

Fairfax Town Council Minutes
Adjourned Meeting
Fairfax Women's Club
Wednesday, April 16, 2008, at 7:30 p.m.

The Council met in closed session prior to the meeting at the Youth Center to discuss pending litigation in Legnitto v. Fairfax, Bourhis v. Lord, et al; Beaument v. Town of San Anselmo, et al, Moore v. Town of San Anselmo, et al, and Avins v. San Anselmo, et al; and to discuss two potential cases.

Roll Call:

COUNCILMEMBERS PRESENT: Susan Brandborg
Mary Ann Maggiore
Lew Tremaine

COUNCILMEMBERS ABSENT: Larry Bragman
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 7:30 p.m.

Announcement of Closed Session Action

Mayor Maggiore announced that the Council had met in closed session and had received information about pending litigation and potential litigation and had given direction to Counsel and staff.

Approval of Agenda and Affidavit of Posting

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

AYES: Brandborg, Maggiore, Tremaine

ABSENT: Bragman, Weinsoff

Announcements

Mayor Maggiore made the announcements as listed on the agenda and also announced upcoming Volunteers for Fairfax events for trail maintenance and the installation of trail markers, and the special "Economic Summit" Council meeting scheduled for April 26th. She announced that Pamela Gibson, an award winning business consultant and former city manager, would be present at the meeting to give her assessment of the Fairfax downtown business district and to share her ideas about how to boost business and energize the downtown. She noted that Ms. Gibson would also be the speaker when

Fairfax hosted the monthly meeting of the Marin County Council of Mayors and Councilmembers on April 23rd.

Open Time for Public Expression

No speakers came forward.

Consent Calendar

Accept and file financial report and warrants

M/S, Tremaine/Maggiore, Motion to adopt the Consent Calendar.

Discussion: Councilmember Brandborg stated that she could not vote to accept the financial report because of statements about salary savings that did not seem accurate to her and because some of the numbers seemed incorrect.

Town Manager Rock stated that more accurate information on warrants through March 31st would be presented at the next Council meeting and a corrected financial report would be available for the May 7th Council meeting.

The motion was withdrawn.

Authorization to Advertise and Solicit Construction Bids for the Creek Road Bridge Project

M/S, Brandborg/Tremaine, Motion to approve the remaining item on the Consent Calendar, the authorization to advertise and solicit construction bids for the Creek Road Bridge Project.

AYES: Brandborg, Maggiore, Tremaine

ABSENT: Bragman, Weinsoff

Second Reading and adoption 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.

Mayor Maggiore opened the discussion to the public. No speakers came forward.

M/S, Tremaine/Brandborg, Motion to waive further reading and to read the title only of Ordinance No. 732, an Ordinance of the Town of Fairfax adopting the Marin County Animal Control Ordinance by reference.

AYES: Brandborg, Maggiore, Tremaine

ABSENT: Bragman, Weinsoff

M/S, Tremaine/Brandborg, Motion to adopt Ordinance No. 732, an Ordinance of the Town of Fairfax adopting the Marin County Animal Control Ordinance by reference.

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

Second Reading and adoption of Ordinance No. 733 establishing a formal policy regarding resolutions on state and national issues, Tremaine/Bragman

Councilmember Brandborg read the additional language for the ordinance that had been added by Vice Mayor Weinsoff to acknowledge the importance of the consideration of local issues by the Council.

Mayor Maggiore opened the discussion to the public.

Craig Slater, 20-year resident of Fairfax, 277 Scenic Rd., thanked the council for passing the ordinance and thanked Councilmember Brandborg for agreeing to the action; stated that more could be done to address larger issues; that they could work together to pass more resolutions; and that the efforts to stop the planned aerial spraying for the brown apple moth would provide an opportunity to all work together..

Patricia Murray, Piper Lane, stated that she was delighted that the ordinance was passed; that she approved of the language that was added; that the world was on the threshold of creating a global democracy; that the awareness of their plight was growing; that she was looking forward to more visionary politics and working together with love; referred to a story in the paper about a duck stopping traffic in Corte Madera at the same time 50 people were blown up in a bus in Baghdad; and that human beings needed to have the nurturing instinct in them encouraged not to do harm to others.

