APPROVED

City of Sebastopol City Council Regular Meeting Minutes

Meeting of May 31, 2016

Approved by the City Council at their regular meeting of June 7, 2016

5:00 pm: Convene City Council Closed Session Meeting (Special Meeting Time), Sebastopol City Hall, City Hall Conference Room, 7120 Bodega Avenue, Sebastopol, CA

6:00 pm: Convene Regular City Council Meeting, Sebastopol Youth Annex/Teen Center, 425 Morris Street, Sebastopol, Ca

The public is advised that pursuant to Government Code Section 54957.5 all writings submitted to the City Council are public records and will be made available for review.

Please note that minutes are not verbatim minutes and are meant to be the City's record of a summary of actions that took place at the meeting.

Notice: All resolutions and ordinances introduced and/or adopted under this agenda are waived of all reading of entire resolution(s) and ordinance(s).

The Sebastopol City Council welcomes you to its meetings that are generally scheduled for the 1st and 3rd Tuesday of every month. Your interest and participation are encouraged and appreciated.

- City Council Meetings are available in real time and archived on LiveStream.
  - Here is the link: http://bit.ly/sebcctv

A notice of the meeting was posted by the City Clerk on May 26, 2016.

5:00 pm: Convene City Council Closed Session Meeting (Special Meeting Time), Sebastopol City Hall, City Hall Conference Room, 7120 Bodega Avenue, Sebastopol, CA

Call to Order: Mayor Gurney called the meeting to order at 4:05 p.m.
Roll Call
Present: Mayor Gurney
Vice Mayor Glass
Councilmember Eder
Councilmember Slayter
Absent: Councilmember Jacob (excused per City Council approval of April 5, 2016)
Staff: City Manager-City Attorney Larry McLaughlin

Public Comment (Prior to adjournment into Closed Session, the public may speak up to 3 minutes on items to be addressed in Closed Session). There were none.
Closed Session:
1. Conference with Legal Counsel - Anticipated Litigation
Government Code Section 54956.9
(City Manager/City Attorney)

City Council Action: No Report Out.
Minute Order Number: 2016-106
Adjournment of Closed Session: Mayor Gurney adjourned the closed session at 5:50 pm to the regular City Council Meeting.

6:00 pm Convene Regular City Council Meeting, Sebastopol Youth Annex, 425 Morris Street, Sebastopol, Ca

Call to Order: Mayor Gurney called the meeting to order at 6:10 p.m.

Roll Call

Present: Mayor Gurney
Vice Mayor Glass
Councilmember Eder
Councilmember Slayter

Absent: Councilmember Jacob (excused per City Council approval of April 5, 2016)

Staff: City Manager-City Attorney Larry McLaughlin
City Clerk Mary Gourley
Fire Chief Bill Braga
Planning Director Kenyon Webster

SALUTE TO THE FLAG: Mayor Gurney led the salute to the flag.

PROCLAMATION(S)/PRESENTATION(S): There were none.

PUBLIC COMMENTS: (This is an opportunity for the public to address the City Council on items that are not listed on the agenda. This time is set aside to receive comments from the public regarding matters of general interest not on the agenda, but related to City Council business. Pursuant to the Brown Act, however, the City Council cannot consider any issues or take action on any requests during this comment period. Speakers are allowed to speak for a maximum of three minutes so that all speakers have an opportunity to address the City Council. The Mayor has the authority to limit the time allowed for speakers dependent on the amount of speakers in attendance. It is the goal of the Council to conclude the public comments portion of the agenda within 30 minutes. If the public comment period exceeds twenty minutes, the presiding officer, typically the Mayor, reserves the right to reduce the time per speaker or carry over public comments to after all business items are completed.)

Alysson Baker commented as follows:

- A Sebastopol property owner
- A public school teacher
- Mother of two Sebastopol Charter students
- Chair of that school's facilities committee.
- Here today to make a plea on behalf of our school and the student it serves, so many of whom are the City's own children
- Please accept that Sebastopol Charter is willing to work with the City to address its concerns
- Please let your written comment to the BZA stand
- Please do not create a rant in the fabric of our community by speaking in opposition to our public school project at the BZA hearing on June 2nd.
- Please demonstrate your support for Sebastopol Charter school by allowing us to devote our precious resources of time and energy and funds to supporting improvements that serve all of us in this town that we share and value, and most importantly, to offering a rich, meaningful, environmentally-and socially-conscious public education to our community's children

Allen Horn commented as follows:

- Owner of Allen Horn Insurance Agency LLC
- Spoke of Homeowners insurance

Michael Carnacchi commented as follows:

- Discussed the Charter School
- Discussed Council's concern of the right of way across the West County Regional Trail
- Andy's Market has two right of ways
- Amount of cars enormous compared to the school
- Cars are moving fast

- Discussed left hand turn lane – stated it is very long
- Stated traffic back-ups would not be that significant

STATEMENTS OF CONFLICTS OF INTEREST BY MAYOR/CITY COUNCILMEMBERS FOR ITEMS ON THE AGENDA (This is the time for the Mayor or City Councilmembers to indicate any statements of conflicts of interests for any item listed on this agenda). There were none.

