

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of February 23, 1993

7:00 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 at 8:05 p.m., with Council Members Peter Breen, Paul Chignell, Tim Yarish, and Maria Zaharoff present.

2. OPEN TIME FOR PUBLIC EXPRESSION.

Richard Nagley, Butterfield Road, spoke in support of requiring fireplaces to have screens over the chimney at such time the house is sold.

Sarah Nome, 77 Alder Avenue, asked that item (c) be removed from the consent agenda.

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

Special meetings - Town Administrator Bonander reminded Council of their upcoming special meetings.

Storms - Bonander reported that sporadic rainfalls have increased the incidence of potholes in the streets.

Grant applications - The Town has applied for \$2.5 million in federal funding for public works projects.

Daffodils - Zaharoff thanked volunteers for planting daffodils in the medians.

Setting up non-profit organization for bingo - A report will be made to Council within approximately the next month.

Sandbags blocking sidewalks - Breen asked if staff, the Chamber of Commerce, and volunteers could work together to get them picked up in the downtown.

Employee recognition nominations - Breen encouraged nominations for employee recognition awards.

Signs for Marin Community Playhouse on Sir Francis Drake Boulevard - Yarish inquired as to if and where they are allowed.

Austin & Oak yield sign - Chignell asked if the Traffic Safety Committee could look into placement of this sign.

63 Nokomis - Chignell reported that neighbors have indicated that no inspections have been made recently.

4. CONSENT AGENDA:

- (a) Approve minutes: February 9, 1993.
- (b) Approve Request for Proposals for auditing services.
- (c) Appropriate \$8,000 from Capital Reconstruction Fund to stabilize creek bank erosion at Creek Park.

- (d) Approve revision to bail schedule for Municipal code parking violations.
- (e) Authorize project to install a subdrain outlet on Red Hill avenue at the easterly side of the Hub intersection, at an estimated cost of \$9,000 to be allocated from the Capital Reconstruction Fund, Emergency Repairs.
- (f) Proclaim March 21 through 27 as Mediation Week.
- (g) Announce vacancy in Town-appointed seat on the Robson-Harrington House Association Board of Directors.

M/S, Yarish/Breen, to approve the consent agenda, with the exception of items (c), (d), and (e).. Ayes: All.

- (c) Appropriate \$8,000 from Capital Reconstruction Fund to stabilize creek bank erosion at Creek Park.

Chignell and Yarish inquired about the informal bid process.

Sarah Nome, 77 Alder Avenue, expressed concern that allowing access to the creek by the stairs was a safety hazard and liability to the Town. Staff will look into the matter.

M/S, Chignell/Yarish, to approve the appropriation. Motion passed unanimously.

- (d) Approve revision to bail schedule for Municipal code parking violations.

Yarish and Chignell opposed the increase in the bail schedule for violations of the overnight parking ordinance.

M/S, Chignell/Yarish, to reject the staff recommendation to reject the increase in the bail schedule. The motion passed by the following vote:

AYES: Chignell, Yarish, Zaharoff

NOES: Breen, Kanis

- (e) AUTHORIZE PROJECT TO INSTALL A SUBDRAIN OUTLET ON RED HILL AVENUE AT THE EASTERLY SIDE OF THE HUB INTERSECTION, AT AN ESTIMATED COST OF \$9,000 TO BE ALLOCATED FROM THE CAPITAL RECONSTRUCTION FUND, EMERGENCY REPAIRS.

Breen asked for verification that the project was not created by a situation on private property.

M/S, Chignell/Yarish, to authorize the project, subject to confirmation that the problem was created by a situation on public, not private property. Ayes: All.

- 5. CONSIDER AMENDMENTS TO THE BUSINESS LICENSE ORDINANCE REGARDING THE TAX SCHEDULE FOR RENTAL UNITS AND THE SUBMISSION OF TAX STATEMENTS.

Town Administrator Bonander presented the staff report recommending the Council revisit the increase this year in the business license fee for rental units from \$6 per unit to \$50 per unit.

Karl Baeck, owner of an apartment house on Ross Avenue, said that landlords were being singled out to support the city, when everybody should share the cost. The average rental business license fee in Marin County is \$17, and that it was hard to find somebody who charges more than \$50 in the state. He was opposed to graduated increases and urged the Council to come to a more equitable agreement

with property owners.

Sarah Nome, 77 Alder Avenue, said the clerk takes who receipts business license fees had proposed increasing the fees rather than have her work hours reduced.

Joyce Warnsmun, Pine Avenue property owner, said many low cost renters will pay that fee rather than it being absorbed by the property owner.

Tim Ecke, who owns five units on Sir Francis Drake Boulevard, including an elderly family and Section 8 housing tenant, said he did not pass all increases along to his tenants. He said he pays \$600 per year for a Marin County Environmental Health permit, and urged the Council to look at the cities in Marin County for comparison on business license fees.

Klaus Werner, who owns 32 units in San Anselmo, thinks up to \$15 is reasonable.

Nome said that when taxes are raised on legitimate units, when illegal units are not taxed, it is not fair; first the Town should find the illegal units.

Bonander said that refunds would be sent following adoption of the ordinance.

The Council discussed allowing a reduced fee of \$10 per unit for elderly tenants, but noted that this provision would be difficult to administer.

Chignell/Breen, to introduce the ordinance changing the business license fee for rental units to \$17 per unit, as amended to delete an exception for elderly persons, and adding an exception for Section 8 housing to pay a \$10 fee rather than \$17. Motion passed unanimously.

6. ESTABLISHMENT POLICY ON USE OF HERBICIDES AND PESTICIDES.

It was the consensus of the Council to limit discussion this evening to herbicides.

Mike Rella, Marin County resident, Vietnam veteran, said he has had contact with dioxin, and what he was concerned about is that there is no warning about the spraying. If the herbicide is odorless and colorless, people do not necessarily know when it is being used, and he would like to know it is being used.

April Post, Fairfax resident, professional gardener, has long been concerned with use of herbicides and pesticides, and she has taken classes on this subject. She said people managed to live without herbicides until 50 years ago. The herbicides contain benzene rings, and petrochemical businesses are not required to report every chemical in the herbicide, only the active ingredient, because they have secret ingredients that Monsanto does not want to disclose. She said the use of herbicides was a liability issue for the Town: there are fines if the law is violated, they are expensive to purchase, and expensive and time consuming to train, prepare, and apply the pesticides. She said that Fairfax has an integrated pest management program in place, and they don't mind looking at the weeds. After herbicide is applied, the weeds turn brown, which does not look any better than weeds. Use of herbicides damage the bacteria, microbes, earthworms, friendly insects, and higher level vertebrate animals when they eat insects. Effects can include liver damage, nervous system damage, cancer. More toxic chemicals are used on turf, causing herbicide linked lymphoma, and the herbicide gets into the ground water.

This was an opportunity for Town Council to take a leadership role. She noted that Fairfax supplements Town staff with prison labor to hoe weeds, and uses chips for mulch.

Jim Rice, Fairfax resident, member of the Fairfax Pest Management and Weed Advisory Committee, and licensed landscape contractor, said he was experienced at controlling weeds without use of chemicals. Town of Fairfax is pleased with results and its cost-effectiveness. An integrated pest management approach needs to have people who understand the issues, and suggested the Town hire someone from bio integral research center in Berkeley about least toxic methods of controlling weeds and pests at a cost of approximately \$50. In Fairfax, they did a walk-through of all the appropriate sites and recommended alternatives. He said one of the chemicals in Roundup is more toxic than the active ingredient. The herbicide is moved by runoff water, it travels long distances and is highly toxic to aquatic species. He said he has two young children who use San Anselmo parks, and this was an opportunity for the Council to take a leadership role.

Barbara Schmidt, San Anselmo, said she could weed in the same amount of time as it takes to apply herbicides. While pretty trees are placed along streets, the Town is a mess. Herbicides kill native plants, and untrained personnel get ahold of these chemicals. She supported manual weed pulling.

Ann Burlew, 93 Medway, representing children of Town, said kids put weeds, notably put sourgrass in their mouths, and was opposed to herbicide use anywhere in the town, especially the parks, so that kids could feel safe there.

Richard Nagley, Butterfield Road, said more than half of veterinarian business is from allergies due to chemical spraying. He encouraged the Council to prohibit Town staff and businesses from using herbicides, and educate public.

Val Schaaf, San Anselmo resident, said society has been destroying the ecosystem throughout his lifetime, and it was time for people to change their ways.

Tom Perry, owner of Sunnyside Nursery, active on the Committee to Landscape a Scenic San Anselmo, asked what would be done if herbicides were not used. He said CLASS has raised money to create low maintenance areas so as to not drain Town staff, and they were trying to get into more naturalized landscaping. He summarized the issue as to how much demand there was from the Town to have a pristine landscape as opposed to a more natural one, weighing the cost benefits. He said he was licensed to use those chemicals, and that in a perfect world, herbicides would not be used. He said the herbicides identified by staff are the least toxic.

Sarah Nome, 77 Alder Avenue, said there are weeds around Town until they turn brown in August, so what is the concern now to have everything cleaned up. She suggested letting the weeds grow or pull them by hand, and that there have been weeds forever in Town.

