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June 5, 2014

Mayor Timothy M. Flaherty
Vice Mayor Ken Carlson
Councilmember Michael G. Harris
Councilmember David E. Durant
Councilmember Jack Weir
PLEASANT HILL CITY COUNCIL
100 Gregory Lane
Pleasant Hill, CA 94523
VIA E- MAIL & FAX (925) 682-9327

Re: **Proposed Zoning Amendment- Firearms and Ammunition Sales –
OPPOSITION**

Honorable Mayor and Members of the City Council:

We write on behalf of our clients, the National Rifle Association (“NRA”) and the California Rifle and Pistol Association (“CRPA”), as well as the hundreds of thousands of their members in California, including members residing in the City of Pleasant Hill. Our clients oppose adoption of the Proposed Zoning Ordinance Amendment - Firearms and Ammunition Sales to be considered by the City Council on June 9, 2014 (“the Zoning Amendment”).

I. THE PLANNING COMMISSION’S UNANIMOUS NEGATIVE RECOMMENDATION

As members of the Council are undoubtedly aware, this proposal was sent to the Planning Commission and first heard by the Commission on April 1, 2014. On May 6, the Commission, recognizing the public’s overwhelming opposition, returned a unanimous negative recommendation. It was clear from the Commission’s proceedings that serious questions remain as to the justifications for the Zoning Amendment and why nearly identical amendments made to Chapter 9.35 of the Municipal Code last fall were never presented to the Commission as required by law.

Because members of the Commission are appointed by the City Council, their recommendation here serves as a strong rebuke to those on the Council who voted to zone firearms sales last year and to those who would again vote to do so. Respectfully, given the Planning Commission’s and the public’s

strong negative reaction to the Zoning Amendment, the Council would be wise to accept the Commission's negative recommendation and scrap this proposal once and for all.

II. PLEASANT HILL DOES NOT NEED THIS ORDINANCE

Neither the Zoning Amendment nor the firearms and ammunition sales ordinance adopted last year serves as a response to any actual problem in the City of Pleasant Hill. As members of the Council candidly admitted last year, the City has had no problems with licensed firearms retailers.¹ And when Sunnyvale considered similar provisions in 2011, it conducted an in-depth study on the impact of firearm businesses on the public. Sunnyvale staff noted that "there ha[d] been no evidence of increased crime, property devaluation or land use incompatibilities as the result of the businesses."² The city ultimately concluded that "*there is no correlation between gun-related crimes and the location of firearms businesses.*"³

In reality, the Zoning Amendment is the result of influence that outside groups, like the Law Center to Prevent Gun Violence ("LCPGV"), have had on members of the Council. An interview with Laura Cutilletta,⁴ a senior staff attorney of LCPGV, illustrates the true intentions of their organization. Having failed to pass similar misguided legislation at the state level, LCPGV is instead focusing on local municipalities as a stepping stone to passing statewide legislation.

Throughout this entire process, LCPGV has worked to convince the City that such an ordinance is necessary, but it has failed to provide any evidence as to why. At no point, either during the Council's or the Commission's discussions, has anyone (including LCPGV) been able to explain *why* the arbitrary distance requirements are set as they are. There is simply no evidence that a firearm retailer in Pleasant Hill, let alone anywhere in the United States, should be subject to such requirements.

¹ Recall, in the Firearms-related Ordinance Memorandum, Councilmembers Harris and Durant stated that existing firearms retailers have "operated without creating problems for the City." Memorandum from Mayor Michael Harris and City Councilmember David Durant Re: Firearms-related Ordinance at 2 (Aug. 15, 2013).

² See 2011-7071 Location and Operation of Firearm Sales Businesses (Study Issue) Staff Report, *available at* <http://sunnyvale.ca.gov/Portals/0/Sunnyvale/NonCouncilReports/pc/2011/pc-2011-7071.pdf> at 1 (last visited Sept. 25, 2013).

³ See 2011-7071 Location and Operation of Firearm Sales Businesses (Study Issue) Report to Mayor and Council, *available at* <http://sunnyvale.ca.gov/Portals/0/Sunnyvale/CouncilReports/2011/11-209.pdf> at 5 (last visited Sept. 25, 2013).

⁴ *Cultivating a Gun Violence Prevention Movement: An Interview with Laura Cutilletta* (Feb. 5, 2014), *available at* <http://grassrootschange.net/cultivating-a-gun-prevention-movement-from-the-bottom-up-an-interview-with-laura-cutilletta/>.

III. PUBLIC OPPOSITION TO THE ORDINANCE

Members of the public have overwhelmingly shown only stark opposition to this proposal. During the Planning Commission's special meetings, only the two LCPGV attorneys spoke in support of the proposal. Every other speaker, a majority of whom were residents of Pleasant Hill, spoke against it.

Should the City Council nonetheless adopt the Zoning Amendment against the Commission's recommendation and the weight of the public's opposition, and in light of the illegal manner in which identical zoning requirements were passed last fall, the public would be almost certain to recognize that something is amiss. Passage of the Zoning Amendment at this juncture would only compound the public perception of corruption that was sewn when the Council approved the firearms licensing restrictions last year—siding with LCPGV and other influence groups against the wishes of the people.

IV. COSTS TO THE CITY

As the Council is aware, the National Shooting Sports Foundation ("NSSF") has filed a lawsuit seeking, among other things, to strike the zoning requirements passed last year. While the City is currently represented pro bono by lawyers who were referred by LCPGV, the City remains liable for attorneys' fees should NSSF prevail on their claims.

But that is not the only cost the Council should consider. To this point, the Council has already spent countless hours taking and hearing public comment on the firearms ordinances. It has received and considered hundreds of pages of correspondence from the public expressing their views on these matters. The City Attorney has spent hours preparing memoranda, drafting amendments, and defending the proposals. And other city staff members have handled the administrative tasks associated with the laws' drafting and consideration. But LCPGV has not undertaken to reimburse the City for the countless dollars already spent on this misguided undertaking, has it?

The Council is aware that the budget for the City over the next two years is expected to run a deficit. Please consider whether it makes sense to add to that deficit by adding to the time and effort of city employees to consider, enact, and ultimately defend a law that is likely to be overturned in court.

V. CONCLUSION

We believe it is time for the City Council to do the right thing and put an end to this ordeal. It has already cost Pleasant Hill an enormous amount of time and money, and it will yield no discernable positive impact on public safety. We urge you to vote *no* on the Zoning Amendment.

Pleasant Hill City Council
June 5, 2014
Page 4 of 4

Should you have any questions or concerns regarding the content of this correspondence, please feel free to contact me at your convenience.

Sincerely,
Michel & Associates, P.C.

A handwritten signature in black ink, appearing to read "Anna M. Barvir", with a stylized flourish at the end.

Anna M. Barvir