

Fairfax Town Council Minutes
Regular Meeting
April 6, 2005
Fairfax Women's Club

CLOSED SESSION

Mayor Tremaine called the meeting to order at 7:15 p.m. and adjourned the meeting to Closed Session for the purpose of discussing pending litigation, Natural Solutions v. Fairfax, et al, Marin County Superior Court No. CV 044514.

Mayor Tremaine called the meeting to order at 7:30 p.m.

COUNCILMEMBERS PRESENT: Larry Bragman
Frank Egger
Mike Ghiringhelli
Lew Tremaine
Susan Brandborg

STAFF MEMBERS PRESENT: Ken Hughes, Chief of Police
Ernest Franco, Interim Planning Director
Joseph Brecher, Town Attorney
Judy Anderson, Town Clerk/Interim Town Administrator
Maritza Fortin, Minutes Clerk

APPROVAL OF AGENDA AND AFFIDAVIT OF POSTING

M/S, Bragman/Brandborg, Motion to approve the agenda and the affidavit of posting with the addition of the consideration of adoption of Resolution No. 2372, A Resolution of the Town Council of the Town of Fairfax authorizing the filing of an application for Federal Surface Transportation Program Funding for Center Boulevard Pavement Rehabilitation and committing the necessary non-federal match for the project and stating the assurance that the Town of Fairfax will complete the project and the addition of consideration of the date of September 11th for the third annual car show; and with removal of items 12, 15, 16 and 17 from the Consent Calendar for discussion.

AYES: All

M/S, Egger/Bragman, Motion to approve the two additions to the agenda as urgency items that were time sensitive and came up after the posting of the agenda.

AYES: All

ANNOUNCEMENT OF CLOSED SESSION ACTION

Mayor Tremaine reported that direction was given to the Town Attorney.

ANNOUNCEMENTS

Vice Mayor Tremaine made announcements about vacancies on the General Plan Advisory Committee, the Parks and Recreation Commission, the Volunteer Board, and the Open Space Committee.

OPEN TIME

David Weinsoff, 138 Ridgeway Avenue, stated that the Fairfax Documentary Film Festival was a success and that the Fairfax Theatre had sold more tickets than any other theatre in the country with 500 seats or less.

Councilmember Brandborg stated that the Fairfax Theatre lost money during the Fairfax film festival; and that Mr. Corkhill should be commended for hosing the event.

Councilmember Ghiringhelli stated that he had been informed that the Town of Ross was interested in joining the Ross Valley Fire Department to reduce their costs. He questioned how the Town of Fairfax would benefit and requested that a report from the fire board be presented at the next regular meeting. He also questioned the status of the zoning ordinances discussed at previous meetings; and expressed his suspicion that the items did would not be on the current agenda until after the Measure F election.

Mayor Tremaine directed staff to place a report from the Fire Board on the following month's agenda.

Request from the Volunteer Board for support of a town-wide mailing

John Reed, Volunteer Board Chair, 36 Scenic, proposed a town-wide mailing using a business reply format to launch their Neighborhood Groups Project. He stated that the mailing would potentially cost \$3,000 to \$4,000.

Vice Mayor Brandborg referred to the draft of the mailing submitted by the volunteer board and questioned the use of Town owned buildings for meeting space and temporary insurance coverage for Neighborhood Group Projects.

John Reed stated that the insurance would cover the same type of personal risks as creek clean up; that many of the issues listed in their mailing proposal were neighborhood issues; and that the Volunteer Board was trying to pull neighborhoods together by empowering them.

Councilmember Bragman stated that he was concerned that the proposed letter had inappropriate language and that a volunteer board was not created for the purpose of political organization.

John Reed stated that the City of Portland, Oregon, was an inspiration because the city was able to deal with similar types of issues by giving their residents tools to make their neighborhoods safe.

Vice Mayor Brandborg stated that if a Fairfax resident had a neighborhood problem they should contact Town Hall, the Police Department or the Town Council, not the Volunteer Board.

Councilmember Ghiringhelli stated that, with staff requesting a reduction of hours open to the public hours the creation of subcommittees would create more work for the Town Hall staff; that pet solutions, children's issues, and new developments should not be Volunteer Board concerns; and that the volunteer committee was attempting to micromanage every neighborhood in town. He suggested rather than spending \$3,000 - \$4,000 on postage, that the volunteers personally deliver each letter.

John Reed explained that the purpose of the survey was to make contact with every household; that they were trying to maximize the number of things people cared about; that the intention was not to start a political movement of any kind; and that they only hoped to recruit more members.

Councilmember Bragman stated that if the purpose of the survey was to create neighborhood empowerment that he was in agreement. He further stated that he approved of the project but objected to the language.

Councilmember Egger agreed that the letter should be reworded and suggested that the volunteers contact the garbage company to ask if they could send out the mailing with the monthly garbage bill and recommended that the volunteers ask for donations to help cover the cost of postage.

John Reed reported that, prior to the volunteer coordinated traffic calming meetings, residents of Cascade Canyon wanted to have had 45 speed bumps installed; that 88 of 90 residents felt that traffic calming was a significant issue; and that after meeting with the residents they were able to find other solutions.

Town Clerk Anderson offered to help with the language and formatting of the survey.

Councilmember Egger stated that staff time should not be spent on volunteer projects.

Stan Shriebman, 51 Hickory, stated that he found it appalling that Councilmember Ghiringhelli was not interested in citizen input.

Councilmember Ghiringhelli reiterated that the volunteers should not tell the citizens what their problems are; that the citizens should come to come to the Volunteer Board or the Council to talk about their concerns.

Bill Parker, 235 Olema, stated that the \$3,000 - \$4,000 quoted for postage should not come from an already depleted budget; that in the past the General Plan Advisory Committee had set up a booth at the Fairfax Festival and conducted a survey; and that between three people they had collected over 500 responses. He also stated that in their experience structured responses kept people focused.

INTERVIEWS AND APPOINTMENTS

Interview and appointment of applicants for the Open Space Committee for appointments to complete two unexpired terms to June 30, 2008

Ellen Faus, 120 Scenic Road, stated that she had observed quite a bit of new construction and development in Town; that open space appeared to be filling up with buildings; and that if it were to continue that eventually there would be no open space left. She suggested that the Open Space Committee intervene by arranging the purchase of such properties to prevent further development.

M/S, Bragman/Egger, Motion to appoint Helen Faus to serve on the Open Space Committee to June 30, 2008.

AYES: All

Interview and appointment of applicant for the Parks and Recreation Commission for a full four-year

term to April 30, 2009

Yvonne Roberts, 93 Scenic, stated that she had been involved with the Fairfax Volunteers and was partially responsible for the trout crossing signs in town; that she was interested in ways to give back to her community; and that she had grant writing experience.

M/S, Brandborg/Egger, Motion to appoint Yvonne Roberts to serve on the Parks and Recreation Commission for a full four-year term to April 30, 2009.

AYES: All

OLD BUSINESS

Report on status of General Plan Update and continuation of consultant services

Interim Planning Director Franco presented the staff report explaining that the General Plan was mandated by a state law and consisted of seven separate elements; that the Fairfax Area General Plan was adopted on January 19, 1968; that the General Plan was amended on April 18, 1977 by addition of the newly mandated Housing, Conservation, Safety, Seismic Safety, Noise, and Scenic Highway Elements; and that it was amended once again on July 6, 1987 with amendments to the Land Use, Circulation, Noise, Safety and Housing Elements. He further explained that the Planning Commission was considering the revised Land Use Element policies at a Special meeting on April 7, 2005. He further stated that his recommendation was that the Housing Element should be given the highest priority, followed by the Land Use and Circulation Elements; that the four other mandatory elements could be done later; and that the new Planning Director should be involved in preparing a Work Plan and Budget for the General Plan Update.

Councilmember Ghiringhelli questioned the status of the meeting with the State Representative to discuss the problems with Fairfax's General Plan.

Interim Planning Director Franco stated that he and Town Clerk Anderson had tried to make contact with the State Housing office to arrange for a meeting with the Town Officials regarding the Element and had not received any response.

Vice Mayor Brandborg suggested that Staff contact the State Housing office and ask if they have a record of the Town's missing portion of the General Plan, which was previously submitted.

Town Attorney Brecher stated that he was troubled by the fact that the items could not be found; and that it was a liability for the Town.

Councilmember Egger stated that he had found a technological report that was part of the 1968 plan; and that he recalled some of the amendments that have taken place through the years and thought he could be of assistance.

Town Attorney Brecher stated that the guidelines were flexible and updating the Housing Element was critical.

Vice Mayor Brandborg stated that she was concerned that some of the ordinances passed would conflict with current State requirements.

Mayor Tremaine reported that he had a lengthy conversation with a state representative; that the representative explained that the problems were height and setbacks; and that the state wanted to see something codified in an ordinance.

Town Attorney Brecher advised that it was essential that the General Plan and zoning were consistent; and that any conflict could be a liability.

Stan Schriebman, 51 Hickory, reported that Corte Madera was recently sued for a large sum of money because their plan was not up to date and that Fairfax could soon experience some lawsuits.

Mike Hazel, 10 Canyon, questioned whether there was available money for Consultant Kennings to continue his work on the Housing Element.

Bill Parker, 235 Olema, stated that the Council should consider other means of revenue to retain Mr. Kennings rather than paying from an exhausted budget. He warned that the Housing Element should take priority because there were people prepared to file lawsuits immediately. He suggested holding a workshop with someone who understood the elements of a General Plan.

Councilmember Ghiringhelli stated that the Housing Element reviewed two years ago would have been approved by the State but that a majority of the Councilmembers had chosen to change it and therefore it was denied.

Vice Mayor Brandborg questioned why Consultant Kennings was paid so much during the month of February.

Town Clerk Anderson explained that it was because of the Workshop held for the Downtown Element and work he had done prior to March.

Vice Mayor Brandborg expressed concern that paying Consultant Kennings \$4,000 over the next several months would not be enough to complete the Housing Element.

Mayor Tremaine stated that the Housing Element was nearly complete and should not cost more than \$4,000.

Interim Planning Director Franco stated that, according to the State, Fairfax's densities and heights were too low; and that it was important for the state so see that the Town was working in good faith to eliminate constraints.

Mayor Tremaine stated that the Housing Element needed to come back to the Council as soon as possible.

M/S, Brandborg/Ghiringhelli, Motion to approve \$4,000 for continuation of consultant services.

AYES: ALL

Appointment of representative to Ross Valley School District Long-Range Planning Group

M/S, Egger/Bragman, Motion to appoint Mayor Tremaine as the Town's representative to the Ross Valley School District Long-Range Planning Group.

AYES: ALL

NEW BUSINESS

Request to reduce Town Hall hours due to reduced staffing levels

Town Clerk Anderson presented the staff report requesting that Town Hall be closed to the public at 3 p.m. Monday through Thursday and that Fridays continue to be closed to the public all day.

Mayor Tremaine suggested that Town Hall be closed for an additional day rather than reduce the Monday through Thursday hours.

Councilmember Bragman suggested that Town Hall open at 8:00 a.m. and close to the public at 3 p.m.; with appointments available for hours after 3 p.m.

Town Clerk Anderson stated that during the last two hours of the day there appeared to be fewer customers.

Councilmember Egger expressed his opposition to the reduced hours and stated that if Measure F did not pass, changes would have to be made.

Stan Shriebman, 51 Hickory, suggested borrowing an employee from another department such as the Fire or Police.

Bill Parker, 235 Olema, stated that with staff shortages at Town Hall that staff time should not be spent on agenda items such as casinos which had nothing to do with Fairfax or Marin County; He then recommended rather than have the staff draft letters and resolutions from the Town; that the Council send letters as individuals rather than from the Town. He further stated that he couldn't conceive how staff was dealing with the current stress and workload.

Councilmember Ghiringhelli stated that reducing the hours was sensible and that the public would learn to work around the new hours.

M/S, Brandborg/Ghiringhelli, Motion to reduce the public hours at Town Hall by opening at 8 a.m. rather than of 8:30 a.m. and closing at 3 p.m. Monday through Thursday, through the fiscal year, due to depleted staffing levels, with the understanding that the public could make appointments with staff when necessary to complete their business.

Roll Call Vote:

Bragman: AYE Brandborg: AYE; Egger: NO; Ghiringhelli: AYE; Tremaine: AYE

Request to secure the date of September 11, 2005 for the Third Annual Fairfax Car Show

Councilmember Ghiringhelli reported that the promoters of the car show needed to secure the date because of the antique car circuit; and that he recommended approval of the date with the details to be worked out at a later time.

M/S, Egger/Bragman, Motion to approve September 11, 2005 for Third Annual Fairfax Car Show.

AYES: ALL

Request for adoption of Resolution No. 2372, A Resolution of the Town Council of the Town of Fairfax Authorizing the Filing of an Application for Federal Surface Transportation Program Funding for the Center Boulevard Pavement Rehabilitation and Committing the Necessary Non-Federal Match for the Project and Stating the Assurance that the Town of Fairfax will Complete the Project.

Town Clerk Anderson stated that the Town would have to come up with approximately \$800,000 and then put in for reimbursement. She explained that according to the Finance Director the funding would be dependent on Measure F passing.

Councilmember Egger stated that the project was critical to the Downtown Element and General Plan.

Councilmember Ghiringhelli questioned the amount the Town had in its reserve account. He reported that he had heard it was as high as 1.3 million dollars.

Bill Parker, 235 Olema, asked if it would be legal to commit \$45,000 from Measure K to be used as matching funds.

Town Clerk Anderson stated that the funds could not be used unless it had been approved as a Measure K project or approved by the Measure K committee.

Councilmember Ghiringhelli suggested asking the Measure K committee if any uncommitted funding was available for the project.

Councilmember Egger explained that there were two other critical Measure K projects, which needed immediate attention.

Town Clerk Anderson stated that the required survey was currently being done and that there were other sources of revenue such as gas tax to be used on roads.

M/S, Egger/Brandborg, Motion to adopt Resolution No. 2372, A Resolution of the Town Council of the Town of Fairfax Authorizing the Filing of an Application for Federal Surface Transportation Program Funding for Center Boulevard Pavement Rehabilitation and Committing the Necessary Non-Federal Match for the Project and Stating the Assurance that the Town of Fairfax will Complete the Project.

AYES: All

Mayor Tremaine recessed the meeting at 9:50 p.m. for a 5 minute break.

PUBLIC HEARINGS

Adoption of Resolution Number 2355, a Resolution of the Town Council of the Town of Fairfax approving an amendment to Joint Exercise of Powers Agreement creating the Marin Streetlight Acquisition Joint Powers Authority that authorizes the JPA to assume responsibility to administer a taxicab regulation program

Introduction and first reading of Ordinance No. 709, an ordinance establishing a taxicab regulation program to be administered by the Marin Streetlight Acquisition Joint Powers Authority

Police Chief Hughes presented a report on the two items relating to the taxicab regulation explaining that Cities, Towns and the County were required to regulate taxicab operations; that Fairfax's ordinance did not comply with the Government Code; and that to be in compliance a mandatory controlled substance and alcohol testing certification program in the requirement regulating taxicabs was necessary. He further stated that regulations required a company to obtain permits in each locality to operate within that jurisdiction. This would mean that if the county, city or towns amend current ordinances to include the requirements for mandatory controlled substance and alcohol testing, a taxicab company would be required to be tested in each jurisdiction; that the Joint Powers Authority have offered to fund the start of the program; and that Fairfax and San Anselmo were the only ones in the county that have not adopted the program.

Mayor Tremaine explained that it was not necessary to have a city manager as a representative and that many jurisdictions had representatives from other departments such as public works.

Councilmember Egger stated that the JPA had a large budget and that it had become so huge that it had become a "shadow government".

M/S, Egger/Bragman, Motion to introduce Resolution No. 2355, a Resolution of the Town Council of the Town of Fairfax approving an amendment to Joint Exercise of Powers Agreement creating the Marin Streetlight Acquisition Joint Powers Authority that authorizes the JPA to assume responsibility to administer a taxicab regulation program.

AYES: ALL

M/S, Egger/Tremaine, Motion to waive further reading of Ordinance No. 709, an ordinance establishing a taxicab regulation program to be administered by the Marin Streetlight Acquisition Joint Powers Authority.

AYES: ALL

M/S, Brandborg/Egger, Motion to adopt Ordinance No. 709, an ordinance establishing a taxicab regulation program to be administered by the Marin Streetlight Acquisition Joint Powers Authority.

Roll Call Vote:

Bragman: AYE; Brandborg: AYE; Egger: AYE; Ghringhelli: AYE; Tremaine: AYE

CONSENT CALENDAR

Approval of cash disbursements for March, 2005

Report on Police Department overtime for March, 2005

Approval of Town Council Minutes for February 1 and 12, and March 1 and 15, 2005

Adoption of Resolution No. 2370, A Resolution of the Town Council of the Town of Fairfax Approving the ABAG (Association of Bay Area Governments) Report "Taming Natural Disasters" as the Town of Fairfax's Local Hazard Mitigation Plan

Adoption of Resolution No. 2371, A Resolution of the Town Council of the Town of Fairfax authorizing

and approving the borrowing of funds for Fiscal Year 2005-2006 not to exceed \$1,500,000; the issuance and sale of a 2005-2006 tax and revenue anticipation note therefore and participation in the California Communities Cash Flow Financing Program

Request to Senator Diane Feinstein to add the Rohnert Park and Point Molate Casinos to the Federal Legislation for Casino San Pablo to prevent "reservation shopping" and prohibiting tribes from circumventing the Federal law and process when seeking a compact from the State, Egger

Request to the Governor and State Legislature to reject the compacts for the Rohnert Park and Point Molate Casinos, Egger

Staff report on the status of 15 Piper Lane construction project, Egger

Approval of letter of thanks to the Board of Supervisors for their contribution to the purchase of the Melvin property, Egger

Approval of Town of Fairfax support of SB 879 (Escutia), the Pesticide Safety Enforcement Act, and SB 509 (Florez) the Pesticide Notification Act, Egger

M/S, Brandborg/Egger, Motion to approve the Consent Calendar.

AYES: ALL

Approval of a Draft Limited Powers Agreement concerning the Canyon Road Sewer Expansion

Councilmember Bragman suggested changes to the wording of the draft agreement to allow a 12 month notice provision.

Mayor Tremaine agreed that the wording should be changed to read "withdraw from this agreement for good cause" rather than "for any reason".

M/S, Egger/Bragman, Motion to approve Draft Limited Powers Agreement concerning the Canyon Road Sewer Expansion with revision to the wording regarding termination notice.

AYES: ALL

Request for Town Council support of Assemblymember Joe Nation's ACA 15, an Assembly Constitutional Amendment placing a two year "moratorium" on new tribal casinos and creating a new State agency to review all impacts of Class III gambling casinos and reporting back to the Legislature and Governor, Egger

Request to Senator Diane Feinstein to add the Rohnert Park and Point Molate Casinos to the Federal Legislation for Casino San Pablo to prevent "reservation shopping" and prohibiting tribes from circumventing the Federal law and process when seeking a compact from the State, Egger

Request to the Governor and State Legislature to reject the compacts for the Rohnert Park and Point Molate Casinos, Egger

Mayor Tremaine requested that all three items be discussed together.

Vice Mayor Brandborg explained that the reason she requested the item be removed from the consent calendar because they did not have anything to do with the Town; and that she disagreed with the constant slamming of Native American attempts to raise money.

Councilmember Egger reported that Assembly Constitutional Amendment No. 15 (ACA 15) required a 2/3 vote of legislation to pass; that the two-year moratorium was less obtrusive than what was previously discussed and that it was modeled after an initiative which he had been working on since last September.

He explained that he placed it on the agenda because the proposed Point Molate Casino was only four miles from the San Rafael shoreline and therefore would affect traffic throughout Marin County; and that there were five casinos proposed along the interstate 80 corridor between Laytonville and Geyserville.

Martha Ture, 186 Canyon, stated that she was against constitutional amendments; that a simple ballot proposal would suffice. She then reported on the history of the local Indian tribes stating that in 1972 the United States Indian Claims Commission poorly compensated the California Indians for the millions of acres that had been stolen. In reference to Indian Gaming she stated that we should not interfere with their attempts to regain their wealth.

Bill Parker, 235 Olema, questioned why the Town was involved. He stated that council members should submit personal letters rather than spending staff time on agenda items which did not have anything to do with the Town.

Councilmember Bragman stated that the items had a direct or indirect effect on the Town. He explained that the proposed casino at Point Molate would cause road damage and traffic problems which would affect the community and that Indians and the government needed to come up with a way to solve their differences.

Mayor Tremaine stated that he had instructed the councilmembers to create their own staff reports and asked that they not spend staff time on such items, but as councilmembers, it was their prerogative to put such items on the agenda.

Councilmember Ghiringhelli suggested that a second optional meeting a month be held to discuss social issues, which did not directly affect the town. He further stated that staff should not be required to take notes or minutes on such issues.

Councilmember Egger stated that he had prepared all of the background information for the items; and that it was a major issue which would impact traffic and young adults 18 and over.

M/S, Egger/Tremaine, Motion to approve the request for Town Council support of Assemblymember Joe Nation's ACA 15, an Assembly Constitutional Amendment placing a two year "moratorium" on new tribal casinos and creating a new State agency to review all impacts of Class III gambling casinos and reporting back to the Legislature and Governor; and to approve requests to the Governor and State Legislature to reject the compacts for the Rohnert Park and Point Molate Casinos.

AYES: Egger, Tremaine, Bragman
NOES: Brandborg, Ghiringhelli

M/S, Egger/Tremaine, Motion to approve a request to Senator Diane Feinstein to add the Rohnert Park and Point Molate Casinos to the Federal Legislation for Casino San Pablo to prevent "reservation

shopping” and prohibiting tribes from circumventing the Federal law and process when seeking a compact from the State.

AYES: Egger, Tremaine

NOES: Ghiringhelli, Brandborg, Bragman

Report on status of recruitment for Planning Director, Public Works Director and Town Administrator

Town Clerk Anderson reported that the deadline for recruitment of the Planning and Public Works Director was April 7, 2005; that only three applications were received for the Planning Director and that two of the three were Fairfax residents. She stated that the Town may have to offer a higher salary to get an experienced person to fill the Town Administrator’s position; and that she would like to meet with the personnel committee regarding the Planning Director Position. She also stated that the Finance Director that if Measure F did not pass the Town would not be able to afford to hire a new Administrator.

A discussion took place about possibly extending the deadline and additional advertising.

Councilmember Ghiringhelli recommended that the council be involved in the interview process.

Town Clerk Anderson stated that typically management would oversee the preliminary interviews; and that the second interview would involve the Town Council.

Councilmember Ghiringhelli recommended that the Town combine the positions of Town Administrator and Planning Director to save money.

Town Clerk Anderson stated that the reason the Town had not received many applications was because Fairfax was unable to compete with the salaries offered throughout Marin County.

Vice Mayor Brandborg stated that the Town had once attempted to combine positions and found that it did not work.

Councilmember Egger directed staff to set up a special council meeting to interview all of the candidates for the Public Works Director position.

Town Clerk Anderson stated that Tiburon Public Works Director Echols had offered his assistance with the interview process.

Mayor Tremaine adjourned the meeting at 11:00 p.m.