

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of June 26, 1990

7:15 p.m.

Closed session regarding pending litigation, pursuant to Government Code Section 54956.9(b)(1).

7:40 p.m.

Interviews with applicants to the Library Advisory Board.

1. CALL TO ORDER.

Mayor Chignell convened the regular meeting at 8:00 p.m., with Councilmembers Colteaux, Kanis, Walsh and Zaharoff present.

2. OPEN TIME FOR PUBLIC EXPRESSION

Art and Wine Festival - Diane King, San Anselmo Avenue, relayed concern she had heard from merchants that their businesses had far less than normal sales during the Art and Wine Festival. She said she did not believe that festival patrons returned to San Anselmo businesses, felt it should be moved off San Anselmo Avenue, and asked where the \$3,000 went that was collected by the Chamber of Commerce from Terry Pimsleur, festival contractor. Chignell referred her to the Chamber regarding the disposition of the funds, and to Town Administrator Camuglia regarding her concerns on the festival.

Gay Verdos, owner of the Pet Food Cottage, said the festival cost merchants money in sales.

Eileen English, 67 Ross Avenue, said the festival is the best thing that ever happened to San Anselmo, and it would be a mistake to move it off the Avenue.

Stephanie Kramer, 211 San Anselmo Avenue, said she enjoyed the festival but was disturbed by early morning noise during the setup this year. She said the Chamber needs to tell festival staff to be quiet, noting that the center stage was in the most residential area of the festival.

Camuglia said she will be doing an analysis and evaluation of the festival with the Chamber of Commerce

Long-term Finance Committee Report - William Jelinek, Chairman of the Long-term Finance Committee, said the Committee is ready to issue its report to the Council.

3. CONSENT AGENDA.

- (a) Approve Minutes: May 31 and June 12, 1990.
- (b) Approve Warrants: Nos. 2920-3213, in the amount of \$646,015.38.
- (c) Approve Resolution No. 3119 approving the Ross Valley Paramedic Authority tax levy at \$23.00 per taxable unit.
- (d) Announce expiration of terms: Planning Commission and Tax Equity Board.
- (e) Announce vacancies: Historical Commission.
- (f) Appeal of Planning Commission's approval of Use Permit 9002 and Use Permit 9003 allowing the establishment of a dry cleaning plant/retail store and self-serve laundry at La Mancha Plaza, located at 805 Sir Francis Drake Boulevard: CONTINUE TO JULY 10, 1990.
- (g) Discussion regarding regulation of dry cleaning establishments: CONTINUE TO JULY 10, 1990.

Chignell asked whether the continuance dates on items (f) and (g) were firm. Staff reported that (f) was scheduled for July 10, but that (g) may be scheduled for July 24.

M/S, Walsh/Kanis, to approve the Consent Agenda. Motion passed unanimously.

4. APPOINTMENTS:

(a) Library Advisory Board. (1 seat)

M/S, Colteaux/Walsh, to reappoint Ranny Cockburn to the Library Advisory Board, with the term to expire June, 1994. Motion passed unanimously.

(b) Planning Commission. (1 seat)

M/S, Walsh/Colteaux, to appoint Marc Mihaly to the Planning Commission, to a term to expire August, 1994. Motion passed unanimously.

(c) Marin Commission on Aging. (1 seat)

M/S, Walsh/Zaharoff, to reappoint Paula Neese as San Anselmo's representative to the Commission on Aging, to a term to expire June, 1993. Motion passed unanimously.

5. DISCUSSION REGARDING REGULATION OF REAL ESTATE OPEN HOUSE DIRECTIONAL SIGNS.

At its meeting of May 22, Council asked for information on establishing a consistent policy for the Ross Valley or County regarding real estate open house directional signs, Fairfax's experience with the recent change in their ordinance, and whether a fee could be charged for placement of the signs.

Following research of ordinances in other cities in the county and state, and discussions with Councilmember Kanis, Town Administrator Camuglia recommended the Council adopt a provisional ordinance for a 90 day period to allow up to four real estate open house directional signs on private property on Sunday, between 1 p.m. and 4 p.m. Regarding the assessment of fees, Camuglia recommended this be considered during review of the business license ordinance, when it could be added to the license fee schedule or assessed when staff conducts a building re-inspection upon sale of a property.

Kanis asked what staff hoped to learn from establishing a provisional ordinance, and said that if there is a cost to the Town to monitor and enforce the directional sign ordinance, the Town should be compensated.

