

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of December 11, 2007

Present: Cooper (to 7:30 pm), Breen, Freeman, Greene (at 7:30pm), House, Thornton
Absent: None

7:00 p.m.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

Mayor Cooper reported there was no closed session.

• CANVASS OF RETURNS OF NOVEMBER 6, 2007 ELECTION

Town Manager Stutsman presented staff report stating the results of the Uniform District Election held on November 6, 2007 were as follows: Town Councilmember's Barbara Thornton and Ford Greene; Town Treasurer Beth Niemcewicz; Town Clerk Barbara Chambers and staff recommendation is that Council approve the resolution declaring the canvass of returns and results of the Uniform District Election held on November 6, 2007.

M/s, Thornton/Freeman to approve Resolution No. 3822 declaring the canvass of returns and results of the Uniform District Election held on November 6, 2007. Ayes: All.

Mayor Cooper recognized the service of Town Treasurer Roberta Robinson from 2003 to 2007.

Vice Mayor Freeman thanked Mayor Wayne Cooper for his dedicated service as Town Councilmember from 2004 to 2006 and as Mayor in 2007.

Town Manager Stutsman delivered the Oath of Office to Town Clerk Barbara Chambers.

Town Clerk Chambers delivered the Oath of Office to Town Treasurer Beth Niemcewicz.

Town Clerk Chambers delivered the Oath of Office to Councilmembers Barbara Thornton and Ford Greene. Councilmember Greene joined the Council on the dais and former Mayor Cooper excused himself.

Vice Mayor Freeman noted that Council needs to elect a Mayor and Vice Mayor to a one-year term.

M/s, House/Breen, to nominate Councilmember Freeman as Mayor to a one-year term. Ayes: All.

M/s, House/Thornton to nominate Councilmember Breen as Vice Mayor to a one-year term. Ayes: All.

A 10 minute break was taken for refreshments and congratulations.

Session reconvened at 7:30 pm with Mayor Freeman welcoming Ford Greene to the Council.

Freeman noted he would like to dedicate this year to the Library and he believes public institutions should be supported by public funds and wants Council to put their nose to the grind stone and see how they can achieve this for the Library.

ACKNOWLEDGE AND FILE REPORT FROM LIBRARY DIRECTOR AND RECEIVE DONATION FROM FRIENDS OF LIBRARY AND SAVE OUR LIBRARY GROUP.

Town Librarian Loyster said the Save Our Library Group has raised \$100,000 and the Friends of the Library have pledged \$43,000 that will allow the Library to remain open for 36 hours per week from July 1, 2007 through June 30, 2008.

Loyster stated the Town needs to look to the future and find a long term solution to support the Library other than fund-raised dollars. Loyster acknowledged Suzanne Knecht, Chair of Save Our Library Committee, and all those who have given so generously to the Library.

Suzanne Knecht thanked the Ross Valley Community and all those who supported the Library for their overwhelming generosity, then introduced Linda Hoch, President of Friends of the Library who presented Council with a check in the amount of \$143,000.

Thornton thanked those who worked on the funding campaigns for their contributions.

OPEN TIME FOR PUBLIC EXPRESSION.

Chris Baker, Bolinas Ave., expressed a need for placement of stop signs on Bolinas Ave. and requests that Council reconsider traffic study of vehicles speeding on Bolinas Ave.

Jill Baker, Bolinas Ave., believes that Bolinas Ave. is dangerous and is very concerned about the safety of her children and others.

Louise Mathews, Foothill Rd., requested acknowledgment from Town Manager of receipt of her letter regarding cure and correct of what she believes to be a violation of the Brown Act 54954.2 which occurred on Nov. 27, 2007.

Town Manger Stustman acknowledged receipt of letter.

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

House requests staff to present Council information for discussion regarding a campaign finance ordinance, though she believes recent elections in San Anselmo were done well she suggests staff to consider campaign statutes such as the City of Novato.

Breen noted the community holiday tradition of bell ringing for Army Salvation will be December 20, 2007 in front of Town Hall.

Greene stated he is proud to be a Councilmember and looks forward to learning his job and getting to know the other Councilmembers.

Stutsman noted former Councilmember Kenneth Anderson passed away December 10, 2007. He was a Council member from April 1968 to March 1976.

1. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE REMOVED AND DISCUSSED SEPARATELY. DISCUSSION MAY TAKE PLACE AT THE END OF THE AGENDA. OTHERWISE, ALL ITEMS MAY BE APPROVED WITH ONE ACTION.

- (a) Approve minutes of November 27, 2007.
- (b) Acknowledge and file warrant numbers 59265 to 59577 issued during the month of November 2007 in the amount of \$1,595,954.48.
- (c) Approve the Revenue and Expenditure Report for the period ending October 31, 2007.
- (d) Approve the Recreation Revenue and Expenditure Report for the period ending October 31, 2007.
- (e) Approve Emergency Projects Fund (flood related) Revenue and Expenditure Report for the period ending October 31, 2007.
- (f) Approve Resolution No.3820 adopting a zero waste goal by 2025 for the Town.
- (g) Accept the project and authorize filing of notice of completion of contract for the Memorial Park restrooms Remodeling Project.
- (h) Cancel regular meeting of Tuesday, December 25, 2007, due to the holiday.

Public Session Opened

Ms. Mathews, Foothill Rd., requests that Council not approve Item a) of the Consent Agenda the ordinance changing Title 7 to Title 9 because it is adding new law and is adding a new public nuisance. She believes it is in violation of the Brown Act because it was not posted on the agenda therefore the community was not advised. In regards to Item b) Warrants, Mathews requests staff to have a cover page that indicates what is actually being paid out and what is actually reimbursement, so that public has a more credible number to evaluate.

Nancy Okada, Hillside Ave. asked Council to remove and amend the minutes because her comments were described incorrectly where it states she had difficulty with a staff member and she wants it amended to state that she believes it is dangerous to put that much power in a Building Official with such a vague and poorly worded ordinance.

Public Session closed.

Greene requested that the minutes of Nov. 27, 2007 be amended to reflect Houses' statement that San Anselmo has a zero tolerance policy for any kind of racial impropriety.

Freeman requested Item f) be pulled from the Consent Agenda stating the Town's commitment to a long term goal of eliminating a zero waste level is a noble goal that we all look forward to accomplishing some day.

M/s, House/Breen, to approve the Consent Agenda, with minutes as amended by Greene. Ayes: Breen, Freeman, Greene, House. Noes: Thornton.

2.) ACCEPT THE REPORTS OF ODENBERG, ULLAKKO, MURANISHI (OUM) AND COMPANY, LLP, CPA, COMPRISING THE ANNUAL INDEPENDENT AUDIT REPORT FOR FISCAL YEAR ENDING JUNE 30, 2007 AND APPROVE STAFF'S RESPONSE TO THE RECOMMENDATION PRESENTED IN SECTION II OF THE REPORT TO THE TOWN COUNCIL.

The Staff report was presented by Finance & Administrative Services Director Pendoley. Staff recommends that Council accept the reports prepared by Odenberg, Ullakko, Muranishi (OUM) and Company, LLP, which comprise the Annual Independent Audit Report for the Fiscal year

ending June 30, 2007. Based on their examination of Town records and procedures, they have presented their findings in a Management Letter. In addition, they tested and reported on compliance in the Gann Limit calculations. For fiscal year 2006-07 the Town expended federal funds in an amount over \$500,000; therefore, a single audit was required. This report has not been finalized and will be presented at a later meeting.

Pendoley reported at the time of the 2007-08 budget adoption staff projected no carry over funds (excess revenue realized in comparing actual to budgeted revenue and expenditures). As a result of the final closing of the 2006-07 books and as reflected in the auditor's report, that number has been revised to \$11,966.

Robert Karmann, audit manager from OUM, presented its report to the Town Council. In their opinion the financial statements of the government activities, the business activities, each major fund and the aggregate remaining fund information of the Town of San Anselmo as of and for the year ended June 30, 2007 is presented fairly, in all material respects and respective changes in financial position and cash flows thereof for the year ended in conformity with accounting principles generally accepted in the United State of America. They have also issued a report in accordance with Government Auditing Standards, considering the Towns internal control over financial reporting and on our tests of its compliance with certain provision of laws, regulations, contract, and grant agreements and other matters.

The public hearing was opened.

Louise Mathews, Foothill Rd., requested that when the single audit is finalized that Robert Karmann return to present the audit.

The public hearing was closed.

Breen noted that the Audit Report is available for review on the Town's website.

M/s, House/Thornton, to accept the reports of Odenberg, Ullakko, Muranishi & Company, LLP., CPA comprising the annual Independent Audit Report for Fiscal Year ending June 30, 2007 and approve staff's response to the recommendation presented in Section II of the report to the Town Council. Ayes: All.

3.) PUBLIC HEARING, INTRODUCTION AND FIRST READING OF AN ORDINANCE REVISING CHAPTER 3 OF TITLE 10 KNOWN AS THE ZONING ORDINANCE, SPECIFICALLY: FLOOR AREA RATIO (FAR) AND LOT COVERAGE FOR SINGLE FAMILY RESIDENTIAL DISTRICT BELOW 150 MSL ELEVATION.

The staff report was presented by Planning and Building Director Wight.

Wight noted that on November 27, 2007 Council directed staff to return with an ordinance with the Planning Commission's recommendations plus increasing the garage size not included in the FAR calculation from 400 square feet to 500 square feet, and certain attics and basements.

Wight reported Councilmembers suggested not counting attics up to a certain height, which was not specific. Councilmembers also suggested not counting basements up to a 3' wall height between the top surface of the floor next above and the adjoining grade at any point.

Staff recommended adopting the Negative Declaration of Environmental Impact and introducing the zoning ordinance amendments. Staff also recommended that Council direct the Town Manager to read the ordinance by title only.

The public hearing was opened.

Nancy Okada, Hillside Ave., believes an increase from four hundred square feet to five hundred square feet for garages will increase the possibility of more illegal rental units.

Mike Brown, Crescent Road, stated the goal of this ordinance is to reduce the massing of homes. He feels the impact will be on existing homeowners to a significant degree and questions if FAR as presented will reduce massing. Brown is in favor of FAR; however he suggests taking it back to committee.

Jeff Kroot, Crescent Road, believes FAR as presented will have a detrimental impact and encourages Council to send it back to a sub-committee for refinement. Kroot noted it is very difficult to get public attention when the subject is at the end of the meeting.

Jennifer Asselstine, San Anselmo Ave., believes Council does not understand the ordinance; therefore, it is not time to vote on the issue and asks Council to take time to think about the issue.

Gary Millar, Santa Barbara Ave., believes enacting FAR in San Anselmo is a reasonable way to limit mass/bulk and if the Town does not have FAR to control the size of buildings there will be a major impact on neighborhoods.

Joe, 44 Bolinas Ave., lives adjacent to 8 Richmond, stated neighbors are upset with the building at a 70% FAR on a 5,000 square foot lot which has destroyed their views, their privacy, feelings of community and he respects those who are trying to limit this type of building.

The public hearing was closed.

Greene asked if there is flexibility in what is being proposed.

Wight gave examples of flexibility in the proposed ordinance.

Breen senses that most of people do not understand what is being proposed and feels it is the Council's responsibility to help the community be familiar with the terms and implications and agrees with House's previous suggestion of a workshop.

House acknowledged the implications of FAR are difficult to grasp and suggests an informal interactive meeting of the Town Council with Planning Director Wight to further educate the community on the issue.

Greene agrees with Houses' idea of having local architects attend the meeting and specifically requested that Zwick, Brown and Kroot attend the meeting because they have the knowledge to educate us on this subject.

Thornton noted every day new construction is quickly and dramatically changing the character of our town and that we need to address this issue quickly.

M/s, House/Breen, for staff to schedule an educational workshop meeting regarding Floor Area Ratio and Lot Coverage for Single Family Residential District below 150 MSL Elevation. Ayes: All.

- 4.) APPEAL OF PLANNING COMMISSION APPROVAL OF 48 RAYMOND. APPEAL OF PLANNING COMMISSION APPROVAL OF A USE PERMIT TO DEMOLISH A SINGLE FAMILY DWELLING; AND FLATLAND DESIGN REVIEW OF A 1,365+ SQUARE FOOT UPPER FLOOR AND A 2,419+ SQUARE FOOT MAIN FLOOR OVER A LOWER LEVEL IN A NEW 3,784+ SQUARE FOOT SINGLE FAMILY DWELLING WITH A 456+ SQUARE FOOT COVERED PORCH AND 672+ SQUARE FEET OF

DECKING AT 48 RAYMOND AVENUE, APN 007-171-28. APPLICANTS: IVAN LUKRICH FOR DAVID AND CLAUDIA EISEMAN, P.O. BOX 1642, SANTA ROSA, CALIFORNIA 95402. APPELLANTS: MARY AND KEN DAVIS, 411 LAUREL AVENUE, AND REX THOMPSON, 40 RAYMOND AVENUE, SAN ANSELMO.

The staff report was presented by Planning & Building Director Wight.

Greene noted that he did not receive the project drawings in his packet.

The public hearing was opened.

Mary Davis stated she continues to have concerns regarding the proposed structure at 48 Raymond and believes a structure of this size will invade their privacy. She noted the existing house was designed by Harris Osbourne and built by her grandfather and suggests Council look at the consequence of tearing down this 100 year old house. She believes the size reduction is meaningless because the lower floor could be developed at a later date and asked Council to place a deed restriction for the lower floor if this application is approved.

The applicant's representative Paul Smith stated the applicant has been very involved in this project and willing to make changes. Many things were changed and modifications have been made; the shadow studies provided changes; the shed was eliminated and he noted the planning staff did not warrant a deed restriction and he does not feel that this project is what a deed restriction is for. He requests that Council honor what the planning commission has done and to approve the application.

Scott Thompson gave a brief history of the subject property and surrounding properties for his father, Rex Thompson, Raymond Ave., who has hearing difficulties. Scott Thompson believes the building of 48 Raymond would be detrimental to his father's health and that it would be less stressful if people knew before hand what was going to happen and requests that the Town communicate with Rex Thompson and inform him of what is going on.

Helen Milowe, Pine St. encourages Council to think about what is going on; believes it is difficult to legislate and suggests if Council does consider this that they should impose a deed restriction.

The public hearing was closed.

Stutsman noted that the Council Chambers has a system for the hearing impaired that is available to anyone who needs it.

House stated she is anxious for San Anselmo to have codes and regulations in place that can stop the demolition of structures such as this. However, she noted the property owner has property rights and does not see where the Town has any standards by which they can uphold the appeal.

Breen agrees with House.

Greene stated he did not have the building plans to review prior to this meeting; he would like to review the material and at this time has concerns regarding the impact this project's development will have on the neighbor's privacy.

M/s, Greene/Breen, to continue the hearing to the next Council meeting. Ayes: All.

5.) PUBLIC HEARING, INTRODUCTION AND FIRST READING OF AN ORDINANCE ADDING A MAXIMUM TIME LIMIT OF FOUR HOURS TO THE TIME LIMITS

ALREADY SET FOR PARKING METER ZONES IN SECTION 3-5.1211 OF THE SAN ANSELMO MUNICIPAL CODE.

The staff report was presented by Police Chief Maynard. Maynard reported staff has been working with input from downtown merchants and citizens and they have determined that changing the current maximum two hour time limit on parking in the Creek Park parking lot to a maximum four hour time limit will improve the use of available parking. A four hour maximum time limit in the Creek Park lot will give customers of service oriented businesses a place to park without fear of running out of time on the meter. This should improve the use of the parking lot and provide better service for merchants and their customers. Staff recommends that Council introduce and waive the first reading of an ordinance adding a maximum time limit of four hours to the time limits already set for parking meters zones in Section 3-5.1211 of the Town of San Anselmo Municipal Code.

The public hearing was opened.

A women in the audience asked if the Town extends the parking to 4 hours in Creek Park will merchants be able to purchase a monthly permit that allows them all day parking in the lot.

Chief Maynard stated that they will be informing the downtown merchants door-to-door that these four hour time zones are being provided per their request to enhance the ability of their customers to take part in their services but it does not allow the merchants to park there all day.

Greene suggested that it would be reasonable to put parking signage regarding this change at the Pine and Magnolia lots.

Maynard made note of Greene's suggestion and ensured that signs will be added.

The public hearing was closed

Town Attorney Epstein requested clarification that Councilmember Greene's request for signage was not changing the amendment to the ordinance proposed.

Greene confirmed Epstein's request and recommends adopting the ordinance as proposed.

M/s, Greene/Thornton, to introduce and waive the first reading of ordinance adding maximum time limit of four hours to the time limits already set for parking meters zones in Section 3-5.1211 of the Town of San Anselmo Municipal Code. Ayes: All.

6.) PUBLIC HEARING AND APPROVE RESOLUTION DETERMINING THE EXISTENCE OF A PUBLIC NUISANCE AGAINST THE PROPERTY AND BUSINESS OWNERS AT 750 SIR FRANCIS DRAKE BLVD.; OR IF AGREED TO BY MEETING TIME, APPROVE SETTLEMENT AGREEMENT BETWEEN THE TOWN AND RESPONDENTS.

Greene recused himself from the dais as he believes there is a conflict because the subject property is within 500 feet of his residence located at 711 Sir Francis Drake Blvd.

The staff report was presented by Deputy Town Attorney Kim Schulist. Schulist stated she is primarily working with staff on designing a code enforcement system that is efficient yet effective with positive results. This matter involves the Mini Mart portion of the Gas & Shop located at 750 Sir Francis Drake. The Mini Mart has several code violations that began in 2001 when the owner decided to build the Mini Mart contrary to the approved plans.

Because of the Town's desire to encourage compliance with the codes rather than conduct a Public Nuisance Hearing, the owners have signed an agreement and staff requests Council to consider a motion that authorizes the Town Manager to sign the agreement.

The public hearing was opened.

Louise Mathews, Foothill Rd. noted that the plans were approved in 2001 for the construction done in 2002, but the construction did not reflect what was approved.

The public hearing was closed.

Breen stated he was concerned with costs in terms of staff time previously put into this and questioned if the Town will be looking into other types of violations like this and to accelerate the process.

Town Attorney Epstein stated regarding attorney fees this is a real balance the Town needs to consider in cases of this nature and thinks because of a natural disaster and funding problems over the last number of years there really wasn't the money, staff time and attention being paid to the project of enforcing the code. He received a mandate from the Town Manager to work with staff this year to start working on these files. He noted the Town should address what resources they want to expend regarding issuance of business licenses to businesses which lack something required by law such as disability access. Regarding imposing fees against a property owner he stated you can spend a lot of money in court costs enforcing a lien against a property.

M/s, Breen/House, to give Town Manager the authority to execute the agreement that has been made between the Town and the Respondents. Ayes: Breen, Freeman, House and Thornton.

7.) ADJOURN IN MEMORY TO RETIRED ROSS VALLEY FIRE CAPTAIN EDWARD KELLY AND TOWN RESIDENT CHARLES BROWN.

Councilmember Greene returned to the dais.

Mayor Freeman suggested the meeting be adjourned in memory of Ross Valley Fire Captain Edward Kelly, Town resident Charles Brown and former Councilmember Kenneth Anderson.

The meeting was adjourned at 11:15 pm.

Respectfully submitted,

Joanne Kessel