



City of  
Santa Rosa

SEP 24 2010

September 21, 2010

The Honorable Gary Nadler, Presiding Judge  
Sonoma County Superior Court; and  
The Honorable Cal B. Kimes, Foreperson  
Sonoma County Civil Grand Jury 2009 – 2010  
County of Sonoma  
Hall of Justice  
600 Administration Drive  
Santa Rosa, CA 95403

Re: Response to 2009-2010 Sonoma County Civil Grand Jury Final Report

Dear Judge Nadler and Foreperson Kimes:

The Council of the City of Santa Rosa thanks you for the hard work and effort that went into the 2009-2010 Grand Jury Report. We appreciate the opportunity to provide this response.

**City of Santa Rosa – Response to the 2009-2010 Sonoma County Civil Grand Jury Final Report dated June 30, 2010**

(The Grand Jury's recommendations are shown below in bold typeface, followed by the City's responses).

**Little League – Becoming a Better Neighbor**

**R-2 That SRSD and SRALL jointly investigate, to reduce SRALL activity at Monroe School, the availability of other playing fields. In addition to fields at other SRSD schools, Santa Rosa Recreation, Parks and Community Services should be contacted about availability of A Place to Play or their other ball parks. The former playing field at the Sonoma County Fairgrounds should be among the other venues considered.**

Representatives of the Grand Jury met with City staff in fall of 2009 to discuss issues associated with playing fields at Monroe School. The Recreation, Parks and Community Services Department (RPCS) staff advised the Grand Jury members at that time that a meeting was scheduled for January 7, 2010 at the request of Westside Little League to talk about development of additional fields at A Place to Play. In addition to the Westside Little League, representatives of the Mark West Little League, Santa Rosa American Little League, Santa Rosa Youth Athletic Field Trust,

APPROVED  
READ AND CONSIDERED  
*[Signature]*

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and the City's Board of Community Services were invited to participate in this discussion. A member of the Grand Jury was also present at this meeting.

At the meeting in January, City staff reviewed the financial constraints the City is experiencing and the need to partner with other organizations through either financial or in-kind contributions if the City is going to be able to construct one of the four additional fields planned at A Place to Play. The four Little League groups expressed varying degrees of interest but indicated a willingness to go back to their respective Boards of Directors to determine the feasibility of their financial or in-kind participation in field development. The groups agreed to meet again following the discussions with their Boards.

The second meeting was held approximately three months later, and this time only Westside Little League and Santa Rosa American Little League representatives were present. Neither was in a position to report what their level of participation would be, so the group set a deadline of March 30<sup>th</sup> to report back. In the intervening period, Westside Little League was able to renegotiate their agreement with the school district for use of the field at Cook Middle School, which met their needs.

To date, none of the other organizations has shown any further interest in participating in development of the additional field. The potential of having Little League organizations partner in developing four additional fields at a level beyond their current \$2.00 per participant contribution to the Santa Rosa Youth Athletic Field Trust may be financially unrealistic; however, City staff remain available to talk with the four leagues concerning development of at least one additional field if they indicate any interest in further discussions.

In terms of other City of Santa Rosa playing fields, Santa Rosa American Little League has previously held a use permit for the Little League field at Jacobs Park and currently holds one for Jennings Park. They also hold permits for Coussens Senior field and Zumwalt Little League field at A Place to Play. Along with these, they have been part of the scheduling process for Doyle Senior field for decades. In the past at Doyle, they have had 15-30 dates scheduled for league play, and in 2010 they have 18 scheduled dates.

More time on City fields is available if a League wishes to pay the use fee.

**R-7 That SRSC develop a Board Policy specifying protocols to ensure that all SRSD construction related projects are in full compliance with the applicable portions of Local Zoning Regulations, the California Government Code, California Civil Code, California Code & Regulations, California Education Code and the California Public Resources Code (CEQA). The protocol, in addition to securing compliance, should address the procedures for both**

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**coordination with the Santa Rosa Community Development Department and community notification when requested.**

The Santa Rosa Community Development Department will coordinate with the Santa Rosa School District once it develops procedures. The Santa Rosa Community Development Department would be happy to review and comment upon any draft procedures developed by the District.

**What Happened to Lowe's? A Case Study in Ethics**

At the outset, the City offers the following additional information to clarify some of the information and statements in the Background and Findings sections of the Grand Jury Report regarding Lowe's.

- The background section of the Report states that, following certification of the Environmental Impact Report (EIR) by the Council, "the original proposal was then sent back to the Planning Commission for its consideration." Rather, after the EIR was certified, the entitlement applications were sent through the normal process, which started with review by the Planning Commission. The original proposal was not "sent back" by Council to the Planning Commission.
- The background section states that "the applicant withdrew the proposal because of the intense opposition." This statement is not correct. The applicant did not withdraw the applications. The Conditional Use Permit and General Plan Amendment were reviewed by the Planning Commission on June 25, 2009, and resolutions of denial were adopted by the Commission, by a vote of 5-1-1, on July 9, 2009. (See Planning Commission Resolutions 11470 and 11471 attached). The item then went to City Council on appeal. The Council upheld the Planning Commission's denial by a vote of 5-2 on September 1, 2009. (See Council Resolutions 27474 and 27475 attached.)
- Finding F-1 states "No recusal...was offered by the latter commissioner." This is referring to one Commissioner who reported that he owned between \$10,000 and \$100,000 of stock in Home Depot. It is City staff's understanding that the Commissioner in question was not on the Planning Commission when the Commission reviewed and voted on the Lowe's EIR, nor was he a Commissioner when the project was reviewed and acted on (see attached Planning Commission resolutions). Had this Commissioner been on the Commission at the time the Commission reviewed and voted upon Lowe's matters, recusal may not have been legally required under the eight step analysis under the Fair Political Practices Act to determine when a member of a legislative body can vote on issues due to financial interests.

- Finding F-6 states “The Lowe’s application had a general plan amendment accompanying the EIR and, therefore, needed a 4-0 vote rather than a 3-1 majority.” This statement is not correct; four affirmative votes are only required for recommendations on specific legislative acts, such as General Plan amendments and rezoning; all other actions require a vote by a majority of the Commission. (See Zoning Code Section 20-60.050(G) Planning Commission – Quorum, attached.) Planning Commission recommendations regarding the EIR and action on the Conditional Use Permit were not legislative acts, and therefore required only a majority vote. Only the General Plan amendment portion of the project needed four affirmative votes of the Planning Commission.

**R-1 The Planning Commission of the City of Santa Rosa needs to adopt and publicize its own ethics code.**

The City provides State required ethics training to all of its board and commission members every two years. Board and commission members are also subject to and advised of their responsibilities regarding avoiding the appearance of bias, conflicts of interest, the Fair Political Practices Act, open meeting laws (the Brown Act), the City’s Conflict of Interest Code, the City’s Code of Conduct for Council Members, and Board and Commission Members, and City policy which generally prohibits them from representing third parties before the City Council, City board or commission. See copies of the City’s Guide for Boards and Commissions, Conflict of Interest Code, Code of Conduct, and City policies attached. The City Clerk’s Office and the City Attorney provide training in these matters following the appointment of new board and commission members, generally after a City Council election. In addition, each newly appointed member of the Planning Commission and the Board of Public Utilities is offered an opportunity to meet with the City Attorneys Office after his or her appointment to review these matters. An additional ethics code for the Planning Commission would be duplicative of existing codes, policies, and laws.

**R-2 The legal counsel available to planning commissioners might consider advocating modernization of the Brown Act and conflict of interest laws to deal with the circumstances in this case study. Non profit organizations containing planning commission members that make decisions in secret with organizations that normally participate in the public debate violate the spirit of the Brown Act if not the letter of the existing law. Sonoma county representatives could raise this issue in the State legislature. It certainly is the right of commissioners to be active in the political process but prejudicial commitments can also follow from such involvement that need to see more transparent disclosure. Just because one gets no salary from sitting a non-profit Board does not mean that strong pre-decision commitments and substantial financial consequences can flow from such activities.**

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Non-profit organizations are not generally subject to the Brown Act, except where they are created by an elected legislative body to exercise authority that may be lawfully delegated by the elected body or where they receive funds from a local agency and their governing body includes a member of the legislative body of the local agency appointed to that governing body by the local agency. (See Gov. Code section 54952.) With regard to advocating a change in the Brown Act, Sonoma County representatives could do this. Such legislative advocacy is generally done by members of elected legislative bodies or their staff, at the direction of the elected legislative bodies, and not by legal counsel.

In addition, in Santa Rosa, all board and commission members are directed to avoid the appearance of bias in pending City matters at all times. (See for example Guide for Boards and Commissions, attached, at page 6.) Where there is a financial interest involved, board and commission members can consult with the Fair Political Practices Commission and are encouraged to consult with the City Attorney's Office should they have any questions about conflicts of interest or the appearance of bias, including their participation on boards of directors of non-profit organizations.

**R-3 Whether or not contact by Sonoma County representatives with legislators in Sacramento can produce political reform, our practice of disclosure in Santa Rosa could be enhanced. As part of the ex parte disclosure process one might mention any organized group with whom the commissioner had discussed the matter under consideration. What role, if any, the commissioner took in that discussion or in facilitating a course of action by that group should also be disclosed.**

Santa Rosa City board and commission members are already required to disclose such ex parte contacts prior to taking any quasi-judicial actions. (See Guide for Boards and Commission, attached, at page 7.) Agenda items involving quasi-judicial items include an asterisk with the notation, "Quasi-judicial or adjudicative action" to alert board and commission members of the ex parte disclosure requirements for the particular agenda item.

**R-4 The practice of running for office invites much conflict of interest that could be avoided if the local Planning Commission made it a policy that anybody running for office should not continue to serve on the commission. That restriction might also apply to persons who have recently run for office. In both cases, the campaign contributions can come into play. California Government Code Section 84308 provides some help here with disclosure and disqualification rules for contributions over \$250 going back twelve months and forward three months. An ethics code could extend this time frame and also include endorsements, either anticipated or received, that produced or could produce multiple contributions small than \$250.**

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There is no requirement in State law that members of boards and commissions resign from office prior to running for elected office. In addition to the Fair Political Practices Act provisions regarding campaign contributions, Santa Rosa has already adopted additional rules pertaining to campaign contributions and disclosure thereof for Santa Rosa City Council candidates. See Chapter 10-34 of the Santa Rosa City Code attached.

**R-5 The City of Santa Rosa Planning Commission should strengthen its ethics training programs. Make the training internal if financially necessary. Consider real life examples which invite thinking through cases to find applicable principles.**

Santa Rosa already provides extensive training programs for its board and commission members, which include State mandated ethics training. As mentioned in Response R-1 above, the City provides training by the City Clerk's Office and the City Attorney, AB 1234 (Gov. Code sections 53234 and following) training in general ethics principles and ethics laws to all of its board and commission members every two years, and all board and commission members are also encouraged to contact the City Attorney's Office and the Fair Political Practices Commission with any questions.

#### **Planning for Increased Downtown Safety**

**R-1 That the SRPD and SR Parking Division coordinate patrols within the downtown shopping district with "real time" communication.**

The Santa Rosa Police Department (SRPD) and Santa Rosa Parking Division coordinate patrols within downtown Santa Rosa as follows. Parking Division staff is equipped with cell phones to allow immediate communication with SRPD, as necessary, to request assistance or advise SRPD of suspicious activities or concerns. SRPD officers are responsive to calls for assistance from Parking Division staff. SRPD officers patrol through the City's lots and garages as time permits or issues require; however, their patrol area is significantly larger than the City's parking facilities and officers may be dispatched to any area at any time. Because the duties and responsibilities of SRPD and Parking staff are significantly different, the need to adjust patrol routes is influenced by the activities occurring at any point in time, and because Parking Division staff can immediately communicate with SRPD, it is not reasonable to further coordinate the patrols performed by these two different departments.

Parking Division staff actively patrols the City's parking garages (including stairwells, elevators, upper decks and walkways adjacent to the facility) and public parking lots. Patrols are accomplished through assignment of staff to each garage to provide customer service and foot patrol of the facility, as well as 24-hour mobile patrols that

circulate through all of the garages and surface lots in specially marked vehicles. The number of hours staffed at each facility is comparable to or exceeds that which had previously been covered by Parking Lot Attendants confined to booths in the exit lanes.

SRPD will continue to provide 24/7 coverage to the Downtown Area to include the parking structures. Utilizing the existing patrol team configuration, vertical team officers will continue as part of their normal beat responsibilities to complete regular security checks of the parking areas associated with the downtown shopping district. The Downtown Enforcement Team, (DET), and officers assigned to the Traffic Bureau are available and continue to provide enhanced presence to the Downtown Footprint which also includes regular security checks of the parking structures.

These ongoing patrol / security measures will be discussed and coordinated by and between SRPD and the Parking Division and appropriate communication links established, as needed.

**R-2 Camera surveillance of alleys in the downtown shopping area should be increased.**

The City of Santa Rosa is currently in the process of implementing a camera surveillance system in the downtown area. This project has been in the developmental stages and has been used to enhance safety to several areas in the Courthouse Square areas. SRPD has a manager assigned to assist in the development and implementation as the project moves forward.

Using past and present data of potential and past issues effecting the downtown area, informed decisions will be made to optimize and enhance security measures in the downtown area.

**R-3 Increased patrol of the parking lots and garages near the SRJC Brickyard culinary campus should be increased during the late evening hours when classes are being dismissed.**

During weekday evening hours, a Parking Division staff person is assigned to the Seventh Street Garage who has responsibility to actively patrol the garage and provide customer assistance. In addition, there are two (2) Parking Division mobile patrols circulating through downtown City lots and garages. To the extent that activity level in a garage warrants increased patrol, on-duty Parking Division staff communicates with one another and mobile patrol routes are adjusted to target specific areas where additional coverage is needed.

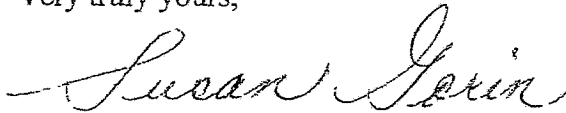
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**R-7 Increase the visibility of patrol cars by distinctively marked and colored cars.**

The Parking Division's two (2) mobile patrol vehicles are marked to identify them as City of Santa Rosa – Parking Services vehicles. In addition, the vehicles are equipped with a light bar, which is used to draw additional attention to the vehicle when circumstances warrant. In response to this Grand Jury recommendation, the Parking Division will add "Parking Services" to the back bumper, in addition to the markings on the sides of the vehicle, to allow the public to more easily identify these vehicles from the rear.

Again, thank you for your careful investigation of and recommendations regarding these matters. We appreciate this opportunity to respond. Please feel free to contact Interim City Manager Wayne Goldberg should you have any questions.

Very truly yours,



SUSAN GORIN  
Mayor

SG/sks

Enclosures:

Planning Commission Resolutions 11470 and 11471  
City Council Resolutions 27474 and 27475  
Zoning Code Section 20-60.050(G) Planning Commission – Quorum  
Guide for Boards and Commissions  
Conflict of Interest Code (City Council Resolution 27276)  
Code of Conduct (City Policy 000-51)  
City Policy 000-03  
Chapter 10-34 of the Santa Rosa City Code



In addition, SRPD has communicated with Santa Rosa Junior College (SRJC) Police and have clarified jurisdictional responsibilities in an effort to provide sufficient patrol resources at the SRJC Brickyard Culinary Campus location.

**R-4 Increase patrol presence in the early weekday mornings beginning no later than 6 a.m.**

The current level of security patrols has proven effective in maintaining the safety and security of patrons using the parking facilities. In addition to the 24-hour mobile patrol of the City's parking facilities, Parking maintenance staff typically begin working in the facilities between 5:30 and 6:00 a.m. to perform facility clean-up, maintenance and repairs in advance of the daily influx of parkers. The Parking Division will continue to monitor facility activity and make adjustments to staffing and security patrols, giving consideration to the Parking District's available resources, as necessary to provide for the safety and security of parking patrons.

SRPD night shift and early morning day shift patrol units are currently available for issues regarding security in the early morning hours and provide regular security checks of the downtown area. If additional resources are warranted based on criminal activity in the area, the police watch commander will evaluate and provide additional resources to address the issue.

**R-5 Installation of an emergency call system on each level in the garages connected to SRPD.**

Within each of the City's garages, the public may contact on-duty parking operations staff through the use of call buttons located in the entrance and exit lanes and at each pay station. Parking Division staff will review and evaluate current signing and make changes as necessary to increase public awareness of this notification system. In addition, within each of the garage elevators, there is an emergency phone that connects directly to a 24-hour call center operated by the elevator contractor. The call center will dispatch calls for assistance, including requests for police response, as appropriate.

**R-6 Measurable check points for patrols in lot parking.**

At this time, the expenditure required to install measurable check points in each of the City's parking lots, or the use of limited staff resources to review and/or evaluate the frequency of patrols, is not warranted given the historical lack of problems or issues occurring in the lots. As staff is able to visually survey certain lots at various times of the day and night without fully driving through the lot, the efficiency and frequency of staff patrols may be diminished through a requirement to stop and register at a check point in each lot.