

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
September 5, 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
Debra Sue Johnson, Public Works Director
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, one potential case 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 7:35 p.m.

Closed Session Announcement

Mayor Bragman reported that the Town Council had met in Closed Session and had given staff direction regarding pending litigation, North Bay Coalition to Support Plastic Bag Recycling v. Fairfax; and regarding one case of anticipated litigation and had given direction to the Town Attorney and Town staff, and stated that the discussion of the matter would be continued to the next Council meeting.

Approval of Agenda and Affidavit of Posting

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

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

Announcements

Mayor Bragman announced that new members were welcome on the General Plan Advisory Committee and on the Fairfax Youth Commission; that a joint meeting of the Town Council, Planning Commission and General Plan Advisory Committee would be held on September 6th, at 7:00 p.m. at the Women's Club; and that the annual Town Picnic coordinated by the Volunteers for Fairfax would be held at Central Ball field on September 16th from Noon to 5 p.m. He also extended congratulations to the Good Festival for a successful event and bid a fond farewell to Public Works Director Johnson who had taken a position with the Town of Corte Madera and who Mayor Bragman stated had gotten us through the flood of 2005.

Town Manager Kelly acknowledged the contributions to the Town by departing Public Works

Director Johnson and her exemplary service and stated that Fairfax was a better place because she had been here.

Town Manager Kelly also acknowledged Joe McWilliams of Farmers Insurance for his donation of furniture to Town Hall that saved the Town about \$8,000.

Open Time for Public Expression

Tony Yudice, Forrest Terrace, began speaking about closing the Creek Road Bridge and was reminded by Mayor Bragman that the agenda included an item about the bridge and it was therefore not an appropriate Open Time item.

Stan Schriebman, Hickory Road, stated that Mayor Bragman and Councilmember Tremaine were running for office in November, and that Bill Madsen was running against them; that he would support Mr. Madsen; that the incumbents didn't own the seats; and that former Councilmember Caldararo had made a campaign promise to expedite the permit process that he hadn't kept.

David Fershein, Forrest Avenue, began speaking about closing the Creek Road Bridge and was reminded by Mayor Bragman that the agenda included an item about the bridge and it was therefore not an appropriate Open Time item.

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

Vice Mayor Maggiore interviewed the candidate on behalf of the Town Council.

M/S, Brandborg/Tremaine, Motion to appoint Jacob Mooney to serve on the Fairfax Youth Commission.

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

75 Rocca Drive; Appeal of Application #07-21, Appeal of the Planning Commission condition requiring that prior to grant of occupancy permit, two off-street parking spaces must be built at 75 Rocca Drive for the addition/remodel which was deemed a 50% remodel. The project internally remodeled and increased the habitable square footage of the residence by 280 square feet to 1,126 square feet. Assessor's Parcel No. 001-225-22; Residential Single-family RS 6 Zone; Ken and Gwendolyn Mayer, appellant/owners; CEQA categorically exempt, Section 15301(e)(1)

Planning and Building Services Director Welsh presented the staff report.

Ken Mayer, Appellant, addressed the Council. He stated that the main question was whether or not he was required to provide the additional parking and whether or not the project was a 50% remodel that triggered the requirement; that his review of the minutes didn't indicate that a determination was made that the project was a 50% remodel; that he did encroach into the front yard setback; stated that he believed that the proposed parking would comply with the requirements of the Town Code; that he had provided another property appraisal to show that the project would not be a 50% remodel; stated that he was willing to remove the encroachment into the front-yard setback; stated that it had been two years since he started the project and that the delay was creating a financial burden; stated that he believed the withholding of the occupancy permit was inappropriate and unnecessary; expressed his understanding that the Streamlining Act required that the Town determine whether or not the planning application was complete within thirty days, and offered to remove a portion of the proposed structure if the Town Code required a reduction in size.

