

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of October 11, 1988

Vice Mayor Walsh convened the regular meeting at 8:00 p.m., following a closed session regarding pending litigation pursuant to Government Code Section 54956.9(a), Sorter vs. Town of San Anselmo beginning at 7:15 p.m., and interviews with applicants to the Tax Equity Board beginning at 7:45 p.m., with Councilmembers Chignell, Colteaux, and Zaharoff present and Mayor Sharp not present.

2. OPEN TIME FOR PUBLIC EXPRESSION:

William Jelinek, 53 Florence Avenue, submitted photographs of the exposed roots of a valley oak tree at 51 Laurel Avenue, and asked that something be done to protect the tree. Public Works/Planning Director Kottage responded that the area around the tree would be barricaded.

3. APPOINTMENTS:

(a) Tax Equity Board:

M/S, Chignell/Zaharoff, to appoint Joyce DeMartini to a three-year term on the Tax Equity Board, with the term to expire July, 1991. Motion passed unanimously.

(b) Announcement of expiration of a Town appointed seat on the Robson-Harrington House Association Board of Directors.

The announcement was made and the vacancy will be posted and advertised.

4. APPEAL OF PLANNING COMMISSION'S APPROVAL OF V-2172, LIBBY HAYES, 14 ELM COURT, A/P NO. 7-081-15, A VARIANCE FOR AN ACCESSORY STRUCTURE WITHIN REAR AND SIDE SETBACKS.

Planning Consultant Lisa Newman reported on the findings made by the Planning Commission in approving the application, and the six conditions of approval imposed as mitigation measures to reduce negative impact. Public Works/Planning Director Kottage explained that Town staff found out about the structure after it was completely built.

Bill Hendrickson, father of the appellant, said he seriously objected to variances granted after the fact. He said the structure was an intrusion upon the privacy of his daughter's property, that staff has worked with Hayes to try and make the structure conform to the Building Code, the windows on the upper loft are opaqued, but if you stand on the ground floor of Hayes' building you can still look into his daughter's windows. He said that Hayes' structure started out as a second unit, has added to the value of her property and has detracted from the value of his property. He said the variances granted do not seem to conform to what is there in that the Commission action calls for the structure to be 5'1" from the property line, yet it is 10 to 12 inches closer than that to the property line.

Oscar Salbert represented Libby Hayes, who was also present. He said that when he and Hayes built the new fence, they did not put it as far back as the property line, giving Hendrickson slightly more room on her property. They have complied with the conditions of erecting a 6 foot fence between the two properties and opaquing the upper windows. He said the existing shed used to have windows that looked directly into Hendrickson's house, which no longer is the case. There has been a tremendous improvement in the privacy in

Hendrickson's yard, he said, adding that the fence and the increased privacy adds to the value of Hendrickson's property.

Colteaux said it appeared that the side property line was actually the rear property line. Newman responded that the designation of which was the rear and which was the side property line on this odd shaped lot was in conformance with the Town code.

In response to a question from Chignell regarding Planning Commission policy on after the fact variances, staff stated that they were evaluated on an individual basis, each on their own merit. Regarding the construction date of the accessory structure adjacent to the shed, Salbert said it was built in the first half of 1986. Friends stayed in the building for a few months about five or six months after it was built, but a stove was never put into the building. Hayes said she had planned to use it as an art studio, but her roommate had a greater need for a music studio, which is its present use.

Hendrickson acknowledged that to some extent the opaque windows help the privacy issue, but questioned the validity of the information showing the property line.

Zaharoff said she felt the proper way to handle an after the fact variance was to pretend there was no structure there. She said she would not have a problem approving the actual square footage, based on the odd shape of the lot and the presence of other accessory structures in the neighborhood. She said the height of the building causes the most problems, with the issue being aesthetics, not privacy. She said the Commission is charged with deciding this application, and unless a grievous error is made in this decision, the Commission decision should stand. She said she felt the Commission decision was made within the legal requirements of a variance, specifically with respect to the findings concerning lot configuration and number of accessory structures in the neighborhood in the setbacks. Based on that reasoning and the mitigating conditions of approval, she would uphold the Commission decision.

Colteaux said he did not see the relationship between the lot configuration and the accessory building issue. He said the structure will be a second unit. He agreed it would be difficult to build an accessory building in conformance with the setbacks, but that this was a second accessory building. Hayes' rights were not being diminished, as she already has an accessory structure in the setbacks, and the second structure is quite tall. He said it was difficult to pretend that "after the fact" structures were not there, and the Town encourages the existence of these buildings by allowing them to stay. With the second accessory building there, the whole parcel is essentially occupied.

Walsh agreed it was a judgement call, but that she could not consider the accessory structure a second unit unless she is told it is a second unit. She stated her agreement with Zaharoff, adding that there was no neighborhood objection other than Hendrickson's, and the tenant on Hendrickson's property told her the fence has made the property so private she cannot see the neighbor on Hayes' property.

Chignell said it was a close call, but could not get beyond the privacy issue. He stated his agreement with Colteaux's comments.

Town Attorney Roth advised that if the vote was going to be split 2-2, that the Council vote to continue the hearing until all the Councilmembers are present.

M/S, Chignell/Zaharoff, to continue the hearing to the meeting of October 25. Motion passed unanimously.

5. REQUEST FOR TOWN COUNCIL POSITION ON PROPOSITION A, A COUNTY SALES TAX MEASURE ON THE NOVEMBER BALLOT.

Val Schaaf, representing Marin Advocates for Justice, has asked the Council to take a position opposing the measure. Town Administrator Dickens recommended that the Council first decide whether it wished to take a position on the issue, and if so, invite proponents and opponents of the measure to the next regular Council meeting.

Herman Kramer, 1 Allemand Place, said he did not think it was appropriate for the Council to take a position on this proposition.

It was the consensus of the Council to invite proponents and opponents of Proposition A to speak at the next regular meeting, with time restrictions.

6. DESIGN REVIEW OF ADDITION TO THE ISABEL COOK COMMUNITY CENTER FOR TAMALPAIS DAY TREATMENT CENTER.

The proposal was to add a single story addition in the space between the building and the community center building and the parking lot. Two parking spaces will be added.

Public Works/Planning Director Kottage reported that the review was before the Council for discussion purposes only and only because it was a Town-owned building. The Planning Commission had approved the required design review at a public hearing. He stated that from a planning standpoint, the addition was appropriate for the building.

Town Administrator Dickens reported that when new leases were written for the Isabel Cook tenants, there was a clause in the Tam Day Treatment lease allowing this addition, and allowing them to lease the addition rent free for 15 years if they secured funding to construct this addition.

Linda Reed, Program Director for Tam Day Treatment Center, said that the concept of the addition was brought to the Council two years ago, and that in order to get funding for the addition, the Center had to have a commitment from the Town for a long-term lease. She said there is a general clause in the lease that any additions would remain the ownership of the Town, and that all the funds to build the addition are from grants.

Herman Kramer, 1 Allemand Place, commented that the money the Town was getting out of the building was only enough to maintain it, and that the Town should make sure it was not getting into an untenable situation with respect to the addition.

The Councilmembers had questions regarding the economics of the lease and the ownership of the new addition. It was the consensus of the Council to continue the matter to the next regular meeting, with a report back from the Town Attorney and staff on the lease and the related economic issues.

7. REQUEST FOR CO-SPONSORSHIP OF SAN ANSELMO ANNUAL COMMUNITY THANKSGIVING FEAST.

Lew Tremaine, feast chairman, said the Town has co-sponsored the community Thanksgiving feast in the past, and requested the Council sponsor it this year. He also asked that the Council waive the fee to hang a banner announcing the event as it has done in the past.

Since the request to waive the banner fee was not on the agenda, the Council could not act on that item until the next regular meeting.

M/S, Chignell/Zaharoff, that the Town co-sponsor the annual community thanksgiving feast. Motion passed unanimously.

8. DISCUSSION ON PROCESS FOR COUNCIL REVIEW OF REVISIONS TO THE GENERAL PLAN.

It was the consensus of the Council to have a special meeting on review of the revisions to the General Plan on November 1, 1988, at 7 p.m. It was suggested that a subcommittee of the Council meet to work out the procedure for Council review of the General Plan.

M/S, Chignell/Colteaux, that there be a subcommittee of Planning Commission Chairman Hayes, Councilmember Zaharoff and Councilmember Colteaux for the express purpose as discussed this evening. Motion passed unanimously.

9. DISCUSSION REGARDING LONG-TERM FINANCES.

Town Administrator Dickens reported on meetings held with representatives from Mill Valley and Novato. Mill Valley had a similar situation to San Anselmo in that it had not spent money on street maintenance and reconstruction for many years. They had two unsuccessful tax measures before succeeding with a tax measure. During the time of the unsuccessful tax measures, Mill Valley continued not to spend money on streets. Mill Valley emphasized the need for extensive public education programs on the choices and ramifications, with citizen participation, and also taking the time to do it properly rather than rushing to put the measure to a vote. Walsh and Dickens reported that the Novato officials emphasized education, public participation and use of an outside firm if a public opinion poll is conducted.

Colteaux suggested asking the public to support a tax for public safety, at the level of service people want, since that is where the Town has been spending most of its money. He suggested including former Councilmembers in this effort, and asked for information on what revenues can be raised with a majority vote and what requires a two-thirds vote.

Chignell said the Council needs to get out and let the public know what is going on with the Town's finances. He requested information on the population, budget and level of taxation of other cities and towns in Marin County.

Zaharoff reported that she would be meeting with someone who worked on the successful Ross Valley Schools tax measure.

It was the consensus of the Council continue the discussion at the next regular meeting.

10. SET SPECIAL MEETING (CLOSED SESSION) TO DISCUSS
SETTING OF SALARY FOR TOWN ADMINISTRATOR.

The special meeting was set for Thursday, October 20, 1988,
at 6:00 p.m. at Town Hall.

11. CONSENT AGENDA

- (a) Approve minutes: September 27, 1988.
- (b) Approve warrants: Nos. 2503 - 2533, and 7477 -
7617, in the amount of \$394,394.09.
- (c) Approve request to close San Anselmo Avenue for the
Antique Dealers Association Faire May 21, 1989.

M/S, Chignell/Colteaux, to approve the Consent Agenda.
Motion passed unanimously.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, COMMENTS AND
DIRECTION TO STAFF; STAFF MISCELLANEOUS ITEMS.

167 Crescent - Chignell expressed appreciation for the work
done at this address.

Red Hill sign - Chignell asked the status of the request
for a Red Hill Avenue street sign.

Kilometer signs - Zaharoff asked what happened to the
"kilometers per hour" signs that used to be located under
the "miles per hour" signs on Sir Francis Drake Boulevard.

13. ADJOURNMENT.

The meeting was adjourned at 10:00 p.m.

Beth Pollard