

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of October 12, 2004

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

8:00 p.m.

- CALL TO ORDER.
- PLEDGE OF ALLEGIANCE

- ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

Mayor Chignell announced the closed session was cancelled so there was no reportable action.

- RECOGNIZE NATHALIO GRAY, EVAN MCGINNIS AND THE BRANSON SCHOOL FRESHMAN CLASS FOR THEIR VOLUNTEER ASSISTANCE WITH COMMUNITY FAIR.

Volunteer Coordinator, Kay Coleman, said that Mr. Gray arranged for the entire Branson Freshman Class, along with their Senior Mentors, to volunteer to help staff the San Anselmo Fair and Parade. She said not only were they incredibly helpful, but did so with great heart and cheer. She expressed her heartfelt thanks to Coordinator Nathalio Gray, Senior Class President Evan McGinnis and all Branson School volunteers.

Chignell presented a Certificate of Appreciation to the Branson School Class of 2008, Nathalio Gray and Evan McGinnis on behalf of the Town of San Anselmo, the Council and Staff to recognize and thank them for their exceptional contribution to the community.

Nathalio Gray thanked the Town, Council and Staff. He said it is very important for the students to have opportunities to volunteer and learn about contributing to the community that we all share. He said working with Kay has been a pleasure and he is pleased that the Town supports the volunteer effort.

- ACKNOWLEDGE RESIGNATION OF COUNCILMEMBER KILKUS AND ESTABLISH PROCESS FOR REPLACEMENT, EITHER ANNOUNCE VACANCY, INVITE APPLICATIONS AND APPOINT OR CALL FOR A SPECIAL ELECTION.

Town Administrator, Debra Stutsman, presented the staff report. She said the vacancy left by Councilmember Kilkus's resignation could be filled by appointment within 30 days or be done by special election that could cost between \$32,000 and \$80,000 and would not take place until March 2005.

Chignell presented a plaque to Councilmember Kilkus in acknowledgment and thanks of his tenure and all of the Councilmembers thanks Kilkus and expressed their appreciation

of his work and perspectives. They expressed their regret to see him leave the Council and encouraged him to stay involved.

Town Administrator Stutsman said that Staff certainly echoed the Council's thoughts and sentiments and thanked Kilkus for his contribution.

Kilkus said he enjoyed his time on the Council and appreciated working with his colleagues on the Council. He encouraged people to take the opportunity to get involved in their community in this way.

Louise Matthews, Foothill Road, urged the Council to hold a special election rather than fill by appointment.

Kroot, Breen, Thornton and Chignell all agreed that due to budget constraints and timing that appointment would be the best option.

M/s, Breen/Kroot to adopt the procedure for appointment as proposed by the Town Administrator in the staff report. Ayes: All.

- OPEN TIME FOR PUBLIC EXPRESSION.

Heather Mitchell, 225 First Street, San Rafael, requested that a Councilmember and a representative from the Recreation Department attend the Ross Valley School District meeting on Thursday night to discuss the Red Hill Park lighting issues.

Sam Mendez, 84 Oak Springs Drive, thanked the Council, on behalf of the Drake High School Senior Class, for the Town's cooperation with the homecoming parade.

Elaine Snyder, Greenfield Avenue, said she is concerned about the possibility of moving the dog park to Fairfax. She asked the Council to follow through on their commitment to have a dog park in San Anselmo.

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

Thornton said the fundraising for Red Hill Park is continuing. The Red Hill JPA is looking into the possibility of placing the dog park behind White Hill School and Recreation Director, Ron Little, will be approaching the Ross Valley School District with this idea and report back to the Red Hill JPA in November. The lighting issues will be on the Town's agenda for the October 26th meeting.

Breen said that the Red Hill JPA is carefully considering the space in San Anselmo and realizes that the design of this project will be here for years to come. He also stated that he would like to entertain the idea of roundabouts into the traffic-calming program for San Anselmo.

Chignell said that under the San Anselmo Municipal Code Section 1.401 he will bring two items for adjudication to the Council on October 26, 2004. The items will be the

design review application from the US Bank and the building application at 110 Alder. He also said the Ross Firefighters are interested in merging with the Ross Valley Fire District and as long as the numbers work, he felt it would be a win-win situation. The Ross Valley Fire District Board will meet on Thursday to discuss it.

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: September 28, 2004.
- (b) Approve request to hold Drake High School's Homecoming Parade on San Anselmo Avenue from Mariposa Avenue to Bridge Avenue, continuing down Sir Francis Drake Blvd. to the school, on Saturday, October 30, at 12:30 p.m..
- (c) Acknowledge and file report regarding design review requirements at US Bank building.
- (d) Approval of Environmental Review, Zone change from R-1, R-3 & C-LK to PPD/SPD, Use Permit, Tentative Parcel Map, and Design Review to consider 4 residential dwelling units on .58+ acres; Location of Project: 2, 4 6 and 8 Loma Robles Drive, APN 6-091-02, 34, 35 and 62; Applicant: Fredric Divine Architects for Loma Robles LLC/Coby Friedman. **CONTINUED TO THE MEETING OF OCTOBER 26, 2004.**

Louise Matthews, Foothill Road, requested to remove items (a) and (c).

Town Administrator Stutsman requested to remove items (b) and (d).

M/s, Kroot/Thornton, to move item (d) to the November 9th meeting. Ayes: All.

Volunteer Director Coleman said information is incorrect on the information distributed regarding the Drake High School Homecoming Parade. She handed out a corrected version to the Council.

M/s, Breen/Kroot to accept the proposed changes to, and approve, item (b). Ayes: All.

Louise Matthews, Foothill Road, said she wanted to point out that the summarized minutes did not include her statement that Marin Sanitary had received an additional year that was valued at approximately \$1.8 million dollars. She also wanted to point out that Commander Kirton confirmed that the Parking Meter staff report was modeled after the City of San Rafael, a charter city, and that the remarks in the minutes refer back to her asking if Town Attorney Roth examined the ordinance to make certain that it conformed to the general law city, of which San Anselmo is.

M/s, Kilkus/Kroot to approve item (b). Ayes: All.

Louise Matthews, Foothill Road, said that ordinance 988 provides that the Council or a Planning Commission Member can appeal an Administrative or Planning Commission determination not substitute themselves to be the deciding arbitrator of a planning issue

such as the US Bank determination.

M/s, Kroot/Thornton, to acknowledge and file the report regarding design review requirements at US Bank building. Ayes: All.

2. APPOINT MEMBERS TO THE VOLUNTEER ADVISORY BOARD (TWO SEATS).

Town Administrator Stutsman said that two incumbents have been interviewed for the Volunteer Advisory Board.

M/s, Thornton/Breen, to appoint incumbents Sophia Spencer and Gilda Lee to the Volunteer Advisory Board. Ayes: All.

3. APPROVAL AND SECOND READING OF ORDINANCE AMENDING THE SAN ANSELMO MUNICIPAL CODE, TITLE 3 (PUBLIC SAFETY), CHAPTER 5 (TRAFFIC) GOVERNING PROCEDURES, FINES AND FEES FOR PARKING METERS.

Police Commander, Jim Providenza, presented the staff report. He said this is the second reading of ordinance governing procedures, fines and fees for parking meters.

Breen said he thought that there was a discussion at one point about having the meters operate 7 days a week to generate revenue from the people visiting San Anselmo on the weekends.

Commander Providenza said he thought that was an idea brought forward from the business community but didn't think that Council took any action on it.

Louise Matthews, Foothill Road, asked that Town comply with vehicle code 40202A to make certain that the individuals issuing tickets are placing the VIN number on the ticket to comply with State law. She also said that the anticipated revenue per meter, per day is only \$4.50 and thought that was too low. She asked for a review of the parking meter revenue information before the 2005/2006 budget hearings.

Breen said he would like the Council to consider modification of the ordinance draft to include operation on Sundays and holidays. He also asked to look up whether or not the VIN number is required by State law.

Chignell said he didn't feel we need to discuss the VIN specifically as it is implicit in the legislation that we will obey all State statutes required.

Town Administrator Stutsman said the meters have been ordered and she believed that it was understood that Sundays and holidays would be exempt so it is written that way on the meters.

Kilkus said the financial revenue was generated on not charging for Sundays and holidays as most towns do not charge on these days.

Breen asked if Commander Providenza would get an estimate of the revenue that could be collected on Sundays and holidays and that the Council review it in 6 months.

M/s, Breen/Thornton to approve and adopt second reading of Ordinance 1039 amending the San Anselmo Municipal Code, Title 3 (Public Safety), Chapter 5 (Traffic) governing procedures, fines and fees for parking meters, and obtaining an estimate of the revenue that could be collected on Sundays and holidays and review it in 6 months. Ayes: Breen, Thornton, Kilkus, Chignell. Noes: Kroot. Motion passes.

Kroot left the meeting at this time, due to feeling ill, at 8:55 p.m.

4. APPROVAL AND SECOND READING OF ORDINANCE ADDING A NEW SECTION 6-1.15 TO THE SAN ANSELMO MUNICIPAL CODE, TITLE 6 (BUSINESSES, PROFESSIONS AND TRADES), CHAPTER 1 (BUSINESS LICENSES) ESTABLISHING A BUSINESS LICENSE ADMINISTRATIVE FEE OF \$15 PER LICENSE/YEAR.

Finance Director, Janet Pendoley, presented the staff report. She said this is the second reading of the ordinance to establish an Administrative Fee for processing Business Licenses. This fee would generate approximately 40% of the costs incurred.

Breen asked why we didn't go for 100% recovery rate. Finance Director Pendoley said the fee structure begins at \$15.00 so that seemed the most logical number.

Louise Matthews, Foothill Road, said she thought the cost recovery data was unreasonable and incorrect. She didn't feel that it should take the time allotted to process the applications, in particular renewal applications, as renewals should take less time. She said 7284.1C only refers to processing fees on religious organizations and non-profits that are not required under revenue and taxation code to purchase business licenses. She said the worksheet data for this was not available to her when she requested it at Town Hall. The Town Council has been advised that they should not proceed with this, to contact the Attorney General for an AG opinion and to contact the Town Attorney.

M/s, Kilkus/Breen to waive second reading and adopt the Ordinance No. 1040 adding a new section 6-1.15 to the San Anselmo Municipal Code, Title 6 (Businesses, Professions and Trades), Chapter 1 (Business Licenses) establishing a business license administrative fee of \$15 per license/year. Ayes: All. Absent: Kroot.

5. APPEAL OF PLANNING COMMISSION APPROVAL OF A USE PERMIT AND VARIANCES, ESTABLISHING A RESIDENTIAL SECOND DWELLING UNIT INCLUDING REQUIRED PARKING SPACE AND RETAINING STRUCTURE LOCATED AT 125 REDWOOD ROAD IN THE R-1 ZONING DISTRICT, APN 007-083-03. APPLICANT: PATRICIA JOHNSTONE. APPELLANTS: ALAN MOOERS 19/20 SAVANNAH AND JAQUELINE RYAN 122/135 REDWOOD ROAD.

Senior Planner, Lisa Wight, presented the staff report. She said this item was continued from the August 24th Council meeting so that the property could be surveyed to determine the location of the property line and the proposed parking space adjacent to Redwood Road.

Public Works Director, Rabi Elias, said the entire street does not meet any State Codes as far as site distances, parking spaces or width of the street. This happens in small towns over the life of development. The parking space is not easy to get into so he recommended the left wall be widened to improve access in and out of the space. He also said the survey results that will be discussed are typical of streets developed this way.

Jacqueline Ryan, 135 Redwood Road, said the surveyor told her that the accessory building is encroaching on the property at 19 Savannah and that he couldn't complete and record the survey because it was too difficult for him. She asked that they be allowed to hire their own surveyor and that Council wait to vote on this until that survey was completed.

Allen Mooers, 20 Savannah, said the ability to see someone backing out of the proposed parking space when coming down Redwood is nonexistent and people routinely drive in excess of 25 mph on that street. He felt that it would become a hazard.

Len Rifkind said that the Applicant will accept the widening of the parking space but felt that the request for another survey, which would delay this process further, was unreasonable.

Larry Stevens, of Stevens and Associates, said he searched extensively all the records he could find, including original deeds. Many of the original deeds, the first having been created in 1912, included descriptions that were inconsistent and he could not find any deed that actually created Redwood Road. He said Ms. Ryan misunderstood him and that he felt the boundaries cannot be determined with any degree of certainty because of the multitude of errors that exist within the documents. He used the right edge of stairs off of Redwood Road and the old fence line that was tied down in 1978. Many surveys show lines going through homes and garages. He recommended that people have to agree to the boundaries because the line of occupation appears to be the best fit. He said the accessory building appeared to be within the property boundary.

Chignell asked if the proposed parking space is in the town right of way. Mr. Stevens said it is not in his opinion.

Len Rifkind said that both the proposed parking space and the accessory building have been determined to be within the property lines and he suggested that the best way to solve the issue of property boundary lines is for the neighboring properties to enter into an agreement called the Agreed Boundary Doctrine, which establishes the property boundary lines based on an agreement of the lines of current occupation.

Roland Niemciwicz, 120 Redwood Road, wanted to know if the Town would be held responsible for the imminent accidents that will occur as a result of the placement of the proposed parking space at a hairpin turn. He also said there is a surveyors mark on his

fence that he felt has been ignored and thought it might help make a better determination.

Town Attorney Roth said that the Town has implied immunity.

Bess Niemciwicz, 120 Redwood Road, she asked if the parking space would be safer if positioned differently.

Jacqueline Ryan, 135 Redwood Road, said the Surveyor disagreed with Public Works Director Elias assessment of the length that belonged to the Town and the deck is encroaching on the neighbor's property.

Allen Mooers, 20 Savannah, said he felt the Town right of way should be protected and the stakes outlining the parking space look to be incorrectly placed.

Len Rifkind pointed out that the encroachment of decks is actually the neighbor's decks encroaching onto the Johnstone property, not the other way around.

Public Works Director Elias said that the determination of the surveyor is what the final say should be.

Kilkus said the Town has a lot of streets with conditions just as bad or worse and felt that when the rules are brought up to try to stop someone from doing something it's not right. He said the Applicant has complied with all of the Council's requests and the data shows that he can support this project.

Thornton said while she thinks it would be a difficult corner to maneuver in and out of, however, there are already many spots along the street with the same problem. She felt the requirements have been met and will support it.

Breen said he felt that agreeable boundaries should be decided on and the project needs to move forward at this point.

Chignell said that the property has come along to the point where the Applicant has complied with all of the requirements and the project should now be approved.

M/s, Kilkus/Thornton, to approve Resolution No. 3710 denying the appeal and approving the project. Ayes: All.

6. INTRODUCTION AND FIRST READING OF SIGN ORDINANCE: NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND AMENDMENTS TO THE CURRENT SIGN PROVISIONS OF THE ZONING ORDINANCE, SAMC TITLE 10, CHAPTER 9 THE AMENDMENTS INCLUDE: PROVISIONS FOR BOTH TEMPORARY AND PERMANENT NONCOMMERCIAL (POLITICAL) SIGNS UPON ALL PROPERTIES, INCREASING THE TIME LIMITS FOR TEMPORARY SIGNS, NONCOMMERCIAL SIGN SIZE LIMITATIONS

WITHOUT A LIMIT TO THE NUMBER OF SIGNS, ELIMINATION OF PRIVATE SIGNS WITHIN THE PUBLIC RIGHT-OF-WAY REINSTATEMENT OF TEMPORARY SIGN PROVISIONS INADVERTENTLY REMOVED FROM THE CODE SEVERAL YEARS AGO, AND GENERAL CLARIFICATIONS AND LOGICAL FORMATTING OF THE VARIOUS SECTIONS.

Town Attorney Roth detailed all of the changes made in the ordinance. He pointed out changes detailed in the staff report and items for discussion to include things such as temporary sign time limits, real estate signage, maximum size for political signs, who has authority for determinations, elimination of non-conforming sign verbiage, the inability for content based regulation and parameters of temporary sign removal procedures. He stressed the difficulty is regulation as laws governing free speech are very strict.

Ford Greene, 711 Sir Francis Drake Boulevard, said there are sections of the ordinance that clearly single out the signage on his building and doesn't feel that is fair. He warned that if the Council that if they continue to target him there will be more litigation.

Louise Matthews, Foothill Road, said she believed in the protection of freedom of speech and thought that this ordinance is targeting Mr. Greene's sign. She would like the community to have an opportunity to speak on this prior to approval.

Kilkus said he didn't feel that Mr. Greene is gaining sympathy from this. He said free speech is not a game.

Thornton would like to continue the item for discussion and more review from the Town Attorney.

M/s, Breen/Thornton to continue the item for further discussion and review. Ayes: All.

7. RECEIVE REPORT REGARDING CURRENT NOISE ORDINANCE AND PROVIDE DIRECTION TO STAFF.

Public Works Director, Rabi Elias presented the staff report. He said there is no way to control construction noise during construction hours because construction is simply noisy. However, the Town might consider not allowing construction on the weekends or revised time periods to give some relief to residents who are experiencing ongoing disturbances.

Jonathan Braun, 479 Scenic Avenue, said he experiences constant construction noise, that you can't get away from, every weekend from a neighbor who does a tremendous amount of illegal grading work. He felt that some changes in the Town's noise ordinance regarding time and type of noise should be addressed.

Kathy Sanders, said the bulldozing noise she experiences every weekend across the canyon from her home has become a quality of life issue and would like to see a compromise on weekend activity.

Louise Matthews, Foothill Road, said the project going on next to her home was never

brought to planning for a permit. She urged Council to consider the noise that comes from Town projects as well and to not restrict property owners too much when revising the noise ordinance.

Chignell said the Town of Ross does not allow any construction activity on the weekends. He suggested the Council look at alternatives to give some relief to the Town regarding construction noise.

Breen said we have a diverse community and not everyone works only during the week. He suggested the Town hold a community forum on this issue. Chignell said the last time they did a public hearing contractors were well represented but not a lot of residents.

Thornton said she felt the hours were quite generous and maybe they should look at making some revisions to address the increase in construction noise complaints.

The consensus of the Council was to hold a public workshop on this issue.

8. DISCUSSION REGARDING ADOPTING A REFUSE COLLECTION IMPACT FEE TO PROVIDE FOR THE REPAIR AND MAINTENANCE OF DAMAGED STREETS AND ROADS CAUSED BY COLLECTION ACTIVITY.

Public Works Director, Rabi Elias, presented the staff report. He said the proposed collection impact fee would mean a \$.50 cent increase per 32 gallon can per month. This money will be used to repair the roads torn up from the refuse collection trucks.

Louise Matthews, Foothill Road, said felt the money should come from Measure G and is not in support of the Refuse Collection Impact Fee. She asked that the calculation on impact to the consumer be recalculated if the 10% was not included in the original calculation.

Public Works Director Elias said that the costs are only estimates at this point, they still have to work out the details if the Council is interested in pursuing this. The roads need to be repaired, they are being torn up by the trucks.

Kilkus said costs go up and this is a reasonable way to assess a fee that is not egregious. Breen said he is opposed to this because he felt it wasn't worth the grief and anxiety to the residents and felt it was disingenuous. Town Administrator Stutsman said it would need to be noticed.

M/s, Thornton/Kilkus to provide staff with direction to prepare the Impact Fee Resolution.

Mayor Chignell asked for a roll call vote. Ayes: Kilkus, Thornton, Chignell. Noes: Breen. Absent: Kroot.

9. ADJOURN.

Meeting was adjourned at 10:41 p.m.

Respectfully submitted,

Denise A. Phillips
Senior Police Administrative Assistant