

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
October 17, 2007

COUNCILMEMBERS PRESENT: Larry Bragman
Susan Brandborg
Mary Ann Maggiore
Lew Tremaine
David Weinssoff

STAFF MEMBERS PRESENT: Linda Kelly, Town Manager
Ann Welsh, Planning Director
Jim Karpiak, Town Attorney
Ken Hughes, Police Chief
Mark Lockaby, Building Official
Ian Roth, Finance Director
Judy Anderson, Town Clerk

The regular meeting was preceded by a Special Meeting Closed Session at 6:30 p.m. at the Youth Center, 16 Park Rd. for conference with legal counsel pursuant to Government Code Section 54956.9(b), anticipated litigation, two potential cases and; pending litigation, Marin Superior Court No. CV 064668, Legnitto v. Town of Fairfax; and Marin Superior Court No. CV 074051, North Bay Coalition to Support Plastic Bag Recycling v. Town of Fairfax.

Mayor Bragman called the regular meeting to order at 7:42 p.m.

Closed Session Announcement

Mayor Bragman reported that the Town Council had met in Closed Session and had received a status report from legal counsel in the Legnitto v. Fairfax case, gave direction to counsel regarding North Bay Coalition to Support Plastic Bag Recycling v. Fairfax; and gave direction to staff regarding two cases of potential litigation.

Approval of Agenda and Affidavit of Posting

M/S Weinssoff/Maggiore, Motion to approve the agenda and the affidavit of posting.

Councilmember Tremaine requested that the discussion of the Wall property be moved up on the agenda to be heard as the first item on the regular agenda after the public hearing and the Consent Calendar to accommodate the number of people present to speak to the item.

M/S, Weinssoff/Tremaine, Motion to approve the agenda with the discussion of the Wall property to be heard as the fourth item on the agenda, and to approve the affidavit of posting

AYES: Bragman, Brandborg, Maggiore, Tremaine, Weinssoff
NOES: None

Announcements

Mayor Bragman announced that the annual Halloween parade sponsored by the Fairfax Chamber of Commerce would be held on October 31st starting at 5 p.m. at the theater; that a Cascade Canyon Emergency Siren location meeting would be held on Wednesday, October 24th at the Women's Club at 7 p.m.; that the Town Council had scheduled a Strategic Planning Workshop to

be held on Saturday, October 27th from 9:30 a.m. to noon at the Women's Club; that a presentation of a study of Fairfax creeks by Matt Smeltzer would be held on November 10th from 10 a.m. to Noon; that new members were welcome on the General Plan Advisory Committee and on the Fairfax Youth Commission.

Open Time for Public Expression

Cindy Ross, Lansdale and Pastori, stated that she and her family experienced alarm when they read the newspaper account about their neighbor Michael Mackintosh and his confrontation with teenagers who had trespassed on his property. She described an incident when her son had tried to retrieve their dog from the Mackintosh property and was threatened and frightened. She further stated that the Marin Town and Country Club had been used as a staging area in the past and had created dust and noise in the neighborhood, and, although it was private property, young people shouldn't be threatened for entering the property. She also asked when Pastori Avenue would be fixed because its poor condition made it very difficult for her mother in a walker.

Carl Diehl, 185 Pine Drive, reported that the open space on Pine Drive had been cleared to create a fire break; that he had heard chain saws and investigated to find that trees with trunks much larger than 24 inches had been cut down; that the land had been desecrated for fire safety; and asked the Council to assess the tactics used and to evaluate the environmental impact.

Stan Schriebman, Hickory Road, complimented the staff for providing the detailed information about FEMA reimbursements for the 2005 storm. He stated that he had also read about the three teenagers on the Mackintosh property, that trespassing was against the law, and that the Council should have taken a stand on the issue.

Patrick Troupe, thanked the Council and the Town for allowing him to have the "Good Festival" in Fairfax and stated that it was a tremendous success.

183 Frustuck Avenue; Appeal # 07-28 - Appeal of the Planning Commission's approval of a Hill Area Residential Development Permit, Excavation Permit and Encroachment Permit to construct a 3,050sf single-family residence, a 610sf garage and a 134sf utility room for a total square footage of 3,794sf single-family residence (includes a 610sf garage); Assessor's Parcel No. 003-193-13; Residential Single-family RS 6 Zone; Shane Deal, owner; Niccolo Caldararo, appellant; CEQA categorically exempt, § 15303(a); Adoption of Resolution No. 2513, A Resolution of the Town Council of the Town of Fairfax regarding the Decision on Appeal No. 07-28 (continued from 9-19-07)

Mayor Bragman recused himself because of the proximity of his residence to the proposed project.

Vice Mayor Maggiore assumed the chair.

Planning Director Welsh presented the staff report and the staff recommendation to deny the appeal and to uphold the decision of the Planning Commission.

Niccolo Caldararo, appellant, stated that the changes made to the plans by the applicant were cosmetic, not substantial; that there was still a plan for a garage on the ridgeline; that it was an opportunity for the Town Council to preserve his neighborhood; that the idea that it was a "green" project was misleading; that he was in favor of affordable housing and preserving Fairfax by protecting neighborhoods; that the house should be dropped down the hill; that the house would be visible throughout the valley; and that it would reduce the value of the neighbors' property while enhancing the builder's property value.

Max Crome, Architect for the project, stated that he lived and worked in Fairfax; that he had been working with Mr. Deal on the house for about two years; that it was never intended to be a “spec” home; that the siting on top of the lot would minimize the tree removal and the excavation into the hillside; that it was a platinum green project according to the County’s standards; that they had been working with Town staff for about a year; that the project had been thoroughly reviewed by engineers (soils, geotechnical, etc.) and that the site had been approved by all of them; that the Design Review Board was the appropriate forum for input on design; that the applicant was not asking for any variances; that the project exceeded all the Town’s requirements; that they wanted to be responsible neighbors; that they had reduced the size of the project to 2,830 square feet; referred to a photo simulation to illustrate the lowering of the house in relation to the original story poles; that the design of the house was the one he was the most proud of in Fairfax; and that they would like to see the house built.

Shane Deal, Belle Avenue, applicant/builder, responded to the 3 issues raised by the appellant: (1) the appellant stated that the project was not consistent with the HRD permit, but hadn’t shown why that was true; (2) that the appellant had stated that the house would be located in a landslide hazard zone, when 85% of the houses in Fairfax were in the same hazard zone; and (3) that the appellant stated that the proposed home exceeded the average size of the homes in the neighborhood, and that there was no real standard for a neighborhood and that the neighborhood should include all the homes within the noticing area of 300 feet. The applicant used a copy of the County Assessor’s map of the 300 foot radius and provided information about that area as the neighborhood. Mr. Deal didn’t include his own property or another empty lot in the area, but included the other 38 properties in a survey. He noted that while Mr. Caldararo had stated that there were no garages in the neighborhood, his survey found that 22 of the homes had garages, four had parking decks and three had carports. His survey showed that the smallest house was 820 square feet and that the largest was 4,857 feet, illustrating that his proposed home of 2,830 square feet would not set a precedent in the neighborhood as claimed by Mr. Caldararo. The properties on his survey were listed by “Floor Area Ratio” (FAR) and showed that his proposed project was in the middle of the range of homes for FAR.

Vice Mayor Maggiore opened the public hearing.

Sam Diehl, Iron Springs Rd., stated that he supported the project.

Michael Mackintosh, Pastori Avenue, stated that Fairfax was a progressive town; that Mr. Caldararo was one voice that stopped the whole process with inaccurate information that wasted everyone’s time; and that the applicant met all the Town’s requirements and shouldn’t be subjected to such a negative process.

John Owens, Frustuck Ave., stated that he lived next door to the project and fully supported it.

Rachel Lloyd, Frustuck Ave., stated that she supported the project.

Laurie Hewitt, Cascade Drive, stated that she supported the use of garages because they hid all the stuff that would otherwise be exposed on a carport.

Stan Schriebman, Hickory Rd., stated that Mr. Caldararo’s house was over 2,000 square feet, not including his garage, and that his informal evaluation of the neighborhood resulted in an estimate that the average house was about 2,000 square feet. He further stated that he didn’t think the applicant should have to go through such an ordeal to build.

Paul Fitzgerald, a neighbor three houses away, stated that he supported the project.

Ryan Murphy, Fairfax resident, stated that the Council should not only approve the project, but should applaud it for its green building techniques.

Drew, Bothin Road, a tree expert, stated that he supported the project and that the applicant had made an extra effort to protect as many trees on the property as possible.

Bruce Bunnell, a neighbor across the street from the project, suggested that the applicant consider installing a carport instead of a garage and to move it down on the property to minimize the impact on his view; that the project would very negatively affect his view; that the height of the garage had only been reduced by 18 inches; that his house sat low on the hill and his view of Mt. Tam would be obstructed; that he supported the project but that he would have a view of structures only; and asked that the house be dropped down a bit to preserve his view.

Bill Madsen, Porteous Ave., Planning Commissioner, stated that he had voted for the project; that the Planning Commission had sent a revised Floor Area Ratio (FAR) ordinance to the Council for consideration that would have helped to control the size of homes on hillsides; that the project before them wouldn't have been an issue if the revised FAR had been adopted; and that the Council was holding the applicant to a standard that the Council wasn't willing to adopt themselves.

Ryan O'Neil, member of the Open Space Committee and the Tree Committee, stated that the applicant should be able to build a house within all the Town's requirements; that there was a shiny roof on an existing home in the neighborhood that was offensive; that the parking structure was what he objected to because it would be highly visible; and that allowing big houses would set a new standard.

Pam Meigs, Cypress Drive, stated that the FAR ordinance had been on the back burner and that the Planning Commission did want it addressed by the Council; that the Town did not yet have a green building ordinance; and that she had voted against the project when it was before the Planning Commission because it was too large.

Diana Perdue, Scenic Rd., cautioned that a "dream" home was built next door to her that became a scar on the landscape and a rental; encouraged the Town Council to examine the proposed findings carefully; and suggested that projects should be judged by how they fit into the surroundings, not just how they follow the rules.

Frank Egger, Meadow Way, stated that he wished he hadn't voted to approve the Owen's house on Frustuck because it could be seen driving down Cascade; that lots had been reconfigured in that area; that the average slope hadn't been addressed in the staff report; questioned whether or not the reduction in size of the project was adequate; that a car deck instead of a garage wouldn't obstruct the view of Mt. Tam for the neighbors; and that the project was planned for a curve in the road that would make it more noticeable.

John Sensal, Olema Rd., stated that he came from New Mexico where the area was being overdeveloped without codes; that he approved of the strict building codes in California; that he had visited the site; that the planned piers would reinforce the hillside; that the project wouldn't block any views; that the proposed project was less than the FAR requirement; that there were 22 garages nearby, including the appellant's; and that the proposed home was the first to be built in Fairfax to be rated "platinum" on the County's green building scale.

Shane Franco, Willow Ave., stated that he supported the project and that Mr. Deal did quality work as a contractor.

Max Cliver, Chester Ave., expressed his support for the project.

Jim, Scenic Road, stated that he supported the project.

Randall Gillette, Frustuck Ave., stated that the project called for a 2500 square foot house, not a "McMansion"; that the number of trees to be removed had been drastically reduced; and that he supported the project.

Mr. Chaney, Chester Ave., stated that he supported the project.

Jean Deal, Belle Ave., stated that she hadn't spoken before; that the home was very important to them; that they biked, hiked and walked their dog; that they had fallen in love with the property and loved the views that it afforded; that they planned to grow a family in the home and to grow old in the home; and asked that the Council move the project on to the Design Review Board.

Vice Mayor Maggiore closed the public hearing.

Councilmember Weinsoff stated that he was not unmindful of the appellant's viewpoint; that the rules were set by the Town Council and the applicant had followed the rules; that he could not sustain a denial of the project because it followed the rules; that the revised Floor Area Ratio (FAR) ordinance drafted by the Planning Commission had not been taken up by the Town Council; that when the revised FAR ordinance was heard by the Council, changes in the rules could be considered.

Councilmember Brandborg expressed agreement with Councilmember Weinsoff; noted that the applicant had taken the Council's advice and had made design changes; that the project would still go before the Design Review Board; clarified that it was not an affordable housing project, but was a single family home; that the community designed its homes through its rules; and stated that she would vote to approve the project.

Councilmember Tremaine stated that there was no doubt that the Town would lose a legal challenge if the project were to be denied; that it was true that the Council needed to review the FAR ordinance; that the applicant had been asked to reduce the size of the project and he had; stated that he would have liked to see the house further down the hill and a carport rather than a garage; that he would like the Council to join him in requesting that the applicant build a carport instead of a garage; and that he would like to be able to make the house smaller, but that he didn't have the ammunition to do so.

Vice Mayor Maggiore stated that she felt the changes were cosmetic; that there hadn't been a mandate from the Planning Commission in their approval of the project; and that it felt like a 4,000 square foot house to her.

After a discussion by the Council, Vice Mayor Maggiore reopened the public hearing to the appellant and the applicant.

Niccolo Caldararo, appellant, stated that unintended consequences harmed us the most; thanked Bruce Bunnell for his courage in speaking out against the project; stated that it was up to the Town Council's discretion; that the HRD wasn't in danger of being defeated; that how the house would be integrated into the neighborhood was important; that the median house size in the neighborhood was much smaller than represented by the applicant; that he was talking about the square footage of the proposed home, not the FAR; that it was too large compared to other homes in the area; that the other garages in the neighborhood were in the houses or below the road; that the proposed garage would be highly visible; that no garages were seen on the road; and that the house would destroy the neighborhood.

Shane Deal, applicant, stated that the reason not so many people spoke against the project could have been because some of the people were satisfied with the project and the changes he proposed; that there were 36 houses on his inventory of the neighborhood and that 22 of them had garages; that it needed to have a garage to be a viable home for him and his wife; and that the design issue should be decided by the Design Review Board.

Vice Mayor Maggiore closed the public hearing.

Town Attorney Karpiak explained to the Council that a tie vote would mean the project would not be approved; that if the Council voted to deny the project; that Council should direct staff to bring back findings for denial, and that the Town would be legally liable without sufficient findings. He noted that a condition of the approval by the Planning Commission was to have the project reviewed by the Design Review Board and that the Council could ask that the consideration of the garage be part of that review.

M/S, Brandborg/Weinsoff, Motion to deny the appeal and adopt Resolution No. 2513, A Resolution of the Town Council of the Town of Fairfax regarding the Decision on Appeal No. 07-28.

Roll Call Vote:

Brandborg: AYE; Maggiore: NO; Tremaine: ABSTAIN; Weinsoff: AYE

(Bragman recused)

Motion carried.

Vice Mayor Maggiore adjourned the meeting for a break from 9:10 a.m. to 9:25 a.m.

Mayor Bragman resumed the chair of the meeting.

CONSENT CALENDAR

A Proclamation declaring Sunday, October 21st, 2007, as *Take a Step For Marin Abused Women's Services* to honor MAWS on the occasion of their 30th anniversary, Brandborg

Adoption of Resolution No. 2516, a Resolution of the Town Council of the Town of Fairfax Adopting the Police Department Plan to Allocate Funds for the Citizens Option for Public Safety (Cops) Program for 2007-2008

M/S, Tremaine/Maggiore, Motion to adopt the Consent Calendar as presented.

AYES: All

Status Report on Wall Property, Tremaine

Councilmember Weinsoff recused himself from the discussion because of the proximity of his home to the Wall property.

Councilmember Tremaine introduced the topic and stated that he had placed it on the Council agenda to give the community a forum to discuss the property; that Mr. Chapman of Marinda Oaks had given him and Councilmember Weinsoff a tour of the property; that there was a homeless encampment on the property; that there were fresh markers on areas leveled many years previous; that the level areas were clearly within the ridgeline; that he would fight any

construction of homes on the property; that he recommended developing a plan for what the community would like to see on the property; and that, if the community was proactive about it, a strategy could be developed to keep it as open space.

Planning Director Welsh stated that the only information in the staff report was that the property was comprised of about 97 acres and was zoned for 10-acre lots. She reported that she had met with the realtor and a person who had a contingency agreement to buy the property and that an environmental analysis of the property was being prepared.

Mayor Bragman reported that he had met with Dave Hansen from the County of Marin, Terry Goyan of the Fairfax Open Space Committee, and a member of the Marin Conservation League, to see if there was an interest in securing the property; that the County's priorities were elsewhere for acquisition of property; recommended that the Council work on strengthening the ridgeline ordinance; that expanding the ridgeline corridor could help preserve the property; and that the development of a ridgeline overlay map would help to move forward to protect the property.

Mayor Bragman opened the discussion to the public.

Bob Swingley, Oak Springs, San Anselmo, stated that there was a slide on the Wall property and that he and his neighbor Jim Arrigoni had been unsuccessful in their attempts to get Mr. Wall to respond to requests to fix the slide.

Terry Goyan, Co-Chair, Open Space Committee, Bolinas Road, stated that, as a result of the meeting with Dave Hansen, it was determined that, even if the Wall property were purchased for open space, a management plan would have to be developed; that the County wasn't interested in going forward with a purchase because of the potential liability exposure due to the slides on the property; that the County was interested in the Kappe property; and also expressed support for the strengthening of the ridgeline corridor ordinance.

Mayor Bragman explained that the zoning on the property required a minimum of ten acres per home and that ten houses were possible with the current zoning.

In response to a question about clustering of development, Planning Director Welsh stated that Steve Wheel had a contingency on the property; that the environmental analysis was to show that homes could be placed in a smaller space with over 90% of the property to be dedicated to open space; and that the prospective buyer of the property wanted to explore the idea of clustered development.

Rob Helbig, San Gabriel, stated that his property abutted the Wall property; that he had seen numerous slides on the property; that he had experienced slide damage; that the "bowl" area on the property was very slide prone; expressed support for anything that would keep the property from being built on; and described the severe drainage problems in the Oak Springs area of San Anselmo.

Peter Holbrook, San Gabriel, stated that the trailhead at the top of Marinda was one of the reasons he enjoyed his property and that it was a unique spot that should be preserved in any way possible.

Planning Director Welsh stated that development of the property wouldn't happen without a lengthy process; that every property within 300 feet would be notified and every public hearing would require noticing; and that there would be many opportunities for public comment throughout the process.

Jim Arrigoni, Oak Springs, San Anselmo, stated that there had been a huge slide in 1998; that

there had been another slide two years previous; and submitted documents to the clerk about the slides affecting his property as part of a lawsuit against Dr. Wall.

Ms. Appleton, Ridgeway Avenue, stated that she represented her neighbors and had met with the Marinda Oaks neighbors and others about the Wall property and the consensus was that they would like to preserve the property as open space.

Henry Fronenberger, San Gabriel, stated that he had to move out of his house for a year because of slide damage; that he was in litigation with Mr. Wall over the damage; that his house was built in 1960; that construction debris still slid onto his property; and that he would like to see the slides on the property managed.

Keith Silva, Sequoia Rd., stated that the people couldn't even buy Marin Town and Country Club so a purchase of the property wasn't realistic.

Frank Egger, Meadow Way, stated that he was one of the authors of the Upland Residential (UR) zone and asked if the property had actually been purchased. He asked when CEQA would come into play and if the option to buy the property was contingent on the ability to develop the property. He stated that how 130 Ridgeway was developed was a key to the development of the Wall property; that the Town of Fairfax had an agreement with the Town of San Anselmo to notify them of any development on our borders; and that the history of slide lawsuits on the property needed to be made known.

Dana Edsel, Arcangel Court, stated that she hiked on the Wall property and that it was beautiful; that zoning ordinances could change; and suggested that perhaps the County, San Anselmo and Fairfax could go in together to purchase the property.

Planning Director Welsh noted that the property was on the market for four or five million dollars and that a recent change in ownership had triggered a re-assessment of the property.

Bill Appleton, Ridgeway Ave., stated that people really cared about the property and that he had heard that the property was land-locked and didn't have an access easement.

Planning Director Welsh stated that there was access to the property at 130 Ridgeway, at the top of Marinda, through San Anselmo, and perhaps through Piper Lane.

Michael Mackintosh, Pastori Ave., stated that he had looked at the Wall property; that there was more than one owner of the property; that current tax laws didn't allow it to be used as a tax write-off except in special circumstances; that the owner could build a reasonable home in one portion of the property to leverage money for the purchase; that the owner could build a cell tower that would generate a loan payment amount; that the small parcel could be used for access; that the community could leverage the use of the property to purchase the property; and that Dr. Wall was a reasonable man and might be willing to negotiate the price.

Caroline McFadden, Ridgeway Avenue, Chair of the Horse Hill Committee, stated that her committee had raised over three million dollars for the purchase of Horse Hill in Mill Valley; that there was a big difference between private and public open space; suggested that San Anselmo should be brought into the discussion; and secured the phone number of Councilmember Tremaine to contact on the issue.

Bob Polacky, Chester Ave., asked if the UR-10 zoning allowed for clustered development; whether or not the Town could do anything about the slides on the property; and if a nuisance abatement proceeding against the property would discourage the sale and/or the development of the property.

Brian West, Oak Springs, San Anselmo, asked if there were any other mechanisms besides strengthening the ridgeline ordinance to make it difficult to develop the property.

Town Attorney Karpiak stated that an abatement process would not be easy and efforts to make it difficult to develop the property could be considered a taking of the property.

Planning Director Welsh stated that the existing zoning on the four parcels of property would allow four homes to be built and that the owner could cordon off the property and not allow access to the public.

Martin Block, Oak Springs, San Anselmo, asked if there was anything further that could be done about the homeless encampments on the property and expressed concern about the fire danger.

Chief of Police Hughes stated that the police department had responded to complaints; that they hadn't found any evidence of fires or the use of fires; that the residents were encouraged to call if they saw homeless people on the property; that the police department relied on the eyes of the public; that Dr. Wall had authorized the police to arrest trespassers as necessary; and that there were no guarantees to prevent fires.

Jim Arrigoni, Iron Springs, San Anselmo, stated that the homeless encampment had been roused by the police, but that they came back, and that there were survey markers on the flat areas on the property.

Terry Goyan, Fairfax Open Space Committee, stated that funds for purchase could be available from the Open Space Committee, Marin Conservation League, the County of Marin and the Marin Community Foundation, if these organizations were shown that Fairfax was serious about buying the property. He further stated that money also needed to be set aside for maintenance of the property.

Dr. Hal Wall, stated that he had owned the property for 51 years; that he had met with a similar group 44 years previous and that nothing had happened; that there were no slides on the property until Oak Springs in San Anselmo was developed; commended the Town Council for focusing on the issues and not the emotions and for going in the right direction; that part ownership of the property had been sold to two other doctors and that the change in ownership triggered a new assessment of the property; that the police department had been very responsive; and that it was in the interest of everyone to continue the discussions about the property.

Mayor Bragman adjourned the meeting for a recess from 10:45 p.m. to 10:50 p.m.

Introduction and First Reading of Ordinance No. 725, A Social Host Liability Ordinance for Underage Drinking, Maggiore

Vice Mayor Maggiore introduced the topic.

Town Attorney Karpiak explained that he had prepared the ordinance as requested with the penalties to be \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third; that the hearing officer would be appointed by the Town Manager and could be a Council Member; and that there would be an automatic right of appeal per State statute.

There was a Council discussion about the term of the hearing officer and the fine structure.

Mayor Bragman opened the discussion to the audience.

Maureen DeNieva; Youth Leadership Institute, stated that it had been a long journey; thanked the Council for their work on the project; stated that civil fines ensured that both the parents and the students would be held accountable; that to have the ordinance be a strong deterrent it should be like the County's ordinance; that lower fines in Fairfax would, according to a survey, mean that Fairfax would be a target for parties with alcohol; that their research had shown that the use of the "civil infraction" terminology allowed the town to go beyond the \$1,000 limit; noted that the fines were \$750, \$1500 and \$2500 in the County of Marin's ordinance, with cost recovery to be added; and suggested that a review of the fine structure could be conducted if there were too many appeals of the assessments.

Town Attorney Karpiak recommended that the Council not exceed \$1,000 as a fine.

A Dominican Student stated that the students who attended parties with alcohol paid at the door to defray the cost for the host.

Vincent Chu, thanked the Council for keeping the penalties civil and not making it criminal and suggested that community service could be performed in lieu of paying the fine.

Scott Spicer, Counselor, Youth Leadership Institute, stated that a range of penalties of \$750, \$875 and \$1,000 would make sense; that Maureen had made a good point that the fines could be reviewed if they prompted a lot of appeals; that sometimes a student could do community service and no adult would pay a fine; and referred to a "survey monkey" that resulted in 73% of respondents stating that a \$750 fine would be a deterrent.

Pamela Lichtenwaller, Alcohol Advisory Board, Youth Leadership Institute Liaison, Stinson Beach, stated that Stinson Beach realtors would receive a copy of the ordinance and would have renters sign it; that she had lived in Stinson Beach for a long time and had witnessed teen alcohol abuse; that the County's civil ordinance didn't prevent the police from pursuing criminal charges when warranted; that lower penalties would attract parties to Fairfax; suggested a Saturday alcohol and drug educational seminar; stated that lots of parents didn't have a clue about their children's alcohol use; that she wanted to work to have the issue publicized in the community to get the word out as a deterrent.

Thelma Clark, Chair, Marin County Advisory Board on Alcohol, stated that she had been involved in the development of social host accountability ordinances since the inception; that she could see that the Council supported the ordinance; that she hoped the ordinance would help change attitudes; and that a small fine was of little consequence. She presented a letter of support for the ordinance to the Town Council.

Pete Ratachak, Marin Institute, stated that he supported the work of the Youth Leadership Institute and urged the Council to move the ordinance forward with civil penalties.

Councilmember Brandborg ascertained that San Rafael, San Anselmo, Mill Valley and the County already had similar ordinances.

M/S, Tremaine/Bragman, Motion to waive further reading of Ordinance No. 725, A Social Host Liability Ordinance for Underage Drinking.

AYES: All

M/S, Maggiore/Tremaine, Motion to introduce Ordinance No. 725, A Social Host Liability Ordinance for Underage Drinking with the incorporation of the new fine structure and with the inclusion of the option of community service.

AYES: All

Second Reading and Adoption of Ordinance No. 723 amending Ordinance No. 721 to permit the use of tandem parking for the second unit amnesty period only, Brandborg

Councilmember Brandborg introduced the topic.

M/S, Tremaine/Weinsoff, Motion to waive further reading of Ordinance No. 723 amending Ordinance No. 721 to permit the use of tandem parking for the second unit amnesty period only.

AYES: All

M/S, Brandborg/Tremaine, Motion to adopt Ordinance No. 723 amending Ordinance No. 721 to permit the use of tandem parking for the second unit amnesty period only.

Mayor Bragman announced that he would abstain from the vote because he was not present at the original public hearing on the ordinance.

AYES: Brandborg, Maggiore, Tremaine, Weinsoff

NOES: None

ABSTAIN: Bragman

Discussion and consideration of the adoption of Resolution No. 2517, A Resolution of Intention of the Fairfax Town Council to initiate an amendment to Chapter 17.020 of the Fairfax Town Code to include design criteria encouraging the use of sustainable construction and landscaping (Recommended by the Design Review Board)

Planning Director Welsh presented the staff report.

M/S, Tremaine/Bragman, Motion to adopt the Resolution with direction to the Planning Commission that the ordinance amendment be tied to the County checklist.

M/S, Tremaine/Bragman, (change to motion by friendly amendment from Mayor Bragman) Motion to adopt Resolution 2517 with the deletion of the quotation marks around the proposed language and with direction to the Planning Commission to base the amendment on a commonly accepted criteria.

AYES: Bragman, Brandborg, Maggiore, Tremaine

NOES: Weinsoff

Status report and discussion about the Ross Valley Sanitary District's sewer replacement project that runs from the end of Meadow Way along Cascade Creek to Bolinas Road, and coordination of utility district projects, Bragman

Mayor Bragman introduced the topic and distributed photos of the project to the Town Council. He described the project as a sewer replacement project that had become a road construction project; stated that none of the neighbors were noticed; that the road was built in violation of environmental laws triggered by its proximity to the creek; requested that utility companies be required to notify the Town Manager of any project in our jurisdiction or adjacent to our jurisdiction when located by the creek; and stated that the description given of the project as "minor trenching" was misleading.

Mayor Bragman asked that the Town Manager be directed to send a letter to the Ross Valley Sanitary District's manager requesting that any future projects in Fairfax be brought to her

attention and that the creek bank be restored at the site of the current project. Mayor Bragman stated that work was still being done on the project even after the October 15th deadline for such work and that mitigation measures were needed.

Town Manager Kelly suggested that she could ask for copies of the permits from Fish and Game and other regulatory agencies since the project was endangering habitat.

Mayor Bragman opened the discussion to the public.

Frank Egger, Meadow Way, submitted a letter outlining his concerns about the project. Mr. Egger stated that he would like to know the intent of the road; that quite a bit of creek restoration needed to be done; that it was his understanding that a portion of the project was a FEMA project; and that he believed there was a prescriptive easement through the property; and that a previous owner had blocked off the property and access to the trail easement.

Owner, 22 Meadow Way, stated that he didn't believe there was a prescriptive easement across his property.

Request from Electric Auto Association to allow public access to the Town's small paddle inductive electric car charger

Town Manager Kelly presented the staff report and stated that she had attended a workshop on the issue and recommended that the car charger be opened to the public and that the Town ask for donations and monitor the use.

Marc Geller, of "Plug-In America," stated that it was an inductive system with no metal parts and that the paddle used was not conductive so that it was completely safe for the users.

M/S, Tremaine/Bragman, Motion to allow public access to the Town's electric car charger as recommended by staff.

AYES: All

The meeting was adjourned at 12:05 a.m.

Respectfully submitted,

Judy Anderson, Town Clerk