

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

Regular Meeting:  
San Rafael City Council

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

Absent: None

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

**OPEN SESSION – COUNCIL CHAMBER – 7:00 PM**

None

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

- 1. Conference with Legal Counsel - Existing Litigation  
Government Code Section 54956.9(a)  
Case Name: Wajih Ajib v. City of San Rafael  
Marin County Superior Court Case No. 052663

**Mayor Boro announced that the scheduled Closed Session was cancelled.**

**ORAL COMMUNICATIONS OF AN URGENCY NATURE:**

**8:05 PM**

**54 Fremont Road (lots 8 and 9) and applications to build 2 houses: - File 9-3-85 x 9-3-16 x 9-1**

Sharlene Moss stated that in September, the West End Neighborhood Association (WENA) first expressed concern to the City about proposed development at 54 Fremont Road. They believed that not only was the property unsuitable for further development for several complex geological, topographical and public safety reasons, but the City had illegally allowed the owner to divide it into two lots and begin the process of obtaining permits to build two separate houses. The owner had been given until November 30, 2007 to submit new applications to build on the property. Since a full response to their concerns would not be received from the City until December, WENA wished to have the issue on record with the City Council before that date.

Ms. Moss read from a document outlining their concerns.

Ms. Moss requested that the City refrain from accepting or processing any building applications for 54 Fremont Road until a final determination was made as to the legality of the division of the property into two parcels, and to record a "Notice of Intention to record a Notice of Violation" per Government Code Section 66499.36. She stated they believed the split was illegal and violated several City ordinances.

Community Development Director Bob Brown stated that the City Attorney was investigating the Certificate of Compliance with the Public Works Department and in the meantime, any processing of the application would be held in abeyance.

**CONSENT CALENDAR:**

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

<b><u>ITEM</u></b>	<b><u>RECOMMENDED ACTION</u></b>
2. Approval of Minutes of Special Meeting of Monday, November 5, 2007 (CC)	<b>Minutes approved as submitted.</b>
3. Resolution Authorizing a Third Amendment to the Agreement with Pacific Municipal Consultants (PMC) for Interim Professional Planning Staffing Within the Current Planning Section of the Community Development Department (Agreement Term: November 19, 2007 - November 19, 2008, Not to Exceed \$285,980.00) (CD) – <u>File 4-3-457 x 9-3-85</u>	<b><u>RESOLUTION NO. 12376 – RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A THIRD AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL PLANNING SERVICES WITH PACIFIC MUNICIPAL CONSULTANTS (PMC) FOR INTERIM PROFESSIONAL PLANNING STAFFING WITHIN THE CURRENT PLANNING SECTION OF</u></b>

**THE COMMUNITY DEVELOPMENT DEPARTMENT (Agreement Term: November 19, 2007 through November 19, 2008; amount not to exceed \$285,980.00)**

4. Resolution Authorizing the City Manager to Execute an Amendment to the Agreement for Professional Planning Services with Lamphier-Gregory for Preparation of an Environmental Impact Report (EIR) for the Recreational Facility at the San Rafael Airport Project (Agreement Term: November 19, 2007 through November 19, 2008; Amount not to Exceed \$156,561.00) (CD) – File 4-3-460 x 9-3-85  
**RESOLUTION NO. 12377 – RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL PLANNING SERVICES WITH LAMPHIER-GREGORY FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE RECREATIONAL FACILITY AT THE SAN RAFAEL AIRPORT (Agreement Term: November 19, 2007 through November 19, 2008; amount not to exceed \$156,561.00)**
5. Monthly Investment Report for October, 2007 (Fin) – File 8-18 x 8-9  
**Accepted Monthly Investment Report for month ending October, 2007, as presented.**
6. Resolution of Appreciation for Mark Rinkel, Information Technology Manager (MS) – File 102 x 9-3-87  
**RESOLUTION NO. 12378 – RESOLUTION OF APPRECIATION TO MARK RINKEL, INFORMATION TECHNOLOGY MANAGER**
7. Resolution Authorizing the Public Works Director to Execute an Amendment to the March 1, 2004 Professional Services Agreement with Amphion, Inc., to Expand the Scope of Work for the Medway/Canal Enhancement Project (# 10705), by an Amount Not to Exceed \$70,559.00 (PW) – File 4-3-379 x 9-3-40  
**RESOLUTION NO. 12379 – RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE AN AMENDMENT TO THE MARCH 1, 2004 PROFESSIONAL SERVICES AGREEMENT WITH AMPHION, INC. TO EXPAND THE SCOPE OF WORK FOR THE MEDWAY/CANAL ENHANCEMENT PROJECT (#10705) BY AN AMOUNT NOT TO EXCEED \$70,559, FOR A TOTAL PROJECT AMOUNT OF \$190,559**
8. **Second Reading and Final Adoption of Ordinance No. 1862:**  
**“AN ORDINANCE OF THE CITY OF SAN RAFAEL DELETING FROM THE SAN RAFAEL MUNICIPAL CODE CHAPTER 11.04 ENTITLED “SIDEWALKS, DRIVEWAY APPROACHES, CURBS AND GUTTERS”, CHAPTER 11.06 ENTITLED “USE OF PUBLIC RIGHT-OF-WAY”, AND CHAPTER 11.08 ENTITLED “EXCAVATIONS IN STREETS AND OTHER PUBLIC PLACES”, AND ADDING NEW CHAPTER 11.04 TO THE SAN RAFAEL MUNICIPAL CODE ENTITLED “ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY” (PW) – File 2-11 x 9-3-40**  
**Approved final adoption of Ordinance No. 1862 (as amended re: Indemnification Provision Section 11.04.030.040)**
9. Resolution Authorizing Temporary Street Closure for Bananas at Large Live Drum Clinic on E Street from Fourth Street to Fifth Avenue from 2:00 p.m. to 10:00 p.m. on Friday, November 30, 2007 (RA) – File 11-19  
**RESOLUTION NO. 12380 – RESOLUTION AUTHORIZING TEMPORARY STREET CLOSURE FOR BANANAS AT LARGE TERRY BOZZIO LIVE DRUM CLINIC ON E STREET FROM FOURTH STREET TO FIFTH AVENUE FROM 2:00 PM TO 10:00 PM ON FRIDAY, NOVEMBER 30, 2007**

**AYES:** COUNCILMEMBERS: Cohen, Heller, Miller, Phillips and Mayor Boro  
**NOES:** COUNCILMEMBERS: None  
**ABSENT:** COUNCILMEMBERS: None  
**ABSTAINING:** COUNCILMEMBERS: Mayor Boro (from item #8 only, due to potential conflict of interest.)

**INTRODUCTION OF NEW EMPLOYEES:**

10. **Library: - File 9-3-61**  
**Marlene Austin      Jonathan Hirsch      Margaret Stawowy**  
**Michelle Hirsch      Michael Oliva      Gina Vaziri**

Library Director David Dodd introduced the following new Library employees who had previously been on-call employees.

Jonathan Hirsch – Circulation Library Assistant  
 Gina Vaziri – Library Assistant, Technical Services  
 Marlene Austin – Library Aide  
 Michael Oliva – Circulation Library Assistant  
 Margaret Stawowy – Librarian  
 Michelle Hirsch – Library Aide – was unable to be present.

Mayor Boro expressed thanks to all new employees and wished them a great career with the City of San Rafael.

**SPECIAL PRESENTATION:**

11. **PRESENTATION OF RESOLUTION OF APPRECIATION TO MARK RINKEL, INFORMATION TECHNOLOGY MANAGER (MS) – FILE 102 x 9-3-87**

Mayor Boro reported that Mark Rinkel had worked for the City since 1999 and had been a tremendous asset in the area of Information Technology. The Resolution of Appreciation indicated that Mark was hired as the City of San Rafael’s first Systems Manager in 1999, working in the Police and Fire Dispatch Departments, and made technology upgrades across City departments, including the installation of citywide e-mail and calendar sharing network applications.

Continuing, Mayor Boro stated Mark was promoted in 2004 to Information Technology Manager and assumed the broader responsibilities of managing and overseeing all of the City’s computer networks, applications and telephone systems, and throughout his tenure with the City he was recognized as a “can do” guy, who did whatever it took to get things done, which was appreciated very much. He was very customer focused and his staff had been trained to do a great job through his efforts to ensure that happened. Mark balanced his customer service expectations with fun to the extent that the annual Halloween decorations rivaled the Little Shop of Horrors.

Referring to the final paragraph of the Resolution, Mayor Boro stated it was alleged that he (Mayor Boro) urged Mark to take risks, and he quoted: “WHEREAS, epitome of customer service by Mark can be measured in how many times he provided cell phone and PDA replacements for the Mayor, making sure that the backup and redundancy capabilities were consistent with NASA specifications.”

On behalf of the City Council, Mayor Boro thanked Mark for his eight years of dynamic leadership, wishing him much luck in the City of San Francisco.

Mark Rinkel stated he had enjoyed working for the City of San Rafael. Beyond the technology, he stated that the IT staff was outstanding and the City Council was a great support. He commented that he was leaving comfortable in the knowledge that the IT staff would maintain the high standard of customer service.

Mayor Boro requested that the following item be taken out of sequence due to the number of committee members present:

**COUNCIL CONSIDERATION:**

**OLD BUSINESS:**

15. **CONSIDERATION OF RESOLUTION APPOINTING THE MEMBERS OF THE CRITICAL FACILITIES COMMITTEE (CM) – FILE 9-2-57**

Councilmember Phillips reported that he and Mayor Boro met on several occasions to consider the applicants for this committee and had selected 15 members. They felt very comfortable with the committee, which was comprised of a broad cross-section of people both with experience on the committee previously and those new to it, and the committee was well represented in terms of professional capabilities.

Noting some members had served on this committee in the past, Mayor Boro stated the issue of critical facilities for Fire, Police and Library were big issues for the community and not easy ones to solve. He thanked everyone for agreeing to serve, also thanking Mark Lubamersky and Paula Kamena for agreeing to take on the roles of Chair and Vice-Chair respectively.

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

**RESOLUTION NO. 12381 – RESOLUTION AUTHORIZING THE ESTABLISHMENT OF THE SAN RAFAEL CRITICAL FACILITIES COMMITTEE**

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

**PUBLIC HEARINGS:**

- 12. **Public Hearing: -**  
**CONSIDERATION OF ORDINANCE NO. 1863 AMENDING TITLE 12 OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, BY AMENDING CHAPTERS 12.12, 12.14, 12.16, 12.20, 12.26, AND 12.28 THERETO, ADOPTING THE CALIFORNIA BUILDING CODE, 2007 EDITION, WITH AMENDMENTS, THE CALIFORNIA MECHANICAL CODE, 2007 EDITION, WITH AMENDMENTS, THE CALIFORNIA PLUMBING CODE, 2007 EDITION, WITH AMENDMENTS, THE CALIFORNIA ELECTRICAL CODE, 2007 EDITION, WITH AMENDMENTS, THE UNIFORM ADMINISTRATIVE CODE PROVISIONS FOR THE NATIONAL ELECTRICAL CODE, 1996 EDITION, WITH AMENDMENTS, THE UNIFORM HOUSING CODE, 1997 EDITION, WITH AMENDMENTS, THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997 EDITION, WITH AMENDMENTS; ADOPTING ENFORCEMENT AND PENALTIES PROVISIONS FOR THE FOREGOING CODES; AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO THE CALIFORNIA BUILDING CODE (CD) – FILE 1-6-1 x 1-6-2 x 1-6-3 x 1-6-5 x 1-6-6 x 1-6-7**

Thomas Ahrens, Fire Marshal/Chief Building Official explained that the State of California typically had a tri-annual code adoption where they basically restructure all the construction codes throughout the state. He indicated that for various political reasons this had not been done recently because the state got into a small dispute concerning what code to use. The normal tri-annual code adoption had been deferred for six years, and the City was operating on the 2001 codes for Building, Electrical, Plumbing, Mechanical and Fire Code. It had finally been decided, similar to most of the country, to go with the International Building and Fire Codes. Mr. Ahrens noted this was a big change from using the Uniform Codes. He explained that the International Codes were structured somewhat differently in that they were a blending of all the three main code bodies throughout the country and as a result, a lot of changes had taken place. He also noted it was a somewhat confusing year as California was late getting in on these codes. They had been published since 2000 and many states had adopted these codes over the past five years.

Mr. Ahrens reported that heavily modified, the books were almost double in size and it was quite a challenge to incorporate into daily use; therefore, they would be monitored over the next few years. He indicated that he had gone through all codes at length to try to make the new codes fit the way business had been done as much as possible. In particular, he reported that some new building standards dealing with construction in the wildland interface areas had been initiated and noting changes would be seen in this respect over the next few years, he stated it would also affect building finishes and how they were constructed, together with how vegetation was dealt with.

Mr. Ahrens stated that basically the combustibility of building elements had been decreased in these wildland interface areas and several local amendments dealt with this. Overall time limits had been placed on building permits to try to help prevent the disruption that occurs in neighborhoods with people continually working on their homes.

Mayor Boro declared the public hearing opened.

On the question of time limits, Councilmember Cohen inquired whether this could be applied retroactively or to new permit applicants.

Mr. Ahrens stated it would only apply to permits issued after January 1, 2008.

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

Councilmember Miller moved and Councilmember Phillips seconded, to approve final adoption of Ordinance No. 1863.

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

13. **Public Hearing: -**  
CONSIDERATION OF ORDINANCE NO. 1864 AMENDING TITLE 4 OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, BY AMENDING CHAPTER 4.08 THERETO, ADOPTING THE CALIFORNIA FIRE CODE, 2007 EDITION, WITH AMENDMENTS, AND PORTIONS OF THE 2000 UNIFORM FIRE CODE, WITH AMENDMENTS; ADOPTING ENFORCEMENT, PENALTY, AND APPEALS PROVISIONS FOR SUCH CODES; AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO SUCH CODES (CD) – FILE 1-6-4

Mayor Boro declared the public hearing opened.

Fire Marshal/Chief Building Official Thomas Ahrens stated the same situation applied as for the state codes. The City was operating on the 2001 Fire Code and would be updating to the 2006 International. He indicated that old language was being cleaned up to incorporate some of the wildland interface areas and tighten up sprinkler requirements.

Councilmember Cohen confirmed that nothing in this ordinance restricted anything already done. Mr. Ahrens stated that everything from previous code adoptions was being carried forward, with additional small nuances.

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

Councilmember Phillips moved and Councilmember Cohen seconded, to approve final adoption of Ordinance No. 1864.

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

14. **Public Hearing: -**  
CONSIDERATION OF A RESOLUTION APPROVING THE REISSUANCE BY THE SAN RAFAEL REDEVELOPMENT AGENCY OF MULTIFAMILY HOUSING REVENUE BONDS, RELATING TO MARTINELLI HOUSE MULTIFAMILY HOUSING PROJECT (1327 LINCOLN AVENUE) (RA) – FILE 13-16 x 229 x (SRRA) R-467 x R-173

Mayor Boro declared the public hearing opened.

Economic Development Coordinator Stephanie Lovette explained that the City Council under the IRS regulation was the elected representative rather than the San Rafael Redevelopment Agency; therefore, it was necessary for the City Council to conduct the hearing.

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

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

**RESOLUTION NO. 12382 – RESOLUTION APPROVING THE REISSUANCE BY THE SAN RAFAEL REDEVELOPMENT AGENCY RELATING TO MARTINELLI HOUSE MULTIFAMILY HOUSING PROJECT (1327 Lincoln Avenue)**

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

**COUNCILMEMBER REPORTS:**

16. None.

There being no further business, Mayor Boro introduced his son Michael who was visiting from back East, and adjourned the City Council meeting at 8:45 p.m.

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 JEANNE M. LEONCINI, City Clerk

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007

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 MAYOR OF THE CITY OF SAN RAFAEL