

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
August 1, 2007

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

COUNCILMEMBERS ABSENT: David Weinsoff

STAFF MEMBERS PRESENT: Linda Kelly, Town Manager
Ann Welsh, Planning Director
Jim Karpiak, Town Attorney
Debra Sue Johnson, Public Works Director
Ken Hughes, Chief of Police
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 designated representative Town Manager Kelly pursuant to Government Code Section 54957.6, regarding unrepresented employee, Community Resources Coordinator; 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, as a result of negotiations with Town Manager Kelly regarding the Community Resources Coordinator, an unrepresented employee, a salary increase of 3% was authorized, and that the performance evaluation of the Town Manager would be concluded at the August 15th Council meeting.

Approval of Agenda and Affidavit of Posting

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

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

Announcements

Mayor Bragman announced that new members were welcome on the General Plan Advisory Committee and on the Fairfax Youth Commission and that a "Good Festival" was to be held in Bolinas Park on Saturday, August 25th.

Open Time for Public Expression

Jory Prum, Deuce Court, stated that he had not been at recent Council meetings because he had been attending Marin County Transit District meetings to advocate for the use of a monthly bus

pass system to encourage public transit and to make it more affordable to take the bus. He reported that he had met with Supervisor Hal Brown who was supportive of the idea and who suggested that he approach the Fairfax Town Council to put forward a resolution urging the monthly pass system. Councilmember Tremaine volunteered to work with Mr. Prum to draft such a resolution for the Town Council's consideration.

Cindy Ross, Lansdale Ave., asked for the Town's assistance; stated that her house had been nearly destroyed by fire in 2006; that she had experienced serious plumbing problems for the last three or four months; that she had filed complaints about the plumbing problems with the District Attorney's office of Consumer Protection, with the State Insurance Commissioner, with Golden Gate Home Repair in Novato, and with the State Contractors' Licensing Board. She further stated that the Town's Building Official, Mark Lockaby, had written a letter at her request stating that the problems were caused by the contractor. She asked for any help the Town could provide.

PUBLIC HEARINGS

Review of Town Draft Budget for Fiscal Year 2007-2008

Town Manager Kelly presented the staff report.

In response to a question from Councilmember Brandborg, Public Works Director Johnson described the Non-Motorized Transportation Projects proposed for 2007-2008. Finance Director Roth responded to a request from Councilmember Brandborg for a description of what was included in the "Transfers In" and "Transfers Out" in the General Fund Revenue pie chart with more detailed information to be provided later. Councilmember Brandborg asked about the increase from 77% to 83% for personnel costs. Town Manager Kelly explained that the increase was in part due to lower operational costs plus increased salary and benefit costs.

In response to a question from Vice Mayor Maggiore, Town Manager Kelly explained that the sales tax revenue was up mainly because Fairfax Lumber and the IGA Market were exceptional producers.

There was a discussion of the possible use of the projected FY 06-07 General Fund surplus of approximately \$381,180 for one-time projects as suggested by staff. The unfunded projects enumerated by staff were: (1) Disaster preparedness mailer to residents for fire clearance and magnet for residents regarding the emergency siren, \$4,000; (2) Bus Stop at 2525 Sir Francis Drake, \$10,000; (3) New holiday banners for downtown, \$2,500 (with possible match from the Chamber of Commerce); (4) Annual replenishment funding to Equipment Replacement Fund, \$50,000; (5) Contingency Fund for unplanned projects, \$50,000; (6) ADA transition plan, \$75,000 (year one of a two-year project); (7) Scenic Road retaining wall, \$100,000; (8) Building and Planning Fee Study, \$25,000; (9) Consultant for Noise Element of the General Plan, \$25,000; (10) Automated External Defibrillator for Town Hall, \$3,200 (includes 2-year training and maintenance agreement).

