

TOWN OF SAN ANSELMO
TOWN COUNCIL MINUTES OF SEPTEMBER 12, 1989

Mayor Walsh convened the meeting at 8:00 p.m. after a closed session regarding personnel matters, regarding pending litigation pursuant to Government Code Section 54956.8 (22 Magnolia), pursuant to Government Code Section 54956.9(a), (Church of Divine Man, Richard E. Nagley, Yeakey v. Town of San Anselmo, Fraser v. Town of San Anselmo, Ansari, v. Town of San Anselmo, Nome v. Town of San Anselmo, Kramer v. Town of San Anselmo, and retired public employees v. Town of San Anselmo), and pending litigation pursuant to Government Code Section 54956.9(b)(i), (4 matters); and interviews with applicants to the Robson-Harrington House Association Board of Directors beginning at 7:50 p.m., with Councilmembers Chignell, Colteaux, and Zaharoff present, and Sharp not present.

2. OPEN TIME FOR PUBLIC EXPRESSION:

Ann Faanes, 80 Broadmoor Avenue, said a petition was circulated regarding installation of two speed signs for the Broadmoor/Brookside area. This petition was given to the Traffic Safety Committee at least three weeks ago and she asked for a status report.

Kottage said they want to install a traffic counter to determine what the traffic is like in that area. He said it should be installed within the week and staff should be able to make a decision within the next two weeks. Colteaux added that as an interim measure perhaps the Police Department could assist.

Barbara Smith, would like the Council to consider banning the use of styrofoam or plastic just as the City of Sausalito if doing.

William Jelinek, 53 Florence, stated that the San Anselmo Business Association will donate \$250 to repair the bridge at Creek Park. He also said that Fairfax had an EIR Report prepared for a project on the hill behind Lucky Supermarket and although San Anselmo was asked to give input, did not. His concern was that the project would create a potential traffic increase and will include the installation of 1,800 feet of water line down the ridge line. Kottage said he will discuss the matter with Mr. Jelinek and follow up with the Town Administrator of Fairfax.

Colteaux said that the Joint Powers Agreement was signed by the Towns of Ross and San Anselmo for Mt. Baldy.

3. CONSENT AGENDA.

- (a) Approve Minutes: August 16, 23 and 30, 1989.
- (b) Approve Warrants: Nos. 917 through 1095 in the amount of \$504,527.70
- (c) Approve proclamation honoring Elizabeth Terwillinger.
- (d) Waive reading and adopt Ordinance No. 904 adding Chapter 6 to Title 8 of the Town Code relating to claims and suits for refunds of taxes, fees, assessments and levies.
- (e) Announce expiration of terms, Open space Committee. (3 seats)
- (f) Authorize execution of contract for state reimbursement claims.
- (g) Set October 24 as date for public hearing on request from San Anselmo Garbage for rate increase and extension of franchise agreement.

Chignell requested that Item "f" be removed for further discussion. Colteaux requested that Item "f" and "g" be removed.

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M/S Chignell, Zaharoff, to approve Items "a - e" of the Consent Agenda. Motion unanimously passed.

Item "f" and "g"

Chignell asked if the reduction from \$10,000 to \$5,950 is reflected in the revised budget as discussed in Item "F". Also, he asked if the Town Attorney has reviewed the contract. Acting Administrator Pollard said the contract is similar to that of last year and the \$4,050 reduction is not reflected in this year's budget, but could be.

Colteaux said he would like to see the new Town Administrator have input on both Item "f" and "g" it were at all possible.

With respect to Item "f", Pollard said the Town could accommodate the new Administrator with regard to the Scope of Services in 1B but the Town could not wait for the Scope of Services in 1A because there will be no guarantee that the Town could contract with this agency if the contract is signed after the contract validity date. She proposed that the contract be signed with a notation that they are not authorized to proceed with 1B until they hear from the Town.

With regard to Item "g", Pollard said the hearing must be scheduled for either October 24 or November 14 meeting.

Ray Forrest, San Anselmo Garbage Co., said this has been put off since 1986 and did not want any more delays.

It was the consensus of the Council to schedule the public hearing for the garbage service for November 14.

M/S Colteaux, Chignell, to approve Items 3f and 3g with changes as noted in the discussion. Motion unanimously passed.

4. APPOINTMENT: ROBSON-HARRINGTON HOUSE ASSOCIATION BOARD OF DIRECTORS. (1 SEAT).

M/S Colteaux, Chignell, to appoint Christopher Lee, 46 Magnolia, to the Robson-Harrington House Association Board of Directors to a term to expire February 1992. 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, NANCY L. THURMOND, ETAL, AND ROBERT L. THURMOND, ETAL, END OF OAK SPRINGS DRIVE, A/P 5-291-06. -CONTINUED TO THE MEETING OF 9/26/89.

