

DRAFT Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
May 2, 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
Jim Karpiak, Town Attorney
Mark Lockaby, Building Official
Ian Roth, Finance Director
Judy Anderson, Town Clerk

The regular meeting was preceded by a Special Meeting Closed Session at 7:00 p.m. at the Youth Center, 16 Park Rd. for conference with labor negotiator Town Manager Kelly pursuant to Government Code Section 54957.6, with the Fairfax Police Officers' Association.

Mayor Bragman called the regular meeting to order at 7:35 p.m.

Closed Session Announcement

Mayor Bragman announced that direction had been given to the negotiator, Town Manager Kelly to secure more information.

Approval of Agenda and Affidavit of Posting

M/S, Tremaine/Weinsoff, Motion to approve the agenda and the affidavit of posting.

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

Announcements

Mayor Bragman made the following announcements: that new members were welcome on the General Plan Advisory Committee and on the Fairfax Youth Commission; that the Fairfax Farmers Market was scheduled to start on Wednesday, May 9th, 4-8 p.m. in Bolinas Park; that a Special Council Workshop on Waste and Recycling had been scheduled for Wed., May 23rd at 7 p.m., at the Women's Club; that the Town had entered a team in the "Team Bike Challenge" to support the reduction of vehicles on the road and to celebrate "Bike to Work Day" on May 17th; and that applicants were being sought for a new Bicycle and Pedestrian Advisory Committee to assist with coordinating the County-wide Bicycle and Pedestrian Plan Update with respect to Fairfax.

Open Time for Public Expression

Terry Goyan, Open Space Committee Chair, thanked the Town Council and local merchants for their support with their recent fund raising event that was attended by over 300 people. He noted that it was their best fund raiser yet, that a good mix of the community attended, and that they wanted to remain a non-political group.

Mike Swezy, Marin Municipal Water District (MMWD), Vegetation Management Director, gave an update on the District's vegetation management plan designed to reduce fire hazards, etc.; stated that it was likely that the plan would require an EIR; that a Request for Proposals would be sent out shortly; that a wildfire prevention event was in the planning stages; that a vegetation management tour was scheduled for May 5th; and that a workshop was planned for Fairfax on September 17th if space was available.

Stan Schriebman, 51 Hickory, stated that he was critical of bicyclists using single-track trails and not following the rules and asked that Mr. Swezy have MMWD enforce their laws regarding bicycles.

Geoffrey Gale, 2575 Sir Francis Drake Blvd., stated that he would like to meet with the Chief of Police about enforcement policies; related an incident at a 7-11 store during a sting operation there; and stated that the police should cite jaywalkers and speeders and shouldn't hassle people.

Stan Schriebman, 51 Hickory, stated that Town Manager Kelly had referred to a \$15 runoff fee and noted that it was a fee that hadn't been approved by the voters and that he also paid \$50 a year for a tax that also hadn't been voted on by the people.

Frank Gonzalez invited everyone to attend an event at the Fairfax Library to help construct a giant "peace bird" for the Fairfax Festival parade.

Councilmember Brandborg congratulated Public Works Director Johnson on her second anniversary of employment with the Town of Fairfax and stated that the new Manor Road pedestrian and bicycle bridge had been installed and that Director Johnson had kept the project on track to completion.

Discussion and Consideration of adoption of Resolution No. 2485 naming an unnamed road between Chester Avenue and Ridgeway Avenue "Vanni Lane." Weinsoff

Councilmember Weinsoff presented a report and described his conversation with Bill Sagar of the Fairfax Historical Society who sanctioned the naming of Vanni Lane as required by the Town Code.

Judy Hitchcock, Chester Avenue, expressed her appreciation of the Vanni family as neighbors; stated that Mike Vanni was known as the "Mayor of Chester Avenue" and that the naming of the street was an awesome acknowledgment that she enthusiastically supported.

Stan Schriebman, 51 Hickory, stated that he had supported Steve Vanni when he had run for Council and that the street naming was a well deserved honor.

Keith Silva, 43 Sequoia, stated that the Vanni family was an asset to the community and wished Mr. Vanni a "Happy Birthday."

M/S, Weinsoff/Brandborg, Motion to adopt Resolution No. 2485 naming an unnamed road between Chester Avenue and Ridgeway Avenue "Vanni Lane."

AYES: All

Interview and appointment of candidate(s) to serve on the Fairfax Youth Commission

Vice Mayor Maggiore stated that the candidates were not present and asked that the interviews be done at the next regular meeting. There was a consensus of the Council to continue the item.

Presentation by Carol Starr, Director of County Library Services on the Marin County Library Facilities Master Plan

Carol Starr, Director of County Library Services, presented an overview of the Marin County Library Services and Facilities Master Plan that was being developed. She described the public meetings that had been held to solicit input on the plan and other aspects of the process being used to develop the plan. She described the proposal to add much needed space to the Fairfax Library and invited the public to a meeting scheduled to present the draft plan on May 16th at the library.

CONSENT CALENDAR (Members of the audience may address any item on the Consent Calendar at this time)

Approval of cash disbursements for April, 2007

Approval of Town Council Minutes of April 4, 2007

Adoption of Resolution No. 2486, a Resolution of the Town Council of the Town of Fairfax authorizing and approving the borrowing of funds for fiscal year 2007-08; the issuance and sale of a 2007-08 tax and revenue anticipation note (TRAN) therefore and participation in the California Communities cash flow financing program

Authorization for Town Manager to execute agreement with Total Compensation Systems, Inc., for the mandated Governmental Accounting Standards Board (GASB) 45 Actuarial Study in an amount not to exceed \$3,450 to be conducted in FY 2007-2008

Adoption of Resolution No. 2487, a Resolution of the Town Council of the Town of Fairfax Authorizing Temporary Closure of Certain Streets and Portions Thereof, to Allow a Town Parade on June 9, 2007, and Town Festival June 9 and 10, 2007

Approval of plans and specifications for the Center Blvd. Redesign Project and authorization to solicit bids

Approve request for waiver of fees for front fence height variance and encroachment permit at 199 Scenic Road, Robert and Diana Perdue, Applicants

Adoption of Resolution No. 2488, A Resolution of the Town Council of the Town of Fairfax declaring a Police Department vehicle surplus and authorizing the Police Department to dispose of same with proceeds to be placed in the vehicle replacement account

Receive and file report, Fairfax Awarded Non-Motorized Transportation Pilot Program Grants, Bragman

Approval of re-appointment of Commissioners Pedemonte and Rosenfeld to serve on the Parks and Recreation Commission to fill two vacancies, each for full four-year terms, to April 30, 2011 and to May 31, 2011, respectively

Accept status report from the Open Space Committee regarding Annual Report, Contribution, and Clean-up date for the Gloria Duncan Creekside Preserve

Authorize Mayor to sign letters in support of Senate Bill 286, supporting an accelerated allocation schedule for the \$2 billion included in State Proposition 1B as direct funding to

cities and counties, Brandborg

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

AYES: All

APPEALS

75 Rocca Drive, Continued consideration of an appeal of an administrative decision by staff not to release a stop work order, and determination that 100 percent of the structure at Rocca Drive was remodeled and that the assessed valuation of this remodel exceeds 50 percent of the original assessed valuation of the house before the remodeling project began; Assessor's Parcel No. 001-225-22; Residential Single-family RS 6 Zone; Kenneth Mayer, appellant/owner

Planning and Building Services Director Welsh presented the staff report and noted that some of the entitlements sought by the appellant triggered requirements like the provision of additional parking.

Ken Mayer, appellant, 75 Rocca Drive, stated that there had been a lot of information submitted and that many weeks had gone by on the project; asked that the Town Council treat him fairly; apologized for the fact that the matter had ended in an appeal; stated that the appeal was based on Director Welsh's determination that the project constituted a 100% remodel; that it was a straightforward project; presented an overview of the problems he had encountered during the project; stated that he didn't want to have to take the project before the Planning Commission; and asked for direction from the Town Council as to how he should proceed.

After being assured by Mayor Bragman that the Council had been given all the information on the project, Mr. Mayer addressed the Council on the appeal.

Ken Mayer, appellant, described how the project had been started as a quick investment on his part; that the first permit applied for had been to change the windows and the sidings; that he had tried to make it look like 79 Rocca in architecture; that when he began repairs to the top floor, the dry rot was so bad that he had to do more work than he had originally planned; that the building official had stopped the work because he had determined that more work was being done than allowed on the original permit; and that the Town had issued a secondary permit that allowed the work to continue. He stated that the first appraisal of the property was based on the purchase price; that the second appraisal was for the final completed project; that the third appraisal was based on the status of the property as it existed after the work was done; and he offered a fourth appraisal that he had done on the property. He further stated that he couldn't grasp all the information about the setbacks; that there was no increase in square footage; and that he did build into the front setback by 1.5 feet. He presented the Town Council with copies of the fourth appraisal and with a survey showing the front yard setbacks.

