treatment Plant until a time when the positions are filled.

Both amendments approved on February 22, 2022, extended the OTS contracts to allow OTS to provide services through June 30, 2022, or until the vacant positions were filled, whichever came first.

DISCUSSION

The City, as with other agencies, continues to face severe challenges in recruiting operators due to shortages of licensed operators and is relying upon a private contractor to fulfill many of our water and wastewater systems operations. As a longer-term strategy for the efficiency of both the Water and Wastewater Treatment Plants, on May 24, 2022, the City Council approved a new Treatment Plant Manager (TPM) position. The costs for the Treatment Plant Manager position is included in the adopted budget for FY 2022/23 and currently has an active recruitment.

Once this position is filled, is anticipated to bring greater efficiencies, recruit and retain staff, and eliminate the need for contract staffing. The Treatment Plant Manager will be the point of contact of all water and wastewater regulatory agencies and will ensure that all components for certification, permits, and regulatory orders related to water production and wastewater treatment are compliant.

The City recently hired a Wastewater Treatment Plant Operator I to fill one of the City's outstanding vacancies. This will eliminate the need for an OTS Operator after a brief transition period. The City has hired one Water Treatment Plant Operator II. This Operator is scheduled to take the T2 exam by end of year. However, the City will still need support from OTS to meet the State permit requirements. The State requires the City to have shift operators with a T3 license at the Water Treatment Plant. Operators with a T1 or T2 license can still work at the Water Treatment Plant but they can not be the lone operator. OTS will provide operators with T3 license or greater until the City is able to fulfill the Chief Water Treatment Plant Operator or the Treatment Plant Manager.

Current Vacancies:

<i>Water Treatment Plant</i>	<i>Wastewater Treatment Plant</i>
-------------------------------------	--

Treatment Plant Manager	
Chief Water Treatment Plant Operator	Chief Wastewater Treatment Plant Operator
Plant Operator I/II/III	

We continue to have operational issues at both treatment plant facilities. Since the approval of contract amendments (February 22, 2022), the City has incurred significant staffing costs due to unforeseen emergencies, required repair work due to aging equipment, and a continued need for interim staffing which has exceeded the current contract limit. The bullet points highlight on-going issues with aging facilities; it takes many hands for dealing with unceasing failures. Primary cost drivers include, but are not limited to:

- The wastewater treatment plant recently experienced a failure of the automatic transfer switch (ATS). This required that operations were put on a 24-hour shift. Thus impacting the budget for the OTS contract.
- Training of newly hired City employees on both water and wastewater treatment systems.
- The Water Treatment Plant clearwell (the water storage area after water has passed through treatment) and Tank 1 (a water distribution reservoir) are undergoing cleaning due to high turbidity. The cleaning requires a specialty contractor as well as coordination with OTS staff to ensure the water facilities continue to meet state health requirements.
- Continuous on-going issues: repairing mechanical, electrical, and communication failures.

Recognizing there is a continuous need to utilize OTS until all vacant positions are filled, staff has been working with OTS to prepare an additional amendment to continue temporary staffing through December 31, 2022.

Necessary Amendments for Current OTS Contracts

Wastewater Treatment Plant

The recommended amendment with OTS will continue to provide a temporary CPO and a temporary Plant Operator with the appropriate SWRCB Wastewater Treatment Certifications until the positions have been filled, or December 31, 2022, whichever comes first. The temporary Plant Operator will be needed for transitional training through July 31st.

Table 1 provides a summary of the OTS contract with the additional amendment.

Table 1 - OTS Contract Summary for Wastewater Treatment Operators

OTS Contract: STH Contract: FY2021-077	\$100,620
Amendment #1	\$100,293
Amendment #2 - For services through 6/30/22	\$258,337
Amendment #3 - Estimated for services through 12/31/22	\$270,750

Total Contract Amount	\$730,000
------------------------------	------------------

Estimated Costs

Amendment No. 3 to the Professional Services Agreement is in the amount of \$270,750 for an amount not-to-exceed \$730,000. It is estimated Amendment No. 3 with OTS will provide services through December 31, 2022, if necessary.

Water Treatment Plant

The recommended amendment with OTS will continue to provide a temporary CPO and a Lead Water Treatment Plant Plant Operator with the appropriate SWRCB Water Treatment Certifications until the positions have been filled, or December 31, 2022, whichever comes first. OTS will also provide a Junior WTP Operator in the interim for transitional training through September 30, 2022. The City's current staffing model accounts for one CPO and two operators.

Table 2 provides a summary of the OTS contract with the additional amendment.

Table 2 - OTS Contract Summary for Water Treatment Operators

OTS Contract: STH Contract: FY2021-048	\$25,000
Amendment #1	\$409,930
Amendment #2	\$348,561
Amendment #3 - For services through 6/30/22	\$562,614
Amendment #4 - Estimated for services through 12/31/22	\$807,250
Total Contract Amount	\$2,153,355

Estimated Costs

Amendment No. 4 with OTS s in the amount of \$807,250 for an amount not-to-exceed \$2,153,355. It is estimated Amendment No. 4 with OTS will provide services through December 31, 2022, if necessary.

FISCAL IMPACTWastewater Operators

Amendment No. 3 to STH Contract: FY2021-077 is in the amount of \$270,750 for a total not-to-exceed amount of \$730,000. Use of Wastewater Operations Fund balance is necessary in the amount of \$248,850. After approval of the resolution, the estimated Wastewater Operations Fund balance is \$3,522,350, or 97.0%.

Water Operators

Amendment No. 4 to STH Contract: FY2021-048 is in the amount of \$807,250 for a total amount not-to-exceed \$2,153,355. Use of Water Operations Fund balance is necessary in the amount of \$765,189. After approval of the resolution, the estimated Water Operations Fund balance is \$2,419,854, or 33%.

RECOMMENDED ACTION

Staff recommends adoption of the attached Resolution.

ATTACHMENTS

[Attachment 1: Resolution](#)

[Attachment 2: STH Contract FY2021-077-03A WWTP](#)

[Attachment 3: STH Contract FY2021-048-04A WTP](#)

CITY OF ST. HELENA

RESOLUTION No. 2022 -

A Resolution of the City of St. Helena City Council Authorizing: (1) the City Manager to execute Amendment No. 3 to STH Contract: FY2021-077 with Operational Technical Services for temporary Wastewater Treatment Operators in the amount of \$270,750 for a total amount not-to-exceed \$730,000; (2) a Wastewater Fund budget increase of \$248,850 to 571-5029-2020; (3) use of Wastewater Operations fund balance of \$248,850; (4) the City Manager to execute Amendment No. 4 to STH Contract: FY2021-048 with Operational Technical Services for temporary Water Treatment Operators in the amount of \$807,250 for a total amount not-to-exceed \$2,153,355; (5) a Water Fund budget increase of \$765,189 to 561-5034-2020; and (6) use of Water Operations Fund balance of \$765,189.

RECITALS

- A. The City currently has three approved, but vacant, positions at the Water Treatment Plant; and
- B. The City currently has three approved, but vacant, positions at the Wastewater Treatment Plant; and
- C. To remain in compliance with the State of California State Water Resource Control Board (SWRCB) it is necessary to have water treatment and wastewater treatment operators who possess certain minimum certifications specific to each type of treatment plant; and
- D. On January 26, 2021, the City and Operational Technical Services entered into an agreement (STH Contract: FY2021-044) for OTS to provide Temporary Water Treatment Operators with SWRCB Certification for the Water Treatment Plant; and
- E. On March 23, 2021, City Council approved Amendment No. 1 in the amount of \$409,929.58 to STH Contract: FY2021-048; and
- F. On April 27, 2021, the City and Operational Technical Services entered into an agreement (STH Contract: FY2021-077) for OTS to provide Temporary Wastewater Treatment Operators with SWRCB Wastewater Treatment Grade 4 Certification or higher for an amount not-to-exceed \$100,620; and
- G. On January 25, 2022, City Council approved Amendment No. 1 in the amount of \$100,293 for a total not-to-exceed amount of \$200,913 to STH Contract FY2021-077 and approved Amendment No. 2 in the amount of \$348,561 for a total not-to-exceed amount of \$783,491 to STH Contract: FY2021-048; and

- H. On February 22, 2022, City Council approved Amendment No. 2 with OTS in the amount of \$258,337, for a total amount not-to-exceed \$459,250 to STH Contract: FY2021-077 and approved Amendment No. 3 with OTS in the amount of \$562,614, for a total amount not-to-exceed \$1,346,105 to STH Contract: FY2021-048; and
- I. The amendments to both agreements has allowed Operational Technical Services to continue to provide temporary Wastewater and Water Treatment Operators to the City; and
- J. While the City is recruiting for permanent Water and Wastewater Treatment Plant operators, the City needs assistance in the interim basis for both plants; and
- K. Due to unforeseen emergency circumstances and staffing shortages, significant staffing costs have been incurred primarily in Water Treatment Plant operations; and
- L. The City and consultant desire to amend STH Contract: FY2021-077 with Operational Technical Services for temporary Wastewater Treatment Operators in the amount of \$270,750 for a total amount not-to-exceed \$730,000; and
- M. The City and consultant desire to amend STH Contract: FY2021-048 with Operational Technical Services for temporary Water Treatment Operators in the amount of \$807,250 for a total amount not-to-exceed \$2,153,355; and
- N. It is estimated both amendments will allow OTS to remain at both plants until the positions are filled or December 31, 2022, whichever is first.

RESOLUTION

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

- 1. Authorize the City Manager to execute Amendment No. 3 to STH Contract: FY2021-077 with Operational Technical Services for temporary Wastewater Treatment Operators in the amount of \$270,750 for a total amount not-to-exceed \$730,000; and
- 2. Authorize a Wastewater Fund budget increase of \$248,850 to 571-5029-2020; and
- 3. Authorize use of Wastewater Fund Balance in the amount of \$248,850; and
- 4. Authorize the City Manager to execute Amendment No. 4 to STH Contract: FY2021-048 with Operational Technical Services for temporary Water Treatment Operators in the amount of \$807,250 for a total amount not-to-exceed \$2,153,355; and
- 5. Authorize a Water Fund budget increase of \$765,189 to 561-5034-2020; and
- 6. Authorize use of Water Operations Fund balance of \$765,189.

Approved at a Regular Meeting of the St. Helena City Council on August 9, 2022, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Hardy:	_____
Councilmember Chouteau:	_____
Councilmember Hall:	_____

APPROVED:

ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafoopoulos, City Clerk

**AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT WITH OPERATIONAL TECHNICAL SERVICES;
STH CONTRACT NO: 2021-077 FOR TEMPORARY WASTEWATER TREATMENT
OPERATORS WITH SWRCB CERTIFICATION FOR AN ADDITIONAL \$270,750 FOR A TOTAL
CONTRACT AMOUNT NOT-TO-EXCEED \$730,000.**

This Third Amendment to Professional Services Agreement STH Contract: 2021-077 dated April 27, 2021 ("Agreement") is made as of this ____ day of _____, 2022, by and between the City of St. Helena, a municipal corporation ("City"), and Operational Technical Services ("Consultant").

RECITALS

- A. On April 27, 2021, the City and Consultant entered into the Agreement for Consultant to provide professional services in connection with the project described as Temporary Wastewater Treatment Chief Plant Operator with SWRCB Wastewater Treatment Grade 4 Certification or higher; and
- B. On January 25, 2022, City Council approved Amendment No. 1 with OTS in the amount of \$100,293 for a total amount not-to-exceed \$200,913 to continue providing a temporary CPO and a temporary Plant Operator with the corresponding SWRCB certifications until a time when the positions are filled; and
- C. On February 22, 2022, City Council approved Amendment No. 2 with OTS in the amount of \$258,337, for a total amount not-to-exceed \$459,250 to continue providing a temporary CPO and a temporary Plant Operator with the corresponding SWRCB certifications until the positions have been filled, or June 30, 2022, whichever comes first; and
- D. The Wastewater Treatment Plant continues to face operational challenges in which OTS has fulfilled their professional obligation to meet State of California wastewater regulations; and
- E. While the City is recruiting for permanent Wastewater Treatment Plant operators, the City continues to need assistance in the interim basis until a time when the vacant positions are filled; and
- F. The additional funding is necessary to allow Operational Technical Services to continue to provide temporary Wastewater Treatment Operators to the City through December 31, 2022, or until the vacant positions are filled, whichever comes first; and
- G. The City of St. Helena and Operational Technical Services now desire to amend the Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein contained, for good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree to amend the Agreement as follows:

- 1. Section 4.A Compensation and Method of Payment, is amended to read as follows:

"Total compensation shall not exceed \$730,000..."

All other terms of the Agreement shall remain in full force and effect.

Entered as of the day and year first above stated.

CONSULTANT:

CITY OF ST. HELENA
a Municipal Corporation

Signatures of Authorized Persons:

By: _____

By: _____

Print Name: Anil Comelo

Print Name: _____

Title: City Manager

Title: _____

APPROVED AS TO FORM:

Ethan Walsh, City Attorney

ATTEST:

City Clerk

**AMENDMENT NO. 4
TO PROFESSIONAL SERVICES AGREEMENT WITH OPERATIONAL TECHNICAL SERVICES;
STH CONTRACT NO: 2021-048 FOR TEMPORARY WATER TREATMENT OPERATORS WITH
SWRCB CERTIFICATION FOR AN ADDITIONAL \$807,250 FOR A TOTAL CONTRACT
AMOUNT NOT-TO-EXCEED \$2,153,355**

This Fourth Amendment to Professional Services Agreement STH Contract: 2021-048 dated January 26, 2021 ("Agreement") is made as of this ____ day of _____, 2022 by and between the City of St. Helena, a municipal corporation ("City"), and Operational Technical Services ("Consultant").

RECITALS

- A. On January 26, 2021, the City and Consultant entered into the Agreement for Consultant to provide professional services in connection with the project described as Temporary Water Treatment Operators with SWRCB Certification; and
- B. On March 23, 2021, City Council approved Amendment No. 1 in the amount of \$409,929.58 to STH Contract: FY2021-048 to allow Operational Technical Services to continue to provide temporary Water Treatment Operators to the City; and
- C. Since the approval of Amendment No. 1 on March 23, 2021, the City has incurred significant staffing costs due to unforeseen emergencies, required repair work due to again equipment, and a continued need for interim staffing which exceeded the current contract limit; and
- D. On January 25, 2022, City Council approved Amendment No. 2 in the amount of \$348,561 to STH Contract: FY2021-048 for a total not-to-exceed amount of \$783,491 to bring the contract within its contract limits; and
- E. On February 22, 2022, City Council approved Amendment No. 3 with OTS in the amount of \$562,614, for a total amount not-to-exceed \$1,346,105 to continue providing a temporary CPO and temporary Plant Operators with the corresponding SWRCB certifications for the Water Treatment Plant until the positions have been filled, or June 30, 2022, whichever comes first; and
- F. The City currently has three approved, but vacant positions at the Water Treatment Plant and while the City is recruiting for permanent Water Treatment Plant operators, the City has a continued need in the interim basis until a time when the vacant positions are filled; and
- G. Additional funding is necessary to allow Operational Technical Services to continue to provide temporary Water Treatment Operators to the City through December 31, 2022, or until the vacant positions are filled, whichever comes first; and
- H. The City of St. Helena and Operational Technical Services now desire to amend the Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein contained, for good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree to amend the Agreement as follows:

1. Section 4.A Compensation and Method of Payment, is amended to read as follows:

“Total compensation shall not exceed \$2,153,355...”

All other terms of the Agreement shall remain in full force and effect.

Entered as of the day and year first above stated.

CONSULTANT:

CITY OF ST. HELENA
a Municipal Corporation

Signatures of Authorized Persons:

By: _____

By: _____

Print Name: Anil Comelo

Print Name: _____

Title: City Manager

Title: _____

APPROVED AS TO FORM:

Ethan Walsh, City Attorney

ATTEST:



Report to the City Council
Regular City Council - 09 Aug 2022

Agenda Section: OLD BUSINESS

Subject: Consideration of Introduction and Waiver of First Reading of a Safe Firearm Storage Ordinance

CEQA Determination: Not a CEQA project

Prepared By: Chris Hartley, Chief of Police

Reviewed By: April Mitts, Assistant City Manager

Approved By: Anil Comelo, City Manager

BACKGROUND

One small child dies almost every day in this country after finding an unsecured firearm in their own home or in a relative's home or while playing at a friend's house. Two older children, particularly teens, die every day in this country by suicide from an unsecured firearm they obtain from their home or another family member's home. In addition, 80% of school mass shootings are done by current or former students, using an unsecured firearm obtained from their own home or a relative's home. A Safe Storage ordinance has become more urgent than ever during COVID, given the dramatic rise in gun sales. Combined with more time spent sheltering at home and the increase in mental health issues, we have seen a shocking 43% increase in unintentional deaths of small children and a 9% increase in teen suicides.

Research shows that keeping guns securely stored does not hinder self-protection - a gun can be accessed within seconds - but it does prevent unintentional deaths of children and teen suicides, by as much as 85% depending on the type of storage. Storing firearms in a securely locked container can also prevent guns from being easily stolen in a home robbery. A Department of Justice (DOJ) approved safe storage device can be obtained for as little as \$40 so the cost is not prohibitive, and trigger locks are often given out free at police stations.

Some people are under the impression that the California Penal Code (25100) already addresses this issue; however, it does not. This section of the Penal Code does not define how to safely store a firearm and it does not apply to all homes. For example, parents often hide their guns (feeling this makes them safe) rather than locking them up, but studies show 70% of children know the location of these hidden guns in their own home and many have even handled them.

Many cities and towns up and down California have already adopted Safe Storage ordinances.

DISCUSSION

The City of St. Helena does not presently regulate gun storage within residential locations and improperly stored firearms may result in accidental firearm injuries and/or deaths, particularly in homes with children. Additionally, having a loaded or unlocked firearm in the home has been associated with an increased risk of firearm-related injury and death, as well as theft of the firearm. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed or used by others without the owner's knowledge or permission, decreasing the risk that the gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally. Both the International Association of Chiefs of Police and the American Academy of Pediatrics recommend the safe storage of firearms.

When considering the penalty for violating the Safe Storage Ordinance, The City of St. Helena supports a civil penalty, rather than a criminal penalty which is reflected in the attached ordinance. Cities and towns early on in the process of adopting safe storage ordinances did often adopt a criminal penalty – that is, a misdemeanor; however, more recently cities and towns have adopted a civil only penalty.

The St. Helena Police Department currently provides free gun locks to citizens and readily takes possession of any firearms or ammunition turned in by the community for destruction. The St. Helena Police Department will be sponsoring a gun safety booth during both the National Night Out event and the Harvest Festival to promote gun safety as well as provide education to the community of the ordinance. Both of these events held annually and will support both community awareness and education.

Because of the inherent risks of not keeping a firearm locked, staff recommends the City Council adopt an ordinance adding sections to the Municipal Code regarding safe firearm storage as outlined in the attached Ordinance.

FISCAL IMPACT

None

RECOMMENDED ACTION

Introduce and conduct the first reading of the proposed Safe Firearm Storage Ordinance, by title only and waive further reading.

ATTACHMENTS

[Attachment 1 - Mothers Letter of Request for a Gun Safe Storage Ordinance](#)
[Attachment 2 - St. Helena Ordinance re Safe Firearm Storage-c1](#)

Mothers Demand Action request that St Helena adopt a Safe Storage Ordinance which would require all firearms in a residence be securely stored in a locked container or disabled with a trigger lock. One small child dies almost every day in this country after finding an unsecured firearm in their own home or in a relative's home or while playing at a friend's house. Two older children, particularly teens, die every day in this country by suicide from an unsecured firearm they obtain from their home or another family member's home. In addition, 80% of school mass shootings are done by current or former students, using an unsecured firearm obtained from their own home or a relative's home. **A Safe Storage ordinance has become more urgent than ever during Covid, given the dramatic rise in gun sales. Combined with more time spent sheltering at home and the increase in mental health issues, we have seen a shocking 43% increase in unintentional deaths of small children and a 9% increase in teen suicides.**

Research shows that keeping guns securely stored does NOT hinder self-protection- a gun can be accessed within seconds- but it DOES prevent unintentional deaths of children and teen suicides, by as much as 85% depending on the type of storage. Storing firearms in a securely locked container can also prevent guns from being easily stolen in a home robbery. A DOJ- approved safe storage device can be obtained for as little as \$40 so the cost is not at all prohibitive, and trigger locks are often given out free at police stations.

Some people are under the impression that the California Penal Code (25100) already addresses this issue but it definitely does not. It does not define how to safely store a firearm and it doesn't apply to all homes. For example, parents often hide their guns (feeling this makes them safe) rather than locking them up, but studies show 70% of children know the

location of these hidden guns in their own home and many have even handled them.

Many cities and towns up and down California have already adopted Safe Storage ordinances. We hope that St Helena will do the same.

When considering the penalty for violating the Safe Storage Ordinance, Moms Demand Action supports a civil penalty, rather than a criminal penalty. We suggest a fine or community service. This is because we feel people of color may be disproportionately affected by this law and we also think a criminal penalty is unnecessary. Most firearm owners are law abiding and will follow the law if it is simply in place. We feel having this ordinance on the books will ultimately help to change our culture, much like the seat belt law did in the 1980's. Towns early on in the process of adopting safe storage ordinances did often adopt a criminal penalty – that is, a misdemeanor-- but more recent towns have adopted a civil only penalty. We therefore ask that if you move forward with this ordinance, that a civil penalty be adopted.

ORDINANCE NO. 2022-_____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST.
HELENA ADDING CHAPTER 9.18, "SAFE FIREARM STORAGE," TO
TITLE 9 OF THE ST. HELENA MUNICIPAL CODE**

WHEREAS, the City of St. Helena, California ("City") does not presently regulate firearm storage within residential locations; and

WHEREAS, firearm injuries have a significant adverse public health and safety impact nationally, regionally, and locally; and

WHEREAS, improperly stored firearms may result in accidental firearm injuries and/or deaths, particularly in homes with children; and

WHEREAS, in California, numerous people die each year from injuries related to firearms, and many more are hospitalized for non-fatal gunshot wounds; and

WHEREAS, having a loaded or unlocked firearm in the home has been associated with an increased risk of firearm-related injury and death, as well as theft of the firearm; and

WHEREAS, a firearm stored while loaded or unlocked increases the risk of an accidental shooting, and has been associated with higher risks of suicide; and

WHEREAS, quick access to a loaded firearm heightens the risk that a young person's impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the impulsive attempt will be fatal; and

WHEREAS, utilizing gun locks or lock boxes when storing firearms in the home reduces the risk of firearm injury and death, as well as theft; and

WHEREAS, keeping a firearm locked when it is not being carried ensures that it cannot be accessed or used by others without the owner's knowledge or permission, decreasing the risk that the gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally; and

WHEREAS, the International Association of Chiefs of Police and the American Academy of Pediatrics recommend the safe storage of firearms; and

WHEREAS, both gun control and gun rights activists, including the National Rifle Association, endorse the use of locking devices when storing firearms to ensure that unauthorized and untrained persons cannot access firearms to inflict injury or cause death; and

WHEREAS, requiring stored, unsupervised firearms to be secured with gun locks or in a locked container does not substantially burden the right or ability to use firearms for self-defense in the home; and

WHEREAS, the City Council finds that requiring safe storage of firearms would constitute a sensible safety regulation and would not be unduly burdensome for firearm owners.

THE CITY COUNCIL OF THE CITY OF ST. HELENA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are incorporated as though set forth in this section.

SECTION 2. Adoption. Chapter 9.18, containing sections 9.18.010 through 9.18.040, is hereby added to the St. Helena Municipal Code, to read as follows:

“Chapter 9.18 SAFE FIREARM STORAGE

9.18.010 Definitions.
9.18.020 Prohibitions.
9.18.030 Exceptions.
9.18.040 Penalty.

9.18.010 Definitions.

A. “Firearm” means a firearm as defined in California Penal Code Section 16520, as amended from time to time.

B. “Locked container” means a locked container as defined in California Penal Code Section 16850, as amended from time to time, and is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.

C. “Residence” means any structure intended or used for human habitation, including but not limited to houses, apartments, condominiums, rooms, in-law units, accessory dwelling units, motels, hotels, single room occupancy units (SROs), timeshares, mobile homes, and recreational and other vehicles where human habitation occurs.

D. “Trigger lock” means a trigger lock that is listed on the California Department of Justice’s roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under California Penal Code Section 23635.

9.64.020 Prohibitions.

No person shall keep a firearm within any residence unless the firearm is stored in a locked container or disabled with a trigger lock.

9.64.030 Exceptions.

A. The requirements of section 9.64.020 do not apply when a firearm is carried on the person of, or is otherwise in the immediate control and possession of, an individual in accordance with applicable local, state, and/or federal laws.

B. This Chapter does not apply when a firearm is carried on the person of, or is otherwise in the immediate control and possession of a peace officer (as defined in California Penal Code sections 830 et seq., as may be amended from time to time).

C. It is not the intention of this Chapter to regulate any conduct if the regulation of such conduct has been preempted by state or federal law.

9.64.040 Penalty.

Every violation of this Chapter shall constitute an infraction and shall be punished in accordance with Section 1.20.010.”

SECTION 3. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance sets requirements for safe storage of firearms in residential locations, and does not propose nor authorize any action or specific project that would have the potential to cause a significant adverse effect on the environment.

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Publication; Effective Date. This Ordinance shall take effect and be enforced within thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the _____ day of _____, 2022, and was adopted at a regular meeting of the St. Helena City Council on the _____ day of _____, 2022, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hardy:	_____
Councilmember Hall:	_____

APPROVED:

Geoff Ellsworth, Mayor

ATTEST:

CITY OF ST. HELENA

Cindy Tzaopoulos, City Clerk

I, CINDY TZAFPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the ____ day of ____, 2022. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of ____, 2022, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hardy:	_____
Councilmember Hall:	_____

ORDINANCE NO. 2022-_____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST.
HELENA ADDING CHAPTER 9.18, "SAFE FIREARM STORAGE," TO
TITLE 9 OF THE ST. HELENA MUNICIPAL CODE**

WHEREAS, the City of St. Helena, California ("City") does not presently regulate firearm storage within residential locations; and

WHEREAS, firearm injuries have a significant adverse public health and safety impact nationally, regionally, and locally; and

WHEREAS, improperly stored firearms may result in accidental firearm injuries and/or deaths, particularly in homes with children; and

WHEREAS, in California, numerous people die each year from injuries related to firearms, and many more are hospitalized for non-fatal gunshot wounds; and

WHEREAS, having a loaded or unlocked firearm in the home has been associated with an increased risk of firearm-related injury and death, as well as theft of the firearm; and

WHEREAS, a firearm stored while loaded or unlocked increases the risk of an accidental shooting, and has been associated with higher risks of suicide; and

WHEREAS, quick access to a loaded firearm heightens the risk that a young person's impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the impulsive attempt will be fatal; and

WHEREAS, utilizing gun locks or lock boxes when storing firearms in the home reduces the risk of firearm injury and death, as well as theft; and

WHEREAS, keeping a firearm locked when it is not being carried ensures that it cannot be accessed or used by others without the owner's knowledge or permission, decreasing the risk that the gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally; and

WHEREAS, the International Association of Chiefs of Police and the American Academy of Pediatrics recommend the safe storage of firearms; and

WHEREAS, both gun control and gun rights activists, including the National Rifle Association, endorse the use of locking devices when storing firearms to ensure that unauthorized and untrained persons cannot access firearms to inflict injury or cause death; and

WHEREAS, requiring stored, unsupervised firearms to be secured with gun locks or in a locked container does not substantially burden the right or ability to use firearms for self-defense in the home; and

WHEREAS, the City Council finds that requiring safe storage of firearms would constitute a sensible safety regulation and would not be unduly burdensome for firearm owners.

THE CITY COUNCIL OF THE CITY OF ST. HELENA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are incorporated as though set forth in this section.

SECTION 2. Adoption. Chapter 9.18, containing sections 9.18.010 through 9.18.040, is hereby added to the St. Helena Municipal Code, to read as follows:

“Chapter 9.18 SAFE FIREARM STORAGE

- 9.18.010 Definitions.
- 9.18.020 Prohibitions.
- 9.18.030 Exceptions.
- 9.18.040 Penalty.

- 9.18.010 Definitions.

A. “Firearm” means a firearm as defined in California Penal Code Section 16520, as amended from time to time.

B. “Locked container” means a locked container as defined in California Penal Code Section 16850, as amended from time to time, and is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.

C. “Residence” means any structure intended or used for human habitation, including but not limited to houses, apartments, condominiums, rooms, in-law units, accessory dwelling units, motels, hotels, single room occupancy units (SROs), timeshares, mobile homes, and recreational and other vehicles where human habitation occurs.

D. “Trigger lock” means a trigger lock that is listed on the California Department of Justice’s roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under California Penal Code Section 23635.

- 9.64.020 Prohibitions.

No person shall keep a firearm within any residence unless the firearm is stored in a locked container or disabled with a trigger lock.

- 9.64.030 Exceptions.

A. The requirements of section 9.64.020 do not apply when a firearm is carried on the person of, or is otherwise in the immediate control and possession of, an individual in accordance with applicable local, state, and/or federal laws.

B. This Chapter does not apply when a firearm is carried on the person of, or is otherwise in the immediate control and possession of a peace officer (as defined in California Penal Code sections 830 et seq., as may be amended from time to time).

C. It is not the intention of this Chapter to regulate any conduct if the regulation of such conduct has been preempted by state or federal law.

9.64.040 Penalty.

Every violation of this Chapter shall constitute an infraction and shall be punished in accordance with Section 1.20.010.”

SECTION 3. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance sets requirements for safe storage of firearms in residential locations, and does not propose nor authorize any action or specific project that would have the potential to cause a significant adverse effect on the environment.

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Publication; Effective Date. This Ordinance shall take effect and be enforced within thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the _____ day of _____, 2022, and was adopted at a regular meeting of the St. Helena City Council on the _____ day of _____, 2022, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hardy:	_____
Councilmember Hall:	_____

APPROVED:

Geoff Ellsworth, Mayor

ATTEST:

CITY OF ST. HELENA

Cindy Tzaopoulos, City Clerk

I, CINDY TZAFPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the ____ day of ____, 2022. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of ____, 2022, by the following vote:

Mayor Ellsworth:	_____
Vice Mayor Dohring:	_____
Councilmember Chouteau:	_____
Councilmember Hardy:	_____
Councilmember Hall:	_____

Mothers Demand Action request that St Helena adopt a Safe Storage Ordinance which would require all firearms in a residence be securely stored in a locked container or disabled with a trigger lock. One small child dies almost every day in this country after finding an unsecured firearm in their own home or in a relative's home or while playing at a friend's house. Two older children, particularly teens, die every day in this country by suicide from an unsecured firearm they obtain from their home or another family member's home. In addition, 80% of school mass shootings are done by current or former students, using an unsecured firearm obtained from their own home or a relative's home. **A Safe Storage ordinance has become more urgent than ever during Covid, given the dramatic rise in gun sales. Combined with more time spent sheltering at home and the increase in mental health issues, we have seen a shocking 43% increase in unintentional deaths of small children and a 9% increase in teen suicides.**

Research shows that keeping guns securely stored does NOT hinder self-protection- a gun can be accessed within seconds- but it DOES prevent unintentional deaths of children and teen suicides, by as much as 85% depending on the type of storage. Storing firearms in a securely locked container can also prevent guns from being easily stolen in a home robbery. A DOJ- approved safe storage device can be obtained for as little as \$40 so the cost is not at all prohibitive, and trigger locks are often given out free at police stations.

Some people are under the impression that the California Penal Code (25100) already addresses this issue but it definitely does not. It does not define how to safely store a firearm and it doesn't apply to all homes. For example, parents often hide their guns (feeling this makes them safe) rather than locking them up, but studies show 70% of children know the

location of these hidden guns in their own home and many have even handled them.

Many cities and towns up and down California have already adopted Safe Storage ordinances. We hope that St Helena will do the same.

When considering the penalty for violating the Safe Storage Ordinance, Moms Demand Action supports a civil penalty, rather than a criminal penalty. We suggest a fine or community service. This is because we feel people of color may be disproportionately affected by this law and we also think a criminal penalty is unnecessary. Most firearm owners are law abiding and will follow the law if it is simply in place. We feel having this ordinance on the books will ultimately help to change our culture, much like the seat belt law did in the 1980's. Towns early on in the process of adopting safe storage ordinances did often adopt a criminal penalty – that is, a misdemeanor-- but more recent towns have adopted a civil only penalty. We therefore ask that if you move forward with this ordinance, that a civil penalty be adopted.



Report to the City Council
Regular City Council - 09 Aug 2022

Agenda Section: OLD BUSINESS

Subject: Consideration and Proposed Approval of a Resolution Amending the Appointment Process for City Commissions, Boards and Committees

CEQA Determination: Not a CEQA project

Prepared By: Ethan Walsh, City Attorney

Reviewed By: April Mitts, Assistant City Manager

Approved By: Anil Comelo, City Manager

BACKGROUND

At the June 14, 2022 Council meeting, the City Council discussed the process that is currently used for making appointments to City commissions, and the possibility of making amendments to the selection and appointment process. Under the current process, pursuant to St. Helena Municipal Code (SHMC) Section 2.08.010(D), the Mayor, with the approval of the City Council, shall make all appointments to boards, commissions and committees unless otherwise specifically provided by state law.

Section 2.25 of the City Council Rules of Procedure for the Conduct of Council Meetings & Standards of Conduct (the "Rules of Procedure"), provides additional detail on the selection process. The Rules of Procedure provide that the Council will interview applicants for boards, commissions and committees at a special meeting prior to a regular Council meeting, and Council shall rank all applicants from highest to lowest and appoint by ballot process.

After Council discussion on this issue, the Council directed staff to return to the Council with an action item that would (1) eliminate the ranking process for applicants to boards, commissions and committees, and (2) allow for any council member to nominate applicants to boards, commissions and committees, rather than vesting that responsibility solely in the Mayor. Council further directed staff to provide alternative approaches to

appointment, and specifically cited the processes used in American Canyon and the City of Napa as potential alternatives.

Following the Council meeting, it did come to staff's attention that there is a state statute that specifically applies to cities with *directly elected* mayors. Government Code section 40605 provides:

"In general law cities where the office of mayor is an elective office pursuant to Article 5 (commencing with Section 34900) of Chapter 7 of Part 1 of Division 2 of Title 4, the mayor, with the approval of the city council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by statute." (emphasis added.)

As the Council is aware, the voters of St. Helena decided to make the office of mayor a directly elected office pursuant to Government Code section 34900 *et seq.*, and affirmed that decision as part of last June's election. Therefore under state law, the St. Helena mayor does have the authority, with the approval of the City Council, to make appointments to boards, commissions and committees regardless of the language in the Municipal Code. The language in SHMC Section 2.08.010(D) tracks the language in Government Code Section 40605 exactly, and we recommend leaving that language in the Municipal Code so that future Councils continue to be aware that the City must follow this process so long as the City has a directly elected mayor.

For that reason, City staff is not recommending that the City remove that language from the Code. Additionally, City staff believes it would be inconsistent with the requirements of Government Code Section 40605 to allow any member of the Council to make nominations to boards, commissions and committees, and therefore staff is not recommending that the Council change its procedures to allow any Council member to make nominations. The Council may, however, make alterations to its selection process to address concerns regarding the ranking process. Some options for addressing this issue are discussed below.

DISCUSSION

At the June 14 Council meeting, most of the concerns centered on the ranking process and the belief that it may deter applicants from reapplying for future positions, if they are ranked low by Council members. One suggestion was to simply eliminate the ranking process, without offering a replacement structure for the selection of candidates. Instead, the Mayor and Council could engage in a dialogue regarding the applicants, after which the Mayor could make an appointment, subject to the approval by the Council as a whole.

If the City Council desires to modify its practice by simply eliminating the ranking process and instead selecting board members, committee members and commissioners through Council deliberation, the Council could do so by modifying the third paragraph of Section 2.25 of the Rules of Procedure as follows:

Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. ~~Council shall rank all applicants from highest to lowest and appoint by ballot process.~~ At a council meeting following completion of the interviews, the Council shall discuss the applicants and open positions, including the Council members' preferences for applicants. Following these deliberations, the Mayor shall nominate applicants and appointments are subject to approval by the majority of Council.

Another option discussed was developing a new process, based on the approach taken by American Canyon or Napa, to provide some additional structure to the process. American Canyon allows any member of the Council to make a nomination, without additional selection criteria. As noted above, staff is not recommending this approach since the appointment authority in St. Helena must remain with the directly elected Mayor.

Napa provides three alternative processes for making appointments: First, the Council may waive any interviews, and make appointments at any noticed public meeting, based on the applications received by the Council. Second, the City Council can form a nominating committee to make recommendations to the City Council as a whole. The nominating committee would conduct interviews and deliberations at meetings noticed and open to the public in accordance with the Brown Act, and would make recommendations to the full Council. The Council may then approve the recommendations as submitted, or take further action to evaluate the applicants and make appointments. Third, the Council as a whole may conduct interviews of the applicants for boards, committees or commissions at a noticed public meeting. Following the interviews, the Council first determines the number of open seats on the commission to be filled by the applicants interviewed. The Council then votes to determine which applicants will be appointed to fill each open seat of each commission. For each open seat of each commission, each member of Council will cast one vote (on a written ballot identifying the name of the member of Council and the votes cast). Each member of Council will cast no more than one vote per applicant. For each open seat, the applicant who receives the greatest number of votes (at least a majority of the quorum of voting members of the Council) shall be appointed to the open seat. If, following this vote, all open seats are not filled, the Council may either repeat this process to fill the remaining open seats (eliminating from consideration the applicants who received the least number of votes), or direct staff to take additional action to fill the remaining open seats by restarting the selection process.

During Council discussion on June 14, it appeared that the Council did want to continue the current process of conducting interviews by the full Council, and therefore the first and second options would not be consistent with Council's direction. The third approach, however, could be modified for use in St. Helena, subject to the fact that appointments must be made by the Mayor subject to Council approval.

If the Council desires to use an approach similar to the third approach used in Napa, the City Council could amend the third paragraph of Section 2.25 of the Rules of Procedure as follows:

Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. ~~Council shall rank all applicants from highest to lowest and appoint by ballot process.~~ At a council meeting following the interviews, the Council first determines the number of open seats on the commission to be filled by the applicants interviewed. The Council then votes to determine their recommendation on which applicants should be appointed to fill each open seat of each commission. For each open seat of each commission, each member of Council will cast one vote (on a written ballot identifying the name of the member of Council and the votes cast). Each member of Council will cast no more than one vote per applicant. For each open seat, the applicant who receives the greatest number of votes (at least a majority of the quorum of voting members of the Council) shall be recommended for the open seat. If, following this vote, all open seats are not filled, the Council may either repeat this process to provide recommendations for the remaining open seats (eliminating from consideration the applicants who received the least number of votes), or direct staff to take additional action to fill the remaining open seats as deemed appropriate by the Council. Following the completion of this recommendation process, the Mayor shall nominate applicants and appointments are subject to approval by the majority of Council.

This approach is similar to the Napa approach, except that the voting is used to make recommendations for appointment, recognizing that appointment authority rests with the Mayor, subject to Council approval. This approach may address some of the concerns raised with the ranking process, since it would focus on the preferred applicants, rather than ranking the full slate of applicants, and specifying the least preferred applicants.

Staff has prepared a resolution with the two options listed above as alternative language that could be adopted as amendments to the Rules of Procedure. If Council desires to utilize either of these approaches, you may adopt the resolution with the preferred option. Council may alternatively continue with its current practice, or direct staff to come back with additional options.

FISCAL IMPACT

No fiscal impact.

RECOMMENDED ACTION

That the Council consider the enclosed resolution, and if desired, adopt the attached resolution with the preferred option.

ATTACHMENTS

[Attachment 1 - Resolution Approving Amendment to Rules of Procedure re Appointments-c1](#)

[Attachment 2 - Staff Report from June 14, 2022 City Council Meeting](#)

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA
AMENDING THE COUNCIL RULES OF PROCEDURE FOR THE CONDUCT OF
COUNCIL MEETINGS AND CITY COUNCIL STANDARDS OF CONDUCT TO
AMEND THE SELECTION PROCESS FOR CITY BOARDS, COMMITTEES AND
COMMISSIONS**

WHEREAS, on May 11, 2021, the City Council adopted Resolution No. 2021-63, adopting the most recent version of the City Council Rules of Procedure for the Conduct of Council Meetings & Standards of Conduct (the “Rules of Procedure”); and

WHEREAS, the Rules of Procedure include a process for making appointments to City boards, committees and commissions, including the process of considering and evaluating applications for those positions; and

WHEREAS, the City Council desires to amend the process for considering and evaluating applications for City boards, committees and commissions as set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED The City Council of the City of St. Helena, California, does resolve as follows:

SECTION 1. Recitals. The City Council of the City of St. Helena hereby finds and determines that the foregoing recitals are true and correct, are incorporated herein and by this reference made an operative part hereof.

SECTION 2. Amendment to Section 2.25 of the Rules of Procedure. The third paragraph of Section 2.25 of the Rules of Procedure is hereby amended to read as follows:

[OPTION 1:

Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. ~~Council shall rank all applicants from highest to lowest and appoint by ballot process.~~ At a council meeting following completion of the interviews, the Council shall discuss the applicants and open positions, including the Council members’ preferences for applicants. Following these deliberations, the Mayor shall nominate applicants and appointments are subject to approval by the majority of Council.]

[OPTION 2:

Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. ~~Council shall rank all applicants from highest to lowest and appoint by ballot process.~~ At a council meeting following the interviews, the Council first determines the number of open seats on the commission to be filled by the applicants interviewed. The Council then votes to determine their recommendation on which applicants should be appointed to fill each open seat of each commission. For each

open seat of each commission, each member of Council will cast one vote (on a written ballot identifying the name of the member of Council and the votes cast). Each member of Council will cast no more than one vote per applicant. For each open seat, the applicant who receives the greatest number of votes (at least a majority of the quorum of voting members of the Council) shall be recommended for the open seat. If, following this vote, all open seats are not filled, the Council may either repeat this process to provide recommendations for the remaining open seats (eliminating from consideration the applicants who received the least number of votes), or direct staff to take additional action to fill the remaining open seats as deemed appropriate by the Council. Following the completion of this recommendation process, the Mayor shall nominate applicants and appointments are subject to approval by the majority of Council.]

SECTION 3. Rules of Procedure Remain in Effect. Except as modified and amended by this Resolution, all other provisions of the Rules of Procedure shall remain unchanged and in full force and effect.

SECTION 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of St. Helena, California, at a regular meeting held on this 9th day of August, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

GEOFF ELLSWORTH, MAYOR

ATTEST:

CINDY TZAFPOULOS, CITY CLERK

EXHIBIT “A”

ORDINANCE NO. 2022-____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF ST. HELENA, CALIFORNIA, AMENDING SECTION 2.08.010 OF CHAPTER 2.08 OF TITLE 2 OF THE ST. HELENA MUNICIPAL CODE TO CHANGE THE OFFICE OF MAYOR FROM AN ELECTED OFFICE TO AN APPOINTED OFFICE.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ST. HELENA DO ORDAIN AS FOLLOWS:

SECTION 1. Subject to the approval of a majority of the voters of the City of St. Helena at the scheduled election so designated by the City Council in a separate resolution placing this proposal on the ballot for such election, the first sentence of Section 2.08.010 of Chapter 2.08 of Title 2 of the St. Helena Municipal Code is hereby amended to read as follows:

“2.08.010 – Mayor’s term of office and duties.

Commencing with the November 8, 2022 General Municipal Election, the Office of Mayor in the City of St. Helena shall cease to be an elective office and shall become an appointive office, and, based on criteria identified by the City Council, the City Council shall annually choose one of its members to act as Mayor, through those rules and procedures it may prescribe by ordinance or resolution.”

The remainder of Section 2.08.010 shall remain unchanged by this ordinance.

SECTION 2. If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this section, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

SECTION 3. To the fullest extent allowed by law, the provisions of this Ordinance shall prevail over, and supersede, all other provisions of the Municipal Code and any ordinances, resolutions or administrative policies of the City of St. Helena which are in conflict with any provision of this Ordinance.

SECTION 4. This section shall not be repealed or amended except by a measure approved by a majority of the electors voting on the issue at a General Municipal Election, or at a special election called for that purpose.

SECTION 5. This Ordinance shall take effect only if approved by a majority of the eligible voters of the City of St. Helena voting at a Special Municipal election to be held on June

7, 2022, and shall take effect ten (10) days after the City Council has certified the results of the Special Municipal election by resolution.

SECTION 6. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on June 7, 2022, by signing where indicated below.

I hereby certify that the foregoing Ordinance was passed, approved and adopted by the People of the City of St. Helena on the 7th day of June, 2022.

Dated: _____

GEOFF ELLSWORTH, MAYOR

ATTEST:

CINDY TZAFPOULOS, CITY CLERK



Report to the City Council
Regular City Council - 14 Jun 2022

Agenda Section: OLD BUSINESS

Subject: Discussion and direction regarding the process and appointments to boards, commissions, committees, and ad hoc assignments

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaopoulos, City Clerk

Reviewed By: April Mitts, Administrative Services Director

Approved By: James C. McCann, Interim City Manager

BACKGROUND

At the May 24, 2022 regular City Council meeting, Council Member Hardy requested a discussion item regarding appointments to boards, commissions, committees, and ad hoc assignments. Council Member Hardy made a motion that unanimously passed to agendize the appointment process for this June 14, 2022 regular Council meeting.

DISCUSSION

Per the request of the City Council, staff has provided Municipal Code Section 2.08.010 and City Council Rules of Procedure for the Conduct of Council Meetings & Standards of Conduct Section 2.25 for discussion and direction. The municipal code section and complete rules of procedure are attached to the staff report. Below includes excerpts for ease of review:

Municipal Code Section 2.08.010 Mayor's term of office and duties.

A. As determined by the electors in the general municipal election held on November 2, 1976, the city shall have an elected mayor who shall serve a two-year term of office. Except where the City Council may provide otherwise by ordinance that the instruments described in subsections (A)(1), (2) and (3) of this section be signed by an officer other than the Mayor, the Mayor shall sign:

1. *All warrants drawn by the City Treasurer.*
2. *All written contracts and conveyances made or entered into by the City.*
3. *All instruments requiring the City Seal.*

B. The Mayor may administer oaths and affirmations, take affidavits, and certify them under his hand.

C. The Mayor may acknowledge the execution of all instruments executed by the city and required to be acknowledged.

D. The Mayor, with the approval of the City Council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by state law. (emphasis added)

City Council Rules of Procedure for the Conduct of Council Meetings & Standards of Conduct Section 2.25 Appointments to Committees and Boards

The City Clerk posts a Notice of Vacancy in the City designated posting locations, the City's website and sends a Media Release to the St. Helena Star advertising vacancies to Commissions, Committees and Boards.

Applicants must submit a completed application to the City Clerk and shall be interviewed by the Council at a special meeting prior to a regular meeting. Applicants are requested to list references on their applications and individual Council Members may contact those references as part of the interview process. Council Members contacting references should disclose this information during the appointment process.

*Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. **Council shall rank all applicants from highest to lowest and appoint by ballot process. Mayor shall nominate applicants and appointments are subject to approval by the majority of Council. (emphasis added)***

Depending on the qualifications of the applicants and the needs of the City, there may be times when the City Council does not appoint an applicant who has applied. If an applicant is not appointed, the City Clerk will automatically readvertise for the vacant position(s) to seek additional applicants.

The Council has traditionally followed these processes for appointment to ad hoc groups as well.

Staff polled other cities to inquire about their nomination and/or appointment process. Below is a summary of other policies with the full policy attached, if available.

Practices by other agencies (Attachment 4):

City of Napa	Calistoga	Yountville	Sonoma	American Canyon
The City of Napa has three alternative appointment processes. 1. The City Council may waive the interviews and make an appointment at a noticed meeting. 2. The City Council appoints two Council members to a nomination committee that make the recommendation to the City Council and the recommendations are approved by the majority of the Council. 3. Full City Council interview process and ballot votes. The applicant with the greatest votes is appointed and approved by the majority of the Council.	The City of Calistoga is currently working with a consultant to draft Council rules of procedure for Council consideration at a later date. The past practice has been the Mayor makes the nomination with majority of Council approval.	The City of St. Helena modeled their nomination process after Yountville's. The difference is any member of the Yountville Council can make the nomination.	The City of Sonoma has many Boards, Committees and Commissions and the nomination process varies allowing a Council Member or the Mayor to make the nomination depending upon the body in question.	Any member of the Council can make the nomination with majority of Council approval.

Councilmember Hardy has requested this item be set for the Council's agenda to permit discussion of the Council's procedures and practices regarding appointments to advisory groups. This agenda item will allow Council to determine whether interest exists for clarification or change to the existing procedures and to provide direction to staff for action.

Staff recommends the City Council hear the interest and request from Council Member Hardy, examine and discuss the current and potential alternate nomination

or appointment process to Boards, Committees, Commissions, and ad hoc assignments and provide direction to staff.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDED ACTION

Discussion and direction.

ATTACHMENTS

[Attachment 1 - Municipal Code Section 2.08.010 Mayor's term of office and duties](#)

[Attachment 2 - 2021-63 Rescinding Resolution 2019-18 Adopting Rules of Procedures](#)

[Attachment 3 - Nomination Examples from Napa and Yountville](#)

[Attachment 4 - Neighboring Cities Nomination Examples](#)

2.08.010 Mayor's term of office and duties.

A. As determined by the electors in the general municipal election held on November 2, 1976, the city shall have an elected mayor who shall serve a two-year term of office. Except where the city council may provide otherwise by ordinance that the instruments described in subsections (A)(1), (2) and (3) of this section be signed by an officer other than the mayor, the mayor shall sign:

1. All warrants drawn by the city treasurer.
2. All written contracts and conveyances made or entered into by the city.
3. All instruments requiring the city seal.

B. The mayor may administer oaths and affirmations, take affidavits, and certify them under his hand.

C. The mayor may acknowledge the execution of all instruments executed by the city and required to be acknowledged.

D. The mayor, with the approval of the city council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by state law. (Ord. 11-1 § 1: prior code § 2.130)

CITY OF ST. HELENA

RESOLUTION NO. 2021-63

RESCINDING RESOLUTION NO. 2019-18 ADOPTING RULES OF PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS AND CITY COUNCIL STANDARDS OF CONDUCT, AND RE-ESTABLISHING RULES OF PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS AND RE-ESTABLISHING CITY COUNCIL STANDARDS OF CONDUCT

RECITALS

- A. WHEREAS, City Council Rules of Procedure for the Conduct of Council Meetings are established to provide an effective environment for the City Council to provide leadership; and
- B. WHEREAS, City Council Standards of Conduct are established to provide guidance to Council Members to assist in fully understanding the role and scope of the responsibilities of office; and
- C. WHEREAS, City Council reviews City Council Rules of Procedure for the Conduct of Council Meetings and reviews City Council Standards of Conduct and revise as deemed necessary; and
- D. WHEREAS, on May 11, 2021 the City Council adopted a new Council Vision and Council Mission; and
- E. The City Council Rules of Procedure for the Conduct of Council Meetings & Standards of Conduct have been updated to include the new Council Vision and Council Mission.

RESOLUTION

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

- 1. Resolution No. 2019-18 Adopting Rules of Procedure for the Conduct of Council Meetings is hereby rescinded; and
- 2. City Council Rules of Procedure and Standards of Conduct are adopted and hereby made part of this resolution. Attached hereby as Exhibit A.

Approved at a Regular Meeting of the St. Helena City Council on May 11, 2021, by the following vote:

Mayor Geoff Ellsworth: **Yes**
Vice Mayor Paul Dohring: **Yes**
Council Member Anna Chouteau: **Yes**
Council Member Lester Hardy: **Yes**
Council Member Eric Hall: **Yes**

APPROVED:


Geoff Ellsworth, Mayor

ATTEST:

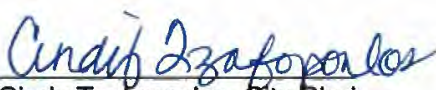

Cindy Tzafopoulos, City Clerk



Exhibit A - City Council Rules of Procedure and Standards of Conduct

Exhibit A



CITY COUNCIL

RULES OF PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

&

STANDARDS OF CONDUCT

TABLE OF CONTENTS

1. PURPOSE	4
1.1 Council-Manager Form of Government.....	4
1.2 City Council Vision and City Council Mission.....	4
 2. RULES OF PROCEDURE FOR THE CONDUCT OF	
COUNCIL MEETINGS	5
2.1 Regular Meeting	5
2.2 Special, Emergency, and Adjourned Meetings	5
2.3 Regular Meeting Agenda	6
2.4 Public Testimony and Comments Before the Council	7
2.5 Roll Call and Voice Votes	8
2.6 Consent Items	9
2.7 Reports.....	9
2.8 Closing Time of Council Meetings	9
2.9 Old Business.....	9
2.10 New Business.....	9
2.11 Office of the Mayor.....	10
2.12 Office of Mayor Pro Tempore (Vice Mayor)	10
2.13 Action by the Council.....	10
2.14 Adoption by Majority Vote.....	11
2.15 Discussion.....	11
2.16 Ratification of Actions.....	11
2.17 Procedural Motions.....	11
2.18 Withdrawal of Motion.....	12
2.19 Duty to Vote.....	13
2.20 Introduction and Passage of Ordinance.....	13
2.21 Closed Sessions.....	13
2.22 Quorum.....	14
2.23 Telephonic Attendance Of Council Members At Council Meetings.....	14
2.24 Public Hearings.....	16
2.25 Appointments to Committees and Boards.....	16
2.26 Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century.....	17

3. CITY COUNCIL STANDARDS OF CONDUCT	17
3.1 Policy Purpose.....	17
3.2 Ethics.....	17
3.3 Code of Ethics and Conduct.....	20
3.4 Enforcement and Sanctions.....	25
3.5 Implementation.....	29

APPENDIX

Exhibit—*Rosenberg's Rules of Order*. Simple Parliamentary Procedures for the 21st Century

1. PURPOSE

The purpose for establishing City Council Protocols is to provide an effective environment for the City Council to provide leadership. The protocols may be amended by resolution adopted by a majority vote of the Council Members and should be reviewed on a regular basis to ensure that the document remains helpful to the Council by providing a framework for effective leadership.

The protocols set forth herein are not intended to limit the inherent power and general legal authority of the City Council. Any of the protocols herein may be waived by a majority vote of the Council Members when it is deemed that there is good cause to do so based upon the particular facts and circumstances.

1.1 Council-Manager Form of Government

The City of St. Helena operates according to the Council-Manager form of government which vests authority in an elected City Council which, in turn, hires an appointed executive, the City Manager. The City Council is composed of five members elected from the City on a nonpartisan basis to serve overlapping four-year terms. The Mayor is elected at-large to serve a two-year term as presiding officer at City Council meetings and as the official head of the City for legislative and ceremonial purposes. The City Manager is appointed by the City Council and serves at the pleasure of that body.

The City Council is the City's legislative and policy-making body. Acting as a whole, the City Council is responsible for setting the direction of City policy and for adopting ordinances, resolutions and other orders as necessary for governing the City. The City Manager is responsible for the overall administration of the City, which includes implementation of the general policies set by the City Council in addition to the day-to-day operation of all City functions. The City Manager, with the help of the Staff, provides the City Council with the information needed to fulfill its policy-making role.

The Council-Manager form of government separates legislative and executive responsibilities in a manner similar to state and federal governments. This system provides "checks and balances" of both policy and administrative branches of government by limiting the power of each.

1.2 City Council Vision and City Council Mission

Council Vision

St. Helena strives to be a diverse, inclusive, family-friendly, economically and environmentally sustainable community which prudently manages all of its resources, continues to improve its infrastructure, ensures its water security, provides a full range of housing, business, cultural and recreational

opportunities and cherishes its historic, small-town character, beautiful natural environment and high quality of life.

Council Mission

The City of St. Helena is dedicated to serving its citizens by:

- Promoting a culture of equity, diversity and inclusion
- Supporting thriving families and ensuring the health and wellbeing of our youth
- Ensuring our long-term economic sustainability and focusing on new and diverse sources of revenue
- Preventing, preparing for, and mitigating fire and other local emergencies
- Improving and maintaining City infrastructure
- Updating our water management policies to ensure an adequate water supply
- Responding innovatively to climate change challenges and adopting environmentally sustainable best practices
- Preserving our historic, small-town, rural character
- Expanding recreational, active transportation and cultural opportunities
- Facilitating innovative, well-designed housing for residents of all backgrounds, ages and income levels
- Encouraging full civic participation and ongoing communication
- Strengthening regional collaboration with other public entities and building partnerships with local service providers and stakeholders

(See Resolution Number 2021-___, dated May 11, 2021.)

2. RULES OF PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

2.1 Regular Meeting

The Council shall hold a Regular Meeting on the second and fourth Tuesday of each month, except that the Council may by motion at a Regular Meeting and with adequate public notice, either cancel that meeting or reschedule it to some other date.

Regular Meetings shall be held at the Vintage Hall Board Room, 465 Main Street, St. Helena, and shall begin at 6:00 p.m. If it is necessary to hold a closed session prior to the start of a Regular Meeting, the closed session may begin earlier than the normal starting time to allow the Regular Meeting to begin at 6:00 p.m. The closed session shall begin in an open meeting and the Council shall adjourn to closed session.

2.2 Special, Emergency, and Adjourned Meetings

(a) **Special Meetings.** The Mayor or the Vice Mayor in the Mayor's absence or a majority of the members of the Council or the City Manager may at any time call a Special Meeting. At least twenty-four hours before a Special Meeting, written notice of the meeting stating its time and place and the subjects to be considered shall be (a) delivered to the Mayor and each Councilmember personally or by any other means; (b) posted on the Council's principal bulletin board, City website and place of meeting; and (c) emailed to the agenda subscribers. Only those items of business specified in the notice may be considered at a Special Meeting called in this manner.

(b) **Emergency Meeting.** The Council may hold an Emergency Meeting in emergency situations as set forth in the City's Municipal Code and State Law.

(c) **Adjourned Meeting.** A properly called Regular, Special, or Emergency Meeting may be adjourned to a time and place specified. A copy of the notice of adjournment shall be posted as specified on the door of the place where the meeting was held within twenty-four hours after the time of the adjournment. Further notice need not be given of an adjourned session of a properly called Regular, Special, or Emergency Meeting.

2.3 Regular Meeting Agenda

(a) **Setting and Posting of Agenda.** The agenda of business to come before the Council at a Regular Meeting shall normally be closed at the end of eighteen business days preceding the meeting. Under State Law the agenda for a Regular Meeting must be posted at least seventy-two (72) hours prior to the scheduled convening of the Regular Meeting, and no items may be added to the agenda fewer than seventy-two (72) hours prior to the meeting except as may be allowed by State Law. The City Council endeavors to publish the meeting agenda at least ten days prior to the meeting.

(b) **Placing Items on the Council Agenda.** Each City Council agenda shall specifically provide for a discussion of Future Agenda Items. Any Council Member may request that an item be considered on a future agenda during that portion of the City Council meeting and, upon agreement by a second Council Member concurring that Staff time and City resources should be expended on the item, the item shall be placed on the soonest practical regularly scheduled Council meeting as determined by the City Manager. A member of the public may request that an item be placed on a future agenda during Public Forum or through other communication with a Council Member. Staff reports may not be prepared on Council Member requested items until Council discussion has occurred and direction provided by the Council unless Staff otherwise determines. If Council action is contemplated, proposed action shall be included in the Staff report. The City

Manager may also add any item of business to a future agenda in his or her sole discretion.

(c) Agenda Packet Distribution. Each Councilmember shall be furnished a copy of the agenda and the package of agenda material by 5:00 p.m., on the Friday eleven days preceding a Regular Meeting, and the agenda and agenda materials shall be available for public inspection and distribution or copying at that time. Each Councilmember may opt out from receiving a paper agenda and instead receive and review the agenda electronically on a City issued iPad. Any agenda materials not included in the agenda package by 5:00 p.m., that Friday shall be separately identified, and the Council may by majority vote continue such agenda item until the following meeting to allow for proper study of the materials.

(d) Order of Agenda. The business of the Council shall be taken up for consideration in substantially the following order except as may be otherwise ordered:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Public Forum
5. Reports by Staff and City Council, Future Agenda Items and AB 1234 Reports
6. Presentations and Public Recognitions
7. Staff Briefing
8. Consent Items and Items Removed from Consent
9. Public Hearings
10. Old Business
11. New Business
12. Items likely to be placed on the next or future meeting agenda.
13. Adjournment

(e) A copy of the agenda and the package of agenda materials shall be made available for public inspection at City Hall and at the St. Helena Public Library at or near the time they are circulated to the City Council.

2.4 Public Testimony and Comments Before the Council

(a) Addressing the Council Generally. Each person addressing the Council may give his or her name and address (optional) in an audible tone of voice for the record. Each person's comments are limited to four minutes except as provided in section (b) regarding land use Public Hearings. In the further interest of time, speakers may be asked to limit their comments to

new materials and not repeat what a prior speaker said. Organized groups may choose a single spokesperson who may speak for the group. Speakers may not concede their allotted time to another speaker. The Mayor may extend time for the speaker.

(b) Addressing Council at Land Use Public Hearings. An applicant appellant at a land use Public Hearing shall be permitted to address the Council for 15 minutes following the Staff report. If there is a spokesperson for the opposition, the spokesperson shall be permitted to speak for 15 minutes. All other speakers are limited to four minutes each. Applicant shall first be permitted five minutes at close of public comments for rebuttal. If the applicant is the appellee the appellant shall have 15 minutes, the applicant appellee shall have 15 minutes, the appellant five minutes, and the applicant appellee five minutes.

(c) Presentation by Spokesperson. Whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the Mayor to request that a spokesperson be chosen by the group to address the Council, and, in case additional matters are to be presented at the time by any other member of the group, to limit the number of persons so addressing the Council so as to avoid unnecessary repetition before the Council.

(d) Irrelevant Testimony. The Mayor shall rule out of order any testimony not relevant to the agenda item then under discussion.

(e) Protocol. The purpose of public testimony is for Councilmembers to benefit from the views of the public. Comments from the public should be directed towards the Council. Councilmembers and Staff should avoid entering into a dialogue with members of the public who may address the Council. Questions raised by members of the public may be referred to Staff.

(f) Public Comment on Agendized Items. Members of the public are entitled to speak on any item on the agenda during a Public Hearing on the subject matter opened by the Mayor. Each person is entitled to speak on any agenda item only once at any meeting, and the right to speak at the appropriate time waives any further right to address the Council on that item at that meeting. Participation in debate on any item before the Council shall be limited to members of the Council, although Councilmembers may ask members of the public for additional information.

(g) Public Comment on Non-Agendized Items. Members of the public are entitled to speak on matters of municipal concern not on the agenda, during consideration of that portion of the meeting agenda entitled "Public Forum" when that item is called by the Mayor. Each person is entitled to speak on non-agendized items 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 may take place unless and until the matter properly appears on the agenda.

2.5 Roll Call and Voice Votes

A roll call vote shall be taken on the approval of the Consent Calendar, the introduction of ordinances, and the adoption of ordinances, resolutions, and orders for the payment of money. Roll call votes shall be entered in the minutes of the Council showing those members voting yes, those voting no, and those abstaining or absent.

Any other motion may be passed by voice vote provided, however, that any Councilmember may request a roll call vote on any items to be voted on.

2.6 Consent Items

Those items on the agenda considered routine by the City Manager shall be grouped together under "Consent Items" and the recommended actions approved by a single vote of the Council. At the request of any Councilmember or any other person, a Consent Item shall be considered separately following approval of the remaining "Consent Items." Items approved under the heading "Consent Items" will appear in the Council minutes in their proper form, as if approved item by item.

2.7 Reports

Under the agenda heading "Reports" the City Manager, other City Staff, and Councilmembers may make reports on matters not on the agenda. Also at this time, Councilmembers or Staff may identify issues or agenda items that need to be addressed by the City Attorney during the meeting, and may propose future agenda items.

2.8 Closing Time of Council Meetings

Council meetings shall adjourn by 9:00 p.m. However, the Council may by majority vote extend the meeting up to an additional thirty minutes (9:30 p.m.) if the Council deems such extension necessary. A unanimous Council vote shall be required to extend the meeting past 9:30 p.m. and adjourn by 10:00 p.m. Otherwise, the meeting shall be adjourned to another day acceptable to the Council, or unfinished business may be continued to the next regular meeting.

2.9 Old Business

"Old Business" will include uncompleted items carried over from a prior meeting agenda and placed under this agenda heading for consideration.

2.10 New Business

The Council shall not consider any resolution, motion, or matter which does not affect the conduct of the business of the City of St. Helena or its corporate powers or duties as a municipal corporation nor shall the Council consider any resolution or motion supporting or disapproving any legislation or action pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of the State or Nation unless such proposed legislation or action, if adopted, will affect the conduct of the municipal business or the powers and duties of the City of St. Helena or its officers or employees as such.

2.11 Office of the Mayor

The Mayor shall preside at meetings of the Council, shall be entitled to vote on all matters, and shall be considered a Councilmember for all purposes, including the determination of whether a quorum is present. The Mayor will recognize members that wish to speak.

The Mayor shall have the following powers:

- a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- b) To enforce the Council's rules regarding public testimony and to determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- c) To ensure that the public has reasonable opportunity to be heard;
- d) To entertain and answer questions of parliamentary law or procedure;
- e) To call a brief recess at any time;
- f) To adjourn in an emergency;
- g) To appoint a Vice Mayor subject to Council approval who shall serve during the term of the Mayor, and becomes the Mayor Pro Tempore in the Mayor's absence.

2.12 Office of Mayor Pro Tempore

A Councilmember who serves as Mayor pro tempore shall be entitled to vote on all matters and shall be considered a Councilmember for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Mayor pro tempore shall have the Mayor's powers and duties. If the Mayor should become physically or mentally unable to perform the duties of his or her office, the other Councilmembers may by unanimous vote declare the Mayor is incapacitated and confer the Mayor's powers and duties on the Mayor pro tempore.

When the Mayor declares that he or she is no longer incapacitated, and a majority of the Council concurs, the Mayor shall resume the exercise of his or her powers and duties. If both the Mayor and the Mayor pro tempore are absent from a

meeting, the Council may elect from among its members a temporary chair to preside at the meeting.

2.13 Action by the Council

Action by the Council shall be by motions made and voted upon. A motion shall require a second. The Mayor and any other Councilmember may make or second a motion. A substantive motion is out of order while another substantive motion is pending.

2.14 Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules or the laws of California. Resolutions, orders for the payment of money, and all ordinances require at least three votes for passage.

2.15 Discussion

The City Council shall address an agenda item as follow:

- (a) Staff shall introduce the agenda item and present the Staff report.
- (b) City Council shall ask questions of Staff.
- (c) The Mayor will invite public comment on the item.
- (d) Having received all public testimony, the Council will deliberate on the matter.
- (e) If appropriate, the Mayor will entertain a motion, including any motion proposed by the Mayor.
- (f) If a motion has received a second, the Mayor shall state the motion and if any Council Member wishes for the discussion, open for additional Council discussion.
- (g) The Mayor shall preside over the discussion according to the following general principles:
 - 1. The maker of the motion is entitled to speak first;
 - 2. A person who has not spoken on the issue shall be recognized before someone who has already spoken;
 - 3. To the extent possible, the discussion shall alternate between opponents and proponents of the measure.

2.16 Ratification of Actions

To the extent permitted by law, the Council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

2.17 Procedural Motions

- (a) In addition to substantive proposals, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption.
- (b) To Adjourn. The motion may be made only at the conclusion of action of a pending substantive matter; it cannot interrupt deliberation of a pending matter.
- (c) To Take a Brief Recess.
- (d) Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.
- (e) To Suspend the Rules. The motion requires for adoption a vote of a majority of the quorum of the Council. The Council may not suspend provisions of the rules that are state requirements imposed by law on the Council.
- (f) To Divide a Complex Motion and Consider It by Paragraph.
- (g) To Call the Previous Question. The motion is not in order until every member has had an opportunity to speak once.
- (h) To Continue an Item to a Future Meeting Certain.
- (i) To Refer to Staff for Action.
- (j) To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if the amended motion has the same effect as rejection of the original motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last amendment is disposed of by a vote.
- (k) To Reconsider. The motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken, including any continuation of that meeting through adjournment to a time and place certain, or at the next Regular Meeting unless intervening actions taken based on the original action make such reconsideration impracticable. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.
- (l) To Rescind or Repeal a Previous Action. A motion to rescind or repeal a previous action is not in order if the rescission or repeal is

forbidden by law or made inappropriate by virtue of actions taken in accordance with the previous action.

- (m) To call for a Straw Vote. The Mayor, at the Mayor's discretion, may call for a Straw Vote among members on any item prior to inviting public testimony or Council comment.

2.18 Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before a vote, with or without the consent of any "seconder" of the motion. However, any other Councilmember may ask to be considered the introducer of the motion and, if again seconded, debate may continue without further interruption.

2.19 Duty to Vote

Every member must vote on every item unless prevented from doing so by virtue of an actual or potential conflict of interest under applicable State Law. Any member who believes he or she has a conflict or potential conflict of interest must announce such at the initiation of discussion or when such conflict or potential conflict becomes apparent, and shall refrain from any part in the debate, deliberations, or voting on that issue, except as allowed by State Law.

2.20 Introduction and Passage of Ordinance

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the Council. The Mayor shall read the title of the ordinance, after which a roll call vote shall be taken to introduce the ordinance. The City Clerk shall then read the ordinance in its entirety unless such reading is waived by a separate motion adopted by unanimous vote of the Councilmembers present. An ordinance, other than an urgency, may not be passed within five days of its introduction or alteration. Corrections of typographical or clerical errors are not alterations.

2.21 Closed Sessions

- (a) The Council may hold closed sessions only as provided for by law and according to the provisions herein.
- (b) As part of any regular or special City Council meeting as appropriate, the City Council, the City Attorney, and relevant Staff may discuss and agree upon the need for any future closed sessions, including the legal authority for the closed session and the nature of the matter to be discussed, in adequate detail to meaningfully inform the public while maintaining required confidentiality and any applicable attorney-client privilege. Where the City Manager and City Attorney agree that the

nature of a matter requires consideration in closed session, the requirement for prior open session discussion shall not apply.

- (c) The City Council agenda for any regular or special Council meeting shall include general information about closed sessions as follows:

The City Council will convene in open session at the stated time, but will then adjourn to address any closed sessions items listed on the agenda. The public is invited to address the Council with comment on any listed closed session item immediately prior to Council's adjournment into closed session or consistent with any other provisions permitting public comment. The Council will reconvene in Public Session at 6:00 p.m. or at the first Council meeting following any closed session. At that time, if appropriate and as required under the Brown Act, any actions taken during the preceding closed session will be announced by the City Attorney or Mayor. If necessary, the Council may reconvene in closed session to continue discussion of listed items following the completion of open session business.

- (d) The City Council agenda for any regular or special Council meeting at which the Council will adjourn to closed session shall provide notice of that closed session as provided for under the Brown Act and shall include a narrative description of the legal authority for the closed session and the nature of the matter to be discussed in adequate detail to inform the public while maintaining required confidentiality or any applicable attorney-client privilege. Reporting out of closed session shall be consistent with the requirements of Brown Act, and may be of greater detail than required when the disclosure of such detail is not inconsistent with maintaining required confidentiality and any applicable attorney-client privilege.

2.22 Quorum

A majority of the actual membership of the Council, including the Mayor but excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

2.23 Telephonic Attendance Of Council Members At Council Meetings

- (a) The City Council Procedures provisions concerning Telephonic Attendance shall apply to all Boards and Commissions as well as the City Council. Requests by Council Members to attend a Council meeting via telephonic appearance are actively discouraged.

Telephonic attendance shall only be permitted in the event of extraordinary events such as a medical, family or similar emergency requiring a Council Member's absence. In addition, at least a quorum of the Council must participate from a location within the City (Government Code Section 54953(b)(3)).

(b) If these two threshold requirements are met, the Council Member who will be appearing telephonically must ensure that:

1. The meeting agenda identifies the teleconference location and is posted at that location in an area that is accessible and visible 24 hours a day for at least 72 hours prior to the meeting.

2. The teleconference location is open and fully accessible to the public, and fully accessible under the Americans with Disabilities Act, throughout the entire meeting. These requirements apply to private residences, hotel rooms, and similar facilities, all of which must remain fully open and accessible throughout the meeting, without requiring identification or registration.

3. The teleconference technology used is open and fully accessible to all members of the public, including those with disabilities.

4. Members of the public who attend the meeting at the teleconference location have the same opportunity to address the Council from the remote location that they would if they were present in Council Chambers.

5. The teleconference location must not require an admission fee or any payment for attendance.

6. If the Council Member determines that any or all of these requirements cannot be met, he or she shall not participate in the meeting via teleconference.

(c) Approved Teleconference Guidelines for Council Members:

1. One-week advance written notice must be given by the Council Member to the City Clerk's office; the notice must include the address at which the teleconferenced meeting will occur, the address the Council packet should be mailed to, who is to initiate the phone call to establish the teleconference connection, and the phone number of the teleconference location. Cellular telephones shall not be used to participate in teleconferenced meetings.

2. The Council Member is responsible for posting the Council agenda in the remote location, or having the agenda posted by somebody at the location and confirming that posting has occurred. The City Clerk will assist, if necessary, by faxing or mailing the agenda to whatever address or fax number the Council Member requests; however, it is the Council Member's responsibility to

ensure that the agenda arrives and is posted. If the Council Member will need the assistance of the City Clerk in delivery of the agenda, the fax number or address must be included in the one-week advance written notice above.

3. The Council Member must ensure that the location will be publicly accessible while the meeting is in progress.

4. The Council Member must state at the beginning of the Council meeting that the 72-hour posting requirement was met at the location and that the location is publicly accessible. The Council Member also must describe the location. Furthermore, the City Clerk will provide Council with a quarterly report detailing the telephone charges associated with teleconferenced meetings.

