

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

**7:00 p.m.**

**WELCOME AND INTRODUCTIONS**

Mayor Thornton opened the meeting and asked Planning Commissioners and Town Councilmembers to introduce themselves.

Thornton summarized Council's tradition of jointly-held meetings with the Planning Commission, observing that the purpose of tonight's meeting is to initiate discussion concerning updating the Town's Housing Element and establishing green building guidelines.

**JOINT WORKSHOP TO DISCUSS THE PRELIMINARY DRAFT HOUSING ELEMENT**

Interim Planning Director Diane Henderson introduced Housing Consultant Jeffery Baird, the Town's housing consultant.

Baird gave a brief historical account of the process of review and related meetings held to date with regard to updating the Town's current housing element, noting that there is still a significant process going forward. The goal is to achieve a certified housing element, or one approved by the State Department of Housing and Community Development (HCD). HCD's review takes place over a period of 60 days. Baird reminded all present that in terms of the current Preliminary Draft Housing Element under discussion, there are still some unknowns, and whatever changes result from the current discussion, after review by HCD, there may be even more changes. Baird advised that one of the goals of the current discussion is to determine what changes need to be made before packaging the draft and sending it forward to HCD for their comments. After review by HCD, the draft will go back through the Planning Commission with formal public hearings, the Planning Commission will make a formal recommendation to Council, and Council will hold formal public hearings and then adopt the housing element.

Baird displayed a power point presentation, stressing that there are very specific requirements of state law in terms of what a housing element must cover and the issues that must be addressed. Clear standards exist for how the issues such as adequate sites, housing needs, and regular update requirements can be addressed. Unlike other elements of the General Plan, there is a specific timeframe for updating the housing element; this becomes even more important as we move forward with SB375, the sustainable communities initiative which combines transportation planning with the housing element, and there will be implications in terms of when the next housing element is adopted.

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Baird advised that SB2 is the state law that requires every community in California to provide zoning by right for a year-round homeless facility. This is not to say necessarily that a homeless facility will be located in San Anselmo, but the zoning requirement is one that must be met by all communities in California. Transitional housing, supportive housing, and other types of housing similar to other residential uses are also addressed so that there will not be discrimination against any types of housing. The Cedars in Ross is an example of transitional housing.

In terms of housing needs, or the regional need for the 2007-2014 planning period, the regional share is 214,000 units, Marin County's share is 2.3% of that regional share, and San Anselmo's is 2.3% of Marin County's share, or adequate sites for 113 units. Baird stressed that the Town is not required to build the units, but is required to make sure that there are no impediments to those units being built.

State law requires that sites be provided for a variety of income levels. The term "Extremely low income" includes retail sales employees, postal clerks, middle school teacher, etc. Baird noted that the Town's "need numbers" have gone down from the last round (149 for the period 1999-2006).

Baird observed that the need numbers of units for extremely low income households and very low income households is very close to the Town's current distribution in these categories, reminding all present that part of the intent is to maintain the diversity that already exists in San Anselmo.

Marin has a lot of single-family detached housing. There's a significant linkage between housing and climate change in terms of transit-oriented development. Vehicles contribute fifty percent of the greenhouse gases in the Bay Area; consequently, commuting distances, or the need to drive as opposed to walk, are significant.

We also have an aging population, which presents a need as San Anselmo goes forward.

From an overall standpoint, from having worked with a number of communities, Baird believes it's important to try to achieve a certified housing element. Trying to tailor the state's defined need to the Town's needs and linking it with other goals is important. In terms of a context for our housing and our approach in the housing element, there is a very minimal projected increase in population in Marin County. Looking at San Anselmo over the next 20 years, the projections estimate that we will need to add approximately 165 units, which does not amount to many units per year.

One out of three of the new households in San Anselmo are projected to be a single person household, which is higher than our current ratio. Housing units for special needs populations

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

and young adults is growing, so a strong case can be made for making various types of housing available and there is the obvious linkage with greenhouse gas emissions.

In terms of potential housing sites, the approach is to strive to try to address these senior and single person needs, to create more walkability, and to encourage housing near transit, while making sure that any sites designated are also consistent with the Town's current General Plan and existing zoning. There are very few large sites and few opportunities, the exceptions being Red Hill School and Sunny Hills as potential sites for larger scale development.

Regarding the distribution of housing, from the hub bus stop looking out one-third to one-half of a mile takes in part of Greenfield Avenue, down San Anselmo Avenue, and over to Red Hill; a lot of this infill area is viewed as where walkability could be enhanced. This is very consistent with the Town's goal in terms of what is allowed with mixed-use development, infill development, and supporting downtown businesses.

Looking at single-family-detached lots located on scattered sites over the next 20 years, an estimated 20 new second units, 20 multifamily infill units on scattered sites, and 40 units on one of the larger sites could be designated. Baird reminded all present that this is just an example of the direction the Town could take. Infill mixed-use downtown, along San Anselmo Avenue, and along Greenfield Avenue could provide a total of 65 new units, resulting in about one-third of the total number of units being designated in that area. This is one way of making sure no one area is overly impacted.

The strongest recommendation related to key changes from the 2004 housing element concerns the formation of a Housing Element Implementation Commission that would provide local authorship and tailoring of programs and approaches to San Anselmo, providing outreach to the community, and exploring the nuances and options as they relate to many of the implementing programs.

The second recommendation advocates a much stronger outreach approach, with the Housing Element Implementation Commission taking a strong role in that, including community education regarding affordable housing and an examination of how housing relates to other community goals.

There is a strong linkage between State funding of affordable housing and a community having a certified housing element that encourages sustainability and walkability. Consequently, considering the area that is one-third to one-quarter mile from transportation is important in securing funding.

Baird presented the key changes as indicated in the errata sheet. The Planning Commission and the Housing Element subcommittee brought a lot of recommendations included in the errata sheet forth.

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Councilmember Kroot asked what the process is going forward.

Baird responded that if Council feels comfortable with the preliminary draft errata sheet, the next step would be to prepare the proposal for HCD review and submit it, consider and respond to HCD's comments, hold public hearings of the Planning Commission, and finally hold public hearings of the Town Council before ultimately submitting it for certification by HCD and adopting the element as part of the General Plan.

Thornton asked for clarification on the role of Council in the current meeting.

Henderson clarified that what is anticipated is holding the workshop tonight and then bringing The Draft Housing Element back as a formal public hearing item, at which time Council would approve sending the Draft Element to HCD for review. Following review by HCD, it would come back through the Planning Commission and Council.

Baird advised that the ideal process is to solicit comments from HCD, develop modifications to the draft, and secure preliminary approval from HCD so that whatever is brought back to the Planning Commission will tell us what will be certified. Once the element goes through the Planning Commission and Council, it is sent back to HCD for formal certification.

Councilmember Greene asked if a letter of written comments is provided after HCD's initial review.

Baird affirmed that a letter would be provided and that there is a good working relationship with HCD staff.

Greene said that his understanding is that the Town has to have a housing element, but is not required to implement it.

Baird advised that it is the Town's responsibility to set the table: to provide adequate sites zoned in adequate densities for a variety of housing types, and to make sure there are no impediments to that housing being developed. The Town is not required in any way to build the housing.

Greene asked if the Town is required to adjust zoning to facilitate the development of housing should some private person or corporation want to do it.

Baird responded that within the context of local goals, planning, and regulatory intentions, the answer is yes.

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Greene observed that there is a tension in the force of the State predominating over local desires.

Baird responded that the housing element forces the Town to look critically at all of its rules and regulations for someone who wants to develop housing on the sites the Town has designated for housing. If any rule or regulation appears to be an impediment, then it's the Town's responsibility to address or remove that constraint.

Town Attorney Riley Hurd confirmed Baird's analysis, adding that the question is whether or not a municipality can achieve certification from HCD. If it can, the municipality gains a lot of insurance liability-wise and carryover-wise. There are very few requirements in terms of taking action; the homeless shelter is one element that is required. In that regard, the zoning code must be changed within a year.

Councilmember McInerney asked for the current legal status of in-lieu funds and whether or not there have been any recent court decisions.

Hurd referred McInerney to the Palmer/Sixth Street Properties LP v. City of Los Angeles case outlined on page 11 of the errata, cautioning that it is not yet known how this case will relate to in-lieu fee situations in general because it concerns a very limited class of ownership. Hurd advised that except for this particular situation, which is rare, in-lieu fees continue to be implemented on a regular basis.

Kroot commented that in-lieu fees have been controversial with the Town's Planning Commission and asked if they are the best course of action.

Thornton asked what is required and what is the Town asking for in terms of in-lieu fees.

Baird offered that in his opinion the Town is relying on a lot of mixed-use development in areas that have been planned or at least zoned to allow for mixed use for many years. From discussions held to date, he gathers that it is believed some things need to be put in place to encourage that development to actually happen. He believes HCD will have a similar take, concluding that there are impediments to that type of development, specifically to infill development taking place near the downtown. Baird observed that it isn't easy to estimate specific numbers in terms of requirements and minimums, adding that the safety net is that many of these ideas would be implemented through the Housing Element Implementation Commission, meaning there would be a subsequent process to review and determine whether these items are appropriate for the Town or not. It is possible that HCD may come back to the Town and say, "you need to be more specific in terms of what you are planning to do," or, "you don't have adequate sites; you need to provide more sites where we have some certainty that development requirements can be met."

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Hurd stressed that HCD doesn't provide a mandatory/non-mandatory list except for a very few things that come from the legislature in terms of the two senate bills that have been addressed; rather, it's a matter of creating a complete package that is sufficient.

Kroot asked if it is up to the Town to decide the importance of in-lieu fees.

Hurd affirmed that it is.

Commissioner Brown observed that the Town is required to meet certain numbers and that how those numbers are met is up to the Town; in-lieu fees represent one way, the Housing Element Implementation Commission (HEIC) represents another. Brown believes that the HEIC is the best way to achieve those numbers.

Greene asked if second units have been addressed as a way to meet some of the requirements, noting that San Anselmo residents substantially support second unit development.

Harris replied that second units were discussed, adding that second units are rental units, so the issue of affordable ownership does not apply to them. The Planning Commission is generally supportive of second units as an affordable housing opportunity.

Overberger said that there was some discussion of converting single unit housing into multiple units.

Kroot believes this is an excellent way to allow for more affordable housing. His experience has been that more second units are disappearing than people realize and that an amount of housing stock is being lost because of that. It has been his experience that when the second units are built, at least two-thirds of the time they are built for family members. He's appreciative of the work the Planning Commission has done in this regard and believes there is an opportunity to go even further. The Town's current rules dictate that in many cases, for those with smaller houses. Kroot concluded that second unit housing integrates into the Town's neighborhoods quite easily.

Baird encourages second units, particularly in light of the fact that the population is aging; older residents can stay in small second units and rent out the larger houses; this is a way of keeping them in the community.

Zwick suggested that by changing the ownership requirement so that a homeowner does not have to occupy the main house a lot could be accomplished. The Planning Commission wanted to allow lot coverage and other standards to be made exceptions as opposed to variances and that alone would make it extraordinarily easier to take it on a case-by-case basis and encourage second units. Zwick observed that the Planning Commission, Council, and residents

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

in the audiences seem by and large to be in support of second units, as it was the least controversial of the topics of discussion.

McInerney asked what areas generated the most discussion and whether or not there are areas of compromise because of disagreement.

Zwick responded that one topic was whether or not it is a good idea to identify specific sites for extremely low and very low to moderate income housing. Few specific sites were called out.

Brown noted that Greenfield Avenue neighbors felt singled out and believed that the greater proportion of the sites were in their area. Another controversy related to in-lieu fees and what size projects should require the fees or whether the fees should be charged at all.

Zwick questioned whether enough in-lieu fees could be collected to make a substantial impact on any upcoming project, because San Anselmo is such a small town. He wondered if there is some way of collecting in-lieu fees with nearby towns so that ultimately some affordable housing could be developed.

Brown added that Commission members talked about a joint project with Fairfax and Ross in this regard.

Thornton would like more input on in-lieu fees, observing that if someone wanted to build a duplex and was required to pay in-lieu fees, it would probably be too expensive for them to take on the project. This discourages building second units and puts a large burden on people who rent or buy those units. Thornton had assumed that in-lieu fees were associated with larger projects involving a developer who declined to put in low-income housing. In that situation, an in-lieu fee would be paid so the low-income units could be built somewhere else. Thornton believes the culture in San Anselmo is to encourage smaller, multiple units, perhaps two or three per lot.

Overberger replied that the reality is that few are building duplexes for low to moderate income, asking how this type of development can be encouraged in an environment that demands a certain type of property in order to secure a return on investment.

Harris observed that whether or not in-lieu fees create a burden depends on what the actual in-lieu fee amount is relative to the development cost. Because there are so few multi-unit developments done in San Anselmo, the thinking was that if the number of units is reduced so that in-lieu fees are required at two units instead of five to meet the threshold sooner, more in-lieu fees would be generated. A lot of consideration was given to changing density zoning to allow smaller units like studios and to provide for variable zoning. The thinking was that

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

something along the lines of a Santa Barbara model that would encourage smaller units, particularly given the demographic projections of single family households.

Kroot agrees that the in-lieu fees are very difficult and could harm the ability to develop smaller projects. Building a small one-bedroom second unit costs \$125,000, not including land and soft costs. He offered that in Sonoma County, when building a house, a second unit is required as well, and if it isn't built, a substantial in-lieu fee is collected.

Harris reminded all present that Council may or may not adopt in-lieu fees; it is another option on the table.

Thornton referred to the Regional Housing Needs Allocation (RHNA) figures in Baird's presentation, observing that 32% is what is being provided today as opposed to RHNA's figure of 22%. She observed that some of the ideas that have been put forth come from areas that have huge growth and development. In those cases, in-lieu fees are spread over a lot of units. In-lieu fees, in fact, cost the other individuals in that development more money. Thornton wants to be careful that in San Anselmo there are no unintended consequences to what is done. She views San Anselmo as being at the lower end of affordable housing within Marin County and concluded that this is why the Town has a lot of young families and existing apartment units. Thornton conducted a recent study of population per square mile within the Town and noted that San Anselmo was off the charts in comparison to other areas, with 4000 per square mile vs. other communities with density figures of 400 to 500. There are a lot of lower income and very low income units available at present.

Baird reminded all present that the intent is to say that by addressing the RHNA numbers, the achievement is maintaining the current diversity. There are a lot of communities in California who cannot do that and San Anselmo has a chance to meet that goal.

McInerney observed that the chart indicates a lot of low income people, but not necessarily a lot of low income housing. Many may be stretched into housing that they really shouldn't be living in and there are many seniors who are house-rich.

Baird affirmed that this is the case.

Kroot would like to see an emphasis on mixed-use housing. His experience is that some sites have been considered only to be rejected because development was not economically feasible, but that there may be opportunities on the lower end of San Anselmo Avenue.

Brown said the Commission considered the hub, along SFD in both directions from the hub, and Red Hill as key areas to look at in terms of mixed-use and multi-use development because of the proximity to transportation, neighborhood services, and downtown merchants. He added that the subcommittee and Planning Commission tried to take a balanced approach—



**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

not changing neighborhoods dramatically—rather, asking what can be done that will impact the neighborhoods in a more subtle way, not overburdening any one area of town in trying to accomplish the goals.

Harris pointed out that there was a lot of discussion about how to best use Town-owned property and consideration of whether or not Town-owned property was an option for a homeless shelter.

Overberger asked if the Seminary's downsizing was discussed as an opportunity.

Harris said that it was and that it had been determined this was one of the areas the housing committee should look into.

Kroot asked if the site for the homeless shelter could be made a planned district that would be allowed under certain conditions.

Baird replied that the homeless shelter must be a use by right not by use permit; it must be a geographically designated site.

Zwick noted that Commissioner Sisich advised that the only way to make the State numbers is by utilizing a Town-owned site because of the way the equation works out when they evaluate competing sites throughout the State for allocating the limited funds or tax credits available.

Thornton asked if in-lieu fees are the same as housing impact fees.

Hurd replied that "in-lieu" means "in-lieu of an entire unit." A housing impact fee is a percentage of the cost of one unit.

Thornton asked for clarification of the Planning Commission's plan/recommendation with regard to in-lieu fees.

Harris responded that the Town is simply required to remove impediments to affordable housing.

Thornton asked if setting in-lieu or housing impact fees is a requirement.

Baird stated that with regard to setting the table, he believes that any of the items that would remove potential constraints or encourage housing to be developed would be of interest to HCD and that HCD may even go further and ask for a commitment because that type of development hasn't happened. In terms of funding mechanisms or other things that are providing affordable housing, there is a lot leeway with regard to how far one must go. Baird

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

suggested looking at (1) what are potential impediments and (2) what are some of the things the Town could be doing.

Zwick asked if HCD views housing impact fees as a constraint or advocacy for more housing.

Baird replied that HCD requires any inclusionary requirements to be evaluated as potential constraints to housing. The agency is policy-neutral with regard to inclusionary as a requirement, but it must be evaluated as a potential constraint in a housing element.

Zwick asked if HCD considers a municipality's history.

Baird believes they look at a town's track record, recognizing a town's best-faith record.

Thornton noted that with regard to inclusionary housing, Baird had indicated that it may not be a benefit in the eyes of HCD; however, she sensed from the discussion that the Planning Commission thought it was looked on favorably and that this is the reason for taking it down to two units.

Kroot reminded all present that Council has the opportunity to go over the element one more time and possibly make some adjustments on those numbers.

Harris asked what type of development inclusionary zoning would impede, adding that it wouldn't necessarily be an impediment to affordable housing. If the goal is to really try to do something real about affordable housing, generating an in-lieu fee where one would never have been generated before is a way to generate some funds that would somehow go to affordable housing. And on balance, the risk of being an impediment to non-affordable housing development vs. having in hand some in-lieu fees or impact fees that could go toward affordable housing, the balance is struck toward generating monies for affordable housing.

Thornton observed that the volume would need to be there.

Brown thinks it would be a good idea to explain the Santa Barbara Zoning Density Bonus to Council. He has always equated affordability of housing with size and determined that the more smaller units that can be developed, the more affordable by virtue of the size and the cost to build. Brown believes a variable density bonus provides that carrot.

Baird said that the idea behind it is that smaller units have less impact and since there are increasing demands for single person household units or senior units, the idea behind it is that you treat a standard unit as a two- bedroom unit and when we consider densities, we think of units per acre but those could be anything from three or four bedroom units to studio units. This presents a two-bedroom unit as a starting point so that a one- bedroom unit would equal .75 of a unit and a studio would equal .5 of a unit. Consequently, you could get two studio

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

units for every two-bedroom unit. Santa Barbara in some ways penalizes larger units. If you go to a three-bedroom unit, it is counted as a 1.25 of a unit. The Commission didn't go that way to penalize larger units, considering larger units as family units instead.

Harris has been very impressed with the number of San Anselmo residents who work in housing or have an interest in it and seem knowledgeable and passionate. He hopes that these residents will continue to be a resource.

Thornton asked how the Town's housing element compares to those in other jurisdictions.

Baird responded that the true success of an element is what is offered locally and he is proud to be associated with San Anselmo's housing element.

Thornton opened the discussion for public comment.

Whitney Merchant, a Greenbelt Alliance Field Representative and San Anselmo resident, has been following four housing elements recently. San Anselmo's makes her proud to be a resident. Merchant feels that the Housing Element Subcommittee and others are excited about the prospect of real change; she's disappointed to hear the tone of some of the councilmembers. Merchant feels this is not something that should be viewed as the State mandating what the Town should do. She hopes the Council will see this as an opportunity and that it will carry through in that spirit. Merchant added that in-lieu fees are necessary and that the market will be the determining factor in deciding in-lieu fee amounts; she advocates in lieu-fees beginning at two units.

Michael Rex of 42 Sais Avenue spoke both as a San Anselmo resident and an affordable housing advocate. He is very pleased with this element and asks the Council to send it on to the State to see what their comments are. He is pleased with Baird's work and stressed that no one is seeking a final decision at this time, rather looking for flaws before passing it on to the State. He noted that a few items need to be included before the element is sent to HCD: (1) consideration of conducting EIR and traffic studies for affordable overlay density districts to remove some impediments to those bringing projects forth; (2) provide minimum density in a few zones to prevent underutilization; (3) encourage planned developments as they provide greater opportunity to create housing units; (4) create live/work spaces properly by adopting an ordinance that will define those standards; and (5) examine residential zones around commercial zones to consider a higher density in some areas.

Bill Murray of 32 Lincoln Park is concerned about the impact this would have on his neighborhood, noting that Lincoln Park is already used as a short cut. He's concerned about parking and about the placement of a homeless shelter. Murray added that he wants to comply but does not want his neighborhood to bear the burden.

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Lisa Bell of 46 Lincoln Park requested that Council consider changing the element to add a limit to the number of units that can be built in any one area and believes the situation should be considered in terms of maximum rather than minimum density. Bell added that Lincoln Park already has its share of residents living in supported housing.

Lisa Roth of 29 Woodland Ave has been looking for housing close to work and requires more space than the one bedroom/carport unit she now inhabits. Roth would like to encourage the community to create a housing element that addresses issues and asks how incentives can be instituted. Roth suggested that additional funding might be required and offered that a community center could provide winter housing for the homeless.

Scott Couture of 15 Allyn Avenue noted the difficulty in affording a home in San Anselmo. Couture is concerned about his employees who cannot find affordable housing in the area and need to drive great distances to work. Couture added that he is disturbed by the tone of the discussion and does not believe any affordable housing was created by the prior housing element. He asked for a working document that will be effective, adding that the housing element has potential but that Council and staff must put momentum behind it.

Thornton reminded all that this is a workshop with the goal of gaining a better understanding of the element itself and that the desire is to set appropriate expectations within the Town. She advised those present that it would be a mistake to assume that discussion or questions in this context imply resistance to a plan.

Kroot doesn't think anyone present is against affordable housing. He worked on the Tam House, an example of affordable housing, as an architect. The question, as he sees it, is how to get there from here, and he has difficulty seeing how the in-lieu fee will work for San Anselmo.

The Housing Element will now proceed to a meeting before the Town Council to make a recommendation to send it forward to the State Department of Housing and Community Development for review.

Thornton announced a five-minute break.

Senior Planner Phil Boyle presented the staff report, providing background regarding development of the Town's Green Building Ordinance, a brief overview of the Marin BERST process, and a review of key issues.

Kroot asked why GreenPoint Raters are necessary, as the County has an effective checklist for evaluating energy efficiency and green building efforts.

Boyle responded that for new homes and larger remodels, a GreenPoint Rater provides a third party, independent appraisal of the project that doesn't burden staff with extra review. The

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

rater has been trained and is a professional overseen by Build It Green, the organization that checks the rater's certification. Boyle noted that the County recently adopted this program.

Kroot asked what the rater brings to the project that isn't already represented in the plans and examined in field checks.

Boyle advised that the number of points that can be attained is quite large and not something that can be easily reviewed by the inspector or counter staff. Boyle added that there is also the enforcement aspect, as the rater is audited by Build it Green and his or her professional certificate is on the line.

Kroot sees this effort as creating a new profession at a bureaucratic level. Title 24 is a point system also and requirements can be made through that process.

Brown advised that most homeowners who come to the counter don't know what's possible. They can rely on a GreenPoint Rater to help walk them through the process of increasing the efficiency of the home. Brown says the Planning Commission looked at this as an educational opportunity for the homeowner. He noted that Boyle has completed Build It Green Certified Green Building Professional coursework and can speak intelligently with people who come to the counter, but doesn't necessarily have the time to go into the depth that may be needed on a particular project.

Boyle added that there are some similarities between a Title 24 specialist and a GreenPoint Rater; both have special skills that evolve as requirements and projects constantly change; both require a level of expertise.

Greene asked if the GreenPoint Rater is a hand holder or a building inspector.

Boyle sees the rater as a combination designer, interior decorator, energy consultant, and one who knows the options for achieving these points. Ideally, a homeowner would meet with the architect and the rater early in the process. The rater can discuss the options for achieving points. The rater also inspects the home several times to make sure that the actual features (insulation, furnace, hot water system, etc) meet the stated objectives.

Brown pointed out that some of this work takes place in the design phase of the project—before an inspector is involved—so the rater cannot easily be replaced with an inspector.

Overberger sees a potential overlapping of responsibilities of the Title 24 inspector and the GreenPoint Rater and asked for clarification on their respective roles.

Boyle advised that the building inspector will continue to inspect the building at different stages. The GreenPoint Rater can suggest ways in which project can earn points, advocating

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

the use of one particular type of material over another in order to earn a specific number of points. The installer of that material provides a receipt to the applicant, who gives the receipt to the GreenPoint Rater, who adds that receipt to the package to be submitted to Build It Green when the project is complete. An example of a rater going to a home might involve inspecting the framing of a house. Framing can be done a number of different ways, some involving more lumber than others. The rater would inspect the framing for compliance with the reduced framing requirements.

Zwick shares some of Kroot's concerns, as he also has used the County's checklist for years. Zwick believes BERST goes beyond the checklist. He has not been an advocate of adding layers of inspection, but believes we want to be in common with the County and the other towns. BERST's point system is not necessarily directed toward energy efficiency alone but toward global sustainability.

Kroot has no problem with point systems. Some of it seems redundant to what already happens between the designer and the applicant/owner.

Harris advised that the Planning Commission wrestled with this issue and there was not a lot of enthusiasm for encouraging a new profession. He noted that the goal is to make sure the checklist is being utilized. Self-verification processes didn't gain a lot of support or confidence. There is the added issue of staff time and expertise. The feeling was that we needed to start this process and there may be growing pains. In time, perhaps the staff will have the expertise and the homeowner will not have to incur the expense of an added advisor.

Brown confirmed that voluntary fulfillment was not viewed as a viable option. He asked what Kroot thought of the idea of the architect being the one who verifies that the work is done.

Kroot doesn't see the need for the verification process. He's concerned that there is a lot of "smoke and mirrors" with green building and new materials. Requiring the additional layer of this verification process creates a liability.

Harris asked if continuing the current process encourages green building.

Kroot endorses the point system the county provides and notes that every architect does have that conversation with his/her client using the county point system.

Harris asked what the verification system is for the County's list.

Kroot responded that the requirements are on the plans and confirmed by the plan checker; then the inspector makes sure that the requirements are met on site.

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Harris asked about the possibility of using the GreenPoint checklist and whether or not consideration had been given to the architect and inspector making sure the checklist was completed.

Boyle responded that it would certainly require more inspections by the building inspector because the inspector would be looking at a new list requiring additional inspection time.

Harris asked if that would mean increased inspection fees.

Boyle said that it would, adding that it costs approximately \$1500-\$2500 to have a GreenPoint Rater review the documentation and confirm the work. If that individual is getting the same hourly rate as a building inspector, we have some idea of the increase in fees that would be required. A GreenPoint Rater is an independent individual who strikes a deal with the homeowner, just as the architect or contractor does.

Harris asked if a certificate is issued at the end of the project.

Boyle affirmed.

Brown observed that there are factors outside of what the building inspector would inspect. The inspector would not be in a position to confirm the use of recycled materials in countertops or of low VOC paint or solvents.

Thornton added that several cities didn't want to hire additional staff or put additional workload on current staff; this was the case with San Rafael.

Brown noted that the certification is optional.

Greene offered that in looking at the checklist, he doesn't see anything that can't be done in-house. The list doesn't seem qualitatively different from what the building inspector deals with. Bringing another person to the process could be helpful or not, depending on the individual's biases.

Henderson indicated that the role of the GreenPoint Rater is to make recommendations to the homeowner, as well as to actually account for those points. Just as an architect provides advice, the rater would advise as well and staff should not be in a position of recommending alternatives, just as they do not design houses for people.

Greene would like clarification as to whether the rater is an advocate or enforcer.

Brown feels that the main point of emphasis is education. If the choice is between enforcer or educator, Brown advocates an educator role. The idea is to show homeowners how they can

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

make their homes more energy efficient. GreenPoint Raters are needed primarily on new homes, not on remodels. Brown observed that building a new home already requires hiring a team of advisors, possibly including an architect, geotechnical and/or structural engineer, Title 24 consultant, etc. Potentially introducing one more persons on that team, or an existing person who takes on this role is not that much of a change.

Overberger pointed out that homeowners need help on these issues and that a GreenPoint Rater should be viewed as another resource, particularly as education is an important component.

Krebs noted that 90% of the building in San Anselmo is related to remodels. He feels reliant on staff to advise on how much time it's going to take, noting that some of the analysis may not be complex, but time-consuming.

Zwick opined that it is important to make our buildings more energy efficient one way or another. He concurs with Krebs and advocates determining what it would take for individuals to go through the checklist. He added that if an individual is building a new house and requires an advocate or teacher, there is no reason not to bring another educational consultant or team member into the project.

Harris suggested that using the services of a GreenPoint Rater for new construction and staff for remodels makes sense.

McInerney asked if an architect could become a GreenPoint Rater.

Zwick believes it may create a conflict of interest.

McInerney is skeptical that it makes sense to have staff in this role, not just because of the cost. He imagines it will delay projects. If staff feels they can do it in a timely manner, let's do it. If the issue is cost, maybe address that by identifying ways to minimize cost. Identify GreenPoint Raters who don't charge too much. McInerney asks if all the municipalities aren't already moving in this direction and believes it makes sense to go in this direction with them.

Kroot stated that he is not against the program; rather, he is concerned about the rater and the cost to the homeowner. He noted that the County's list contains a lot of items from the BERST list.

Boyle observed that despite the success of their previous program, the County has chosen to raise the bar and to go with this BERST program for a variety of reasons.

Hurd's understanding is that the County is switching to using a rater vs. voluntary check list because they had enforcement issues. People were not being completely honest on the list



**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

and County staff didn't have the capability to catch it all. Hurd reminded all present that passing a green ordinance requires addressing the question of how stringently it is to be enforced. The next step is deciding who bears the cost of that enforcement. If it is to be done in-house, new employees will be hired; Hurd envisions a scenario of hiring someone and paying their benefits while they are learning and not necessarily contributing immediately. Hurd's understanding from the Planning Commission is that the Town is not in a position to hire more staff and that the cost should be shifted.

Greene feels that the homeowner is being placed in the position of being required to become educated or hire an advisor. He also believes the role of the GreenPoint Rater is inherently conflicted and is not sure if, in the end, the rater is an educator or a persecutor.

Hurd suggested considering a compromise—perhaps hiring a part-time employee, noting that enforcement will not be stepped up as it would with an independent GreenPoint Rater.

Overberger observed that one can't purchase staff time for the cost of a GreenPoint Rater's fee.

Harris asked a rater how much time they would spend on a project and the response was 15 to 20 hours. With regard to Greene's comment, He noted that there are plenty of times when people wear more than one hat. An attorney wears more than one hat when he acts as an advocate while being required to act as an officer of the court and citing law even if it works against him. The point is that a GreenPoint Rater's reputation is on the line and he must protect it. The Town wants to encourage green building.

Harris doesn't believe raters will be required for very long. As the building community and staff become more sophisticated, the need for raters will disappear. In the meantime, we need to join other municipalities in creating the momentum needed to make green building the standard. In five or ten years, a checklist may not be needed.

Brown observed that the State updates the Title 24 energy code periodically. In addition to Build It Green, there is Assembly Bill 32, the Global Warming Solutions Act. The Town can show that best efforts have been made through this program to reduce greenhouse gas emissions.

Thornton added that new homes will be there for decades, so it's best to get these features today. This is an important step. Involving a GreenPoint Rater informed on the latest technology and materials to identify potential energy savings is an important step, perhaps more important than the inspection aspect.

Thornton opened the discussion for public comment.

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Barbara Geisler of 405 Redwood Road sees irony in discussing affordable housing in tandem with discussing placing this burden on homeowners. Geisler believes the Town is making laws simply because other municipalities are making them.

Michael Rex is in favor of adopting BERST. All need to do what can be done to protect the planet and the effort can't be expected to be voluntary. There is a certain quality expected by our culture and to mandate this is appropriate. As to who should certify all this, Rex has found certified specialists very knowledgeable. Neither the builder nor the inspector should be held responsible for the checklist. Other communities have dealt with this. Mill Valley allows the architect to act as rater for smaller projects. Rex doesn't see any conflict of interest there. Larger, more complex projects have the budget to fund that expertise. This checklist is only one way to become sustainable and is not sufficient on its own. Rex asks Council to consider adding a new element to our general plan addressing sustainability and alternative energy sources, affordable housing, and alternate modes of travel.

Whitney Merchant believes this country is behind most industrialized nations in these endeavors. She is inclined to think a rater is a great idea. She added that it may seem incongruous to view the rater as a helper and an enforcer, but she does not see any issue there, as these are aspects of the traditional role of a teacher. Merchant would like staff to project a cost/benefit analysis determining which is more cost effective—relying on staff or hiring a GreenPoint Rater. She's not certain that building staff have the expertise to learn what's needed. She would also like to see more water conservation measures in the BERST program.

Kerry Vetchauser of San Anselmo just opened the waste station at Fairfax Lumber. Her passion is reuse and keeping things out of the landfill and not letting good materials go to waste. Vetchauser would like to see the placement of waste management at the forefront of the BERST program. Reducing the consumption of resources and toxins should be incentivized. Vetchauser believes that reducing the cost of building permits by encouraging deconstruction rather than demolition, or fast tracking the permitting process for deconstruction projects are good first steps. The waste station at Fairfax Lumber is non-profit and homeowners are offered a tax deduction for donating materials to reuse facilities such as this one. Vetchauser noted that there is a home about to be torn down on the border of San Anselmo and Ross. The home is filled with redwood and she has been receiving many calls for reused redwood. Vetchauser cannot meet the demand for recycled redwood.

R. K. Stewart, San Anselmo resident and architect, has been in the sustainable design movement for the past decade. Stewart notes that standards are going to ramp up very quickly and that in addition to LEED and GreenPoint Rated, there are dozens of programs that are perhaps more applicable to Northern California. Energy efficiency, water conservation, and green house gas reduction are all addressed. Regarding GreenPoint Raters, Stewart feels their focus is on counting points rather than developing sustainable design. Stewart advocates

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

relying on staff for help because adding another layer of bureaucracy doesn't help the process. Stewart encourages looking at how to deal with existing buildings.

Overberger would like to revisit the idea of using architects as raters on small projects.

Zwick noted that in some cases architects aren't going to know the latest developments, but that it may not be that difficult to keep up.

Kroot noted that the County list has two columns—designed and completed, adding that it is not very difficult to go down the list and check items off as appropriate.

Krebs announced that the Planning Commission is ready to adopt or recommend an ordinance at the next meeting. One of the goals of the workshop is to get feedback from Council as to what they would like to see and to do it in a fairly efficient manner. If it were feasible, Krebs would like to see the architect take some of the responsibility. Krebs doesn't want to impose additional cost on homeowners.

Zwick responded that architects specify measures and make recommendations consistently; they also make certain that requirements are being met.

Kroot believes that staff and architects can accomplish these goals.

Greene supports relying on an efficient checklist and does not believe a GreenPoint Rater is needed. In his opinion, the rater will be concerned with gathering points rather than insuring functionality.

R. K. Stewart believes the focus should be on the design and construction teams and the synergy that results from their working together. Outcomes are more important than the checklist.

Boyle reminded all present that as a Town, we are able to address what happens to a home at two points: when it's built and when it's remodeled. Green building attempts to make it better at both points.

Kroot noted that as an architect, he is already writing a letter confirming that the building meets the specifications and wonders how much more difficult it would be to include a statement that the green building requirements have been met.

Henderson stated that the Town is fortunate that Boyle has an extensive green building background, which would not necessarily be the case with other planners. She added that at current staffing levels, the rating cannot take place in-house.

**TOWN COUNCIL AND PLANNING COMMISSION  
JOINT MEETING/WORKSHOP  
Minutes of April 12, 2010**

Brown talked about sponsoring workshops in Town to teach about green building.

Henderson responded that the Marin Builders Association is conducting a large campaign for education and suggested working with them.

Harris hears a general desire for the green building, but the next step is not clear. BERST has spent a lot of time with technical people on this. If momentum is not to be lost, the Planning Commission needs direction.

McInerney feels prompt action is necessary. He's not as skeptical of the GreenPoint Rater, indicating that problems can be addressed as the process moves forward. The Planning Commission should address some of the issues and send it back to Council.

Zwick agrees with McInerney on moving forward.

Thornton agrees that the Planning Commission can conduct their final review and then send it back to Council. She would like to have more information from Stewart with the idea in mind of making changes as the effort moves forward.

Rex announced that in conjunction with April 24<sup>th</sup> as Earth Day, the College of Marin is holding an event and asked that the Town let residents know about the event on the website. He added that the Marin Board of Realtors is considering the addition of an energy audit to homes on the market and feels this is a great incentive to homeowners to look at their energy consumption. Homes would be rated by the home energy rating system (HERS).

Thornton thanked the Planning Commission and announced that the updates listed on the agenda, which were not discussed tonight, would be addressed at a future meeting.

The meeting was adjourned at 10:45 p.m.

Respectfully submitted,  
Nancy Harris