

Town of San Anselmo
Minutes of the Town Council Meeting of September 13, 1994

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

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

Mayor Chignell announced that no action was taken during closed session, attended by Chignell, Kroot and Yarish.

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.

Roger Bettini, 18 Bank Street, said he received Council approval earlier this year to construct a deck on his property, with the condition that the railing be 36" high. He would like to have the deck railing 42" high in order to match the existing railing at his home and for safety reasons. He has spoken with the Planning Department, but was told he would have to deposit \$500 to go through the review process again.

Planning Director Chaney said that since this is an amendment to a previous action, the staff time should be minimal and Mr. Bettini would likely get a refund. She said the deposit amount could probably be reduced.

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

Town Administrator Pollard said that she would like to continue items 10 (a) and 10 (c) to the next meeting.

M/s, Zaharoff/Yarish to continue items 10 (a) and 10 (c) to the next meeting. Ayes: All.
Absent: Breen.

5. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE REMOVED AND DISCUSSED SEPARATELY.
 - (a) Approve minutes: August 23, 25, and 30, 1994.
 - (b) Authorize execution of contract with the Campaign for a Healthier Community for Children.
 - (c) Award Library rehabilitation project to Mullin Construction in the amount of \$312,592.
 - (d) Award Center Boulevard Improvement Project to Ghilotti Brothers Construction in the amount of \$88,633.50.
 - (e) Designate Parks Superintendent as agent for the Sorich Ranch Park state grant.
 - (f) Designate voting delegate to League of California Cities annual conference.
 - (g) Proclaim September 19-25 as "Pollution Prevention Week."
 - (h) Proclaim September 17 as "Building a Drug Free Future Day."
 - (i) Approve amendment to agreement with the county of Marin, Open Space District, regarding acquisition of the Fraser property for open space.
 - (j) 14 Oak Knoll: Authorize Town Attorney to initiate legal action to complete abatement of public nuisance in the absence of close of escrow on sale of property.
 - (k) Announce expiration of two terms, Open Space Committee.
 - (l) CONTINUE TO SEPTEMBER 27, 1994: Public hearing on adoption of an ordinance amending Chapter 3 of Title 10, Article 4 (Development Standards), and Article

7 (Procedures) of the zoning ordinance relative to the maximum size of dwellings on residential properties located above 150 mean sea level elevation.

(m) CONTINUE TO SEPTEMBER 27, 1994: 379 Oak Avenue, APN 7-241-61, Resolution approving the two-car garage subject to conditions, and sustaining the Planning Commission denial of a design review amendment and use permit to construct an addition to a single family residence and add a second unit, DR-9120, NU-9302; Ted Posthuma.

Items (c), (d), (I), and (j) were removed for discussion.

Item (c) - Yarish said that the bidding procedure on the Library project is again flawed as three of five bids were rejected for being incomplete. We are again in a position to reject the lowest bid.

Public Works Director Bush said staff recommends awarding the contract to Mullin Construction, the second lowest bidder because West Bay Builders, low bidder, did not include all the required documents. He said that the addendum document instructions replaced only the documents that needed replacement. The other instructions still applied, and three of the bidders didn't read the instructions carefully.

Yarish said that Addendum 3 was dated two days before the bid opening date. Each of the three bidders had already provided the required papers on the previous bid. He asked if those were still valid.

Public Works Director Bush said that this re-bid is a separate process. The codes require that the bidder submit the Statement of Non-Collusion at the time of the bid.

Town Administrator Pollard noted that the Statement of Non-Collusion is a statement of non-collusion in the past.

Paul Thompson, West Bay Builders, said his company has been the low bidder twice and he wants the project. The missing documents were submitted with the initial bid. There was no competitive reason for not submitting the documents. From their point of view their form was submitted the first time and was not requested in the second bid format. It doesn't seem fair to reject the bid again. He said the awarding authority has contributed to the confusion.

Mike Mullin, Mullin Construction, said he filed a formal protest about the missing documents. The Town Council rejected all previous bids, and the job was re-bid. In that rejection, possession of old documents doesn't mean anything on the new bid. His company followed the instructions and submitted the low responsible bid.

Paul Thompson, West Bay Builders, said they also resubmitted the qualifications and collusion form.

Yarish asked if there is a significant advantage or competitive edge in not submitting these documents. The circumstances were confusing and the form wasn't included in the second bid package.

Chignell asked if the Council has the discretion to waive the requirement on the form submittal, or would it be putting the Town in legal jeopardy?

Town Attorney Roth said the code says "shall". He said Bush's recommendation is the most conservative from a legal point of view. Due to the ambiguity, the Council could reject all bids. The problem is the mandatory provision. From a legal point of view there are two separate projects. The court could let it go by, but technically it is not right.

Paul Thompson, West Bay Builders, say if it was so clear, why did three of five bidders do the same thing. He asked if Council has the right to waive a minor irregularity. Roth said this is not minor.

Chignell asked what would happen to the project if they dismiss the bids again.

Public Works Director Bush said it would put the project back four to six weeks.

Dan Peterson, Project Architect, said the problem with that is the weather because much of the seismic work has to do with the roof of the Library.

It was the consensus of Council that while this is unfortunate, only two bids were complete and they concur with staff to award the project to Mullin Construction.

M/s, Kroot/Zaharoff, to award the Library rehabilitation project to Mullin Construction in the amount of \$312,592. Ayes by roll call: Chignell, Kroot, Zaharoff. Noes by roll call: Yarish. Absent: Breen.

Item (I) - Public Works Director Bush said escrow at 14 Oak Knoll has taken longer than expected. The next step would be an injunction against the owner before starting demolition. They would like to delay escrow until November 1 in order to accumulate money to begin the work.

Mr. Lynch, attorney for Mrs. Egisti, said that a verbal agreement was arrived at this morning, and the agreement will be in writing tomorrow. They would like to close escrow as soon as possible. Mr. Ryan, the prospective owner, asked Lynch to tell the Town Council that he has cleaned up the hazardous aspects of the project.

Yarish said he is astonished at the delays and the harassment of neighbors. He feels this is unfair to the neighbors.

Public Works Director Bush said this is the first delay brought on by Mr. Ryan, who has had good relations with the neighbors. When asked if this is a delaying tactic by Mrs. Egisti, he said maybe.

Mr. Lynch said he will give Bush a signed contract by Friday or else the Town should go forward with the abatement legal action.

Len Goldstein, Oak Knoll, said he lives next door to the house and hasn't seen Mr. Ryan in months. Mrs. Egisti's son is still there regularly. He said he still wonders what is going on.

Zaharoff said she thinks the Council should follow Lynch's course of action, expecting a signed contract to Bush by Friday, and if Mrs. Egisti doesn't sign the escrow papers by the following Friday, the Town authorizes the Town Administrator to initiate legal action.

M/s, Zaharoff/Kroot, to authorize the Town Administrator to initiate legal action unless the signed contract is received by Friday, September 16, and Mrs. Egisti signs the escrow papers by the following Friday, September 23. Ayes: All. Absent: Breen.

Item (d) - Sarah Nome, 77 Alder, asked what is being improved on Center Blvd.

Public Works Director Bush said the project is to reconstruct and repave near Guasco's. The road base is in bad condition. This portion of the road had a poor paving job in the past and has a worn out base. The only way to repair it is to excavate twelve inches. The project goes from Bridge to the hub.

Sarah Nome, 77 Alder, said this is an old railroad bed and it was not made for the big trucks and thousands of cars using it.

Item (I) - Sarah Nome, 77 Alder, said that for the record she would like to say that most San Anselmo people are not aware that this is open space. There is no access provided. It benefits only a few homes. She doesn't feel the Town should buy this.

Yarish said Mrs. Nome said she liked this idea many months ago. He said there will be trails connecting several neighborhoods to the regional trail system. There will be picnic areas, and access from several roads. This is coming about with virtually no cash payment from the Town of San Anselmo.

Sarah Nome, 77 Alder, said there are deep ravines in the area that are difficult to cross. These are now non-taxable properties, and she feels this is just a means of removing properties from the tax rolls.

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

6. PRESENTATION OF OUTSTANDING ACHIEVEMENT PEDESTRIAN PROGRAM ACTIVITIES AWARD BY THE CALIFORNIA STATE AUTOMOBILE ASSOCIATION.

The California State Automobile Association representative presented the Town of San Anselmo with the Outstanding Achievement Pedestrian Program Activities Award based on the Town's 1993 safety record. Over 2,200 cities were evaluated and San Anselmo has been singled out for its work in this area.

7. ABC ACADEMY: APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A USE PERMIT AMENDMENT TO ADD DAY CARE FOR GRADES K THROUGH 3; SETBACK VARIANCES FOR A REAR ACCESSORY STRUCTURE TO BE RECONSTRUCTED AND EXTENDED WITHIN 4' OF THE REAR PROPERTY LINE, WITHIN 5'6" OF THE WEST SIDE PROPERTY LINE, AND WITHIN 5' OF THE EAST SIDE PROPERTY LINE; AND A PARKING VARIANCE FOR THE NUMBER OF PARKING SPACES TO REMAIN SUBSTANDARD WITH THE BUILDING EXPANSION; AND REQUEST FOR CONTINUANCE.

Planning Director Ann Chaney said that Planning Commission approval of this project has been appealed, but the appellant, Joyce Wernsman, says she did not get ten days advance notice of the meeting and feels it was not properly posted. In the meantime she has made other plans for this evening and wants the matter continued. Chaney said that the notices were mailed and posted properly by the office. The applicant, Carolyn Handelin, would not be opposed to having the matter continued to September 27.

Claus Spence, Tunstead Avenue, said he owns the apartment building to the west of the school. He will be out of town on September 27, so he wants to get his testimony in today. He doesn't live at the apartments, but did for a long time. Regarding the rear building that is to be reconstructed, he said the only buffer his tenants have from the schoolyard is the fence. Of course, the tenants hear children on a daily basis. His tenants have complained to him on an occasional basis. Eleven more children in the afternoon will impact his apartments. There are people sleeping in the day, working at home, etc. He feels it isn't fair to give a parking variance. They have three spaces but they are in front of one another, not side by side, which is inconvenient for parents dropping children. A fourth space is substandard. There is a real parking problem on Tunstead. Planning Commissioner Milhaly was the only Commissioner who was against the project. Mr. Spence is not asking Mrs. Handelin to find another location, he just doesn't want the property overburdened. He feels the needs of the neighbors have been disregarded. He asked the Council to give the matter great consideration.

Chignell said the Council has Mr. Spence's September 9 letter, and told him he could send them any further comments before the meeting on September 27.

Planning Director Chaney said that staff agrees that the fourth substandard parking place is not a place at all. She said the Planning Commission did take the neighbors concerns into account. That is why they wanted to give a six month review so they could come back and see how it is working.

M/s, Yarish/Zaharoff, to continue this matter to the September 27 meeting. Ayes: All.
Absent: Breen.

8. APPOINTMENTS:

- (a) Solid Waste & Recycling Advisory Committee. (3 seats)
- (b) Parks and Recreation Commission. (1 seat)
- (c) Planning Commission. (1 seat)
- (d) Volunteer Program Advisory Board (2 seats)

Town Administrator Pollard said on item (b), one applicant was interviewed this evening, and another previously. She suggested that Council may want to continue the Parks and Recreation Commission appointment to the next meeting. It was the consensus of Council to continue this item to the September 27 meeting.

M/s, Kroot/Yarish, to nominate Jean Jung, Tom Guerin, and Francia Stanton to the Solid Waste & Recycling Advisory Committee. Ayes: All. Abstain: Zaharoff. Absent: Breen.

M/s, Yarish/Kroot, to nominate Marc Milhaly to the Planning Commission. Ayes: All. Abstain: Zaharoff. Absent: Breen.

M/s, Kroot/Yarish, to nominate Shirley Paradiso and Lucky Phelps to the Volunteer Program Advisory Board. Ayes: All. Abstain: Zaharoff. Absent: Breen.

9. CONSIDERATION OF LEASE SPACE ALTERNATIVES FOR THE MARIN CONCERNED CITIZENS, SUB-TENANT AT THE TOWN-OWNED BUILDING AT 1024 SIR FRANCIS DRAKE BOULEVARD, AND REPAIR OPTIONS.

Administrative Analyst Georgene Kreinberg said that at the last meeting the Council directed staff to find a new place the Marin Concerned Citizens (MCC) program. Kreinberg contacted a number of sites, and all viable leads were turned over to MCC for follow up. They have looked at some of the sites, and investigated some sites independently. She said they may have found suitable housing in San Rafael.

Paxton Warner, MCC Board Member, said the rents MCC would have to pay would be three times what they are paying now. He understands why the Council is reluctant to fix the roof, but they would like some help with their situation.

Administrative Analyst Kreinberg said it is not cost effective to put the \$7500 into the porch roof. Now staff is looking at just preventative patching of the roof.