6. RESOLUTION ESTABLISHING CONDITIONS FOR IMPLEMENTING ORDINANCE NO. 903. - CONTINUED TO THE MEETING OF 9/26/89.

7. REQUESTS FOR EXCEPTIONS TO ORDINANCE NO. 903, TO PERMIT PROCESSING OF APPLICATIONS FOR CONSTRUCTION ON PROPERTIES WITH GENERAL PLAN LAND USE DESIGNATION OF SINGLE FAMILY RESIDENTIAL CONSERVATION AREA, WITH OR WITHOUT A DESIGN REVIEW REQUIREMENT. (IF AN EXCEPTION IS GRANTED, THERE WILL BE A PUBLIC HEARING BY THE PLANNING COMMISSION ON THE VARIANCE APPLICATION.):

- (a) 56 Longview Avenue, AP 6-153-05, to construct a 300 square foot sundeck, by Lou Phillips.

Director of Public Works/Planning Kottage, presented the staff report for 56 Longview, noting that this is a small addition and falls within the guidelines proposed at the last meeting, therefore staff recommends that an exemption

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be made for this application and that it be processed under the R-1 procedures.

Mr. Phillips said he spoke with his neighbors and they had no objections to the addition.

M/S Chignell, Zaharoff, to approve an exemption for 56 Longview based on the findings in the staff report that indicate this application is to be processed under the R-1 guidelines. Motion unanimously passed.

(b) 3 White Way, A/P 7-141-08, to construct a 112 square foot kitchen addition and two dormers, by Arie Dykhuizen.

Kottage said this is also a small addition and staff recommends an exemption be made for this application and it be processed under R-1 procedures.

Mr. Dykhuizen has spoken with his neighbors and all seem to be in favor of his proposal.

M/S Chignell, Zaharoff, to approve an exemption for 3 White Way based on the findings in the staff report that indicate this application is to be processed under the R-1 guidelines. Motion unanimously passed.

10. REPORT FROM SAN ANSELMO REPRESENTATIVE TO THE MARIN COMMISSION ON AGING. (Taken out of Order)

Paula Neese, representative to the Marin Commission on Aging, said there will be a Fair on October 12, from 10:00 a.m. - 3:00 p.m. at the Marin Expedition Center. Admission is free. On September 28 there will be a discussion focusing on long term care for the elderly, at the Marin Art and Garden Center. And lastly, this weekend there will be a leisure show at the Mall at Northgate. The Jewish Family and Childrens Services have started telephone reassurance programs in Marin County to help the isolated seniors. Also the Vial of Life program has been started in Novato and she would like to see it in San Anselmo. The IJ has started a column on seniors. One goal of the Commission is to have a better relationship with the community foundations so they could get more funding for local programs for seniors. The public is welcome to attend any of meeting of the Marin Commission on Aging. The next meeting is at Marin General Hospital on 10/9/89.

Walsh commended Ms. Neese on her enthusiasm and hard work.

8. RESOLUTION SETTING SALARY OF TOWN ADMINISTRATOR.

Pollard said this resolution is brought to the Council whenever a Town Administrators salary is changed.

Sarah Nome, 77 Alder, questioned the proposed salary and the new Administrator's qualifications. She feels the salary and benefits is unacceptable, that San Anselmo pays 15% to 20% higher than any other city in the area and this is an additional cost to the taxpayer. The Long Range Finance Committee should be looking at the benefits package and perhaps scale it down.

M/S Colteaux, Chignell, to adopt Resolution No. 3099 setting the monthly salary for the Town Administrator at \$5,000. Motion unanimously passed.

9. ADOPTION OF 1989-90 BUDGET:

- (a) Discussion regarding Legal Services Budget
- (b) Resolution adopting budget for fiscal year commencing July 1, 1989

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Pollard said the final budget has been prepared which incorporates the changes discussed on August 30th as well as items that have come to staff's attention since that date. Council is being asked to adopt a resolution that specifies the amount of appropriations for each department as well setting the appropriation limit for the fiscal year.

Colteaux would like to see the Legal Services budget broken down as much as possible specifically in the area of advise and litigation and be included in the format of this year's budget. Secondly that it be reviewed within a period of time (perhaps every three months), which allows Council to have time to think about it, and give the new Administrator the opportunity to review it as well.

Chignell agreed with the idea of breaking down the budget regarding Legal Services and a fiscal review in three months would be acceptable, however he was hoping the review period for litigation issues would happen more frequently than every three months.

Town Attorney Roth said the longer the delay, the less remains in the budget to make any alterations, noting that it is already 2 1/2 months into the fiscal year. However, he concurs with the idea of providing the new Administrator an opportunity to review the budget in three months.

Walsh said there was discussion at the last budget hearing about decreasing the Town Attorney fees by 20%. It was her understanding there was to be further discussion on this and other issues regarding litigation. Therefore she is not prepared to make a decision on the Legal Services budget tonight stating it would be highly inappropriate.

Chignell felt that if this portion of the budget was not adopted there would be unable to compensate the Town Attorney. He thought the three month review process will allow them time to review the litigation issues and the line items which have caused the ballooning because of the suits against the Town.

Sarah Nome asked if there was money budgeted for those people who may win a successful lawsuit against the Town.

Town Attorney Roth said there is no money in the budget for settlement fees.

Colteaux said most importantly, he wants the new Administrator to be involved in the review, that is why he suggests the three month review. At that time, changes can be made, and the budget amended.

Chignell requested that \$4,000 be placed in contingencies as discussed earlier and asked if the increase in planning fees are to be factored into the current budget. Kottage said the revenue includes some projected fee increases, but could be increased by \$5,000.

M/S Colteaux, Chignell, to approve Resolution No. 3100 adopting the 1989-90 budget with the understanding that the approval of the Legal Services Budget be contingent upon review within three months and be put on the agenda by the Administrator at the appropriate time. This is also subject to the comments of Councilmember Chignell regarding \$4,000 be added to contingencies and deleted from Administration/Finance and increasing the Planning revenue by \$5,000 because of the increased fees.

Ayes: Zaharoff, Chignell, Colteaux
Noes: Walsh

Motion carried.

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- (c) Resolution establishing appropriations limit for fiscal year 1989-90

M/S Chignell, Colteaux, adopt Resolution No. 3101 approving Appropriations Limit for Fiscal year 1989-90. Motion unanimously passed.

11. APPEALS REGARDING 145 TUNSTEAD AVENUE (FRONT BUILDING), AND 145A TUNSTEAD AVENUE (REAR BUILDING), A/P 7-251-13, ROSIE ECHELMEIER AND ESSAM ELMAHGOOP, OF PORTIONS OF THE PLANNING COMMISSION APPROVAL OF EXTERIOR COLORS OF THE BUILDING TO BE AS FOLLOWS: (A) THE FRONT BUILDING IS TO REMAIN AS IS; AND (B) THE REAR BUILDING IS TO BE REPAINTED AT THE APPLICANT'S EXPENSE TO A COLOR MUTUALLY ACCEPTABLE TO THE NEIGHBORING PROPERTY OWNERS AT 159 TUNSTEAD.

Planning Director Kottage presented the staff report noting that there are two appeals regarding the color, one from the applicants for the rear of the building, and the other from the neighbor at 141 Tunstead Avenue who would like the side of the building be painted darker.

Charles Dorsett, attorney for Rosie Echelmeier and Essam Elmagoop, spoke on behalf of his clients. He said that the rear building known as 145A Tunstead has a large garage type door that is located on the southwest side of the building. It would be costly to repaint because it would have to be done by hand. He did not think the garage door, or any of the west side of the rear building would be visible to the neighbors at 159 Tunstead, who originally appealed staff's decision on color. His clients object to having the building painted at all, stating that the rear of the building has already been painted lighter to satisfy the neighbors and they still are not happy. The Planning Commission's decision that the neighbors at 159 Tunstead get together with his clients to decide on an amicable color did not work and a mutual color was not agreed upon. His clients have found the neighbors to be difficult and unreasonable. Regarding the neighbor at 141 Tunstead, there are no windows on 141 facing his clients at 145, they are to the rear of the building, and therefore it is their contention that the color his clients have chosen would have no impact on 141 Tunstead. His clients feel they have done a tasteful job on a commercial building.

Vic Canby 141 Tunstead, said the wall facing his building is 20 feet long and the windows of his building are on the second floor, looking down onto 145 Tunstead. The color of the building bounces off the wall. He said that he has asked for an Administrative Variance to reduce the size of his windows and install awnings over the windows. If this is not objected to by the neighbors and tenants, then he felt the color problem has been mitigated although, ideally, he would also like a softer color on the wall facing his building.

Rosie Echelmeier, 145 Tunstead, said when she initially had the rear building painted, her neighbor at 159 Tunstead did not like the color, so she added white to it to appease the neighbor. This still has not satisfied them. She felt there should be a limit on what impact neighbors should have on their color selection. They have been delayed three months in opening their business because of all the delays.

Suzzane Lindelli, 159 Tunstead, said she advised the applicant prior to her completing the painting of the building that a design review was necessary. When her neighbor did not comply, she notified the Town. Mrs. Lindelli said that by adding white to the paint only made the wall brighter but she will agree with the staff

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recommended color of Fernwood Q6-38T for the rear building at 145A Tunstead.

Al Lindelli, 159 Tunstead, was in agreement with his wife, noting that there is a reflection off the rear building, into their kitchen around 4:30 p.m. - 5:30 p.m. each day.

Zaharoff said that Mr. Canby's problems have been mitigated because of the reduction in the size of the window and unless landscaping cannot accomplish the goal of cutting the glare, she will go along with the color of Fernwood that is a mutually agreed upon color.

Kottage said that landscaping would not cut the glare.

Mr. Canby said he would be willing to drop his appeal to repaint the west side wall of the front building.

Rosie Elchelmeier and Essam Elmahgoop had no objection to Mr. Canby's plans to reduce the window and therefore would not appeal.

Mr. Dorsett said that if the Council orders a portion of the rear building to be repainted, it only be the north wall, not the garage door or side wall that would have not impact on 159 Tunstead.

Chignell said that all of these businesses have been in San Anselmo for a long time and there should be some spirit of cooperation between the neighbors. He said there is a mediation service available to help the neighbors work out their problems if they wanted it.

Walsh had nothing to add.

M/S Zaharoff, Chignell, to sustain the Planning Commission decision with the exception that the rear building at 145 Tunstead, only the north wall, be repainted. The color shall be Fernwood (Color Trend Q6-38T), as delineated in the swatch presented to the Town Council tonight.

Kottage wanted it noted that the appeal by Mr. Canby was withdrawn with the understanding that both tenants of 145 Tunstead will not appeal his Administrative Review Appeal to decrease his window size and placement of awnings.

Motion unanimously passed.

12. RESOLUTION APPROVING APPLICATION FOR PROPOSITION 70 FUNDS.

Pollard said resolution is before the Council for adoption with funding to go to Memorial Park. It should be noted that the funds have been reduced from \$36,000 to \$35,000.

M/S Colteaux, Chignell to adopt Resolution No. 3102 approving application for Proposition 70 funds. Motion unanimously passed.

13. APPOINTMENTS:

- (a) Park and Recreation Commission. (1 seat)

Pollard said Cherilyn Gilboy is seeking reappointment for the Park and Recreation Commission with no other applicants.

M/S Chignell, Zaharoff, to reappoint Cherilyn Gilboy to the Park and Recreation Commission to a term to expire July 1993. Motion unanimously passed.

- (b) Mosquito Abatement District Board of Directors. (1 seat)

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Grace R. Kramer is the only applicant that has applied for the Mosquito Abatement District Board of Directors to a term to expire December, 1990.

M/S Chignell, Zaharoff, to appoint Grace R. Kramer, 72 Nokomas, to the Mosquito Abatement District Board of Directors. Motion unanimously passed.

14. **RESOLUTION ESTABLISHING REVISED PLANNING FEE SCHEDULE.**

Kottage said these fees will bring the Town more in line with other towns in Marin County and allows the department closer to becoming self funded.

M/S Zaharoff, Colteaux, to approve Resolution No. 3103 setting and amending the Fee Schedule for Planning Services as presented. Motion unanimously passed.

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

Bid to service stations regarding maintenance of vehicles.

Chignell asked about the status report from the Police Chief regarding a query to Service Stations in town regarding maintenance of vehicles.

Towing of vehicles with parking fines.

Chignell asked for a status report from the Police Chief regarding this issue.

Hold Harmless Clause

Colteaux said the Town Attorney was supposed to prepare a report on the Hold Harmless Clause. Kottage said he would look into this and report back to Council.

Tree Committee

Colteaux asked for a status report on the Tree Committee. Pollard said staff has contacted all interested parties and forwarded them applications. At last count, staff has received only a few back.

Rotary Club memorial for Don Ongaro

The Rotary Club would like to do a memorial for Don Ongaro within the downtown area. In talking with staff, the water fountain at Creek Park is in need of extensive repair. That seems to fit in with what the Rotary Club had in mind.

Interest from Lucas Film for use of the Tamalpais Movie Theatre

Kottage wanted direction from Council as to whether or not Council wants to be included in a future meeting. The consensus of the Council was to let the planning process stay with staff.

16. **ADJOURNMENT.**

The Town Council regular meeting was adjourned at 10:15 p.m. to the next regular meeting of September 26, 1989.

BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY