

# TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of September 24 2013

Present: Coleman, Dahlgren, Greene, Kroot, McInerney

Absent: None

7:00 p.m.

## **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

## **ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION**

Mayor Coleman announced there was no closed session.

## **OPEN TIME FOR PUBLIC EXPRESSION**

Martin Umbresal, Calumet Avenue, feels there are a lot of leaf blowers in town that make a lot of noise and that other cities are managing without the leaf blowers and thinks that San Anselmo should do the same.

Grant Dill, Corte Madera resident, owns property in San Anselmo at Red Hill Avenue and Essex Street. Dell said he paid \$1,000 to the Town to get a Certificate of Compliance correctly recorded with the County which has not been done.

Stutsman said Diane Henderson, Interim Planning Director, will contact him directly tomorrow to resolve the matter.

Greene requested staff look at the fees being charged to Mr. Dell and make sure he does not have to pay twice.

## **COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS**

Greene reported that the MCCMC Legislative Committee will be forthcoming with a presentation regarding reforming CEQA (California Environmental Quality Act) rules.

Kroot said flood control questions pertaining to the Memorial Park Detention Basin were unanswered at a Council meeting a few months ago. The engineers were going to look into the unanswered questions and then come back to Council. Kroot requested a discussion with the engineers be put on a future agenda.

Stutsman said they will come back to council with that.

Greene said there were a lot of questions that Ross Asselstine had asked that were unanswered.

## **COUNCIL FUTURE AGENDA ITEMS**

**1. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE REMOVED AND DISCUSSED SEPARATELY. DISCUSSION MAY TAKE PLACE AT THE END OF THE AGENDA. OTHERWISE, ALL ITEMS MAY BE APPROVED WITH ONE ACTION.**

- (a) Approve minutes of September 10, 2013.
- (b) Approve Downtown event application for the Goblins' Parade, to be held on San Anselmo Avenue from Ross Avenue to Tamalpais Avenue on Tuesday, October 29, from 5 to 7 p.m.

There was no comment from the public on the consent agenda

M/s, Greene/Kroot, to approve the consent agenda item. AYES: Coleman, Dahlgren, Greene, Kroot, McInerney. NOES: None.

**2. APPOINT MEMBERS TO THE OPEN SPACE COMMITTEE (3 SEATS).**

Town Manager Debra Stutsman presented the staff report.

Kroot acknowledged the good quality of applicants and suggests for the number of seats on the Open Space Committee be temporarily expanded to include the appointment of all four applicants.

Stanly Radtke, Open Space Committee member, said the committee would welcome the temporary expansion of seats on the committee.

M/s, Kroot/McInerney, to appoint all four applicants with a temporary expansion of committee members. AYES: Coleman, Dahlgren, Greene, Kroot, McInerney. NOES: None.

**3. REVIEW OF PROPOSAL FROM THE OPEN SPACE COMMITTEE TO BUILD A TRAIL UP TO THE TOP OF RED HILL.**

Debra Stutsman, Town Manager, presented the staff report. Stutsman stated that the Open Space Committee has been looking into the feasibility of building a trail to the top of Red Hill. They feel the trail would be a unique and attractive asset for the town. Much of the land is already owned by the Town. The Open Space Committee would like to enter discussions with MMWD and Sunny Hills regarding the trail and how it affects their property.

Stutsman introduced Open Space Committee Chair, Stanley Radtke.

Radtke introduced Open Space Committee member, Brian Crawford as the master mind of the project with hands on experience.

Crawford said there is a lot of broom on Red Hill particularly on the bottom portion of the hill that have thickets of broom that are very dense. He believes the trail would open up the area and allow people to get through the area it would also be less inviting to homeless people. Crawford thinks it would be a real attraction for San Anselmo and they are hopeful to get an easement from Sunny Hills.

Greene asked if the Open Space Committee has a strategy to raise the funds.

Crawford said they have the funds but they also plan on doing some fund raising.

Radtke said they would seek help from the community.

Dahlgren does not see any barriers.

Kroot asked if they are confident that they can build a safe trail.

Crawford answered affirmatively.

Greene asked if the committee has given thought of how to handle various user groups like bikes and horses.

Radtke stated that the trail is too steep for bike use and their proposal is to not open it up for bike or horse use. Use of the trail is meant for pedestrians.

Coleman asked who would maintain the trail.

Crawford does not expect Town staff to take care of the trail rather he expects volunteer groups to maintain the trail.

There was no comment from the public.

M/s, Greene/Dahlgren, to approve proposal from the Open Space Committee and give them the authority to negotiate and move forward with the trail. AYES: Coleman, Dahlgren, Greene, Kroot, McInerney. NOES: None.

**4. UPDATE FROM THE TRANSPORTATION AUTHORITY OF MARIN (TAM) REGARDING THE CURRENT STATUS OF THE PLANNING PROCESS FOR THE GREENBRAE CORRIDOR. (ORAL REPORT).**

Stutsman introduced Diane Steinhauser, Executive Director, Transportation Authority of Marin (TAM). Steinhauser said plans to improve traffic congestion on Highway 101 have been in the works for more than a decade, but the Metropolitan Transportation Commission (MTC) is demanding the Transportation Authority of Marin settle on a strategy. A proposal suggested by Caltrans and TAM was opposed by members of the public due to a southbound flyover and a large northbound retaining wall. A working group of elected officials spent five months trying to develop a project in which the community could agree. The working group made a recommendation in late August. On the southbound side of the highway, the working group unanimously proposed adding a two-lane off-ramp to Sir Francis Drake Boulevard with an auxiliary lane extending to the north, widening the southbound auxiliary lane from the Sir Francis Drake Boulevard onramp and adding an eastbound Fifer Avenue right turn onto Nellen Drive. On the northbound section, the group voted 4-2 to add an auxiliary lane from Tamalpais Drive north study a possible interchange from Highway 101 to the San Rafael-Richmond Bridge, widen east Sir Francis Drake Boulevard to the Richmond-San Rafael Bridge. The working group also recommended the North-South Greenway and pedestrian pathways

on the east side of Sir Francis Drake Boulevard be widened and undercrossing from Wornum Drive to the Sandra Marker Trail.

Steinhauser said TAM will most likely create a plan that includes portions of the original Caltrans design (but scaled down) and incorporate suggestions from the working group. TAM staff will bring their suggestions to bring to the TAM Board on Thursday, September 26, 2013.

McInerney spoke on the discussions and material presented at the Working Group meetings. McInerney said northbound Highway 101 has the biggest congestion and that the addition of an auxiliary lane would not do much to improve the northbound congestion. He hopes final recommendations will support something that relieves congestion on Northbound 101. McInerney does not think it was adequately addressed in the working group.

Greene explained that TAM has to come up with a viable plan otherwise we may lose the \$40 million dollars from Metropolitan Transportation Commission (MTC).

Steinhauser said a few of the important issues are controlling the vehicle flow on Northbound Highway 101 and the 2.2 miles consisting of the Richmond Bridge 580 corridor and to look at the possibilities of ramp metering.

Dahlgren added that congestion is horrendous and that the danger needs to be address as well as the congestion.

Steinhauser announced that in the near future she would like to have a discussion with Council regarding employers options for controlling the time automobiles are on the road to reduce vehicle congestion.

There was no comment from the public.

**5. APPEAL OF PUBLIC WORKS DIRECTOR'S DECISION TO ALLOW REMOVAL OF TREE AT 134 MADRONE AVENUE. APPLICANT: MICHIKO CONKLIN; APPELLANT: LINDA JENSEN, 130 MADRONE.**

Kroot recused himself because of conflicting interests with the property.

Sean Condry, Public Works Director, presented the staff report.

Mayor Coleman opened the public hearing.

Condry said the application was submitted in April 2013 along with an inspection report. At that time based upon the inspection report he approved the removal. Due to concerns from neighbors he suspended the approval to remove the tree. Condry said that he approved removal of the tree because he had concerns that the Town may be taking on a liability and that his job is to protect public safety.

McInerney has concerns regarding the Town's liability if Council were to let the tree remain.

Deputy Town Attorney, Megan Acevedo said the Council should make findings to support their decision.

McInerney said it appears the house is built very close to the tree and wonders if there other avenues to correct the situation.

Condry said the owners did look into bridging but he understands that is only a temporary fix.

McInerney asked if the planning application assumed the tree was going to be removed.

Condry said parking was an issue and with the tree gone they would be able to have off street parking without a variance.

Greene asked if the left tree trunk the part of the tree that he is concerned about.

Condry feels that the property damage is limited to the crack in the floor and also possible damage through tree branches falling. Condry said if falling branches were the only issue he feels that issue could be dealt with by trimming the tree.

Linda Jensen, 130 Madrone Avenue, stated that the subject tree is an old growth giant heritage tree. Generally these large oaks have tap roots and roots that go out beyond the tree. She does not want her trees to be damaged by removing the tree. She feels there are ways to improve the property and ways to mitigate this issue other than removing the tree. Jensen said this is a healthy tree which does not need to be removed. Jensen noted that White Valley Oaks are resistant to oak disease. She would like to see Council adopt an ordinance that saves San Anselmo trees.

Kathy Day, 119 Madrone, said the formal tree hearing on August 7 was disappointing because she felt that Condry had already made a decision. Day believes that the property owner at 134 Madrone is here for a short time while her son attends high school. Day said the tree is irreplaceable and has been here way longer than the home which was built in the early 60's. Day asked Council to save the heritage tree.

There were no questions for the appellant.

Applicant presentation, Michiko Conklin, 134 Madrone Avenue. Conklin said they looked at the house to purchase and she had an inspection done in which the report said if buttress roots have to be cut it would destabilize the tree. Beckman crawled under the house and gave detail of the crack in relation to the buttress roots. He said the tree should be removed to protect the house and foundation. Mr. Beckman has no financial interest in removing the tree as he would not be the one removing the tree. Michiko said it was when the arborist said you will have to take the carport down to remove the tree then her realtor said she could probably build in the carport area. The addition only came up after discussing the removal of the tree.

Carl Beckman, Novato, engineer, stated the wall is out of plumb one inch in 8 ft. and he believes that is a substantial amount. He used a laser to shoot the level and found that it is out of level with the high point in the front of the house near the tree. Beckman noted previous stucco work on the house. Beckman did go under the crawl space and confirmed the presence of a crack exactly where the home inspector said it would be. In his opinion the tree is lifting the house and will continue to lift the

house. There is a water cistern under the house and his initial observation was to cut the root or severely scrap the root with which the arborist did not agree as he felt that would destabilize the tree. Beckman said that he does not have any major stake in this project. It is his experience that roots will always seek the water and there is water under the house. The house was built in 1961 and he believes the oak tree will continue to cause damage unless extreme measures are taken.

Greene asked Beckman to talk about what the theory and practical process of bridging a root.

Beckman said a beam is placed to make a lifted foundation.

Dahlgren said the property owner contacted her 6 weeks ago and provided her with the same information that is what is presented tonight.

McInerney asked how common it is to have a house that is 55 years old be out of plumb by one inch.

Beckman said one inch is getting well beyond the normal amount.

McInerney asked with what level of severity is the wall moving? The appeal states the foundation has a crack and does not mention the lifting of the house.

Beckman said the value of the house is certainly affected. The problem is not going to get better and the root is going to continue to grow. He can only tell you that the foundation is damaged and will continue to get worse. The rest of the foundation is not cracked. He believes the crack is there because of the tree root.

Greene asked Beckman if he has been an expert in litigated cases. Beckman said yes.

McInerney asked if there was any discussion with prior owner to see if they considered removing the tree.

Conklin said no but the previous owner disclosed to her about the tree.

Darren Overby, 126 Madrone Avenue, stated the trees are an asset on Madrone Avenue and he believes the true desire for cutting the tree is to relocate the property driveway. By cutting her tree and putting a driveway in place of the tree she will be putting her home as well as neighboring homes in more jeopardy. Overbee asked council to reject the tree permit and to look at other alternatives.

Robert Jaflin, 139 Laurel Avenue, said he has 2 Valley Oaks on his property that are home to an incredible amount of diversified life. Tonight has heard that removal of this tree is harmful to his trees and that the cost differential of bridging the foundation and tree removal is a few thousand dollars. He supports letting the tree stay. Jaflin asked Council to remand this matter to further fact finding. It does not make sense to destroy a grove of trees for a few thousand dollars.

Laura Kendall, 126 Madrone, the tree is very old the house has been here fifty years. She supports saving the tree.

Rachel McKay, 134 Laurel Avenue, spoke on behalf of the tree.

Gail Permar, 113 Madrone, architect, feels the cost of helical metal piers is not a reason enough to take the tree out. Permar state there is a lot of subsurface streams in the area, unstable ground and aquifers. Permar suggests more careful research on fixing the foundation rather than taking the tree out.

Nancy Okada, San Anselmo resident, believes it is unnecessary to take the tree down.

Kathryn Gant Bradley, Durham Road, is in favor of defending and protecting the tree.

Lisa Machetti, 130 Laurel Avenue, is in favor that the discussion be held over for additional review. Machetti would like to see some sort of mediation.

Eileen Ashton, 29 Grove Lane, feels that there are already enough trees that have to be removed because they are rotten or diseased and this impacts the wildlife. Ashton asked Council to save the healthy trees; it is important to save the trees that are possible to save.

Herb Carlson, 1029 San Anselmo Avenue, said the old trees define the character the neighborhoods and should be preserved as much as possible. He asked Council to rescind the permit for further consideration.

Marston Talon, Rowland Court, believes the trees are benefits to wildlife, that they produce tons of oxygen and enhance landscape. He asked Council to save the tree.

Jensen, appellant, prefers to fix the problem without removing the tree. Regarding safety issues of the tree she suggests taking the time to make decisions that are best for the community.

Conklin, applicant, addressed the concept of a circle of trees in which you take one tree down if will affect the other trees in the circle. The roots of this tree does not go to the other properties the roots go under her house to seek water. She feels the bridge is only a temporary solution. She would do this whether or not they do the addition to the home and stated the addition is unrelated to this matter.

Mayor Coleman closed the public hearing.

Greene said land use decisions are very difficult because of conflicting legitimate values. White valley oak trees are a part of what has always been the character of the Town. The trees have been here for centuries and truly are habitat. Ms. Conklin has rights also. Greene thanked Gail Permar for her comments regarding helical piers in the neighborhood. The fix is more expensive but not by much and he does not feel that further consideration and research is necessary. Greene thinks the appeal is legitimate and would sustain the appeal.

McInerney agrees planning matters are difficult because of the competing interests and that the Town's Municipal Code is important to public interest and also recognizes property rights. He looks at the intent and language of the Town's heritage tree ordinance and is sensitive to the argument. He wonders how serious the safety issue is. McInerney would need more substantiation of a safety hazard to support removal of the tree. He supports the appeal and rejects the applicant.

Dahlgren is not convinced. She also has concerns regarding the statement if you cut this tree down you will harm all the others. She supports additional research.

Coleman has concerns regarding the lateral roots that go under the foundation. She does not think more information is necessary. Coleman cannot support the appeal. Coleman supports the applicant.

Greene requests more information about the viability and cost of a bridge foundation under the house. He would like to know more information about the front of the house and if it is concreted over. He would also like more information regarding the impact it would have on surrounding tree roots if the tree were removed and the dead roots remain. Finally he asked that the foundation area be reviewed to see what the immediacy is of the root impact. Will this become worse over night or is it a matter of 3, 5 or 15 years?

Dahlgren asked if it is possible to review the area under the house. She feels awkward about appending 3 hours on a three hundred year old tree.

McInerney suggests sustaining the appeal for the applicant to come back with more information to these questions.

Dahlgren feels the greater the impartiality the better.

Greene feels solid with his vote but feels if further information gathering is wanted he is fine with that.

Dahlgren wonders if they can get an objective impartial opinion.

M/s, McInerney/Greene, to sustain the appeal without prejudice and to give the applicant the opportunity to come back to Council with further information addressing the questions raised by the Council and staff will work with applicant to give her names of arborists and engineers. AYES: Coleman, Dahlgren, Greene, McInerney. NOES: None. RECUSED: Kroot.

Kroot noted this was the first time he has ever met Mr. Carl Beckman.

Dahlgren left the meeting

**6. CONSIDER THE USE OF FRANCHISE FEES TO FUND THE COMMUNITY MEDIA CENTER OF MARIN (CMCM) FOR A BRIDGE PERIOD 2013-2018.**

Town Manager, Debra Stutsman, presented the staff report stating staff's recommendation is that Council considers the request to use Franchise Fees to fund the Community Media Center of Marin (CMCM) for a bridge period 2013-2018 and provide direction to the Town's Marin Telecommunications Agency (MTA) representative.

Stutsman introduced Barbara Thornton, Executive Officer, TAM and Michael Eisenmenger, CMCM Executive Director.

Thornton stated the new contract includes CMCM request of bridge funds. Thornton asked Council to consider the possibility of funding the media center and their role in the community.

Michael Eisenmenger, explained history of CMCM. Eisenmenger said that PEG fees are approximately 80% or more of the CMCM funds. Typically a 501(c) 3 keeps six months reserve for safety which they have done. There has been a high use of equipment at the center and the equipment is in need of replacement. They are asking for approximately \$43,000 spread out over three years from the Town of San Anselmo.

McInerney asked if the Comcast settlement had discussion of the CMCM and what the impact it would have on the Center.

Thornton said MTA decided to move forward with the settlement. There was not a discussion at that time what the solution would be for reduced CMCM funding..

McInerney asked if there is a strategy to raise funds so they are not dependent on the franchise fees.

Eisenmenger stated they anticipate PEG fees will be enough to cover their costs in 2017 and that he feels the fundraising will change for the better.

Greene asked approximately what would be the cost to the Town of San Anselmo.

Thornton estimated for three years it would be approximately \$14,000 each year.

Coleman asked what will happen if this does not happen.

Eisenmenger said CMCM would be unable to provide the same services to MTA.

#### Public Comment

Bruce Bagnoli, San Rafael, Board President for CMCM, explained CMCM drives engagement in government and this is an investment in transparency in government.

Marcia Holquist feels CMCM is very important to the children in the community.

Larry Bragman, Hickory Road, Fairfax, has been involved with MTA and CMCM for many years and stated that the media center is well within the original assessment and budget. What they are looking for now is a 7% subsidiary. Bragman has no doubt CMCM will be self-sufficient in 3 to 4 years.

Bruce Baum, Sleepy Hollow resident, asked that San Anselmo do the right thing and contribute to CMCM so that CMCM survive and continues to grow.

Ginger Sodersnason, Kentfield, said she has been trained by CMCM and believes CMCM is a real community asset. Democracy is working because of CMCM. Mason hopes Council approves the use of franchise fees.

Kroot supports the investment to keep the CMCM service going.

McInerney noted initially he was going to say no as he had concerns that CMCM was not doing enough fund raising. But he has been persuaded by the presentations and he supports the center.

Greene believes PEG programming valuable and is democracy. He supports the center.

Coleman would like to see responsibility from CMCM regarding fund raising. Coleman supports the center.

M/s, Greene/Kroot to approve financial support to CMCM in the amount of \$43,000 over a three to four year period. AYES: Coleman, Greene, Kroot, McInerney. NOES: None. ABSENT: Dahlgren.

7. **ADJOURN.**

The meeting adjourned at 12:30 am.

Respectfully submitted,

Joanne Kessel