

MINUTES OF OCTOBER 9, 1922

A Regular Adjourned meeting of the Board of Trustees was held on Monday evening October 9, 1922 at the hour of 8 o'clock P. M.

Present, Trustees Pinkham, Carl, Lutters, Deysher and Clark.  
Absent, " None.

The minutes of the meeting of October 2, 1922 were read and approved.

BARBER TRACT IMPROVEMENT

Town Attorney R. W. Harrison presented a written opinion as to whether the Board of Trustees had jurisdiction to proceed with the work in the Barber Tract. The opinion was read by the Clerk whereupon upon motion of Trustee Pinkham, seconded by Trustee Carl, the Clerk was directed to enter the opinion in full upon the minutes of the Board. Following is a copy of the opinion:--

"Board of Trustees of the Town of San Anselmo,  
San Anselmo, California  
Gentlemen:

You have requested an opinion from me as to the power of your Board to proceed with certain street improvements under the following circumstances.

It appears that previous hereto the Board of Trustees of the Town of San Anselmo acting under the Street Improvement Act of 1911 duly passed its resolution of intention to do certain street work in what is known as the Barber Tract in said Town, said work to be in accordance with certain plans and specifications theretofore regularly adopted for said work; that thereafter a written protest was filed with the Board against said work and after a hearing regularly had thereon said protest was overruled by a four-fifths vote of the Board of Trustees; that thereafter a notice was duly given inviting sealed proposals or bids for doing the work, and pursuant thereto a bid was received; that after consideration of said bid the Board rejected the bid and subsequently passed a resolution abandoning the proposed work and vacating all proceedings theretofore had in connection therewith.

A petition has since been presented to the Board of Trustees requesting certain street improvements in said Barber Tract and the question upon which the Board now desires to be advised is whether in view of the fact that six months have not elapsed since the overruling of said protest the Board has power to act upon the petition and proceed with the street improvement work herein requested.

I find nothing in the law which would prevent the Board from proceeding with such street improvement. Apparently the doubt, if any existed, arose from the provisions in Section 6 of the Improvement Act of 1911 to the effect that

"When the protest is against the proposed work and the cost thereof is to be assessed upon the property within a district, and the City Council finds that such protest is made by the owners of more than one-half of the area of the property to be assessed for said improvements, no further proceedings shall be taken for a period of six months from the date of the decision of the City Council on said hearing, unless the said protests be overruled by an affirmative vote of four-fifths of the members of the City Council."

If the protest had been sustained a construction of the section might justify the conclusion that nothing further could be done for six months, and if anything was attempted might also raise the question as to whether that which was attempted was within the character of work which the statute prohibited within the six months period. But the language of the section evidences an intent on the part of the legislature that by a four-fifths vote the board may overrule a protest signed by every

property owner in the district and proceed with the work.

That is to say, when the board is so much in accord as is evidenced by a four-fifths vote it is to have full sway in proceeding with improvements. It may decide to go ahead as it did in the present instance and it may later decide to abandon the work entirely as it also did in the present instance. If it does abandon the work it does not lose its right to subsequently at any time, whether within or beyond the six months period, take up again the improvement of those same streets even upon the same or different plans.

I am therefore of opinion that the board may now, if it so desires, act upon the petition and proceed with the improvement of the streets in the Barber Tract, but it will be understood that if the proceedings are had under the Improvement Act of 1911 and a new resolution of intention is passed the same will be subject to the right of protest by the property owners and to action thereon by the board, all as in the case of any other resolution of intention.

Yours very truly,

ROBERT W. HARRISON

Town Attorney of the Town of San Anselmo."

The original petition for the improvement of the roads in the Barber Tract as presented at the meeting of August 28, 1922 with subsequent signatures obtained thereto was again read by the clerk upon request of the Chairman.

Upon motion of Trustee Pinkham, seconded by Trustee Carl all petitions in connection with street improvement including this petition just read were ordered spread in full upon the minutes:

Following is a copy of this petition:

"San Anselmo, August 23, 1922

TO THE BOARD OF TRUSTEES OF SAN ANSELMO

The undersigned, property owners in the Barber Tract, San Anselmo are agreeable to having the streets in said Tract improved along the following lines: a four-inch and a three-inch oil macadam pavement, together with such concrete curbs, gutters and drainage as, in the discretion of the Town Engineer may be necessary, at a total cost which shall be approximately twenty-five per cent less than the bid heretofore submitted to the Trustees for the improvement of said streets under Resolution No. 38 then pending before the Board of Trustees.

B. B. Sturdivant	S. Ingermann
Marie J. Gagan	H. M. Conner
Mary C. Walsh	Mary B. Curtis
Grace P. Newell	Annie S. Perry
Sadie E. Fuller	Mrs. J. Wise
Zoie Bigelow	Mr. J. Wise
Kate F. Waterman	Edith S. Waterman
W. E. Van Meter	Josephine Latham
Louise H. Beales	Geo. T. Crandall
Sanford Sachs, by his agent	Union Trust Company of S.F.
Alex. J. Young	by L.E. Ewald
Grace G. Livermore and for L. O'Hara.	

Mr. D. E. Perry thereupon presented the following petitions, supplemental to the above petition:

"San Anselmo, August 23, 1922

TO THE BOARD OF TRUSTEES OF SAN ANSELMO

The undersigned, property owners in the Barber Tract, San Anselmo, are agreeable to having the streets in said Tract improved along the following lines: a four inch and a three inch oil macadam pavement together with such concrete curbs, gutters and drainage as, in the

discretion of the Town Engineer may be necessary, at a total cost which shall be approximately twenty-five per cent less than the bid heretofore submitted to the Trustees for the improvement of said streets under Resolution No. 38 then pending before the Board of Trustees.

A. C. McFarland in favor of above. "

"I am agreeable to the doing of the Asphaltic Macadam type of work, in the Barber Tract, along the lines specified in the petition filed with the Board last month (September 1922).

October 9th, 1922

Mary D. Barber. "

These petitions were thereupon read by the Clerk and upon motion of Trustee Pinkham, seconded by Trustee Carl, received and filed.

Trustee Pinkham thereupon introduced a Resolution approving the plans and specifications for the improvement of the roads in the Barber Tract as presented by the Town Engineer at the last meeting, and moved its adoption. The motion to adopt said resolution was seconded by Trustee Carl and carried by the following vote:-

Ayes, Trustees Pinkham, Carl, Lutters, Deysher and Clark.  
Noes, " None. Absent, None.

Thereupon Trustee Pinkham introduced a Resolution of Intention numbered 41, for the doing of the work as outlined in said plans and specifications, describing the work to be done, and the district to be assessed for said improvement and providing for the issuance of bonds upon the security of the unpaid assessments if any, and moved its adoption. The motion to adopt said resolution was seconded by Trustee Lutters and carried by the following vote:

Ayes, Trustees Pinkham, Carl, Lutters, Deysher and Clark.  
Noes, " None Absent, None.

#### LANSDALE SCHOOL DRAIN

A proposal was received from Mr. J. E. Davis offering to instal a portion of the Lansdale School drain at \$1.00 per lineal foot. Thereupon, on motion of Trustee Pinkham, seconded by Trustee Lutters, the Chairman of the Board was authorized to enter into a contract with Mr. J. E. Davis along the lines outlined in his proposal, said contract to be contingent upon Mr. Davis presenting to the Chairman a duly executed contract with the school authorities for the balance of the drain.

#### BOND FOR TEARING UP SIDEWALKS

Upon motion of Trustee Lutters, seconded by Trustee Pinkham, the Marshal was directed to exact a Bond from the Sanitary District or the contractors who are installing the new sewer through Town in the sum of \$1,000. before they are allowed to tear up any sidewalks.

DEMANDS

Upon motion of Trustee Carl, seconded by Trustee Pinkham, demands Nos. 87 to 96 inclusive as appear upon the demand and warrant register under this date were ordered paid.

ADJOURNMENT

There appearing to be no further business before the Board, upon motion of Trustee Deysher, seconded by Trustee Lutters, the meeting was adjourned to Monday evening, November 6, 1922 at 8 o'clock P. M.



Town Clerk

Read and approved Nov. 6 1922.