

MINUTES OF THE SAN ANSELMO TOWN COUNCIL MEETING OF NOVEMBER 24, 1987

Vice Mayor Sharp convened the regular meeting at 8:00 p.m., following a closed session regarding a personnel matter beginning at 7:00 p.m., following by interviews with applicants to the Red Hill School Site Committee beginning at 7:30 p.m., with Councilmembers Chignell, Walsh and Wooliever present and Mayor Cordingley not present.

2. OPEN TIME FOR PUBLIC EXPRESSION

There were no comments from the public.

3. APPOINTMENTS: RED HILL SCHOOL SITE COMMITTEE

The president of the Ross Valley School Board has suggested the committee include a representative of the school district and the Chamber of Commerce has asked that the business community should also be represented. It was the consensus of the Council to expand the committee to include these two seats and two additional seats to be filled by public members, for a total of 13 committee members.

M/S, Chignell/Wooliever, to close nominations. Motion passed unanimously.

M/S, Chignell/Wooliever, to continue appointments to the Red Hill School Site Committee to the next regular meeting. Motion passed unanimously.

4. ADOPTION OF ORDINANCE NO. 891 AUTHORIZING AN AMENDMENT TO THE AGREEMENT WITH THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE A 2% AT 50 RETIREMENT PLAN FOR POLICE OFFICERS

Walsh commented that she felt the language of the contract with the police officers deems that the Town has an honor to implement the plan. Chignell stated that despite any contractual obligation, the Council has a moral commitment. The plan will do much to enhance morale and keep police officers in San Anselmo, and the Town has the necessary funds set aside.

Herm Kramer, 1 Allemand Place, said he has made the Council aware since 1982 of the extreme cost of this plan, and predicted the future costs will mean cuts in service in the future.

Sarah Nome, 77 Alder, objected to the lack of a cash flow chart.

M/S, Chignell/Wooliever, to waive reading and adopt Ordinance No. 891 authorizing an amendment to the agreement with the California Public Employees Retirement System to provide a 2% at 50 retirement plan for police officers, with the date of implementation to be determined through the meet-and-confer sessions between the Town and the San Anselmo Police Officers Association. Motion passed unanimously.

Police Sergeant Don Nelson thanked the Council for living up to its agreement.

5. APPEAL OF POLICE CHIEF'S DENIAL OF AN OVERNIGHT PARKING PERMIT, YVONNE S. CALDWELL AND SCOTT GLASSCOE, 62-A TAMALPAIS AVENUE.

The Police Chief reported that there are apparently four off-street parking spaces, which appears to be sufficient according to Town Code.

Caldwell explained that there is a house and a legal non-conforming cottage on the property. There is a two-car garage next to the house in the front, which belongs to the owners of the property. There is a new parking space in the front yard and a parking space in front of the garage, where she parks. She must move her car whenever the owners want to get in and out of the garage, which is made more difficult due to her odd working hours. For safety reasons, she did not feel comfortable parking in one of the Town lots and walking home late at night.

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Chignell requested an inspection be made of the garage to ascertain the parking situation there.

Sharp said he had received complaints that the cars parked in the front yard extend out over the sidewalk.

M/S, Chignell/Wooliever, to continue to December 8 pending a report from the Police Chief and Planning Department. Motion passed unanimously.

6. RESOLUTION DENYING AN APPLICATION FOR AN EXCEPTION TO ORDINANCE NO. 868 (INTERIM ORDINANCE PROHIBITING THE PROCESSING OF CERTAIN PLANNING APPLICATIONS) FOR A/P NOS. 7-101-03, 7-101-02 AND 7-154-04, REDWOOD ROAD, BY PETER FRASER, ET AL.

Town Attorney Roth suggested the matter be continued until all the Councilmembers can be present and he has had time to consider questions raised by the applicant's counsel.

M/S, Wooliever/Chignell, to continue consideration of the resolution to a regular adjourned meeting to take place on December 4, at 4:00 p.m. Motion passed unanimously.

7. RESOLUTION AMENDING CONDITION A-1 OF RESOLUTION NO. 2060 TO ALLOW CONSTRUCTION OUTSIDE OF THE BUILDING ENVELOPE, QUARRY MOUNTAIN, INC., END OF TOMAHAWK DRIVE, A/P NOS. 177-250-40, 177-250-41, AND 177-220-50, CONSIDERATION OF REDESIGN FOR THE HOME APPROVED FOR LOT 7.

Planning Consultant Roberto reported that the redesign would result in a reduction of visual profile over the previous design.

The public hearings were opened on the proposed amendment to Condition A-1 of Council Resolution No. 2060 approving a tentative map for the Old Quarry Subdivision and on the design for a home on lot 7 of the subdivision that will be located outside the approved lot envelope. There was no public comment.

M/S, Wooliever/Chignell, to approve Resolution No. 3038 amending Condition A-1 of Town Council Resolution No. 2060. Motion passed unanimously.

M/S, Wooliever/Chignell, to approve Resolution No. 3039 approving a design for a home on lot 7 of the Quarry Mountain subdivision, portions of which will be located outside the approved lot envelope. Motion passed unanimously.

8. Z-245, LENNY LERNER, EUROPEAN ATTENTION TO DETAIL, 1535 SIR FRANCIS DRAKE BOULEVARD, A/P 5-153-01, REZONING FROM PPD R/C (PRELIMINARY PLANNED DEVELOPMENT WITH A PRESUMPTIVE USE OF RESIDENTIAL 6 TO 12 UNITS PER ACRE AND COMMERCIAL NEIGHBORHOOD COMPATIBLE SINGLE BUSINESS WITH ASSOCIATED TRAFFIC IMPACT APPROXIMATELY AT THE LEVEL ASSOCIATED WITH THE RESIDENTIAL DESIGNATION) TO SPD (SPECIFIC PLANNED DEVELOPMENT) FOR AN AUTO DETAILING BUSINESS, AND THE INITIAL ENVIRONMENTAL REVIEW

Attilio Segale, owner of the subject property, explained that the auto detailing use will not create too much commotion.

M/S, Chignell/Wooliever, to approve the Negative Declaration of Environmental Impact on the basis that the project will not have a significant adverse impact on the environment. Motion passed unanimously.

M/S, Wooliever/Chignell, to introduce Ordinance No. 892 rezoning the property at 1535 Sir Francis Drake Boulevard, A/P 5-153-01, to SPD auto detailing business on the basis that the rezoning is consistent with the General Plan. Motion passed unanimously.

9. REPORT FROM TOWN ATTORNEY ON RESULTS OF TOWN'S MOTION FOR SUMMARY JUDGMENT IN NOME VS. TOWN OF SAN ANSELMO

Town Attorney Roth reported that the Superior Court had ruled in favor of the Town and granted its motion for summary judgment, and therefore the case will not go to trial.

Sharp congratulated Roth on his handling of the matter.

10. CONSENT AGENDA

- (a) Approval of minutes of November 10, 1987. CONTINUED TO DECEMBER 8, 1987.
- (b) Appeal of Planning Commission denial of Z-244 and V-2186 for Steven Potter and Jeffery Potter, 54 Ross Avenue, A/P 7-282-14, rezoning from R-1 to R-2, and variances. CONTINUED TO DECEMBER 8, 1987.
- (c) Consideration of report from Library Planning Committee and establishment of a funding study committee. CONTINUED TO JANUARY 12, 1988.
- (d) Appeal of Planning Commission denial of V-2199 and A-144 for Michael Conroy, 27 Oakwood Court, A/P 5-062-80, a third story variance to construct a floor in the lower area to provide additional living area; and architectural review of exterior changes. CONTINUED TO DECEMBER 8, 1987.
- (e) Introduction of ordinance amending Town Code, Title 10, revising Planning Commission appeal procedures. CONTINUED TO DECEMBER 8, 1987.
- (f) Waiver of fee to hang banner for the Campaign for a Healthier Community for Children's Community Holiday Party.
- (g) Endorsement of appointment of Kathleen Foote to the Bay Conservation and Development Commission by the President of the Association of Bay Area Governments.

M/S, Chignell/Wooliever, to approve the Consent Agenda. Motion passed unanimously.

11. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, COMMENTS AND DIRECTIONS TO STAFF; STAFF MISCELLANEOUS ITEMS.

Downtown Christmas lights - Walsh requested that this subject be put on a future agenda.

Query forms and Saunders Avenue stop sign - Chignell said he was impressed with staff's response to the Council query forms and asked when the stop sign will be installed. Public Works/Planning Director Kottage responded that it was expected to be put up the following week.

101 Corridor Action Committee and SB 878 Study Committee - Sharp said he was misquoted in the newspaper about the Action Committee, and asked that a report on this committee and the SB 878 Study Committee be placed on the next agenda.

George Stump - Dickens announced that the library will be closed on November 25th during the funeral of George Stump.

12. DISCUSSION AND ACTION RELATED TO REFERENDUM AGAINST RESOLUTION NO. 3026 SETTING THE SALARY OF THE TOWN ADMINISTRATOR

Roth requested that an item be added to the agenda regarding the referendum petition on Resolution No. 3034, which sets the interim salary of the Town Administrator, that has developed since the posting of the agenda. There is no need for the Council to take action on this action; it is only a report.

M/S, Chignell/Wooliever, to add this item to the agenda. Motion passed unanimously.

Roth reported that a referendum petition has been filed against Resolution 3034 and is currently at the County Elections Office, but it is a defective petition. The proponents have on their own volition pre-printed the petitions to include "San Anselmo, California, 94960." He said this is in direct violation of Elections Code Section 4052, which states that the each petitioner shall write this information himself/herself on the petition. There is court precedent

whereby an initiative petition was ordered to be declared invalid due to improper form. He said he will advise the Town Clerk to return the signed petitions to the proponents as defective petitions.

Roth said another problem exists with the referendum petition relating to its substance. Resolution No. 3034 was adopted on an interim basis because Dickens had no salary on which to fall back when Resolution No. 3026, which set his initial salary, was suspended with the filing of a valid referendum petition. It is up to the Council in fulfilling its statutory duty to fill the office of the Administrator and pay the person a sufficient amount to keep that office in operation. The courts have consistently held that the referendum and initiative laws are not applicable where the inevitable effect would be greatly to impair or wholly destroy the efficacy of governmental power, the practical application of which is essential. It was his opinion that the courts would not permit this particular referendum petition to be sent to the voters, particularly in light of the fact that the operation of government is necessary in order to even have an election on the initial referendum. His advice to the Council was that even if it were an effective petition in form, he would recommend that it not be accepted due to substance. He said this advice relates both to the present interim referendum and on any other referendums against resolutions establishing interim salaries.

(a) Consideration of whether to rescind Resolution No. 3026 or submit it to the voters.

Herman Kramer, 1 Allemand Place, said it should be obvious to the Council that there is a broad number of San Anselmans who feel this is not a proper salary, and thought it should be put to a vote.

Walsh said she did not support the original salary, was concerned about the legal cost and would support it being put on the next election.

Chignell said he would be very pleased to send the referendum to the voters and had confidence the voters would support the action of the Council.

M/S, Chignell/Wooliever, to subject Resolution No. 3026, the subject of a referendum petition, to the voters in the municipal election in April. Motion passed unanimously.

M/S, Chignell/Wooliever, to rescind Resolution No. 3034. Motion passed by the following vote:

AYES: Chignell, Sharp, Wooliever

ABSTAIN: Walsh

(b) Closed session regarding personnel matter.

(c) Reconvene in open session and consider resolution setting the salary of the Town Administrator.

M/S, Wooliever/Chignell, to approve Resolution No. 3040 establishing the interim salary for the Town Administrator at \$4,500 per month, which reflects the minimum amount required for the orderly running of the Town, to be effective consistent with the rescission of Resolution No. 3034, and shall be reconsidered at the time the results of the election of the referendum regarding Resolution No. 3026 are presented to the Town Council.

Motion passed by the following vote:

AYES: Chignell, Sharp, Wooliever

NOES: (None)

ABSTAIN: Walsh

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13. ADJOURNMENT at 9:40 p.m., to December 4, 1987, at 4:00 p.m., in memory of George Stump.

Beth Calamar