Mike Bowman, Bowman Landscaping, said he has sprayed over 500 gallons, and has never had problem with Surflan or roundup. It is the only way one can cost effectively maintain good quality landscape and turf. He said it came down to a choice - landscaping with weeds, or weed-free landscaping.

Guy Meyer, San Anselmo resident, showed photographs of landscaping, expressed concern about the elm trees, cost of

the chemicals, setting up and maintaining storage facilities, time for staff licensing and training, equipment, sprayers, uniforms, and the cost of something going wrong. He said Surflan is least toxic chemical, but that it creates cancer in rats and is mildly toxic. He said no chronic testing was required for Roundup, and Monsanto would not reveal the name of any inert ingredient. He was concerned about the runoff. He said that there may be a Town investment already in a chemical storage shed and equipment, but a change is needed in understanding the connection between the actions of human beings and nature.

Jerry Draper, 11 Sacramento, said the Open Space Committee unanimously urged Council not to use herbicides. He said there was an unfortunate incident when Surflan applied without anyone's knowledge. The Parks Superintendent advised that he would not do that again, but as a result, the Open Space Committee adopted a policy asking that herbicides not be used in parks, particularly open space. He said the Parks Department and Open Space were purchasing weed whackers, and have been taking advantage of community service hours from Drake high School to remove scotch broom. He suggested dumping mulch on the median strips rather than dumping the street sweepings. He said the emulsifier in Roundup or Surflan is harmful to frogs, and that there has been a worldwide decline of the frog population. He supported banning Roundup from San Anselmo stores.

It was the consensus of the Council to ask staff to consider the information presented, and bring a report back to the meeting of March 23, 1993.

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

Town Administrator Bonander reported that any parking spaces lost because of the development would be replaced. Additionally, there was a possibility of transfer of development rights from hillside property. This was the first step in the process, and was far from concluded. Any proposal would go through extensive Town review, including public hearings. Pine Street parking lot has been identified as a starting point for consideration.

Hal Sherley, North Bay Industries, project applicant, explained that funds have been allocated by the federal Department of Housing and Urban Development (HUD), HUD needs to know if they have a project identified, and February 26 is the deadline to apply for Community Development Block Grant funding for unfunded project costs.

Bonander explained that the applicants initial conclusion was that the Pine Street lot was the most amenable, noting there was an ability to step the project back from the street. However, a change in the zoning ordinance would be required.

Issues raised by Councilmembers included its reversion to town ownership in 40 years, maintenance standards, indemnification for the Town, parking needs and replacement of lost parking spaces, and the thorough public review process ahead.

Mr. Sherley said that all the tenants would be employed, but not with high incomes. He said his intent was not to decrease parking spaces available, but to increase if possible either through outright purchase of parking spaces, or contribution to a parking fund.

Jeff Lestow, John Stewart & Co., project developers, said

use of air rights have been successful for projects.

Joyce Mersman, who manages property on Magnolia Avenue, said it was too bulky a building for the property. She said if the Magnolia property is dropped, the project is alright. She submitted a petition with 122 signatures, 67 of whom are merchants, opposing the project, adding that Pine Street residents are opposed to the project. She said what she was opposing was the size; she did not care who lived inside the units.

Vic Canby expressed concerns about the problems that such a project would create for the Town.

Ann Adams, representing a local business, said what was needed was an appropriate length of time to study this. She asked why this money from HUD so important to San Anselmo right now, has the group considered other sites, and said she did not have any issue on developmentally disabled or lower income. Her concern is what kind of development goes into San Anselmo, that the parking lot will be disrupted for a period of time, and how can the Town absorb the loss in business from parking spaces not being available. She questioned why the Town would want a dense project at this site, and why San Anselmo was being approached so late with such a short deadline. Not enough information being presented in a short time. Whenever the information was presented to the Town, it was not passed to the business community, which is the bread and butter of this community.

Bonander explained that all that is happening is to create an opportunity in which discussions can take place, so that the project can be evaluated. It is the very earliest stages of the possibility of a project.

Mr. Sherley explained that North Bay Rehabilitation Services started this project two years ago with a site in Ross in mind, which recently feel through.

Jodie Holsten, 125 Pine Street, asked how neighbors will we noticed of the meetings on this project.

Sarah Nome, 77 Alder Avenue, expressed concern that one generation's purchase of land becomes the next generation's property for sale and trade.

Val Schaaf said the objective of providing housing for the disabled is very worthy, but this particular project has problems that need to be overcome. However he would hate to see the project killed at this point.

Terry Jones, Shop for All Seasons, Parking Committee member, said the Committee had a presentation the previous day by Bob Anderson, and wanted to assure residents that what is being considered does not take away parking. She said it would be a shame to turn down this project at this point, adding that housing for the disabled is an important project.

Ms. Adams said she was not criticizing the proposal, but there should be equal consideration to existing businesses and the impact of construction on the businesses.

M/S, Breen/Chignell, to authorize the Town Administrator and Town Attorney to execute a memorandum of understanding between the Town and North Bay Rehabilitation Services staff recommendation, for the possible development of housing for disabled.

Bonander explained that the understanding would note that a possible site has been identified, that it is likely the

Pine Street parking lot, so that the review can begin. If HUD extends the deadline, the memorandum will be brought to Council at the next regular meeting.

Motion passed unanimously.

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

Planning Director Chaney presented the staff report.

Yarish said it seemed excessive to require a permit for test holes, noting there was a grading ordinance that could be applied. Zaharoff commented that it was a better catch-all for situations where the grading ordinance did not work.

Yarish said the Town has other ways to assure connection with the Marin Municipal Water District (MMWD) without requiring property owners to install pipes when the house is built, before MMWD is available. It would be more reasonable to simply require a stub, since there is no assurance that MMWD will ever be able to provide water to that location, and it would require the digging up of landscaping. Zaharoff said that the best time to put in the underground pipe is when the landscaping is being chewed up anyway during construction, rather than later when landscaping is already established. Yarish said there should be at least language allowing for an exemption.

Yarish expressed concern that requiring a deposit of \$14,000 for MMWD connection fee was an undue burden, because there was no guarantee there would ever be water for this location. He suggested there be a sunset clause to provide for a refund after a certain amount of time. Yarish commented that a single well has no growth inducing impacts.

Neil Sorenson, attorney, questioned urgency nature of ordinance, since the State water code has required Town to adopt ordinance since January, 1990. It has been better than three years in the development process, and suddenly it becomes an urgency ordinance. He said it was clearly being done to apply to Mr. Yeakey, which is unfair. He said the findings could not be made for an urgency ordinance. If people want wells, they are covered by the state law. It was not an issue of health and safety. The Town was required by State Law to consult with licensed well diggers. Under Section 13804 of the State Water Code, the State wants to make sure the ordinance is good enough to protect state water resources and therefore requires agencies to wait 60 days for ordinances to go into effect. He said requiring the deposit of \$14,000 in perpetuity for a future water connection is unfair.

Town Attorney Roth advised that the urgency was to subject Mr. Yeakey's development to the ordinance, and that there was no legal impediment to adopting it as urgency ordinance.

M/S, Zaharoff/Breen, under urgency ordinance procedure, adopt urgency ordinance, with the reasons for emergency as stated in the staff report. Motion passed by the following vote:

AYES: Breen, Chignell, Zaharoff, Kanis

NOES: Yarish

9. 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 recommended revising the conditions to provide for a review of the connection fees and a possible refund by the Public Works Director in the event a connection with the Marin Municipal Water District has not occurred within three years.

Yarish said there should be no fee whatsoever because the Town has other means to enforce. Regarding condition #3 requiring installation of connecting pipes at time of construction, he suggested adding, "...if deemed reasonable by Public Works Director" if connection was not imminent.

It was the consensus of the Council to change ordinance first, within 60 days at outside, and ideally 30 days.

Sorenson objected to the condition being placed on the permit, specifically items 2 and 3. He said the trouble with waiting to change conditions at later date is that Yeakey has to start building by April 15 because that is the date set by the Town. He said it made no sense to put in connecting pipes now, when we do not know where the water lines will be.

M/S, Zaharoff/Breen, to approve the resolution in the matter of Robert Yeakey, and as amended tonight. Motion passed by the following vote:

AYES: Breen, Chignell, Zaharoff, Kanis

NOES: Yarish

Direct staff to come back with voting procedures. parks & Rec not delineated with ayes and noyes. All other boards and commissions seems to indicate.

10. PUBLIC HEARING ON APPEAL OF PLANNING COMMISSION DENIAL OF V-9301 AND DR-9302; VARIANCE TO EXCEED THE MAXIMUM PERMITTED DWELLING SIZE AND DESIGN REVIEW OF A 1,648 SQUARE FOOT ADDITION, 41 HILLCREST COURT, ALBERT AND BESSIE JUNG.

Due to the lateness of the hour, this item was continued to the next regular meeting.

11. DISCUSS VOTING PROCEDURES FOR TOWN BOARDS AND COMMISSIONS.

Chignell said that the Parks and Recreation Commission minutes did not indicate "ayes" and "noes" on votes. It was the consensus of the Council to direct staff to come back to Council with a recommendation on voting procedures for Boards and Commissions.

12. ADJOURN.

The meeting was adjourned at 12:20 a.m.

Beth Pollard