

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of July 23, 1996

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

7:00 p.m.

Interviews with applicants to the Art Commission and Marin Commission on Aging.

8:00 p.m.

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by new U.S. citizen Rose Wager, and her son Alex Wager.

3. OPEN TIME FOR PUBLIC EXPRESSION.

Sarah Nome, 77 Alder Avenue, said she doesn't feel it is appropriate to require speakers at the meeting to complete a speaker card, especially considering the size of the town.

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

Kroot asked about the report on the skateboard parks in Mill Valley and Novato. Pollard said there will be a report at the next regular meeting.

Chignell asked that the Council subcommittee working with residents on drainage repairs be appointed to speak with the property owners on the 200 block of Floribel regarding a sinkhole.

Breen said he will be going to Sacramento with a team from Drake High School attending a seminar on November election issues.

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

- (a) Approve minutes: July 9, 1996
- (b) Acknowledge and file draft financial report through June 30, 1996.
- (c) Authorize use of up to \$2,100 in Rex Foundation grant funds in the Recreation Fund for a needs assessment and financial feasibility report on creating playing fields on the Red Hill School field property.
- (d) Approve Resolution Nos. 3351 and 3352 setting the amount of the Municipal Services Tax and the Pension Override Tax for the 1996-97 fiscal year.
- (e) Approve Resolution No. 3353 establishing a procedure for disability retirement determinations of local safety officer employees.
- (f) Approve Resolution No. 3354 amending the Town's Conflict of Interest Code.
- (g) Authorize appropriation of up to \$260,000 from the capital Projects Fund for debris removal and slope stabilization at Halpern Park.
- (h) Approve Resolution No. 3355 establishing an Art Commission.
- (i) Approve Resolution No. 3356 declaring intent to reimburse expenditures for the Library Renovation Project, Phase II, from the proceeds of tax exempt securities.

Remove (b), (c), (d), (e), (f), (g), (h) and (i).

Sarah Nome, 77 Alder, said she feels there is too much money at stake on the consent agenda.

M/s, Yarish/Kroot, to approve item (a) on the consent agenda. Ayes: All.

Regarding Item (b), Louise Mathews, Foothill Road, asked when all the revenue and billings will be in for year end. Pollard said this will be at the end of August.

On Item (c), Pollard said this is a feasibility study on creating playing fields at Red Hill School and is not a general fund expense.

Sarah Nome, 77 Alder Avenue, said she feels there are several similar projects already on the table and they can't all go forward as resources are limited.

Louise Mathews, Foothill Road, said she thought this expenditure should come out of the Capital Projects rather than the Rex Foundation.

Regarding Item (d), Pollard said this sets the Municipal Services Tax and the Pension Override Tax at the same rate as last year.

Louise Mathews, Foothill Road, asked how many living units are included as taxable parcels in San Anselmo. Assessed valuation has increased by 7.7% -- is the Town looking at this? Pollard said this question could better be answered in Town Hall during office hours.

Sarah Nome, 77 Alder, said she has protested the Pension Override Tax many times and renews her protest to this tax that was enacted for the Fire Department many years ago. This should go back to the taxpayers for a vote.

Regarding item (e), Pollard said this resolution is required by the Public Employees Retirement System.

Louise Mathews, Foothill Road, asked if there are legal costs associated with this and does it include the Fire Department. Are other employees included as well?

Pollard said she doesn't anticipate any legal costs. She can get back to Ms. Mathews in the office regarding the other questions.

Regarding Item (f), Pollard said we are required to have a resolution in place regarding our Conflict of Interest Code. This revision deletes old positions and adds new wording.

Ms. Mathews, Foothill Road, asked why the conflict of interest code isn't extended to all employees, consultants, contractors, and members of Town Boards and Commissions.

Pollard said the guidelines from the California Fair Political Practices Commission delineate who must comply with the code. Having decision-making authority is the guideline.

Drew McEachron, San Anselmo Avenue, asked if this lessens employee liability. Breen answered negatively.

Regarding Item (g), Public Works Director Bush said it is proposed to spend \$80,000 at Halpern Park for debris removal, and another \$180,000 to do long term repairs on the slope before the next rainy season. The repair will probably include rip rap or gunnite on the slope.

Kroot asked if they would try to do the long-term repair this year. Bush said they would like to do this, but it depends on how long the repair plan takes. Kroot said we should do this work as quickly as possible to avoid more cleanup work.

Hodgens asked about the bid process. Bush said he recommends Forde Construction for the debris removal part of the job only. They'll get written quotes from a number of contractors for the long term repair.

Hodgens asked if this is likely to be the end of this problem. Bush said it is a reasonable expectation that this may take care of the problem.

Sarah Nome, 77 Alder, asked for a street address for Halpern Park. Bush said it is behind 45 Angela.

Louise Mathews, Foothill Road, said she understands that this is not a manageable slope. Is there a possibility of doing a series of retaining walls.

Public Works Director Bush said the degree of slope is too great for retaining walls. The key to the repair is the drainage plan.

Sarah Nome, 77 Alder, asked if it would be preferable purchase the three homes.

Pollard said this would be more than a million dollars.

Regarding item (h) on the Art Commission, Louise Mathews asked why members are to be included from the Ross Valley. Breen said the events the commission sponsors are Ross Valley wide, so it is appropriate to invite the whole Ross Valley for membership.

Hodgens said an Ad Hoc Committee was charged with coming up with the Resolution, and this was their recommendation.

Regarding Item (i), Louise Mathews asked what these tax exempt securities are. Pollard said it is part of the Measure G Capital Improvement Plan.

Louise Mathews, Foothill Road, said she is concerned about the repayment plan timing of three years. Pollard said the repayment is standard language.

M/s, Chignell/Yarish, to approve Consent Agenda Items (b), (c), (d), (e), (f), (g), (h) and (i).
Ayes: All.

6. APPOINTMENTS: ART COMMISSION (9 seats)

Town Administrator Pollard said the Council has interviewed 10 applicants for the Art Commission.

Kroot suggested that all applicants be appointed, with the intent that the Commission would go down to nine members again when someone leaves.

M/s, Kroot/Yarish, to appoint Kevin Byall, Shawn McMillan, Bruce Koren, Susan Eisgrau, Morgan Pierce, Gail Shahan, Bill Abright, Claudia Martinez, Pamela Volk and Janet Joslin, temporarily expanding the size of the Commission to ten, with the proviso that when someone leaves the Commission, it will return to nine total members. Ayes: All.

7. AWARD CONTRACT FOR THE LIBRARY RENOVATION PROJECT, PHASE II, TO FINELINE CONSTRUCTION, IN THE AMOUNT OF \$485,810, AND AMEND THE BUDGET AMOUNT FOR THE PROJECT TO \$532,100, TO BE FUNDED FROM MEASURE G.

Public Works Director Bush said FineLine Construction was low bidder on the Library project. Their reputation, license, and credit are all in good order. The project budget would be \$532,100, including a 5% contingency.

Breen asked when the construction will begin and end. Bush said construction should begin in the next several weeks and it is a 120 day project.

Sarah Nome, 77 Alder, said she hopes the contractor will use local union employees. What percentage of the workers will be Marin County residents?

Jack LeClair, FineLine Construction, said there will be very few Marin residents, but they will be paying union wages.

Bush said it is illegal to require only Marin bidders.

Hodgens asked if the firm has worked on other public projects.

Jack LeClair said their credits include San Francisco and Oakland schools, Dunsmuir House and many others.

Dan Peterson, Project Architect, said he did the references and he feels we have an excellent firm.

Louise Mathews asked about change orders and asked if the Council has reviewed these change orders.

Hodgens said change orders come after a contract is awarded.

M/s, Chignell/Hodgens, to award the contract to FineLine Construction in the amount of \$532,100. Ayes: All.

8. PUBLIC HEARING ON NUISANCE ABATEMENT ON CONSTRUCTION OF A STEEL FRAME PATIO COVER AND DECK AT 379 OAK AVENUE; THEODORE POSTHUMA, PROPERTY OWNER. AN UNFINISHED STEEL FRAME PATIO/DECK STRUCTURE CURRENTLY EXISTS ON THIS PROPERTY AND WAS CONSTRUCTED WITHOUT PERMITS.

Chignell said the subcommittee met with Mr. Posthuma and his attorney, but further discussions are warranted. He asked that this be continued to the meeting of July 30.

M/s, Kroot/Chignell, to continue this item to July 30, 1996. Ayes: All.

9 CONSIDER ENDORSEMENT OF BALLOT MEASURE TO FUND "FIRE FLOW" IMPROVEMENTS TO WATER FACILITIES TO PROVIDE ADEQUATE WATER AND WITHSTAND SEISMIC ACTIVITY.

Town Administrator Pollard said there is a need to upgrade the water facilities in the County. A County-wide public opinion survey was conducted to determine the public's interest. MMWD is considering approval of a parcel tax of \$75 for 15 years for seismic work and to improve firefighting capabilities.

Yarish said he has heard concern that the work has a second purpose, which is increasing water capacities to certain cities so more building can be undertaken.

Pam Nicolai, MMWD, said this project will have no impact on supply issues.

Jack Gibson, MMWD, said this money is not to fix leaky pipes. There is no truth to the rumor that it provides more water to any area that wants to develop.

Hodgens asked about the nature of the ballot measure. Gibson said this is technically not a tax, but a special assessment. It doesn't legally require a vote. The study group recommended that it be put on the ballot.

Hodgens asked about the benefit to various municipalities.

Gibson everybody pays the same, but some communities get more dollar amount of the improvement. Fire knows no boundaries. The last major bond improvement in this area was in 1970.

Pam Nicolai, MMWD, said a significant majority of respondents said everybody should pay the same.

Chignell asked about the equity of commercial versus residential taxing. It seems unfair that a large commercial parcel owner pays the same amount of \$75. It is difficult to advocate this tax to residents on the edge when the large commercial property owner pays the same amount.

Pam Nicolai, MMWD, said many of the large commercial establishments are already sprinklered, and have paid large hookup charges. From an equity point of view these commercial customers are already paying their fair share.

Chignell said he would like to get this word out. Schools are coming up with parcel tax renewals, and we need to show that we have looked at all these issues. He doesn't want this to hurt these other measures.

Breen asked if there is a senior citizen exemption, due to unique hardship for senior citizens. Gibson said he thinks not.

Chignell asked Fire Chief Zeise about the few repairs planned for San Anselmo. Does he feel the condition of our tanks is such that we didn't make the list.

Ron Zeise, Fire Chief, said he agreed. He had asked about the Humboldt to Oak Avenue area, but it didn't make the list because of the large amount of money that would have to be expended. Some regular improvements are planned in this area.

Chignell said our two MMWD representatives have been extremely responsive and he thanked them.

Pam Nicolai, MMWD, said the 1970 bond issue made significant improvements in San Anselmo. Some projects are already in the works under the regular improvement program, so they aren't on the list. This isn't the only list of fireflow projects.

Frank Egger, Fairfax Town Council, said several of these issues were discussed in Fairfax. He said property owners are bearing the brunt of new taxes. All property owners will pay \$75 per year. He hopes the final tax will be structured fairly to the small business owner and residents.

Louise Mathews, Foothill Road, said based on a 15 year payback, San Anselmo will be paying over \$1 million. Regarding vegetation management, are we looking at an additional expenditure in this area. Will roadways be returned to their original condition when the work is finished?

Sarah Nome, 77 Alder, said only 4700 properties in San Anselmo receive property tax bills. Will non-profits be included in this bill?

Fire Chief Zeise said the vegetation management program is part of the regular Fire Department budget.

Pam Nicolai, MMWD, said if property owners pay a water use fee, they will pay this tax.

M/s, Chignell/Yarish, to endorse the proposed ballot measure to fund "fire flow" improvements to water facilities in Marin County, for the purpose of improving the capacity to fight fire and to withstand seismic activity and, request MMWD look at a more equitable way of assessing this fee, regarding commercial vs. residential. Ayes: All

Kroot thanked Mr. Gibson, Ms. Nicolai, and the Board for taking action on this issue. We appreciate their efforts.

10. PRESENTATION OF THE RESULTS OF A PUBLIC OPINION SURVEY REGARDING ACQUISITION OF THE MARIN TOWN & COUNTRY CLUB.

Town Administrator said the Town, Fairfax and County went in together on a survey regarding the acquisition of the Marin Town & Country Club. George Manross is here to present the results of the survey.

Dr. Manross gave the credentials of his company, SRI. He presented his report on how respondents felt about these issues. Over half said they would support purchase of the property, under several different scenarios. 56% of the survey respondents were willing to pay \$20 or more to acquire the property.

Kroot asked about the "Don't Knows" and "Unsuers." Dr. Manross said they split out about 50/50.

Hodgens asked how people are seeing this. Manross said people feel the property ought to be made available for people to enjoy. This is an acquisition that people can use.

Louise Mathews, Foothill Road, said that as a survey participant she knew the \$20 wouldn't include maintenance. How long would the \$22 last? Manross said it would last 15 years.

Louise Mathews, Foothill Rod, asked if the cost would be split 50/50 with Fairfax. Breen said the County is involved and maybe Ross. They are looking at increasing the funding base.

Ted Posthuma, Oak Avenue, said the \$22 doesn't buy the property, it just maintains it.

Yarish said this is predicated on a scenario where the Town & County property owners would be allowed to build senior housing and give the land outright to the Town of Fairfax, which then incurs the associated expenses.

Sarah Nome, 77 Alder, said the basic groundwork is already on the site. Perhaps the George Burns estate could be contacted for a contribution.

Dr. Manross said San Anselmo voters support the effort, actually somewhat more so than Fairfax voters.

Yarish said we could have less housing if the tax asked for more money - is it possible? Manross said no, it would be a mistake to increase the amount above \$20.

11. PUBLIC HEARING ON ASSESSMENT OF LIENS, FOR REIMBURSEMENT OF WORK ON PROPERTY PERFORMED BY THE TOWN, ON THE FOLLOWING PROPERTIES: 4 HERRERA COURT, A/P 5-062-90 (HEINEMANN); OAK AVENUE, A/P 7-815-403 (EPSTEIN); 77 ALDER AVENUE, A/P 7-042-04 (NOME); 41 EL CERRITO AVENUE, A/P 5-243-07 (PICCO-PENA); 1501 SAN ANSELMO AVENUE, 7-011-25 (DEIONG); 1385 SIR FRANCIS DRAKE BOULEVARD, 5-194-02 (RHODES & IBANEZ); 122 SYCAMORE, A/P 6-083-16 (ODGERS).

Public Works Director Bush presented the staff report on the three liens.

o **Heinemann Property, APN# 506290 (#4 Herrera Court)** - Public Works Director Bush said the Town incurred \$110,000 worth of work in storm damage repair on property located at 4 Herrera Court. The Heinemann's did not pay an invoice dated June 25. A lien would be placed on the property and the total amount placed on the property tax bill. If not paid in installments over five years it would be subject to delinquency payments.

Town Administrator Pollard said if the property owner doesn't pay this in five years the County takes over the property.

Peggy Chang, Attorney for the Heinemann's, said they have filed a lawsuit to include uphill property owners in the cause of the slide. She asked that this issue be resolved before the assessment lien be enacted.

Town Administrator Pollard said the paperwork for the 1996-97 property tax bill must be in by August 2, 1996.

Town Attorney Roth said he doesn't recommend postponing this issue.

Hodgens asked if it is correct that the property owner won't have to come up with this money for five years

Pollard said if no payments are made the bill becomes delinquent, and there would be delinquency charges.

Town Attorney Roth said the Heinemann's attorney should have challenged the abatement at the time it was enacted.

Chignell said we have worked cooperatively with the Heinemann's through this. He asked if the Council should have a closed session on this and discuss settlement issues.

Roth said there are sixteen parties involved in this case, and there is a meeting coming up to try to organize it and talk about settlement. We should move on this issue now or delay it for a year. He recommends Council proceed, but plan to make a definitive decision before the December tax bills come out.

Peggy Chang, Heinemann's Attorney, said the detriments to the Heinemann's include delinquency charges, and a lien would prevent them from refinancing the property and getting any more funding.

Roth said there is still an opportunity to withdraw this action before December. He feels refinancing could be worked out.

Sarah Nome, Alder, asked what the \$10,000 overhead charge is. Public Works Director Bush said it is staff time.

Louise Mathews, Foothill Road, asked why has the Town has allowed the Sias and Casey properties to go without paying.

Public Works Director Bush said the Town didn't pay for any cleanup on those two properties; the cleanup work there was reimbursed by FEMA.

M/s, Kroot/Yarish, to approve Resolution No. 3357 to order a lien recorded on the Heinemann property, APN# 506290 (#4 Herrera Court), and to have a closed session to discuss this matter as soon as possible. Ayes: All.

Hodgens said if it were not that the Town budget as formulated requires this money, she would not move on this item

o **Epstein Property APN # 715403** - Public Works Director Bush said a slide occurred February 4 on Oak Avenue. The Town incurred immediate costs to remove the hazard. Mr. Epstein had the opportunity to do it himself but he failed to do so. The cost was \$6397.80; Mr. Epstein has received two bills. He has filed a claim against the Town because he feels others are responsible for this. The Town's position is his property caused this problem.

Town Attorney Roth said Epstein's co-owner is in bankruptcy, so the lien will just affect Mr. Epstein.

Louise Mathews, Foothill Road, feels the County ought to carry this debt. Liens should not be put on at this time.

M/s, Kroot/Chignell to approve Resolution No. 3358 to order a lien recorded on the Epstein property, APN # 715403. Ayes: All

o **Sidewalk Repairs** - Public Works Director Bush said that when repair is needed on sidewalks property owners are notified that sidewalk repair is their own responsibility. They can arrange to have the work done, or the Town will and bill the property owner. These property owners have been contacted encouraging them to pay their bills.

Yarish asked how many sidewalk repairs have been paid for by residents? Wayne said there are about 40 a year.

Hodgens asked how long the Town has been attempting to collect these funds.

Public Works Director Bush said they are all over one year old, and some are more than that.

Sarah Nome, 77 Alder Avenue, said she objects to this action. The sidewalks are not her property. She refuses to pay this money. She suggests parking meters if the town needs more money.

M/s, Yarish/Kroot, to approve Resolution No. 3359, and direct staff to place the liens on these properties. Ayes: All.

12. INTRODUCTION OF ORDINANCE MODIFYING THE SECOND UNIT REQUIREMENTS.

Planning Director Chaney said Council is asked to approve the Negative Declaration, to introduce the Draft Ordinance Amendment and to approve the Single Family Deed Restriction language. Since the last meeting the word "uninterruptable" has been replaced with "permanent" and inspections of properties that have received complaints against them will take place between 10:00 a.m. and 4:00 p.m.

Kroot said he likes the inclusion of "permanent." He wondered if the complexity of the definition of kitchen may cause problems later on.

Planning Director Chaney said enforcement of the definition is ultimately up to the discretion of staff. Their experience is that you can tell when something is being used as a second unit.

Chignell asked how you define a well-grounded complaint? He suggested that bonafide might be better wording.

Hodgens feels the kitchen definition is problematical, but the proliferation of modern appliances makes this necessary.

Town Attorney Roth said he likes giving the Planning Director discretion.

Louise Mathews, Foothill Road, said she feels the kitchen definition should be much clearer. She feels the Brown Act was compromised on the agenda because the language on the agenda isn't the same as what's on the ordinance title.

Town Attorney Roth said the Single Family Deed Restriction should be continued to the next regular meeting to allow for proper noticing.

Sarah Nome, 77 Alder, said she complained about a second unit in her neighborhood and parking problems. She asked about the parking requirements in second units.

Chaney said she will look into this. Presently the requirement is one parking space per second unit.

M/s, Kroot/ Chignell, to approve the Negative Declaration and introduce the Draft Ordinance Amendment on the Definition of Second Unit/Kitchen. Ayes; All

13. ADJOURN.

The meeting was adjourned at 11:25 p.m.

Debbie Stutsman