

IN THE COUNCIL CHAMBER OF THE CITY OF SAN RAFAEL, TUESDAY, JANUARY 17, 2006 AT 8:00 P.M.

Regular Meeting:
San Rafael City Council

Present: Albert J. Boro, Mayor
Gary O. Phillips, Vice-Mayor
Paul M. Cohen, Councilmember
Barbara Heller, Councilmember
Cyr N. Miller, Councilmember

Absent: None

Also Present: Ken Nordhoff, Interim City Manager
Gary T. Raghianti, City Attorney
Jeanne M. Leoncini, City Clerk

OPEN SESSION – COUNCIL CHAMBER – 7:30 PM

Mayor Boro announced Closed Session item.

CLOSED SESSION – CONFERENCE ROOM 201 – 7:30 PM

1. Conference with Real Property Negotiators - (Government Code Section 54956.8)
 - Property: 12 &16 Ritter Street, San Rafael, CA
 - Agency Negotiator: Nancy Mackle, Economic Development Director
 - Negotiating Parties: City of San Rafael, Brovelli Trust, Bottarini Trust
 - Under Negotiation: Terms and Price

City Attorney Gary Raghianti announced that no reportable action was taken.

ORAL COMMUNICATIONS OF AN URGENCY NATURE:

8:10 PM

Redwood Village Grading: - File 100 x 5-1-347

Dil Kazzaz stated he was present to request a public hearing be held to uncover what he termed a “cover up.” He presented the City Council with a list containing 150 signatures of supporters, indicating he could obtain more should it be necessary. Mr. Kazzaz explained that he was present at a Council meeting eighteen months ago regarding the issue of a house being constructed behind his which was contrary to Planning Commission guidelines. He was referred back to Community Development Director Bob Brown and as a result received a letter from Mayor Boro which indicated that “holding a public hearing to provide a forum to voice your complaint would set a bad precedent, since the Planning approval was granted with full public notification” and he questioned this.

Mr. Kazzaz further explained the situation by means of various sketches identifying areas around his house.

Mayor Boro requested that City Attorney Gary Raghianti work with Mr. Brown to review the documentation submitted by Mr. Kazzaz, meet with him and report back to the City Council.

CONSENT CALENDAR:

Councilmember Phillips moved and Councilmember Cohen seconded, to approve the Consent Calendar, as follows:

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
2. Approval of Minutes of Regular Meeting of Monday, December 19, 2005 (CC)	Minutes approved as submitted.
3. <u>Transactions and Use Tax: (CA) – File 8-5 x 9-3-20 x 9-3-16</u>	
a) <u>State Board of Equalization:</u>	a) <u>State Board of Equalization:</u>
1) Resolution Approving and Authorizing the Mayor to Execute an Agreement with the State Board Of Equalization for Preparation to Administer and to Operate the City's Transactions and Use Tax	1) <u>RESOLUTION NO. 11873 – RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE STATE BOARD OF EQUALIZATION FOR PREPARATION TO ADMINISTER AND TO OPERATE THE CITY'S TRANSACTIONS AND USE TAX</u>
2) Resolution Approving and Authorizing the Mayor to Execute an Agreement with the State Board of Equalization for the Administration of the City's Transactions and Use Tax	2) <u>RESOLUTION NO. 11874 – RESOLUTION APPROVING AND AUTHORIZING</u>

THE MAYOR TO EXECUTE AN AGREEMENT WITH THE STATE BOARD OF EQUALIZATION FOR THE ADMINISTRATION OF THE CITY OF SAN RAFAEL'S TRANSACTIONS AND USE TAX

- b) Hinderliter, de Llamas and Associates:
 - 1) Resolution Approving and Authorizing the Mayor to Execute an Amendment to the Agreement Between the City and Hinderliter, de Llamas and Associates for Sales Tax Audit and Information Services so as to 1) Extend the Term of the Agreement and 2) Amend the Scope of Services to Include Examination of City Transactions and Use Tax Records
 - 2) Resolution Authorizing Hinderliter, de Llamas and Associates to Examine City Transactions and Use Tax Records

- b) Hinderliter, de Llamas and Associates:
 - 1) **RESOLUTION NO. 11875 – RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY AND HINDERLITER, DE LLAMAS AND ASSOCIATES FOR SALES TAX AUDIT AND INFORMATION SERVICES SO AS TO 1) EXTEND THE TERM OF THE AGREEMENT AND 2) TO AMEND THE SCOPE OF SERVICES TO INCLUDE EXAMINATION OF CITY TRANSACTIONS AND USE TAX RECORDS**
 - 2) **RESOLUTION NO. 11876 – RESOLUTION AUTHORIZING EXAMINATION OF TRANSACTIONS AND USE TAX RECORDS (by Hinderliter, de Llamas & Associates)**

4. Resolution Approving a Contract (CIMS-5312) with the Department of Education to be used for Preschool Instructional Materials in the Amount of \$995.00 and Authorizing the City Manager to Sign Contract Documents (CS) – File 4-10-238 x 9-3-65

RESOLUTION NO. 11877- RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO SIGN CONTRACT DOCUMENTS (CIMS-5312) WITH THE CALIFORNIA DEPARTMENT OF EDUCATION FOR INSTRUCTIONAL MATERIALS FOR FISCAL YEAR 2005-2006 IN THE AMOUNT OF \$995.00

6. SECOND READING AND FINAL ADOPTION OF ORDINANCE NO. 1839 – An Ordinance of the City Council of the City of San Rafael, California, Amending Chapter 3.34 of the San Rafael Municipal Code Establishing a Fee and Service Charge Revenue/Cost Comparison System, by Revising Section 3.34.040 (MS) – File 9-10-2 x 9-3-20

Approved final adoption of Ordinance No. 1839.

7. Monthly Investment Report For Month Ending December, 2005 (MS) – File 8-18 x 8-9

Accepted Monthly Investment Report for month ending December 2005, as presented.

8. Resolutions Authorizing Execution of License Agreements with BMI and ASCAP for Musical Performances at City Events and Functions (RA) – File 140 x

a) **RESOLUTION NO. 11878 – RESOLUTION AUTHORIZING EXECUTION OF LICENSE AGREEMENT WITH BMI FOR MUSICAL PERFORMANCES AT CITY EVENTS AND FUNCTIONS**

b) **RESOLUTION NO. 11879 – RESOLUTION AUTHORIZING EXECUTION OF LICENSE AGREEMENT WITH ASCAP FOR MUSICAL PERFORMANCES AT CITY EVENTS AND FUNCTIONS**

9. Resolution Authorizing the Application for California Cultural and Historical Endowment (CCHE) Grant Funds Under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 for the Purpose of Infrastructure Repairs to Falkirk Mansion (CS) – File 202 x 9-3-84 x 9-3-65

RESOLUTION NO. 11880 – RESOLUTION AUTHORIZING THE APPLICATION FOR CALIFORNIA CULTURAL AND HISTORICAL ENDOWMENT (CCHE) GRANT FUNDS UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 FOR THE PURPOSE OF INFRASTRUCTURE REPAIRS TO FALKIRK MANSION

AYES: COUNCILMEMBERS: Cohen, Heller, Miller, Phillips and Mayor Boro
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

The following item was removed from the Consent Calendar for discussion at the request of Mayor Boro:

5. **RESOLUTION ACCEPTING GRANT TO THE SAN RAFAEL FIRE DEPARTMENT FROM KAISER HOSPITAL IN THE AMOUNT OF \$137,500 AND AUTHORIZING PLACEMENT OF THE DONATION INTO A SPECIAL FUND FOR THE PURCHASE OF FOUR (4)12 LEAD HEART MONITORS, PLUS CONSUMABLES AND MAINTENANCE (FD) – FILE 9-3-31 x 102**

Councilmember Cohen moved and Councilmember Miller seconded, to adopt the Resolution.

RESOLUTION NO. 11881 – RESOLUTION ACCEPTING A GRANT TO THE SAN RAFAEL FIRE DEPARTMENT FROM KAISER HOSPITAL IN THE AMOUNT OF \$137,500 AND AUTHORIZING PLACEMENT OF THE DONATION INTO A SPECIAL FUND FOR THE PURCHASE OF FOUR 12 LEAD HEART MONITORS, PLUS CONSUMABLES AND MAINTENANCE

AYES: COUNCILMEMBERS: Cohen, Heller, Miller, Phillips and Mayor Boro
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

Not having had an opportunity of speaking with the City Clerk until after the agenda for tonight’s meeting was finalized, Mayor Boro stated he would like to introduce a Resolution of Appreciation to Kaiser Hospital.

In light of the timing constraints that prevented this item from being properly placed on the agenda, Councilmember Cohen moved and Councilmember Heller seconded, that it be entertained as an urgency item.

AYES: COUNCILMEMBERS: Cohen, Heller, Miller, Phillips and Mayor Boro
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

Councilmember Heller moved and Councilmember Phillips seconded, to adopt the Resolution.

RESOLUTION NO. 11882 – RESOLUTION OF APPRECIATION TO KAISER HOSPITAL FOR GRANT OF \$137,500.

AYES: COUNCILMEMBERS: Cohen, Heller, Miller, Phillips and Mayor Boro
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

The Resolution of Appreciation was then signed by Mayor Boro, Councilmembers Cohen, Heller, Miller and Phillips, Interim City Manager Ken Nordhoff and City Clerk Jeanne Leoncini.

Mayor Boro invited the Kaiser Hospital representatives to the podium.

Mayor Boro stated that the Resolution spoke to the relationship between Kaiser and the City of

San Rafael's Fire Department with regard to the emergency services provided. He noted that emergency angioplasty had become a trusted alternative in many situations to immediate heart surgery, based upon information provided by patient assessment from paramedics using 12 lead heart monitors in the field. Apparently, more of these were needed to do a better job and Kaiser was donating this grant of \$137,500 to San Rafael to enable firefighters to be as responsive as possible and provide the best possible service to people in the community with that need.

On behalf of the City Council and the entire City, Mayor Boro thanked Kaiser, not only for tonight's generosity, but for all they had done for the City in the past, and he looked forward to the continued wonderful relationship going forward.

Pat Kendall, Kaiser Administrator, introduced the Kaiser Permanente representatives present, indicating it was they who did the work to make this happen:

Doctor Vickie Martinez, Bay Station Medical Director, who is in charge of the Paramedic program from the hospital end and has held the position with San Rafael Fire for over ten years. Vickie is a native of Marin County who started with Kaiser many years ago as a Registered Nurse, went back to school to become a physician and returned to Kaiser to work in the Emergency Department. Ms. Kendall stated that Vickie was very instrumental with this grant and everything that happens with the paramedics.

Vincent Reid, Assistant Medical Group Administrator, one of whose areas of responsibility is the Emergency Department, works tirelessly to keep all these programs going. In addition to the Emergency Department, Dr. Reid also has a Cardiac Cath Lab.

Vickie Miller, Manager of the Cardiac Cath Lab, is responsible for all the nuts and bolts to get the Cardiac Cath Lab operational, which led to having the machines in the field to make this a complete circle.

Indicating that Kaiser was very proud of the relationship with the City of San Rafael, Ms. Kendall stated that for those who were not aware, on January 1, 1980 the San Rafael Paramedic program was initiated with Kaiser Permanente, now completing the 25th and entering the 26th year. *Other than the incident of the fire engine crashing on the first night with the Fire Chief inside, it had been smooth sailing with nothing terribly untoward happening.*

Ms. Kendall commented that San Rafael had done so much to create a great partnership, which was truly appreciated.

As an aside, indicating that one of her favorites was award shows, Ms. Kendall congratulated City Attorney Gary Raghianti on the success of his son, a writer for Lost, which won a Golden Globe last evening.

Indicating that she had the pleasure of working with some of the best paramedics in Marin County, Dr. Vickie Martinez stated she had had a wonderful ten years supporting the program. She reported having been very excited on learning that Kaiser was going to gift the money to purchase these 12 lead EKG machines. Dr. Martinez explained that these machines would enable the paramedics to identify heart attacks in the field and relay that information to the hospitals. She noted that both Marin General and Kaiser now had Cardiac Cath Labs that could carry out state of the art treatment of acute heart attacks where an artery could quickly be opened. She stated it was so exciting to have state of the art equipment both in the field and at the hospital affording great care to all the citizens of San Rafael.

On behalf of the City Council and members of the San Rafael community, Mayor Boro again thanked the Kaiser representatives for their great work and partnership, and he looked forward to twenty-five times twenty-five more years.

COUNCIL CONSIDERATION:

NEW BUSINESS:

10. **DISCUSSION OF MARIN TELECOMMUNICATIONS AGENCY (MTA) JOINT POWERS AGREEMENT (JPA) RE FRANCHISE FEES FOR THE PURPOSE OF GIVING DIRECTION TO COUNCIL'S REPRESENTATIVE ON THE MTA BOARD (CM)- FILE 4-13-101 x 9-7-4**

Due to the potential conflict of interest of owning Comcast stock, Mayor Boro recused himself from the discussion on this item, and turning the meeting over to Vice-Mayor Phillips, he left the Council Chambers.

Interim City Manager Ken Nordhoff reported that the MTA (Marin Telecommunications Agency) was formed in 1997 with one of its express purposes being to reach agreement with a cable

provider to provide services and benefits throughout the community. He explained that MTA consisted of eleven cities and towns, including the County of Marin and excluding Novato. Having worked on this for a succession of years, Mr. Nordhoff reported they were now on their third provider and were very close to completing an agreement with Comcast.

Mr. Nordhoff stated that as he and Councilmember Miller (San Rafael's MTA representative) were looking through the next stages of what would happen in terms of resolving that agreement and MTA's potential action to sign that franchise, they became aware that the agreement that put the Joint Powers Authority (JPA) together contained a provision regarding franchise fees. Although San Rafael had long supported and funded the MTA for administrative purposes, staff had some concerns that the control over those franchise fees could actually shift away from local control and move to the MTA, which was how it was structured in the currently agreed upon MTA JPA agreement. Mr. Nordhoff stated that, therefore, staff was requesting that the City Council give direction to Councilmember Miller, who would take the City's voice back to the MTA Board and request consideration of options to ensure continued local protection over those franchise fees. He noted these fees were a significant source of funds to the City, providing a general source of revenue that paid for existing general and essential services.

Councilmember Miller stated that franchise fees were basically Comcast's way of paying for right of passage through the City's infrastructure; the fees go directly to the General Fund and are used for general services.

Councilmember Miller explained that the agreement signed in 1997 or 1998 contained a provision that would come into play with the new agreement, i.e., taking away the City's ability to "say what these things are to be used for." He further explained that Comcast is the provider of services, and 5% of their gross revenues of operations in the MTA area is sent to the Marin Telecommunications Agency - \$650,000 for San Rafael. It is received by the MTA Board and distributed to each jurisdiction to be placed into their General Funds. Councilmember Miller stated that the provision in section 6 allows MTA to minus the MTA budget from it before passing it through. This was acceptable when it was signed as it was determined it would be for the operations of the Agency, together with being used for reserves, etc.; however, it now transpires that the money could be encumbered by a majority of the MTA Board, thereby removing control.

Councilmember Miller recommended that the City Council instruct him to return to the MTA and request that they amend the JPA so that the City remained in control of the money at all times. He instanced the potential of using franchise fees for the operations of a Public Access Center and how this would be viewed in terms of the pledge to the community with regard to essential services when requesting that they vote for the recently successful Measure S (Transactions and Use Tax).

Councilmember Miller invited Marty Nichols, MTA Executive Director, to address Council on the issue and perhaps give an example of what it would mean should the City provide funds to the Public Access Center.

Councilmember Heller inquired whether the remaining delegates to the MTA were aware of this situation.

Councilmember Miller stated that at their last meeting he explained exactly what he was going to do and he believed the managers were aware. He stated the principle was involved where suddenly there was no control over the General Funds.

Understanding General Funds could be used for any purpose, Vice-Mayor Phillips confirmed that currently, the \$650,000 was going to San Rafael. Of this figure, he inquired how much would be used for the MTA purpose and what became of the balance.

Councilmember Miller explained that currently everything goes to the City.

Understanding the City receives \$650,000, Vice-Mayor Phillips inquired how much the City gives.

Marty Nichols explained that the MTA's budget for administrative overhead, operating costs, etc., was approximately \$300,000, of which the City pays approximately one-third (\$100,000).

Marty Nichols reported that the Joint Powers Agreement (JPA) that formed the MTA was created as a successor to the Rate Regulation JPA that existed for many years. The Agreement was taken to all towns and cities and ratified. Indicating that he understood all the provisions exactly as Councilmember Miller did, Mr. Nichols explained that under the old franchise, the franchise fees went directly to the member agencies, the MTA adopted its budget, an invoice was sent to the cities and they wrote a check. He further explained that

currently, there technically was a franchise between each of the member agencies and Comcast. The new franchise would be between the MTA and Comcast, which would change the cash flow, as the franchise fees would be paid to the agency holding the contract. Under this situation, the MTA Board of Directors would have the authority to decide on expenses; they would collect the money from Comcast, take what they needed, and the remainder would be passed out on a relative subscriber share basis.

Mr. Nichols stated that as explained by Councilmember Miller, the big change in nearing the franchise was the fact that the issue of funding a media access center had drawn a lot more attention regarding what additional funds might be necessary. The issue of how the operating expenses of that would be paid was a problem the MTA Board of Directors needed to solve.

Explaining that the MTA was all 11 cities and the County, all of which had very similar interests to City of San Rafael in terms of financial priorities, Mr. Nichols indicated he had no problem believing that protecting the financial interests of its members, San Rafael included, would be high on the Board's agenda. He commented that should Councilmember Miller request the Board to have Mr. Nichols work with all the affected parties as to how this could be changed to provide better control, he believed it would probably happen. He noted this would be an amendment to a contract; therefore, the process would be drafting an amendment, talking to various City Attorney and City Manager groups and subsequently, it would have to be ratified by all member agencies. He assumed every agency would have to sign and approve the amendment, as opposed to a majority; however, this would be worked on.

Councilmember Miller stated that the drafting of the amendment would be done through the MTA.

Mr. Nichols concurred, should that be the direction of the MTA Board. He assumed Councilmember Miller would receive direction from the City Council to seek this and it would be placed on the February agenda. Mr. Nichols and Mr. Stepanicich, attorney, would then be requested to work out an amendment and the process would commence.

Councilmember Miller stated that the remedy should come from the MTA.

Mr. Nichols stated that Mr. Nordhoff had placed this on the agenda for discussion at the Marin Managers meeting next week and he believed there would be discussion as to what form the amendment should take and how it should be structured.

Councilmember Miller invited Dan Hillmer, President, MTA, to comment on the new agreement.

Dan Hillmer, Larkspur Councilmember and Chair of the Marin Telecommunications Agency, stated that as accurately described by Interim City Manager Nordhoff, they were closing in on a new franchise agreement, having worked with three previous cable providers, and an almost nine-year process leading to a ten-year deal.

Mr. Hillmer stated that a great deal was owed to former City Manager Rod Gould who assisted through the formation of MTA, and set them in the right direction with strategy and how to organize themselves with an agency overseeing telecommunications operations in Marin County, which is intended to eventually lead to oversight on things other than cable television, as allowed by federal law.

Speaking of federal law, Mr. Hillmer reported that the legislative landscape was changing in Washington, heading towards a possible removal of franchising authority on the part of local government; therefore, they were racing to close the deal before the ability to do so was taken away. They believed the deal with Comcast was a good one for all towns and cities in Marin and the County. Comcast had been very cooperative with them and vice versa, which was leading to some of the benefits they hoped to receive. Mr. Hillmer stated that if they entered the franchise agreement and federal law changed, Comcast had agreed to provide all the capital money up front so the improvements to the institutional network in the County could be made, which was essentially an upgrade to Broadband capability of the current Midas system used by all towns and cities to transmit data back and forth. He indicated that it would allow them to create a new public access digital image production facility. They were working with the College of Marin and their existing Learning Resources Center in an effort to upgrade it and create a new facility for them so they could not only work with the MTA to do what MTA needed to do, but they believed it would become a real focus for their digital media training. Mr. Hillmer stated they also were working to improve the network for such a facility to include distributed production facilities in possibly up to ten high schools so that the high schools and college would be connected, children could create programming, edit it across the network and probably have it broadcast within days of production. He believed this would be a big change in terms of how distance learning and communication takes place in the County, possibly leading to environmental benefits such as traffic reduction and possible employment benefits.

Mr. Hillmer stated they were excited about what they were able to achieve; although not everything they wanted, they believed they were at a pivotal place. They were about to enter the public review process for the agreement and he was encouraging all towns and cities to send the message with their representatives that this needed to be adopted in an expeditious fashion, and he hoped to receive the City Council's support.

