

AGENDA ITEM 1(b)

TOWN OF SAN ANSELMO STAFF REPORT July 27, 2005

For the meeting of August 9, 2005

TO: Town Council

FROM: Debra Stutsman, Town Administrator

SUBJECT: Hazardous Materials Spills Management

A. RECOMMENDATION

That the Council approve the Joint Powers Agreement for Hazardous Materials Spills Management.

BACKGROUND

The Joint Powers Agreement for Hazardous Materials Spill Management was originally developed in 1982 following several Hazardous Materials incidents in Marin County. The agreement was entered into by the County and all cities and fire districts in Marin for the purpose of coordinating hazardous materials response and spill management, and providing joint financing for the expense of such management.

The JPA has undergone two ten-year terms and is now up for renewal, using the same population based cost distribution and an annual budget of \$16,000 total within the County. Ross Valley Fire Department's portion is 9.4% of the total budget or \$1,500 annually. The Town of San Anselmo makes no contribution to the JPA in that it is represented by the Ross Valley Fire Department. In addition to annual funding, the JPA Team obtains grants from Federal and local sources for equipment purchase and training. They are currently writing specifications for a 100% federal grant funded, \$350,000 response vehicle.

DISCUSSION

Minor changes to the program have occurred over the last year, which included spreading operational responsibilities among more member fire departments. The team is overseen by the San Rafael Fire Chief and managed by a command staff of officers from San Rafael, Novato, Mill Valley, Marin County and other departments. The Team meets monthly for training and simulated exercises and is ready for response anywhere in Marin when requested by a local agency. Because of the personnel contribution of the member fire departments, there are no additional personnel costs for running this program.

Through this JPA, Marin continues to have an effective and efficient hazardous materials response capability.

FISCAL IMPACT

\$ 1,500 Annually to the Ross Valley Fire Department; no fiscal impact to the Town of San Anselmo.

Respectfully submitted,

Debra Stutsman
Town Administrator

**JOINT POWERS AGREEMENT FOR HAZARDOUS MATERIALS
SPILLS MANAGEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 2005, by and between the following public agencies: Cities of Novato, San Rafael, San Anselmo, Fairfax, Ross, Mill Valley, Belvedere, Tiburon, Sausalito, Corte Madera and Larkspur; County of Marin; Kentfield Fire District; Novato Fire District; Southern Marin Fire District; Tiburon Fire District; Ross Valley Fire Service and Marinwood Community Services District.

RECITALS

This agreement is predicated upon the following facts:

1. Each of the parties to this Agreement is a “Public Agency” as the term is defined in California Government Code Section 6500 and is authorized to enter into Joint Powers Agreements.
2. The parties are responsible for maintenance of public safety and/or fire protection within their respective jurisdiction within the County of Marin, State of California.

3. Pursuant to Government Code Section 6500 et. seq. commonly known as the Joint Exercise of Powers Act, two or more Public agencies may by Agreement jointly exercise any power common to the contracting parties.

4. Each of the parties desire to enter into an agreement with each of the other parties for the purposes of coordinating management of and response to hazardous materials spills, establishing a formula for financing joint expenses for such management and response, and defining signatory agency responsibilities.

NOW THEREFORE, in consideration of mutual benefits, covenants and agreements set forth herein, the parties agree as follows:

SECTION 1 Definitions

These definitions shall include any subsequent amendments, deletions or additions to the above mentioned statutes.

A. Hazardous Material Spill

A hazardous materials spill means an incident or potential incident, which threatens public health or safety involving the unsafe release of a hazardous substance or hazardous waste as defined below. A hazardous substance or hazardous waste means an substance or product for which the manufacturer or producer is required to produce a material safety data sheet prepared pursuant to Section 6390 of the California Labor Code or pursuant to the regulations of the Occupational Safety and Health Administration of the U.S. Department of Labor, or pursuant to the Hazardous Substances Information and Training Act (commencing with Section 6360, Chapter 2.5, part 1 of Division 5 of the California Labor Code), or pursuant to any applicable State or Federal law or regulation; any substance or product which is listed as a radioactive material set forth in Chapter 1, Title 10, Appendix B, maintained and updated by the Nuclear Regulatory Commission; or any substance or product defined as hazardous or extremely hazardous waste by Sections 25115 or 25117 of the California Health and Safety Code and set forth in Sections 66680 and 66685 of Title 22 of the California Code of Regulations. Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, ejecting, escaping, leaching, dumping, or disposition into the environment. Any material may be added to the list of hazardous materials set forth by applicable State or Federal law or regulation upon a finding by the County Health Officer that it is a material which, because of its quantity, concentration, physical, or chemical characteristics, poses significant present or potential danger to human health and safety or to the environment if released into the environment.

B. Incident Commander

Incident Commander is the individual responsible for the overall management of the incident and is usually from the agency in which the incident occurred or as designated by the agency.

C. Unified Command

Unified Command is a unified command effort which allows all agencies with responsibility for the incident, either geographical or functional, to manage an incident by establishing a set of common objectives and strategies.

SECTION 2 Authority and Purpose

A. The purpose of this agreement is to establish a specially trained capability for the expeditious and economical response to hazardous materials spill or potential release on public and private property within the signatories' jurisdictions.

B. The components of this specialized response capability shall consist of a designated unit of the San Rafael Fire Department and trained personnel from the signatory fire agencies, hereinafter referred to as the Hazardous Materials Response Team (HMRT). The HMRT consists of a compliment of apparatus, equipment and trained technicians and specialists. The HMRT shall assist in the control and containment of hazards created by releases and potential releases which exceed the capability of the jurisdiction having primary responsibility, and which shall provide consultation on identifying and managing hazardous materials releases or potential releases in a manner consistent with all local, state and federal laws and regulations regarding such releases.

A County of Marin Hazardous Materials Management Team, consisting of representatives of the Marin County Fire Department, Office of Emergency Services, District Attorney, Sheriff, Health Department and Department of Public Works, shall be dispatched to the incident by County Communications when requested by the Hazardous Materials Response Team or Incident Commander.

SECTION 3 Terms of Agreement

Except as provided below, the term of this Agreement shall be for ten years, beginning on July 1, 2005 and terminating on June 30, 2015. A signatory agency may

withdraw upon ninety (90) days' notice prior to adoption of budget with written notice to all of the then parties.

Each party to this Agreement certifies that it intends to and does contract with all other parties who are signatories of this Agreement. Each party to this Agreement also certifies that the deletion of any party from this Agreement shall not affect this Agreement nor the remaining such party's intent to contract as described above with the other then remaining parties to the Agreement.

SECTION 4 Operational Responsibilities

A. As soon as practical upon determining that a hazardous material release or potential release has occurred, the public safety unit first arriving on scene shall:

1. Immediately isolate the scene, deny access to the scene and to protect people and/or livestock in the general vicinity.
2. Notify County Communications of the location of the incident and affected area, the type of incident (traffic accident, pipe breakage, etc.), the type and quantity of hazardous material or the characteristics of the material if its type is unknown, safe and unsafe routes to the scene, and a request to have the Hazardous Materials Response Team immediately requested.

B. Upon notification of a hazardous material release, County Communications will contact the San Rafael Fire Department ECC for dispatch of the Hazardous Materials Response Team and such other resources as the protocol indicates of the jurisdiction in which the spill occurs. (The California Highway Patrol has jurisdiction over State highways.)

C. For each incident, command responsibility shall be delegated according to applicable State law. Where State law does not designate responsibility, each signatory city and County shall specify in writing to the Haz Mat Response Team at regular intervals command authority for incidents within its jurisdiction. The incident commander may request additional assistance as he deems necessary to restore public health and safety.

D. When the Hazardous Materials Response Team determines that specialized resources may be required to mitigate the release or assist with clean-up the Incident Commander shall be advised and provided with the agencies that should be notified.

E. After an incident is under control, as determined by the Incident Commander, the following clean-up protocol shall be followed. First, a reasonable attempt shall be made to give the person(s) responsible for the incident adequate notice and opportunity to remove the hazardous substance. If, in the judgment of the Incident Commander, such opportunity has been adequately provided, considering the conditions, the Incident Commander may authorize such additional clean-up operations, if appropriate, by (1) the City Public Works Department in which the incident occurred, (2) County Public Works for incidents in the unincorporated area, (3) Cal-Trans on a State highway, or (4) a licensed Hazardous Waste Clean-up Contractor. The Incident Commander may authorize such other clean-up arrangements deemed appropriate for the restoration of public health, safety and nuisance abatement. Clean-up of private property beyond these requirements shall be the responsibility of the property owner under the auspices of the County Health Officer.

F. Signatory agencies shall cooperate with such incident protocols as this agreement may require.

G. Decon Engine Companies are a special resource staffed Type 1 Engine specifically equipped to set-up and perform decontamination. There are numerous Decon Engine Companies within the county. This resource is not normally dispatched at the time of requesting the HMRT.

H. Special Ops Trailers are a special resource. There are three (3) Decon Special Ops Trailers within the county. This resource is not normally dispatched at the time of requesting the HMRT.

SECTION 5. Resource Inventory

A. The signatory agencies agree to fund apparatus, equipment, training, medical monitoring, and personal protective equipment as may be required by the

fiduciary agent to meet state and federal OSHA regulations pertaining to hazardous materials release response.

B. Each participant to the Agreement shall obtain from their Administrative Agency documentation disclosing the storage location and use of hazardous materials in their jurisdiction for reference by the Hazardous Material Response Team.

SECTION 6. Financing

A. The principles for allocating cost responsibility for hazardous material release management shall be:

1. Primary responsibility for all extraordinary costs related to such an incident rests with the person(s) responsible for the spill. Damages and expenses incurred by the Hazardous Materials Response Team shall constitute a debt against the person and/or firm causing the incident and shall be collectable by the fiduciary agent specified in Section 6C of this agreement. Expenses, as stated above, shall include but not be limited to, equipment, personnel committed, and any payments required by the Hazardous Materials Response Team to outside business firms requested by the Team to secure, investigate and monitor remediation and cleanup the incident. Reference Section 13009.6, California Health and Safety Code.

2. The State of California is not liable for any such costs unless one of its officers, employees, or agents is a person described in Section 6(A) 1 above; or unless the costs are associated with a spill for which a disaster is declared.

3. Funding sources for activities of the Authority will consist of contributions made by each party in a manner to be determined by the Marin County Fire Chief's Association.

4. To the extent that signatory agencies are not reimbursed for extraordinary costs of managing an incident or its clean-up, the costs shall be liability of the jurisdiction in which the spill occurred.

5. The Hazardous Materials Response Team shall prepare a proposed annual budget, or any supplemental budget shall be submitted to the Marin County Fire Chief's Association for approval in the time and manner as specified. Public funds may not be disbursed by the Hazardous Materials Response Team with out adoption of the

approved budget, and all receipts and disbursements shall be in strict conformance with the approved budget.

B. Cost sharing, to support the Hazardous Materials Response Team shall be allocated on a jurisdiction percent of population based on the County of Marin’s current census data. Where a Fire District and City share the population, each shall contribute one half of their shared cost.

<u>Jurisdiction</u>	<u>Percent Population</u>
Alto FPD	2.4
Belvedere	1.0
Corte Madera	3.6
County of Marin	11.6
Kentfield	3.0
Larkspur	4.8
Marinwood	2.0
Mill Valley	5.7
Novato City	20.7
Novato FPD	2.6
Ross	1.1
Ross Valley	9.4
San Rafael	21.0
Sausalito	3.1
Tamalpais FPD	3.7
Tiburon City	3.3
Tiburon FPD	<u>1.0</u>
Total	100%

Any non participatory agency shall be responsible for all costs incurred by the Haz Mat Response Team.

D. Pursuant to the requirements of Section 6505.5 of the Government Code San Rafael Fire Department is designated to be the Treasurer, the depository and to have custody of all funds from whatever source and to perform the following functions:

a. Receive and receipt all money for the Hazardous Materials Response Team and place it for credit of the San Rafael Hazardous Material Fund.

SECTION 7. Amendment

Non substantial amendments may be made by two-thirds (2/3) vote of the Marin County Fire Chiefs' Association.

SECTION 8. Notices

All notices required or given pursuant to this Agreement be made by depositing same in the U.S. mail, postage paid, and addressed as follows:

Hazardous Materials Response Team, c/o San Rafael Fire Department, 1039 C Street, San Rafael, CA 94901.

SECTION 9. Hold Harmless

Each party shall indemnify and hold each other party harmless from and against all loss, cost, expense, actions or liability occasioned by or arising out of the negligent acts, or negligent failure to perform under the authority of this Agreement by each other party's employees or its agents or contractors.

The tort liability of the Authority shall be controlled by the provisions of Division 3.6 of the Government Code.

The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein.

IN WITNESS WHEREOF, the parties have executed this Joint Powers Agreement as of the day and year first above written.

AGENCY

By _____

ATTEST:

AGENDA ITEM 1(c)
CONTINUED TO THE MEETING OF AUGUST 23, 2005.

AGENDA ITEM 1(d- a&b)
CONTINUED TO THE MEETING OF SEPTEMBER 13, 2005.

AGENDA ITEM 2

TOWN OF SAN ANSELMO
STAFF REPORT

August 4, 2005

For the Meeting of August 9, 2005

TO: Town Council

FROM: Lisa Wight, Planning Director

SUBJECT: Size, Height and Changeable Copy Sign Variances (after the fact) for a 101 square foot sign located on the west facing building wall at 711 Sir Francis Drake Boulevard, APN 006-083-08

PLANNING COMMISSION DETERMINATION

Approved the variances based on the finding that granting the variances will not be a special privilege due to the fact that there are existing sign usages greater than the applicant is requesting.

APPLICANT: Ford Greene, 711 Sir Francis Drake Boulevard, San Anselmo

APPELLANTS John Newell, Post Office Box 38, San Anselmo
Dean Ongaro, 243 San Anselmo Avenue, San Anselmo

I. BACKGROUND

June 20, 2005: Planning Commission approval: 3-2 (Ayes: Freeman, Sisich, Zwick; Noes: House, Krebs; Absent: Harris)

II. STAFF COMMENTS

The following variances were requested by the applicant and approved by the Planning Commission:

- Size of sign: a variance to allow 101 square foot wall sign. Per the San Anselmo Municipal Code, 55.76 square feet of total signage is allowed for this building.
- Height of sign: a variance to allow a sign to be located higher than 20 feet above the ground. The Municipal Code allows a maximum height of 20'.
- Changeable copy: a variance to allow the sign to contain changeable copy. The Municipal Code allows a changeable copy sign on an office building to be up to 10 square feet with the copy to only include a listing of uses on the property.

In order to approve the variances, the Town Council must make the following findings:

- The strict application of the provisions of Chapter 9 of Title 10 of the Municipal Code would result in unreasonable practical difficulties or in unnecessary hardships for the applicant, which difficulties or hardships are unique to the particular applicant and his use are not present generally, or that the strict application of the provisions of this chapter would bring about results inconsistent with the purposes and intent of this chapter; and
- The granting of the variance would not adversely affect the public health, safety, or welfare or be detrimental to or endanger or depreciate the property located in the surrounding area.

Per the Town Attorney, the message content of the sign, which is protected by the First Amendment, should not be considered in determining the appeal.

(At the Planning Commission meeting, it was brought to staff's attention that some of the measurements marked on the submitted plan were intended to represent inches, rather than feet. Although the sign was originally noticed at the Planning Commission level to be 135 square feet, the actual erected sign is approximately 101 square feet, which was the sign approved by the Planning Commission (Code maximum: 55.76 square feet)).

III. APPEALS

Dean Ongaro Appeal:

- *"Variance does not conform to the Town character and charm. Private and personal signs should not be hung on main drives. We have sign ordinances in place and they should be followed."*

John Newell Appeal:

- *" . . . Planning Commission violated the requirements of the Town Code in failing to make required findings of fact regarding: hardship on the Applicant, the uniqueness of such hardship to the Applicant, whether the variance is consistent with the purposes and intent of the sign ordinance, and whether the variance would adversely affect public safety or depreciate the surrounding neighborhoods . . . findings that were made . . . not supported by the record or the facts presented. . . Applicant failed to meet his burden to demonstrate by "clear and convincing evidence" his entitlement . . . sign ordinance . . . imposes no unnecessary hardship on the Applicant, and any hardship that is imposed is not unique to the Applicant . . . Granting of the variance would be inconsistent with the purposes and intent of the sign ordinance . . . to protect the legitimate governmental interests of traffic safety and the aesthetics of the Town . . . would create an extremely dangerous traffic situation, as well as a blight on the appearance of the neighborhood . . . illegal signs similar to the Applicant's proposed sign is not sufficient grounds to grant a variance . . . content of the sign should not have been a factor used . . . in determining whether to grant the variance."*

IV. RECOMMENDATION

That the Town Council either grant or deny the appeals and continue the matter to the August 23, 2005 Town Council meeting in order to adopt a formal Resolution.

Attachments: Appeals and attachments
Planning Commission minutes and staff report dated June 20, 2005
Correspondence
APN map
Application
Plans

c: Ford Greene, applicant
John Newell, appellant
Dean Ongaro, appellant