

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of May 23, 1989

Mayor Walsh convened the regular meeting at 8:00 p.m., following the closed session regarding pending litigation (Nome vs. Town of San Anselmo), pursuant to Government Code Section 54956.9(a), and personnel matters, beginning at 7:00 p.m., with Councilmembers Chignell, Colteaux, Sharp and Zaharoff present.

2. OPEN TIME FOR PUBLIC EXPRESSION

Peter LaCroix, 68 Madrone, said his application for a hardship parking permit had been denied, and he requested clarification or an appeal. He was informed of the appeal process to the Town Council.

3. CONSENT AGENDA

- (a) Approve Minutes: April 20 and 25, and May 9, 1989.
- (b) Approve Warrants: Nos. 2680-2708, 8669-8689, and 8784-9018, in the amount of \$1,062,689.80.
- (c) Approve proclamation honoring the late Paul Brand.
- (d) Announce vacancies on the Ross Valley Paramedic Authority Board of Directors, and the Marin-Sonoma Mosquito Abatement District Board of Trustees.
- (e) Approve Resolution No. 3087 denying the appeal of the Planning Commission's decision to require a focused environmental impact report for the project of Paul J. and Marie Nave, and Andy S. Bachich, end of Oak Avenue, A/P 7-201-08, proposed two-lot parcel split for development of two single family dwellings.
- (f) Authorize solicitation of bids for the San Francisco Boulevard culvert replacement project.

M/S, Colteaux/Chignell, to approve the Consent Agenda, with the exception of item "c". Motion passed unanimously, except for an abstention by Sharp on the minutes of May 9.

Walsh presented Edna Brand with a proclamation commemorating the contributions made by Paul Brand to the community, and expressing the Council's sadness and sympathy upon his death. Each of the councilmembers spoke about their relationship with Mr. Brand, how he touched each of their lives and how he served as an inspiration for community service. Jonathan Braun, Scenic Avenue, expressed his sadness at Mr. Brand's passing.

M/S, Sharp/Chignell, to adopt the proclamation commemorating the accomplishments and contributions of Paul Brand. Motion passed unanimously.

4. PUBLIC HEARING, Z-246, TERRY AND EUGENE SCHENK, AND KINTETSU ENTERPRISES OF AMERICA, OFF CHERNE LANE, A/P NOS. 5-300-15, 5-300-24, AND 5-300-28, PLANNING COMMISSION DENIAL OF PROPOSED REZONING AND ENVIRONMENTAL REVIEW TO AMEND THE TABLE OF HILLSIDE AND RIDGE DENSITY PARCELS TO CREATE A NEW BUILDING SITE BY COMBINING A PORTION OF THE KINTETSU PROPERTY (A/P 5-300-15) WITH THE SCHENK PROPERTY (A/P NOS. 5-300-24 AND 5-300-28) IN AN R-1 H DISTRICT (HILLSIDE DENSITY).

Planning Consultant Roberto reported on the background of this application. The Planning Commission had voted to direct staff to prepare a resolution approving the Schenk-Kintetsu Preliminary Plan application to create a new building site on Cherne Lane, and to research the earlier

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design review approval for the home and garage on A/P 5-300-24 and 28 to determine the approved location of the garage. The Town Attorney subsequently advised that since the parcels in the R1-H District are assigned a specific number of dwelling units, the Table of Hillside and Ridge Density Parcels would have to be amended before the Schenk/Kintetsu Preliminary Plan could be approved. Since the Table was adopted by ordinance, an amendment is a rezoning and must be approved by the Town Council.

At its hearing, the Planning Commission voted to recommend denial, making the finding that the proposed rezoning is inconsistent with the spirit of the hillside provisions of the General Plan; although the proposal would not increase the number of units, it would have the effect of moving a unit to a more visible hillside area and from a low land to an upland site. The Commission also found that the proposed rezoning is inconsistent with the intent of the Hillside Density Ordinance, in which only two units were assigned to A/P 5-300-25.

Richard Katz, attorney for the applicant, explained the applicant's history of the project. He said the project began in 1987, the Schenks had gone to the expense of providing two fire hydrants - one of which has no relationship to their property, and have paid for other off-site improvements. He said the Schenks were told they could get a lot split, they had 1.788 acres, and were denied on the grounds that the policy required one unit per acre. Instead of challenging the one unit per acre requirement, which he said was not in place before they started their project, the Schenks approached Kintetsu to obtain more acreage and one of their units in density. Katz added that none of the lots on Cherne Lane are even close to one acre in size. Now, he said, they are told that the process required is not a lot split but a rezoning. Regarding the findings of denial, Katz said that the subject lots are not on the crest of the hills, they are the fourth level down. He said the only lots visible from Parcel A are one or two lots below, that it is not a visible site. He said the Schenks have spent more than \$30,000 because they were not given the proper information. He said it would be consistent with good neighborhood planning to have an in-fill lot at the proposed location. He said the house could go down lower on the slope, and not be up by the top of the hill, and that they would conform with the one unit per acre requirements. He acknowledged they were in agreement that the rezoning was required.

Sharp stated that it was always his understanding that the density would not exceed one unit per acre, that there was nothing new about one unit per acre.

Jonathan Braun, Scenic Avenue, said that in the 1976 General Plan, the conservation zone areas had a maximum density of one unit per acre.

Katz said the applicants were not challenging the one unit per acre; what they were really saying is that they were led to spend more than \$30,000 before being told about the one unit per acre zoning.

Colteaux commented that he had reviewed the action of the Planning Commission and determined that they had taking the appropriate action, and that there was no surprise about the total number of units.

Zaharoff stated she felt the hillside density ordinance is one of the Town's best features. She noted that there is a greater principle behind the ordinance, and that the was nothing extraordinary about this individual case that was worth acting contrary to the purpose and principles of the ordinance. Each parcel was treated individually in the

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ordinance, and she did not think the Council should disturb what had been established with great care and consideration for the community at-large.

Chignell said he agreed with Zaharoff's feelings, and while he appreciated the frustration of the applicants, nothing has been shown him that would overcome the Commission's findings and decision.

Sharp said that in order to approve the rezoning, the finding would have to be made that the rezoning conforms to the General Plan, including the hillside density provisions. Due to the visual impacts from the proposal, he could not make that finding.

M/S, Colteaux/Chignell, to adopt the resolution passed by the Planning Commission in denying the application, as Resolution No. 3088. Motion passed unanimously.

5. M.S. PARTNERSHIP, LA MANCHA DEVELOPMENT COMPANY, 805 SIR FRANCIS DRAKE BOULEVARD, A/P 6-082-14, C-221:
(a) Design review of a new commercial building in a C-3 district, and review of mitigated negative declaration.

Staff reported that in response to concerns expressed by the Council at its meeting of February 28, 1989, the applicant submitted a redesigned plan and new exterior colors. The proposed exterior materials are horizontal wood siding, with earth tone colors, specifically Olympic Stain Cape Cod Grey, Sandstone and a color slightly darker than Sandstone. The new facade slants at a 45 degree angle towards the building, and the recessed horizontal lines have been replaced with protruding triangular areas on the north, south and east elevations. Staff recommended that horizontal wood siding be beveled, rather than tongue and groove as proposed.

Public Works Director Braun noted that the signs will be design reviewed on an individual basis. He explained that the rationale for the beveling was to break up the appearance of the siding, rather than it being flat as when it is tongue and groove.

Jerry Kler, project architect, said they were not consulted regarding the beveling, that they would disapprove of it, and that the siding was meant to be tongue and groove. He said the signs will go in the triangular areas.

Planning Commission Chairman Sias asked which triangles would carry signs.

Jo Julin, Santa Barbara Avenue, said there were three elements to this design:

1. The importance of horizontal lines on some of the buildings in San Anselmo that seem to meet the design review findings; the small triangles work in opposition to strong horizontal lines, crating a fragmented effect.
2. Bulk: The design shows a mansard roof, and the vertical members will project. She questioned whether the projections and the triangles were necessary.
3. Color: While it was earthtone, she felt the color was still quite light. She noted that the Commission has found that the Quarry Mountain colors are quite light in their setting.

Sharp said he would like to see darker colors, but felt that the proposal was a great improvement. He supported

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requiring the siding to be beveled if it will help break up its appearance.

Chignell said he was prepared to support the design as submitted this evening, and while he would like to see darker colors, he felt they had gone far enough in improving the design.

Colteaux said he would vote for it reluctantly; he felt the colors were too light, he did not personally care for the triangles, but felt the design was within the range of judgment.

Zaharoff said the design was okay, but that she thought the colors should be darker and the siding should be beveled.

M/S, Sharp/Chignell, to approve the negative declaration as submitted by staff. Motion passed unanimously.

M/S, Chignell/Colteaux, to approve the design of the new commercial building located at 805 Sir Francis Drake Boulevard, A/P 6-082-14 and 15, subject to the conditions outlined in Exhibit A dated May 23, 1989, including the condition that the horizontal wood siding be beveled, rather than tongue and groove. Motion passed by the following vote:

AYES: Chignell, Colteaux, Sharp, Walsh

NOES: Zaharoff

(b) Request for a "foundation only" building permit.

Assistant Public Works Director Braun explained that it was a common practice for developments such as this to do the foundation and on-site improvements prior to obtaining the building permit for the structure.

M/S, Colteaux/Chignell, to approve issuance of a building permit for the foundation only, contingent upon the building meeting all the conditions of the negative declaration and building code. Motion passed unanimously.

6. APPEAL OF PLANNING COMMISSION'S DECISION TO ISSUE A NOTICE OF VIOLATION IN CREATION OF THE LOT AND APPROVAL OF A CONDITIONAL CERTIFICATE OF COMPLIANCE FOR NANCY L. THURMOND, ETAL, AND ROBERT L. THURMOND, ETAL, END OF OAK SPRINGS DRIVE, A/P 5-291-06.

Town Attorney Roth said he was in contact with the attorney for the applicants, and requested the item be put over for two meetings.

M/S, Chignell/Zaharoff, to continue the item until the meeting of June 27, 1989. Motion passed unanimously.

7. PUBLIC HEARING ON NUISANCE ABATEMENT NUISANCE OF A STRUCTURE AT 14 SPRUCE.

The following persons were sworn in to testify in this matter: Helen Ullner, owner of the subject property; Bill Gayle, 18 Spruce Avenue, and Fred Braun, Assistant Director of Public Works.

Braun read the staff report dated May 23, 1989 into the record, and entered the following documents into the record: Letters to the property owners from the Town dated June 1, 1988, November 2, 1988, November 21, 1989, and May 17, 1989, letter to Carl Shapiro from Tony DeSousa, Building Inspector, dated June 14, 1988, letter from Carl Shapiro to Michael Denning in the Building Department dated June 8, 1988, Notice of Nuisance Abatement dated November 2, 1988, Notice of Hearing dated November 2, 1988, building

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survey report dated November 2, 1988, Declaration of Mailing dated November 21, 1988, and photographs of the subject structure.

Braun reported that it was staff's opinion that the structure is beyond rehabilitation.

Ullner stated that since she received the letters in November, the weather has been bitter and is not conducive to doing work, plus she broke her wrist in December. She said her nephew has demolished part of the stairway and deck, so that trespassers cannot get into the house. In removing some of the boards from the deck, he noticed there were some exposed wires and therefore he contacted P.G. & E. She said they would rather repair the cabin than demolish it. Regarding the structure being an attractive nuisance, she said that no one should be trespassing without the owner's permission. She said she was careless in reading the November letter and missed the part that the matter would be put on a Council agenda. She questioned why an architect or an engineer was needed when repairing a structure, and did not think there should be any demolition - especially now when there's a shortage of housing and it is a structure that can be repaired.

Bill Gayle, 18 Spruce Avenue, said he strongly urged the Council to adopt the resolution requiring the abatement of the structure for safety and fire protection reasons. He said he was a registered fire protection official, and has personally fought fires at 14 Spruce. He said the building has been abandoned for quite some time and is an attractive nuisance. He has chased kids away from the property and the building. He concurred with the Building Department's opinion that the building cannot be restored to current code requirements.

Georgeanne Economy, 390 Scenic Avenue, who lives directly behind the subject property, said that house looks terrible, she finds it frightening, and it does not look like a house anyone could inhabit.

Being no further public comment requested, M/S, Chignell/Sharp, to close the public hearing. Motion passed unanimously.

It was the consensus of the Council that the property was dangerous and that expeditious action was called for on this matter. The Councilmembers noted that the abatement resolution gives the property owner the option and time to rehabilitate the structure, and directed staff not to extend any time requirements without Council consent.

M/S, Sharp/Chignell, to adopt Resolution No. 3089 declaring a certain building located at 14 Spruce Avenue to be a public nuisance and ordering the demolition or rehabilitation thereof, in the form attached to the staff report. Motion passed unanimously.

8. PUBLIC HEARING ON NUISANCE ABATEMENT OF A STRUCTURE AT 191 REDWOOD ROAD.

Enid Albedi, owner of 191 Redwood Road, and Fred Braun, Assistant Public Works Director, were sworn in as witnesses.

M/S, Chignell/Sharp, to open the public hearing. Motion passed unanimously.

Braun entered the staff report, and the written promise by the property owner that the building would be removed a year ago, into the record.

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Albedi stated that she had in her hand a contract with a contractor to demolish the subject structure, and that the contractor will go to the Building Department within that week to get the permit. She noted that there is some nice redwood lumber that the contractor wants to remove by hand and requested additional time to complete the work. She stated that 60 days would be a sufficient amount of time.

M/S, Chignell/Zaharoff, to close the public hearing.
Motion passed unanimously.

M/S, Chignell/Zaharoff, to adopt Resolution No. 3090 declaring a certain building located at 191 Redwood Road to be a public nuisance and ordering the demolition thereof within 60 days. Motion passed unanimously.

9. REQUEST FOR EXEMPTION FROM THE BUSINESS LICENSE WORDING REQUIREMENTS OF SECTION 6-1.07(D) OF THE MUNICIPAL CODE, BY DOUG ANAWALT.

Town Administrator Dickens reported that Anawalt objected to the Town Code provisions that applicants for renewal of business licenses sign a statement that the information they are reporting is correct "under penalty of perjury". He also objected to the provision that the business' books are subject to audit, and that the application can be audited against the sales tax. He requested an exemption from these requirements. The Town Attorney has reported that the advantage to the signing under perjury is that should someone one deliberately make false statements, he or she could be criminally prosecuted for committing perjury, and if the Town suspected that false information has been submitted, the Town has the option to audit the business's books.

Anawalt was not present.

William Jelinek, 53 Florence Avenue, said that either everyone must sign it or no one should sign it.

Lew Tremaine, The Fax, said that if these provisions are not put into use or enforced, it was worthless verbiage that is insulting to business owners.

M/S, Colteaux/Sharp, to direct staff to grant an exception and accept the application on the grounds that it is not worth all the time and effort, that it was not worth the public money to spend more time on this issue. Motion passed unanimously.

10. DISCUSSION REGARDING COMMISSIONERS SERVING ON OTHER TOWN BOARDS, COMMISSIONS OR COMMITTEES.

At the time Gus Kanis was appointed to the Planning Commission, he was informed that he was expected to resign from membership on the Open Space Committee. However, he would like to continue to serve on both the Committee and the Commission. Staff requested clarification on whether the Council wants a written policy prohibiting simultaneous membership on more than one Town board.

Zaharoff noted that the dynamics of a group contributes to what the members can accomplish together, and noted that the Open Space Committee with Kanis' involvement worked very well.

Colteaux stated that if there is somebody who was willing and qualified to serve on two boards, the Council ought to take advantage of that. He felt it was an issue the Council could handle on a case by case basis to determine whether it is appropriate for someone to serve on more than one committee.

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Walsh supported handling the issue on a case by case basis, but noted that conflicts were possible and that there were so many people who want to be involved with the Town.

Chignell commented that there were more well-qualified applicants for service than appointment positions, and that the Council needed to get more residents involved on Town committees. He supported limiting membership to one Town board.

Sharp stated that a committee member can and should abstain if he or she has a conflict.

M/S, Sharp/Colteaux, not to have a written policy on the matter, but handle the issue on a case by case basis. Motion passed by the following vote:

AYES: Colteaux, Sharp, Walsh, Zaharoff

NOES: Chignell

11. DISCUSSION ON OPEN SPACE FUNDRAISING.

Open Space Committee Chairman Braun explained that the proposal was to establish a San Anselmo Open Space Endowment Fund for donations towards acquiring, preserving and maintaining open space in town, with the Marin Community Foundation managing and administering it on an ongoing basis.

Steven Best, Open Space Committee member, said the Town Council would have the ultimate say on the expenditure of these funds.

Herman Kramer, 2 Allemand Lane, asked the source of these funds. Braun responded that they would be private, tax-deductible donations from individuals or groups.

M/S, Colteaux/Sharp, that the Town Council approve the proposal, and that Zaharoff be appointed as the Council liaison with the Committee and the Foundation. Motion passed unanimously.

12. REQUEST FOR JOINT MEETING OF TOWN COUNCIL AND OPEN SPACE COMMITTEE.

The Committee requested the opportunity to discuss its activities and future plans with the Council.

M/S, Sharp/Chignell, to schedule a meeting with the Open Space Committee June 13, at 7:00 p.m., prior to the start of the regular meeting.

13. REPORT ON LONG-TERM FINANCES COMMITTEE.

Chignell and Sharp, the Council subcommittee appointed to make recommendations on creation of a long-term finances committee, submitted a proposed "statement of purpose" for the committee, and a recommended list of committee members. The proposed committee membership included a group of people they felt would meet the objectives of the committee and who are well-respected in the community.

Concerning the proposed committee members, it was the consensus of the Council that while they would like to see Herman Kramer on the committee as proposed, there would be a conflict due to his pending lawsuit against the Town, which involves finances.

Chignell and Sharp agreed to meet with the committee.

M/S, Colteaux/Zaharoff, to approve the mandate as proposed for the Long-term Finances Committee and the list of

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nominees, except for the substitution of Vic Canby for Herman Kramer. Motion passed unanimously.

14. NOMINATION OF A COUNCILMEMBER FROM CORTE MADERA OR LARKSPUR TO THE MARIN TRANSPORTATION AUTHORITY.

M/S, Sharp/Chignell, to nominate Karen Kunze for appointment to the Marin Transportation Authority from the Lower Ross Valley. Motion passed unanimously.

14a. DISCUSSION REGARDING ACQUISITION OF NEW POLICE VEHICLES.

Police Chief Del Santo explained that there was an urgency in the Council considering this matter, which came to his attention following the posting of the agenda.

M/S, Sharp/Chignell, to add this item to the agenda on the grounds that the need to take action arose following the posting of the agenda. Motion passed unanimously.

Del Santo explained that Police Department expenditures for labor costs this year were below the amounts budgeted, due to unanticipated turnover. He requested that this cost savings be used to purchase two new police cars that have just become available, noting that the next time to order is November for delivery in April 1990, at which time two of the police vehicles will have more than 90,000 miles.

The Councilmembers expressed concern that there were other Town needs that were not budgeted, and felt it was more appropriate to look at a vehicle purchase request in the context of the budget review.

M/s, Chignell/colteaux, to defer this matter until budget time. Motion passed unanimously.

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

Parks & Recreation Commission quorum - Sharp asked that the matter of the Commission's lack of a quorum be placed on a Council agenda.

Graffiti - Sharp expressed concern about a letter received from Mr. and Mrs. Fateman about graffiti near Creek Park. Dickens said it is on private property and he has been in contact with representatives of the property owner.

1615 San Anselmo Avenue - Chignell asked the status of the application for rehabilitation of this structure, and noted that the fencing in front does not seem sufficient. Braun responded that the Planning Commission will consider the item on June 5, and that he will ask the property owner to secure the area better with a cyclone fence.

Marin Community Foundation - Walsh, the Council's liaison with the Foundation, asked that a status report be placed on the next agenda.

Town Administrator recruitment - Dickens said he has received six proposals from recruitment firms and recommended the Council schedule a special meeting to review three proposals. The special meeting was scheduled for Thursday, June 6, at 6:00 p.m.

16. ADJOURNMENT IN MEMORY OF PAUL BRAND.

The meeting was adjourned at 10:55 p.m. in memory of Paul Brand.

Beth Pollard