

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
July 11, 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; and for Public Employee Performance Evaluation pursuant to Government Code Section 54957, Town Manager.

Mayor Bragman called the regular meeting to order at 7:40 p.m.

Closed Session Announcement

Mayor Bragman announced that direction had been given to the negotiator, Town Manager Kelly; and that the performance evaluation process was to be continued.

Approval of Agenda and Affidavit of Posting

M/S, Weinsoff/Brandborg, 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 and that a fund raising breakfast event would be held by the Marin Interfaith Council on September 6th to benefit a group formed to end the genocide in Darfur.

Open Time for Public Expression

Sheila Smith, Wood Lane, referred to an action taken by Councilmember Weinsoff early in his term of office wherein he urged the Town Council to adopt a resolution to set a Town policy to refer disputes to the Marin Mediation organization. She described a lawsuit against the Town that was heard in Marin County court that day and asked why mediation wasn't used in that case since it was clear that the plaintiffs were willing to go to mediation. She also asked why a Town employee was allowed to take a car home to Fairfield where the accident occurred that prompted the lawsuit.

Mayor Bragman noted that small claims court didn't allow the use of mediation and Councilmember Tremaine explained that the decision about the use of mediation would have been decided by the Bay Cities Joint Powers Authority, not anyone at Town Hall.

Ingrid Weiss, Scenic Road, thanked Public Works Director Johnson and everyone involved for the Measure K work scheduled for Scenic Road.

Patrick and Justin, organizers of "The Good Festival" on August 25th; described the event that would include music, workshops, food and games; stated that they hoped to set up a workshop for young people to develop projects in Town; congratulated the Town Council for the plastic bag ordinance; and offered to help with education about the re-use of shopping bags.

Cindy Ross, Pastori Avenue, expressed thanks to Senator Migden for her assistance the previous year when her son had lost his insurance and the Senator was able to get the insurance reinstated.

Rose Taber, Hillside, asked for clarification about the answer to the question about cars going home with employees and the legal case involved.

Town Manager Kelly responded that the canine car was the only one that went home with an officer.

Stan Schriebman, Hickory Rd., reported on a recent Board of Supervisors' meeting he had attended about the flood zone and remarked that it was a very democratic process. He thanked Senator Migden for her privacy legislation.

Legislative Update from Senator Carol Migden

Senator Migden introduced Suzanne Dunwell, her aide at the Marin Civic Center office. The Senator described the help she was able to offer with the Town's FEMA problems; reported on the status of the State budget noting that there was strong competition for funding from the more heavily populated areas in the State; that the loss of the VLF funding represented the loss of a major revenue source of almost seven billion dollars; that she was hopeful that Marin County would get about 20 Million Dollars in Proposition 1-E flood money and noted that it was one-time money; that she anticipated that Marin would get two million dollars a year in ERAF money; that she wanted to be sure that we received the transportation money that we deserved for our roads; expressed concern about State budget differences; stated that she was continuing her efforts for universal health care; that she was securing funding for San Anselmo for the restoration of Robson-Harrington House; reported that the Community Choice Aggregation was moving forward; and invited the Town Council to use her office whenever they needed her assistance.

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

Town Clerk Anderson presented the staff report.

Mariana "Ginny" Aballo, applicant, stated that she had just graduated from Drake High School and had friends there who got drunk at parties and wanted to be able to offer them other activities.

M/S, Bragman/Brandborg, Motion to appoint Mariana "Ginny" Aballo, to serve on the Fairfax Youth Commission.

AYES: All

M/S, Maggiore/Brandborg, Motion to continue the interview and appointment of Kaila Wanberg to

the Commission to a future date.

AYES: All

Interview and appointment of candidate(s) to serve on the Volunteer Board for a full three-year term to July 31, 2010

Michael Branton, the incumbent applicant, was not present for the interview.

M/S, Bragman/Tremaine, Motion to appoint Michael Branton to the Volunteer Board for a full three-year term to July 31, 2010.

AYES: All

Interview and appointment of two candidates to serve on the Design Review Board for terms to June 30, 2010

The Design Review Board applicants were not present because the rescheduling of the Council meeting from July 4th to July 11th had resulted in the Design Review Board meeting being held at the same time as the Council meeting.

M/S, Brandborg/Tremaine, Motion to re-appoint Shane Deal and Laura Kehrlin to the Design Review Board for terms to June 30, 2010.

AYES: All

Presentation of the Annual Report from the Open Space Committee

Terry Goyan, Chair, and Ryan O'Neil, representing the Open Space Committee, presented a report to the Town Council. Mr. Goyan stated that the Committee had been in existence for three years; asked the other members present to stand to be acknowledged; described their sale of art at the Ecofest in June and their successful fund raising dinner event held earlier in the year; announced a fund raising breakfast planned for October; described advisory subcommittees that had been formed for some of the key tasks of the Committee; announced that the Committee had organized a cleanup of the Gloria Duncan Preserve for Saturday, July 21st; and stated that Committee Treasurer Ted Bright would be cutting a check for \$8,000 to the Town toward the purchase of the Melvin property.

Mr. O'Neil stated that the Open Space Committee had brought different factions in the Town together allowing all ideas to be brought to the table; that the process was exciting; and thanked the entire Town Council for their support.

PUBLIC HEARINGS

Review of a traffic study methodology for a proposed project at 2040 Sir Francis Drake Boulevard (DeLano's IGA market). The 10,432sf. project is a mixed use development with 10 residential units and 3 commercial/office spaces, APN 001-183-04; Highway Commercial CH Zone; Jeff Kroot, applicant/architect; Karkabi Family Partners L.P., owners. The traffic study will be used in preparing an Initial Study for the project

Planning and Building Services Director Welsh presented the staff report and explained that the applicant needed a Traffic Impact Permit and that the Council needed to approve the methodology for the traffic study.

Jeff Kroot, Applicant/Architect, stated that the traffic impact of the proposed project would be minimal; that the plan called for 94 parking spaces, about the same as the current configuration; and that there would be one way in and one way out of the site.

There was discussion about the potential impact of the proposed coffee kiosk, the inclusion of affordable housing units planned for the project, and the configuration of the parking lot for the project.

Carolyn Cole, Crane Transportation, described the peer review she conducted as the consultant for the Town. She stated that the trip generation for the development was projected to be minimal by the applicants, but that the peer review indicated that the impact on the nearby intersections of Sir Francis Drake Boulevard should be measured and evaluated. She requested that the on-site queues of vehicles be shown on the plans; that the data provided on the coffee kiosk and its impact was thin; that the pedestrian access could be improved; and that the impact on the bike lanes needed to be addressed.

Mayor Bragman opened the public hearing.

Stan Schriebman, Hickory Rd., described the difficulty of getting out of the parking lot with the current situation and stated that it would only get worse with the planned development.

Cindy Ross, Pastori Ave., stated that an article in the Marin Independent Journal indicated that it was an affordable housing project, that the article didn't mention businesses and coffee kiosks, and that if additional businesses were to be added, the problems exiting the site were bound to get worse.

Rose Taber, Hillside Ave., expressed concern about the current traffic and suggested that the study should be done on a weekend when it was even more difficult to exit the site.

Trudy Totty, Manor Road, stated that she supported affordable housing; suggested that the Council look at the whole picture; that a former Public Works Director suggested closing the hillside road across from the parking lot and diverting traffic to the library exit; and asked that it be looked at in a positive way.

Nancy Culhane, Bothin Road, applauded the project but stated that the traffic study was important; that it was good when a local person brought forward a project; and that she wanted to encourage the walking aspect.

David Johansen, Ridge Road, stated that he was opposed to closing Azalea and that the project might require mitigation of the impact on traffic.

Yvette Wakefield, Main Court, suggested that perhaps Sir Francis Drake could be widened by removing the parking spaces in front of the supermarket.

Mayor Bragman closed the public hearing.

M/S, Brandborg/Tremaine, Motion to adopt Resolution No. 2500, a Resolution of the Town Council of the Town of Fairfax Establishing a Methodology for Preparing a Traffic Impact Study for the Mixed Use Project Located at 2040 Sir Francis Drake Boulevard.

AYES: All

Second Reading and Adoption of Ordinance No. 721, An Ordinance of the Town Council of the Town of Fairfax to Establish a Second Dwelling Unit Amnesty Program Ordinance, Bragman

Planning Director Welsh presented the staff report.

Mayor Bragman noted that the change in the effective date to December 31, 2006, was not reflected in the document before the Council.

Councilmember Brandborg referred to the second unit amnesty ordinance in effect for the County of Marin and noted that it allowed units of 220 square feet and tandem parking and asked that the parameters be expanded in the Fairfax ordinance to allow the maximum number of units qualify for the amnesty.

Councilmember Tremaine stated that he didn't disagree but was anxious to adopt the ordinance to expedite the expansion of affordable housing stock in Fairfax.

Mayor Bragman opposed changing the criteria because it would be a reduction of the second unit standards already in place in the Town Code.

Councilmember Brandborg stated that it made sense to allow smaller units with less parking because of the substandard size of most of the lots in Fairfax.

Vice Mayor Maggiore noted that staff had informed the Council that not many second unit applications were anticipated and that she supported waiting one more month to consider tandem parking and a 220 square foot minimum as suggested by Councilmember Brandborg.

Mayor Bragman opened the public hearing.

Stan Schriebman, Hickory Rd., asked for clarification of the period of time for the amnesty and how many applications were anticipated.

Pam Meigs, Cypress Drive, Chair of the Planning Commission, stated that the extra affordable units were needed but that the Commission had spent many hours working on the ordinance and asked that it be kept as drafted.

Bill Madsen, Porteous Ave., Planning Commissioner, stated that waiving the fees entirely wasn't fair to the people who had paid to go through the process and the draft ordinance required the payment of 50% of the normal fees.

Rose Taber, Hillside Ave., asked if there would be penalties assessed on those who didn't come forward to legalize their second units within the year and suggested that the units should be tied into the deeds to the property.

Planning Director Welsh, in response to a question, clarified that 50% of the fees would be waived, that penalty fees would be waived, and that the cost of consultant fees required to process a second unit application would not be waived.

Mayor Bragman closed the public hearing.

Councilmember Brandborg stated that she would vote for the ordinance with the understanding that it would be brought back to the Council for possible amendments regarding the size of the unit and the parking requirements.

M/S, Tremaine/Weinsoff, Motion to waive further reading and to read the title only of Ordinance No. 721, An Ordinance of the Town Council of the Town of Fairfax to Establish a Second Dwelling Unit Amnesty Program.

AYES: All

M/S, Tremaine/Weinsoff, Motion to adopt Ordinance No. 721, An Ordinance of the Town Council of the Town of Fairfax to Establish a Second Dwelling Unit Amnesty Program.

AYES: All

Mayor Bragman recessed the meeting for a break from 9:10 to 9:25 p.m.

Introduction and First Reading of Ordinance No. 722, An Ordinance of the Town Council of the Town of Fairfax requiring the use of compostable plastic, recyclable paper and/or reusable checkout bags by all grocery stores, food purveyors, and other retail outlets in the Town of Fairfax, Tremaine/Bragman

Town Manager Kelly presented the staff report. She described the public hearing notice regarding the proposed ordinance that had been sent to 78 retail and food establishments at the direction of the Town Council; the addition of a finding with respect to the exemption from the California Environmental Quality Act (CEQA) made by the Town Attorney; and the language added to exempt dry cleaning establishments from the definition of "shop." She explained that these changes were substantive and warranted another first reading of the ordinance.

There was a discussion by the Council of the possibility of legal challenges to the ordinance.

Mayor Bragman opened the public hearing.

Mark Squire, Good Earth Natural Foods, stated that the Town shouldn't cave to corporations; that the ordinance wouldn't fix the plastic problem but would send a strong message; and that GE was starting a campaign about plastics.

Yvette Wakefield, Main Court, stated that she would like to have the Town take on the plastic industry and suggested that the Town could possibly secure pro bono assistance or join forces with other communities.

John Reed, Scenic Rd., Volunteer Board Chair, stated that it was a regional problem and that what was happening in other cities would become clear in the next month.

Town Attorney Karpiak stated that, if the Oakland ordinance was challenged, that the Town might be able to join forces or get advice from them.

Renee Goddard, Cascade Drive, reported that the State of California had recently adopted a bill mandating the recycling of plastic bags and urged the Council to move forward with the ordinance.

Ray Martin, owner, Fairfax Scoop, stated that he agreed with Councilmembers Tremaine and Weinsoff that the industry wouldn't bother to go after little Fairfax.

Mayor Bragman closed the public hearing.

M/S, Brandborg/Maggiore, Motion to waive further reading and to read the title only of Ordinance No. 722, An Ordinance of the Town Council of the Town of Fairfax requiring the use of compostable plastic, recyclable paper and/or reusable checkout bags by all grocery stores, food purveyors, and other retail outlets in the Town of Fairfax.

M/S, Tremaine/Maggiore, Motion to introduce Ordinance No. 722, An Ordinance of the Town

Council of the Town of Fairfax requiring the use of compostable plastic, recyclable paper and/or reusable checkout bags by all grocery stores, food purveyors, and other retail outlets in the Town of Fairfax.

AYES: All

CONSENT CALENDAR

Approval of cash disbursements for June, 2007

Approval of Town Council Minutes of June 6 and 23, 2007

Approval of Resolution No. 2495, A Resolution of the Town Council of the Town of Fairfax Setting the Living Wage Pursuant to the Annual Review Requirements of Section 8.56.020 of the Town Code

Approval of Resolution No. 2496, A Resolution of The Town Council of The Town of Fairfax continuing expenditures and revenues in accordance with the 2005-2006 Town budget and in lieu of timely 2007-2008 budget adoption

Award of bid for Measure "K" Street Overlay Project, Tamalpais and Scenic; Azalea, Broadway to Merwin; and Broadway, Bank to Claus

Adoption of Resolution No. 2497 A Resolution of the Town Council of the Town of Fairfax Proposing an Election be Held in its Jurisdiction on November 6, 2007, Requesting the Marin County Board of Supervisors to Consolidate With Any Other Election Conducted on that Date, and Requesting Election Services of the County Clerk

A Proclamation of the Town of Fairfax recognizing August 5, 2007 as Forgiveness day, Tremaine

Report on update of General Plan

Storm Damage Recovery Update

M/S, Maggiore/Tremaine, Motion to adopt the Consent Calendar with the removal of the item regarding the use of depleted uranium for discussion and a correction to the minutes of June 23rd by Councilmember Weinsoff, and a correction to the Living Wage Resolution calculation.

AYES: All

REGULAR AGENDA

Adoption of Resolution No. 2491, A Resolution of the Town Council of the Town of Fairfax authorizing closure of a portion of Broadway for the staging of the car show on September 9, 2007 (continued from June 6, 2007 meeting)

Councilmember Tremaine recused himself from the discussion because of a potential conflict of interest due to the fact that his employer had received proceeds from the event.

Jon Marchant, Live Oak Ave., representative of the Ross Valley Rotary and car buff, stated that the Rotary had given \$7500 to local youth charities from the proceeds of the last car show; that the recipients included Rainbow Kids, the Fairfax-San Anselmo Children's Center and Apple

Family Works; that the Rotary was willing to place two or three people at the Good Earth parking lot to caution car show attendees to park elsewhere during the event; that the show had received donations from a half dozen merchants; and that they had received show entries from Fairfax residents.

Mark Squire, Good Earth Natural Foods, stated that parking downtown was difficult and the car show drew people to town with their cars which took parking away from the merchants; that he didn't want to speak against money given to local children, but that the event celebrated the car and had a negative impact on his customer parking; and that his business wasn't the only one impacted.

Edwin Cariati, Good Earth Natural Foods, stated that it was very stressful when their parking was impacted by an event; that Sunday was a very busy day at their store; that they hadn't hired anyone yet to monitor the parking but would have to if the event continued costing them extra money; that it did impact other businesses in town; and asked that the Rotary's offer to provide three people to monitor parking be included in the resolution.

Town Manager Kelly suggested also that the Marin Bicycle Coalition be asked to provide bike parking for future events.

M/S, Brandborg/Weinsoff, Motion to approve Resolution No. 2491, A Resolution of the Town Council of the Town of Fairfax authorizing closure of a portion of Broadway for the staging of the car show on September 9, 2007, with the addition of language requiring the Rotary to provide three members to monitor the parking at Good Earth during the event.

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

Agenda Review

At 10:20 p.m., the Council reviewed the agenda. Councilmember Weinsoff offered to have his item regarding the selection of Mayor and Vice Mayor heard at the September meeting. There was a consensus of the Council to complete the other items on the agenda.

Continued discussion and consideration of possible conversion of Mono Avenue between Bolinas and Bank Street into a pedestrian and bicycle use only right-of-way, Tremaine

Town Manager Kelly and Town Attorney Karpiak presented the staff report. They reviewed the existing provisions for street closures and the lack of a process for the proposal submitted; the differing requirements for temporary versus permanent closures; the potential liability issues; other access issues for public safety and adjacent residences and businesses; and possible options for the Council to pursue to process the application.

Mayor Bragman opened the discussion to the public.

Ray Martin, Fairfax Scoop owner, stated that there were five businesses and four residences that received deliveries and garbage service through the alley proposed for closure and asked if their addresses would still be accessible.

Tim Atell, co-owner of 28 Mono Ave., advocated the closure of the alley; stated that he didn't live there but thought it would be a nice improvement; and noted that he owned the Book Beat building.

At the request of the Council, Town Attorney Karpiak reiterated the steps outlined in the staff report to proceed with the request including the adoption of a resolution of intention, a formal notice and a public hearing. He noted that technical analysis would be necessary to go forward. The Council discussion included concern about the private use of a public street; access issues for adjacent businesses and residences; maintaining vehicular access for deliveries; the safety of chairs and tables on a slope; the chance to beautify the area; the need for more bike parking downtown; and possible different traffic configurations.

There was a consensus of the Council to delay the discussion for sixty days.

Report on Fairfax-San Anselmo Shared Services Subcommittee and request for appointment of an alternate representative to the Subcommittee, Brandborg (oral report)

Councilmember Brandborg presented a report and stated that the committee had decided to rotate the chair; that staff had been directed to inquire about consultants; that the next meeting was scheduled for July 19th with both Police Chiefs to be present; and determined that alternate representatives should be appointed.

M/S, Weinsoff/Brandborg, Motion to appoint the Mayor as the alternate representative to the Committee.

AYES: All

Adoption of Resolution No. 2499, A Resolution of the Town Council of the Town of Fairfax outlining the policy for the selection of the Mayor and Vice Mayor by the Town Council, Weinsoff

Continued to the September 5th meeting.

Status Report on Canyon road Sewer District connections and Town Requirement for connection, Bragman/Weinsoff

Mayor Bragman presented the report on the successful negotiations that he and Councilmember Weinsoff had with Ross Valley Sanitary on behalf of some of the residents to equalize the hookup fees for the recent work done on Canyon Road and to get the Sanitary District to agree to pay the reasonable cost of repairs to the properties that did not end up with an operating gravity flow sewer. He noted that the Town's building department needed to be instructed not to enforce the Town's sewer hookup ordinance for the next two years to allow for the repairs to happen.

Report on status of 2007-2008 Budget and request to set a date for a budget workshop (oral report)

Finance Director Roth presented an update on budget preparations and the date of Saturday, July 21st, was set for the budget workshop.

Adoption of Resolution No. 2498 A Resolution of the Town Council of the Town of Fairfax Expressing Opposition to the Use of Depleted Uranium Weaponry and Support for Medical Treatment and Monitoring of Veterans, Bragman

Wording was added to the resolution to show its direct impact on the citizens of Fairfax at the request of Councilmember Weinsoff.

Mayor Bragman opened the discussion to the public.

Yvette Wakefield, Main Court, stated that the resolution had the full support of the Seniors for

Peace, the Quakers and the Gray Panthers.

M/S, Bragman/Tremaine, Motion to adopt Resolution No. 2498, A Resolution of the Town Council of the Town of Fairfax Expressing Opposition to the Use of Depleted Uranium Weaponry and Support for Medical Treatment and Monitoring of Veterans.

AYES: All

The meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk