

MINUTES OF THE SAN ANSELMO TOWN COUNCIL SPECIAL MEETING
November 17, 1986

Mayor Wooliever convened the meeting Special session of the Council at 8:05 p.m. on November 17, 1986 with Chignell, Cordingley, Sharp and Walsh in attendance.

The Mayor read the Grand Jury Report Recommendation No. 1: "We recommend that a formal policy be adopted by all police agencies in Marin County, substantially as follows: Any misconduct alleged against a police officer which would be serious enough to justify the arrest of a civilian under like circumstances, shall be referred automatically as a criminal complaint to either the District Attorney or the Attorney General for investigation."

Sharp questioned the phrase "referred automatically as a criminal complaint"; he felt it was not the Council's responsibility to make that determination. He questioned who is to designate it as a criminal complaint. He suggested eliminating the word "criminal". Chignell suggested polling the District Attorney's office as well as other Police Chiefs to see what their procedure now is, and to defer our decision until that is done. Walsh said the way it is worded she could not support it. Cordingley said he was not inclined to support it the way it was written. If the word "criminal" were dropped, he would support it. Wooliever said she supported the recommendation and felt it important to have a policy.

Eric Swensen, Lincoln Avenue, said the language was very vague. He said the Council needs to look at procedures within this Town. Fred Peterson, 101 Sunny Hills Drive, said and there is a need for a certain level or quantum of proof in any alleged misconduct before you take the matter to the District Attorney or the Attorney General. He asked at what point the Skelly rights take over. Katherine Davis said this "witch hunt" has gone on for too long.

Sharp said he agreed with Fred Peterson about the need for a quantum of proof. He said he did not feel the burden of proof was on the Council.

M/S Cordingley, Sharp the Council support recommendation No. 1 as written with the deletion of the word "criminal". Motion passed by the following vote:

AYES: Cordingley, Sharp, Wooliever

NOES: Chignell, Walsh

Grand Jury Report Recommendation No. 2: "We recommend that, in order to insulate personnel matters from political pressures, policies be adopted within all municipalities in Marin to require that the disciplining of municipal employees and appointed officers be handled administratively, subject only to approval by the governing council or board".

Walsh said this recommendation was loaded with political implications. She said in her opinion, it was in violation of Section 3304 of the State Government Code dealing with protection of procedural rights of public officers or employees and the Supreme Court decision in the Skelly Case. Cordingley also felt it a loaded recommendation and said he was inclined to accept it and turn it over to the Town Attorney or Town Council for further study. Chignell said he would go along with the study. He felt it extremely vague and would like to talk with the Attorney as to what the implications are. Sharp felt it vague and needing further study. As a general policy he thought it fine. Wooliever said she supports the policy and accepts it.

Edward Cunningham, 21 Lincoln Avenue said the Council should out of hand disregard any attempt to act on the report. By discussing and accepting the recommendations, it gives it a certain degree of credence. The Town would be much better off to disregard the report at

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this time and give it more study. Helen Cameron, 831 Sir Francis Drake Boulevard said it is incumbent on the Council to act on the report. They would be remiss not to consider it. Lisa Marchetti, 29 Sais Avenue said she had heard several rumors and felt it was time to get them out in the open: 1. She heard someone on the Grand Jury had been represented by the Town Attorney; 2. She heard there were two eye-witnesses to the alleged incident who were never called to testify before the Grand Jury. In reply, to the first allegation, the Town Attorney said he did not know who was on the Grand Jury. Fred Peterson said he was the attorney for the complainant who took the matter to the Grand Jury. He said the complainant is entitled to keep his identity a secret. He said Mr. Robbins, of the Grand Jury, was given the names of two civilian witnesses. Only one was called by phone by Mr. Robbins. He criticizes the procedures following by the Grand Jury. He said the complainant did not get a copy of the report until several days after the Town had received it. The conduct of the Grand Jury should be looked into by the State Department of Justice, he thought.

M/S Cordingley, Sharp to accept recommendation No. 2 for the purposes of further evaluation. Passed by the following vote:

- AYES: Chignell, Cordingley, Sharp, Wooliever
- NOES: Walsh

Grand Jury Recommendation No. 3. "Police officers are required to record their observations of events that have legal significance; much of the intrigue surrounding this affair stems from the fact that several officers did not follow police procedures. These officers either failed to file reports, were not ordered to file reports, or filed reports that did not fully and accurately reflect their observations. We recommend that the municipalities of Ross, Fairfax and San Anselmo direct the following officers to either file reports, or amend existing reports to accurately reflect their observations on the night of September 18th, 1985, as related to Mr. Ream and the Grand Jury: Officer Robert Reaves and (former) Sergeant John Evans of the Fairfax Police Department; Officer Bradford Burke and Sergeant Ted Wight of the San Anselmo Police Department; Officer Dell Blackburn of the Ross Police Department."

Chignell said he had grave reservations about substantive comments made about the report and so he could not accept that recommendation. Walsh said she concurred with Chignell and felt the recommendation implied that officers had committed perjury. She did not go along with this recommendation. Cordingley said he supported it. There is a need to know the facts of the case. He is disturbed by the reports and wants to know why the officers did not submit police reports that were in line with testimony they gave the Grand Jury. He thought the Council should suggest to staff that they have those revised reports as quickly as possible. The officers should be notified that those reports will be sent to the Grand Jury. He suggested the Council ask Ross and Fairfax for their cooperation. Sharp said the report was unfair. He questioned how Ross and Fairfax should be approached on how to direct their officers.

Kay Coleman, 22 Agatha Court, asked the Council if they were about to ask staff to ask their officers to update their reports and bring them more into line with what the Grand Jury said their testimony was? Wooliever said they were asking them to see if the reports reflect what actually happened.

Roth said he would ask the officers if there is anything they believe was not in their reports and to review their reports for accuracy and give them an opportunity to do so.

Chignell said directing those officers to more accurately reflect the reports that were filed, alleging they have inconsistencies in their testimony, is going to open up this Town to civil jeopardy. It would be incumbent upon the Council not to adopt this recommendation.

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Fred Peterson said the implications remains that one or more of the police officers has done some wrongdoing. Why not, he asked, give it to the Attorney General or get an outside agency to investigate?

Roth said the Council could request the officers to reexamine the reports to see if they wish to add or correct them. He said he did not think there is any implication from this Council that there is any wrongdoing. Council so directed Roth.

Chignell said the Council should protect the Town by not acting on this.

Joyce DeMartini, Brookside Drive, said the Grand Jury did not do the job properly. She wants the eye witnesses to hand in reports too.

Eric Swensen, Lincoln Avenue, said he was amazed at how the Council was proceeding. He criticized the legal advice the Council was getting.

Walsh said she wanted to record to show she does not support Recommendation No. 3 in any way, shape or form.

Grand Jury Recommendation No. 4. "We recommend that the Attorney General of the State of California conduct a criminal investigation of the events surrounding the arrest of Kimball Miller on September 18th, 1985."

Wooliever said the Grand Jury had referred the matter to the Attorney General, and it would be up to the Council to only direct staff to cooperate in this matter.

Chignell said we cannot look at this in a vacuum. Mr. Ream did an investigation; the F.B.I. investigated; apparently the Attorney General thought there was insufficient evidence; Jerry Herman did not refer the matter to the Attorney General in San Francisco and no action was taken. The matter has been investigated from A - Z and no criminal charges have been filed.

Sharp said the officers have a responsibility to the Town and Chief to cooperate with this. Walsh said the whole report has made her angry-- it is a blockbuster.

Virginia Stapleton, 126 Meadowcroft said they had already found the evidence was not enough. She said the gentleman sitting next to her was a witness and no one asked him to testify.

Joyce DeMartini said if it would have been her she would have done more than kicked the suspect.

Sophia Spencer, 18 Jordan Avenue said it was so confusing she could hardly believe it. She wondered what is going to happen. She said she did not believe any of the five Councilmembers "dug it up". It is really wrong to say they did.

Helen Cameron said the impression was being left that the matter had been investigated. She said it absolutely had not been. Neither the District Attorney for the Attorney General had investigated the case.

Larry Stack said the last paragraph is rather subjective. He knew of one witness who was never called to testify and that was he.

Bill Ollinger, 60 Olive Avenue said the matter, as taken up by the Grand Jury, did not serve the purposes of those instigating the investigation and therefore they felt it should go further. He said the matter should go to the Attorney General and let the Attorney General make an investigation and then the matter should be put to rest.

Ed Cunningham, 21 Lincoln Avenue said he applauds the search and desire for the truth. The one gigantic question mark is what is the truth in this report. He said there is something unanswered in this report and urged the Council to forego going on.

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Albert Barsochini, 4 Blackhawk Drive said he was a neighbor and an eye witness to the incident.

Fred Peterson, all persons were obligated by law to cooperate in the matter.

M/S Sharp, Chignell that staff be instructed that if an Attorney General's investigation ensues from these allegations staff is to cooperate fully with it. Ayes all.

Grand Jury Recommendation No. 5: "As detailed elsewhere in this report, we find that Chief Del Santo failed to properly investigate the assault allegation made against him, and that this failure has undermined the command structure at San Anselmo Police Department. We therefore recommend that San Anselmo remove Bernard Del Santo from his position as Police Chief."

Mayor Wooliever stated: "This Council, meeting in closed session, has determined not to follow Recommendation No. 5.

Cordingley said it was the intent of this Council to meet directly with the public, rather than communicating through the press or deal with the matter in another fashion, and that was the purpose of scheduling the meeting tonight.

The Meeting adjourned at 9:30 p.m.

Thelma Foster