Reporting that Councilmember Miller had been with him on the MTA Board for some time, Mr. Hillmer stated he agreed with him and the issues he raised this evening. Noting the frequent circumstances of a very narrow quorum at these meetings, he indicated that this was not favored, especially where financial matters were concerned. Mr. Hillmer stated he found himself aligned with Councilmember Miller and they would see to it that the interests of the cities were protected.

Indicating that she sat on the League of California Cities committee on Telecommunications, Councilmember Heller stated that from what she was hearing there, Congress and the Telecommunications Agencies were working feverishly to change the rules; therefore, she wondered why Comcast was holding back.

Mr. Hillmer stated that they had stopped negotiating new franchise agreements; however, had indicated that because of the way the MTA had worked with them to provide benefit to the educational institutions in the County, a lot of goodwill and benefit could be created. He indicated that there had been discussion on allowing them to create sponsorships where some of the operational money currently forming a gap in their estimates could be generated. Mr. Hillmer stated they also were working with the MTA on items they were not willing, from a corporate or marketing level, to include in a franchise, such as video on demand and the FM radio issue. They were willing to work with the MTA on side agreements to arrive at a mutually beneficial arrangement because of MTA's cooperation with them. Mr. Hillmer expressed the hope that this could be an ongoing public/private beneficial situation for both.

Regarding the cost of the Media Access Center, Councilmember Heller inquired whether this cost could be divided in the same way as fees are received.

Responding, Mr. Hillmer stated that those issues were being worked out by the Board. He, himself, had a vision of the Media Access Center becoming a self-sustaining operation. They were looking at a model, much like KQED in San Francisco, where they could get grants and develop working partnerships with employers in the County, many of whom would be looking for people trained in digital image production. They believed the College of Marin would be a key ingredient in this; therefore, they were looking ahead with a very strong concept.

Councilmember Cohen thanked all for their incredible patience in spending 9 ½ years negotiating a 10-year agreement.

In light of the circumstances, Councilmember Cohen moved and Councilmember Heller seconded, that the City Council urge Councilmember Miller to proceed expeditiously to get the agreement done in a manner that resolved the concerns raised this evening, and ensuring that the City's General Fund is protected in the process.

Having filled in for Councilmember Miller on a few occasions on the Board, Councilmember Heller stated it could be a good idea to take some suggested samples, perhaps in writing, that could be handed out, to push the process along.

Councilmember Miller stated he had more confidence in Attorney Greg Stepanicich and Marty Nichols who were paid to do this and who certainly had more capability.

Vice-Mayor Phillips stated he believed Councilmember Miller would take back the City's good thoughts and come up with a reasonable approach.

AYES: **COUNCILMEMBERS: Cohen, Heller, Miller and Vice-Mayor Phillips**
NOES: **COUNCILMEMBERS: None**
ABSENT/
DISQUALIFIED: COUNCILMEMBERS: Mayor Boro, (due to potential conflict of interest)

Thanking Marty Nichols and Dan Hillmer, Councilmember Miller noted that Dan Hillmer had spent a substantial amount of time on this issue and had been the key figure in providing the leadership necessary, which was admirable.

Vice-Mayor Phillips invited Mayor Boro to return to the Council Chamber.

CITY MANAGER'S REPORT:

- 11. None.

COUNCILMEMBER REPORTS:12. a) **Marinwood Community Services District: - File 4-10-130 x 9-3-31**

Having had a fair amount of experience with negotiations, Councilmember Cohen stated that when the point is reached in negotiations where one of the parties presents a proposal twice the amount originally rejected by the other party, it is on the doorstep of failure. He explained that at their last meeting, the Marinwood Community Services District presented a proposal based on their methodology for evaluating the services provided to San Rafael by Marinwood, suggesting that San Rafael should pay not \$390,000 per year, rather \$700,000. Councilmember Cohen noted San Rafael did present a proposal substantially less than that, i.e., \$150,000, which he acknowledged was essentially arbitrary because the consultants had advised the fair market value was \$0 based on the services San Rafael was providing to Marinwood; however, in the interests of maintaining a relationship and based on budget documents they had published to their community, \$150,000 appeared like a reasonable approach. He indicated that San Rafael also offered a proposal for consolidation which probably would have ended up costing more, but in the long term interest of good public policy, San Rafael wanted to put it on the table.

