

Minutes of the regular meeting of the San Anselmo City Council held April 28, 1970

Present Councilmen: Perry, Capurro, Stewart, Anderson

Absent Councilman: Reed

Acting Mayor Anderson, presiding

Acting Mayor Anderson stated he wanted to remind City Council and public regarding vacancies on various Boards and Commissions, would like any names submitted before May 11. Thanked the I-J for their excellent coverage on this matter.

City Administrator reported John O'Rourke had prepared a geology map of the city and City Council should give him a vote of thanks for his work. Council expressed appreciation to John O'Rourke.

REQUEST FOR BICYCLE PATHS

Miss Mary Somers teacher and some of her pupils from her second grade class presented drawings on need for bicycle paths. Miss Somers spoke especially about area from United Market to Isabel Cook School, asked if 2½' of sidewalk area could be used. Children riding bikes on sidewalk at this area have been instructed to get off their bikes when pedestrians are passing. Sophia Spencer spoke on this matter, also numerous children and parents spoke in favor of same. Councilman Capurro asked can ordinance be changed to allow bikes on sidewalks in certain areas and not on others. Mr. Morehouse stated law basically is a pretty logical thing, tries to give controlling bodies some reasonable discretion on how law is worded and how enforced, inclined to think you have a particular situation in this area that requires a particular treatment, inclined to think there would be some areas where riding on sidewalk would be permitted. Councilman Perry stated principle problem is getting to and from school, maybe could approach by way of using sidewalks during certain hours, sidewalks could be marked. Maybe staff could review this matter with Chief of Police and come up with recommendation that could be presented to school board. Councilman Stewart stated we are speaking about two different aspects of using bicycles, one is safety problem of getting children to and from schools without subjecting them to hazard of automobiles but there is also the matter of bike racks and recommends we do what we can to get as many bicycle racks placed in convenient places downtown. Acting Mayor referred this matter to staff, see what can be done and asked for a report on same. also check on bicycle racks in proper places around town.

AWARD OF BID, DEMOLITION OF 16 RAMONA WAY **CORRECTED PAGE 31**

Mr. Herb Glore from Golden West Savings & Loan who have purchased the property, stated they want to bring the property up to city code and if allowed to take out a permit, work will be completed in 30 days. Mr. Jeffee also from this company stated they will comply with all the city codes. Councilman Perry stated in reviewing the property it is a mystery how same can economically be brought up to code. Advised if they tear down house, they can build a house on lot even though it is sub-standard. Councilman Capurro feels if they can't bring up to code in 30 days to satisfaction of building department, then same should be torn down. Councilman Stewart said he went thru house and agrees with Councilman Capurro on the 30 days time. Councilman Anderson suggested deferring for period of time subject to owner and building staff getting together. City Engineer stated they could know what has to be done within a few days. Councilman Anderson asked the City Engineer if he could give a firm answer or opinion at the next council meeting May 12 that this building can be brought up to code. M/S Councilman Perry-Capurro with respect to item 3B on agenda, demolition of 16 Ramona Way, matter be continued until our next regular meeting so report can be given by City Engineer whether building can be brought up to code and if not award bid for demolition of same. Motion unanimously passed.

PETITION, COMPLAINT OF NOISE AT #1 ROGER AVE.

Petition presented signed by 21 people residing in area of above address and complaining of noise from musical instruments with amplifiers at all times of the day. At least once a week instruments including an organ are loaded into a U-Haul trailer at this address, blocking traffic. Petition request City Council to abate this nuisance. Mrs. Sill, 19 Roger Avenue stated sometimes they have practiced nearly all night. Mr. & Mrs. Schultz, 145 Sequoia also complained about same. Mr. Moore, 141 Sequoia stated they cannot use their patio even during the day. Ronald DeMasi, owner and occupant of #1 Roger Avenue stated he has a band and they rehearse there, do not charge admission, and therefor does not feel this is a commercial business. Also stated he has sound-proof room, they do not practice early in the morning or late at night. Councilman Perry stated there are four different subject matters: (1) blocking street, this is a police problem. If the principals themselves do not have the inclination or courtesy to park in such a manner as not to cause their neighbors inconvenience or district, there is no alternative but to call the police. 2. Lies in the noise itself, believes our ordinance inadequate, simply outmoded, when ordinance was drafted we didn't have problems of chain saws, amplifiers, etc. sound itself is becoming another pollution, we should revamp our ordinance.

3. Next subject matter of zoning, this is an R-1 zone and if band is rehearsing there, this is inconsistent to this zone and party should be required to come before city for a Use Permit.

4. Consideration is what relief can the neighbors expect? There are some problems the City is ill-equipped to handle, and one of them is in the general subject of nuisance, if this situation is so aggravated as to upset your neighbors, there is relief through civil procedures, in that way the use could be abated. Only affirmative thing we can do tonight would be a use permit application to Planning Commission so matter can be fully aired.

Councilman Stewart stated City Attorney is now trying to make some determination as to what "noise is" how loud "noise is" before it becomes illegal, this is a tough situation to work out, believes a use permit should be required in this case. Hopes we can find some place somewhere in San Anselmo where this type of music can be played without creating this type of problem.

Councilman Capurro feels this matter has been pretty well covered by other councilmen, feels very strongly that in an R-1 neighborhood we must respect the character of that neighborhood. Feels person has the right to play music at his home certain times during the day, but when four or five others come to play then this constitutes something different and then should have a use permit.

Councilman Anderson stated we do need to work on noise ordinance, would like to hope this problem could be resolved by the neighbors themselves and hopes occupants make an effort to restrict noise, and hours they play these instruments. There should be no problem as far as blocking the street is concerned, they have a driveway and if this continues police will have to be called. Councilman Anderson asked Mr. Morehouse if he could give us at all at this time, any opinion whether or not practicing by a professional group is part of a business operation; is this a business operation in a residential zone? Mr. Morehouse said this is not a normal use for first class property, thinks it's effect is to annoy and vex the neighbors especially if done with amplifiers, his opinion it would be perfectly proper to require a permit.

Mr. DeMasi stated he will go before the board for a use permit and will make every effort to further sound-proof room, further will not practice before 1 PM nor later than 7 PM at night.

M/S Councilman Perry-Stewart with regards to petition on noise at #1 Roger Ave., that the City Council direct Mr. DeMasi to make application to Planning Commission for use permit in connection with musical activity in this neighborhood.

Passed unanimously

APPEAL - RAMONA CASTAGNINO, 71 ELM AVENUE

Letter from Mrs. Castagnino stating the cottage at the rear of her property has not been rented since last year due to not being able to find a suitable tenant. At the present time she has found a tenant and is asking City Council to allow her to continue renting. Gordon McKenzie was present to represent Mrs. Castagnino, stated need to rent cottage to allow her an additional small income. Councilman Anderson stated this is a situation where we have two houses on one lot, and is a legal non-conforming use. This is legal because it was in existence before passage of zoning ordinance and non-conforming because it does not conform to present R-1 zone, also referred to portion of zoning ordinance which states "If any nonconforming use is, or has been, abandoned, or is, or has been, discontinued for a period of six (6) months or more, intentionally or unintentionally, the subsequent use of such land shall be in conformity with the provisions of this chapter". This is the section that is being discussed here tonight.

Councilman Stewart said reason we have zoning ordinance is to protect people, feels in this particular case this is a charming house, nicely painted, it is becoming difficult for people to find homes in Marin County at a modest rent, if this house can't be rented, then all you could use it for would be storage. In this case we are trying to enforce a law that was created in the first place to solve a problem. Councilman Capurro stated he personally see's nothing wrong with this rental, we should act on each case individually. Maybe we could have a condition that this would not be rented to more than two people at one time.

Ron Bernt, Dan Goltz, George Davidson addressed council on this matter.

Councilman Perry stated this particular application presents a direct conflict to several public policy considerations. First is that of dealing with non-conforming uses and it is his belief it is in the best interest of the community to phase out non-conforming uses, to eliminate small substandard living units that have existed for many years in some respects impair the quality of our R-1 areas.

The other public policy consideration would be looking at some living units that are of a good quality, this house is not a sub-standard structure by any means, it is attractive, can be rented at a low figure and there is a need for small homes.

Referred to Sec. 10.3-2301 the thrust of this particular provision is that non-conforming uses will be phased out, and one of the means of phasing out is when they have been abandoned or discontinued for six months or more. Talked to Mrs. Castagnino and she indicated for the better part of the year the property has been unoccupied due to the fact she was unable to find a person whom she felt was the type of person she would rent to.

Councilman Anderson stated council is sworn to uphold the law or amend it, and can't amend in one night. Has a few ideas which might be helpful; six month approach may not be the best one to serve our purpose to the advantage of the community in protecting zoning, when you move into a community and spend your money for a single family zone, you do this because this is the way you want to live and this is why zoning was created in the first place. Perhaps it might be better and easier to enforce by changing the ordinance to provide a legal non-conforming use which could continue until transfer of the property, any form of transfer, not only by sale. A transfer is much easier to detect than lapse of six months, we have had trouble with the six months, trying to enforce same. Falls if this has any merit, same could be put on the agenda for future discussion, hold public hearings. In this particular case tonight, the ordinance does provide under non-conforming uses, that the Planning Commission can require applicant to appear before them and apply for use permit and feels this should be referred to Planning Commission.

Councilman Capurro stated council should resolve this tonight.

Councilman Perry asked Mr. McKenzie in representing Mrs. Castagnino if he thought she would agree on limiting number of occupants and also on sale of property would she sign statement terminating this use. Mr. McKenzie stated he was sure she would. After lengthy discussion M/S Councilman Capurro-Perry the appeal of Romano Castagnino for use permit be approved on following condition: That at no time this second house be rented to more than two people. Councilman Perry added amendment to motion "conditionally City Council finds that there has been no abandonment or discontinuance of the use within the meaning of Sec. 10.3-2301 of the San Anselmo Municipal Code. Councilman Capurro accepted the amendment.

Motion on the amendment passed on the following vote:

Ayes Councilmen: Perry, Capurro, Stewart

Noes Councilman: Anderson

Above motion was passed on the following vote:

Ayes Councilmen: Perry, Capurro, Stewart

Noes Councilman: Anderson

YOUR COMMISSION

Resolution No. _____ Setting by-laws governing the Youth Commission.

Jerry Suderhoud representing Youth Commission present and spoke to council. Councilman Capurro feels this should go to Parks & Recreation Commission and also to City Attorney for their approval and then back to council.

Jerry asked council for their approval to holding a festival at Memorial Park on May 30th, this would be on a small scale, have a few local bands play. Councilman Perry said anytime you have such an affair, it is necessary to have additional police, also does not feel date of May 30 a good day for such an affair.

Laura Cann spoke on the affair that was held recently at Drake High which was very satisfactory and has all the confidence in this and council should be behind them 100%. Councilman Anderson told Jerry when their commission have met with Parks & Recreation and their plans are worked out, come back to council.

APPEAL, PLANNING COMMISSION DENIAL OF VARIANCE AT 112 Jordan Ave. (R. Beeman)

Mr. Beeman presented perspective drawing prepared by Douglas Anawalt also letter signed by majority of neighbors not objecting to addition planned.

Acting Mayor Anderson stated if there is additional information that has not been before the Planning Commission then this should go back to Planning. Councilman Perry and Capurro felt this should be heard.

Mr. & Mrs. Reyes, 114 Jordan feels this addition would in no way devalue their property and approved plans. Earl Burns, 111 Jordan Ave. stated he lives across the street and addition would not block any view, has no objections.

Mrs. Truax objects to close proximity of houses also extending of roof which would darken their bedroom, and the blank wall facing their home.

Bradley Wright, 1 Oak Hill Drive stated problem is building proposed is a very large house on a small lot in an already congested neighborhood. Mrs. Wright also spoke against same.

Councilman Perry stated Planning Commission did not feel there was demonstrated a hardship in regards to setbacks, suggests with help of Mr. Anawalt some alternatives could be worked out, sheer wall on down hill at Truax property just too much, with architect on job might not need any variance.

Councilman Capurro said structure too large, not attractive to neighborhood, maybe cutting down roof and changing style would help.

Councilman Stewart thinks design attractive, would urge Mr. Beeman to work around trees.

Councilman Anderson suggests motion to refer back to applicant for resubmission to Planning Commission. Councilman Perry stated can't see hardship, if going back to Planning

Commission consider developing a plan that would not ask for variance on Truax side.

M/S Councilman Capurro-Stewart application ADJ 419 be referred to applicant for further redesigning and then back to Planning Commission, same without additional fee. Motion passed on following vote:

Ayes Councilmen: Capurro, Stewart, Anderson
Noes Councilman: Perry

SAFETY BARRIER AT SONOMA & SIR FRANCIS DRAKE

City Engineer presented plans prepared, #1 plan showing guard rail, est. cost \$6800.00. #2 plan showing water filled safety barrier, est. cost \$31000.00. #3 plan as proposed by Dan Goltz, earth hill, est. cost \$1200.00.

Councilman Capurro was concerned with someone swinging around islands that were proposed and back out into car lane. Councilman Stewart felt solution by Dan Goltz is best, but asked if mound of dirt would stop cars.

Councilman Anderson suggests make our decision on which plan we favor and send to school board, see what they like and then discuss sharing cost.

Councilman Capurro moves to refer Plans 1, 2, 3 to school board for their thoughts. Motion failed for want of second.

M/S Councilman Anderson-Stewart to request staff to make presentation to school board -indicate we favor water barrier plan with landscaping and ask for their consideration, if school board agrees, staff bring back to council. Passed unanimously

REQUESTS FOR FREE-STANDING SIGNS

1) Sen Alfredo Restaurant. Councilman Perry questions this application, Senor Alfredo has never complied to other requirements. Mr. Barthel stated he can't put roof on building until wall is sealed. Councilman Perry stated this building has a maximum advertising on it, to add to this would be cluttering area - see's no need for more. Mr. Barthel stated he will remove all other signs if this standing one is approved, overall height of sign 15'4".

M/S Councilman Capurro-Stewart approval to request for free standing sign at Senor Alfredo's be granted under stipulation all other signs be removed before new one installed, medium height not to exceed 15". Passed unanimously

CHAPEL OF THE HILLS

Free-standing sign, plans presented shows sign 20'3" in height, majority of council feel sign too high, wondered if owner's would considr having smaller one. Mr. McClure representing Sign Company stated they could make sign 16'6".

M/S Councilman Stewart-Capurro that application by Chapel of Hills for free-standing sign be approved subject to stipulation that uppermost portion be 16'6" above ground level. Passed unanimously

CHAMBER OF COMMERCE SIDEWALK SALE

Peter Edwards reported they are asking each merchant to clean up when sale is finished, also they will only have sale for one day, June 6. Mr. Casper, owner of Casper's on Tunstead Ave., wants to join sale and asked for permission to set up tables and umbrella's. City Council have no objection as long as sidewalk area is passable. No further action.

Councilmen's League, same to be held in Los Angeles May 20 to 22. Councilmen Stewart and Perry and maybe Anderson will attend same. M/S Councilman Capurro-Perry that City pay registration fee. Passed unanimously.

Councilman Perry asked about Morningside Court flood condition. City Engineer stated he has report ready, matter will be put on agenda.

Matter of distribution of agendas to be placed at beginning of next meeting.

Councilman Anderson reported Councilman Miskimen of San Rafael term is expiring on Bay Air Pollution Board and Councilman Reed is interested in serving on this board. Nominations will be coming up at Mayors & Councilmen's meeting.

Meeting adjourned at 12:45 A.M. until May 12, 1970.

Anita Gannon, City Clerk