

**TOWN OF SAN ANSELMO**  
**Minutes of the Town Council Meeting of February 27, 1996**

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

7:10 p.m.

Demonstration of the *San Anselmo Community Home Page* on the Internet, by Bill Jacobson.

7:40 p.m.

Interview applicant to the Board of Review.

8:00 p.m.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE.

The pledge of allegiance was led by members of the Student Council of Wade Thomas School, Lena Wilson, President, Rachel Marcus, Vice President, Colin Banks, Secretary, and Victoria Hunt, Treasurer.

3. OPEN TIME FOR PUBLIC EXPRESSION.

Stephanie Roth, 29 Woodland, said she met a man at Robson Harrington Park who was new to the community. He had received welcoming letters from a Council member and SAVE and felt very positive about San Anselmo.

James MacFarland, 1612 San Anselmo Avenue, said his neighborhood has an emergency situation due to storm drain flooding. It was the consensus of Council to hear this item after Item 9.

M/s, Chignell/Yarish, to add item 9A to the agenda regarding flooding in the 1600 block of San Anselmo Avenue, on the basis that the need to take action arose following the posting of the agenda. Ayes: All. Absent: Hodgens.

Steven Small, 1365 San Anselmo Avenue, said they are concerned with excessive speeding in the area, especially with concern for children going to school. He has heard that there was previously a gate preventing commuters from making that shortcut off Center Blvd. He asked if right hand turns could be prevented off Center onto San Anselmo Avenue at Lansdale Station. Breen asked that the Traffic Safety Committee look into this and report back.

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

Kroot asked about the handicapped accessible mailbox. Pollard said sites have been identified and the post office is looking into the possible sites.

Breen reminded everyone of the Ross Valley Community for Schools Black & White Night fundraiser that will be held on March 30.

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: February 13, 1996
- (b) Acknowledge and file financial report through January 31, 1996.
- (c) Approve recommendation for negotiation of contract with Deloitte & Touche to conduct garbage and recycling rate review.
- (d) Approve lease with Aryiis for rental of space at the Town-owned Isabel Cook Complex.

- (e) Adoption of Ordinance No. 975 establishing time restrictions on reapplication for planning permits.
- (f) Recognize the contributions of the late Ranny Cockburn to improve recycling in San Anselmo.
- (g) CONTINUE TO MARCH 12, 1996: Introduction of ordinance modifying the maximum dwelling unit size regulations.
- (h) CONTINUE TO MARCH 12, 1996: Public hearing on a resolution authorizing the Police Department to enforce the State Vehicle Code on the Town unmaintained portion of Oak Avenue.
- (i) CONTINUE TO MARCH 12, 1996: 1108 Sir Francis Drake Boulevard, A/P 6-031-09, appeal of the Planning Commission's denial of an amendment of the General Plan Map, rezoning of the property from R-1 to R-2, and a variance to permit a substandard size lot to be developed as R-2.
- (j) Accept the donation of a tree in Creek Park by the Star Academy.

Items (d) and (f) were removed for discussion.

M/s, Kroot/Yarish, to approve the balance of the consent agenda. Ayes: All. Absent: Hodgens.

Regarding item (d), the lease with Aryiis Foundation at Isabel Cook, Town Administrator Pollard said Council directed staff to negotiate this lease and the negotiated lease is attached, which includes a 5% annual increase.

Sarah Nome, 77 Alder, asked who is in charge of Aryiis and why they pay so little rent. Town Administrator Pollard said Deborah Childress is the contact for the non profit organization formed for artists. Breen said this issue was heard at length several months ago and the tenants portrayed the facility as needing a number of repairs and improvements.

M/s, Chignell/Yarish, to approve item (d) on the consent agenda. Ayes: All. Absent: Hodgens.

Yarish noted the Town is charged with not making a profit on this enterprise.

Regarding item (f), Sophia Spencer said the late Ranny Cockburn was a community spirited individual who gave a lot of himself to the Town.

M/s, Kroot/Yarish, to approve Item (f). Ayes: All. Absent: Hodgens.

**6. APPOINTMENT TO BOARD OF REVIEW (1 SEAT).**

M/s, Kroot/Yarish, to appoint Roberta Robinson to the Board of Review, although noting that both candidates were excellent. Ayes: All. Absent: Hodgens.

**7. 107 BROOKSIDE DRIVE, A/P 5-131-26, APPEAL OF THE PLANNING COMMISSION'S DENIAL OF A SETBACK VARIANCE TO CONSTRUCT AN ADDITION WITHIN 5 FEET OF THE WEST SIDE PROPERTY LINE.**

Planning Director Chaney said this is an appeal to Planning Commission action. The applicant asked for three variances, to shorten the garage, maintain substandard parking and a sideyard variance. At issue now is the variance request to enclose a covered patio, while expanding two sides. The addition is now under construction and a portion is inset 3 feet due to the 8 foot setback requirement. In the past the house has been incrementally added to with variances. The Planning Commission's concern was going from a two bedroom to four bedroom home without incrementally increasing the parking. The parking issue has been resolved by the applicant.

Yarish said the area in question is very small. Planning Director Chaney said the Planning Commission was looking at the bigger picture with three separate variances at issue. The Commission required relocation of the washer/dryer from the garage to provide for

standard parking areas and that the addition be constructed within the footprint of the existing patio. Now the applicant has received a building permit to make the addition bigger, excepting the three by three foot square setback area

Milton Clark, 107 Brookside Drive, said the building is presently under construction with the notch representing the 8 foot setback requirement. The washer and dryer are no longer at question. He said the notch is actually a 3 by 5 foot area.

It was the consensus of Council to approve this appeal, due to the lack of impact on the neighbor and the small nature of the 15 foot square area. Many homes in San Anselmo were built when the setback was five feet; this is a common problem that should be looked at by the Planning Commission.

Merle Sheldon, 41 Brookside, said all the houses in the neighborhood are five feet from the property line, so Mr. Clark might as well do it too.

M/s, Yarish/Chignell, to approve the appeal of the Planning Commission denial of a setback variance to expand the dimensions of an existing structure within 5' of the west side property line, on the grounds that this is such a small intrusion. Ayes: All. Absent: Hodgens.

**8. PUBLIC HEARING ON ADOPTION OF THE FINAL DRAFT COUNTYWIDE SITING ELEMENTS FOR MARIN COUNTY AND ITS CITIES, AND AUTHORIZE SUBMITTAL OF THE COUNTYWIDE SITING ELEMENT TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR ADOPTION AND APPROVAL.**

Town Administrator Pollard said that the California Integrated Waste Management Act of 1989, more commonly referred to as AB 939, requires that the County and cities approve an Integrated Waste Management Plan, a Siting Element and a Summary Plan. The Siting Element is ready for review and approval.

Breen asked how much this report cost to produce. Yarish said about \$100,000 has been spent on the three reports required for AB 939. San Anselmo is fortunate to belong to a Joint Powers Authority so the costs are split twelve ways. The Waste Management JPA is presently being dissolved and remade into a more workable group.

M/s, Yarish/Kroot, to approve Resolution No. 3340 adopting the Siting Element and authorize submittal of the countywide siting element to the California Integrated Waste Management Board for adoption and approval. Ayes: All. Absent: Hodgens.

**9. REPORT ON WATERCOURSES IN SAN ANSELMO, AND PRIVATE DRAINAGE RESPONSIBILITIES.**

Town Administrator Pollard said this issue has come to the attention of the community due to heavy rainstorms that private and public storm drains have not been able to absorb. Many metal drainpipes are collapsing. Citizens may expect recently passed Measure G funds to fix all the town's drainage problems. Private property owners are surprised to find that these collapsed pipes in their yards are their own responsibilities. The Town Council asked staff to prepare a report on the Town's drainage facilities and responsibilities. Public Works Director Bush prepared the report, *Watercourses in San Anselmo*. San Anselmo's natural terrain is hills and valleys with many creeks for drainage. When houses were built property owners assumed responsibility for water that crossed the property. When drainage crossed a road, the Town assumed responsibility, but the pipes on private property were the property owner's responsibility. Public record on these drains is sketchy. There are restrictions on obstructing watercourses that are reviewed during new construction. Other cities and county's have policies similar to San Anselmo's. The dilemma of the Town and the community is that the stormdrains are deteriorating and causing problems. The Town could be liable for a large and unknown amount of money if it assumed responsibility for private drainage. Property owners ask why the Town can't fix just this one particular problem. The Town must treat all property

owners consistently. Measure G monies were earmarked for public storm drains but are not enough to cover even all the public needs. The total Measure G amount (\$10 million) was determined to be the most the voters felt they could take on. Increasing the measure to even \$15 million would have been difficult to get the vote. Including private drains would have been exorbitantly expensive. The staff report spells out what property owners can do and what the Town can consider. Staff recommends the Town be a facilitator for neighborhoods rather than financier. Staff recognizes this is a community problem, but the Town must be careful due to liability issues and unknown cost factors.

