

AGENDA

**SAN RAFAEL CITY COUNCIL MEETING – MONDAY, MAY 15, 2006  
(WITH SUPPLEMENTAL INFORMATION FOR COUNCILMEMBERS)  
COUNCIL CHAMBER, CITY HALL, 1400 FIFTH AVENUE, SAN RAFAEL, CALIFORNIA**

Members of the public may speak on Agenda items.

**OPEN SESSION – COUNCIL CHAMBER – 5:00 PM**

Mayor Boro announced Closed Session item 1. a)

**CLOSED SESSION – CONFERENCE ROOM 201 – 5:00 PM**

- 1. a) Public Employee Appointment, Government Code Section 54957(b)(1)  
Title: Interim Chief of Police

**Mayor Boro announced that the City Council directed Interim City Manager Ken Nordhoff to negotiate a contract to engage former Police Chief Tom Simms as Interim Chief of Police for the City of San Rafael.**

**Mayor Boro announced Closed Session item 1. b) – 9:39 p.m.**

- b) Conference with Labor Negotiators – Government Code Section 54957.6  
Negotiators: Ken Nordhoff, Nancy Mackle, Lydia Romero, Donna Williamson

Employee Organization(s):

- San Rafael Firefighters' Association
- San Rafael Fire Chief Officers' Association
- San Rafael Police Association
- San Rafael Police Mid-Management Association
- Confidential Unit
- Western Council of Engineers
- SEIU Miscellaneous & Supervisory

**Mayor Boro announced at 10:35 p.m. that no reportable action was taken on 1.b).**

**ORAL COMMUNICATIONS OF AN URGENCY NATURE:**

**8:25 PM**

**a) Gerstle Park – Retaining Walls in the Public Right-of-Way:**

**Hugo Landecker stated that the Gerstle Park Neighborhood reviews plans for every project in the area and in the past year there had been three instances where retaining walls were constructed in the public-of-way without inspection, required engineering, City review or building permits. He requested that the City Council direct staff to generate a policy on retaining walls in the public right-of-way and that the City Attorney advise the City Council on the subject of liability of these retaining walls in the event of failure.**

**Public Works Director Andy Preston stated he did not disagree with Mr. Landecker's comments. These were three of hundreds, if not thousands, of encroachments into the City right-of-way, mainly in the older areas with hillside streets, such as Gerstle Park, Bret Harte, etc. He indicated that the Public Works Department issues encroachment permits for work within the right-of-way for projects such as sidewalks, driveways, small areas of encroachment such as small retaining walls for landscaping purposes and small fences, and encroachment permits are issued for all excavations within the City right-of-way. Mr. Preston stated there was no written policy currently dealing with the larger encroachments into the City right-of-way, such as large retaining walls and buildings. He intended to work with the City Attorney's office to develop criteria and policy, subsequently returning to the City Council with a policy for adoption.**

**b) Kids' Day America:**

**Lisa Hartnett stated that Kids' Day America International takes place at Davidson Middle School on Saturday, May 20, 2006 from 12:00 Noon to 3:00 p.m., and she invited all to attend.**

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*American Sign Language interpreters and assistive listening devices may be requested by calling (415) 485-3198 (TDD) or (415) 485-3064 (voice) at least 72 hours in advance. Copies of documents are available in accessible formats upon request.*

*Public transportation is available through Golden Gate Transit, Line 22 or 23. Paratransit is available by calling Whistlestop Wheels at (415) 454-0964.*

*To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products.*

**c) Lawsuit – Soccer Complex:**

Mayor Boro invited City Attorney Gary Ragghianti to comment on this issue.

Mr. Ragghianti stated that with all of the other lawsuits the City currently was spending time on, this was not one of them. Noting it did not name the City, he stated that from the pleadings he had seen it named two, and Doe defendants, and was brought by Mr. Shekou against individuals. Mr. Ragghianti stated that the City had no interest in this lawsuit in terms of the legal issues framed by the pleadings and was not a party to it.

Mary Feller explained that the citizens present were in disguise to illustrate their fear of reprisal from the lawsuit that named up to 50 Does. Commenting that the public process of the City of San Rafael was broken, biased and poisoned, she stated that the City, through the Planning Department, had consistently acted, not as a neutral party, but as an advocate for the interests of Joe Shekou in implementing his agenda. Ms. Feller stated they were in possession of an email from former City Manager Rod Gould to Robert Herbst sent before their community meeting was held indicating that the City Council was behind the project. She requested that the City not do business with bullies.

Mayor Boro stated that the City Council had no discussion whatsoever on this project.

Paula Kotzen stated she was present to speak out against the tactics of fear and intimidation from a large developer against citizens who had the courage to object to a project in a public forum.

Elaine Reichert stated she was very concerned with the sloppy environmental reports about Loch Lomond, the Quarry and especially, the Soccer proposal for the airport. She believed the project was inappropriate and should have been rejected at the beginning because of the density exchange made when the property was purchased.

Mary Hanley believed the community was ignored in this process and she requested that the City be honest and have integrity. She handed copies of the previously mentioned email from Rod Gould to the Deputy City Clerk.

Jake Jakl read the contents of an email from Robert Herbst on June 16, 2005 to Rod Gould and Mr. Gould's emailed response to Mr. Herbst on June 21, 2005. He expressed the hope that the environmental impact reports would be reinvestigated.

Gordon Feller stated that critical environmental studies were being ignored and the City's previous General Plans had been structured in such a way to pave the way for this development. This arrogance signaled to all developers that they could act with impunity, which was unacceptable. He commented that the City should be committed to restoring faith in the policy process (in the public at large) and to bias the process in favor of any developer when it had not been concluded was bad policy and did not attract the desired genuine public engagement in the policy process.

Councilmember Cohen apologized to Mary Feller for not returning her call and stated he would be happy to talk with her at any time.

Indicating he was concerned about the email in question, Councilmember Cohen stated he believed it prejudiced the public process to state in advance that the City Council supported a project they had not yet seen, had not taken any testimony on or reviewed the environmental document, as it had not yet been presented to them. He believed it was inappropriate and an error of judgment on Mr. Gould's part.

**CONSENT CALENDAR:**

**RECOMMENDED ACTION:**

ALL MATTERS ON THE CONSENT CALENDAR ARE TO BE APPROVED BY ONE MOTION, UNLESS SEPARATE ACTION IS REQUIRED ON A PARTICULAR ITEM:

APPROVAL OF THE FOLLOWING ACTION:

- 2. Approval of Minutes of Regular Meeting of Monday, May 1, 2006 (CC) Approve as submitted.

**Minutes approved as submitted.**

- 3. Call for Applications to Fill One, Four-Year Term on the Design Review Board, Due to Expiration of Term of Board Member Anne Laird-Blanton, Architect (Term to Expire End of June, 2010) (CC) Approve staff recommendation.

**Approved staff recommendation:**

- a) Called for applications to fill one, four-year term on the Design Review Board, due to expiration of term of Board member Anne Laird-Blanton, Architect, with term to expire end of June 2010;
- b) Set deadline for receipt of applications for Tuesday, June 6, 2006 at 12 Noon in the City Clerk's Office, Room 209, City Hall; and
- c) Set date for interviews of applicants at a Special City Council meeting to be held on Monday, June 19, 2006, commencing at 6:00 p.m.

4. Call for applications to Fill Two, Four-Year Terms on the Planning Commission, Due to Expiration of Terms of Commissioners Larry Paul and Bruce Scott (Terms to Expire End of June, 2010) (CC) Approve staff recommendation.

**Approved staff recommendation:**

- a) Called for applications to fill two, four-year term on the Planning Commission, due to expiration of terms of Commissioners Larry Paul and Bruce Scott with terms to expire end of June 2010;
- b) Set deadline for receipt of applications for Tuesday, June 6, 2006 at 12 Noon in the City Clerk's Office, Room 209, City Hall; and
- c) Set date for interviews of applicants at a Special City Council meeting to be held on Monday, June 19, 2006, commencing at 6:00 p.m.

5. Resolution Authorizing the Interim City Manager to Execute a Third Amendment to the Agreement for Professional Planning Services with Lisa Newman for Assistance as Project Planner for the Proposed 15-Unit Residential Condominium Development Located at 524 Mission Avenue, Increasing the Budget for the Agreement from \$105,000 to \$142,500 and Extending the Term of the Agreement Through December 31, 2007, with all Costs Reimbursed by the Project Developers Through Cost Recovery (CD) Adopt Resolution.

**ADOPTED RESOLUTION NO. 11952 – RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A THIRD AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL PLANNING SERVICES WITH LISA NEWMAN (DBA NEWMAN PLANNING ASSOCIATES) FOR SERVICES RELATED TO THE PROCESSING OF PLANNING APPLICATIONS FOR THE PROPOSED CONDOMINIUM PROJECT TO BE LOCATED AT 524 MISSION AVENUE (Terms of Amended Agreement: Agreement extended from December 31, 2006 through December 31, 2007, with a total amended budget amount not to exceed \$142,500. All costs to be reimbursed to the City through cost recovery from project applicants)**

6. Report on Temporary A-Frame Sign Procedures (CD) Accept report.

**Accepted report.**

**Mr. Meeker to work with Deborah Colby, Second Street Cleaners, on appropriate signing for her business.**

7. Resolution Authorizing the Naming of the Private Internal Street Within the Academy Heights Subdivision "Live Oak Way" (CD) Adopt Resolution.

**ADOPTED RESOLUTION NO. 11953 – RESOLUTION APPROVING "LIVE OAK WAY" AS THE STREET NAME FOR THE INTERNAL PRIVATE STREET WITHIN THE ACADEMY HEIGHTS SUBDIVISION (PO6-001)**

8. Summary of Legislation Affecting San Rafael (CM) Approve staff recommendation.

**Approved staff recommendation:**

**SB 1404 – Parking Violations. Street Cleaning. Senator Machado. OPPOSE  
AB 2922 – Local and Moderate Housing Funds. Assembly Member Jones. OPPOSE**

9. Fiscal Year 2004-2005 Annual Financial Audit Report; The Gann Appropriation Limit Report; The Single Audit Report and the Management Letter/Report (MS) Accept reports and letter

**Accepted the FY 2004-2005 Annual Financial Audit Report; Accepted the Gann Appropriation Limit Report; Accepted the Single Audit Report; and Accepted the Management Letter/Report**

10. Monthly Investment Report for Month Ending April, 2006 (MS) Accept report.

**Accepted the Monthly Investment Report for month ending April 2006, as presented.**

11. Update to the City's Investment Policy (MS) Accept report.

**Accepted Update to the City's Investment Policy report, as presented.**

12. Report on Bid Opening and Resolution Awarding the Contract for Fifth Avenue Bicycle/Pedestrian Pathway, Project No. 11051, to Ghilotti Bros. Inc., in Amount of \$ 356,702.80 (Bid Opening Held on Tuesday, May 9, 2006) (PW) Adopt Resolution.

**ADOPTED RESOLUTION NO. 11954 – RESOLUTION AWARDING THE CONTRACT FOR FIFTH AVENUE BICYCLE/PEDESTRIAN PATHWAY, PROJECT NO. 11051, TO GHILOTTI BROS. INC. IN THE AMOUNT OF \$356,702.80**

13. Resolution Authorizing the Director of Public Works to Enter Into an Agreement with Parisi Associates Transportation Consulting to Design Bicycle Facilities as Outlined in the San Rafael Bicycle and Pedestrian Master Plan Short-Term Projects (PW) Adopt Resolution.

**ADOPTED RESOLUTION NO. 11955 – RESOLUTION ACCEPTING THE SCOPE OF SERVICES AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO ENTER INTO AN AGREEMENT WITH PARISI ASSOCIATES TRANSPORTATION CONSULTING FOR PROFESSIONAL ENGINEERING SERVICES IN AN AMOUNT NOT TO EXCEED \$30,000 TO DESIGN AND STUDY THE BICYCLE PROJECTS OUTLINED IN THE SAN RAFAEL BICYCLE AND PEDESTRIAN PLAN SHORT-TERM PROJECTS**

14. Resolution Authorizing the Economic Development Director to Execute a Professional Services Agreement with Joanne Webster for Management Services for the Downtown Business Improvement District (From July 1, 2006 – June 30, 2007 (RA) Adopt Resolution.

**ADOPTED RESOLUTION NO. 11956 – RESOLUTION AUTHORIZING THE ECONOMIC DEVELOPMENT DIRECTOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH JOANNE WEBSTER FOR MANAGEMENT SERVICES FOR THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT (FROM JULY 1, 2006 TO JUNE 30, 2007)**

**COUNCIL CONSIDERATION:**

**NEW BUSINESS:**

15. Consideration of Dual Annexation Policy Related to Proposed Expansion of the Mount Tamalpais Cemetery (CD)

Council directed staff to reply to the County that the City would pursue dual annexation of Mount Tamalpais Cemetery.

**CITY MANAGER'S REPORT:**

16. None.

**COUNCILMEMBER REPORTS:**

17. a) **Legislative Committee:**  
Councilmember Heller reported that the Legislative Committee met with Assembly Member Joe Nation last week to discuss AB 2987 which was not very good for cities in its Telecommunication reform. She believed the City was opposed to it in its legislative program.

- b) **Marin Telecommunications Agency:**  
Councilmember Miller distributed a report on the proposed new Cable TV Franchise Agreement and Side Letter with Comcast. Having worked with this issue for approximately five and a half years, he believed it to be the best possible and much more than expected. He expressed the hope that the meeting on Wednesday, May 17, 2006 would put the issue in process.

Councilmember Miller explained that the items in the Side Letter were not covered in any other Comcast franchise. FM radio would continue and it was hoped to petition for a grant to procure computers at Pickleweed.

- c) **San Rafael Safe Routes to Schools Task Force:**  
Councilmember Miller reported that a San Rafael Safe Routes to Schools Task Force had been convened with Linda Jackson, Principal Planner, a representative from Safe Routes to Schools and himself and they hoped to have an entire task force in place to include all public schools, with an invitation to private schools to participate.

While most of the schools in the County had participated, Mayor Boro believed the majority of San Rafael schools had not and he was pleased Councilmember Miller had initiated this process.

- d) **State Legislature – Ballot Bonds:**  
Councilmember Cohen noted a series of bonds had been placed on the ballot. He stated it was no accident that Measure 1A on the November ballot would be the “soft”

**Proposition 42 fix, meaning the Proposition 42 money could only be taken twice in any decade, and once taken, had to be repaid in full before it could be borrowed again. In addition, there was \$19.9 billion in Transportation bonds and approximately \$10.5 billion in Education bonds, housing and levy money.**

**Councilmember Cohen stated he had been invited to a signing ceremony tomorrow morning, May 16, 2006, at the east end of the Caldicot tunnel with Senator Perata and Governor Schwarzenegger. Because of the funds that would come to San Rafael and the County as a result of these bonds, he believed it would be appropriate for the City to consider taking a public position in support of those ballot measures once they are officially to be placed on the ballot.**

**ADJOURNMENT: 9:39 p.m. to Closed Session 1. b).**