Councilmember Cohen reported that Marinwood's response after reviewing those documents was a letter asking for several more volumes of data. He believed the sub-committee needed to meet and review the City's position prior to responding; however, at this point, as he had articulated repeatedly, he was operating on the advice of two very respected fire chiefs and a professional consultant called in to peer review the recommendation of those chiefs, about how to value the services and the sharing of services between Marinwood and San Rafael, and he believed it unlikely that he, personally, would be persuaded by any argument advanced by Marinwood to throw out that professional advice and accept some other valuation because that was how Marinwood saw it.

Should anyone else feel they could be more successful in this, Councilmember Cohen stated he would gladly step back and allow that person to take over negotiations. *Mayor Boro noted the offer was not accepted.*

Indicating that Councilmember Cohen had adequately summarized the situation, Councilmember Phillips stated that the City would, however, respond in some fashion. He stated he was not yet quite ready to throw in the towel, noting that in looking at the situation, consolidation would make a lot sense, albeit he did not believe it was "in the cards." Councilmember Phillips stated it struck him that it should be possible to come to an agreement to best serve those residents in that area and he believed it would be a combined effort of Marinwood and San Rafael that would accomplish that. While there would be some frustration, he hoped it would be pursued to a satisfactory conclusion.

Expressing thanks to Councilmember Phillips, Councilmember Cohen stated that subsequent to his bluntness with fellow negotiators from Marinwood about his assessment of their proposal, how they had dragged the issue out and their situation should the agreement terminate at the end of June, Councilmember Phillips took it upon himself to assure them that this was not a rogue position and that he agreed with the substance of Councilmember Cohen's remarks. Councilmember Cohen stated he appreciated the support.

Mayor Boro thanked Councilmembers Cohen and Phillips for their great efforts and he expressed the hope that something could be found to benefit both Marinwood and San Rafael. Should this not be possible, the City would find a way to continue to provide the same level of service to the areas Marinwood currently serves on the City's behalf, thereby providing a similar level of service throughout the entire City. He agreed that the situation could not be allowed to continue indefinitely; therefore, plans should be initiated in the event of a separation, and hopefully, Marinwood would understand what it meant to them should they be on their own.

b) **Marin County Transit District: - File 143**

Councilmember Heller noted that the Marin County Transit District had signed a five-year agreement with Golden Gate Transit which she believed was ratified at the Golden Gate Bridge District meeting. This would provide intra-county public transit service in Marin, separate from Golden Gate Transit who would be paid to operate the service. She noted the District would operate approximately 12,000 annual service hours, serving 3.5 million riders annually. Councilmember Heller stated that the next step would be to hire a Transit General Manager and relocate the Transit District outside of the county mechanism, perhaps talking to TAM (Transportation Authority of Marin) to ascertain whether they could locate somewhere within the same general area.

- c) **LAFCO (Local Agency Formation Commission) – File 149**
Councilmember Heller reported that LAFCO would be releasing a draft Sphere of Influence Report on the City of San Rafael by the end of February, early March.

- d) **League of California Cities: - File 9-11-1**
Reporting on last week's Transportation, Communication and Public Works Policy meeting, Councilmember Heller stated that she would provide Lydia Romero, Assistant to the City Manager, with her voluminous packet, for evaluation. She indicated that of particular note were the infrastructure proposals of Governor Schwarzenegger, Senator Perata and Speaker Nunez. She noted it was interesting that the Governor did not have anything on housing, while the Speaker and Assembly speaker did.

- e) **Water Transit Authority: - File 258 x 9-1**
Councilmember Heller shared a pamphlet she received from the Water Transit Authority and noted that a new ferryboat would be constructed. Noting Oyster Point would be the first port the ferry would sail from, Mayor Boro stated it was interesting that cities such as Richmond, Berkeley and Redwood City were extremely interested in having ferry service to San Francisco and other ports. He reported having received a notice today indicating that an additional three permanent hires had been added to the staff, including a grant maker, and he believed by 2008-09 the boat would be operational with a second soon to follow. Mayor Boro noted that work continued on Port Sonoma to ascertain the feasibility of that route also.

There being no further business, Mayor Boro adjourned the City Council meeting at 9:05 p.m.

JEANNE M. LEONCINI, City Clerk

APPROVED THIS _____ DAY OF _____, 2006

MAYOR OF THE CITY OF SAN RAFAEL