

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of February 9, 1993

6:30 p.m.

Closed session regarding labor negotiations, and regarding pending litigation, pursuant to Government Code Section 54956.9(a), Warner v. Town of San Anselmo, et al, Marin Superior Court #155336.

8:00 p.m.

1. CALL TO ORDER.

Mayor Kanis convened the regular meeting, with Council Members Breen, Chignell, Yarish and Zaharoff present.

2. OPEN TIME FOR PUBLIC EXPRESSION.

Karl Baeck, 36 Ross Avenue, said he was startled to see the rental unit business license fee increase from \$6 to \$50 per unit, that it was discriminatory against apartment owners, and that the average fee per unit in Marin County was \$17. He said it was tantamount to a tax increase, and questioned why apartment owners were being singled out. His cost increased from \$180 to \$980. He asked Council to reconsider tax to more reasonable rate; he understand the revenue shortfall due to state budget, but everyone needs to share these increases.

Philip Merigan, 101 Sunnyhills Drive, said he seconded the thoughts of Mr. Baeck. He said taxes such as this are passed along to tenants, making San Anselmo a more expensive place to live.

Town Administrator Bonander reported that this issue would be placed on the February 23 agenda.

3. CONSENT AGENDA.

- (a) Approve minutes: January 12 and 26, 1993.
- (b) Acknowledge and file warrants: Nos. 11232 through 11453, in the amount of \$480,842.68.
- (c) Acknowledge and file financial reports through January 31, 1993.
- (d) Appropriate up to \$3,000 from the Equipment Fund for computer equipment, Administration/Finance Department.
- (e) Appropriate \$7,200 from the Capital Fund for repairs to overhead doors, Fire Station #20 on Butterfield Road.
- (f) Appropriate \$5,085 from the Capital Fund for San Anselmo's cost share of a digital mapping program.
- (g) Recognize Town maintenance crews efforts related to the January storms.
- (h) Award annual contract for sidewalk/concrete repairs.
- (i) Appropriate \$1,000 from Contingency for cellular phones.
- (j) Authorize amendment to Resolution No. 3217 to incorporate Title 24 Energy Fee and State Seismic fee for building permits.
- (k) Adopt resolution establishing a capitalization policy and procedure.

Bonander reported that item (e) will come out of \$35,000 emergency allocation.

Regarding (f), the digital mapping will provide all departments with information previously done manually that can be updated more efficiently.

M/S, Zaharoff/Breen, to approve the consent agenda. Ayes: All.

Town Treasurer Sheldon expressed concern about raising the cost of building permits so high that people will not be able to afford to build. Bush said these particular proposed fees are the same as existing fees, and the item was only to correct an omission.

Bonander explained that the capitalization policy was in response to the auditor's recommendation.

4. INTRODUCE ORDINANCE AMENDING REGULATIONS FOR REAL ESTATE SIGNS.

Town Attorney Roth said that signs could be allowed on public property as long as they did not create a hazard. At least three other Marin communities allow signs on public property: Fairfax, Novato, and Tiburon. The Tiburon ordinance prohibits them from obstructing traffic and safety. In Novato, they cannot be located on medians, cannot be secured to prevent removal, and they require encroachment permit and insurance. Roth advised that allowing real estate signs on public property would require Council to allow other businesses to have signs for other businesses on public property, unless valid distinctions could be made between real estate and other types of businesses.

Jonathan Braun, 479 Scenic, expressed concern about open house signs in hillsides. Open houses constitute an event, and signs serve purpose of calling people to them, but parking problems generated by people attracted to the open houses. Sometimes right of way is just a narrow strip near the road. No entity in Town has time or resources to determine that signs are placed in a legal way. He supported allowing only two signs, not four signs.

Bob Holmes, Marin Association of Realtors, said Fairfax adopted their law in 1989, and Tiburon in 1990. He said the liability of slowing down to read signs could be applied to any business sign. He asked the Council to consider a six month trial period for public property based on Tiburon language. He said there never been a recorded case of a problem in Tiburon or Fairfax.

Chignell noted that real estate people have spoken in support of change in ordinance, that they are not interested in blighting environment, and most are local Realtors, many of whom live in San Anselmo. Signs are out on public property currently, normally three to four hours on a Sunday. He said the Police Chief calls officers on Sundays to pickup signs. It is important that signs be visible to help sell houses, and there never been a case of liability in towns where allowed. He said they should not be allowed on medians, they should not obstruct pedestrian access on sidewalks, and it was important for the real estate industry, residents, and potential buyers to be able to find homes for sale. He supported developing a reasonable ordinance based on those in Tiburon and Fairfax, for trial period, that allows signs on public property.

Yarish agreed with Chignell and said there were reasons distinguishing real estate from other businesses that could be included in ordinance: sales of a temporary nature, limited hours of use, their facilitation of traffic, and remoteness of locations. He said the number of signs on Sunday afternoons is not staggering, and possible conditions on the signs could increase an encroachment permit, and insurance, with the Town as additional insured.

Zaharoff said she supported staff's recommendations, noted that eight other municipalities do not allow signs on public property, compared with other three that allow the signs. She said she would not support placement of real

estate signs in the public right of way. The only reason the signs became enforcement problem is that they were not allowed. This ordinance changes that by allowing signs. By adopting an ordinance which allows placement of signs on public property, the Town would be facing an enforcement problem, making sure the signs are being placed in reasonable places that do not create safety or pedestrian access problems. The Town faces strict budget constraints, and to open door to any increased liability is irresponsible. Third, she said she saw no reason to give special treatment to one industry, that it sets a new kind of precedent. Novato, Tiburon and Fairfax have nothing in common with San Anselmo as far as placement of signs, because Novato has wider streets, and Tiburon's main road is a wide street where the line of site is fairly clear for a couple of blocks. In Fairfax, Sir Francis Drake is primarily commercial, whereas in San Anselmo it is residential, and traffic moves slower on Sir Francis Drake Blvd. in Fairfax. It is the community and desirability of the community that sells property; and the uncluttered and pristine look of the community that makes it attractive.

Breen said it would be difficult to distinguish between private and public right of way. He supported a six month trial period, requiring insurance such as in Novato, do a review in five and a half months with comments by Police, Public Works, and the public. He supported placing them on public property, with restrictions such as Tiburon's.

Kanis said Zaharoff thoroughly covered his objections. Enforcement issue will be a nightmare, it will mean asking police officers to be sign police officers, there will be a proliferation of real estate signs, and he did not think that is favored by San Anselmo residents. He supported the staff recommendation.

M/S, Chignell/Yarish, to reject the proposed ordinance, and direct staff to prepare ordinance bring back first meeting in March, with specific provisions on enforcement, compliance with the Americans With Disabilities Act, regulation of sidewalk obstruction, and direct staff to look at the Novato ordinance regarding insurance, with a six month trial period, for a total of four signs.

Bonander: ADA, some of the communities that allow signs have wider rights of way. Allowing signs in zones: not everybody knows where R-1 zones are. Need to consider enforceability of zone idea. Need staff time to design and regulate.

Kanis: medians? Roth: no town liability. Kanis: potential hazard of people trying to read signs while driving. Roth: anything that will be a distraction will create cause of lawsuit.

Mr. Braun said that if the Town will be using public property for private profit, a fee should be charged. It is highly unfair for private enterprise to use public property without compensation to public.

Mr. Holmes said that open house directional signs are for the benefit of current homeowners and taxpayers.

The motion passed by the following vote:

AYES: Breen, Chignell, Yarish

NOES: Zaharoff, Kanis

5. DISCUSS AIR RIGHTS DEVELOPMENT PROPOSAL FOR AFFORDABLE HOUSING FOR THE DEVELOPMENTALLY DISABLED OVER A TOWN-OWNED PARKING LOT.

The proposal submitted by Bob Anderson is to build housing for the developmentally disabled in the Town's air space over a Town owned parking lot, using a grant from the federal Department of Housing and Urban Development. The proposal is preliminary at this point. The process could include identifying additional parking to replace any parking spaces that are lost, and transfer of development rights from property owned by Mr. Anderson in Hawthorne Canyon. Staff will research air rights proposals in other agencies. Bob Anderson, Hal Shirley, Gus Strotz, and Phil Lestow were present to explain the proposal.

Robert Anderson, explained that HUD funding has been obtained by the North Bay Rehabilitation Services, but a site needs to be designated quickly because of the HUD deadline.

Hal Shirley, president of North Bay Rehabilitation Services, Marin County, explained the Services' principle mission is to employ people with disabilities, and also to encourage low income housing. This is a project that is HUD funded for 14 units, would include rental assistance, and operates elsewhere with no problems. The big problem is getting a site; originally the project was proposed for the Ross Hospital site, but that fell through. He said downtown San Anselmo was an ideal site for people who have no cars and live independently. He asked the Town to entertain entering into an agreement that would meet their needs to report progress in obtaining a site to HUD. It is difficult to get funding for projects such as these, he explained. Potential sites are the Pine Street parking lot, and the lot on Magnolia behind city hal. The proposal would be to build platform for the 540 sq ft., 1 bedroom units, with an elevator for people to enter from street level. A total of four parking spaces would be needed for the units, and the elevator and platform posts would take up parking spaces. He did not know how many parking spaces would be lost, but it was possible to make a contribution towards purchasing other land to replace the lost parking spaces. The only funding they currently have is for construction, not for purchase of land to mitigate lost parking - for which they could apply for grants.

Shirley explained that the minimum needed is letter of intent from the Town with a timetable; there could be escape clauses, but they would need to identify the site.

Sarah Nome, 77 Alder Avenue, asked if the developer had considered the lot at the end of San Anselmo Avenue that belongs to St. Anselm's, or a privately owned lot, and asked for the definition of developmentally disabled. Shirley said that the project must be a new development, and that HUD defines developmentally disabled as persons with either cerebral palsy, epilepsy, mental retardation, or autism.

It was the consensus of the Council to direct staff to research the matter and come back with proposal for a non-binding letter of interest or intent that meets the needs of the Town and housing developer.

6. CONSIDER ESTABLISHING A POLICY ON ACCEPTANCE OF CITIZEN PROJECTS WHICH PROVIDE NEW LEVELS OF SERVICE.

Town Administrator Bonander reported that in light of the Town's financial constraints, staff was concerned about committing the Town to additional maintenance and

operations costs, and was looking for overall direction on how to approach offers of donations with future costs.

It was the consensus of the Council that it did not want to discourage donations, and that donations that require Town expenditures should be reviewed by the Council on a case by case basis.

7. APPEAL BY JEAN BRUNSWICK OF A PLANNING COMMISSION DECISION TO DENY A USE PERMIT TO ALLOW TWO RESIDENTIAL UNITS ON PROPERTY LOCATED AT 22 MAGNOLIA AVENUE WITHIN THE PROFESSIONAL ZONING DISTRICT, AND APPROVAL OF AN ACCESS AGREEMENT TO ENABLE THE APPLICANT TO ACCESS THE SUBJECT PROPERTY THROUGH THE TOWN-OWNED PARKING LOT NORTH OF MAGNOLIA AVENUE.

Planning Director Ann Chaney presented the staff report, which included options for requiring one or both of the units to be affordable housing.

Fred Peterson, attorney for the appellant, said he had been instructed to tell the Council that the easement deed restriction makes development of two units unfeasible. He did not know what would be their reaction to the proposal for repaving the Town lot. Access to units could be short term, deed restriction is permanent. They were out of time. If the Town did not approve this evening, the applicants will have to consider it denied. The applicants spent \$36,000 in holding costs getting duplex through planning process. The applicants are encouraged by Mr. Anderson's proposal. If this application is not approved, they will apply for a single family home on this site. A revokable easement hinders the ability to gain lending.

Zaharoff noted that it was necessary for the Town to get something in exchange for granting the easement, and the affordable housing would make the sacrifice on the Town easier.

Town Attorney Roth advised that there was adequate nexus to requiring affordable housing.

Chaney reported that the Planning Commissioners approval was in part predicated on the units being affordable.

M/S, Zaharoff/Chignell, to approve the staff recommendation to sustain the appeal, thereby approving two residential units, subject to adopting the use permit resolution, and requiring at least one unit to be at fair market rent, to approve the Easement Agreement Resolution, and approve the Easement Agreement between the Town and applicant to allow access through the Town-owned parking lot subject to any revisions recommended by the Town Attorney.

Zaharoff said that it may be more like an irrevocable easement, but it was necessary to get something in return for that easement, and affordable housing would make sacrifice on town easier.

Yarish said the application was poorly planned from beginning, that the access across parking lot makes encroachment revokable, and that the applicants probably ought to come back with another scheme.

Motion passed by the following vote:

AYES: Chignell, Zaharoff, Kanis

NOES: Breen, Yarish

8. ADOPTION OF ORDINANCE AMENDING ZONING ORDINANCE TO ESTABLISH REGULATIONS FOR WATER WELLS.

Planning Director Chaney presented the staff report. Chaney explained that the concerns expressed by Scott Hochstrasser, planning consultant, included taking test wells out of the permit requirements.

Public Works Director Bush recommended that issuance of well permit, be made condition of certificate of occupancy, and that the house be built with stub out connections to allow for MMWD hookup, to avoid retrofitting into the house. If there was uncertainty about the location of the hookup on the site, the Town would not require them to stub out to the street where water may not go.

Zaharoff expressed concern about the grading or damage to hillsides that could occur from bulldozers looking for test holes, and wanted a permit required for them. She said she was aware of three situations in which roads were cut to get equipment access to test holes.

Scott Hochstrasser, planing consultant, said it was inappropriate to require permit for test holes because the Town already has regulations for grading and road development. The state model ordinance allows test holes.

Hochstrasser proposed some alternative language including adding "reasonable" to the section regarding the requirements for installing water pipes to a stub out at the time of construction.

Public Works Director Wayne Bush said the stub out eliminates the need to retrofit house when water becomes available. The term reasonable does not do anything to enhance definition. If there is concern about the way staff interprets the ordinance, there is always the appeal process. Town Attorney Roth advised that if the action taken by town not reasonable, it will be reversed, and that there has to be some administrative discretion, because not everything can be worked out in advance.

Zaharoff suggested not charging for the permit for test holes, but requiring it to alert the applicant that he/she cannot take down trees, or make other changes to the environment. The application for test holes does not have to be approved by the County.

It was the consensus of the Council to change the ordinance language to require a permit for test holes.

M/S, Chignell/Zaharoff, to waive reading and introduce as amended on test holes. Ayes: All

9. CONSIDER ADOPTING REGULATIONS FOR THE USE OF GAS POWERED LEAF BLOWERS.

Public Works Director Bush presented staff report. He reported that the Town could use the existing noise ordinance to regulate leaf blowers, but it becomes an enforcement issue.

Dave Bacigalupi, Yolanda neighborhood, said he has experienced three blowers at one time, blowing sound and fumes, and wanted to see them prohibited completely. There are electric blowers that could be used in the same way as electric trimmers that make less noise. Some blowers so old, they are not very efficient and make alot of noise.

Sarah Nome, 77 Alder Avenue, said blowers make alot of noise, create alot of dust.

Ellen Dikesler, Yolanda neighborhood, said it was intolerable, and there are alternatives. In her neighborhood they are on from 8:00 or 9:00 a.m. until 6:00 p.m. She said she was around the neighborhood during day, whereas people who own the homes where the blowers are used are not there during day.

Beatrice Benjamin said it was a health hazard to people allergic to dust and pollen, and pours alot of dust onto vehicles and sidewalks.

Alice Stinchomb, 50 Alder Avenue, said blowers add to stress, and there are people who run their businesses with leaf blowers until 9 p.m. She said a 24 hour restriction has to be established for something this stressful. San Anselmo is a wonderful community and we have to work to keep it that way.

Karen Cassin said Wednesdays are intolerable, the blowers are non-stop, and it is to the point where she has to plan to be gone that day.

Dean Nyberg, Parks Superintendent, said the prohibition would impact parks maintenance. They use electric blower on baseball area, but there are large areas in the downtown, and with only a few employees, blowers are a real timesaving tool; it would take much longer to rake. The total time using gas powered blowers is one or two hours a week.

Sarah Nome, 77 Alder Avenue, said to keep an eye on what kind of enforcement, if any, there would be; it no good to pass an ordinance if nobody is going to enforce.

Zaharoff said she appreciated the problem, but was hesitant to implement a blanket banning without exploring exempting Town use, and perhaps school district use, in certain situations. She supported having staff look at it with this information, with the possibility of limiting hours, and/or banning just gas blowers or electric blowers too.

Breen expressed concern about the mental health and allergy/breathing health problems, and wanted more information on the dust they create.

Yarish said he was concerned about a broad-range ban, noting that chainsaws and lawn mowers are used with similar consequences, but since blowers are overrused more often, they are a good target.

Chignell said he supported a ban and looking at an exemption for Town use where appropriate.

Kanis commented that if in some situations leaf blowers are the only practical tool, perhaps they could be allowed in certain hours.

It was the consensus of Council to pursue having specific regulations on leaf blowers.

10. PUBLIC HEARING ON APPEAL BY ROBERT YEAKEY OF A PLANNING COMMISSION DECISION CONDITIONALLY APPROVING AN AMENDMENT TO A PRECISE DEVELOPMENT PLAN PERMIT AND DESIGN REVIEW TO ALLOW INSTALLATION OF A PRIVATE WATER SYSTEM TO AN, AS YET, UNBUILT HOUSE AT 80 SOUTH OAK AVENUE.

Planning Director Chaney presented the staff report.

Neil Sorenson, attorney for Mr. Yeakey, said he did not consider the well ordinance a moot issue. He said his

client could not afford to wait while the Council decides what its ordinance will look like. He said it was an improper condition to subject Mr. Yeakey to future enactment of well ordinance, that it bears no reasonable relationship to impact of his project, and the State model ordinance is currently in effect in San Anselmo. Regarding the extension, there have been a couple of extensions, and they always run from date extension granted. He believed that since the Commission acted on June 1, one year should have run from that date, or actually 10 days from that date, so the approval would not expire until June 11. When the Commission amended the application in November 92, the amendment extended for another year. Either June 1 or November 17, 1993 is the deadline.

Town Attorney Roth advised that two years is the total allowed time. Chaney said the applicant had agreed to the appeal not being scheduled for one and a half months during review of the well ordinance before Council.

Mr. Sorenson said he had no authority to agree to any condition.

Chaney: yeakey applied for a well permit yesterday. Like to use ordinance approved tonight to evaluate well permit.

Roth advised that if the Council wanted the application to comply with the provisions of the well ordinance, to set forth the specific conditions for a well permit included in the well ordinance as conditions of approval of the project.

M/S, Yarish/Zharoff, to continue to the next regular meeting, with staff to come back with conditions of approval. Ayes: All

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

Caltrans fax - The Town submitted \$2.5 million on projects in response to an inquiry from Caltrans for road and storm repair projects that could be put together in 90 days, if federal funding becomes available. We . Road repairs, storm drain repairs. Bonander will serve as chair of the County's "ISTEA" capital project funding committee.

Downtown Parking meeting - February 22.

12. ADJOURN.

The meeting was adjourned at 12:03 a.m.