

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of August 8, 1995

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

6:30 p.m.

Announce adjournment to closed session for conference with real property negotiator regarding negotiations with Peter and Pamela Fraser, on the terms and exchange of real property in the vicinity of Bald Hill, Redwood Road, and Oak Avenue, A/P 7-154-04; 7-101-02; and 7-071-03, pursuant to Government Code Section 54956.8.

6:35 p.m.

Closed session for conference with real property negotiator regarding negotiations with Peter and Pamela Fraser, on the terms and exchange of real property in the vicinity of Bald Hill, Redwood Road, and Oak Avenue, A/P 7-154-04; 7-101-02; and 7-071-03; pursuant to Government Code Section 54956.8; and regarding negotiations with the San Anselmo Police Officers Association.

7:15 p.m.

Interviews with applicants to the Parks and Recreation Commission and the Tax Equity Board.

8:00 p.m.

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

Mayor Yarish announced that no decisions were made during closed session.

3. OPEN TIME FOR PUBLIC EXPRESSION

No comments were received from the public.

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

Kroot asked if the Solid Waste & Recycling Committee could be considered for the Marin Community foundation neighborhood achievement awards.

Kroot asked about the status of a stop sign at Idalia and Crescent. Town Administrator Pollard said the Traffic Safety Committee felt the location was not conducive to a stop sign as the corner is more a curve than an intersection. Kroot said he would like the item agendized.

Chignell reported that the Town of Ross will vote this Thursday regarding staying in the Major Crimes Task Force. If they approve it, then all cities in Marin County will have approved.

Chignell noted that repairs have been done on Sir Francis Drake Blvd. on sidewalk buckling. He noted that at 1208 some minimal repairs still need to be done. It is a problem with bikes.

Breen said he would like a report on the proliferation of newspaper racks. This would be helpful in planning for downtown revitalization.

Breen said a patrol car was parked at the corner of San Anselmo Avenue and Tunstead one day. This is a good idea as it gives a positive image to passersby and engenders positive behavior.

Town Administrator Pollard reported that the town has received its Standard & Poor bond rating, an AA-, an excellent rating for a town.

Pollard said that the Volunteer Program Director, Therese Stawowy, has submitted her retirement resignation. She said she will report at the next meeting on short and long term plans for this position. She noted that in the latest issue of Western City, the volunteer receptionist program was highlighted.

4. 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: July 25, 1995
- (b) Acknowledge and file warrants.
- (c) Approve closure of San Anselmo Avenue on Sunday, September 24, 1995, for Country Fair Day: Closure between Bolinas Avenue and Tamalpais until 2 p.m., and between Tunstead and Tamalpais Avenue until 5 p.m.
- (d) Announce expiration of terms: Historical Commission, Volunteer Program Advisory Board, Open Space Committee.
- (e) Approve Resolution No 3317 calling for a consolidated Municipal Election on November 7, 1995, and requesting the services of the elections office of the Marin County Clerk.

Regarding item (a), Breen noted that on page 8, item 15, Kroot was absent, not Breen. M/s, Kroot/Chignell, to approve the consent agenda as amended. Ayes: All.

5. APPEAL OF ADMINISTRATIVE ACTION TO REQUIRE THE PLANTING OF GLOSSY PRIVET TREES, THE RECORDING OF A DEED RESTRICTION, AND REQUEST FEES BE WAIVED, ON PROPERTY AT 137 HUMBOLDT AVENUE; NORMAN CHARLES, APPLICANT AND APPELLANT.

Town Administrator Pollard said Planning Director Chaney is on vacation and recommends the Council hear this appeal upon her return. She has prepared a report in case it is heard this evening.

It was the consensus of the Council to hear the matter.

Town Administrator Pollard said that two large bay trees on the property were extensively pruned, intruding on neighbor's screening. After discussion, it was decided to require Mr. Charles to plant Japanese privets to mitigate the screening loss. Due to a communication breakdown, Mr. Charles planted a shrub-like Japanese privet instead of the intended tree-like Japanese privet. Planning Director Chaney has asked Mr. Charles to replant the tree type. Also at issue is the plan to develop deed restriction language to ensure that future tree trimming is monitored. Mr. Charles asks that payment of his appeal fees be waived.

Norman Charles, Appellant, said the process of building a home in San Anselmo has been extremely difficult and time consuming. There have been excessive neighborhood complaints prompting many visits to the site from Town and county employees. Before his construction the lot was a fire and visibility hazard. He has spent a lot of time working with the neighbors. He feels he planted what he was told to plant. Regarding the deed restriction, he feels it is not an even-handed restriction and was not the intent of the Planning Commission. He asked that his appeal fees be returned and that the landscaping portion of his permit be signed off.

Hodgens asked about the potential height of the plants that are in the ground now. The shrubs will grow to 10-12 feet, trees would grow to about 40 feet. She asked if the bigger trees would have mitigated the bay pruning. Charles said they might have if future residents let them grow that tall.

Breen asked about the cost of the privets. Charles said the total cost at stake is about \$400.

Susan Fritz, 139 Humboldt, said the issue is that neighbors removed objections to the project based on Mr. Charles' promise that there would be more parking and the trees would stay. Now two gigantic bay trees are severely pruned, with one stripped of all branches. This has changed the nature of her home and privacy. The privets are now a foot tall and obviously bushes. She feels there should be a deed restriction. She now needs drapes in the whole back of her house. She trusted that Mr. Charles wouldn't take any trees out.

Kroot said he saw the lot when it was vacant and saw it again this weekend. He felt there were still quite a few bay trees remaining.

Fritz said that most of the damage was in the lower part of the property.

Chignell asked Mr. Charles how the Town could ensure that trees won't be stripped again.

Charles said the deed restriction says the trees won't be cut down, not pruned. All you really have is good faith.

Hodgens asked about the deed restriction and pruning. Pollard said the municipal code has a pruning restriction limited to 50%.

Bill DeBisschop, 91 Elm Ave., said Ms. Fritz should plant her own trees.

It was the consensus of Council that Mr. Charles acted in good faith and was not given complete information on what to plant; in addition, a deed restriction is inequitable and overregulating.

M/s, Kroot/Chignell, to approve the appeal of administrative action to require the planting of glossy privet trees, the recording of a deed restriction, and request fees be waived, on property at 137 Humboldt Avenue; Norman Charles, applicant and appellant. Ayes: All.

Mr. Charles asked if the signing of his documents could be expedited. Public Works Director Bush said he should come to the office.

6. CONSIDER INTRODUCTION OF ORDINANCE ADDING A NEW CHAPTER 6 TO TITLE 8 OF THE SAN ANSELMO MUNICIPAL CODE CONCERNING A TAX ON VACANT COMMERCIAL PROPERTY.

This item was continued to the next regular meeting of August 22, 1995.

7. SECOND READING AND ADOPTION OF ORDINANCE NO. 968 ADOPTING BY REFERENCE SECTION 8.04.179 AND 8.04.260 PERTAINING TO ANIMAL NOISE.

This item was continued to the next regular meeting of August 22, 1995.

8. APPROVE RESOLUTION SETTING THE AMOUNT OF THE 1995-96 PENSION OVERRIDE TAX.

Town Administrator Pollard said the recommendation is to set the tax at the maximum of 5.9 cents per \$100 of assessed value.

M/s, Chignell/Breen, to approve Resolution No. 3316 setting the amount of the 1995-96 pension override tax. Ayes: All.

9. AWARD BID FOR COMPLETION OF LIBRARY RENOVATION PROJECT, PHASE I, AND AMENDMENT OF PAYMENTS TO PROJECT ARCHITECT.

Public Works Director Bush said the Library work was offered to nine contractors, and two submitted bids (DTA, Inc. and Moreno Construction). The award of the bid was

based on the base bid plus time considerations. He recommends DTA, Inc., for the award as they have a targeted completion date of October 13. The bid documents excluded painting, refinishing and electrical work.

Bush said Project Architect Dan Peterson's contract needs to be amended due to additional services required because of Mullin's lack of cooperation, and the work now required with the bonding company. Peterson has agreed to reduce the total fees to \$13,000, but this figure doesn't include services rendered in any future claims against the Town by Mullin.

Bush recommends a public notice and press release to advise the public that a new contract has been issued.

Kroot asked about the certainty that the bonding company or Mullin will be paying. Bush said the bonding company has a legal obligation and they have made no protest about that. They may want to pay actual damages rather than liquidated damages. The bonding company expects Mullin to file a claim against the Town.

Kroot said he feels it is important to go with the firm that can do the work quickly. He asked when the work would start. Bush said work will start as soon as the contract is executed.

Project Architect Dan Peterson said the bonds will take two weeks, but once proof of liability insurance is provided, some work could start.

Breen asked when the Town can expect to get reimbursement. Bush said he has no experience in this area.

Chignell asked about the costs incurred by the Project Architect. Bush said the agreement was originally on an hourly basis, but Peterson did agree to limit costs to the amount of the town's damages, keeping the amount in line with the originally agreed to percentages of the total.

Yarish asked Peterson why the amount of the contract for administration is so high.

Peterson said that after May 8th he spent a lot of time documenting Mullin's refusal to do work according to the specification and responding to his claims. He has been working with the bonding company, providing them with documentation and preparing detailed supplementary contract documents that will stand up in the event of a claim by Mullin.

Yarish asked why the bid documents required a warranty of work done by Mullin. Peterson said this was included as an alternate, in case Mullin goes out of business.

Mr. Thompson, DTA, Inc., said there is no way to do a proper risk analysis and come up with a proper price for warranty of Mullin's work.

Hodgens asked if references on DTA, Inc. have been checked. Peterson said he checked with engineers Mr. Thompson has worked with and they've all given good recommendations. Peterson said he has personally worked with Thompson.

Hodgens asked who is managing the subcontractors. Peterson said he has taken over the management of the main two subcontractors.

Hodgens asked about the significance of moving several items from Phase I work to Phase 2. Bush said that when problems arose with Mullin, the best way to handle it was to move the items to Phase 2. The amount will be deducted from the contract amount.

Hodgens asked if this work will now be paid with Measure G funds. Bush said it would, but the work is being rolled in with other work, so the cost may not be as great.

Hodgens asked where this money is coming from. Pollard said the bonding company will reimburse the Town. For now it is all general fund money.

M/s, Chignell/Kroot, to award the completion of Phase I of the Library Project to DTA, Inc. in the amount of \$58,537, to authorize an addendum to the contract with the architect, Dan Peterson, A.I.A. and associates, Inc. for additional services, and approve the plan to complete the project. In addition, Council wants to receive regular reports on the progress of the project. Ayes: All.

10. SECOND READING AND ADOPTION OF ORDINANCE NO. 969 ADDING CHAPTER 10 TO TITLE 2 TO THE SAN ANSELMO MUNICIPAL CODE ESTABLISHING BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT.

Town Administrator Pollard said this ordinance was introduced at the last regular meeting.

M/s, Breen/Chignell, to adopt Ordinance No. 969 adding chapter 10 to Title 2 to the San Anselmo Municipal Code establishing bidding procedures under the Uniform Public Construction Cost Accounting Act. Ayes: All.

11. DISCUSS STAFF SERVICES FOR MANAGEMENT, COORDINATION, AND SUPERVISION OF MEASURE G STREET, STORM DRAIN, AND LIBRARY BUILDING IMPROVEMENT PROJECTS.

This item was continued to the next regular meeting of August 22, 1995.

12. CONSIDER RECOMMENDATION TO CREATE A MEASURE G MONITORING COMMITTEE.

This item was continued to the next regular meeting of August 22, 1995.

13. PUBLIC HEARING ON REQUESTED MODIFICATIONS TO CONDITIONS OF APPROVAL, RESOLUTION NO. 3263, FOR THE REDWOOD HILLS SUBDIVISION, TO ALLOW CONSTRUCTION OF IMPROVEMENTS ON THE WEEKENDS, HOLIDAYS, AND BETWEEN 7:30 A.M. AND 6:30 P.M. DURING THE WEEKDAYS; APPLICANT/APPELLANT: PETER AND PAMELA FRASER.

Town Administrator Pollard said this is an administrative appeal on the use of weekend and holiday work, as well as work between 7:30 a.m. and 6:30 p.m. The concern is that to perform improvements by the winter is impossible. Mr. Fraser is requesting that the hours be extended because he is getting started too late in the year to finish by the rainy season. Public Works Director Bush's recommendation on the matter is to wait and see how construction goes and review the request as work goes along.

Hodgens asked what the timing would be around a wait-and-see attitude. Bush said he would base a decision on his observations of the contractor and the kind of work to be done.

Breen asked how often requests like this are received. Bush said he has no experience with this, probably because it is an expensive way to go.

Kroot asked if work is done in town on weekends. Bush said work is done on building additions on weekends but not on improvements of this nature. The timing is a problem; it is optimistic to think it can be done in two months, but a lot of work can go on through the winter.

Chignell asked about the history of the request. Bush said the Planning Commission has heard it and Pollard said it was mentioned in the original conditions of approval.

Breen asked if work will be done on weekends on Oak Avenue. Bush said no.

Peter Fraser, Appellant, said he originally agreed to these hours when he was going to do the work last summer. When he realized he needed extra time he asked Wayne for the permission. He said that anything affecting neighbors will be done first. It is the extension of the driveway that really needs to get done. His idea is to get the work done more efficiently.

Stuart Jacobson, Oak Avenue, said he has spoken with his neighbors and has seen disinterest in extending the work hours or days. He asked the Town to consider a continuance so he can get a written petition from his neighborhood.

Karen Johnson, 296 Redwood Rd., said she opposes extending the hours and days.

Mary Coghen, Redwood Road, said she feels letting Bush decide on a case-by-case basis is the way to go.

Paul Baylor, Allyn Avenue, agrees with the previous speakers. It is troubling to begin construction on this in September with winter so close.

Kathy Sanders, 310 Redwood Road, said the working hours of 8 - 4:30 were intended to mitigate the narrow road so neighbors can get in and out. She would like to have a standard with which the contractors have to live.

Stephanie Fein, 249 Redwood Road, said the problem is with on-street parking. During the weekend the spots are taken and there is no place to pull over when you meet trucks on the road.

Martin Blinder, 130 Melville, said he is nervous about letting Bush use his judgment. This is when we need regulations the most.

Peter Fraser, Appellant, said that most weekend work would be on site and not impact the neighborhood.

It was the consensus of Council to deny the appeal, due to the disruption to the neighborhood of extended construction hours and days. Should any requests come up for extended work days or hours, the Council would like to hear the request in advance and have the neighborhood noticed.

M/s, Kroot/Chignell, to deny the requested modifications to Conditions of Approval, Resolution No. 3263, for the Redwood Hills Subdivision, to allow construction of improvements on the weekends, holidays, and between 7:30 a.m. and 6:30 p.m. during the weekdays. Ayes: All.

14. REQUEST FROM PETER FRASER TO ALLOW FOR PAYMENT OF THE FEES FOR THE DESIGN REVIEW APPLICATION OF LOT 4 OF THE REDWOOD HILLS SUBDIVISION TO BE PAID WITH THE FILING OF THE FINAL SUBDIVISION MAP.

Town Administrator Pollard said this is in regard to the Fraser land exchange agreement. Fraser would like to begin the planning process for lot 4, one of the lots to be retained by Fraser. He would like the design review fees to be part of the purchase transaction, paid with the filing of the final subdivision map.

Kroot asked how much the fees would be. Pollard said about \$500.

Kroot asked if the application has been turned in and why the fees should be waived. Fraser said the fees should be waived because of the amount of money he has expended on the deal.

Breen asked how often this has been done and when would the money be recovered.

Pollard said it hasn't been done before and the money would be recovered at the close of escrow when the building permit is issued.

It was the consensus of Council to support the request.

M/s, Chignell/Breen, to allow for payment of the fees for the design review application of Lot 4 of the Redwood Hills Subdivision to be paid with the filing of the final subdivision map, with a cap of \$1,000. Ayes: All.

15. CONSIDER AMENDMENT TO FRASER/TOWN AGREEMENT REGARDING TIMING AND PAYMENT OF CONSTRUCTION IMPROVEMENTS ON THE REDWOOD HILLS SUBDIVISION.

Town Administrator Pollard said this item was placed on the agenda in the event action could be taken. She recommends the item be continued.

Jo Julin, Planning Commissioner, said she is concerned about the Redwood Road Improvement Plan. The DKS report contained the improvement plan and suggested mitigation fees. This improvement plan has not had a public hearing as specified in the resolution.

Pollard said Planning Director Chaney said it was her intention to begin the process this fall on public hearing on the Redwood Road Improvement Plan.

Peter Fraser, Kienst Lane, said that a 50% contingency was considered too large and was supposed to be amended. When amended numbers were sent to him in January, a 50% contingency was included in the numbers. He said he thought the agreement was that this contingency would be lowered. A reasonable industry standard would be 10-15%. What Ms. Julin was talking about was approved in May. He said he is not asking that the fees be waived, just deferred. He feels the fees should be paid when the certificates of occupancy are issued.

Breen said he would like a consultant's written opinion on this, particularly regarding California law on the subject.

16. ADJOURNMENT IN MEMORY OF JOHN HAAPALA.

The meeting was adjourned at 11:00 p.m. in memory of John Haapala, Town employee; Peter Yarish, Mayor Yarish's father; and Ann Breen Solen, sister of Councilmember Peter Breen.

Debbie Stutsman