

IN THE COUNCIL CHAMBER OF THE CITY OF SAN RAFAEL, MONDAY, APRIL 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

Absent: 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 – 7:30 PM

Mayor Boro announced Closed Session item.

CLOSED SESSION – CONFERENCE ROOM 201 - 7:30 PM – File 1-4-1.a

1. a) Conference with Labor Negotiators – Government Code Section 54957.6
Negotiators: Ken Nordhoff, Nancy Mackle, Lydia Romero, Donna Williamson,
Roger Crawford
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

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

ORAL COMMUNICATIONS OF AN URGENCY NATURE:**8:12 PM****War in Iraq: - File 9-1**

John Jenkel, Mary Morrison and Kim Le requested that the City Council urge Senator Boxer to stand up and lead the United States Senate away from funding undeclared war. Mr. Jenkel submitted a document, portions of which the speakers quoted.

Global Warming: - File 13-1 x 9-1

Sue Spofford, Co-Chair, "Sustainable San Rafael", stated that a year ago the City Council took the first steps in the ICLEI (International Council for Local Environmental Initiatives) process for establishing a program of reducing green gas emissions. She noted former City Manager Rod Gould worked with ICLEI and was making good progress and she thanked the City Council for their support of that effort. It was her understanding that ICLEI was generating new tools for addressing climate protection and expressed the hope that staff would develop further steps towards a serious real San Rafael emission reduction target.

Ms. Spofford stated they had made a good start working with staff exploring a possible green building program, and Community Development Director Bob Brown had been working on the details of its implementation. She expressed the hope that when he and his staff generated the policy aspects and were ready to address the green building program, Council would be supportive and place the item on the agenda.

Noting Global Warming was a moving target, Ms. Spofford stated that over the past year new science had been pouring in, all of it indicating that the planet was moving much faster towards a much worse climate change than anticipated. She noted that the cover of Time Magazine of April 3, 2006, which she hoped Council had received from them, told a lot of the story.

In addition to stepping up to a fully defined emissions reductions program through ICLEI, and to getting a meaningful green building program on the books, Ms. Spofford indicated that Sustainable San Rafael would be urging the City Council to adopt a zero waste policy, because zero waste was not just about landfill, rather it was about energy, transportation, greenhouse gas emissions, everyone's health, global warming, etc. In this respect, she hoped Council and staff would be represented at a zero waste workshop to take place on Tuesday, April 18, 2006, hosted by the County of Marin, and that zero waste would be on a Council agenda in the near future.

Climate Change: - File 13-1 x 9-1

Kiki LaPorta thanked Mayor Boro for the opportunity to work on the Pickleweed Community Center Campaign last winter.

Ms. LaPorta stated she was present to underscore Sue Spofford's urgent entreaty that the City of San Rafael take its rightful place among responsible and forward thinking municipalities by anticipating the effects of global warming already underway. She stated that global warming was the most threatening

disaster event to face the community and there was a need to be prepared for its effects now. She indicated that the mainstream media, independent scientists and scholars and sophisticated computer modeling indicate that global climate change is happening. Although unsure of the impacts global warming would have on San Rafael, she stated that nonetheless, the fact could not be ignored that its mechanisms – the processes accelerated by the effect of human activity on the global environment – were already affecting the natural systems that support well-being in Marin.

Ms. LaPorta invited Mayor Boro, supported by a unanimous resolution of the City Council, to sign on to the U.S. Mayors Climate Protection Agreement. She reported that this agreement was proposed by Seattle Mayor Greg Nichols and signed last year at the U.S. Conference of Mayors by nearly 200 Mayors, including those of Fairfax, Mill Valley, Novato, San Anselmo, Sausalito and Tiburon. She urged the City Council to commit to the ICLEI Cities for Climate Protection Campaign and also to consider assigning the new City Emergency Services Planning Coordinator the function of ICLEI Coordinator.

Ms. LaPorta stated that Dawn Wise, County of Marin, had assured the full cooperation and assistance of the County of Marin Sustainability Office, as well as the important support provided by the ICLEI program office, including interns, intern training and assistance. She indicated they would work with the City in whatever ways possible and stated that San Rafael must do its part in advancing environmental planning. In addition to financial and health considerations, she stated this was a quality of life issue which must be prepared for.

Mayor Boro thanked Ms. Spofford and Ms. LaPorta, noting they had been meeting with Councilmember Miller, who tonight was out of state. He indicated that Interim City Manager Ken Nordhoff would be working with Mr. Brown and Councilmember Miller on these issues.

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

Dil Kazzaz stated he was present to announce a conclusion to his complaint and stated that the process he followed was a waste of time and should be abolished. He indicated that his complaint was not dead but evolving; his patience had paid off and he now had proof that:

- 1) Citizens of San Rafael had no recourse process to object to actions of City staff;
- 2) Mayor Boro considered a call for recourse unprecedented;
- 3) The best one could expect would be “a restatement of the accused person’s word in a letter signed by another who does not know what those words mean.”

Mr. Kazzaz noted his complaint had been stated over and over to the City Council; however, they had not cared enough to understand it. Quoting from a letter written by Mr. Brown, Community Development Director, he stated: “It is common for a redwood fence to have a horizontal plateboard at the base to withhold soil between properties. Redwood is used because it resists decomposition when in contact with damp soil. Storm water will be directed away from the fence by a v-ditch swell behind lot 42 and picked up by storm drain inlets in this area.” Mr. Kazzaz stated that in the picture taken from his home the board at the base could be seen being kicked out by the dirt behind it and the v-ditch did not exist.

Mr. Kazzaz Indicated that he had requested a Grand Jury investigation of Mr. Brown’s actions against him, and would take other actions, which he did not disclose.

Mayor Boro stated that subsequent to a review of the situation by City Attorney Ragghianti and Interim City Manager Ken Nordhoff, Mr. Nordhoff had written to Mr. Kazzaz, copied to those signing his petition, and he believed at this point the matter was closed.

Councilmember Cohen commented that the system providing for citizens appealing to the City Council in this case worked, although Mr. Kazzaz did not choose to avail himself of it. He presented his complaint showing that he believed the fence was an inadequate height and he was concerned about the view, and at the Interim City Manager’s request, Signature Properties, although they had no obligation to do so, offered to rebuild the fence in a different location at a greater height to address Mr. Kazzaz’s problem. Councilmember Cohen stated the City was responsive in this case and staff and the developer went above and beyond in an attempt to address Mr. Kazzaz’s complaint. While he was disappointed that Mr. Kazzaz was not satisfied, he believed it was not in any way an example that the system does not work.

CONSENT CALENDAR:

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

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
2. Approval of Minutes of Annual Joint Dinner Meeting of San Rafael City Schools, City of San Rafael, and Dixie School District of March 15, 2006, Regular City Council Meeting of Monday, March 20 and Special and Regular Meetings of Monday, April 3, 2006 (CC)	Minutes approved as submitted.

3. Call for Applications to Fill Three 4-year Terms on the Park & Recreation Commission, Due to the Expiration of Terms of Board Members Ralph Mihan, Fred Warnecke, and Craig Yates; Terms to Expire End of May, 2010 (CC) – File 9-2-4

Approved staff recommendation:

- a) **Called for applications to fill three four-year terms on the San Rafael Park and Recreation Commission, with terms to expire end of May 2010;**
- b) **Set deadline for receipt of applications for Tuesday, May 9, 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, May 15, 2006, commencing at 6:30 p.m.**

4. SECOND READING AND FINAL ADOPTION OF ORDINANCE NO. 1841 – “An Ordinance of the City Council of the City of San Rafael Approving an Amendment to the Zoning Map (ZC06-001) to Reclassify Certain Real Property from Planned Development (PD-1666) District to Francisco Boulevard West Commercial (FBWC) District at 530 Francisco Blvd. West (APN 031-051-06 and 20)” (CD) – File 10-3 x 10-5 x 10-7

Approved final adoption of Ordinance No. 1841.

5. Summary of Legislation Affecting San Rafael: (CM) – File 116 x 9-1

Approved staff recommendation:

AB 2444 – Congestion Management and Motor Vehicle Environmental Mitigation Fees.

Assembly Member Klehs. SUPPORT

SB 1431 - Public Contracts: Design – Build Contracting: Cities, Counties and Special Districts.
Senator Cox. SUPPORT

- a) Resolution Supporting Proposition 81 – Library Construction and Bond Measure
- b) Resolution Supporting the League of California Cities Policies and Principles Regarding Telecommunications Services

a) **RESOLUTION NO. 11937 – RESOLUTION SUPPORTING PROPOSITION 81, THE 2006 CALIFORNIA STATE LIBRARY CONSTRUCTION BOND**

b) **RESOLUTION NO. 11938 – RESOLUTION SUPPORTING THE LEAGUE OF CALIFORNIA CITIES POLICIES AND PRINCIPLES REGARDING TELECOMMUNICATIONS SERVICES**

6. Resolution Approving *Amendment 01* to the Contract CSCC-4109, CCDF School-Age Resource, with the California Department of Education which Provides Additional Funds of \$2,245 for a Total Contract Amount of \$4,490 for Quality Improvements in the School-Age Child Care Program and Authorizes the Interim City Manager to Sign Said Contract Documents (CS) – File 4-10-238 x 9-3-65

RESOLUTION NO. 11939 – RESOLUTION APPROVING A CONTRACT AMENDMENT (CSCC-4109, AMENDMENT 01) FOR \$2,245.00 FOR A TOTAL CONTRACT AMOUNT OF \$4,490.00 WITH THE DEPARTMENT OF EDUCATION FOR THE SCHOOL-AGE CHILD CARE RESOURCE PROGRAM, AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT

7. Monthly Investment Report for Month Ending March 2006 (MS) – File 8-18 x 8-9

Accepted Monthly Investment Report for month ending March 2006, as presented.

8. Resolution of Appreciation to Marita Garcia, Accounting Assistant, Management Services, Employee of the Quarter Ending March 2006 (MS) – File 102 x 9-3-20

RESOLUTION NO. 11940 – RESOLUTION OF APPRECIATION TO MARITA GARCIA, ACCOUNTING ASSISTANT, MANAGEMENT SERVICES, EMPLOYEE OF THE QUARTER ENDING MARCH 2006

9. Resolution Approving the 2006-07 Annual Report of the Downtown Parking & Business Improvement District and Declaring Council's Intention to Levy an Annual Assessment for the Downtown Parking & Business Improvement District for Fiscal Year 2006-07, and Directing the City Clerk to Schedule a Public Hearing for May 1, 2006, to Consider Levying the Assessment (RA) – File 224 x 183

RESOLUTION NO. 11941 – RESOLUTION APPROVING THE 2006-07 ANNUAL REPORT OF THE DOWNTOWN PARKING AND BUSINESS IMPROVEMENT DISTRICT AND DECLARING COUNCIL'S INTENTION TO LEVY AN ANNUAL ASSESSMENT FOR THE DOWNTOWN PARKING AND BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2006-07 AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR MAY 1, 2006 TO CONSIDER LEVYING THE ASSESSMENT

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

SPECIAL PRESENTATION:

10. **PRESENTATION OF RESOLUTION OF APPRECIATION TO MARITA GARCIA, ACCOUNTING ASSISTANT, MANAGEMENT SERVICES, EMPLOYEE OF THE QUARTER ENDING MARCH 2006 (MS) – FILE 102 x 7-4 x 9-3-20**

For the benefit of the audience Mayor Boro explained that each quarter an Employee of the Quarter is selected who receives a \$100 bill and recognition from co-workers, and Marita Garcia was the recipient of this honor for the quarter ending March 2006. He indicated that she was presented with this award at the annual Employee Luncheon on April 6, 2006 and he commented that it was a real tribute to Marita that so many of her co-workers were present this evening to celebrate with her.

Mayor Boro stated that the Resolution of Appreciation identified Marita's many attributes, including providing excellent customer service at the cashiering counter and on the telephone, maintaining a cheerful demeanor even when confronted by the surliest of patrons and she faithfully ensures that all contractors obtaining permits have current San Rafael business licenses. He noted it also stated that Marita had given birth to one of San Rafael's finest Code Enforcement Officers, for which the City was very thankful.

Indicating that Marita was truly a bright light in City Hall, on behalf of the City Council, Mayor Boro congratulated and thanked her.

Stating she loved working for the City, Marita Garcia thanked everyone with whom she works for the honor. She commented that her carpool probably helped somewhat in that three out of four of them were now Employees of the Quarter.

PUBLIC HEARING:

11. **Public Hearing:**

CONSIDERATION OF ADOPTION OF A RESOLUTION TO ESTABLISH AN AFFORDABLE HOUSING IN-LIEU FEE FOR DEVELOPMENTS WITHIN THE CITY OF SAN RAFAEL (CD) – FILE 10-6 x 13-16 x 9-10-2 x 115 (2020)

Mayor Boro declared the public hearing opened.

Community Development Director Bob Brown stated this was in response to questions raised by the City Council at the August 1, 2005 meeting at which time staff proposed adoption of an Affordable Housing In-Lieu fee.

Mr. Brown explained that the City has an existing In-Lieu Fee resolution that provides a methodology for how to calculate the fee but does not contain a fee. He indicated this had not been a problem as the resolution had not been employed since its creation. He stated that staff

now proposed to adopt a standard In-Lieu Fee, an actual dollar figure that would be adjusted annually for inflation and would eliminate the need to recalculate the fee each time it was utilized.

Mr. Brown described the situations in which an in-lieu fee could be accepted by the City under the new Affordable Housing Ordinance:

Residential Developments – example: A 22-unit development @ a 20% affordability requirement – 4.4 affordable units would be needed.

Mr. Brown explained that under the old provisions the fraction was either rounded up or down; however, when the new ordinance was adopted after the General Plan, staff decided to retain those fractional units and instead, require an in-lieu fee, at least for the fractional portion below 0.5. This was the reason for now proposing a dollar amount that could be utilized easily.

Mr. Brown stated that in the 4.4 unit example, the developer would have the ability to pay the fractional in-lieu fee – 4/10th of the proposed dollar amount – totaling \$94,000 approximately in this example. However, the four full units in the example would still be required on site unless the City Council elected to adopt findings that it was infeasible to do so. He indicated that this had not been Council’s policy to date and he doubted it would be in the future; however, the ordinance provided that flexibility.

Non-Residential Development – these now have an affordable housing requirement also. Mr. Brown explained that more than likely it would be more difficult to build units in conjunction with an industrial or commercial project. Council has the discretion to require the units on or off site, or to take an in-lieu fee if the developer could convince them of the infeasibility of providing them elsewhere.

Returning to the August 2005 meeting, Mr. Brown stated that Council was concerned about the annual inflation factor that had been proposed by staff. Staff had suggested increasing the fee annually based upon the increase in the average construction costs in the Bay Area; however, Council instead suggested that staff look at the inflation factor based both on the increased construction costs and property values. Therefore, tonight’s proposal does just that – bases the annual inflation 75% on the increase in construction costs in the Bay Area and 25% on the increase in median home sales prices in San Rafael.

Mr. Brown reported Council also suggested that staff take the August 2005 proposed fee, a fee that was calculated in 2002, and increase it with these inflation factors to present day, and this was done. The original fee was proposed at \$193,000, and employing the inflation factors to the year 2006, the proposed fee is now \$236,000.

Councilmember Cohen inquired whether this had been discussed with the public.

Responding, Mr. Brown stated that the affordable housing activist group of the Chamber of Commerce, EAH, Builders Exchange and the two homeowners associations had been notified.

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

Councilmember Cohen thanked Mr. Brown for his work on this issue. He believed it was a sensible approach to try to address the inflation factors for both land and construction costs.

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

RESOLUTION NO. 11942 – RESOLUTION RESCINDING RESOLUTION NO. 7883 AND ESTABLISHING AN AFFORDABLE HOUSING IN-LIEU FEE FOR DEVELOPMENTS WITHIN THE CITY OF SAN RAFAEL EQUAL TO \$236,000 FOR EACH AFFORDABLE HOUSING UNIT AND PROVIDING FOR ANNUAL ADJUSTMENT OF FEE

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

CITY MANAGER’S REPORT:

12. **Measure ‘S’ Citizens Oversight Advisory Committee: - File 9-2-58**
 Reporting that the first meeting of the Measure ‘S’ Citizens Oversight Advisory Committee took place on Thursday last, April 13, 2006, Interim City Manager Ken Nordhoff stated they did some housekeeping, City Clerk Jeanne Leoncini swore them in and they were informed of the necessity to take an Ethics class. The members selected their two or four year terms and a

Vice-Chair, Larry Luckham, and were well underway getting their work done. He indicated that they would meet again on Thursday, April 20, to discuss their purpose and process and he hoped to have something to report to Council in the next month.

COUNCILMEMBER REPORTS:

- 13. a) **LAFCO: - File 149**
 Having chaired the LAFCO meeting on Thursday, April, 13, 2006, Councilmember Heller reported this was a public hearing on the San Rafael Service Review and Sphere of Influence. The City of San Rafael and all other Special Districts were part of this hearing, which would be open until June 8, 2006. She noted that 9 members of the public were in attendance, three of whom were from the City San Rafael. She explained that LAFCO was removing St. Vincent's/Silveira from the Sphere of Influence of the City and asserting that the project was exempt from CEQA (California Environmental Quality Act). She noted letters were received from Bingham McCutchen, who disagreed with LAFCO's two points, and the Las Gallinas Valley Sanitary District, who requested that their Sphere of Influence be changed somewhat. She confirmed that Mr. Brown and the City Attorney had received copy of the letter from Bingham McCutchen.

- b) **Transportation, Communication and Public Works Policy Committee: - File 9-11-1**
 Councilmember Heller reported having attended the Transportation, Communication and Public Works Policy Committee meeting of the League of California Cities in Los Angeles, on March 30, 2006. Regarding Ethics training, she noted the point was made that San Rafael could train its own lawyers to conduct Ethics training.

- c) **AB 1627: - File 116 x 9-1**
 Regarding AB 1627, Councilmember Heller stated it appeared as though the telephone companies, etc. were attempting to get their own legislation written, and she believed the City needed to become aware of what they were doing. She confirmed that Lydia Romero, Assistant to the City Manager, was attending to this.

- d) **ABAG - Focusing Our Vision:- File 111**
 Councilmember Heller reported that the ABAG (Association of Bay Area Governments) Planning Director, Janet McBride, would be a featured speaker at the *Focusing our Vision – Building a Network of Neighborhoods* - workshop to take place before the TAM (Transportation Authority of Marin) meeting on Thursday, April 27, 2006, from 6:00 p.m. – 7:00 p.m. She indicated she would attend and hoped someone from the City would also be there.

 Mr. Brown, Community Development Director, stated his Friday memo described this process.

- e) **Parking: - File 9-3-87**
 Councilmember Heller reported that a constituent, Ida Passamonti, Union Street, was very unhappy with the City's traveling patterns through the Montecito neighborhood. Noting the City had placed "No Parking" signs on one side of a street in the area, Councilmember Heller stated Ms. Passamonti wanted them removed.

There being no further business, Mayor Boro adjourned the City Council meeting at 8:53 p.m.

 JEANNE M. LEONCINI, City Clerk

APPROVED THIS _____ DAY OF _____, 2006

 MAYOR OF THE CITY OF SAN RAFAEL