

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, August 4, 2010

The regular meeting was preceded by a special meeting closed session regarding: Conference With Labor Negotiator pursuant to Government Code Section 54957.6, Agency designated representative: Michael Rock, Town Manager; Employee Organizations: Police Officers Association and Management Employees and; Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Pending Litigation, Marin Superior Court No. CV 086177, Town of Fairfax v. John and Marlia Berg; and Conference with Legal Counsel – initiation of litigation (one potential case) pursuant to Govt. Code Section 54956.9 (c)

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Larry Bragman
Pam Hartwell-Herrero
Lew Tremaine
David Weinsoff

COUNCILMEMBER ABSENT: John Reed

STAFF MEMBERS PRESENT: Michael Rock, Town Manager
Jim Moore, Planning Director
Jim Karpiak, Town Attorney
Kathy Wilkie, Public Works Director
Chris Morin, Chief of Police
Laurie Ireland-Ashley, Finance Director
Mark Lockaby, Building Official
Judy Anderson, Town Clerk

Mayor Tremaine called the meeting to order at 7:38 pm.

Approval of Agenda and Affidavit of Posting

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

AYES: Bragman, Hartwell-Herrero, Tremaine, Weinsoff
NOES: None
ABSENT: Reed

Announcement of Closed Session Action

Mayor Tremaine announced that the Council had conferred with Labor Negotiator Rock regarding the Police Officers Association and the Management Employees and had given direction but that no action was taken; and that Council had conferred with legal counsel regarding pending litigation, Fairfax v Berg, and regarding the possible initiation of litigation, but that no action was taken.

Announcements

Mayor Tremaine made the announcements as printed on the agenda.

Open Time for Public Expression

Yvette Wakefield, Main Court, informed the Council about a petition she was circulating regarding geo-

engineering and its effect on the environment and asked that one of the members of the Council sponsor a seven-minute presentation by Rosalind Peterson on crop production and Vitamin D.

Mayor Tremaine agreed to such a presentation to be added to the agenda for the September first Council meeting.

Patrick Troupe, thanked the Town Council and the Parks and Recreation Commission for sponsoring the Good Festival on Saturday the seventh, and invited everyone to attend the event.

Presentation/Announcement of certification of Fairfax as a Cittaslow City, Virginia Hubbell

Councilmember Hartwell-Herrero introduced Virginia Hubbell, who described the process that the City of Sonoma went through to attain their status as a Cittaslow City.

Ms. Hubbell introduced Gary Edwards, Planning Commissioner for the City of Sonoma. He explained that "Cittaslow" was the Italian word for "slow city" because the movement started in Italy; that 135 towns in the world had been certified and that they were a small group of towns focused on sustainability issues. He acknowledged that Fairfax was a special community united around the issue of sustainability. Mr. Edwards presented an overview of what had been done in Korea through photos from his visit there. The photos showed the sustainable aspects of the city he visited, one of six slow cities in Korea, photos that included alternative transportation, green products and efforts to safeguard local products, foods and crafts. Mr. Edwards stated that he grew up in Sebastopol which was also a Cittaslow city, and described the Cittaslow Websites that provided incentives to learn from other cities about sustainable practices.

Virginia Hubbell presented a certificate to Councilmember Hartwell-Herrero along with a tile made in Italy to commemorate the certification of Fairfax as a Cittaslow City.

Councilmember Hartwell-Herrero thanked Ms. Hubbell for her help establishing Fairfax as a Cittaslow City as well as Town Manager Rock, Planning Director Moore and Bruce Ackerman. She announced that she would be talking about Cittaslow with the Fairfax Chamber of Commerce at a mixer on August 31st.

Interview and appointment of candidate(s) to serve on the Volunteer Board for an unexpired term to August 31, 2011 or to September 30, 2012, or for a full three-year term to September 30, 2013

Town Clerk Anderson presented the staff report.

The Town Council interviewed candidate Killen.

M/S, Bragman/Weinsoff, Motion to appoint Bruce Killen to the Volunteer Board for a full three-year term.

AYES: Bragman, Hartwell-Herrero, Tremaine, Weinsoff
NOES: None
ABSENT: Reed

COUNCIL REPORTS AND COMMENTS

Councilmember Weinsoff reported on his attendance at a JPA Oversight Committee meeting currently reviewing the budgets of the various JPA's and stated that he would be reporting back to the Council on the Committee's activities on a quarterly basis.

Councilmember Hartwell-Herrero reported on a recent zero waste event held by Sustainable Fairfax in cooperation with the County and Marin Sanitary wherein food waste was converted to compost and the five loads of compost donated by Marin Sanitary was distributed to the community.

TOWN MANAGER REPORT

Town Manager Rock announced that the trenching had been completed to the Women's Club and that he anticipated that the webstreaming service would be operational for the September first Town Council meeting.

CONSENT CALENDAR

Approval of Town Council minutes of June 2, 5, and July 7, 2010 – Town Clerk

Report on the status of the presence of perchlorethylene (PCE) at the Fair Anselm retail center – Bragman

Adoption of a Resolution of the Town Council of the Town of Fairfax approving the release of Plans and Specifications for Tennis Court Bank Stabilization Project and Peri Park Pedestrian Bridge Replacement – Public Works

Approval of Notice of Completion for Sir Francis Drake Resurfacing Project, June Court to the Western Town limit– Public Works

Adoption of 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 – Town Clerk

Adoption of a Resolution of the Town Council of the Town of Fairfax honoring Jack Adams on the occasion of his retirement – Public Works/Town Clerk

Authorization for the Town Manager to execute a Memorandum of Understanding with San Anselmo for recreation services for 2010-2011 – Town Clerk

Report on the status of the Fairfax General Plan – Planning

M/S, Weinsoff/Hartwell-Herrero, Motion to approve the Consent Calendar as presented.

AYES: Bragman, Hartwell-Herrero, Tremaine, Weinsoff
NOES: None
ABSENT: Reed

Discussion/Consideration of the Adoption of a Resolution of the Town Council of the Town of Fairfax adopting a revised Master Fee Schedule – Finance

Finance Director Ireland-Ashley presented the staff report and staff responded to specific questions about various fees.

Councilmember Weinsoff noted that the income from the fees collected for the previous year would have been \$254,554 rather than the \$65,000 realized if the increased fees had been in place according to the report presented by the Building Official. He stated that this was a significant number and asked that it be completely vetted.

Mayor Tremaine reported that the Town had a study done that indicated that the Town had been grossly undercharging on fees; that this process was a major step toward becoming financially stable and sustainable; that the Council wanted to be economically responsible by considering all options; and that the voters had been a major contributor to the financial sustainability of the Town with the passage of Measure F and Measure I.

Councilmember Hartwell-Herrero confirmed that the Town could not charge more than it cost to provide the service and expressed concern that people would be less likely to get permits because of the increased cost.

Planning and Building Services Director Moore, in response to a Council question, explained that his department, because of the limited staff, operated mostly on a complaint basis for violations including working without permits. He noted that the implementation of the administrative fine process the previous year had been used with an even hand and had avoided the cumbersome use of the formal abatement process.

Councilmember Weinsoff stated that when a permit was issued the resident received an expert's view of the work done and assurance that it was done correctly and according to codes.

Councilmember Hartwell-Herrero suggested that the new fees be implemented and reviewed in a year.

Town Manager Rock suggested that the impact of the raised fees could be determined in less than a year.

Mayor Tremaine stated his preference for a report on the fees as part of the mid-year budget review.

Vice Mayor Bragman stated that people were going to ignore permits, especially on the heels of a deep recession; suggested that the fees shouldn't include costs like overhead not directly associated with the fees; that the spirit rather than the letter of the law might require the cost without the overhead; and that he would like to see the numbers without the overhead included before moving forward.

Finance Director Ireland-Ashley explained that it was the standard used to determine the cost of services provided but that the fees could be presented with just the salary and benefits included in the cost.

Councilmember Weinsoff stated that the Town was in a dire financial situation and that money had to be found to run the Town and to provide services.

Vice Mayor Bragman agreed that the fees needed to be raised and that the Town couldn't continue to subsidize permits, but suggested that they didn't need to be raised so dramatically.

Mayor Tremaine opened and closed the public hearing when no speakers came forward.

M/S, Bragman/Weinsoff, Motion to continue the public hearing on the fee schedule to the September meeting to include the alternative fees as requested.

AYES: Bragman, Hartwell-Herrero, Tremaine, Weinsoff
NOES: None
ABSENT: Reed

Adoption of Ordinance No. 752 of the Town Council of the Town of Fairfax as an urgency measure establishing a temporary moratorium on the installation of SmartMeters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax, and declaring the urgency thereof – Bragman

Town Manager Rock presented the staff report.

At the request of Mayor Tremaine, Town Attorney Karpiak highlighted the conditions to be imposed by the ordinance including a one-year moratorium with penalties to be assessed.

Alexander Binik, Fairfax resident, stated that the PG&E representatives had taken 2.5 hours for their presentation in San Anselmo, and asked how much time they would be allotted at the current meeting.

Josh Townsend, PG&E Government Affairs representative, reported that he had met with Mayor Tremaine earlier in the day and wanted to answer the questions posed. He stated that PG&E had decided to hold off implementation of the Smart Meter installations in Fairfax until they had a chance to provide education to

the residents of Fairfax; that they appreciated their conversation with the Mayor; that they wanted to work with the staff and Council to set up public meetings to provide educational opportunities for the Town; and that there wouldn't be any further deployment until these meetings had been held.

Mayor Tremaine stated that he envisioned at least two community forums, one with only input from the public to express their concerns followed by a second forum to allow PG&E to answer the questions and concerns raised. He expressed his appreciation that PG&E would halt installations in Town and asked them to work with Marin Clean Energy on the smart grid in the service area.

In response to questions from Vice Mayor Bragman, PG&E representatives reported that about 200 out of the planned 8,000 meters, both gas and electric, and four antennae had been installed in Fairfax.

In response to a question from Mayor Tremaine, Bill Devereaux of PG&E stated that they could let staff know where the smart meters had been installed. Mr. Devereaux also responded to a request from Vice Mayor Bragman that the antennae be de-activated by stating that it could be discussed with the Town.

Mayor Tremaine opened the discussion to the public.

The following people spoke in support of the ordinance to impose a moratorium on the installation of Smart Meters:

Sierra Salin, Cascade Drive; Valeri Hood, Dominga Ave.; Diane Hoffman, Porteous Ave., David Glick, Cascade Drive; Alexander Binik; Susan McConnellug, Forrest Ave.; Peter Lacques, Live Oak; Judy Hitchcock, Chester Ave.; Frank Egger, Meadow Way; Joe Odom, Porteous Ave.; and Mike Sturtevant, Pine Drive.

Steven Scott, EMF Services, stated that he had been interviewed by a newspaper reporter in the East Bay on the issue; that he had tested the Smart Meter emissions and determined that their Electromagnetic Field (EMF) emissions were at the same level as some cell phones and no greater than a wireless router in a residence, but added that it would provide another source of emissions.

Mayor Tremaine closed the public hearing.

Mayor Tremaine clarified that the overcharging issue and the privacy issue were being studied by the Public Utilities Commission (PUC), not the health issues, and suggested that the health concerns needed to be communicated more clearly to the PUC.

Vice Mayor Bragman noted that the ordinance included a provision that it would end if there were studies that could show that the meters were safe, and a request for an impartial study to encourage research to get the bugs ironed out of the system before the system was deployed.

Mayor Tremaine noted that the Council didn't have a way to compel such a study nor could the Town afford to conduct one.

Councilmember Hartwell-Herrero stated that health issues had been raised numerous times during the public hearing; that there was some acknowledgment of this with the removal of some meters for health reasons; expressed concern about the privacy issues; stated that education and conversation with PG&E were good things; and that a one-year period would allow time for the resolution of some of the issues.

Vice Mayor Bragman stated that there were problems with health issues and EMF; provided the Town Clerk a copy of a publication of the US Government that he quoted that indicated that some electrical sensitivities could be subject to the Americans with Disabilities Act; that 8,000 meters in the Town of Fairfax was unprecedented and that people with such sensitivities would not be able to avoid exposure; that the privacy issue was a concern; that safeguards were not built into the infrastructure or the controls of that

infrastructure; that once the power was given away you couldn't get it back; that it was a system being forced on us by an undemocratic group of decision makers; that it was not done by public trustees; that Oracle was going to be collating the data; that it was going to be PG&E collecting the data; and Google and others would have access; quoted an article from "Nation Magazine" about Google that stated "you have zero privacy – get over it;" stated that he believed it would invade privacy and the 4th Amendment rights; that the level of data was unprecedented with no protections which provided an overwhelming reason to oppose the technology; that the Town had a right to ban the meters; that it was a political issue to defend our rights and our health; and urged the Council to adopt the ordinance for twelve months..

Mayor Tremaine stated that a long overdue conversation about the issue had started and that the issues would be explored in earnest; that he wanted PG&E to work with Marin Clean Energy on a smart grid; that the improvement of the grid was essential; that it was also important to do it the right way and safely while protecting our rights; that he wanted to get all the questions on the table; that if we were really going to have a dialogue, that both sides had to listen; that it was significant that PG&E was able to stop deployment in Fairfax; and that he appreciated PG&E's presence at the meeting.

M/S, Bragman/Hartwell-Herrero, Motion to waive further reading and to read the title only of Ordinance 752 of the Town Council of the Town of Fairfax as an urgency measure establishing a temporary moratorium on the installation of SmartMeters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax, and declaring the urgency thereof.

AYES: Bragman, Hartwell-Herrero, Tremaine, Weinsoff
NOES: None
ABSENT: Reed

M/S, Bragman/Hartwell-Herrero, Motion to adopt Ordinance 752 of the Town Council of the Town of Fairfax as an urgency measure establishing a temporary moratorium on the installation of SmartMeters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax, and declaring the urgency thereof.

Roll Call Vote:

Bragman: AYE; Hartwell-Herrero: AYE; Tremaine: AYE; Weinsoff: AYE;

Absent: Reed

Discussion of draft FY 2010-2011 Town Budget – *Town Manager*

Town Manager Rock presented the staff report.

Councilmember Weinsoff expressed disappointment that the public was more interested in smart meters than in the budget, stated that it was extremely important to get public input, and that the memo recommending various possible staffing changes was prepared at the urging of the Town Council.

Mayor Tremaine stated that there would be a more comprehensive discussion of the budget on September 1st and September 11th; that the budget was going to be done deliberately and humanely; that the Council had a strong sense of fairness and wanted to collaborate with the management staff on solutions; that the Town government that was top-heavy with money not spent as wisely as possible; that difficult decisions would have to be made; that it would be a team effort; and that decisions had to be made to create a sustainable budget.

Vice Mayor Bragman stated that the Town was facing tough times and decisions wouldn't be easy; that the Council wanted to get all the options on the table; that they couldn't continue on the same path; that he appreciated the work that was being done to further discussions; and that the Council would be talking

about budget decisions again in September.

Adoption of a Resolution of the Town Council of the Town of Fairfax to accept the final report of the Parkade Area Circulation Study - Planning

Planning and Building Services Director Moore presented the staff report.

M/S Weinsoff/Bragman, Motion to approve a Resolution of the Town Council of the Town of Fairfax accepting the final report of the Parkade Area Circulation Study.

AYES: Bragman, Hartwell-Herrero, Tremaine, Weinsoff
NOES: None
ABSENT: Reed

Discussion/Consideration of re-naming the Solid Waste Committee – Bragman/Hartwell-Herrero

M/S, Hartwell-Herrero/Bragman, Motion to rename the committee and to re-focus the committee.

Vice Mayor Bragman credited the change in the emphasis of the committee to Councilmember Hartwell-Herrero and lauded her efforts on the progress of the zero waste goal.

Councilmember Hartwell-Herrero stated that she was happy to be in an environment where she could talk about garbage and have people actually listen.

AYES: Bragman, Hartwell-Herrero, Tremaine, Weinsoff
NOES: None
ABSENT: Reed

Discussion/Consideration of Youth Commission request to paint and refurbish the Youth Center in preparation for “Fairfax Youth Nights” – Hartwell-Herrero

Councilmember Hartwell-Herrero outlined the Youth Commission plans to paint and refurbish the Youth Center including different lighting, painting, new rugs and changing the sign on the building from “Community Center” to “Youth Center.” In response to a question from Mayor Tremaine about the “Fairfax Youth Nights” planned, Councilmember Hartwell-Herrero stated that parents had expressed interest in serving as chaperones and that they also hoped to hire a college student at minimal cost.

Mayor Tremaine suggested that the Youth Commission go through the Design Review Board process for the sign change.

There was a consensus of the Council to go forward with the plans for the changes to the Youth Center and with the plans for the “Fairfax Youth Nights.”

The meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk