

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of January 27, 2004

Present: Kilkus, Thornton, Chignell, Kroot, Breen
Absent:

8:00 p.m.

- CALL TO ORDER.
- PLEDGE OF ALLEGIANCE
- ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

No closed session was held.

- OPEN TIME FOR PUBLIC EXPRESSION.

Tom Crowell, 68 Bennit Avenue, said he is a member of the San Anselmo Bike Task Force and wanted to recognize Rabi Elias for all the great work he is doing with them.

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

Breen asked the Town Administrator to bring back to Council a brief report on the proposed initiative that is being sponsored by the League of Cities with regard to the taking of local monies by the State, to find out what the impact might be if it passes or doesn't pass. Also stated that the continuing problem with the crosswalk lights is very frustrating because they are unusable. He asked if the Council could do anything.

Chignell stated that the Staff has been working on that and it is out of their control but Rabi is staying on top of it.

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

- (a) Approve the Minutes of January 13, 2004.
- (b) Approve the Quarterly Treasurer's Investment Report and Revenue and Expenditure report for the period ending December 31, 2003.
- (c) Acknowledge and file Recreation Revenue and Expenditure Report for period ending December 2003.
- (d) Announce term expirations on the Robson Board of Directors and the Measure G Monitoring Committee.
- (e) Acknowledge and file mid-year progress report on the 2003-04 Work Plan.
- (f) Approve appointment of Ron Little as Recreation Director at an annual salary of \$85,000 and approve resolution No. 3675 updating Recreation Director salary in Management Compensation resolution.

- (g) Introduction and first reading of zoning ordinance amendment to the temporary signs ordinance, Title 10, Chapter 9, Article 3 of San Anselmo Municipal Code. **CONTINUED TO THE MEETING OF FEBRUARY 10, 2004.**
- (h) Appeal of Planning Commission approval of use permit to allow exceptions to standards for a residential 2nd unit, and variance to allow a retaining wall in excess of 4' with 0' of the front property line, located within the R-1C zoning district. Appellants: Michael and Nancy Goldstein. Location of project: 100 Forbes Avenue (A/P No. 6-261-06). **CONTINUED TO THE MEETING OF MARCH 9, 2004.**

Kroot announces he is going to abstain from item (h)

M/s, Breen/Kilkus to approve consent agenda items (a) through (h) with Kroot abstaining from item (h). Ayes: All

2. APPOINT MEMBERS TO THE ARTS COMMISSION, BOARD OF REVIEW AND OPEN SPACE COMMITTEE.

Debra Stutsman, Town Administrator, presented the staff report.

M/s, Thornton/Kilkus, to appoint Ellen French, and Mike Laska to the Arts Commission, for terms expiring October, 2005. Ayes: All

M/s, Kroot/Breen, to appoint Dan Goltz to the Board of Review. Ayes: All

M/s, Thornton/Kroot to appoint incumbents, Linda Hoch and Leonard Charles, and new member Barbara Dwyer to the Open Space Committee. Ayes: All

3. AUTHORIZE CREATION OF SUBCOMMITTEE TO REVIEW VARIOUS ZONING STANDARDS AND APPOINT COUNCILMEMBER KROOT AND REPRESENTATIVE(S) OF THE PLANNING COMMISSION (TO BE APPOINTED BY THE PLANNING COMMISSION) TO SERVE ON THE SUBCOMMITTEE.

M/s, Breen/Kilkus to appoint Council members Kroot and Thornton to the subcommittee on zoning standards. Ayes: All

4. APPEAL OF PLANNING COMMISSION APPROVAL OF A USE PERMIT TO ALLOW EXCEPTIONS TO THE STANDARDS FOR A RESIDENTIAL SECOND UNIT AND VARIANCE TO ESTABLISH A RESIDENTIAL SECOND UNIT (CONVERSION OF AN EXISTING ACCESSORY STRUCTURE) WITHIN 4' OF THE REAR PROPERTY LINE (CODE: 20') AND 2' OF THE NORTHERLY SIDE YARD PROPERTY LINE (CODE: 8'), LOCATED IN THE R-1 ZONING DISTRICT. 311 LAUREL AVENUE; AP NO. 7-172-05; APPELLANTS EDWINA AND NEAL WHITBECK. APPLICANTS: TOM & KITTIE RASKOWSKY.

Planning Director Tom Bell presented the staff report. He said the two issues are the private drainage culvert and the conversion of the barn into a second unit dwelling. He said that if the project is approved a condition will be added to insure the relocation of the culvert and this will make the issue of the culvert a moot point. Regarding the use permit issues; the design, while not the same as the main unit, is acceptable due to its architectural consideration to the existing neighborhood design,. Regarding the variance issues; the Planning Commission found that there would be no adverse impact to the neighborhood, but rather, there would be positive results, should the construction be approved and carried out as planned. He also stated that the project does qualify under special circumstance for the variance due to the fact the existing structure is already in the desired location, that the mature trees on the property limit alternate locations and there are similar structures on other properties throughout the neighborhood. It is Staff's recommendation that if Council can determine affirmative findings for the variance and use permit issues, that Council upholds the Planning Commission's decision and denies the appeal.

Breen asked Planning Director Bell if the culvert is a live, active culvert. Planning Director Bell said yes.

Joe Giacomini, presented the issues in support of Edwina and Neil Whitbeck residing at 7 & 9 Myrtle Lane. Mr. Giacomini stated that the proximity of the proposed new unit is only 4 feet from the Whitbeck's residence, and setbacks require 20 feet. He said that the proposed project building in its current location, has always been used as a utility building and changing its purpose into family use will heavily impact the privacy, safety and comfort to the Whitbecks. He also stated that Mr. Raskowsky said that he would move the location of the proposed unit if he discovered a culvert underneath it. The facts around the location of the culvert in past meetings have been incorrect. The ministerial plan submittal requirements say to include property boundary and easements and he asked how this could be done without a full and complete survey. He asked that Council uphold the appeal.

Mr. Neil Whitbeck, 7 & 9 Myrtle Lane, pointed out that this project has been denied twice before and that if it were new construction, based on current codes, it could not be built. He noted that the culvert is in fact underneath the existing structure according to line locators.

Chignell asked Mr. Whitbeck if he heard what Planning Director Bell said about the added condition regarding the culvert. Mr. Whitbeck said he did.

Mr. Whitbeck stated the information regarding the culvert in prior meetings was incorrect. He explained that the proposed unit will be closer to his home than to the applicant's main house and the intended use of the structure would clearly diminish the health, peace and happiness of the inhabitants of his home. He also said that he is not trying to deprive the Raskowskys of the opportunity for second unit use. He then stated that Planning Commissioner Whitenkeller said why crowd rear and side properties and set a bad precedence.

Chignell asked Planning Director Bell to address issues brought up about a survey being required under the code, the allegation that staff had incorrect information and that the project has been denied twice in the past.

Planning Director Bell said that the Planning Department does not require a survey on submission of planning projects. He also said that while there was some discrepancy about the location of the culvert, he believes that it is no longer an issue with the addition of the new condition. He then said that there were 2 votes on this project in the past, it was 2/2. In one case they had to re-advertise because the non-approval didn't include a continuance due to no quorum.

Chignell stated that Council is very familiar with each appeal that comes before them and to remember to try to refrain from being redundant.

Dave Jochum, Architect for the Raskowskys, pointed out that the 2 denials in the past were not denials and that there is another property owner, Jim Paymar at 19 & 19A Myrtle whose property is just as close to the proposed structure as the appellants is. He also feels that the culvert is a moot point since the Planning Commission didn't find it necessary to locate the pipe. He pointed out there really is no other acceptable location for the second unit and that the uses of the existing barn have included use as an office and sleeping quarters in the past. And, he stated that Mr. Raskowsky's statement that he would move the barn should a culvert be located underneath it was meant to say that he would move the location of the culvert, not the existing structure. He said he believes the project to be a nice upgrade to the neighborhood.

Andy Ryan, 300 Laurel Avenue, said he has known the Raskowskys since he moved in; with a large family they need to do an upgrade for space reasons. If they can't get this approved and they have to move, that house may turn into a rental unit and that wouldn't be good for the neighborhood. He supports their applicaiton.

Greir Argall, 336 Laurel Avenue, said this building needs to be upgraded. He thinks it's a good improvement for the neighborhood and they are good neighbors.

Jim Josephson, 230 Madrone Avenue, said it is difficult to find moderate cost housing in this community, believes it is a good idea, hasn't heard any reasonable objections made and he supports the project.

Mr. Whitbeck said that Mr. Paymar's house is actually 17 feet away and his is only 4 feet. He said the culvert issues and use of the building has always been what this project has been about for him.

Mr. Giacomini said that Mr. Raskowsky stated in the minutes that he would move the location of the second unit if the culvert was found to be underneath it. He pointed out there would be damage to heritage trees due to construction. Also stated the use will change from a storage unit to a living unit.

Edwina Whitbeck, 7 & 9 Myrtle Lane, said they provided photos that demonstrated that the culvert is under the structure. Even though there is a suggestion that the culvert will be moved, the Commission didn't have the correct facts and she feels this is why the culvert is an issue. Also stated that the applicant said that he will use the structure for family use.

Kroot said this has been a very emotional experience for everyone involved, other than a concern for fire safety, which will be addressed by the proper measures in construction, he hasn't heard anything that makes him not want to approve this. He said the privacy issues concerning placement of windows seems negligible and there is a chronic need of additional affordable housing.

Kilkus stated that Council treats every single person in this town the same whether they live here or not. He is in favor of the project.

Breen said that change is hard. Council has a responsibility to not only the appellant and applicant but also the community as a whole. A second unit is a wonderful way to increase the housing availability and also an architectural improvement to the neighborhood. He is in support of the project.

Thornton stated that she understands the difficulty of the appeals for the community, applicants and appellants. She agrees we need additional affordable housing. There is a building there now and the proposed work will be an improvement over what is there now. She is in support of the project.

Chignell stated that he reviewed this appeal extensively and with respect to the Whitbecks and Mr. Giacomini, he said that he believes the impact is benign, it is a vast improvement to the property and therefore he will vote to reject the appeal.

M/s, Kroot/Thornton to deny the appeal with the addition of the new condition set forth by Planning Director Bell and both use permits and variance findings as delineated in the Staff Report. Ayes: All

5. APPEAL OF PLANNING COMMISSION APPROVAL OF 1) HILLSIDE DESIGN REVIEW OF A 38 SQUARE FOOT MAIN FLOOR ADDITION, A 410 SQUARE FOOT UPPER FLOOR ADDITION, AND A 166 SQUARE FOOT UPPER CEILING ADDITION (NO FLOOR); 2) SETBACK DESIGN REVIEW FOR THE MAIN FLOOR ADDITION TO BE CONSTRUCTED WITH 5' OF THE EAST SIDE PROPERTY; AND 3) SETBACK VARIANCE FOR THE UPPER FLOOR ADDITION TO BE WITHIN 5.5' OF THE WEST SIDE PROPERTY LINE; 68 BENNET AVENUE, AP NO. 5-091-07; APPLICANTS: TOM CROWELL AND PATRICIA PIRRONE. APPELLANTS: J. ERIC HARNEW AND L. DEAN JONES.

Senior Planner, Lisa Wight, presented staff report. The appeal points include the project

not aesthetically compatible with neighborhood, light, and privacy issues, concern of pruning of large oak tree, road noise and heavy equipment on roadway. She stated that the Planning Commission found the ceiling addition to have no floor, therefore it is not a third story in that location. The project design includes many changes to screen views and provide solution to the privacy concerns. The Planning Commission determined there to be no significant impact on light to neighboring properties. The Town's noise ordinance would regulate short-term construction noise and the arborist report indicated that some limbs would need to be removed from the oak tree but provided recommendations for maintaining the tree's health. She said Staff recommends upholding the Planning Commission's approval of the project and thereby denying the appeal.

Eric Harnew, 66 Bennit Avenue, has an objection to the blockage of light and cool breeze in the summertime which blows most of the smoke from the fireplaces out which is a concern he says, because his wife suffers from migraines and he has asthma. Also concerned about visibility to their back yard.

Dean Jones, 70 & 80 Bennit Avenue, feels proposed structure is too big stating building codes clearly indicate proper setbacks and all architects are familiar with these codes. He would like the Town to enforce its own building codes. In order to have a fair indication of where the setbacks are located the true property line should be established through a survey of the area. If the construction is not built to the Town's codes he stated he will continue to pursue his objections in court if necessary.

Fred Devine, Architect for project, said Parcel A is in question as to what it actually is, a street, easement, etc. The variance in question is based on a "street" setback. The ceiling height has been reduced. There are other neighbors in the area that have wood burning fireplaces already and is in keeping with what is already there. Design has been changed all around to help with privacy issues.

Fred Morph, 27 Camino De Herrera, supports the right to improve neighborhood properties. He doesn't believe there is significant noise or privacy issues and believes the owners have done a lot to accommodate the wishes of their neighbors. He is in support of the project.

Eric Harnew, 66 Bennit Avenue, explained to the owners that he is not opposed to them expanding their square footage, but building up invades his privacy. The owners currently have a fireplace located in an area that doesn't affect him. He stated he appreciates the architect placing the windows higher so he can still use his hot tub.

Dean Jones, 70 & 80 Bennit Avenue, stated he understands the desire to add space. Restated it is very unclear about where the property line is and that a property survey should be done.

Kroot asked Senior Planner Wight what the status of the street is. Senior Planner Wight said it is titled Parcel A. It is not private and the information from the county is that it is

for the benefit of the owners of the real properties, which abut thereon. No one pays taxes on it.

Kilkus said that issues of privacy are important but we all have to look at our neighbor's space, there has to be a way to live with that. He doesn't think the appellants have a valid legal claim to support taking it to court.

Kroot commented that the architect and applicants have gone out of their way to make reasonable accommodations taking into consideration the concerns of their neighbors. Looking at the plans there does not appear to be a third floor. He supports the project.

M/s, Kroot/Kilkus approve recommendation of Staff to deny the appeal based on the findings of the September 15, 2003 staff report. Ayes: All

6. A) APPROVE MID-YEAR BUDGET REPORT AND APPROVE RESOLUTION NO.3676 AMENDING THE 2003-04 BUDGET.
- B) ACKNOWLEDGE AND FILE REPORT REGARDING STATE OF CALIFORNIA'S PROPOSED FUNDING REDUCTIONS, POSSIBLE IMPACTS ON 2003-04 BUDGET, PRELIMINARY BUDGET DEVELOPMENT 2004-05 AND IMPACT OF POSSIBLE FUNDING CUTS OF UP TO 10%, AND PROVIDE DIRECTION TO STAFF REGARDING NEXT STEPS.

Town Administrator Debra Stutsman, presented staff report. This is the time to look at midyear expenditures and adjust the budget accordingly. She said they are looking to include \$10,000 expenditure for a consultant to get Town into compliance with the GASB 34 requirements and it should come out of contingency. Also the noise and traffic study for the proposed skate park has been done and she recommends \$6,800 to come out of contingency to cover that expenditure. Council approved at the last meeting contributions in the amount of \$27,573, in Measure G expenditures, that should be accounted for in the Measure G budget.

Breen asked what will be the consequences of not doing the \$10,000 consultant survey. He asked if we could postpone it for a year without disastrous results.

Finance Director Janet Pendoley responded saying the Town has the ability to decide not to do this evaluation, however, in the end the audit report will reflect a lot of negative numbers. It may be an issue if the Town wishes to maximize their credit rating or issue debt.

Chignell asked if there were any statutory requirements or penalties the Town would suffer from. Finance Director Pendoley said no.

M/s, Breen/Kilkus to approve recommendation with exclusion of the GASB evaluation for discussion. Ayes: All

Discussion:

Breen said it makes sense right now based on the financial situation.

Thornton asked if we have any estimate as to how much time it will take to do the study? Finance Director Pendoley said approximately 3 months.

Kilkus raised the question of why we need to hire an outside consultant to give us figures and asked why Staff couldn't handle this.

Town Treasurer Roberta Robinson asked what will happen if next year its worse and we have to do it then. Finance Director Pendoley said that we are required from this point forward to account for any expenditures as additional assets. What we don't have to do is go back to the 80's and capture old information. Staff can do the additional work for the future accounting. Gathering old information, conducting calculations, depreciation, and organizing the information is what we would be paying to have done.

Kilkus asked if the roads paid for in Measure G funds become assets that depreciate over time. Finance Director Pendoley said yes.

Kroot states that the state budget is in terrible shape and our funds are limited, and asked if this will have an impact on parcel tax? Pendoley said that she is not an expert in this area and she doesn't really know but thinks if the town is concerned with what will affect the Town's credit rating, then it will be a concern.

B) Town Administrator Debra Stutsman, presented the staff report. The State budget is uncertain and our revenues continue to lag behind projections. Steps taken to close the gap include freezing positions, eliminating capital projects, using one-time monies, assessing new fines and fees, and keeping expenditures down. She said she is also looking at closing the Library one day per week and the Police Department is looking into additional funding as well through a Computer Crimes Task Force Program.

Town Administrator Stutsman said that 2004-2005 fiscal year looks no better and some of the ways in which to increase revenue might be to increase municipal services tax or to do a special tax. Council may wish to establish a subcommittee to work with Staff on these issues.

Breen asked Chief Charles Maynard to explain the Computer Crimes Task Force Program.

Chief Maynard said that the program allows for one Sergeant to be sent to Napa for training and the program would provide 80% of that Sergeant's salary, benefits and car expenses for travel to and from Napa, requiring a soft match of 20% from the Department. The Command Staff would absorb the duties of that Sergeant.

Breen asked Town Administrator Stutsman if she is asking for the Council's

recommendation regarding the Library closure, and if Council recommended to close it, would that happen immediately. Town Administrator Stutsman stated yes, but would like to give the public a couple of week's notice.

Chignell asked Town Administrator Stutsman what the cost savings of closing the Library one day per week would be. Town Administrator Stutsman replied \$10,000 for six months.

Thornton asked if closing the Library was just one of the cost cutting measures to be discussed. Town Administrator Stutsman said yes and that not any one of the ideas would be enough on its own.

Chignell clarified with Town Administrator Stutsman that unless she hears other direction from Council she will continue with the cost cutting measures discussions with Staff and the employee groups and will report back to Council. Chignell further clarified that before the Council is the establishment of the subcommittee and the questions of whether or not to close the Library.

Chignell said that Thornton and Breen volunteer to be on the subcommittee.

Kilkus stated that while Council is not giving direction on unpaid furloughs at this time it appears to him that it is a solution that will be needed.

Town Administrator Stutsman said that the furloughs are recognizable to the public and send a clear message to them that there is a financial problem.

Chignell said that we need to expect something of substance from the employees. He feels the closing of the Library is more of a PR gesture than a real money solution. He added that if furloughs are not agreeable then as a management prerogative they will look at the issue of layoffs but preference would be to get some agreement on the furloughs.

Chignell stated that there is a consensus to have Thornton and Breen be on a subcommittee to work with Staff on cost cutting measures. There is no other direction on these matters and this issue will most likely be an agenda item for future meetings. He stated that they had reached consensus.

5. ADJOURN.

The meeting was adjourned at 10:15 p.m. in honor of William Thomas Kirton, father of Commander Randall Kirton.

Respectfully submitted,

Denise Phillips