Peter Brekkus, Ross, said he specializes as an attorney in this area. He was involved in a San Rafael case that established San Rafael's responsibility for the city's drainage system. Most communities in Marin face these same problems. He believes cities are refusing to face reality. These drainage systems transfer drainage within the Town and they really are the Town's responsibility. Where water is diverted due to development, you've got responsibility. There is precedent for Town's paying for this. He urged the Council to look carefully at the law, which places responsibility on the Town.

Town Attorney Roth said he has handled a number of these types of cases and hasn't lost any of them. The question is whether the Town has implied acceptance for these drains. The City of San Rafael, he believes, accepts drains into the city, which San Anselmo has never done. There is no implied acceptance of the drainage system in San Anselmo. There are a few easements and those are the responsibility of the Town. If there is a drainage problem, then the question is whether the uphill landowner acted reasonably. Regarding diversion, a recent case in Lafayette focuses on reasonable conduct. Each case must be looked at individually.

Mario Lamorte, 45 Entrata, said he is concerned because he is affected personally by a broken pipe. He is concerned that we will put a lot of time and money into legal maneuvers rather than accept this as the Town's problem. He understands the broken pipe on Fern Lane serves drainage for about 40 homes and nobody is going to fix it. Rather, it will end up in court. This is not a healthy way for our community to act. He was told to fix the sidewalk in front of his home or the Town would fix it and bill him. Why can't the Town do that in this case?

James MacFarlane, San Anselmo Avenue, asked to clarify several points with Town Attorney Roth. Roth said the question is whether the Town has accepted the drains as part of the Town. Approximately twelve easements have been granted by the Town. MacFarland asked how we can spent Measure G money if we don't have any drainage system at all that is accepted. He asked if, during the sale of a house, there a procedure by which people are informed of any private storm drains on the property. Bush said there is such a procedure. MacFarland said the Measure G ordinance doesn't distinguish that the money will only go only to public drains.

Derek Turnbull, 1604 San Anselmo Avenue, said he has been dealing with drainage problems for a long time on his property. This year the sand bags aren't helping. Their storm drains are too small and are planned for replacement next year. Public Works Director Bush said catchbasins in the area could be enlarged to help the situation.

Sarah Nome, 77 Alder, said many years ago the Town got an engineer, Jack Oglesby, to make plans for storm drain improvements, but they were never done. All those plans are still out at the County and should be located. The costs of litigation often go over the costs of just fixing the problem. People who voted for Measure G thought it would take care of our storm drain problems. She urged the Council to go ahead and put money into these projects.

Sue Nelson, Fern Lane, asked when permits were first required for these storm drains. Bush said it looks like the late '50s was the first time permits were required. Nelson said she takes exception to the statement that the Town "doesn't know what's out there."

Town Administrator Pollard said there are some private drains that could exist without our knowledge.

Public Works Director Bush said when the drainage reports were prepared they weren't able to televise every drain. There are inconsistencies in the reports that have been discovered. It is impossible to know what's happening in long runs of pipes.

Peter Brekkus, Ross, said he has seen Towns where they've decided to go ahead and fix these types of problems and haven't had a problem.

Breen asked whether a legal decision would affect all private drains in Town

Town Attorney Roth said each case is decided individually, and this is a policy decision, not a precedent setting problem.

9A. SAN ANSELMO AVENUE DRAINAGE PROBLEMS

Town Administrator Pollard said she went to 1612 San Anselmo Avenue and Fern Lane with Bush and Streets Superintendent Mike Hopp to look at the problems and discuss what could be done. There is a pending claim with Susan Nelson which makes it awkward to discuss this in a public forum. Yesterday's meeting was to look at the problems and brainstorm possible solutions.

Town Attorney Roth said we cannot get into any details due to legal items pending. Perhaps this should be discussed in closed session, but it would need 24 hours notice.

Mario LaMorte, Entrata, asked about the distinction between his sidewalk and these drains.

Public Works Director Bush said he can't state that Ms. Nelson did anything to cause this. Until her attorney told her to do no more work, she helped the situation by breaking the clay pipe so it continues to drain into the metal pipe. There is a specific code section on sidewalks. He can't require her to fix this situation because he doesn't know for sure it's all her fault.

Town Administrator Pollard recommended that Council schedule a closed session and report at open session any conclusions.

MacFarlane said the discussion he wants regarding his neighborhood flooding will not concern Fern Avenue at all. In the 1600 block of San Anselmo Avenue there is a long term problem with drainage. This year there has been a dramatic change. He presented a petition and photographs to the Council. He asked Council to take emergency action to prevent further flooding in basements, garages, etc. with Measure G funds.

Yarish asked Bush if he feels these two issues are related. Bush said it certainly could be considered contributory. The size of the pipe is probably a problem, too, although it has always been there.