M/S, Tremaine/Maggiore, Motion to waive further reading and to read the title only of Ordinance No. 733, establishing a formal policy regarding resolutions on state and national issues.

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

M/S, Tremaine/Maggiore, Motion to adopt Ordinance No. 733, an Ordinance of the Town Council of the Town of Fairfax establishing a formal policy regarding resolutions on state and national issues.

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

Discussion and consideration of Marin Farmers Market request for 2008 Fairfax Farmers Market

Town Manager Rock presented the staff report and introduced Amelia Spilger, the Fairfax Farmers Market Manager. He noted that the Fairfax Chamber of Commerce had agreed to donate \$1,000 to the Town for the damage to the lawn. Manager Rock asked that the required portable toilet include a wash stand and that the Market provide a stand-alone sign to advertise the market. He also requested that Market Manager Spilger work with Public Works Director Wilkie regarding the parking on Elsie Lane.

Amelia Spilger, Fairfax Market Manager, stated that she was excited about the market and would encourage the vendors to protect the park; that fifteen farmers were already booked; and that she had a large community of artisans but planned to have only four or five at each market, rotating them.

M/S, Brandborg/Tremaine, Motion to approve of the Farmers Market with the changes to the proposal as requested.

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

At the request of Mayor Maggiore, there was a consensus of the Council to hear the item regarding the Housing Element as the next agenda item.

Discussion of the Certification of the Town of Fairfax Housing Element, Maggiore

Planning and Building Services Director Welsh presented the staff report and noted that even if Fairfax didn't have a certified Housing Element within the next six months, they would have additional affordable housing obligations with the 2009 mandate. She reported that the Town had received a letter from the State Housing Department in response to the submission of the proposed Mixed Use Overlay Zone. In that letter the State had asked for the inclusion of the possibility of three stories and other elements in the zone to facilitate the creation of affordable housing on the identified parcels. She noted that she had talked to Mario Angel of State Housing and had invited him to visit Fairfax again to talk to him about the Town's plans for affordable housing.

Mayor Maggiore opened the discussion to the audience.

Shelley Hamilton, Canyon Road, stated that she was speaking for herself as a Commissioner, not for the Planning Commission. She stated that she had been on the Planning Commission for over a year; that the housing element needed to move forward; that the Planning Commission had discussed the idea of getting something done and moving it forward to the Town Council with their reasoning and discussions included; that they had wrestled with creating a mixed use overlay zone to create housing and to also enhance the commercial area; that the Commission had discussed how to provide for the number of units needed so that it wouldn't negatively impact the community; that they wanted to use every tool possible; and that 64 units were currently needed but that 108 more affordable units would be required in June of 2009.

Planning Director Welsh suggested that it would be helpful if the sites for future units could be identified when the current Housing Element was certified.

There was a discussion about what percentage of units would have to be affordable in a mixed use development that was part commercial and part residential; the different levels of affordability involved; the difficulty in showing the opportunity to create affordable housing and the actual ability to do it; and how to get the job done in a respectful and productive way.

Town Manager Rock stated that he had attended some of the Planning Commission meetings; that the Town wanted to create a plan that was achievable regardless of what the State was recommending and a plan that was realistic with the land available.

Planning Director Welsh stated that she had done an analysis of the two sites with the numbers and that it was possible to create the required affordable housing from a land use standpoint, but that the State wanted to know if it would pencil out financially. She noted that other cities weren't necessarily producing more affordable housing but were going along with the recommendations of the State to get their Housing Elements certified.

Bob Sandusky, Toyon Drive, Asked why the Town was not in compliance and how the Town planned to get into compliance; that the Town had to push back with the State but should do it in a cooperative manner; and suggested that the Town put something in place and then iron out the details with the implementing ordinances.

Councilmember Brandborg stated that affordable housing expert Kathy Crecilius stated at a Planning Commission meeting that the Town would either have to add more density or more height to provide the required number of affordable units on the identified parcels.

Mayor Maggiore noted that she and Councilmember Tremaine had met as a subcommittee on affordable housing and that, without a certified Housing Element, the Town couldn't move forward to provide affordable housing.

Councilmember Tremaine stated that, if the Planning Commission was stuck on some issues, that was all the more reason to send it to the Town Council as it was; that the State wanted the Town to have a serious plan and to know that an effort was being made; that more than the Mixed Use Overlay was needed; that something more drastic like a Redevelopment Agency was needed; and that they needed to facilitate affordable housing but that he wouldn't vote for three stories. He cited the example of the City of Sonoma that was creating affordable housing through a Redevelopment Agency; that Fairfax could use the same mechanism; that if the market determined what got built, the Town couldn't achieve the necessary numbers; that the Council needed to get involved and do it their way; and urged the matter to be brought to the Council from the Planning Commission as soon as possible.

Mayor Maggiore led a discussion about the possibility of creating a new committee that included the Town Manager, the Chair of the Planning Commission and the Mayor to help move the Housing Element forward.

M/S, Tremaine/Brandborg, Motion to request that the Planning Commission be urged to bring the Housing Element forward to the Town Council for review as soon as possible.

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

Mayor Maggiore adjourned the meeting for a break from 9:05 p.m. to 9:17 p.m.

Discussion and consideration of replacing the existing nuisance abatement provisions of the Town Code with a more comprehensive and explicit nuisance abatement process for the Town

Town Attorney Karpiak presented the staff report and noted that the draft ordinance was based on an ordinance in another city because it most closely resembled what was actually done in Fairfax; stated that most towns had a detailed process in their codes and that the draft ordinance provided such a process; that the list of possible nuisances was deliberately overly broad; and that some potential conflicts with other portions of the code would be addressed.

Town Attorney Karpiak led a discussion of some of the elements of the proposed ordinance.

Mayor Maggiore opened the discussion to the public.

Mark Bell, Dominga Avenue, asked about the time involved to get issues resolved and noted that the recent abatement on the agenda had taken a long time.

Town Attorney Karpiak explained that there were legal requirements for notice given to property owners that did make the process longer.

Jason Sanders, Scenic Rd., asked that 305 Scenic Road should be placed on the Town's abatement list as a priority; that he had been complaining to the Town about the property since the previous June; that it seemed to be more of a political issue; that Building Official Lockaby was on top of the situation and had been very helpful; that abatements should be an automatic action of law and should not require a political decision; that he was aware that it cost money but that the Town would be repaid if the abatement went through the full process; and suggested that if a citizen came forward to notify the Town of a potential abatement situation, that the staff should be able to investigate without political support.

Town Attorney Karpiak stated that he wouldn't recommend a quicker process without the involvement of the Town Council.

Mayor Maggiore noted that Mr. Sanders had come before the Council previously to report on the problem at 305 Scenic and had provided the Town Council with a packet of all the information on the property.

There was a consensus of the Council to direct staff to bring back the ordinance with changes for a first reading at a future Council meeting.

Discussion of Vision, Mission and Core Values for Fairfax

Town Manager Rock presented the staff report. He suggested some possible core values for the Town and stated that the full Council should be part of the discussion. He clarified that the core values were the underlying principles used to guide staff and the elected officials; that the core values could unify staff and Council and provide a common understanding; and could also be used in the evaluation of staff.

Councilmember Tremaine stated that he would like to add to the list of core values, "Respect for each other, our environment and our institutions."

Mayor Maggiore opened the discussion to the public.

Mark Bell, Dominga Ave., stated that he hadn't had any problems with staff but that his wife had been accused of forging a town official's signature when they tried to do an addition on their house and asked what made people abide by the principles.

Town Manager Rock stated that it became a constant mantra and a common understanding by all of the staff and the community but that it took time to implement.

Mayor Maggiore stated that she would like to have the subject on every Council agenda.

Reports from Town Officials

Town Manager Rock reported on a planned series of informational meetings about the Community Choice Aggregation plan for the provision of power using renewable energy. He stated that he was hoping to get an expert to speak to the Town Council in May, that the speaker would probably be David Orth who had experience in another county with community choice aggregation, and that the Council would have to make a decision about whether to opt in or opt out of the plan.

Council Reports and Comments

Councilmember Brandborg asked when the garbage subcommittee would be meeting about the contract with Marin Sanitary and ascertained from Town Manager Rock that he would soon be addressing a report to the committee on the subject.

The meeting was adjourned at 10:00 p.m. to April 26th at 9:00 a.m. in the Women's Club for the Economic Summit meeting.

Respectfully submitted,

Judy Anderson, Town Clerk