

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
January 9, 2008

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

**STAFF MEMBERS PRESENT:** Linda Kelly, Town Manager  
Ann Welsh, Planning Director  
Jim Karpiak, Town Attorney  
Michael Rock, Public Works Director  
Mark Lockaby, Building Official  
Ian Roth, Finance Director  
Ken Hughes, Chief of Police  
Roger Meagor, Ross Valley Fire Chief  
Judy Anderson, Town Clerk

The regular meeting was preceded by a Special Meeting Closed Session of the Town Council at 7:10 p.m. at the Youth Center, 16 Park Rd., for conference with legal counsel per Government Code Section 54956.9(a), pending litigation, Marin Superior Court No. CV 064668, Legnitto v. Town of Fairfax; and for Public Employee Appointment per Government Code Section 54957: Town Manager.

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

Announcement of Closed Session Action

Mayor Maggiore announced that the Council had received information and had taken no action in Legnitto v. Fairfax and had reached an agreement on the Town Manager that would be discussed on the regular agenda.

Approval of Agenda and Affidavit of Posting

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

AYES: All

Announcements

Mayor Maggiore announced that the free ice skating event at the Pavilion on January 5 and 6 had been a great success and thanked Town Manager Kelly and Parks and Recreation Commissioners Karen Arnold and Elon Rosenfeld for the event; that new members were welcome on the General Plan Advisory Committee and on the Fairfax Youth Commission; that vacancies existed on the Parks and Recreation Commission, the Volunteer Board, two vacancies on the Planning Commission, and a vacancy on the Measure F Oversight Committee. She also announced that about 40 people attended the poetry slam on December 21; that January 30<sup>th</sup> was the date set for interviews of the Planning Commission candidates; and that Yvonne Roberts had been hired as the Management Analyst for the Town to work on FEMA reimbursements and grants for the Town.

### Open Time for Public Expression

John Reed, Volunteer Board Chair, announced that there would be a playground cleanup on Saturday, January 12<sup>th</sup> from 9:30 to 11:00 a.m. and invited citizens to participate.

Rose Taber, Hillside Ave., asked if the selection of a Town Manager had been done legally and stated that she had expected to receive numbers regarding the cost of the canine program that she had previously requested.

Town Manager Kelly stated that both the Interim Manager and Town Manager titles had been used in the announcement of the closed session so that the selection notice was legally posted and stated that the Chief of Police would respond to her request for information about the canine program.

Shane Deal, 44 Belle Ave., spoke about his proposed project at 183 Frustuck and the problems created by the delays in having the matter heard by the Town Council.

### Recognition of Town Manager Kelly

Mayor Maggiore expressed her thanks to departing Town Manager Kelly, stated what a pleasure it had been to work with her and presented her with a ceramic bowl made in Fairfax as a departure gift from the Town Council.

Holly Dines, 81 Meernaa Ave., thanked Town Manager Kelly for all of her support during her tenure with the Town and stated that service had improved while she was Town Manager.

Terry Goyan, Bolinas Rd., thanked Town Manager Kelly, stated that she had done a great job and that he hoped the City of Sonoma appreciated what a great manager they were getting.

Michelle Sullivan, 82 Creek Road, expressed heartfelt gratitude to Town Manager Kelly and stated that without her help and support they would still not have been back in their home after the flood.

Elon Rosenfeld, Karen Arnold and Maya Meissner, expressed their appreciation for all of Town Manager Kelly's work and her support of the Parks and Recreation Commission.

Barbara Petty, Forrest Ave., thanked Town Manager Kelly for being so accessible to the public, for all of her good work and stated that she would be missed.

Jack Irving played a song on his guitar and sang to Town Manager Kelly.

### Oath of office to be administered to newly appointed Town Treasurer Barbara Petty

Town Clerk Anderson administered the Oath of Office to newly appointed Town Treasurer Barbara Petty.

### Interview and appointment of Design Review Board member for a full three-year term to January 31, 2011

Shelby LaMotte was interviewed by the Town Council to serve for another term on the Design Review Board.

M/S, Tremaine/Brandborg, Motion to appoint Shelby LaMotte to serve for a full three-year term on the Design Review Board to January 31, 2011.

AYES: All

CONSENT CALENDAR

**Approval of cash disbursements for December, 2007**

**Approval of Town Council Minutes of October 17 (revised), November 7, and December 5, 2007**

**Accept and file financial report of expenditures and revenues from July 1, 2007 through November 30, 2007**

**Approval of disabled accessible parking space at 142 Porteous, Bragman**

M/S, Tremaine/Bragman, Motion to approve the Consent Calendar.

AYES: All (Councilmember Brandborg abstained from the vote on approval of the minutes of December 5<sup>th</sup> because she was not present at that meeting.)

Report on storm incident of January 3 – 6, 2008

Town Manager Kelly reported on the storm and described the preparations made including the MEANS telephone notification to those in the flood plain; distribution of flyers downtown; the installation of temporary floodgates at Town Hall; the cleaning out of storm drains; the distribution of about 2,000 sand bags; the use of the automated creek level gauge; testing of the generator; email blast by the Volunteer Board; a telephone conference call with the County Emergency Services Personnel; thirty total requests for service during the storms with seventeen major incidents; and sixty storm-related calls to the Police Department. She thanked John Reed, Volunteer Board Chair, and the staff and Town Council for their help during the incident.

There was discussion of the development of a protocol for the use of the emergency siren.

Ross Valley Fire Chief Meagor noted that it was the first time that Fairfax had used the installed water level gauge in the creek and that adjustments would be made as a result of the experience during the storm; that the MEANS and TENS telephone notifications along with the distribution of a flyer seemed like enough of an effort for the storm; and stated that the public safety staff would come up with a protocol for the emergency siren now that there had been experience to judge when it should be used.

Mayor Maggiore commended the Public Works staff for their efforts during the storm.

There was a discussion about the failure of the communications provided by MERA and Police Chief Hughes noted that the issues revealed during the storm of December 31<sup>st</sup> of 2005 had not been resolved.

Mayor Maggiore suggested that she and Councilmember Tremaine would bring up the issue at the Fire Board meeting.

Dave Johansen, Ridge Rd., stated that he had been on Bolinas Rd. when the Resolution 9 awning fell and stated that it could have killed someone. He suggested that the Building Official review the other awnings in the downtown to determine whether or not they were correctly installed and whether or not they could fail in a storm.

Building Official Lockaby stated that he would follow up on the structures downtown to see if they were engineered and built with permits and to determine whether or not they were safe.

Mark Bell, Dominga Ave., stated that the Town had paid a lot to be a member of the Marin Emergency Radio Authority (MERA) and that, if it didn't work, the Town should go back to the County and demand that it be made to work better in emergencies.

Approval of Town Manager employment agreement with Michael Rock

Mayor Maggiore introduced Michael Rock to the audience as the Town's newly appointed Town Manager.

M/S, Tremaine/Bragman, Motion to approve the contract with newly appointed Town Manager Michael Rock with the base salary of \$122,000 and the additional allocation of \$2,000 for temporary housing assistance during the process of relocation.

AYES: All

Discussion and consideration of removal of three street parking spaces on Sir Francis Drake east of Oak Tree Lane near the bus stop, and consideration of pedestrian, bicyclist and vehicular safety in this area, including the proposed connecting sidewalk to the Manor Circle pedestrian bridge, Weinsoff

Police Chief Hughes presented the staff report and the recommendation from the Traffic Safety Committee to remove the three subject parking places. His report noted that input had been received from the Safe Routes to School Committee, Golden Gate Transit, the Town's contracted Traffic Engineer, as well as from neighbors in the area. He discussed the conflicts at the intersection and at the site of the three parking spaces and recommended, on behalf of the Traffic Safety Committee, that the parking spaces be removed.

Vice Mayor Weinsoff, the Council representative to the Safe Routes to School Committee, reported on a meeting he had attended on the subject and concurred with the staff recommendation. He thanked Police Sergeant O'Callaghan for his attention to the issue and for his attendance at the Safe Routes to School meeting.

Mayor Maggiore opened the discussion to the audience.

Karen Bale, 27 Oak Tree Lane, presented a photo to the Council to illustrate how difficult it was to pull out of Oak Tree Lane when vehicles were parked in the three parking spaces on Sir Francis Drake.

Jeff Jones, 2 Oak Tree Lane, suggested that parking could be created at Olema and Sir Francis Drake for the residents who had lost their parking on Sir Francis Drake when the sidewalk was installed.

Andy Peri, Cypress Drive, member of the Marin County Bicycle Coalition, described how buses had to swerve to avoid parked cars and could force cars into the bike lane creating a dangerous situation.

Alvin Calvin, Crescent Circle, stated that the current situation was unsafe and very challenging.

John Reed, Scenic Rd., member of the Safe Routes to School Committee, stated that the original discussion about the parking spaces had included making the parking available from 7 p.m. to 7

a.m.; that the spaces were pretty far away from the residences that lost parking; that it would be interesting to see who was actually using the three spaces to determine if they were being used by the people who lost parking; and urged the Council to find another location for the parking.

Resident, 19 Oak Tree Lane, stated that the parked vehicles created a problem for pedestrians as well as cars; that a signal would be the safest way to improve the intersection; that more signage about the speed limit would be helpful; that a flashing yellow light on the curve of Sir Francis Drake would be helpful; and that the stretch of roadway was treated like a highway by motorists.

Pedro Huezco, 2333 Sir Francis Drake, stated that he used one of the parking spaces; that he was the owner of one of the five houses that lost parking when the sidewalk was installed; that the parking spaces were far away but that his neighbor parked there too; and that the loss of parking in front of their homes depreciated the value of their property.

An unnamed citizen urged the use of “bot dots” or a higher curb to make the stretch safer.

Deb Hubsmith, Marin County Bicycle Coalition, thanked Councilmember Weinssoff for bringing the issue forward; that it was important for public safety to get people out of their cars to walk and bike more; that the problem was in a designated “Safe Route to School project;” congratulated the Town Council for their efforts to make the route safer with the installation of the bridge and the sidewalk; expressed regret that it was an inconvenience for the homeowners; and recommended that the three parking spaces be removed.

M/S, Tremaine/Weinssoff, Motion to direct staff to remove the parking spaces and to try to find alternative spaces in the neighborhood.

AYES: All

Mayor Maggiore suggested that the Traffic Safety Committee explore other locations for additional parking in the neighborhood.

Vice Mayor Weinssoff stated that he would be bringing forward a proposal during budget negotiations to expand the curb cuts in the driveways of the homes that lost parking when the sidewalk was installed.

Mayor Maggiore adjourned the meeting for a break from 9:00 to 9:15 p.m.

#### Report on Planning Commissioner Interview process and options

Town Manager Kelly presented the staff report. The Town Council discussed the options and agreed that they would like to interview and appoint at the same meeting, set for January 30<sup>th</sup>.

Mayor Maggiore opened the discussion to the audience.

John Owens, Frustuck Ave., stated that the Planning Commission was very important in Fairfax; that many of the Commissioners were not qualified to serve; that it would be preferable to have architects, designers and contractors on the Commission; that Design Review Board members were very qualified; and that perhaps service on the Design Review Board should be a prerequisite to service on the Planning Commission.

Shelby LaMotte, Manor Rd., current Design Review Board member; stated that the interview process was important but that the application form was thin; that there were people on the Planning Commission who did not know how to read plans; that it was important for quality

projects to be approved; and suggested that the application form should be changed for Planning Commission applications.

Trudy Totty, Manor Rd., stated that the Town had matured since she moved to Fairfax and agreed that an expanded application would be a key place to make a change to better evaluate the candidates for Planning Commission.

Shane Deal, Belle Ave., asked for clarification of the date the applications for Planning Commission had to be received for the interviews scheduled for January 30<sup>th</sup> and ascertained that applications could be received up until the time of the meeting.

#### Report on Floor Area Ratio Ordinance (FAR) as recommended by the Planning Commission

Planning Director Welsh presented the staff report and reviewed the possible impact of the draft ordinance on recent projects.

The Council discussed the draft ordinance.

Mayor Maggiore opened the discussion to the audience.

Shane Deal, Belle Ave., stated that there was not confusion in the current code of rules to design a house in Fairfax, that you either met the Floor Area Ratio (FAR) requirements or you didn't; stated that he didn't know the average size of a house in Fairfax or the average size of hillside homes; and suggested that some of the information about the average square footage of lots in Fairfax should be part of the discussion.

John Owens, Frustuck Ave., stated that the proposed ordinance was developed to reduce the visual impact of homes on hillsides; that it would be very restrictive on new homes; that there were less than twenty 'buildable' lots in Fairfax; that if his house been built with the proposed FAR, it would have had the same visual impact; and that the draft FAR would have lots of implications for second units.

Sue Peterson, 139 Forrest Ave., stated that she wasn't for or against the proposed ordinance, but that it was interesting that the examples given in the staff report showed that three of the seven examples used were houses that were built smaller than required and that only two of them would have exceeded the requirements of the draft FAR. She stated that the examples given would indicate that the discretion of the Planning Commission was working. She also noted that the examples didn't include information about the number of stories, the placement on the lot or whether or not variances were required.

Dave Johansen, Ridge Rd., stated that he believed the draft FAR was an overreaction to a few large homes that had been built; that it represented an "end-run" on the maximum house size; that adoption of the draft FAR would make a lot of homes into "legal non-conforming" houses; that the FAR might need a slight adjustment, but he cautioned the Council not to go overboard.

Jean Deal, Belle Ave., stated that she felt it personally when Mayor Maggiore stated that the Deal's proposed home "felt like a 4,000 square foot home;" that it was not true and that she didn't understand how Ms. Maggiore came up with that statement. She stated that Councilmember Bragman had mentioned sustainability in the discussion of the draft FAR and she noted that they had made their home as sustainable as possible at great effort and at great cost.

Shelby LaMotte, stated that the Design Review Board was part of the discussion of the draft FAR ordinance and that the draft before them seemed quite different than the version she remembered

from their discussions. She stated that it was imprecise and that it wasn't reflective of the previous discussions of the two bodies.

Mayor Maggiore expressed concern that the draft wasn't what she remember either. Town Manager Kelly suggested that the draft FAR could be addressed at a joint meeting of the Town Council and the Planning Commission, a meeting that had already been suggested to discuss the draft mixed use overlay to be presented to the Council by the Commission.

M/S, Tremaine/Weinsoff, Motion to put it out to the Planning Commission and the Design Review Board that the Council wanted to form a joint subcommittee to review the draft FAR, with each group to appoint two members.

Discussion: Councilmember Brandborg asked about guidelines for the discussion and it was agreed that the Council could set guidelines when the representatives were appointed.

AYES: All

#### Report on State Fiscal Emergency and potential impact to the Town of Fairfax

Town Manager Kelly presented the staff report. She stated that the State could borrow up to 8% of the Town's property tax revenues to help solve their budget crisis; that staff was monitoring the situation; and that it wouldn't impact the current year's budget.

There was a consensus of the Council to direct staff to draft a letter for the Mayor's signature to be sent to our legislators urging them to vote against a State Fiscal Emergency noting that the Governor would need a 2/3 vote for such a declaration to be made.

Mayor Maggiore opened the discussion to the public.

Mark Bell, Dominga Ave., stated that he had sent emails to the governor the last time they took the Town's money and described how the State spent so much on prisons that they couldn't balance their budget.

#### Introduction and First reading of Ordinance No. 731, an Ordinance of the Town of Fairfax amending the noise ordinance to include leaf blowers

Mayor Maggiore introduced the topic and referred to the staff report before the Council.

M/S, Brandborg/Tremaine, Motion to waive further reading of Ordinance No. 731, an Ordinance of the Town of Fairfax amending the noise ordinance to include leaf blowers.

AYES: All

M/S, Brandborg/Tremaine, Motion to introduce Ordinance No. 731, an Ordinance of the Town of Fairfax amending the noise ordinance to include leaf blowers.

AYES: All

#### Council Reports and Comments

Vice Mayor Weinsoff reported on the availability of a second year Advanced Public Policy student from the U.C. Berkeley Goldman School of Public Policy who would be doing a report on economic development in Fairfax and identifying revenue sources for the Town.

Town Clerk Anderson reported on new legislation, SB 343, that would go into effect July 1, 2008, and would require that material provided to the Town Council on agenda items after the preparation of the Council packet had to be made available to the public.

Mayor Maggiore reported on items from the Transportation Authority of Marin where she represented the Town as a member. She reported that Highway 101 would be closed for periods of time in March and April for construction at night at the Highway 580 interchange. She further reported that there was a proposal to raise the toll on the Golden Gate Bridge to offset the cost of a \$127 million Doyle Drive project. She stated that she objected to the raising of the toll to pay for a project in San Francisco, that our Federal dollars were going to Iraq instead of to highway projects as promised, and that she would continue to object to having commuters pay for the improvements to Doyle Drive with toll hikes.

#### Adjournment

M/S, Tremaine/Brandborg, Motion to adjourn in appreciation of Linda Kelly's service to the Town.

AYES: All