

**TOWN OF SAN ANSELMO**  
**Minutes of the Town Council Meeting of December 9, 1997**

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

8:00 p.m.

- CALL TO ORDER
- PLEDGE OF ALLEGIANCE
- ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION - Mayor Hodgens announced that no action was taken during closed session.
- OPEN TIME FOR PUBLIC EXPRESSION.

Leah Madison, 9B Ancho Vista, said a tall tree behind her apartment is now leaning badly. The property owner refuses to accept responsibility for the tree. It is very dangerous and may hurt someone when it falls. She has gotten opinions from several arborists that the tree is dangerous. The owner has ignored all requests to remove the tree. She asks that the council abate this nuisance, revoke the owner's business license and have the Town's arborist come to inspect the tree when she is home.

Town Administrator Pollard said staff is closely in touch with this situation and will report back to Council.

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

Chignell said the street light is out at 11 Morningside Drive.

Chignell asked when the debris box issue would come up. Town Administrator Pollard said it will be on the January 27, 1998, agenda.

Overberger would like to have a paramedic update on an agenda in January.

Breen said the Salvation Army bell ringing will take place on Dec. 22 in front of Town Hall.

Breen said the Marin County Transportation Steering Committee is working on the inter county transportation agenda regarding whether there should be a ballot measure on transportation issues. He said they are working on where \$300 million would go, based on a half cent sales tax for 20 years. Some money could be used for work on major arterials that would get more use with increased bus service. Some land acquisition is also contemplated and the Marin Town and Country Club property would probably qualify for this.

Breen said the Ross Valley Emergency Radio Station organization committee will meet next week and the fundraising drive will be ongoing.

Hodgens asked if the Parks & Recreation subcommittee meeting scheduled for December 18 will be publicly noticed and if the Council will receive an agenda in advance. Town Administrator Pollard answered affirmatively.

Hodgens thanked the Chamber of Commerce for the tree lighting ceremony.

Hodgens asked about Town Hall closure on December 26 for employees to use vacation days. It was the consensus of Council to close Town Hall December 26.

1. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE

1(a)

REMOVED AND DISCUSSED SEPARATELY. OTHERWISE, ALL THE ITEMS  
MAY BE APPROVED WITH ONE ACTION.

- (a) Approve minutes: November 25, 1997.
- (b) Acknowledge and file warrants Nos. 26882 to 27114 in the amount of \$847,325.42.
- (c) Approve plan for response to the Fairfax ballot initiative drive for residential and recreational use of the Marin Town & Country club property.
- (d) Appropriate funds from Contingency for installation of holiday lights on Sir Francis Drake Boulevard, across from Creek Park.

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

M/s, Breen/Kroot to approve consent agenda items (a) and (b). Ayes: All.

Regarding item (c), Chignell said he would like to see something more formal sent to Phil Gorny and the Mayor of Fairfax regarding San Anselmo's concerns about development on the site, including traffic concerns.

M/s, Chignell/Kroot, to conduct a public hearing on the initiative proposals for development of the Marin Town & Country Club if and when it qualifies as a ballot measure, and to send a letter to the Mayor and Town Administrator of Fairfax regarding San Anselmo's concerns about the development. Ayes: All.

Regarding item (d), Breen commended the San Anselmo merchants involved in the holiday lighting effort for their hard work, especially on Sir Francis Drake Blvd.

Louise Mathews, Foothill Road, asked if the electrical work will create a tripping hazard.

Breen said the wiring comes down from the building tops and into the trees so there will not be a tripping hazard.

M/s, Breen/Chignell, to appropriate \$2500 from Contingency to add Sir Francis Drake Blvd, across from Creek Park, to the holiday lighting area. Ayes: All.

2. APPEAL OF PLANNING COMMISSION APPROVAL OF A USE PERMIT  
AMENDMENT FOR PATIO SEATING AND RECREATIONAL ACTIVITY AT  
TED'S BAR, 218 SIR FRANCIS DRAKE BLVD.

Planning Director Chaney presented her staff report and a history of this project. The neighborhood is concerned about noise, parking problems, traffic, privacy and disorderliness. In hearing these concerns, the Planning Commission attached a number of conditions to their approval, including evening time limits, a six foot rear fence, parking in alley to be for staff only, rear exit door used for emergency purposes only and closed during business hours, the patio to be non-smoking and no exit through the rear patio. The Planning Commission noted that the neighbors complaints were more along the line of general operational complaints, rather than specific to the patio plans. Conditions of Alcoholic Beverage Control (ABC) license are that the rear doors remain closed.

Hodgens asked about the ABC permit and the emergency use of the doors. Chaney said the ABC license specifies that the rear doors shall remain closed.

Police Lieutenant Kirton said the permit reads "rear doors shall be closed at all times, except for an emergency and deliveries." It appears to refer to all the rear doors.

Hodgens asked if the Planning Commission addressed the ABC license issue. Chaney said she believes the Planning Commission was assuming it was the exit doors referred to, not the patio doors.

Overberger asked if the Planning Commission addressed the issue of noise coming out the patio doors. Chaney said that is why the fence was required.

Ted Janko, 218 Sir Francis Drake Blvd., said he has no desire for animosity with his

neighbors. He wants to do what he can to solve these problems. He will withdraw his application for patio dining service.

Planning Director Chaney said she will need a letter from Mr. Janko to that effect.

Chignell said it is gracious of Mr. Janko to withdraw this application.

Hodgens asked that Lieutenant Kirton convene a meeting with the neighborhood to deal with the problems the neighbors would like to have mediated.

M/s, Kroot/Chignell, to accept Mr. Janko's removal of his use permit amendment for Ted's Bar, pending receipt of the letter from Mr. Janko to that effect. Ayes: All.

3. INTRODUCTION AND FIRST READING OF ORDINANCE ESTABLISHING A TELECOMMUNICATIONS JOINT POWERS AUTHORITY (JPA) AMONG THE CITIES AND COUNTY OF MARIN.

Town Administrator Pollard said the Town current has a cable JPA. This ordinance would expand the scope of the Council's involvement relative to telecommunications. It would also give the Town additional clout at the negotiating table with telecommunication vendors. Linda Christman is present this evening from the County of Marin to make a presentation. Fairfax has put the issue over to their next meeting.

Kroot asked the cost to the Town. Town Administrator Pollard said there is a current cost of \$3,000 per year, and it would be similar under the telecommunications JPA.

Hodgens asked about the process for electing a representative to the Executive Committee from Fairfax, San Anselmo and Ross. Pollard said the procedure hasn't been established.

Linda Christman, Assistant County Administrator, said the present JPA has saved consumers a lot of money thus far, paying for themselves over and over. This agreement will allow the Town to manage any changes in the provisional cable services.

Overberger said she is interested in ensuring that this will help the Towns as more and more providers get into this field. She hopes the Town will be able to take advantage of competitive pricing.

Linda Christman said Marin cities and towns all have separate agreements that do not provide the tools for overall monitoring and contracting. This JPA has been extensively reviewed. The JPA respects local zoning ordinances. The ordinance bends over backwards to ensure local control.

Chignell said this would replicate the current operation, but under the auspices of the County of Marin. He understands that cable fees will be diverted to the JPA, with money set aside for the operation of the JPA. How much would that be? He is concerned with our fragile fiscal situation and whether we will get the same dollar amount in franchise fees. Will we be losing local control? He would like to see something in writing as to what percentage will be diverted.

Assistant County Administrator Christman said the County has the same vote as all the other cities/towns. The situation would continue pretty much as it is now. When the new franchise is negotiated, the dues money would be taken from the franchise fees rather than providing invoicing. San Anselmo's share of the cost of the JPA would be virtually the same as it is now. It is basically an administrative difference that the fees would come to the JPA and then be diverted back.

Breen said the Marin County Council of Mayors and Councilmembers (MCCMC) has reviewed this and made extensive revisions. These questions were not brought up by our representative.

Kroot asked about the 14 month withdrawal clause--it seems very long if the JPA isn't going well.

Christman said the idea was to get it done before the budget was done for the preceding year. It was agreed that if somebody withdraws, they would still get a vote on something that substantially affects them. She is not able to offer the opportunity to amend the JPA, but she can suggest that once the JPA is formed the twelve members by majority can

amend the agreement.

Breen asked if a Town does not participate, how could they negotiate with the various companies. Christman said they could probably negotiate what everybody else gets. The JPA has been approved by Sausalito, and Ross, San Rafael, County, Belvedere and Mill Valley have had first readings.

Hodgens asked if we stand to see a reduction in franchise fees.

Christman said she cannot guarantee a 5% cap on administrative fees because the cities will make the decisions of the JPA.

Town Administrator Pollard said if San Anselmo didn't agree, the alternative would be to withdraw and negotiate an agreement with a provider. The Town would have to look at the cost benefits.

Breen said the Town should look at the best way to accomplish this.

Jan Fairchild said Monterey County had an experience similar to this. It might be good to read up on what happened to them to see how it worked out.

Chignell said he supports the JPA but would like some changes. He is concerned that every dime of the franchise fees go to the County for diversion back to the cities. He suggests including language that franchise fees will come back at least commensurate with what we are getting now.

Overberger said she believes the Town benefits from JPA's. She would like to see a percentage cap on the diversion of money for administrative costs.

Kroot said this JPA obviously would be a benefit for the communities involved.

Hodgens asked if San Anselmo could join the JPA if a cap is adopted once the others meet. Christman answered affirmatively

Overberger said the Town has a choice. We could opt out completely, or say we want to have this additional language.

M/s, Overberger/Chignell, to allow for a two week period to investigate these issues, and investigate, with the County representative, the cost benefit of belonging and, alternatively, not belonging to the JPA, deferring action on this to the first meeting in January. Ayes: All.

4. APPEAL OF PLANNING COMMISSION DENIAL OF V-9741/DR-9730 – PETER SERCHIA, 50 PARK DRIVE, A/P 6-043-36, DESIGN REVIEW OF A 450 SQUARE FOOT FIRST STORY LIVING ROOM AND ENTRY ADDITION TO BE WITHIN 5' OF THE NORTHWEST AND SOUTHEAST SIDE PROPERTY LINES; DESIGN REVIEW OF A 220 SQUARE FOOT GARAGE AND A 375 SQUARE FOOT SECOND STORY MASTER BEDROOM SUITE ADDITION WITHIN 5' OF THE NORTHWEST SIDE PROPERTY LINE; AND A PARKING VARIANCE FOR THE SECOND REQUIRED PARKING SPACE TO BE RELOCATED TO WITHIN 10' OF THE FRONT PROPERTY LINE (20' REQUIRED).

Planning Director Chaney presented her staff report and gave a history of the past additions and more recent plans for this property. The Planning Commission couldn't make adequate findings for this variance.

Chignell asked that Planning Commission minutes be included in the packet for planning appeals.

Lynn Serchia, appellant, said they don't want to add to the rear of the property because they are trying to get some light into the house. The living room they planned originally just wasn't big enough.

Peter Serchia, appellant, said he has letters from neighbors saying they don't object to the plans. They would like their parking variance granted so they can stay in San Anselmo.

Chuck Weasner, Architect, presented Council with a model of the planned addition. He feels the special circumstances are the odd shape of the lot.

Kroot said he agrees with the appellants that there are special circumstances due to the curve of the street, plus the back of the house backs up the creek.

Chignell said he supports the appeal.

M/s, Kroot/Chignell, to uphold the appeal at 50 Park Drive due to special circumstances of the irregular shape of the lot. Ayes: All.

Conditions: (1) That the applicant shall obtain permits from the Building Department and commence construction prior to December 1, 1998, or the variance and design review will be considered null and void. However, the applicant may request a one-time-only, one-year extension by writing a letter to the Planning Director prior to December 1, 1998. (2) That the approval is based on the plans dated August 25, 1997.

5. GARBAGE AND RECYCLING ISSUES:

(a) Public hearing on an increase in garbage rates effective January 1, 1998

Town Administrator Pollard presented her staff report, listing the changes in garbage and recycling rates outlined in the franchise agreement. Newpoint Group has found that the 4.9% increase is appropriate. There is no requirement in the franchise agreement for their to be a public hearing on this, but Council has the authority to request it as we are doing tonight. Performance standards are still to be negotiated; negotiations were stalled early this year. She proposed that staff and SWARAC review the performance standard issue, and see what the compliance is with performance standards even though SARR hasn't agreed to them. Staff would also like to review the franchise agreement more completely and report back at 1/27/98 meeting. The only thing the Town Council can change is the Town's franchise fee.

Barbara Thornton, SWARAC Chair, said the committee has reviewed this information. They were concerned about changes in operating costs given the sharing of equipment, office space, etc with Fairfax, and were concerned that the Town was not notified of this operational change. The contract should be reviewed as agreement hasn't been reached on performance standards.

Overberger asked if SWARAC has clearly specified performance standards that haven't received SARR's concurrence, if it could then evaluate their performance against those performance standards.

Barbara Thornton, SWARAC Chair, said they put together performance standards, the results have not yet been tallied, but SARR must provide this data to the Town.

Overberger asked if the Town can file for a rate reduction if the company's costs go down due to consolidation.

Richard Johnson, SARR, said this would be taken under consideration at the next rate review.

Louise Mathews, Foothill Road, said she is concerned with the CPI figures. Mr. Nylund used the wrong CPI because he used a 13 month figure, which resulted in an overpayment by the ratepayers. Newpoint used a 13 month period as well, and ratepayers will be overcharged about a half percent. The tipping fee calculation is complicated but she believes the ratepayers are being overcharged by about .3%. The franchise fee was based on the CPI and so was overestimated last year and the ratepayers are being penalized. She believes the Town should carefully review these numbers.

Hodgens asked if Accounting Manager Sam Gill has reviewed any of these numbers. Town Administrator Pollard answered negatively.

John Warren, SARR accountant, said the franchise agreement makes it clear that there is an 8% franchise fee as of 1/1/98. The calculation is correct. The CPI is calculated year to year, and Mr. Nylund used the correct figures. The CPI is always calculated in 12 month figures.

Overberger asked what is open for negotiation under the agreement approved last January. If nothing is open for renegotiations, why is this being heard?

Chignell said we have a contract, which references the Municipal Code. The Code says the rate schedule should be established by the Town and the Municipal Code supersedes the contract. He would suggest Mr. Gill review the Mathew's figures.

Breen said he is disappointed that we have a contract that doesn't match our code.

It was the consensus of the Council to have Accounting Manager Sam Gill review the numbers submitted by Ms Mathews and bring this item back on the consent agenda for December 16.

**(b) Report on separate accounting for Fairfax and San Anselmo garbage and recycling operations.**

Town Administrator Pollard presented her staff report. Fairfax now has a garbage agreement with the same company and equipment and personnel are apparently being shared. We want to be sure that accounting of shared operations is separate so we have accurate data for setting rates. SARR has agreed to work with the Town on setting a shared methodology.

Barbara Thornton, SWARAC, said they are concerned that SARR didn't openly communicate this sharing of resources.

Richard Johnson, SARR, said they are indeed sharing resources in refuse and cardboard collection. In the overall scheme of things, these aren't big cost drivers, but they are willing to work on this. He reiterated that on performance standards, their reservation was born out of an attempt to unilaterally implement them. They are willing to discuss performance standards in a bilateral environment.

Overberger asked if the company can make a commitment as to when we can arrive at performance standards.

Richard Johnson said he would be willing to work something out by March 1, 1998.

Louise Mathews, Foothill Road, asked if the bookkeeping between the two towns is open, as Fairfax will probably have the same concerns.

Town Administrator Pollard said this issue can be discussed with SARR. We are authorized to see our own records, if Fairfax has the same language, we could seek access to those records.

Chignell said he'd like SWARAC to look further at the lack of consultation on the merger, the issue of equipment and employee sharing, full disclosure, utilization of non-union employees for commercial pickup, consistency with the collective bargaining agreement, and the utilization of Fairfax disposal employees to do San Anselmo business, like office staff.

Breen would like to see what mutually beneficial savings can be incurred through this so San Anselmo customers can get that cost savings and apply those savings to enhancing our services.

**6. INTRODUCE URGENCY ORDINANCE EXTENDING THE MORATORIUM ON THE CONSTRUCTION OF WIRELESS COMMUNICATION FACILITIES.**

Planning Director Chaney said the previous urgency ordinance terminated and so we cannot extend it. This new ordinance has new findings, it will probably have to be extended one more time.

M/s, Chignell/Kroot, to adopt Urgency Interim Ordinance No. 989 relative to wireless telecommunication facilities. Ayes: All.

**7. INTRODUCE URGENCY ORDINANCE PROHIBITING ALCOHOL IN PARKS.**

Police Lieutenant Cary recommends the Council adopt this urgency ordinance prohibiting alcohol in parks. Ordinance 782 expired in 1982 and no ordinance has been effect since that date. The ordinance was assumed to be in effect, signs are posted at parks and officers are consistently enforcing the ordinance. The Police Chief can give out exception permits.

Louise Mathews, Foothill Road, suggested that "his" be replaced with "his or her."

M/s, Chignell/Breen, to adopt Urgency Ordinance No. 990 concerning prohibition of use of alcoholic beverages in Town parks and playgrounds, as amended. Ayes: All.

8. ADJOURN.

The meeting was adjourned at 11:00 p.m. in memory of the father of Town employee  
Patty Stahl.

Debbie Stutsman

