

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of August 14, 1990

7:00 p.m.

Closed session regarding pending litigation pursuant to Government Code Section 54956.9(a) (Ansari vs. Town of San Anselmo).

7:35 p.m.

Interviews with applicants to the Historical Commission.

8:00 p.m.

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.

Sarah Nome, 77 Alder Avenue, said she wanted the issue of the future of Robson-Harrington House to come before the Town Council before there is any further discussion on this subject, such as the possible sale of property, by the Robson-Harrington Association Board of Directors. Council responded that it has directed staff to discuss the Town's agreement with the Robson-Harrington Board, and the issue will be addressed by Council again at the appropriate time.

Diane King, San Anselmo Avenue, said she asked eight years ago that the Town replace the 40 year old storm gutters.

Lucille Dandeleit, Redwood Road, offered to exchange a new United Nations flag for the smaller, faded U.N. flag currently flying outside Town Hall. Noting that San Anselmo is a mundalized city, she said United Nations t-shirts are available at Jack's Drugs. She also submitted a copy of the County's Housing Element to the Council.

Herman Kramer, 1 Allemand Lane, said he has not yet received a response to his letter regarding pension costs. Town Administrator Camuglia said he should receive a letter by the end of this month.

3. CONSENT AGENDA.

- (a) Approve Minutes: July 9, 24 and 27, 1990.
- (b) Acknowledge and File Warrants: Nos. 3534 through 3852 in the amount of \$605,494.37.

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

4. Appointments:

- (a) Planning Commission. (1 seat)

The applicant was unable to be interviewed this evening.

M/Walsh, to re-appoint Jeff Kroot. Motion died for lack of a second.

It was the consensus of the Council to defer the appointment until August 28 to allow Kroot to be interviewed.

- (b) Historical Commission. (3 seats)

Walsh suggested the size of the Commission be expanded from 15 to 17 members, noting there was a lot of interest in serving on the Commission.

It was the consensus of the Council to continue the appointments to August 28 to allow the applicants who have not been interviewed to be interviewed.

(c) Solid Waste and Recycling Advisory Committee.
(7 seats)

One of the seven seats is the designee of the San Anselmo Garbage Disposal Company, Ray Forrest.

M/S, Colteaux/Zaharoff, to appoint Stephanie Kramer. Motion passed unanimously.

M/S, Colteaux/Zaharoff, to appoint Randal Cockburn. Motion passed unanimously.

M/S, Zaharoff/Walsh, to appoint Barbara Thornton. Motion passed unanimously.

M/S, Kanis/Walsh, to appoint Richard Cohen. Motion passed by the following vote:

AYES: Colteaux, Kanis, Walsh, Zaharoff

NOES: Chignell

M/S, Walsh/Zaharoff, to appoint Carter Coleman. Motion passed unanimously.

M/S, Colteaux/Walsh, to appoint Jamie Gray. Motion passed unanimously.

(d) Parks and Recreation Commission. (4 seats)

M/S, Colteaux/Walsh, to continue the appointment to August 28 to allow the other applicants to be interviewed. Motion passed unanimously.

5. ORAL REPORT BY LEW TREMAINE REGARDING THE YOUTH CENTER/YOUTH COMMITTEE.

Lew Tremaine, Youth Committee member, said the only success the Committee has had in its six years is in fundraising. While the Committee has raised \$9,000, they have not been able to find a location for a youth center. Through the process, he said the Committee members have learned the concerns and fears by residents and business owners about having a youth center in their neighborhood, that Town government moves slowly and that a youth center is not a high priority in Town Hall.

When the Committee had hopes of locating a youth center in building owned by the Town and leased to the Peace Center, it paid \$2,700 in rent to the Peace Center, which was then paid on to the Town. Now the Committee is being asked to pay back the \$2,500 grant it received from the Marin County Youth Commission because the youth cafe for which the grant was given has not been established. Tremaine said the Committee would like the Town to return the \$2,700 rent money to the Committee.

Tremaine said that since the Committee was a Council-sanctioned effort, it wanted to ask the Council what it should do with its remaining funds. The options he presented were:

1. Continue efforts in hope of getting a site for a youth center.
2. Turn the money over to the County Youth Commission.
3. Use the money to assist the Fairfax Youth Committee to create a Teen Center at its existing youth center.

It was the consensus of the Council to direct these issues to staff for advisement, and report back to Council.

6. REQUEST TO WAIVE FEES TO HANG TWO BANNERS PUBLICIZING THE FAIRFAX-SAN ANSELMO CHILDREN'S CENTER "BACK-TO-SCHOOL HAIRCUTTING MARATHON".

Staff reported they were compiling a list of the organizations that typically request and receive a waiver of banner fees.

Sarah Nome, 77 Alder Avenue, said the Fairfax-San Anselmo Children's Center had gross revenues higher than other organizations that pay the banner fee.

M/S, Zaharoff/Walsh, to waive the banner fee as requested. Motion passed unanimously.

7. ORAL PRESENTATION BY FRANK OLSSON AND GEORGE GIRVIN OF THE COMMITTEE TO LANDSCAPE A SCENIC SAN ANSELMO (CLASS) ON A PROPOSED LANDSCAPING PLAN FOR SIR FRANCIS DRAKE BOULEVARD.

Public Works/Planning Director Kottage commented that it was an excellent plan, and they are working on providing water to the sites.

Frank Olsson explained that Phase I of the CLASS project was near completion, and the Committee had developed a plan for Phase II, for which it was requesting Council approval:

1. Planting trees and oleander in the median strip on Center Boulevard between the Hub intersection and the bridge.
2. Planting sycamore trees, oleander, emerald carpet and agapanthus in the median strip on Sir Francis Drake Boulevard between the Hub intersection and Red Hill Shopping Center.
3. Approval in concept to plant flowering pear sidewalk trees in the sidewalk areas of Sir Francis Drake Boulevard between the Hub intersection and Tunstead Avenue, if the merchants adjacent the proposed trees agree to the plan.
4. Removing plants and trees that have outgrown their usefulness from the median strip on Sir Francis Drake Boulevard between the Hub intersection and Tunstead Avenue, leaving some oleander and cottoneaster, and planting flowering pear trees, oleander, cottoneaster agapanthus, and emerald carpet.

George Girvin, landscape architect, displayed and explained the landscape plans. The proposed landscaping will require little maintenance and will get water through a drip irrigation system. Concerning the trees adjacent the businesses on Sir Francis Drake Boulevard, Girvin said they will be large specimen trees from Oregon, that the trees will add a three-dimensional element to the street and should enhance the businesses, and they will not plant in front of any business that objects to the tree. CLASS will meet with the merchants before implementing the plan.

Colteaux, a member of CLASS, noted that Girvin is preparing the landscape plans and doing the associated work all on a volunteer basis. The Council, public and staff applauded his work.

Walsh commented that the Antique Dealers have traditionally been in support of tree planting.

Chignell asked for the cost to the Town for the materials not supplied by CLASS, and the cost of the Town labor. Kottage estimated approximately \$5,000 to \$6,000 for the cost of materials, noting the work will likely be accomplished over two fiscal years and could be done within the existing budget.

Lucille Dandalet, 126 Redwood Road, said it was tragic that there is not enough affordable housing or a youth center, but that landscaping is a priority.

Diane King, San Anselmo Avenue, said she thought the C.L.A.S.S. effort was a waste of time, particularly when there are gutters that have to be fixed.

Kanis said he thought the C.L.A.S.S. effort was a separate opportunity from the others, and does not preclude the Town from looking at what is available for teenagers.

M/S, Colteaux/Walsh, to approve in principle the landscaping plan, that the Council be informed of any changes, with the further condition that any planting on Sir Francis Drake Boulevard would be with the agreement and cooperation of the adjacent merchants. Motion passed unanimously.

Chignell requested a general cost of the labor being used for the program.

8. APPEAL OF PLANNING COMMISSION'S APPROVAL OF A USE PERMIT FOR A SECOND LIVING UNIT FOR GENE AND BARBARA MARKSBURY, 55 SAIS AVENUE, A/P 6-074-43.

Planner Lisa Wight presented the staff report explaining the application and the Commission's findings.

Colteaux commented that the staff report was excellent. He questioned how the applicant was meeting the owner occupancy requirement, reflecting on the establishment of this requirement in the second unit ordinance.

Walsh said it was an excellent report, and that four and a half years ago the Council directed staff to look at the second unit program.

Barbara Marksbury said she and her husband may move back, and that they are going to make their daughter a one-third owner of the property.

Wight said that on a previous application, the Town Attorney had advised that a person must own at least a 25% share of the property to be considered an owner for purposes of the owner occupancy requirement.

Fred Moeser, 61 Sais Avenue, said he was not informed about the Planning Commission hearing, that he had lived there for a year but was not yet on the property owner mailing list, the staff report was inadequate, and he had not received a call back from Wight. He did not know he could obtain a copy of the staff report, and said his bone of contention was inefficiency by the Planning Commission and its staff.

Sarah Nome, 77 Alder Avenue, said she worked on the original committee on second units 20 years ago. Many people thought that R-1 zoning would be violated if there were no owners on the premises. The ordinance was done in the name of having low income housing.

David Poindexter, 51 Sais Avenue, said the second unit ordinance was a good one, noting it was designed to bring illegal units into Town control. The ordinance recognizes a difference between new and existing units, which is applicable to this situation. He said it was obvious that the Marksbury's do not live there, that they were having trouble selling the house, and with a second unit they can sell it for a higher value. He said they did not get permits to create two units, which gives a signal that there is a difference between new and existing units.

Roberta Michaels, a resident of 149 Calumet for 21 years, said that more than any other house in the neighborhood, the Marksbury's house could hold a second unit. She questioned what harm the unit would do, noting that they have four parking spaces.

Kent Reno, 125 Calumet, said the Marksbury's are not living there, and he thought the Town's law was prompted by a state law and was designed to allow elderly people, parents, and children living at home with their parents to live in second units.

Town Attorney Roth entered the meeting and advised that in order for an occupant to be considered an owner, his/her ownership share has to be at least 25%.

Amy Poindexter, 51 Sais Avenue, stated her disagreement with findings 6 and 7 made by the Planning Commission. Her house is 15 feet from the Marksbury's, the Marksbury's have no plantings, and there is little privacy between the two homes. They have to keep their blinds closed, and often it is too close for comfort between the two yards. This proposal adds a higher density of people too close to other properties and generates more traffic. She said the Council should make a decision that benefits the residents who will stay.

Letha Marchetti, 29 Sais Avenue, said that density to this neighborhood comprises their quality of life. There is a church on the corner whose use overflows into the neighborhood, and commented that the Marksbury's do not always park on-site.

David Sisk, 128 Calumet, said the Marksbury's did a lot of work without permits, which he interprets to imply that he should fix up the old unit on his property without permits.

Gimmi Roads, 63 Nokomis, said the Marksbury's have more parking than other properties in the neighborhood.

Melissa Weaver, 50 Sais, said the one year grace period for owners to inhabit property was envisioned as a way to help people buy property, disputed using the grace period for current owners, and this arrangement could mean there would be two years where the property is occupied by people who are not owners.. She said that owner occupancy was difficult to police, that the property now looks more like two units, and there are problems with parking and traffic in that neighborhood. She said that 50% of the Planning Commission's findings are erroneous, the second unit does not promote general well being in the neighborhood, which is getting into density problems.

Sarah Nome, 77 Alder Avenue, said people deceive the Town and build illegal units.

Mrs. Marksbury said they have been there 18 years, and that the house has six bedrooms. She said the only thing they did without permits was that while she and her husband were gone, their son and his wife took out the stairway. For the past five years it has essentially been a two family house occupied by she and her husband, and their son and his wife, and that there is no impact for this unit. There are eucalyptus trees planted in the sideyard of the property.

Wight explained that when a property is sold, prospective buyers of houses with second units by use permit are told that they have to obtain a use permit themselves to continue with the second unit.

Walsh expressed concern with whether the application conforms to the intent of the second unit ordinance, noting it was not currently owner occupied, and that the addition of the second unit will just make this property more attractive to sell. She noted that Council had previously requested a review of the second unit program.

Colteaux said it was not decisive on whether the residency and ownership arrangement proposed by the Marksbury's constituted owner occupancy. He said he could not make findings 6, 7 or 8, adding that these findings require judgement on the part of the Council.

Kanis expressed his concurrence that findings 6, 7 and 8, could not be made, and that the residence/ownership arrangement meets the owner occupancy requirements.

Noting that the neighborhood was zoned R-1, Zaharoff commented that the residents have an expectation of stability, that the Town needs to apply the second unit ordinance stringently, and that she could not make the owner occupancy finding or findings 6, 7 and 8.

Chignell expressed his agreement with Walsh, he wanted a review which has not taken place for cogent reasons, he could make all the findings except owner occupancy, but he did not believe the intent of the code is being met.

M/S, Colteaux/Walsh, to grant the appeal, due to the inability to make findings 6, 7 and 8.

M/S, Zaharoff/Kanis, to include granting of the appeal on the grounds of inability to make the finding of owner occupancy. Motion on the amendment passed by the following vote:

AYES: Kanis, Walsh, Zaharoff, Chignell

NOES: Colteaux

The motion on the amended motion passed unanimously.

9. RECOMMENDATION TO ABATE NUISANCE AT 94 BERKELEY.

The public hearing was opened.

Marlene Kawahata, 84 Berkeley Avenue, said Marie Hochs had submitted a letter. She said if the fence stays, how could they stop Cyrus Ansari, the property owner, from doing illegal things.

Russ Kawahata, 84 Berkeley Avenue, asked what is the precedent of having a person get away with things, making the variance application a farce. He feared Ansari would continue the 8 foot fence to an area bordering their property.

Jean Whelan, 90 Berkeley, supported the nuisance abatement.

Larry Stack, 10 Alice Way, said this property owner has a history of non-compliance. he did not think the Town should make a decision on the basis of potential litigation that does not currently exist. He said compromise was not appropriate here, that neighbors are not in a position of being able to compromise laws. The issue is non-compliance with Town laws.

Greg Smith, 97 Berkeley Avenue, agreed with Stack's comments. He expressed concern with the inability of the Town to enforce its laws. The issue was the Town fulfilling its duties to the public.

Sarah Nome, 77 Alder Avenue, said her remarks of February 27, 1990 were still relevant.

Neil Bloomfield, attorney for the applicant, said there has been character assassination that is stated at the beginning of neighbor's comments. There has been steady progress on the property, they are compromises that have been worked out with staff that he wants to propose to the Council, and there are interpretation problems on the fence height measurement. He said they wanted to incorporate all his correspondence to Town staff into the record, adding that Ansari is working to get the project complete.

Walsh said that the Council on February 27 had come a long way in making concessions, the issue has become a priority for her, she wanted to see it taken care of and she was not willing to compromise whatsoever.

Kanis noted that he was a relatively new Councilmember without the length of history on this project. He has had discussions with staff, neighbors, and the property owners, and felt that the Town's role had gotten out of site. The Council's role is not just to enforce laws, that he has tried for several weeks to find a common ground that will partially satisfy everyone, and that people do not like to live in an environment of acrimony with their neighbors. He said he would like to meet with all the parties to find a solution.

Zaharoff said that compliance was the bottom line, that is what everyone wants, the alternative is difficult and costly, and it is worth taking to weeks to find compliance.

Chignell said he has listened to the comments of the other Councilmembers, Ansari, and the neighbors, and felt there was an outstanding order to require abatement.

M/S, Zaharoff/Kanis, to continue the hearing for two weeks, and for Kanis and Chignell to be the representatives from the Council to aid Ansari and the neighbors to find a solution. Motion passed by the following vote:

AYES: Kanis, Zaharoff, Chignell

NOES: Walsh

ABSTAIN: Colteaux

10. AUTHORIZATION TO ABATE PUBLIC NUISANCE AT 63 NOKOMIS.

Town Administrator Camuglia reported on the chronology of events on this public nuisance.

Town Attorney Roth swore in those persons who were to testify on this matter.

Alice Roads, 63 Nokomis, said she had lived on the property for 43 years, she had not denied any official entry except the animal control officer. She said they had worked to clean up the property, working on the outside first, and they were getting to the inside but they had to wait until the first of this month to get the funds to continue the work.

Howard Bauman, 37 Sais, asked during what time period the abatement would take place. Camuglia responded they could start work on the process the next day, and the clean up would depend on how quickly workers could be marshaled to begin the clean up.

Gimmi Roads, 63 Nokomis, said she wanted her dogs back, that she had made a request to get her dogs back, and had a letter from a fellow rabbit breeder certifying she is a rabbit breeder, and said her dogs are totally healthy.

Jason Firestone, 3rd Class U.S. Navy, said he has been friends with Gimmi for 8 years and she takes very good care of her animals. He said he and another friend had volunteered their free time since nobody in this Town would help them clean up their house. He said they had completely cleaned out the smell, they had bleached the floors, cleaned up the rooms, and he would do everything in his power to help out Miss Roads, his best friend.

Daniel Mahoney, 47 Nokomis, urged the Council to follow the staff recommendation, keep a steady, periodical inspection, and keep the neighborhood informed.

Steve Kennedy, 29 Nokomis, said there were 11 young children, mostly under one year of age, living in the neighborhood, and that the adults in the neighborhood are all working hard Monday through Friday trying to put a roof over their heads, only to come home to this awful situation.

Rich Marchetti, 29 Sais, urged the Council to support the staff recommendation.

Pam Martin, 43 Nokomis, said that these were the sort of issues that tear a community apart, but that the neighbors were the ones who had to live there.

Letha Marchetti, 29 Sais, asked what happens if there was non-compliance. Through the chair, Camuglia responded that this was the beginning of what staff and the Council see as a long process. Anytime compliance is not met, staff will find a way to go in and abate the nuisance. The Town may be involved for another five to seven years, and the Town will make certain that abatement will continue.

Ms. Marchetti said she has been living next to this for 15 years, was glad to see the Roads start paying their way by being assessed the costs of the abatement, and felt that the issue of timeliness needed to be addressed. She said another nuisance was the dangerous driving of Gimmi Roads and her friends.

Mary Joan Mahoney, 47 Nokomis, said that if nothing is done and she and her family decide to see their house, they will have to disclose information about this situation to new buyers.

Melissa Weaver, 50 Sais, said the Town is taking over the maintenance of private property and the taxpayers have to take care of it. What happens down they road as the expenses mount? Camuglia responded that the Roads would be billed for the costs of abatement, and if that was not

paid, a lien would be placed requiring payment with property taxes.

Sarah Nome, 77 Alder Avenue, said there was great sadness and probably an inability to cope for the Roads. She suggested there might be another way to look at this issue, such as getting a visiting nurse, and felt San Anselmo laws are applied unequally.

Glory Roads, 63 Nokomis, said it was no great joy living next to Mr. Marchetti. She could not play her radio, have her friends over, or stand at the fence, and he watched when she comes home from a date. She said it was easy to say the place was a mess, but that money became available on the first and since then they have been taking care of the property. She said up until last year, Mr. Marchetti put manure in his yard that smelled up the neighborhood, but the Roads have never complained about their neighborhood. HUD made a loan for property improvements, which must be paid. They have hired a gardener to take care of the yard, and the dogs are the only animals they are asking for.

Colteaux said it was a difficult situation, one of great sensitivity, staff has done a good job in sensitivity to both sides, and Fire Chief Mollenkopf has done a good human relations job on this issue.

Zaharoff supported the staff recommendation, with the condition that staff inspections be made a minimum of quarterly, with reports to the Council. She asked that any type of volunteer staffing possible to offset costs be incorporated. She said she saw this as a positive step for the neighbors and the Roads, and a way for the Roads to get help. She said she preferred not to spend Town funds, but the Town is protected through the lien procedure, and anybody from any other neighborhood could expect the same activity.

Kanis agreed with Nome's suggestions about exploring help for the Roads from County agencies.

Walsh expressed her agreement with the conditions requested by Zaharoff, saying she wanted the Council and the neighbors to get regular progress reports. She asked what would happen if non-compliance continues for another 3 to 5 years.

Camuglia said the Town will make an effort to keep costs low for the Town and Mrs. Roads' benefit. Walsh asked that the Council also be kept apprised of any changes and any costs.

Chignell commented that the situation was a tragedy. The Town is going to help, the property will be cleaned up now and will continue to be cleaned up. He commended Chief Mollenkopf on the tremendous job he has done.

M/S, Colteaux/Walsh, that the Council direct the Town Administrator to take the actions deemed necessary to abate the nuisances described in Resolution No. 3118, with a minimum of quarterly inspections and reports to the Town Council, and that the report of Fire Chief Mollenkopf be adopted by the Town Council. Motion passed unanimously.

11. DISCUSSION REGARDING APPLICATION FOR CALTRANS GRANT TO IMPROVE SIR FRANCIS DRAKE BOULEVARD.

The purpose of the grant was to coordinate the traffic signals on Sir Francis Drake Boulevard between Highway 101 and West Marin.

M/S, Walsh/Kanis, to apply for the grant. Motion passed unanimously.

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

Overgrowth - Kanis said the landscaping overgrowing into the street from Pasadena to Miwok was creating a nuisance.

Second units - Walsh said a second unit study was requested four years ago. Kottage said the issue would be incorporated into the housing element.

Trash ordinance - Colteaux asked if staff could report on the advisability and feasibility of an ordinance requiring businesses to be responsible for trash generated by their business.

Subcommittees - Zaharoff requested a definitive memorandum on whether subcommittee meetings must be held in accordance with the Brown Act.

Bus bench - Chignell asked whether the bus bench would be returned. Kottage said it had disappeared, and the County had installed it as a one-time project.

Pine Street, Butterfield Road, Caleta Bridge - Chignell asked if the work on Pine Street and Butterflies Road would be done soon, and if the Caleta Avenue Bridge project would be accepted including an expanded area of Town maintained street.

Dumpster - Walsh asked whether the dumpster behind the shoe repair shop was there permanently, and expressed concern about it attracting rodents.

Greenfield - Colteaux complimented the good job done by staff on the Greenfield parking.

Forbes Avenue - Camuglia reported that staff would be meeting with San Rafael and United Market about the traffic issues on Forbes Avenue.

13. Adjournment.

The meeting was adjourned at 11:15 p.m.

Beth Pollard