William Jelinek, 53 Florence Avenue, said there will be a cost associated with the ordinance because it will create an enforcement problem; he was skeptical that realtors would be able to locate private property for placement of the signs, and will instead place them on streets and sidewalks. He asked that the ordinance specifically prohibit placement of signs on trees.

Bob Holmes, Marin County Board of Realtors, said he did not see an enforcement problem with the ordinance, noting that San Rafael, Corte Madera and Novato are more lenient about the signs. He said Corte Madera allows the signs Saturdays and Sundays, 10 a.m. to 7 p.m., and it has never been challenged there. He said there have been no problems in Fairfax and he did not see the costs to the Town. He noted that it is the owners who are selling the properties, and the realtors are only agents for the owners. He said the Board provides realtors with copies of local ordinances.

Realtors with clients in easy-to-find places will not need more than one or two signs; it is owner of property in hard to find places who needs more signs. Mill Valley has said they are open to the proposal for Sunday hours, with some changes, and Tiburon supports the change with an expansion to 12:30 p.m. and 4:30 p.m. to acknowledge that realtors will put the signs up early and pick them up on the way home. He said they are trying to have a countywide ordinance, but they have to go to each City Council. The Board was agreeable to a 90 day period, but did not see the need for provisional status because they felt certain there would be no problems. He said the signs are intended to help present residents sell property and future residents to buy homes. If a fee is added, it will just force up the costs of buying homes.

Catarina Chase, Realtor, 232 Redwood Road, said people putting homes on the market have problems if the signs are picked up. If real estate signs are picked up, the Town should also pick up garage sale signs.

Diane King, San Anselmo Avenue, said that placement of signs on sidewalks and in streets is an impediment to persons with physical handicaps.

Pat Burton, 43 Alta Vista, referred to the letter she sent to the Council on this issue.

Holmes said he does not have a problem with illegal real estate signs being confiscated.

Zaharoff noted that the Town did not always collect fines because realtors did not always pick up their illegal signs, whereas a fee system would be more comprehensive. If the Council adopts a provisional ordinance, it may decide at the end of 90 days it does not want to continue to have the signs, in which case the Council will focus on another strategy to address the directional problem. If the Council decides at the end of 90 days that there is no problem, then it will not have spent staff time on designing a fee schedule, and would have the option at that point of taking the time to develop a fee schedule.

Colteaux said he did not see the value of having a provisional ordinance; if a permanent ordinance did not work, the Council could simply repeal it. It will take time to monitor the consequences of the ordinance during its provisional period, and the Town has already spent more time on this issue that it is worth.

Kanis said the directional signs will be a policing problem, noting that he expected that they will be put on public property, and the Town should be prepared to keep track of the enforcement costs. He said he was in favor of supporting local commerce and felt the signs will help direct potential buyers, and that he suggested fees because he felt enforcement of the ordinance will cost money. He opposed adopting the ordinance without linking a fee structure to it.

Chignell supported the staff report in concept, adding that monitoring was important and that he supported looking at a related fee structure in the future.

Town Attorney Roth was asked whether it was legal for Police/Town personnel to go onto private property to remove illegal directional signs. He responded that this question would require research.

M/S, Walsh/Colteaux, to approve in concept the provisional ordinance of Municipal Code Section 9-7.303(a)(1) to allow placement of real estate open house directional signs (a

maximum of four real estate open house directional signs of similar dimension may be located on privately-owned premises other than that advertised for sale or lease between the hours of 1:00 p.m. and 4:00 p.m. on Sundays only) for a period of six months, and during this six month period, staff be directed to study the administration of the ordinance including a fee structure. Motion passed unanimously.

The ordinance will be introduced at the next regular meeting.

6. PRESENTATION BY STATE DEPARTMENT OF FORESTRY ON ITS DUTCH ELM DISEASE PROGRAM.

James Mote, Staff Forester, State of California Department of Forestry and Fire Protection, explained the State's dutch elm disease program:

1. The dutch elm disease fungus is deadly to trees the vast majority of the time.
2. The disease spreads from tree to tree by beetles, root grafting, and through interconnected root systems. Most beetles do not carry the fungus.
3. Elimination of the disease is comprised of eliminating the trees, beetles or fungus. The most easily controlled portion of the disease cycle is the fungus.
4. In the past 13 years, an average of nine trees a year have been removed in San Anselmo due to dutch elm disease.
5. The State takes a culture from trees with symptoms. If the disease is in the tree, the tree is removed. If root raft is not a problem, there is just a small attack by beetles, and only a small portion of the tree has been attacked, only a small portion of the tree is removed. A ten foot clearance is needed between diseased portions of the trees.
6. Time is of essence in removing diseased trees. Rapid tree removal means that the fungus is less likely to get into the root system. The life cycle of the beetle is 30 days, which means the goal is to get the tree removed and buried in landfill before the next generation of beetles emerge.
7. Injections into the tree can stop the growth of the fungus but does not remove the disease, can cause decay, masks the symptoms, and exacerbates the elms' drought stress. Furthermore, the injection program must be indefinite to be effective.
8. The State used to spray the trees with pesticide, but public sentiment have been growing against use of pesticides. Spraying, which is expensive, must be done before the arrival of the beetles.
9. Trenching is a method sometimes used, but it is difficult to get good trenches next to roadways.

Mote gave the following responses to questions from Colteaux:

- The State pays for removal of small trees on private property, and the lab work done on public and private trees. Removal of trees located on public property are paid by the public agency that owns the land.
- The average cost of removing a tree is \$1,000.

- The public agency, not the State, is responsible for supervising tree removal on public property. The State looks to see that trees are removed within 20 days, that the wood is not left behind, and that the stump is ground. Stumps are ground to 6 inches below surface. Once limbs go through a chipper, the fungus goes away after a day. After a couple of days, the volatiles are gone and the chippings will not attract beetles. The fungus requires moisture, and once the chippings are ground fine enough, there is no moisture, and consequently no danger of disease.
- The State requires that tools be sanitized.
- Trees that have been identified as needing removal are often girdled to prevent downward movement of the disease into the root system before the tree can be removed.
- Removal of trees with dutch elm disease is required by the State, but is not reimbursable by the State.

Public Works/Planning Director Kottage said that the Town initially asked for three bids from outside contractors for tree removal. He noted that the work must be done correctly by a company familiar with the dutch elm disease program. He said he understood that sterilizing tools is the proper procedure.

Colteaux questioned the expertise of the State workers designating trees as unhealthy, and inquired as to what evidence is provided to require that trees be removed. Mote said that all trees undergo lab work to determine whether the disease exists.

Kanis asked how information is disseminated to the public on the dutch elm disease program. Mote said that the State gives public information to every owner of the elm trees, and up until budget cuts in his department two years ago, they made individual contact with the property owners. He said information has been presented to property owners twice a year.

Francoise McCuen asked about the Town's budget for tree replacement. Kottage responded that the Town has a tree replacement, which was last implemented a year ago.

7. PUBLIC HEARING ON AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A PRELIMINARY DEVELOPMENT PLAN, PRECISE DEVELOPMENT PLAN, AND DESIGN REVIEW FOR A SINGLE FAMILY DETACHED RESIDENTIAL UNIT TO BE CONSTRUCTED AT 10 FERNWOOD DRIVE.

Planning Consultant Lisa Newman reported on the background of the application and the Planning Commission's conditional approval. She summarized the issue before the Council as determining whether the application for a home centered on the ridge is the best site and design given the unique physical characteristics of this site and the ridge protection policies of the General Plan.

The application is for a 3-bedroom, two-story home with 3,697 square feet of enclosed living area and a 1,113 square foot 3-car garage and shop. The topography on the two-acre site consists of an east-west turning knoll at the center with steep slopes to the north and south. The plan calls for the home to be sited on the knoll, where stable soils, tree removal (none), and grading (minimal) requirements, views, and sun exposure were considered optimum by the applicants. A soils survey obtained by the applicants showed that the center of the knoll, zones 1 and

2, had the shallower soils to bedrock and was less steep than zones 3 and 4 on the sides. The Commission asked the applicants to consider siting the house on the north slope; the applicants submitted a plan with a different footprint, putting the house in zones 3, 2 and a little bit of 1. The Commission made the judgment that the original plan was better, and discussed strategies, such as landscaping, to reduce its visual impact. The Commission felt that one home was preferable to two homes on the two available lots, and discussed the scale of the home.

Fred Peterson, attorney for the applicant, introduced the applicants and Bill Wallace. He said that two prior soils reports revealed that active landsliding is taking place in zone 4, and said he was not aware of any other case where the Town has required building in an area of instability such as zone 4. He said the owners were interested in building a good quality home in that they were designing and building this home for themselves, and not for speculation.

Peterson said that if they were going to build on higher ground, they needed an indication from the Council on building size, whether construction in zone 1 was acceptable, allowable tree cover/cutting trees, and allowable building height.

Peterson noted that the applicants have certificates of compliance for two lots, and if the Town requires them to build a more expensively engineered home on a less stable lot with a long driveway and other added expenses, then the economics of building two homes becomes more compelling.

Kathy Sanders, 310 Redwood Road, objected to the plan, saying that the development is on a ridgeline and is inconsistent with the Town's General Plan. She submitted photographs showing the location of the house and a computer generated rendition of how the house will look at the proposed site. She said the house is large and will have a high profile in the area.

Enid Albedi, Redwood Road, said while people would like to see no more houses, the owners have a buildable lot.

The resident of 128 Butterfield Road said this will be a tasteful and quality home with significant landscaping.

John Sanftner, 9 White Way, said the house is too large and should not be on a ridge. The trees to be planted will be non-native. He suggested the house be moved into the north side of the ridge, among the bay trees, where the owners could see out but the neighbors could not see in.

Jonathan Braun, Redwood Road, said this application raised a classic conflict between General Plan standards vs. projects not meeting standards and being visible. The General Plan says that ridges are to be preserved. Regarding resiting the house to the east, towards the presently proposed driveway, he felt there was room for compromise but questioned what that compromise would be.

Joseph Hedebreth, 434 Redwood Road, a pedestrian, said that homes on the other side of the valley, where development has been allowed over the last several years, are quite visible. These developments can create animosity between old and new residents. The proposed home is larger than any other homes in the neighborhood and will look like a mansion secluded on a hill in a neighborhood that is modest.

Gay Kagy, 280 Redwood Road, said there were alternative building sites that have not been fully explored. She was

concerned about the precedent this development may set for future development on Redwood Road.

Francoise McCuen, 25 Tamalpais, a tenant of the Bells, said they were very nice people who would building a good quality home.

Peter Beckham, 286 Redwood Road, said that the applicant's engineer is very conservative, and they will have to have an engineered foundation regardless of the house's location on the hill.

Jeff Curtis, 310 Redwood Road, spoke in support of reducing the size and profile of the house, and felt that a natural wood exterior might be a better match for the homes in the neighborhood.

Karen Johnson, 296 Redwood Road, said she would like to see the alternate designs, felt the house was too big, and that its development set a precedent for future development.

Mary Cone, 349 Redwood Road, expressed concern about the precedent for future development, and said she would prefer to see two smaller houses.

Linda Reuther, 56 Fernwood, said the house was too massive, and thought it should be tucked on the side of the north slope. She said she would like to do some dialoguing with the applicants.

Dan Thomas, 60 Fernwood, said there was confusion as to the zoning of the property. The neighbors thought it was R1 H and that they had certain protections, and the applicants thought it was R1.

Assistant Planning Director Anderson said the larger parcel was R1H, the smaller parcel was R1, now R1C, and this ridge was not designated as a major ridge in the General Plan and therefore was not subject to the General Plan ridge policies.

Nancy Fox, 45 Fernwood, whose property was contiguous to the applicant's property, expressed concern about setting a precedent regarding development on a secondary ridge. She questioned who determines what is or is not a secondary ridge, and felt the distinction was arbitrarily set. She was concerned about the impact of larger homes on ridges.

Anderson said there were two major ridgelines designated in the General Plan. Public Works/Planning Director Kottage explained that only silhouette ridges have been designated as major ridges in the General Plan, and the subject ridge is not a silhouette ridge.

Peterson said a home is could be built in zones 1 and 2 without pier drilling and casings. It may be possible to put in an engineered foundation in zone 4, but it is not advisable because it is not a good idea to build on an active landslide area or on a steeper site where more excavation is required. The knoll is a preferred building site. He advised the Council to consult geotechnical engineers only on engineering matters.

David Bell, applicant, said the proposal was for a 2,800 square foot house, and it would be shielded from the south side of Redwood Road by existing trees. These trees would shield the skyline from the back of the house.

Colteaux commented that the house was too large, and was too much on top of the hill. He felt there was room for compromise on the size and location of the house, and

suggested the application go back to the applicant to see if the concerns can be worked out.

Zaharoff said that above all she adheres to the guidelines of the General Plan, and felt the application should be referred back to the applicant, particularly to establish low visibility on a visible ridge. She noted that the small attempts at design modifications were very germane.

Walsh expressed her agreement with the Councilmembers' comments, adding that she was opposed to the size and ridgeline location, felt there were many alternatives, and it would behoove the applicant to work with the neighbors.

Kanis felt the application was contrary to the General Plan. He said he was not satisfied that alternative sites and elements were explored.

Chignell said he had read all of the letters, had spoken with the neighbors, visited the site twice, and spoke with the applicants and Mr. Peterson. He believed that General Plan policies allowed him to make the representation that the size and location of the application conflicts with the General Plan.

Peterson said that the Bells would like the opportunity to sit down with their engineer and design team to see if they can come up with another plan. There are some time constraints on their project due to the availability of a water meter from the water district, and they would like to come back to the Council within 30 days. If they can respond to the Council comments with a single house, he asked if they could they bring it back to the Town Council, rather than going to the Planning Commission.

Town Attorney Roth advised that it would be appropriate for the Council to review a plan for one house, but that a two-house proposal must go to the Planning Commission.

It was the consensus of the Council to allow a modified application to come back to the Council as long as the proposal was for one house on both parcels. Peterson consented to the conditions of the continuance.

M/S, Colteaux/Walsh, to continue the application to the next meeting at the request of the applicant, and based on the representation of the applicant. Motion passed unanimously.

8. PUBLIC HEARING ON AN APPEAL OF PUBLIC WORKS/PLANNING DIRECTOR'S DENIAL OF A PERMIT TO CONSTRUCT A FENCE UP TO 4 FEET IN HEIGHT IN THE PUBLIC RIGHT OF WAY, KAREN GILBERT, 19 RIVERA STREET, ASSESSOR'S PARCEL #5-311-19.

Public Works/Planning Director Kottage reported that the proposal was for a 4 foot high fence in the public right-of-way adjacent to the edge of pavement. Staff recommended that a five foot separation between edge of pavement and the fence be maintained to break up the monolithic appearance of the sidewalk and fence.

Mr. Gilbert said their house backs up to the creek so they effectively do not have a backyard. The ground in the front yard slopes downward from the street, so that people who walk by look down into their house. They want to landscape the yard and make it a nice addition to the neighborhood, and attempt to keep out the dogs and deer who now use the lot like a freeway. He said that the people who objected to staff about the fence objected to the house being built in the first place. Regarding the five foot setback from pavement, he said that people park their cars

there, although it is not part of the roadway, it is hardpan dirt that will not provide a greenbelt appearance, and it would mean that the fence would be set back further than other fences in the neighborhood. He submitted a letter in support of the application from Mrs. Gilbert, who lives at the corner of Mountain View and Rivera and is not related.

M/S, Kanis/Walsh, to approve the appeal of the Public Works and Planning Director's denial of a permit to construct a fence up to 4 feet in height on public land, Karen Gilbert, 19 Rivera Street, A/P 5-311-19, at the edge of pavement. Motion passed unanimously.

9. RESOLUTION ESTABLISHING A RENTAL SCALE AND LOW INCOME DEFINITION SCALE PERTAINING TO SECOND UNITS REFLECTING INCREASE IN COST OF LIVING.

Rich Gould, 11 Skyline Drive, supported the proposed increase, adding that the rates will still be below the very low incomes, and that he favored an expedited review of the entire ordinance.

M/S, Colteaux/Zaharoff, to adopt Resolution No. 3120 amending Resolution No. 3082 establishing second unit rent and tenant income limits as provided for by Ordinance No. 706. Motion passed unanimously.

10. SET DATES FOR PUBLIC HEARINGS ON THE TOWN'S 1990-91 PROPOSED BUDGET.

The Council set the dates of July 9, 10, and 17, and July 18 if needed, for the budget hearings.

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

94 Berkeley - Walsh asked why the nuisance abatement of this property was not on the agenda. Kottage responded that the owner's attorney was out of town until the end of July, and that the attorney should be present.

Traffic safety - Chignell inquired as to the status of items submitted to the Traffic Safety Committee. Camuglia responded that the Committee has gotten through half of its pending items.

Forbes Avenue - Chignell inquired as to the status of the traffic safety issue on Forbes Avenue. Camuglia responded that she had spoken with the San Rafael City Manager, who referred her to planning staff. Staff will keep Council apprised of this issue.

12. ADJOURNMENT.

The meeting was adjourned at 11:10 p.m.

Beth Pollard