

MINUTES OF THE TOWN COUNCIL MEETING OF MARCH 24, 1987

Mayor Wooliever convened the meeting at 8:00 p.m. with Councilmembers Chignell, Cordingley, Sharp and Walsh present.

2. OPEN TIME FOR PUBLIC EXPRESSION

Jake Ours, 125 Saunders, inquired about the status of his letter to the Town concerning traffic on Saunders. Town Administrator Garvey responded that the matter was under review by the Traffic Safety Committee.

Harry Freeman, representing the Ross Valley Ecumenical Housing Association, requested the Council proclaim the week of May 11 through 17, 1987 to be "Affordable Housing Week." This item will be on the April 14th agenda.

3. APPOINTMENTS

A. Historical Commission (2 seats): There were two applications for membership on the Commission.

M/S, Chignell, Walsh, that Richard E. McLaren and Susan J. Carlson be appointed to the Historical Commission, to the balance of terms to September, 1988. Motion passed unanimously.

B. Seminary General Plan Advisory Committee (one seat): No applications have been received but inquiries have been made. The appointment was continued.

4. RESOLUTION NO. 3012 UPHOLDING APPEAL OF PLANNING COMMISSION ACTION AND APPROVING AN AMENDMENT TO THE LAND USE MAP OF THE SAN ANSELMO GENERAL PLAN REDESIGNATING A/P NOS. 7-284-10, 21, 22, 23, 27, 37, 41, 42, 43 AND 47, (PROPERTIES BETWEEN MARIPOSA AND ROSS AVENUES) FROM MIXED RESIDENTIAL, PREDOMINANTLY SINGLE FAMILY (6 TO 12 UNITS PER ACRE) TO MIXED RESIDENTIAL, PREDOMINANTLY MULTIPLE (12 TO 20 UNITS PER ACRE).

A typographical error in the A/P nos. in the resolution was corrected.

Sharp commented on the irony of this resolution given that the next item on the agenda concerned establishing a policy to delay processing applications such as this General Plan amendment. Cordingley said staff should have raised the issue of whether to process applications during the General Plan update when this General Plan amendment application was heard by the Council.

M/S, Chignell, Walsh, to approve Resolution No. 3012 sustaining an appeal of a Planning Commission action and approving an amendment to the Land Use Map of the San Anselmo General Plan redesignating A/P Nos. 7-284-10, 21, 22, 23, 27, 37, 41, 43 and 47 from mixed residential, predominantly single family (6 to 12 units per acre) to mixed residential, predominantly multiple (12 to 20 units per acre), as described in the memorandum dated March 20, 1987. Motion passed by the following vote:

AYES: Chignell, Walsh, Wooliever

NOES: Cordingley, Sharp

5. DISCUSSION OF THE TOWNWIDE UPDATE OF THE GENERAL PLAN AS IT RELATES TO PROCESSING PLANNING DEPARTMENT APPLICATIONS BETWEEN NOW AND THE TIME WHEN THE GENERAL PLAN UPDATE IS COMPLETE.

Staff recommended that while the Council reviews and updates the General Plan to make it consistent with current Council policy and

updates the zoning ordinance to conform it to the General Plan, applications that relate to the General Plan not be processed. Such applications would include General Plan amendments, zone changes or text amendments to the zoning ordinance, annexations which require rezoning, development applications which under current zoning would result in a higher intensity of development than the limitations in the General Plan allow, and subdivisions creating four or more lots. A restriction on reviewing these applications may take the form of a Council policy established by resolution, or an ordinance, which can be passed on an interim urgency basis.

Town Attorney Roth noted it was possible to include a provision in the ordinance to allow the Council to make exceptions on a case by case basis. He reported that state law requires the Town to issue a building permit if the proposed development is consistent with the zoning even if the zoning conflicts with the General Plan, but a local ordinance could be passed prohibiting the issuance of these permits.

Planning Consultant Roberto explained that the Council could design the interim ordinance restricting processing of applications in any fashion it wished, such as by type of application or by geographical area.

Walsh stated that the ordinance did not have to be one that covered the entire town, noting that most of the zoning inconsistencies are in the lower lying areas. She commented that an urgency ordinance was an extreme measure and questioned whether an ordinance prohibiting issuance of building permits on developments inconsistent with the General Plan was more appropriate.

Public Works/Planning Director Kottage stated that a restricting measure was needed during the two year period that the General Plan is being updated, but recommended it be worded carefully so as not to place an undue burden on property owners.

Sharp, Cordingley and Chignell said they supported an interim urgency ordinance. Sharp and Cordingley did not want automatically to exclude any areas of town, but wanted the ordinance to include a provision to allow review of possible exceptions to the ordinance on a case by case basis.

The Town Attorney said the Council could adopt an interim urgency ordinance, with or without notice to the public, upon a 4/5 vote of the Council. This type of ordinance may be in effect for up to 45 days, after which it may be modified or extended to be in force up to two years.

Wooliever said she was not interested in seeing a halt on all planning processing, and preferred to review this ordinance in a public hearing.

Peter Fraser, who owns property in the R-1-H zone, said the R-1-H zoning was developed after extensive review by the Town and public, it reflects what development is and is not acceptable to the Town, and the Town still has the ability to reject a R-1-H development application. In addition, he said the R-1-H zoning is actually more restrictive than the General Plan. He suggested the Council consider including a provision in the ordinance to exempt certain areas, such as those in the R-1-H zone, from a processing delay.

Mario Pasetti, 60 Mariposa, said he owned property where there is a discrepancy between the density allowed by the R-3 zoning and that which is allowed by the General Plan Land Use Map. He asked what would happen to the development application he has already submitted if the Council adopts the resolution or ordinance being discussed. The Town Attorney responded that it was up to Council discretion whether processing would continue on applications already submitted which relate to the General Plan.

M/S, Sharp, Cordingley, to direct staff to notice a public hearing on an interim urgency ordinance limiting applications consistent with items 1-5 in the staff memorandum dated March 20, 1987, that further the proposed ordinance is to include an exemption clause containing criteria similar to those in the use permit process, and further that pending the public hearing, the Director of Public Works be directed not to accept any applications falling within items 1 through 5 in the staff memorandum dated March 20, 1987, and to direct staff to provide Council with an inventory of applications currently under review. Motion passed by the following vote:

AYES: Chignell, Cordingley, Sharp, Wooliever

NOES: Walsh

The public hearing on this ordinance was scheduled for April 28, 1987.

6. APPEAL OF ALMA R. WIEDERHOEFT OF PLANNING COMMISSION DENIAL OF SS-264, 327 BUTTERFIELD ROAD, A/P 5-022-62, TWO-LOT PARCEL SPLIT, AND THE INITIAL ENVIRONMENTAL REVIEW.

This subdivision was denied by the Planning Commission on the grounds that the findings for exceptions to the lot width and access requirements could not be made.

Robert Swanson, architect representing Mrs. Wiederhoeft, said the required access width is available on Butterfield Road but it would be easier to access the new lot from Bay Tree Lane and sufficient parking could be provided from this access. He said Mrs. Wiederhoeft has contributed in the past to the improvement of Bay Tree Lane. Mr. Swanson submitted calculations that evening which he contended show that the lot meets the required width, measured facing either Bay Tree Lane or Butterfield Road.

M/S, Chignell, Sharp, to continue the appeal of Alma Wiederhoeft of the Planning Commission denial of SS-264, 327 Butterfield Road, A/P 5-022-62, two-lot parcel split and the initial environmental review to the meeting of April 14th to allow for consultation between the architect and staff. Motion passed unanimously.

7. ROBSON PARK PATHWAY IMPROVEMENT CONTRACT - APPROVAL OF FINAL PLANS AND AUTHORIZATION TO ADVERTISE

The Parks and Recreation Commission recommended that the \$9,800 available through the 1980 Parks Bond Act for this project be used to build a fence around the area in front of the Carriage House and a stairway between the Carriage House area and the lower garden, and to pave two park pathways that are subject to erosion.

M/S, Walsh, Chignell, to approve the Robson Park improvement project as designed and authorize advertising for bids, with the bids to be received at the date and time set by the Director of Public Works. Motion passed unanimously.

8. PROPOSED AMENDMENTS TO THE SAN ANSELMO MUNICIPAL CODE, TITLE 4, CHAPTER 13, PRIVATE TREES, TO PLACE RESTRICTIONS ON THE PRUNING OF ELM TREES AND ALSO REVISING PROCEDURES INVOLVING HERITAGE TREES.

The proposed amendments primarily concern measures to discourage the spreading of Dutch Elm disease, making the length of the permit appeal period consistent with Title 10 of the Municipal Code, and adding noticing requirements and penalty provisions.

Under the proposed ordinance, permits would be required to prune elm trees. Public Works/Planning Director Kottage explained that many elm trees in Town have been destroyed by Dutch Elm disease, creating an

aesthetic loss to the community and an economic burden on the Town. While there is no known cure or prevention, there are pruning techniques that can be used to discourage the spread of the disease. Furthermore, in recognizing neighborhood concern for tree removal, staff proposes to add a noticing requirement for heritage tree removal applications.

Wooliever commented that in her experience, the state Department of Forestry routinely inspects elm trees and informs owners of pruning procedures. Noting that the section of the ordinance requiring supervision or inspection by a qualified arborist has cost ramifications for property owners, she suggested the ordinance be modified to allow involvement by the Department of Forestry in-lieu of an arborist.

Cordingley asked that there be more emphasis on a follow-up inspection to ensure pruning is done properly.

Staff will modify the proposed ordinance to reflect the Council's comments and place it on the April 14th agenda.

9. POLICY DISCUSSION REGARDING PROJECTS REQUIRING PARKING VARIANCES IN THE DOWNTOWN BUSINESS DISTRICT, INCLUDING A PROPOSAL TO ESTABLISH A LIMITED IN-LIEU FEE PROGRAM.

The matter was continued to the meeting of April 28th, pending deliberations by the Chamber of Commerce's newly formed Parking Committee.

10. REQUEST FOR UNITED NATIONS CHARTER PLAQUE ON TOWN HALL LAWN.

A request had been received to build a display case on the Town Hall lawn to hold the preambles to the United States Constitution and the United Nations charter. Staff recommended that if the Council wished to honor this request, a more appropriate location would be the vestibule of either Town Hall or the Council Chambers due to limited space on the lawn.

Charles Mastin, a Board Member of the Marin Chapter of the United Nations Association, noted that the material and labor for construction of the cabinet would be donated, and that he was agreeable to working with the Town on location and construction details.

Sarah Nome, 77 Alder Avenue, spoke against placing the cabinet on the lawn and said a more appropriate place for the documents was the library.

It was the consensus of the Council that the Town Hall lawn was too small for such a display cabinet and referred the matter back to staff for further development.

11. RESOLUTION NO. 3013 SETTING PROCEDURES AND CRITERIA FOR TAX EQUITY BOARD

The first line of paragraph C of the proposed Resolution was amended to read, in part, "The Board shall, at a noticed public meeting, review each application on the basis of..."

M/S, Cordingley, Chignell, to approve Resolution No. 3013 Establishing Procedures and Criteria for Tax Equity Board. Motion passed unanimously.

11a. APPOINTMENT OF MEMBERS TO TAX EQUITY BOARD

M/S, Cordingley, Chignell, to make the following appointments to the Tax Equity Board: Judy Brown to serve until July 1, 1988; Bill Sinsky

to serve until July 1, 1989 and Bob Corlett to serve until July 1, 1990. Motion passed unanimously.

12. DISCUSSION OF 1987-88 BUDGET SCHEDULE

Under the proposed budget hearing schedule, the first meeting would take place on June 11, with the goal of completing the budget hearings by the end of June.

It was the consensus of the Council to adopt the budget schedule proposed by staff.

13. PROPOSED RESPONSE TO 1986 GRAND JURY REPORT

The Town Council had accepted Recommendation No. 2 from the Grand Jury Report entitled "The Investigation of Chief Del Santo" for further evaluation, and had requested the Town Attorney study the recommendation and report back to the Council.

Town Attorney Roth reported that after review and consideration of Recommendation No. 2, it was his opinion that no structural changes were needed at this time in dealing with personnel problems that may arise regarding either municipal employees or appointed officers.

Concerning Recommendation No. 3 of the Grand Jury Report, the Council had directed the Town Attorney to request that certain police officers re-examine their reports on their observations on the night of September 18, 1985 to see if any of them wished to add to or correct the reports. After discussing the matter with the police chiefs of Ross and Fairfax and the appropriate San Anselmo police sergeant, no corrections were deemed to be required. The Town Attorney also advised that no further inquiries were deemed necessary in light of the comprehensive investigation then being made and since concluded by the California Attorney General's Office.

The Town Attorney submitted a draft letter to be sent by the Council to Judge Savitt of the Marin County Superior Court summarizing its findings with the minutes of the Council's special meeting of November 17, 1986 attached.

Chignell stated that the only reason he had previously voted to accept Recommendation No. 2 was to allow the Town Attorney to report back to the Council. Now that he has seen the Town Attorney's report, he said he rejects the Grand Jury's language and would like to see a statement sent back to the Grand Jury that the Council rejects Recommendation No. 2 rather than just saying it took a look at it and has nothing else to report at this time.

Concerning Recommendation No. 3, Chignell said he was incensed to find the Grand Jury had the audacity to require police officers to change their reports. Noting that no new reports or changes were made, he said he would like to see the Council reject Recommendation No. 3. He said the Council has an obligation to the Town to make a statement on the Grand Jury's recommended either way, and that it should notify Judge Savitt that the Council rejects Recommendation Nos. 2 and 3.

Wooliever said she was satisfied with the report and letter submitted by the Town Attorney.

Chignell added that the Council has an obligation to the employees, the Town, to the investigation and to the Town Attorney. He said there were some statements in the Grand Jury Report advising that the Council or some members of the Council violated the Brown Act. Chignell did not think that the Council had actually told the Grand Jury it resented the insinuations that this Council violated the Brown Act. Also, the Town's employees have been inuned by reputation that they filed

perjurious reports, and this and none of the other Grand Jury allegations have been proven to be true. He said he appreciated the Town Attorney's letter but would like it to be much more forceful.

Walsh said that she had not supported accepting the recommendations of the Grand Jury and therefore would abstain from this matter.

Cordingly said he would rather handle this issue with dispatch and accept the letter to Judge Savitt as written. He said he felt the staff and Council have been wrongly impuned, but he was not sure this was the document to voice that feeling.

Chignell responded that this letter was the only opportunity the Council had to state their feelings.

Sharp commented that the proposed letter states clearly that the Council chose not to follow the recommendations of the Grand Jury.

M/S, Cordingley, Sharp, to approve the proposed draft response to the 1986 Grand Jury Report. Motion passed by the following vote:

AYES: Cordingley, Sharp, Wooliever

NOES: Chignell

ABSTAIN: Walsh

14. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, COMMENTS AND DIRECTIONS TO STAFF: STAFF MISCELLANEOUS ITEMS

Cordingley announced he was unable to attend the special meeting with the Chamber of Commerce on March 31. He asked the status of the the investigation into the condition of the building at 100 Sycamore and staff responded they would report back to the Council.

Wooliever inquired about the issue of removing some of the redwood trees in Robson Harrington Park. Town Administrator Garvey said he was arranging to discuss the matter with John Phillips.

15. CONSENT AGENDA

M/S, Sharp-Cordingley, to pass the Consent Agenda. Motion passed unanimously.

a. Approved Minutes of March 10, 1987. - On page 3, at the bottom of the page in the paragraph beginning "Chignell said," the following was added after the second sentence: "...that was properly brought by the Planning Commission to the Council. He said the proposal presented an opportunity to provide two affordable housing units and storm and drainage improvements and no precedent would be set by this project."

b. Continued proposed amendments to the San Anselmo Municipal Code, Title 10, revising Planning Commission appeal procedures to the meeting of April 14, 1987.

c. Continued proposed amendments to the San Anselmo Municipal Code, Title 10, revising the procedures for processing the R-1-H zone applications to the meeting of April 14, 1987.

ADJOURNED at 10:32 to a workshop with the Chamber of Commerce on March 31, 1987, and thereafter to the next regular meeting on April 14, 1987.

Beth Calamar