

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of June 13, 1989

Following a closed session regarding labor negotiations beginning at 6:00 p.m., and interviews with applicants to the Open Space Committee beginning at 6:30 p.m., Mayor Walsh convened the workshop with the Open Space Committee at 7:00 p.m., with Councilmembers Chignell, Colteaux, Sharp and Zaharoff present, and Open Space Committee members Best, Braun, Draper, Harmes, Hoch and Kanis present.

Open Space Committee Chairman Braun reported on the Committee's activities, including its efforts to work with Ross and Fairfax to acquire property on Mt. Baldy and to launch a fundraising program. He noted that the committee members are working very well together, the meetings have recently been moved to Town Hall, and an increasing number of residents are attending their meetings and getting involved.

Regarding the acquisition of Mt. Baldy, Braun explained that a Ross Valley committee had been working with the County to obtain an appraisal. The County approached the property owner regarding its purchase, but that offer was not accepted. Currently, the Ross Town Council is discussing what options are available for acquisition of the property. A subcommittee of the Mt. Baldy Committee is also meeting regarding financing strategies. Draper noted that the Mt. Baldy property is in the County Open Space District's top priority group.

The Councilmembers expressed interest in the progress of the requirement recently added to the General Plan that developers meet with the Open Space Committee as part of the planning review process. The Committee members reported that the Committee's lack of financial assets to purchase the developers' property inhibited the progress of these discussions. Braun suggested that planning staff be clear about the Open Space meeting when the developers initially approach the Town, so that developers are referred to the Committee before they prepare their plans. Draper noted that Braun attempts to work with these property owners, in an attempt to show that the Open Space Committee can offer a service in the purchase of a property.

The Councilmembers asked what they could do to help the Committee. Braun responded that there was a \$3,000 payment by a property owner for the purchase of Town property that was to have been deposited in the Open Space fund, but had not been put into this fund, and staff had not been able to track down where the payment had been deposited. The Committee wanted to have that money to use for seed money for projects, such as their T-shirt sales.

Draper said that a concern about open space was building in the community, that the Committee was working in positive ways to increase public awareness and to be proactive with respect to open space needs.

Committee members and Councilmembers expressed dissatisfaction with planning consultants that have been working for the Town. Zaharoff suggested that any help the Committee could give the Public Works/Planning Director regarding planning information would be appreciated.

Committee members expressed their displeasure with the Parks and Recreation Commission's public hearing process on the use of Proposition 70 state bond funds. The Committee

members said they felt they should be working together with the Commission rather than competing with that body.

The Committee members said they would like the Open Space Committee to be able to have a booth at fairs and festivals in town.

It was the general feeling of the Councilmembers and Committee members to conduct joint workshops again.

The workshop was adjourned at 7:50 p.m.

1. CALL TO ORDER.

Mayor Walsh convened the regular meeting at 8:00 p.m., with Councilmembers Chignell, Colteaux, Sharp and Zaharoff present.

2. OPEN TIME FOR PUBLIC EXPRESSION

Paula Neese, San Anselmo's representative to the Marin Commission on Aging, gave an oral report on Commission activities, including increased transportation services for seniors in the summer, an Alzheimer's unit opening at the end of August, legal assistance free to seniors and the Commission's concern that low income seniors will not be included in the 1990 census.

3. CONSENT AGENDA.

- (a) Approve Minutes: May 23, 1989.
- (b) Approve Warrants: Nos. 102-357 and 2709-2712, in the amount of \$711,055.50.
- (c) Approve nominations for the Library Advisory Board and schedule interviews for next regular meeting.
- (d) Announce expiration of term, Parks & Recreation Commission.
- (e) Approve proclamation designating June 1989 as Homeless Shelter Month.
- (f) Appoint Acting Town Administrator.

M/S, Colteaux/Sharp, to approve the consent agenda, with the exception of item (f). Motion passed unanimously.

Regarding item (f), Chignell asked how the amount of compensation was derived, and whether it had been agreed to by Administrative Assistant Pollard. Dickens said he looked at the salaries of the other department heads, taking into consideration the period of time involved, and that Pollard had agreed to the amount.

M/S, Chignell/Sharp, to approve item (f) appointing Pollard as Acting Town Administrator beginning July 31. Motion passed unanimously.

5. DISCUSSION REGARDING ACQUISITION OF PROPERTY AT 22 MAGNOLIA FOR EXPANSION OF TOWN-OWNED PARKING LOT.

Dickens reported that the probate hearing on the sale of this property will take place June 19. The Council should first decide in open session whether it is interested in pursuing the property; if so, the specifics of acquisition should be discussed in closed session. He recommended that if the Town acquires the property, it pay for it with money in reserves, followed by obtaining a loan to pay back the reserves, and paying back the loan over a number of years.

Christopher Lake, 46 Magnolia, said that the previous day at 10:00 p.m., there were 12 spaces available in the lot, half of the spaces on Magnolia from Tunstead to Cedar were

empty, and one out of four spaces between Tunstead and Bridge on San Anselmo Avenue were empty. He said San Anselmo is not short of parking spaces. He said the apartment building adjacent 22 Magnolia would open out onto the proposed parking lot, and added that the Town cannot come up with the money to repair the pedestrian bridge in Creek Park yet is considering purchasing a piece of property.

Marilyn Ormond, Downtown Business Association, responded to Lake's comments, saying that Monday is the slowest shopping day of the week, shopping activity does not begin until 11:00 a.m., and a thorough study by the Chamber of Commerce has shown that downtown parking is needed.

Stuart Kutchins, 31 Magnolia, said he echoed the points made by Lake. He said that it appears that the larger the parking lot, the uglier it is, and that aesthetically speaking, acquiring 22 Magnolia is not the right direction to take. He said the values of persevering the residential properties of a neighborhood and the aesthetic qualities of the Town bear at least equal weight to parking issues, and felt there were alternative solutions to the problem. He said the need for parking rises and falls over the course of the day, week and year, but there is an ongoing shortage of residential property. He said that taking residential property and turning it into a parking lot seemed like bad policy.

William Jelinek, 53 Florence Avenue, expressed concern about spending money, but also understood the Downtown Business' Association concern about parking. He suggested the possibility of a downtown assessment district to pay for the parking that will benefit the businesses.

Annabel Wood, 23 Magnolia Avenue, said that the house at 22 Magnolia is surrounded by trees, and that her concern was money. She questioned the feasibility of buying a piece of property, tearing down the house, buying something else and building a parking lot that will create 32 spaces. She suggested building a "pigeon hole" parking structure rather than expanding the lot, which she said would attract kids. She expressed concern about subjecting the people who live in the apartment building to living adjacent a parking lot. She said her property at 23 Magnolia was for sale and could be used for a library.

John Barnes, 44 Magnolia, said he seconded what his neighbors had said. He said he was concerned about the trees on the property, and said if 32 spaces were being added, it would change the configuration of the existing lot, increase the number of cars on the street and change the character of the neighborhood. He urged the Council to plant trees in the parking lot, and not assume you will come in and raze the building. He said the character of the street has changed due to the large number of young people who come up there at night because of the existing parking lots. He said he was opposed to adding more parking unless it is done properly and not just blacktopped.

Kathy Quinham, 72 Magnolia, said she was also opposed to it. She said the parking lot there was large enough, the extra space from 22 Magnolia will not make a difference, and added that people drive cars fast down the street.

Stuart Kutchins, 31 Magnolia, said that taking actions that further polarizing the residential and commercial communities leads to trouble.

Colteaux noted that this property was related to the issue of the future of the library building, and a relocated library is likely to have an impact on parking. He said

the Council is not making any specific plan as to what is to be done with the property, but the opportunity to obtain property adjacent to Town property at a reasonable price does not often occur. He said he was interested in acquiring it for the future Town needs, and was not as pessimistic that it would be a continuation of an ugly situation. He said he was inclined to want to acquire it, while respecting the considerations of the neighborhood.

Sharp said he supported the acquisition of the property for the same reasons articulated by Colteaux, was not bound to the concept of a parking lot or a particular kind of parking lot, but felt that this was a good opportunity for the Town. He said the neighbors ought to be assured that the Council is going to review any future use and design of that property if the Town acquires it.

Zaharoff said that it has been shown that more parking is needed. She said it was a valid concern to try to find more parking in town. The concept that has been proposed for that particular lot would increase the amount of parking by 50%. One of the unique, but not very beneficial features of San Anselmo, is that few of the stores have off-street parking, and parking is needed to attract business. To allay the concerns of the neighborhood, she said that if the lot is acquired, no matter what is put there, there will be particular attention paid to screening the lot so there is an acceptable buffer. She said it was a unique opportunity to acquire property adjacent to Town property, and because there are so many things that could be accomplished, whether it is through a parking lot or accommodating a new library, it would be very foolish to let this opportunity escape. She agreed that parking lots are generally ugly, but there are many things that can be done to improve the aesthetics, such as concentrating the parking in one area rather than seeking another parcel.

Chignell expressed his agreement with the comments made by the other Councilmembers, adding that it was a unique opportunity to purchase property adjacent to Town property. He said he had no preconceived notions about what will be put there, but parking is something the Council should consider. He said he appreciated the neighborhood's concerns and that the Council will be cognizant of the neighbors' concerns.

Walsh said she agreed with the other Councilmembers' comments, adding that as Chairperson for the Chamber of Commerce's Parking Committee, she recognized the need for parking as well as the valid concerns of the neighborhood.

Colteaux pointed to the Creek Park parking lot as an example of the landscaping and design work that can be done to bring out the aesthetics of an area.

It was the consensus of the Council to pursue acquisition of the property at 22 Magnolia.

Attilio Segale, 20 Holstein Road, suggested there be another parking lot in addition to this one.

4. PROPOSITION 70 PER CAPITA GRANT:

- (a) Recommendation from Parks and Recreation Commission that the funds be used for improvements and repairs in Memorial Park.

Following public hearings on the recommended use of the \$36,000 that is San Anselmo's share of the state Wildlife, Coastal and Park Land Bond Act of 1988, the Parks and Recreation Commission recommended to the Council that the

funds be used for improvement and repairs of recreation facilities within Memorial Park. The list of projects include the play structure, baseball diamond and facilities, irrigation system, fencing, and barbecue area. Parks and Recreation Director Howell said that these were the items that were raised during the public hearings. He said Town's parks system is in disrepair, and that the Town's playground structures, including those at Lansdale and Robson Parks. He said the Commission was looking at the highest used park in the community, Memorial Park, and was trying to maintain it up to certain standards. He expressed concern about expanding parks maintenance responsibilities by improving Sorich Park as recommended by the Open Space Committee, adding that he has only three staff members to maintain the current parks, and that trails are high maintenance items.

Cherilyn Gilboy, Chairman of the Parks and Recreation Commission, offered to answer any questions.

Chignell asked how the \$36,000 would be broken down for use at Memorial Park. Howell said that \$25,000 would go towards creating a state of the art playground.

Sharp asked if County funds would be available for maintenance if the funds were to go for Sorich Park. Open Space Committee Chairman Braun responded that he did not know, but that he did not think the Sorich Park project would generate much maintenance needs.

Zaharoff asked if the all the funds would go towards Memorial Park, or whether any funds would go towards Lansdale or Robson Parks. Howell said that the public had indicated that the most pressing need was Memorial Park, and it was hoped they could take some of the salvageable playground structures from Memorial Park to replace the dangerous and dilapidated structures in the other two parks. Gilboy said that ideas for projects at the other parks were entertained, but that alot of the needs at those parks came under maintenance and repair, which was not part of the grant.

(b) Recommendation from Open Space Committee that the funds be used to improve the Sorich Ranch property.

Open Space Committee Chairman Braun said the Committee prepared a series of recommendations for the Parks and Recreation Commission. He said the Committee had sentiments towards the needs of Memorial Park, but the Committee felt there are aspects of the Conservation and Open Space Element of the General Plan that have never been implemented, and no money has ever been spent for trails. He said the intent of Proposition 70 was a park, wetlands and habitat preservation bill, and people who supported that act were voting for open space, access to open space and wetlands and habitat preservations, not playground structures.

Braun said that Sorich Park is a Town-owned resource of 60 acres, with 3/4 of it hillsides and ridges that is inaccessible except via a very steep fire trail. The lower portion of the park is used as a corporation yard and is an eyesore. The Committee's proposal was to use the funds to open up the Sorich Park, improve it, and create access to the San Anselmo open space and to the adjacent County open space. The proposal would include screening the corporation yard with landscaping, increasing parking, and providing a picnic area that would also serve as a trailhead. He said the Committee felt the project fits in with the spirit of Proposition 70, and will include volunteer labor. He said there are alot of young families and outdoor-oriented people in San Anselmo, and diverting

people to Sorich Park would take pressure off the use of Memorial Park.

Chignell asked if there was some way to divide the grant between the two projects, adding that it would be very difficult to decide between two worthwhile projects.

Zaharoff noted that \$36,000 provided some good opportunities for San Anselmo, and felt it would be beneficial for the Town Council to meet with the Open Space Committee and Parks and Recreation Commission to see if there was a way to work out a solution.

Sharp said it was untenable to throw all the money in one direction and supported bringing the parties involved together to try to work out a solution.

William Jelinek, 53 Florence Avenue, suggested that funds be appropriated out of the Parks and Recreation budget to so that two projects could be done.

Cynthia Barrows, 265 Crescent Road, expressed her support for a joint meeting with the Council, Parks and Recreation Commission and Open Space Committee, and that she had voted for Proposition 70 thinking the funds would go towards open space.

Howell said the lion's share of the grant is for open space all over the state, but that a small portion was earmarked for recreational purposes.

Dan Goltz, Holstein Road, suggested the Town finance the play equipment, and not make the two projects compete against each other.

Noting that this was a one-time grant, Town Administrator Dickens recommended spending the money on a project that would generate money in the future.

Stuart Kutchins, Magnolias Avenue, said the corporation yard is an eyesore, and that Sorich Park has some beautiful property that ought to be opened up, and that this was an opportunity to create a park.

Colteaux said that establishing and maintaining a park is an ongoing concern, but that the Town has not spent any money to support Sorich Park. He supported making a start to do something at Sorich.

Sharp said there was neglect at Memorial Park and neglect at Sorich Park. He said he would like to see a compromise, but would support using it for open space, which was the intent of the bond act. He questioned whether opening up Sorich Park would get the Town funds from the County or the State for maintenance.

Chignell suggested the matter be continued for further study.

Walsh said she supported the funding going to open space, adding that nothing has ever been done at Sorich Park.

M/S, Colteaux/Zaharoff, to conduct a joint meeting with the Council, Parks and Recreation Commission and the Open Space Committee on this issue. Motion passed unanimously.

6. CLARIFICATION OF PURPOSE OF THE LIBRARY SERVICES COMMITTEE.

Gary Simms, Chairman of the Library Services Committee, said the Committee needed clarification on its purpose, specifically whether they were needed given that a Library

Advisory Board already exists and there have been recent discussions by the Council on the future of the library building.

Cynthia Barrows, a member of the Library Services Committee, said the Committee probably could give a report soon.

Julie Walker, 14 Melville, a member of the Library Services Committee, said the Committee has concerns about how much money is available for the library.

Library Director Wingate said it was possible for the Committee to make an initial report, but in the long run, the Council may want to consider adding members to the Library Advisory Board if it is interested in obtaining particular expertise beyond the scope of the current Board composition. She recommended that the Committee proceed with preparing its report and alter the Library Advisory Board at a later date, if needed.

Town Treasurer Sheldon suggested the Committee use the figures from the Library budget.

It was the consensus of the Councilmembers that the purpose of the Committee had not changed from its original charge, that they wanted to receive the report as soon as possible, and that being reasonable was the key factor to keep in mind when making a recommendation about the library services the Town should and could provide, and the funding sources.

7. DISCUSSION REGARDING ROSS VALLEY FIRE SERVICE:

(a) Solution to cash flow problem.

Ross Valley Fire Chief Mollenkopf explained the cash flow problems the Fire Service encounters, due to the fact that there are large expenditures early in the fiscal year, yet its revenues are received in equal monthly payments throughout the year, and also because there are no reserves on which the service can rely. The staff recommendation to the Service's Board of Directors is to obtain a line of credit with a local financial institution.

Town Treasurer Sheldon noted that the Fire Service is often overdrawn and said there should be enough money in the budget to pay off past deficits.

Dickens noted that if the Fire Service has a line of credit, it will eliminate the need for San Anselmo and Fairfax to make advance payments to the Fire Service as they have been doing, and he said he was satisfied with the line of credit as a solution to the cash flow problem.

(b) Funds from Sleepy Hollow Fire Protection District.

Dickens explained that Sleepy Hollow makes payments to San Anselmo for fire service in December and June of each year. Since San Anselmo makes monthly payments to the Ross Valley Fire Service, this means that the Town is essentially fronting the money for Sleepy Hollow's service. Dickens has asked representatives from Sleepy Hollow if they could make their payments earlier in the year. They have said they would, but only if their reserves were built up to a certain level, and they question whether their reserves are actually at the level stated by the County auditor.

It was the consensus of the Council to discuss this matter at the next regular meeting, noting that if cooperation is not forthcoming, the only leverage available to the Town is termination of the contract.

8. PUBLIC HEARING ON ADOPTION OF INTERIM ORDINANCE PROHIBITING THE ISSUANCE OF DEVELOPMENT PERMITS FOR PROJECTS THAT ARE INCONSISTENT WITH THE RECENTLY REVISED GENERAL PLAN.

The public hearing was opened. Town Attorney Roth explained that the zoning ordinance is not consistent with the revised General Plan, and is in the process of being revised to resolve these inconsistencies. In the meantime, the purpose of this interim ordinance is to prohibit development projects that are consistent with the zoning ordinance yet inconsistent with the General Plan. The interim ordinance would go into effect immediately and expire in 45 days, unless extended by a 4/5 vote of the Council for a period of time up to one year. The proposed ordinance includes a procedure for applications for exceptions.

Dan Goltz, Holstein Road, objected to the ordinance, and said that if the zoning ordinance is inconsistent with the General Plan, it should be revised. Zaharoff responded that while the zoning ordinance is brought in line with the General Plan, if applications that are inconsistent with the General Plan are approved, the work spent on revising the General Plan is wasted.

M/S, Sharp/Zaharoff, to waive reading of Ordinance No. 902. Motion passed unanimously.

M/S, Sharp/Zaharoff, to adopt Ordinance No. 902, an interim ordinance of the Town Council of the Town of San Anselmo prohibiting the issuance of development permits for construction of development projects which are consistent with the current zoning regulations but inconsistent with the General Plan. Motion passed by the following vote:

AYES: Chignell, Colteaux, Sharp, Zaharoff

NOES: Walsh

9. REQUEST BY PROPERTY OWNER FOR EXTENSION OF TIME OBTAIN PERMITS FOR THE ABATEMENT OF A NUISANCE, 14 SPRUCE AVENUE.

Assistant Public Works Director Braun reported that the owner is attempting to rehabilitate the structure as the means of abating the nuisance, and feels that Town requirements for the rehabilitation of the structure do not allow her to complete the work within the 30 day time limit required by the abatement resolution. Staff still feels that the structure is too deteriorated to be rehabilitated.

Helene Ullner, owner of 14 Spruce Avenue, said at the last meeting she was given 30 days in which to abate the nuisance, but there was no indication she would have to get a soils report. She said there is a soils analyst who will do the work next week, but she has only ten days left in the 30 day abatement period, and she still needs more information from the Ross Valley Fire Service on fire requirements. She said she needed another 30 days.

Bill Gayle, 18 Spruce Avenue, urged the Council to support the staff recommendation to deny the extension. He said that on June 1, 1988, a 21 day extension was suggested, and now it has been more than a year. He expressed concern about the hazards of the structure not being removed prior to the Fourth of July weekend.

It was the general feeling of the Councilmembers to support the staff recommendation, noting that an abundant amount of time had transpired since the property owner was put on notice about abatement of the nuisance. Zaharoff said that

since the property owner has hired a soils analyst and architect, she felt an extension was reasonable.

M/S, Colteaux/Chignell, to deny the request of an extension for the 30 day time limit. Motion passed by the following vote:

AYES: Chignell, Colteaux, Sharp, Walsh

NOES: Zaharoff

10. PUBLIC HEARING ON ABATEMENT OF A NUISANCE, 94 BERKELEY AVENUE.

Colteaux was abstaining from this item.

The following persons were sworn in to testify in this matter:

Marlene Kawahata, 84 Berkeley
Russell Kawahata, 84 Berkeley
Douglas Meyer, 83 Berkeley
Gregory Smith, 97 Berkeley
Larry Stack, 10 Alice Way
Cyrus Ansari, 94 Berkeley
Joanne Smith, 97 Berkeley
Marie Hoch, 51 Sunview
John Kottage, Public Works/Planning Director
Fred Braun, Assistant Director of Public Works

Ansari requested that the matter be continued, saying that his structural engineer, whose presence he felt was very important, could not be present, he has had an emergency family problem, he did not know the matter would be heard this evening until June 5, he needed more time to prepare and put his records together, and his attorney wants to be present.

Hoch said the neighbors have attended 10 meetings in 16 months on this issue and did not want the matter continued.

Russell Kawahata said there were no new issues in this matter.

Marlene Kawahata expressed concern about what could be built during the time period the matter is continued.

Smith said he felt Ansari had had enough time to get his information together.

Stack said that Ansari has misused and abused the continuance process. Ansari said he has received one prior continuance, and that this was a new issue.

Sharp said he wanted to hear the item this evening, that there was nothing new in the scope of this matter.

Zaharoff said there were quite a few items that Ansari has agreed to abate.

Chignell and Walsh said they were opposed to a continuance.

Ansari asked if he was entitled to have legal counsel, that he felt he seriously needed someone to talk on his behalf and that there was a conspiracy in the neighborhood. Roth responded that he was allowed, but not required, to have counsel.

Ansari said he wanted it noted for the record that he had requested and been denied an opportunity for legal counsel. Sharp said he did not believe the Council was denying

Ansari counsel, that Ansari had had an opportunity to obtain legal counsel for this meeting.

Kottage addressed the Council on the issue of the nuisance abatement. He said it was not initiated for health and safety reasons, but was before the Council because of the violations of the Town's codes. The alternative to nuisance abatement was to direct staff to cite for code violations.

The items of concern were as follows:

1. Construction of planter boxes on the deck to the rear of the house beyond the limit of the setbacks approved by variance. The issue was whether the boxes should be considered architectural features, and do they violate the intent of the setback requirements.
2. Planter boxes constructed around the carport deck perimeter that extend beyond the approved setbacks.
3. The construction of a sheer wall at the rear part of the carport, next to the driveway, and framed between the intermediate platform and top deck in a manner that is not in accordance with the approved plans. Kottage said the underlying concern on the part of the neighbors is that the work on the carport is laying the base for creation of a second unit.
4. The cantilevered beams that are used for the support structure of the deck are longer than approved.
5. The cantilevers extending from the intermediate platform of the carport are not in accordance with the approved plans.
6. The reconstruction and extension of the deck on the south side of the property was done without obtaining a setback variance and building permit, and the deck does not have the required safety railing.
7. The fence at the rear and side property lines exceeds 6 feet.
8. The platform at ground level below the carport is not in accordance with the approved plans. Staff erred in not transferring deletion of this from the office plans to the field plans.

Ansari suggested the Council listen to all the parties who are concerned with the project, but delay the decision until he has given them his reports.

Russell Kawahata, said the idea that the neighborhood is only concerned about creation of a second unit is false. They were also concerned about development of storage units, and that the building creates excessively looming structures. He said where the variance is to build within 6 inches of the property line, the planter boxes encroach another foot from the original plan. He submitted photographs. The planter boxes look like bombs, he said, and loom over and encroach on the variances. He said staff assured them the sheer wall, built contrary to approvals, would be removed, but it is still there. He asked when the cantilevered beams would be removed. The stairs emphasize the fact there are multiple uses intended for the carport structure, he said. Regarding the deck bordering 98 Berkeley, the variance was denied and felt it should already be abated. The fence, he said, was built in complete disregard of the Planning Commission and Council, and his house is the only place from which it can be seen. He concluded that he was upset about the area that is a

deck, the lack of guardrails, the bulkiness of the structure, the work done contrary to Commission and Council approvals, and the privacy that they have lost.

Marie Hoch, 51 Sunview, thanked staff and Council for all the time put into this project. She agreed that the planter boxes should be abated, noting that the Commission had been concerned about the design of the railings and the planter boxes were not part of the approval. She said the parking deck is already hideous, infringes on the property rights of the neighbors, but the neighbors did not argue against his constructing a carport. It is the work done without permits or against the permits she was disputing. She expressed concern that the abatement process would not work.

Marlene Kawahata submitted photographs of the property that she said showed the floor structure platform and the cantilevers jutting out. She said they have totally lost their privacy. She said she was told that the railing would be standard wood railing for a deck, but not there are planter boxes.

Stack expressed his support for the objections by the neighbors. He recommended the Council consider an absolute, straight-forward approach. Regarding the planter boxes, he said the ones on the end present a safety hazard, and if full with heavy water, could rip out the railing.

Joanne Smith, 97 Berkeley, and Doug Miner, 83 Berkeley, said they supported the comments of their neighbors.

Ansari requested an opportunity to give a written response to the alleged violations because he needed to talk to his structural engineer and attorney. He said he needed to bring in signed statements from people who have witnessed defamations against him, that he was being discriminated.

The public hearing was closed.

Sharp said Ansari's allegations regarding discrimination were nonsense, that the Council's deliberations were limited to planning issues. He said there was accurate and consistent evidence upon which the Council could take action to abate the nuisance, adding that he did not think the items could be taken care of unless abatement action was taken. He said he did not think there was anything to be abated that could not be easily done by Ansari.

Chignell said he supported that staff recommendation, except he felt variances were needed for the planter boxes. He said they were not discriminating against Ansari, that planning staff was spending more hours than it should on this matter, and if Ansari would just comply and abate the nuisances there would be no problem.

Zaharoff said that these were planning issues, and that some of the items could be abated by Ansari himself.

Ansari said he had not been allowed to discuss and defend the allegations made against him. Sharp responded that he had the opportunity to address the issues raised this evening.

Ansari said he wished to bring out the discrepancies in the staff report. Regarding the planter boxes, he said they were approved by the Town and that he had plans showing they were approved. The carport sheer wall was approved orally by Braun, he said, it is hidden behind the carport, and no one can see the wall unless they climb onto the property. He said he wanted to use the cantilevered beams as scaffolding to paint the garage. He said the

cantilevered beams extending from the middle platform of the carport were approved, and that the 8 foot fence had been agreed to in writing, submitted to the Town, by the adjacent neighbor. The deck at ground level was according to the approved plan, that he extended the beam towards his house but was not violating any setbacks. He said everything has been done in consultation with the Town, that he does have an intention to make the area under the carport a living area but that he wants to do it legally.

Kottage said the Town did not approve the planter boxes that extend beyond the setback limits, that the boxes are only referred to in concept on the plans. Braun said the approved sheer wall was built directly in front of the retaining wall, that it is typical to use planks as scaffolding, and that Ansari has filed a variance application for the 8 foot fence.

M/S, Sharp/Chignell, to adopt Resolution No. 3091, declaring a certain building located at 94 Berkeley Avenue to be a public nuisance and ordering the demolition thereof with respect to the following items:

1. The planter boxes constructed on the deck railing located along the rear of the house.
2. The planter boxes constructed around the carport deck perimeter which extend beyond the approved setbacks.
3. The carport sheer wall, located next to the driveway, and framed between the intermediate platform and top deck.
4. The various cantilevered beams that extend from the carport deck.
5. The cantilevers extending from the intermediate platform of the carport.
6. The deck at ground level near 98 Berkeley.
7. The fence at the rear and side property line exceeding 6 feet.
8. The platform at ground level below the carport not in accordance with the approved plans.

Motion passed by the following vote:

AYES: Chignell, Sharp, Walsh, Zaharoff

ABSTAIN: Colteaux

11. APPEAL OF PLANNING COMMISSION DENIAL OF V-2282 AND C-2223, JAMES R. AND DONNA M. HASTINGS, 18 SAN RAFAEL AVENUE, A/P 7-162-15, A 5 FOOT WEST SIDEYARD VARIANCE, A 6 FOOT EAST SIDEYARD VARIANCE, AND A 2'8" REARYARD VARIANCE TO PROVIDE ON-SITE PARKING FOR A PROFESSIONAL USE WITHIN 3 FEET OF THE WEST SIDE PROPERTY LINE, 2 FEET OF THE EAST SIDE PROPERTY LINE, AND 17'4" OF THE REAR PROPERTY LINE; A PARKING VARIANCE FOR THE REQUIRED NUMBER OF PARKING SPACES; AND DESIGN REVIEW OF THE PARKING PLAN.

Due to the lateness of the hour, this item was continued to the next regular meeting.

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

101 Corridor - Sharp reported that he is unable to attend the 101 Corridor meetings at this time; he requested

approval from the other Councilmembers to handle this issue by keeping current with what is happening at the meetings for the next few months.

1615 San Anselmo Avenue - Chignell thanked Public Works staff for getting a cyclone fence installed around this property.

Zoning ordinance - Colteaux asked for a progress report on revisions to the zoning ordinance. He and Zaharoff agreed to meet with the planning consultant the following week.

Open Space funds - Walsh asked staff to determine the location of the \$3,000 open space funds mentioned earlier this evening by the Open Space Committee.

13. ADJOURNMENT TO CLOSED SESSION REGARDING 22 MAGNOLIA, PURSUANT TO GOVERNMENT CODE SECTION 54956.8, AND REGARDING ACORN V. TOWN OF SAN ANSELMO, PURSUANT TO GOVERNMENT CODE SECTION 54956.9(B)(1).

The meeting was adjourned to closed session at 11:35 p.m., and thereafter at 12:30 a.m.

Beth Pollard