

IN THE COUNCIL CHAMBER OF THE CITY OF SAN RAFAEL, MONDAY, MARCH 19, 2007 AT 8:00 P.M.

Regular Meeting:
San Rafael City Council

Present: Albert J. Boro, Mayor
Cyr N. Miller, Councilmember
Gary O. Phillips, Councilmember

Absent: Paul M. Cohen, Vice-Mayor
Barbara Heller, Councilmember

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

OPEN SESSION – COUNCIL CHAMBER – 7:00 PM

Mayor Boro announced Closed Session items.

CLOSED SESSION – CONFERENCE ROOM 201 - 7:00 PM – File 1-4-1a

1. a) Public Employment – Government Code Section 54957(b)(1)
Title: Fire Chief
- b) Conference with Labor Negotiators – Government Code Section 54957.6
Negotiators: Ken Nordhoff, Jim Schutz, Nancy Mackle, Lydia Romero,
Donna Williamson, Richard Whitmore
Employee Organization: San Rafael Fire Chief Officers’ Association

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

ORAL COMMUNICATIONS OF AN URGENCY NATURE:

War in Iraq: - File 9-1

Mary Morrison read copy of a letter sent to the Honorable Henry Reid with regard to revising United States policy on Iraq. John Jenkel invited the City Council to agendize a consideration urging Senator Boxer to call on her colleagues to declare a ceasefire in Iraq.

CONSENT CALENDAR:

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

| <u>ITEM</u> | <u>RECOMMENDED ACTION</u> |
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| 2. Approval of Minutes of Regular Meeting of Monday, March 5, 2007 (CC) | Minutes approved as submitted. |
| 3. Call for Applications to Fill Three 4-Year Terms on the Board of Library Trustees Through the End of April, 2011, Due to the Expiration of Terms of Robert Barnett, Sean Prendiville, and Charles Stuckey (CC) – <u>File 9-2-3</u> | <u>Approved staff recommendation:</u> a) Called for applications for appointments to fill three, 4-year terms on the Board of Library Trustees to the end of April, 2011; b) Set deadline for receipt of applications for Tuesday, April 10, 2007 at 12:00 Noon in the City Clerk’s Office, City Hall, Room 209; and c) Set date for interviews of applicants at a Special City Council meeting to be held on Monday, April 16, 2007, commencing at 6:30 p.m. |

4. Resolution Authorizing the City Manager to Execute a Second Amendment to the Agreement for Professional Planning Services with Pacific Municipal Consultants (PMC) for Interim Professional Planning Services within the Planning Division of the Community Development Department, Extending the Term of the Agreement Through September 30, 2007 and Increasing the Budget by \$90,480 to \$217,980 (CD) – File 4-3-457 x 9-3-85
- RESOLUTION NO. 12212 –
RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL PLANNING SERVICES WITH PACIFIC MUNICIPAL CONSULTANTS (PMC) FOR INTERIM PROFESSIONAL PLANNING STAFFING WITHIN THE CURRENT PLANNING SECTION OF THE COMMUNITY DEVELOPMENT DEPARTMENT (Agreement Term: July 10, 2006 through September 30, 2007, amount not to exceed \$217,980.00)**
5. Resolution Authorizing the City Manager to Execute an Agreement for Professional Services with Kramer.Firm Inc. for Services Related to Radio Frequency Radiation Testing of Wireless Telecommunications Facilities within the City of San Rafael, as Required by Section 14.16.360 of the San Rafael Municipal Code, with a Maximum Budget of \$22,137.50 and a Term Expiring on December 31, 2007 (CD) – File 4-3-464 x 9-3-85
- RESOLUTION NO. 12213 –
RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH KRAMER.FIRM INC. FOR RADIO FREQUENCY RADIATION (RFR) TESTING OF WIRELESS COMMUNICATIONS FACILITIES LOCATED WITHIN THE CITY OF SAN RAFAEL (Agreement Term: March 19, 2007 to December 31, 2007, amount not to exceed \$22,137.50)**
6. Resolution Approving the Recipient of the Richard P. O'Brien and Mary Ferrario O'Brien Citizen of the Year Award for 2007 (CD) – File 262 x 9-3-85 x 102
- RESOLUTION NO. 12214 –
RESOLUTION APPROVING MAN MIHN PHAN AS THE RECIPIENT OF THE RICHARD P. O'BRIEN AND MARY FERRARIO O'BRIEN CITIZEN OF THE YEAR AWARD FOR 2007**
7. Summary of Legislation Affecting San Rafael (CM) – File 116 x 9-1
- Approved staff recommendation:
SB 418 – Local Government Finance. Senator Migden. SUPPORT
SB 303 – Local Government Housing. Senator Ducheny. OPPOSE**
8. Resolution Authorizing the Closure of Mission Avenue Between C and E Streets on Saturday, April 7, 2007, from 1:00 p.m. to 5:00 p.m., to Accommodate Pedestrian Traffic to the Alice in Wonderland Spring Faire at Falkirk Cultural Center (CS) – File 11-19
- RESOLUTION NO. 12215 –
RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE OF MISSION AVENUE BETWEEN C STREET AND E STREET FOR THE FALKIRK SPRING FAIRE**
9. Monthly Investment Report for Month Ending February, 2007 (Fin) – File 8-18 x 8-9
- Accepted Monthly Investment Report for month ending February, 2007, as presented.**
10. Resolution Approving Update to the City's Investment Policy (Fin) – File 8-9 x 8-18
- RESOLUTION NO. 12216 –
RESOLUTION TO UPDATE THE CITY OF SAN RAFAEL INVESTMENT POLICY**
11. Resolution Authorizing the City Manager or Designee to Execute for and on Behalf of the City of San Rafael, a Public Entity Established Under the Laws of the State of California, Any Actions Necessary for the Purpose of Obtaining Federal Financial Assistance Through the Citizen Preparedness and Participation Grants Administered by California Volunteers – Office of the Governor (MS) – File 13-11 x 9-3-11
- RESOLUTION NO. 12217 –
RESOLUTION AUTHORIZING STAFF TO ENTER INTO AGREEMENTS NECESSARY FOR THE PURPOSE OF OBTAINING FEDERAL FINANCIAL ASSISTANCE THROUGH THE CITIZEN PREPAREDNESS AND PARTICIPATION GRANTS ADMINISTERED BY CALIFORNIA VOLUNTEERS – OFFICE OF THE GOVERNOR**

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| 12. | Resolution Authorizing Amendment to Agreement with Peckham & McKenney for Recruitment Services Related to the Position of Human Resources Director (MS) – <u>File 4-3-465 x 4-17-240A</u> | <u>RESOLUTION NO. 12218 – RESOLUTION AUTHORIZING EXECUTION OF THE AMENDED AGREEMENT FOR CONSULTANT SERVICES WITH PECKHAM & MCKENNEY FOR THE HUMAN RESOURCES DIRECTOR EXECUTIVE RECRUITMENT</u> |
| 13. | Resolution Authorizing an Agreement with William Avery & Associates, Inc. for Recruitment Services Related to the Position of Fire Chief (MS) – <u>File 4-3-466 x 9-3-31</u> | <u>RESOLUTION NO. 12219 – RESOLUTION AUTHORIZING EXECUTION OF THE AGREEMENT FOR CONSULTANT SERVICES WITH WILLIAM AVERY & ASSOCIATES FOR THE FIRE CHIEF EXECUTIVE RECRUITMENT</u> |
| 14. | Resolution Amending Resolution No. 11191 Pertaining to the Compensation and Working Conditions for the San Rafael Fire Chief Officers’ Association (2-year Agreement from July 1, 2006 through June 30, 2008) (MS) – <u>File 7-8-5</u> | <u>RESOLUTION NO. 12220 – RESOLUTION AMENDING RESOLUTION NO. 11191 PERTAINING TO THE COMPENSATION AND WORKING CONDITIONS FOR THE SAN RAFAEL FIRE CHIEF OFFICERS’ ASSOCIATION (2 year agreement from July 1, 2006 through June 30, 2008)</u> |
| 15. | Resolution Approving Use of State of California Office of Traffic Grant Funds in the Amount of \$24,994.52 for “Click it or Ticket” Seatbelt Compliance Enforcement Campaign – May through June, 2007 (PD) – <u>File 9-3-30</u> | <u>RESOLUTION NO. 12221 – RESOLUTION APPROVING USE OF STATE OF CALIFORNIA OFFICE OF TRAFFIC GRANT FUNDS IN THE AMOUNT OF \$24,994.52 FOR “CLICK IT OR TICKET” SEATBELT COMPLIANCE ENFORCEMENT CAMPAIGN – MAY THROUGH JUNE, 2007</u> |
| 16. | Confirmation of Bicycle and Pedestrian Advisory Committee Youth Appointees: Isabelle Cohen, Ellen Oblatz, and Jacob Coleman (Alternate) with Terms to Expire February, 2009 (PW) – <u>File 9-2-55</u> | <u>Approved staff recommendation: Confirmation of Bicycle and Pedestrian Advisory Committee youth appointees: Isabelle Cohen, Ellen Oblatz and Jacob Coleman (Alternate) with terms to expire in February, 2009</u> |
| 17. | Resolution Authorizing Temporary Street Closures for the 20 th Annual May Madness Classic Car Parade on Saturday, May 19, 2007 (RA) – <u>File 11-19</u> | <u>RESOLUTION NO. 12222 – RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE OF CITY STREETS FOR THE 20TH ANNUAL GREG BORRELLI’S MAY MADNESS CLASSIC CAR PARADE ON MAY 19, 2007</u> |
| 18. | Resolution Authorizing Temporary Street Closures for the Italian Street Painting Festival on June 9 - 10, 2007 (RA) – <u>File 11-19</u> | <u>RESOLUTION NO. 12223 – RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE OF CITY STREETS FOR THE YOUTH IN ARTS ITALIAN STREET PAINTING FESTIVAL 2007 ON JUNE 9 – 10, 2007</u> |

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

SPECIAL PRESENTATION:19. **PRESENTATION OF RESOLUTION OF APPRECIATION TO THE RECIPIENT OF THE RICHARD P. O'BRIEN AND MARY FERRARIO O'BRIEN CITIZEN OF THE YEAR AWARD FOR 2007 (CD) – FILE 262 x 9-3-85 x 102**

Inviting Mary O'Brien, her son Rick O'Brien and Councilmembers Miller and Phillips to join him at the podium, Mayor Boro explained that the Citizen of the Year Award began several years ago in honor of Richard "Dick" O'Brien who was a member of the Planning Commission for many years. He was pleased to note that the entire current City Council had had the opportunity of serving with Dick on the Planning Commission.

Reporting that many applications and recommendations were reviewed by a citizens committee, Mayor Boro invited Dave Donery, Pickleweed Supervisor, to escort Mr. Man Mihn Phan, Citizen of the Year, to the podium.

Mayor Boro stated this was a very special tribute to Mr. Man Phan as an individual, and to the people he works with in representing the community so well. He indicated that the Resolution of Appreciation would be formally presented to Mr. Phan on March 30, 2007 at the State of the City Dinner.

Quoting from the Resolution Mayor Boro stated: "The Richard P. O'Brien and Mary Ferrario O'Brien Citizen of the Year Award is intended to acknowledge residents of San Rafael who, through their dedicated and selfless efforts, have had a significant effect on the quality of life in their community; and

WHEREAS, Man Mihn Phan has been selected as the recipient of the Richard P. O'Brien and Mary Ferrario O'Brien Citizen of the Year Award due to his community involvement."

Mayor Boro noted that Mr. Phan served in the South Vietnamese army, fighting alongside American forces and spent six years in a communist prison camp. He and his wife have been residents of San Rafael for the past sixteen years.

Mayor Boro continued quoting from the Resolution: "Mr. Phan is an active emissary in the Vietnamese community promoting integration of new immigrants in the Canal neighborhood and the City, founding the Vietnamese-American Friendship Group, organizing English classes for Vietnamese seniors and newcomers and the Vietnamese Language School for American-born youth and Man Phan also serves the Vietnamese community by translating safety information into Vietnamese and organizing the annual Tet holiday and Moon Festival celebrations. Mr. Phan promotes multi-cultural understanding and neighborhood improvements, having served on the Pickleweed Park Advisory Board, the Marin County Sheriff Advisory Board and the Canal Transportation Plan Stakeholders Committee, as well as leading the Canal Beautification Project and organizing the neighborhood cleanup days."

On behalf of the City Council, the O'Brien family and the citizens of San Rafael, Mayor Boro congratulated Mr. Man Mihn Phan and thanked him for his work, presenting him with flowers for Mrs. Phan.

Mr. Phan stated he was very happy and honored to have been chosen Citizen of the Year. He expressed thanks to Mayor Boro, the City Council and all who contributed to his receiving the award, together with everyone in the audience for their support in the past year, and he proudly introduced his French teacher from College of Marin.

Promising to do his best for the community, Mr. Phan expressed the hope that San Rafael would be the best city in California.

Mayor Boro noted that Mr. Man Mihn Phan would also be receiving \$3,000 from the Richard P. O'Brien and Mary Ferrario O'Brien endowment fund at the State of the City Dinner.

Mayor Boro temporarily adjourned the City Council meeting to honor Mr. Man Mihn Phan with a reception in the lobby at City Hall.

Resuming the meeting, Mayor Boro stated it had been brought to his attention that an item of importance had arisen with respect to the Caltrans Highway 101 Widening Project and the designing of exits on a temporary basis through San Rafael. As Caltrans was seeking a consensus from the City Council, it was necessary to place the item on this evening's agenda as an Urgency Item:

Councilmember Phillips moved and Councilmember Miller seconded, to place the following Urgency Item on the agenda, which came up after the agenda had been posted.

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

CONSIDERATION OF SIGNIFICANT CHANGES MADE BY CALTRANS TO THE CONSTRUCTION PLANS FOR HIGHWAY 101 WIDENING PROJECT IN CENTRAL SAN RAFAEL (PW) – FILE 11-16 x 9-3-40

Public Works Director Andrew Preston reported Caltrans' staff suggested last week closing the connection from southbound Highway 101 to eastbound 580 (San Rafael towards San Francisco, taking the flyover to Richmond) for ten months, to expedite the construction work. He was now pleased to report, however, that Caltrans would not be closing that connection which would have diverted traffic through local roads within the City, mainly Andersen Drive and Bellam Boulevard. Mr. Preston reported that Caltrans had guaranteed that that connection would remain open for the entire length of the construction of the new freeway connection, except for a couple of instances where it could be closed on a weekday or weekend evening to carry out some minor work.

Mr. Preston explained that Caltrans made a presentation to the City Council last year which identified the eleven phases of construction, this being one. They had now discovered that due to one of the materials being used for lightweight fill, they were unable to construct this end of that flyover connection as previously designed. Mr. Preston stated that the lightweight fill for the on and off ramps was made from expanded polystyrene, which comes in blocks of 4' x 4' x 8', which would be stacked on top of each other and side by side on these ramps. As this material needed to be contained, a retaining wall was required on both sides to avoid it creeping outwards.

Regarding the offramp, Mr. Preston stated Caltrans' original idea was to demolish part or half of the existing one and build the new offramp for the new structure; however, to do that, the polystyrene would have to be put on the ground first, and this was not feasible because it would only be held up on one side by a retaining wall as the other side would not have been constructed; therefore, it would have a tendency to lean over.

Mr. Preston reported that Caltrans had now come out with another idea which he considered to be fairly good and which he was tending to support, although it was not perfect.

Utilizing a color coded plan, Mr. Preston explained the new road configurations. He confirmed this was now one phase which accomplished what would have been done in three previous phases and was a far more elegant solution. He noted Caltrans had already completed the paving and with the conceptual agreement with the City, were in a position to do the switch over on Friday evening (March 23, 2007).

Mayor Boro suggested that for traffic going north from San Francisco intending to get on the 580, perhaps it would be better to have a sign in Greenbrae to indicate it was the last 580 exit rather than encouraging drivers to continue to the San Rafael exit.

Mr. Preston stated Highway 101 was signed to get to eastbound 580 by using the freeway to freeway connection.

Further discussion on the road configurations took place.

Mayor Boro inquired as to how the project would be monitored and what would happen should it not work.

With regard to the volume of traffic, Jit Pandher, Caltrans, explained the volume of traffic would remain and operate the same as currently. In addition, Caltrans' signal people agreed with the City that once the shift is made it would be monitored to ascertain whether anything needed to be changed.

Mayor Boro stated it was his understanding that discussions were still taking place with regard to whether there would be one or two lanes from Irwin Street at Hetherton going south from Central San Rafael. Mr. Pandher believed the design was for one lane. Mr. Preston stated staff always thought it was two lanes and the presentation given by Caltrans last year inferred that it was two lanes. He indicated staff would be meeting with Caltrans in the next two weeks to resolve the situation and he anticipated that there would be two lanes.

Mayor Boro stated he had raised the question as to whether it made sense to attempt to get two lanes into a lane already coming from the north that was dedicated to go off the freeway; however, he also recalled hearing that there would be one lane, and he looked forward to the outcome.

Mr. Pandher stated a solution was being sought; however, he believed Mayor Boro had the correct understanding of the current design.

Councilmember Phillips inquired about the timeframe for the closure. Mr. Pandher stated that the traffic shift would be in place for approximately eight – ten months.

Noting the traffic would be monitored, Councilmember Phillips inquired whether there was a backup plan should the project turn into a total fiasco.

Mr. Pandher stated Caltrans was not anticipating a significant change from existing conditions; however, the first few days of implementing a change tended to slow traffic down, together with drivers slowing down to look at the construction work. His understanding in working with the City and Caltrans' signal people was that minor adjustments could be made if necessary; however, he was not anticipating a need for adjustments.

Councilmember Phillips again inquired whether there was a backup plan. Indicating there was no backup plan, Mr. Preston stated this was the best solution.

Councilmember Phillips wondered whether Mayor Boro's suggestion to divert traffic in Greenbrae had some merit.

Agreeing that this would help, Mr. Preston stated staff should strongly suggest to Caltrans that they should have some signing on the freeway to try to achieve this.

Mr. Pandher stated they looked at signing Sir Francis Drake Boulevard; however, the concern was that Sir Francis Drake was already at capacity.

Mayor Boro stated it was his understanding that northbound traffic on Sir Francis Drake Boulevard was higher at night than in the morning. Mr. Pandher stated that if desired, Caltrans would work with the City on this; however, he reiterated that Sir Francis Drake was already full. He agreed it could be done on a trial basis, removing the signs should it not work.

Mayor Boro stated the big concern in San Rafael as opposed to Sir Francis Drake was that while there were some residents going out towards San Quentin, 12,000 – 15,000 people lived in the Canal neighborhood and this could become a real problem with regard to backups; therefore, it needed to be closely monitored. Mr. Pandher confirmed that the California Highway Patrol and San Rafael Police would be working with Caltrans on the issue.

Chief of Police Matt Odetto stated the San Rafael Police Department would work with Caltrans and City Traffic Engineer Nader Mansourian.

Councilmember Phillips moved and Councilmember Miller seconded, to accept the proposed revised detour plan for the Highway 101 southbound/580 eastbound connector.

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

CITY MANAGER'S REPORT:

20. None.

COUNCILMEMBER REPORTS:

21. Targeted Operations in Canal Neighborhood: - 9-1

City Clerk Jeanne Leoncini distributed copies of letters from Mayor Boro to Senators Feinstein and Boxer and Congresswoman Woolsey, dated March 16, 2007.

For the benefit of the City Council, Mayor Boro recapped the issues concerning the targeted operations in the Canal Neighborhood over the last two weeks:

Mayor Boro reported that targeted operations by Immigration and Customs Enforcement (ICE) began on March 6 and continued through March 7 and 8, 2007. He stated that on Wednesday evening, March 7th, he and Chief of Police Odetto attended an expanded meeting of the Pickleweed Park Advisory Committee. They met with neighbors who were very concerned and upset and who had a lot of questions they (Mayor Boro and Chief Odetto) could not answer; however, they promised they would go to the ICE group in an attempt to obtain answers.

With the assistance of Senator Boxer's office, Mayor Boro reported that a meeting was set up with the Deputy Director of ICE.

Mayor Boro stated the ICE officials informed them that an initiative passed by Congress – “Secure the Border Initiative” – which passed almost unanimously in both the House and Senate, contained a two line provision for the operation “Return to Sender.” He indicated it did not specify how this should be done, rather it addressed deporting aliens who had a court order and were avoiding deportation or a felony warrant, and they were given the authority to make that happen.

Through further discussion, Mayor Boro stated the ICE agents gave an assurance that children are not arrested. The Agency gave an assurance they would not go to schools or churches to pick individuals up.

Mayor Boro reported that the ICE agents indicated they leave a flyer in the home with contact information and where to call to verify detainees’ whereabouts. They refused to provide the names of the detainees; however, indicated that by calling and requesting information on whether a certain named individual was being detained, this information would be provided.

Mayor Boro noted that people were being taken to either Santa Clara, Yuba City, Sacramento or Arizona. Detainees had the ability to contact either family members, their embassy or for legal assistance.

Mayor Boro stated the ICE agents were requested not to announce themselves as police as this was misleading to the community. Mayor Boro noted that it was of great concern to the City that this term was being used, because the Police Department works extremely hard in building a relationship with the community and this situation eroded that trust. He indicated it was very important for the safety of those residing in the Canal neighborhood, as well as the remainder of the community, for the Police Department to have a good rapport so that people felt free to call should they be harmed in any way, and to cooperate in investigations; however, the agents indicated this was something they would not change.

Reporting that he sent a letter to federal officials discussing recent ICE actions, Mayor Boro stated this letter made four points. It was made clear up front that the City was not quarrelling with the fact that the ICE agency had the responsibility to enforce immigration laws, rather the method used in “Operation Return to Sender.” The letter discussed the City’s concern about who these individuals were, where they were going and on what grounds arrests were made.

Regarding the term “police”, Mayor Boro stated he explained in the letter why this was important and pointed out that other federal jurisdictions announced themselves as the branch of the law they represented, i.e., FBI, DEA, Secret Service, etc.

Mayor Boro stated his biggest concern was the impact this was having on the children who were very traumatized. The impact on the children living in San Rafael who were more than likely native born Americans, the consequences of conducting these operations and the manner in which they were being carried out was very detrimental, and long term, could have some real impact on these children as they grew older and became part of San Rafael society.

Lastly, in the letters, Mayor Boro stated he urged the Senators and Congresswoman to really work on immigration reform and requested them to once and for all collaborate with the administration. Politics and parties had to be put aside. The country had a huge problem with immigration and all the finger pointing did not get anything solved, rather a way had to be found to secure the borders, get people to the United States so they could work, inform them as to how long they could remain and find some plan to deal with those individuals already in the country.

Mayor Boro noted letters had been sent today to State Senator Migden and State Assemblymember Huffman.

Councilmember Phillips complimented and thanked Mayor Boro for his efforts and leadership in this critical area. He stated Mayor Boro’s sensitivity to the children was to be applauded and he and Councilmember Miller concurred with these sentiments. He commented that Mayor Boro spoke for all Councilmembers, if not the entire City.

There being no further business, Mayor Boro adjourned the City Council meeting at 9:15 p.m.

JEANNE M. LEONCINI, City Clerk

APPROVED THIS _____ DAY OF _____, 2007

MAYOR OF THE CITY OF SAN RAFAEL