

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

Mayor Walsh convened the regular meeting at 8:00 p.m. following a closed session beginning at 6:00 p.m. regarding personnel matters, regarding pending litigation pursuant to Government Code Section 54956.9(a) (Nome v. Town of San Anselmo, Richard E. Nagley, Ansari v. Town of San 'Anselmo, and Dore v. Town of San Anselmo), pending litigation pursuant to Government Code Section 54956.9(b) (1), and pursuant to Government Code Section 54956.8 (22 Magnolia). Present were Councilmembers Chignell, Colteaux, and Zaharoff.

2. OPEN TIME FOR PUBLIC DISCUSSION.

No comments were made.

3. CONSENT AGENDA

- (a) Approve Minutes: August 8, 1989
- (b) Appeal of an administrative approval regarding 94 Berkeley Avenue, A/P 5-165-35, Cyrus Ansari, for a motorized gate at the entry to the carport, a pedestrian gate in the vicinity of the front entrance, and a gate on the north side of the property: CONTINUE TO SEPTEMBER 12, 1989.
- (c) Approve Resolution authorizing participation in the Public Employees' Retirement System health plan.
- (d) Accept grant for purchase of library fax machine.

Herman Kramer, 1 Allemond Lane, asked that Item "c" be removed from the Consent Agenda for further discussion.

M/S Colteaux, Sharp, to approve the Consent Agenda, with the exception of Item "c". Motion unanimously passed.

Item 3c

Herman Kramer was under the impression there would be an increased cost to the Town by changing to PERS because of the Retirees. He thought there should be prefunding so the tax payors will not have to pay out of their pocket.

Acting Town Administrator Pollard said the Town will continue to pay only \$75 per retiree but that staff will look into Mr. Kramer's comments

M/S, Chignell, Zaharoff, to approve Resolution authorizing participation in the Public Employees' Retirement system health plan. Motion unanimously passed.

4. ORDINANCE ADDING CHAPTER 6 TO TITLE 8 OF THE TOWN CODE, RELATING TO CLAIMS AND SUITS FOR REFUNDS OF TAXES, FEES, ASSESSMENTS AND LEVIES.

Town Attorney Roth asked that this item be continued to the meeting of September 12, 1989.

M/S Colteaux, Chignell, to continue this item to the meeting of September 12, 1989. Motion unanimously passed.

5. 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.

Al Bianchi, Attorney representing the Thurmonds, said this has been investigated thoroughly and a tentative agreement has been reached between he and the Town Attorney. The Town is to issue a Conditional Certificate of Compliance as follows: 1) a parcel map is to be filed by the owners

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

without discretionary conditions; 2) the development of the lot is subject to zoning laws at the time of development; 3) property owners are to pay 1/2 of the cost of the hammerhead cul-d-sac if it is to serve two parcels. If it turns out it will serve more, then the cost will be divided amongst the owners; 4) if the law requires the filing of a "Notice of Violation" it will be done and then immediately following, an "Extinguishment of Notice of Violation" will be filled.

Attorney Roth said that the lot will be subject to R-1H zoning laws at the very minimum and there may be a need to have some land dedicated in addition to the cost of the hammerhead.

Director of Public Works/Planning Kottage, explained that there is an inconsistency between zoning and the General Plan and that a committee is working to bring the two in compliance. Therefore the land in question should be zoned R-1H which will be consistent with the General Plan. He added that it takes minor land to create a hammerhead and the parcel map should refer to the remaining land. The applicant will be required to use the County of Marin Specifications for the hammerhead.

Mr. Bianchi thought there was agreement between all parties and now that the statement has been made that the lot should be zoned R-1H and additional land may have to be sacrificed by his client, he was not sure he could agree on the changes. His clients have agreed on the hammerhead but the specific location is not defined. Mr. Thurmond said he was not prepared to build in the immediate future and he therefore had no objection to having the parcel zoned R-1H.

Attorney Roth suggest that a Proposed Conditional Certificate of Compliance be approved tonight and recommend keeping this item on the agenda for the September 12, 1989 hearing.

M/S Chignell, Sharp, authorize the Town Attorney to prepare a proposed Conditional Certificate of Compliance to submit to Mr. Thurmond's attorney along the lines discussed tonight and that it be on the agenda for the September 12, 1989 meeting.

Ayes: Zaharoff, Sharp, Chignell, Walsh
Abstained: Colteaux

Motion carried.

6. CONSIDERATION OF ESTABLISHING POLICY ON REQUESTS FOR EXCEPTIONS TO INTERIM ORDINANCE NO. 903.

Planning Director Kottage explained that prior to adoption of the new General Plan and the subsequent adoption of the Interim Ordinance, development of these lots followed the R-1 zone process. The R-1 zone process is the Town's least stringent process. The new General Plan, however calls for a fairly stringent review of new construction in the SF-C land use area, including design review of new homes and perhaps some design review for: additions to existing structures and other alterations to the site. The new General Plan does not specify the nature and limitations of this new design review process. The origin of the current problems with implementing the Interim Ordinance therefore lies with: a) the General Plan's non-specific description of the development review process for this new area, and; b) the significant increase in the volume of work created by more stringent c of applications in the new area. Staff, therefore has come up with a proposed policy for implementing interim ordinance 903 as it relates to Land use area designated single family-conservation (SF-C) and as it relates to lands designated very low density (VLD) which are

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

not currently zoned R-1H. Kottage noted that staff is also asking for permission to hire a consultant to supplement staff in processing these applications.

Walsh said she was told there were no applicants at the time the ordinance was implemented and that it would not be a significant impact. However it now seems that there are several applications and it is time consuming for the Council.

Colteaux supported staff's recommendation but wondered if applicants could be required to take out a complete permit (e.g. if securing a foundation permit, also secure a complete building permit at the same time). He wanted to make sure the ordinance was parallel and not inconsistent.

Sharp said that if the Council adopts staff's recommendation as proposed in item 6, the finding should be made that it will not jeopardize the orderly review of the zoning ordinance and will also enhance the process. It will also easily enable the Council to process the next agenda items using those guidelines.

Zaharoff said that although the Interim Ordinance has created more work it has already been proven to be a benefit to the Town just by the type of applications that have come before the Council.

Chignell asked about the rationale used to come up with the figures proposed by staff for additions. He also wondered where the proposed \$5,000 was going to come from to pay the consultant fee for these projects.

With regard to the figures proposed for the additions, Kottage said decisions were made based on input from the zoning subcommittee and staff. With regard to the \$5,000, there is money in the proposed new budget for the Assistant Director position. Since the Assistant Director has not yet been hired, the money is available to be used for the Consultant.

Robert Inger, 10 Ivy Lane, thought that design review discussed more than visual impact for a project.

Catherine Donnelly, 32 Savannah, said she is applying for an exception in the SF-C zone because she needs a new roof. She wondered how long this process will take because she will have to move out of her house when the new roof is being put on and it will be a financial hardship on her.

M/S Colteaux, Zaharoff, to adopt staff's recommendations and refer it back to staff with consultation of the Town Attorney for what is needed to implement this policy. Motion unanimously passed.

7. REQUESTS FOR EXCEPTIONS TO INTERIM ORDINANCE NO. 903 TO PERMIT PROCESSING OF APPLICATIONS FOR CONSTRUCTION ON PROPERTIES WITH A GENERAL PLAN LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL CONSERVATION AREA, WITH OR WITHOUT A DESIGN REVIEW REQUIREMENT:

- (a) Lorraine Devore, 28 Hillcrest Court, A/P 5-091-13, to construct a 109 square foot open deck.
- (b) Jim Cowperthwaite, 141 Oak Avenue, A/P 7-271-20, to change the flat roof to a pitched roof for a maximum height increase of 9 feet on an existing dwelling.
- (c) Jef Petersen, 16 Ivy Lane, A/P 7-064-55, a new 2,600 square foot single family dwelling.

TOWN OF SAN ANSELMO
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

- (d) Th.F. Posthuma, 379 Oak Avenue, A/P 7-241-61, a new 4,000 square foot dwelling and a new 870 square foot attached garage and workshop all with the intent of retaining a separate existing dwelling, but converting it from a living unit to a home occupation office for use by the owner/resident of the property, and to extend the height of a portion of the existing dwelling to provide a loft area.
- (e) Jim Hitchner, 200 Oak Springs Drive, A/P 5-292-05, a 2,000 square foot living area addition and 1,800 square foot deck addition.

Colteaux said that based on the last item, Council should be able to move on staff's recommendations to exempt items 7a and 7b from design review, and 7c, 7d and 7e be subject to R-1H Design Review at the Planning Commission.

Chignell indicated that he would like to hear what each design review entails. Sharp felt the Design Review should take place at the Planning Commission level. Kottage said that the only issue at hand is if the Town can accept these applications for further processing and if so, how detailed does the review need to be. If there is no design review required, then it would be processed as an R-1 application. If a design review is required then it will have to fall within the R-1H Design Review guidelines.

Jim Cowperthwaite, 141 Oak Avenue, was hoping for an exception to the design review because the changing of his roof will have no impact on his neighbors.

Item 7a and 7b

M/S Chignell, Colteaux, move to adopt staff's recommendations on "7a" and "7b" which indicate the granting of an exception without the condition of design review so that the applicant can begin the process towards obtaining a building permit. Motion unanimously passed.

Item 7c

Jef Pedersen, 16 Ivy Lane, did not understand why he was in the SF-C zone.

Clay Freeberg, 10 Ivy Lane, thought that health and safety should also be addressed in the design review process besides the visual impact. He also wondered if everyone was granted an exception.

George Magid, 49 Canyon Road, urged the Council not to grant an exception for 16 Ivy Lane.

M/S Colteaux, Sharp, grant an exception to "7c" with the condition of Design Review to include not only visual impact but health and safety as well. Motion unanimously passed.

Item 7d

Mark Kertz, attorney representing Miranda Leonard of 395 Oak Avenue, objected to the exception to Interim Ordinance 903 for Mr. Posthuma. The proposal represents a major deviation from the policy set forth by the Town of San Anselmo in the Interim Ordinance in the General Plan. The purpose of the ordinance was to allow time to conform the General Plan and current zoning. There seems to be no justification for exempting the Posthuma proposal and no showing that doing so would be consistent with either the letter or intent of either current zoning restrictions or the General Plan. The development would be detrimental for reasons of 1) density; 2) commercial activities in a residential district; 3)

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

inadequate water facilities; 4) possible soil instability and 5) possible existing use restrictions from a prior conveyance of the Posthuma property. By granting an exception for this parcel may be granting approval that there is no detriment and Mr. Kertz did not believe the Interim Ordinance 903 could allow such action.

Attorney Roth said that paragraph (d)(i) of ordinance 903 requires a determination that any exemption granted not interfere with the orderly zoning review process and not be detrimental to the neighborhood.

Kottage further explained that by granting an exemption and having the application go before the Planning Commission for the R-1H design review process will address the concerns of Mr. Kertz. He stressed that the question before the Council tonight is whether applications should be granted an exemption to the Interim Ordinance, and if so, do they need to go before the exhaustive R-1H Design Review process or are they simple enough, with no impact to anyone, to be exempt from Design Review. But that by granting the exception and forwarding it to the Planning Commission for Design Review by no means guarantees approval of the application.

Zaharoff said the most stringent process would be not to allow a person to build and the second most stringent process is the R-1H review.

Sharp questioned the use of a commercial building in the residential area.

Mr. Posthuma said he has been in business for twenty years and this structure will not be used as a commercial building, only an office for himself.

Nancy Cecil, 1 South Oak Avenue, was concerned about the blind corner at the edge of Mr. Posthuma's driveway. Mr. Posthuma agreed with Mrs. Cecil and said he will address that with the Town directly during the building process.

Vance Barnett, 303 Oak Avenue, said there should be no building on the lane or easement and that some of the people most affected have not been notified.

M/S Colteaux, Sharp, to adopt staff recommendations of "7d" that they grant an exception to the Interim Ordinance with the condition of design review so the application can be reviewed by the Planning Commission. Further, that when the Planning Commission conducts the design review hearing, that they use the R-1H design review guidelines. Motion unanimously passed.

Sharp stated that he had grave reservations about the design and about a commercial use in a residential area but all of that will be addressed at the design review stage.

Attorney Roth said that with regard to any existing restrictive covenants, these are enforceable between the affected property owners only, not by the Town; nor is the Town bound by the covenant.

Item 7e

Kenneth Levitt, 197 Oak Springs, did not feel an exemption should be granted under the terms of Interim Ordinance 903 for 200 Oak Springs because the Council can not make the finding that the addition will not be a detriment to the health or safety of people living in the neighborhood.

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

George Magid, 49 Canyon Road, questioned the validity of the staff reports, indicating that 16 Ivy Lane only has a foundation on the site, not a dwelling.

Leo Cronin, 12 San Gabriel Ct., Fairfax, had concerns about additional building on Oak Springs because the original developers graded and smoothed the road but never compacted the earth. Drainage became a serious problem for Fairfax because of this and Fairfax has had to spend \$40,000 for drainage repair. He urged the Town to get a soil test of the area prior to any building.

Paul Gutfreund, 216 Oak Springs, asked for clarification on the design review process.

Susan Rosales, 196 Oak Springs, wanted to make known her concerns about 200 Oak Springs and the impact it will have on her.

M/S Colteaux, Chignell, to grant an exemption for "7e" to refer to the Planning Commission for Design Review using the R-1H design review guidelines. Motion unanimously passed.

Mr. Hitchner said his attorney did not feel design review was necessary. He said he has been designing this addition for the last 4 years and this is a hardship on him to have more delays.

After a 10 minute break, Mayor Walsh presented Christine Sansome a Certificate of Appreciation for all her hard work and effort on behalf of the Town of San Anselmo. Chris was with the Park and Recreation Department for 17 years and has recently accepted a position with the Mill Valley Park and Recreation Department.

8. STATUS REPORT ON SEISMIC SAFETY STUDY REGARDING NONREINFORCED MASONRY BUILDINGS AND DISCUSSION OF A SCHEDULE TO ADOPT A MITIGATION PROGRAM.

Assistant Director of Public Works Braun presented the staff report stating that unreinforced masonry buildings represent one of the greatest threats to life during an earthquake. The State of California, in recognition of this problem, has passed a law requiring communities located within seismic zone 4 to inventory existing buildings within their jurisdictions and to develop a mitigation program for these buildings.

Approximately 30 buildings have been identified as unreinforced masonry. The owners have been notified and have been given the opportunity to respond in one of the following ways: a) agreement that the building is a URM building; b) the building is not a URM building c) the building is a URM building that has already been strengthened. The list of buildings will be finalized and forwarded to the State once all of the building owners have responded. Also, the Town must adopt a mitigation program to reduce the hazard that these buildings pose to the community.

The State of California has provided a model Mitigation Program for these buildings which requires that the building must be strengthened. Other possible mitigation programs include: 1) abandonment; 2) demolition, and; 3) change of use of the building to a warehouse type occupancy. Staff recommends that an ordinance be adopted which includes all of the above options and this ordinance can be presented at a future meeting.

Braun said if the owner desires to keep the current use of one of these buildings, they will be required to retrofit the building and the cost will vary from about \$15 to \$35

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

per square foot of building area. The only funding provided by the State for this is through Prop 77. In order for a building to be eligible for this funding the following must be true: 1) the Town has adopted a mitigation program for URM buildings, and 2) the building must be at least 50% residential use with 70% of the units designated for low income households.

Staff believes that few of the identified buildings will qualify for the funding because most of the buildings are 100% commercial. If a change in use were granted to the buildings then they could qualify for the funding.

Another potential source of funding is for the Town to issue bonds and make available long term, low interest loans to owners for the seismic retrofit work. Lastly, funding could be through private lending institutions.

The Town should adopt incentives to encourage the building owners to voluntarily strengthen buildings such as: 1) waive all building permit fees; 2) waive use permit requirements; 3) waive parking space requirements.

Walsh said she wrote to Sacramento and she was told from Assemblyman Filante's office that funding is available but the Town must get their information in early so the money could be set aside. If 30 commercial buildings had to vacate, the Town would be blighted.

Braun estimated he will have a complete list within two months. He also spoke to Filante's office and understood that because the buildings in question are private commercial buildings, they did not want to get involved.

Herman Kramer asked if the Town could provide a tentative list of those 30 buildings that may be impacted.

Braun said he preferred to make public only a finalized list and suggested a public meeting in late September for those buildings.

Colteaux asked what the timeframe was for bringing them up to code and if the buildings could still be occupied during the retrofitting period. He wasn't sure the permits fees should be waived because it could be turned into a considerable advantage for the property owners. With regard to use fees, perhaps they could be looked at on an individual basis. Braun explained that the owners have 8 years to bring the buildings up to code and the premises do not have to be vacated while the work is being performed.

Walsh said that the theatre will cost \$500,000 to retrofit and it was her understanding that the theatre could not open until it was brought up to code. Also, if a property owner is going to invest thousands of dollars, parking should also be addressed.

Lew Tremaine, Ross Valley Reporter, asked if some of the buildings might be demolished.

Kottage said the goal is to get a final listing from the property owners within the next two months and at that time staff can be able to give more specifics on what the options are, with the understanding that Council wants to retain some control in granting the incentives.

By consensus, the Town Council will go with Director Kottage's recommendation which is to wait until a final list has been prepared of the buildings that have been identified as unreinforced masonry. This list should be complete within two months.

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

9. DISCUSSION REGARDING APPLICATION FOR PROPOSITION 70 FUNDS.

Acting Town Administrator Pollard said at the last meeting there was a tie vote of 2-2 with Councilmember Sharp not in attendance. Therefore the issue is being brought before Council again.

Colteaux said that whatever amount of money is to be allocated to Park and Recreation should be in accordance with the plan presented by Park and Recreation and that a 4-5 year plan be developed for Open Space access plan. That plan would include year by year funding by the General Plan. The Park and Rec program is ready to go but Open Space is not because the plan is not in place yet.

Sharp said he would like to see some funding go to Open Space because the Town has sorely neglected Open Space and would like to see some commitment made in that area. He is dissatisfied that Open Space Committee and the Park and Recreation Department are polarized. They should have a unity of interest. However he does not feel the Open Space Master Plan for Sorich Park is quite in place. He agrees with Colteaux's recommendation that Park and Recreation should get the funding for Memorial Park with the condition that some solid guidelines are made on how Park and Rec and Open Space propose to develop Sorich Park. He thinks this is the most sensible plan to attain both goals. However, he will only support this proposal tonight if a condition is made that Park and Recreation Department work with the Open Space Committee to put together a plan for Sorich Park.

Zaharoff said there is no question that Memorial Park needs upgrading, but she thinks that the spirit of Prop 70 opened up a pot of money for funding a new area of recreation. This would be ideal for Open space. She feels Sorich Park has a concrete plan from which to work and that by giving the money to Memorial Park would be spending the money on maintenance.

Chignell said he too originally wanted the money to go to Open Space but when the Park and Recreation Director showed the graphic need for funding to repair our parks he feels the money should be better directed there. He agrees with Colteaux's idea.

Steve Emery, 385 San Francisco Blvd, said if the concept for Sorich Park is acceptable, the Open Space Committee has a year to develop a precise plan.

Cherilyn Gilboy, Chairwoman for Parks and Recreation, said her fear was that there would be a parking lot at Sorich Park and that is not the intent of Open Space. As a part of the application process, they could install picnic tables at Sorich Park. They are not against Open Space, however there is only so much money to go around and there should be priorities.

Sharp said he would like to see access to the trails, and trail maintenance, not picnic tables.

M/S Colteaux, Chignell, to allocate Proposition 70 funds to the plan that was presented by the Park and Recreation Director on the understanding that Park and Recreation Staff will be submitting a Master Plan for Open Space access and that the funding of that plan will be on the next budget request. This is also conditioned that there will be a mid year progress report to Council.

Ayes: Sharp, Colteaux, Chignell
Noes: Zaharoff, Walsh

TOWN OF SAN ANSELMOP
MINUTES OF THE TOWN COUNCIL MEETING OF AUGUST 22, 1989

10. DISCUSSION REGARDING RECRUITMENT AND SELECTION PROCESS FOR RECREATION SUPERVISOR.

Chignell felt that the recruitment for the Recreation Supervisor should have some involvement by the Council similar as was handled for the Assistant Director of Planning with some sort of balancing and with some discretion of the Department Head.

Pollard said this was discussed with the Department Heads and they would like to establish some administrative policies for future vacancies. In this particular case, staff recommendation is for an oral board, consisting of four technical people involved in the Recreation field and a member of Parks and Recreation Commission to represent the public sector.

Chris Sansome said there has been substantial interest in the position. Standard hiring procedure has been that applications come in and then applicants are narrowed down to only the number of candidates that can be interviewed in a day. Then it is narrowed down to three and have the Department Head interview them and make the final decision.

Walsh shares Chignell's feelings that the Recreation Supervisor is a public position and therefore she would like to see the Council involved.

M/S Colteaux, Sharp, to accept staff's recommendation to have an oral board composed of recreation professionals as well as a representative from the Parks and Recreation Commission, if the schedule will allow them to devote a day to participate on the oral board.

Ayes: Zaharoff, Sharp, Colteaux
Noes: Chignell, Walsh

11. APPOINTMENTS: PLANNING COMMISSION APPLICATIONS.

Pollard said that Oliver Harle's commission is expiring at the end of August and he has expressed interest in another term as well as the Town receiving other applications. Staff recommends that the Council interview applicants prior to the beginning of the next meeting.

Sharp said he would like to participate in the process but is unable to attend the next meeting therefore, he suggests continuing the item to the second meeting in September.

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

Walsh said she received a letter from the President of "Its time for a Park" requesting funds. Pollard said it came in after the initial budget hearings but could be addressed next Wednesday night at the conclusion of the budget hearings.

13. ADJOURNMENT.

The regular meeting of the Town Council was adjourned at 10:40 p.m. to the next regular meeting of September 12, 1989.

BARBARA CHAMBERS]
ADMINISTRATIVE SECRETARY