

DRAFT Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
October 3, 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 6:30 p.m. at the Youth Center, 16 Park Rd. for conference with legal counsel pursuant to Government Code Section 54956.9(b), anticipated litigation, two potential cases and; pending litigation, Marin Superior Court No. CV 074051, North Bay Coalition to Support Plastic Bag Recycling v. Town of Fairfax.

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

Closed Session Announcement

Mayor Bragman reported that the Town Council had met in Closed Session and had given staff direction to Counsel and Staff regarding pending litigation, North Bay Coalition to Support Plastic Bag Recycling v. Fairfax; and regarding two cases of potential litigation.

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 announced that an Organic Pancake Breakfast to benefit Fairfax Open Space would be held on Saturday, October 13th, at the Fairfax Women's Club; that the Volunteers for Fairfax would be hosting the annual Creek-Clean up on Sunday, Oct. 14th; that a meeting had been scheduled for Wednesday, October 24th, to discuss the location of a new emergency siren in the Cascade Canyon Neighborhood; and that new members were welcome on the General Plan Advisory Committee and on the Fairfax Youth Commission.

Councilmember Brandborg announced that she had attended a "kick-off" for the "Get Ready" program and encouraged citizens to sign up to take the two-hour training in disaster preparedness, with more information available from the Web site at getreadymarin.com.

Open Time for Public Expression

Diane Dillingham, 177 Frustuck Ave., expressed concern about the lack of guidelines for the conduct of the Planning Commission. She reported that Commissioner Hoffmann had requested that an applicant move a portion of his house underground and asked another applicant to install solar. She further reported that Commissioner Meigs requested that an applicant be required to plant twenty trees in Open Space to make up for the ones removed for the project. She stated that the Commissioners were asking for requirements that were beyond the scope of their authority.

Ingrid Weiss, Fairfax Chamber of Commerce, invited the Town Council to go for a walk downtown with the Chamber to share their concerns.

Town Manager Kelly agreed to coordinate the walk.

Rose Taber, 94 Hillside Ave., announced that a farewell reception would be held for Mr. and Mrs. Kim, the former owners of the 7-11 Store on Bolinas Rd., at Deer Park Villa on Sunday, October 14th from 1:00 to 4:00 p.m.

CONSENT CALENDAR

Approval of cash disbursements for September, 2007

Approval of Town Council Minutes of September 5 and 6, 2007

Approval of plans and specifications and authorization to advertise for bids for Pastori Avenue Measure K project

Award of bid to responsible lowest bidder for flashing pedestrian crossing project on Sir Francis Drake Boulevard at Oak Tree Lane (continued from 9-19-07)

Storm damage recovery update on Town FEMA projects

Adoption of Resolution No. 2515 increasing the authorization of the Town Manager to award contracts for the Emergency Watershed Project at 82 and 88 Creek Road

Stan Schriebman, Hickory Rd., asked how the Town was doing with the FEMA recovery money and received a written copy of the report from the Town Clerk. Town Manager Kelly explained that the Creek Road Bridge repair wouldn't be done until 2008 and answered Mr. Schriebman's questions about Resolution No. 2515 that increased the Town Manager's authority to award contracts for the project at 82 and 88 Creek Road.

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

AYES: Bragman, Brandborg, Maggiore, Tremaine, Weinsoff

NOES: None

REGULAR AGENDA

Introduction and first reading of Ordinance No. 724, An Ordinance of the Town Council of the Town of Fairfax amending ordinance No. 637, the Urban Runoff Pollution Prevention Program ordinance, to restrict residential car washing to further prevent polluting runoff into the storm drains, Brandborg (continued from 9-19-07)

Councilmember Brandborg introduced the topic and read from a postcard produced by Marin

County Stormwater Pollution Prevention Program (MCSTOPPP) about the problems with car washing as well as recommendations for more environmentally safe ways to wash a car. She noted that soaps and detergents, even biodegradable products, were lethal to fish in small doses and that, when you washed your car in the street or in the driveway, the soap, dirt and oil washed from your car flowed directly into storm drains and into local creeks and ultimately to the Bay.

Mayor Bragman opened the discussion to the public.

Dave Johansen, 126 Ridge Rd., stated that he had looked up the issue on the Internet and estimated that 90% of Fairfax residents opposed the ordinance.

