

TOWN OF SAN ANSELMO  
TOWN COUNCIL MINUTES FOR OCTOBER 23, 1990

7:20 P.M.

Interview applicants to the Open Space Committee.

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

Lucille Dandeleit spoke in honor of United Nations Day. She presented packets and flags to the Council and explained that the flag has been flying in San Anselmo for the past 19 years.

Sarah Nome, 77 Alder, stated that the salaries for the Town Administrator and Assistant Town Administrator were in excess of that of Margaret Thatcher. She stated that she will circulate a petition to the residents of San Anselmo to have the salaries reconsidered by the Town Council.

Diane King, 1055 San Anselmo Avenue, stated that there were many sidewalks in San Anselmo that were in need of repair and was hopeful the Public Works Department would address her concern.

Vic Sherral, 35 Woodside Court, requested that the Town look into having a Dangerous Animal Ordinance. Administrator Camuglia stated that the City of Novato is putting together information regarding this matter. The Town is also looking at the possibility of going with the County of Marin.

Young Student, stated that the adults have preference on the tennis courts at Memorial Park on the weekends in the morning. He wanted the Council to look into changing that rule, because students can not use the court during the week days because they are in school and the weekend is the best time for them.

3. CONSENT AGENDA.

- (a) Approve Minutes: September 25, 1990
- (b) Approve Resolution supporting the repeal of SB 2557, legislation passed during the 1990-91 state budget process that shifts state and county costs to cities and diverts city revenues to finance state/county responsibilities.
- (c) Appropriate \$1,850 from Contingencies for Landsdale Station Park Playground Project.
- (d) Declare the week of November 11-17 as "Drake High School Week.
- (e) Nominate applicants to Robson-Harrington Association Board of Directors and schedule interviews.
- (f) Award contract for the installation of a culvert down drain between 445 and 461 Scenic Avenue and 215 and 235 Scenic Avenue.

Councilmember Zaharoff requested that item (c) be removed and Mayor Chignell requested item (d) be removed.

M/S Walsh/Kanis, to approve consent agenda, excluding items (c) and (d). Motion unanimously passed.

Item (c)

Councilmember Zaharoff wanted to allow Park Superintendent Dean Nyberg an opportunity to discuss this project. Nyberg wanted to recognize the people that spent many hours volunteering their time for the new playground. He stated that construction will begin November 9, 1990.

M/S Kanis/Zaharoff, to appropriate \$1,843 from Contingencies for matching funds for the Landsdale Station Park project and to authorize the expenditure of \$4,345 to be received from the State Roberti Z'Berg-Harris Urban Open space and Recreation Program, \$1,843 from the County of Marin, received in private donations for the Landsdale Station Park Playground project. Motion unanimously passed.

Item (d)

Barbara McCune spoke on behalf of Drake High School, stating that they would like the week of November 11 through 17 to be declared "Drake High School Week" and to invite the community to the open house.

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M/S Zaharoff/ Kanis, to declare the week of November 11 - 17 as "Drake High School Week". Motion unanimously passed.

4. Appointments: Open Space Committee (3 seats)

M/S Colteaux/Zaharoff, to appoint Jim Grove, Steve Best and Kathy Sanders to the four year term to expire October 31, 1994. Motion unanimously passed.

5. 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. Applicant: Anthony House.

Kathy Richards, Chair of Anthony House, Fay D'Opal, Attorney for Anthony House, and Donna Garske of Anthony House, were present.

Councilmember Kanis said that many of the concerns of the neighborhood are related to safety issues. Anthony House has agreed to a list of voluntary conditions that they would be willing to adhere to as stated in their letter dated October 19, 1990. He asked if these conditions could be discussed prior the Town Attorney discussing the legal issues.

Kathy Richards said they under the belief that no use permit is required for Anthony House however, they would be willing to adhere to the six conditions that were stated in the Planning Commission meeting. They were also agreeable to a one year review.

Councilmember Kanis asked if the members of Anthony House have had discussions with the Police Chief Del Santo, and if so, what were the conclusions.

Ms. Richards stated that there was a discussion about controlled lighting, an alarm system, secured entry way and 24 hour staffing on the premises. She stated that there would be staff assessable 24 hours a day but not on the premises at night.

Chief Del Santo recommended that there be 24 hour a day staffing on site in the event there was a crises situation. He thought that was agreed to. He stated he was in support of Anthony House in San Anselmo but wanted adequate security.

Fay D'Opal stated that a 24 hour on-site contact person was not made a condition at the Planning Commission level and that the Council should decide whether or not a use permit is required before additional conditions are imposed. She added that she has concerns about further discussing the security measures that they take at Anthony House because anyone in the audience could be a batter and they want to protect the residents of Anthony House. The staff is on site from early a.m. until 9:00 p.m. each night and there are people during the night available to respond to the safety issues if required. In the twelve years in San Rafael, they have never had an incident and they do not anticipate one in San Anselmo.

Councilmember Kanis asked for an explanation on the benefits of the neighborhood council. Ms. Richards said there would be on-going dialogue to give people a voice to discuss any concerns they had relative to Anthony House being in their neighborhood. The neighborhood council would be comprised on a representative of Anthony House, a representative of the neighborhood, with an elected official or Town staff member to facilitate.

Ms. D'Opal stated that there were similar concerns in Larkspur and one way the concerns were resolved was with a neighborhood council. She said they have tried to be as open as possible to disclose as much as possible about Anthony House. To formalize this neighborhood council as a condition would give more validity to their good faith.

Councilmember Kanis asked what the concerns would be in enforcing the voluntary conditions.

Town Attorney Roth indicated that the members of Anthony House have elected to make the kitchen facilities dysfunctional in the 2nd unit which could be enforced by nuisance abatement proceedings. The other voluntary conditions would serve as a **context** for a nuisance abatement proceeding. He did not think that the violation of any of the voluntary conditions in and of themselves which did not have a negative impact would be a valid basis for any enforcement action. However, if the conditions were violated and did have negative impacts, these conditions would be admissible in a nuisance abatement proceeding as a context in which to make a decision on whether or not there was a nuisance at the site. In effect they would have evidential force in determining whether or not a nuisance existed. It has also been suggested that Anthony House could enter into a contract to agree to abide by these conditions. He has not discussed this with the Anthony House applicants but it seems this would be equivalent to a use permit because if there were a breach of the conditions and thus a breach of the contract he did not think it could be specifically enforced but could act as a basis to terminate the use which would be the same as a violation of conditions of a use permit. Therefore he did not think that a contract achieves anything different than a use permit would accomplish.

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Councilmember Colteaux asked if the enforcement would mean a law suit to terminate a nuisance? Attorney Roth said that there would be two options by the Town, self help or going to court.

Councilmember Colteaux said that according to the staff report, the State Code allows up to 36 people to live on the premises. If there is an increase beyond the 16 as stated by Anthony House, would that be considered a nuisance? Attorney Roth stated that there is nothing in the Fair Housing Act which prevents reasonable limitations of density and as a matter of fact it states that right within the Housing Act itself. The 36 people maximum, taken from the Uniform Housing Code, is for a specific purpose in the context of that Code. The Town is not bound by that number as a maximum limit in terms of the number of people permitted per acre in this zoning district. The only rule the Town presently has is 18 per acre.

Councilmember Colteaux asked if a neighbor could bring the nuisance action under the terms of the voluntary conditions? Attorney Roth stated that with a private nuisance, they would have to show that there would be more impact on the specific group than on the general public in order to be successful. Also a violation of the conditions would not be, by themselves, sufficient to establish a nuisance.

Councilmember Colteaux asked if there was a need for the conditions to be presented in a nuisance abatement proceedings? Attorney Roth affirmed, stating that it shows there is a problem at the outset with the conditions agreed to attempted to eliminate.

Bobbie Carter, National Organization for Women, 1000 Sir Francis Drake Blvd, wondered why Chief Del Santo had not discussed this with the Police Department in San Rafael. Chief Del Santo stated that he did not feel he would gain any more information than what was stated in the letter to the Planning Commission.

John MacGregor, 18 Rosemont, stated he was an attorney but also a homeowner in the neighborhood. He stated that the Town Attorney did a thorough investigation on the legal issues. His main concern at this time is that the neighbors have not been kept informed and consequently have become suspicious of Anthony House. He stated that if the Anthony House people could meet again with the neighborhood, they would be able to find out what the concerns are. He felt the neighborhood would like an Ad Hoc committee to talk with Anthony House representatives to work out the concerns. He suggested that the item be continued for another two weeks to a month so they could reach a consensus.

Roberta Michaels, 149 Calumet, supported Anthony House, stating that she has worked in shelters and has never seen any violence. It is important for the community to get involved and be given the opportunity to be informed but there is a strong need for Anthony House to be allowed in San Anselmo. She added that group homes are quite different than Anthony House.

Paula Neese, 44 Crooked, was in support of Anthony House.

Larra Ryan, 202 Butterfield, was in support of Anthony House but is concerned that the adversaries will publish the address of Anthony House and therefore expose them.

William Foti, 111 Butterfield, stated that other shelters have had 24 hour on-site staffing and feel it is necessary.

Lucky Phelps, 19 Belle Avenue, was involved in the Regional Council of Churches in Southern California and there were several incidents however she was in favor of Anthony House and also felt there should be a neighborhood committee.

Linda Swanson, 67 Ross Avenue, is on the Board of Directors of a treatment center in Larkspur and felt that communication between Anthony House and the neighborhood is very important.

Frank Tredway, 127 Butterfield, stated that he is a psychologist and there are many other professional people in the neighborhood. He said he is protective of his neighborhood and the neighbors like to know each other. He felt that Anthony House would have transients and therefore the character of the neighborhood would change. He also felt it was very important to communicate and he did not think Anthony House representatives have done that. He felt that security was an important issue. Two sides of the property are adjacent to Brookside School and if a violent person was to come looking for their spouse they could endanger the children. He stated that the neighborhood was zoned residential and currently the shelter in San Rafael is zoned R-2. He did not think a neighborhood council would work.

Joann Pouly, 116 Butterfield, did not want to see the residential area turn commercial and did not know why Anthony House was looking to purchase a house and lot so much greater than what they currently have.

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Pat Dean 67 Karl, is proud to be a resident of San Anselmo and stated that there is a critical need to have Anthony House in San Anselmo.

Judith O'Roarke, 87 Butterfield, felt there have been some misleading statements and that the representatives of Anthony House have not been very open in providing information to the neighborhood.

Joe Robertson, 124 Butterfield, is concerned about security and having his privacy violated. He did not want the area turned into a mini prison. He felt the property was not right for Anthony House. The creek and the pool would be a hazard for small children and the high intensity lighting surrounding the property would create a problem for him. He would like to see them purchase another home at a reduced cost that would serve their needs. He felt as a home owner he has no rights.

Sandra Howard, 10 Woodside Court, has two children that attend Brookside School but is not concerned about her children's welfare being so close to Anthony House. She said there is a serious need for this kind of shelter and she supports it.

Theresa Allen, 14 San Francisco Blvd, stated she was in support of Anthony House. She has lived next door to a group facility for ten years and there have never been any problems.

Sally Weires, 137 Butterfield, felt that she should have rights as a homeowner and that her rights have been violated.

Lidija Grzac, 127 Butterfield, did not feel she had any rights as a homeowner and was very concerned about that.

Sarah Nome, 77 Alder, would like to see the Town Council consider putting institutions in areas other than R-1 zones, perhaps near the downtown area so they could be close to transportation and the Police Department. Also, non profit organizations do not pay taxes and if the Town allows other non profit organizations into the neighborhoods then our taxes will be raised.

Norman Gover, 87 Butterfield, was in support of Anthony House.

Marlene Maiello, 6 Roble Court, supported Anthony House and added that there are currently children living in abusive homes and it is more important for them to have a safe place to go with their mothers.

Bill McBride, Meals on Wheels, stated that there is a need in the community for shelters like Anthony House.

Frank Tredway, 127 Butterfield, stated that he was not against Anthony House but felt 6 to 8 residents would be better than sixteen.

Carol Durell, Butterfield, stated she was a battered woman and also lived in a shelter. She stated there were many problems that came up that have not even been discussed tonight. She did not feel the location chosen for Anthony House was appropriate.

Rosemary La Page, Psychologist with Brookside School, stated there was indeed a need for Anthony House in San Anselmo because there are batterers right in the neighborhood.

Barbara MacGregor, 18 Rosemont, stated Anthony House was not a licensed agency.

Mayor Chignell asked what efforts had been taken by Anthony House representatives to communicate with the neighborhood.

Donna Garske stated that a letter was sent to each homeowner that lived within 300 feet of the property. After the Planning Commission meeting they meet with members of the neighborhood with Commissioner Sias. During that meeting they put forth an effort to provide as much information as possible about Anthony House. Another letter was sent to those neighbors that were not at the meeting. Following that they are recommending a neighborhood council.

Fay d'Opal stated that they were in error for not getting in touch with the Chief of Police in the beginning and it was an oversight that the neighbors were not contacted when the meeting did take place with the Police Chief. She stated that Anthony House has always acted in good faith and because of the concerns of the neighbors they have volunteered to the conditions imposed by the Planning Commission. She stated they are willing to go on the line to gain the trust of the neighborhood. They want to be good neighbors. The current shelter in San Rafael is in a quiet neighborhood and was not aware of the zoning. She stated they have no plans to increase the number of residents of Anthony House to more than 16. She said they do not have to pay County taxes but do pay other taxes. She said the current property they are interested in may not be close to the Police Department but is very close to the Fire Department that could assist if

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needed in an emergency. She also noted that Anthony House, although non-profit, is not an institution. With regard to the neighborhood council, they have a list of people who support it and those who still have concerns. She felt the neighborhood council is most necessary to continue to address the concerned residents. Lastly, she requested that the Town Council reach a decision tonight on this issue.

Councilmember Kanis stated that he initiated the discussion between the Police Department and Anthony House because of the concerns about safety for the neighborhood that had not been resolved. He was convinced that the approach of a neighborhood council is an effective way to deal with concerns. He felt that the Anthony House representatives are willing to meet the concerns of the neighborhood. He was conscious that security is an issue. He would like to propose that the Town Council find a way to approve the voluntary participation of the neighborhood and not get into an issue regarding the use permit.

Councilmember Zaharoff stated that safety issues seem to be the main concern and Anthony House had volunteered to conditions that will protect the neighborhood.

Councilmember Walsh thought this was an opportunity to look at our community and that the concerns of the neighbors was valid and their rights have not been ignored. Also, it should be noted that Anthony House went to great lengths to protect the neighborhood. She also supported the Ad Hoc committee and saw no reason to discuss the use permit.

Councilmember Colteaux believed that Anthony House was a good idea. The problem he had was that he thought the Town was leaping to defend Anthony House and he felt there was also a need to protect the property rights of the owners of the neighborhood. He is convinced there is a better process that should be in place than what currently exists, if not by use permit, then some other means. He would like to see that pursued even if for the future. The Town must have an attitude that is protective of the property rights. The legislative body has many responsibilities in the neighborhood. This system of Anthony House is excellent because they have given us many conditions, however this may not be the case for future entities. He would be supportive of this application as long as the approval is put in a form of a resolution that clearly states the conditions. He did not want to discuss the use permit. He says it as a moot point.

Mayor Chignell supported Anthony House. He felt very much a part of the neighborhood living within the neighborhood himself. He agreed that a neighborhood council would be a good idea to help iron out the concerns of the neighbors. He was also concerned that Mr. Robertson, who is the adjacent neighbor, should be protected.

Town Attorney Roth suggested wording that would deny the appeal due to the Council's determination that Anthony House can proceed with its stated plans without the need of a use permit and recommended a resolution be prepared with the voluntary conditions stated by Anthony House, including the neighborhood Council and presented for adoption at the Council's regular meeting of November 13, 1990.

Mr. McGregor stated he would be happy to represent the neighborhood on the neighborhood council.

Town Administrator Camuglia stated staff could do some research and prepare a staff report to the Council on ways the neighborhood council could be structured. Councilmember Zaharoff suggested including the advice of Mr. McGregor.

M/S, Kanis/Walsh, to deny the appeal of the Planning Commission and to direct the Town Attorney to prepare a resolution which includes the voluntary conditions and the neighborhood council. The resolution to be brought back to the Council at the meeting of November 13, 1990.

Motion unanimously passed.

6. Request by the Afghan Cultural Assistance Foundation for waiver of fee to hang banner publicizing an event.

M/S Kanis/Walsh, to deny appeal by the Afghan Cultural Assistance Foundation for waiver of fee to hang banner publicizing an event.

Ayes: Zaharoff, Walsh, Kanis, Chignell  
Noes: Colteaux

Motion carried.

Park Superintendent Nyberg noted that it costs the Town approximately \$50 to hang a banner.

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7. Request for endorsement of Proposition 149, the California Park, Recreation, and Wildlife Enhancement Act of 1990.

Administrator Camuglia stated that staff endorses Proposition 149.

M/S Zaharoff/Walsh to support endorsement of Proposition 149, the California Park, Recreation, and Wildlife Enhancement Act of 1990. Motion unanimously passed.

8. Council requests for future agenda items, comments and directions to staff; staff miscellaneous items.

Councilmember Colteaux asked for a status report on the property next to the Post Office that has several vehicles parked on the lot.

Councilmember Colteaux stated that the owners of the Tamalpais Theater should be notified that there are Town requirements for signs and they should not arbitrarily use their sign board without contacting the Planning Department.

Mayor Chignell wants to report on the Ross Valley Fire Service embezzlement matter at the meeting of November 13th.

The regular meeting of the Town Council meeting was adjourned at 10:50 p.m.