

Fairfax Town Council Minutes
Adjourned Meeting
Fairfax Women's Club
Wednesday, February 20, 2008, at 7:30 p.m.

Roll Call:

COUNCILMEMBERS PRESENT: Larry Bragman
Susan Brandborg
Lew Tremaine
David Weinsoff

COUNCILMEMBERS ABSENT: Mary Ann Maggiore

STAFF MEMBERS PRESENT: Michael Rock, Town Manager
Jim Karpiak, Town Attorney
Ann Welsh, Planning Director
Ian Roth, Finance Director
Mark Lockaby, Building Official
Judy Anderson, Town Clerk

In the absence of Mayor Maggiore, Vice Mayor Weinsoff assumed the chair of the meeting. Vice Mayor Weinsoff called the meeting to order at 7:34 p.m.

Approval of Agenda and Affidavit of Posting

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

AYES: Bragman, Brandborg, Tremaine, Weinsoff
ABSENT: Maggiore

Open Time for Public Expression

Conrad Oho, Lansdale Ave., asked what financial planning the Town was doing in anticipation of the financial downturn, especially regarding the debt the Town was holding, and what kind of reserves the Town had facing a recession.

Vice Mayor Weinsoff stated that the Town was fiscally conservative and kept a healthy reserve.

Roger Troupe, Fairfax resident, presented his vision for Fairfax as the most sustainable town on the West Coast within the next two years and expressed his opinion about the potential in the Town and the community efforts to make the world a better place.

Niccolo Caldararo, Frustuck Ave., expressed his opinion that the long vacant New Albion bookstore building was an eyesore; that it was a non-performing property; that the building was in bad shape; that it used to house four living units; that it was becoming a public hazard; and urged the Council to begin condemnation proceedings on the property.

Building Official Lockaby reported on an inspection he had done in conjunction with Ross Valley Fire; stated that the owner did not want to sell the property; that a contractor had been hired; and that the contractor had taken down some hazardous stairs and had secured the building.

Councilmember Tremaine asked that the issue be agendaized. He described the success that the Town of San Anselmo had in dealing with a long empty commercial building in their downtown.

CONSENT CALENDAR

Adoption of Resolution No. 2530, a Resolution of the Town Council of the Town of Fairfax Recommending Streetcar Service be Listed as a Candidate Project in the Regional Transportation Plan 2009 Update

M/S, Tremaine/Bragman, Motion to adopt the Consent Calendar with the removal of the item regarding the financial report, the item regarding the terms for the Open Space Committee and the item adopting a resolution regarding the Flood Control District.

AYES: Bragman, Brandborg, Tremaine, Weinsoff
ABSENT: Maggiore

Accept and file financial report of expenditures and revenue from July 1, 2007 to December 31, 2007

There was a consensus of the Council to continue the item to the next regular meeting to include a check register and a revenue report.

Adoption of Resolution No. 2528, A Resolution of the Town Council of the Town of Fairfax Replacing Resolution No. 2334 Establishing an Open Space Committee to Set the Terms of the Members

Councilmember Bragman ascertained that the only changes to the original resolution were the setting of terms of the members.

M/S, Bragman/Tremaine, Motion to adopt Resolution No. 2528, A Resolution of the Town Council of the Town of Fairfax Replacing Resolution No. 2334 Establishing an Open Space Committee to Set the Terms of the Members.

AYES: Bragman, Brandborg, Tremaine, Weinsoff
ABSENT: Maggiore

Adoption of Resolution No. 2529, requesting that action be taken by the Marin County Board of Supervisors of the Marin County Flood Control and Water Conservation District to implement the Ross Valley Flood Protection and Watershed Program, Weinsoff/Tremaine

Vice Mayor Weinsoff explained the need for the resolution to enable the Flood District to move forward with their flood control efforts without waiting for the outcome of pending lawsuits regarding the validity of the flood fee election.

Councilmember Bragman expressed his opinion that the flood fee election had not followed a democratic process; that it should have been a secret ballot; that 21% of the ballots cast in good faith were discounted; that the ballots had been counted by someone other than the Election Department; that the election had been conducted by consultants; that it was a misstatement to say that the fee had been passed by the voters; that he was not sure the funds would be returned to the voters if the election was determined to be faulty; and that he could not support the resolution.

Vice Mayor Weinsoff explained that the money would be returned if the election was determined to be illegal; that the fees raised by the election were not being used; and that the funds were to be taken from fees already raised.

Vice Mayor Weinsoff opened the discussion to the public.

Chris Lang, President of the Chamber of Commerce, stated that he agreed with Councilmember Bragman and asked for a copy of the plan of what would be done.

Lou Vaccaro, suggested that, instead of day lighting the creek, that the creek channel should be made deeper to help prevent flooding.

Vice Mayor Weinsoff explained that there were no definite projects planned yet and that the necessary studies were being done including completion of the hydrology study.

David Leer, Pastori Ave., agreed that the flood fee election was a travesty of democracy; that one cause of the flood was the dam created by fallen trees that was overwhelming when the dam burst; that most of the flood work had been done downstream; and that Sudden Oak Death made trees fall unexpectedly.

Vice Mayor Weinsoff stated that there was a difference between ongoing maintenance and flood prevention and noted that the Marin Conservation Corps had cleared all the Town creeks after the December 2005 flood.

In response to comments that Creek Road Bridge was still closed from the December 2005 flood, Town Manager Rock explained that Fish and Game and federal regulations mandated that no work be done in the creeks except between July 15 and October 15, and that the bridge repair would be done in the summer of the current year.

Niccolo Caldararo, Frustuck Ave., stated that making the water move faster would only make matters worse; that a flood plain was needed; and asked that the County be cautioned not to make matters worse.

Conrad Oho, Lansdale Ave., stated that the flood fee was voted on by property owners only and that, on that basis alone, it should be challenged.

Edna Trimm, Dominga Ave., reported that the footbridge across the creek was still not open although it had been repaired and urged the Council to vote against the resolution.

Vice Mayor Weinsoff stated that the money to be spent in 2008 was not the money in dispute; that it was the money that had been legally collected; that the time was needed to complete the necessary studies; and that FEMA and other flood control money was to be used.

Councilmember Brandborg stated that the money was for the hydrology flood study to include Fairfax since Fairfax hadn't been in the original district and that she supported the resolution.

Councilmember Tremaine stated that the resolution was worded as an endorsement of the election that had been conducted; that it was asking the District to use unspecified funds; that they would be borrowing from the anticipated revenue; and that the County didn't need the Town's urging or permission to move forward. He proposed changing the wording of the resolution.

M/S, Brandborg/Tremaine, Motion to adopt Resolution No. 2529, with the deletion of "and, as a result, voted to approve a special assessment to fund watershed improvements" from the third paragraph and with the change to the last paragraph, after "District," to read, "leveraging its uncollected funds" instead of "use the collected funds."

Roll Call Vote:

Bragman: NO; Brandborg: AYE; Tremaine: AYE; Weinsoff: AYE

Maggiore: Absent

Adoption of Resolution No. 2526, a Resolution of the Town Council of the Town of Fairfax adopting the February 2008 Update of the Fairfax Bicycle and Pedestrian Master Plan

Town Attorney Karpiak presented the staff report, stated that the Master Plan was not a binding document and reviewed the revised resolution.

Vice Mayor Weinsoff opened the discussion to the audience.

Deb Hubsmith, Advocacy Director for the Marin Bicycle Coalition, stated that the Master Plan was an important planning document; that it provided a great framework for the future; that every grant opportunity would be brought before the Council; that the environmental review would be done on a project by project basis; that it would help Fairfax do better planning for projects; that Fairfax had the highest increase in bicycling in the County; and that encouraging pedestrian and bicycle transportation would reduce our carbon imprint.

Chris Lang, Bicycle-Pedestrian Advisory Committee (BPAC) member, stated that the Committee developed the plan; reassured the Council that it was the best possible plan for the Town; that a list of possible projects would be submitted to the Town; suggested that a certain portion of the Town's capital improvement budget should be earmarked to implement the Bicycle-Pedestrian Master Plan; and that the Town should replace their gasoline powered vehicles with biodiesel.

David Deer, Pastori Ave., stated that he coached the Marin Catholic mountain bike team; that he believed the bicycle had made the leap from a recreational toy to a mode of transportation; that bicycles were more than recreational vehicles; that shared rights-of-ways were helpful; urged the Town Council to adopt the plan and to make it an ongoing part of the budget; that Fairfax was known as a bike friendly town and a bike destination;

that the town needed to provide bathrooms and showers for bicyclists, and maybe even a bicycle campground; and that Fairfax could take the lead in welcoming bicyclists.

Robert Meros, Manor Road, stated that he supported the Plan; that if it was made safer, he would ride even more than he already did; encouraged the Council to vote for the Plan; and that it was sustainable and practical to make it safer for bicyclists.

Stephen Bryne, Oak Road, BPAC member, urged support for the Plan for the East-West Bikeway; stated that the Plan provided concrete steps to reduce the emissions and to be more sustainable.

Edna Trimm, Dominga Ave., stated that she had moved to Fairfax because she could walk and ride her bike; that the first time she reviewed the Bike Plan she was a member of the Design Review Board; urged the Council to adopt the Plan; and stated that she would rather ride her bike than drive if it was safer.

Jane Bookey, urged passage of the Plan because it addressed a more positive approach to sustainability.

M/S, Bragman/Tremaine, Motion to adopt Resolution No. 2526, a Resolution of the Town Council of the Town of Fairfax adopting the February 2008 Update of the Fairfax Bicycle and Pedestrian Master Plan.

AYES: Bragman, Brandborg, Tremaine, Weinsoff

ABSENT: Maggiore

Adoption of Resolution No. 2527, a Resolution of the Town Council of the Town of Fairfax for complete streets to include bike and pedestrian improvements in public projects. Bragman

Councilmember Bragman introduced the topic and stated that the resolution was presented for consideration to shift the way the Town looked at public projects.

Chris Lang, Canyon Road, supported the adoption of the resolution and stated that it would provide a guideline and would encourage the Town to look at all the possibilities when considering projects.

David Lehr, stated that the resolution was similar to a “zero waste” resolution that the Council had passed previously because it stretched our vision to a broader scope by setting goals.

Deb Hubsmith, Forrest Ave., Marin County Bicycle Coalition, stated that the policy would create a framework for projects; that it would prompt a review of the Bicycle and Pedestrian Master Plan by making it part of the process; that CalTrans had similar regulations; that the Metropolitan Transportation Commission required a review of a checklist regarding bicycles for projects under review; and that other agencies like the County of Marin also considered bicycle elements in all their projects.

M/S, Bragman/Tremaine, Motion to adopt Resolution No. 2527, a Resolution of the Town Council of the Town of Fairfax for complete streets to include bike and pedestrian improvements in public projects.

AYES: Bragman, Brandborg, Tremaine, Weinsoff
ABSENT: Maggiore

Approval of direction to staff to set the abatement hearing date of March 5, 2008 regarding debris problem at 67 Live Oak and direction to the Town Attorney to propose an update to the Town Code

Town Attorney Karpiak presented a report and noted that the Town Code did not include a process for abatement and offered to draft such an ordinance.

M/S, Tremaine/Brandborg, Motion to set the abatement hearing for March 5, 2008, with direction to the Town Attorney to draft an ordinance to adopt a process for future abatements.

AYES: Bragman, Brandborg, Tremaine, Weinsoff
ABSENT: Maggiore

Adoption of Resolution No. 2531 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, Weinsoff

Vice Mayor Weinsoff presented the item and urged the adoption of the resolution to establish a clear and democratic procedure for the selection of Mayor and Vice Mayor to address the unacceptable way it had happened in the past when he was nominated. The resolution included a provision to resolve who should serve when neither of two council members had yet served by the use of the number of votes received in the latest election.

Councilmember Tremaine stated that he thought it was okay for the Council to have discretion in the selection of a mayor and didn't see sufficient reason to take that discretion away from the Town Council.

Councilmember Brandborg stated that the voters did not elect a mayor, they only elected Council members; that she didn't have a problem with the reasoning of using the number of votes received as criteria; that she didn't want to determine how future Town Councils would make their decisions; and that the mayor only had one vote on the Council.

Councilmember Tremaine suggested alternative language for the resolution that eliminated the consideration of the number of votes received as criteria.

Vice Mayor Weinsoff opened the discussion to the public.

Niccolo Caldararo, Frustuck Ave., stated that the selection of Mayor was an issue that bothered him when he was on the Council. He stated his opinion that the position shouldn't be rotated but should be a reward for behavior and cooperation on the Council.

M/S, Weinsoff/Brandborg, Motion to adopt Resolution No. 2531 as presented.

Roll Call Vote:

Bragman: NO; Brandborg: AYE; Tremaine: NO; Weinsoff: AYE

Discussion/Consideration of adding a second Town Council meeting from March, 2008 to July, 2008

Town Manager Rock noted that the Council had already been meeting twice a month; that there were a number of capital improvement projects that were moving forward that required Council action; and that the contracts for the projects and the budget would be adopted by July, when two meetings a month would no longer be necessary.

There was a consensus of the Council to adopt a schedule for two meetings a month, with the second meeting to be held on the third Wednesday of the month.

Reports from Town Officials

Town Manager Rock reported on the status of the audit for fiscal year 2006-07 and stated that it would be presented at the April meeting for approval. He also announced a meeting for Council members and Town Managers about Community Choice Aggregation scheduled for February 28th at Deer Park Villa.

Planning and Building Services Director Welsh presented a report on the update of the General Plan and led a discussion about the number of affordable units required for the Housing Element.

Council Reports and Comments

Councilmember Brandborg reported on a dinner meeting of the Marin County Mayors and Council members that she had attended in Tiburon.

Vice Mayor Weinsoff reported on the possibility of a ballot measure in November to request a one-quarter cent increase in the County sales tax for open space.

The meeting was adjourned at 10:40 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk