



# Measure D

## City of Rohnert Park

### Measure Question

Shall Ordinance No. 954, An Ordinance of the City Council of the City of Rohnert Park Repealing and Replacing Chapter 9.49 of the Rohnert Park Municipal Code to Prohibit the Sale and Use of Fireworks, be adopted?

### What Your Vote Means

YES	NO
A “yes” vote on Measure D means that Ordinance 954 would be enacted and the City’s existing regulations would be amended to prohibit the sale or use of “safe and sane” fireworks in the City.	A “no” vote on Measure D, means that Ordinance 954 would not be enacted and the sale and use of “safe and sane” fireworks would continue to be allowed in the City.

### For and Against Measure D

FOR	AGAINST
Chris Borr Founder, FAIR-RP  Gina Belforte Former Mayor and Councilmember  Matt Epstein Legislation Chair, Cal State Firefighters Assoc	April Garcia Board Member, RP Soccer  Tracy Si Community Volunteer  Sean Sage Senior Pastor, Calvary Chapel  Nichole Niklewicz Former Police Dispatcher  Tracey Poueu-Guerrero High School Sports Coach



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## City Attorney's Impartial Analysis of Measure D

If approved by the voters, Measure D, would enact Ordinance No. 954 which amends existing regulations to prohibit the sale and use of any fireworks in the City of Rohnert Park.

State law and existing City regulations prohibit the use of "dangerous fireworks" and allow the sale of state-approved fireworks within the City of Rohnert Park. "Dangerous fireworks" are defined in Health and Safety Code sections 12505 and 12561 and the relevant sections of Title 19, California Code of Regulations, Division 1, Chapter 6. State-approved fireworks are also commonly referred to as "safe and sane" fireworks and are defined in Health and Safety Code sections 12529 and 12562 and the relevant sections of Title 19, California Code of Regulations Division 1, Chapter 6. The City's current regulations allow the sale of "safe and sane" fireworks between June 30 and July 4 of each year, upon issuance of a City permit. Existing regulations also allow the general public to use "safe and sane" fireworks between July 2 and July 4 of each year except in parking lots used for commercial properties.

If enacted by the voters, Ordinance No. 954 would amend existing regulations to prohibit the sale, storage, possession, and use of any kind of firework, including both "dangerous" and "safe and sane" fireworks in the City. If enacted, Ordinance No. 954 would also impose a penalty of \$250 for any use of "safe and sane" fireworks, escalating to \$500 for a second violation and \$750 for subsequent violations. Ordinance 954, if enacted, would modify existing municipal code prohibitions regarding pyrotechnic displays, manufacturing, transportation and storage of fireworks to allow those activities only in accordance with applicable provisions of state law, including requirements imposed by the State Fire Marshal and the California Fire Code, and permits issued by the fire code official.

A "YES" vote on Measure D means that Ordinance 954 would be enacted and the City's existing regulations would be amended to prohibit the sale or use of "safe and sane" fireworks in the City.

A "NO" vote on Measure D, means that Ordinance 954 would not be enacted and the sale and use of "safe and sane" fireworks would continue to be allowed in the City.

In order to become effective Measure D must be approved by a majority of voters.

s/ Michelle Marchetta Kenyon  
City Attorney for the City of Rohnert Park

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Arguments and rebuttals are the opinions of the authors. They are printed exactly as submitted, including errors.

Argument in Favor of Measure D	Rebuttal to Argument in Favor of Measure D
<p>Fireworks, especially in a fire prone wildland-urban interface community like Rohnert Park experiencing tinder dry conditions during an extreme drought, are anything but safe and sane.</p> <p>Some say banning legal (safe and sane) fireworks will increase illegal fireworks use. This belief is unfounded and misleading. Don't be fooled by it.</p> <p>The Orange County Grand Jury studied legal and illegal fireworks in 1988 and 2008 and found:</p> <p>(1) the use of illegal fireworks is significantly greater in cities that allow the sale of "safe and sane" fireworks; (2) "safe and sane" fireworks mask the use of illegal fireworks and frustrate enforcement efforts; (3) clogged and littered streets hamper public safety response (for fire, medical or safety incidents); (4) fireworks have significant negative environmental impacts on our air and waterways.</p> <p>All fireworks (legal and illegal) can cause PTSD victims and pets to suffer terribly. University of Pennsylvania Medicine found that "individuals with PTSD, as well as any combat veteran regardless of their PTSD status, are more likely to be triggered or respond to" fireworks. Should we callously disregard the suffering of these individuals, many of whom are veterans or newer residents who are victims of the 2017 and 2019 fires, or the abuse fireworks inflict on pets?</p> <p>Some Rohnert Park non-profits fundraise through fireworks sales. A ban does not mean they will lose funding, however. The City of Rohnert Park Foundation has established a Replacement Funding Program to keep these non-profits whole for at least one year (and possibly longer) should a ban be enacted.</p> <p>Voting Yes to ban fireworks will prevent regional fires from fireworks sold in Rohnert Park and aligns Rohnert Park with the 90% of county residents that took this same step many years ago.</p> <p>Ban fireworks in Rohnert Park by voting Yes.</p> <p>s/ Chris Borr Founder, FAIR-RP</p> <p>s/ Gina Belforte Former Mayor and Councilmember</p> <p>s/ Matt Epstein Legislation Chair, Cal State Firefighters Assoc</p>	<p>The proponents of Measure D want to confuse you with "their facts." We know the facts, and we are voting No on Measure D.</p> <p>Here are the facts from sources you can trust:</p> <p>"Banning the sale of Safe and Sane Fireworks will have no impact on the use of illegal fireworks according to [Rohnert Park] Director of Public Safety Tim Mattos. It will have a large impact on the community non-profits that rely on selling legal fireworks to fund their activities." (thecommunityvoice.com, July 31, 2020)</p> <p>"Rohnert Park has a long history of successful use of Safe and Sane Fireworks on the 4<sup>th</sup> of July", Rohnert Park Fire Marshal Jim Thompson (June 26, 2019)</p> <p>Illegal fireworks are already illegal! Measure D simply makes Rohnert Park less safe! Other communities have tried, and it backfired.</p> <p>Santa Rosa banned legal fireworks in 2004, but according to the police, "Despite being illegal in most of Sonoma County, fireworks are still being lit." (The Press Democrat, June 18, 2021)</p> <p>"Oakland overrun by illegal fireworks." (KTVU Fox 2, June 23, 2020)</p> <p>Oakland warehouse has "Seven tons of illegal fireworks—including skyrockets, cherry bombs and powerful, noisy M-80s." (sfchronicle.com, June 25, 2021)</p> <p>What's the answer? As residents concerned for the future of Rohnert Park, we care about our community, support stricter enforcement of existing laws and strong community education efforts.</p> <p>Don't be fooled! Measure D will not stop illegal fireworks! Instead, it will strip Rohnert Park community groups of their self-reliance and funding. Making them dependent on city politicians for funding handouts.</p> <p>Continue our community tradition of family fun, community support and the right to responsibly celebrate the 4<sup>th</sup> of July.</p> <p>Vote "No" on Measure D.</p> <p>s/ April Garcia Board Member, RP Soccer</p> <p>s/ Tracy Si Community Volunteer</p> <p>s/ Sean Sage Senior Pastor, Calvary Chapel</p> <p>s/ Nichole Niklewicz Former Police Dispatcher</p> <p>s/ Tracey Poueu-Guerrero High School Sports Coach</p>



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Argument Against Measure D	Rebuttal to Argument Against Measure D
<p>Don't be fooled! Measure D will not stop illegal fireworks in Rohnert Park!</p> <p>Here's why respected local community leaders and organizations recommend voting No on D.</p> <p>Measure D will not stop dangerous, illegal fireworks – like aerial shells, rockets, firecrackers, and loud explosives like M-80s. Vote No!</p> <p>Measure D will only ban a limited variety of ground-based fireworks that have been tested and approved by the California State Fire Marshal and sold by Rohnert Park nonprofit groups. These legal fireworks do not explode or fly into the air and can only be used from July 2 through July 4 each year. Vote No!</p> <p>According to a Rohnert Park city study: “Arguably, safe and sane fireworks have not caused any structure fires in the history of Rohnert Park. Illegal fireworks are likely the cause of most fireworks-related injuries and damages.” Vote No!</p> <p>Measure D will eliminate over \$324,000 in annual funding for Rohnert Park nonprofit organizations that are critical in our community, including Rancho Cotate High School Music Boosters, Rohnert Park Swim Club, Rohnert Park Soccer, Rohnert Park Cotati Youth Football and Cheer Inc., Rancho Cotate High School Baseball/Softball, Rohnert Park Girls Softball Association, Technology High School Sports Boosters, Expeditionary Learning Parents Club, and others. Vote No!</p> <p>Measure D could actually make Rohnert Park Less Safe! On March 9, 2021, Rohnert Park's Public Safety Chief advised the City Council that he had "...spoken to many chiefs from other cities who have bans in their cities and it does not stop the use of illegal fireworks, and some have said it could increase..."</p> <p>If you want to say yes to wholesome family fun, yes to tradition and yes to patriotism, then you must say No on D.</p> <p>Vote No on D to preserve your right to celebrate the 4<sup>th</sup> of July responsibly with safe, California State Fire Marshal approved fireworks and support Rohnert Park's nonprofit community organizations.</p> <p>s/ April Garcia Board Member, RP Soccer</p> <p>s/ Tracy Si Community Volunteer</p> <p>s/ Sean Sage Senior Pastor, Calvary Chapel</p> <p>s/ Nichole Niklewicz Former Police Dispatcher</p> <p>s/ Tracey Poueu-Guerrero High School Sports Coach</p>	<p>Opposition to Measure D is bankrolled by fireworks distributors to protect their profits at the expense of our safety.</p> <p>The City of Rohnert Park Foundation has established a Replacement Funding Program to keep non-profits whole should fireworks sales be banned. Foundation funds are not taxpayer monies but donations from the Graton Rancheria Casino. Opponents ignore these facts.</p> <p>Vote Yes on Measure D to ban fireworks.</p> <p>Legal fireworks cause fires. In 2003, a Santa Rosa home burned to the ground due to safe and sane fireworks. On June 22, 2021, fireworks in Vallejo caused a four-alarm fire, damaging homes and forcing evacuations. Last year, Rohnert Park Fire Department received 166 fireworks-related calls for help (about one every 30-minutes) between July 3-5, 2020. We have just been lucky not to have lost homes. All but two cities and the County of Sonoma have banned fireworks for this, among other reasons.</p> <p>Vote Yes on Measure D.</p> <p>The Orange County Grand Jury found that communities with legal fireworks experience higher rates of illegal fireworks use than those who have banned all fireworks. Legal fireworks make a city less safe, not more. Opponents ignore these impartial findings.</p> <p>Vote Yes on Measure D.</p> <p>Rohnert Park is a family-oriented city with wonderful amenities and events. Measure D will protect our safety, especially during tinder-dry conditions when our county has been devastated by wildfires regularly.</p> <p>We can still celebrate and have wholesome family fun while reducing fire danger and injury at the same time.</p> <p>Vote Yes on Measure D!</p> <p>s/ Chris Borr Founder, FAIR-RP</p> <p>s/ Gina Belforte Former Mayor and Councilmember</p> <p>s/ Matt Epstein Legislation Chair, Cal State Firefighters Assoc</p>



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## Full Text of Measure D

### ORDINANCE NO. 954

#### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK REPEALING AND REPLACING CHAPTER 9.49 OF THE ROHNERT PARK MUNICIPAL CODE TO PROHIBIT THE SALE AND USE OF FIREWORKS

**WHEREAS**, pursuant to the police powers set forth in Article XI, Section 7 of the California Constitution, the City of Rohnert Park ("City") may make and enforce laws that promote the public health, safety and general welfare of its residents; and

**WHEREAS**, by Ordinance No. 938, adopted November 26, 2019, the City of Rohnert Park enacted Chapter 9.49 of the Rohnert Park Municipal Code to regulate the sale and use of fireworks within the City of Rohnert Park. The City of Rohnert Park allowed the use and sale of "safe and sane" fireworks during regulated hours, and imposes social host liability for use of illegal fireworks, requires supervision of minors, and exposes violators to civil penalties in addition to criminal penalties prescribed by state law; and

**WHEREAS**, on March 4, 2020, the Governor declared a statewide state of emergency pursuant to Government Code section 8625 due to the existence and spread of COVID-19, and on March 5, 2020, the City Manager, acting as Director of Emergency Services of the City of Rohnert Park, proclaimed the existence of a local emergency due to the existence and spread of COVID-19, which was subsequently ratified by the City Council of the City of Rohnert Park on March 10, 2020 by Resolution No. 2020-24. In response to the threat of COVID-19, the Health Officer of the County of Sonoma ("Health Officer") issued numerous orders requiring all residents to shelter in place except for certain essential activities, as did the State Public Health Officer; and

**WHEREAS**, in response to the threat of COVID-19 and the use of fireworks, the City Council of Rohnert Park adopted an urgency ordinance on June 2, 2020, Ordinance No. 948, to minimize large gatherings by prohibiting the use of fireworks in commercial parking lots and to impose further permit requirements related to the manner of the sale of safe and sane fireworks in the City of Rohnert Park; and

**WHEREAS**, despite such controls, the City of Rohnert continues to experience significant gatherings every year during the Fourth of July holiday period, where fireworks are used; and

**WHEREAS**, the use of fireworks, including the use of prohibited illegal fireworks, is prevalent throughout the City of Rohnert Park during the Fourth of July holiday period every year, and law enforcement responses to gatherings where fireworks are used cause a significant drain of law enforcement resources and, in some cases, leave other areas of the City with inadequate law enforcement protection; and

**WHEREAS**, large gatherings to set off fireworks result in conditions where illegal fireworks are likely to be used, as large gatherings make it more difficult for law enforcement officers to enforce prohibitions on illegal fireworks; and

**WHEREAS**, illegal and dangerous fireworks create a significant risk of fire, and prohibiting the use of all fireworks in the City, including safe and sane fireworks, is necessary to deter the use of illegal and dangerous fireworks; and

**WHEREAS**, the widespread use of any fireworks, including safe and sane fireworks, increases litter deposited into the environment, as well as increases the risk of fire; and

**WHEREAS**, the City is located in a climatic zone that places the City at significant risk of large fires, as evidenced by such examples as the 2017 Tubbs and Nuns Fires, the 2019 Kincade Fire, and 2020 Glass Fire, and the risk posed by wildfire is anticipated to magnify due to climate change, further making action by the City of Rohnert Park to prohibit the

use of all fireworks necessary;

**NOW THEREFORE**, the City Council of the City of Rohnert Park does ordain as follows:

**Section 1.** Recitals. The above recitals are adopted as findings of the City Council in enacting this ordinance.

**Section 2.** Repeal and Replacement of Chapter 9.49 - Chapter 9.49 of the Rohnert Park Municipal Code is hereby repealed, and replaced to read in its entirety as follows:

#### Chapter 9.49 - FIREWORKS REGULATIONS

##### 9.49.010 - Purpose and scope.

- A. The City of Rohnert Park has deemed the use of dangerous and safe and sane fireworks, as defined in Health and Safety Code sections 12500, et seq., to pose a risk to public health and safety, and prohibits the use of any kind of firework by members of the general public. The provisions of this chapter are intended to regulate the use of all fireworks to provide for the safety of the community and the prevention of fires.
- B. This chapter provides for the regulation of the manufacture, transportation, possession, use, and sale of fireworks within the City of Rohnert Park and the imposition, enforcement, collection, and administrative review of administrative fines, related to the possession, use, storage, sale and/or display of fireworks, including those classified as "dangerous fireworks" and "safe and sane fireworks" as defined in California Health and Safety Code Sections 12500 et seq., with the exception of the use of fireworks with a pyrotechnic licensee when operating pursuant to and accordance with the terms of that license;
- C. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized under this chapter; and the issuance of a citation to any person constitutes but one remedy to redress violations of this Code by any person. By adopting this chapter, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this Code or state law by any person.
- D. The imposition of fines related to "dangerous fireworks" under this chapter shall be limited to persons who possess, sell, use and/or display, or the seizure of, twenty-five pounds or less (gross weight) of such dangerous fireworks.
- E. Fines collected pursuant to this chapter related to "dangerous fireworks" shall not be subject to Health and Safety Code Section 12706. However, the city shall provide cost reimbursement to the state fire marshal for the transportation and disposal of "dangerous fireworks" seized by the city where applicable. These costs will be included in addition to any administrative fines imposed under this chapter.

##### 9.49.020 - Definitions.

As used in this chapter, the following words and phrases shall have the following meanings:

- A. "Dangerous fireworks" shall mean dangerous fireworks as defined in Health and Safety Code Sections 12505 and 12561 and the relevant sections of Title 19, Code of Regulations, Subchapter 6 which are hereby incorporated by reference.
- B. "Fireworks" shall mean either dangerous fireworks or safe and sane fireworks.
- C. "Pyrotechnic displays" means public firework displays or displays used in conjunction with special effects, for motion pictures, theatrical and

## Full Text of Measure D (Cont.)



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group entertainment productions operated by a professional California state licensed pyrotechnician, provided such displays secure a permit from the fire code official and meet all applicable requirements of California Health and Safety Code.

- D. "Safe and sane fireworks" and "state-approved fireworks" shall mean state-approved fireworks defined in Health and Safety Code Sections 12529 and 12562 and the relevant sections of Title 19, Code of Regulations, Subchapter 6, which are hereby incorporated by reference.
- E. "Social host" means:
  1. Any owner of private property as listed on the most recent assessment roll;
  2. Any person who has the right to use, possess or occupy a public or private property under a lease, permit, license, rental agreement, or contract; or
  3. Any person who hosts, organizes, supervises, officiates, conducts, or sponsors a gathering on public or private property, and if such person is a minor, then that person's parents or legal guardians.
- F. "Strictly liable" means liable for a wrongful act irrespective of such person's intent, knowledge, negligence or lack thereof in committing the wrongful act.

## 9.49.030 – Manufacturing and transport of fireworks.

The manufacturing and/or transportation of any fireworks is prohibited, except by a person who has been issued a permit by the office of the state fire marshal or is otherwise permitted to do so pursuant to provisions of state law, and such manufacturing or transportation is being performed in compliance with applicable requirements of the California Fire Code and Vehicle Code. Travel outside of state-approved routes shall be subject to the approval of a permit issued by the fire code official in accordance with Health and Safety Code section 12652.

## 9.49.040 – Prohibition on possession, storage, sale or use of fireworks.

The possession, storage, sale and use of any dangerous or safe and sane fireworks, shall be prohibited by any person throughout the City of Rohnert Park except when a permit is issued, in advance, by the fire code official or his or her designee for the exceptions below:

- (i) Storage and handling of fireworks in accordance with Section 5605 of the California Fire Code.
- (ii) The use of fireworks for pyrotechnic displays in accordance with Section 5608 of the California Fire Code.

The prohibition on the possession of fireworks in this section shall not apply to manufacturing and transportation activities permitted under section 9.49.030.

## 9.49.050 - Supervision of minors.

- A. It shall be unlawful for any person having the care, custody or control of a minor (under eighteen years old) to permit such minor to discharge, explode, fire or set off any fireworks, at any time.
- B. Any person having the care, custody, or control of a minor shall be strictly liable for any unlawful ignition, use, or discharge of any fireworks.

## 9.49.060 - Social host liability.

- A. No social host shall suffer or permit any persons to use fireworks (1) on property that is either owned by the social host or occupied or

otherwise used by the social host pursuant to a lease, permit, license, rental agreement, or contract, or (2) at any gathering on public or private property that is hosted, organized, supervised, officiated, conducted, or sponsored by the social host, except for pyrotechnic displays that are permitted in accordance with section 9.49.040.

- B. It is the duty of any social host who knowingly hosts, permits, or allows any gathering to take place to take all reasonable steps to prevent the use of fireworks by that social host's guests or invitees.
- C. No social host shall, with respect to private property where fireworks are used, be liable for a violation of this section if the social host can demonstrate that at the time of such violation the social host (i) had rented or leased the property to another, (ii) was not present, and (iii) had no prior knowledge of the violation.
- D. No person who has the right to use, possess or occupy a unit in a multifamily residential property under a lease, rental agreement or contract shall be liable under this section for violations occurring in the common areas of the property.
- E. Nothing in this section shall limit the liability of any social host for a violation of Section 9.69.040 or 9.69.050 by the social host.

## 9.49.070 - Enforcement.

- A. This chapter shall be enforced pursuant to the procedures set forth in Chapter 1.25 of this Code. The amount of the administrative penalty for violations of this chapter pertaining to fireworks shall be governed by Section 9.49.080.
- B. The fire code official or his/her designee shall enforce the provisions of this Chapter 9.49.

## 9.49.080 – Determining violations; Penalties for violations.

- A. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- B. Each person who violates any provisions of this chapter by possessing, using, storing, and/or selling, displaying of any dangerous firework, or violates sections 9.49.050 or 9.49.060 and such violation involves dangerous fireworks, shall be subject to the imposition and payment of an administrative fine of one thousand dollars per occurrence, a late charge of two hundred fifty dollars if the fine is not timely paid in accordance with chapter 1.25.
- C. Each person who violates any provisions of this chapter by possessing, using, storing, and/or selling, displaying of any safe and sane fireworks or state-approved fireworks, or violates sections 9.49.050 or 9.49.060 and such violation involves any safe and sane fireworks or state-approved fireworks, shall be subject to the imposition of payment of an administrative fine, and a late charge if the fine is not timely paid in accordance with chapter 1.25, as provided below:

Number of offenses in any 12 month consecutive period	Amount of administrative penalty	Late charge	Total amount of penalty plus late charge
First	\$250.00	\$75.00	\$ 325.00
Second	\$500.00	\$150.00	\$ 650.00
Third	\$750.00	\$300.00	\$1,050.00

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- D. In addition to such administrative penalties, each violator shall be liable for all costs incurred by the office of the state fire marshal

for the transportation and disposal of any fireworks seized from the person. The costs incurred by the office of the state fire

marshal will be calculated based upon the regulations promulgated by that office. If those regulations have not been adopted by the office of the state fire marshal at the time a person is cited for possession of dangerous fireworks under this Code, the city will reserve twenty-five percent of any fine collected under this provision to cover the actual cost of disposal to the office of the state fire marshal.

- E. Nothing in this section shall be intended to limit any of the penalties provided for under the California Health and Safety Code or Penal Code with regard to the sale, use, possession, delivery, storage, and/or transportation of dangerous fireworks. The penalties set forth herein are intended to be nonexclusive and are intended to be in addition to any other remedies provided in this article or any other law, statute, ordinance or regulation.

**Section 4. Environmental Review.** The City Council finds the approval of this ordinance is exempt under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this ordinance may have a significant effect on the environment. In the alternative, the City Council determines that the basic purpose of this action is to prohibit the use of safe and sane fireworks in the City, which will reduce litter and lessen the risk of fire, and therefore is an action for the protection of the environment and is categorically exempt pursuant to CEQA Guidelines section 15308 (actions by regulatory agencies for the protection of environment).

**Section 5. Severability.** The City Council hereby declares that every section, paragraph, sentence, clause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

**Section 6. Effective Date.** This ordinance shall be in full force and effective 30 days after its adoption.

**Section 7. Publication.** The City Clerk is directed to cause this ordinance to be published in the manner required by law.

This ordinance was introduced on April 13, 2021 and adopted by the Council of the City of Rohnert Park on April 27, 2021, by the following roll call vote:

AYES: Councilmember Linares, Vice Mayor Elward and Mayor Giudice  
(3) three  
NOES: Councilmember Adams and Stafford  
(2) two  
ABSENT: (0) zero  
ABSTAIN: (0) zero

CITY OF ROHNERT PARK

s/ Gerard Giudice, Mayor

ATTEST:

s/ Sylvia Lopez Cuevas, City Clerk

APPROVED AS TO FORM:

s/ Michelle Marchetta Kenyon, City Attorney