2.24 Public Hearings

Public Hearings shall be scheduled and notice published without any action required by the City Council, excepting that the Council may, if it so desires, scheduled a Public Hearing on an item of interest for a date certain. In order to accommodate members of the public responding to a noticed Public Hearing, such Hearings will, to the extent practicable, begin at 6:00 p.m. At the time designated for the Public Hearing, or soon after as is practicable, the Mayor shall direct the attention of the Council Members to the Staff report and Staff may respond to questions from Council members, after which the Mayor shall formally open the Public Hearing and members of the public shall be allowed to speak in accordance with the rules set forth elsewhere in these Rules of Procedure. When the allotted time expires, or when no one wishes to speak who has not done so, the Mayor shall declare the hearing closed.

Following the close of the Public Hearing, the Council may discuss or take action on the matter in accordance with these rules. The Mayor may in his or her discretion allow questions and/or comments from the public after close of Public Hearing.

2.25 Appointments to Committees and Boards

The City Clerk posts a Notice of Vacancy in the City designated posting locations, the City's website and sends a Media Release to the St. Helena Star advertising vacancies to Commissions, Committees and Boards.

Applicants must submit a completed application to the City Clerk and shall be interviewed by the Council at a special meeting prior to a regular meeting. Applicants are requested to list references on their applications and individual Council Members may contact those references as part of the interview process. Council Members contacting references should disclose this information during the appointment process.

Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. Council shall rank all applicants from highest to lowest and appoint by ballot process. Mayor shall nominate applicants and appointments are subject to approval by the majority of Council.

Depending on the qualifications of the applicants and the needs of the City, there may be times when the City Council does not appoint an applicant who has applied. If an applicant is not appointed, the City Clerk will automatically readvertise for the vacant position(s) to seek additional applicants.

2.26 Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

All procedural matters not otherwise provided for in or controlled by state law or by any ordinance, resolution, rule or regulation of the City shall be governed by Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century (attached as Exhibit). However, no ordinance, resolution, or other action of the Council shall be invalidated or the legality thereof otherwise affected by the failure or omission of the Council to observe or follow such rules. Certain procedures relating to motions, agenda item discussion, debate, and courtesies contained in *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* are incorporated into this document, except to the extent they are modified by this Protocol document.

3. CITY COUNCIL STANDARDS OF CONDUCT

3.1 Policy Purpose

The St. Helena City Council adopts this Code of Ethics and Conduct to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of St. Helena's City government.

3.2 Ethics

The citizens and businesses of St. Helena are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, City Treasurer, and City Clerk and of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

- (a) **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of St. Helena and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
- (b) **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of California and the City of St. Helena in the performance of their public duties.
- (c) **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the Staff or public.
- (d) **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
- (e) **Conduct at Public Meetings.** Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand.
- (f) **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.
- (g) **Communication.** Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.

(h) **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or other appropriate state agency, a member shall not participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the Mayor and the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

(i) **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

(j) **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

(k) **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City Staff time,

equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.

(l) **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

(m) **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of St. Helena, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.

(n) **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of St. Helena City government as outlined in the St. Helena City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City Staff, Boards, Committees and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City Staff; nor shall they impair the ability of Staff to implement Council policy decisions.

(o) **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.

(p) **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to Staff.

3.3 Code of Ethics and Conduct

The Code of Ethics and Conduct are designed to describe the manner in which elected and appointed officials should treat one another, City Staff, constituents, and others they come into contact with while representing the City of St. Helena.

(a) Elected and Appointed Officials' Conduct with Each Other in Public Meetings

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

1. *Honor the role of the chair in maintaining order*

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

2. *Practice civility and decorum in discussions and debate*

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.

3. *Avoid personal comments that could offend other members*

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

4. *Demonstrate effective problem-solving approaches*

Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

(b) Elected and Appointed Officials' Conduct with the Public in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

1. *Be welcoming to speakers and treat them with care and gentleness.*
 - a. While questions of clarification may be asked, the official's primary role during public testimony is to listen.
2. *Be fair and equitable in allocating public hearing time to individual speakers.*
 - a. The chair will determine and announce limits on speakers at the start of the public hearing process.
3. *Practice active listening*
 - a. It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions, and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.
4. *Maintain an open mind*
 - a. Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.
5. *Ask for clarification, but avoid debate and argument with the public*
 - a. Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

(c) Elected and Appointed Officials' Conduct with City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City Staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

1. *Treat all Staff as professionals*
 - a. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards Staff is not acceptable.
2. *Do not disrupt City Staff from their jobs*
 - a. Elected and appointed officials should not disrupt City Staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City Staff meetings unless requested by Staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate Staff, and hampers Staff's ability to do their job objectively.
3. *Never publicly criticize an individual employee*
 - a. Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about Staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding Staff to the City Manager or the Mayor.
4. *Do not get involved in administrative functions*
 - a. Elected and appointed officials acting in their individual capacity must not attempt to influence City Staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
5. *Do not solicit political support from Staff*
 - a. Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City Staff. City Staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.
6. *No Attorney-Client Relationship*
 - a. Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her Staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual

members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

(d) Council Conduct with Boards, Committees and Commissions

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

1. *Respect Role of Liaison to City's Boards, Committees and Commissions*

Several of the City's Boards, Committees and Commissions have a Council Member who serves as its Council liaison. The City Council will collectively review and approve liaison appointments annually. Council Members serving as liaisons should act as an advisor and resource to committee/board/commission members and the committee/board/commission's Staff liaison when issues regarding process, procedure, attendance, interpersonal or public relations arise.

2. *Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers*

The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council. But Board, Committee and Commission members do not report to individual Councilmembers (whether or not they are serving as liaisons), nor should Councilmembers feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board, Committee or Commission should be based on such criteria as expertise, ability to work with Staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

3. *Be respectful of diverse opinions*

A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but must

be fair and respectful of all citizens serving on Boards, Committees and Commissions.

4. *Keep political support away from public forums*

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

(e) Elected and Appointed Officials' Conduct With Each Other and the Public in Private Encounters

1. *Continue Respectful Behavior in Private*

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions, and set forth above in subsections (a) through (d), should be maintained in private conversations, including telephone calls, texts, e-mails or other forms of communication. Council Members and appointed officials shall refrain from abusive conduct, intimidation, bullying tactics, personal charges, or verbal attacks upon the character or motives of other members or the public.

2. *Be Aware of the Insecurity (Non-Confidentiality) of Written Notes, Texts, Voicemail and E-mail*

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message was played on a speakerphone in a full office? What would happen if this E-mail or text message were forwarded to others? Written notes, voicemail messages, texts and E-mail should be treated as potentially "public" communication.

3. *Understand that Even Private Conversations can have Public Presence*

Elected and appointed officials are always on display — their actions, demeanor, fitness, mannerisms, language and timing and form of communication are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, late-night e-mails will be questioned and casual comments between individuals before and after public meetings noticed.

3.4 Enforcement and Sanctions

(a) *Acknowledgement of Code of Ethics and Conduct*

Upon assuming office each Councilmember, and each Board, Committee and Commission Member ("Member"), shall sign a statement affirming that he or she has been provided with and has read the Code of Ethics and

Conduct. Each Councilmember, Board, Committee and Commission Member, shall adhere to the Code of Ethics and Conduct as well as the Council's Rules of Procedure. Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold office.

(b) Ethics Training for Local Officials

Councilmembers, City Treasurer, City Clerk, Board, Committee and Commission Members shall report annually to the City Clerk with respect to his or her compliance with State or City mandated requirements for ethics training. Councilmembers, City Treasurer, City Clerk, Board, Committee and Commission Members who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees and may be subject to sanctions.

(c) Behavior and Conduct

The St. Helena Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the St. Helena City Council, Boards, Committees and Commissions. Each Member him or herself has the primary responsibility to assure that he or she understands and satisfies the ethical standards, so that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention. Without violating Brown Act serial meeting requirements, individual Members should point out to the offending Member perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the process under 3.4(e) 1-10 shall govern.

(d) Council Authority

Under California law, the Council does not have the legal authority to remove Members elected or appointed to the City Council or to otherwise deprive them of their office. However, as provided in Section 3.4(e) 9., a majority of the Councilmembers may remove a Councilmember from any or all Council honorary and/or ceremonial positions and ad-hoc and standing committees, as well as from positions with other governmental agencies or other organizations they hold by virtue of appointment by the City Council.

(e) Process to Address Alleged Violation of Code of Ethics and Conduct

1. *Complaint.* Where any person has substantial evidence that a Member has materially violated the Code of Ethics and Conduct, he or she may file a written statement with the City Clerk who will then provide it to the City Council, and the affected Member. The name of the complainant shall initially be redacted and kept confidential and not disclosed until it has been determined as provided in Section 3.4(e) 2 that there is substantial evidence that the Member has materially violated the Code of Ethics and Conduct.

"*Substantial evidence*" means evidence that reasonably supports a conclusion. It does not mean simply any evidence, nor does it include mere opinions. It must be reasonable in nature, credible, and of solid value.

2. *Hearing Officer.* Upon receipt of a Complaint as provided in Section 3.4(e) 1., or upon the direction of the City Council, the Mayor, in consultation with the City Manager, shall make a preliminary determination whether there is substantial evidence to support a conclusion that a Member has materially violated the Code of Ethics and Conduct, thereby warranting the further proceedings below. If the Mayor either submitted the Complaint or is the subject of the Complaint, the Vice Mayor (and who is not the subject of the complaint) shall make the preliminary determination as provided above.

If the Mayor (or, where the Mayor is disqualified as set forth above, the Vice Mayor) makes the initial determination that there is substantial evidence to support a conclusion that a Member has materially violated the Code of Ethics and Conduct, thereby warranting the further proceedings, he or she, in consultation with the City Manager, shall appoint an independent Hearing Officer to review and investigate the Complaint. If the Mayor either submitted the Complaint or is the subject of the Complaint, the Vice Mayor (and who is not the subject of the complaint) shall appoint the Hearing Officer as provided above.

In the event both the Mayor and Vice Mayor are disqualified as set forth above or otherwise unable to carry out the duties under this Section, the Council member with the longest tenure shall do so. If two or more Council members have equal tenure, the Council member (who is not the subject of the Complaint) shall be selected by a process of drawing straws supervised by the City Clerk.

3. *Investigation.* To the extent reasonably practicable, the Hearing Officer shall investigate and report, within not more than thirty (30) days, as to whether there is substantial evidence in support of an allegation that a Member has materially violated the Code of Ethics and Conduct. If the Hearing Officer concludes that there is not substantial evidence to support an alleged violation, or that the violation was not material, he or she shall so report to the Council and the matter shall be deemed dismissed unless the Council directs that a public hearing be held pursuant to Section 3.4(e) 5. If the Hearing Officer concludes that there is substantial evidence to support an alleged material violation of the Code of Ethics and Conduct, he or she shall issue a report ("Report") to the City Council and the Member. The Hearing Officer shall allow the affected Member a reasonable

opportunity to provide any written comments, evidence and/or arguments which the Hearing Officer shall consider in the investigation and Report.

4. *Enforcement.* The City Council, in its sole discretion, shall enforce the Code of Ethics and Conduct against Members depending upon the extent and severity of the violation by means of either (i) a warning (ii) a written reprimand; (iii) censure; (iv) removal from assignments; or (v) other action as deemed appropriate to the City Council, including without limitation disavowal and/or disapproval of the Member's violation and/or other action and/or statement. The following procedure shall be utilized:
5. *Receipt of Report.* As reasonably practicable, within 30 days after receipt of the Report, the Council will hold a public hearing after which it will determine, among any other determination the Council may deem appropriate, whether the Complaint should be dismissed, a warning should be issued, a written reprimand should be issued, censure issued, or the Member should be removed from his or her office (only for Members other than Council members) or assignments. The City shall provide written notice of the public hearing and opportunity to be heard to the affected Member. The City Council determination shall be set forth in written findings that the Council may direct staff to prepare for subsequent Council approval.
6. *Dismissal.* Where the Council, based on the Report and any statement from the affected Member, determines that it is clear that no violation occurred or that only a trivial or de minimus violation occurred, or that the Complaint was motivated by revenge or other improper motive, the Council may dismiss the Complaint.
7. *Warning.* Where the Council, based on the Report and any statement from the affected Member, determines that there is some evidence that only a minor violation or a questionable practice has occurred, the Council may issue a written warning to the affected Member specifying the violation(s) and requesting corrective action.
8. *Reprimand.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted, determines that there is substantial evidence that the Member has materially violated one or more provisions of the Code of Ethics and Conduct, the Council may adopt a resolution reprimanding the affected Member for their conduct, stating that any violations shall cease, and requesting corrective action. The affected Member may file a rebuttal to the Reprimand with the City Clerk which will become a matter of public record.
9. *Censure.* Where the Council, based on the Report, any statement from the affected Member, and other evidence accepted at a public hearing of the matter, determines that there is substantial evidence that the Member has materially violated one or more provisions of the Code of Ethics and Conduct, and that such violation(s) impugn the integrity or dignity of the City or that such violations are egregious or chronic in nature, then the Council may adopt a resolution censuring

the affected Member by condemning his or her actions, removing the Member from all appointive positions representing the City in front of other governments and agencies, demoting the affected Commissioner, Committee or Board member appointed by the City Council who holds a position of chairperson or vice chairperson, stating that the violations shall cease, and demanding corrective actions. The affected Member may file a rebuttal to the Censure with the City Clerk which will become a matter of public record.

