

Don L. Nauman

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May 28, 2026

VIA HAND DELIVERY

Office of the City Attorney
City of Santa Rosa
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

Office of the City Clerk
City of Santa Rosa
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

RECEIVED

MAY 28 2026

**CITY OF SANTA ROSA
CITY CLERK'S OFFICE**

**Subject: URGENT: Formal Administrative Objection & Notice of Litigation Hold –
June 2, 2026, Agenda Item 13.14**

Dear City Attorney and Madam City Clerk,

Please see the attached Formal Administrative Objection and Notice of Intent to Seek a Writ of Mandate regarding Agenda Item 13.14 (WUI Boundary Overlay), currently calendared for the June 2, 2026, City Council meeting.

We are serving this on your offices this afternoon to ensure legal leadership has an opportunity to evaluate the severe litigation risks associated with this ordinance prior to Tuesday's meeting.

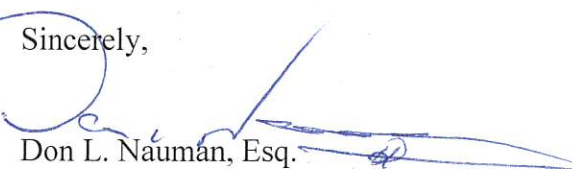
As the attached document details with specific video timestamps, the administrative record established during the May 12, 2026, First Reading is structurally defective. Critical, on-the-record misstatements of law regarding both the City's discretionary zoning authority and California insurance regulations (Proposition 103) were relied upon to induce the initial vote. Proceeding to final adoption upon this contaminated foundation will immediately expose the City to a multi-party writ of mandate and substantial fee awards under CCP § 1021.5.

As a professional courtesy, we strongly advise your office to counsel the Mayor and City Council to pull Item 13.14 from Tuesday's agenda in its entirety. This is the most prudent course of action to afford incoming legal leadership the time required to conduct a de novo review of the City's statutory obligations and avoid binding the municipality to a legally vulnerable position.

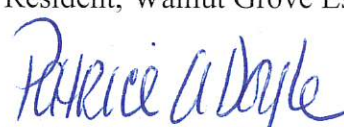
Additionally, please direct your attention to the formal Notice of Litigation Hold in Section 6 of the enclosed Mandatory Demand, requiring the immediate preservation of all related internal communications, emails, and Slack logs across the City Council, Fire Department, and staff.

Please reply to confirm receipt of this correspondence and its inclusion in the formal administrative record for Agenda Item 13.14.

Sincerely,



Don L. Nauman, Esq.
Resident, Walnut Grove Estates/Creekside Neighborhood



Patrice A. Doyle, Esq.
Co-Counsel
Resident, Walnut Grove Estates/Creekside Neighborhood

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**CITY OF SANTA ROSA
CITY CLERK'S OFFICE**

RE: Mandatory Demand to Stay June 2, 2026, Ordinance Adoption Vote; Failure to Execute Statutory Discretion (Gov. Code, § 51179); Absence of Substantial Evidentiary Basis; Prejudicial Legislative Error.

To the Offices of the City Attorney and City Clerk:

Please accept this correspondence as a Formal Administrative Objection and Notice of Intent to Seek a Writ of Mandate regarding Agenda Item 13.14, currently calendared for the June 2, 2026, Santa Rosa City Council meeting. Due to pervasive legal and factual defects that severely compromised the administrative record during the First Reading on May 12, 2026, it is respectfully requested that Item 13.14 be removed from the June 2 agenda in its entirety. Postponing this vote is the most prudent and responsible course of action, as it will afford the incoming City Attorney the necessary opportunity to independently evaluate the substantial litigation risks associated with this ordinance before the City inadvertently binds itself to a legally vulnerable position.

Because the May 12 First Reading was structurally contaminated by false statements of law regarding municipal discretion and insurance regulations, the administrative record is irreparably defective. This fatal flaw cannot be cured by simply moving the item off the Consent Calendar for a cursory discussion prior to a vote. Placing a highly contested zoning overlay onto the Consent Calendar—particularly when the agenda was published immediately preceding the long Memorial Day holiday weekend—bypasses standard procedural norms, but attempting to sanitize it with an eleventh-hour public hearing will not cure the underlying defect. The City Council cannot un-hear the highly prejudicial misstatements of law that induced the initial 6-0

vote. The only legally sound remedy is to strike Item 13.14 from the agenda entirely, tolling the matter to allow incoming legal leadership to conduct a de novo review of the City's statutory obligations and litigation exposure.

The urgency of this request stems from the fundamentally flawed foundation established during the May 12 First Reading. During that hearing, Division Chief Paul Lowenthal and Fire Department staff inadvertently, yet highly prejudicially, misinterpreted and misrepresented statutory mandates, misleading both the City Council and the public into operating under the false legal premise that the City possessed no local discretionary authority regarding the adoption of its local WUI map. Compounding this error, Chief Lowenthal and staff introduced contradictory information into the record and relied on boundary delineations—specifically concerning Matanzas Creek—that lacked any basis in logical fire science or substantial evidence. Proceeding to a final vote upon such an arbitrary and capricious foundation guarantees a structurally defective ordinance. These issues are set forth in full factual and legal detail in the subsequent sections of this correspondence.

1. PREJUDICIAL DENIAL OF PROCEDURAL DUE PROCESS AND FAILURE TO GROUND-TRUTH (GOV. CODE § 51178.5; AB 211)

A local legislative body commits a prejudicial abuse of discretion when it treats a statutory requirement for public review and local validation as a mere procedural formality. During the May 12, 2026 hearing, City Council leadership and Fire Department staff repeatedly asserted the false legal premise that the City had "no say" in the map's adoption, effectively treating the State's macro-level recommendations as a blind, unchallengeable pass-through.

While California Government Code § 51179(b)(3) prevents a local agency from decreasing the fire hazard severity zones identified by the State Fire Marshal, Government Code § 51178.5 mandates that the local agency make the State's recommendations available for public review and comment for 30 days prior to adoption. The legislative intent behind this statutory framework—reinforced by AB 337 and the expanded mandates of AB 211—is to ensure that local agencies perform necessary "ground-truthing." This requires evaluating the State's broad macro-level maps against specific, micro-topographical realities of local parcels, such as the Walnut Grove Estates/Creekside Neighborhood development.

By publicly declaring they possessed no authority to evaluate, question, or refine the map boundaries prior to implementation, the City rendered the statutorily required 30-day public comment period a complete sham. The administrative record is replete with admissions that the City explicitly bypassed its local review obligations under the threat of state coercion:

- **Council Member McDonald** [at timestamp 02:39:52]: "So I understand that when we adopted the CalFire maps, that was mandatory and we had real no say over the adoption of it."
- **Division Chief Paul Lowenthal** [at timestamp 02:40:08]: "The initial maps that were released by CalFire that affected the City of Santa Rosa were adopted as required by law and had to go into effect within 120 days. Uh, the decision to, uh, align our local

wildland urban interface fire area map boundaries, uh, to align with the new state-mapped areas, uh, falls with, uh, our city council. Um, I would note that our reason for bringing this forward to you now is really just to provide consistency across our community..."

- **Division Chief Paul Lowenthal** [at timestamp 02:47:24]: "I want to clarify that the areas that have been mapped are already mapped. They are existing and they are in effect... those areas have been mapped and there are already laws in place for them that we had no say on that have been in effect since, since last year. Okay. This, uh, procedure or this process is simply overlaying our WUI boundary on top of the state's boundary..."
- **Assistant Fire Marshal Jared McDaniel** [at timestamp 02:44:11]: "Um, a lot of these tools, the reason the state is responsible for this task is because they have the resources and the capabilities to map an entire state as large as California. And so that's why local jurisdictions rely on some of the technologies that they implement on these maps because they have capabilities that a lot of local jurisdictions just don't have."

Most damningly, the record reflects an explicit admission that the Fire Department consciously abdicated its duty to question or validate the state's maps based on a fear of state retaliation, rather than fulfilling its obligation to the public. In an exchange addressing the ramifications of failing to adopt the state map verbatim, the record shows the following verbatim exchange:

- **Council Member Vanuelos** [at timestamp 03:26:12]: "Okay. And just my final clarification is on, uh, adopting this, bas—and if I'm using the wrong language, you know, feel free to correct me—uh, adopting the state boundary boundaries is mandated by law, correct?"
- **Division Chief Paul Lowenthal** [at timestamp 03:26:20]: "Yes. So the adoption of the moderate, high, and very high zones within the City of Santa Rosa was required by law and had to be done within 120 days. Could not be less restrictive than what was essentially passed on to us, but could have been more restrictive. We did not do anything more restrictive than what the state provided to us last year."
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Illegal Conflation of Prior State Mandates with Current Discretionary Local Zoning

The administrative record further reveals a fatal, calculated conflation of two distinct legislative acts, improperly weaponized by City staff to induce a rubber-stamp vote. Division Chief Lowenthal explicitly admitted on the record that the mandatory State CalFire maps were already adopted and went into effect "last year" to satisfy the 120-day statutory window. Therefore, the State mandate under Government Code § 51179(b) was fully exhausted in 2025.

The ordinance currently pending for June 2026 is an entirely distinct, discretionary local legislative act—specifically, the creation of a local "WUI boundary overlay." By deliberately conflating the mandatory nature of the 2025 State action with the purely discretionary 2026 local overlay, Fire Department staff actively misled the City Council into believing it possessed "no say" over local land-use zoning.

This is a textbook "bait and switch." The City cannot point to an expired 2025 State mandate to legally justify the arbitrary implementation of a 2026 local zoning ordinance. Because the current action is a local WUI overlay, the City Council possesses absolute home-rule discretion to review, evaluate, and heavily modify these boundaries to reflect the micro-topographical realities of Santa Rosa. Inducing the Council to abdicate this local zoning authority under the false pretense of ongoing State coercion constitutes a structural procedural defect that entirely voids the legislative process.

The City's failure to conduct a localized review or provide a meaningful 30-day public comment period—operating instead under the false assumption that local validation was both futile and strictly prohibited—constitutes a manifest failure to proceed in the manner required by law. The physical consequence of this procedural abdication is a fundamentally flawed map riddled with geographic absurdities.

2. ARBITRARY ENFORCEMENT AND THE YULUPA AVENUE ANOMALY

The City's failure to "question" the state data resulted in the adoption of a local WUI map that is a carbon-copy overlay of the state's map, which is factually absurd and legally arbitrary. A glaring example is the mapping anomaly on Yulupa Avenue—where the north side of Creekside Road/Matanzas Creek is classified as a "high-risk" WUI zone, while identical residential properties directly across Yulupa Avenue on the south side of Creekside Road/Matanzas Creek are completely omitted. Wildfire behavior does not respect painted roadway centerlines. When a municipality leverages its police power to impose severe regulatory burdens on private property owners, drawing a hazard boundary down the middle of a continuous residential street, such as Creekside Road at Yulupa Avenue, with identical topography constitutes the very definition of arbitrary zoning. It creates an indefensible disparate impact where one homeowner faces the immediate threat of insurance cancellation or catastrophic premium spikes as well as mandatory title disclosures, while their neighbor approximately 40 feet across the asphalt does not, based on zero scientific distinction. This anomaly provides a reviewing Superior Court with physical, undeniable evidence that the City failed to conduct the empirical, localized evaluation required by law, rendering the boundaries

capricious, entirely lacking in substantial evidentiary support, and wholly disconnected from actual ground conditions.

