

TOWN OF SAN ANSELMO
Minutes of the Town Council meeting of July 12, 1988

Mayor Sharp convened the regular meeting at 8:00 p.m., following interviews with applicants to the Library Services Committee beginning at 7:20 p.m., with Councilmembers Chignell, Colteaux, Walsh and Zaharoff present.

2. OPEN TIME FOR PUBLIC EXPRESSION

Diane King, 1055 San Anselmo Avenue, said that the intersection of San Anselmo and Laurel Avenues is dangerous and suggested there be an electric signal placed there. She said a stop sign is needed at the corner of Santa Barbara and Santa Cruz.

Sarah Nome, 77 Alder Avenue, asked when the budget would be ready and requested production of a cash flow chart. Town Administrator Dickens said he hoped to have the budget to the Council on July 26, at which time the Council could set budget hearings.

3. APPOINTMENTS

(a) Library Services Committee.

M/S, Colteaux/Walsh, to appoint Virginia Richardson, Mark Luca, Cynthia Barrows, Julie Walker, Gary Simms, Anne Pogojeff and Bill Sinsky to the Library Services Committee. Motion passed unanimously.

(b) Parks and Recreation Commission: Nominations for one seat.

Applications have been received from Paula Neese, Gary Kaplan and George Buckle.

The Council discussed whether to close nominations or keep nominations open so that persons could apply up until the time of the interviews.

M/S, Chignell/Walsh, to close nominations and schedule interviews on the next regular meeting agenda. Motion passed by the following vote:

AYES: Chignell, Walsh, Zaharoff

NOES: Colteaux, Sharp

4. DISCUSSION ON TOWN COOPERATION WITH THE DOWNTOWN BUSINESS ASSOCIATION.

Chignell proposed that the Town make an allocation to the Downtown Business Association for Country Fair Day, noting that the Association, rather than the San Anselmo Volunteer Program is coordinating it this year. He asked to hear from Marilyn Ormond, President of the Downtown Business Association, regarding the \$25,000 in the 1987-88 budget earmarked for promotion of commerce.

Ormond introduced Emily Dvorin, Vice President of the Downtown Business Association. Ormond said that in the future the Association may pursue organizing an assessment district. Regarding Country Fair Day, Ormond stated that they already face \$550 in fees to hang the promotional banner and for police services, and that they will have to move the garbage from the fair themselves. She suggested a \$1,000 donation.

Dvorin commented that the Association would like to continue with downtown business promotion after Country Fair Day.

Walsh said she applauded what the merchants were doing, but expressed concern about giving one group of merchants funds and not another, and felt that a distinction could be made in funding the Association's first year of Country Fair Day. Regarding funding of a long-range program, she suggested that San Rafael be contacted about how it funds its downtown merchants association.

Colteaux commented that Country Fair Day is the most major event in the Town and that regardless of who puts it on, he would be willing to advance \$1,000.

M/S, Chignell/Colteaux, to give the Downtown Business Association \$1,000 toward Country Fair Day. Motion passed unanimously.

5. REPORT ON PROPOSAL BY THE BUCK CENTER FOR AGING TO LOCATE ON THE MARIN TOWN AND COUNTRY CLUB PROPERTY IN FAIRFAX.

Sharp announced that he had been contacted by Fairfax that the Buck Center on Research in Aging was no longer proposing to locate in Fairfax. He had confirmed this information in a telephone conversation with Mary McEachron from the Buck Center.

Walter Firestone, 37 Oak Springs Drive, said many people had attended the Fairfax Council meeting the previous night and that the proposal was not a dead issue since the Buck Center must still find a home.

Sharp said that San Anselmo has Fairfax's commitment that San Anselmo will be involved in the planning process for whatever happens on the Marin Town and Country Club (MT&CC) property. He said the Council is watching out for what happens with that property. If the Buck Center changes its mind and decides to reactivate its proposal for Fairfax, San Anselmo will be involved.

Bill Jelinek, 53 Florence Avenue, asked what the Council thought about making the MT&CC property a regional park and whether the Council would appoint persons to a committee to look at that issue. Sharp responded that he would like to see such an effort. Colteaux said he supported regional planning for properties such as MT&CC.

Nome spoke in favor of having a joint meeting with Fairfax and seeing the MT&CC property become an historic landmark.

6. APPROVAL OF FUNDING FOR TENNIS COURT PROJECT AT MEMORIAL PARK.

Public Works/Planning Director Kottage reported that the Council had previously allocated 1986 Park Bond Act funds for the rehabilitation of two tennis courts. Despite previous repairs, the courts have failed on two previous occasions. Staff has prepared a project designed to prevent failure in the future. The Town advertised for and received bids for the project, but the lowest bid exceeded the \$31,000 remaining in the budget for this project. The Tennis Club has agreed to contribute \$1,000, but \$9,900 is still needed.

Dickens recommended postponing a decision on whether to allocate the funds from the 1988-89 budget until the meeting of July 26, when he and the Council will have a better idea about funds available in the budget.

Kottage said a two week delay would not affect the project, but more than a two-week delay would delay the project until spring.

Sophia Spencer, Tennis Club member, said that the previous tennis court repair project had been inadequate and cracks had appeared within three months after the project completion. The club has put much of their own money towards court refurbishing, cleanup, nets, a water foundation, and other work.

Bill Rawlins, Tennis Club member, said it was time to do a decent job on the courts, noting that these courts can no longer be used for tennis tournaments and that the other two courts also need repair.

Lynn Payton, Tennis Club member, said the courts are full of cracks and are dangerous, and that the club must use other clubs' courts for competitive play. He said the Town has a responsibility to keep the courts in good condition, noting that the courts at Red Hill School are beautiful and should not be left to deteriorate.

It was the general feeling of the Councilmembers that the prudent action would be to wait two weeks until the next regular meeting when budget information is available. Walsh supported taking action this evening and directing the Town Administrator to find the funds so that there would be no delay in the project.

M/S, Chignell/Sharp, to continue this matter for two weeks. Motion passed by the following vote:

AYES: Chignell, Colteaux, Zaharoff, Sharp

NOES: Walsh

7. CONSENT AGENDA.

- (a) Approve Minutes: June 28, 1988.
- (b) Continue approval of warrants to July 26, 1988.
- (c) Approve Resolution approving the Ross Valley Paramedic Authority Tax Levy for the 1988-89 fiscal year.
- (d) Approve Resolution authorizing financing agreement for new fire engine.
- (e) Approve collective bargaining agreement with the San Anselmo Police Officers Association.
- (f) Approve Councilmember appointments.

8. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, COMMENTS AND DIRECTIONS TO STAFF; STAFF MISCELLANEOUS ITEMS.

Binding arbitration - Chignell asked that the memorandum distributed to the Council on this issue be placed on an agenda.

94 Berkeley - Chignell asked staff to look into a neighbor's complaint of an open sewer line on this property.

Seminary General Plan Advisory Committee - Colteaux asked that appointment to the vacant seat be placed on the next agenda.

Hub median strip - Walsh asked what work was being done on the median strip. Kottage responded that they were putting up a low retaining wall and landscaping to improve the drainage.

FAST - Dickens announced that a representative is needed to replace former Councilmember Wooliever on a committee that is advisory to the County Board of Supervisors about the Fairfax-San Anselmo Transit (FAST).

9. PUBLIC HEARING ON APPEAL OF PLANNING COMMISSION DENIAL OF A DRIVEWAY VARIANCE APPLICATION, LEE COLE PROPERTIES, A/P 177-220-54, THE ALAMEDA, SOUTH OF 443 THE ALAMEDA, FOR CONSTRUCTION OF A DRIVEWAY WITHIN THE EXISTING EASEMENT TO PROVIDE ACCESS TO A PROPERTY LOCATED IN AN UNINCORPORATED PORTION OF THE COUNTY OF MARIN, AND REVIEW OF THE MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT.

Public Works/Planning Director Kottage reported that the Town Code requires access from a Town street unless a variance is approved. This application is a variance request for a driveway to a property that does not directly front on a Town road, and leads to an adjacent site in a County unincorporated area. Kottage read the findings that must be made in order to approve the variance.

The Commission considered this application over a number of meetings, and denied it in the form of a resolution that cited specific findings for this decision.

The Town's planning consultant, in conjunction with the Town Attorney, prepared a response to the appeal, which was submitted to the Council.

Frederick Watson, legal counsel for Lee Cole Properties, asked the Council whether it was its position that a variance for the driveway could not be approved until plans for development of the property is submitted to the County. He said he believed the property owner had the right to this stage of development, i.e. development of a driveway, without development of the lot, but that if the Council will not approve a variance for a driveway until an building permit application is filed, there was no solution except going to court. He said the applicant simply wanted to get the driveway built.

Town Attorney Roth responded that his first reaction was that there is no reason the Council cannot delay action on a variance until a development plan is submitted, since a variance has to be considered in conjunction with the use of the property. However, he did not think that the issue Watson raised was technically before the Council.

Frank Berger, 324 The Alameda, asked the Council to accept the testimony given by the neighbors to the Planning Commission during its hearings on this application, with the addition of a couple of points. He objected to conducting a hearing when the applicant has not paid all the fees owed the Town. He noted that there were changes made on the draft resolution presented to the Planning Commission, including the fact that information on traffic problems and other issues was not submitted as requested by the Commission and public, and that there was no basis in fact to override the Commission decision.

George Silvestri, Jr., attorney for Roberta Stoddard, 444 The Alameda, which is downslope from the subject property, stated his concurrence with Berger's comments. He said there is potential for threatened stability as a result of the proposed application, as noted in the December 11, 1987 Earth Science Consultants report. Furthermore, under the California Environmental Quality Act (CEQA), it is appropriate and mandated for a public body to investigate cumulative affects of decisions, and he did not think that this project was exempt from CEQA. He said the project should not proceed further without environmental assessment.

Joe Arone, 424 The Alameda, asked whether they were being led to believe that the driveway is only for one house in the County. Kottage responded affirmatively.

The owner of 250 The Alameda said that if the parcel is sold to another developer, the question of what would be built would be raised. He said originally there were four houses proposed, then it was one house, and now it is no houses at all.

Jim Jacobson, 400 The Alameda, said that what Mr. Carradine has been saying during this process has been confusing.

Dan Goltz, 107 Holstein, said that on the Commission level, four units were originally proposed, then it was reduced to one unit. The big question had been whether there was a legal right to approve a easement on someone else's property. It has been determined that the easement may or may not be legal, he said. Now the applicant owns it and in order to get access to his property he must use this easement. He has the legal right to have an easement but he does not have the legal right to use the easement for access, he said. He said the other issue was whether granting the variance to allow access by an easement was detrimental. He said there are drainage issues, the property is zoned R1-H which requires a development plan, and there are many reasons why it is detrimental to the neighborhood and residents of San Anselmo and Sleepy Hollow in general.

Planning Commissioner Julin said the Commission's vote to deny the application was unanimous and unequivocal on the basis that it could not making the findings for approval, specifically those findings concerning health and safety. The variance was made necessary by the applicant's desire to develop an unincorporated parcel and therefore the Commission felt it necessary to consider the larger issue of development on the property the driveway was intended to serve.

Zaharoff commented that the Commission had plenty of health and safety reasons to make the decision it did, and she supported the Commissioners in their inability to make the findings.

Chignell noted that the paragraph five on the resolution adopted by the Planning Commission in denying the application was rather strong, and that Commissioner Julin's comments were also persuasive. He felt the applicant had received an fair hearing, and that he could not make the findings to approve the variance.

Colteaux stated that it was the burden of the applicant to prove that health and safety could be guaranteed by the development of the road, and that he could not make the findings necessary to support a variance for just the road, let alone any other development of the property.

Walsh stated her agreement with the comments of the other Councilmembers, noting that the Commission had done a thorough job in considering the application. She said there was alot of evidence that the variance would affect adversely the health and safety of the community.

M/S, Zaharoff/Walsh, to deny the appeal by Lee Cole properties of the Planning Commission denial, without prejudice, for a variance to construct a driveway access, with the findings as made by the Planning Commission. Motion passed unanimously.

Julin stated that the Commission had requested the Council ask the Town Attorney to develop a strategy to collect the fees owed the Town by the applicant. Roth stated that his position was that prudent course of action had been to proceed with processing the application although the fees

had not been paid, but that now it was proper to insist upon payment before a new application is processed. It was the consensus of the Council to request the Town Attorney to pursue collection of the fees.

10. ADJOURNMENT.

M/S, Chignell/Walsh, to adjourn at 10:25 p .m.

Beth Pollard