Consent calendar items are routine matters or matters which have been reviewed by the City Council previously. These items may be approved by one motion without discussion unless a member of the City Council requests that the item be taken off the consent calendar.

Councilmember Slayter moved and Councilmember Eder to approve the consent calendar item.
VOTE:
Ayes: Councilmembers Eder, Slayter, Vice Mayor Glass and Mayor Gurney
Noes: None
Absent: Councilmember Jacob
Abstain: None

CONSENT CALENDAR ITEM(s):
2. Approval of Minutes of May 3, 2016 City Council Meeting Minutes (City Clerk)
City Council Action: Approved Minutes of the May 3, 2016 City Council Meeting
Minute Order Number:2016-122

INFORMATIONAL ITEMS/PRESENTATION: NONE
PUBLIC HEARING(s):
3. Public Hearing – CONTINUATION - Public Hearing on Appeal by Bob Jenkins Appealing the Planning Commission's approval of an Antenna Use Permit for the KOWS Radio Station to be located on Pleasant Hill Avenue (Planning Director) – This item was continued from the City Council Meeting of May 3, 2016

Mayor Gurney oriented the audience to the flow of the item as follows:
- Council will hear the staff report
- Council has the opportunity to ask questions
- Open public hearing for first time speakers only
- Hear presentations from both parties
- Be at discretion of appellant to go first or last – ten minutes each
- Council deliberation
- Compelled to make a decision tonight because of the 30 day time frame for the appeal
- Asked parties to stipulate to longer time frame in July – stipulation refused
- Will come to decision tonight

Planning Director Webster presented a staff report recommending the City Council hear any brief presentations by the appellant and the applicant, re-open the public hearing for persons who did not speak at the last meeting, and deny the Appeal application and uphold the Commission approval based on the findings and conditions set forth in this staff report.

Mayor Gurney commented as follows:
- Thanked staff for the report
- Thanked the City Clerk for her exceptional efforts getting all emails and information to the Council
- Questioned what is the result of a two-two tie vote
- Questioned if a tie vote means no action by the City Council
- Questioned if a tie vote means that the Planning Commission decision would stand

Director Webster stated that is correct.

Mayor Gurney discussed the email received discussing a compromise for another location and questioned if the parties wanted to look at this, would the parties need to stipulate to a continuance.

Director Webster commented that there would need to be a continuance or if they did not agree to a continuance, the Council should make a decision tonight. He stated a new site would need to go through a new application process.

Mayor Gurney stated if it is in the County, it may be a similar process to the City's.

Mayor Gurney opened the public hearing.

Rob Perrone, 699 Gravenstein Highway North commented as follows:

- Discussed doing a KOWS show
- Discussed having no busses to Occidental for him to be able to get there to do shows
- Look forward to once a month show every month
- Show is about putting together a coherent show that has a theme
- Humans are listening to him
- Make life worth living still
- More people they are listening the better it is for everyone
- Emergency broadcast station for area
- Better in case of emergency
- Discussed how much KOWS means to him

David Lickgoth (sp), 455 Sequoia Lane, Sebastopol commented as follows:

- Discussed of the value of what they do at KOWS
- Miracle that people like Rob and him get to have a voice over the air
- First presented with idea he thought it could not be real
- Here in Sebastopol it is real to have a show for him
- Hope Council will give KOWS a chance to be real participants in the community

Migau, Radio Show on KOWS, commented as follows:

- Love every moment of it
- Does a show on Tuesday evenings
- Resident for over eight years
- Disheartened to even have be up against opposition
- Not like to see it be a struggle
- Discussed the opposition
- Discussed EMF – like to do a show on that – many antennas here in this area
- Not sure of wattage or heights
- Close to schools
- Many antennas in Santa Rosa
- Not believe people would live near them if they are cancer causing
- Not like to see KOWS become internet radio station

Debra Paggio, Pleasant Hill Road, commented as follows:

- Subject to see tower from her front yard every day
- SHARP did thorough presentation and outlined all relevant information
- Witnessed many off topics remarks from KOWS volunteers
- This is about a 70 foot antenna tower which will impact the neighborhood in many tangible and negative ways

- Council should understand site is water source for Sebastopol
- Discussed sign posted at water tower
- Discussed liability of decision
- Site protected by federal government
- Off limits to anyone but authorized personnel
- Urged the Council to deny the application
- Impact neighborhood and future of scenic hills

Mariah, faithful listener of KOWS, commented as follows:

- Discussed concern of broadcasting during emergencies
- Discussed internet connections being slow or non
- KOWS – FCC – handled in top down hubs for major emergencies
- Discussed main criticism of opponent
- Something needed on local level

David Stroud commented as follows:

- Can afford internet service to listen to KOWS
- Show host
- Volunteer on KOWS steering committee
- Supporting KOWS antenna on Pleasant Hill Road
- Focus on fact and community good
- Discussed one exaggeration that gave him pause – residents not need local signal because it can be acquired on the internet
- Suggest this is a solution for all is the one percent view of the world
- Not everyone can afford automobile blue tooth and home internet
- Costly proposition for many
- Suggest that less than25 percent of the population 50 and over use the internet
- 60 and over falls to 50%
- World populations less connected

Jason Hall commented as follows:

- Support for KOWS antenna on Pleasant Hill Road
- Public land appropriate place
- Public radio important service provided to community

Kristine Walker commented as follows:

- Supporter of City businesses and local non profits
- Appreciate KOWS radio
- Opposed to tower being erected on Pleasant Hill Road
- Cannot vote for City Council – live in the County but impacted by the tower
- Discussed land not within main City boundaries
- Does not preserve Sebastopol small town footprint or progressive culture
- More effort for KOWS to look at finding alternate location

Jean Hirsh commented as follows:

- Guest on KOWS
- Wonderful community resource
- Caring and reaching out with good entertainment, interviews, etc
- Elderly friends who do not have internet – no way to listen to KOWS
- Urged the Council to think of that aspect of the population
- Think of that aspect of the population

Amy Marshall commented as follows:

- Community member since 2007
- Programmer at KOWS
- Do this because she likes having a choice as to what she can hear
- So many variety of shows
- Antenna not make that much of a difference for community on Pleasant Hill
- Smart phones have more effect on our health than small radio antenna

Linda albert, 2500 Pleasant Hill Road, commented a follows:

- Lived there for 26 years
- Like City Council to follow its own General Plan
- Not allow industrial antenna in countryside
- Urged the Council to deny the request of KOWS

Jenn Verish, Apple Blossom commented as follows:

- Listened to complaints of tower
- Discussed dangerous radio waves – are not dangerous
- Selling space on top of antenna – not structurally capable of putting others there
- Look of the antenna – might be options to make it look better
- KOWS painting it to look green at bottom and sky blue at top
- Do art project on it
- Could be a lot worse if land used for something else
- Radio most democratic form of media today
- Only local radio in Sonoma County
- Expand it and not suffocate it

Ray Hoi, commented as follows:

- Musician
- Did demonstration to the City Council with ropes
- All unique individuals of the community
- Supports KOW

Rei Blaiser, Murphy Avenue, commented as follows:

- Request Council to make unanimous decision to deny application
- Appreciates and values KOWS radio station
- Hope to have access in shifting needs
- Aware of shared option
- Read the letter discussing the property on Hurlbut

Terry, neighbor of Pleasant Hill proposed site, commented as follows:

- Electrical engineer by trade
- Looked at technical merits of proposed site
- Locations cover Sebastopol very well
- Fire Department works best
- All three sites work equally well, acknowledge the neighborhood and consider more appropriate location such as fire house

Barry Noe commented as follows:

- Tower in her backyard
- If Council denies tower, people will still get the radio station
- KOWS have alternative sites

Jerry Lewis commented as follows:

- DJ on radio

- Discussed political and social feelings
- Does Sebastopol want a Community radio station or not
- Stated KOWS are environmentalists
- Do you want a radio station or not is the question
- Do not let OCD environmentalist take this away

Rodney, 1270 Logan Lane, commented as follows:
- Walk the area on a daily basis
- Emotional appeal
- Really pretty up there
- Look at Tonopah when towers are allowed
- Not pretty

John Parry commented as follows:
- Discussed response to alternate locations
- One site on Hurlbut is out of allowable area
- Off the table – not available
- Other site – ham radio site – towers exempt now
- Once FM antenna – go to rules of FM
- Right back where started
- Not a viable solution
- KOWS not interested in that site
- Low on list
- Ask not be consideration for deliberation

John Paggi, Pleasant Hill, commented as follows:
- Those who oppose the tower do not oppose the radio station
- Find another site for the tower
- Prefer not having that in an environmental area that is cherished
- Not here to kill the radio station

Elisa Lorenzoni commented as follows:
- Not opposed to KOWS community radio station
- Opposed to having that industrial tower in the middle of a scenic corridor
- Does not belong there
- Concern of Pandora's Box that might be opening if allowed
- Future someone else may want to put an antenna up
- Be good neighbor
- Find appropriate industrial site for this tower

Doug Connover commented as follows:
- Opposed to the application
- If tower goes in have to let other towers in – have no choice
- Main gripe of this application

Patrick Norton commented as follows:
- Listen to dangers of cell towers
- Discussed precedent being set

Ila Benavidez Heaster, LA Bean, 7777 bodega Avenue, commented as follows:
- Discused commitments and agreements – no tower or antenna on this land again
- Councils before this Council has made commitments
- Keep commitment or rescind it

- What is the agreement
- Agreement is our General Plan
- Protect land
- Throughout time land has not been protected
- Opportunity to do that
- Not say anything about KOWS
- Not about might
- Is about what is committed to, what is agreed to and are we going to follow that position
- KOWS is phenomenal
- Does great work
- Does not need that antenna right there
- Can go other places
- About time to create new reality we do not have to violate land to get needs met

Igor Goldcon (sp) commented as follows:

- Produced shows for KOWS
- Bias of role of communication in community
- Discussed studies done
- Discussed locations
- Stated there is a lot of speculation
- This is actually study of research by committee and engineers
- Reality is that this is the only possible location
- Always perception of community based on those who own the property as to those who exists on and those who populate it
- Discussed owners who speak entitlement and want pretty view of countryside and not want antenna to block view
- Other members of community who would like to benefit from expansion of radio station

Nancy Jo Wood commented as follows:

- Six years radio experience
- Lifelong listener of radio
- Experienced person serving on Board
- Might be easy to say no
- Tough decision to be generous and say yes
- Urged Council to say yes in spirit of being generous and keeping community radio access to Council and West Sonoma County
- Pleased to be new KOWS member
- Great group of people who are very responsible
- Do area proud

Hearing no further comments, Mayor Gurney closed the public hearing.

Mayor Gureny stated that each side now has ten minutes to provide a presentation.

The following are presentations made to the City Council from KOWS and SHARP.
SHARP has decided to go second.
KOWS representatives commented as follows (transcripts of presentations listed below in quotations):

<u>"Introduction (Laura Goldman)</u>

Good evening, City Council members, City Staff, and community members. I'm Laura Goldman.

Thank you, City staff and Council members, for the enormous amount of time and effort you've put into considering our proposal to expand KOWS broadcast reach and include many more west County listeners.

I want to note that KOWS just celebrated our 9th year!

And I want to thank the Herd of KOWS supporters who are here tonight.

Now, enough is enough!

We knew from the beginning the use permit application process would be rigorous, but we didn't expect it to become contentious and mean-spirited – with false accusations, misinformation and misrepresentation about KOWS Community Radio.

Here's a reality check:

We've conducted ourselves with transparency, honesty, and integrity throughout the entire process.

We've provided everything the City Council and staff asked of us – and sometimes more – every step of the way.

The Planning Commission granted KOWS a use permit for a low-power community radio antenna on City property – a site already zoned for this type of project.

The latest staff report, on the City of Sebastopol's website, recommends denying the appeal.

And now we say: Let's be done.

It's time to make a decision we hope is favorable to KOWS – and the greater Sebastopol community.

At the City Council's request, we prepared and submitted additional, clarifying information you now have: Documentation of the thoroughness of our site selection search, and an independent evaluation of our previously submitted third-party report on the safety of low-power radio frequency emissions.

There really is nothing new to add.

We've verified no other sites work nearly as well as Pleasant Hill. We've methodically described, evaluated and compared all potential sites, and concluded the proposed location is the only one that meets all criteria.

What else can we add that you don't already know?

This City-owned, appropriately-zoned property is the best choice by far for our barely-visible, absolutely safe, low-power community radio antenna.

When viewed from about 500 feet (the nearest home with a partial view of the tower above the tree line) the structure will take up about 6/100ths of 1% of the panoramic 360º landscape, a view easily obscured behind a "pinky finger" held aloft. It's a very small thing!

Our KOWS antenna project really is a small thing – in all ways, except one: Its tremendous community benefit. We ask you to uphold what we already have: a valid use permit. Thank you.

And now, Stuart Goodnick and Arnold Levine will present brief summaries of the additional, clarifying information.

KOWS Antenna Relocation Project Site Selection Analysis (Stuart Goodnick)

During its six-year long antenna relocation search process, KOWS has evaluated 15 alternative possibilities to the OAEC location. To assess the merits of each site, KOWS identified 14 criteria that represent key success factors for an effective antenna installation. Each site was rated as acceptable or unacceptable under the 14 criteria, and a total ranking was determined by summing up the number of acceptable entries for each given site. The best possible ranking under this methodology is 14 out of 14. Among these criteria are considerations about line of sight to Sebastopol and West Sonoma County, FCC allowance, ease of working with the property host, and visual impact.

KOWS submitted two spreadsheets to the City Council that detail the relative ranking of the sites we evaluated during our multi-year site search. Of the 15 alternative sites evaluated, as well as the OAEC current site, the Pleasant Hill Reservoir scores 14 out of 14 and is by far the best site that KOWS evaluated. The lines of sight into Sebastopol, West County, and the Santa Rosa plain offered by the Pleasant Hill site are excellent, and the potential coverage of Highways 116 and 12 are excellent as well. The 92.5MHz frequency in an FCC allowable area permits a robust signal with extensive reach. Because the property in question is city-owned, the ease of working with the lessor and the long term lease security are high. Because the site is already zoned as Community Facility, the antenna represents a project consistent with existing zoning requirements. The estimated construction costs are manageable for the finances of KOWS. The Pleasant Hill site already has utilities, which simplifies the construction and operation of the antenna. The site permits 24/7 access, and yet it has security fencing to prevent intruders. Because the elevation of this site allows for a 65' support structure, maintenance access to the antenna will be easy. Visual impact at the Pleasant Hill site is minimized by the sizable setback from the road, surrounding vegetation, and relatively low number of nearby residences that will have a direct view of the tower.

Given the amount of commentary about the supposed viability of the Respini Ranch property as a candidate site for the KOWS antenna, it is important to note how this site scores under the 14 criteria. The Respini Ranch site came up as a possibility at a time when negotiations for a lease fell through for one of the Cherry Ridge sites and before we had engaged the City of Sebastopol on some possible city-owned locations. There was a time when the KOWS Steering Committee thought Respini was our next best alternative at a particular point in our evaluation process. With our ongoing analysis of other candidate sites, and a refining of our own criteria for what constitutes an ideal site, the Respini alternative ceased being a viable alternative. The Respini Ranch site scores 4 out of 14. Line-of-sight considerations alone make this site a poor choice for a Sebastopol Community Radio station. Private ownership, lack of security, site access, and difficult antenna access all contribute to a poor rating for this site. On the basis of the relative scores of the two sites, the Respini site has been dramatically superseded by the Pleasant Hill site.

We recognize that the Appellants have one and only one criterion for what constitutes an appropriate antenna site for KOWS radio: that the location be somewhere, anywhere, other than the Pleasant Hill reservoir site. This has been the single consideration that runs through all of the arguments that they have laid before the City Council. Objectivity, logical consistency, and basic decency have been secondary to the overarching need to win. In contrast, KOWS has striven to identify, with as much objectivity as possible, the best site on which to locate an antenna to provide a high quality FM signal to Sebastopol and the greater West County region. Our aim has been to make KOWS a voice for West Sonoma County and to contribute to the branding of Sebastopol as a destination for culture and creativity.

Appendix: The 14 Success Criteria

1. **Line-of-sight Sebastopol** - Line-of-sight into Sebastopol is an essential criterion; Sebastopol is the primary community we intend to serve.

2. **Line-of-sight West County** - Line-of-sight into West County is important because many rural listeners have expressed concern about losing the signal when KOWS moves the antenna closer to Sebastopol. The KOWS mission is to serve as much of West Sonoma County as possible including towns such as Forestville, Graton, and Occidental.
3. **Line-of-sight Santa Rosa Plain** - Line-of-sight into the Santa Rosa plain doubles the number of potential listeners by reaching listeners in Santa Rosa, Cotati, Rohnert Park and Windsor and rural areas in between.
4. **Hwy 116 and Hwy 12 Reception** - People in vehicles tend to listen to broadcast radio while driving. Therefore, it is very important to have the best signal possible along the key West County Highways 116 and 12.
5. **92.5 MHz Allowed** - Sites where broadcasting at 92.5 MHz is allowed are preferred to site limited to 107.3 MHz because 92.5 MHz allows for higher power and allows us to locate the antenna closer to Sebastopol. This is due to FCC short spacing requirements for adjacent frequencies. Higher power at a closer range increases signal strength into the community we are trying to serve.
6. **Within FCC Allowable Area** - Some sites are not located within the FCC allowable area for the specified frequency, or would require a reduction in power due to encroachment into adjacent frequencies. This factor categorically excludes certain sites from consideration.
7. **Ease of Working with Host** - Municipal and non-profit organizations are preferred over private land owners because of the difficulty securing a lease with entities that have little familiarity with negotiating leases or contracts. Businesses can have complications due to not owning the land, or multiple decision makers.
8. **Long Term Lease Security** - Municipalities offer the highest degree of lease security because it is highly unlikely that ownership changes will occur, as they most certainly will with privately held land. Losing a lease would require going through this costly, time consuming process all over again, and could lead to the loss of broadcast capabilities.
9. **Construction Cost ≤ $25K** - The estimated cost at the Pleasant Hill site is about $25,000. The other sites are rated relative to this cost.
10. **Availability of Utilities** - Electricity and internet access are required. Some sites do not have electricity nearby. Some sites do not have high speed internet service available or nearby.
11. **24/7 Site Access** - The antenna and transmission equipment seldom need servicing, but, when it does, immediate access is necessary to get back on the air quickly. Private residences and businesses do not allow for easy 365/24/7 access and thus are rated lower than publically accessible facilities.
12. **Ease of Antenna Access** - Antennas located in trees are extremely difficult to access. Higher towers are more difficult to access than lower support structures. Support structures over 65 feet in height are designated 'hard'.
13. **Site Security** – Sites with security fencing and restricted access are preferred to open, unprotected sites. Theft and vandalism are concerns because KOWS will be locating equipment at the antenna site.
14. **Visual Impact** - Sites in urban areas will have a higher visual impact on more people than rural sites. Visual impact at candidate sites is minimized by the setbacks from the road, surrounding vegetation, and relatively low numbers of nearby residences that will have a direct view of the tower. High towers in more population dense areas are considered to have more visual impact.

<u>Third-party Evaluation Report and OAEC/Sowing Circle Letter (Arnold Levine)</u>

The City Council requested KOWS verify the Radio Frequency findings that our third-party engineer Paul Bame had produced, along with our site selection methodology. We retained Gray Frierson, an engineer with 50 years experience working with the FCC. His full report is in our submittal, but here are a few salient excerpts.

"I have reviewed the report concerning human exposure to electromagnetic fields. I concur with Paul Bame's conclusions, and agree that the proposed operation does not pose a risk of exposing the general

public or ground based workers to radiofrequency electromagnetic fields in excess of the appropriate standard."

As to site selection, Frierson says: "*The task of transmission facility siting is not an easy one. There are numerous restraints both technical and regulatory. I commend the committee on a very thorough and workmanlike job. They have done a much better job than the majority of my clients."*

We have also included in our submittal, a letter from Dave Henson, executive director of OAEC, and a partner in the group that owns the land, clarifying our need to move our antenna from OAEC. Here is an excerpt.

"OAEC and the Sewing Circle LLC with KOWS engaged agreement – have been very clear that the antenna must be moved from our site. This is not due to any criticism we had of KOWS, or their management of the antenna, but rather to our own internal planning about what projects we can and should host on our land.""

"SHARP representatives commented as follows:

PETER VAN GORDER TALK: KOWS has misrepresented its tower project throughout this process. At the November 3 City Council meeting last year, KOWS stated that "this is not a tower, but an antenna". KOWS then misled the community with neighborhood letters that stated their proposed project only involved an antenna, with no mention of a 70 foot steel tower or the multiple antennas that would be mounted on it. KOWS later misled the neighborhood AND city officials, by providing simulation photos that hid the antenna tower in a distant grove of trees over 800 feet away. KOWS misled the Planning Commission by ignoring requests by 6 of the 7 Commissioners to provide information about alternate sites. KOWS continued to mislead the Planning Commission by giving the impression that the radio station could go out of business if the Pleasant Hill Reservoir site wasn't approved. KOWS should not be rewarded with a Use Permit based on misrepresentations.

We now know that there is no specific timeline for KOWS to remove its antenna from its current location at the OAEC. Robert Feuer, a KOWS spokesman at the May 3 City Council hearing, confirmed that KOWS could keep its antenna in the tree at the OAEC until another location was found. Dave Henson, the Executive Director of the OAEC, in 2013 offered KOWS all the time it needed to move the antenna, according to KOWS meeting notes. Mr. Henson sent me an email the day after the February 23 Planning Commission meeting, stating that **KOWS** had initiated the antenna move from the OAEC for various reasons that **KOWS** wanted to solve. You have a copy of that email in your information packet.

KOWS has made no effort to provide an accurate on-site, physical simulation of its tower at the Pleasant Hill Reservoir, so that city officials and the public could determine first-hand the actual impact a 70 foot tower would have on the surrounding area. SHARP has.....our neighborhood group did it, with a helium balloon raised to 70 feet, and no one in the surrounding neighborhoods liked what they saw or experienced. Helium balloon pictures allowed SHARP to prepare accurate tower simulation photos to better understand the tower's impact on the surrounding area, and they show a vastly different and far worse visual impact than any of the manipulated images provided by KOWS.

KOWS, in its recent submittal, states that if you just hold up a pinky finger at a certain distance, and can't see the tower behind it, there is no impact to worry about. That is absurd. By that logic, any monstrosity can be justified.....you could go to San Francisco and make the 977 foot Sutro antenna tower disappear behind a pinky finger, and say it has no impact.

KOWS needs to still raise $20,000 to erect this antenna tower, while also raising money for monthly operations. It may need to pay for further environmental studies, additional site mitigations, possible legal costs, and reimbursements to the neighborhood for property value losses caused by the antenna tower. All of these costs will be competing for the few donation dollars that KOWS survives on. Approving an antenna tower at the Pleasant Hill Reservoir could cause crippling

financial problems for KOWS. There are, however, vetted and tested alternative antenna locations that KOWS could pursue that resolve these issues.

NANCY JENKINS TALK: Someone posed this question on a local community blog: **"Just wondering if other sites were considered. ...could have saved all this contentiousness."**

Planning Commissioners back in February were looking for the same solution. A transcript of the Planning Commission hearing shows that they were leaning towards a delay or denial due to CEQA, collocation, and visual impact issues, and nearly every Commissioner asked KOWS for more information about alternative sites. A KOWS representative only responded, "Nothing else quite worked". Soon after, another KOWS spokesman said that KOWS had to remove its antenna from the OAEC by June, then muttered a barely audible modification of that statement.... but the misrepresentation worked-- 4 Commissioners believed that KOWS might be out of business soon if the Reservoir site wasn't approved.

