

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of May 13, 2014

Present: Greene, Kelly, McInerney, Wright
Absent: Coleman

7:00 p.m.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

Mayor McInerney advised that no action was taken in closed session.

Quality of Life Commissioner Woody Weingarten presented the Quality of Life Silver Award to Merrilee England for working 16,898 hours at Marin General Hospital over 50 years.

OPEN TIME FOR PUBLIC EXPRESSION

Stephanie Kramer, Ross Avenue, requested enhanced enforcement of traffic controls at the intersection of Ross and San Anselmo Avenues. The number of unsafe infractions is increasing and Kramer would like to see more ticketing. She believes strict enforcement for an extended period of time is warranted.

Central Marin Police Authority Lieutenant Michael Norton advised that he will pass Kramer's observations along to the Traffic Lieutenant and that motorcycle officers will be monitoring the intersection shortly.

COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Kelly reported that he and Councilmember Greene attended a meeting of the Marin County Town Council representatives to The Association of Bay Area Governments (ABAG). Many complaints were expressed about the ABAG annual meeting and ABAG in general. There will be a follow-up meeting at which time the discussion will be documented and shared with the Council.

Councilmember Wright attended a meeting at which a representative from the Coalition for Healthy Youth and other outreach and law enforcement professionals discussed their efforts with regard to drug and alcohol prevention. A smaller meeting will be held on May 21.

Greene reported that at a recent meeting of the Transportation Authority of Marin (TAM) he supported the approval of plans for a bike route from San Anselmo to the SMART train in San Rafael on the condition that San Rafael complete a required traffic study.

Additionally, Greene reported that he was delighted to be a judge at the Margie Burke Speech Tournament held at Ross School where he was impressed by the talented middle school students who participated. He commended the great staff and supportive parents in attendance.

McInerney announced that a Flood Zone 9 meeting is scheduled at White Hill School for May 19, at 7:00 p.m. to facilitate a community outreach discussion about a detention basin at Lefty Gomez Field.

McInerney attended a meeting with the San Francisco Division's Army Corps of Engineer Lieutenant Colonel and his staff in charge of the Flood Control Project segment of the Corte Madera Creek known as Unit 4. The Officer was well versed on the history of the creek and discussed the bureaucratic hurdles typically encountered with securing funding. The team was cautiously optimistic about the project's future.

McInerney reported that a meeting was held in April with the Judge engaged to decide the matter at 711 Sir Francis Drake. The Mayor commended Town Manager Debbie Stutsman, Interim Planning Director Diane Henderson, Public Works Director Sean Condry and other staff for their excellent presentation.

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 April 22, 2014.
- (b) Acknowledge and file warrant numbers 77199-77367 issued during the month of April 2014, in the amount of \$ 898,465.55, in addition to a wire transfer in the amount of \$ 324,786 to Central Marin Police Authority.
- (c) Approve revenue and expenditure report for the month ending April 30, 2014.
- (d) Approve Recreation revenue and expenditure report for the month ending April 30, 2014.
- (e) Approve Resolution 4064 authorizing the application for an Active Transportation Program (ATP) grant for sidewalk and other improvements along Sir Francis Drake Boulevard and Butterfield Road as part of a Safe Routes to Schools project for Brookside Elementary School.
- (f) Authorize Mayor to sign letter in opposition to AB 2145 (Bradford), Electricity: Community Choice Aggregation.
- (g) Approve the San Anselmo Art Commission's application for the 2014 "Music in the Park" series scheduled for selected dates in July and August 2014.
- (h) Award LED Streetlight Retrofit project to the lowest responsive bidder, D C Electric Group, Inc., in the amount of \$91,226.
- (i) Approve Resolution 4065 establishing annual tax rates for the already-established Municipal Services Tax, Resolution 4066 for the Pension Override Tax, Resolution 4067 for Measure G Debt Service Tax, Resolution 4068 for the Ross Valley Paramedic Authority Tax, and Resolution 4069 for the Library Services Tax for the 2014-2015 Fiscal Year.

Kelly pulled Item (a) and Greene pulled Item (f) from the consent agenda for further discussion.

M/s, Kelly/Wright to approve Items (b), (c), (d), (e), (g), (h), and (i) on the Consent Agenda. AYES: Greene, Kelly, McInerney, Wright NOES: None ABSENT: Coleman

Kelly noted that with regard to Item 5 of the April 22 minutes the cost of staff time as discussed at the meeting should be included.

M/s, Wright/Kelly, to approve Item (a) with the suggested change. AYES: Greene, Kelly, McInerney, Wright NOES: None ABSENT: Coleman

Greene clarified that with regard to Item (f) of the current Consent Agenda the letter directed to Toni Atkins which was passed out to the Councilmembers before the meeting supplants the letter addressed to Steven Bradford in the packet.

Stutsman noted that there are differences between the two letters.

Wright observed that there was consensus among the Councilmembers to send a letter and suggested allotting time for the two letters to be compared before deciding which one should be signed by the Mayor and delivered.

M/s, Wright/Kelly, to approve a letter substantially in the form submitted. AYES: Greene, Kelly, McInerney, Wright NOES: None ABSENT: Coleman

2. PRESENTATION BY MARIN STRONG START COALITION, A GRASSROOTS COALITION WORKING TO ENSURE STRONG STARTS FOR MARIN'S CHILDREN (ORAL REPORT)

Paul Cohen introduced Laurie O'Hara, Chair of the Marin Childcare Commission and well-known early childhood education advocate Ethel Seiderman. O'Hara explained that Marin Strong Start conducted polling to establish the goal of seeking a sustainable funding stream for early childhood education, quality health care, affordable child care, and after school programs. The organization is seeking the Councilmembers' endorsement of a tax ballot measure that may be slated for November.

Seiderman added that the measure is for a one-quarter cent sales tax. She believes the Coalition's mission is urgent and invited Cohen to respond to Wright's inquiry with regard to competing tax measures on the November ballot.

Cohen noted that there is a County library tax on the June ballot and that in November the only county-wide measure other than the Coalition's measure is for the Marin Emergency Radio Authority (MERA), which is a parcel tax rather than a sales tax. Cohen urged Councilmembers to visit the Coalition's website: marinstrongstart.com.

3. APPOINT APPLICANT TO THE MARIN COMMISSION ON AGING (ONE SEAT)

Stutsman presented the staff report, noting there are three applicants for one seat on the Marin Commission on Aging.

M/s, Greene/Wright, to appoint Suellen Lamorte to the Marin Commission on Aging. AYES: Greene, Kelly, McInerney, Wright NOES: None ABSENT: Coleman

4. RECEIVE REPORT ON 19 KNOLL ROAD BUILDING PERMIT EXPIRATION AND PROVIDE DIRECTION TO STAFF ON NEXT STEPS

Condry presented the staff report, indicating that there has been a building permit on 19 Knoll Road since 2008 and that to date very little progress has been made on constructing a home on the property. The applicant chose to appeal the Building Department's April 2013 suspension of his building permit to the Town Council.

Although the appeal in September 2013 was denied, the Town Council granted the applicant a seven-month extension on his permit contingent on the submission of a construction management plan, proof of financing, maintenance of the site, and demonstration of substantial progress. The applicant's project was mistakenly red-tagged with a month of the extension remaining and his permit was reinstated, to expire May 6.

Condry stated that several construction management plans have been submitted and that the site has been relatively appropriately maintained. A slideshow presentation displayed the approximately 50 lineal feet of retaining wall completed to date. Condry indicated a 15-foot drop-off to the road that is adjacent to the retaining wall.

Condry revealed that suitable proof of financing has not been provided and is asking for Council's direction as to what it deems acceptable proof of financing. He recommended that a building permit for completion of the retaining wall be granted so that the work does not fall to the Town for completion, which would lead to the placement of a lien on the property. Condry added that if the permit is granted, he recommends the requirement of a bond in an amount determined equivalent to all grading and foundation work.

Wright asked Condry what the process would be if the Town was to complete the retaining wall and place a lien on the property.

Condry gave the example of a landslide that occurred on Scenic Avenue, at which time the property owner at 437 Scenic could not be reached. The Town found it necessary to commission an engineering report and design in order to build a retaining wall to retain soil on the site. When the project was completed, a lien was placed on the property. The County reimbursed the Town and took on the property lien and/or the property.

Deputy Town Attorney Megan Acevedo confirmed that the same procedure could be followed for 19 Knoll Road as part of a nuisance abatement proceeding.

McInerney asked Condry to describe the nature of the complaints he has received from residents close to 19 Knoll Road.

Condry replied that neighbors complain the project is unsightly, unsafe, and on-going.

McInerney asked if the Town has ever required proof of financing for past projects.

Condry indicated that he had not previously seen a proof-of-financing requirement for projects, adding that bonds are often required to insure that projects will be completed.

McInerney asked if Condry or other staff spoke with the applicant about what the Town's expectations were of him going forward after the Council meeting at which the seven-month extension was granted.

Condry confirmed that the former Building Official, as well as the Building Inspector, have talked with the applicant about the expectations a number of times, including making continuous progress, submitting a construction management plan, keep the site clean, etc.

McInerney asked if Condry expects to see continuous progress on the project if it goes forward.

Condry indicated that there has not been continuous progress in the past; if the applicant does not make continuous progress, the matter will come back to Council.

McInerney noted an email from the applicant (Attachment 5) outlining his plans for financing the project, and asked if the email was consistent with what Council intended when it asked for proof of financing on the project.

Condry replied that it did not appear to be what Council intended.

As there were no further questions from Council, McInerney opened the discussion to the public.

Roberta Robinson, Crooked Avenue, asked if the work completed on the project thus far has been done correctly.

Condry confirmed that the work has been inspected by both the Building Inspector and himself.

Robinson asked if the Town or the applicant would be liable if there were an accident at the site.

Condry responded that both parties would probably be liable.

McInerney invited the applicant to speak.

Ken Mayer, 19 Knoll Road, has attempted to meet each of the four requirements put in place when Council granted him a seven-month extension. He noted that he has asked staff what kind of proof of financing was required and was told he would need a letter from a bank. Mayer explained that his financing is through private sources and not through a bank.

Greene asked Condry if the Town has an excavation moratorium in place between October 15th through April 15th when no excavation work can normally be done. Condry replied yes.

Greene asked Mayer what his estimate is for the cost of completing construction.

Mayer believes the cost is approximately \$550,000.

Greene asked if Mayer has the financing in place for that amount.

Mayer indicated that he does.

Greene asked Mayer if his backers are willing to be disclosed.

Mayer replied that some backers are willing to be identified and others are not.

Greene asked if Mayer has provided the names of his investors to staff.

Mayer answered that he has disclosed the name of the individual in charge of the investment team.

Greene observed that the information provided to Council documents financing of \$270,000 and asked Mayer for details as to the remainder of the needed financing.

Mayer referred to Attachment 5 of the staff report and outlined the financing allocations.

Kelly asked Mayer to disclose his principle investor's percentage share of the property.

Mayer declined to do so.

Kelly observed that the Council asked for proof of financing in September and that he does not see any proof of either financing or on-going progress. He believes the property is dangerous, noting the construction fence.

McInerney asked Mayer when he plans to complete construction.

Mayer replied that the goal is to complete construction by February 2015.

McInerney asked if Mayer has a written agreement with his investors.

Mayer indicated that his principal investor is waiting for a copy of the note on the property.

As there was no further public comment, McInerney returned discussion to Council.

Kelly asked what Council can ask of the applicant in terms of proof of financing.

Acevedo replied that there are privacy limitations. Council could ask for the structure of the funding organization or formal letters from investors. If the goal is to have the retaining wall constructed, and Council is amenable to requiring only the bond for that work, the requirement can end there. If full financing information is desired, Council could conceivably require a more detailed description from investors or some commitment from investors that they would cover the financing.

Kelly asked if the Town has ever required a bond on an entire project.

Acevedo believes such a requirement would need to be tied to a public safety element.

Wright is inclined to support requiring a bond on the retaining wall and enforcing a construction management plan. He would be comfortable going forward with those two requirements.

Greene does not think a bond is needed as there is not much retaining wall work remaining. He believes a construction management plan should be required. Greene further believes the proof-of-financing requirement is intrusive, acknowledging that Mayer has agreed to it. A letter from the committed investor should be sufficient.

McInerney noted that this project has been going on for years and that part of the problem is that current codes enable this conduct. Real evidence of financial backing is not in place. The record doesn't support trusting Mayer. McInerney believes a better solution is to not have Mr. Mayer in charge of the property any longer.

Wright proposed following staff's recommendation for a bond covering the foundation, retaining wall, and the grading. He further supports strict enforcement of a construction management plan. Wright is not in support of requiring proof of financing, explaining that letters from investors aren't sufficient and asking for letters of credit would be an extreme measure.

Kelly would like to see requirements for safety measures and no storage of materials or vehicles from other jobs on the site.

Condry added that the bond should cover site work, drainage, and erosion control as well.

Greene believes the construction management plan should be clearly defined.

It was agreed that Condry will work with Mayer on a more specific construction management plan, that Mayer will submit a bond in the amount of \$75,000-\$100,000 for grading, foundation, site work, drainage and erosion control, Mayer will fix the fencing to ensure public safety and Mayer will allow no outside storage of construction materials or vehicles on the site. This will return to Council at the next session, at which time a motion can be placed on the consent agenda. In the interim, Mayer can continue to work on the retaining wall.

5. APPROVE RESOLUTION OF INTENT SETTING PUBLIC HEARING TO AMEND UNDERGROUND UTILITY DISTRICT NO. 5 ALONG SIR FRANCIS DRAKE BOULEVARD AND SET PUBLIC HEARING

Greene asked that Item 5 be moved to the end of the evening.

Greene recused himself from the discussion.

Condry presented the staff report. An incorrect boundary line drawn on the map designating underground utility district No. 5 was noted by former Public Works Director John Kottage, who added a notation to the map that existing utility poles not intended to be included in the district could remain. The map needs to be amended, allowing PG&E to use its overhead aerial easement and making 790 Sir Francis Drake eligible to obtain overhead power from PG&E.

As there was no public comment, discussion turned to Council.

M/s, Kelly/Wright, to approve Resolution 4070. AYES: Greene, Kelly, McInerney, Wright
NOES: None ABSENT: Coleman

6. RECEIVE REPORT FOR OPTIONS FOR THE 2014-15 WORK PLAN FOR THE TOWN'S ALLOTMENT OF MEASURE A FUNDS AND PROVIDE DIRECTION TO STAFF

Community Services Director David Donery presented the staff report. It is recommended that 90% of the Measure A funds be allocated toward the Memorial Park Renovation Project and the remaining 10% be allocated to the San Anselmo Open Space Fund.

Kelly supports the proposal to allocate the funds as recommended.

McInerney invited the public to speak.

Jonathan Braun, Scenic Avenue, urges taking more time to consider this issue. The purchase of Sky Ranch property is imminent. Fairfax has agreed to devote a portion of their Measure A funds toward the acquisition. Braun advocates postponing a decision.

Brian Crawford, Oakland Avenue, supports allocating some of the funding to open space, particularly for construction of trails. He is concerned about making improvements to Memorial Park when the construction of a detention basin there is under consideration. He would like to see the allocation of the funds delayed.

Renee Voss, Alderney, advocates allocating Measure A funds to dealing with fire issues in open space. Voss shared a handout showing the trailhead in Memorial Park which was the site of a recent fire. He encouraged Council to direct staff to work with the Open Space Committee.

As there was no further public comment, McInerney returned the discussion to Council.

Greene would like to continue the matter for two weeks.

Kelly agreed that the discussion should be continued for two weeks.

Wright clarified with Donery that there is sufficient time available to delay a decision without jeopardizing the funding.

McInerney would support staff's recommendation and believes Council should move forward with the allocation at the current meeting.

M/s, Greene/Kelly, to continue Item 6 to the next meeting. AYES: Greene, Kelly, McInerney, Wright NOES: None ABSENT: Coleman

7. APPROVE TRANSFER OF \$150,000 FROM THE EMERGENCY FUND TO THE INSURANCE FUND FOR WORKERS' COMPENSATION PAYMENTS

Finance Director Daria Carrillo presented the staff report. A former employee returned to work after recovering from a work-related injury only to aggravate the initial injury.

Wright asked for clarification regarding the requirement of payment of the deductible twice.

Stutsman explained that when a doctor clears an employee for return to work, the Town has the responsibility to bring the employee back. Unfortunately, the employee in question aggravated the initial injury on returning to work, which reset the deductible.

Stutsman added that she and Chief Cusimano are going to request that staff look into the rule that resets the deductible.

As there was no public comment, McInerney returned discussion to Council.

M/s, Wright/Greene, to support the staff report. AYES: Greene, Kelly, McInerney, Wright NOES: None ABSENT: Coleman

8. ADJOURN

McInerney adjourned the meeting at 9:45 p.m. in memory of Paul Kreider, former owner of the Ross Valley Winery.

Respectfully submitted,
Nancy Harris