

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, March 4, 2009

The regular meeting was preceded by a closed session meeting at the Youth Center, 16 Park Rd., Planning and Building Services Director. 56.9(a)

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Susan Brandborg
Larry Bragman
Lew Tremaine
David Weinsoff

COUNCILMEMBERS ABSENT: Mary Ann Maggiore

STAFF MEMBERS PRESENT: Michael Rock, Town Manager
Jim Karpiak, Town Attorney
Mark Lockaby, Building Official
Ken Hughes, Police Chief
Larry Kennings, Acting Planning Director
Judy Anderson, Town Clerk
Joanne O'Hehir, Minutes Clerk

Mayor Weinsoff called the meeting to order at 7.35 pm.

Approval Of Agenda And Affidavit Of Posting

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

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

Announcement of Closed Session Action

Mayor Weinsoff announced that information was received from the Town Manager on the recruitment of a Planning and Building Services Director.

Announcements

Mayor Weinsoff stated that announcements were posted on the Town's Website.

Open Time for Public Expression

No speakers came forward.

Progress report on General Plan Update and Site Specific Plan – Planning (oral report)

Acting Planning Director Kennings provided an update and he noted that work on all the elements was underway.

Chair Weinsoff and Acting Planning Director Kennings discussed how the presentation would be made to the Town Council.

Acting Planning Director Kennings stated that the Marin Community foundation might be interested in a partnership with the Town.

Acting Planning Director Kennings and Chair Weinsoff discussed the timing of public hearings.

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

Consent Calendar

Approval of Town Council minutes of October 25, 2008 and February 4, 2009 – Town Clerk

Adoption of Resolution No. 09-18, A Resolution of the Town Council of the Town of Fairfax granting a Driveway Variance for a project located at 15 Acacia Road, Assessor's Parcel No. 001-112-31, and Adopting the Required Findings – Town Attorney

**Proclamation declaring March as Fair Housing Month – Town Clerk
Adoption of Resolution No. 09-19 approving changes to the current parking bail schedule to recover increased State fees under SB1407 - Chief of Police**

Adoption of Resolution No. 09-21 supporting the Federal Economic Stimulus project of repaving Sir Francis Drake from June Court to the western Town Limits - Public Works

In response to a question from Council Member Brandborg, Town Manager Rock stated that for the item concerning the Adoption of Resolution No. 09-21, matching funds from Measure K had been identified for the additional costs of repaving Sir Francis Drake.

Further to the item on the Adoption of Resolution No. 09-21, Council Member Bragman congratulated staff for their successful proposal to the Transportation Authority of Marin (TAM).

Council Member Bragman stated that on the item concerning the minutes of February 4, 2009, on Page 10, the word "not" should be added to ".....parks were excluded for smokers", to read ".....parks were not excluded for smokers".

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

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

Regular Agenda

Discussion/Consideration of request by the owner of School Street Plaza to expand the list of permitted uses in the Limited Commercial Zone - Planning

Town Manager Rock presented the staff report. He stated that the owner had been unable to attract businesses that were suitable under the list of permitted uses and that he requested more flexibility for the kind of businesses that could use his property.

Council Member Brandborg stated that she was concerned that an ordinance would be necessary for anyone in the business community who had a hardship case, although she did not object in this instance.

Chair Weinsoff stated that flexibility was necessary during these times of extraordinarily economic stress.

Council Member Tremaine stated that he would support rezoning the property.

Council Member Bragman noted that if the zoning on this site were changed, then two other properties, including Deer Park Villas, would be affected. Council Member Bragman stated that he believed it would impact the neighborhood and that the Planning Commission should investigate further.

Council Member Brandborg stated that the owner should apply for a Use Permit.

Council Members and Town Manager Rock discussed the rezoning of the property.

Mayor Weinsoff opened the public hearing.

The applicant stated that a bicycle-repair business wished to rent space and that he had hoped to obtain a Use Permit.

Mayor Weinsoff closed the public hearing.

Council Member Bragman stated that staff should consider the suitability of the business under a Use Permit.

Town Attorney Karpiak suggested that staff should work with the applicant; that Councilmembers should not look for flexibility in the Town's rules.

The applicant was advised to speak to the Town Manager.

Mid-Year Budget Review - Finance

Town Treasurer presented the Treasurer's report. Town Treasurer Identified savings of \$40,000 over the forthcoming year.

Finance Director Ireland-Ashley, provided Council Members with finance materials before she presented the staff report.

Finance Director Ireland-Ashley stated that the Town should be \$180,000 above projected revenue by June 2009. However, this could be lower if the expected fall in investments and Building and Planning revenue occurred.

Finance Director Ireland-Ashley stated that otherwise, little change would be expected; that foreclosures had been minimal and few homeowners had applied for property tax reassessment.

Finance Director Ireland-Ashley discussed budgets for other departments and expenses, and stressed the need for the town to be being conservative with spending.

Mayor Weinsoff and Finance Director Ireland-Ashley discussed house sales in relation to Proposition 13.

Council Member Tremaine and Town Manager Rock thanked Finance Director Ireland-Ashley for the report.

Town Manager Rock stated that Fairfax's financial position could change depending on the results of the ballot slated for May 19, 2009.

In response to Council Member Bragman, Finance Director Ireland-Ashley stated that pension and insurance costs had fallen over the past two years.

Mayor Weinsoff opened the public hearing.

Nicolo Calderan, Frustruck Avenue, stated that he wished to know what had caused the budget increase in the past two year.

In response to Mr. Calderan, Finance Director Ireland-Ashely stated that flood expenditures were made before they were reimbursed.

Pam Meigs, Cyrpuss Avenue, stated that she wished to know why the costs of the Police Department were much higher than those for the Fire Department.

In response to Ms. Meigs, Town Manager rock stated that expenses were shared with other towns for the Fire Department and that Fairfax bore the cost, alone, for the Police Department.

Mayor Weinsoff closed the public hearing.

Adoption of Resolution No. 09-08, A Resolution of the Town Council of the Town of Fairfax adopting guidelines for the placement of surface-mounted utility facilities in the public right-of-way - Public Works (continued from January 14 and February 4)

Town Attorney Karpiak presented the staff report. He stated that he had revised the guidelines to require the Town Council to be notified when surface-mounted utility facilities would be placed in open spaces and parks. He also stated that he had amended the appeals process language.

Town Attorney Karpiak and Council Member Bragman discussed a clause in relation to pedestrians and cyclists, which resulted in a minor change.

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

M/S, Bragman/Tremaine, Motion to adopt Resolution No. 09-08, A Resolution of the the Town Council of the Town of Fairfax adopting guidelines for the placement of surface-mounted utility facilities in the public right-of-way, with the amendment under Guidelines for Locating Surface-Mounted Facilities, B. 3. m) that “.....frequented by pedestrians or cyclists” be deleted.

AYES: Brandborg, Weinssoff, Bragman, Tremaine
NOES: None
ABSENT: Maggiore

Adoption of Resolution No. 09-20 vesting the power to appoint, remove or demote department heads in the Town Manager - Town Manager

Town Manager rock presented the staff report. He requested Councilmembers to support this resolution in order to vest authority in the Town Manager for the hire of senior staff.

Council Member Tremaine stated that Town Manager Rock had earned his trust to make decisions on senior appointments.

Council Member Brandborg stated that that she did not support this action because the town had few employees and managers and that staff turnover could be high.

Council Member Bragman stated that the Town Manager had performed excellent work, but that he had reservations about giving up the Council’s ability to review major hires, such as the hiring of a police chief.

Mayor Weinssoff stated that he would wish the Council to retain the function of hiring a police chief, but was comfortable for the Town Manager to make decisions on other hires.

Town Manager Rock stated that he would like the support of the Council so that he could assume responsibility for the hire of senior staff, other than the police chief. Town Manager Rock noted that Town Managers usually made senior appointments.

Mayor Weinssoff opened the public hearing.

Nicolo Calderan, Frustruck Avenue, stated that the democratic element would be removed if the Town Council gave up their right to recruit senior staff to the Town Manager.

Pam Meigs, Cypress Avenue, stated that she was torn on the subject, but that she believed it would not be right for Fairfax. She stated that she had voted for particular officials to govern the town, who represented the community.

Mallory Geithem, Willow Avenue, agreed with Council Member Brandborg that the Council should retain the right to recruit senior staff.

Mayor Weinssoff closed the public hearing.

Mayor Weinssoff stated that he did not believe this would be a concern in a small community such as Fairfax, and that the Town Manager usually looked towards the Town Council for decision-making.

Council Member Brandborg stated that she preferred an administrative form of government; that open dialogue was necessary between the Town Manager and Town Council for assessing staff.

Council Member Tremaine noted that power would revert to the Council for one year if a new town manager was recruited, which made this a decision on the current Town Manager.

M/S, Tremaine/Bragman, Motion to adopt Resolution No. 09-20 vesting the power to appoint, remove or demote department heads in the Town Manager, with the exception of the position of police chief.

Bragman	Aye
Brandborg	No
Vice-Mayor Tremaine	Aye
Mayor Weinssoff	Aye

Motion passed.

Discussion/Consideration of Town smoking ordinance - Bragman

Council Member Bragman presented the report. He noted that Town Code did not provide protection to renters/owners of multi-units who could be affected by second hand smoke from neighboring units that might flow through ventilation units, etc. The amendment to the smoking ordinance would address this.

Vice-Mayor Tremaine disagreed and stated that this was an issue between the landlord and renter or between neighbors. He stated that landlords could choose to have smoke-free tenants; that no-one should be told what to do in a home that was theirs legally in every other respect.

Council Member Brandborg stated that there was a smoking ordinance already in place and that she tended to agree with Vice-Mayor Tremaine.

Council Member Bragman noted that there was no law that protected tenants from being exposed to carcinogenic toxins. Furthermore, he stated that the new law would not prohibit current tenants from smoking but would offer new tenants the right to disclosure and to a safer environment.

Vice-Mayor Tremaine stated that he could favor disclosure but would not support an action that dictated what people did in their own apartments.

Mayor Weinsoff stated that he would support the new measure because he knew of a tenant who had a problem with second-hand smoke.

Mayor Weinsoff opened the public hearing.

Mark Bell, Dominga, agreed with disclosure but stated that if smoke-free areas were provided, then smoking apartments should also be provided. Furthermore, barbecues were toxic, so it would be hard to know where to set limitations.

Mallory Geitheim, Willow, agreed with Vice-Mayor Tremaine, that what people did in their apartments was their own affair, unless it affected other apartment-dwellers.

Council Member Bragman stated that he would draft a proposal.

Reports from Town Officials

Town Manager Rock stated that both OES and FEMA had approved the Council-adopted Flood Mitigation Plan.

Council Reports and Comments

Council Member Brandborg noted that the County had sent letters to the owners of creek homes which concerned erosion problems, and that this information was available on the Town Manager's blog.

Council Member Bragman discussed a controversial desalination project in San Pablo Bay, which he believed would have a huge impact on housing and development. He noted that an EIR had been approved and that alternative plans existed which would be more economically beneficial to smaller firms rather than multinationals.

On motion duly made and carried, the meeting was adjourned at 9.20pm.