

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of January 22, 1991

7:30 p.m.

Closed session regarding pending litigation, pursuant to Government Code Section 54956.9(a), (Helfrich v. 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. Staff present: Town Administrator Camuglia, Town Attorney Roth, Interim Planning Director Wight, Public Works Director Kottage, Police Chief Del Santo, Police Captain Schmidt.

2. OPEN TIME FOR PUBLIC EXPRESSION.

There was no public comment.

3. CONSENT AGENDA.

- (a) Approve minutes: January 8, 1991.
- (b) Introduction of ordinance amending Chapter 3, of Title 4, of the San Anselmo Municipal Code regarding curfew regulations: CONTINUE TO FEBRUARY 12, 1991.
- (c) Appeal of Planning Commission approval of NU-65, a use permit application by Tony Cassin, 76 Alder Avenue, for a second unit to remain in an R-1 zoning district: CONTINUE TO FEBRUARY 12, 1991.

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

4. PRESENTATION OF WORKERS' COMPENSATION SAFETY AWARDS AND TRAFFIC SAFETY AWARD.

Darrell Heppner, Administrator of the Marin County Risk Management Authority, presented the Council with a two "silver award" plaques for the Police Department and overall Town performance in workers compensation safety for 1990.

5. APPEAL OF PLANNING COMMISSION DENIAL OF V-2308, LIVING FOODS, 218 AND 222 GREENFIELD AVENUE, A PARKING VARIANCE APPLICATION TO EXPAND THE EXISTING STORE, WHICH CURRENTLY OPERATES AT 222 GREENFIELD AVENUE, INTO THE ADJACENT BUILDING KNOWN AS 218 GREENFIELD AVENUE.

Interim Planning Director Wight presented the staff report.

In response to questions from Council, Wight said the required parking to expand into 218 Greenfield Avenue was three spaces, that six spaces would be required for a new business at that location, and that staff was recommending denial due to concern of the impact on traffic, although the proposed conditions alleviated some of staff's concerns.

Jan Rubenstein, Living Foods, said any use at that location would have a new customer base, product deliveries and employees. On the other hand, Living Foods will have no new deliveries, and will have one or two new employees to work on the fast check-out. The expansion will have the same use as a low intensity use. He said they worked with the Town to provide more parking, and that the property owner had conducted a parking survey, previously submitted. He said he had seen the resolution. Regarding deliveries, he said

he would post notices and send letters to delivery companies advising them of the delivery regulations.

Police Chief Del Santo said he had recently cited two delivery trucks double parked, that there is still a traffic problem in that area, and that an officer is there every afternoon issuing citations for U-turns.

Kanis questioned whether there would be a change in the traffic and parking activity currently if the application was not approved.

Ed Merrick, 325 Greenfield Avenue, said people on Greenfield oppose granting the variance. There are parking problems on Greenfield, especially with employees, and Greenfield continues to have overflow parking from Elan's. To allow Living Foods to expand compounds errors made by the Town Council in granting parking variances by not carefully monitoring parking by this high intensity use. He said the traffic, such as cars pulling out of the diagonal parking spaces, poses a hazard to kids going to school, and to bicyclists. He did not feel Living Foods should be allowed this variance.

Abe Froman, Braverman's Furniture, 208 Greenfield Avenue, said it was erroneous and ludicrous to say there was no parking problem there. The lack of parking has forced him to close his store Thursday nights.

Roger Pierce, owner of the Living Foods property, said the space has been vacant almost two years. An agreement was worked out between staff and Living Foods on conditions for expansion, and Living Foods has gone a long way to compromise on issues. He hoped the agreement prepared by staff is what the Council is looking for. He said there is plenty of parking on Greenfield Avenue since 22 parking spaces were added.

Charles Jenkins, representing Nigel Imports, 216 Greenfield Avenue, said his client felt that someone should be present given the clause on the agenda stating that if any of the matters are challenged in court, one may be limited to raising only those issues raised during the public hearing process. He noted that he had commented on the application at the previous hearings, for the record.

Sarah Nome, 77 Alder Avenue, said that location will not absorb more parking. She predicted that Elan will expand, that Braverman's could expand, and it was wrong to allow that type of business.

Froman asked who will monitor the agreement and what assurance did he have that it will be monitored. Wight responded that planning staff would monitor it.

Colteaux questioned when 218 Greenfield was built and whether there was a requirement for off-street parking at that time.

Kanis said the traffic and parking problems that have been cited there currently exist, and even if the council takes no action to increase the availability of parking spaces, the problems will still be there. Allowing Living Foods to expand into that location will have the least impact on additional growth of parking problems, whereas a new business at that location would increase the problem. He said he was persuaded that the traffic situation would not get worse, and hoped that they could find ways to help the neighborhood.

Colteaux said that not enough off-street parking was required when the building was built, and they

constitutionally cannot deny the property owner the ability to use the property. He said the Town had more control over this use than if it was a new business that would not be required to have any conditions. The property has been vacant a couple of years, and they have to take reasonable action.

Zaharoff said that the situation would likely be different if the Town had the benefit of hindsight. However, they could have conditions that limit the traffic parking, and deliveries, and although Living Foods may expand their store, they cannot expand their impact. If these conditions are not upheld, Living Foods is in jeopardy of losing their use permit.

Walsh said she did not support the expansion, noting that staff, the Planning Commission and the Police Chief opposed it, and the Chamber of Commerce Parking Committee opposed it. The businesses getting together and raising money for parking alleviated some of the problems. By creating these spaces, the situation was still returned to a condition that was dangerous. Regarding another applicant at this location, she said it was not the responsibility of the Council to make a decision for the applicant, and it is futile to discuss what would have been. She expressed concern about Nigel's coming forward in a similar situation. She said she was supportive of business, that was why she ran for Council, but in this case, she could not support the application.

Chignell said that Living Foods was a very important part of this community and would not want to jeopardize its business. He said he would echo Walsh's comments, after considering the recommendations of the Planning Commission, Police Department, staff and neighbors. He did not see any constitutional or legal issues at stake here, that if the findings cannot be met, they cannot approve it. Traffic hazards have continued unabated, and expressed concern that if delivery and other parking and traffic problems have recently continued, that the conditions would be violated.

M/S, Colteaux/Kanis, to adopt the Negative Declaration of Environmental Impact. Motion passed by the following vote:

AYES: Colteaux, Kanis, Zaharoff

NOES: Chignell, Walsh

It was the general feeling of the majority of the Councilmembers that the application be continued to the next regular meeting, and to direct staff to add to the draft resolution approving the application the findings for approval.

M/S, Colteaux/Kanis, to conditionally approve the application, subject to the findings being added by staff to the resolution, with those findings being that that the special circumstance applicable to the property is that in order to operate that business in the physical circumstances and surroundings, a parking variance inevitably has to be given, otherwise no reasonable use of that building can be made; the granting of the variance is necessary for the preservation of substantial property rights for the same reason, the property rights are inherent in the granting of the building of that structure and as evidence has indicated, it has not been able to be used for two years, and in his view that is a deprivation of substantial rights; the granting of the variance will not materially effect the neighborhood because as has been indicated here, any business going in there is going to get a variance for parking because of their need for the variance and that variance will undoubtedly be larger than the variance

granted here, and they would not have to agree to the kind of conditions that Living Foods are agreeing, in this particular case, all conditions which will go to ameliorate any impact on the neighborhood. Approval of the applicati

6. DISCUSSION ON PROPOSED ORDINANCE PROHIBITING CORPORATIONS, PARTNERSHIPS AND UNINCORPORATED ASSOCIATIONS FROM OBTAINING RESIDENTIAL SECOND UNIT USE PERMITS, AND PROVIDING THAT ABANDONMENT OR DISCONTINUATION OF THE USE FOR SIX MONTHS OR MORE SHALL CAUSE TERMINATION OF THE USE PERMIT.

Sarah Nome, 77 Alder Avenue, said only owners living on the premises should have second units.

M/S, Colteaux/Walsh, to refer the ordinance to the Planning Commission for its consideration. Motion passed unanimously.

7. DISCUSSION OF SELECTION OF OUTSIDE LEGAL COUNSEL IN A MATTER OF PENDING LITIGATION.

This item was continued to the next regular meeting.

8. INTRODUCTION OF ORDINANCE AMENDING SECTION 9-7.303 OF THE TOWN CODE PERTAINING TO TEMPORARY REAL ESTATE SALE AND LEASE SIGNS.

San Anselmo Municipal Code allows the placement of a real estate sign only on the property for sale. State legislation effective January 1, 1991, which supersedes local legislation, allows the placement of a real estate sign also on another's private property, with that person's consent, and furthermore, that it may be reasonably located in plain view of the public, and may additionally advertise directions to the property for sale, lease or exchange. Town Attorney Roth drafted an ordinance to bring the Town into conformity with state law.

Councilmembers questioned whether the state legislation limits the Town's ability to regulate sign size, type face, etc. Concern was expressed that the regulations would allow a sign to be up for a long time, and that in Section 9-7.303.(a)(ii) of the draft ordinance, "or" should be replaced with "and."

Bob Holmes, Marin Association of Realtors, said "or" should be replaced with "and." He noted that if the Town takes action based on the existing Town ordinance rather than the new State law, the Town would not be in compliance with the State law.

Barbara Schmidt, 59 Austin, expressed concern about a realtor placing a sign on someone else's property.

Walsh supported introducing the draft ordinance.

M/S, Kanis/Colteaux, to continue this item, and refer it back to staff for comprehensive review and incorporation of other changes. Motion passed by the following vote:

AYES: Colteaux, Kanis, Zaharoff

NOES: Chignell, Walsh

9. CONSIDERATION OF RECOMMENDATION FROM PARKS AND RECREATION COMMISSION TO AMEND THE RULES AND REGULATIONS FOR THE MEMORIAL PARK TENNIS COURTS.

This item was referred to staff and to the Parks and Recreation Commission following expression of concern from two young residents that the tennis court rules favored

adult use over youth use of the courts. The Parks and Recreation Commission recommended a few minor changes in the resolution setting tennis court rules, as well as a change to reduce the time there for preference to adults to between 8:00 a.m. and noon on weekends and holidays.

Justin Rainwater and David Weltin, the two youths who originally raised this issue were present. Rainwater said they would like to play in the mornings, and the change still does not give them much time to play. If the kids are not bothering the adults, why should the adults bother the kids.

The Councilmembers expressed concern about adults having preference, and questioned whether there were alternative arrangements that would meet the needs of both the Tennis Club and the youths.

Barbara Schmidt, 59 Austin Avenue, said children should have just as much preference as adults, and noted that adults are able to drive cars to courts in other locations.

David Weltin noted that tennis players are only allowed one match anyway, regardless of age.

M/S, Colteaux/Walsh, to approve changes to Resolution No. 1673, as recommended in the staff report dated November 19, 1990, except to eliminate the age requirement on use of the courts. Motion passed unanimously.

10. DISCUSSION REGARDING ACQUISITION OF THE CJIS (CRIMINAL JUSTICE INFORMATION SYSTEM) COMPUTER SYSTEM TO CONTINUE POLICE OPERATIONS.

As of July 1, 1991, the information sharing services provided by the Police Information Network (PIN) through Alameda County, which San Anselmo has been using for several years, will no longer be available on the same basis that it has been through the County of Marin. Marin County law enforcement agencies will begin using CJIS, which will provide the same information as the PIN network, with several new linkages to the County. The Town may opt to stay with PIN, at a cost of more than \$6,500 annually, but the Town would not be able to interact with the County of Marin and other agencies within the County for certain services. The staff recommendation was to buy into CJIS for a one-time cost of \$7,000, plus telephone line costs comparable to those currently in place.

M/S, Zaharoff/Colteaux, that the Council appropriate \$7,000 from Contingency to purchase California Justice Information System equipment and services to maintain the Town's linkages with the County of Marin, and State and Federal law enforcement agencies. Motion passed unanimously.

11. DISCUSSION REGARDING ROOF REPAIRS RECOMMENDED FOR THE SAN ANSELMO AVENUE AND BUTTERFIELD ROAD FIRE STATIONS.

M/S, Colteaux/Walsh, to appropriate \$6,675 from Contingency to make emergency repairs to the roofs of Fire Stations 19 and 20. Motion passed unanimously.

12. ADOPTION OF COST ALLOCATION AGREEMENT FOR ANIMAL CONTROL SERVICES.

Camuglia responded to issues raised at the January 8 meeting. The assessed valuation was not used to determine share between the County and the cities, but just among the cities. The workload for the County was between 23% and 28%, and the County agreed to a 30% share of the costs. At the last City Managers meeting, the City Managers told the County they wanted to have a role in overseeing the contract

with the Humane Society, since the cities are the majority shareholder, and the County agreed to that request. Another avenue for San Anselmo was to stay in touch with the members of the Humane Society Board of Directors members in the Ross Valley.

Barbara Schmidt, 59 Austin, said she would like to see the dangerous dog part thrown out, and was encouraged that the public will now be represented on the animal control panel. A lot of people are against licensing cats, and feel residents are not getting a fair shake. For example, a person who lives in an apartment cannot adopt a cat, and people who work and have a fenced yard cannot adopt a dog. She felt that dog bites were really a public health matter.

Zaharoff questioned whether the extensive work done by the Humane Society at 63 Nokomis caused San Anselmo's share to increase, and now that the work there is complete, whether San Anselmo's share would be lower than the figure on which this agreement is based. Camuglia said she would see if there is a significant blip based on 63 Nokomis, and if so, whether there is anything that could be done.

M/S, Kanis/Walsh, to approve the amendment to the joint powers agreement between the County and the cities of Marin. Motion passed unanimously.

13. ADOPTION OF FINANCIAL POLICIES FOR 1990-91.

Sarah Nome, 77 Alder Avenue, said there are 14 bank accounts separate from the Town, that the Council should ask for an inventory of these bank accounts, and who has the bank account from the last Town meeting. She said Fairfax has an umbrella account where all funds come into Town Hall. She said the audit dated June 30, 1989 showed that the Town was operating at least one \$70,000 account, and expressed concern about having money somewhere not earning interest. She wanted to see all Town funds under one account.

Walsh said she was not happy with the breakdown of the carryover, and wanted to see it all in capital reconstruction. She did not currently endorse the equipment fund, and wanted to see what comes before the Council before equipment replacement this year. She said it was a sensible fund to have, but given the Town's financial constraints, it was not an appropriate time. She wanted to see how much money was spent on equipment.

Colteaux said the policies did not seem to go far enough, that if streets, bridges and drains are their number one priority, a set percentage of budget should be impounded for that purpose.

Zaharoff commented that the establishment of a fund did not mean that funds had to be spent.

Camuglia noted that the Council may transfer money between funds, that the Long Term Finance Committee had recommended the Town develop financial and personnel policies and procedures, and that the Council would be responsible for making appropriations from the equipment replacement fund.

Kanis said he thought the Council was on the right track, and thought it was healthy to adopt the policies. He said there was a need for policy and goal setting sessions, and without those sessions, the proposed financial policies are a good beginning. He supported adding another policy regarding setting of an advisory election on the issue of how is the Town going to pay for streets and road work, that the Long Term Finance Committee has suggested two methods of taxation, and that it is important to bring to that process a joint discussion between the Town Council, Long Term

Finance Committee, Town Administrator, Public Works Director and interested members of the community to develop a strategy for an advisory election.

Chignell said he appreciated the policies, that a number of them are extremely important, that the language in 1 (b) and (c) needs clarification, and suggested that all interest accrual go back to the General Fund rather than individual funds. He inquired about establishment of fees, to which Camuglia responded that she would come back to the Council with a resolution adopting a fee schedule for all the Town.

Sarah Nome, 77 Alder avenue, said the equipment fund seemed rich, and that San Francisco replaces police vehicles every four years, not every two years.

M/S, Kanis/Zaharoff, to adopt Resolution No. 3136 adopting financial policies for the 1990-91 fiscal year, adding number 12 concerning an advisory election as previously mentioned, and changing the policy on interest accrual to have interest from all funds go to the General Fund. Motion passed by the following vote:

AYES: Colteaux, Kanis, Zaharoff

NOES: Chignell, Walsh

13. DISCUSSION REGARDING EQUIPMENT PURCHASE/REPLACEMENT FUND.

Camuglia reviewed the equipment recommended for purchase. She noted that all equipment purchases were subject to approval by the Council.

Walsh said she would prefer to see a percentage for each department, and rather than approve it, she would like to review each bid to look for ways to make savings.

Chignell said the idea of an equipment replacement fund was excellent, and would like to see each department head present to explain how each department is operating with or without the equipment.

Kanis and Colteaux supported approving the recommendation to acquire the equipment.

The Councilmembers discussed whether it had been decided to pursue a lease purchase or an outright purchase.

M/S, Zaharoff/Walsh, to have the department heads present at the next meeting to review the equipment recommended for acquisition. Motion passed by the following vote:

AYES: Walsh, Zaharoff, Chignell

NOES: Colteaux, Kanis

15. SELECTION OF ONE OR TWO COUNCILMEMBERS TO SERVE ON A COMMITTEE WITH STAFF AND PLANNING COMMISSION REPRESENTATIVES REGARDING CHARACTERISTICS MOST DESIRABLE IN A NEW PLANNING DIRECTOR.

Councilmembers Kanis and Zaharoff were selected.

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

Colteaux - Asked his Council chair to be oiled, for information on forming a Business Improvement District, for an update on the commercial property maintenance ordinance, Bald Hill study zone, and an ordinance having maximum control over the second unit use permits.

Recycling - Zaharoff praised the Solid Waste and Recycling Advisory Committee on the recycling insert.

Audits - Chignell asked for copies of prior years' audits and financial statements.

17. ADJOURNMENT.

The meeting was adjourned at 11:00 p.m.