Planning Director Welsh explained that the appellant needed a variance for the encroachment into the setback and that there was a different fee assessment for a remodel than a "tear down." She led a discussion about the ordinance regarding 50% remodels and how the determinations would be made; how a use permit was required for 50% remodels; and that a non-conforming use required a use permit.

Ken Mayer, appellant, stated that he wouldn't have done the repairs if he thought that it couldn't be settled at the staff level; that to create the required parking would cost more than he had planned to invest; that he had been through the process before; that he didn't want to go before the Planning Commission; and that he had a fourth survey that showed that it wasn't a 50% remodel.

Planning Director Welsh reiterated that a remodel greater than 50% required a use permit; that if he couldn't provide the required parking, he would also need a parking variance; that he needed three discretionary permits; that triple fees would be assessed and that he would have to go before the Planning Commission for those permits; and that the Planning Commission could allow him to provide less than the required parking.

Town Attorney Karpiak stated that the Town Council could not grant a variance at the hearing, but could waive fees.

Mayor Bragman opened the public hearing.

Bill Madsen, Planning Commissioner, 109 Porteous Avenue, stated that Mr. Mayer had been granted all that he had requested the last time he went before the Planning Commission; that Mr. Mayer was a contractor and should have been familiar with the rules; and that he should go before the Planning Commission like any other citizen.

Bill Elgin, 95 Rocca Drive, a neighbor four doors away, stated that he liked what Mr. Mayer had done to the property and that two cars were parked in front of the property every weekend.

Pam Meigs, Planning Commission Chair, 310 Cypress, stated that she hadn't seen an appeal like the one for this property before and that it should have gone to the Planning Commission first in accordance with accepted practice.

Mayor Bragman closed the public hearing.

Brandborg/Bragman, M/S, Motion to accept the staff recommendation and to uphold the decision of staff and to deny the appeal.

AYES: All

Mayor Bragman adjourned the meeting for a break from 9:32 to 9:40 p.m.

64 Porteous Avenue; Application # 07-07 Appeal of the Planning Commission's denial of a request for a Use Permit and Front Setback Variance to demolish an existing 1,711sf single-family residence, a 257sf cottage and a 181sf garage to construct a 2,492sf residence and 440sf carport; Assessor's Parcel No. 002-041-09; Residential RD 5.5-7 Zone; Jeff Kroot, Architect, Michael Ambrosini and Diane Marchant, appellants/owners; CEQA categorically exempt, §15303(a) and 15305(a)

Planning and Building Services Director Welsh presented the staff report.

Jeff Kroot, architect for the project, introduced the owners of the property and Eva Hoagland, the landscape architect for the project. Mr. Kroot presented an overview of the project. He stated that the variance for the carport was a last-minute application; that the setback requirement had changed when the carport was determined to be an accessory structure; that the home was designed in the spirit of other older structures in Fairfax; that the arborist had determined that all the trees would be saved; that the qualifications of the arborist had been questioned at the Planning Commission meeting but that he was eminently qualified; that the valley oaks were not endangered by the construction; that they had moved the carport back so that it didn't require a variance; that he had presented four different possible locations for the carport with a preference for the fourth option; that he had created a list of the "green" features of the project numbering approximately twelve; that the project met all the Town ordinances; and that the appellants were willing to move the carport or to modify it at the discretion of the Town Council.

Eva Hoagland, Landscape Architect, stated that the big oak trees were a major asset to the property; that valley oaks were easier to work with; that she had designed a sustainable garden with some native plants; with as little non-pervious surface as possible; with an irrigation system connected to a weather satellite; and with a lawn that only had to be cut twice a year. She stated that they had also tried to keep the design in the style of the neighborhood.

Appellant Michael Ambrosini stated that he had played by all of the rules and had even cut three feet off the deck to comply with Town code only to have the rules changed at the 11th hour. He stated that the tone of the Planning Commission meeting had been contentious and negative; that Commissioner Madsen shouldn't have been part of the public hearing because of his proximity to the project, but that he had led the charge against the project at the Planning Commission meeting; that the Planning Commissioners hadn't liked the look of the house; that he was asked to continue the hearing and to cut off 25% of the structure; that he had tried to obtain a copy of the Planning Commission recording of the meeting to be able to illustrate the tone of the meeting to the Town Council, but that the recording hadn't been available.

Mayor Bragman opened the public hearing.

Bill Madsen, 109 Porteous Ave., apologized to the appellants for speaking at the Planning Commission meeting. He stated that he had misinterpreted the information about the 500-foot radius from his property for conflict of interest purposes and that he shouldn't have participated in the hearing on their project.

Ms. Mead, 66 Porteous Ave., stated that she had lived in Fairfax since 1978, had raised her daughter in Fairfax, and that she had moved to Fairfax because of the trees. She expressed concern about the potential loss of the large trees on the appellants' property due to the proposed construction and the impact that the loss of the trees would have on her property as well as the potential loss of sunlight for her neighbor. She stated that one of the trees had already fallen on her neighbor's property and that she and the appellants shared another one of the trees. She further stated that she would like to protect the trees; that their roots weren't very deep; that they were sensitive trees and that the construction could damage and/or destroy them.

Lorna Tinus stated that she lived around the corner from the proposed construction and that similar trees on her property didn't die from construction but that they had sent their roots under her house and had damaged her foundation because they were so close to the house, and that the appellants' trees would also create problems. She further stated that the appellants didn't live in Fairfax but were from Los Angeles and owned other property in Marin.

Appellant Ambrosini stated that nothing would spoil the property more for him than losing trees; that they had been waiting many years to live in Fairfax; that it would be their retirement home; that they did live in L.A., but were selling that house and moving to Marin; and that they would sell the house they owned in Marin once the new house was ready to live in.

Jeff Kroot, project architect, noted that the 66 Porteous property owner had stated that she would lose her privacy with the new home construction. He explained that most of the proposed windows on the house were in the front and the back of the house and that the structure would be ten feet from the property line and about 25 feet from the property line on the second floor.

John Alden, 177 Wreden, described his experience with piers during construction and how the trees had been protected and had ended up flourishing on the site.

Mayor Bragman closed the public hearing.

M/S, Tremaine/Brandborg, Motion to grant the appeal with the original staff conditions and with the parking configuration "D" that called for the carport to be located at the back of the property.

AYES: All

Agenda review

The Town Council reviewed the agenda at 10:35 p.m. to determine which items would still be heard. Town Manager Kelly requested that the reports on the update of the General Plan and on the storm damage recovery be continued and placed on the Consent Calendar of a future meeting and Mayor Bragman suggested that the two reports be placed on the agenda for the May 23rd meeting as Consent Calendar items. The Council agreed.

Introduction and First Reading of Ordinance No. 721, a Second Dwelling Unit Amnesty Program Ordinance

Planning and Building Services Director Welsh presented the staff report stating that parking standards had been relaxed and fees reduced to encourage the legalization of second units noting that most lots were substandard and would have to go before the Planning Commission as part of the process.

Mayor Bragman opened the public hearing.

George DeTuncq, 39 Ridge Road, stated that he had been researching the topic since 2001; that he was in favor of second units that met the regulations; that the regulations that were in effect should not be compromised; that the proposed ordinance contradicted what had happened before; that the ordinance would do away with much needed parking as there were 300 to 400 units that needed to get cars off the road; that exempting second units from off-street parking requirements was a bad idea; that the ordinance would allow the Town to legalize units without making application to Marin Sanitary or the Marin Municipal Water District for hookups; that illegal second units were freeloaders on the infrastructure; and requested that the Town Council send the ordinance back to staff to work on some of the issues he had described.

Mayor Bragman led a discussion about the proposed parking requirements and the water and sewer connections.

George DeTuncq, 39 Ridge Road, stated that the connection fees went toward the infrastructure; that there was a limit to the number of cars that could park on the streets; that it had been helpful in the past when the Town painted the pavement to indicate legal parking spots; and that the owner occupancy requirement couldn't and wouldn't be enforced.

Planning Director Welsh clarified that the proposed ordinance only relaxed the requirements for legalizing existing illegal units for one year and that new units would just get a break on the fees.

George DeTuncq, 39 Ridge Road, stated that second units didn't really provide affordable housing.

Bill Madsen, 109 Porteous Ave., stated that waiving fees to legalize illegal units was unfair to those who had gone through the process to create legal units and suggested that just waiving the triple fees might be fairer.

There was a discussion of whether or not to continue the matter to the regular meeting in June.

Councilmember Tremaine stated that the amnesty ordinance was a major element of the Town's Housing Element and urged the Council to introduce the ordinance to avoid delay.

M/S, Bragman/Weinsoff, Motion to continue the public hearing on the introduction of the

ordinance to the regular meeting in June.

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

Report on update of General Plan and Zoning Amendments

There was a consensus of the Council to continue this item to the Consent Calendar on the agenda of a special meeting to be held on May 23rd.

Storm Damage Recovery Update

There was a consensus of the Council to continue this item to the Consent Calendar on the agenda of a special meeting to be held on May 23rd.

Fairfax Trails Awareness Project of the Fairfax Volunteers – follow-up and report requested by Council

John Reed, Volunteer Board Chair, presented the report.

M/S, Tremaine/Weinsoff, Motion to accept the report and to direct the Volunteer Board to proceed with the project and to return to the Council with a list of the trails to be marked.

AYES: All

Second Reading and Adoption of Ordinance No. 720, An Ordinance of the Town of Fairfax Adding Chapter 8.33 to the Fairfax Town Code Pertaining to the Reduction of Air Pollution by Regulating the Installation of Wood Burning Appliances and the Removal and Operation of Non-Certified Wood Burning Appliances

Mayor Bragman opened the public hearing.

Mark Bell, 63 Dominga Ave., stated that he had looked into replacing a wood burning stove and found out that it would be very expensive; that he would like to see more of a rebate program; that there were many people in Fairfax with wood stoves as their only source of heat; and asked for an amendment to have staff look into grants available between the date of the adoption of the ordinance and the sunset date.

Town Manager Kelly noted that the ordinance had an educational element and that it included a hardship provision in Section 8.33.100.

M/S, Brandborg/Tremaine, Motion to waive further reading and to read the title only of Ordinance No. 720, An Ordinance of the Town of Fairfax Adding Chapter 8.33 to the Fairfax Town Code Pertaining to the Reduction of Air Pollution by Regulating the Installation of Wood Burning Appliances and the Removal and Operation of Non-Certified Wood Burning Appliances.

AYES: All

M/S, Brandborg/Tremaine, Motion to adopt Ordinance No. 720, An Ordinance of the Town of Fairfax Adding Chapter 8.33 to the Fairfax Town Code Pertaining to the Reduction of Air Pollution by Regulating the Installation of Wood Burning Appliances and the Removal and Operation of Non-Certified Wood Burning Appliances.

AYES: All

Status report and request for Council direction regarding problems with Canyon Road Sewer Extension and response from Ross Valley Sanitary District No. 1, Bragman/Weinsoff

Councilmember Weinsoff reported on a memo he had received from Paul Causey of the Sanitary District and that he and Mayor Bragman wanted to accept the opportunity for another community meeting.

Continuance of meeting after 11:30 p.m.

M/S, Tremaine/Bragman, Motion to continue the meeting past the 11:30 p.m. deadline.

AYES: All

Discussion and consideration of the introduction of an ordinance regarding impervious surface limitations and water runoff mitigation in new developments to reduce surface runoff contributing to flood risk, Bragman/Tremaine (continued from the meeting of April 4, 2007)

Planning and Building Services Director Welsh presented the staff report.

Mayor Bragman opened the discussion to the audience.

Michael Mackintosh, owner, 60 Pastori Avenue, suggested that the Town consider not just current practices but water retention measures such as catch basins and efforts to get the water back into the soil.

M/S, Tremaine/Weinsoff, Motion to direct staff to research what the County of Marin was doing on the matter and to report back to the Town Council.

AYES: All

Discussion and consideration of a resolution directing staff to draft a ban on plastic grocery and take-out bags, Tremaine/Bragman

Councilmember Tremaine presented the report and stated that he and Mayor Bragman would work together on drafting an ordinance.

Mayor Bragman opened the discussion to the audience.

Michael Mackintosh, owner, 60 Pastori Avenue, spoke in support of the resolution.

M/S, Tremaine/Bragman, Motion to adopt Resolution No. 2489, A Resolution of the Town Council of the Town of Fairfax Directing Staff to Draft a Ban on Plastic Grocery and Take-Out Bags.

AYES: All

There was a consensus of the Council to continue the following items to the next regular meeting:

Discussion and consideration of possible conversion of Mono Avenue between Bolinas and Elsie into a pedestrian-only right-of-way, Tremaine (continued from the meeting of April 4, 2007)

Report on status of annual audit of financial statements for Fiscal Year 2005-06 and report of April 30, 2007 Council Finance Committee meeting

Discussion of authority of Town Commissions, Boards and Committee requests vis-à-vis Town Manager role, Maggiore

Discussion and Consideration of an Electronic Waste (E-waste) recycling program for Fairfax, Bragman

The meeting was adjourned at 11:50 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk