

# TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of September 24 2013

Present: Coleman, Dahlgren, Greene, Kroot, McInerney

Absent: None

7:00 p.m.

## CALL TO ORDER AND PLEDGE OF ALLEGIANCE

## ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

Mayor Coleman announced there was no closed session.

## OPEN TIME FOR PUBLIC EXPRESSION

Martin Umbresal, Calumet Avenue, feels there are a lot of leaf blowers in town that make a lot of noise and that other cities are managing without the leaf blowers and thinks that San Anselmo should do the same.

Grant Dill, Corte Madera resident, owns property in San Anselmo at Red Hill Avenue and Essex Street. Dell said he paid \$1,000 to the Town to get a Certificate of Compliance correctly recorded with the County which has not been done.

Stutsman said Diane Henderson, Interim Planning Director, will contact him directly tomorrow to resolve the matter.

Greene requested staff look at the fees being charged to Mr. Dell and make sure he does not have to pay twice.

## COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Greene reported that the MCCMC Legislative Committee will be forthcoming with a presentation regarding reforming CEQA (California Environmental Quality Act) rules.

Kroot said flood control questions pertaining to the Memorial Park Detention Basin were unanswered at a Council meeting a few months ago. The engineers were going to look into the unanswered questions and then come back to Council. Kroot requested a discussion with the engineers be put on a future agenda.

Stutsman said they will come back to council with that.

Greene said there were a lot of questions that Ross Asselstine had asked that were unanswered.

## COUNCIL FUTURE AGENDA ITEMS

on the east side of Sir Francis Drake Boulevard be widened and undercrossing from Wornum Drive to the Sandra Marker Trail.

Steinhauser said TAM will most likely create a plan that includes portions of the original Caltrans design (but scaled down) and incorporate suggestions from the working group. TAM staff will bring their suggestions to bring to the TAM Board on Thursday, September 26, 2013.

McInerney spoke on the discussions and material presented at the Working Group meetings. McInerney said northbound Highway 101 has the biggest congestion and that the addition of an auxiliary lane would not do much to improve the northbound congestion. He hopes final recommendations will support something that relieves congestion on Northbound 101. McInerney does not think it was adequately addressed in the working group.

Greene explained that TAM has to come up with a viable plan otherwise we may lose the \$40 million dollars from Metropolitan Transportation Commission (MTC).

Steinhauser said a few of the important issues are controlling the vehicle flow on Northbound Highway 101 and the 2.2 miles consisting of the Richmond Bridge 580 corridor and to look at the possibilities of ramp metering.

Dahlgren added that congestion is horrendous and that the danger needs to be address as well as the congestion.

Steinhauser announced that in the near future she would like to have a discussion with Council regarding employers options for controlling the time automobiles are on the road to reduce vehicle congestion.

There was no comment from the public.

**5. APPEAL OF PUBLIC WORKS DIRECTOR'S DECISION TO ALLOW REMOVAL OF TREE AT 134 MADRONE AVENUE. APPLICANT: MICHIKO CONKLIN; APPELLANT: LINDA JENSEN, 130 MADRONE.**

Kroot recused himself because of conflicting interests with the property.

Sean Condry, Public Works Director, presented the staff report.

Mayor Coleman opened the public hearing.

Condry said the application was submitted in April 2013 along with an inspection report. At that time based upon the inspection report he approved the removal. Due to concerns from neighbors he suspended the approval to remove the tree. Condry said that he approved removal of the tree because he had concerns that the Town may be taking on a liability and that his job is to protect public safety.

McInerney has concerns regarding the Town's liability if Council were to let the tree remain.

Deputy Town Attorney, Megan Acevedo said the Council should make findings to support their decision.

McInerney said it appears the house is built very close to the tree and wonders if there other avenues to correct the situation.

Condry said the owners did look into bridging but he understands that is only a temporary fix.

McInerney asked if the planning application assumed the tree was going to be removed.

Condry said parking was an issue and with the tree gone they would be able to have off street parking without a variance.

Greene asked if the left tree trunk the part of the tree that he is concerned about.

Condry feels that the property damage is limited to the crack in the floor and also possible damage through tree branches falling. Condry said if falling branches were the only issue he feels that issue could be dealt with by trimming the tree.

Linda Jensen, 130 Madrone Avenue, stated that the subject tree is an old growth giant heritage tree. Generally these large oaks have tap roots and roots that go out beyond the tree. She does not want her trees to be damaged by removing the tree. She feels there are ways to improve the property and ways to mitigate this issue other than removing the tree. Jensen said this is a healthy tree which does not need to be removed. Jensen noted that White Valley Oaks are resistant to oak disease. She would like to see Council adopt an ordinance that saves San Anselmo trees.

Kathy Day, 119 Madrone, said the formal tree hearing on August 7 was disappointing because she felt that Condry had already made a decision. Day believes that the property owner at 134 Madrone is here for a short time while her son attends high school. Day said the tree is irreplaceable and has been here way longer than the home which was built in the early 60's. Day asked Council to save the heritage tree.

There were no questions for the appellant.

Applicant presentation, Michiko Conklin, 134 Madrone Avenue. Conklin said they looked at the house to purchase and she had an inspection done in which the report said if buttress roots have to be cut it would destabilize the tree. Beckman crawled under the house and gave detail of the crack in relation to the buttress roots. He said the tree should be removed to protect the house and foundation. Mr. Beckman has no financial interest in removing the tree as he would not be the one removing the tree. Michiko said it was when the arborist said you will have to take the carport down to remove the tree then her realtor said she could probably build in the carport area. The addition only came up after discussing the removal of the tree.

Carl Beckman, Novato, engineer, stated the wall is out of plumb one inch in 8 ft. and he believes that is a substantial amount. He used a laser to shoot the level and found that it is out of level with the high point in the front of the house near the tree. Beckman noted previous stucco work on the house. Beckman did go under the crawl space and confirmed the presence of a crack exactly where the home inspector said it would be. In his opinion the tree is lifting the house and will continue to lift the

house. There is a water cistern under the house and his initial observation was to cut the root or severely scrap the root with which the arborist did not agree as he felt that would destabilize the tree. Beckman said that he does not have any major stake in this project. It is his experience that roots will always seek the water and there is water under the house. The house was built in 1961 and he believes the oak tree will continue to cause damage unless extreme measures are taken.

Greene asked Beckman to talk about what the theory and practical process of bridging a root.

Beckman said a beam is placed to make a lifted foundation.

Dahlgren said the property owner contacted her 6 weeks ago and provided her with the same information that is what is presented tonight.

McInerney asked how common it is to have a house that is 55 years old be out of plumb by one inch.

Beckman said one inch is getting well beyond the normal amount.

McInerney asked with what level of severity is the wall moving? The appeal states the foundation has a crack and does not mention the lifting of the house.

Beckman said the value of the house is certainly affected. The problem is not going to get better and the root is going to continue to grow. He can only tell you that the foundation is damaged and will continue to get worse. The rest of the foundation is not cracked. He believes the crack is there because of the tree root.

Greene asked Beckman if he has been an expert in litigated cases. Beckman said yes.

McInerney asked if there was any discussion with prior owner to see if they considered removing the tree.

Conklin said no but the previous owner disclosed to her about the tree.

Darren Overby, 126 Madrone Avenue, stated the trees are an asset on Madrone Avenue and he believes the true desire for cutting the tree is to relocate the property driveway. By cutting her tree and putting a driveway in place of the tree she will be putting her home as well as neighboring homes in more jeopardy. Overbee asked council to reject the tree permit and to look at other alternatives.

Robert Jafin, 139 Laurel Avenue, said he has 2 Valley Oaks on his property that are home to an incredible amount of diversified life. Tonight has heard that removal of this tree is harmful to his trees and that the cost differential of bridging the foundation and tree removal is a few thousand dollars. He supports letting the tree stay. Jafin asked Council to remand this matter to further fact finding. It does not make sense to destroy a grove of trees for a few thousand dollars.

Laura Kendall, 126 Madrone, the tree is very old the house has been here fifty years. She supports saving the tree.

Rachel McKay, 134 Laurel Avenue, spoke on behalf of the tree.

Gail Permar, 113 Madrone, architect, feels the cost of helical metal piers is not a reason enough to take the tree out. Permar state there is a lot of subsurface streams in the area, unstable ground and aquifers. Permar suggests more careful research on fixing the foundation rather than taking the tree out.

Nancy Okada, San Anselmo resident, believes it is unnecessary to take the tree down.

Kathryn Gant Bradley, Durham Road, is in favor of defending and protecting the tree.

Lisa Machetti, 130 Laurel Avenue, is in favor that the discussion be held over for additional review. Machetti would like to see some sort of mediation.

Eileen Ashton, 29 Grove Lane, feels that there are already enough trees that have to be removed because they are rotten or diseased and this impacts the wildlife. Ashton asked Council to save the healthy trees; it is important to save the trees that are possible to save.

Herb Carlson, 1029 San Anselmo Avenue, said the old trees define the character the neighborhoods and should be preserved as much as possible. He asked Council to rescind the permit for further consideration.

Marston Talon, Rowland Court, believes the trees are benefits to wildlife, that they produce tons of oxygen and enhance landscape. He asked Council to save the tree.

Jensen, appellant, prefers to fix the problem without removing the tree. Regarding safety issues of the tree she suggests taking the time to make decisions that are best for the community.

Conklin, applicant, addressed the concept of a circle of trees in which you take one tree down if will affect the other trees in the circle. The roots of this tree does not go to the other properties the roots go under her house to seek water. She feels the bridge is only a temporary solution. She would do this whether or not they do the addition to the home and stated the addition is unrelated to this matter.

Mayor Coleman closed the public hearing.

Greene said land use decisions are very difficult because of conflicting legitimate values. White valley oak trees are a part of what has always been the character of the Town. The trees have been here for centuries and truly are habitat. Ms. Conklin has rights also. Greene thanked Gail Permar for her comments regarding helical piers in the neighborhood. The fix is more expensive but not by much and he does not feel that further consideration and research is necessary. Greene thinks the appeal is legitimate and would sustain the appeal.

McInerney agrees planning matters are difficult because of the competing interests and that the Town's Municipal Code is important to public interest and also recognizes property rights. He looks at the intent and language of the Town's heritage tree ordinance and is sensitive to the argument. He wonders how serious the safety issue is. McInerney would need more substantiation of a safety hazard to support removal of the tree. He supports the appeal and rejects the applicant.

Dahlgren is not convinced. She also has concerns regarding the statement if you cut this tree down you will harm all the others. She supports additional research.

Coleman has concerns regarding the lateral roots that go under the foundation. She does not think more information is necessary. Coleman cannot support the appeal. Coleman supports the applicant.

Greene requests more information about the viability and cost of a bridge foundation under the house. He would like to know more information about the front of the house and if it is concreted over. He would also like more information regarding the impact it would have on surrounding tree roots if the tree were removed and the dead roots remain. Finally he asked that the foundation area be reviewed to see what the immediacy is of the root impact. Will this become worse over night or is it a matter of 3, 5 or 15 years?

Dahlgren asked if it is possible to review the area under the house. She feels awkward about appending 3 hours on a three hundred year old tree.

McInerney suggests sustaining the appeal for the applicant to come back with more information to these questions.

Dahlgren feels the greater the impartiality the better.

Greene feels solid with his vote but feels if further information gathering is wanted he is fine with that.

Dahlgren wonders if they can get an objective impartial opinion.

M/s, McInerney/Greene, to sustain the appeal without prejudice and to give the applicant the opportunity to come back to Council with further information addressing the questions raised by the Council and staff will work with applicant to give her names of arborists and engineers. AYES: Coleman, Dahlgren, Greene, McInerney. NOES: None. RECUSED: Kroot.

Kroot noted this was the first time he has ever met Mr. Carl Beckman.

Dahlgren left the meeting

**6. CONSIDER THE USE OF FRANCHISE FEES TO FUND THE COMMUNITY MEDIA CENTER OF MARIN (CMCM) FOR A BRIDGE PERIOD 2013-2018.**

Town Manager, Debra Stutsman, presented the staff report stating staff's recommendation is that Council considers the request to use Franchise Fees to fund the Community Media Center of Marin (CMCM) for a bridge period 2013-2018 and provide direction to the Town's Marin Telecommunications Agency (MTA) representative.

Stutsman introduced Barbara Thornton, Executive Officer, TAM and Michael Eisenmenger, CMCM Executive Director.

Thornton stated the new contract includes CMCM request of bridge funds. Thornton asked Council to consider the possibility of funding the media center and their role in the community.

# TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of October 8, 2013

Present: Coleman, Dahlgren, Greene, Kroot, McInerney

Absent: None

7:00 p.m.

## CALL TO ORDER AND PLEDGE OF ALLEGIANCE

## ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

Mayor Coleman announced there was no action taken in closed session.

## OPEN TIME FOR PUBLIC EXPRESSION

Steven Bartley, Post Commander, American Legion, gave an announcement about a fund-raiser for preserving the Log Cabin. The event is on Saturday, October 12, 2013 from 6:00pm to 10:00pm.

## COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Dahlgren congratulated Dave Donery and the Recreation Department staff for the very successful Country Fair Day.

McInerney commented on a recent report from the Marin Organization for Sustainable Pension Plans and requested to agendaize a report from staff that includes the evaluation of what staff's position is with respect to the issue of what the report raises about San Anselmo's unfunded pension liabilities.

### 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 September 24, 2013.
- (b) Acknowledge and file warrant numbers 76075 and 76232 issued during the month of September 2013, in the amount of \$964,880.17, in addition to a wire transfer in the amount of \$324,786 to the Central Marin Police Authority.
- (c) Approve revenue and expenditure report for the year ending June 30, 2013.
- (d) Approve revenue and expenditure report for the month ending September 30, 2013.
- (e) Approve Recreation revenue and expenditure report for the year ending June 30, 2013.
- (f) Approve Recreation revenue and expenditure report for the month ending September 30, 2013.

There was no comment from the public on the consent agenda

Greene pulled item (a), from the consent agenda.

M/s, McInerney/Kroot, to approve consent agenda items (b) through (f). AYES: Coleman, Dahlgren, Greene, Kroot, McInerney. NOES: None.

Regarding item (a) of the consent agenda Greene requested a name correction on page six of the minutes where it references "Robert Jaflin"; the correct spelling is "Robert Jaffe".

M/s, Greene/Dahlgren, to approve consent agenda item (a) with noted modification. AYES: Coleman, Dahlgren, Greene, Kroot, McInerney. NOES: None.

**2. APPEAL OF PUBLIC WORKS DIRECTOR'S DECISION TO ALLOW REMOVAL OF TREE AT 134 MADRONE AVENUE WITH PRESENTATION OF ADDITIONAL INFORMATION AS REQUESTED BY COUNCIL. APPLICANT: MICHIKO CONKLIN; APPELLANT: LINDA JENSEN, 130 MADRONE.**

Kroot recused himself because of conflicting interests with the property.

Sean Condry, Public Works Director, presented the staff report. Condry stated that on September 24, 2013 the Town Council heard the appeal of the Public Works Director's decision to allow the removal of a heritage tree at 134 Madrone Avenue and sustained the appeal without prejudice to allow the applicant to return with additional information regarding the following:

1. What is the viability and expense for bridging the roots with the foundation?
2. What would the impact be to other oak trees if the area were concreted over?
3. What would the impact be to the neighboring trees by removing this tree and leaving the dead roots in places?
4. How fast do the roots grow and what is/would be the impact to the foundation?

In order to address these questions both the applicant and appellant submitted documents which include an arborists report and an engineer's report and other various documents.

Michiko Conklin, 134 Madrone Avenue, applicant, expressed her love for trees and stated she would love to have the tree in her yard if it was not damaging her house or threatening to fall on her son's bedroom. Conklin gave a summary of the reports from Peter Nissen, P.E. and Ed Gurka, Consulting Arborist.

Neil Sorenson, attorney for Michiko Conklin, feels the Council should base their decision on facts and "substantial evidence"; to deny the appeal and grant the permit. Sorenson thinks that if Council denies the permit and requires Conklin to keep the tree that there is a good argument the decision would justify a taking without compensation and would be a violation of her constitutional rights.

Linda Jensen, 130 Madrone Avenue, appellant, said that the Town's Heritage Tree Ordinance is supposed to protect trees from these type of tree removals. Jensen thinks that Ms. Conklin has not proven beyond a shadow of a doubt that it is necessary to remove the tree. Jensen noted that Ms. Conklin was not agreeable to allowing the appellant's arborist and engineer look at her property.

Darren Overby, 126 Madrone Avenue, spoke on behalf of a group of neighbors. Overby said the group of neighbors dispute the findings presented by the applicant and they feel the reports were biased and did not use science and calculations to prove her case. He said the majority of neighbors are in support of the tree. Overby asked Council to uphold the appeal.



Robert Jaffe, 139 Laurel Avenue, said he requested access to Ms. Conklin's property to assess the tree's roots but was denied access.

Laura Kandell, 126 Madrone Avenue, suggests for everyone to work together.

Carol Villani said she recently moved to San Anselmo because of the trees and she has concerns if the tree were to be taken out.

Steve Lamb, 8 Laurel Avenue is in favor of delaying the removal of the tree and suggests waiting to see what happens.

Lisa Machetti wonders what is true of what is being told to Council. She thinks there needs to be some clarity on the issue.

Katherine Gant Bradley, 24 Durham Road, said she feels that an addition to the home should not be allowed.

Gayle Permar, 113 Laurel Avenue, said in her professional opinion the house has cracks because of where the house is built. Permar pleaded for the tree to remain.

Steve Smith, 201 Laurel Avenue, professional contractor, gave a few examples of various remedies for bridging the root.

McInerney wonders if it is necessary to take the tree down. He is not convinced that the work is necessary in order for her to have the economic enjoyment of the property. McInerney is not in favor of reconsidering Council's prior decision.

Dahlgren does not want to lose the tree but she believes it is causing damage to the house. Dahlgren supports the application.

Greene recognizes private property rights. He believes there is a "fix" for the house and its foundation. Greene prefers to leave things as they are.

Coleman cannot support the appeal because she believes the tree is causing damaged to the house.

M/s, Dahlgren/Coleman, to re-open the case of the appeal and move forward. AYES: Coleman, Dahlgren. NOES: Greene, McInerney.

The motion does not pass and the grant of the appeal stands.

Councilmember Kroot re-joined the Dias.

**3. UPDATE THE CURRENT STATUS AND FUTURE PLANS OF THE MARIN EMERGENCY RADIO AUTHORITY (MERA); MERA HAS STARTED THE PLANNING PROCESS TO REPLACE THE CURRENT PUBLIC SAFETY COMMUNICATIONS SYSTEM WITH A NEW SYSTEM IN 2018.**

Town Manager Stutsman introduced Todd Cusimano, Chief of Police, Central Marin Police Authority.