

San Anselmo Council Minutes
Regular Meeting
Town Council Chambers and Via teleconference
Tuesday, September 13, 2022

Vice Mayor Burdo called the Special meeting to order at 6:20 p.m.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Steve Burdo, Vice-Mayor
Eileen Burke
Brian Colbert
Ford Greene

COUNCILMEMBERS ABSENT: Mayor Fineman

STAFF MEMBERS PRESENT: Dave Donery, Town Manager
Emily Longfellow, Town Attorney

1. Interviews with Applicants to the Art Commission, Tax Equity Board, and Board of Review

The Council interviewed Jane Cunningham, Edie Heller, Warren Dodge, and Carla Overberger.

Mayor Fineman called the Regular meeting to order at 7:01 p.m.

Call to Order: Optional Pledge of Allegiance

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

STAFF MEMBERS PRESENT: Dave Donery, Town Manager
Emily Longfellow, Town Attorney
Sean Condry, Public Works
Mattie O'Grady, Recreation Supervisor

Open Time for Public Expression

Gigi P. stated the Department of Water Resources has set a December deadline for a report with a timeline on the San Anselmo Flood Project. There is no report on FEMA's "no rise" decision. She was concerned about alarmist tactics use to justify installation of an experimental baffle.

Council requests for future agenda items

Vice Mayor Burdo reported the Ross Valley Fire Department Board meets tomorrow; the Marin Wildfire Prevention Authority Board meets on Thursday; work started last week at Memorial Park; he wished his Mother and partner a Happy Birthday!

Councilmember Greene reported the upcoming challenge for the Ross Valley Fire Department

is to figure out the kind of organization they want to have moving forward; he asked if the Certificate of Occupancy has been issued for the Lincoln Park Apartments; the lane coming into Sleepy Hollow (Butterfield Road) is a mess due to the recent spillage of asphalt and he asked about the status of the clean-up; he asked, once again, for an agenda meeting regarding flood remediation in the Ross Valley; he asked about the options available to the Town with respect to the County's plan for the demolition of any of the bridges.

Councilmember Burke reported she is was very exciting to see the work being done at Memorial Park; she attended a gathering to thank several outgoing Councilmembers for their service and it reminded her of how important it is to meet in person.

Councilmember Colbert reported he attended the Ross Valley Safe Routes to Schools Task Force meeting; "Walk and Roll Wednesdays" are making a comeback!; there will be a free EV and e-bike show at the Bon Air Shopping Center on Saturday the 24th; he attended a Marin Transit Authority (MTA) meeting; he is the new President of the Marin County Council of Mayors and Councilmembers (MCCMC).

Mayor Fineman reported the Housing Element Advisory Committee met last week; she has been contacted about the Town's increased reliance on wells and the Town's watering needs; she might have to leave the meeting early.

Town Manager Donery stated San Anselmo is hosting the September 28th MCCMC meeting- in person with music!

2. Consent Agenda

2.1 Approve the Minutes of Special Town Council Meeting- August 18, 2022

2.2 Approve the Minutes of Town Council Meeting- August 23, 2022

2.3 Report of Warrants Issued, August 2022

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

2.5 Response to 2022 Grand Jury Report entitled Affordable Housing: Time of Collaboration in Marin

2.6 Conflict of Interest Code Biennial Update

2.7 Special Event Application: Friends of Robson Fall Harvest Event Fundraiser

2.8 Appoint applicants to the Racial Equity Committee, Historical Commission, Art Commission and Tax Equity Board

Mayor Fineman opened the meeting to public comments.

There were no comments.

Mayor Fineman closed the meeting to public comments.

Councilmember Burke stated she would like to pull item #2.2 for discussion.

Councilmember Greene stated he would like to pull item #2.5 for discussion.

Mayor Fineman stated she would like to pull item #2.8 for discussion.

M/s, Burdo/Greene, Motion to approve Consent Agenda items #2.1, #2.3, #2.4, #2.6, and #2.7.
AYES: Burdo, Burke, Colbert, Greene, Mayor Fineman

2.2 Approve the Minutes of Town Council Meeting- August 23, 2022

Councilmember Burke made a correction to the minutes: the Parks and Recreation Department Intern is Ella *Acker*.

M/s, Greene/Burdo, Motion to approve Consent Agenda items #2.2 with the correction.
AYES: Burdo, Burke, Colbert, Greene, Mayor Fineman

2.5 Response to 2022 Grand Jury Report entitled Affordable Housing: Time of Collaboration in Marin

Councilmember Greene stated the proposed responses do not call out the coercive nature of the legal edicts that are coming down from the State. He cited several of the Findings that he objected to and discussed ongoing litigation and the unrealistic Regional Housing Needs Allocation (RHNA) numbers. He would like the opportunity to modify some of the responses.

Councilmember Burke suggested the response indicate “partial agreement” by the Council.

Vice Mayor Burdo stated this approach could result in the Grand Jury coming back with additional questions. He did not want to complicate the process. Councilmember Colbert agreed.

Mayor Fineman was not sure this was the right venue for Councilmember Greene’s suggestion. She would be in favor of adopting the response as is.

M/s, Colbert/Burdo, Motion to approve Consent Agenda items #2.5 and adopt the response as is.

AYES: Burdo, Colbert, Mayor Fineman

NOES: Burke, Greene

2.8 Appoint applicants to the Racial Equity Committee, Historical Commission, Art Commission and Tax Equity Board

Mayor Fineman noted she was not able to attend the interviews and would need to abstain from voting.

M/s, Greene/Burke, Motion to approve Consent Agenda items #2.8.

AYES: Burdo, Burke, Colbert, Greene

ABSTAIN: Mayor Fineman

Council Items

3. Introduction and First Reading of an Ordinance amendment to the Town of San Anselmo Municipal Code, Title 7 “Public Works” adding Chapter 14 “Parklets”; and adoption of a Resolution approving “Parklet Guidelines”

Public Works Director Condry gave a staff report and a short PowerPoint presentation. He answered questions from the Council regarding the proposed 5% cap with respect to the scope

of available parking spaces; the reference to “no limit” to the number of parklets in the staff report; if staff is recommending a “free ride” for another year; the concept of a “gift of public resources/funds” vs “in furtherance of the public good”; compensation for the non-restaurant retail merchants along San Anselmo Avenue due to the loss of parking; the comparison of an SUV and a parklet; does the 538 identified spaces in the downtown include the downtown parking lots; how the 5% cap will be applied; the line of demarcation for the north and south sections; where the MH Bread and Butter and Bread parklet falls within the three designated areas; are commercial frontages that are outside of the delineated areas eligible; which business would take precedent if there were two businesses along one frontage (one upstairs and one downstairs); roof coverings and railing enclosures and the amount of air that would travel in the parklet; if there is a technical requirement that a parklet remain 50% open; if the tables and chairs on the bridges are considered parklets; will parklets in the street be allowed along Sir Francis Drake Boulevard; would the fee for parklets be subject to Proposition 218 or Proposition 26.

Mayor Fineman opened the meeting to public comments.

There were no comments.

Mayor Fineman closed the meeting to public comments.

Councilmember Burke would like to be more realistic in terms of where a parklet might be located and not include all downtown parking. They should be limited to San Anselmo Avenue. She is concerned about clustering and how it could impact the retail businesses. A business should not be allowed sidewalk use and a parklet. She is not in favor of parklets along Sir Francis Drake Boulevard- chairs and tables should be allowed. Fees should not be waived. Parklets should be treated as commercial spaces with a charge of more than half of the cost of commercial space. She is not a fan of permanent roofs.

Councilmember Colbert stated parklets are a part of improving the overall business climate. It is not a restaurant vs. retail thing. He is not concerned about clustering. He is willing to let this play out. He is puzzled about the idea of a fee. The cap will be a good problem to have and will have to be solved as a community.

Vice Mayor Burdo stated people’s attitudes about indoor dining has changed. People understand the importance of parklets. He is willing to take a “wait and see” approach to the fees and go with what is recommended. He would like to move forward tonight with the draft resolution and guidelines.

Councilmember Greene stated there is no plan for providing and maintaining any “breathing room” for retail businesses in the event of clustering. He was concerned about the potential for squeezing out parking in the northern section of San Anselmo Avenue. He is concerned about the lack of air circulation in the structures, the fees, and the clustering. He does not like a piece-meal approach for local rules- the proposed fee structure should have been presented to the Council tonight.

Mayor Fineman referred to the Guidelines, page 6, under “Furnishings and Features”, and stated it should read: “Pesticides are prohibited in parklets”. She noted dining establishments with on premise dining are required to default to reusables- the Operational Standards contained in the Guidelines should reflect this since parklets are considered on premise dining. The Guidelines, and not the ordinance, will be the practical public facing document.

Mayor Fineman asked for comments regarding roofs and fees.

Councilmembers Burke and Colbert were in favor of umbrellas and shade sails but not permanent roofs.

Councilmember Greene could support roofs as long as 50% of the structure was open. Town Attorney Longfellow suggested the following language: "There must be 50% open space between the railing and the roof structure".

Mayor Fineman was not in favor of roofs.

Councilmember Green was in favor of moving forward tonight provided that the fee structure comes to the Council before the end of the year.

Mayor Fineman asked if the Council felt comfortable with the methodology and the rates outlined in the staff report.

Councilmember Burke supported a fee of 75% of the commercial space.

Vice Mayor Burdo and Councilmember Colbert agreed with the number cited in the staff report to be effective a year from adoption of the fee.

Councilmember Burke did not support waiting for a year to levy the fees. Businesses should start paying for the parklets space now.

Councilmember Colbert suggested a compromise- fees would begin July 1st, 2023.

The Council agreed with this compromise.

M/s, Greene/Burdo, Motion to adopt the Resolution approving the Parklet Guidelines with two amendments: 1) On page 6, pesticides shall be prohibited; 2) On page 7, include a new bullet point with the same language contained in Subsection E, page 4 of the Single Use Food Service Ware Ordinance regarding compliance with single use food service ware.

AYES: Burdo, Burke, Colbert, Greene, Mayor Fineman

M/s, Greene/Burdo, Motion to adopt an Ordinance of the Town Council of the Town of San Anselmo amending Title 7, "Public Works", of the San Anselmo Municipal Code adding Chapter 14.

AYES: Burdo, Burke, Colbert, Greene, Mayor Fineman

M/s, Greene/Burke, Motion to approve the first reading of the ordinance and amendments and waive future readings of the ordinance in its entirety.

AYES: Burdo, Burke, Colbert, Greene, Mayor Fineman

4. Consider Adoption of Resolution Defining the Framework for the San Anselmo Arts Commission

Recreation Supervisor O'Grady presented a staff report. She answered questions from the Council regarding the appeal fee; the alternate appeal provision; Parks and Recreation Commission's involvement with projects on private property; what is meant by the term "objective guidelines"; applicability of Item B; pre-approval of project type and location and review of use of public property; paragraph 7 process and items #6 and #7; if any of these provisions are prohibitive in bringing art to the Town or the work of the Arts Commission; how one project with multiple installations would be handled; steps that are outlined; what is public art vs. art on private property; the process for a project on a private building being paid for by

building owner; the Sign Ordinance; how are murals handled; how “sponsorship” works; the use of Arts Commission funds vs. Town funds.

Ms. Cathy Edwards, Chair of Arts Commission, was in favor of the resolution and stated it would be very helpful in the future

Mayor Fineman opened the meeting to public comments.

Ms. Barbara Shands, member of the Arts Commission, explained the definition of art relative to public and private locations. Art in public places is “art displayed on a long-term basis in a commercial or business area or any Town property that is visually accessible to the public”.

Mayor Fineman closed the meeting to public comments.

Councilmember Greene referred to “objective guidelines” and stated he would like to change the word “objective” to “designated” He suggested moving items #6 and #7 to the top of the list. He supported an appeal process for anyone and felt a \$500 fee would be fair.

Councilmember Burke supported Councilmember Greene’s suggestion of moving #7 up in the process, perhaps to #1 or #2. The appeal should be “any interested party” and she suggested a fee amount of \$500.

Vice Mayor Burdo is not convinced of the need for an appeal process. He supported the hybrid approach suggested by the Commission- the applicant or anyone within 300 feet of the project can appeal. He did not want anybody to be able to appeal for any reason. He supported moving forward.

Councilmember Colbert is puzzled by the need for Commission participation with respect to private property. They are creating a process for something that might not exist. There are other ways to work this out.

Mayor Fineman did not want to hold this process up. She would draw a line between something that is on private property and is privately funded and something on public property. She was in favor of removing the appeal process since the Council was already involved in the decision-making process.

Councilmember Burke stated a person should have recourse and the “buck” always stops with the elected officials. The initial review by the Council pertains to the location.

Mayor Fineman proposed limiting appeals to artists who have had his or her agreement terminated.

Councilmember Greene made a motion that was seconded by Councilmember Burke: Motion to Adopt a Resolution Defining the Framework for the San Anselmo Arts Commission subject to the following conditions: 1) “Objective guidelines” is replaced with “designated guidelines”; 2) Process items #6 and #7 shall become #2 and #3; 3) The staff recommended appeal process is adopted and the amount shall be \$500.

Mayor Fineman noted Rosenbergs Rules allows for two motions to be on the floor simultaneously. Roll call will be taken on the second motion prior to the first.

Vice Mayor Burdo made a counter motion which was voted on before the first motion.

M/s, Burdo/Colbert, Motion to Adopt a Resolution Defining the Framework for the San Anselmo Arts Commission subject to the following conditions: 1) "Objective guidelines" is replaced with "designated guidelines"; 2) Process items #6 and #7 shall become #2 and #3; 3) There shall be no appeal.

AYES: Burdo, Colbert, Mayor Fineman

NOES: Greene, Burke

A roll call vote was taken on the first motion.

M/s, Greene/Burke, Motion to Adopt a Resolution Defining the Framework for the San Anselmo Arts Commission subject to the following conditions: 1) "Objective guidelines" is replaced with "designated guidelines"; 2) Process items #6 and #7 shall become #2 and #3; 3) The staff recommended appeal process is adopted and the amount shall be \$500.

AYES: Burke, Greene

NOES: Burdo, Colbert, Mayor Fineman

M/s, Greene/Burke, Motion to continue items #6 and #7 to a date uncertain.

AYES: Burdo, Burke, Colbert, Greene, Mayor Fineman

5. Town Council Committee Assignment Discussion

Mayor Fineman stated this item has been continued to a date uncertain.

6. Discuss ongoing format of public meetings

Mayor Fineman stated this item has been continued to a date uncertain.

M/s, Greene/Colbert, Motion to adjourn the meeting at 10:05 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary