

**TOWN OF SAN ANSELMO
STAFF REPORT
November 18, 2003**

For the Meeting of November 25, 2003

TO: Town Council

FROM: Debra Stutsman, Town Administrator

SUBJECT: Canvass of Returns of November 4, 2003 Election

RECOMMENDATION

That Council approve the resolution declaring the canvass of returns and results of the Consolidated General District and School Election held on November 4, 2003.

BACKGROUND

The Town of San Anselmo had two Town Councilmembers seats, the Town Treasurer and the Town Clerk on the November 4, 2003 ballot. The results of the election were as follows:

- ◆ Town Councilmembers – Barbara Thornton and Peter Kilkus
- ◆ Town Treasurer – Roberta Robinson
- ◆ Town Clerk – Barbara Chambers

In addition the Town had a referendum on the ballot asking whether the Council's decision to award a five-year franchise agreement for refuse, recycling and green waste services to Marin Sanitary Service should be upheld. The Council's decision was upheld by the voters.

The Certificate of Canvass of Vote and the Statement of Votes Cast are attached.

Respectfully submitted,

Debra Stutsman
Town Administrator

**TOWN OF SAN ANSELMO
RESOLUTION NO. _____
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN
ANSELMO DECLARING THE CANVASS OF RETURNS AND RESULTS OF
THE CONSOLIDATED GENERAL DISTRICT AND SCHOOL ELECTION
HELD ON NOVEMBER 4, 2003.**

WHEREAS, a Consolidated General District and School Election was held on November 4, 2003; and

WHEREAS, notice of said election was duly and legally given as required by law, and voting precincts properly established; that election officials were duly appointed and served, and election supplies furnished and that in all respects said election was held and conducted and the votes thereat received and canvassed by the Election Code of the State of California governing elections in General Law Cities; and

WHEREAS, the San Anselmo Town Council met on Tuesday, November 25, 2003 to canvass the returns of said election.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the San Anselmo Town Council finds that the number of votes cast and other matters required by law to be as stated in the attached Certificate of Canvass of Vote by Michael J. Smith, County Clerk/Registrar of Voters.

I hereby certify that the foregoing resolution was duly passed and adopted by the Town Council of the Town of San Anselmo at a regular meeting held on the 25th day of November, 2003, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Debra Stutsman, Town Clerk

AGENDA ITEM 1(b)

**TOWN OF SAN ANSELMO
STAFF REPORT
November 17, 2003**

For the Meeting of November 25, 2003

TO: Town Council

FROM: Janet Pendoley, Finance & Administrative Services Director

SUBJECT: Report of Warrants Issued, October 2003

RECOMMENDATION

That Council acknowledge and file warrant numbers 46974 to 47255 issued during the month of October 2003 in the amount of \$944,018.05. The following warrant numbers were voided or cancelled: 46077, 46817, 46843, 46974, 46975 and 47078.

BACKGROUND

This report is an itemization of payments made to vendors during the month just ended. It also includes warrants written to Bank of America for the month's two regular payrolls as well as reimbursements to employees for work-related approved expenditures.

Respectfully submitted,

Janet Pendoley
Finance and Administrative Services Director

Attachment 1: Warrant Registers, October 2003

AGENDA ITEM 1(c)

**TOWN OF SAN ANSELMO
STAFF REPORT
November 17, 2003**

For the Meeting of November 25, 2003

TO: Town Council
FROM: Janet Pendoley, Finance & Administrative Services Director
SUBJECT: Revenue and Expenditure Report, October 2003

RECOMMENDATION

That Council approve the Revenue and Expenditure Report for the period ending October 31, 2003.

BACKGROUND

The Revenue and Expenditure report is a year-to-date summary report of revenues and expenditures that is presented to the Town Council on a monthly basis. The General Fund is included in the monthly report. The purpose of these reports is to present financial information for review and discussion.

ANALYSIS

The revenue and expenditure data as of October 31st reflects financial activity transacted during 33% of the budget year. Revenue received, at 10%, is 2% below revenue for this period last fiscal year, which is primarily the loss of Motor Vehicle License Fee revenue that has been “loaned” to the state. In other regards, revenue reflects the normal lag in receipt of periodic payments including the following:

- Property tax distributions, which occur in December and April, are becoming an ever larger portion of the Town’s revenue. Thus, this lag will become greater also.
- Annual business license fees are collected in large part in the early months of the calendar year and their seasonality also contributes to the lag in revenue collections during this period.
- The State Board of Equalization has reduced the monthly “advances” of sales tax distributions in anticipation of generally lower revenue streams across the state. To the extent that the Town’s actual sales tax does not decline, the only negative impact of this action is the delay in receiving the revenue, yet another factor contributing to the revenue lag. However, beginning in October, the advance has reverted back to the usual level.
- As noted above, the impact of the State Budget’s “trigger gap” of the Motor Vehicle License Fees, estimated at \$146,540, has been implemented by a reduction in the allocation for the first four months of the fiscal year.
- LAIF interest earnings for the quarter ending September 30th were not received during this report period.

Expenditures, at 33%, appear to be fairly stable level across major categories presented on page 1 of the report with the exception of the Building, Vehicle and Equipment Maintenance category, at 39%, includes annual police RIMS and computer maintenance contract costs paid at the beginning of the contract year. Expenditures also appear to be at a stable level across departments presented on page 2 of the report with only a few exceptions:

- Legal Services expenditures (at 33%) reflect payment for litigation services incurred during the first 3 months of the fiscal year only.
- Library department expenditures (at 35%) are at a higher proportion of budget as a result of payment of a \$27,058 annual assessment to Marinette for the countywide library technology system.
- As indicated above, Police department expenditures (at 34%) include annual equipment maintenance expense.

- Recreation department expenditures (at 38%) reflect the final salary and leave pay out costs for the department director.

BUDGET REVISIONS:

The following budget revisions were made during this report period:

- \$1,900 budget transfer from the General and to Equipment Funds expenditure budgets to partially cover the backhoe lease purchase payments. This revision has no impact on the General or Equipment Funds' reserve.
- \$43 budget increase in the General Fund revenue and expenditure budgets to recognize receipt of a donation to the Arts Commission. This revision has no impact on the General Fund's reserve.
- \$1,811 budget increase in the General Fund revenue and expenditure budgets to recognize receipt of a Police department's Office of Traffic Safety grant for seat belt enforcement. This revision has no impact on the General Fund's reserve.
- \$46,471 budget transfer from the General Fund reserve to department budgets to fund management pay increases for fiscal year 2003-04, per Resolution #3661 approved by the Town Council on October 21, 2003. This revision decreases the General Fund reserve from \$133,183 to \$86,712.
- \$38,979 budget increase in the Insurance Fund revenue and claims reserve budgets to recognize receipt of a refund from prior years' membership in the Marin Cities Liability Management Authority (MCLMA). To the extent that current year claims do not require the use of these funds, this revision will increase the Insurance Fund's year end reserve in the amount of \$38,979.

CONCLUSION

In reviewing the financial data particularly as it compares to the prior year, the Town's revenue collections and spending levels appear to be within normal ranges for this report period.

In comparison to the previous fiscal year, however, total revenue continues to lag slightly behind and expenditures continue to be slightly ahead. These numbers signal that the current year budget is very tight and may not result in the excess carryover revenue available in past years for funding capital and equipment items.

Respectfully submitted,

Janet Pendoley, Finance and Administrative Services Director

Attachment #1: Revenue and Expenditure Report, October 2003

AGENDA ITEM 1(d)

**TOWN OF SAN ANSELMO
STAFF REPORT**

November 6, 2003

TO: Town Council

FROM: Dean Nyberg, Parks Director

RE: California State 2002 Resources Bond Act Resolutions

Recommendation

That Council approve the attached resolutions approving the applications for grant funds for the Youth Soccer and Recreation Development Program, the Per Capita Grant Program, and the Roberti-z'Berg-Harris Block Grant Program under the California clean water, clean air, safe neighborhood parks, and coastal protection act of 2002. (Prop 40)

Background

The Youth Soccer and Recreation Development Program helps local agencies and community-based organizations acquire or develop land and/or facilities that provide new youth soccer, baseball, softball, and basketball opportunities. It is a competitive grant and requires a 50% match. The minimum request is \$75,000 and the maximum is \$1,000,000.

The 2002 Resources Bond Act Per Capita Program funds are now available. The Town's allocation is \$220,000. The attached resolution approves the application for a contract to secure these funds.

The 2002 Resources Bond Act Roberti-Z'berg-Harris Urban Open Space and Recreation Grant Program funds are now available. The Town's allocation is \$33,577. The attached resolution approves the application for a contract to secure these funds.

Conclusion

The Parks and Recreation Commission is in the process of developing and prioritizing a Bond Funding Project Plan. This will be a Commission agenda item for the next several months, during which public, Commission, and staff recommendations will be prioritized. The goal is to have a fully prioritized list of recommended grant projects and cost estimates for Council consideration by June, 2004.

Respectfully submitted,

Dean Nyberg, Parks Director

AGENDA ITEM 1(e)

**TOWN OF SAN ANSELMO
STAFF REPORT
November 18, 2003**

For the meeting of November 25, 2003

TO: Town Council
FROM: Debra Stutsman, Town Administrator
SUBJECT: Telecommunications Job Creation and Infrastructure Investment

RECOMMENDATION

That Council consider approval of the resolution endorsing policies to encourage investment in local telecommunications services in California, investment in local communities and increased employment opportunities.

BACKGROUND

This resolution is brought forward at the request of the San Anselmo Chamber of Commerce and Councilmember Peter Breen.

In May 2002, the California Public Utilities Commission (CPUC) granted long distance companies like AT&T and MCI an enormous subsidy to encourage them to offer local telephone service. The two companies promised to add jobs and invest in telecom infrastructure in the state. A year later, the companies haven't fulfilled their promise to invest in California. This resolution endorses the importance of infrastructure investment to economic growth and employment in California and calls on policymakers to require telecommunications companies to certify annual their investment and job levels around the investment.

Respectfully submitted,

Debra Stutsman

Town Administrator

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
SAN ANSELMO ENDORSING POLICIES TO ENCOURAGE INVESTMENT IN
LOCAL TELECOMMUNICATIONS SERVICES IN CALIFORNIA,
INVESTMENT IN LOCAL COMMUNITIES AND INCREASED EMPLOYMENT
OPPORTUNITIES.**

WHEREAS, the Telecommunications Act of 1996 was designed to open all telecommunications markets to increased competition;

WHEREAS, the Federal Communications Commission and the California Public Utilities Commission (CPUC) have successfully opened telecommunications markets and created competition in California;

WHEREAS, multiple telecommunications companies now offer local and long distance service in California;

WHEREAS, the availability of advanced telecommunications services is important to City residents, businesses and communities;

WHEREAS, the availability of telecommunications services is dependent on maintaining the current telecommunications network infrastructure and future investments in network facilities and infrastructure;

WHEREAS, the development of and investment in network infrastructure promotes economic growth and employment opportunities for Town residents;

WHEREAS, telecommunications companies offering service in California have pledged to make investments in infrastructure and local communities;

WHEREAS, the benefits of competition and new investment in telecommunications infrastructure should be extended to all Californians;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of San Anselmo as follows:

1. Policymakers should require each telecommunications company offering local service in California to bring the benefits of competition to low-income consumers.

2. Policymakers should require each telecommunications company offering local service in California annually to report to the CPUC each city, municipality, and county where the company has local service customers and the number of such customers in each locale.
3. Policymakers should require each telecommunications company offering local service in California to certify annually to the CPUC and to each city or municipality where it provides service, (a) its current capital investment in the State and its additional, yearly incremental investment, by city, and (b) the number of its union and non-union employees in the State and in each city or municipality where it provides service.

ADOPTED this _____ day of _____, 2003, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Peter Kilkus, Mayor

Debra Stutsman, Town Clerk

AGENDA ITEM 1(f)

**TOWN OF SAN ANSELMO
STAFF REPORT
November 18, 2003**

For the meeting of November 25, 2003

TO: Town Council

FROM: Debra Stutsman, Town Administrator

SUBJECT: General Services Agency Formation

RECOMMENDATION

That Council approve the resolution concurring in the July 1, 2003 recommendations of the Joint Services Authority Oversight Committee regarding the General Services JPA and the role of the Joint Services Authority Oversight Committee.

BACKGROUND

In November of 2000, the Joint Services Committee submitted its report entitled, "Final Report and Recommended Actions to Improve Accountability and Operation of Marin Joint Powers Authority (copy attached)." This report was adopted by the Cities/Towns and the County.

One of its recommendations was for the creation of the Joint Services Authority Oversight Committee (JSAOC). That Committee has been meeting since May 2002 and has issued the attached July 1, 2003 report "Report on General Services Joint Powers Agency and Role of Joint Services Authority Oversight Committee." They make four recommendations:

1. That no further efforts be made to consolidate current joint powers agencies at this time.
2. That the Board of Directors on the Streetlight Acquisition Joint Powers Authority be requested to restructure itself into a "General Services Joint Powers Authority."
3. That the Joint Services Authority Oversight Committee continue to meet, as needed, to provide policy oversight.
4. Each City/Town and the County adopt the JSAOC's July 1, 2003 report.

The Marin County Council of Mayors and Councilmembers endorsed this July 1, 2003 report at their October 22, 2003 meeting.

Respectfully submitted,

Debra Stutsman
Town Administrator

AGENDA ITEM 1(g)

**TOWN OF SAN ANSELMO
STAFF REPORT
November 18, 2003**

For the meeting of November 25, 2003

TO: Town Council

FROM: Debra Stutsman, Town Administrator

SUBJECT: Regular meeting of December 23, 2003

RECOMMENDATION

That Council cancel the regularly scheduled meeting of Tuesday, December 23, 2003, due to the holidays.

BACKGROUND

The second regular meeting of December 2003 falls during the Christmas holiday week. It has been the Council's practice to cancel this meeting.

Respectfully submitted,

Debra Stutsman
Town Administrator

AGENDA ITEM 1(h)

**TOWN OF SAN ANSELMO
STAFF REPORT
November 20, 2003**

For the Meeting of November 25, 2003

TO: Town Council

FROM: Janet Pendoley, Finance and Admin Services Director

SUBJECT: Approval of Employee Request for Participation in Sick Leave Donation Program

RECOMMENDATION

That Council approve the request by a Town employee to participate in the Sick Leave Donation Program.

{NOTE: With the employee's permission, the Council has been informed of the employee's name and medical condition; however, to uphold the privacy rights of the employee, this information does not appear in any public materials for this agenda item.}

BACKGROUND

In July 1995 the Council approved the policy and procedures that established a Sick Leave Donation Policy and Procedures for Town employees. The program permits the transfer of accrued sick leave credit from one or more Town employees to another Town employee who has exhausted all available sick, vacation, compensatory and in-lieu time. The purpose of the program is “to enable a catastrophically ill/injured Town employee to focus his/her energy on recovery rather than on financial matters.”

During Marin Association of Public Employees (MAPE) negotiations in October 2002, the Council enhanced the policy:

- to exclude the term “life threatening” in the definition of a qualifying medical condition; and,
- to include application “in the event that an employee must be absent from work to care for a similarly incapacitated spouse, domestic partner or dependent minor child.”

ANALYSIS

In the Administrative Procedure for the policy, Catastrophic Illness/Injury is defined as “a medically certifiable condition due to an illness or injury that results in an employee being incapacitated and unable to work for a prolonged period...”

Catastrophic Leave is defined as “approved leave of absence due to a medically verifiable long-term illness or injury to an employee, his/her spouse, domestic partner or minor dependent child. Initial catastrophic leave approval is granted by the Town Council for up to 90 calendar days. Extensions of such approved leave of up to 90 calendar days may be granted by the Town Administrator. Catastrophic leave must be used on a continuous and uninterrupted basis and a leave recipient may not remain on catastrophic leave for a continuous period exceeding 12 consecutive months.”