We now know that was not true.

KOWS has now, finally, under pressure, manufactured a chart showing sites that have been considered for their antenna relocation. It is surprising that only the Pleasant Hill Reservoir looks acceptable on this new chart, when previously KOWS boasted about other locations as ideal antenna sites. Take Cherry Ridge Road for instance. It looks pretty bad on the chart. But in 2014, KOWS was set to move to Cherry Ridge. They had completed tests, gotten a waiver of county permit fees, received FCC approval, and negotiated a lease. Public requests by KOWS for relocation donations at that time declared that the new site "will enable KOWS radio to reach a tested 250,000 people all over the county, nearly 10 times its current audience reach."

If those numbers sound familiar, they are the exact same numbers KOWS has used to describe the potential listenership they could achieve at the Pleasant Hill Reservoir.

Let me just say this again—KOWS was GOING to Cherry Ridge Road with its antenna in 2014, a site in an area along the ridge line above Sebastopol that KOWS now denigrates as unacceptable.

The April 2015, KOWS Steering Committee notes report that "Respini Ranch is the leading candidate for relocation". It is down near the bottom of the NEW chart. But when KOWS initiated a campaign to raise relocation funds in May of 2015, months before the Pleasant Hill site was on the radar, KOWS fund raising statements & materials describe "expanded service to a larger part of Sebastopol, Santa Rosa, Guerneville, Rohnert Park, Graton, and portions of Windsor" at this new location, with a "robust signal for West County, the Russian River area, Sebastopol, and Santa Rosa." 250,000 listeners were again vaunted to potential donors.

I repeat--Respini Ranch and other sites along the Sebastopol western ridgeline have broadcast ranges that KOWS previously thought were excellent. They quoted listenership from those sites as equal to their current projections at the Reservoir site.

KOWS is now faced with community opposition, environmental impacts, and the certainty of rising costs, long delays, and business-threatening liabilities at the Pleasant Hill Reservoir site. There are vetted and approved sites that KOWS could pursue to avoid these problems, and at a significantly reduced cost. We urge KOWS and the City Council to pursue these options.

VICI WAYNE TALK: 327 individuals have now signed petitions, and over 400 letters have been sent to the City of Sebastopol, opposing the KOWS antenna tower. These citizens do not want our neighborhoods blighted with an antenna tower; they oppose Sebastopol inviting a non- municipal private structure onto the Reservoir site; they want the city to honor its own General Plan regarding our scenic western hills; they have no faith in a lease preventing eventual collocation of cellular antennas and microwaves and the resulting EMF pollution; they object to taxpayers footing the bill for liabilities that the city will very likely be taking on for KOWS.

It is difficult to understand how the City of Sebastopol could decide that a tiny radio station with an unknown audience size and very poor finances matters more than your General Plan, more than the negative environmental impacts, and more than the health, safety, peace, comfort and general welfare of the surrounding community.

The City of Sebastopol promised the surrounding neighborhoods in 1979 and again in 1987 they would restrict the use of the Pleasant Hill Reservoir site to water storage. Sebastopol would be breaking those promises if the KOWS tower is approved. Those promises and restrictions make good sense, because the site would be a rural residential home site if Sebastopol had not purchased it for water storage.

The site has become a quiet, undisturbed habitat for plants and animals. Mature trees hide the water tanks from neighboring homes. The construction of a 70 antenna tower would dump 40,000 pounds of cement, remove four dump truck loads of earth, and require a 300 foot trench. It is a major excavation of the site which could cause permanent damage to a habitat that has taken decades to create.

This project should be denied and completely reevaluated. Sebastopol officials should ask why they have become immersed in the business affairs of a small radio station; why is Sebastopol offering free land to help a radio station reach Santa Rosa and Rohnert Park; and is it worth Sebastopol spending precious city funds underwriting KOWS' liabilities for a new tower, when the station already reaches a good portion of the West county with its broadcast signal and reaches Sebastopol and the entire world by streaming on-line?

Given there is no timeline to move its existing antenna and other site solutions exist, we are asking KOWS and the City of Sebastopol to stand behind being good community members. Deny this Use Permit and find a solution that works for everyone."

The presentations from the applicant and appellant were concluded and the Mayor brought the matter back for Council deliberation as follows:

Councilmember Eder moved and Councilmember Slayter seconded the motion to accept staff's recommendation number 4 "Determine that a different level of environmental review such as an Initial Study/Negative Declaration or focused Environmental Impact Report is appropriate. This would involve approving the appeal on these limited grounds of the current CEQA determination."

Discussion:
Mayor Gurney stated this is a great project with solid benefits to the community.

