

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, April 2, 2008, at 7:30 p.m.

Roll Call:

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

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 7:40 p.m.

Announcement of Closed Session Action

Mayor Maggiore reported that the Council had conferred with legal counsel on two pending litigation cases and on two potential litigation cases, that Council had given direction in all four cases, and that the Council had approved the appointment of Kathleen Wilkie as Public Works Director.

Approval of Agenda and Affidavit of Posting

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

AYES: All

Announcements

Mayor Maggiore made the announcements as listed on the agenda and urged the audience to apply for one of the vacancies on a board or commission.

Open Time for Public Expression

Michael Mackintosh, Owner, Marin Town and Country Club, asked for a copy of the police report pertaining to an arson incident on his property on December 10th that he had previously requested and had not yet received. He also asked about an incident that took place on January 23rd wherein Fairfax Police officers had beaten a man on his property. He stated that there were many witnesses to the incident, that the man was beaten repeatedly, and asked why the police came onto his property without reporting to him as the property owner. He also asked about an incident on his property where a bomb was discovered and the bomb squad was called to defuse the bomb without

notifying him. He stated that he thought he had a good relationship with the Fairfax Police Department and that he expected to be informed about incidents on his property. Mr. Mackintosh asked about the Pastori pipe replacement project and whether or not the project had been declared exempt from the provisions of the California Environmental Quality Act (CEQA). He stated that the project should not be allowed because the hole in his bridge would increase the water capacity that would damage the bank. He stated that he wanted insurance for his bridge before the project began.

Vice Mayor Weinsoff reported that the recent documentary film festival was sold out at all performances; was a great success, and that a Councilmember had made a cameo appearance in one of the films.

Frank Gonzalez, former artist in residence, announced that he had a show at the Fairfax Library about puppets, masks and other items made out of recycled materials and that a reception would be held from 3 to 6 p.m. at the library on April 12th. He also announced that he was looking for young people to help him make a whale for the Festival parade.

Sierra Salin, Cascade Drive, expressed support for Frank Gonzalez and his project and talked about Starbucks coming to Fairfax as an April Fool's joke. He stated that he was glad that Fairfax didn't have chain stores.

INTERVIEWS AND APPOINTMENTS

Interview and appointment of candidate(s) to serve on the Design Review Board for an unexpired term to January 31, 2011

The Town Council interviewed Morgan Hall, an architect with a practice at 55 Bolinas Road.

M/S, Bragman/Brandborg, Motion to appoint Morgan hall to serve on the Design Review Board to complete an unexpired term to January 31, 2011.

AYES: All

Interview and appointment of candidate(s) to serve on the Parks and Recreation Commission for an unexpired term to March 31, 2010

The Town Council interviewed Vicki Burns, Fairfax resident since 1984.

M/S, Weinsoff/Tremaine, Motion to appoint Vicki Burns to the Parks and Recreation Commission to complete an unexpired term to March 31, 2010.

AYES: All

Consent Calendar

Accept and file a report on the status of the General Plan Update

Accept and file a report on the Master Capital Improvement Project list

Approval of Town Council Minutes of February 6 and 20, 2008

Proclamation declaring April 13-19, 2008, as National Library Week for the Town of Fairfax

Adoption of Resolution No. 2535, A Resolution of the Town Council of the Town of Fairfax authorizing closure of a portion of Broadway for the staging of the car show on September 7, 2008

Approve a Consultant Services Agreement with Pamela Gibson for Economic Sustainability Program for the Town of Fairfax in an amount not to exceed \$3000

M/S, Tremaine/Brandborg, Motion to adopt the Consent Calendar with the removal of three items for discussion, namely: Item #3, "Accept and file a report regarding timing of financial information;" Item #9, "Approve the expenditure of \$8,333 from the Dry Period Fund for the Town's share of the Shared Dispatch Services Study Consultant Contract;" and Item #11, "Approval of the transmission of a letter to Dr. Richard Wall requesting a further discussion of a greenbelt around the Town of Fairfax."

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 (continued from March 5, 2008)

Building Official Lockaby presented the staff report and indicated that the garbage and debris had been removed from the carport as requested.

Mayor Maggiore opened the public hearing.

Joanne Bagan, 67 Live Oak Ave., owner, stated that she wished that the neighbors had told her about the problems instead of complaining directly to the Town.

In response to a question from Councilmember Brandborg, Ms. Bagan stated that the property had been a rental but that she had contracted for garbage service when she moved into the property. She further stated that she lived alone, didn't cook much, and composted, so that she didn't think she needed to have garbage service, but found out that she was required to have service. She told of a former Tibetan monk who had rented the house and who had placed the contents of the house on the carport when he moved in and stated that he had started the problem. She also described the parking and storage at her neighbor's property.

Mayor Maggiore asked about the status of a proposed ordinance requested by the Council to streamline the abatement process and was informed by Town Manager Rock that the ordinance was being prepared.

M/S, Bragman/Tremaine, Motion to dismiss the abatement action against the owner of 67 Live Oak Avenue.

AYES: All

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

Councilmember Bragman introduced the topic. He reported that the draft ordinance had been discussed at the previous Council meeting; that the Town Attorney had revised the draft ordinance that was before them; and that Vice Mayor Weinsoff had requested additional language be added to the ordinance. The language Vice Mayor Weinsoff proposed stated, "In setting an issue on an agenda for consideration under this section, the Council shall place the item after public hearings and agenda items of exclusively local concern to Fairfax residents. This requirement does not, however, diminish the authority of the Council to amend an agenda at a meeting to advance, for public discussion, an issue of concern under this section."

Mayor Maggiore opened the public hearing.

Yvette Wakefield, Main Court, stated that national and international issues affected all people and should be the business of the Fairfax Town Council; that she was taking an American History class and was learning the true history of the country; that the government was not really concerned about the welfare of the people of the country; and that she thought it was suspicious and alarming that the San Anselmo Police Department had an Sport Utility Vehicle armed with special weapons to be used for crowd control.

David Glick, Cascade Drive, encouraged the Council to vote for the ordinance; stated that it was difficult to segregate out state and federal issues from local issues; that global warming did not stop at the border to Fairfax; that the State Budget deficit affected our local schools; that the cost of the Iraq war was three trillion dollars; that the effect of the national debt from the war filtered down to the local level; that the way the ordinance was worded made sense to him; that it was okay to say that local issues were first and foremost; and that he hoped it would become a model for other Town Councils.

Patricia Murray, Fairfax resident, stated that she was happy about the ordinance; that it was a step toward the realization that nothing was strictly local any longer; that it was about the state of our planet; that potholes had to be dealt with, but that there were bigger potholes that were getting deeper by the day; that Fairfax could set an example to others; and that broadening our consciousness was a good thing.

Robert Clark, 12 Westbrae, asked that the Council take time to replace the empty businesses downtown; thanked the Council for the new sidewalk to get his children to school safely; and suggested that the Council work on increasing tax revenue and leave the other issues on the back burner.

Mayor Maggiore noted that the hiring of a business expert to help revitalize business downtown had been approved on the Consent Calendar.

Patrick Troupe, Olema Rd., asked for the clarification of the difference between a resolution and an ordinance and asked for an explanation of the use of special meetings as described in the proposed ordinance.

Councilmember Bragman explained that the authority to have a special meeting on certain topics was included in the ordinance to avoid taking time from a regular meeting agenda.

Patrick Troupe stated that we lived in a very connected world because of technology and our economy; that we had issues that affected us all; that millions of dollars were being taken away from our town because of the wars in the Middle East; that there was a water shortage and climate change; that our State and national governments weren't taking care of us; that Fairfax could set the example to set the future that we want; that we were all connected; that he hoped his future was all about working together to solve some of these big issues; and that we should be talking about all issues because they were connected.

M/S, Bragman/Tremaine, Motion to waive further reading of Ordinance No.733 establishing a formal policy regarding resolutions on state and national issues with the addition of the language proposed by Vice Mayor Weinsoff to be included as Section 1-D of the ordinance stating "In setting an issue on an agenda for consideration under this section, the Council shall place the item after public hearings and agenda items of exclusively local concern to Fairfax residents. This requirement does not, however, diminish the authority of the Council to amend an agenda at a meeting to advance, for public discussion, an issue of concern under this section."

AYES: All

M/S, Tremaine/Bragman, Motion to introduce Ordinance No.733 establishing a formal policy regarding resolutions on state and national issues.

AYES: All

Mayor Maggiore adjourned the meeting for a break from 8:50 to 9:10 p.m.

Accept and file a report regarding timing of financial information

Councilmember Brandborg agreed with the suggestion made in the staff report that the financial reports be made at the second meeting of the month to give staff more time to reconcile the finances from the previous month. She stated that she had asked staff at the last two or three meetings for current financial information and expressed her concern that sound decisions could not be made without that information. She asked to receive the warrants/check registers to date and the income and expense information as well.

Mayor Maggiore and Councilmember Tremaine suggested that staff use the format of the Fire Board's financial statements as the standard for the presentation of the financial information to the Council.

Approve the expenditure of \$8,333 from the Dry Period Fund for the Town's share of the Shared Dispatch Services Study Consultant Contract

Frank Egger, Meadow Way, expressed concern about spending money for a dispatch consolidation services study; stated that more services than just dispatch were provided in Fairfax; that the dispatch center also provided access to restrooms, keys for building

rentals, and other services and tasks; that San Anselmo didn't have dispatchers on duty 24/7; and noted that no scope of services had been included in the public packet.

Town Manager Rock noted that Fairfax wasn't paying half of the cost of the study because Supervisor Brown had paid one-third of the cost leaving San Anselmo and Fairfax to each pay one-third as well.

Mayor Maggiore noted that the money was from the taxpayers via Supervisor Brown and not directly out of Supervisor Brown's pocket.

M/S, Tremaine/Brandborg, Motion to approve the expenditure of \$8,333 from the Dry Period Fund for the Town's share of the Shared Dispatch Services Study Consultant Contract.

AYES: All

Approval of the transmission of a letter to Dr. Richard Wall requesting a further discussion of a greenbelt around the Town of Fairfax

Vice Mayor Weinsoff recused himself from the discussion because of the proximity of his home to the subject property.

Councilmember Bragman displayed a large color photo of the Wall property to give the audience an idea of the green belt potential of the property. He suggested that the following language be added to the draft letter to Dr. Wall regarding his property to state, "The Town does not wish to interfere with your plans for your property but would be interested in discussing acquisition of the property as open space."

Mayor Maggiore opened the discussion to the public.

Mimi Newton, Mono Ave., Chair of the Open Space Committee, spoke to emphasize the importance of the Wall property that was not yet developed. She described the heritage oaks on the property, one estimated at 150 years-old, the madrones, wild iris and other flowers and animals, all on a beautiful hillside central to Fairfax. She thanked the Town Council for bringing the item forward.

The Council discussed possible next steps for acquisition of the property including conversations with the owner, with San Anselmo and the County of Marin about joining with Fairfax in the effort.

There was a consensus of the Council to authorize the letter with the addition of Councilmember Bragman's suggested language.

Adoption of Resolution No. 2536, a Resolution of the Town Council of Fairfax adopting the Proposition 1B Project List and amending the Fiscal year 2007/08 Town Budget to accept the Proposition 1B money in the amount of \$400,000

Town Manager Rock presented the staff report, provided the background about the Proposition 1B funds approved by the voters in November of 2006. He explained that the Town was required by the State to approve a Proposition 1B Project List and to amend the current fiscal year budget to accept the allocated apportionment to the Town

which was \$400,000. The project list had to include a list of all projects, a description and location of each project, the amount spent on each project, the completion date of each project and the useful life of each project. He recommended that the Council adopt the resolution to list the projects and to make the necessary budget amendments as required.

Councilmember Bragman stated that one of the proposed projects was within 500 feet of his property and that he would abstain from a vote on the resolution.

Mayor Maggiore opened the discussion to the audience.

Rosalie Bertalino, Ridge Road, expressed her appreciation for the Council's willingness to pay to fix a portion of Scenic Road. She stated that there was concern that if the Town fixed it and didn't accept the road, that FEMA could again deny funding because it was not a town-maintained road.

Linda Berry, Scenic Rd., stated that all the residents in the area were in favor of the Council taking action on the issue of accepting the road.

M/S, Weinsoff/Tremaine, Motion to adopt Resolution No. 2536, a Resolution of the Town Council of Fairfax adopting the Proposition 1B Project List and amending the Fiscal year 2007/08 Town Budget to accept the Proposition 1B money in the amount of \$400,000.

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

Adoption of Resolution No. 2537, a Resolution of the Town Council of the Town of Fairfax accepting of a portion of Upper Scenic Road (20-feet by 100 feet) as a Town maintained road for the purposes of receiving reimbursement from OES and FEMA for the Upper Scenic Slope Stabilization Project

Town Manager Rock presented the staff report and stated that FEMA representatives had indicated that they would fund 75% of the project if the Town accepted the section of roadway with the slide on it for the repair of the slide.

M/S, Bragman/Tremaine, Motion to adopt Resolution No. 2537, a Resolution of the Town Council of the Town of Fairfax accepting of a portion of Upper Scenic Road (20-feet by 100 feet) as a Town maintained road for the purposes of receiving reimbursement from OES and FEMA for the Upper Scenic Slope Stabilization Project.

AYES: ALL

Adoption of Resolution No. 2538, a Resolution of the Town Council of the Town of Fairfax setting policy for Town assistance towards cooperative efforts in pavement improvement projects

Town Manager Rock presented the staff report. He stated that the gas tax hadn't been raised in many years and that the Town didn't have enough money to keep Town roads in good repair. He further stated that this policy would provide a way to have roads in neighborhoods improved with the help of the neighbors.

Vice Mayor Weinsoff stated that four members of the community had paid for a portion of the roadway on Upper Scenic and that he would like them to be given credit for their former contributions.

Mayor Maggiore opened the discussion to the public.

Tim Badger, Scenic Rd., asked if the proposal to have neighbors contribute was successful and the road was upgraded, if there was any assurance that it would automatically become a town-maintained road; what percentage of the neighbors would have to participate to make it happen; and whether or not there was a way to determine what the cost to each homeowner would be if the project costs were shared.

Rosaleen Bertalino, Scenic Rd., expressed her appreciation of the Council's efforts and acknowledged that the Council viewed the Scenic Road project as a special situation for public safety and therefore in a different situation than other non-town maintained roads.

M/S, Weinsoff/Brandborg, Motion to adopt Resolution No. 2538, a Resolution of the Town Council of the Town of Fairfax setting policy for Town assistance towards cooperative efforts in pavement improvement projects.

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 (continued from March 5, 2008)

Town Attorney Karpiak presented the staff report. He stated that the Town was party to a Joint Powers Agreement wherein the Town agreed to adopt changes in the County's animal control ordinance by reference; that the proposed changes weren't substantive; and that the red-line of the County ordinance indicating the proposed changes had been made a part of the packet as requested at the previous meeting.

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

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

AYES: All

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

AYES: All

Request for \$7,000 for defibrulators and training, Brandborg

Councilmember Brandborg presented the request and noted that it was a request that had been put forward by former Town Manager Kelly before she left; that Councilmember Bragman had offered to take it to the Ross Valley Paramedic Board;

and that she wanted to introduce the notion but would wait to include it as part of the budget process.

Councilmember Bragman stated that the Paramedic Authority had not expressed an interest in funding the purchase and suggested that he could bring up the subject again at a future meeting. He stated that defibrulators should be placed in public buildings and that he would be distributing further information about defibrulators to the Council.

Discussion of Town Vision Statement, Maggiore

Mayor Maggiore referred to the discussion of vision statements that had taken place at a recent Saturday meeting and asked that the other Council Members share their versions of a mission statement and/or vision statement at the next Council meeting.

Town Manager Rock suggested that the development of core values be added to the task.

Reports From Town Officials

Town Manager Rock presented information on the latest developments in the plans for State spraying for elimination of the brown apple moth.

Council Reports and Comments

Vice Mayor Weinsoff reported on a recent Flood Zone 9 meeting and stated that he had voted to support the project list but voted against the funding mechanism proposed; stated that the District would be securing a loan against the disputed funds despite his objections; and that Stetson Engineers had been hired to study detention basins in Fairfax.

Councilmember Brandborg reported on a recent meeting of MCCMC with a speaker from the SF Examiner who had roasted Fairfax.

Mayor Maggiore announced the next meeting of the MCCMC was to be hosted by Fairfax at Deer Park Villa on April 23rd, with Pam Gibson as the speaker.

Councilmember Bragman reported on efforts made to have the Marin Telecommunications Agency get the Women's Club hooked up with video; noted that there was no money for fiber; and stated that it was too expensive to install it at the Women's Club in addition to the installation at Town Hall. He suggested that perhaps there was a way to connect the Women's Club to the fiber installed at Town Hall.

On motion duly made and carried, the meeting was adjourned.

Respectfully submitted,

Judy Anderson, Town Clerk