

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of November 10, 1992

7:15 p.m.

Interviews with applicants to the Solid Waste & Recycling Advisory Committee.

8:00 p.m.

1. CALL TO ORDER.

2. OPEN TIME FOR PUBLIC EXPRESSION.

Gayle Fowler, 5 Lincoln Avenue, expressed concern about the noise of the garbage company and its trucks. She said she is awakened at 3:00 a.m. by the departure of the trucks from the garbage company property adjacent her property, and by the hydraulic lifting of the trucks. The noise continues into the early afternoon. Saturday night and Sunday are the only times the noise is not heard. She retained a noise consultant, who found that the noise registers between 85 and 95 decibels, and that the San Anselmo noise ordinance limits noise to 45 decibels for residential districts. She has double paned her windows, which has helped, but the noise is still a problem, and she wanted to look to the Town for assistance in this matter.

Roger Bettini, Bank Street, said he is awakened most nights by noise from garbage trucks. His garbage is picked up at 3:30 a.m., which is too early.

Jim Miller, 50 Entrata, located at the top of the hill of which the disposal company is at the bottom, said he is awakened between 3:00 a.m. and 3:30 a.m. every day.

Town Administrator Bonander said staff will look into the issue and report back at the December 8 meeting.

Barbara Schmidt, Austin Avenue, spoke of looking far into the future on issues such as fireplaces, sprinkler systems, utility undergrounding, updating fire hydrants, limiting the size of garages and houses, heritage tree restrictions, and no building on top of the ridges. She will make a list of the issues for the Town Administrator

3. CONSENT AGENDA.

- (a) Approve minutes: October 13, 1992.
- (b) Acknowledge and file warrants: Nos. 10478 through 10776 in the amount of \$583,420.99.
- (c) Acknowledge and file financial reports through October 31, 1992.
- (d) Approve Resolution amending the Town's conflict of interest code.
- (e) Announce cancellation of the Town Council meeting of November 24, 1992.
- (f) Approve proposal from the Open Space Committee to expand the Committee size to from eight to nine members.
- (g) Proclaim November 16-20 as "Winter Weather Preparedness Week."
- (h) Approve resolution requesting the State of California Department of Toxic Substances Control to review and approve hazardous waste management plans within 90 days of submittal.
- (i) Authorize filling of vacancy in police officer position.

- (j) Acknowledge and file final report on costs and authorize final payment, Sir Francis Drake Boulevard Repaving project.

M/S, Breen/Zaharoff, to approve the consent agenda with the exception of items (b), (i), and (j). Motion passed unanimously.

- (b) Acknowledge and file warrants: Nos. 10478 through 10776 in the amount of \$583,420.99.

Breen expressed concern about the purchase of t-shirts since the Recreation Department budget may need additional revenue.

- (i) Authorize filling of vacancy in police officer position.

Chignell asked that an effort be made to attract female and minority applicants.

- (j) Acknowledge and file final report on costs and authorize final payment, Sir Francis Drake Boulevard Repaving project.

Chignell asked that at the minimum, a letter of thanks be sent to the merchants at the Hub whose businesses were impacted by the construction work. Town Administrator Bonander said she will return to Council in December with a recommended program to express appreciation.

M/S, Breen/Chignell, to approve (b), (i), and (j). Motion passed unanimously.

- 4. APPOINTMENTS: SOLID WASTE & RECYCLING ADVISORY COMMITTEE (3 seats).

It was the consensus of the Council to table the item to allow the submission of other applications, and schedule interviews and appointment for November 17 or 19.

- 5. REQUEST FOR WAIVER OF FEE TO HANG BANNER, ROSS VALLEY TAXPAYERS FOR SCHOOLS.

M/S, Chignell/Zaharoff, to waive the fee. Motion passed unanimously.

- 6. APPEAL OF PLANNING COMMISSION APPROVAL OF PRECISE DEVELOPMENT PLAN, TENTATIVE PARCEL MAP, AND SEVERAL VARIANCES, 444 THE ALAMEDA; JAMES HELFRICH, APPLICANT.

Planning consultant Jayni Barker presented the staff report on the appeal by Roberta Stoddard. The basis of the appeal is concern regarding landslides. There are two landslide areas present on the site. Staff recommended upholding the Planning Commission's decision, with the condition that an independent soils engineer review the geotechnical report and any supplemental letters. Public Works Director Wayne Bush said there was nothing in the soils report that caused him any concern, but an independent review protects the Town, the neighborhood, and the applicant in case the applicant's engineer made a mistake.

Roberta Stoddard, appellant, said she did not know why she had to defend herself against a geotechnically unfeasible project. She said she was very upset, and that the Town should consider why it puts residents through. She said there have not been sufficient studies, the fourth house should be built on site D, and it will be a terrible nightmare if it is built on site F. She said for four years the neighbors have had to go through this development, and they are stressed out and confused about

this situation. She said ideally should would like the property to be open space, but she just wanted it built safely and logically. She said there have not been test borings on landslide sites.

James Helfrich, applicant, said all they have done is add information to the map, that those four locations had been previously approved. He said Ms. Stoddard's area of concern will be better off after he has reconstructed the side of the hill than it is now. He said the landslide area has been studied, and they will be adding retaining walls and redeveloping the side of the slope. He expressed shock and surprise at being required to pay for another engineering review, commenting that he has spent alot of money on his engineering firm, nobody has ever questioned the reports over the years, and he wanted to be able to choose the engineer.

Yarish said he felt that lot "F" is a disaster of a site to build a house, and asked if the applicant would consider relocating that building site.

Helfrich said site F was not his preferred site, it was the site that was voted upon and approved, and it is the site that he is there in application with and in compliance with the preliminary plan; that is what he is applying for, and he will not move the house. He said he did not say that abruptly or rudely, but this is a plan that was approved by the Town, and so given that map, let's then apply the appropriate conditions for tentative map standing. The process of the preliminary map was to state the location of the houses, the applicant has followed that approval, and now they are ready for tentative map approval so they can proceed with the project.

Zaharoff inquired about the drainage issue raised by Mike and Lisa Mayock and whether Helfrich has had any contact with them. Helfrich responded that he had spoken with them and their engineer. Helfrich said the Mayocks' engineer had no complaints from the plan; they would have preferred the additional 15 inch pipe that was deleted a year ago, but that is not now part of the application.

Breen asked if it made a difference where the drillings took place. Bush responded that drilling was done inside the slide, and that part of Ms. Stoddard's property had a slide that was the same slide as from Helfrich's property; whatever happens with Helfrich's slide will affect her slide. That is why he feels it is a good idea to have a third party review by a geotechnical engineer. During the design phase of the improvement plans, they will have to provide additional detail on the extent of the slide and the repairs. They are proposing two possible alternatives; one, retaining walls on either side of the roadway and removing the slide material; or taking out the slide material, benching and recompacting the fill. Both of those are fairly standard operations.

Breen asked who would be liable if the hill slides. Helfrich said he is liable now, and he would like to shore it up as part of this project.

Breen inquired about monitoring the landscaping requirements over the years. Staff responded that the proposed CC & R's include landscape maintenance requirements.

Stoddard said that the Mayocks were not happy with the project, and were very worried. Helfrich said he did not say they were happy, but that their engineer had no complaints about the plans. The Mayocks have a drainage problem and it is being addressed in this application. He

said that the contribution to the drainage problem that his property has historically contributed to is now being rectified. Helrich said he is willing to go on their property and add a trash rack and connecting a 30 inch pipe and engineering his drainage underground and into the pipe downstream from them. They will be better off from having this work done. Whether they are happy is something only the Mayocks can speak to.

Yarish asked if approval of the Preliminary Plan precludes the Council from reviewing the Precise Plan. Town Attorney Roth advised that there were the unique circumstances of a lawsuit, there has been a negotiation, and public approval, and if there is a change, he recommended that the applicant agree to it.

Yarish said he was dissatisfied with the solution, and wanted reconsideration of site "F."

Helfrich said he had no intention of changing the application, that what the Council had was an appeal regarding soil stability, and that it was an appeal, not project approval, that was before the Council.

Laurel Helfrich, San Anselmo resident, said she was not familiar with the project, but that what she was looking in the Council is Councilmembers who will protect San Anselmo. She said she did not think this project will contribute to the beauty of the Town. She said what she has seen this evening is one neighborhood person and an applicant stand up and talk, and she wanted to support the two Councilmembers who have spoken with concern about the plan. She encouraged the Council to be responsible and put in the most stringent requirements possible on this project.

Kanis commented that the present plan moves one house down from the ridge and places it lower on The Alameda.

Zaharoff said that lot "F" is the lowest lot site of the eight originally proposed. By exchanging site "F" for "D", they would be swapping the lowest site for a higher site."

Barbara Schmidt, 59 Austin Avenue, asked questions regarding the annexation of the property and the number of variances requested, and said there was something wrong with the whole project. She object to the removal of the oak trees.

Barker said the 24 inch oak tree on the Alameda was related to the improvement of the roadway and would be removed, regardless of which site was being built.

Zaharoff asked if the tree could be kept and a narrow road allowed there. Public Works Director Bush responded that the tree had to be removed for the retaining wall, not the road widening.

Jan Back, 439 The Alameda, across from site "F", said the Planning Commission was dissatisfied with the Council decision, and many people do not want site "F." The existing drainage problem is so bad that the pipes that are there are always full. The Mayocks had a film of last year's rain showing the pipes overflowing, but something happened to the film. She did not understand why the Town did not take this opportunity to upgrade the drainage. Mr. Helfrich's geotechnical report cited many ways to address the drainage; the best way was deemed to expensive, and was to go down the south side of The Alameda. She suggested the Town take this opportunity to clear up this mess, and maybe form an assessment district, something using this development as a start. The water used to run into her garage, but after construction of curb and gutter, it now

overflows the culvert and runs onto the Mayocks property. Mr. Helfrich is using a 200 year rain guide, which she did not feel was adequate. Site "F" will entail alot of dirt being taken out. She is extremely allergic to dust, which means that the project will adversely impact her. She expressed concern about having four years to build, and wanted the houses built and construction over with. She said she will get numerous cracks in her walls because of the trucks passing by her house for the construction. She supported having the Town select the geotechnical engineer, said she did not understand why site "F" was selected, and that a boring should be made into the landslide.

Tom Kirk, 20 Varborg Terrace, directly below the project, said it seems there is a water problem on The Alameda, his project will collect and refract that flowing water into pipes, and the water coming downstream from County area should be collected into a pipe. He would like a guardrail installed directly above his property, and Helfrich has agreed to it. He spoke in favor of having the construction take less than four years.

Barker explained that the four years was the length of time for which the approval was valid, not the anticipated construction timeline.

Yarish supported asking the neighborhood to create an assessment district to improve the road. Zaharoff asked Bush to look at the drainage issues, and suggested Marin County participate since the runoff starts in their jurisdiction.

Regarding a completion schedule, Roth said the Town could adopt a construction completion ordinance and add compliance as a condition.

Helfrich said that the slide will be repaired in conjunction with the infrastructure: the landscape and drainage improvements.

Ms. Back said that the neighborhood might support an assessment district for drainage, but not for road improvements.

Helfrich said he would participate in efforts to improve the roadway and drainage in the neighborhood, beyond just on or in front of his property.

Town Administrator Bonander suggested a process similar to that used on an improvement project in the Camino de Herrera neighborhood, and that the Town initiate pulling together a neighborhood effort and ask Supervisor Brown for assistance.

Bush said that building for a 200-year storm exceeds the 25-year storm level for which construction is frequently designed. The drainage network being proposed will make the system better, but it is undersized and there will still be a problem there. Bush noted that the Helfrich will have to get permission from the Mayocks to tie into their line; although Helfrich may satisfy the engineering requirements, he will also have to satisfy the Mayocks. Similarly, since a portion of the landslide is on Stoddard's property, Helfrich may need permission from her to cross her property and repair the landslide.

Helfrich said they thought at this time that they had a balance of cut and fill so they may be importing or exporting little, if any, fill.

Bush said that at the stage of submission of improvement plans, they will have to show adequate design for how they

will address the retaining wall and drainage in greater detail than currently required. At that point, the Town may also require an independent engineer's review.

In response to a question about process from Ms. Back, Chaney explained that the Precise Plan was the establishment of the four lots and the infrastructure. Once that occurs, the parcels may be sold individually, but design review will be required on the individual homes.

Zaharoff said she would like to see the oak tree saved if possible, felt that a second geotechnical opinion was necessary to help allay fears, and that the Public Works Director should choose that person. She said the second opinion should include an opinion on the sufficiency of the borings since questions have been raised on whether the borings are sufficient to indicate the full extent of the landslide.

Breen said it sounded like everyone was unhappy with site F, but that everyone has to live with it. He said he was opposed to site F, but that the applicant will not reconsider the siting at this point. He supporting protecting the oak tree, requiring another geotechnical opinion that included review of the borings, and urged pursuing an assessment district to resolve the drainage problems in the area.

Yarish expressed his agreement with Breen's comments. He suggested the Public Works Director pick three engineers, and allow the applicant to select one of the three. He supporting trying to save the oak tree, and pursuing an assessment district and funds from the County to resolve the drainage issues, and did not see any advantage to delaying the project further.

Chignell said he would not revisit the siting issue, agreed on saving the oak tree as long as it does not affect the safety of the retaining wall, and said the engineer should be totally independently selected by the Public Works Director.

Kanis supporting the selection of the engineer by the Public Works Director.

Helfrich said that if there is any chance of saving the oak tree, they will try to do so, and they will work with the Planning Director on the issue, but there may be a problem with the retaining wall.

Yarish suggested that the decision on the removal or retention of the oak tree be the discretion of the Public Works Director on whether it is safe to retain the tree.

Barker said that public access will be required whether or not public access to open space is available on the adjacent property.

Roth advised that once an appeal is made and the Council has jurisdiction, the Council is not limited to making a decision on that particular point of the appeal; the whole matter is opened up, so that the conditions being added by Council are within the Council's jurisdiction.

M/S, Zaharoff/Chignell, to deny the appeal of the Planning Commission approval of the precise development plan, tentative parcel map, and several variances, 444 The Alameda, James Helfrich, applicant, subject to the staff recommendations as presented in the memo regarding the issue of the second opinion from a licensed geotechnical engineer to be picked by the Town's Public Works Director, and for the geotechnical expert also to give an opinion on

the sufficiency of the borings made in determining the situation with the landslide on the subject property; additionally, there be a condition added regarding the heritage oak tree that fronts The Alameda requiring the applicant to retain that tree so long as it does not affect the safety and stability of the purposes of the retaining wall, subject to the Town's Public Works Director's recommendation regarding safety. Motion passed unanimously.

Kanis announced that the resolution of approval, including the heritage tree issue, will be on the consent agenda of December 8. Council asked for a report back regarding an assessment district at the same meeting.

7. STAFF REPORT ON THE SERVING OF ALCOHOLIC BEVERAGES AT THE AMERICAN LEGION LOG CABIN ON VETERAN'S PLACE.

Town Attorney Roth reported that more research was needed on this issue, and the Council continued it to December 8, 1992.

8. COUNCIL RESPONSE TO REPORT OF THE MARIN COUNTY CIVIL GRAND JURY REGARDING SOLID WASTE AND RECYCLING ISSUES.

Council asked that the Solid Waste and Recycling Committee be asked to make a report to Council on their response, and the item was continued to November 17, , 1992.

9. CONSIDER PROPOSAL FOR SAN ANSELMO'S PARTICIPATION IN THE HAZARDOUS AND SOLID WASTE MANAGEMENT JOINT POWERS AGREEMENT FOR AGENCIES WITHIN MARIN COUNTY.

Councilmembers asked if there was an enforcement mechanism to compel the garbage company's compliance with meeting AB 939 waste diversion requirements. Other questions regarding the agreement that were raised included concern that the language on pass-through fees was open-ended and would not preclude exorbitant fee increases; that San Anselmo Garbage Disposal, Inc. was excluded from the list of franchisees; the authority's power to issue bonds; and whether there was a commitment to contract with the County for staff services. The item was continued to December 8 for information on these points.

10. PUBLIC HEARING ON INTRODUCTION OF AN ORDINANCE AMENDING BUSINESS LICENSE REGULATIONS AND FEES.

Town Administrator Bonander reported that Marin County's ordinance was used as a model for this ordinance. The Chamber of Commerce has been notified that this ordinance was being developed, and it will be reviewed by the Chamber prior to the November 17 meeting. Council asked that it also be sent to the Board of Realtors.

M/S, Chignell/Yarish, to waive reading and introduce the ordinance. Motion passed unanimously.

11. PUBLIC HEARING ON INTRODUCTION OF AN ORDINANCE ADDING CHAPTER 4 TO THE MUNICIPAL CODE PROVIDING FOR THE IMPOSITION OF FEES FOR POLICE SERVICES TO RESPOND TO AN EVENT WHERE ALCOHOL, NARCOTICS OR DANGEROUS DRUGS ARE BEING USED AND/OR AN EVENT IS A THREAT TO THE PEACE, SAFETY OR GENERAL WELFARE OF THE PUBLIC.

M/S, Yarish/Chignell, to waive reading and introduce the ordinance. Motion passed unanimously.

12. STAFF REPORT ON RESULTS OF NEGOTIATIONS REGARDING THE ENVIRONMENTAL IMPACT REPORT AND SPECIFIC PLAN FOR THE WATER TANK ON OAK AVENUE.

Staff reported that a meeting was scheduled for November 13 with Marin Municipal Water District regarding the environmental impact report and water tank.

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

Deceased animals - Kanis asked for a revisit to the Town's policy of assuming responsibility for picking up dead animals, such as deer, on public property but not private property.

Employee recognition - Zaharoff asked that the Council consider authorizing funds for employee recognition on the next agenda.

14. ADJOURN.

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

Beth Pollard