There was a consensus of the Town Council that a portion of the surplus, \$142,944 was suggested, should be used for the reserve fund as recommended by the auditor to bring the reserve level to one million dollars. Support was expressed for the various projects. Councilmember Brandborg expressed concern about the possible assumption of liability for the Scenic retaining wall if the Town paid to build it and Mayor Bragman stated that it was possible that Proposition 1-B money could be used to build the wall to provide a more neutral source of funding. Mayor Bragman stated that there was a possibility that the Ross Valley Paramedic Authority would pay for a portion or all of the cost of a defibrillator for Town Hall. Councilmember Tremaine and Mayor Bragman spoke strongly in support of a bus stop at 2525 Sir Francis Drake to encourage the use of public transit and both spoke in support of the production of a disaster

preparedness mailer.

Mayor Bragman opened the discussion to the public.

Conrad Oho, Fairfax resident, asked if the Town had a contingency plan for a change in the financial markets and whether or not the Town's budget was vulnerable to substantial changes in the market.

Town Manager Kelly responded that the Local Area Investment Fund (LAIF) was a very conservative investment fund used by the Town and that the California Public Employees Retirement System (CalPERS) made pension fund investments in a conservative way.

Conrad Oho stated that the CalPERS fund investments were considered by some to be safe and conservative and by others to be unreliable and volatile.

Mayor Bragman closed the discussion to the public.

The unfunded Building and Planning Fee Study expense of \$25,000 was discussed. Finance Director Roth stated that the Planning fees had been raised in the last year but that the building fees had not been raised and that the cost recovery for the fees had to be justified.

Planning Director Welsh stated that there had been a reduction in the building fee revenue in the past year; noted that the Town Building Department currently charged \$132 per square foot for new construction and \$100 per square foot for remodels; that a study wasn't absolutely necessary to raise the fees but that a study was needed for a full cost recovery of the building fees; that a study would provide the data but wouldn't mean that the Town would have to raise the fees to the maximum amount indicated by the study.

Public Works Director Johnson spoke in strong support of funding the Americans with Disabilities Act (ADA) transition plan for \$75,000. She stated that the lack of a transition plan made the Town vulnerable to a lawsuit; that every service provided by the Town was subject to the Act; and that it was the right thing to do to make our community accessible for every citizen.

Mayor Bragman noted that the Measure F revenue was stagnant and asked for data about the number of new units in Fairfax subject to the tax.

In response to a request from Vice Mayor Maggiore about a timetable for the Center Boulevard Redesign, Public Works Director Johnson explained that CalTrans had yet to give permission to proceed so that she could advertise the project; that the adjacent property owners, the Friedmans, still had to give permission to work outside the Town's right-of-way; that she was still negotiating with them; that the biggest issue for CalTrans had been the location of Indian burial grounds at the site; and that she anticipated that the project would move forward by the end of the summer.

Mayor Bragman opened the discussion to the public.

Cindy Ross, Lansdale Ave., asked about the possibility of fixing Pastori Avenue.

Public Works Director Johnson stated that the Measure K list of streets to be repaired did include Pastori Avenue for an overlay.

Mayor Bragman adjourned the meeting for a break from 9:02 to 9:12 p.m.

CONSENT CALENDAR

Approval of cash disbursements for July, 2007

Approval of Town Council Minutes of June 25 and July 11, 2007

Approval of plans and specifications and authorization to bid – Sir Francis Drake Boulevard HES Pedestrian Activated Crosswalk at Oak Tree Lane, Project No. 05-005

Approval of transfer of Sir Francis Drake Blvd Roadway Easements from County of Marin to Town of Fairfax for Bike Route Improvements per Agreement dated 1991

Authorization to join Mayors for Peace group, Bragman

Adoption of Resolutions setting taxes to be collected by the Marin County Auditor-Controller for Fiscal Year 2007-08:

