

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of June 11, 1991

6:50 p.m.

Pursuant with the Brown Act and the Bagley-Keene Act, the Council will be discussing an offer for the purchase of Town-owned property on Forest Avenue , APN #007-021-23 by Ted Varlow and Michael Gottlieb.

Mayor Zaharoff convened meeting with Councilmembers Chignell, Colteaux and Kanis present, and Walsh not present.

Town Administrator Camuglia reported that an offer had been received for the purchase of the Town-owned property.

William Jelinek, 53 Florence Avenue, said he wanted to see adequate public notice to get the highest possible purchase price if the property is sold; expressed concern about future liability to the Town because the property is a slide area; and expressed concern about adding an additional living unit to that neighborhood, since it is already very congested with traffic and people.

The Council adjourned at 6:58 to closed session.

7:00 p.m.

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

8:00 p.m.

1. CALL TO ORDER.

Mayor Zaharoff convened the regular meeting, with Councilmembers Chignell, Colteaux, Kanis, and Walsh present.

2. OPEN TIME FOR PUBLIC EXPRESSION

There was no public expression.

3. CONSENT AGENDA.

- (a) Approve minutes: May 28, 1991.
- (b) Approve warrants: #6036 - 6440 in the amount of \$344,830.87.
- (c) Appropriate \$2,530 from Contingency for San Anselmo's share of the 101 Corridor Action Committee.
- (d) Authorize staff to contract with W.K. McLellan Co. for additional work on Scenic Avenue in conjunction with P.G. & E.'s gas rehabilitation project, in the amount of \$17,380, and appropriate funds from the Capital Reconstruction Fund.

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

4. RECOGNIZE KATHERINE CODDINGTON FOR HER SERVICE AS A MEMBER AND CHAIRPERSON OF THE HISTORICAL COMMISSION.

Zaharoff presented Katherine Coddington with a proclamation of its appreciation for her service on the Historical Commission.

5. INTRODUCE SAN ANSELMO'S NEW PLANNING DIRECTOR, ANN CHANEY.

Ann Chaney, formerly the City Planner with the City of Ventura, was introduced as the new Planning Director in San Anselmo. Chaney comes to San Anselmo with excellent recommendations and experience.

6. 80 MELVILLE AVENUE: APPEAL OF GREG AND MEGAN PHILLIPS OF THE PLANNING COMMISSION'S CONDITION OF APPROVAL OF A VARIANCE (V-9017), SPECIFYING THAT THE PARKING DECK MAY BE EXTENDED BY NO MORE THAN 6 FEET FROM THE REAR OF THE PRESENT DECK.

The applicant stated that he discussed their proposal with the Cooks following the Planning Commission hearing, and alleviated their concerns that deck would not block the light and air through their windows. He said the parking is very difficult and poses a danger to children, which this project would improve. The neighbors were in agreement with the proposal.

The Cooks were not present but submitted a letter to the Council.

Kanis expressed concern that the Cooks were not clear on the location or size of the deck.

M/S, Chignell/Walsh, to approve the appeal to allow a 12 foot parking deck extension, to a total overall length of 29.5 feet, based on the findings that the variance will not be a granting of special privilege inconsistent with the limitations upon other properties in the vicinity and zone, and that the variance will not materially affect adversely the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. Motion passed by the following vote:

AYES: Chignell, Colteaux, Walsh

NOES: Kanis, Zaharoff

7. RECONSIDERATION OF THE TOWN COUNCIL'S DENIAL OF V-2315/PP-14, JAMES HELFRICH, BETWEEN 444 AND 500 THE ALAMEDA, A NEGATIVE DECLARATION FOR VARIANCE V-2315 AND PRELIMINARY DEVELOPMENT PLAN, ALL LEADING TO THE DEVELOPMENT OF FOUR SINGLE FAMILY DETACHED RESIDENTIAL UNITS, IN PROPERTY LOCATED WITHIN THE R1-H ZONING DISTRICT.

