

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of September 11, 1990

7:00 p.m.

Closed session regarding personnel matters, and regarding pending litigation pursuant to Government Code Section 54956.9(a), (Ansari v. Town of San Anselmo).

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

Town Treasurer M.G. Sheldon, 41 Brookside Drive, said he wanted to clarify erroneous statements made in the newspapers, that he had picked up the Ross Valley Fire Service bank statements from the bank every month, except at those few times when the auditor asked the Fire Chief to pick up the statements, and he had a photocopy of the bank form showing he had signed for the bank statements.

Sarah Nome, 77 Alder Avenue, said it was imperative to change auditing firms. She said that the Council had been lax in its finances, that the auditor should not send the audit directly to the person being audited, and that there should be multiple copies of the audit sent to the governing board. She asked why the Councilmembers who have been on the Ross Valley Fire Service Board of Directors had not asked for the audit. Reading from excerpts of Town Council minutes from August 26 and September 9, 1986, she said that she had asked for information about \$53,000 she said was missing in Town funds. She said that Town employees should be bonded.

Walsh, who is Chairperson of the Ross Valley Fire Service Board of Directors, said that there was a criminal investigation underway concerning former Ross Valley Fire Chief Mollenkopf, and that the Fire Board would be meeting the following evening with the Fire Service's Executive Officer and accountants.

Chignell said there was an internal investigation ongoing in addition to the criminal investigation concerning alleged actions of former Fire Chief Mollenkopf, and there was no comment to make until the investigations are complete.

3. CONSENT AGENDA.

- (a) Approve Minutes: August 28, 1990.
- (b) Approve Warrants: Nos. 3859-4197 in the amount of \$435,740.73.
- (c) Appoint Town Administrator as voting delegate to annual League of California Cities conference.
- (d) Authorize expenditure of funds to replace police vehicle.
- (e) Public hearing on an appeal of the Planning Commission's approval of a use permit allowing the establishment of transitional housing for up to sixteen women and their children at 128 Butterfield Road: CONTINUED TO SEPTEMBER 25, 1990.

M/S, Zaharoff/Walsh, to approve the consent agenda. Motion passed unanimously.

4. HEARING ON ABATEMENT OF A PUBLIC NUISANCE AT 94 BERKELEY AVENUE.

The Council took a 10 minute recess, prior to considering this item.

M/S, Kanis/Zaharoff, to continue this item to the meeting of September 25, 1990. Motion passed unanimously.

5. ADOPTION OF AN ORDINANCE AMENDING TITLE 10, CHAPTER 3, ARTICLE 27, TO PROVIDE FOR THE VOLUNTARY MERGER OF PARCELS.

Colteaux asked for a memorandum from staff explaining the Town's merger ordinance and whether and when it is going to be revised.

Town Attorney Roth said the Town's current merger ordinance allows the Town to merge parcels, and the proposed ordinance allows mergers are the request of property owners. He said he would work with staff to provide this information.

M/S, Zaharoff/Kanis, to adopt Ordinance No. 915 as proposed. Motion passed unanimously.

6. INTRODUCTION OF AN ORDINANCE AMENDING SECTION 4-3 OF THE MUNICIPAL CODE REGARDING CURFEW REGULATIONS.

Colteaux raised questions regarding inclusion of the definition of "permitting" in Section 4-3.01(b), and whether "adult person having custody" of the minor meant legal custody of that person. Roth said he would interpret it to mean legal custody, but it was a policy decision of the Council on whether it should be legal custody.

Dottie LeMieux, attorney for Liza Sloan and Stacy Colteaux, minors involved in a lawsuit with the Town regarding the curfew ordinance, said the Town's current ordinance had many constitutional infirmities, adding that a minor has certain rights to free speech, and any ordinance infringing on these rights would be unconstitutional. She noted that the proposed ordinance removed provisions regarding "strolling", and allows minors to be in automobiles after curfew hours. She said she would not interpret "adult" custody as legal custody, and felt the ordinance should not be so narrow as to only allow someone with legal custody to be with a minor. She said there was a lot to be said for an older teenager to have more flexibility than a younger teenager, noting that in San Francisco, the curfew ordinance does not allow youths 14 and under to be out between 11 p.m. and 5 a.m. She said the proposed ordinance allows for parental approval of the youths' activities outside, and urged the Council's approval.