- a. Adoption of Resolution No. 2501, A Resolution of the Town Council of the Town of Fairfax Setting The Amount of The Municipal Services Tax for The 2007-2008 Fiscal Year**
- b. Adoption of Resolution No. 2502, A Resolution of the Town Council of the Town of Fairfax Setting the Amount of the Special Municipal Services Tax for the 2007-2008 Fiscal Year**
- c. Adoption of Resolution No. 2503, A Resolution of the Town Council of the Town of Fairfax Setting the Amount of the Utility Users Tax for the 2007-2008 Fiscal Year**
- d. Adoption of Resolution No. 2504 A Resolution of the Town Council of the Town of Fairfax Setting the Amount of the Pension Override Tax for the 2007-2008 Fiscal Year**
- e. Adoption of Resolution No. 2505, A Resolution of the Town Council of the Town of Fairfax Approving the Measure K Bond assessment for the 2007-2008 Fiscal Year**
- f. Adoption of Resolution No. 2506, A Resolution of the Town Council of the Town of Fairfax Setting A Fee For The Purpose Of Funding Local Stormwater Pollution Prevention Activities For Fiscal Year 2007-2008**

Adoption of Resolution No. 2507, A Resolution of the Town Council of the Town of Fairfax Supporting the City and County of San Francisco's Appeal and Authorizing the Fairfax Town Attorney to sign on the Amicus Curiae Brief In Support of Constitutional Right to Marriage for Same Sex Couples, Bragman

Receive and File Annual Report from the Citizens' Disaster Council

Authorization for the Mayor to sign letters on Town letterhead thanking Senator Migden and Congresswoman Woolsey for their help with the Town's FEMA issues

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

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

REGULAR AGENDA

Discussion and Consideration of an amendment to the second dwelling unit amnesty ordinance to lower the square footage and to consider tandem parking for the second unit amnesty period only, Brandborg

Mayor Bragman recused himself from the discussion because his property included a legal non-conforming second unit that would be in the reduced size range proposed by Councilmember Brandborg to be included in the ordinance.

Vice Mayor Maggiore assumed the chair of the meeting.

Councilmember Brandborg explained that she requested the changes to the ordinance to make it more inclusive to encourage more applications for the amnesty; that her request had been prompted by a review of the County of Marin's ordinance that allowed a range of sizes for the illegal units to qualify for amnesty of 220 square feet to 750 square feet and that also allowed tandem parking; that this relaxing of the standards would cast a wider net for eligible units to allow the Town to bring more units up to current health and safety standards; that it would increase the number of affordable units in town; that meeting the parking requirements was the barrier for many second units; that the reduction in size of the units allowed made sense because so many of the lots in Fairfax were substandard and irregular sizes; and that the relaxed standards would be only for those coming forward with illegal units or those planning new units.

Councilmember Tremaine stated that he was not convinced about the reduction in the size of units to qualify for amnesty, but that he agreed with the inclusion of tandem parking to meet the parking requirements for second units.

Motion by Councilmember Brandborg to amend the ordinance to reduce the allowable unit size to 220 square feet and to allow tandem parking failed for lack of a second.

Councilmember Brandborg accepted the friendly amendment by Councilmember Tremaine to revise the ordinance to include tandem parking only.

M/S, Brandborg/Tremaine, Motion to amend Ordinance No. 721 Creating a Second Unit Amnesty Program to allow tandem parking to meet the parking requirement for second units with direction to staff to prepare the amendment to the ordinance for introduction at the September fifth Council meeting.

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

Second Reading and Adoption 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

Mayor Bragman expressed concern about the potential for litigation from the ordinance.

Mayor Bragman opened the discussion to the public.

Cindy Ross expressed disgust that the plastics industry would even consider suing the Town over the ordinance.

Vice Mayor Maggiore stated that she was proud of the ordinance and that she thought it would spread to other communities and that the Council was taking the action because it was the right thing to do.

M/S, Tremaine/Bragman, 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.

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

M/S, Tremaine/Bragman, Motion to adopt 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: Bragman, Brandborg, Maggiore, Tremaine
NOES: None
ABSENT: Weinsoff

COUNCIL REPORTS AND COMMENTS

Vice Mayor Maggiore and Councilmember Brandborg reported on their recent attendance at the Marin County Mayors and Councilmembers dinner meeting at the Town's expense.

The meeting was adjourned at 9:31 p.m. to August 15, 2007 at 7:30 p.m. for a special meeting for budget adoption.

Respectfully submitted,

Judy Anderson, Town Clerk