

TOWN OF SAN ANSELMO  
Minutes of the Town Council Meeting of July 12, 1994

Present: Breen, Chignell, Kroot, Yarish  
Absent: Zaharoff

1. CALL TO ORDER.
2. ANNOUNCEMENT OF ACTION TAKEN, IF ANY, IN CLOSED SESSIION.

No action was taken during closed session.

3. OPEN TIME FOR PUBLIC EXPRESSION: THE PUBLIC IS WELCOME TO ADDRESS THE COUNCIL AT THIS TIME ON MATTERS NOT ON THE AGENDA. PLEASE BE ADVISED THAT PURSUANT TO GOVERNMENT CODE SECTION 54954.2, THE COUNCIL IS NOT PERMITTED TO DISCUSS OR TAKE ACTION ON ANY MATTER NOT ON THE AGENDA UNLESS IT DETERMINES THAT AN EMERGENCY EXISTS, OR THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION WHICH AROSE FOLLOWING POSTING OF THE AGENDA.

Larry Stack, 10 Alice Way, said he is concerned about uncleared brush being a fire hazard at Faude Park. Over the years, he and his neighbors have arranged to cut brush as the Town's care of this area has been lax. Recently, scotch broom was cleared by a group of teenagers, but it was left on the site. Mr. Stack showed photos of the area and said a fire engine could not get through on the road as the canopy is so overgrown. Ross Valley Fire Marshall Steve Fisher has examined the site and made recommendations on the work that should be done. Mr. Stack said he has not received any reply from the Town, but he was advised that the response was mailed Monday. He asked that this be considered an emergency situation that would be acted upon immediately.

Dr. Alan Almquist, 6 Alice Way, said he, too, is concerned about the fire danger in his neighborhood, especially after the big east bay fire several years ago. He asked the council to consider this an emergency.

Public Works Director Wayne Bush said he appreciates the sense of urgency on the Faude Park brush clearing, but said it does not seem as if the Fire Department has deemed this an immediate emergency. Parks Superintendent Dean Nyberg is preparing a cost estimate for the work. Bush will contact the Fire Department to determine if the situation is an immediate emergency. It was the consensus of council that if the Fire Department deems it an emergency, the Town will act.

Barbara Schmidt, 59 Austin, said there is an area behind her home that is piled high with brush and she cannot get the neighbors to remove it, and she feels it is a fire hazard.

Michael Weiss, 35 Elm Avenue, recently purchased this property, known as the Yolansdale School. Before he purchased the property, he got a certificate of compliance, and asked at the Town Hall Building Department counter if this is a buildable lot, and he was told it was. He purchased the property based on that assurance. Now he finds that he was given bad advice, due to some differences in applicable laws. He has a lot of money in this and would like to have the matter handled quickly.

Hadden Roth, Town Attorney, said that there are three buildable lots involved, but they are undersized based on zoning laws. The Certificates of Compliance were issued in 1978 and they comply with the Map Act. There are two ways to handle this to resolve the problem for Mr. Weiss; ignore the lot size or do some kind of lot line adjustment. Staff is working to resolve this quickly.

Barbara Schmidt, 59 Austin, said the foot of Oak Avenue should be cleared of brush as big construction trucks have trouble getting around. She thanked council for the yellow line down the middle of Bolinas Avenue, but said it didn't really help. She also asked

council to go on record as opposing the proposed helicopter pad at Marin General. Chignell advised her that a letter to that effect had already been sent.

Sarah Nome, 77 Alder, said that in a neighboring town a woman has found \$1.5 million saved for a new town hall that was never built. The funds have been borrowed from and repaid, with no talk of sunsetting the law and getting the money into the general fund. She said that in San Anselmo the taxpayers pay for all 50 employees to have two pensions. She said that because of an earlier oversight, a pension override is still in effect that was originally created for volunteer firefighters long ago.

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

Kroot asked about the status of pedestrian crossing at the corner of Red Hill and Sequoia. Public Works Director Bush said that the signal is timed so that pedestrians wait in the median for a second green light. You cannot cross in one green light. Schools should look into student and parent education and perhaps a crossing guard.

Breen presented another plastic bag/rock/advertisement to Public Works Director Bush to follow up.

Breen said that there were three signs over the weekend at Creek Park and asked staff to look into this. He thought that it had been resolved that there would be only one sign at the location at a time.

Chignell thanked staff for prompt action on street marking work in the Broadmoor area. He said he met with the lower Sequoia Drive neighbors who want to add on to the upper Sequoia Drive paving project. They will be asking for money at the next meeting.

Chignell asked about the status of the Ross Valley Sanitary District paving work. Work on Tunstead has begun for the new sewer lines, and after the work is done it will be slurry sealed, paved if the Town can find the money. The Sequoia Park area work will begin soon, and those streets will be repaved after the lines are in.

5. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE REMOVED AND DISCUSSED SEPARATELY. OTHERWISE, ALL THE ITEMS MAY BE APPROVED WITH ONE ACTION.

- (a) Approve minutes: June 23 and 28, 1994.
- (b) Approve reclassification of Administrative Services Assistant I.

M/s, Breen/Yarish, to approve the consent agenda. Ayes: All. Absent: Zaharoff

6. APPOINTMENTS:

- (a) Library Advisory Board (1 seat).
- (b) Open Space Committee (2 seats).

This item was continued to the July 26, 1994, meeting.

7. PRESENTATION ON POLICE DEPARTMENT TRADING CARD PROGRAM FOR YOUTH.

Police Captain Richard Schmidt presented the trading card program on behalf of the Police Officers' Association. They are concerned about crime and vandalism, and the trading cards are a way to get to youths before it is too late. Each officer has his own set of trading cards, and kids have to come up to the officer and ask for one. The association has had \$2300 donated thus far, and needs about \$3500. Twin Cities, Novato, and Sausalito are all involved in this program.

M/s, Breen/Yarish, to allocate \$200 as the Town's unencumbered donation to this worthwhile project, to be placed on the next agenda for action.

8. REQUEST FOR TOWN PARTICIPATION IN REMOVAL OF AN UNDERGROUND FUEL TANK ON PROPERTY BEHIND THE TAMALPAIS THEATER.

Public Works Director Brush said that Mr. MacDonald is applying for permits for a new complex on the property. As a condition of the permit, he is required to remove an underground fuel tank located on Town property, that was installed originally to provide heating oil for the theater. Mr. MacDonald has agreed to pay the \$8,000 required to remove the tank, provided the Town pays for any remediation costs up to \$14,000, with MacDonald putting in \$6,000, if necessary. Remediation costs over \$20,000 are reimbursable through a superfund request, which the Town would handle.

Ned MacDonald, MacDonald Management Company, said he has now proposed that he will share remediation costs 50/50 with the Town, bringing each party's contribution to \$10,000, if the Town will pay the initial \$8,000 in possible remediation costs. This assumes the state superfund will pay for any additional costs beyond \$20,000.

Planning Director Chaney said the item was continued last night at the Planning Commission.

It was the consensus of council that Town staff and Mr. MacDonald should negotiate a satisfactory arrangement. Acting Town Administrator Bush will contact MacDonald tomorrow.

9. INTRODUCE ORDINANCE APPROVING OAK AVENUE, MASTER PLAN AND DEVELOPMENT AGREEMENT - DAVID HANSEN, APN'S 7-154-02, 7-154-05, MICHAEL AND LINDA GILL APN'S 7-154-08,09, AND 11, AND WILLIAM BRODERICK APN'S 7-154-10, 7-201-02 AND 12. THE PROPOSED MASTER APPURTENANT STRUCTURES, AND INFRASTRUCTURE IMPROVEMENTS.

Planning Director Chaney said that this project is located at the end of Oak Avenue, where four lots are proposed. This ordinance would approve a master plan and development agreement for four homes and make infrastructure improvements to Oak Avenue. This is proposed in response to pending litigation dealing with access to MMWD watershed. The applicants have agreed to grant public access rights through two separate trails, i.e., Oak Avenue easement and the "Steep Trail." One of the lots will be a private easement that will not be developed.

Council is asked to take action this evening on three issues: 1) Approve the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program, 2) Introduce the Ordinance, Development Agreement and relevant exhibits; and 3) Schedule a regular adjourned meeting on Tuesday, July 19, for adoption of the Ordinance and Development Agreement.

The issues still to be resolved are outlined in Neil Sorensen's July 8, 1994, to Hadden Roth, and were discussed according to the document in which they appear.

In the "Adopting Ordinance," requested changes were noted as follows:

- In the Findings sections of the ordinance the section on "Fire Safety" should be clarified to reflect the fact that the Fire Protection Plan has received final approval of the Fire Chief. Staff had no problem including this.
- In the last portion of the ordinance, the applicants object to the language which would require Mr. and Mrs. Gill to agree now that they would connect to the public sewer in the future.

Mr. Sorenson said the Gill's have recently spent thousands of dollars to develop a state-of-the-art septic system that they do not wish to abandon as long as it is working properly.

He understands that homes are not normally required to hook into a sewer system when a new line is installed by the home.

Planning Director Ann Chaney said that while there is no mandate to hook up to a sewer line if it comes to you, it seems prudent that when a sewer line is extended in front or near a house on septic, they should hook up.

In the "Development Agreement", the following revisions were requested by the applicant.

- Section 4.4 language should be amended to delete the requirement relating to the sewer as discussed above.
- The Planning Commission approved a ten year term to the Development Agreement with no right of extension. The applicants are asking for a 10 year term, with a 10 year extension.

Mr. Sorenson said that they feel that a short period of time on the Development Agreement would require the applicants to develop the property quickly, while it is in both parties best interest to carry out a development plan that is well thought out and carefully considered. He said the intent of the Development Agreement is to provide for economic and environmental certainty in the development of certain properties, and a short time limit does not meet these objectives. Also, if the Agreement expires without the land being developed, the Town will lose some of the benefits of the Agreement.

Planning Director Chaney said the Planning Commission was split on this item. One Commissioner felt 10 years was reasonable and could not support the extension for ten additional years. Some Commissioner felts the 10 years was just too long; however, no Commissioner was able to support a time period longer than 10 years.

In the "Conditions of Approval," the following revisions were requested by the applicant.

- Peter Fraser has requested that the plan be amended to provide for a Homeowners group via a maintenance agreement, rather than a Homeowner's Association, similar to what the Town approved for his project, as he will be required to join with the Oak Ave. lots in agreeing to maintain the road, the drainage and fire protection infrastructure.

Mr. Sorenson said the Oak Avenue applicants have no objection to this, and Planning Director Chaney had no objection, as well.

- Under "Condition No. 1," the Planning Commission added wording that would require the Improvement Plans for Oak Avenue be reviewed by the Planning Commission.

Mr. Sorenson said that it is not normal procedure for the Planning Commission to review Improvement Plans; they are normally only reviewed by the Public Works Director and the Planning Director. He said that concerns regarding tree removal are addressed by the tree replacement mitigation.

Planning Director Chaney said that the Planning Commision's addition of this requirement appears to be due to concerns over the tree location plan.

- Under "Condition No. 20," additional language was added to prohibit all pruning outside the building envelope unless a permit is granted.

Mr. Sorensen said this condition is more restrictive than the wording in the Fraser agreement. He also said prohibiting all pruning would not allow a homeowner with an already approved design review, to keep or prune the vegetation to that same size to maintain views and access to sunlight. He believes that the pruning restrictions are overly restrictive, impractical and should be removed.

Planning Director Chaney said that the intent of the additional language was to ensure that screening of the development on the hillside was maintained.

- Under Condition No. 21, the applicants were willing to be bound by a future ordinance adopted by the Town that specifically requires a damage assessment on properties where the owner willfully removes a heritage tree. Staff and the Planning Commission changed this condition to state that the applicants would be subject to this kind of requirement even if the Town does not adopt an ordinance.

Mr. Sorensen said the applicants do not want special treatment, but that they should not be singled out from everyone else and subjected to a requirement that is not required of all other builders in Town.

Planning Director Chaney said that the intent here is to protect the natural environment and the screening provided by trees.

In the "Mitigation Monitoring Plan," the land owners are required to fund the costs for monitoring in accord with the terms of the Town.

Mr. Sorensen said the Town has no specific standards or guidelines for administration and management of the mitigation monitoring program. The applicants are concerned that they are signing a "blank check" with no indication of the potential costs involved.

Planning Director Chaney said that Mr. Sorensen's suggested changes were acceptable to staff.

Mr. Sorensen mentioned several other areas of concern, as follows:

- Gates - There was some concern by the Planning Commission over plans to place gates at both ends of Oak Avenue. These gates have already been agreed to as a result of the Stipulated Agreement, plus they will be necessary to restrict vehicular traffic to the area as parking is severely limited.
- Promotion of Easement - The Planning Commission was concerned about language in the Limited Access Easement that prohibits the Town from "promoting" the easement.

Mr. Sorenson said the Town has already agreed that it would not promote the trail by putting its location on any Town maps, including the General Plan maps.

The public hearing was opened.

Jonathan Braun, Scenic Ave., said he supports retaining the word "pruning" in the Conditions of Approval. He said the Broderick property is very high and it is easy to violate pruning rules. This is a very sensitive area that necessitates close scrutiny.

Barbara Schmidt, 59 Austin, said she didn't want the gate placed down low on Oak Avenue. She asked whose responsibility it will be to maintain all this. There will be no turnaround area left and traffic problems will increase. Twenty heritage trees will come down once this is passed. She is against the whole agreement. She asked if anyone had taken into account the wildlife aspect of the project, and if there are any endangered species involved. Planning Director Chaney replied that an environmental review was conducted that indicated there were no endangered species. The report was sent to the State Department of Fish and Game and no comments were received indicating their concurrence with the project and mitigation measures..

Kathy Sanders, 310 Redwood Road, asked what the word "promote" means. She feels it is too vague. Town Attorney Roth said his understanding is that we will not actively advertise the trail. She is also concerned that language be retained concerning no future subdivisions because this is a big issue. She feels strongly about the screening issue

because it is what will make the project work. At high elevations constraints on trimming trees are needed.

The public hearing was closed.

It was the consensus of Council to agree to the suggested changes to the "Fire Safety" section of the Adopting Ordinance, and to delete the requirement that the Gill's hook up to the public sewer in the future.

In the Development Agreement, it was the consensus of Council to approve a ten year contract with a five year extension.

In the Conditions of Approval, it was the consensus of Council that, while they were sensitive to the Planning Commission's concern that they review the Improvement Plan, anyone could bring an appeal that would trigger review by the Planning Commission. The Commissioners can be noticed so that if they feel review is necessary they can file an appeal.

Under Condition No. 20 regarding pruning of trees, it was the consensus of Council that "pruning" should be replaced with wording to the effect that limits pruning to 25% of the tree canopy.

Under Condition No. 21 regarding damage assessment fees for the removal of trees, it was the consensus of Council to use Scott Hochstrasser's suggested language on his 7-12-94 memo to Ann Chaney, with the exception of the removal of the word "heritage."

It was the consensus of council that signage, condition #33, is the Town's responsibility and should be eliminated from the Conditions of Approval.

Regarding mandated paving insurance, it was the consensus of council that there be some direction outlined in the Conditions of Approval.

M/s, Yarish/Breen, to approve the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program. Ayes: All. Absent: Zaharoff

M/s, Yarish/Kroot, to introduce the Ordinance, Development Agreement and relevant exhibits. Ayes: All. Absent: Zaharoff.

M/s, Kroot/Breen, to schedule a regular adjourned meeting on Tuesday, July 19, for adoption of the Ordinance and Development Agreement. Ayes: All. Absent: Zaharoff.

10. ADJOURN TO JULY 19, 1994, 7:30 P.M.

The meeting was adjourned at 10:45 p.m.

Debbie Stutsman