Yvette Wakefield, 3 Main Court, stated that she had previously worked for MCSTOPPP, and hadn't known about the environmental hazards of car washing until then and suggested that the public needed education. She further stated that she didn't like the idea that the SUV owned by the San Anselmo Police Department was equipped to deal with weapons of mass destruction and crowd control and urged the Council not to merge police departments with San Anselmo.

Rose Taber, Hillside Ave., stated that the merchants weren't allowed to wash the sidewalks downtown and asked why the Town criminalized the merchants but let the residents wash their cars.

Councilmember Tremaine explained how Ms. Taber and other merchants could wash their sidewalks by using the proper protocol.

Mark Bell, Dominga Ave., stated that many residents had a "knee-jerk" negative reaction to the ordinance; that most people in his neighborhood didn't have permeable surfaces on their property to use for car washing; reported that a Web search on biodegradable soaps showed that there were no standards for how fast items would biodegrade; and that he was against the ordinance.

Jeff Fink, 1577 Sir Francis Drake; owner of the Coin Operated Fairfax Car Wash; thanked the Town Council for addressing the issue; stated that the oils and grease that came off the cars when they were washed were the biggest problems for the environment; reported that educational material about car washing was available on the Web; described the special filtering process that was used at his car wash; and stated that there had been strict laws against pollutants in the waterways since 1999.

Andrew Land, Scenic Road, stated that all the pollutants that came off during car washing really didn't add to the streams because rain did the same thing; that the ordinance wouldn't work; suggested that the Council prepare a list of products that were acceptable for car washing and educate people instead of legislating the issue.

Paul Kelly, 88 Rocca, stated that he regularly washed his car; that no data analysis had been done to show that there were pollutants in the creek from cars; and said he reiterated the arguments already made against the ordinance.

Ann Moos, 52 Geary, stated that she was a 33-year resident of Fairfax; that she washed her car once a year; asked if it was okay to just rinse her car; stated that God did it in the winter with the rain and she could do it when God was taking a break in the summer; asked whether or not she could clean her windshield to make it safe; asked for a definition of car washing; and suggested that there were other issues that could be addressed that were polluting the creeks.

Steven White, 600 Cascade Drive, stated that if a woman had a right to choose, a resident should have a right to choose to wash his car; that there wasn't much car washing going on in Fairfax; that Fairfax was a hillside community without permeable surfaces; that rational discussion and

education were needed; and that he was against the ordinance.

John Lewis, 53 Madrone, stated that there weren't many choices for car washing; that education was the way to go; that an ordinance against the use of toxic cleaners would be more appropriate; that Fairfax citizens were environmentally conscious; that the ordinance wouldn't allow him to even rinse off his car; and that he was strongly opposed to the ordinance.

Lou Vaccaro, 21 Olema Road, stated that there was no warning about potential harm to fish on the container of car washing soap he had purchased; that such warnings were printed on pesticide containers; noted that most of the storm drains in Fairfax were dry; that the storm drain on his property was fed from a spring from Marinda Oaks; that he had seen soap, oil and paint going through the storm drain; and noted that Oak Manor was exempt from the ordinance and that the storm drain there captured a creek so that deposits there all went directly into the creek. He stated his opinion that the small amount of soap from car washing wasn't what was killing the fish, that the increase in the amount of silt in the creeks was the culprit.

Douglas, Bolinas Road, stated that he was against the ordinance.

Stan Schriebman, Hickory Rd., stated that Ross Valley Sanitary already did monitor the creek and that the creek was definitely polluted; that when the Sanitary District put in a new sewer on Hickory, they wouldn't water down the dust and when they did it ran down the road, not into the storm drain; and stated that Marin County was already short of water and that people would stop washing their cars when water was rationed.

Sheila Smith, Wood Lane, thanked Councilmember Brandborg for bringing the issue forward because it had started a dialogue and that it had caused people to give car washing some thought, at least for the next few weeks.

John Reed, Scenic Rd., stated that an educational campaign was a good idea and that he frequently saw suds in the creek next to his home.

Mayor Bragman closed the discussion to the public.

Councilmember Brandborg referred to eloquent speeches made at the September 5th Council meeting in support of environmental protections for streams and fish and the resolution passed unanimously by the Council urging the County to adopt the strictest possible protections for stream conservation. She stated that this contradicted the Council's opposition to keeping soap out of the creek and stated that she believed that it was important to address the pollutants going into the creek.

Councilmember Tremaine, agreed that it was good that Councilmember Brandborg had brought the issue forward; stated that he thought the soap from car washing in the creek could be mitigated by being responsible as individuals; that education should be part of the efforts; that the ordinance should also address the possible mitigation by the residents; that the ordinance could encourage the use of a commercial car wash or of barricades to block off the storm drains during washing to give people options.

Vice Mayor Maggiore stated that citizens spoke for themselves and for their cars, but that they also had to speak for nature; that action needed to be taken; that the problem had to be acknowledged; all the toxins from cars were going into the creeks; and that she supported the proposed ordinance.

Mayor Bragman suggested that the best practices for car washing from MCSTOPPP be incorporated into the ordinance; that the resolution sent to the County regarding the Countywide

Plan was based on evidence; that car washing shouldn't be criminalized, but that it was a topic that needed to be addressed; and suggested that the best practices for lawn care and other chemicals and pollutants should also be addressed in the ordinance.

Councilmember Brandborg agreed that the use of other pollutants could be addressed too, but that she wanted to address the issue of soap as a priority; that she didn't ever intend to criminalize car washing; but that she wanted a strong stand on soap in the creeks.

At the suggestion of Councilmember Weinsoff, there was a consensus of the Council to have Mayor Bragman and Councilmember Brandborg draft an ordinance to bring back to the Council since staff had limited time to devote to drafting an ordinance.

Mayor Bragman adjourned the meeting for a break from 8:50 p.m. to 9:05 p.m.

Introduction and First Reading of Ordinance No. 723 amending Ordinance No. 721 to permit the use of tandem parking for the second unit amnesty period only, Brandborg (continued from 9-5-07)

Councilmember Brandborg introduced the topic.

Mayor Bragman stated that, since he hadn't been part of the discussion about the ordinance, he would abstain from voting.

Mayor Bragman opened the discussion to the public.

Ann Moos, 52 Geary, expressed her support for the ordinance and requested that it be made a permanent provision and not just for the amnesty period.

Peter Ramsey, 130 Mono Ave., spoke in support of the ordinance and stated that parking was the most restrictive requirement for the legalization of second units.

Mayor Bragman closed the discussion to the public.

M/S, Tremaine/Weinsoff, Motion to waive further reading of Ordinance No. 723 amending Ordinance No. 721 to permit the use of tandem parking for the second unit amnesty period only.

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

M/S, Tremaine/Maggiore, Motion to introduce Ordinance No. 723 amending Ordinance No. 721 to permit the use of tandem parking for the second unit amnesty period only.

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

Discussion and consideration of an ordinance restricting the use of leaf blowers, Maggiore (continued from 9-19-07)

Vice Mayor Maggiore introduced the topic. She stated that her research indicated that 60 or 70 decibel noise levels produced by leaf blowers could cause hearing loss; that leaf blowers increased air pollution levels; and noted that Martha Ture had enumerated all of the standard reasons to ban leaf blowers in her memo to the Council on the issue. Some of the issues listed

included that leaf blowers were a luxury use of gasoline or electricity when Fairfax was trying to reduce its carbon footprint; that the noise from leaf blowers was a pollutant; that Ross and San Anselmo had successfully regulated leaf blowers; and that leaf blowers stirred up dust, mold and other allergens. Vice Mayor Maggiore also stated that the Council had been developing a strategic plan that had a goal for the Town of Fairfax to create a greener and greener environment and that regulating leaf blowers that caused noise pollution was in line with that goal.

The Council discussed the options of regulating the hours of use versus a total ban; the possibility of addressing the noise concerns through a review of the noise ordinance; and the hardship for professional yard maintenance companies.

Mayor Bragman opened the discussion to the audience.

Steve White, 600 Cascade Drive, stated that electric leaf blowers were quieter but took longer; that there should be a limit on the length of time the blowers were in operation, not longer than an hour at a time; that the use of the blowers by hired help on the weekends should be banned; and that allowing the use on odd days didn't make sense.

Mark Bell, Dominga Ave., stated that an ordinance was needed as soon as possible; that he heard leaf blowers at 8:00 a.m.; and that it was noise pollution that should be banned.

Ann Moos, 52 Geary, stated that leaf blowers were an alternative to hosing areas; that her gardener used two bursts of ten minutes each; and urged the Council to be reasonable about the schedule and to consider flexibility in the allowed hours.

Elisabeth Bell, Dominga Ave., stated that a rake would work just as well and urged a ban as soon as possible.

John Lewis, 53 Madrone, stated that he supported decibel level control as well as restrictions on the time periods.

Mayor Bragman closed the discussion to the public.

Town Manager Kelly suggested that the Police Chief be asked to bring back statistic on noise ordinance violations and complaints.

There was a consensus of the Council to request that the Chief of Police present a report to the Council on the noise ordinance and to get his recommendation based on his experience.

Report from Joint Fairfax-San Anselmo Shared Services Subcommittee, Brandborg/Tremaine (continued from 9-19-07)

Councilmember Tremaine introduced the topic and stated that the sticking points in the discussion were the retention of the 24/7 dispatch and a no staff layoffs condition. Councilmember Brandborg agreed that these two conditions were indications that there was no political will to share police services. She requested data about the number of contacts with the police department during the night hours.

Councilmember Weinsoff requested that the two Councils move ahead with the hiring of an expert to evaluate the possibilities for shared police services as part of the Council's due diligence to explore all money saving options before returning to the voters for the renewal of Measure F funding. He further stated that political will could be built by presenting information and that an expert was needed to get the numbers.

Vice Mayor Maggiore stated that the residents of Fairfax had told the Council that they didn't like San Anselmo's police department and were opposed to any merger.

Mayor Bragman stated that the only example of a consolidated police department was Twin Cities that had combined the police departments of Corte Madera and Larkspur, and that Twin Cities' per capita cost was greater than ours; that Twin Cities needed a new physical plant for the consolidated department; that salaries were higher; and that consolidation could mean less efficiency and less service for a higher cost.

Councilmember Tremaine noted that San Anselmo didn't have the political will nor the financial motivation they had after the failure of their tax measure; that the voting results from Measure L and Measure F in Fairfax indicated that the citizens did not want consolidation; that it was hard to justify paying for further study; and that the money anticipated from Supervisor Hal Brown had dried up so that the cost of a study would be borne by the Towns.

Town Manager Kelly stated that a very thoughtful meeting had been held on June 23rd and parameters for any shared services had been set including the retention of 24/7 dispatch and no layoffs; that San Anselmo Police Department had become fully staffed again; that indications from the police union were that San Anselmo wouldn't be interested in reducing staff; that San Anselmo wasn't operating under the same constraints that they were at the beginning of the discussions; and that the committee could meet with the Police Officers Association to explore some of the issues.

Mayor Bragman opened the discussion to the public.

John Reed, Scenic Rd., stated that there was a big difference between the failed Measures L and the successful Measure F and that public safety was a big factor in the margin change; that some people thought there were too many police in town; that there was a cultural difference between Fairfax and San Anselmo; that San Anselmo had different enforcement issues because they didn't have nightclubs; that Fairfax had gotten the short end of the stick in the school consolidation; and that San Anselmo was used to a different level of service.

Cindy Ross, Lansdale Ave., stated that the Ross Valley School District consolidation was not successful for Fairfax; that there were disparities between Manor School and the San Anselmo schools; that there weren't that many residents at the meeting at Drake High School about a possible police consolidation; that it didn't seem like sharing the police departments was wanted by either community; and that it didn't sound like a consolidation would save money.

Ann Moos, Geary, stated that Measure F was passed with the idea that the Town would look at police consolidation to save money; asked what the cost was to have a 24/7 dispatch operation; suggested that every way of possibly saving money should be on the table for consideration; that she was a single woman who walked home safely at night because of the 24/7 police presence; and suggested that the police could make themselves more popular by the way they handled calls.

Mark Bell, Dominga Ave., stated that San Anselmo could afford to have a full staff in the police department because they had gotten rid of librarians.

Elisabeth Bell, Dominga Ave., stated that it was easier to manage the police department as a separate department.

Mayor Bragman closed the discussion to the public.

There was a consensus of the Council to direct staff to ask San Anselmo if they wanted to go

forward with a study and whether or not they were willing to help pay for it.

Update on 300 Olema Road creek restoration and flood mitigation project

Town Manager Kelly reported that the Town had been negotiating with the property owner and the neighbor; that they hadn't yet reached an agreement; and that the Town had received a letter from the attorney for the 300 Olema property owner with conditions to be met before the owner would allow the Town to go forward with the project.

The meeting was adjourned at 10:35 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk