



MINUTES

SAN RAFAEL CITY COUNCIL - MONDAY, MAY 1, 2023

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/san-rafael-city-council>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 444-9171

ID: 844 3204 9611

One Tap Mobile: +16694449171,,84432049611# US

This meeting will be held in-person. The public may attend in-person or participate virtually using Zoom. This meeting is being streamed to YouTube at www.youtube.com/cityofsanrafael.

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.
- 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.

If you experience technical difficulties during the meeting, please contact city.clerk@cityofsanrafael.org.

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

Absent: Councilmember Kertz

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

OPEN SESSION - THIRD FLOOR CONFERENCE ROOM - 6:30 PM

Dial-in: (669) 900-9128, Meeting ID# 839-2754-6670#

1. Mayor Kate to announce Closed Session items.

CLOSED SESSION - THIRD FLOOR CONFERENCE ROOM - 6:30 PM

2. Closed Session:
 - a. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: 519 Fourth Street, San Rafael (APN 014-123-06)
Agency negotiator: Gerald Ramiza, Burke, Williams and Sorensen
Negotiating parties: Chris Hart
Under negotiation: Price and terms of sale

Mayor Kate called the meeting to order at 7:05 p.m. and invited Deputy City Clerk Brenna Nurmi to call the roll. All members of the City Council were present, except for Councilmember Kertz.

City Attorney Robert Epstein announced that no reportable action was taken in the Closed Session held prior to the meeting.

Mayor Kate provided opening remarks, which included how public comment works and how the meetings are run, the importance of the proclamations tonight and a land acknowledgement.

Deputy City Clerk Brenna Nurmi 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

- Anthony addressed the City Council regarding a fire code issue with Italian cypress trees.
- Name withheld addressed the City Council regarding a fire code issue with Italian cypress trees.
- Eva Chrysanthe addressed the City Council regarding a Sheriff’s Civilian Oversight working group.
- Andy Naja-Riese, Agricultural Institute of Marin, addressed the City Council regarding the Downtown San Rafael Farmers Market.

CITY MANAGER AND COUNCILMEMBER REPORTS:
(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

3. City Manager and Councilmember Reports:

Jim Schutz announced:

- Goals and Objectives discussion meetings to be held on Monday, May 8 at Dominican University, 3-5 p.m., as well as, on Monday, May 15 at City Hall, 7 p.m.

City Councilmember Reports:

- Vice Mayor Llorens Gulati reported on Congressman Huffman’s Environmental Roundtable, an Earth Day Neighborhood Clean-up at Tiscornia Marsh, a Marin County Youth Town Hall, a MCCMC Climate Action Committee meeting and a Community Conversation with Supervisor Rodoni.
- Councilmember Hill reported on Earth Day Marin, a San Rafael City Schools breakfast and the annual Margie Burke Speech Tournament.
- Councilmember Bushey reported on the San Rafael Chamber of Commerce’s Excellence in Education Awards, the San Rafael High School Hall of Honor Induction Ceremony, and a San Rafael Sanitation Board meeting.
- Mayor Kate reported on an Earth Day event with the Business Improvement District and San Rafael Clean Coalition, an AC Marriott hard hat tour, a Coffee with a Cop event, a BayWAVE presentation, SMART and Transportation Authority of Marin (TAM).

- City Attorney Status Update on Police Investigation

City Attorney Rob Epstein provided an update on the police investigation.

Mayor Kate invited public comment.

Speakers: Stephen Bingham, Pamela Reaves, Tara Evans, Heidi Merchen, Name withheld, Theo Emison, Jerry Spolter, Brenda Camarena, Samantha Ramirez, Anthony Label, Debra Taub, Name withheld, Calisha, Diane Martin, Name withheld, Eva Chrysanthe, Debbie Choizer, Lori, Barbara Bogard

City Attorney Rob Epstein responded to public comment.

Assistant City Manager Cristine Alilovich provided comments on the “Policing in San Rafael” community meetings.

CONSENT CALENDAR:

Mayor Kate invited public comment.

Speakers: Name withheld, Heidi Merchen, Eva Chrysanthe

Councilmember Bushey moved and Councilmember Hill seconded to approve the Consent Calendar.

4. Consent Calendar Items:

a. **Approval of Minutes**

Approve Minutes of the Regular and Special City Council Meetings of April 17, 2023 (CC)
Approved minutes as submitted

b. **Paramedic Tax Rates for Fiscal Year 2023-24**

Adoption of Ordinance 2026: An Ordinance of the City Council of the City of San Rafael Amending the Paramedic Service Special Tax Rates Within the Voter-Approved Limit, Commencing with Fiscal Year 2023-2024, for Residential Units and Non-Residential Structures in the City of San Rafael, County Service Area No. 13, County Service Area No. 19, and The Marinwood Community Services District (CC)
Final adoption of Ordinance 2026

c. **Permanent Local Housing Allocation (PLHA)**

Resolution Recommending Permanent Local Housing Allocation (PLHA) Project Funding for the Calendar Year 2023 to the Marin County Board of Supervisors (CD)
Resolution 15203 - Resolution Recommending Permanent Local Housing Allocation (PLHA) Project Funding for the Calendar Year 2023 to the Marin County Board of Supervisors

d. **Proclamations**

- i. Proclamation Supporting Wildfire Preparedness Month (FD)
- ii. Proclamation Supporting Public Service Recognition Week (HR)
- iii. Proclamation Supporting Asian American and Pacific Islander Heritage Month (HR)
- iv. Proclamation Supporting National Police Week (PD)
- v. Proclamation Supporting Mental Health Awareness Month (HR)
Received and Filed

e. **FY 2023 Local Measure A, AA and B Allocation**

Resolution Authorizing the City Manager to Execute Funding Agreement A-FY23-11 Between the Transportation Authority of Marin (TAM) and the City of San Rafael, Thereby Authorizing the Receipt of an Allocation of \$47,527 in Measure A, \$440,653 in Measure B, and \$1,322,378 in Measure AA Funding for FY 2022-2023 (PW)

Resolution 15204 - Resolution Authorizing the City Manager to Execute Funding Agreement A-FY23-11 Between the Transportation Authority of Marin (TAM) and the City of San Rafael, Thereby Authorizing the Receipt of an Allocation of \$47,527 in Measure A, \$440,653 in Measure B, and \$1,322,378 in Measure AA Funding for FY 2022-2023

- f. **2023 MTC Regional Active Transportation Program Local Support**
 - i. **Resolution of Local Support Authorizing the Filing of an Application for Funding Assigned to MTC and Committing Any Necessary Matching Funds and Stating the Assurance to Complete the Canal Active Transportation Enhancements Project (PW)**
Resolution 15205 - Resolution of Local Support Authorizing the Filing of an Application for Funding Assigned to MTC and Committing Any Necessary Matching Funds and Stating the Assurance to Complete the Canal Active Transportation Enhancements Project
 - ii. **Resolution of Local Support Authorizing the Filing of an Application for Funding Assigned to MTC and Committing any Necessary Matching Funds and Stating the Assurance to Complete the San Rafael Canal Crossing (PW)**
Resolution 15206 - Resolution of Local Support Authorizing the Filing of an Application for Funding Assigned to MTC and Committing any Necessary Matching Funds and Stating the Assurance to Complete the San Rafael Canal Crossing
- g. **Southern Heights/Courtright Retaining Wall Project**
Resolution Approving and Authorizing the City Manager to Execute the Property Purchase Agreement for Acquisition of a Roadway and Slope Easement with Property Owner of 78 Southern Heights Boulevard and Accept the Grant Deed for Such Property (PW)
Resolution 15207 - Resolution Approving and Authorizing the City Manager to Execute the Property Purchase Agreement for Acquisition of a Roadway and Slope Easement with Property Owner of 78 Southern Heights Boulevard and Accept the Grant Deed for Such Property
- h. **Spinnaker Point Parking Modification Project Notice of Completion**
Accept Completion of the Spinnaker Point Parking Modification Project (City Project No. 11363), and Authorize the City Clerk to File the Notice of Completion (PW)
Accepted completion of the Spinnaker Point Parking Modification Project and authorized the City Clerk to file the Notice of Completion

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

PUBLIC HEARINGS

5. Public Hearings:

- a. **[Use Permit Revocation for Nightclub at 842 Fourth Street](#)**
Resolution Denying an Appeal (AP23-001) and Affirming the Planning Commission's March 28, 2023 Action to Revoke the Use Permit (UP05-01) Allowing the Re-Establishment of Live Entertainment and a Cocktail Lounge as Part of a New Restaurant/Supper Club Located at 842 4th Street (CD)

City Attorney Rob Epstein provided introductory comments and introduced outside counsel Eli Flushman and Connor MacLean.

Leslie Mendez, Planning Manager presented the staff report.

Applicant Esly Figueroa and Applicant's son Frank Dilela provided comments.

Staff and the Applicant's son responded to questions from the City Council.

Mayor Kate invited public comment.

Speakers: Eva Chrysanthe, Barry Taranto

Councilmembers provided comments.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Kertz

Resolution 15208 - Resolution Denying an Appeal (AP23-001) and Affirming the Planning Commission's March 28, 2023 Action to Revoke the Use Permit (UP05-01) Allowing the Re-Establishment of Live Entertainment and a Cocktail Lounge as Part of a New Restaurant/Supper Club Located at 842 4th Street

b. [Reusable Foodware Ordinance](#)

Introduction of An Ordinance of the City Council of the City of San Rafael Amending the San Rafael Municipal Code to Repeal and Replace Chapter 10.92 - Prohibition on Use of Polystyrene Foam Disposable Food Packaging with New Chapter 10.92 - Regulation of Foodware for Retail Food Vendors (CM)

Walter Gonzalez, Management Analyst presented the Staff Report.

Staff, including Gregory Pirie, Marin County Environmental Health Services Deputy Director and Dana Armanino, Marin County Sustainability Principal Planner responded to questions from Councilmembers.

Mayor Kate invited public comment.

Speakers: Rhonda Kutter, Aide to Supervisor Dennis Rodoni, Joanne Webster, Chamber of Commerce, Jennifer Grenier Selvig, Marin Sanitary Service, Al Vetere, Barry Taranto, Jinesse Reynold, PlasticFree Marin, Susan Hopp, PlasticFree Marin, Annika Osborn, Sustainable San Rafael, Andy Naja-Riese, Agricultural Institute of Marin, Bridget Clark, Julie Monroe, Kim Corona, Marilyn Price

Staff responded to public comment.

Councilmembers provided comments.

Councilmember Llorens Gulati moved and Councilmember Bushey seconded to waive further reading of the Ordinance, refer to it by title only and introduce the Ordinance; and the City Clerk read the title of the Ordinance.

An Ordinance of the City Council of the City of San Rafael Amending the San Rafael Municipal Code to Repeal and Replace Chapter 10.92 - Prohibition on Use of Polystyrene Foam Disposable

Food Packaging with New Chapter 10.92 - Regulation of Foodware for Retail Food Vendors

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

Waived further reading of the Ordinance, referred to it by title only, and introduced the Ordinance

c. **BioMarin Development Agreement**

Accept the 3rd Anniversary Annual Report for the Executed Development Agreement (Ordinance No. 1982) Between BioMarin Pharmaceutical and the City of San Rafael for the Development of an Expanded San Rafael Corporate Center (750-790 Lindaro Street and 781-791 Lincoln Avenue and 999 3rd Street); Case No.: P23-004 (CD)

Chris Hess, Community Development Assistant Director presented the staff report.

Mayor Kate invited public comment; however there was none.

Councilmembers provided comments.

Councilmember Bushey moved and Councilmember Hill seconded to accept the report.

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

Accepted the 3rd Anniversary Annual Report for the Executed Development Agreement (Ordinance No. 1982) Between BioMarin Pharmaceutical and the City of San Rafael for the Development of an Expanded San Rafael Corporate Center (750-790 Lindaro Street and 781-791 Lincoln Avenue and 999 3rd Street)

OTHER AGENDA ITEMS

6. Other Agenda Items:

a. **Downtown San Rafael Business Improvement District**

Approval Of Actions Supporting the Downtown San Rafael Business Improvement District Capacity Building and Management (ED):

- i. **Resolution Appropriating Funds and Authorizing the City Manager to Negotiate and Execute a Downtown Business Improvement District Management and Enhancement Agreement with the San Rafael Chamber of Commerce In an Amount of \$100,000**
- ii. **Resolution Appointing Downtown Business Improvement District Advisory Board Members**
- iii. **Resolution Authorizing the City Manager to Negotiate and Execute a Downtown Business Improvement District Transition Agreement with the Downtown San Rafael Business Improvement District (BID Corporation) In an Amount of \$5,000**

iv. Resolution Adopting the Downtown Business Improvement District Administrative Guidelines

Micah Hinkle, Director of Economic Development and Innovation, presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

Speaker: Joanne Webster, Chamber of Commerce

Councilmembers provided comments.

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

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

Resolution 15209 - Resolution Appropriating Funds and Authorizing the City Manager to Negotiate and Execute a Downtown Business Improvement District Management and Enhancement Agreement with the San Rafael Chamber of Commerce In an Amount of \$100,000

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

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

Resolution 15210 - Resolution Appointing Downtown Business Improvement District Advisory Board Members

Councilmember Hill moved and Councilmember Llorens Gulati seconded to adopt the Resolution.

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

Resolution 15211 - Resolution Authorizing the City Manager to Negotiate and Execute a Downtown Business Improvement District Transition Agreement with the Downtown San Rafael Business Improvement District (BID Corporation) In an Amount of \$5,000

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

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

Resolution 15212 - Resolution Adopting the Downtown Business Improvement District Administrative Guidelines

b. **Community Development Block Grant (CDBG)**

Resolution Recommending Community Development Block Grant (CDBG) Project Funding for the Fiscal Year 2023-24 to the Marin County Board of Supervisors (CD)

Alexis Captanian, Housing Programs Analyst presented the staff report.

Staff, including Molly Kron, Marin County Housing and Federal Grants Senior Planner responded to questions from Councilmembers.

Mayor Kate invited public comment; however there was none.

Councilmembers provided comments.

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

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

Resolution 15213 - Resolution Recommending Community Development Block Grant (CDBG) Project Funding for the Fiscal Year 2023-24 to the Marin County Board of Supervisors

SAN RAFAEL SUCCESSOR AGENCY:

- 1. Consent Calendar: - None.

ADJOURNMENT:

Mayor Kate adjourned the meeting at 11:18 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2023

KATE COLIN, Mayor