Paxton Warner, MCC Board Member, asked if the Town plans on fixing the roof after MCC is gone.

Yarish said his sense is that there is so much to be repaired, it is beyond help. There are few redeeming features to the house. It doesn't make sense to invest in a sinking ship. The original lease was for a finite period. If there was any hope for the building, the Council would fix the roof.

Fran Zuckerman, MCC, said they have stayed in the building for financial reasons. They are a non-profit organization and they give their money to the families they service. They have two paid staff members and two volunteers. They've looked at other properties, but prices are very high. The most reasonable they have seen is about \$1200 a month, added to the cost of moving. They are asking for financial help from the Town.

Chignell said that MCC has been withholding the rent for some time.

Thelma Zuckerman said the Town should be proud to have this organization working in our community. She asked if the Town could compensate them something for triple rent and having to move.

Paxton Warner, MCC Board Member, said this is why the staff sat there in the rain. They felt if they complained they'd be out of an office. The Board suggested they hold back the rent, and sure enough, they're out of an office.

Chignell said no one ever said the building would be torn down if you complained. That is not a policy of the Town.

Yarish said that the Town initially agreed to spend money during the course of the lease and the Town has not done so. He said he feels obliged to spend some of that money because it was committed in the past. If they can't find another place, he feels we should make repairs to the roof. While there are a lot of deficiencies, it is still functional space as long as the roof isn't leaking.

Val Schaaf said the Human Concern Center in San Rafael has just opened a center. They got most of it done by donations and volunteers.

Chignell said that had been suggested, but the Peace Center and MCC realized they didn't have the resources to pull that together.

Fran Zuckerman, MCC, said it is not just the porch, the entire roof leaks. They also wanted to turn the kitchen into an office for Thelma, which wasn't received favorably by the Town. At the last Council meeting, everyone felt the building couldn't be salvaged. They have found a fairly reasonable place, at about 2.5 times the rent. What they want now is a financial contribution from the Town to help meet their moving expenses until more money comes in. After the last meeting they went away feeling there was no way they could stay in the building. Now all they want is some assistance because they're forced into this situation.

Town Administrator Pollard said it may be in mutual best interest to find them another place, and perhaps a better use of Town funds would be to assist them in that effort.

Thelma Zuckerman, MCC, said that they felt at the last meeting that they had to get out. Now they want some kind of compensation.

Chignell asked how long the rent had been withheld. Kreinberg replied five months.

Merle Sheldon, Town Treasurer, asked how much MCC wants.

Chignell said it would be something short of \$7500, worked about between MCC and staff, to be brought back to the Council.

Zaharoff said the prudent thing to do is to decide what to do about the house. If we're going to knock it down, the money is a good compromise. If salvage is a possibility, we should get a volunteer effort going or spend funds to get it in better shape.

Fran Zuckerman, MCC, said the time is past for MCC, as they were led to believe there was no hope the last time.

Kroot said he look at the house, specifically the porch in June, but he didn't know then that the whole roof was leaking. He would like MCC to work with staff on a resettlement figure.

Kreinberg said the original lease provided for \$13,000 in repairs, with volunteer labor to be used when possible.

Town Administrator Pollard said she recommends that staff be directed to negotiate with MCC a Town contribution toward resettlement expenses. The matter will be returned to the Council for final approval in two weeks.

Yarish suggested staff develop a recommendation regarding the long-term use of the building. This should be explored with an eye to bring the building back to a safe condition.

Thelma Zuckerman, MCC, said she has been a resident of San Anselmo for 22 years and is not trying to con anyone. If the building is rehabilitated, they would like to move back in.

M/s, Zaharoff/Yarish, to direct staff to negotiate with MCC a town contribution toward resettlement expenses and to develop a recommendation regarding long-term use of the building. Ayes: All. Absent: Breen.

10. ADOPT 1994-95 BUDGET:

- (a) Approve Resolution adopting the 1994-95 budgets for the General, Contingency, Equipment, Isabel Cook Complex, Recreation, Safety, and Capital Projects Funds.
- (b) Approve Resolution establishing the 1994-95 appropriations limit.
- (c) Approve Resolution adopting an amendment to the Town's financial policy on General Fund carryover for the 1994-95 fiscal year.

Items (a) and (c) are continued to the meeting of September 27, 1994.

Item (b) - M/s, Kroot/Yarish, to approve Resolution No. 3279 establishing the 1994-95 appropriations limit. Ayes: All. Absent: Breen.

11. REVIEW DRAFT THREE-YEAR CAPITAL IMPROVEMENT PROGRAM FOR USE OF PROCEEDS FROM A SUCCESSFUL GENERAL OBLIGATION BOND MEASURE IN NOVEMBER, 1994.

Public Works Director Bush said that when Measure G passes, the Town Council will be asked to approve a plan to use those funds. The Town has identified \$7 million worth of projects in drains, and \$8 million in streets. This report focuses on streets and drains. In order to prepare the program he used criteria based on the Pavement Management System. Streets with drainage needs were looked at first. Streets were tested to determine how well the base is performing and a computer analysis was performed. Engineering George Davison worked on the drainage projects, updating costs from the Hoffman report. Drains are difficult to prioritize as they are all important. The report focuses on three years, but the projects go on for seven years beyond that.

San Anselmo's streets and drains are in poor condition. Angela is a top priority for drainage work. They plan to do one major arterial per year. The highest priority for streets is Butterfield Road, which includes three drainage projects that need to be done. Bush presented a slide that showed how street life can be prolonged with maintenance. Costs go up dramatically when the preventive maintenance is not done. The work to be done has been divided among arterials, collectors, and local roads.

Zaharoff asked about Drake Blvd. between Isabel Cook and El Cerrito. She said it is so bad that she wondered why it was scheduled for year 3. Bush said that Butterfield and Red Hill show up as the worst arterials, with Butterfield done first because of the storm drain work. All the arterials could be switched around because they are all in such bad shape.

Kroot asked about San Anselmo Avenue between Center and Drake, and Ross Avenue. Bush said Ross Avenue is a high overlay candidate, with a big drainage project, that would cost about half a million dollars. He feels this would be hard to present a whole half a year's work on one street. Kroot also pointed out that the scale on the printed maps they are using is way off.

Chignell asked if the Council has taken any action on non-maintained streets. He said he would like to see this issue on the agenda so the Council can make some kind of policy statement on non-maintained streets. He said residents should know that money is

planned for in the discretionary funds to be seed money for contributions to neighborhood projects on non-maintained streets.

Yarish suggested that this policy on non-maintained streets be added to the existing policy on Town contributions to neighborhood street maintenance projects.

Town Administrator Pollard said the Council has the option to adopt a plan and to modify it, either before or after the bond election. Non-maintained streets are in the program in the unprogrammed funds area. It is hard to plan for these as it depends on how many neighbors come forward. The Town will create an opportunity for it and encourage it.

Chignell said he feels there should be a policy statement that unaccepted streets will be involved, rather than just as an unprogrammed line item.

Yarish said the policy statement should include references to the program.

Town Administrator Pollard said the Council could direct staff to modify this plan so that unprogrammed projects and contributions to non-maintained streets be included as a line item. They could set aside a dollar amount to be included as part of the town's plan.

Val Schaaf asked how many miles of streets are unaccepted. Bush said there are 6.5 miles of unaccepted streets, with 3.5 of those needing repair. There are 38 miles of accepted roads.

12. INTRODUCE ORDINANCE AMENDING REGULATIONS AND PROCEDURES FOR TOWING OPERATORS.

Administrative Analyst Kreinberg presented a revised towing ordinance.

Chignell said he brought this issue up some time ago, and was concerned about the fee schedule. He asked who determines the prevailing rate.

Kreinberg said that this ordinance uses San Rafael's prevailing rate that is figured from a formula that is acceptable to both the city and the towing operators. This ordinance repeals San Anselmo's existing ordinance and modernizes it.

Town Administrator Pollard said a private individual can call whomever he wants for a tow, asking pricing, so demand can dictate price. It is only the public sector that the ordinance attempts to regulate.

This item will be continued to the next meeting.

13. APPOINT ALTERNATE COUNCIL REPRESENTATIVE TO THE BOARD OF DIRECTORS OF THE ROSS VALLEY FIRE SERVICE.

M/s, Zaharoff/Yarish, to appoint Jeff Kroof as the alternate Council representative to the Board of Directors of the Ross Valley Fire Service. Ayes: All. Absent: Breen.

14. ADJOURN.

The meeting was adjourned at 10:55 in memory of Eddie Iacopi.

Debbie Stutsman