

REGULAR TOWN COUNCIL MEETING - JUNE 24, 1986

Council convened in closed session at 7:00 p.m. to receive Town Attorney's recommendation about release of information regarding legal questions raised about the Del Santo matter. Recessed at 7:55

Vice Mayor Cordingley reconvened the meeting at 8:00 p.m. with Councilmembers Walsh, Chignell, Sharp in attendance. Mayor Wooliever was absent.

2. OPEN TIME FOR PUBLIC DISCUSSION

The following statement regarding the Del Santo matter was read by the Mayor Pro Tem:

At this evening's closed session the Town Council received a recommendation from the Town Attorney that his legal opinion answering issues about the Del Santo matter be made public.

Since the Town Council agrees that the public is best served by a public answer to these legal questions, the Council has decided to make the legal opinion public. However, we have committed to the Chief and his Attorneys that they have an opportunity to review the facts set forth in the opinion with respect to the Chief's rights of privacy. The Chief's Attorney is out of Town until June 30. The opinion will be made available to him for immediate review upon his return.

Furthermore, the Council notes that several procedural questions have been raised by concerned citizens which have not yet been answered. The Council has directed Town Staff to draft a complete report answering these procedural questions.

We have also considered the citizen group's letter of May 20 and a suggestion that a citizens committee of five be appointed to deal with the questions and make whatever recommendations they deem appropriate. The Town Council's answers to the citizen group's questions will be given to the committee for their review.

Kim Lanham, Marin County Humane Society Sergeant, proposed that the sign ordinance be amended to allow posting of dog poisoning signs.

Carol Kleiforth and Paul Brand each expressed similar sentiment.

The Council determined it was an essential issue and instructed staff to prepare an emergency amendment to the Municipal Code for the July 8 meeting.

Paul Brand, 130 Allyn Avenue asked if there was something that could be done to stop the "tree butchery" that is being performed by Davey Tree Service under contract to P. G. & E. Staff was asked to prepare a report on the tree trimming. Staff will look into the activity immediately.

Pat Broadbent, 70 Berkeley Avenue, asked about the Del Santo Matter. She asked if the 5 members were to be appointed by the Council, and if each Councilmember would choose one person; would volunteers be enlisted? Matter to be placed on July 8 agenda.

3. APPOINTMENTS

A. Park and Recreation Commission. The last two interviews will be set prior to the meeting of July 22 at which meeting two appointments will be made.

B. Marin Area Commission on Aging. M/S Walsh, Sharp to close nominations and to appoint Gail Stewart to this committee. Ayes all.

C. Library Planning Committee. Continued to July 8.

4. Formal Approval of Final Project Plans and Authorization to Advertise for bids for the Culvert Modification Project in the

Vicinity of Sir Francis Drake High School

The Administrator said this project, while being run by the Town, was being paid for by the developer of the Willow Glen Project. M/S Walsh, Chignell approval of the final specifications and bid documents on the Sir Francis Drake Boulevard culvert project; and authorizing to receive bids at the discretion of the Director of Public Works. Ayes All.

5. Appeal of Rae and Patricia Johnstone from the Planning Commission denial of U-610 - Rae Johnstone, 1119 San Anselmo Avenue, A/P 7-085-08, use permit for an on-site eating establishment in a C-1 zone, and V-2127, Rae Johnstone, 1119 San Anselmo Avenue, for a parking variance upon increasing the intensity of use with the addition of an eating establishment on a parcel with substandard parking

The Planning Director related the history of the application, he said the site does not have sufficient parking to meet code requirements; the Planning Commission denied the application for on-site eating at this location and also denied a parking variance at this location. Staff has originally determined there were four parking space, subsequently staff determined there were five spaces. He stated further that Town Parking requirements are being studied and it has been found that on-site eating is the highest generator of parking requirements. It is staff's opinion that parking falls short of the need.

Patricia Johnstone said future ordinances cannot be considered, rightfully they should only be required to meet current ordinance. She said she did not feel they have enlarged the capacity of the structure since no additions were made to the structure. She stated she had seen 7 or 8 cars use the lot at the same time in a safe manner. She said she would have to be shown how the use could be a detriment to the health, welfare and safety of persons residing in the neighborhood. She said she could present petitions with hundred of names in favor of the application.

Steve Thompson, 26 Alder, Rob Franco, 163 Morningside, Carolyn Ansbach, 20 Karl Avenue, Bob Zeigler, 8 Spruce Avenue, all spoke in favor of the application.

Randy Heubach and Stan Hayes Planning Commissioners presented the reasons for Planning Commission denial of the application, citing inadequate parking, the owner's concern that the easement not vanish, ingress at a heavily traveled intersection and egress onto a narrow road during which it is necessary to use the entire width of that road and their understanding from the applicant that this is a prelude to an application to serve beer and wine at this location.

Bill Bandy, a San Anselmo Avenue downtown businessperson said the place is now in business and operating and so it is not germane.

Lou Geiss, Canyon Road, said he is considering opening a business next door, and he sees no problem.

Lew Tremaine said he lived next door to the Center Market for two years and there was never a parking problem.

Planning Commissioner Hayes said he wished to make it clear that all decisions were based on the issue before them and they were strongly influenced by the Chief of Police's report on traffic at the intersection.

Walsh agreed with the Planning Commission that the parking ordinance need amending. She asked if the applicant was increase the intensity of the use. The Chief, she said, indicate traffic is bad in the early morning and late afternoon. Ms Johnstone's use will be at lunchtime. A large percentage would be walk-in traffic.

Sharp said he was very concerned with traffic at this intersection. He said it was difficult to avoid bikes when in a car and vice versa. He is impressed with what the applicant had done to the establishment. He said it was incredibly difficult to get in and out of the parking lot.

Chignell asked if there had been opposition to the application at the Planning Commission meeting. Commissioner Heubach said there had not.

Cordingley said he was in a quandary: If the neighbors felt they could live with it, then he would be inclined to go along with the application.

Walsh suggested a compromise with a six month review.

Johnstone said she has the neighborhood support; she did not think it businesslike to review it in 6 months and then perhaps be denied.

M/S Walsh, Chignell that we grant the applicant's appeal of the Planning Commission's denial of U-610, application of Rae Johnstone, 1119 San Anselmo Avenue, A/P 7-085-08, for a use permit for an on-site eating establishment in a C-1 zone, and V-2127, application of Rae Johnstone, 1119 San Anselmo Avenue for a parking variance upon increasing the intensity of use with the addition of an eating establishment on a parcel with substandard parking, based on the findings that there are exceptional circumstances to the land and the building: The applicant needs 6 on-site spaces and can provide five and there are three 20-minute parking spaces on the street frontage; parking problems in the neighborhood are in the early morning and late afternoon, and the applicant's highest needs are midday when parking is not a problem; a large percentage of the applicant's business is walk-in. There is large-spread neighborhood support. Appeal conditioned upon the following:

1. There be no more than 9 seats;
2. The Marin County Health Department requirements be completed;
3. That they conform with the Uniform Fire Code.
4. The five parking spaces, as indicated on the drawing be marked on the lot.
5. The ten-foot wide easement accessed off Redwood Road and the driveway access of San Anselmo Avenue be signed in order that the easement can be kept clear for ingress and egress.

Motion passed with three Aye votes, Sharp voted No.

6. Emergency Expenditure: Collapsed Sir Francis Drake Culvert

The Administrator reported the culvert on Sir Francis Drake in front of the Sunnyside Nursery had collapsed causing a tremendous emergency. Two bids were received and a contract awarded. Work had begun immediately and it is hoped it will be finished by the end of the week. The culvert being installed is concrete with a life expectancy of at least 50 years at a cost of \$35,000. It is being funded from unexpended funds from the Public Works Department which had earlier been earmarked for vehicle replacement funds.

M/S Walsh, Sharp to approve the Town Administrator's decision to allow the emergency expenditure to repair the collapsed culvert at Sir Francis Drake Boulevard near Sunnyside Nursery. Ayes: All.

Councilmember Chignell said he appreciated being called about the emergency and proposed handling when it happened.

7. Public Works Project: Approval of final plans and authorization to advertise for bids to reconstruct lower Scenic Avenue between Humboldt Avenue and Summit Road.

Public Works Director Kottage said this project had been around a long time, and he had worked out the best compromise possible given the budget limitation. The money had been allocated in the capital improvements project a long time ago. It would provide better and safer access.

Jonathan Braun, 479 Scenic Avenue said he had witness a lot of destruction by builders, e.g. 500 Scenic Avenue the the Summit Road project. He felt the contractor should be required to contribute.

M/S Chignell, Walsh that the carry over that is available in this year's budget be spent as designated in memo from Assistant Director of Public Works which includes authorization for advertisement for bids for Lower Scenic Avenue Improvement Project, to be received at the date and time set by the Director of Public works. Ayes All.

8. Design Review and pre-building permit issuance review for a residence at 27 Oakwood Court, A/P 5-062-80 & 83 (Velazquez).

Planning Director Kottage presented a staff report. He said this requirement had been a condition on the variance granted on October 8, 1985.

Don Velazquez presented drawings indicating material storage on site and introduced Jesper Strandgaard who attested to the stability of Oakwood. He described various of way of handling surface water, one of which involved the granting of an easement from downhill neighbors McWhorter.

Carl Gonser, Attorney for the Velazquez' said they had attempted to comply; however, they had been unable to reach an agreement with the parties involved.

Rick Sheviakov, 30 Oakwood read a portion of a letter previously submitted to the Council. He said the Planning Commission had not addressed the issue of the enclosed garage.

Chignell mentioned proposed street closures and safety issues. He suggested it would be possible to use the County Mediation Board, if necessary.

Walsh asked about the retaining wall.

Cordingley said he was concerned about the street and retaining wall and the Town's position.

The Public Works Director said there is a proposed retaining wall and a slough wall. The condition of the street exists now. He said he relies heavily on the opinion of the soils engineer. He said it is possible for the road to slide; no one can say with certainty if it will or not.

Doug Anawalt, architect, pointed out the 3 elevations visible from the street. He said from the street it would appear to be a one-story dwelling with an enclosed garage. The peak of the garage is within the 35 foot height limit. He felt, as a designer, that a garage would be much more attractive than a carport because such necessities as garbage cans, etc. would be inside.

M/S Walsh, Chignell to approve design review of design and the pre-building permit review for a residence at 27 Oakwood Court, A/P 5-062-80 & 83 (Velazquez) as conditions by variance granted by the Planning Commission on October 8, 1985, based on the 16 proposals delineated in memo dated June 16, 1986, with the exception of #12 where it reads; If the drainage easement is not provided, the owner shall provide a runoff dispersion system that meets the approval of the geotechnical engineer and Town staff." Ayes All.

Chignell said he was concerned with the street closures.

Sharp urged the neighbors not to hesitate to contact the Town if any problems arise.

Velazquez went on record to say he will make every effort for consideration of the neighbors.

9. Second Residential Units: Proposed Resolution government the issuance of second unit ordinance study.

Three minor modifications were made to the proposed Resolution. M/S Chignell, Sharp to adopt Resolution 2078 establishing criterion for processing residential second unit applications prior to completion of the residential second unit ordinance review. Ayes all

The Council asked for a March 1 deadline for complete of the study.

10. Discussion of Self-Insurance Concept, Marin Cities Insurance Authority:

The Town Administrator reported the finalization of the premium through the JPA for general liability insurance which will result in savings to the Town of \$190,000. He explained the method by which the premium was determined.

Sarah Nome questioned the \$50,000 overpayment to the JPA and asked if it was taken into consideration and if it could not be recovered. She mentioned other insurance pools available to municipalities.

The Town Administrator outlined the pool options available and discussed the merits or lack thereof with each.

The Council commended the Administrator for the wonderful news and all of his hard work toward this end.

The Administrator said the JPA had asked each City or Town to appoint one or two members to attend a meeting at which time there will be a general discussion and any questions they may have will be answered. Councilmember Sharp said he was willing to attend.

11. Consideration of Appointment Old Quarry Open Space Committee members to Town Open Space Committee with holdover members Gay Kagy and Jim Cowperthwaite.

This item continued to the meeting of July 8, 1986.

12. Council Request for future agenda items, comments and direction to staff: Staff miscellaneous items.

The Administrator announced the bid opening of the Sir Francis Drake Improvement Project will be this Thursday.

M/S Sharp, Walsh to place Award of Bid of the Sir Francis Drake Improvement Project on the July 8 agenda.

The Town Administrator said he would need some idea of the date of the evaluation of the Department Heads since he felt the Council would wish to consider salaries based on the evaluations.

Walsh said she thought the Council should evaluate its work and where it would like to go as well as Councilmember's roll in Town government.

Chignell said he did not feel in a position to evaluate all of the department heads since he had relatively little to do with some of them.

Sarah Nome said before any raises were given she wanted to know how the \$30,000 expenditure for the Del Santo case was to be paid. She said the Council should lift the burden from the taxpayers.

An Evaluation of Department Heads will be put on the July 8 Agenda.

A special meeting will be set for a "team building" workshop and discussion of the roll of the Council. July 7 was tentatively set;

each Councilmember to call the Administrative Office to firm up that date. The meeting will take place in the Library Basement.

13. Consent Agenda

Minutes of April 22, 1986. Sarah Nome asked to have a correction to the consent agenda made as follows: Last sentence of first paragraph should read as follows: She said Ms Cameron's remarks should be shown as those of a nonresident.

Walsh said she was not on the Council on April 8 and should not have been shown as approving those minutes. Chignell and Walsh should be shown as abstaining. Sharp was absent.

Minutes of May 13, 1986. Sarah Nome said she recalled there was a maximum of \$600 placed on the amount of money to be expended for the Court Reporter in the Del Santo case, but the motion did not show it. After some discussion by the Council it was determined that Sarah Nome would check the tape of the meeting to see exactly how the motion read.

Minutes of May 27, 1986. Sarah Nome said Item 5, paragraph 7, the words "Sleepy Hollow direct" should be deleted and in its place: "from any number of areas".

Item 12. Sarah Nome asked that after the word "discussed" in line 4, the following statement be added: Sarah Nome said that she hoped that no funds out of this project would be expended for a former councilperson who may be a local architect. There should be no taint of "cronyism".

M/S Chignell, Walsh to approve minutes of April 22, May 27, and June 10 as amended. The minutes of May 13, item 15 will be approved as found on tape of that meeting at the July 8 meeting. Chignell voted no as to approval of minutes of May 13, item 15.

Thelma Foster