3. COMPLETE ABSENCE OF SUBSTANTIAL EVIDENCE AND MATERIAL FACTUAL CONTRADICTIONS

To support a WUI overlay that severely impacts private property interests, the administrative record must contain substantial evidence of severe wildfire risk. The City's own chief fire official completely dismantled the scientific basis for this ordinance on the record.

Division Chief Paul Lowenthal testified that the Creekside neighborhood required inclusion due to specific macro-level wind risks:

"The area that's being mapped around the Creekside area has been mapped because of the threat from Holland Heights and Mount Taylor. To us as a department, that area is actually a higher risk area to us because that is a naturally occurring wind event that occurs almost every evening here in Sonoma County and something that we've actually trained for for years now because that has been our perceived event and our perceived threat where we get that short duration afternoon breeze that could potentially blow a fire into that part of our community..." [at timestamp 02:23:49]

The City's reliance on CalFire's unverified Local Responsibility Area (LRA) macro-modeling violates basic tenets of sound administrative data gathering and lacks substantial evidentiary support. At [02:15:57 - 02:16:23], Chief Lowenthal acknowledged the deep public outcry from the Creekside neighborhood, but justified the reclassification by claiming it was based on an active threat of a south-to-north fire corridor moving from Taylor Mountain and Holland Heights.

Factual fire history across Sonoma County completely refutes this hypothesis. Every catastrophic wildfire affecting Santa Rosa over the past seventy years—including the 1964 Hanley Fire, the 2017 Tubbs Fire, and the 2020 Glass Fire—has been driven by strong north-to-northeast Diablo wind events moving southwest. There is zero historical, empirical, or meteorological data supporting a major wildfire corridor moving north from Taylor Mountain into the Creekside valley floor. By treating CalFire's generalized modeling as an unassailable mandate rather than reconciling it with localized data, the City is enacting public safety legislation based on an arbitrary "house of cards" framework that ignores documented science. However, when confronted with the City's long-standing failure to clear thick fuel loads on city-controlled parcels running directly behind these private homes, Division Chief Lowenthal explicitly reversed his scientific characterization to shield the City from municipal maintenance liability:

"I will tell you though that... I think one thing that's very important to note is that creeks, uh, similar to portions of creeks that I've seen in the Matanzas Creek area, do act as green belts. When we've had communities that want fuel management, fuel reduction to take place in creeks, it has the potential to, uh,

promote additional sunlight and the drying of the creek." [at timestamp 03:18:09]

Chief Lowenthal further testified that removing the fuel load would cause catastrophic risk by introducing sunlight and drying out the channel, citing a real-world disaster as precedent:

"We can use Mountain Hawk as an example of a lush green creek that is quote overgrown, um, and a part of Mountain Hawk where the creek was, uh, cut and open... completely burned and actually acted as a chimney to burn the home at the bottom... [the fire] literally could not burn across... because it transitioned from a maintained cut creek bed to a lush green, heavily vegetated creek bed where the humidities are higher, there's more moisture in there, and it actually stopped the fire in its tracks..." [at timestamp 03:19:00]

The Legal Defect: The City cannot legally assert that proximity to Matanzas Creek constitutes an extreme, hazardous wildfire risk justifying a restrictive WUI overlay while simultaneously creating an administrative record where its chief fire official testifies that the creek traps high humidity, holds high fuel moisture, and acts as a localized, fire-suppressing "green belt." The evidentiary record is internally fractured and wholly lacks a rational basis.

Because the local Fire Department has demonstrated an irreconcilable conflict in its own scientific characterization of the creek corridor—arguing it is both a severe threat necessitating a WUI overlay and a safe, protective "green belt" to defend the City's maintenance record—the current evidentiary record cannot lawfully support the proposed ordinance. To cure this defect, the City must immediately mandate the hiring of an independent, third-party expert in fire science to conduct a transparent, objective ground-truthing review of the localized topography.

4. THE MATANZAS CREEK CONTRADICTION AND INEQUITABLE SHIFTING OF MUNICIPAL BURDEN

Independent of the procedural and statutory defects, the proposed ordinance attempts an arbitrary, inequitable shifting of municipal burden that exposes the City to severe constitutional liability under Article I, Section 19 of the California Constitution. The City of Santa Rosa exercises absolute regulatory control, dominion, and jurisdiction over the Matanzas Creek corridor. In doing so, the City has actively accepted and retained millions of dollars in state and federal mitigation funds, including its designated share of the \$95 Million PG&E wildfire settlement.

Despite the retention of these public funds, the City has a documented record of minimal fuel reduction and brush clearance within this corridor, permitting a massive, hazardous accumulation of volatile fuel loads on public land. Yet, the City now seeks to utilize this unmaintained public topography as the scientific justification to classify adjacent private homes in the Walnut Grove Estates/Creeside Neighborhood development as "high risk" WUI zones.

The City cannot have it both ways. It cannot formally declare that the creek is a safe, fire-suppressing barrier to justify its own minimal maintenance, while simultaneously utilizing that

exact same hazard to encumber adjacent private property interests. Forcing private property owners to bear the extraordinary out-of-pocket costs of fire-hardening their private structures to act as a defensive barrier for neglected, hazardous city land constitutes the privatization of a public hazard. Taking and damaging private property interests for public use without just compensation is a direct constitutional violation lacking any rational nexus.

5. PREJUDICIAL ERROR INFECTED BY MATERIAL MISSTATEMENTS OF INSURANCE LAW BY THE PRESIDING OFFICER

A legislative vote is legally invalid if council members are actively misled regarding the severe economic consequences of their regulatory actions, thereby preventing a balanced weighing of public necessity against private injury.

Following a direct inquiry from Council Member Fleming regarding whether the non-binding guidelines listed on the California Department of Insurance (CDI) website were legally binding on private insurance carriers ("What authority does the insurance commissioner have to hold these insurance companies to his preferences about their implementation of his, his opinions? Is it binding in any way?" [at timestamp 03:28:12]), the legislative record was structurally corrupted.

Because the Mayor had declared a conflict of interest, recused himself, and exited the chambers, Vice Mayor Krepky was presiding over the hearing as Acting Mayor. Seated as the chair and presiding officer, Acting Mayor Krepky, alongside Council Member Rogers, formally intervened and wielded structural authority to declare:

"All right. So, the—I'm not big on, I'm not an expert in maps, I'm not an expert in fire movements. However, I have been a licensed insurance agent for 20 years. So to answer some of your questions... the insurance commissioner can issue what are called bulletins, which is what you're referring to. And then also in filings and disapproval letters, they can, um, essentially make legally binding statements which are enforceable... So that's that." [at timestamp 03:32:25]

The Legal Defect: This is a material misstatement of California insurance law. While the CDI possesses regulatory powers over rate filings and specific statutory trade violations, the Commissioner's online website FAQs and advisory bulletins carry zero legal authority to dictate, restrict, or override a private insurance carrier's internal, proprietary underwriting guidelines and risk-tiering algorithms. These advisory bulletins entirely lack the statutory force of law or formal regulatory rate-caps under Proposition 103.

Because this highly prejudicial error was explicitly injected into the record by the presiding Acting Mayor leveraging a claimed 20-year professional stature, and reinforced from the dais, it carries immense legal weight. The false assurance fundamentally contaminated the Council's deliberations from the center of the dais, improperly inducing a 6-0 council vote under the false financial assumption that their constituents were legally insulated from immediate underwriting cancellations, premium spikes, and rate hikes. Adopting this ordinance creates

distinct, highly actionable regulatory injuries (e.g., municipal code enforcement penalties, mandatory title disclosures) that private insurers can use immediately within their independent underwriting models to drop risks or alter premium tiers.

6. NOTICE OF LITIGATION HOLD AND RECORD PRESERVATION

Demand is hereby made that the City of Santa Rosa, its Fire Department, its City Council members, and all associated staff immediately preserve all documents, communications, emails, text messages, Slack logs, internal memoranda, and draft maps relating to the preparation, evaluation, and adoption of the proposed June 12, 2026, WUI Fire Area Map ordinance. This includes all correspondence with CalFire regarding the macro-level maps or any local modifications thereof.

7. CONCLUSION AND FINAL DEMAND

Adopting this ordinance on the current administrative record will expose the City to significant, unbudgeted statutory liability. We submit this formal objection on our own behalf as impacted property owners. However, as the City is well aware, the procedural defects detailed herein impact over 100 residents who have already placed their formal opposition on the record.

Should the City force this matter into litigation by proceeding with a vote on Tuesday, June 2, 2026, we are fully prepared to serve as lead plaintiffs in a coordinated multi-party writ of mandate. At that juncture, the City will face compounded exposure for an award of statutory attorney's fees and expert witness fees pursuant to Cal. Code Civ. Proc. § 1021.5 (the Private Attorney General Doctrine).

We strongly advise your office to strike Item 13.14 from the June 2 agenda in its entirety to allow for an independent, de novo review by incoming legal leadership. To cure the existing structural defects, the City must recuse local fire department leadership from this specific geographical line-drawing function, purge the administrative record of the highly prejudicial insurance opinions, and direct the hiring of an independent fire science consultant to satisfy the ground-truthing mandates of Government Code Section 51178.5 prior to bringing this matter back before the Council.

Sincerely,



Don L. Nauman, Esq.
Resident, Walnut Grove Estates/Creekside Neighborhood



Patrice A. Doyle, Esq.
Co-Counsel
Resident, Walnut Grove Estates/Creekside Neighborhood

From: [Don L. Nauman](#)
To: [City Council Public Comments](#)
Subject: [EXTERNAL] 6/2 Mtg Agenda Item 13.14 WUI Map - DEMAND TO STAY
Date: Monday, June 1, 2026 8:14:06 AM
Attachments: [Demand to Stay 05-28-26.pdf](#)

Please see attached Formal Administrative Objection and Notice of Intent to Seek a Writ of Mandate with regard to the June 2, 2026, City Council Meeting, Agenda Item 13.14 WUI Map.

Thank you.

--

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1. PREJUDICIAL DENIAL OF PROCEDURAL DUE PROCESS AND FAILURE TO GROUND-TRUTH (GOV. CODE § 51178.5; AB 211)

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By publicly declaring they possessed no authority to evaluate, question, or refine the map boundaries prior to implementation, the City rendered the statutorily required 30-day public comment period a complete sham. The administrative record is replete with admissions that the City explicitly bypassed its local review obligations under the threat of state coercion:

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Illegal Conflation of Prior State Mandates with Current Discretionary Local Zoning

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The City's failure to "question" the state data resulted in the adoption of a local WUI map that is a carbon-copy overlay of the state's map, which is factually absurd and legally arbitrary. A glaring example is the mapping anomaly on Yulupa Avenue—where the north side of Creekside Road/Matanzas Creek is classified as a "high-risk" WUI zone, while identical residential properties directly across Yulupa Avenue on the south side of Creekside Road/Matanzas Creek are completely omitted. Wildfire behavior does not respect painted roadway centerlines. When a municipality leverages its police power to impose severe regulatory burdens on private property owners, drawing a hazard boundary down the middle of a continuous residential street, such as Creekside Road at Yulupa Avenue, with identical topography constitutes the very definition of arbitrary zoning. It creates an indefensible disparate impact where one homeowner faces the immediate threat of insurance cancellation or catastrophic premium spikes as well as mandatory title disclosures, while their neighbor approximately 40 feet across the asphalt does not, based on zero scientific distinction. This anomaly provides a reviewing Superior Court with physical, undeniable evidence that the City failed to conduct the empirical, localized evaluation required by law, rendering the boundaries

capricious, entirely lacking in substantial evidentiary support, and wholly disconnected from actual ground conditions.

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To support a WUI overlay that severely impacts private property interests, the administrative record must contain substantial evidence of severe wildfire risk. The City's own chief fire official completely dismantled the scientific basis for this ordinance on the record.

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The City's reliance on CalFire's unverified Local Responsibility Area (LRA) macro-modeling violates basic tenets of sound administrative data gathering and lacks substantial evidentiary support. At [02:15:57 - 02:16:23], Chief Lowenthal acknowledged the deep public outcry from the Creekside neighborhood, but justified the reclassification by claiming it was based on an active threat of a south-to-north fire corridor moving from Taylor Mountain and Holland Heights.

Factual fire history across Sonoma County completely refutes this hypothesis. Every catastrophic wildfire affecting Santa Rosa over the past seventy years—including the 1964 Hanley Fire, the 2017 Tubbs Fire, and the 2020 Glass Fire—has been driven by strong north-to-northeast Diablo wind events moving southwest. There is zero historical, empirical, or meteorological data supporting a major wildfire corridor moving north from Taylor Mountain into the Creekside valley floor. By treating CalFire's generalized modeling as an unassailable mandate rather than reconciling it with localized data, the City is enacting public safety legislation based on an arbitrary "house of cards" framework that ignores documented science. However, when confronted with the City's long-standing failure to clear thick fuel loads on city-controlled parcels running directly behind these private homes, Division Chief Lowenthal explicitly reversed his scientific characterization to shield the City from municipal maintenance liability:

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The Legal Defect: The City cannot legally assert that proximity to Matanzas Creek constitutes an extreme, hazardous wildfire risk justifying a restrictive WUI overlay while simultaneously creating an administrative record where its chief fire official testifies that the creek traps high humidity, holds high fuel moisture, and acts as a localized, fire-suppressing "green belt." The evidentiary record is internally fractured and wholly lacks a rational basis.

Because the local Fire Department has demonstrated an irreconcilable conflict in its own scientific characterization of the creek corridor—arguing it is both a severe threat necessitating a WUI overlay and a safe, protective "green belt" to defend the City's maintenance record—the current evidentiary record cannot lawfully support the proposed ordinance. To cure this defect, the City must immediately mandate the hiring of an independent, third-party expert in fire science to conduct a transparent, objective ground-truthing review of the localized topography.

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Independent of the procedural and statutory defects, the proposed ordinance attempts an arbitrary, inequitable shifting of municipal burden that exposes the City to severe constitutional liability under Article I, Section 19 of the California Constitution. The City of Santa Rosa exercises absolute regulatory control, dominion, and jurisdiction over the Matanzas Creek corridor. In doing so, the City has actively accepted and retained millions of dollars in state and federal mitigation funds, including its designated share of the \$95 Million PG&E wildfire settlement.

Despite the retention of these public funds, the City has a documented record of minimal fuel reduction and brush clearance within this corridor, permitting a massive, hazardous accumulation of volatile fuel loads on public land. Yet, the City now seeks to utilize this unmaintained public topography as the scientific justification to classify adjacent private homes in the Walnut Grove Estates/Creekside Neighborhood development as "high risk" WUI zones.

The City cannot have it both ways. It cannot formally declare that the creek is a safe, fire-suppressing barrier to justify its own minimal maintenance, while simultaneously utilizing that

exact same hazard to encumber adjacent private property interests. Forcing private property owners to bear the extraordinary out-of-pocket costs of fire-hardening their private structures to act as a defensive barrier for neglected, hazardous city land constitutes the privatization of a public hazard. Taking and damaging private property interests for public use without just compensation is a direct constitutional violation lacking any rational nexus.

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"All right. So, the—I'm not big on, I'm not an expert in maps, I'm not an expert in fire movements. However, I have been a licensed insurance agent for 20 years. So to answer some of your questions... the insurance commissioner can issue what are called bulletins, which is what you're referring to. And then also in filings and disapproval letters, they can, um, essentially make legally binding statements which are enforceable... So that's that." [at timestamp 03:32:25]

The Legal Defect: This is a material misstatement of California insurance law. While the CDI possesses regulatory powers over rate filings and specific statutory trade violations, the Commissioner's online website FAQs and advisory bulletins carry zero legal authority to dictate, restrict, or override a private insurance carrier's internal, proprietary underwriting guidelines and risk-tiering algorithms. These advisory bulletins entirely lack the statutory force of law or formal regulatory rate-caps under Proposition 103.

Because this highly prejudicial error was explicitly injected into the record by the presiding Acting Mayor leveraging a claimed 20-year professional stature, and reinforced from the dais, it carries immense legal weight. The false assurance fundamentally contaminated the Council's deliberations from the center of the dais, improperly inducing a 6-0 council vote under the false financial assumption that their constituents were legally insulated from immediate underwriting cancellations, premium spikes, and rate hikes. Adopting this ordinance creates

distinct, highly actionable regulatory injuries (e.g., municipal code enforcement penalties, mandatory title disclosures) that private insurers can use immediately within their independent underwriting models to drop risks or alter premium tiers.

6. NOTICE OF LITIGATION HOLD AND RECORD PRESERVATION

Demand is hereby made that the City of Santa Rosa, its Fire Department, its City Council members, and all associated staff immediately preserve all documents, communications, emails, text messages, Slack logs, internal memoranda, and draft maps relating to the preparation, evaluation, and adoption of the proposed June 12, 2026, WUI Fire Area Map ordinance. This includes all correspondence with CalFire regarding the macro-level maps or any local modifications thereof.

7. CONCLUSION AND FINAL DEMAND

Adopting this ordinance on the current administrative record will expose the City to significant, unbudgeted statutory liability. We submit this formal objection on our own behalf as impacted property owners. However, as the City is well aware, the procedural defects detailed herein impact over 100 residents who have already placed their formal opposition on the record.

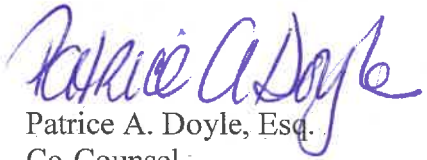
Should the City force this matter into litigation by proceeding with a vote on Tuesday, June 2, 2026, we are fully prepared to serve as lead plaintiffs in a coordinated multi-party writ of mandate. At that juncture, the City will face compounded exposure for an award of statutory attorney's fees and expert witness fees pursuant to Cal. Code Civ. Proc. § 1021.5 (the Private Attorney General Doctrine).

We strongly advise your office to strike Item 13.14 from the June 2 agenda in its entirety to allow for an independent, de novo review by incoming legal leadership. To cure the existing structural defects, the City must recuse local fire department leadership from this specific geographical line-drawing function, purge the administrative record of the highly prejudicial insurance opinions, and direct the hiring of an independent fire science consultant to satisfy the ground-truthing mandates of Government Code Section 51178.5 prior to bringing this matter back before the Council.

Sincerely,



Don L. Nauman, Esq.
Resident, Walnut Grove Estates/Creekside Neighborhood



Patrice A. Doyle, Esq.
Co-Counsel
Resident, Walnut Grove Estates/Creekside Neighborhood

From: [Don L. Nauman](#)
To: [Stapp, Mark](#); [Okrepkie, Jeff](#); [Alvarez, Eddie](#); [MacDonald, Dianna](#); [Fleming, Victoria](#); [Banuelos, Caroline](#); [Rogers, Natalie](#); [CA Office](#)
Cc: [City Clerk](#)
Subject: [EXTERNAL] 6/2/26 City Council Meeting/Agenda Item 13.14
Date: Monday, June 1, 2026 11:20:20 AM
Attachments: [City Council & City Atty ltr 06-01-26.pdf](#)

Dear City Council and City Attorney - please see attached correspondence regarding Item 13.14 (WUI Map) on the City Council meeting agenda for Tuesday, June 2, 2026.

Thank you.

--

Don L. Nauman
Attorney at Law
3936 Mayette Avenue
Santa Rosa, CA 95405
(707) 525-0151
Fax: (707) 544-5418

NOTICE: The information contained in (and attached to) this e-mail is intended only for the personal and confidential use of the designated recipient(s) named above. This message may be an attorney/client communication and as such is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you received this communication in error, please notify us immediately by reply e-mail, and delete the original message (including attachments).

Don L. Nauman

Attorney at Law

3936 Mayette Avenue
Santa Rosa, CA 95405
(707) 525-0151
(707) 544-5418 (Fax)

June 1, 2026

VIA EMAIL

Office of the City Attorney
City of Santa Rosa
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

City Counsel
City of Santa Rosa
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

Subject: URGENT: Administrative Record & Brown Act Demand regarding Agenda Item 13.14 (June 2, 2026)

Dear Mayor and Members of the City Council,

Attached please find a Formal Administrative Objection and Notice of Intent to Seek a Writ of Mandate regarding Agenda Item 13.14 (WUI Map Adoption), scheduled for Tuesday, June 2, 2026.

We are writing to you directly this morning out of an abundance of caution to ensure you have adequate time to review the legal and financial risks associated with this item prior to tomorrow night's vote.

1. Status of the Administrative Record

This document was formally served in person upon the City Clerk and the Office of the City Attorney on Thursday, May 28, 2026, at 1:00 PM. At the time of service, the Clerk's office explicitly instructed us to also to email the document to cc-comment@srcity.org to ensure the City Council actually receives and reviews it.

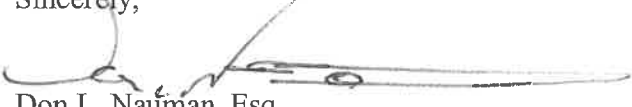
We followed those instructions immediately and it was emailed at 1:21pm on May 28, 2026. However, as of this morning, the filing has still not populated on the Correspondence section for Item 13.14 on the Agenda. Because this document details structural and procedural defects of the May 12, 2026, meeting regarding the proposed WUI map as well as during that meeting the vote was based on misinformation of law and fact and was arbitrary and capricious, we believe that the City has significant exposure and liability including but not limited to the Private Attorney General Doctrine (CCP 1021.5) we felt that it was important to make sure that you had this item for your review prior to the June 2, 2026, City Council meeting.

2. Advance Notice of Brown Act Demand to Speak

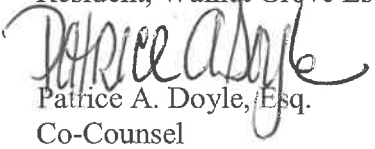
We strongly advise that Item 13.14 be pulled from tomorrow's Consent Calendar to allow staff and new legal leadership time to cure the defective record.

However, if the item remains on the calendar, please be advised that Patrice Doyle and I formally demand our statutory right to address the City Council on this item prior to the adoption of the Consent Calendar, pursuant to the Ralph M. Brown Act (Gov. Code § 54954.3). We are providing this advance written notice to prevent any procedural oversight during the Consent portion of Tuesday's meeting, and we will also submit the standard physical speaker cards to the Clerk inside the chamber.

Sincerely,



Don L. Nauman, Esq.
Resident, Walnut Grove Estates/Creekside Neighborhood



Patrice A. Doyle, Esq.
Co-Counsel
Resident, Walnut Grove Estates/Creekside Neighborhood

Don L. Nauman

Attorney at Law

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May 28, 2026

VIA ELECTRONIC MAIL AND HAND DELIVERY

Office of the City Attorney
City of Santa Rosa
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

Office of the City Clerk
City of Santa Rosa
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

RE: Mandatory Demand to Stay June 2, 2026, Ordinance Adoption Vote; Failure to Execute Statutory Discretion (Gov. Code, § 51179); Absence of Substantial Evidentiary Basis; Prejudicial Legislative Error.

