

San Anselmo Council Minutes
Regular Meeting
Town Council Chambers and Via teleconference
Tuesday, June 14, 2022

1. 6:10 p.m. Interviews with Applicants to the Planning Commission and Climate Action Committee

Mayor Fineman called the Regular meeting to order at 7:00 p.m.

Call to Order: Optional Pledge of Allegiance

COUNCILMEMBERS PRESENT: Alexis Fineman, Mayor
Steve Burdo, Vice-Mayor
Eileen Burke
Brian Colbert

COUNCILMEMBERS ABSENT: Ford Greene

STAFF MEMBERS PRESENT: Dave Donery, Town Manager
Megan Acevedo, Town Attorney
Heidi Scoble, Planning Director
Sean Condry, Public Works Director
Erica Freeman, Building Official
Jeff Zuba, Finance Director

Open Time for Public Expression

Ms. Lucy Dilworth asked the Council to think very carefully about doubling the Measure “D” Sales Tax and proposing it without a term limit. Inflation is the highest it has been in 40 years.

Mr. Doug Kelly agreed that doubling the Sales Tax is inappropriate. The language in the ballot regarding the term limit (“until repealed by voters”) is not understood by the public.

Ms. Sue Saunders thanked the Council for the allocation of funds to the “Ride and Drive Clean” campaign. It was a huge success!

Guy stated he and some friends started an organization called “The Friends of Creek Park”. They are concerned about the use of the park. He discussed the Town’s Regional Housing Needs Allocation (RHNA) numbers.

Mr. Rene Voss urged the Council to oppose AB 396 which allows PG&E to cut trees along their power lines without notice and at their discretion. He stated wood chippers are a violation of the Town’s Noise Ordinance.

Abby was concerned about PG&E cutting and topping trees on private property without permits.

Council committee liaison reports, requests for future agenda items, questions and comments to staff; staff miscellaneous item

Councilmember Burke reported she attended the “Ember Stomp” event; took the Historical Bicycle Tour of San Anselmo along with Mayor Fineman; attended the Archie Williams High School Graduation; attended “Live on the Avenue”; relayed a comment from a resident about the open public alcohol consumption downtown.

Vice Mayor Burdo reported he attended “Ember Stomp”; attended the June 8th Ross Valley Fire Board meeting; attended the June 7th Racial Equity Committee meeting; attended “Live on the Avenue”; gave a shout-out to Sue Saunders; asked that the Council discuss the Measure D “sunset” clause at an upcoming meeting.

Councilmember Colbert supported Vice Mayor Burdo’s request about the future agenda item; attended the Transportation Authority of Marin (TAM) meeting; went to all the downtown events; participated in an on-line discussion about Sir Francis Drake Boulevard sponsored by Alta Journal.

Mayor Fineman reported she attended the community Pride Month Flag raising event; has been involved in on-going conversations about PG&E tree cutting issues; attended the celebration for Virginia Stapleton; reminded everyone that COVID is prevalent and asked people to be cautious; welcomed the Climate Action Coordinator, a shared position with the Town of Fairfax; would like to place the SB 396 issued on the next meeting’s agenda.

2. Consent Agenda

2.1 Minutes of May 24, 2022

2.2 Report of Warrants Issued, May 2022

2.3 Consider Adoption of Resolution to Allow for Virtual Town Council Meetings in Compliance with AB 361

2.4 Appoint applicants to the Climate Action Committee

2.5 CalRecycle SB 1383 Local Assistance Grant Program Aware

2.6 Establishing Job Description and Pay Range for Public Works Manager Position

Mayor Fineman opened the meeting to public comments.

There were no comments.

Mayor Fineman closed the meeting to public comments.

Vice Mayor Burdo asked for the removal of item #2.4 for discussion.

Councilmember Burke asked for the removal of items #2.1 and #2.5.

M/s, Burdo/Burke, Motion to approve Consent Agenda items #2.2, 2.3, and 2.6.

AYES: Burdo, Burke, Colbert, Mayor Fineman

ABSENT: Greene

2.1 Minutes of May 24, 2022

Councilmember Burke made a correction to the minutes.

2.4 Appoint applicants to the Climate Action Committee

Vice Mayor Burdo stated one of the applicants was unable to show up. He recommended the appointment of Cynthia Briggs.

2.5 CalRecycle SB 1383 Local Assistance Grant Program Aware

Councilmember Burke asked if the grant would be used to fund the Climate Action employee and if the grant was the only money being devoted to this issue.

Town Manager Donery stated the grant will go into the Climate Action Fund and must be used to further SB 1383 implementation and compliance. There is a need for more than one person so staff plans to hire consultants and fellows.

M/s, Burke/Colbert, Motion to approve Consent Agenda items #2.1, 2.4, and 2.5 with the corrections to the May 24th minutes and the appointment of Cynthia Briggs to the Climate Action Committee.

AYES: Burdo, Burke, Colbert, Mayor Fineman

ABSENT: Greene

Council Items

3. Flood Zone 9

Ms. Liz Liss, County of Marin, presented a PowerPoint presentation that included the following: 1) Ross Valley Flood Protection and Watershed Program Update; 2) Ross Valley Program Work Plan and Project Update; 3) FEMA Requirements for Development in a Regulatory Floodway; 4) 90% Baffle Design (634-636 San Anselmo Avenue); 5) Options Discussed by Board; 6) SAFRR Timeline with No Rise Baffle Structure.

Ms. Liss answered questions from the Council regarding whether mitigations for the twenty downstream properties have been determined; does the baffle design assist downstream properties in terms of flood mitigations; if there are funds available for mitigations on those downstream properties; if the baffle project has been certified by FEMA; if approval of the design is anticipated; does the Town need to certify the baffle project; if certified, would the Town accept any form of liability; the relationship between Flood Zone 9 and the Town of San Anselmo in terms of decision making; properties owned by Flood Zone 9; could the revenues and expenditures of Flood Zone 9 be made available to the Town; property owners and liability; future negotiations between the Town and Flood Zone 9.

Mayor Fineman opened the meeting to public comments.

Ms. Cathy Shafer stated she was an engineer with FEMA and worked on the recent Flood Map updates. The "Floodway" designation is an artificial designation created to ensure that the base flood flows through the channel and is not obstructed by development. She offered to work with Ms. Liss to create a video for explanation purposes.

Ms. Carol Page stated "certification" means that the baffle is in place. They should be questioning the design life of the baffle once it is in place. She asked if the peer review has been finished.

Mr. Ross Asselstine stated the Town's participation in Flood Zone 9 has resulted in a waste of

time and money. It is time to start talking about exiting Flood Zone 9.

Ms. Ann Walter opposed the removal of the platform and insertion of a baffle since it did not benefit upstream or downstream properties. The baffle is not mitigation.

Mayor Fineman closed the meeting to public comments.

Vice Mayor Burdo stated there is no action required tonight. He thanked Ms. Liss for the update.

Councilmember Burke asked if there is a deadline for the Town to decide on their direction.

Councilmember Colbert wanted to memorialize where the Town stands with FEMA and their discussion of the “no rise”. It is important to convey the state of the grant to the public and have a discussion about the baffles.

Councilmember Burke stated she wants the Council to discuss whether or not to stay in Flood Zone 9. There should be more public discussion including a survey before a decision is made.

Mayor Fineman agreed that there should be more discussion including what a Flood Zone 9 exit would look like. She was not in favor of a survey at this time.

Vice Mayor Burdo noted Councilmember Greene is the Town’s representative to Flood Zone 9 and since he is absent from this meeting there should be further discussions.

Town Manager Donery stated staff would work on the next steps.

4. Consider approval of a Resolution establishing a Housing Element Advisory Committee (HEAC) appoint one Town Councilmember to the committee, and direct staff to bring recommendations for the appointment of one Planning Commissioner and three public applicants to the next Town Council meeting for consideration and approval

Planning Director Scoble presented a staff report and gave a PowerPoint presentation. She, along with Town Manager Donery, answered questions from the Council regarding whether staff has received any applications; the thought process regarding the composition of the committee.

Mr. Robert Cane, Principle with Houseal LaVigne, gave a PowerPoint presentation.

Mayor Fineman opened the meeting to public comments.

Guy was concerned about the requirement for 13,000 new units for Marin County. He discussed the concept of “manufactured consent” and the elimination of local control.

Mayor Fineman closed the meeting to public comments.

Councilmember Burke liked the idea of a five-person committee and volunteered to serve.

Vice Mayor Burdo supported a five-person committee and would like to see a member of the Climate Action Committee included.

Mayor Fineman encouraged residents to apply and stated she would like to be on the committee.

Town Manager Donery stated staff would like to move forward with the interviews next Monday or Tuesday and would like the Council representatives to be present.

Mayor Fineman suggested both she and Councilmember Burke serve on the committee and that the Council appoint four members of the public (for a total of seven committee members).

M/s, Burke/Colbert, Motion to Consider approval of a Resolution establishing a Housing Element Advisory Committee, with a change to the language in 3(a) and (d), and appoint two Town Councilmember to the committee, and direct staff to bring recommendations for the appointment of one Planning Commissioner and four public members of the public.

AYES: Burdo, Burke, Colbert, Mayor Fineman

ABSENT: Greene

5. Introduction and First Reading of an Amendment to the San Anselmo Municipal Code adding Chapter 24 "All Electric Construction in Newly Constructed Residential Buildings" to Title 9 "Building Regulations"; and Amendment to Chapter 9-19 "Green Building Requirements" for consistency

Building Official Freeman presented a staff report. She and Public Works Director Condry answered questions from the Council regarding the number of Accessory Dwelling Units (ADU) that are voluntarily going to all-electric; prescriptive and performance based requirements of the California Building Code; the exemption of food services establishments; survey responses; Title 9, Section 24.05(b) exemption methodology.

Ms. Kathleen Gundry, Chair of the Climate Action Commission, gave a report on the importance of adopting the ordinance.

Mayor Fineman opened the meeting to public comments.

Ms. Sue Saunders stated she was speaking as a resident of San Anselmo and not a member of the Climate Action Commission. She strongly supported adoption of the ordinance.

Ms. Ellie Cohen, Ms. Lucy Motican, and Mr. Rene Voss supported adoption of the ordinance.

Brett was opposed to adoption of the ordinance because the terms "local climatic and geologic conditions" were not used correctly. Heating homes with natural gas is extremely efficient.

Mayor Fineman closed the meeting to public comments.

Vice Mayor Burdo stated this is the direction the Town should be moving and he supported adoption of the ordinance. A move away from fossil fuel dependency is necessary.

Councilmember Burke stated for the most part this is necessary. Environmental goals can be met through a variety of methods and within a reasonable timetable through the State schedule. She opposed exempting restaurants. The survey indicated that citizens are opposed. She agreed that the finding regarding local conditions cannot be met.

Town Attorney Acevedo stated this ordinance is narrowly focused on residential construction and commercial will be forthcoming. Staff would need to redraft the ordinance to include restaurants.

Councilmember Colbert supported adoption of the ordinance.

Mayor Fineman supported the ordinance but had trouble with the exemption. Substantial remodels should be included but she wanted to move forward with this ordinance.

Vice Mayor Burdo made a motion to adopt the ordinance. There was no second.

M/s, Burke/Fineman, Motion to introduce and waive first reading of an Amendment to the San Anselmo Municipal Code adding Chapter 24 "All Electric Construction in Newly Constructed Residential Buildings" to Title 9 "Building Regulations"; and Amendment to Chapter 9-19 "Green Building Requirements" for consistency with the inclusion of food service establishments and commercial kitchens.

AYES: Burke, Mayor Fineman

NOES: Burdo, Colbert

ABSENT: Greene

The motion did not pass.

M/s, Burdo/Colbert, Motion to introduce and waive first reading of an Ordinance of the Town Council of the Town of San Anselmo Amendment to the San Anselmo Municipal Code adding Chapter 24 "All Electric Construction in Newly Constructed Residential Buildings" to Title 9 "Building Regulations"; and Amendment to Chapter 9-19 "Green Building Requirements" for consistency.

AYES: Burdo, Colbert, Mayor Fineman

NOES: Burke

ABSENT: Greene

The Council took a 10-minute break at 10:05 p.m.

M/s, Fineman/Burdo, Motion to continue with the agenda.

AYES: Burdo, Burke, Colbert, Mayor Fineman

ABSENT: Greene

6. 2021/2022 Budget Amendment and 2022/2023 Preliminary Proposed Budget and Work Plan

Finance Director Zuba presented a staff report and a PowerPoint presentation that included the following: 1) 2021/22 General Fund Review; 2) 2022/23 Proposed Budget; 3) General Fund Revenues Highlights; 4) General Fund Expenditures Highlights; 5) Town Wide Funds; 6) Recommendations; 7) Conclusions. He answered questions from the Council regarding whether staff is forecasting a "Black Swan" event with respect to the financials; if staff could provide comparable data from other jurisdictions.

Mayor Fineman opened the meeting to public comments.

There were no comments.

Mayor Fineman closed the meeting to public comments.

M/s, Burke/Burdo, Motion to adopt the Resolution amending the Fiscal Year 2021/2022 Budget.

AYES: Burdo, Burke, Colbert, Mayor Fineman

ABSENT: Greene

Finance Director stated staff would bring the Fiscal Year 2022/2023 Proposed Budget to the Council at the next meeting.

7. 9 Laurel Avenue, APN 007-112-11, appeal by Applicants Hassan Afrookteh and Brooke Peterson of the Planning Commission decision to deny applications for design review for a second story addition, a variance to allow two parking spaces to be created in the north side setback (8-foot side setback required), with one of the two in the front setback (20-foot setback required), a variance to allow an area of pavers in the front setback to be used for an additional, undersized, parking space, a demolition permit to remove more than 50% of the exterior walls (54.3% demolition proposed, which included 25.3% related to the residence and the balance for demolition of an attached garage structure), and a variance to maintain the existing lower level of the structure 16 feet to 19 feet from the front property line (20-foot setback required for over 50% demolition).

Planning Director Scoble presented the staff report and gave a PowerPoint presentation. The Council will be reviewing the merits of the project and determining whether or not the project can be approved and the requisite Findings can be achieved. She recited the Findings.

Mayor Fineman opened the Public Hearing.

Ms. Brooke Peterson, appellant/applicant, gave a PowerPoint presentation and described the project. She urged the Council to grant the appeal and approve the project.

Mr. Hassan Afrookteh, appellant/applicant, stated the Planning Commission discussed the shadow impacts and asked for an independently prepared shadow study. He produced two peer review shadow studies and discussed the findings. He discussed the privacy issues and stated the impacts from a second story are a part of life.

Mr. Matthew Noel, Laurel Avenue, opposed the project and disagreed with the assertion that the Planning Commission "abused its discretion" and that its decision "was not based on evidence". There were three thorough and exhaustive meetings on this project.

Ms. Fran Farmer, Laurel Avenue, gave a PowerPoint presentation and stated the project would block the ambient light to her house.

Mr. Chris Long objected to the project because it would tower over the one-story houses along the street. It would also block the light and air and impact privacy.

Mr. Jerry Curley, San Anselmo Avenue, stated he lives east of the proposed project and shares a fence. He is opposed to the project because it would affect his privacy, light, and air.

Mr. Herb Miller, Laurel Avenue, opposed the proposed second story. It would be out of character with the neighborhood. He did support the Accessory Dwelling Unit (ADU) conversion.

Mr. Peter Kalb stated this project is appropriate for the neighborhood and in character with the Town. The house has gone through several renovations that have reduced impacts to the neighborhood. He urged the Council to grant the appeal.

Ms. Ellen Caldwell, Laurel Avenue, asked that the Council deny the request for a second-story. The design is out of character with the neighborhood.

Ms. Jerri Lynn, Laurel Avenue, stated she was drawn to this neighborhood because of the small bungalow houses. The project is a large, two-story building on a small lot.

Mr. Jason Weber, Floribel Avenue, supported the project. The design fits within the Town's rules and the applicants have worked hard to make adjustments.

Mr. Dave Baker agreed with the comments made by Jason. The rules need to be applied consistently.

Ms. Coleen Noel, Laurel Avenue, stated the subject house is not taken care of and the neighbors are struggling with the process.

Mr. Bradley Long stated he lives two doors down from the proposed project. The owners have done nothing to improve the appearance of the house. He asked about the parking.

Mr. John Sharp, attorney for the appellants/applicants, stated an "abuse of discretion" occurs when there is insufficient or insubstantial evidence to support the findings. Substantial evidence is defined as "expert opinion based on fact". The appellants shadow study was peer reviewed by a third-party hired by the Town. The Resolution is inaccurate in many respects and the evidence for the Findings is insufficient.

Mayor Fineman closed the Public Hearing.

Councilmember Burke stated this is a "de novo" review which means it should be looked at with "fresh eyes". Appeals of Planning Commission decisions deserve the full attention and consideration of the Council. The Design Review process and granting of Variances are designed not to take away rights but to preserve quality of life issues such as air, light, space, etc. The project is out of character with the neighborhood in scale, mass, and bulk- this is a neighborhood of bungalows and tiny cottages. It would cast shadows on adjacent properties and impact privacy. A substantial remodel of this house could be an improvement to the neighborhood. There is substantial evidence to uphold the decision of the Planning Commission. The story poles should be taken down in one week.

Vice Mayor Burdo agreed with the comments made by Councilmember Burke. The evidence is overwhelming to make the Findings. The project is out of character with the neighborhood and the shadow impacts would be substantial. The project would impact the privacy of the neighbors. He would vote to deny the appeal and urged the appellants to "go back to the drawing board".

Councilmember Colbert stated he supports the decision of the Planning Commission. The privacy impacts are serious and the design is not a good fit for this neighborhood.

Mayor Fineman agreed with the comments made by Councilmember Burke. The focus is on the qualitative impact to the neighborhood. The project would have substantial impacts to light.

The Council noted they read all the materials and did not have any "ex parte" communications.

M/s, Burdo/Burke, Motion to deny the appeal by applicants Hassan Afrookteh and Brooke Peterson of the Planning Commission decision to deny the applications for 9 Laurel Avenue.
 AYES: Burdo, Burke, Colbert, Mayor Fineman
 ABSENT: Greene

M/s, Burdo/Colbert, Motion to adjourn the meeting at 11:55 p.m. in honor of Mr. Jay Murphy, a long-time San Anselmo resident and community member.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary