



## MINUTES

SAN RAFAEL CITY COUNCIL - MONDAY, SEPTMBER 19, 2022

REGULAR MEETING AT 7:00 P.M.

### In-Person:

San Rafael City Council Chambers  
1400 Fifth Avenue, San Rafael, CA 94901

### Participate Virtually:

Watch on Zoom Webinar: <https://tinyurl.com/CC-2022-09-19>

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

Listen by phone: (669) 900-9128

ID: 899-2635-9885

One Tap Mobile: US: +16699009128,,89926359885#

### **CORONAVIRUS (COVID-19) ADVISORY NOTICE**

In response to Assembly Bill 361, the City of San Rafael is offering teleconference without complying with the procedural requirements of Government Code section 54953(b)(3). This meeting will be held in-person, 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 in-person:

- Stay home if you are experiencing COVID-19 symptoms.
- Face coverings are recommended for attendees.
- Use the sign-in sheet (optional) which allows notification of potentially exposed individuals if contact tracing reveals COVID-19 transmission may have occurred in a given meeting.
- Attendance will be limited to 50 percent of room capacity (no more than 90 persons) and all in-person attendees should socially distance as recommended by public health authorities. If the Chambers are 50% occupied, please participate online instead or utilize the audio feed in the lobby.
- All attendees are encouraged to be fully vaccinated.

How to participate in the meeting virtually:

- 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 press \*9 to raise your hand, and \*6 to unmute yourself, then 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: Councilmember Bushey  
Councilmember Hill  
Vice Mayor Kertz  
Councilmember Llorens Gulati  
Mayor Kate

Absent: None

Also Present: Assistant City Manager Cristine Alilovich

City Attorney Robert Epstein  
City Clerk Lindsay Lara

**OPEN SESSION – THIRD FLOOR CONFERENCE ROOM – 5:00 PM**

*Dial-in: (669) 444-9171, Meeting ID# 895-8038-9114#*

1. Mayor Kate to announce Closed Session items.

City Attorney Robert Epstein announced the Council would meet in Closed Session to discuss one case. On July 15<sup>th</sup>, the City received a letter from the Veen law firm representing an individual arrested by San Rafael Police Officers Daisy Masariego and Brandon Nail on July 27<sup>th</sup>, and the individual's spouse. The letter threatens litigation, and is available for public inspection at the City Clerk's Office and would be made available on the City's website at [cityofsanrafael.org/policeincident/](http://cityofsanrafael.org/policeincident/).

**CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM – 5:00 PM**

2. Closed Session

- a. Conference with Legal Counsel--Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2): 1 case

Mayor Kate called the meeting to order at 7:02 p.m.

City Attorney Robert Epstein announced that no reportable action was taken in the Closed Session held at 5:00 p.m.

Mayor Kate invited City Clerk Lindsay Lara to call the roll. All members of the City Council were present.

Mayor Kate provided opening remarks, which included an update on the recent use of force incident by San Rafael Police Officers. She amended the agenda order and placed the City Attorney's portion of the City Manager's Report directly after her comments and prior to Open Time.

City Clerk Lindsay Lara announced the process for Spanish interpretation for the evening. She informed the community that the in-person meeting would also 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, through Zoom and in-person.

**OPEN TIME FOR PUBLIC EXPRESSION**

- Eva Chrysanthe addressed the City Council regarding the Agenda, the San Rafael Police Department and the City Attorney's comments.
- Jonathan Frieman addressed the City Council regarding the City Attorney's comments, the Mayor's comments, and a police oversight board.

**CITY MANAGER AND COUNCILMEMBER REPORTS:**

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

3. City Manager and Councilmember Reports:

Assistant City Manager Cristine Alilovich deferred to the City Attorney to make comments regarding the recent use of force incident by San Rafael Police Officers.

City Attorney Robert Epstein provided an update on the investigation, as well as, explained his decision-making process regarding the independent investigator. He announced that Open Time for Public Expression would be held next, then the conclusion of the City Manager Report and the Councilmember Reports.

Assistant City Manager Cristine Alilovich provided comments regarding the recent use of force incident by San Rafael Police Officers. She reminded everyone about September being Suicide Awareness Prevention Month.

#### Councilmember Reports:

- Councilmember Kertz reported on the Marin Wildfire Prevention Authority, ribbon cuttings for Jonathan's Place and School of Rock, and a coastal clean-up at McInnis Park.
- Councilmember Hill reported on recent Board & Commission Interviews, the ribbon cutting for Jonathan's Place, a visit to Aldersly Senior Living and Porch Fest in Gerstle Park.
- Councilmember Llorens Gulati reported on climate change meetings including BayWAVE, a City quarterly climate meeting, a MC Board meeting and a Sustainable San Rafael event. She attended a Cal Cities Conference, a Pickleweed Park Field Renovation meeting, and will attend an upcoming Movies in the Park event at Pickleweed Park. Also, she had several conversations with community leaders and neighbors regarding the recent use of force incident.
- Councilmember Bushey reported on a meeting with Supervisor Sackett regarding Pt. San Pedro Road issues. She reported on the Loch Lomond Oversight Committee and announced a new Loch Lomond Marina kayak launch. Also, she attended a Central Marin Sanitation Agency meeting, a San Rafael Sanitation District meeting and a San Rafael Library Foundation doner dinner.
- Mayor Kate attended a national mayor conference in Tacoma, WA. She reported on SMART and Marin Transit meetings, an upcoming Transportation Authority of Marin meeting, Porch Fest, a coastal clean-up at Pickleweed and the new Canal FC soccer team.

Mayor Kate invited public comment.

**Speaker:** Eva Chrysanthe

#### **CONSENT CALENDAR:**

Mayor Kate invited public comment.

**Speaker:** Allan Vetere

Councilmember Llorens Gulati moved and Councilmember Kertz seconded to approve the Consent Calendar.

#### 4. Consent Calendar Items:

- a. **Approval of Minutes**  
**Approve Minutes of City Council Regular Meeting of September 6, 2022 (CC)**  
*Approved minutes as submitted*

- b. **Use of Teleconferencing for Public Meetings During State of Emergency Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for the Use or Continued Use of Teleconferencing to Hold Public Meetings of the City’s Legislative Bodies During the Continuing State of Emergency Relating to the Covid-19 Pandemic (CA)**  
*Resolution 15126 - Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for the Use or Continued Use of Teleconferencing to Hold Public Meetings of the City’s Legislative Bodies During the Continuing State of Emergency Relating to the Covid-19 Pandemic*
- c. **Vacancies on San Rafael Boards and Commissions Announcement of Vacancies on the Voter Approved Tax Oversight Committee (CC)**  
*Received and filed*
- d. **Agreement for Disbursement of Measure A Tax Proceeds and Measure A Work Plan for July 1, 2022 – June 30, 2023**  
**Resolution Authorizing the City Manager to Execute an Agreement with the County of Marin for Disbursement of Measure A Tax Proceeds and Approving the Measure A Work Plan for July 1, 2022 - June 30, 2023 (LR)**  
*Resolution 15127 - Resolution Authorizing the City Manager to Execute an Agreement with the County of Marin for Disbursement of Measure A Tax Proceeds and Approving the Measure A Work Plan for July 1, 2022 - June 30, 2023*
- e. **Office of Traffic Safety Grant Approval**  
**Resolution Approving the Acceptance and Appropriation of State of California Office of Traffic Safety Grant Funds in the Amount of \$138,000 for the “Selective Traffic Enforcement Program” (“STEP”) Grant from October 1, 2022 Through September 30, 2023, and Authorizing the City Manager to Execute a Grant Agreement and Any Other Documents Related to the Grant (PD)**  
*Resolution 15128 - Resolution Approving the Acceptance and Appropriation of State of California Office of Traffic Safety Grant Funds in the Amount of \$138,000 for the “Selective Traffic Enforcement Program” (“STEP”) Grant from October 1, 2022 Through September 30, 2023, and Authorizing the City Manager to Execute a Grant Agreement and Any Other Documents Related to the Grant*

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

**PUBLIC HEARING**

5. Public Hearing:

- a. **“Streetaries” Outdoor Eating Areas Ordinance**  
**Introduce an Adding Chapter 11.70 (“Streetaries” Outdoor Eating Areas) to Title 11 (Public Works) of the San Rafael Municipal Code; Amending Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the San Rafael Municipal Code; and Amending Table 2.3.070.A (Use Table) of Chapter 9 (Downtown Form-Based Code) of the Downtown San Rafael Precise Plan Relating to Outdoor Eating Areas in the Public Right-of-Way (PW)**

April Miller, Public Works Director presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

**Speakers:** Surinder, Lotus Cuisine of India, Ryan, Libation, Adam Violante, Pint Size Lounge

Staff responded to public comment.

Staff responded to further questions from Councilmembers. Councilmembers also provided comments.

Discussion regarding shared spaces and possible additional language to the ordinance.

Robert Epstein, City Attorney indicated that he expects that with the resolution to adopt policies (to be presented at the next meeting) that the Council can then contemplate all the possibilities for sharing and provide direction to the community about how that would work if someone wants to do that.

Discussion regarding adding language that provides flexibility and minor modifications to the guidelines for existing streetaries.

Genevieve Coyle, Assistant City Attorney read the proposed language into the record: In Section 11.70.080, which is criteria for issuance, subpart C will be revised as follows, the term “for proposed streetaries” will be added after “deviations from adopted standards.”

And then a new subpart D will be added to Section 11.70.080 and that subsection will read as follows: Deviations from adopted standards for existing streetaries. For existing streetaries operating as of the effective date of this ordinance, where the director determines that the streetery will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood, the director may grant exceptions or minor modifications to the standards set forth in this chapter.

Councilmember Kertz moved and Councilmember Bushey seconded to introduce the ordinance by title only and waive further reading of the ordinance, with modifications read by the Assistant City Attorney.

City Clerk Lindsay Lara read the title of the Ordinance.

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: None

*Waived further reading and Introduced Ordinance No. 2016*

b. [Boards & Commissions Updates](#)

**Resolution and Ordinance Changes to Existing City Boards and Commissions (CC)**

Lindsay Lara, City Clerk presented the Staff Report.

Staff responded to questions from Councilmembers.

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

**i. Introduce an Ordinance of the City of San Rafael Amending Sections 2.16.030 Through 2.16.033 of the San Rafael Municipal Code Related to the Board of Library Trustees**

Councilmember Llorens Gulati moved and Councilmember Kertz seconded to introduce the ordinance by title only and waive further reading of the ordinance.

Deputy City Clerk Brenna Nurmi read the title of the Ordinance.

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

*Waived further reading and Introduced Ordinance No. 2017*

**ii. Resolution Amending the Board of Library Trustees Bylaws**

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

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

*Resolution 15129 - Resolution Amending the Board of Library Trustees Bylaws*

**iii. Introduce an Ordinance of the City of San Rafael Amending Section 14.25.070 and Adding Sections 2.16.120 Through 2.16.122 of the San Rafael Municipal Code Related to the Design Review Board**

Councilmember Kertz moved and Councilmember Hill seconded to introduce the ordinance by title only and waive further reading of the ordinance.

Deputy City Clerk Brenna Nurmi read the title of the Ordinance.

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

*Waived further reading and Introduced Ordinance No. 2018*

**iv. Resolution Amending the Design Review Board Bylaws**

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 15130 - Resolution Amending the Design Review Board Bylaws*

**v. Introduce an Ordinance of the City of San Rafael Amending Sections 2.16.010 Through 2.16.013 of the San Rafael Municipal Code Related to the Fire Commission**

Councilmember Llorens Gulati moved and Councilmember Kertz seconded to introduce the ordinance by title only and waive further reading of the ordinance.

Deputy City Clerk Brenna Nurmi read the title of the Ordinance.

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

*Waived further reading and Introduced Ordinance No. 2019*

**vi. Resolution Amending the Fire Commission Bylaws**

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

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

*Resolution 15131 - Resolution Amending the Fire Commission Bylaws*

**SAN RAFAEL SUCCESSOR AGENCY:**

1. Consent Calendar: - None.

**ADJOURNMENT:**

Mayor Kate adjourned the meeting at 9:25 p.m.

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LINDSAY LARA, City Clerk

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022

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KATE COLIN, Mayor