To the Offices of the City Attorney and City Clerk:

Please accept this correspondence as a Formal Administrative Objection and Notice of Intent to Seek a Writ of Mandate regarding Agenda Item 13.14, currently calendared for the June 2, 2026, Santa Rosa City Council meeting. Due to pervasive legal and factual defects that severely compromised the administrative record during the First Reading on May 12, 2026, it is respectfully requested that Item 13.14 be removed from the June 2 agenda in its entirety. Postponing this vote is the most prudent and responsible course of action, as it will afford the incoming City Attorney the necessary opportunity to independently evaluate the substantial litigation risks associated with this ordinance before the City inadvertently binds itself to a legally vulnerable position.

Because the May 12 First Reading was structurally contaminated by false statements of law regarding municipal discretion and insurance regulations, the administrative record is irreparably defective. This fatal flaw cannot be cured by simply moving the item off the Consent Calendar for a cursory discussion prior to a vote. Placing a highly contested zoning overlay onto the Consent Calendar—particularly when the agenda was published immediately preceding the long Memorial Day holiday weekend—bypasses standard procedural norms, but attempting to sanitize it with an eleventh-hour public hearing will not cure the underlying defect. The City Council cannot un-hear the highly prejudicial misstatements of law that induced the initial 6-0

vote. The only legally sound remedy is to strike Item 13.14 from the agenda entirely, tolling the matter to allow incoming legal leadership to conduct a de novo review of the City's statutory obligations and litigation exposure.

The urgency of this request stems from the fundamentally flawed foundation established during the May 12 First Reading. During that hearing, Division Chief Paul Lowenthal and Fire Department staff inadvertently, yet highly prejudicially, misinterpreted and misrepresented statutory mandates, misleading both the City Council and the public into operating under the false legal premise that the City possessed no local discretionary authority regarding the adoption of its local WUI map. Compounding this error, Chief Lowenthal and staff introduced contradictory information into the record and relied on boundary delineations—specifically concerning Matanzas Creek—that lacked any basis in logical fire science or substantial evidence. Proceeding to a final vote upon such an arbitrary and capricious foundation guarantees a structurally defective ordinance. These issues are set forth in full factual and legal detail in the subsequent sections of this correspondence.

1. PREJUDICIAL DENIAL OF PROCEDURAL DUE PROCESS AND FAILURE TO GROUND-TRUTH (GOV. CODE § 51178.5; AB 211)

A local legislative body commits a prejudicial abuse of discretion when it treats a statutory requirement for public review and local validation as a mere procedural formality. During the May 12, 2026 hearing, City Council leadership and Fire Department staff repeatedly asserted the false legal premise that the City had "no say" in the map's adoption, effectively treating the State's macro-level recommendations as a blind, unchallengeable pass-through.

While California Government Code § 51179(b)(3) prevents a local agency from decreasing the fire hazard severity zones identified by the State Fire Marshal, Government Code § 51178.5 mandates that the local agency make the State's recommendations available for public review and comment for 30 days prior to adoption. The legislative intent behind this statutory framework—reinforced by AB 337 and the expanded mandates of AB 211—is to ensure that local agencies perform necessary "ground-truthing." This requires evaluating the State's broad macro-level maps against specific, micro-topographical realities of local parcels, such as the Walnut Grove Estates/Creekside Neighborhood development.

By publicly declaring they possessed no authority to evaluate, question, or refine the map boundaries prior to implementation, the City rendered the statutorily required 30-day public comment period a complete sham. The administrative record is replete with admissions that the City explicitly bypassed its local review obligations under the threat of state coercion:

- **Council Member McDonald** [at timestamp 02:39:52]: "So I understand that when we adopted the CalFire maps, that was mandatory and we had real no say over the adoption of it."
- **Division Chief Paul Lowenthal** [at timestamp 02:40:08]: "The initial maps that were released by CalFire that affected the City of Santa Rosa were adopted as required by law and had to go into effect within 120 days. Uh, the decision to, uh, align our local

wildland urban interface fire area map boundaries, uh, to align with the new state-mapped areas, uh, falls with, uh, our city council. Um, I would note that our reason for bringing this forward to you now is really just to provide consistency across our community..."

- **Division Chief Paul Lowenthal** [at timestamp 02:47:24]: "I want to clarify that the areas that have been mapped are already mapped. They are existing and they are in effect... those areas have been mapped and there are already laws in place for them that we had no say on that have been in effect since, since last year. Okay. This, uh, procedure or this process is simply overlaying our WUI boundary on top of the state's boundary...."
- **Assistant Fire Marshal Jared McDaniel** [at timestamp 02:44:11]: "Um, a lot of these tools, the reason the state is responsible for this task is because they have the resources and the capabilities to map an entire state as large as California. And so that's why local jurisdictions rely on some of the technologies that they implement on these maps because they have capabilities that a lot of local jurisdictions just don't have."

Most damningly, the record reflects an explicit admission that the Fire Department consciously abdicated its duty to question or validate the state's maps based on a fear of state retaliation, rather than fulfilling its obligation to the public. In an exchange addressing the ramifications of failing to adopt the state map verbatim, the record shows the following verbatim exchange:

- **Council Member Vanuelos** [at timestamp 03:26:12]: "Okay. And just my final clarification is on, uh, adopting this, bas—and if I'm using the wrong language, you know, feel free to correct me—uh, adopting the state boundary boundaries is mandated by law, correct?"
- **Division Chief Paul Lowenthal** [at timestamp 03:26:20]: "Yes. So the adoption of the moderate, high, and very high zones within the City of Santa Rosa was required by law and had to be done within 120 days. Could not be less restrictive than what was essentially passed on to us, but could have been more restrictive. We did not do anything more restrictive than what the state provided to us last year."
- **Council Member Vanuelos** [at timestamp 03:26:44]: "Okay. And if we were to not do that, what would be the ramifications of that, if we were to not do adopt this?"
- **Division Chief Paul Lowenthal** [at timestamp 03:26:52]: "That's a great question. I'm—from what I understand, they would, they would essentially force it upon us, or if we were to go back and say, well, we have some problems with, you know, to question it..."