It was the consensus of Council to discuss this matter at a closed session, with an open session following.

M/s, Chignell/Yarish, to schedule a closed session to continue the discussion of the emergency situation outlined in Item 9a, on Thursday, February 28, at 7 p.m., with an open session afterward, at approximately 8 p.m. Ayes: All. Absent: Hodgens.

Mike Randall, Klare Avenue, said if rain is imminent perhaps a dye test would confirm that the Fern drainpipe is involved.

Bush said they've cleaned and checked the drains, but they can test with dye.

10. APPEAL OF A PLANNING COMMISSION DENIAL TO CONVERT PROPERTY FROM RENTAL STATUS TO CONDOMINIUM OWNERSHIP STATUS, 865 SAN ANSELMO AVENUE.

Planning Director Chaney said this applicant previously requested a parking variance for a house and rear rental unit. The unit used to be an illegal second unit, but the applicant legalized it. The reason for this request is one of the owners wants to sell his interest and the other owner can't buy him out. The request was denied by the Planning Commission. Staff has determined that the applicant has legal authority to convert. Regarding affordable housing being lost, the front house was not rented until recently, according to the owner. The Planning Commission was uncomfortable with the conversion because of the 25% goal in rental housing stock. The owner feels he could sell the house at an affordable price. Regarding the parking variance, the tandem parking is a problem and was granted because the Town was gaining affordable housing back in the 1980's. Regarding density, we're getting essentially two single family homes on one lot.

Planning Director Chaney said the lot is zoned R-3. The condominium conversion would create two parcels with separate appraisals. The parking for both units would be in common space, which should be more clearly delineated on the drawing. If the Council upholds the appeal, she asked that the item be continued so she can write up the conditions.

John Blackwell, 865A San Anselmo Avenue, said he has lived in San Anselmo for 25 years and doesn't want to move any more. He has always intended to live in the rear house. He believes the approval initially for the parking variance was because they didn't want to give up all the yard space for parking. A condominium is not a lot split. He feels this would be an affordable unit. If they don't get approval for the condominium, they will sell the house anyway and be tenants in common.

Barbara Herzig, condominium attorney, said one of the problems is that planning groups don't understand condominiums. It is multiple ownerships on a single piece of land. Mr. Blackwell could have torn the whole thing down and built a three unit condominium. There will be two assessor's parcels, and the Town will benefit from any reassessments. The front is currently rented for \$1750 a month, not exactly an affordable rent.

Sarah Nome, 77 Alder, asked if the parking is the main impediment. Chaney said it is one of the impediments.

Planning Director Chaney said three condominiums on the lot are conceivable but would probably have needed a variance for adequate parking. We haven't had any other condominium conversions in San Anselmo.

Barbara Herzig, condominium attorney, said this is more a new condominium rather than a conversion. Mr. Blackwell meets the requirements because these buildings are actually new construction.

It was the consensus of Council to approve the appeal, primarily because the current rent of \$1750 is not a low income amount, and as such the Town is not losing a low income rental unit.

M/s, Chignell/Kroot, to approve the appeal and overturn Planning Commission action to deny the condominium conversion and variance, and to send back to staff for the appropriate conditions. In addition, Council would like to review the CC&R's. Ayes: All. Absent: Hodgens.

11. ORAL REPORT FROM COUNCILMEMBER CHIGNELL ON DISCUSSIONS IN FAIRFAX REGARDING TRANSFER OF GARBAGE AND RECYCLING FRANCHISE AGREEMENT TO JAMES RATTO.

Chignell said the Fairfax garbage transfer is underway. Lew Tremaine is here to let us know how it is going and if there is anything we can do to facilitate the transfer. The union contract in San Anselmo has expired and is now being renegotiated.

Lew Tremaine, Fairfax, said the committee has just met and laid out a timeline for the process. They plan a recommendation on March 20, in time for the April 8 Council

meeting. Mr. Tremaine has been given the job of getting any relevant information from San Anselmo regarding the garbage transfer. They hope the transfer will be complete in April.

Frank Egger, Fairfax Councilmember, said they hope to learn from San Anselmo's experience. The two towns will probably be together in this in some ways.

Chignell asked about employee status in Fairfax.

Egger said the negotiations are ongoing with the union, whose employees have been without a contract since July. They have some long-term employees for whom they want to look out.

Richard Johnson, representing James Ratto, said negotiations are proceeding fine. They will be assuming the Fairfax union contract. The Ratto organization is negotiating with the Teamsters and San Anselmo's contract negotiations are underway.

13. ADJOURN

The meeting was adjourned at 11:30 p.m.

Debbie Stutsman