Jayni Barker, Town planning consultant, said the item was continued to this evening to allow two actions to take place: (1) To allow the public the opportunity to review the plan and the memorandum of understanding (MOU) between the Town and Mr. Helfrich; and (2) To have the applicant submit information regarding the necessity of the variance for access over an easement.

Roberta Stoddard, 444 The Alameda, said there is a slide under the road, which has not been addressed.

Mary Mitsui, 423 The Alameda, said that at the last meeting there was a discussion of the road repairs, and asked what had happened to those repairs.

Barker explained that based on the MOU, the condition requiring the paving changed to require paving only the portion fronting on The Alameda. However, the applicant would have to repair any damage to the road caused by the

construction, although it would be easier to spot such damage on newer pavement.

Mitsui expressed concern that the road is in such poor shape that it would be hard to tell if the construction caused any damage.

James Helfrich, applicant, said that now the new paving ends at the end of The Alameda. When he does the paving, he would be willing to get bids to see what it would cost to get the rest of the street paved if the neighbors were interested in pursuing such as project, and he would be willing to oversee that project too.

Barker said that condition 8 on page 4 of the preliminary development plan now has four parts, including a portion regarding supplementary pipe and a condition requiring drainage.

Mitsui questioned how the road paving was deleted. Town Attorney Roth explained that it was part of the negotiations over the lawsuit, that Helfrich had initially volunteered and agreed to pave the road, and could not have been compelled to perform the paving since it was not applicable to his project. However, once he agreed to the paving as a condition, it was enforceable, until removed as part of the negotiations.

Colteaux explained that the prior development approval was less costly, but now that a more costly plan is being pursued, the offer to pave the road was withdrawn.

Mitsui said she was concerned about the actual size and location of the homes, and was not completely clear on the location of the houses. She reiterated her preference for affordable housing.

Jan Beck, 439 The Alameda, said that site F was not approved by the Planning Commission. The geologist and technical engineer were present at the Commission meeting when they answered extensive questions regarding the instability of site F. Staff recommended against building on this portion of the site due to poor soils condition, steep slope and poor access from The Alameda. Hundreds of trees would be removed. With this new trade off deal, they have lost their sewer, drainage, and road upgrades. In exchange for having him build on a very unstable site F, he can now reduce his costs by not having to do the drainage and road upgrades. The road is in such bad shape now, it will be difficult to show damage to the road from construction. She asked that they come up with a new agreement, such as agreeing to upper D in exchange for infrastructure upgrades, since the Council has already agreed to allow building in the ridge zone. The Planning Commission took years studying the project to work out the problems with the neighborhood, and the neighborhood needs the improved drainage. She said Charles Richardson, 429 The Alameda, feels the Town has betrayed the neighborhood.

Kiki Schwartz, 130 Deer Hollow Road, said the Town Council is working hard to accommodate the public, and found it annoying that all of this was reopened as part of the negotiations on the lawsuit, and that the improvements that had been agreed upon previously were rescinded.

Dan Goltz, 107 Holstein, said he did not think that findings had been made except for lot C. He did not feel that the Council had to grant the other two lots, that the neighborhood expected that laws be obeyed, that the Council is not protecting the citizens, and they did not have to bail out the applicant. There was no basis for granting the variance.

Barbara Berger, 324 The Alameda, expressed her appreciation to the Council for going into this thoroughly, said she and her husband have talked about this for five years. But there is one developer, four houses, and then all the rest of the people who pay their taxes. Once the trucks start rolling and they take down the trees, it is too late. Consider this very seriously, for all of San Anselmo.

Jeff Kroot, 222 Crescent, Planning Commissioner, said there were nine or ten meetings on this application, that he and the Commission were very careful with this, that there were a lot of things to consider. He was concerned about how the lots have changed, that the Commission had been careful to stay away from the ridge zone. These were difficult sites to develop, that the Council should consider this very carefully, more carefully.

Goltz said that if they have slides 12 feet deep that go up the whole side of one part of the lot, they should be repaired, especially if houses are placed on top of them.

Al Bianchi, attorney for the applicant, said it was not a question of Helfrich withdrawing the benefits. Those so called benefits were exactions volunteered by Helfrich and exacted by the Town, that he was not compelled to grant in the first instance. They were in conjunction with a plan, which because of its greater economic return justified the granting of the so called benefits. If the Town wants to go back to the prior plan, they would offer those same benefits. He said Helfrich has shown abundant good faith in dealing with the Town and neighbors. He has attended an unprecedented number of meetings with the Town and neighbors, he appreciates the neighbors' concerns, and he has attempted to address the issues as best he can. He went to court because he thought he was not treated in accordance with what the law requires. It was for that reason, he thought, that the Town undertook resolution. If the matter is pursued in court, the solution of what happens with the property will be taken out of the hands of the community and placed in the hands of a judge, and he questioned whether anyone there wanted such a resolution.

Bianchi said Helfrich has provided directly or paid for all data requested by the Town. The cost of this four lot development exceeds far exceeds anything else in the community.

Bianchi said the administrative record shows there are four legal lots, that the applicant initially reconfigured the lots primarily at the request of Town officials. The overwhelming evidence in the record supports this application. They have an affidavit under penalty of perjury from Helfrich in which he authenticates the facts set out in the letter to the Town Attorney relating to the granting of the variance, and the access of the properties and the easement. The findings are unassailable either for this proposal or the proposal approved by the Planning Commission. They believed in those findings to the extent that if they are attacked in court, he and Helfrich would defend the findings, and he felt they would survive any attack in court. He asked the Councilmembers' concurrence in the approval of one of the plans.

Walsh inquired as to the cost of the Helfrich lawsuit. Roth responded that it was approximately \$13,000.

Mary Kirk, 20 Broadmoor Terrace, asked why Helfrich did not agree to pave the street, as it seemed like a small portion in the entire scheme of things.

In response to Colteaux's concern regarding slides, Barker responded that some slide repair and stabilization will be required.

Bianchi said that whatever the engineers recommend will be done.

Mitsui said she was concerned to hear that the applicant paid for all the engineering studies, and therefore could hire an engineer who said what Helfrich wanted. Barker said it was a reputable firm, a certified engineer, whose findings were reviewed by the Town Engineer, who did not have any problems with the findings.

Stoddard said there are a lot of other slide areas, and questioned why put up more houses that will slide down the hill. The community should be more careful about where it builds. She is below a huge slide, and it was very frightening.

Mike Matthews, 443 The Alameda, said he was very angry that Helfrich is not going to pave The Alameda. In trying to find out about getting the road paved, he has been told that since Proposition 13, roads and storm drains are only improved unless a developer comes in or the neighbors get together. The Council was throwing away a good opportunity to get the road improved; this is how the city gets its roads improved, is through development. The storm drain there now is completely inadequate; it is 18 inches and in any rain it overflows when it should not be more than 2/3 full.

Jan Back said that the sewer at the corner of Caleta overflows all the time when it rains, and the runoff from this development will be going into that drain, with no improvements.

Zaharoff closed the public testimony portion of the hearing and turned it over to Council comment.

Colteaux said the perfect plan is when everything is reverted back to its natural state and stays open space, but there are no funds to purchase the property for open space. He said there were advantages to this plan over the previous one in the following ways:

1. Although there was minor incursion into the ridge zone, it is in areas that as a matter of natural topography has already been destroyed by grading;
2. Lot B as proposed by the Planning Commission would leave the ridge zone as destroyed, moving downhill and destroying much more mature standing trees than under the present proposal. To get the development out of the ridge zone would destroy a lot of trees.
3. The applicant is not happy with the lot on The Alameda, but it is a better location than on the hillside.
4. The findings should include the condition that this roadway not serve any further development beyond this one, and that this condition should be cross referenced in the development plan.

Chignell said he was opposed to the plan. The Planning Commission spent many hours on the application, and when he compares the Council's plan to the Commission's, he sides with the Commission's. Minor incursion or not, the ridge zone is still being violated, in violation of the General Plan. Site F is inappropriate for a variety of reasons. His greatest objection was the loss of opportunity for improvements that are dramatic and would benefit the neighborhood. Either the council goes back to the

Planning Commission's proposal, or convince the applicant to continue the matter to look at alternative sites.

Walsh expressed her agreement with Chignell in many respects. She did not support the current proposal due to the time the Commission spent on what they approved, and the neighborhood concerns that are not addressed. She said there was no way she would support any building in the ridge zone, but two of the lots are on the ridgeline. She preferred the original plan, which she felt the neighbors wanted given that development is to take place, and the road and drainage improvements were important.

Kanis said that the Council and Commission have repeatedly disagreed on proposals for projects, and disagreed with the idea that they should always uphold the Commission's decisions. Regarding violation of the General Plan, he said he could cite other sections of the General Plan that they would be violating if they adopted the Planning Commission's proposal. Fewer trees will be removed with this plan, which is important to him, and he is persuaded that sites B and C are better overall in terms of the General Plan's concerns about visibility of hillside development and the destruction of plant life. These moves of B and C to the proposed sites are superior. He said he felt there never has been consensus in the neighborhood of which sites were the best, and felt it was impossible to have consensus on the project because it impacts people on The Alameda and people not on The Alameda. He felt that he has spent more time on this project than anyone else because he was first on the Commission and then the Council in the review of this project. He was very conscious of the General Plan and very sensitive to the concerns of all the neighbors, and felt that this was the best choice. He was sorry they could not please everybody, but the reality is that they cannot prevent development of the property because they cannot afford to buy it. As this project goes through further review, he felt there would be consideration given to concerns such as slides and minimizing tree removal.

Zaharoff said she felt the plan approved by the Planning Commission violated the General Plan. From a strict interpretation, one could say that this plan too violated the General Plan because of the minor encroachment on the ridge zone. However, she felt the current plan was less violative of the General Plan for these reasons:

1. There is a substantially less amount of grading than with the prior plan; a more substantial number of mature trees that would have had to have been removed under the prior plan will not be removed; the minor encroachment onto the ridge zone is not building on the ridge line itself; and this plan takes into consideration location on the hillside and visual impact.

M/S, Colteaux/Kanis, to approve the resolution adopting the negative declaration. Motion passed by the following vote:

AYES: Colteaux, Kanis, Zaharoff

NOES: Chignell, Walsh

M/S, Colteaux/Kanis, to approve the resolution approving variance V-2315, filed concurrently with the preliminary development plan PP-14; allowing access to the preliminary development plan PP-14 project site, comprised of Assessor's parcel numbers 5-043-16, 5-043-22, 5-043-31, 177-133-13 and 177-220-54, to be taken from a private access road intersecting the southerly side of The Alameda between 444 and 500 The Alameda; filed by James Helfrich, with the following modification: On Page 3, under finding

(c), insert the following words: "This finding is based on the understanding and the policy of the Town Council that no further development will be served by the access easement for which the variance is granted." Motion passed by the following vote:

AYES: Colteaux, Kanis, Zaharoff

NOES: Chignell, Walsh

M/S, Colteaux/Kanis, to approve the resolution approving preliminary development plan PP-14 for four single family detached residential units on sites A, B, C and F; and a private access road on a 3.68 acre project site located south of The Alameda, and generally located between 444 and 500 The Alameda, and identified as Assessor's parcel numbers 5-053-16, 5-043-22, 5-043-31, 177-133-13 and 177-220-54 within the R-1-H zoning district, with the cross reference on the development plans to the condition added to the prior resolution. Motion passed by the following vote:

AYES: Colteaux, Kanis, Zaharoff

NOES: Chignell, Walsh

8. DISCUSSION REGARDING AUDITOR'S REPORT ON INTERNAL CONTROLS.

Town Administrator Camuglia reported that she received a letter that day from Lindquist, von Husen and Joyce concurring with the recommendations of her staff report on internal controls dated June 6, 1991. The recommendations included a response in each of the areas identified in the auditor's management letter. Camuglia reported that the auditors will be back after June 30, 1991, to begin audit of the 1990-91 fiscal year and review whether the changes in procedures in response to the management letter have been accomplished as specified by the Town. Camuglia said the Town staff is attempting to implement the changes and recommended staff prepare a follow up report by September 30, 1991.

Councilmembers asked Camuglia questions on each of the staff recommendations.

Chignell asked that if possible, the physical inventory of fixed assets be accomplished before April, 1992, expressed concern that the other changes be accomplished in a timely manner, and that Councilmembers have copies of the job descriptions being developed for accounting and payroll.

M. G. Sheldon, Town Treasurer, said that the Town Code requires that deposits in excess of \$500 be made daily. Out of 20 working days last month, deposits were made on 16 days. He ask to see the bail trust and payroll monthly statements. Regarding state requirements on the Treasurer's reports, he noted that all the Town's investments are with the Local Agency Investment Fund in Sacramento.

Sarah Nome, 77 Alder Avenue, expressed surprise that all the faults of the Town's fiscal handling have been resolved in two weeks. She said she was glad that the Council is reading the management letters. She questioned why it has taken a whole year to discuss the audit. She referred to a letter she wrote to the Council on petty cash and said she could not understand why funds are commingled, that everything has been a cookie jar. She inquired about \$19,000 advanced to various property owners that the Town Attorney now has to collect. She questioned why the auditors allowed gasoline to be sold to San Anselmo garbage

for many years, and wanted an investigation and discussion of this issue. She said 5% to 10% of the Town's second units are not on the tax rolls, resulting in a loss of revenue to the Town, and that there was nobody in San Anselmo with pursuit of second units in their job description.

Camuglia responded that there had been a proposal memorandum at the last Council meeting that outlined what steps had been taken in response to the management letter; that the management letter was not delivered to the Town until the first week in April, and that the auditors were waiting until closure of the Ross Valley Fire Service embezzlement issue; and that the \$19,000 advance issue concerned work done by Town planning consultants on planning applications in advance of fees collected from applicants, that the \$19,000 figure had been reduced following reconciliation of the account, and the planning staff has discussed not beginning work until sufficient funds have been submitted.

M/S, Colteaux/Walsh, that the Council acknowledge this report, and direct staff to prepare a follow up report within 120 days, by September 30, 1991. Motion passed unanimously.

9. SCHEDULE PUBLIC HEARINGS ON THE 1991-92 BUDGET.

Following discussion on the completion of the budget and the Councilmembers' availability for budget hearings, the item was continued to the next regular meeting.

10. SELECT REPRESENTATIVE TO THE MARIN TRANSPORTATION AUTHORITY.

M/S, Kanis/Walsh, to nominate John Colteaux and Karen Kunze as the Ross Valley representatives. Motion passed unanimously.

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

Chevron property, Red Hill Avenue - Colteaux asked that the property owner be placed on notice that the Town wants access over the property for emergency response, to allow emergency vehicles to access Forbes Avenue quickly.

Red Hill Avenue slide - Colteaux asked if the number of parking spaces blocked off due to the slide could be reduced.

Yolanda street light - Chignell thanked staff for getting the light repaired.

Sir Francis Drake Boulevard paving - The Councilmembers expressed surprise that only one side of Sir Francis Drake Boulevard in the project area was repaved, and asked staff to clarify what paving was to be done.

CLASS - Chignell inquired about the status of the landscaping work on Sir Francis Drake Boulevard. Camuglia responded that the work would begin next month.

Building Inspector car phone - Walsh expressed concern about the purchase of a car phone. Camuglia explained that it would help facilitate building inspections and be available for emergency response.

MMWD water tank - Zaharoff asked that staff pursue the Town's concerns about the water tank. The Councilmembers suggested the Planning Director telephone them about their concerns.

Zoning subcommittee - Zaharoff asked whose responsibility is was to get the zoning subcommittee together.

Growth management survey - Camuglia will give the Councilmembers a copy of the survey.

12. ADJOURNMENT.

The meeting was adjourned at 10:30 p.m.

Beth Pollard