Upon Council approval of an individual’s request for participation, the Town distributes the “Donor’s Request to Pledge Sick Leave” form to all Town employees. Donations by other employees are entirely voluntarily and are limited by formula to ensure that donors retain for their own use at least one year’s worth of sick leave accrual (usually 96 hours) plus two additional weeks of sick leave. The recipient must have exhausted all forms of paid leave including sick, vacation, floating holidays, and compensatory time, prior to use of donated sick leave hours. Unused portions of donations may be returned to donors upon request.

FISCAL IMPACT

The financial impact of this program is indirect and therefore difficult to quantify. While employed by the Town, employees accrue sick leave without limit, so whether individuals choose to donate their sick leave to others or to retain it for future use has no

impact on the Town. At resignation, employees forfeit their unused accruals, so the higher the number of unused hours, the greater the savings to the Town. Conversely, when employees retire from their position with the Town, they receive credit for 100% of their unused sick leave in the calculation of their retirement benefit, so the higher the number of unused hours, it higher the retirement cost to the Town. Additionally, retiring POA employees have the option of cashing out 50% of their unused sick leave.

A more practical way to determine the cost of the program may be to consider the replacement cost if any of hourly substitutes for the position while the recipient is on paid leave.

Respectfully submitted,

Janet Pendoley
Finance & Administrative Services Director

AGENDA ITEM 1(I) – Continued to December 9, 2003
AGENDA ITEM 2

TOWN OF SAN ANSELMO
STAFF REPORT
November 18, 2003

For the meeting of November 25, 2003

TO: Town Council

FROM: Debra Stutsman, Town Administrator

SUBJECT: Interim Service Agreement for Solid Waste,
Recycling, and Green Waste Services

RECOMMENDATION

That Council approve the extension of the Interim Service Agreement for Solid Waste, Recycling, and Green Waste Services with Marin Sanitary Service to January 31, 2004, in order to give staff the time necessary to review the Franchise Agreement document and make any necessary changes.

BACKGROUND

The Town had just entered into a five-year Franchise Agreement for Solid Waste, Recycling and Green Waste Services with Marin Sanitary Service in August, 2002 when

a referendum was successfully filed against the Council's award of the franchise. The Council set the matter for the general election of November 2003 and took bids from companies wishing to provide interim garbage service to the Town. An interim contract was awarded to Marin Sanitary Service for the period December 1, 2002 through November 30, 2003. The question was put to the voters this month and the voters upheld the Town Council's award of the franchise to Marin Sanitary Service.

DISCUSSION

A review of the original five-year franchise agreement reveals that a number of dates and milestones included in the agreement have changed due to the one year time lag. The Town Administrator and the Town Attorney are meeting with representatives with Marin Sanitary to correct the dates and address any other issues/concerns that have arisen from the experience of the last year. We plan to come forward with a revised franchise agreement at the January 13 meeting.

Respectfully submitted,

Debra Stutsman
Town Administrator

AGENDA ITEM 3

TOWN OF SAN ANSELMO STAFF REPORT November 17, 2003

For the Meeting of November 25, 2003

TO: Town Council

FROM: Janet Pendoley, Finance & Administrative Services Director

SUBJECT: Annual Independent Audit Report for Fiscal Year ending June 30, 2003

RECOMMENDATION

1. That Council accept the following reports prepared by Odenberg, Ullakko, Muranishi (OUM) and Company, LLP, CPA which comprise the Annual Independent Audit Report for the fiscal year ending June 30, 2003:
 - General Purpose Financial Statements and Supplemental Information With Independent Auditor's Report;

- Fiscal 2003 Report to Town Council (Management Letter); and
 - Agreed Upon Procedures (Gann Limit Compliance).
2. That Council approve staff's response to the recommendations presented in Section II of the Fiscal 2003 Report to Town Council.

BACKGROUND

OUM, Certified Public Accountants, have prepared the annual independent auditor's report and general purpose financial statements for the fiscal year ending June 30, 2003. In addition, they tested and reported on compliance in the Gann Limit calculations. Based on their examination of Town records and procedures, they have presented their findings in a Management Letter. For fiscal year 2002-03 the Town expended no federal grant funds in an amount over \$300,000; therefore, no single audit was required.

This is the second year that OUM has conducted the audit and prepared the financial statements for the Town. Copies of the documents have been mailed to the homes of the Council members, Town Treasurer, and Treasurer-elect. They are also available in the Town Library and Police Department for public viewing. Scott Miller, the audit manager from OUM, will present its report to the Town Council on November 25, 2003.

GENERAL PURPOSE FINANCIAL STATEMENTS

The general purpose financial statements include balance sheets and revenue and expenditure reports for the Town's funds, and notes on items designated by the auditor.

A key piece of data that the Town receives in the transmittal of the financial statements is the amount of the prior fiscal year General Fund "carryover", which is defined as the excess revenue realized in comparing actual to budgeted revenue and expenditures. At the time of the 2003-04 Budget Adoption, staff projected a carryover amount of \$100,000. As a result of the final closing of the 02-03 books and as reflected in the auditor's report, that number has been revised to \$122,039, an increase of \$22,039. The additional amount has been set aside in the contingency for future use.

The conclusion presented in the independent auditor's report resulting from OUM's audit of the Town's financial records is that the general purpose financial statements present fairly, in all material respects, the financial position of the Town as of June 30, 2003 and that the results of its operations and cash flows of its proprietary fund types for the fiscal year are in conformity with generally accepted accounting principles. This conclusion is known as a "clean audit."

AUDITOR'S REPORT TO TOWN COUNCIL

The auditor's Report to Town Council contains two sections. The first, entitled Required Communications, is a series of statements regarding various aspects of the Town's internal control structure. No material deficiencies were identified in this section.

The second section, entitled Recommendations, outlines recommendations designed to help the Town make improvements and achieve operational efficiencies. The first recommendation is that the Recreation department develop a periodic budget report to provide timely analysis of the financial status of its programs and services. In addition, they recommend a system of budget controls be implemented to better monitor financial activity throughout the fiscal year. Staff concurs with this recommendation and has been working to provide improved accountability in the Recreation Fund through a number of means:

- The Town is proceeding with the recruitment for a new Recreation Director and has hired Dennis Smith as Interim Recreation Director to manage the department during the recruitment. Dennis brings to the position 25 years of Recreation experience and also several years of experience as a Budget Analyst in a municipal setting.
- The first monthly Recreation Fund Revenue and Expenditure Report, a collaborative staff effort, will be presented for Town Council review following this agenda item.
- The Town Administrator is working with the Interim Recreation Director to review documentation and to authorize all expenditures prior to the processing of checks, including both vendor and payroll payments.
- The Finance & Admin Services Director is working with the Interim Recreation Director to implement improved procedures for: (1) the security of Recreation revenue collections and their timely deposit into the Town's bank account; and (2) enhanced controls over the distribution of vendor and payroll checks.

The second recommendation is regarding the need to plan for the required implementation as of June 30, 2004 of Governmental Accounting Standards Board (GASB) Statement #34. Staff understands this requirement and will comply within the required time frame.

AGREED UPON PROCEDURES (GANN LIMIT)

The auditors reviewed the Town's Gann Limit Worksheet for FY 02-03 for compliance with the Agreed-upon Procedures Applied to the Appropriations Limitation Prescribed by Article XIII-B of the California Constitution. The report (Attachment #3) indicates compliance with no exceptions.

SINGLE AUDIT REPORT

As indicated above, no Single Audit Report was required for 2002-03.

CONCLUSION

The annual audit reports outlined above provide the Council with an overview of the fiscal condition of the Town as of June 30, 2003. The recommended actions are to hear the auditor's reports and to accept them, and to approve the response to OUM's recommendations.

Respectfully submitted,

Janet Pendoley
Finance and Administrative Services Director

Complete audit documents: Mailed to Council Members, Treasurer, Treasurer-elect

Public viewing in Library and Police Department

AGENDA ITEM 4
Not available on website

AGENDA ITEM 5

TOWN OF SAN ANSELMO
STAFF REPORT
November 10, 2003

For the meeting of November 25, 2003

TO: Town Council
FROM: Thomas Bell
SUBJECT: Animal Control Ordinance

RECOMMENDATION

Adopt the attached ordinance and waive reading, adopting by reference Title 8 of the Marin County Code addressing animals, adopting fees to be collected as revised and adopted June 3, 2003, and amending Sections 5-1.01 through 5-1.03 of the San Anselmo Municipal Code.

BACKGROUND

At the meeting of October 14, 2003, the Council introduced the attached ordinance and set a public hearing for tonight. Subsequently, notice was provided in the Marin IJ on October 22 and October 29, 2003 in accordance with law.

The ordinance draft, October 14 staff report, and background materials are attached for your review.

Respectfully submitted,

Thomas Bell
Planning Director

AGENDA ITEM 6

**TOWN OF SAN ANSELMO
STAFF REPORT**

For the meeting of November 25, 2003

TO: Town Council

FROM: Thomas Bell

SUBJECT: Nonconforming Structures – Replacement-in-Kind

A. RECOMMENDATION

Discuss the issue of nonconforming structure replacement and provide direction to staff to initiate code revisions as appropriate.

BACKGROUND

At the meeting of October 28, 2003, the Council heard a complaint from Mr. Lee about current code provisions requiring an Administrative Variance for the replacement of an existing nonconforming structure within the required yard setback at 46 Magnolia Avenue and directed that this topic be discussed at tonight's meeting. Mr. Lee felt that replacement of an existing nonconforming structure (stairway) should not be subject to discretionary action.

DISCUSSION

As the Council is aware, the majority of older buildings in town do not conform to today's zoning code requirements due to setback encroachments, parking

provisions, lot coverage, etc. even though they were legally built at the time of original construction. Such structures are defined as “nonconforming”.

With some minor exceptions, the in-kind replacement of a nonconforming structure requires some type of variance procedure. Staff has traditionally interpreted the replacement of minor structural members such as a post or a rotted siding board as “maintenance” unless such replacement involves a large portion of a structure. However, current code provisions do not differentiate maintenance from replacement. Lastly, the code allows replacement of up to 50% of a structure (without a variance) if destroyed by disaster such as fire.

Nonconforming structure provisions are found in Sections 10-3.607(d) and (h), and Table 4-B, “Replacement in Kind”. Those provisions are attached for your review. Based on those provisions, it appears that the intent of the code is to ultimately require nonconforming structures to conform to current codes. Such conformance is triggered at the time of reconstruction or alteration.

ISSUES 1) *Should nonconforming structures be allowed to continue in perpetuity?*

2) Should property owners be allowed to replace in-kind existing nonconforming structures without discretionary review?

In considering issue # 1, the Council should determine whether or not existing nonconforming structures constitute blight upon the community or create problems with the surrounding neighborhood due to their nonconformance. Part of the uniqueness and charm of San Anselmo is considered to be the varied architecture and styles of existing neighborhoods. Requiring eventual conformance with current codes may result in some loss of neighborhood uniqueness. On the other hand, the lack of conformity would result in the application of separate standards for the “new” vs. “old”. If the Council determines that nonconforming structures should be allowed to remain in perpetuity, then it follows that property owners should be allowed to replace such structures by right (without discretionary review).

In considering issue # 2, the Council should determine whether or not property owners should have a right to replace existing nonconforming structures or portions thereof without neighborhood/public review. As the Council is aware, many property owners believe they have the right to repair their homes as they determine necessary **to avoid potential dilapidation and maintain property values**. Since the variance requirement for replacement of nonconforming structures represents a discretionary action, potential replacement could be denied. Consequently, it appears that many owners provide such replacements in stages without the benefit of building permits. Generally, staff becomes aware of such repairs when a neighbor complains about the noise or construction without a permit.

With regard to Mr. Lee's specific complaint, there is no provision in the code that would allow individual waivers. The remedy would be to direct staff to initiate a code amendment if determined appropriate, and withhold enforcement of the replacement-in-kind requirements (Admin. Variance) pending a code revision. Since Mr. Lee has already replaced the nonconforming structure there is no immediate need to address his issue.

In summary, the current Municipal Code requirements for nonconforming structures appear to be based on the concept that ultimately these nonconforming structures will be brought up to current codes. Council may wish to reconsider this concept and allow replacement-in-kind by right and direct staff to come forward with a proposed ordinance.

Respectfully submitted,

Thomas Bell
Planning Director

AGENDA ITEM 7

**TOWN OF SAN ANSELMO
STAFF REPORT**

November 19, 2003

For the Meeting of November 25, 2003

TO: Town Council

FROM: Lisa Wight, Senior Planner

SUBJECT: **Zoning Ordinance Amendment to the Merger of Parcels Ordinance,
SAMC Title 10, Chapter 3, Article 27**

RECOMMENDATION

That the Town Council introduce an Ordinance amending Sections 10-3.2703(b)(4), 10-3.2703(c), and 10-3.2712(a)(4) of the Municipal Code, waive the reading and continue to December 9, 2003 for final adoption.

Background

November 3, 2003: Planning Commission heard the item and recommended to the Town Council to adopt an Ordinance amending Sections 10-3.2703(b)(4), 10-3.2703(c), and 10-3.2712(a)(4) of the Municipal Code.

Staff Comments

As directed in the April 30, 2003 letter from Town Attorney Hadden Roth, in order to conform to the state statute, the following amendments are required:

1. SAMC Section 10-3.2703(b)(4): change the word “density” to “stability” to read, “Does not meet the slope stability standards.”
2. SAMC Section 10-3.2703(c): repealed.
3. SAMC Section 10-3.2712(a)(4): change the word “density” to “stability” to read, “Meets the slope stability standards.”

Recommended Action

- To introduce an Ordinance amending Sections 10-3.2703(b)(4), 10-3.2703(c), and 10-3.2712(a)(4) of the Municipal Code, waive the reading; and
- Announce that the Town Council is scheduled to hold a public hearing with adoption of this ordinance to take place on December 9, 2003.

Attachments: Ordinance
Planning Commission minutes of November 3, 2003

AGENDA ITEM 8

**TOWN OF SAN ANSELMO
STAFF REPORT
*November 18, 2003***

For the meeting of November 25, 2003

TO: Town Council

FROM: Debra Stutsman, Town Administrator

SUBJECT: Red Hill Community Park Joint Powers Authority

RECOMMENDATION

That Council discuss the attached draft joint powers agreement between the Tamalpais Union High School District (District) and the Town to establish the Red Hill Community Park, and provide direction to staff.

BACKGROUND

The District and the Town have entered into a lease agreement with the Ross Valley School District to develop the Red Hill field site. The next step in the process is a joint powers agreement between the District and Town for the purposes of developing, maintaining and operating athletic and recreational facilities at the Red Hill Community Park.

DISCUSSION

The draft agreement contains the following provisions:

- Authority to be governed by a five-member Board of Directors, comprised of two representatives appointed by the District Board (one of whom shall be a member of the Board), two representatives appointed by the Town Council (one of whom shall be a member of the Council) and one community representative to be appointed initially by mutual agreement of the parties and thereafter by a majority vote of the Board of Directors.
- Town's Recreation Director shall serve as Executive Director to the Authority.
- Town Attorney shall serve as General Counsel to the Authority
- Authority shall reimburse Town and District for the cost of services provided.
- Agreement would terminate on termination of the Lease Agreement.
- District shall be responsible for administering contracts for the development of the Park.
- Town is responsible for operating and maintaining the Park for joint use of the District and Town.
- Town's Finance and Administrative Services Director shall serve as Treasurer to the Authority.

Regarding the appointments to the Board of Directors, a process would need to be established for the recruitment of the community members. For the Town's community position, staff would recommend that we advertise for the position, accept applications and conduct interviews with interested applicants. For the jointly appointed community position, possible courses of action might include delegating the appointment to the two elected representatives to the JPA, or alternatively, to the Superintendent and Town Administrator from a joint pool of candidates.

The District is also reviewing the draft agreement at their meeting this evening.

Respectfully submitted,

Debra Stutsman
Town Administrator