Councilmember Slayter commented as follows:

- This community is well aware of the importance of full analysis of issues
- Rates high with the Council

- Likes things to be studied
- Consider things from all perspectives
- This motion is upholding that value
- Interested in making good decisions
- Council is interested in making best possible decisions at all times
- Need more information
- Value community radio brings to our community – sees value in that
- Most prudent choice at this moment

Mayor Gurney clarified that the motion will uphold the appeal based on the grounds of the current CEQA determinations.

Vice Mayor Glass commented as follows:

- See KOWS and community radio station can have a great value to our community
- Given contentiousness of this project and large quantity of information that has been presented, believe it prudent that we pursue getting some additional information to sort through what information is pertinent and accurate in order to make an appropriate decision
- See there is a great deal of benefit to be had in a local community station
- Think Council needs to protect the interests of our City
- Pursuing additional review that will sort through this large pile of information will be beneficial to our city

Councilmember Eder commented as follows:

- Concur with Councilmember Slayter
- Think City of Sebastopol has tradition of studying things
- As policy makers it is incumbent upon us to separate the emotional aspects of a project from the facts and land use aspect of projects
- That has been very important to him
- Received a lot of information on this issue
- A great deal emotionally based
- Council's job is to look past that that and look at what is actually the facts of the matter
- Concur with colleagues
- Need to go to a different level of environmental review on this project
- Re-stated that and stated it needs a higher level of environmental review

Mayor Gurney stated this motion will uphold the appeal.

VOTE:
Ayes: Councilmembers Eder, Slayter, Vice Mayor Glass and Mayor Gurney
Noes: None
Absent: Councilmember Jacob
Abstain: None
City Council Action: Accepted staff's recommendation number 4 "Determine that a different level of environmental review such as an Initial Study/Negative Declaration or focused Environmental Impact Report is appropriate. This would involve approving the appeal on these limited grounds of the current CEQA determination."
Minute Order Number: 2016-123

Councilmember Eder moved and Vice Mayor Glass seconded the motion to direct staff to initiate the process of the study and to direct staff to conduct a scoping session for an EIR.

Discussion:
Councilmember Eder commented as follows:

- Stated it is incumbent upon the Council as policy makers that any decision is based upon the relevant facts of the issue
- Stated the EIR scope of which is to be determined by this body is the most appropriate way to make the determination

Mayor Gurney commented as follows:

- Questioned the timing for the EIR Scoping session
- Questioned if the motion were to succeed, would this item be returning to the Council as an agenda item
- Stated the next Council meeting is a full agenda with the budget as well as the potential for the UGB initiative to be on that agenda
- Questioned the timing for the scoping session

Director Webster commented it could be returned to the second meeting in July.

Councilmember Eder commented that he is taking in staff's considerations and would advocate that the Council expedite this process in any manner possible realizing that we have limited resources in which to do that and other competing factors.

Mayor Gurney commented as follows:

- Stated the Council has full agendas
- Would like to dial in what will be required in the EIR
- Does not believe it is insurmountable
- Conduct EIR very effectively
- Radio station continue to have an opportunity here
- Exploring comments from so many people

VOTE:
Ayes: Councilmembers Eder, Slayter, Vice Mayor Glass and Mayor Gurney
Noes: None
Absent: Councilmember Jacob
Abstain: None
City Council Action:
Minute Order Number: 2016-124

REGULAR CALENDAR AGENDA ITEMS (DISCUSSION AND/OR ACTION): None
CITY COUNCIL REPORTS:
4. City Manager-Attorney/City Clerk Reports:
City Clerk Gourley reported that she has received notice today that the County has verified the signatures on the UGB Citizen's Initiative and it qualifies for the November ballot.
5. City Council Reports/Committee/Sub-Committee Meeting Reports: (Reports by Mayor/City Councilmembers Regarding Various Agency Meetings/Committee Meetings/Sub-Committee Meeting /Conferences Attended and Possible Direction to its Representatives (If Needed) on pending issues before such Boards):
Mayor Gurney:

- Water Sub-Committee met briefly
- In touch with Cittaslow and Daily Acts on prsenaiotn on greywater systems

Community Impact Report Sub-Committee:

- Met with Cittaslow
- Develop survey like questions – put out through Cittaslow survey approach to get feedback from citizens

Met with PRMD about Charter School

- County Meeting will be at 2:30 on June 2nd
- County staff taking concerns seriously and recommending further investigation into points raised

Councilmember Eder will be attending this meeting and stated he will present the City's letter and the City's talking points. He stated he is glad to know that the County is taking on the City's concerns with a level of seriousness appropriate to the matter.

6. Council Communications Received: Mayor Gurney thanked the City Clerk again for the amount of emails received on the appeal issue.

7. Future City Meeting Dates/Events (Informational Only): (See Agenda)

ADJOURNMENT: The meeting will be adjourned to the Regular City Council Meeting to be held on Tuesday, June 7, 2016, at 7:40 pm at the Sebastopol Teen Center/Youth Annex, 425 Morris Street, Sebastopol, CA

Respectfully Submitted by,

Mary C. Gourley

Mary C. Gourley, MMC, City Clerk