Illegal Conflation of Prior State Mandates with Current Discretionary Local Zoning

The administrative record further reveals a fatal, calculated conflation of two distinct legislative acts, improperly weaponized by City staff to induce a rubber-stamp vote. Division Chief Lowenthal explicitly admitted on the record that the mandatory State CalFire maps were already adopted and went into effect "last year" to satisfy the 120-day statutory window. Therefore, the State mandate under Government Code § 51179(b) was fully exhausted in 2025.

The ordinance currently pending for June 2026 is an entirely distinct, discretionary local legislative act—specifically, the creation of a local "WUI boundary overlay." By deliberately conflating the mandatory nature of the 2025 State action with the purely discretionary 2026 local overlay, Fire Department staff actively misled the City Council into believing it possessed "no say" over local land-use zoning.

This is a textbook "bait and switch." The City cannot point to an expired 2025 State mandate to legally justify the arbitrary implementation of a 2026 local zoning ordinance. Because the current action is a local WUI overlay, the City Council possesses absolute home-rule discretion to review, evaluate, and heavily modify these boundaries to reflect the micro-topographical realities of Santa Rosa. Inducing the Council to abdicate this local zoning authority under the false pretense of ongoing State coercion constitutes a structural procedural defect that entirely voids the legislative process.

The City's failure to conduct a localized review or provide a meaningful 30-day public comment period—operating instead under the false assumption that local validation was both futile and strictly prohibited—constitutes a manifest failure to proceed in the manner required by law. The physical consequence of this procedural abdication is a fundamentally flawed map riddled with geographic absurdities.

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Because the Mayor had declared a conflict of interest, recused himself, and exited the chambers, Vice Mayor Krepyk was presiding over the hearing as Acting Mayor. Seated as the chair and presiding officer, Acting Mayor Krepyk, alongside Council Member Rogers, formally intervened and wielded structural authority to declare:

"All right. So, the—I'm not big on, I'm not an expert in maps, I'm not an expert in fire movements. However, I have been a licensed insurance agent for 20 years. So to answer some of your questions... the insurance commissioner can issue what are called bulletins, which is what you're referring to. And then also in filings and disapproval letters, they can, um, essentially make legally binding statements which are enforceable... So that's that." [at timestamp 03:32:25]

The Legal Defect: This is a material misstatement of California insurance law. While the CDI possesses regulatory powers over rate filings and specific statutory trade violations, the Commissioner's online website FAQs and advisory bulletins carry zero legal authority to dictate, restrict, or override a private insurance carrier's internal, proprietary underwriting guidelines and risk-tiering algorithms. These advisory bulletins entirely lack the statutory force of law or formal regulatory rate-caps under Proposition 103.

Because this highly prejudicial error was explicitly injected into the record by the presiding Acting Mayor leveraging a claimed 20-year professional stature, and reinforced from the dais, it carries immense legal weight. The false assurance fundamentally contaminated the Council's deliberations from the center of the dais, improperly inducing a 6-0 council vote under the false financial assumption that their constituents were legally insulated from immediate underwriting cancellations, premium spikes, and rate hikes. Adopting this ordinance creates

distinct, highly actionable regulatory injuries (e.g., municipal code enforcement penalties, mandatory title disclosures) that private insurers can use immediately within their independent underwriting models to drop risks or alter premium tiers.

6. NOTICE OF LITIGATION HOLD AND RECORD PRESERVATION

Demand is hereby made that the City of Santa Rosa, its Fire Department, its City Council members, and all associated staff immediately preserve all documents, communications, emails, text messages, Slack logs, internal memoranda, and draft maps relating to the preparation, evaluation, and adoption of the proposed June 12, 2026, WUI Fire Area Map ordinance. This includes all correspondence with CalFire regarding the macro-level maps or any local modifications thereof.

7. CONCLUSION AND FINAL DEMAND

Adopting this ordinance on the current administrative record will expose the City to significant, unbudgeted statutory liability. We submit this formal objection on our own behalf as impacted property owners. However, as the City is well aware, the procedural defects detailed herein impact over 100 residents who have already placed their formal opposition on the record.

Should the City force this matter into litigation by proceeding with a vote on Tuesday, June 2, 2026, we are fully prepared to serve as lead plaintiffs in a coordinated multi-party writ of mandate. At that juncture, the City will face compounded exposure for an award of statutory attorney's fees and expert witness fees pursuant to Cal. Code Civ. Proc. § 1021.5 (the Private Attorney General Doctrine).

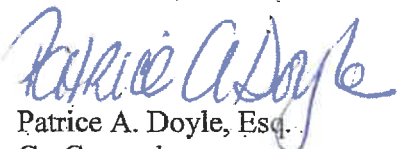
We strongly advise your office to strike Item 13.14 from the June 2 agenda in its entirety to allow for an independent, de novo review by incoming legal leadership. To cure the existing structural defects, the City must recuse local fire department leadership from this specific geographical line-drawing function, purge the administrative record of the highly prejudicial insurance opinions, and direct the hiring of an independent fire science consultant to satisfy the ground-truthing mandates of Government Code Section 51178.5 prior to bringing this matter back before the Council.

Sincerely,



Don L. Nauman, Esq.

Resident, Walnut Grove Estates/Creekside Neighborhood



Patrice A. Doyle, Esq.

Co-Counsel

Resident, Walnut Grove Estates/Creekside Neighborhood