In response to questions from the Council, Mr. Mayer stated that there were only two parking spaces before the remodel; that he had submitted a suggested compromise to the Planning Commission; that he disagreed with Planning Director Welsh that the Commission tried to compromise; that he believed he had three parking spaces already with one completely off the street; and that engineered parking spaces would provide two dedicated spaces for 75 Rocca but wouldn't change the space for parking.

Mayor Bragman opened the public hearing.

Bill Madsen, Porteous Ave., Planning Commissioner, stated that he had told the appellant that he would get a fair hearing at the Planning Commission; that he didn't feel that the Commission had been willing to compromise; that the appellant was being held to a higher standard; and that, as a Planning Commissioner, he had never heard of the issuance of an occupancy permit being made contingent on provision of parking.

Niccolo Caldararo, Frustuck Ave., stated that the last time the appellant had a project in Town, he had taken a small house and made it into a "McMansion;" that the appellant had said that he and his family would live in the house and didn't; that the appellant was good at working the system; that he was being given a gift with the granting of a variance; that he was making an investment and making the Town denser; and that the destruction of affordable housing should be condemned.

Dave Johansen, Fairfax resident, stated that he valued any off-street parking in town that could be provided; urged the Council not to cave in and exempt the appellant from providing parking; and stated that the parking described by the appellant as existing was actually public parking.

Stan Schriebman, Hickory Road, stated that the Housing Element was supposed to provide affordable housing; that there had been lots of rules and ordinances passed since he built his house in the 1950's; and urged the Council to let the appellant go ahead with his project.

Mayor Bragman closed the public hearing.

In response to questions from the Council, Planning and Building Services Director Welsh explained that a Use Permit was required because the project constituted a 50% remodel and that the Occupancy Permit condition was placed on the project by the Planning Commission to assure that the required parking would be provided.

M/S, Bragman/Maggiore, Motion to uphold the decision of the Planning Commission and to deny the appeal and to adopt Resolution No. 2512, A Resolution of the Town Council of the Town of Fairfax Upholding the Decision of the Planning Commission on an Appeal of Application No. 07-21 for a Project Located At 75 Rocca Drive, Assessor's Parcel No. 001-225-22.

AYES: All

NOES: None

Mayor Bragman adjourned the meeting for a break from 8:33 p.m. to 8:41 p.m.

CONSENT CALENDAR

Approval of cash disbursements for August, 2007

Approval of Town Council Minutes of July 21, August 1 and 15, 2007

Adoption of Resolution No. 2509, A Resolution of the Town Council of the Town of Fairfax requesting the Marin County Transit District begin a Monthly Pass Fare System as expeditiously as possible, Tremaine

Authorization to enter into a contract with PayChex for payroll processing

Adoption of second amendment to the employment agreement with Town Manager Linda Kelly

Adoption of Resolution No. 2510, A Resolution of The Town Council of the Town Of Fairfax Making Certain Findings and Determinations In Compliance with Section XIIB of The California Constitution (Gann Initiative) and Setting the Appropriations Limit for Fiscal Year 2007-2008

Stan Schriebman, Hickory Road, asked to have the item regarding the contract for the Town Manager taken off the Consent Calendar for discussion. He stated that he would like to know what other benefits the Town Manager received and the true cost of her contract.

Town Manager Kelly enumerated the compensation and benefits she received and Mayor Bragman assured Mr. Schriebman that the information would be provided and sent to him.

Councilmember Weinsoff noted that the Town Budget was a public document and included the salary and benefit information that Mr. Schriebman requested.

Jory Prum, Deuce Court, stated that he was actively engaged in improving the bus system as described in the item adopting Resolution 2509 on the Consent Calendar; that he had attended a recent transit meeting urging the adoption of a monthly pass system; was told that Golden Gate Transit refused to use more than one card system; and stated that he would continue to work for the pass system.

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

Councilmember Brandborg stated that she would abstain from a vote on the item regarding the Town Manager's amended contract because she had not attended the closed session meeting where the raise was determined.

AYES: Bragman, Brandborg (except #7 re the Manager's contract), Maggiore, Tremaine, Weinsoff

NOES: None

ABSTENTION: Brandborg on the item regarding the Town Manager's contract

Status Report on Creek Road Bridge, Tremaine

Councilmember Tremaine introduced the topic and stated that he had placed it on the agenda so that the entire neighborhood would get the same information about the bridge at the same time. He further explained that FEMA and State OES money was being used for the repairs and that, if the Town changed the proposed use of the bridge, that the Town wouldn't get the funding. An alternative, he stated, was to give up the funding and not fix the bridge. He noted that there had been similar concerns in the Cascade Drive area about the speed of traffic and that members of the Council had met with the neighborhood to try to create solutions. He suggested that a Committee be formed to discuss possible traffic calming measures around the Creek Road Bridge, and requested that Councilmember Brandborg serve on such a committee with him.

Councilmember Brandborg noted that there was a Traffic Safety Committee already in existence

made up of the Fire Chief, the Police Chief and the Public Works Director and that they should be involved in the creation of any solutions.

Town Manager Kelly presented the status report on the Creek Road Bridge and stated that she had received many messages about the bridge from the community. Councilmember Weinsoff suggested that the Council could respond to Tony Yudice's request to find out where each Council Member stood on the re-opening of the bridge; suggested that perhaps the bridge could be closed to private vehicles on Saturday and Sunday; that Dominga Avenue had become a "safe route to school" and that he would like to prevent right turns onto Dominga Avenue in the mornings.

Donnie Poe, Creek Road, stated that he didn't think that public safety vehicles used Creek Road Bridge; that Councilmember Weinsoff was correct about the use of Dominga as a safe route to school; and that there was no reason why there couldn't be a temporary barrier that public safety vehicles could pass through.

Tony Yudice, Forrest Terrace, stated that it was a civil liability issue; that having the bridge closed limited emergency access for other people; that closing the bridge to cars just put the traffic into other neighborhoods; and that the closed bridge jeopardized the safety of others.

Dan Hennessey, Creek Road, stated that the children were safer riding to school with the bridge closed; that large numbers of children used the route; and that the closed bridge was a good place for kids to hang out.

Norma Grasso, Meernaa Ave., stated that she had grown up at 25 Forrest Terrace; that on March 7, 1955, her parent's home was completely destroyed by fire; showed the Council a photo of the home in flames; stated that the conditions were the same today as they had been in 1955 except that there were more people and more homes; and that the bridge was needed for public safety access to Forrest Avenue and Forrest Terrace.

Mike Sweazy, Meernaa Ave., stated that children were playing on the streets; that he wanted to have bike and pedestrian-friendly neighborhoods; that Berkeley had streets that were closed except for emergency vehicles; and suggested that there might be some wiggle room from FEMA regarding the funding for the bridge.

Paul Chourre, Creek Road, stated that the Council was trying to mitigate the traffic issues on Creek Road and Forrest Avenue; that Bolinas Road Bridge should be looked at too; that Creek Road and Dominga Avenue were straight streets and people drove fast on them; that the closure of the bridge had solved the neighborhood traffic issues; that he supported fixing the bridge and banning cars; and stated that the existing "no turn" signs were not enforced.

Blake Edward, Forrest Ave., stated that the bridge closure was safer for bikes but it created a safety issue for emergency response limiting the ability of residents to get out and emergency vehicles to get in.

Roger Meagor, Ross Valley Fire Chief, stated that Creek Road Bridge was a primary response route; that they had been going around since it had been closed; that having it closed reduced the response time by as much as a minute; that he wasn't addressing the quality of life issues; that, even on a normal day, traffic was an issue; that having one way in and one way out was not a good idea; and that a committee could consider all the issues.

Bill Madsen, Porteous Ave., stated that the bridge could be closed off with bollards but that the bollards would definitely slow down safety response and that there were ways to close it and keep safety access.

Nina Formeeky, Creek Road, suggested that the traffic on the bridge was noisy; that the bridge needed to be fixed as shown by the Oakland Hills fire; that there were ways to make the road safer; and suggested that Creek Road could be made into a one-way street out to Bolinas leaving Dominga as a safe route to school.

Fred Heitman, stated that he had no objection to opening the bridge for emergency response; that he was an emergency nurse; that he had gotten used to the improved livability of the neighborhood; and stated that quality of life issues should trump automobile convenience.

Carl Priolo, Crescent Lane, stated that the arguments for keeping the bridge closed were self-serving and that the closure didn't solve the traffic problems, but just moved them so that there was more congestion on Porteous and Forrest.

Marcia Hagen, Forrest Terrace, stated that she lived a couple of blocks from the bridge; that the visibility was better going across the bridge; whereas the visibility was very poor entering Porteous; that parking on one side of the street on Porteous also made passage difficult; that Creek Road Bridge was the safer route; that the speed limit should be 15 m.p.h. and should be enforced; and urged the Council to keep the bridge open.

Charlotte Lacazey, Creek Road, Manor School employee; stated that access for safety vehicles was hampered; that it was hard to access Bolinas Road safely; urged the Town to consider other ways to slow down traffic; and stated that she would like to see the bridge opened, at least to public safety vehicles.

Emma Bouchant, Dominga Ave., stated that she could understand everyone's point of view; that she would love to keep the bridge closed; and that she would be happy to serve on a committee to study the issue.

Tony Yudice, 7 Forrest Terrace, stated that it would be nice to have the road in front of his house closed, but that it was a bigger problem and closing the bridge just put the traffic onto other people.

Mark Bell, Dominga Ave., stated that it was important to get the money to fix the bridge; that it reflected well on the staff that the Town was so close to getting the funding; and that logical people didn't work at FEMA so it wasn't wise to go to them asking about wiggle room on the funding.

John Perrando, Porteous Ave., urged the Council to fix the bridge; stated that the closed bridge only made it safer for people who lived near the bridge; that most people would love to have a cul de sac by their homes; that it just pushed the traffic elsewhere; and that the issue should be voted on by the whole of Fairfax.

Trevor Hughes, Porteous Ave., complained about the "Kamikaze mothers" taking their children to the daycare center and picking them up; that it was dangerous to get onto Bolinas Road; that it was a multigenerational society; that it was good to have more than one way in and out of a neighborhood; and asked that the Town Council notify all who might be concerned about the issue when it was scheduled to be discussed again.

Stan Schriebman, Hickory Road, ascertained from Ross Valley Fire Chief Meagor that humps and bumps slowed down response time for fire vehicles. Mr. Schriebman noted that the taxpayers paid a portion of the safe routes to school costs and that the citizens had a right to get the bridge repaired and open again.

M/S, Tremaine/Bragman, Motion to appoint Councilmembers Brandborg and Tremaine to serve on a Committee to explore traffic calming measures in the Creek Road neighborhood.

AYES: All

Town Manager Kelly stated that the Town had worked hard to build its credibility with FEMA and OES and the issue of the opening of the bridge had other repercussions; that the Town had other projects with funding from the same sources; and noted that FEMA could audit years after the completion of a project.

Adoption of Resolution No. 2511, A Resolution of the Town Council of the Town of Fairfax supporting the strongest proposed environmental protections for stream conservation areas and the Baylands Corridor under the Marin Countywide Plan, Bragman

Mayor Bragman presented a report. Councilmember Weinsoff stated that the Marin Chapter of the Sierra Club supported the resolution.

Ann Thomas, Marin Baylands Advocates, stated that strong environmental protections were needed in the Countywide Plan; that San Geronimo and the baylands affected the whole county; that the baylands deserved extra protection; described the development of the Baylands Corridor and the associated zoning densities; and stated that she was thrilled that the Town Council was considering adopting the resolution.

Paulo Broulee of SPAWN, urged adoption of the resolution; stated that the largest population of coho salmon in California needed the streamside protection; that the Council would not be alone in their endorsement of strong environmental protections; that the American Fisheries Society supported the same recommendations; that over 100 scientists in the Bay Area had signed a petition urging the protections; and that the resolution had the public's support as well as scientific backing.

Kyle Kyleman, Terra Linda, stated that he had attended dozens of public meetings in Marin County and that he applauded Fairfax for the informality of their meetings; that he had fought to save the architectural integrity of Eichler homes in Terra Linda and had been successful in banning second stories in his neighborhood; suggested that advocates do surveys instead of petitions and described how he had been involved in a survey about development at St. Vincent's that had been very helpful. The survey indicated that the super majority wanted no growth on the property. He provided a copy of the survey to the Town Council. He stated that the resolution would be a big help with the Board of Supervisors and with other jurisdictions. He noted that the solution for a drought thirty years before had been the installation of a pipe across the Richmond-San Rafael Bridge and suggested that a moratorium on new water hookups would be reasonable until Marin had another source of water.

M/S, Tremaine/Bragman, Motion to adopt Resolution No. 2511, A Resolution of the Town Council of the Town of Fairfax supporting the strongest proposed environmental protections for stream conservation areas and the Baylands Corridor under the Marin Countywide Plan.

AYES: All

Mayor Bragman adjourned the meeting for a break from 10:25 to 10:35 p.m.

The Council reviewed the agenda and determined that the last three items on the agenda would be continued to the meeting to be held on September 19th: 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; Introduction and First Reading of Ordinance No. 723

amending Ordinance No. 721 to permit the use of Tandem Parking in the Residential Second Unit Amnesty Program; and Update on Ross Valley Fire Board discussions with neighboring agencies.

Status Report and possible direction to staff on 300 Olema Road Creek Restoration Project

Town Manager Kelly presented the staff report. She stated that the Town needed to get the project going by October first; that the owner of the property was on vacation; and that the owner's insistence on maintaining the same number of parking spaces on the site was being addressed.

Discussion and consideration of amendments to the Urban Runoff Pollution Prevention Program ordinance and the Zoning Ordinance to address impervious surface issues in order to decrease runoff, Bragman

Mayor Bragman presented the report. He noted that there had been a consensus of the Council the last time the matter had been discussed to wait to see what the County of Marin would do; that Planning Director Welsh had received sample language to use to encourage the use of pervious surfaces in construction; and requested that staff be directed to draft an amendment to the Town Code to encourage the use of pervious surfaces to decrease runoff.

Mayor Bragman opened the discussion to the audience.

Michael Mackintosh, 60 Pastori, stated that it was a very important issue, explained why dredging the creeks and using bigger pipes didn't help with runoff; that it wasn't advisable to put too much water into the creek at one time; expressed his support of pervious surfaces rather than larger drains; and stated that the discussion should include retention of water as well.

M/S, Bragman/Tremaine, Motion to direct staff to draft an ordinance to amend the stormwater ordinance and the zoning ordinance regarding impervious surfaces.

Discussion:

Planning Director Welsh suggested drafting one ordinance that would both amend the runoff ordinance and add to the zoning ordinance. She noted that the County of Marin was working on a model ordinance.

AYES: All

Town Manager Kelly stated that she would research the codes regarding the quality of water runoff versus the quantity.

Discussion and consideration of amendment to the Urban Runoff Pollution Prevention Program ordinance to eliminate residential car washing as an exception under Section 8.32.020(C) of the Town Code, Brandborg

Councilmember Brandborg presented the report.

Mayor Bragman reported that he had checked with the Town Attorney and had determined that a violation would be considered an infraction.

Michael Mackintosh, 60 Pastori, stated that he didn't think the soapy water should go into the sewer.

Mark Bell, Dominga Ave., stated that the commercial car wash in Fairfax didn't get his car clean

and suggested that the Council come up with alternatives.

There was a discussion by the Town Council of car washing and possible alternatives.

Councilmember Brandborg requested language to allow car washing on surfaces that did not create direct runoff to creeks.

There was a consensus of the Council to direct staff to bring a draft ordinance to the next meeting to address car washing with clearer language to discourage the practice.

The meeting was adjourned at 11:10 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk