

**TOWN OF SAN ANSELMO**  
**Minutes of the Town Council Meeting of January 8, 2002**

Present: Breen, Chignell, Hodgens, Kilkus, Kroot  
Absent: None

8:00 p.m.

- CALL TO ORDER.
- PLEDGE OF ALLEGIANCE
- ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

Mayor Hodgens announced that no decisions were made in the closed session.

Mayor Hodgens said that she would like to add an item to the agenda regarding the Fairfax Town Council agenda item this evening to approve a proposed letter of intent, which includes San Anselmo, with the owners of the Marin Town and Country Club. The need to take action arose following the posting of the agenda.

M/s, Chignell/Breen, to add the above item to the agenda between Item 5 and Item 6.  
Ayes: All.

- OPEN TIME FOR PUBLIC EXPRESSION.

Bill Franchini, Agatha Court, said the deer on the Town Hall lawn was given to the Town by the Dondero family. Daisy Dondero recently died. It would be nice to have a plaque saying the deer was donated by the Dondero family. Kroot said some work is planned for the deer to refurbish it in line with the Town Plaza work.

Melanie Kramer, Fourth Street, San Rafael, spoke regarding the regulation of secondhand dealers in San Anselmo. She lost some important relics a while back. At that time she found out that secondhand dealers are defined narrowly in San Anselmo. She understands that San Anselmo is a fencing haven. The problem is the definition of second hand dealers.

Al McPeters, Rancho Drive, spoke regarding the slide off Oak Springs. A large fissure has opened up and he wondered if the town can do anything to remedy this. Town Attorney Roth said he talked with the property owner's attorney and notified him of the problem. The attorney indicated he would look into it. The parties may work cooperatively to winterize the property. Roth doesn't recommend that the Town take any action at this point. When asked his opinion of the slide, Public Works Director Elias said the fissure area should be covered. Hodgens said the Town Attorney would get back to him within a week.

- COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, QUESTIONS AND COMMENTS TO STAFF; STAFF MISCELLANEOUS ITEMS.

Kroot said since most of our downtown funds have been raised and spent, could the Town Administrator get back to the Council on whether it's time to handle the funds in house.

Breen said he would like a report and recommendation on the proposed Proposition 42 on which the league is seeking an endorsement at the next meeting.

Chignell said he would like an agenda item on the second meeting in February, regarding his proposal on changes to our telecommunications ordinance. He will delineate the issues to the Town Attorney that are covered in more comprehensive ordinances.

Chignell asked for a report from the Town Administrator and Public Works Director on status of projects at 55 Alder and 1029 San Anselmo Avenue, both under construction for many years with little progress. A timeline was put together by Building Official last year, but it appears that nothing has changed.

Kroot said he had wanted an ordinance on time limits for building permits. Perhaps this could come up at a meeting in February.

Town Administrator Miles said the Olympic torch will come into town on Saturday, January 19, at about 10 a.m. It will come into town on Sir Francis Drake Blvd. at the Ross town limit, proceed along Drake, turning right on Greenfield to the San Rafael limit.

Town Administrator Miles said the parties in the 132 Humboldt appeal have not yet met, but they have two tentative dates set. If they can reach an agreement, it could be scheduled for the meeting of January 22.

Town Administrator Miles said the issue involving the crosswalk at Madrone has been consolidated into the whole Sir Francis Drake issue and a report will be coming back to Council to ask for funds to do a study. The timing on the light at the hub was switched and the Saturday backup appears to be relieved, at least for now.

1. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE REMOVED AND DISCUSSED SEPARATELY. DISCUSSION MAY TAKE PLACE AT THE END OF THE AGENDA. OTHERWISE, ALL THE ITEMS MAY BE APPROVED WITH ONE ACTION.

- (a) Approve minutes: December 11, 2001.
- (b) Acknowledge and file financial report for the period ending November 30, 2001.
- (c) Approve expenditure of \$9,000 from the approved 2001-02 budget to upgrade the website to incorporate technology advances.
- (d) Accept as complete the Butterfield/Sir Francis Drake Blvd. Intersection Improvement Project and authorize staff to file a Notice of Completion.

Item (a) was removed for discussion.

M/s, Breen/Kilkus, to approve consent agenda items (b), (c) and (d). Ayes: All.

Regarding item (a), Chignell noted that he left the meeting during the last item, so he was absent for the vote.

M/s, Kilkus/Breen, to approve consent agenda item (a), with the above change.

2. FINANCIAL REPORTS AND MANAGEMENT LETTER ON INTERNAL CONTROLS:

- (a) Accept the 2000-01 audit and general purpose financial statements prepared by R. J. Ricciardi.
- (b) Approve the staff recommended responses to the management letter on internal controls.

Fiscal and Administrative Services Director Pendoley presented the staff report. The audit report was sent to the homes of Councilmembers and the Town Treasurer for their review.

Michael O'Neill, Ricciardi and Associates, presented the audit report. The independent auditor's report gives an unqualified opinion, the best you can get. He went over the financial reports included in the audit. In the management letter, there is just one note dealing with updating the fixed asset list for the current year. The prior year observations were completed in the current year.

Hodgens noted that last year's carryover was allocated into contingency this year. She asked if it's a problem not doing our usual division of 70/30.

Fiscal and Administrative Services Director Pendoley said the Contingency Fund is part of the General Fund. The carryover stayed in the Contingency Fund and won't be spent without Council approval.

Kilkus said it was decided this year not to allocate as it has been in the past.

Hodgens said she wants to be clear about what it is set aside for.

M/s, Kroot/Chignell, to accept the 2000-2001 Financial Report, Audit, and observations on the internal control structure prepared by R. J. Ricciardi, CPA. Ayes: All.

M/s, Kroot/Breen, to approve the recommended response to the observations on the internal control structure, as presented in the body of that report. Ayes: All.

3. APPEAL OF PLANNING COMMISSION'S APPROVAL OF USE PERMIT AND PARKING VARIANCE FOR A RESTAURANT TO SERVE BEER AND WINE WITH TWO ON-SITE PARKING SPACES; 647 SAN ANSELMO AVENUE, A/P 7-212-22, APPLICANT: PRONPIMOL SUWONSUPAR, APPELLANT: PEGGY THONGNOPNEUA.

Kroot said he would abstain from this item and he left the dias. He has done work for the business in question.

Acting Planning Director Wight presented the staff report. The appellant feels that parking is inadequate in the area already, and 20 merchants signed a petition in support of that feeling. Conditions should be changed to require two on-site parking spaces be reserved for customers.

Mathew Messina, Taco Janes, agreed that there is a parking problem in the downtown.

Kilkus said only one space was lost in the downtown area with the beautification project. In addition, evening and weekend parking spaces were added behind Town hall.

Chignell said since the appellant isn't here, we could continue this item, or take expedited public testimony.

M/s, Chignell/Breen, to continue this item until the Planning Director ascertains whether the appellant is going to be here. Ayes: All.

(5 minute break)

Acting Planning Director Wight said the appellant was confused about the date. It could be changed to the meeting next Tuesday evening, January 15.

Joe Castlenuovo, Attorney for Marcelle Weber, said this is a costly process for the property owner and the continuance isn't fair to them. The appellant is only down the street and could have come down here tonight.

M/s, Breen/Chilgnell, to continue this item to the meeting of January 15, 2002. Ayes. All. Abstain: Kroot.

4. APPEAL OF PLANNING COMMISSION'S APPROVAL OF USE PERMIT FOR THREE ANTENNAS ON THE BUILDING, 330 SIR FRANCIS DRAKE BLVD., A/P 6-251-04, APPLICANT: THE ALARIS GROUP, LLC, FOR METRO PCS; NOTICE OF REVIEW: COUNCILMEMBER PAUL CHIGNELL.

Acting Planning Director Wight presented the staff report.

Chignell asked about the number of antennas on the site now – are nine applied for? Were six antennas applied for in the spring? What changed in terms of the coverage issue from then to now? How can this not be precedent setting? What would prohibit us from not allowing any other height variance that might be requested?

Acting Planning Director Wight said there are nine antennas in place. The size of the antennas was changed allowing for fewer antennas.

Town Attorney Roth said there is legally speaking no precedent setting by approving variances, although as a practical matter there may be that perception.

Chignell asked Roth about the El Cajon case, regarding continuing approvals of antennas.

Town Attorney Roth said there has to be some basis for why you want to not allow more antennas. The Omni Point case might be more relevant. The El Cajon case says that just because antennas are there doesn't mean other antennas have to be approved.

Chignell asked about other sites. Wight said the applicant said they need the height provided by this building.

Chignell said the Council was trying to minimize standalone facilities at Bay View Bank in previous turndowns. It has been interpreted that standalone facilities mean the building. Where did staff come up with this concept?

Town Attorney Roth said he believes this is a correct interpretation.

Kilkus said we don't want to have multiple antennas. We encourage co-locations so we don't have them all over the place.

Chignell said the Council's finding when we voted to deny the Bay View Bank was based on that interpretation. The Planning Commission agreed to a two-year prohibition for Metro in the Town; has the applicant agreed to that? Wight said they did not appeal that condition.

Chignell said Zwick and Morita voted against the antennas. What were the comments of the minority opinion? Wight said Zwick was concerned about the visual mitigation.

Chignell asked about the coverage issue. Town Attorney Roth said he doesn't believe that was an issue that concerned the Planning Commission.

Chignell asked what happens if others come in and request more antennas? Is there a threshold number?

Roth said that he believes the Council would have to find a reason to say no, such as aesthetics, etc.

Chignell asked about the height variance. Can we deny a height variance based on tonight's facts? Roth said we would have to have a reason to deny. Precedent setting is always available, but it is not a lawful reason.

Kilkus asked about the height variance. Wight said even though it is just an antenna, it is a height variance if it goes on the building over the 30 foot line.

Kroot said he understands EMF's can't be taken into account. Town Attorney Roth said that is correct unless over they are over the federal guidelines.

Kroot noted that most requests are along Sir Francis Drake Blvd., possibly for cell phone coverage. Some states are thinking of outlawing phones while driving. Is that a justification to deny the antennas. Roth said he didn't think so.

Kilkus said he has had many complaints about the cell phone access problem in San Anselmo.

Linda Sprans, Metro PCS, said the original design was six antennas. The current design is three antennas that do the same job as the six. Sprint has three antennas on the site, Cingular has six antennas already. They were unclear about the variance requirements initially, but they filed for it as Metro and Cingular did too. They did consider alternates for the site, but chose the site for traffic patterns, population and density. Lower buildings would require more antennas. Metro did agree to the two-year prohibition. Regarding coverage, this is a new network, so there is no existing coverage.

Dr. Bushberg, retained by Metro PCS, said the levels from this site would have a cumulative public exposure 15,000 times lower than what is thought to be potentially harmful. The antennas are directional in nature.

Kroot asked how far away the exposure levels are. Bushberg said it would be at ground

level as it's for public exposure.

Chignell asked Bushberg if he testifies similarly for other cities. Bushberg said he has represented municipalities and carriers. He has recommended adjustments be made to antenna sites in the past; he recommends they comply with federal health and safety laws.

Chignell asked about workers getting close to structures. Bushberg said on rooftop facilities signs are placed alerting workers whom to contact to ensure safety measures are taken. Prudent measures should be taken to ensure non-industry workers are protected.

Breen asked if you could compare the emissions to those of a household microwave. Bushberg said microwaves typically emit 10-100 times more than the antennas. But they aren't on 24 hours a day. A typical hand-held walkie talkie is 50-100 times higher than public exposure from antennas. Baby monitors are another example.

Kilkus asked how far below the federal standards these numbers are? Bushberg said they are more than 100 times below the federal standards.

Shirley Kulmanett, Glenwood Avenue, asked about the doctor's qualifications. Dr. Bushberg said he is a clinical professor of radiology at U.C. Davis, with PhD in radiation biology. She asked about the effects on pregnant woman, children, etc. Bushberg said the federal health regulations are set to protect all the public, including children.

Svetlana Darche, Hilldale Drive, asked if the hillside topography affects the geometry. How quickly does the radiation drop off? On children, many recommendations err on the side of caution, such as the thinking that children should not use cell phones.

Bushberg said the energy decreases in increasing proportion as it gets further from the site. Regarding children and cell phone use, the issue tonight is whether the site is safe and complies with federal regulations.

Jim Heard, attorney for applicant, noted that this facility complies with standards set by the Town and others for such facilities. This is a preferred location; it is a shared site, in a commercial zone and avoids free-standing facilities. It adds no height to the existing building. This facility is designed to minimize impact on the community. They've agreed to some very strict conditions, including more frequent testing, indemnification, etc.

Cindy Gueff, Austin Avenue, said there are 44 existing antennas in San Anselmo. She has initiated two petitions in San Anselmo and got 180 signatures of people who would like this to slow down until health affects are known. She questioned the engineering report because only a few sentences are specific to that location. Perhaps there could be an independent peer review of this engineering company. She questioned the SEC standards and the cumulative effects at these locations.

Melanie Kramer, San Anselmo, said she feels this is bad science. She won't live here and try to have children.

Wade Stevenson, 71 Lincoln Park, said his home is on the horizon. He looks out his window at the top of this building and he has two small children. Each application should be considered on its own merits; no variance should be given.

Christine Craig, 78 Madrone, asked that the Council think carefully about each decision for what's best for our small community.

Pat Burton, San Anselmo, thanked the Council for their work in this area. The constituents are counting on the Council to protect them. She has little faith in government standards. This issue is becoming a nuisance to the community. Can't we limit the applications at a specific site? The two year limitation is too short.

M/s, Chignell/Breen, to enforce the three minute rule for speakers. Ayes: All.

John Girton, 15 Avenue del Norte, urged Council to reject this application based on the

wisdom of the situation and the possible public health situation. He has been a chemistry teacher for 30 years, and the experts have often changed their opinions on health hazards. We don't know a lot about the health effects.

Libby Kelly, Executive Director of Wireless Impacts, said she believes this is a public health risk, especially in combination.

Jane Hall, 31 Nokomis, said the application process seems inadequate. We should require more information from the companies submitting applications. The ordinance doesn't provide for independent annual monitoring, independent engineering review or reports, and we don't understand what we're approving well enough. We should require removal of obsolete antennas.

Barbara Wiches, Magnolia, said she would like the applications turned down. She is a pharmacist and has seen drugs withdrawn due to side effects. She is experiencing tinnitus which may be related to RF.

Greg Brown, Magnolia, said he is concerned about the health effects of radiation sources. A community ought to be allowed to protect itself against this kind of pollution.

The public hearing was closed.

Jim Heard, Attorney for Alaris, said there is no evidence of any health effects from this facility. The health risks are perceived only.

Hodgens confirmed that the Council opposed the antennas at the Sir Francis Drake /Butterfield intersection. Town Attorney Roth said we lost the lawsuit. Hodgens asked if this is a similar situation and what was the cost of the lawsuit. Roth said it was \$7-10 thousand.

Chignell said he appealed this to raise the consciousness of this issue in town. There are hundreds of citizens who object to the proliferation of antennas. We know we have no discretion with regard to the health issues. The facts are that we need to reform our ordinance to make it more comprehensive, where we can legally slow down the proliferation of antennas. Antennas have been stopped at several locations around town. He does not want to ban antennas. He believes our ordinance does not allow proliferation of antennas, such as at Bay View Bank. Metro PCS has gone a long way to try to satisfy the Town. Only three of the seven possible Planning Commissioners voted to approve this. It was approved by a bare majority.

Kilkus disagreed and said he believes the people here tonight are a minority. He believes that most of the community wants these facilities and their benefits. There is a lot of misinformation on both sides. The only proven health risk from radiation is from the sun. Caution is commendable but unreasonable fear paralyzes. Minimize standalone facilities means to encourage co-located facilities. He would vote to deny the appeal.

Breen said we are a nation of laws, and they took an oath to uphold the law. The one issue is a design review issue that we do have control over. What is the Council's ability to regulate and guarantee the safety of our residents? He agrees that we should take a hard look at our ordinance in light of other's ordinances. He is leaning toward approving but having a moratorium until we can get a new ordinance in place. The application meets all the standards, whether he likes it or not.

Kroot said this is a difficult issue for all. He feels there are already too many antennas on the theater. The ordinance needs to be looked at again. He'll vote to uphold the appeal.

Hodgens said she'll vote to deny the appeal.

M/s, Kilkus/Breen, to deny the appeal of the Planning Commission approval of the U-0109/V-0146 for 30 Sir Francis Drake Blvd. A/P 6-251-04. Vote by roll call: Ayes: Breen, Hodgens, Kilkus. Noes: Chignell, Kroot.

Chignell asked Town Attorney Roth about a moratorium. Is there substantial new

information that would allow us to do that? Roth said he would look into it.

M/s, Chignell/Breen, to ask the Town Attorney to research whether we can engage in a moratorium. Ayes: Breen, Chignell, Kroot, Hodgens. Noes: Kilkus.

5. APPROVE RESOLUTION ESTABLISHING UNDERGROUND DISTRICT NO. 8 LOCATED ALONG GREENFIELD AVENUE FROM LINCOLN PARK TO 70 FEET WEST OF GREENFIELD COURT AND ALONG LINCOLN PARK FROM GREENFIELD AVENUE TO 200 FEET SOUTH AND ALONG SPRING GROVE AVENUE FROM GREENFIELD TO 150 FEET SOUTH.

Planning Director Elias presented the staff report. This time around we'll do the conversion ourselves with the Rule 20A funds to provide better control.

Breen asked if the establishment of the district still allows us to work on the design. Elias answered affirmatively.

Kroot asked about feedback from property owners. Elias said the \$1500 allocated will cover most of the connections. Kroot asked about the other end of San Anselmo Avenue? Elias said staff would come back in about four years when we've gathered enough money.

Chignell asked if this is the original area? Elias answered affirmatively.

Rich Bardeninam, Greenfield Avenue business and property owner, said this would increase the value of the property and improve aesthetics. Will the pole at Greenfield and Greenfield Court be included at the old Pacific Bicycle building? He urged the Council to redraw the map to include that pole as it services his building too. Elias said the pole would stay in the current plan.

Public Works Director Elias said you have to stop somewhere. He walked the area with PG&E, but they could revisit it.

Walt Van Gelder, Perry's Art building, said he is for the undergrounding and would like more details later.

Dean Larson, 17 Lincoln Park, said this will tie into their homes, and there are only two lightposts with aboveground wiring on their street. They'd like to get them underground too.

Kroot said it is always hard to know where to draw the line. It was with San Anselmo Avenue as well.

M/s, Kroot/Breen, to continue this item to the 22<sup>nd</sup> of January. Ayes: All.

- 5A. DISCUSSION REGARDING FAIRFAX TOWN COUNCIL ACTION TO APPROVE A PROPOSED LETTER OF INTENT, WHICH INCLUDES SAN ANSELMO, WITH THE OWNERS OF THE MARIN TOWN AND COUNTRY CLUB, REGARDING PROPERTY PURCHASE.

Hodgens said it came to the Town's attention after the posting of tonight's agenda that the Town of Fairfax had an agenda item including San Anselmo in a letter of intent to purchase the Marin Town and Country Club.

Breen said the subcommittee from San Anselmo has been working with Fairfax representatives for about five years. Neither he nor Kilkus were contacted by the Town of Fairfax regarding this issue. Where it was left was that Fairfax would give us more information. San Anselmo doesn't need to be pushed by Fairfax. We never have gotten the requested information, and Fairfax is making a unilateral move and have violated our working relationship. He would recommend not including San Anselmo.

Kroot said he would have hoped that Fairfax would have run this by the subcommittee members. He is still interesting in obtaining that property. He hears rumors that Fairfax

doesn't want us to be involved.

Chignell agreed. He thinks we should communicate our displeasure to Fairfax. The proposed letter of intent is fraught with problems. He doesn't believe San Anselmo's name should be included. He'd like a letter from the mayor to Fairfax concerning our displeasure and asking that the town's name be removed from the letter of intent.

M/s, Breen/Kilkus, to send a letter to Fairfax from the mayor, asking that the Town of San Anselmo be removed from the proposed letter of intent. Ayes: All.

6. ADJOURN.

The meeting was adjourned at 11:10 p.m. in memory of Daisy Dondero.

Debra Stutsman