

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of August 13, 1996

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

6:45 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, A/P #7-154-04, 7-101-02, and 7-071-03, pursuant to Government Code Section 54956.8; regarding pending litigation pursuant to Government Code Section 54956.9(b)(1) and (c); and regarding collective bargaining negotiations with the Marin Association of Public Employees.

7:30 p.m.

Interviews with applicants to the Library Advisory Board.

8:00 p.m.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Pam Levine, Executive Director of Youth in Arts, and her children, Jacob and Sasha Levine.

3. ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION.

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

4. OPEN TIME FOR PUBLIC EXPRESSION.

A. Strotz, Architect, said he feels the rule about having a second exit from every second floor bedroom is overkill. He asked that the Council consider changing this ordinance as it doesn't make sense. The building on Mariposa he is working on is sprinklered, etc.

Kroot said he would like to refer this to the Public Works Director and the Fire Chief for review. He believes San Anselmo is the only town with an ordinance like this.

Barbara Schmidt, 59 Austin, said she believes the project on Mariposa is a fire hazard.

Stan Schreiber, Fairfax, said it is against the Brown Act to request anything from people in order to allow them to speak, such as a speaker card.

Virginia Stapleton, Stapleton School of the Performing Arts, said she has run into a major issue that is preventing her from getting her business started in a new location. Plans have been submitted twice and now they've been informed that a lateral analysis is required. Also, the fire exits are now deemed inadequate.

Pirooz Barar, Structural Engineer, said the Town's structural engineer has said that extensive work must be done to meet this requirement. He asked if the two processes could be separated so the interior building work can go on with the lateral analysis occurring concurrently.

M/s, Chignell/Kroot, to add this to the agenda as Item 9B, as it is deemed that an emergency exists. Ayes: All. Absent: Hodgens.

Sarah Nome, 77 Alder Avenue, said she objects to the speaker cards. She noted that the closed session discussions with Mr. Fraser are continuing and should be out in the open. She noted that the housekeeping is derelict in the Chambers building.

Barbara Schmidt, 59 Austin, complained about the Branson traffic problem which is continuing.

Town Administrator Pollard said the Traffic Safety Committee looked at this and took several actions, but it was felt that this was not an unusual safety hazard.

Louise Mathews, Foothill Road, asked how the contract is going with Ms Pimsleur and the Chamber of Commerce regarding the Art & Wine Festival. Breen advised that she should contact the Chamber for that answer.

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

Yarish said he would like Open Time moved to the end of the meeting due to the disrespectful mood in the audience. It was the consensus of Council to put this item on the next agenda.

Chignell said he has been in contact with a woman who would like to appeal a fee. Town Administrator Pollard indicated the resident should submit a letter outlining her request.

Chignell said the Crest Road neighbors are getting together to get their road paved. He asked that the subcommittee be charged with facilitating this effort.

Chignell said Mayor Wilson of Fairfax is interested in our rate review process with the garbage company. He suggests a subcommittee be formed to meet with Fairfax to share information.

6. 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 17, 23, AND 30, 1996
- (b) Acknowledge and file warrants: Nos. 22649 through 22926, in the amount of \$644,756.89.
- (c) Proclaim September 16th to be *Pollution Prevention Week*.
- (d) Approve resolution determining that Officer McWilliams is incapacitated within the meaning of the Public Employees Retirement law for the performance of the duties of Police Officer.
- (e) Appropriate \$10,000 from the Capital Projects Fund for repairs to the pedestrian bridge at Creek Park.
- (f) Appropriate \$4,350 for a comprehensive plan review of the Halperin Park property, to be prepared in conjunction with the slope protection project previously authorized.
- (g) Approve downtown event applications for a downtown sale in Creek Park, and a walk to White Hill School.
- (h) Approve ordinance amending Chapter 3, Article 17, Definitions of the San Anselmo Municipal code to amend the definition of "residential second unit" and add a definition for "kitchen," and approve single family deed restriction language.

Items (a) through (h) were removed for discussion at the request of Louise Mathews.

Regarding Item (a), Louise Mathews, 72 Foothill Road, took exception to how her comments are reflected in these minutes. She will submit her comments in writing and they will come back at the next meeting.

Regarding Item (b), Louise Mathews, 72 Foothill Road, asked about an expenditure of \$265 for United Way expenditures.

Town Attorney Roth advised that the public can comment on these consent agenda items, but is asked to refrain from asking detailed staff questions as it is not the proper forum. Ms. Mathews will bring her questions to staff.

M/s, Chignell/Yarish, to approve Consent Agenda Items (a) through (g), except to continue item (d). Ayes: All. Absent: Hodgens.

Regarding item (h), Drew McEachron, San Anselmo, said he feels more scrutiny needs to be done on this ordinance. It allows staff access into resident's homes at any time. He doesn't feel this item should be on the consent agenda.

Town Attorney Roth said the property owner must agree first, and the inspections are done from 10 a.m. to 4 p.m. This has been the subject of many public hearings.

Louise Mathews, Foothill Road, said this item has been on the agenda before but she doesn't feel it has been actually discussed many times before the Council. She is concerned about this way of doing business.

Kroot suggested this item be placed after Item 11 tonight. He feels the consent agenda process should be discussed as well as the open time process.

7. APPOINTMENTS: Marin Commission on Aging

Yarish said there are four very qualified applicants, but the incumbent has done a good job on the Commission.

M/s, Yarish/Chignell, to nominate Karen Whitten to the Marin Commission on Aging.. Ayes: All. Absent: Hodgens.

8 AUTHORIZE ADVERTISING FOR BIDS ON THE REMAINDER OF YEAR ONE MEASURE G PAVEMENT AND DRAINAGE PROJECTS, AND AUTHORIZE THE APPROPRIATION OF FUNDS FOR DRAINAGE REPAIRS ON FLORIBEL AVENUE.

Town Administrator Pollard said bids are being prepared for the remainder of the Measure G year one projects. Staff recommends a subcommittee be appointed to work with the residents of Floribel Avenue on drainage issues.

Chignell said the bids needs to go forward on Floribel. He feels they shouldn't go to the Measure G Monitoring Committee.

Yarish said he agrees in this particular case; however, in the future, requests for unscheduled drainage projects should be routed through a process, possibly through the Measure G Monitoring Committee. This can be discussed at the next Monitoring Committee meeting.

Chignell feels the Council should look at requests first and decide if a particular item should go on to the Monitoring Committee. Kroot said he agrees.

Yarish said he feels Jack Baker is doing a great job on this.

M/s, Kroot/Yarish, to authorize staff to advertise for bids for the following Measure G projects: 1) Resurfacing Project - Phase R2) Drainage Project - Phase D2; and to appoint the subcommittee to work with neighbors regarding the Floribel drainage work. The smaller Floribel drainage issue is continued to the next regular meeting. Ayes: All. Absent: Hodgens.

It was the consensus of Council that there should be a discussion of policy questions on procedures for unplanned drainage projects by the Council.

Sarah Nome, 77 Alder, said she is glad a Marin contractor is doing the contracting work. She was stunned that the Library work will be done by an out of Marin contractor.

Town Attorney Roth said the Town is required to go with the lowest bidder and cannot exclude out-of-county bidders.

9. 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.

Planning Director Chaney said this item has been discussed a number of times. Most recently Council enacted a nuisance abatement, and subsequently agreed to try to resolve the issue with the applicant. Should this resolution be adopted, the structure in question would have to be removed within 60 days.

Jeffrey Moss, Attorney for Mr. Posthuma, said negotiations have been underway with the two parties and both sides were unwilling to give on certain items.

Glenn Smith, San Anselmo, said he feels this house is an oversight of staff. The illegal building should have been caught sooner. This item was appealed by Councilmembers as private citizens. A lot of neighbors spoke up in favor of this structure

David Gladysz, Cedar Avenue, said this item has gone on too long. He'd like to see some closure on this issue. Mr. Posthuma's neighbors came to a meeting and supported his project. The Planning Commission approved his project.

Sarah Nome, 77 Alder Ave., said she feels the laws are administered on a personal level. Mr. Posthuma should be allowed to complete his home.

Marcia Duys, Planning Commissioner, said the Commission looked at the project based on the design alone, and they felt it would have no negative impact on the surrounding neighborhood.

Drew McEachron, San Anselmo, said Mr. Posthuma should just have to pay a fee to keep this deck.

Ted Posthuma, 379 Oak Avenue, said he would like to put this to rest.

Kroot said this is a project built without a permit and against what had been worked out with the Town. He feels the structure should be abated.

Yarish said the applicant has inflicted these problems on himself by not using good design practices and not following procedures. The Town has made an inordinate effort to try to mediate a solution. He feels they have no choice but to abate.

Chignell said the Council are residents too, and there is no personal animosity here. They have met extensively to try to find a common ground.

Breen said this has been a difficult situation and they have tried to work it out. If someone commits a flagrant violation, the Council must enforce the rules. He feels very bad that no solution has been found after all this time.

M/s, Chignell/Yarish, to approve Resolution No. 3360, declaring the property located at Assessor's Parcel No. 7-241-61 (379 Oak Avenue) San Anselmo, California, 94960, to be a public nuisance and ordering removal of unauthorized construction work performed without proper permits, with the following addition on page 2: WHEREAS the following persons testified at the public hearing held August 13, 1996: Jeffrey A. Moss, Glenn Smith, David Gladysz, Sarah Nome, Marcia Duys, Drew McEachern, Theodore Posthuma and; In addition, similar language should be added to reflect the names of persons who spoke at the last public hearing on this issue. Ayes: All. Absent: Hodgens.

Chignell thanked Mr. Moss and Mr. Peterson for making themselves available for negotiations. He said the subcommittee is still available to try to work it out.

9A. STAPLETON SCHOOL OF THE PERFORMING ARTS.

Virginia Stapleton, Stapleton School, said it has been frustrating dealing with the new conditions that keep coming up in this process of trying to move her school to the new location at 118 Greenfield.

Yarish said the Council is unfamiliar with the scope of the work, but it might be possible to divide this into two separate projects to allow the interior renovation to go forward.

Planning Director Chaney said the safety of the children is most important. The school responded to the Commission's initial concerns. Time and cost are the big issues.

Kroot said he looked at the project. Ms Stapleton hasn't said she didn't want to do this new work. They are just anxious to get going to get the school open in September. Perhaps the two permits can be split up so work can proceed.

Town Administrator Pollard suggested the appropriate people get together to discuss this issue, including the applicant, structural engineer, fire department, and perhaps a Councilmember. Staff will handle getting a meeting together. She suggested that Fairfax' Michael Watkins be hired to facilitate this in the absence of the Public Works Director.

10. INTRODUCTION OF ORDINANCE ADOPTING A REGULATORY FEE TO FUND CLEAN STORMWATER ACTIVITIES, AND APPROVAL OF RESOLUTION SETTING THE FEE PER RUNOFF UNIT; THE FEE IS PROPOSED TO BE \$15 FOR A SINGLE FAMILY PROPERTY.

Town Administrator Pollard said staff recommends establishing a regulatory fee to fund clean water activities mandated by the federal and state governments. It is possible for Council to establish this fee. Other Marin cities have enacted a \$15 fee. Staff recommends San Anselmo do likewise.

Breen asked about working with other communities to lower costs. He asked if we contracted out the streetsweeping duties, who would wash the sweeper. Town Administrator Pollard said it would probably be washed by whomever we rented it from, either at their facility or at the Town Corporation yard.

Louise Mathews, Foothill Road, said she views the assessment as excessive. If this is state mandated, the state should come through with the money. There is no end date to this fee, even if this mandate ends. There should be an end date, perhaps five years. The Town shouldn't rush into this. She would like the wash in Fairfax.

Sarah Nome, 77 Alder, registered her protest to the Pension Override tax again. Measure G taxes haven't hit home yet. Don't tack on another tax indiscriminately.

Merle. Sheldon, Brookside Drive, said this is a boondoggle; you can't strain all the runoff before it goes into the ocean.

Carole d'Alessio, Friends of the Corte Madera Creek, said this fee is not excessive. Several other communities have fees that are higher than this.

Kroot said this is to avoid oils, grease, heavy metals, fertilizers, etc. in our runoff. It is to filter pollutants, not strain all runoff. This is a beneficial thing for our environment. He will support this as it is such a small amount of money.

Yarish said he is torn about the fee. There is a need to provide adequate environmental protection for our children. He feels compelled to support this as it has come to us as an unfunded mandate. He feels the state should have the courage to come up with the money. The alternative is draconian measures to cut staff and services.

Chignell said all five Councilmembers are environmentalists. He supports the program regardless of the mandate. He feels the money should come from the General Fund, and that we have an unspoken agreement with the voters that we won't increase taxes without a vote. He believes the money can be found. There are a number of issues on upcoming ballots, including school parcel taxes, and we can't just keep piling on more taxes.

Breen said the issue for him is Proposition 13 rules. He doesn't think it is appropriate to try to get this through before a decision is made on the legitimacy of Proposition 13. He can't support the \$15 and feels it should come out of the General Fund.

Pollard said she recommends that this item be continued to the next regular meeting and she will try to work with auditor's office if there is a consensus at that time.

M/s, Yarish/Kroot, to continue this item to the meeting of August 27, 1996. Ayes: All. Absent: Hodgens.

Sarah Nome, 77 Alder, said we also face an increase of sales tax on the November ballot.

Louise Mathews, Foothill Road, said she would like this to come up after the approval of the budget, which is scheduled for the first meeting of September.

Dan Goltz, San Anselmo Avenue, said he feels the Town should express its displeasure with this mandate.

11. PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S
CONDITIONAL APPROVAL OF SR-9503 (SIGN REVIEW), FOR THE RED HILL
SHOPPING CENTER, 834-916 SIR FRANCIS DRAKE BLVD.

Planning Director Chaney presented her staff report. This is an appeal of a Planning Commission decision, but was part of a larger application process. The shopping center is proposing to repaint the entire center and redo the signs under the eaves by the shops, as well as the big signs at the center. The only issue not approved by the Planning Commission is the signs parallel to the individual shops. The existing signs are dark brown, wooden, with yellow letters, 24" in height, and illuminated. The proposal is a 24" cabinet sign, teal color, with no illuminated background. The Planning Commission approved an 18" high sign, 7-12 feet in length, and colors became an issue, especially the teal color of the signs. The Planning Commission felt that the 24" current sign blend in, but the new color contrasts and creates a larger looking sign visually. At issue are the height, color, background, cabinet type, lettering, location and shape of the signs. The Planning Commission felt the bright teal color clashed with the colors proposed by the Center's color designer. The merchants feel their signs are their lifeline to customers. They told the Planning Commission they would explore other colors and additional samples have been submitted. Staff recommends the Town Council deny the appeal and uphold the Planning Commission's recommendation.

Kroot asked if these signs conform to the sign ordinance. Chaney said the Center has its own unique program.

Planning Director Chaney said Town Attorney Roth says the 1971 variance for the Center reserves control of new signs to the Town. Town can condition approval on reduction of sign size.

Marianne Spinozzi, Red Hill Shopping Center, said they are anxious to get this approved. They are incurring increased costs by delaying. She would like a decision tonight so they can get started. They've tried to be flexible, but they feel strongly about the 24" sign size. This is how they get the word out to the public. The signs have been shortened to compromise.

Dan Goltz, Holstein Road, asked how long this process has been ongoing. (Ms. Spinozzi said she applied in December.) Goltz said the issue is the size of the sign and the color of the face. The color are flexible, so its really just the size of the sign. He said he went to the Center and looked at the signs that are samples and in place. He feels this project has been micromanaged by the Planning Commission and the appeal should be approved

Jean Jung, Red Hill Merchant's Association, said they feel strongly about having the 24" sign. 18" isn't wide enough for the placement of two lines. They like the bermuda blue color because they feel it will show up well.

Marcia Duys, Planning Commissioner, said a number of issues and options have been discussed since December at Planning Commission meetings. The original permit at Red Hill Shopping Center was instituted before our sign ordinance. This proposed sign is very different from the original sign. The new signs will emphasize the 24" height more than the old ones. Many storefronts don't comply with our sign ordinance. Regarding having two lines of signage, at Strawberry Shopping Center they have 14" signs with two lines. The Downtown Revitalization Plan works well within the context of San Anselmo. We need the Center to integrate with this plan. These signs have modern flavor, with hard lines and bright colors.

Dan Goltz, Holstein Road, said the sign ordinance was approved in 1966. He feels this is a matter of taste.

Marcia Duys, Planning Commissioner, said we have a Planning Commission because we have different tastes.

Kroot said he feels this is micromanaging. The colors are fine and in good taste. The signage will only be seen in the Center. He likes the square sign, but the hexagonal is OK too. Regarding Downtown Revitalization, Michael Freedman did talk about uniqueness and excitement in San Anselmo. Freedman said he'd like to rewrite the sign ordinance to require three signs at each store.

Yarish said colors should be decided by the storeowners. Design Review should measure the impact on the community. It is hard not to microdesign. He agrees with the Planning Commission over the size of the sign.

Chignell said this is the business of the Planning Commission, but he hears what the merchants are saying. Unless garish, he would go with the merchants on the colors. It is difficult to go against the Planning Commission.

Breen said he believes the Planning Commission has an important role. He abstains as far as colors are concerned.

M/s, Kroot/Chignell, to approve the signs as presented, with the letters to be 24" high, bermuda blue, with placement attached to beam supports, shape to be rectangular or octagonal (as long as it is consistent), lettering to be determined by the applicant but consistent throughout. Ayes by roll call: Breen, Chignell, Kroot. Noes: Yarish

Yarish would rather have the signs 18" high.

11A. APPROVE ORDINANCE AMENDING CHAPTER 3, ARTICLE 17, DEFINITIONS OF THE SAN ANSELMO MUNICIPAL CODE TO AMEND THE DEFINITION OF "RESIDENTIAL SECOND UNIT" AND ADD A DEFINITION FOR "KITCHEN," AND APPROVE SINGLE FAMILY DEED RESTRICTION LANGUAGE.

Planning Director Chaney said this item was discussed at the last meeting. It is an ordinance change to change the definition of a kitchen. The language for the single family deed restriction was questioned earlier by a member of the audience. The deed restriction reads "Without notice and between the hours of 10:00 a.m. and 4:00 p.m., may inspect the premises not more than two times a year from the date of this agreement, or upon receipt of a bona fide complaint, as determined by the Public Works or Planning Director." The single family deed restriction is for homes that don't have a second unit but a possible place for one. The problem usually occurs when the property sells.

Kroot asked about the process for investigating complaints. Chaney said staff drives by first to verify the complaint. They attempt to do this without a heavy hand.

Kroot asked if this is this the Town's standard policy. Chaney replied affirmatively.

Drew McEachron, San Anselmo, asked how you can determine if it's a bonafide complaint, or just someone who doesn't like their neighbor.

Chaney said it is subjective but she can usually tell.

Drew McEachron, San Anselmo, said this seems like it would seriously hinder property sales in Town.

Chaney said this is for single family property. But some people have bootleg second units. This is just meant to keep people within the zoning ordinance.

Jane Burroni, Yolanda, said as she understands it an au pair is part of the family.

Louise Mathews, Foothill Road, said the definition of second unit can be a problem with the advent of home offices.

Sarah Nome, 77 Alder, said there are a lot of second units in San Anselmo.

Chaney said the ordinance tightens up the definition of a residential second unit. The single family deed restriction applies to a home that looks like it could be a second unit.

Dan Goltz, Holstein, said he feels the deed restriction isn't needed because we already have a complaint process or the laws ought to be tightened up.

Yarish said many regulations are the result of somebody abusing something.

Sarah Nome, 77 Alder, said she has very little faith in Town staff. When she pointed out a second unit in her neighborhood nothing happened..

M/s, Kroot/Chignell, to approve Ordinance No. 977, amending Chapter 3, Article 17, Definitions of the San Anselmo Municipal Code to amend the definition of "residential second unit" and add a definition for "kitchen," and approve single family deed restriction language. Ayes: All. Absent: Hodgins.

12. ADJOURN.

The meeting was adjourned at 11:50 p.m.

Debbie Stutsman