

**IN THE COUNCIL CHAMBER OF THE CITY OF SAN RAFAEL, TUESDAY, FEBRUARY 21, 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

Absent: Barbara Heller, Councilmember  
Cyr N. Miller, Councilmember

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

**OPEN SESSION – COUNCIL CHAMBER**

None

**CLOSED SESSION – CONFERENCE ROOM 201**

None

**ORAL COMMUNICATIONS OF AN URGENCY NATURE:**

**8:12 PM**

**SMART: - File 245**

Barry Buckley stated he was a candidate for the Supervisorial Seat of the Fifth District, Novato, and wished to express his support for the Sonoma/Marin Area Rail Transit initiative.

Mayor Boro stated that the City, through its General Plan process, supported the concept of the train to and through San Rafael. Issues of concern were raised in the Response to the Environmental Impact Report which he believed would be answered. Mayor Boro looked forward to meeting Mr. Buckley at the SMART meetings.

**CONSENT CALENDAR:**

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

<b><u>ITEM</u></b>	<b><u>RECOMMENDED ACTION</u></b>
1. Approval of Minutes of Special and Regular Meetings of Monday, February 6, 2006 (CC)	<b>Minutes approved as submitted.</b>
2. Call for Applications for Appointment to Fill One Four-year Term on the San Rafael Fire Commission, due to Expiration of Term of Dr. Stephen Mizroch, with Term to Expire end of March 2010 (CC) – <u>File 9-2-5</u>	<b><u>Approved staff recommendation:</u></b> a) <b>Called for applications to fill one, four-year term on the Fire Commission to the end of March, 2010;</b> b) <b>Set date for receipt of applications for Tuesday, March 14, 2006 at 12 Noon in the City Clerk’s Office, Room 209; and</b> c) <b>Set date for interviews of applicants at a Special City Council meeting to be held on Monday, March 20, 2006, commencing at 6:30 p.m.</b>
3. Measure S Oversight Advisory Committee: (CM) – <u>File 9-2-58 x 9-4 (11/8/05)</u> a) Resolution Establishing Measure S Oversight Advisory Committee b) Direct Staff to Begin the Application Process for Selecting Committee Members	a) <b><u>RESOLUTION NO. 11894 – RESOLUTION ESTABLISHING THE MEASURE “S” TRANSACTIONS AND USE TAX COMMITTEE</u></b> b) <b>Directed staff to begin the application process for selecting committee members.</b>
4. Monthly Investment Report for Month Ending January 2006 (MS) – <u>File 8-18 x 8-9</u>	<b>Accepted Monthly Investment Report for month ending January 2006, as presented.</b>

5. Resolution Authorizing the City Manager, Public Works Director and Fire Chief to Act as Authorized Agents on Behalf of the City of San Rafael to Work with the State Office of Emergency Services in Matters Pertaining to Disaster Assistance (MS) – File 13-11 x 9-3-11 x 9-3-40 x 9-3-31

**RESOLUTION NO. 11895 –  
RESOLUTION AUTHORIZING THE CITY MANAGER, PUBLIC WORKS DIRECTOR AND FIRE CHIEF TO ACT AS AUTHORIZED AGENTS ON BEHALF OF THE CITY OF SAN RAFAEL TO WORK WITH THE STATE OFFICE OF EMERGENCY SERVICES IN MATTERS PERTAINING TO DISASTER ASSISTANCE**

6. Resolutions of Appreciation for Sponsors of Police Department Automated External Defibrillator (AED) Program: (PD) – File 102 x 9-3-30

**RESOLUTION NO. 11896 –  
RESOLUTION OF APPRECIATION TO AMERICAN LEGION WILKINS POST 37, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

- 1) American Legion Wilkins Post 37
- 2) Fairhills Property Owners Association
- 3) Federation of San Rafael Neighborhoods
- 4) Gerstle Park Neighborhood Association
- 5) Glenwood Homeowners Association
- 6) Col. George Joslin
- 7) Kaiser Permanente San Rafael Medical Center
- 8) Lincoln-San Rafael Hill Neighborhood Association
- 9) Marin Masonic Lodge 191 F&AM
- 10) Marin Rod & Gun Club
- 11) Dr. & Mrs. Stephen Mizroch
- 12) San Rafael Police Association
- 13) Santa Margarita Neighborhood Association
- 14) Shamrock Materials, Inc.
- 15) Trinity Community Church
- 16) Veterans of Foreign Wars, Tamalpais Post 72

**RESOLUTION NO. 11897 –  
RESOLUTION OF APPRECIATION TO FAIRHILLS PROPERTY OWNERS ASSOCIATION, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11898 –  
RESOLUTION OF APPRECIATION TO FEDERATION OF SAN RAFAEL NEIGHBORHOODS, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11899 –  
RESOLUTION OF APPRECIATION TO GERSTLE PARK NEIGHBORHOOD ASSOCIATION, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11900–  
RESOLUTION OF APPRECIATION TO GLENWOOD HOMEOWNERS ASSOCIATION, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11901 –  
RESOLUTION OF APPRECIATION TO COL. GEORGE JOSLIN, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11902 –  
RESOLUTION OF APPRECIATION TO KAISER PERMANENTE SAN RAFAEL MEDICAL CENTER, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11903 –  
RESOLUTION OF APPRECIATION TO LINCOLN-SAN RAFAEL HILL NEIGHBORHOOD ASSOCIATION, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11904 –  
RESOLUTION OF APPRECIATION TO MARIN MASONIC LODGE 191 F&AM, SPONSOR SAN RAFAEL POLICE DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11905 –  
RESOLUTION OF APPRECIATION TO  
MARIN ROD & GUN CLUB, SPONSOR  
SAN RAFAEL POLICE DEPARTMENT  
AED PROGRAM**

**RESOLUTION NO. 11906 –  
RESOLUTION OF APPRECIATION TO  
STEPHEN & MARY MIZROCH,  
SPONSOR SAN RAFAEL POLICE  
DEPARTMENT “ALEX MIZROCH  
MEMORIAL AED PROGRAM”**

**RESOLUTION NO. 11907 –  
RESOLUTION OF APPRECIATION TO  
SAN RAFAEL POLICE  
ASSOCIATION, SPONSOR SAN  
RAFAEL POLICE DEPARTMENT AED  
PROGRAM**

**RESOLUTION NO. 11908 –  
RESOLUTION OF APPRECIATION TO  
SANTA MARGARITA  
NEIGHBORHOOD ASSOCIATION,  
SPONSOR SAN RAFAEL POLICE  
DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11909 –  
RESOLUTION OF APPRECIATION TO  
SHAMROCK MATERIALS, INC,  
SPONSOR SAN RAFAEL POLICE  
DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11910 –  
RESOLUTION OF APPRECIATION TO  
TRINITY COMMUNITY CHURCH,  
SPONSOR SAN RAFAEL POLICE  
DEPARTMENT AED PROGRAM**

**RESOLUTION NO. 11911 –  
RESOLUTION OF APPRECIATION TO  
VETERANS OF FOREIGN WARS,  
TAMALPAIS POST 72, SPONSOR  
SAN RAFAEL POLICE DEPARTMENT  
AED PROGRAM**

- 7. Resolution Approving Map of Subdivision Entitled “Parcel Map, Lands of Hallock (DN 99-067157)” (PW) – File 5-1-359

**RESOLUTION NO. 11912 –  
RESOLUTION APPROVING MAP OF  
SUBDIVISION ENTITLED “PARCEL  
MAP – LANDS OF HALLOCK (DN 99-  
067157)”**

- 8. Swearing-in of Linda Jackson, Newly Appointed Member of the San Rafael Board of Education (CC) – File 9-2-1

**Accepted report.**

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

**SPECIAL PRESENTATION:**

- 9. **PRESENTATION OF RESOLUTIONS OF APPRECIATION TO SPONSORS OF POLICE DEPARTMENT AUTOMATED EXTERNAL DEFIBRILLATOR (AED) PROGRAM: (PD) – FILE 102 x 9-3-30**

Since there were sixteen different groups and organizations in attendance this evening, Mayor Boro stated that Police Sergeant Jonathan Bean would assist the City Council in making the presentations.

Mayor Boro stated that he could not thank everyone enough for the wonderful support given to the San Rafael Police and Fire Departments in this effort, which truly led to saving lives. On behalf of those members of the City Council present, and Councilmembers Heller and Miller, who were unable to attend this evening, Mayor Boro expressed gratitude to the members of the community, both the homeowners groups and different organizations that participated, including Kaiser Hospital, a partner in the plan.

Sergeant Jonathan Bean stated that he started the AED program a little over two years ago with nothing and thanks to these sponsors, today the Police Department had twenty Automated External Defibrillators – eighteen in the police cars, one on the police boat and one in the Police Station. He indicated that without the generosity of these sponsors, this program would not have been possible. Sergeant Bean reported that the City Council had now made this a budgeted program item; therefore, hopefully, it would continue, and he expressed thanks to all.

With Sergeant Bean introducing the various representatives, Mayor Boro presented the Resolutions of Appreciation as follows:

American Legion Wilkins Post 37: Post Commander, Ray Mullen and Jim Von Bima. An entire defibrillator was donated by the American Legion Post.

Fairhills Property Owners Association: President, Frank Smart, Lance & Chris Kuykendall and Peggy Jeret, solicited their neighbors to make donations. Fairhills resident Gene Ceccotti Shamrock Materials, donated a second defibrillator.

Federation of San Rafael Neighborhoods: Patrick Murphy and Tymber Cavasian. The Federation of San Rafael Neighborhoods offered a matching grant of \$300 for every neighborhood association making a donation to the AED fund.

Gerstle Park Neighborhood Association: Tim Firman, Hugo Landecker, Nancy Otto, Tymber Cavasian and Lori Schifrin. The entire neighborhood was solicited and raised sufficient funds for a defibrillator.

Glenwood Homeowners Association: Regretted they could not send a representative; however, they did send an unsolicited check for a defibrillator.

Col. George Joslin: Retired USMC, who helped raise over \$12,000 for the AED fund.

Kaiser Permanente San Rafael Medical Center: Kaiser had been a partner with the City of San Rafael for a long time and had been very generous to the Fire Department with donations of defibrillators and other medical devices. They also provided training, medical direction for the Fire Department's medical program and defibrillator program, and graciously provided pro bono medical direction for the Police Department's defibrillator program. Dr. John David, Medical Director, in attendance this evening, had been most generous with his time and expertise. He is Chief of Emergency Medicine at the Kaiser San Rafael Medical Center.

Lincoln-San Rafael Hill Neighborhood Association: Patrick Murphy on behalf of Nina Lienthal Murphy, President. A lot of publicity was carried out in the neighborhood supporting the defibrillator program.

Marin Masonic Lodge 191 F&AM: Frank O'Connell, together with his lodge members, donated a defibrillator and had been very supportive of the program and very generous.

Marin Rod and Gun Club: Todd Meyer, First Vice-President and George Joslin. The Marin Rod and Gun Club not only purchased a defibrillator for the Police Department, but also purchased one for the Club and trained an emergency response team. Sergeant Bean reported that he and his wife, Mary Kay, had given two classes thus far and would do more.

Dr. and Mrs. Stephen Mizroch: Dr. Mizroch and his wife Mary donated the City's first defibrillator. A Fire Commissioner, Dr. Mizroch is very supportive of the City. Both are DART (Disaster Area Response Team) members and Police Citizens' Academy graduates and Mrs. Mizroch is a volunteer teaching the Red Cross First Aid, CPR and AED training. The defibrillator was donated in memory of Alex Mizroch, brother of Dr. Mizroch, who passed away from sudden cardiac arrest at age 50 in 1995. The AED program is named "The Alex Mizroch Memorial Police AED Program." Dr. and Mrs. Mizroch are currently in South East Asia.

San Rafael Police Association: The rank and file members of the San Rafael Police Association raised sufficient funds for a defibrillator and Officer Bob Hankle, Board of Directors, was present to represent the Association. Wishing to show how much the Police Association believed in the program, they donated one of the first defibrillators, the Mizrochs donating the first.

Santa Margarita Neighborhood Association: Greg Knell, President, accepted the Resolution of Appreciation on behalf of the Santa Margarita Neighborhood Association who donated a defibrillator. They had been very supportive of the Police Department, working many functions and events together at the Terra Linda Recreation Center.

Sergeant Bean noted that Kaiser Permanente had donated a defibrillator for each Recreation Center in San Rafael, together with a public access defibrillator in the lobby at City Hall for use in the event of an emergency in the building.

Shamrock Materials, Inc.: Unable to attend, Gene Ceccotti, Shamrock Materials, unsolicited, donated a defibrillator on behalf of the company.

Trinity Community Church: Pastor Will Nelken, Police Chaplain, Mrs. Martha Nelken and Gordon Ashdown were in attendance to accept on behalf of the Trinity Community Church. Not only did they come forward with sufficient funds for two defibrillators from a very small community church, they purchased their own subsequent to Gordon's dropping dead of sudden cardiac arrest at a church service and being resuscitated by Martha Nelken. Sergeant Bean commented that Mr. Ashdown was present this evening, brought back from clinical death, as a true believer, having been saved by an AED that was on engine 52 of the San Rafael Fire Department. He noted also that they had trained more than one group of emergency responders in First Aid, CPR and the use of the AED.

Veterans of Foreign Wars, Tamalpais Post 72: George Joslin and Albert Ranzani. Sergeant Bean noted the Veterans were still serving the community by sponsoring so many positive things. When invited to donate perhaps one defibrillator, they donated two, and a class was given with them which was featured on CBS Channel 5 Television. He noted that Mr. Ranzani was also a docent at the Veterans Auditorium. Trained in the use of the AED, he also trained with the Civic Center staff.

Mayor Boro stated this was a great example of community partnership and policing and the community working together for the good of all citizens.

Stating this was tremendous, Councilmember Cohen noted the opportunity taken by all to save lives.

Concurring, Councilmember Phillips believed this would benefit a number of people who could have some difficulty. He stated that no one could say thanks more than those who might need the service down the road, and to be prepared was comforting. He offered his personal thanks also, thanking everyone for attending this evening.

A member of the audience stated that this would never have happened without Sergeant Jonathan Bean, with which Mayor Boro, Councilmembers Cohen and Phillips and all present concurred.

Mayor Boro announced a brief pause in the City Council meeting for participation in a reception in the lobby honoring the sponsors of the AED program.

#### **PUBLIC HEARINGS:**

10. **Public Hearing - CONSIDERATION OF AN ORDINANCE REPEALING CHAPTER 4.20 OF THE CITY OF SAN RAFAEL MUNICIPAL CODE WHICH ESTABLISHED THE FIRE DEPARTMENT AS A CERTIFIED UNIFIED PUBLIC AGENCY (CUPA) RESPONSIBLE FOR ENFORCEMENT OF ALL APPLICABLE PROVISIONS OF STATE LAW RELATING TO THE USE AND STORAGE OF HAZARDOUS MATERIALS (FD) – FILE 9-3-31 x 1-6-4**

Mayor Boro declared the public hearing opened.

Fire Chief John Montenero stated that the purpose of this ordinance was to repeal Chapter 4.20 of the San Rafael Municipal Code relating to decertification of the Fire Department as a Certified Unified Program Agency, and this related to the enforcement of hazardous materials. Fire Marshal, Keith Schoenthal, would review the issue and provide the recommendation.

Fire Marshal Keith Schoenthal reported that in the early 1990s, the City Council authorized the Fire Department to take on various hazardous materials programs – Underground Tank Storage Program, Business Plan Program. In 1997, the State of California established a new multi-faceted program that rolled all of the state's hazardous materials programs into one – the CUPA program. He indicated that this added such things as hazardous waste regulation, etc., which are all part of the program elements of CUPA.

Battalion Chief Schoenthal stated that in 1997, the City Council adopted by ordinance, Chapter 4.20 and the City of San Rafael became one of only two CUPAs in Marin County, Marin County

Environmental Health being the other, serving all of the other agencies in the County.

Reporting that over the years attempts had been made to make the program work, Chief Schoenthal explained that staff had been added to the Fire Prevention Bureau, the position of Deputy Fire Marshal/Hazardous Materials Coordinator was created and staff continued to work with the CUPA program.

Chief Schoenthal stated that last year, former Fire Chief Bruce Martin went through a process to identify strengths and weaknesses and one of the things emanating from that process was the possibility of decertifying as a CUPA and returning to the core responsibilities of the Fire Prevention Bureau. He indicated that in September 2005, a study session was held with the City Council to explain those concepts. Subsequently, the issue was returned to adopt a resolution to send to the State Environmental Protection Agency advising them of the City's desire to decertify as a CUPA. This began a 180-day clock running during which time negotiations took place with Marin County CUPA in terms of file transfers and their taking over responsibility for the CUPA.

Reporting that all of that work had been accomplished, Chief Schoenthal stated that the state had authorized San Rafael's decertification and sent a letter indicating that the City could no longer collect fees for the program. They also sent a letter to the County CUPA advising them to begin collecting fees.

Chief Schoenthal stated that this was the final step in the process of the City of San Rafael decertifying as a CUPA, which basically repealed the portion of the San Rafael Municipal Code that authorized the CUPA initially. He recommended that the City Council pass the ordinance to print prior to final adoption, at which time the City would be fully decertified as a CUPA.

Councilmember Cohen recalled the discussion when this issue was acted on previously to the effect that the issues were still being covered but by the County. He believed there was an economy of scale by having the County handle it in that they could collect their fees, probably even more efficiently than the City could, and he inquired whether this was an accurate summary.

Indicating that it was an accurate summary, Chief Schoenthal stated that in looking at the process it was staff's feeling that additional staff would have to be added to the Fire Department to be able to comply with the state's requirements placed on CUPAs. He indicated that by state law, the County is required to be the CUPA, and as they were the CUPA for all the other agencies in Marin County, they had those economies of scale.

There be no comment from the audience, Mayor Boro closed the public hearing.

The title of the ordinance was read:

**"AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL REPEALING CHAPTER 4.20 OF THE CITY OF SAN RAFAEL MUNICIPAL CODE WHICH ESTABLISHED THE FIRE DEPARTMENT AS A CERTIFIED UNIFIED PROGRAM AGENCY (CUPA) RESPONSIBLE FOR ENFORCEMENT OF ALL APPLICABLE PROVISIONS OF STATE LAW RELATING TO THE USE AND STORAGE OF HAZARDOUS MATERIALS"**

Councilmember Phillips moved and Councilmember Cohen seconded, to dispense with the reading of the ordinance in its entirety and refer to it by title only, and pass **Charter Ordinance No. 1840** to print by the following vote, to wit:

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>Cohen, Phillips and Mayor Boro</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>Heller and Miller</b>

**CITY MANAGER’S REPORT:**

11. **Dil Kazzaz – Redwood Village Grading: - File 100 x 5-1-347**

Interim City Manager Ken Nordhoff recalled that a month ago Mr. Kazzaz made a presentation to the City Council regarding some fence heights on his property which is adjacent to the Redwood Village development. Mr. Nordhoff reported that he had been working with City Attorney Gary Raghianti, Community Development Director Bob Brown and Signature Properties to ascertain whether a resolution could be put into place. He indicated that Signature Properties had made a very generous offer to remedy the fence situation which they would present to Mr. Kazzaz this week. San Rafael staff had evaluated the proposal and found it to be very fair. While he did not know what the outcome would be, Mr. Nordhoff believed the issue to be resolved, at least to the City’s satisfaction, and he would provide further information to Council on receiving a decision from Mr. Kazzaz.

**COUNCILMEMBER REPORTS:**

12. None.

There being no further business, Mayor Boro adjourned the City Council meeting at 9:04 p.m. in memory of Roger Grossman, Publisher, Marin Independent Journal, a friend to all in the City of San Rafael and a great leader, who passed away on January 26, 2006.

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JEANNE M. LEONCINI, City Clerk

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006

\_\_\_\_\_  
MAYOR OF THE CITY OF SAN RAFAEL