

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of September 9, 2003

Present: Breen, Chignell, Kilkus, Kroot, and Thornton

8:00 p.m.

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

Mayor Kilkus reported that the Council disagrees with the opinion of the Appeals Court in their decision regarding Lindelli/North Bay Corporation Vs Town of San Anselmo and have decided to pursue their appeal to the California Supreme Court.

- OPEN TIME FOR PUBLIC EXPRESSION

Chris Carlucci, San Anselmo Avenue, having obtained 50 signatures, asked the Council's assistance in permitting an annual block party on San Anselmo Avenue between Elm and Scenic Avenues. The Police Department has denied their request, as there are concerns with the closure of a main thoroughfare and bicycle route and for emergency vehicle access. To alleviate these concerns, Ms. Carlucci stated that since Center Blvd. parallels their street, closure should not affect traffic circulation for the short duration, the bicyclists can walk through or they can detour around the block, and a 12-foot clearance would be complied with for emergency access.

As the Council is not permitted to take action on any matter not on the agenda, Chignell recommended the applicants follow the Town's procedures by formally filing an appeal of the Police Department decision via the Administration Department who will place it on the next agenda for the Council's review. Since the block party was planned for September 21st, it was too late to file an appeal this year. Due to safety concerns, both Councilmembers Chignell and Breen felt reluctant to close this portion of San Anselmo Avenue and recommended an alternate block in the vicinity, such as Elm or Scenic Avenues.

Harvey Hunderberg, San Anselmo Avenue, stated there is tremendous support in the neighborhood for a block party and the Police and Fire personnel are invited to come and join in the celebrations and educate the neighborhood on safety issues. He felt that an annual block party is a good community-building exercise.

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

Councilmember Chignell reported that former Councilmember Bill Franchini just celebrated his 90th birthday. He inquired when the Sir Francis Drake Traffic Study would be done and when to expect the installation of the pedestrian crosswalk signals at Madrone and Saunders Avenues. Town Administrator Stutsman indicated that the report will be available on the next agenda and the crosswalk installation is almost complete, pending the electrical hookup.

Councilmember Breen registered a complaint of advertising matter being tossed in the neighborhood for a gardening/landscaping service and considered it to be littering. He asked staff to check whether they had obtained a business license. In addition, he requested the PD enforce the sign ordinance as he had noticed several real estate signs in the public right of ways over the weekend.

1. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE REMOVED AND DISCUSSED SEPARATELY, OTHERWISE, ALL THE ITEMS MAY BE APPROVED WITH ONE ACTION.

- (a) Approve minutes: August 26, 2003.
- (b) Acknowledge and file warrant numbers 46467 to 46720 issued during the month of August 2003 in the amount of \$1,252,974.56.
- (c) Approve application to allow parking on eastbound Sir Francis Drake Blvd between Butterfield Road and Tamal Drive during the Sir Francis Drake High School Back-to-

School-Night on Thursday, September 25, 2003.

- (d) Approval and second reading of ordinance amending the Sign Ordinance in SAMC Section 10-9.303 to reinstate language (inadvertently omitted during the 1999 ordinance revisions) pertaining to regulations for temporary signs related to construction, sale, holiday, political, Christmas tree lots, fairs, carnivals, and other special events.
 - (e) Approve response to Marin County Civil Grand Jury reports entitled “A Crisis Brewing? Housing for Public Health and Safety Employees” and “Financing Affordable Housing: Local In-Lieu Fees and Set-Aside Funds.”
 - (f) Introduction and first reading of an ordinance to rezone from C-3 (General Commercial) to SPD (Specific Planned Development) for residential living units; design review of two buildings with six residential units in each for a total of twelve residential units (two at market rate; two at or below 50% median; four at or below 60% median; four at or below 80% median); Use permit to remove existing structures on property. Location: 19 and 21 Ross Avenue, APN 7-284-48, San Anselmo (property extends between Nos. 15 and 23 Ross Avenue and between Nos. 8 and 18 Mariposa Avenue. Applicant: Hunter House Foundation, Bob Dittmer.
- CONTINUED TO SEPT. 23, 2003**

Councilmember Chignell requested removal of Item 1(c).
Town Administrator Stutsman, requested removal of Item 1(d).

Councilmembers Chignell, Breen and Kroot asked that the Council reject Drake High School’s request as there has been no co-operation in regard to the neighborhood parking problems.