Richard Sloan, father of Liza Sloan, said he had no comment on the particular wording of the ordinance. He referred to another item on the agenda concerning a youth center, and commented that his intent in pursuing this issue was to get something positive accomplished, to establish a place in San Anselmo where youths could go. He added that he was a member of the Marin County Human Rights Commission, and provided written information on human rights resources training for police personnel.

Kanis asked if the wording would allow an 18 year old to have custody of someone younger. Roth responded that it seemed to be stretching the law for an 18 year old to have custody of a 17 year old, for example.

Zaharoff asked the purpose of the Town having a curfew ordinance. Roth responded that it was a policy issue, that

they were typical for urban areas, and the Chief of Police recommends it.

Colteaux said he would abstain from voting on the matter due to his family relationship to one of the plaintiffs in the Sloan/Colteaux lawsuit, but commented that the language needed revision.

Chignell agreed that the wording needed revision. He said he thought that some type of curfew ordinance is necessary to protect children, particularly those of a young age, and asked for information from the police on enforcement policy and statistics.

Kanis asked that the Police Chief be present when the item is brought back to the Council.

Sloan asked whether child protective laws already cover the problems addressed by a curfew ordinance.

It was the consensus of the Council to continue the matter to the next Town Council meeting, or the meeting thereafter.

7. PUBLIC HEARINGS REGARDING CHANGE IN STREET NAME:

- (a) Consideration of Resolution establishing a policy for the changing of street names.
- (b) Consideration of a proposal to change the name of Sonoma Avenue to Veterans Place.

Assistant Planning Director Anderson explained the proposed policy for the changing of street names.

Zaharoff said the proposal looks like a procedure, not a policy, noting it did not include guidelines such as for selection of names for streets.

Don Gold, Vice Commander/Assistant Adjutant for Post 179, read an excerpt from the Post's letter requesting that the entrance to Memorial Park and the American Legion Log Cabin Post 197 be named "Veteran's Place."

M/S, Zaharoff/Kanis, to approve the Resolution establishing a procedure for the review and consideration of street name changes, changing the word "policy" to "procedure" wherever it appears, and amending Section 4 to read, in part, "...all public agencies, quasi-public agencies, and utility companies...", and to approve the Resolution approving the name change of Sonoma Avenue to Veteran's Place. Motion passed unanimously.

8. PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DENIAL OF A VARIANCE FOR TWO EXISTING ARBORS CONSTRUCTED WITHIN THE ESTABLISHED SETBACK DEVELOPMENT STANDARDS AT 16 BOLINAS AVENUE.

Assistant Planning Director presented the staff report on the Planning Commission's decision and the staff recommendation that the appeal be denied based on the inability to make all the necessary findings.

Dan Moriarty, 16 Bolinas Avenue, said he put the arbors up four years ago and the neighbor commented on how pretty they were. He said the noise from the day care center next door had become unreasonable, he had to close his windows and doors, and the Legnitos would not cooperate in reducing the noise. They had unsuccessfully attempted mediation. He said the Legnitos had planted oak trees that block his view of the Seminary. When he commented on them, the Legnitos went to the Town and discovered a permit was needed for the arbors. Moriarty said it was his oversight in not getting a permit, but was appealing to the Town Council to leave them up.

Bob Legnito, 20 Bolinas Avenue, said it was brought to his attention that the arbors were put up illegally. He said his wife made one comment on their appearance. He said they responded to the neighbors complaints about noise in their day care center by planting trees to help block noise. He said he assured Moriarty that he would not let the trees encroach onto his property. At that point he did some research and found that the trellis was built in violation of the setbacks and without permits.

Chignell questioned whether the staff looked to see if other properties in the neighborhood have similar trellises or arbors. He asked what is significant community objection to warrant taking an administrative variance to the Planning Commission, and whether an effect is detrimental is a subjective decision. Anderson responded that if one adjoining property owner objects, it is considered significant community objection, and that detrimental is a subjective determination.

Mildred Delaney, 44 Bolinas Avenue, said that if San Anselmo made an ordinance that disallowed the arbors, that ordinance should be obeyed.

Walsh said that what was essentially before the Council was not the issue of the arbor, but a neighborhood dispute. She did not agree that one complaint was significant community objection, or that it was detrimental. She said she would like to see something worked out between the neighbors.

Chignell commented that it was not strictly a planning issue, if it was a significant community impact there would be more objection present, it was a model case for mediation, and that there were other arbors in the setbacks in the neighborhood.

