

Fairfax Town Council Minutes  
Adjourned Meeting  
Fairfax Women's Club  
Wednesday, May 21, 2008

The meeting at the Women's Club was preceded by a Closed Session meeting at the Youth Center, 16 Park Road.

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:**

Larry Bragman  
Susan Brandborg  
Mary Ann Maggione  
Lew Tremaine  
David Weinsoff

**STAFF MEMBERS PRESENT:**

Michael Rock, Town Manager  
Jim Karpiak, Town Attorney  
Ann Welsh, Planning Director  
Kathy Wilkie, Public Works Director  
Ken Hughes, Chief of Police  
Ian Roth, Finance Director  
Mark Lockaby, Building Official  
Judy Anderson, Town Clerk

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

Approval of Agenda and Affidavit of Posting

Town Manager Rock requested that an urgency item be added to the agenda. The item, the urgency of which arose after the posting of the agenda for the meeting, was a resolution to be considered to authorize the Town Manager or the Public Works Director to sign Federal funding documents on behalf of the Town. He explained that failure to adopt the proposed resolution could result in the loss of Federal funding and that the resolution in force included the name of a previous Public Works Director as the authorized agent for the Town.

Town Attorney Karpiak noted that a 4/5 vote was necessary to add the urgency item to the agenda.

M/S, Tremaine/Brandborg, Motion to approve the Agenda with the addition of the consideration of the urgent resolution, with the friendly amendment to the motion to delete the name "Johnson" from the title of the resolution, and approval of the affidavit of posting.

AYES: All

Announcement of Closed Session Action

Mayor Maggione reported that the Council had conferred with legal counsel on one pending litigation case and on two potential litigation cases and that Council had received information and had given direction in all matters.

Announcements

Mayor Maggione made the announcements as listed on the agenda and also announced that Marin Health and Human Services was offering a workshop from 10:00 a.m. to Noon on June

10<sup>th</sup>; that the Chamber had agreed to join with the Town in employing Pam Gibson; and that the Chamber was having a breakfast meeting with Ms. Gibson as the speaker.

#### Open Time for Public Expression

Councilmember Brandborg read the Measure K ballot language for the record, "Shall the Town of Fairfax in order to maintain safe neighborhoods, streets and community facilities; repair and resurface neighborhood streets and major corridors; replace 60 year old storm drains; repair leaky roofs and make seismic upgrades to community facilities; and make sidewalks more accessible to the disabled, issue bonds in an amount not to exceed \$6.83 million, at interest rates within the legal limit, and create a Citizen's Oversight Committee to conduct annual audits of expenditures?"

Tony Yudice, 7 Forrest Terrace, stated that, in relation to Measure K, Forrest Terrace hadn't been paved in 30 years.

Town Manager Rock stated that the Town had a pavement management program in place and that the list of projects for the next two years had already been decided with other streets to be paved as funds became available.

#### Interview and appointment of candidate for the Fairfax Youth Commission

Nicole Marsden, the only applicant before the Council, stated that she was interested in serving because she wanted to provide more activities for the youth of the community.

M/S, Tremaine/Brandborg, Motion to appoint Ms. Marsden to the Youth Commission.

AYE: All

#### Community Choice Aggregation (Marin Clean Energy) Presentations: Rebekah Collins, Sustainable Fairfax; Dawn Weisz, County of Marin; and David Orth, General Manager, Kings River Conservation District

Rebekkah Collins of Sustainable Fairfax, described her background and her early involvement in the issue; stated that the law had precedence; that it was being done in other communities; that it was the fastest tool to use to reduce carbon footprints; and thanked the Council for supporting the effort.

Barbara George of Women Energy Matters; expressed her views about the poor performance of PG&E on their promised use of renewable energy; stated that Marin Clean Energy would provide all that PG&E currently provided and much more; that solar energy could be made available to renters; expressed excitement about the opportunity to vote for community choice soon; and stated that the Marin Clean Energy business plan was a great plan for community choice. She described three proposals that her group would like to see included in the final plan: (1) to consider energy efficiency in the plan and to seek out the cheapest renewable energy available; (2) to maximize the use of locally produced renewable energy; and (3) to acknowledge the power of the whole community working together so that everyone would enjoy the maximum benefits of community choice.

Dawn Weisz, Principal Planner with the Community Development Department of the County of Marin, presented an overview of how the system would work and the basics of the Marin Clean Energy program. She noted that Community Choice Aggregation (CCA) was a public-private mix and really a hybrid of an Investor Owned Utility (IOU) and a Public Utility, where the IOU purchased power, maintained transmission lines and provided customer service.

The basics of Marin Clean presented included: Local governments, through a Joint Powers Authority to be created in 2009, would purchase power for their communities; that an energy service provider would be selected to provide all the services; that power would be purchased from outside Marin initially; and that customers would choose between Marin Clean Energy and PG&E as their power source.

Ms. Weisz stated that Marin Clean Energy would allow for personal choice with financial advantages, environmental advantages, and with an opportunity to reduce dependence on fossil fuels. She noted that other communities were considering similar programs and that the San Joaquin Valley CCA had already been formed and the contract finalized and that San Francisco had completed a business plan.

She outlined the phases for the project, presented more detail of the business plan, described light and dark green energy, and described the expected rate reduction and the expected reduction of greenhouse gases. She stated that competitive rates were possible because MCE would have low borrowing costs, tax exempt financing of assets, discounts for prepayment of energy, and the ability to initiate long-term contracts from scratch. She further stated that it was likely that TAM or an existing organization with experience or interest would administer the program. She also described the availability and cost of renewable energy.

The Town Council discussed various aspects of the plan including how net metering of personal solar systems would be controlled; the possible instability of energy costs; the wish to increase the solar component of the plan; the desire to get as many renewable sources locally as possible within technical and financial constraints; and how the JPA members could drive the creation of the local energy in their towns.

Mayor Maggiore opened the discussion to the public:

Pam Hartwell-Herrero, Executive Director of Sustainable Fairfax, stated that her organization was fully in support of the Town joining the JPA; that she was glad that local power generation and energy efficiency had already been brought up; that it was a testament to rabble rousers that the clean energy plan was moving forward; and applauded the good work and energy all around.

Tony Yudice, Forrest Terrace, stated that he would like to see some type of legislation to ensure that new construction would have components of energy efficiency and power generation included.

Bruce Ackerman, Valley Rd., stated that he was 100% in favor of the program; that the use of renewable sources of electricity was the largest way to reduce greenhouse gas along with hybrid/electric cars and the greening of the electric grid.

Tracy Shepherd, local Sierra Club chapter, stated that they had been working to educate residents about Marin Green Energy, that it was important to the environment and to the planet, and urged the citizens to vote yes on it and lead the County the rest of the way.

David Quatro, stated that he realized that the world was suffering when he was 15; that he had learned how long it took to effect change; that he was a solar installer and proud of it; and urged the Town to go forward.

Frank Egger, Meadow Way, stated that, back in the 80's, the County had purchased all the light poles through a JPA, and that he had suggested at that time to make it a public power issue; that legislation authored by Senator Migden allowed for the formation of energy agencies; that his daughter worked for the public power agency in Ukiah where it worked well; and he urged the Council to move forward.

M/S, Tremaine/Bragman, Motion to authorize the Mayor to write a letter to the County to ask that Fairfax be made the first city to consider the ordinance and request to have it sent for consideration as soon as it became available.

AYES: All

Mayor Maggiore adjourned the meeting for a break from 9:00 p.m. to 9:10 p.m.

#### Discussion of Mixed Use Overlay Element of the Town of Fairfax General Plan

Planning and Building Services Director Welsh presented the staff report and an overview of the proposed ordinance, the zones identified and the affect of the overlay on those zones. Her overview included the Planning Commission's reasoning for some of their decisions. She explained that the Planning Commission had prepared the draft Mixed Use Overlay Ordinance intended to implement the Mixed Use concept proposed in the Housing Element of the General Plan. She noted that the intent was for the Town Council to prepare an ordinance based on the Planning Commission's recommendations.

Mayor Maggiore asked the chair of the Planning Commission and other members present to speak on the issue.

Pam Meigs, Planning Commission Chair, thanked all of the commissioners for their hard work on the ordinance; reported that the formation of a subcommittee had moved the project forward; and stated that she was proud to present the mixed use overlay ordinance to the Council.

Town Attorney Karpiak reviewed his memo submitted on the proposed environmental review for the ordinance. He stated that a negative declaration or mitigated negative declaration was needed and that an initial study should be done first to make a determination. He stated that a CEQA document would be ready for the Council's consideration with the presentation of the ordinance.

The Council discussed some of the parking requirements spelled out in the ordinance, the proposed height allowance, the density, the potential traffic, the definition of affordability, and the CEQA review required.

Councilmember Tremaine noted that the Town Council had already passed the housing element and done the prerequisite environmental review and that the Mixed Use Overlay ordinance was enabling legislation that the Town could use to show the State the Housing Element could be implemented.

Mayor Maggiore opened the discussion to the audience.

Brandon Ketcham, Planning Commission, noted that the Commission's recommendations were for future discussions only.

Shelley Hamilton, Planning Commissioner, stated that the Commission knew that they were passing the ordinance to the Council with significant issues to resolve; that the affordability aspect and the height aspect needed a more public review and that the Town Council needed to make those determinations; that the Council meetings provided a more public forum than the Planning Commission meetings; that the only other critical aspect was the need for a feasibility analysis of the affordability requirements and the land use elements; and that she didn't know what needed to be done as part of the CEQA review, but that the numbers need to be crunched.

Michael Mackintosh, owner, 60 Pastori, stated that he was glad that the Town was moving forward with developing standards to encourage projects to take place in town; expressed his hope that the Town could provide guidelines that would enable them to make a profit without overdeveloping the land; that he owned a piece of the property in question; and stated that the creek on his property should be daylighted.

M/S, Tremaine/Brandborg, Motion to direct staff to start the CEQA process and conduct a land analysis on the Fair Anselm parcels only.

AYES: All

Town of Fairfax Fiscal Year 2006/07 Financial Audit Report – Steve Larson from Caporicci & Larson, Certified Public Accountants

This item was continued to the June meeting.

Discussion and consideration of Ross Valley Fire JPA Amendment: Addition of Sleepy Hollow as a JPA Member

Ross Valley Chief Meagor presented the staff report. He outlined the terms of the proposed new Joint Powers Authority (JPA) Agreement that would include Sleepy Hollow as a full voting member and noted that the cost share for Fairfax would not change. He stated that there would be two voting members from each jurisdiction with at least one vote required from each jurisdiction to avoid a deadlock; that there was a special provision to allow an issue to be introduced three times and to require a vote from the minority agency; that the legal cost of forming the new JPA would be shared equally; that staffing of the three stations would be maintained; and that a two-year written notice would be required for an agency to withdraw from the JPA. Chief Meagor presented a summary of the capital assets of the agency.

The Town Council discussed the presentation and talked about the status of the assets of Sleepy Hollow, the fact that there was no financial advantage for Fairfax in the new JPA, and the voting structure proposed..

Mayor Maggiore opened the discussion to the public.

Mr. Finn spoke on behalf of the Sleepy Hollow Fire District. He stated that it was a new era for Sleepy Hollow; that concessions wouldn't have happened without Councilmember Tremaine's leadership; that Sleepy Hollow had also made concessions; that Sleepy Hollow would be paying \$134,000 more the first year of the new JPA; suggested that the station percentages should be used for the participation percentages; that the JPA would be to everyone's benefit; that Sleepy Hollow's financial records were public information; that Sleepy Hollow had healthy reserves but that their reserves were designated for start up costs for their own dept should the need arise; that the agreement with San Anselmo ended in September of 2009; and that he was hoping that the transition would be completed by then.

Frank Egger, Meadow Way, stated that it wasn't clear what the assets represented; that the GASB future obligation figures weren't included; that Fairfax and San Anselmo brought assets including fire houses, trucks and firefighters to the agreement while Sleepy Hollow wouldn't contribute any assets; that Fairfax would go from half governance to one-third governance at the same cost; that Sleepy Hollow would save over a million dollars a year by not starting their own service; and urged the Council to look at the value of the assets.

Chief Meagor clarified that the GASB 45 report would show the future pension liability for the Fire Service.

M/S, Brandborg/Tremaine, Motion to approve in concept the recommendation of the Ross Valley Fire Service Board to include the Sleepy Hollow Fire Protection District as a full member of the Ross Valley Fire Service.

AYES: All

Consent Calendar

**Approval of 2007-2008 Budget Amendments**

**Approval of Staffing Changes to Finance Department**

M/S, Tremaine/Weinsoff, Motion to approve the Consent Calendar as presented.

AYES: All

PUBLIC HEARING

Presentation of proposed Town of Fairfax Flood Mitigation Plan (Public Hearing)

Town Manager Rock presented the staff report.

Mayor Maggiore opened the public hearing and closed the public hearing when no speakers came forward.

Town Manager Rock noted that the second public hearing on the Flood Mitigation Plan would be held on June 4<sup>th</sup>.

On motion duly made and carried, the meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk