

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, March 5, 2008, at 7:30 p.m.

Roll Call:

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

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

Mayor Maggiore called the meeting to order at 7:32 p.m.

Announcement of Closed Session Action

Mayor Maggiore reported that the Council had conferred with legal counsel in two pending litigation cases and one anticipated litigation case and that Council had given direction in all three cases; and that the Council had given direction to the Town Manager on the appointment of a Public Works Director.

Approval of Agenda and Affidavit of Posting

Councilmember Brandborg requested that the meeting be adjourned in memory of Chris Peterson, husband of former Council member and Planning Commissioner Sue Peterson, who died suddenly on February 18th.

M/S, Weinsoff/Bragman, Motion to approve the agenda with the addition of adjournment in honor of Chris Peterson, and approval of the affidavit of posting.

AYES: All

Announcements

Mayor Maggiore made the announcements as printed on the agenda and had Vice Mayor Weinsoff provide further information about the upcoming Fairfax Film Festival. Vice Mayor Weinsoff described the films to be shown at the festival scheduled for March 28th and 29th, thanked Councilmember Brandborg for attending all the festivals over the years, and described the film challenge to be held as part of the festival.

Presentation by the Fairfax Youth Commission

Maya Meisner and Leila Roy, members of the Fairfax Youth Commission, played guitar and drum and Ms. Roy sang an original song that she had composed.

Open Time

Gail Weimann, Branch Manager for Fairfax Library, updated the Council on the Facilities Master Plan for the County libraries; reported that two-thirds of Marin residents had library cards; that the County circulated 1.5 million books per year; that online homework help was available to students; that most branches were 30 years old or older and were too small; that more space was needed for books and people; that the library didn't always have enough seats for all the people in the building; that space was needed for people to study or work in groups; and that maintenance had become a burden on the Marin County Library budget as the buildings aged. She further reported that the work described in the Facilities Master Plan would require a general obligation bond and that the Library had asked the Board of Supervisors for a November ballot measure.

Patrick Troupe, 351 Olema Rd., talked about climate change and the increase of emissions expected, especially from China, noted that large scale changes within the next ten years needed to be undertaken; that the residents of Fairfax should set an example to get others to reduce their emissions; and that he wanted to make Fairfax the most sustainable city in America.

Gina Aballo, Youth Commissioner, described events they had organized to offer something for teens other than going to parties and drinking, specifically the Open Mic night and the coffee nights that had been successful; stated that they would like to offer more events and were asking for \$1,000 to be put in the Town budget to help get more events going and to promote the Commission.

A boy who accompanied Ms. Aballo, described a "teen day" that had been held and thanked Jack Irving for his help with that event.

Jack Irving thanked the Commission; stated that it had been a pleasure working with them; thanked the parents for putting so much faith in him to work with the kids; and invited the audience to Book Beat for a performance.

Interview and appointment of one voting member to the General Plan Advisory Committee

The Town Council interviewed the candidate, Linda "Lini" Bodian.

M/S, Weinsoff/Tremaine, Motion to appoint Lini Bodian as a voting member of the General Plan Advisory Committee.

AYES: All

Governmental Accounting Standards Board (GASB) 45 Retiree Health actuarial report by Total Compensation Systems

Geoffrey Kischuk, of Total Compensation Systems, presented an actuarial report, as required by new government accounting standards, on future retiree health costs for the Town of Fairfax.

There was a discussion about the investment of the funds required for the retiree health benefits.

Mayor Maggiore opened the discussion to the audience.

Niccolo Caldararo, stated that there were problems with stand-alone service; recommended that there be cross-training of fire and police; stated that there had been no drop in service where that had happened; and that cross-training provided savings in salaries and equipment; and also reduced liability exposure.

Conrad Oho, Lansdale, Fairfax, stated that financial conditions were in upheaval globally; that the future was unpredictable; that the Council needed to consider what was fair in the context of the financial reality; and asked what the Council was doing to address the financial uncertainty.

There was a consensus of the Council to accept the report.

Consent Calendar

Accept and file financial report of expenditures and revenue from July 1, 2007 to December 31, 2007 (continued from 2-20-08)

Approval of Town Council Minutes of January 9, 12, and 30, 2008

Adoption of Resolution No. 2531, A Resolution of The Town Council of The Town of Fairfax Authorizing Temporary Closure of Certain Streets and Portions Thereof, To Allow a Little League Opening Day Parade on Saturday, March 29, 2008

Adoption of Resolution No. 2532, A Resolution of The Town Council of The Town of Fairfax Opposing Governor Schwarzenegger's Proposed Across-the-Board Budget Cuts and Supporting the Alternate Budget of the Legislative Analyst Which Provides Full Funding for Local Schools, Bragman

Proclamation declaring April as FAIR HOUSING MONTH in Fairfax

Award of Bid for Upper Scenic Road Stabilization Project to Linscott Engineering for \$31,650

Authorization to Advertise and Solicit Construction Bids for the Pastori Storm Drain Pipe Replacement Project

Councilmember Brandborg noted that there was no financial report or check register on the Consent Calendar.

Vice Mayor Weinsoff ascertained from Councilmember Bragman that the inclusion of grades kindergarten through 8th was appropriate for Resolution No. 2532.

Councilmember Brandborg stated that the Council had already received the December check register, and asked to have a more recent check register in the next packet.

Mike Mackintosh, Marin Town and Country Club, asked to comment on the Pastori Storm Drain Pipe Replacement Project and talked about earlier attempts to do the project when he had asked the Town to secure insurance for the bridge with his agreement to pay 1/3 of the insurance cost. He stated that he wanted to see all of the permits in place before the work began and noted that it was illegal to be in the creek after November first.

Town Manager Rock stated that the project was to take place in the street on Pastori between Sir Francis Drake and the bridge, that no outpipe was planned, that the project had been well thought out, and that the Town had more than enough insurance.

Councilmember Brandborg suggested that the Town Manager meet with Mr. Mackintosh.

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

AYES: All

Hearing to Declare a Public Nuisance and Order Abatement at 67 Live Oak and to Adopt Resolution No. 2533, A Resolution of the Town Council of the Town of Fairfax Declaring the Conditions on the Property at 67 Live Oak, assessor's parcel number 001-236-20, to be a Public Nuisance and Ordering the Town Manager to Cause the Abatement of the Nuisance

Building Official Lockaby presented the staff report and stated that 80% of the items had been removed, that the staff report and the resolution did not reflect the current status of the situation and that the Ross Valley Fire Service was processing their own abatement proceedings. He recommended that the matter be continued to update the staff report and the resolution and to allow the property owner time to complete the nuisance abatement. In response to a question from Vice Mayor Weinsoff about how to continue the progress on the abatement, Building Official Lockaby stated that he would continue to post the property with abatement notices. He further explained that the Ross Valley Fire Department's abatement addressed the debris under the carport and the brush in the yard.

Vice Mayor Weinsoff asked about the status of the formalization of the process.

Town Attorney Karpiak responded that he had drafted an ordinance and that he had been directed by a consensus of the Council to bring that ordinance forward at the April meeting.

John Marchant, 63 Live Oak, stated that there had been substantial progress, but that the property owner needed to be encouraged to continue the abatement. He noted that the process seemed to be working.

M/S, Tremaine/Bragman, Motion to continue the public hearing to the April 2nd meeting with direction to staff to notify the property owner of the new hearing date.

AYES: All

75 Taylor Drive; Application # 08-09 Request for a Variance to have a second driveway accessing a single-family residential property; Assessor's Parcel No. 001-211-14; Residential Single-family RS 6 Zone; Chris and Sarah Gaidano, applicants/owners; CEQA categorically exempt, § 15305(a)

Planning Director Welsh presented the staff report and stated that findings were required to be made to allow the variance to be granted; that the project would provide three off-street parking spaces as required; and that she had obtained assurances from the property owners that they would like to install grass paver blocks at the base of the driveway to keep the gravel off the road and to provide more pervious surface.

Sarah Gaidano, 75 Taylor Drive, stated that the gravel would be temporary to avoid ripping up the concrete when they did a planned addition on the house .

Councilmember Bragman asked the applicants if they would be willing to make the driveway out of some kind of permeable surface as a condition of approval.

M/S, Bragman/Weinsoff, Motion to approve the variance with the staff findings and with condition that the driveway be made of a permeable surface.

AYES: All

Mayor Maggiore asked that the item regarding Council and staff reports be moved to the end of the agenda and there was a consensus of the Council to do so.

Adoption of Resolution No. 2534, A Resolution of the Town Council of the Town of Fairfax Opposing the California Department of Food and Agriculture Aerial Spray Program to Eradicate the Light Brown Apple Moth, Bragman

Councilmember Bragman presented the report and stated that the program provided a danger to the health and safety of the residents. He presented a brief overview of the situation and described the spraying in Santa Cruz and Monterey done without proper noticing with a substance that had not been tested; explained how it was supposed to work; noted that the State had been granted an exception to CEQA; that the substance wouldn't be studied until after the spraying; that the more he learned about the program, the more he opposed it; that a letter had been sent to the State Agriculture Dept. to notify them of the Fairfax ordinance that required noticing prior to spraying and to inform them that Fairfax didn't allow the spraying of pesticides on public land.

Vice Mayor Weinsoff asked for an amendment to the resolution to state that the Sierra Club also supported the resolution.

Mayor Maggiore opened the discussion to the public.

Frank Egger, Meadow Way, stated that he had coordinated the effort to stop the spraying and had met with citizen groups around the Bay Area; that he would be visiting other counties and asking them to take action; described the toxic ingredients in the proposed material to be sprayed; and used a map provided by the State to show the areas to be sprayed, which included Mill Valley, Sausalito, Larkspur, Corte Madera, and Greenbrae.

Valeri Hood, Dominga Ave., stated that spraying was scheduled to begin August first; that KPFA had broadcast pertinent testimony from hearings on the issue held in Berkeley and other places. She asked that those present sign petitions against the spraying that she had available and read a statement in opposition to the aerial spraying that was planned.

Cindy Ross, Lansdale Ave., stated that there were millions of reasons why there shouldn't be spraying, but that she had chemical sensitivities that made it especially harmful for her; stated that the spraying was not just a one-time event, but was planned for once a month for three years. She stated that very small doses of certain chemicals could make her very ill so that the spraying was really dangerous for someone like her and thanked the Council for doing something about it.

Andy Peri, Cypress Drive, explained that the spray would be encapsulated in plastic small enough to be absorbed into our lungs; that the State had said that the capsules were made of biodegradable plastic, but they were not; attended a meeting recently on the topic and learned that there was lots being done about the proposed spraying to try to stop it; stated that Sacramento didn't have to listen to individuals, but would have to listen to government bodies; asked if the State planned to spray for every new bug that came along; and expressed his support for the resolution.

David Delfino, stated that there was no trace of moth hormone in the material to be sprayed; suggested that the audience go onto U-Tube to get more information about the proposed spraying and to see comments made by the California Department of Food and Agriculture (CDFA).

Pam Meigs, Cypress Drive, stated that, as a nurse, she was absolutely disgusted that the State would be doing the spraying and thanked Councilmember Bragman for bringing it forward.

Rebekkah Collins thanked the Town Council for supporting the "stop the spraying" campaign and she read from an article that described other methods that could be used to get rid of the moths with no health risk.

Diane Hoffman, Porteous Ave., stated that the company that made the pesticide had been a major donor to the Governor and to the Agriculture Department.

Patrick Troupe, Olema Rd., thanked the Council and the community for their efforts and offered to help.

Matthew Edwards, five year resident of Fairfax, stated that chemicals should not be sprayed on people, and that it would come down to public officials making decisions and that media and lawsuits were ways to affect public officials' decisions. He suggested that the health risks be identified and that lawsuits be pursued against those making the decisions.

M/S, Bragman/Brandborg, Motion to adopt Resolution No. 2534, A Resolution of the Town Council of the Town of Fairfax Opposing the California Department of Food and Agriculture Aerial Spray Program to Eradicate the Light Brown Apple Moth with the inclusion of the additional language regarding the Marin Chapter of the Sierra Club as suggested.

AYES: All

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

Mayor Maggiore requested that the item regarding resolutions on state and national issues be heard before the item on Ordinance No. 732 to accommodate the audience. There was a consensus of the Council to change the order of the items as requested.

Discussion/Consideration of formal policy/ordinance regarding resolutions on state and national issues, Tremaine/Bragman

Councilmember Bragman presented the item and stated that the proposed ordinance would make addressing state and national issues part of the process of the Town; that the ordinance would guarantee that the public would have access to the Council agenda; and that it would create direct democracy.

Councilmember Tremaine stated that other Councils had adopted policies to only address local issues to avert the second amendment rights of their citizens; that there had been an ongoing debate about whether or not the Council should take a stand on issues of state or national importance; that the right to do so would be guaranteed with the adoption of an ordinance; that it was important to imbed this process and to give access to the citizens; that the Council had been approached by peace and justice activists in the county who had ongoing concerns about a multitude of issues like the war in Iraq and global warming and who wanted to have their voices heard by larger governments; and that the Fairfax Council had addressed such issues in the past and he wanted to have the practice continue.

Councilmember Brandborg stated that she didn't think an ordinance was necessary; that any Council member could put an item on an agenda; that the current Council had done so and so had councils in the past; that a petition signed by 25 residents would prompt a discussion and that 25 seemed like a small number of people to make a special meeting happen; and that with the existing system, any citizen could contact a council member and ask to have something put on the agenda or could request that an item be placed on an agenda by speaking at "Open Time."

Vice Mayor Weinsoff stated that he supported the idea of a resolution instead of an ordinance; that he would like the language of the ordinance to be refined and condensed; and also suggested that such items be heard at the end of the meeting with staff not obliged to attend.

Mayor Maggiore opened the discussion to the public.

David Glick, Cascade Drive, representing Health Care for all California, stated that the proposed ordinance was a reasonable response to our fading democracy; that "Of the People, by the People and for the People," was no longer true; that 4,000 soldiers and over a million Iraqis had died so far in the war; that the cost of the war was about three trillion dollars and was impacting all citizens as well as the economy; that the public overwhelmingly opposed the war according to polls, but that the war continued; that there was a crisis of democracy in this country with the voice of the people being

ignored; that the proposed ordinance would give people a real voice; and expressed hope that such an ordinance would become a model for other towns.

Ronnie Cruzman, Porteous Ave., with Next Generation; stated that they were working for peace and sustainability in the County; that the Council should pass the ordinance to avoid discussions about whether or not a subject was appropriate to be considered; that Next Generation would be bringing a resolution to the Council against an air strike on Iran; stated that he felt this was part of the democratic process; that to not do it was to abdicate responsibility; that the ordinance would provide a good way to keep people involved, especially young people; that the ordinance would show that our elected officials listen to the people; that it was a moral issue; that it was our responsibility to speak against bombing civilians and other national issues; and that he didn't think such issues should be at the end of the meeting, but should be a part of the agenda to be addressed with other items.

Mark Squire, Frustuck Ave., stated that the conversations about whether or not the topics were appropriate to be considered took up too much time at meetings and the ordinance would eliminate such discussions.

Matthew Edwards, Bolinas Road, stated that such an ordinance would protect us going forward and would send a message that it is a priority for Fairfax and would set an example for other towns. He further stated that it would enable citizens to be actively involved in what happens in our country; that it was good to provide a place for people to meet and talk; and that he felt good about the proposal.

Andy Peri, Cypress Drive, expressed his appreciation that the Council heard the national and state issues; that citizens could not speak to the federal government; that they had no power at the national level; that all politics were local; that international issues needed to be part of the conversation; that the Council's actions could embolden other towns as happened with the opposition to the Patriot Act; and that he supported the ordinance.

Patrick Troupe, thanked the Council for bringing the item forward; stated that the scope of the issues was large and included topics like climate change, wars, lack of health care and increased national debt. He stated that local voices needed to be heard and that he supported the ordinance.

Leon Bolder, partial resident of Fairfax, expressed his support for the ordinance and stated that it was up to the Council's discretion to decide when matters would be heard.

Craig Seiter, Marin Peace and Justice Coalition and the Campaign to Restore Democracy, thanked the Council for taking positions on larger issues. He stated that the ordinance needed to be as strong as possible because it was about confirming democracy; that our democracy was in jeopardy and was threatened; that it should be an ordinance, not a resolution; that he would like to see the Council do more than pass a resolution; that he would like to see Councils around the Bay Area work together to stop the spraying for example; that there was enough discretion in the ordinance to make determinations about the issues; stated that in the 1982 flood, the National Guard came and cleaned up the Town, and, in the 2005 flood, the Town paid thousands for Ghilotti to clean up the roads; and described the exorbitant taxes citizens paid to support the war in Iraq.

Patricia Murray, Piper Court, stated that the ordinance was about more participatory democracy; told a story of a conversation to illustrate how much she supported the ordinance; and stated that we could begin to create a world where diplomacy and love and the basic needs of all people in the world could be met.

Mayor Maggiore talked about Thoreau and Emerson and conversations they had held with elected officials; stated that the inherent right of people was important; that she was elected to represent the citizens in whatever way she could; that we should never give up the right to be heard; that she was totally and completely in favor of the ordinance; that she was interested in doing more and more and in doing it together.

Councilmember Brandborg stated that the Council listened to the citizens; that we sent out our resolutions to our legislators and they thanked us but that they were not especially effective, and that we needed to contact the legislators directly and vote for the ones who put forward issues we supported.

Vice Mayor Weinsoff, stated that he had tried to limit the focus of his campaigns to local issues; that he respected the discussion but would be able to abstain from votes on issues; felt like he was elected to deal with local issues; wanted to support the issue because it was so important to his fellow councilmembers; and stated that he could still participate in the discussions.

M/S, Tremaine/Bragman, Motion to bring an ordinance back to the Town Council for a first reading in April.

Discussion: Councilmember Brandborg expressed concern about setting the number too low at 25 citizens who could petition the Council to have an item placed on the agenda.

Mayor Maggiore stated that she liked the number 25 and thought it was just right.

AYES: All

Introduction and First Reading of Ordinance No. 732, an Ordinance of the Town of Fairfax adopting the Marin County Animal Control Ordinance by reference

Town Attorney Karpiak presented the staff report and noted that the ordinance didn't present any significant policy changes.

Councilmember Bragman stated that he could not vote to adopt the ordinance without the County ordinance before them as part of the packet.

Town Attorney Karpiak stated that he could ask the County to send us a copy of the ordinance with the changes red-lined for inclusion in the next packet.

There was a consensus of the Council to continue the item to the next meeting to include the entire County ordinance in the packet for review.

Reports from Town Officials

Town Manager Rock reported on a presentation sponsored by PG&E that was scheduled for Wednesday, March 19th at Hamilton in Novato to learn about energy efficient building.

Council Reports and Comments

Mayor Maggiore reported on a meeting of new mayors sponsored by the League of California Cities that she had attended in Sacramento in January. She also reported on her attendance at the Marin Mayors and Council Members (MCCMC) meeting in Tiburon in January that included representatives from the various school districts around the county for a conversation about early childhood education.

Councilmember Brandborg reported on her attendance at the February MCCMC in Belvedere where she heard a report that the State was planning to take money from cities and where there had been a discussion about a possible raise in the bridge toll.

Councilmember Bragman reported on a meeting with neighbors of Upper Scenic about a paving proposal that he would be presenting to the Council through the Town Manager. There was a discussion about the possible funding for such a project.

Vice Mayor Weinsoff reported on meetings of a county established stakeholders group he is attending that is evaluating whether to recommend to the Board of Supervisors that it place a quarter-cent sales tax measure on the November ballot to fund acquisition of open space and protection of county parks, wildland fire prevention, and farmland preservation.

Councilmember Tremaine reported that a proposal from the Ross Valley Fire Board had been submitted to the Sleepy Hollow Fire Protection District Board and that they had received a counter proposal back. He reported on a meeting with Councilmember Breen from San Anselmo and that they would be bringing recommendations to the Fire Board at the March meeting.

On motion duly made and carried, the meeting was adjourned at 10:17 p.m. in honor of Chris Peterson.

Respectfully submitted,

Judy Anderson, Town Clerk