Don Drake Assistant Principal stated they have tried to work with the Council and are monitoring the student parking each morning. However, due to the small campus and the remodeling going on, there isn’t much more they can do. He said only seniors and those who carpool are permitted to park on school grounds. The two portable buildings that have taken up sixteen spaces will be moved elsewhere, due to the Council’s request. He said that additional parking on Sir Francis Drake Blvd. is essential a few times per year, especially in the fall and winter. Drake does not have outdoor lighting, which affects the safety of the attendees. He stressed that the school is doing their best in communicating with the students in respecting the parking regulations and asked Council to reconsider.

Mayor Kilkus stated that the Police Department is currently in the process of setting up community policing efforts to resolve the neighborhood parking problems.

Maryann Montgomery, a Drake parent, spoke of the many student activities occur in the fall at the school where friends and family are invited to attend, which puts a greater demand on parking spaces. She reminded everyone that the Golden Gate Transit has eliminated school bus service. She pointed out that the construction crews also take up much of the neighborhood parking.

M/s, Kilkus/Thornton to allow parking on Sir Francis Drake.

Discussion

Councilmember Chignell disagreed that the school has been cooperating with the Town, and until they work together with the Police Department and the Community for a real solution, he urged the Council to oppose their application.

Councilmember Breen stated the parking situation would only get exacerbated by the fact that Golden Gate Transit is planning to eliminate 40% of its service effective November 2nd. He said that until a commitment from the school is given, he would oppose their request.

Councilmember Kroot, while appreciating Mr. Drake’s cooperative attitude, said he would withhold his approval until more cooperation was demonstrated by Drake High School.

Councilmember Thornton stated she was aware of the neighborhood parking problems

and of the Police Department's daily calls. She looked forward to the school's teamwork resolving the parking crisis. She felt that the back to school night is an important event for the students and their parents. Regardless of whether the school gets parking approval for this event, she felt it was critical to resolve these issues for the safety of the students and the neighborhood.

Ayes by roll call: Kilkus, Thornton. Noes by roll call: Breen, Chignell, Kroot
Motion dies due to a lack of majority vote.

On Item 1(d), Town Administrator Stutsman stated that due to the incorrect wording of the ordinance she asked that it be removed. She said that to insure that the political sign ordinance would be in effect for the November 4th election, an urgency ordinance would be presented next meeting and the entire sign ordinance would be reintroduced for discussion and passage at a later date.

M/s, Kroot/Thornton, to approve Items 1(a),(b), (e) and (f). Ayes: All

2. RECEIVE REPORT ON FIRST NINE MONTHS OF REFUSE, RECYCLING AND GREEN WASTE SERVICES (ORAL REPORT)

Patty Garbarino, President of Marin Sanitary Service, introduced their staff and reported that the transition has gone well and gave a summary of their accomplishments. These are: the rates are overall lower, the recycling has increased from 38% to 68%, the majority of residents have converted to tipper carts, 3,790 yard waste carts are collected weekly, many residents have already taken advantage of twice yearly on-call cleanups, the downtown municipal refuse containers are collected daily, problems have been resolved with the major commercial establishments, increased the amount of recycled containers in the commercial districts, and their drivers are providing excellent customer service. Ms. Garbarino stated that Marin Sanitary has mailed and distributed various communications to the residents, such as surveys, fact sheets, newsletters, holiday service information, commercial recycling brochures and submission of an article in the Chamber of Commerce Newsletter. In addition, they have given eleven tours to San Anselmo classes of their recycling operation. Ms. Garbarino listed the many sponsorships Marin Sanitary provides, such as: Community Fair Day, Earth Day at Wade Thomas School, Film Nights in Creek Park, Montessori School, the Art Festival and Creek Cleanup.

In the street sweeping operation, Steve Rosa reported they cover eight zones weekly and give extra attention in the fall as needed, or requested by Public Works, and provide monthly reports and a year-end report to the Streets Superintendent, that show mileage covered in the zones, any additional work done and yardage picked up. The drivers said they were pleased to be working for Marin Sanitary and especially liked the modern trash hauling equipment.

Councilmember Chignell thanked Marin Sanitary Service for their excellent report. He stated that the Town had been trying to achieve these goals for the past thirteen years: protecting the environment; higher recycling; good in safety practices; supporting the community and unionized workers who are treated with respect; and lower rates.

Mayor Kilkus agreed and commended Marin Sanitary Service for running a professional service company and especially for solving the commercial downtown recycling problems. He said it has become evident the previous company was more poorly managed than expected, some people were not being charged and others were being overcharged.

Councilmember Thornton, who served as chairman of the San Anselmo Solid Waste and Recycling Committee, said she was elated to hear of the increased recycling results and expressed her thanks for Marin Sanitary's excellent performance. She added, that working with Marin Sanitary Service over the nine months have been a pleasure as they have been responsive, unlike the previous provider.

Councilmember Kroot said he appreciated their work, responsiveness, cooperation, first-rate equipment, their retention of the drivers, he considered the difference in service like "night and day".

Councilmember Breen said he had noticed the downtown and the Town looking much neater and cleaner since Marin Sanitary Service took over and said he was very pleased with the service.

Sophia Spencer, Jordan Avenue, stated her satisfaction of the new service and she especially liked how the modern garbage trucks lift and dump the cans, thereby creating safer working conditions for the men.

In closing, Mayor Kilkus stated the Council did the right thing and hopefully the citizens will agree on Measure C as they have objective evidence of overwhelming support.

3. 2003-04 BUDGET AND WORKPLAN:

(A) APPROVE RESOLUTION APPROVING THE 2003-04 BUDGET.

Town Administrator Stutsman reported that at its July 22nd meeting, the Council reviewed and conducted a public hearing on the proposed budget and staff was directed to make one change by adding the Community Policing Project at the Drake High School.

M/s, Chignell/Thornton, to approve Resolution No. 3654 approving the 2003-04 Budget.
Ayes: All

(B) APPROVE RESOLUTION ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2003 – 04 AND REVISING THE APPROPRIATIONS LIMITS FOR FISCAL YEARS 2002-03 AND 2001-02.

Fiscal Director Janet Pendoley stated the appropriation calculations for the past three years were revised because the ERAF revenues were omitted, some tax exclusions were not taken advantage of, and an element was added regarding non-residential assessed valuation change. She said this resulted in an additional amount of \$1,500, which does not affect the spending limit.

Councilmember Breen asked whether the Town needed to go to the voters to increase the limit. Ms. Pendoley explained that, if the appropriations were over the limit for one year and under the next, no changes are necessary but should the limit be over for two years in a row, the matter would go to the voters in the following year.

Louise Mathews, Foothill Road, said the proceeds of the Ross Valley Paramedic tax was not included in the calculations and should have been. Ms. Pendoley stated the Gann Limit has been discussed by cities in the Ross Valley Paramedic Authority district and there are various points of view and different interpretations. However, the election language was very specific: when the voters approved the paramedic tax, they also approved increasing the appropriations limit. If the Town does report this tax as proceeds in the calculations, then the limit can also be adjusted by the same amount, resulting in a zero impact.

M/s, Chignell/Thornton to approve Resolution No. 3655 approving the appropriations limits. Ayes: All

4. NOTICE OF REVIEW OF THE PLANNING COMMISSION DECISION OF CONDITIONAL APPROVAL OF A VARIANCE TO PERMIT A 71.25 SQUARE FOOT PLAY STRUCTURE TO BE PLACED WITHIN 3'-4" OF THE REAR PROPERTY LINE (CODE: 20') AND 2'-4" OF THE SIDE PROPERTY LINE (CODE: 8'), LOCATED IN THE R-1 ZONING DISTRICT; LOCATED AT 15 MORNINGSIDE DRIVE, APN 005-183-04.

Councilmember Kroot recused himself from this item. Planning Director Tom Bell presented the staff report. Mayor Kilkus and Councilmember Thornton appealed the Planning Commission's conditional approval of a play structure. The Planning Commission decided that the structure was too tall and staff supports this although the neighbors had no objections.

Dana Slavik, 15 Morningside Drive, stated he had built a playhouse in their back yard from plans in Sunset magazine for their son without knowing a variance for a play structure was necessary. Twenty-five signatures were collected from his neighborhood and only one person disapproved who does not live adjacent to their property. Mr. Slavik was billed \$500 for planning fees and an additional \$411 in penalties for building the structure without having obtained approvals. He said that he has invested time and money to build this playhouse and it would be difficult to reconstruct it and in addition, lowering it would lose its appeal to his young child.

Councilmembers and appellants Kilkus and Thornton stated they have great respect for the Planning Commissioners and the Planning Department; however, they felt that approval would not constitute a grant of special privileges inconsistent with limitations upon other properties within the vicinity. The structure does not adversely affect the health and safety of persons residing or working in the area.

Louise Mathews, Foothill Road, stated her safety concerns in having a double-hung window in the elevated structure whereby a child could fall out. She also thought the Council should place a condition on their approval as there could be a potential of converting the playhouse into a living unit in the future.

M/s, Chignell/Breen, to overturn the Planning Commission's denial and grant the variance and to refund the penalty amount of \$411. Ayes: All

5. PEST MANAGEMENT:

(A) APPROVE RESOLUTION ESTABLISHING THE TOWN'S COMMITMENT TO AN INTEGRATED PEST MANAGEMENT PROGRAM.

Parks Director Nyberg presented the staff report.

M/s, Chignell/Breen to adopt Resolution No. 3656 establishing the Town's commitment to an Integrated Pest Management Program. Ayes: All

(B) DISCUSSION ON PROPOSED ORDINANCE REQUIRING NEIGHBOR NOTIFICATION OF PESTICIDE USE FOR ALL COMMERCIAL APPLICATORS OR APPLICATORS OF PESTICIDES FOR FINANCIAL REMUNERATION.

Roy Smith, San Rafael, spoke on the behalf of those that suffer from multiple chemical sensitivities and asked for the Council's support in protecting residents from airborne chemicals that are toxic and detrimental to a person's health.

Virginia Sodersnason, representative of Marin Beyond Pesticide Coalition, considered the passage of this ordinance to be important and it should also include the use of foggers.

Frank Egger, Fairfax Councilmember, supported this ordinance but recommended the removal of the "five feet in height" reference under the definition of "airborne application." By doing so, he said, the chemical RoundUp would be included and this will give the neighbors an opportunity to protect themselves.

Louise Mathews, Foothill Road, asked whether the maintenance crews of "commercial properties" would be required to adhere to the ordinance, and whether public easements were included. She inquired if the commercial applicators were notified of the proposed ordinance.

Mayor Kilkus and Councilmember Breen agreed that involving the commercial applicators in this process would affect a positive outcome.

Councilmember Thornton said that removal of the five-foot height limit makes sense. She suggested the commercial applicators bring their notification signs with them when they make their consultation site visit. She stated by having representatives of the commercial applicators participate is a step in the right direction and this will begin to alleviate some issues.

Councilmember Kroot, would like the ordinance to be directed to commercial applicators only, and this should include the tree care companies. He said he appreciated that the ordinance included an exception for small applications. He asked that the phrase "property owners and governmental entities" be removed from the definition "user of pesticides" as the intent is to have only commercial applicators post the notice and the Town already has an IPM program in place. Councilmember Chignell agreed with the elimination of the terms "five-foot height" and the "property owners and governmental entities".

Mayor Kilkus requested this ordinance come back at a later Council meeting with the recommended changes and after input from the commercial pesticide establishments.

6. APPROVE AGREEMENT FOR THE IMPROVEMENT AND LEASE OF RED HILL FIELD, BETWEEN THE ROSS VALLEY SCHOOL DISTRICT AND THE TAMALPAIS UNION HIGH SCHOOL DISTRICT/TOWN OF SAN ANSELMO.

Town Administrator Debra Stutsman presented the staff report and said an agreement has been reached by all parties. Town Attorney Hadden Roth's opinion was that the provisions to indemnify the Ross Valley School personnel are legally void, including section 2f. on page 10 of the agreement. as this type of insurance is unavailable. Since the Town is self-insured, Mr. Roth said there is no insurance to satisfy the liability portion of the agreement. He stated that the Town's Insurance JPA is looking into the matter.

In Councilmember Breen's view, he thinks the agreement, with all its safety valves, should be approved tonight so that progress can be achieved to form the JPA.

Councilmember Chignell noted that the traffic study is not mentioned in the agreement and requested this should be included in the resolution, including any mitigations to be paid for by raised funds and not from the Town's general fund.

Heather Mitchell, a dog park advocate from San Rafael, objected to the expense of the conversion of the dog park into a recreation field for kids and allocating a small portion for the dogs.

Louise Mathews, Foothill Road, inquired whether it was wise to start fundraising for a project that has some further agreements pending in March 2004 and also requires a traffic study.

M/s, Breen/Thornton, to approve Resolution No. 3657 authorizing the Town Administrator to enter into an agreement with the Tamalpais Union High School District and the Ross Valley School District regarding the lease and improvement of Red Hill field, in substantially the form presented this evening. Ayes: All

7. AJOURN.

The meeting was adjourned at 10:25 PM in the memory of Julia Poppy and in the memory of Diane and Jerry Lloyd.

Rose Wager
Senior Administrative Services Assistant