

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
February 7, 2007

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

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

Mayor Bragman called the meeting to order at 6:45 p.m. and adjourned to Closed Session on the following matter:

CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION per Government Code Section 54956.9(a), Ross Valley Watershed (Multiple Flood Claims) Beament vs. Town of Fairfax et al., Marin Superior Court Case No. CV 062735; Bourhis vs. Town of Fairfax et al., Marin Superior Court Case No. CV 060796; Moore vs. Town of Fairfax et al., Marin Superior Court Case No. VC 065507; Evans vs. Town of Fairfax et al., Marin Superior Court Case No. CV 065555 (The Closed Session was adjourned from the Youth Center and held at the Women's Club due to a power outage.)

Mayor Bragman called the open session to order at 7:48 p.m.

Approval of Agenda and Affidavit of Posting

M/S, Tremaine/Maggiore, Motion to approve the agenda with the removal of two items for discussion: the item regarding the authorization to sign a promissory note with the County of Marin for repayment of traffic fine overpayments.

AYES: All

Announcement of Closed Session Action

Mayor Bragman announced that the Council had received a status report on pending litigation from legal counsel Herb Rowland.

Announcements/Introductions

Mayor Bragman announced that new members were welcome on the General Plan Advisory Committee and on the Fairfax Youth Commission; that the next Strategic Planning Workshop/Economic Development Committee Meeting of the Town Council would be held Saturday, February 17, 2007, 9:00 a.m. to Noon, at the Women's Club; that there would be a Ross Valley Watershed and Flood Protection Public Workshop, Saturday, February 10th at 9:30 a.m., Drake High School small gym; and that the 130 Ridgeway appeal hearing had been

continued off calendar and would not be heard on February 21st as previously scheduled.

Mayor Bragman read a proclamation honoring the owners of the 7-11 store on Bolinas Road, Mr. and Mrs. Kim, on the occasion of their retirement.

Open Time

Gordy Hall, Frustuck Ave., a longtime resident who videotaped the Festival parade every year, objected to the link on the Town Web site to the Chamber of Commerce Web site stating that the link was inappropriate because the Chamber was an advocacy group. He described how he had started an unofficial Fairfax Web site in 2002 that didn't promote or sell anything and that he had been denied a link on the official Town Web site.

Jory Prum, 13 Deuce Court, described the hardship on employees imposed by the new owners of the Bell Market. He also expressed his opinion that the hearing on the Town Center Element should have been better publicized because of its far-reaching impact on the Town and asked that the hearing be continued to allow for more notice to get more public participation.

Cindy Ross, 77 Mitchell Drive, stated that she believed that the people in a booth selling Middle Eastern foods at the last Fairfax Festival had a political agenda and were dispensing inappropriate propaganda, and asked that such booths not be allowed at the Festival.

Nancy McCauley, San Anselmo resident, commented about the Town Center Element and asked that the Town Council keep open minds about the possible use of a promenade and/or one-way traffic on Bolinas Road and described the success of similar efforts in Ithaca, New York, and in Santa Monica.

Bill Madsen, 109 Porteous Ave., expressed his dissatisfaction with the way the appointment to the Paramedic Authority Board had taken place at the previous Council meeting; that no Town Council member had expressed an interest in serving as the Town's representative to the Board and the Council had opened the process to the public and had encouraged members of the public to apply; that former Councilmember Frank Egger had requested that he be the alternate, not the representative; that the decision was made without discussion making it seem like the decision was made in between meetings.

Mayor Bragman responded that Councilmember Brandborg had put her name forward for the position; that he had been serving as the alternate and was qualified to become the representative; that the decision was made at a public meeting; and that the newly completed Strategic Plan of the Paramedic Authority recommended that elected officials represent their jurisdictions on the board.

Mark Bell, 63 Dominga, stated that he was a member of the group that Cindy Ross had complained about, although he didn't participate in the Festival booth, and that the group wasn't involved in the negative activities as claimed by Ms. Ross.

Rose Taber, 94 Hillside, stated that she had a farewell card at her store for people to sign for the Kims who were retiring from their ownership of the 7-11 store on Bolinas Road as well as poster board to make signs; that she had a petition to FEMA urging them to expedite the opening of the Creek Road bridge; and urged the Council not to change the order of the agenda in the middle of the meeting.

Cindy Ross, 77 Mitchell Drive, objected to the personal attack by Mark Bell and urged the Council not to allow personal attacks at their meetings.

Interview and appointment of candidate to serve on the Open Space Committee

M/S, Weinssoff/Brandborg, Motion to appoint Jack Judkins to serve on the Open Space Committee for a full four-year term to February 28, 2011.

AYES: All

Interview and appointment of candidate to serve as the Fairfax representative to the Marin Commission on Aging to complete an unexpired term to June 30, 2009

M/S, Tremaine/Bragman, Motion to appoint Diane Bright to complete an unexpired term as the Fairfax representative to the Marin Commission on Aging to June 30, 2009.

AYES: All

CONSENT CALENDAR

Approval of cash disbursements for December 23, 2006, through January 31, 2007

Approval of Town Council Minutes of January 3, 8, 13, and 22, 2007

Report on the 2006 Fairfax Festival and approval of request for waiver of banner fee for the 2007 Festival

Approval of request from the Fairfax Chamber of Commerce for a waiver of the Pavilion rental fee for the 2007 Brewfest on March 17, 2007

Approval of waiver of permit fees for floodgate installation to encourage the installation of floodgates on private property

Adoption of Resolution No. 2473 delegating the process of waiving facility rental fees to the Town Manager, and making no changes to the current fee structure for renting Town facilities

Report on Ross Valley Paramedic Authority meeting of January 4, 2007, Bragman

In response to questions, Parks and Recreation Commissioner Pedemonte explained that, when he became the chair of the Festival Committee, that the Festival had been placed under the oversight of the Parks and Recreation Commission and that he estimated that from eight to nine-thousand people attended the last Festival.

Sierra Salin, 206 Cascade Drive, asked why the Town waived the fees for the use of the Pavilion for the Chamber Brewfest.

Chamber representative Pedemonte stated that he was the chair of the Brewfest and that the goal of the Chamber was to improve the business climate in Fairfax and that the proceeds from the event would be used for that purpose and would benefit the Town.

Bill Parker, 235 Olema Road, asked for and received more information about payments made as presented in the Check Detail Register.

Niccolo Caldararo, Frustuck Ave., stated that it was bad for businesses to ask for a handout from government and that the Chamber request for a waiver of fees should be denied.

M/S, Tremaine/Bragman, Motion to adopt the Consent Calendar as amended.

AYES: Bragman, Brandborg, Tremaine, Weinsoff
NOES: Maggiore

PUBLIC HEARING

Discussion and Consideration of adoption of Town Center Element of the Fairfax General Plan and Initial Study and Negative Declaration as required by CEQA (California Environmental Quality Act)

Councilmember Brandborg recused herself from the discussion because of the proximity of her residence to the area being discussed.

Town Attorney Karpiak responded to a question and explained that the Town Center area was a small part of the General Plan that didn't affect more than 10% of the population so that it was appropriate for Councilmember Brandborg to recuse herself.

Planning and Building Services Director Welsh presented the staff report and led a discussion of the plan. She noted that there were two public hearings scheduled on the plan to receive public input and described the plan as a vision of what Fairfax could be in the future. She described the noticing done about the meeting and stated that the noticing met the letter of the law but maybe didn't comply with the spirit of the law. She suggested that more than the legally required noticing be done for the next meeting including sending out notices to all those in the designated area.

Mayor Bragman opened the public hearing.

Bruce Ackerman, Chair, General Plan Advisory Committee, thanked Ms. Welsh for her presentation; stated that the plan had been three and a half years in the making; that public input had been sought and received throughout the process starting with a survey conducted at the 2003 Fairfax Festival and including charrettes/workshops for the citizens; that the Planning Commission had reviewed the plan; that the downtown merchants had been interviewed; and that he had made a presentation on the plan to the Environmental Forum. He stated that the results of the survey done at the Festival indicated that the citizens wanted a design for people, not for cars, that the Pavilion be restored, and that the placement of the Pavilion be central to the Town Center area.

John Reed, 36 Scenic Road, GPAC member, stated that re-routing the cars from Bolinas around on Elsie Lane and Bank Street would take the cars off of Bolinas Road; that creating pedestrian only shopping areas had increased business in other areas where it had been tried; and explained the plan to daylight the creek at Sherman and Bolinas because the culvert under the road was inadequate.

Sierra Salin, 206 Cascade Drive, stated that daylighting the creek at Sherman would affect the surrounding properties and would be a very big job.

Bill Madsen, 109 Porteous Ave., expressed very strong support for the plan, stated that he and Vice Mayor Maggiore had attended some of the meetings as members of the Planning Commission, that the positive enthusiasm for the plan from the GPAC meetings was difficult to describe adequately, and that the plan evolved from the people.

Vice Mayor Maggiore stated that she had attended some of the meetings as a member of the Planning Commission, that the positive enthusiasm for the plan from the GPAC meetings was difficult to describe adequately, and that the plan evolved from the people.

Trudy Totty, Manor Road, stated that she attended the charrettes held about the plan and that they were very exciting; that a cross-section of the Fairfax community attended; and that she encouraged support for the plan.

Rose Taber, 94 Hillside, stated that the Council should have been thinking about getting people out of the hills by improving sidewalks and pathways; that if the road were moved to Elsie Lane, the Pavilion would be highlighted, not the downtown businesses; stated that foot traffic was important to the merchants on Bolinas Road; and further stated that more retail was needed on Bolinas Road to promote foot traffic.

Niccolo Caldararo, Frustuck Ave., quoted the author Jane Jacobs, stating that she had said that American towns were all beginning to look alike; that he wanted to retain the individuality of Fairfax; and suggested that the downtown be made into a historic district to preserve it.

Mayor Bragman closed the public hearing.

Planning and Building Services Director Welsh clarified that the Town Center Element would be on the agenda at the March Council meeting for another public hearing.

The Town Council discussed potential funding for the implementation of the plan.

Mayor Bragman adjourned the meeting for a break from 9:15 a.m. to 9:30 a.m.

Report on progress of each General Plan Element and discussion of status of proposed zoning ordinance amendments

Planning and Building Services Director Welsh presented the staff report.

Storm Damage Recovery Update

Town Manager Kelly presented the report.

Discussion and consideration of adoption of Resolution No. 2474 a Resolution of the Town Council of the Town of Fairfax providing concurrence to the annexation of the Town of Fairfax into the boundaries of the Marin County Flood Control and Water Conservation District, relating to Condition No. 2 and rescinding Resolution No. 2463

Town Attorney Karpiak presented the staff report with revised language for the conditions for Fairfax to join the District included in the revised resolution.

The Council discussion included clarification from the Town Attorney that the advisory board for the District did not have authority to make decisions, only recommendations; that an all-mail ballot was being considered for the related election; that the changed approach of the Army Corps of Engineers did not include concrete channels for creeks; and the pros and cons of joining the District.

Mayor Bragman opened the discussion to the public.

Conrad Oho, 141 Lansdale, expressed agreement with Mayor Bragman's suggestion that the

opportunity be used to restructure the District to make it more democratic.

Niccolo Caldararo, 165 Frustuck Avenue, stated that all the flood money was being sent to Baghdad; that the Town was giving up its veto power; that the projects that Fairfax wanted wouldn't happen but that others would; that the Council shouldn't let a bureaucratic organization take over the Town's rights; and urged the Council to vote against the resolution.

Valeri Hood, Dominga, expressed concern about joining the district; noted that the District had the power and the money; and cited the Ross Valley School District as an example of how Fairfax didn't get the best of the bargain.

Terry Goyan, 275 Bolinas Road, asked for examples of environmentally friendly projects that the Army Corps of Engineers had done and suggested that it would be better to have the taxpayers set aside money for disaster than to join the Flood District.

Duncan Draper, Woodacre, stated that the company hired by the County of Marin to do work in his area ignored recommendations made by SPAWN; advised the Council not to expect funding any time soon; and that the Town wouldn't have any input on planned projects.

Sandy Guldman, Friends of Corte Madera Creek, stated that the County was going to go ahead with projects all around Fairfax; that, regarding the Army Corps, the federal government's only interests were fish passage and stream flow; and urged the Council to join the District.

Trudy Totty, 125 Manor Road, stated that not many towns had creeks meandering through town; that the Town could attract businesses by using the creek as an asset; that she understood the hesitation of the Council to join the District because it was hard to "give away the keys to the car"; and that she would also like it done in a more democratic fashion.

Mark Bell, 63 Dominga Ave., asked to have the revised language read out loud and the Town Attorney complied. He stated that it was a tough call.

Bill Parker, 235 Olema Road, stated that he agreed with Councilmember Lew Tremaine that the Town needed to join the District; that it was a district-wide problem; that the money raised from the taxpayers wouldn't help him because he was on a hill, but that he would vote for joining the District; noted that money raised would be used to leverage other funding; and that the District was going forward whether or not Fairfax joined so he urged the Council to join.

Rose Taber, Hillside Ave., stated that the tides and what happened downstream did affect Fairfax and urged the Council to approve the resolution and to join the District.

Vice Mayor Maggiore stated that she had been adamant about retaining sovereignty at the special meeting held on the topic but wanted the citizens to be safe, so had changed her mind; that it was too bad it wasn't a Joint Powers Authority rather than a District to give Fairfax a vote; that global warming made flooding in the area more likely; and that her contact with the Board of Supervisors through TAM (Transportation Authority of Marin) informed her that they were going ahead with or without Fairfax.

Councilmember Brandborg stated that the people involved were very qualified and competent; that joining was about local control vs. cooperation; urged the public to attend the informational meeting scheduled for Saturday, February 10th at Drake High School; and stated that she would be voting for the resolution.

Councilmember Tremaine stated that the Town didn't have to keep the car but should be in the car; that he would like the Town to have more control but wanted the Council to trust the process

which was hard to do; that the Town needed to become more flood safe; the assertion that the County needed us in the District more than we needed them could be true; that the projects anticipated were natural creek projects and were restorative in nature; encouraged everyone to attend the informational workshop at Drake High School scheduled for the coming Saturday; and that the workshop provided an opportunity to voice concerns and opinions about the proposed taxing mechanisms.

Mayor Bragman stated that removing the boxed culvert downtown would be the Town's big project for flood prevention downtown and that the Town didn't have the means to do such a big project on its own; that it wasn't going to be a creek restoration project, but an engineered project; that there was no hydraulic study that included Fairfax; that Fairfax wouldn't see any relief in the near future; that the Town had a voice in the process, but not a vote; that good people were involved in the District; that the efforts would be well-funded; and that there was no legal assurance of how it would be operated.

Roll Call Vote:

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

Discussion and consideration of the naming and dedication of open space for former Town Council Members, recommendation of the Open Space Committee

Finance Director Roth presented the staff report in his capacity as liaison to the Open Space Committee, with the recommendation that the Melvin open space property be named for former Councilmember Frank Egger and that a section of Olema Road behind June Court be named for former Councilmember Gloria Duncan.

Councilmember Weinsoff stated that he believed that the town needed a policy on naming open space property; that the process shouldn't be politicized; and that the Open Space Committee and staff should create such a policy.

Town Manager Kelly noted that a memorial policy was being developed by the Parks and Recreation Commission.

The following citizens spoke in support of the naming of the two properties as recommended:

Valeri Hood, 79 Dominga Ave.; Alexander Binik (as stated by Valeri Hood); Bruce Ackerman, GPAC member; David Glick, 197 Cascade; Jim Rice, 192 Laurel; Peter Lacques, 130 Live Oak; Terry Goyan.

Bill Madsen and Rose Taber spoke in support of the development of a policy.

Frank Egger, 13 Meadow Way, spoke on behalf of the husband and daughters of Gloria Duncan in support of the naming of the requested parcel after her.

M/S, Tremaine/Weinsoff, Motion to direct staff to prepare two resolutions to name the designated properties after Frank Egger and Gloria Duncan as recommended by the Open Space Committee and to work with the Open Space Committee to craft a policy for the future naming of town properties.

AYES: All

Discussion/Consideration of the implementation of a wood burning appliance ordinance, Brandborg

Councilmember Brandborg presented the report and read from a letter from the American Lung Association urging the passage of a wood burning appliance ordinance for health reasons. She stated that it was the third time she had brought an ordinance forward and hoped that the Council would move forward to clean the air in Fairfax.

The following citizens spoke in support of the ordinance:

Alec Hoffman, Marin County Community Development Dept.; John Reed, 36 Scenic; Rose Taber, 94 Hillside.

Mark Bell, 63 Dominga Ave., stated that it was the only source of heat in some homes and asked that the Town pursue a rebate program.

Valeri Hood, 97 Dominga Ave., stated that the Town should determine how many citizens used wood for heat before passing such an ordinance and that the \$250 rebate didn't even pay the taxes on the sale of a pellet stove.

Councilmembers Brandborg and Tremaine expressed support for a sunset clause in the ordinance to provide a deadline for the operation of non-compliant wood stoves and inserts like the county ordinance.

There was a consensus of the Council to update the draft ordinance to include the appropriate numbering, the updated information on emissions and the addition of packaged "presto" fireplace logs to the list of prohibited fuels in the ordinance.

Discussion/Consideration of process for Council reports to be made by Council members participating in outside agency assignments/committees, Bragman

Mayor Bragman read from another public agency agenda with wording that could be used at the end of the agenda to allow a time for Council members to report on meetings attended and other assignments.

Approval of Resolution No. 2472, a Resolution of the Town Council of the Town of Fairfax enacting Town Manager authority with respect to the appointment, removal or demotion of department heads per Ordinance No.718, Tremaine (continued from January)

Councilmember Tremaine presented the report.

M/S, Tremaine/Bragman, Motion to adopt Resolution No. 2472, a Resolution of the Town Council of the Town of Fairfax enacting Town Manager authority with respect to the appointment, removal or demotion of department heads per Ordinance No.718.

AYES: Bragman, Maggiore, Tremaine, Weinsoff
NOES: Brandborg

Discussion/Consideration of Council action to urge the Marin Municipal Water District (MMWD) to make the temporary suspension of the use of herbicides and pesticides in the Fairfax watershed a permanent ban, Bragman

Mayor Bragman presented the report and requested that the Council send a letter to MMWD to suspend the use of herbicides in the watershed and related the background of the issue.

The following citizens spoke in favor of sending a letter to MMWD requesting that they ban the

use of herbicides and pesticides in the Fairfax watershed permanently:

Trudy Totty, Manor Road; Tim Rice, Laurel Drive; Mark Bell, Dominga Ave.; Bruce Ackerman; John Reed, 36 Scenic Rd.; Frank Egger, 13 Meadow Way; Valeri Hood, Dominga Ave.; and Michael Mackintosh, 60 Pastori Ave.

M/S, Maggiore/Tremaine, Motion to authorize the mayor to draft a letter to MMWD asking for a permanent ban on the use of herbicides and pesticides in the Fairfax watershed and stating that the Town would like to work with them to control the proliferation of non-native species without the use of toxins and was willing to get a volunteer force together for removal.

AYES: All

Mayor Bragman adjourned the meeting at 12:22 a.m.