

TOWN OF SAN ANSELMO

Minutes of the Town Council meeting, of August 9, 1988

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

2. OPEN TIME FOR PUBLIC EXPRESSION

William Jelinek, 53 Florence Avenue, said there will be an education forum on issues relating to the proposal to locate the Buck Center on Aging in Fairfax on August 11.

3. APPOINTMENTS

(a) Planning Commission (2 seats).

The Council had conducted interviews with Linda Swanson, Spencer Sias and Stan Hayes.

M/S, Chignell/Walsh, to reappoint Spencer Sias and Stan Hayes to the Planning Commission, with the terms to expire August, 1992. Motion passed unanimously.

(b) Announcement of expiration of terms, Historical Commission (8 seats).

The terms will expire in September. It was the consensus of the Council to accept nominations at the meeting of September 13 and make the appointments at the meeting of September 26.

4. CHURCH OF THE DIVINE MAN, 1381 SAN ANSELMO AVENUE (A/P 7-052-55 THROUGH 59; U-621), CONSIDERATION OF LIABILITY COVERAGE FOR CONTINUED USE OF THE CHILDREN'S PLAYGROUND - REPORT FROM TOWN ATTORNEY.

The Planning Commission is currently considering amendments to the use permit granted in May 1987 for a church in an R-1 district. The church has indicated it is unable to continue to allow use of the children's playground on the church site because of the high cost of liability insurance. The Commission has requested the Town Attorney explore with the Town Council whether the Town would be willing to assume responsibility for any claims or injuries incurred on the playground. Town Attorney Roth reported that this may be accomplished either by the Town agreeing to indemnify the church with respect to any claims for injuries on the playground, or by agreeing to pay the portion of the general liability insurance relating to the playground, or that the neighbors on a one by one basis waive liability for use of the playground.

Director of Public Works/Planning Kottage reported that there was no existing condition on the use permit requiring the tenant to carry liability insurance on the playground. Planning Commissioner Sias added that the previous tenant, the Church of the Nazarine, had volunteered to keep the playground open and therefore there was no condition requiring it. Planning Commission Chairman Hayes noted that the Commission had encouraged both the Church of the Nazarine and the Church of the Divine Man to keep the playground open, and that the Commission is trying to find a way to guarantee to the neighborhood that playground insurance will be available to them.

Roth said he has asked the church reverend to provide him with information on the playground liability insurance, specifically how much the premium would cost or whether their insurance company was refusing to offer a policy covering the playground.

Zaharoff stated that she wanted information from the church on the additional cost of providing liability insurance. She said she was in favor of keeping the playground open, but that when she was on the Commission and acted on this use permit, the Commission was led to believe that liability insurance and use of the playground was a condition that could not be imposed.

Roth advised that he felt the Commission has the authority to impose conditions on the operation of the church from the standpoint of nuisance abatement.

Colteaux commented that given the strong history of the playground being open, it would be detrimental to the neighborhood to have the facilities terminated. The Town might consider being an excess insurance carrier in order to keep the playground open.

Walsh stated that she did not want the Town to get involved with the insurance, noting that although the playground is for kids in the area of the church, kids from other towns might also use the playground.

Sharp commented that it was important to get the details from the church on the liability insurance and that he wanted to see the issue worked out.

Chignell expressed skepticism about the Town indemnifying the church against any claims for injuries, and noted that the playground areas has been stripped of equipment and that the parking lot has crept into the recreation area.

Hayes stated that he hoped the information from the church could be submitted by the Commission meeting on August 15.

5. DISCUSSION ON STATE LEGISLATION REGARDING BINDING ARBITRATION.

The League of California Cities had requested that the Town Council oppose AB 3341 calling for binding legislation.

Chignell stated his support for this legislation, commenting that it had been passed overwhelmingly in the Assembly, that there are some benefits to arbitration, the Town's police and fire employees support binding arbitration, it eliminates rather than creates expenses, it has been passed in many states as a way to avoid strikes, and the legislation has received bi-partisan support.

Walsh stated her disagreement with Chignell's position, expressed concern about binding arbitration in a town as small as San Anselmo, and supported not taking a position on the legislation.

Chignell responded that arbitration would only become binding if bargaining fails, it has worked in other communities, has been beneficial to management, and has forced bargaining to take place, and he did not feel the Council should go on record opposing the legislation.

Colteaux stated he would be inclined to oppose the legislation, adding that he did not think binding arbitration was good for a town of San Anselmo's size and that he would go along with the League of California Cities' position.

Zaharoff said she has found arbitration to be a favorable medium but that she did not think the legislation was in San Anselmo's best interests. She supported taking no action, with the second choice being to oppose the legislation.

Sharp stated his support for taking no action on the legislation.

M/S, Walsh/Zaharoff, to take no action on AB 3341. Motion passed by the following vote:

AYES: Colteaux, Walsh, Zaharoff, Sharp

NOES: Chignell

6. REPORT ON TRANSPORTATION EXPENDITURE PLAN COMMITTEE.

Colteaux reported on the July 21 Committee meeting. The discussion primarily concerned how much money generated by a successful sales tax vote would go to local transportation projects. The majority of the committee voted that the maximum amount would be 20%, with Larkspur and San Anselmo representatives voting "no" on the grounds there was insufficient information.

Colteaux asked whether the Council would have an opportunity to review the Sir Francis Drake Boulevard project if it is funded, to which Kottage responded "yes."

7. CONSENT AGENDA

- (a) Approve minutes: July 26, 1988.
- (b) Accept Final Map, Sohner Court Partnership, Ross and Mariposa Avenues, A/P 7-284-27, 7-284-37, 7-284-41, 7-284-42 and 7-284-47.

Colteaux asked that item 7(b) be removed from the Consent Agenda. He noted that the staff memorandum stated that all of the conditions of approval have been met, but was concerned about this project as it has such an impact on his neighborhood and the Town, and was also concerned about the colors of the units. He said he felt a responsibility to look at the conditions and whether they had been met.

Roland Mayes, project developer, said they were in the culmination of a two-year effort and to delay a decision on the Final Map would cost \$10,000 per week. He felt they were in compliance with the requirements, that the maps are in order, the Planning Commission had approved the Final Map, staff was recommending approval of the Map, and that he needs to get the project moved.

Colteaux said that the project was not complete, the stucco was not even on one of the units and questioned what colors were to be used. Kottage said the colors were to be camel to light brown with a pink tone. Mayes said that the color board has been submitted, and that they are not being issued an occupancy permit. He said that the colors do not affect the final map.

Kottage said there are certain conditions that are subject to approval at the occupancy permit stage. Mayes said that if the Council has any questions about the conditions approved at the occupancy permit stage, they could be reviewed by the Council. Approval of the Final Map was not the final action, he said.

Walsh said she would like to see the Council approve the Final Map and see due process fulfilled, and if there were objections, they should have been brought to staff's attention earlier. She noted that staff has advised that all the conditions have been met.

Zaharoff commented that this was an important project, her main concerns at this point were color and landscaping, and if there is any risk of the Town losing control over those issues, or if staff and the Council do not know what items they will forfeit control of by passing the Final Map, action should be delayed until those issues are resolved.

Chignell said he would like to see the Final Map approved that evening, that staff has been on top of this project, the neighborhood was in support of the project, and the colors and housing agreement could be handled on a staff level.

Sharp stated he did not feel the Final Map was ready for a consent agenda, noting the amount of dissention on the recommended action and that it was one of the most sensitive projects currently happening in the town. He said he wanted to make sure that all the conditions have been met.

Mayes said that in delaying action on the Final Map, he would be unable to commence selling the units. He said the Final Map does not affect the housing agreements.

Chignell said Final Map approval was a ministerial act and asked the Town Attorney whether there was any legal jeopardy for not approving the Final Map. Roth responded that if all the conditions have been met, the Map has to be approved. Sharp commented that the Council first must be sure that all the conditions have been met before approving the Map.

Following a review of Section 10-2.603(c) of the Town Code and Section 66458(a) of the State Subdivision Map Act, Roth advised that the Council has a right to continue approval of the Final Map for one regular meeting.

M/S, Colteaux/Zaharoff, to put this item over to the next regular meeting. Motion passed by the following vote:

AYES: Colteaux, Zaharoff, Sharp

NOES: Chignell, Walsh

M/S, Chignell/Walsh, to approve the minutes of July 29. Motion passed unanimously.

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

Zaharoff asked that staff look into having a crossing guard at Sir Francis Drake Boulevard and Sierra, and Sir Francis Drake Boulevard and the High School, noting that since the addition of the second lane, some vehicles pass on the right and there have been injuries to children. She suggested that S.A.V.E. might be able to find volunteers for this work and to agendize it if needed.

Sharp noted that the Town had received a Pedestrian Safety Citation from the California State Automobile Association, and that the Police Explorers were looking for Council volunteers for their dunking booth on Country Fair Day.

9. ADJOURNMENT.

M/S, Zaharoff/Chignell, to adjourn at 9:15 p.m.

Beth Pollard