Kanis said that the planning process was being used to deal with a dispute between neighbors, when the Council role is to be dealing with neighborhood disputes. He questioned what is significant community objection, and was concerned that this process has gone on for four years without any complaint about the arbors being submitted by the neighbors. He said he would like to see the objection to the trellis being withdrawn as a way to mediate the dispute.

Legnito said he had no prior knowledge of setbacks, that he needs to protect his rights as a property owner, and he did not say anything as a good neighbor.

Nome said that the greater encroachment is bringing in a business in an R-1 zoning district.

Colteaux read three of the findings and addressed whether they could be met. He said in looking at the need for the variance to insure that this property owner receives something similar, he would look at the neighborhood for similar use; he found that the arbors are probably the least intrusive structures in the frontyards in that neighborhood. The arbors are not inconsistent with what others are doing, this is not anything unusual, one objection is not significant community objection, and the findings can be made.

M/S, Colteaux/Kanis, to reverse the Planning Commission's decision and grant the variances, based on the findings that the structures are necessary for the enjoyment of property rights, there are special circumstances relative to the surrounding property, and granting the variance will do no harm to the neighborhood. Motion passed unanimously.

9. INFORMATION REPORT REGARDING YOUTH COMMITTEE.

At the meeting of August 14, the Council asked staff to consider issues raised by Lew Tremaine, representative of the Youth Committee, concerning a request for a refund of rent money, unallocated funds, and the future of the Committee. Town Administrator Camuglia recommended that the newly expanded Parks and Recreation Commission become the referring body for youth issues, and make recommendations to the Council regarding the issues raised by Tremaine, including consideration of the role of youth activities and programs in the Town of San Anselmo.

Tremaine said he did not see the recommendation until this evening, and had not realized it was on the agenda. He said his initial reaction to the proposal was not favorable. Since the Committee had received press coverage on the youth center idea there has been a rekindling of interest and leads on possible sites for a center that would not be available in six months when the Parks and Recreation would complete its review of these issues. Fall is the season of the year to get going on a youth center. He said he thought it would be terrific if the Parks and Recreation Commission worked with the Youth Committee, but was not sure it was necessary for them to do a six month study. He felt it was up to the Town Council whether to refund the rent money, not the Parks and Recreation Commission.

Pat Johnstone, Center Market owner and member of the Youth Committee, said she would love every department of the Town to be involved in the effort, and that the Committee has opportunities it could pursue now. She said she did not want the Youth Committee to be forgotten.

Camuglia explained that Tremaine had mentioned a number of issues, and in looking at the Town's resources and who has the most to do with youth, it appeared that Parks and Recreation was the appropriate area for these issues, noting that Parks and Recreation has made a lot of accomplishments in meeting goals and objectives over the past year.

Diane King, San Anselmo Avenue, said this issue has been going on for six years, and the youth in the community are getting discouraged.

Tremaine said what is missing is the immediacy, asked if the Council has any suggestions, and whether the Councilmembers could encourage local activity on this issue.

Zaharoff said the Ross Valley Reporter article did a lot to fire things up, and that anything that the Youth Committee can suggest, she would personally be able to help. She said she supported giving the rent money back to the Youth Committee. She suggested there be a workshop between the Youth Committee and Parks and Recreation Commission, or that the issue of a youth center be placed on the Parks and Recreation agenda soon while there is a lot of interest.

Kanis expressed his support for a refund, and encouraged the Youth Committee to take an approach to finding a place for youths that did not involve government, which is bound by policies and procedures.

Chignell stated that he and other Councilmembers would be available to offer their individual assistance.

Regarding the issue of refund, the Youth Committee was advised to submit their request in writing to the Town Administrator stating the amount of refund requested, the time period of the rent payment, and the reason for the request, for action by the Town Council.

Tremaine asked that they be notified when this item would be on the Council agenda.

10. APPOINTMENTS APPLICATIONS:

(a) Historical Commission (5 seats)

(b) Volunteer Program Advisory Board. (3 seats)

The consensus of the Council was to direct staff to schedule interviews with the applicants on the next available agenda.

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

Zoning - Staff will contact Councilmembers to schedule a date for a joint Town Council-Planning Commission meeting on the draft revisions to the zoning ordinance.

12. ADJOURNMENT.

The meeting was adjourned at 10:00 p.m. to a closed session on September 13, 1990, 5:30 p.m., at Town Hall, regarding personnel matters, and thereafter to a meeting with the Long Term Finance Committee on September 18, 1990, at 7:00 p.m., in the Council Chambers.

Beth Pollard