10. *Removal from Office.* Notwithstanding any of the provisions in this Section 3.4, the City Council may remove any Commissioner, Committee or Board member appointed by the City Council at its pleasure, and nothing in the Code of Ethics and Conduct or these rules effects or diminishes such power nor vests such Commissioners or Board members with any additional rights.

3.5 Implementation

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, City Treasurer, City Clerk, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign a statement (example below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it as necessary.

Example:

I affirm that I have read and understand the City of St. Helena Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

Exhibit

Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century



MISSION:

To restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION:

To be recognized and respected as the leading advocate for the common interests of California cities.



About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts educational conferences and research, and publishes *Western City* magazine.

About *Western City* Magazine

Western City is the League of California Cities' monthly magazine. *Western City* provides lively, interdisciplinary analyses of issues affecting local governance. Its goal is to offer immediately practical ideas, information and bigger-picture policy issues and trends. For more information, visit www.westerncity.com.

"Rosenberg's Rules of Order" first appeared in *Western City* magazine in August and September 2003.

About the Author

Dave Rosenberg is an elected county supervisor representing the 4th District in Yolo County. He also serves as director of community and intergovernmental relations, director of operations, and senior advisor to the governor of California. He has served as a member and chair of numerous state and local boards, both appointed and elected, and also served on the Davis City Council for 12 years, including two terms as mayor. He has taught classes on parliamentary procedure and has served as parliamentarian for large and small governing bodies. In the fall of 2003, Gov. Davis appointed Rosenberg as a judge of the Yolo County Superior Court.

To order additional copies of this publication, call (916) 658-8257 or visit www.cacities.org/store.

© 2003 League of California Cities. All rights reserved.

1400 K Street, Sacramento, CA 95814

(916) 658-8200

Fax (916) 658-0240

www.cacities.org

Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

by Dave Rosenberg

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that hasn't always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules, *Robert's Rules of Order*, which are embodied in a small but complex book. Virtually no one I know has actually read this book cover to cover.

Worse yet, the book was written for another time and purpose. If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook. On the other hand, if you're running a meeting of a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order. Hence, the birth of "Rosenberg's Rules of Order."

This publication covers the rules of parliamentary procedure based on my 20 years of experience chairing meetings in state and local government. These rules have been simplified and slimmed down for 21st century meetings, yet they retain the basic tenets of order to which we are accustomed.

"Rosenberg's Rules of Order" are supported by the following four principles:

1. **Rules should establish order.** The first purpose of the rules of parliamentary procedure is to establish a

framework for the orderly conduct of meetings.

2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate and those who do not fully understand and do not fully participate.
3. **Rules should be user-friendly.** That is, the rules must be simple enough that citizens feel they have been able to participate in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of the rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, the majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself (but not dominate) and fully participate in the process.

The Chairperson Should Take a Back Seat During Discussions

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those

rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

Because the chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. This does *not* mean that the chair should not participate in the debate or discussion. On the contrary, as a member of the body, the chair has full rights to participate in debates, discussions and decision-making. The chair should, however, strive to be the last to speak at the discussion and debate stage, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, published agenda; informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon road map for the meeting. And each agenda item can be handled by the chair in the following basic format.

First, the chair should clearly announce the agenda item number and should clearly state what the subject is. The chair should then announce the format that will be followed.

Second, following that agenda format, the chair should invite the appropriate people to report on the item, including any recommendation they might have. The appropriate person may be the chair, a member of the governing body,

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire to move on.

Rosenberg's Rules of Order: Simple Parliamentary Procedure for the 21st Century

a staff person, or a committee chair charged with providing information about the agenda item.

Third, the chair should ask members of the body if they have any technical questions for clarification. At this point, members of the governing body may ask clarifying questions to the people who reported on the item, and they should be given time to respond.

Fourth, the chair should invite public comments or, if appropriate at a formal meeting, open the meeting to public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of each public speaker. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion from the governing body members. The chair should announce the name of the member who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion. It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and a vote on the motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion. This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the members of the governing body. If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately; and there is no need to repeat the motion. If there has been substantial discussion, it is normally best to make sure everyone understands the motion by repeating it.

Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Ninth, the chair takes a vote. Simply asking for the "ayes" and then the "nays" is normally sufficient. If members of the body do not vote, then they "abstain." Unless the rules of the body provide otherwise or unless a super-majority is required (as delineated later in these rules), a simple majority determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days' notice for all future meetings of this governing body."

Motions in General

Motions are the vehicles for decision-making. It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus on the motion before them.

Motions are made in a simple two-step process. First, the chair recognizes the member. Second, the member makes a motion by preceding the member's desired approach with the words: "I move ..." A typical motion might be: "I move that we give 10 days' notice in the future for all our meetings."

The chair usually initiates the motion by:

1. Inviting the members to make a motion: "A motion at this time would be in order."

2. Suggesting a motion to the members: "A motion would be in order that we give 10-days' notice in the future for all our meetings."
3. Making the motion.

As noted, the chair has every right as a member of the body to make a motion, but normally should do so only if he or she wishes a motion to be made but no other member seems willing to do so.

The Three Basic Motions

Three motions are the most common:

1. **The basic motion.** The basic motion is the one that puts forward a decision for consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."
2. **The motion to amend.** If a member wants to change a basic motion that is under discussion, he or she would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

3. The substitute motion. If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would "move a substitute motion." A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way.

A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

The decision as to whether a motion is really a motion to amend or a substitute motion is left to the chair. So that if a member makes what that member calls a motion to amend, but the chair determines it is really a substitute motion, the chair's designation governs.

When Multiple Motions Are Before The Governing Body

Up to three motions may be on the floor simultaneously. The chair may reject a fourth motion until the three that are on the floor have been resolved.

When two or three motions are on the floor (after motions and seconds) at the same time, the *first* vote should be on the *last* motion made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a five-member committee, to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows.

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passes*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be complete. No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) *failed*, the chair would proceed to consideration of the second (now the last) motion on the floor, the motion to amend.

If the substitute motion failed, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would now move to consider the main motion (the first motion) as *amended*. If the motion to amend failed, the chair would now move to consider the main motion (the first motion) in its original format, not amended.

The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee) or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are *not* debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

A motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

A motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

A motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

A motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to

Rosenberg's Rules of Order: Simple Parliamentary Procedure for the 21st Century

be placed on "hold." The motion may contain a specific time in which the item can come back to the body: "I move we table this item until our regular meeting in October." Or the motion may contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

A motion to limit debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call for the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote." When such a motion is made, the chair should ask for a second to the motion, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body. Note that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the

the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions occur when the body is taking an action that effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

Motion to limit debate. Whether a member says, "I move the previous question," "I move the question," "I call for the question" or "I move to limit debate," it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body, such as the chair, nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds vote to pass.

pend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made.

A motion to reconsider requires a majority vote to pass, but there are two special rules that apply only to the motion to reconsider.

First is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted *in the majority* on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body may second the motion). If a member who voted *in the minority* seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If you are running the British Parliament, *Robert's Rules of Order* is a dandy and quite useful handbook.

motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super-Majority Votes

In a democracy, decisions are made with a simple majority vote. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means

Motion to object to the consideration of a question. Normally, such a motion is unnecessary, because the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to sus-

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every

It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus.

lege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

Order. The proper interruption would be: "Point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed.

Special Notes About Public Input

The rules outlined here help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.

Public input is essential to a healthy democracy, and community participation in public meetings is an important element of that input. The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items. The rules presented here for conducting a meeting are offered as tools for effective leadership and as a means of developing sound public policy. ■

speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body. Can a member of the body interrupt the speaker? The general rule is no. There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be: "Point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privi-

relate to anything that would not be considered appropriate conduct of the meeting; for example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "Let's return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

SKU 1533

\$5.00

To order additional copies of this publication, call (916) 658-8257 or visit www.cacities.org/store.

© 2003 League of California Cities.
All rights reserved.



LEAGUE
OF CALIFORNIA
CITIES

1400 K Street
Sacramento, CA 95814
(916) 658-8200
Fax (916) 658-8240
www.cacities.org

 This publication is printed
on recycled paper

City of Napa

4.7. Three Alternative Appointment Processes: The City Council shall evaluate applicants and make an appointment for each vacant position on a Commission, using one of the three following processes:

4.7.1. The City Council may waive the interviews and make appointments at a noticed public meeting, open to the public under the Brown Act, based on applications received, and based on the selection criteria set forth in Section 4.5 of this Resolution.

4.7.2. The City Council may appoint two members of Council to serve as a Nomination Committee in order to evaluate and interview applicants and make recommendations to City Council for final action to appoint a member to a Commission. Any meetings of the Nomination Committee to evaluate or interview applicants and formulate recommendations to be presented to the Council shall be conducted as a part of a noticed public meeting, open to the public under the Brown Act; with the City Clerk acting as Secretary to the Nomination Committee, and the Staff Managers (for each Commission with a vacancy being considered) in attendance. The Nomination Committee shall consider the selection criteria set forth in Section 4.5 of this Resolution. The City Clerk shall present recommendations from the Nomination Committee to the City Council, and the City Council may either approve the recommendations as submitted, or take further action to evaluate the applicants and make appointments in accordance with Sections 4.5 through 4.8 of this Resolution.

4.7.3. The City Council may invite applicants to a public interview by the City Council, to be conducted in accordance with Section 4.8 of this Resolution.

4.8. Council Interview Selection Processes: Any interview conducted by City Council, of applicants for appointment to a Commission, shall be conducted as a part of a noticed public meeting, open to the public under the Brown Act. Following public interviews of applicants, the Council shall first determine the number of open seats on the commission to be filled by the applicants interviewed. The Council shall then vote to determine which applicants will be appointed to fill each open seat of each commission. For each open seat of each commission, each member of Council will cast one vote (on a written ballot identifying the name of the member of Council and the votes cast). Each member of Council will cast no more than one vote per applicant. For each open seat, the applicant who receives the greatest number of votes (at least a majority of the quorum of voting members of Council) shall be appointed to the open seat. If, following this vote, all open seats are not filled, the Council may either repeat this process to fill the remaining open seats (eliminating from consideration the applicants who received the least number of votes), or direct staff to take additional actions to fill the remaining open seats in accordance with Sections 4.3 through 4.8 of this Resolution.

4.8.1. The City intends this selection procedure to be public and without concealment. The written ballots are public records, the vote of each member of Council will be read into the record by the City Clerk during the meeting and will be made a part of the written record of the meeting, and copies of the written ballots will be made available to the public pursuant to the Public Records Act.

Town of Yountville

Council reviews applicants for appointments to boards, commissions, and committees based on interviews and qualifications. Council shall rank all applicants from highest to lowest and appoint by ballot process. Appointments are subject to approval by the majority of Council.

Depending on the qualifications of the applicants and the needs of the Town, there may be times when the Town Council does not appoint an

applicant who has applied. In this instance Council may request a separate vote for each applicant. If an applicant is not appointed, the Town Clerk will automatically re-advertise for the vacant position(s) to seek additional applicants.

City of Napa	Calistoga	Yountville	Sonoma	American Canyon
The City of Napa has three alternative appointment processes. 1. The City Council may waive the interviews and make an appointment at a noticed meeting. 2. The City Council appoints two Council members to a nomination committee that make the recommendation to the City Council and the recommendations are approved by the majority of the Council. 3. Full City Council interview process and ballot votes. The applicant with the greatest votes is appointed and approved by the majority of the Council.	The City of Calistoga is currently working with a consultant to draft Council rules of procedure for Council consideration at a later date. The past practice has been the Mayor makes the nomination with majority of Council approval.	The City of St. Helena modeled their nomination process after Yountville's. The difference is any member of the Yountville Council can make the nomination.	The City of Sonoma has many Boards, Committees and Commissions and the nomination process varies allowing a Council Member or the Mayor to make the nomination depending upon the body in question.	Any member of the Council can make the nomination with majority of Council approval.