

**TOWN OF SAN ANSELMO**  
**Minutes of the Town Council Meeting of April 25, 1995**

Present: Breen, Chignell, Hodgens, Kroot, Yarish  
Absent: None

7:15 p.m.

Closed session regarding pending litigation, pursuant to Government Code Section 54956.9(1) Sarah Nome v. Tim Yarish, Mayor, Council Members Paul Chignell, Jeff Kroot, Peter Breen, and Judith Hodgens, Town Attorney Hadden Roth, County Clerk Howard Hanson, Town Clerk Caroline Foster, and the Town of San Anselmo, Marin County Superior Court Case #163656.

8:00 p.m.

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

Mayor Yarish announced that no action was taken during closed session.

3. OPEN TIME FOR PUBLIC EXPRESSION

Dorothy Frauens, 30 Oak Avenue, presented flowers to Town Administrator Pollard for the reception desk upstairs at Town Hall to honor the Town's volunteer receptionists. She thanked the Town and SAVE for Saturday's Volunteer Appreciation Brunch, and urged Council to give serious consideration to Item 12 on the agenda.

Peter Kilkus, Solid Waste and Recycling Advisory Committee, reported that on Earth Day, Saturday, April 22nd, the new recycling bins in front of Town Hall were dedicated by the Recycle Kids. Mayor Yarish presented the awards from the photography contest. The "Trash to Treasure" table did a brisk business. He thanked the Council for their support.

Stephanie Roth, 29 Woodland, presented the Town Council with a new United Nations flag in honor of the U.N.'s 50th anniversary on June 26.

Francia Stanton, Earthly Delights, gave an update on the Stroll San Anselmo plans. She said that only one merchant is negative about the idea. Merchants on Sir Francis Drake and on Greenfield want to be included as well. Information has been passed out on Magnolia regarding access when the main street is closed. Several stores have pledged 2% of sales to Oklahoma City on the Friday nights. The local news channel is coming to interview merchants on the lawn at Town Hall.

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

Chignell asked about the public parking spaces in the Town parking lot behind the shed that are currently marked "for police only." He asked if this is just temporary until the Library construction is done. Public Works Director Bush confirmed that.

Chignell reported that the Major Crimes Task Force Oversight Committee has completed negotiations and reached an agreement on a new Joint Powers Authority (JPA). The new JPA increases the allotment from Towns and asset forfeiture money will not be used for salaries.

Breen asked about weekend utilization of the employee parking lot for the public and Saturday enforcement of downtown parking. He also asked about a swap meet sign at 1434 Sir Francis Drake Blvd. that has been in place a long time. Staff will look into this.

Hodgens reported that on Earth Day twenty people met at Sorich Ranch Park to start the Friends of Sorich Ranch Park. She commended staff on the SAVE Volunteer Appreciation Brunch.

Kroot said the fifth and last meeting of the Downtown Revitalization Committee has been held. The matter will now come before the Council for review.

Yarish said the Marin County Hazardous and Solid Waste JPA is poised to decide whether to contract the work out or hire independent staff. Anyone who has an opinion on this topic should call him.

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: April 11, 1995.
- (b) Authorize waiver of fee to hang banners publicizing "Stroll San Anselmo" sponsored by the San Anselmo Chamber of Commerce and Downtown Business Association.
- (c) CONTINUE TO MAY 9, 1995: Redwood Hills subdivision near 390 Redwood Road (Applicant: Peter and Pamela Fraser): Request for revision to Resolution No. 3263 related to design guidelines and condition on tree pruning.
- (d) Approve clarification of off-leash hours for dogs in Memorial Park.
- (e) Proclaim May, 1995, as "*Older Americans Month*."

Item (c) was corrected to read "CONTINUE TO MAY 9, 1995."

M/s, Kroot/Breen, to approve the consent agenda as amended. Ayes: All.

6. RECOGNIZE THE PUBLIC WORKS DEPARTMENT FOR THEIR EXTRAORDINARY EFFORTS DURING THE WINTER STORMS '95.

Town Administrator Pollard presented Public Works Director Wayne Bush with a certificate of recognition for the efforts of the public works crews during the recent storms. Bush recognized Mike Hopp, Rory Grabner, David Carroll, David Craig, and Richard Bunke.

7. STATUS REPORT ON THE USE OF AN ANCILLARY STRUCTURE AT 37 YOLANDA AVENUE.

Yarish said the notice for this meeting was inadvertently not sent to the owners of 37 Yolanda.

Planning Director Chaney said that there is an ancillary structure at 37 Yolanda and the owner wants to house a nanny in it. The deed restriction on the property requires use of the building by family members only. Use as secondary, separate living quarters is illegal. Previously a friend had been living in the structure, but has since moved out after Chaney met with the owner, Mr. Wasuta. The structure was converted to a home office. Chaney said she has taken the position that a nanny is within the bounds of the deed restriction provided she took her meals with the family in the main house. A secondary unit would be a self-contained unit where cooking takes place. The neighbors feel this use violates the deed restriction and feel the differences are difficult to distinguish. Neighbors also believe the building was added onto in the past without building permits. Chaney agrees with neighbors that enforcement is difficult, especially because the unit does have some cooking facilities.

Kroot asked if the fact that there is a deed restriction could be construed as a more restrictive standard. Town Attorney Roth said that the definitions are the same for single family residential and a single housekeeping unit. The issue is the eating facilities. If cooking and eating do not take place it is not a separate living unit.

Chignell asked if there are other code violations at this address and whether the property owner had violated the intent of the deed restriction. Planning Director Chaney said she was not involved in the initial negotiations.

Hodgens said the property owners agreed to the deed restriction forbidding cooking utensils in the ancillary structure. Town Attorney Roth said this was added to make sure the structure was not used as a second unit.

Kroot noted that the deed restriction says "not be offered for rent or other consideration." Would a nanny fall under the definition of "other consideration?"

Breen said this issue has been going on for a long time. Town Attorney Roth said the Council has the power to interpret the deed restriction and the owner could challenge them in court. Any decision would have to be applied fairly across Town.

Chignell asked if "other consideration" would include a nanny. Roth said the intention was to prevent rental as a second unit, but it could be interpreted that way.

Hodgens asked if this would have to be enforced equally across Town since the deed restriction is specific to this property. She asked if the deed restriction could be re-drafted. Town Attorney Roth said it could with the consent of the owner.

The meeting was opened for public discussion.

Gerry Burroni, 33 Yolanda Drive, said someone is currently living in the unit and it is not a nanny. The neighbors were counting on the deed restriction to do what they wanted, which was to not have a rental unit. Mr. Wasuta is violating the law and the law should be enforced.

Jane Burroni, 33 Yolanda Drive, said when the deed restriction was signed there was only one building on the property. Mr. Wasuta is now taking advantage.

Linda Ross, 39 Yolanda Drive, said she wants the Town to enforce the deed restriction. She was assured by staff that this structure would never be lived in. In 1968 there was only a garage there. The same man is still living in the structure.

Town Attorney Roth said staff's intention was to prevent a second unit. This deed restriction is a standard form, and was not intended to prevent a nanny from living there who is working in the house. He feels the position of the Town would be shaky.

Planning Director Chaney said that neighbor Linda Ross claims that an addition was made to the garage without a building permit. This encroachment is another issue. She said the Town has said OK to families and nannies in other homes with similar situations.

Chignell said the experience has been that the deed restriction has been violated in the past. Chaney said the issue is whether a nanny can live in this unit.

Linda Ross, 39 Yolanda, asked if there are other deed restrictions like this one. She had understood that this one was the most restrictive.

Breen suggested that a hearing be scheduled, all parties noticed, and then deal with the issue.

M/s, Breen/Hodgens, to schedule this matter for a hearing for Council interpretation of the deed restriction on the property at 37 Yolanda. Ayes: Breen, Hodgens, Kroot, Yarish. Noes: Chignell.

**8. RE-INTRODUCTION OF DRAFT, THREE-YEAR CAPITAL IMPROVEMENT PROGRAM FOR IMPLEMENTATION OF THE INITIAL STAGE OF THE PROPOSED MEASURE G BOND PROGRAM TO IMPROVE STREETS, STORM DRAINS, AND THE LIBRARY.**

Public Works Director Bush said the Town's streets and storm drains are in poor condition and need about \$15 million worth of work. This amount was scaled down to \$10.8. After this winter's storm they have found that there are some lesser measures that can be undertaken at less cost.

The planned improvements are identified by testing and analysis, but are not detailed plans as yet. Drainage projects are difficult to quantify as rusted culverts cannot be seen and may collapse at any time. The three year plan evaluates street and drainage needs. The program is a draft as more detailed analysis may change priorities. The program is aggressive as it will cut costs by stopping decay sooner.

Kroot said streets seem a lot worse now than before this winter's storms.

Hodgens asked what kind of participation might be gotten from other utilities and municipal entities. Bush said that whenever a plan for a project comes in, he adds a condition to repave. A Town ordinance requires these actions.

Pollard said she has received feedback from special districts that San Anselmo is at the forefront in getting money out of these entities for street repaving.

Breen said he wants the Town Council to take a position on policy regarding unaccepted streets. He is troubled by the small amount budgeted for helping neighborhoods pave unaccepted streets. He urged the Council to increase this amount to \$50,000 per year as it encourages neighborhoods to work together. Bush said there are 7.25 miles of unaccepted roads in Town; some will be repaved in the near future.

Yarish asked if the County of Marin can help with the repaving of Butterfield Road.

M/s, Chignell/Breen, to receive and acknowledge the draft, three-year Capital Improvement Program to improve streets, storm drains, and the library, amending the amount budgeted to unaccepted streets to \$50,000 in each of the three years. Ayes: All.

9. PUBLIC HEARING ON ABATEMENT OF A PUBLIC NUISANCE CONCERNING A SLIDE ON A VACANT LOT AND ADJACENT ROADWAY ON SEQUOIA DRIVE, ASSESSOR'S PARCEL NUMBER 6-117-08.

Public Works Director Bush said that at the last Council meeting a motion was passed ordering an analysis of public safety at this site. The property owner, Mr. Wendell, is cooperative but financially unable to make repairs. Vince Howes of Sales Howes Associates did the assessment. He said the road is safe for traffic and emergency vehicles. There has been no significant changes to the area since the fire truck went by. The cause of the slide is excessive ground water, not the recent paving project. The repair cost is estimated to be about \$60,000. The immediate problem is the road needs to be stabilized. The Town has the duty to ensure safe right-of-way for residents. Staff recommends the Council adopt a resolution directing Mr. Wendell to begin repairs in a timely manner or the Town will perform them and bill him, placing a lien on his property. About \$6,000 has already been incurred. Bush said the Town should give the property owner every opportunity to get the work done, as long as it is in a timely manner. Costs will go up if the Town gets involved.

Town Attorney Roth said four exhibits are included with the resolution.

Breen said the dates in the resolution appear to give the property owner appropriate time to begin the project, yet give the Town enough time to do the work if the owner does not.

Yarish asked Bush if he feels there is no current threat to the roadway, from a mud slide or an earthquake. Bush said the situation still seems dangerous to him. The soils report says it is stable.

Mr. Wendell, property owner, said he has applied for FEMA assistance and put in a claim with his insurance company. He is trying hard to get in control of the situation. His home is in Windsor, so he has local people monitoring the situation. He has had three engineers look at the slide.

Yarish asked if Mr. Wendell feels hopeful about a FEMA response. Mr. Wendell said he feels it might work out. The main thing now is to stabilize the road.

Hodgens asked if he owns the land outright. Mr. Wendell said answered affirmatively. He also said his insurance company has led him to believe they will reimburse him.

M/s, Chignell/Kroot, to adopt Resolution No. 3301 declaring the property located at Assessor's Parcel Number 00611708 San Anselmo, California, 94960, to be a public nuisance and ordering the rehabilitation of the property thereof, including Exhibits "A", "B", "C", and "D", as integral to the resolution. Ayes: All.

10. PUBLIC HEARING ON ABATEMENT OF A PUBLIC NUISANCE  
CONCERNING A SLIDE AT 4 HERRERA COURT, SLIDING ONTO PROPERTY  
ON CARLSON COURT.

Public Works Director Bush said a resolution has already been adopted directing the property owner to get a report for public safety purposes. Property Owner Heineman wants to cooperate but funding is a problem. They are pursuing other funding sources beyond FEMA and insurance. They have responded to the request to find out about public safety. Costs incurred thus far by the Town are approximately \$6,000. The Heineman's have been given until June 20 to begin permit application. If nothing is done the Town will still have time to begin the work. Bush said he is asking the Council to adopt the resolution declaring the property a public nuisance and ordering rehabilitation.

Scott Buresh, representing Mr. Heineman's insurance company, said the Heineman's are victims in this matter, too. This slide is of a much bigger magnitude than the one on Sequoia. He said the rainy season is just about over so the immediate risk to the public is much reduced. Buresh asked Town Attorney Roth about the language in item (4), that gives them 30 days to contest validity. He asked if asking for clarification was considered contesting the validity of the proceeding. Roth said it was not.

Public Works Director Bush said water is still a problem and the Town is keeping on top of it.

Buresh said the insurance question is a difficult one and FEMA is a possibility.

Yarish asked where funds will come from in the interim. He asked if insurance might front the money while a decision is being made.

Chignell asked Buresh if the timeline and plan seem reasonable to him and the Heineman's. He said they did.

Spencer Sias, 37 Carlson Court, said he is concerned that they will get embroiled in looking for financing, rather than ensuring the safety of his home. He appreciates the Heineman's willingness to cooperate. June 20 is the deadline for design documents and a building permit.

Kroot asked if they plan to have drawings to the Town by June 20th. Buresh said yes, assuming the funding problems can be worked out. He said they can go ahead without knowing exactly where the money will come from. The insurance company should decide in a week.

Spencer Sias, 37 Carlson Court, said he hopes the plans are based on responsible engineering reports. He wants to know the hazards are being adequately addressed. He gave his engineers report to Public Works Director Bush to share with the Heineman's.

Sean Casey, 35 Carlson Court, said they would like to see things moving along a little faster, without so much debate on financing.

M/s, Kroot/Chignell, to adopt Resolution #3302 declaring the property located at 4 Herrera Court San Anselmo, California, 94960, to be a public nuisance and ordering the rehabilitation of the property thereof, including Exhibits "A" through "F", as noted in the resolution; and requesting staff agendize a status report at each Council meeting until June 20. Ayes: All.

**11. INTRODUCTION OF ORDINANCE RESTRICTING BICYCLE RIDING ON SIDEWALKS IN THE CENTRAL BUSINESS DISTRICT FOR SAFETY REASONS.**

Town Administrator Pollard said this item came up out of concern for the safety of shoppers. The restriction would be just in the downtown areas, as in many other areas it is better to be on the sidewalk. She said there would be minimal signing, perhaps painting on the sidewalks where the restriction exists.

Chignell asked about the kids coming from Wade Thomas School. Pollard said they can ride on the western side of Sir Francis Drake where there are no merchants.

M/s, Hodgens/ Chignell, to waive reading and introduce Ordinance No. 966, amending Title 3, Chapter 1, of the Municipal Code, to prohibit the operation of bicycles on sidewalks in the central business district. Ayes: All.

**12. REPORT ON CREATION OF A PUBLIC INQUIRY/COMMENT FORM AND PROCEDURE.**

Town Administrator Pollard presented the Public Inquiry/Comment Form and Procedure.

Hodgens asked why the Town Council names were on the form and not the names of the staff in each named department.

Chignell said he feels it is good for the public to hold the Council accountable. Constituents need to know they're available. The form is intended to prevent the misuse of open time.

Pollard said she put the names there as background in case staff resolution doesn't work out. She said the form will help staff efficiency to get complaints in concise written form.

Kroot and Chignell said they would like their phone numbers on the form.

It was the consensus of Council that staff should rework the form, leaving space for Council Members names and phone numbers (if desired) and bring it back at the next meeting in the consent agenda.

**13. CONSIDER ESTABLISHING PROTOCOL FOR "OPEN TIME FOR PUBLIC EXPRESSION" AT COUNCIL MEETINGS.**

Town Administrator Pollard said a protocol is often identified by which residents can bring items to the attention of the Town Council. Some items that could be part of a protocol include speaking from the lectern, giving name and address, a time limit, slanderous talk is not tolerated, etc. She recommended Council adopt a general protocol on how items should be addressed at open time.

Kroot asked who would do the timing of speakers. Pollard said it could be an egg timer, digital timer, or left to the discretion of the mayor.

Hodgens said she would like a clock because it is neutral.

Town Attorney Roth said the public has the right to comment on every item.

Yarish asked if the Council can require the speaker to identify what their subject will be. Roth said it can.

M/s, Chignell/Breen, to move the resolution, with the proviso that staff come back with the addition of "subject matter" in Item 2, and deleting Item 4. Ayes: All.

In addition, Council directed staff to draft a resolution establishing policies, procedures, and protocol for the conduct of Town Council meetings.

14. APPOINTMENT OF COUNCILMEMBER AS A REPRESENTATIVE TO THE NORTH BAY DIVISION OF THE LEAGUE OF CALIFORNIA CITIES.

It was the consensus of Council to have the meeting agendas for the North Bay Division of the League of California Cities sent to Town Administrator Pollard. She will look over the agenda and advise Council if a representative is needed to go to the meeting.

15. ADJOURN.

The meeting was adjourned at 11:10 p.m.

Debbie Stutsman