

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, June 3, 2009

The regular meeting was preceded by a special meeting closed session regarding labor negotiations and pending litigation.

Call to Order/Roll Call:

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

**STAFF MEMBERS PRESENT:** Michael Rock, Town Manager  
Jim Moore, Planning Director  
Ken Hughes, Police Chief  
Laurie Ireland-Ashley, Finance  
Mark Lockaby, Building Official  
Jim Karpiak, Town Attorney  
Yvonne Roberts, Management Analyst  
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, Bragman/Brandborg, Motion to approve the agenda and the affidavit of posting with the items concerning the amendments to the Tobacco Ordinance and the proposed resolution to adopt mission, vision and core values for the Town continued to the next meeting.

AYES: All

Announcement of Closed Session Action

Mayor Weinsoff announced that information was received from the Town Manager and Legal Counsel on labor negotiations and pending litigation and that direction had been given.

Announcements

Mayor Weinsoff stated that vacancy announcements were posted on the Town's Website; that the Fairfax Festival 2009 would be taking place over the weekend of June 13 and 14 with the parade to start at 10 a.m.; that the meeting would be adjourned in the memory of Carl Dern, Fairfax resident and sculptor, who passed away May 11, 2009; that the Town Hall flag was still flown at half-staff on Fridays in support of the service men and women who had died during the conflict in the Middle East; that he had attended a Memorial Day service at the County and had been the only mayor in attendance; and that Iron Springs Pub and Brewery had celebrated their one year anniversary of "Give Back Tuesdays", during which time they had donated over \$17,000 to local charities.

### Open Time for Public Expression

Yvette Wakefield, resident, discussed a problem concerning loud music that emanated from businesses out onto the sidewalk, which she had previously brought to the Council's attention and which had not yet been resolved. She further stated that there was a trash problem in town and suggested that screens be placed over storm drains to prevent trash falling in and that fines should be assessed for littering.

Town Manager Rock stated that he would call Ms. Wakefield to discuss the loud music problem and Mayor Weinsoff directed Town Manager Rock and the Public Works Department to look into the trash problem and investigate the possibility of weekend trash clearing by Marin Sanitary.

Tony Yudice, Forrest Terrace, stated that he was concerned about an article in the Marin Independent Journal about a dog being shot by the police.

Chief Hughes stated that the two shots had been fired at a pit bull dog, that both shots hit the dog which had been running toward officers, but that the dog had survived.

Jim Fox, Sleepy Hollow, provided an update on the Jerry Garcia memorial project. He presented a prototype of a guitar sculpture, which he stated would be on display during the Festival.

### Annual report from Representative to the Marin Commission on Aging, Diane Bright

Diane Bright, Representative to the Marin Commission on Aging, presented her annual report. Ms. Bright stated that she was active on three committees that pertained to the older population and she presented materials to Council members.

### Interview and appointment of candidate to serve as the Fairfax representative to the Marin Commission on Aging for a three-year term to June 30, 2012 – Town Clerk

The Council interviewed Diane Bright.

M/S, Tremaine/Maggiore, Motion to appoint Diana Bright as to continue to serve as the Fairfax representative to the Marin Commission on Aging for a three-year term to June 30, 2012.

AYES: All

### Presentation by Ritter Center regarding their "Art Houses of Marin" project

Diane Linn, Executive Director of the Ritter Center, provided materials to the Council Members, and presented a report about the fund raising campaign involving the installation of small decorated houses throughout Marin. Ms. Linn explained that the organization's aim was to end homelessness in the County; that the art houses would be installed throughout the County as a fund raising event for the homeless.

In response to a question from Councilmember Brandborg, Ms. Linn stated that the public art installations would be temporary, would be displayed for two to three months over the holiday season, and would be auctioned off to raise funds for Ritter Center.

Town Manager Rock stated that he would present a license agreement at a future Town Council meeting regarding liability for the art.

Presentation by Jason Dow, General Manager, Central Marin Sanitary Services on proposed Food to Energy Project

Jason Dow presented the report on the proposed Food to Energy Project and provided materials to the Council Members. Mr. Dow discussed the proposed project, which would convert food waste from restaurants into bio gas, which would save the food from being tipped into a landfill.

Councilmember Bragman suggested that they work with the County's zero waste consultant.

Patty Garbarino, Marin Sanitary Services, stated her hope that their project could save money, which they would hope to pass on to residents.

**CONSENT CALENDAR**

**Approval of Town Council minutes of May 6, 2009 – Town Clerk**

**Adoption of Resolution No. 09-37, A Resolution of the Town Council of the Town of Fairfax authorizing a Notice of Completion for the Pastori Pipe Replacement Project – Public Works**

**Adoption of Resolution No. 09-38, A Resolution of the Town Council of the Town of Fairfax authorizing temporary closure of certain streets and portions thereof, and the closure of the Pavilion parking lot to the public, to allow a Town Parade on June 13, 2009 and Town Festival, including an Eco-fest, on June 13 and 14, 2009 – Town Clerk**

**Adoption of Resolution No. 09-39, A Resolution of the Town Council of the Town of Fairfax Approving the Ross Valley Paramedic Authority Tax Levy for the 2009-2010 Fiscal Year – Finance**

**Adoption of Resolution No. 09-40, A Resolution of the Town Council of the Town of Fairfax Setting the Amount of The Municipal Services Tax for The 2009-2010 Fiscal Year**

**Adoption of Resolution No. 09-41, A Resolution of the Town Council of the Town of Fairfax Setting the Amount of the Special Municipal Services Tax for the 2009-2010 Fiscal Year**

**Adoption of Resolution No. 09-42, A Resolution of the Town Council of the Town of Fairfax Setting the Amount of the Utility Users Tax for the 2009-2010 Fiscal Year**

**Adoption of Resolution No. 09-43, A Resolution of the Town Council of the Town of Fairfax Setting the Amount of the Pension Override Tax for the 2009-2010 Fiscal Year**

**Adoption of Resolution No. 09-44, A Resolution of the Town Council of the Town of Fairfax Setting A Fee For The Purpose Of Funding Local Stormwater Pollution Prevention Activities For Fiscal Year 2009-2010**

**Adoption of Resolution No. 09-45, A Resolution of the Town Council of the Town of Fairfax Setting the Tax Rate in connection with its general obligation bonds (Measure K Bond Assessment) for fiscal year 2009-2010**

**Adoption of Resolution No. 09-46, A Resolution of the Town Council of the Town of Fairfax Adopting the Marin General Services Administration (MGSA) Taxicab Regulation Program as Revised for Taxicab Permits and Regulation within the Town of Fairfax – Town Manager**

**Report on solar digital signage – Public Works**

**Adoption of Resolution No. 09-47, A Resolution of the Town Council of the Town of Fairfax finding that a severe fiscal hardship will exist if additional Town Property Tax funds are seized and additional unfunded mandates are adopted by the State of California – Town Manager**

In response to Councilmember Bragman's question about approving the Ross Valley Paramedic Authority Tax Levy, Town Manager Rock stated that it was a special tax that needed to be approved by the Council, and that the rate would not rise.

Michael Mackintosh, Pastori Avenue, asked how the fees were set for the general obligation bonds.

Town Manager Rock stated that the fees were set according to the bond agreements for Measure "K," which was approved by the voters.

In response to Mr. Mackintosh's question about the action the Town was taking with regard to the State of California's possible appropriation of property taxes, Mayor Weinsoff explained that, through the League of California Cities, the Town would be submitting a letter to the State vehemently opposing the action.

In further response to Mr. Mackintosh's question on the item that concerned the Pastori Pipe Replacement Project, Town Manager Rock stated that a section of Pastori Avenue had been completed to the Town's satisfaction and that Notice of Completion would allow the contractor to be paid. He noted that the whole project had yet to be completed.

M/S, Brandborg/Tremaine, Motion to approve the Consent Agenda.

Ayes: All

Introduction and First Reading of Ordinance No. 742, 50% Remodel Ordinance – Planning (To be continued to July 1, 2009)

Mayor Weinsoff stated that this item would be continued to the July 1, 2009 meeting.

Introduction and First Reading of Ordinance No. 743, An Ordinance of the Town of Fairfax Repealing and Replacing Town Code Chapter 8.36, Regulating the Removal of Trees (Continued from May 6, 2009) – Planning

Planning Director Moore presented the staff report. He noted that the draft ordinance had been reviewed by the Town Attorney and that the amendments requested by the Town Council had been made.

Councilmember Bragman expressed approval that nuisance trees had been exempted from the process, and Town Attorney Karpiak explained that this had been at the request of the Fire Chief.

Councilmember Brandborg stated that she disagreed that a fee should be charged for tree removal and that she was opposed to a peer review process.

Councilmember Bragman stated that an application fee should not be charged because it was unlikely that it would cover the cost of administering the permit. Councilmember Bragman noted that it was rare for a second opinion to be sought for tree removal applications.

Mayor Weinsoff opened the public hearing.

Bill Madsen, Porteous Avenue, stated that a permit application would alert neighbors to a tree removal but that he was against an application fee, which might encourage residents to circumvent the Tree Ordinance.

Dave Johansen, Ridge Road, stated that the tree permit process was cumbersome and described the difficulty he had experienced trying to remove a dead and dangerous tree. He further stated that it was a waste of time to require residents to obtain a permit to remove a dead tree.

Mayor Weinsoff stated that expedited permits were available under such circumstances and that emergency tree removal had been included in the Ordinance.

Michael Mackintosh stated that he had found the emergency tree removal process easy.

Mayor Weinsoff closed the public hearing.

Councilmember Bragman stated that it was a good Ordinance which he would support if an application fee was not charged, to which there was general consensus among Council Members.

M/S, Tremaine/Bragman, Motion to waive further reading of Ordinance No. 743, An Ordinance of the Town of Fairfax Repealing and Replacing Town Code Chapter 8.36, Regulating the Removal of Trees with the amount of the fee to be removed but language regarding the fee to be retained as a placeholder should future fees be imposed.

Ayes: All

M/S, Bragman/Tremaine, Motion to approve Ordinance No. 743, An Ordinance of the Town of Fairfax Repealing and Replacing Town Code Chapter 8.36, Regulating the Removal of Trees with the amount of the fee to be removed but language regarding the fee to be retained as a placeholder should future fees be imposed.

Ayes: All

Mayor Weinsoff announced that the Items regarding the adoption of a resolution setting new fees and 177 Frustuck Avenue would be continued to the July first meeting.

Mayor Weinsoff adjourned the meeting for a break between 9:20 to 9:35 p.m.

Councilmember Maggiore left the meeting at 9:20 p.m.

Mayor Weinsoff announced that the item concerning Capital Project Engineering Consultant Services would be the first item heard under the Regular Agenda.

Approval of contract for Capital Project Engineering Consultant Services

Management Analyst Yvonne Roberts stated that two of the firms that had submitted proposals had been selected for interview and that Coastland Engineering had been offered the contract.

Mayor Weinsoff opened the public hearing but no speakers came forward.

M/S, Brandborg/Tremaine, Motion to approve a contract for Capital Project Engineering Consultant Services with Coastland Engineering.

Ayes: Bragman, Brandborg, Tremaine, Weinsoff  
Noes: None  
Absent: Maggiore

Report on the status of the General Plan Update; Specific Plan Update

Planning Director Moore presented the staff report; discussed procedures that had been instigated to speed up the process of updating the General Plan by the Planning Commission; provided an update on the various Elements; stated that his objective was to present the Elements to the Town Council before the end of the year; and reported on a meeting with staff at the Marin Community Foundation regarding possible funding for an environmental impact report on the Specific Plan; and that it appeared that pre-development funds would not be available from the Foundation.

Authorization for Siren Purchase and Installation for Cascade Neighborhood – Police Department

Chief Hughes presented the staff report.

Sergeant Baker discussed the placement of the siren, and he noted that the siren would not be tested during the period January 31 – July 31, when spotted owls could be nesting.

Mayor Weinsoff opened the public hearing but no speakers came forward.

M/S, Brandborg/Bragman, Motion to authorize siren purchase and installation for the Cascade Neighborhood as proposed.

Ayes: Bragman, Brandborg, Tremaine, Weinsoff  
Noes: None  
Absent: Maggiore

Introduction and First Reading of Draft Ordinance No. 744, Amending Section 2.12.070 (B) (3) regarding the powers and duties of the Town Manager to appoint and remove certain officers - Town Attorney

Town Attorney Karpiak presented the staff report and noted that he had included amendments that had been requested by the Town Council.

M/S, Tremaine/Bragman, Motion to waive further reading of Ordinance No. 744, an Ordinance of the Town Council of the Town of Fairfax, amending Section 2.12.070 (B) (3) regarding the powers and duties of the Town Manager to appoint and remove certain officers.

Ayes: Bragman, Brandborg, Tremaine, Weinsoff

Noes: None  
Absent: Maggiore

M/S, Tremaine/Bragman, Motion to introduce Ordinance No. 744, an Ordinance of the Town Council of the Town of Fairfax amending Section 2.12.070 (B) (3) regarding the powers and duties of the Town Manager to appoint and remove certain officers.

Ayes: Bragman, Brandborg, Tremaine, Weinsoff  
Noes: None  
Absent: Maggiore

Renewal of Agreement for Town Attorney services

Town Manager Rock presented the staff report. He stated that the Town Attorney had requested a rate increase after a period of three years, and that he believed the increase was modest. Town Manager Rock noted that the number of Council Meetings had been reduced and that the Town had cut back on legal services.

Mayor Weinsoff opened the public hearing but no speakers came forward.

M/S, Tremaine/Brandborg, Motion to renew the agreement for Town Attorney services.

Ayes: Bragman, Brandborg, Tremaine, Weinsoff  
Noes: None  
Absent: Maggiore

Mayor Weinsoff announced that the items concerning the discussion of amendments to the tobacco ordinance and the resolution to adopt mission, vision and core values had been continued to the July meeting.

Discussion/Consideration of the Implementation of an Administrative Citation Policy

Building Official Lockaby presented a brief report and stated that the aim of the policy would be to encourage homeowners to contact the Town instead of ignoring abatement letters.

Councilmember Bragman expressed his support for the citation policy. He stated that he believed a system of civil citations would provide an incentive for residents to comply with the law.

Mayor Weinsoff opened the public hearing but no speakers came forward.

There was a consensus of the Town Council to move forward with the policy.

Report and Discussion on Brush Clearing Project on Scenic Road

Councilmember Bragman presented the report. He stated that six fire cadets and other volunteers had removed brush around property on Scenic Road and suggested that the Council might wish to consider sponsoring more brush-clearing projects. He commended John Reed, Volunteer Board chair for his extensive work coordinating the event; noted that the chipper and crew were donated by Fire Safe Marin; and reiterated how important it was to reduce the fuel load in Fairfax neighborhoods.

Mayor Weinssoff opened the discussion to the public.

Tony Yudice, Forest Terrace, stated that visibility was restricted on his road, and that brush clearing could improve visibility.

#### Review of the Town's policies regarding contracts

Councilmember Bragman stated that under the present Town ordinances, the Town Manager could approve contracts up to \$15,000. Councilmember Bragman suggested that the Council should approve such contracts because they were ultimately responsible for the Town's budget and that they would benefit from gaining a better perspective of the Town's finances.

Mayor Weinssoff stated that the Town Manager should decide upon the salary for new hires, provided it was within the agreed range.

Town Manager Rock confirmed that employees' salaries were set by Memorandums of Understanding that were set by the Council and that they had not exceeded the range.

Councilmember Bragman suggested that his proposal could apply just to non-personnel items. He explained that he was concerned that Council Members should have jurisdiction over items of expenditure that would not ordinarily be brought to their attention.

General consensus was reached that Councilmember Bragman would work with the Town Manager to draw up an ordinance for discussion.

#### Reports from Town Officials

Town Manger Rock stated that a special Council Meeting would be held on June 20, 2009 for budget hearings.

#### Council Reports and Comments

Councilmember Brandborg noted that the minutes of May 6, 2009 did not state that Mayor Weinssoff had been appointed to the Marin County Green Building Committee and that the item should have been noted on the agenda as an action item.

#### Adjournment

On Motion duly made and carried, the meeting was adjourned at 10:25 pm in memory of Carl Dern.

Respectfully submitted,

Joanne O'Hehir