



## MINUTES

SAN RAFAEL CITY COUNCIL – MONDAY, DECEMBER 6, 2021

### REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2021-12-06>

Watch on YouTube: [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael)

Listen by phone: (669) 900-9128

ID: 817-3692-0337#

One Tap Mobile: US: +16699009128,,81736920337#

### CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be held virtually using Zoom and is being streamed to YouTube at [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael).

How to participate in the meeting:

- Submit public comment in writing before 4:00 p.m. the day of the meeting to [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org).
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and provide verbal public comment.

Any member of the public who needs accommodations should contact the City Clerk (email [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org) or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

Present: Mayor Kate  
Vice Mayor Bushey  
Councilmember Hill  
Councilmember Kertz  
Councilmember Llorens Gulati

Absent: None

Also Present: City Manager Jim Schutz  
City Attorney Robert Epstein  
Deputy City Clerk Brenna Nurmi

### OPEN SESSION

1. Mayor Kate announced Closed Session item.

### CLOSED SESSION – (669) 900-9128 ID: 815-5125-5972#– 5:30 PM

2. Closed Session:
  - a. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant Government Code Section 54956.9(d)(2)  
(One potential case)
  - b. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION  
Government Code Section 54956.6(d)(1)

Mayor Kate called the meeting to order at 7:00 p.m. and invited Deputy City Clerk Brenna Nurmi to call the roll. All members of the City Council were present.

City Attorney Robert Epstein announced that during the Closed Session tonight the City Council unanimously voted to opt in as members of the Class of Public Entities impending litigation entitled In Re National Prescription Opiate litigation, a case that's pending in the United States District Court for the Northern District of Ohio, Eastern Division. It is national litigation that many public entities are participating in.

Mayor Kate provided opening remarks, which included United Against Hate Week, a virtual Hannukah candle lighting and a land acknowledgment.

Deputy City Clerk Brenna Nurmi informed the community that the meeting would be recorded and streamed live to YouTube and through Zoom and members of the public would provide public comment either on the telephone or through Zoom. She explained the process for community participation on the telephone or through Zoom.

#### **OPEN TIME FOR PUBLIC EXPRESSION**

- Eva Chrysanthe addressed the Council regarding her visits to the Service Support Area.

#### **CITY MANAGER'S REPORT:**

##### 3. City Manager's Report:

City Manager Jim Schutz announced:

- Introduction of Marc Sabin, Homeless Program Manager
- Notice of Funding Availability (NOFA) – Affordable Housing update

Bill Guerin, Public Works Director provided an update on the Bungalow Avenue project and a recent gas leak. He responded to questions from Councilmembers.

Mayor Kate invited public comment.

**Speakers:** Albert, Name withheld, Eva Chrysanthe

#### **COUNCILMEMBER REPORTS:**

**(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)**

##### 4. Councilmember Reports:

- Councilmember Bushey reported on a Loch Lomond Development Oversight Committee meeting and an interview with the Community Media Center.
- Councilmember Llorens Gulati reported on Climate Action Committee and Marin Clean Energy (MCE) Board of Directors meetings.
- Councilmember Kertz reported on a Marin Wildfire Prevention Authority meeting, a Cal Cities update, a MCCMC Legislative meeting and a Homeless Policy Steering Committee meeting.
- Councilmember Hill reported on a Bungalow Avenue tour.

- Mayor Kate reported on Marin Transit, SMART, MCCMC Economic Recovery, and Showing Up for Racial Justice (SURJ) meetings.

Mayor Kate invited public comment; however, there was none.

**CONSENT CALENDAR:**

Mayor Kate invited public comment.

**Speakers:** Bill Carney, Johnson Reynolds

Mayor Kate held items 5.a and 5.d from the Consent Calendar.

Councilmember Llorens Gulati moved and Councilmember Kertz seconded to approve the Consent Calendar, excluding items 5.a and 5.d.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
 NOES: Councilmembers: None  
 ABSENT: Councilmembers: None

**5. Consent Calendar Items:**

- a. **Use of Teleconferencing for Public Meetings During State of Emergency**  
**Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic (CA)**

This item was held from the Consent Calendar.

City Manager Jim Schutz provided comments.

Councilmember Llorens Gulati moved and Councilmember Kertz seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
 NOES: Councilmembers: None  
 ABSENT: Councilmembers: None

*Resolution 15008 - Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic*

- b. **Agency Report of Public Officials 2021**  
**Adoption of Agency Report of Public Official Appointments (FPPC Form 806) (CA)**  
*Adopted Form 806*
- c. **Job Classification and Compensation Adjustments in the Human Resources Department**  
**Resolution Approving the New Classification and Compensation of Administrative Services Director (HR)**

*Resolution 15002 - Resolution Approving the New Classification and Compensation of Administrative Services Director*

- d. **Accessory Dwelling Unit Regulations Ordinance Adoption**  
**Final Approval of Ordinance 2002: An Ordinance Amending Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), and Title 14 (Zoning Ordinance) of the San Rafael Municipal Code Related to Regulations for Accessory Dwelling Units, and Report Issued Pursuant to Government Code § 65858(d) (CD)**

This item was held from the Consent Calendar.

City Manager Jim Schutz provided comments.

Councilmember Llorens Gulati moved and Councilmember Kertz seconded to approve final adoption of Ordinance 2002.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Approved final adoption of Ordinance 2002*

- e. **Citizens Advisory Committee on Economic Development and Affordable Housing Dissolution**  
**Resolution Dissolving the Citizen Advisory Committee (CAC) on Economic Development and Affordable Housing (ED)**  
*Resolution 15003 - Resolution Dissolving the Citizen Advisory Committee (CAC) on Economic Development and Affordable Housing*
- f. **Traffic Mitigation Fees**  
**Annual Traffic Mitigation Fee Report - FY 2021-22 (PW)**  
*Accepted report*
- g. **Annual CalRecycle Grant**  
**Resolution Authorizing Submittal of An Application for All CalRecycle Grants for Which the City of San Rafael is Eligible (PW)**  
*Resolution 15004 - Resolution Authorizing Submittal of An Application for All CalRecycle Grants for Which the City of San Rafael is Eligible*
- h. **Memorandum of Agreement with the County of Marin to Maintain Bayside Park**  
**Resolution Approving and Authorizing the Mayor to Sign a Memorandum of Agreement with Marin County Defining Maintenance Responsibilities for Bayside Park (PW)**  
*Resolution 15005 - Resolution Approving and Authorizing the Mayor to Sign a Memorandum of Agreement with Marin County Defining Maintenance Responsibilities for Bayside Park*
- i. **Umbrella Dredging Permit in San Rafael Consulting Services Agreement**  
**Resolution Approving and Authorizing the City Manager to Sign a First Amendment to the Professional Services Agreement with Haley & Aldrich, Inc. for Additional Services in Coordinating the Development of an Umbrella Permit for Private Dock Dredging in the San Rafael Canal, in an Amount Not to Exceed \$16,200 (PW)**

*Resolution 15006 - Resolution Approving and Authorizing the City Manager to Sign a First Amendment to the Professional Services Agreement with Haley & Aldrich, Inc. for Additional Services in Coordinating the Development of an Umbrella Permit for Private Dock Dredging in the San Rafael Canal, in an Amount Not to Exceed \$16,200*

- j. **Southern Heights Bridge Replacement**  
**Resolution Approving and Authorizing the City Manager to Execute a Fourth Amendment to the Agreement with Mark Thomas & Company, Inc. for Slope Stability Analysis, in an Additional Contract Amount Not to Exceed \$51,789 (PW)**  
*Resolution 15007 - Resolution Approving and Authorizing the City Manager to Execute a Fourth Amendment to the Agreement with Mark Thomas & Company, Inc. for Slope Stability Analysis, in an Additional Contract Amount Not to Exceed \$51,789*

**RECESS 7:47 – 7:52 p.m.**

Mayor Kate announced that public comments would still be received for the remaining items tonight, by email only. The Deputy City Clerk would then read these comments aloud into the record during the public comment portion of the remaining items.

**PUBLIC HEARINGS**

6. Public Hearings:

- a. **Marin Sanitary Service Rates and Contract for 2022**  
**Resolutions of the City Council of the City of San Rafael:**

Cory Bytof, Sustainability Program Manager and Garth Schultz, R3 Consulting Group presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate asked the Deputy City Clerk to read public comments that she received via email.

**Comments via email:** Bill Carney, Sustainable San Rafael, Belle Cole, Organizing for Action (OFA) Marin, Justin Wilcock, Marin Sanitary Service

Councilmembers provided comments.

- i. **Resolution Establishing Maximum Rates Collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be Effective January 1, 2022**

Councilmember Bushey moved and Councilmember Kertz seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Resolution 15009 - Resolution Establishing Maximum Rates Collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be Effective January 1, 2022*

ii. **Resolution Approving a Fourth Amendment to the Amendment and Restatement of Collection Agreement of the City of San Rafael with Marin Sanitary Service (CM)**

Councilmember Bushey moved and Councilmember Llorens Gulati seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Resolution 15010 - Resolution Approving a Fourth Amendment to the Amendment and Restatement of Collection Agreement of the City of San Rafael with Marin Sanitary Service*

b. **[Downtown Business Improvement District \(BID\) Assessment Annual Renewal](#)  
Resolution Approving the Downtown San Rafael Business Improvement District Assessment for Calendar Year 2022 (ED)**

Danielle O'Leary, Director of Economic Development and Innovation presented the Staff Report.

Eda Lochte and Jed Greene, Downtown Business Improvement District (BID) provided comments.

Staff responded to questions from Councilmembers.

Mayor Kate asked the Deputy City Clerk to read public comments that she received via email.

Brenna Nurmi, Deputy City clerk announced that she did not receive any emails tonight for this item.

Councilmembers provided comments.

Councilmember Bushey moved and Councilmember Llorens Gulati seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Resolution 15011 - Resolution Approving the Downtown San Rafael Business Improvement District Assessment for Calendar Year 2022*

**OTHER AGENDA ITEMS**

7. Other Agenda Items:

a. **[Resident Appeal of an AT&T Encroachment Permit](#)  
Consideration of a Resident Appeal from the Issuance of an Encroachment Permit to AT&T to Install a Utility Cabinet in the Public Right-of-way Alongside Property Located at 109 Bayview Street, San Rafael (PW)**

Bill Guerin, Public Works Director introduced Rafat Raie, Deputy Public Works Director who presented the Staff Report.

Staff responded to questions from Councilmembers.

Rich Petovello, Appellant presented his report.

Lisa Marano, AT&T presented her report.

Staff provided comments.

Staff responded to questions from Councilmembers.

Discussion regarding utility cabinet and different alternatives.

Mayor Kate asked the Deputy City Clerk to read public comments that she received via email.

Brenna Nurmi, Deputy City clerk announced that she did not receive any emails tonight for this item.

Staff responded to questions from Councilmembers.

Rich Petovello, Appellant and Lisa Marano, AT&T provided comments.

Councilmember Bushey moved and Councilmember Hill seconded to continue this item to the next regularly scheduled meeting on December 20, 2021.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

*Item continued to December 20, 2021*

**SAN RAFAEL SUCCESSOR AGENCY:**

1. Consent Calendar: - None.

**ADJOURNMENT:**

Mayor Kate adjourned the meeting at 9:49 p.m.

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LINDSAY LARA, City Clerk

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021

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KATE COLIN, Mayor