

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, January 13, 2010

The regular meeting was preceded by a special meeting closed session regarding pending litigation, Fairfax v. Berg and Property Negotiation regarding 210 Sir Francis Drake Blvd.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Larry Bragman
Pam Hartwell-Herrero
John Reed
Lew Tremaine
David Weinsoff

STAFF MEMBERS PRESENT: Michael Rock, Town Manager
Jim Moore, Planning Director
Laurie Ireland-Ashley, Finance Director
Jim Karpiak, Town Attorney
Kathy Wilkie, Public Works Director
Mark Lockaby, Building Official

Mayor Tremaine called the meeting to order at 7:35 pm.

Approval of Agenda and Affidavit of Posting

M/S, Weinsoff/Bragman, Motion to approve the agenda and the Affidavit of Posting with the item regarding the Ross Valley School District to be heard first on the regular agenda at the request of Mayor Tremaine.

AYES: Hartwell-Herrero, Reed, Tremaine, Weinsoff
NOES: None
ABSTAIN: Bragman

Councilmember Bragman abstained from the vote and stated that the agenda that was posted was not the amended agenda with the expanded description for the item regarding the siting of a new school, and that there needed to be more specific noticing per Section 16.080 of the Town Code.

Announcement of Closed Session Action

Mayor Tremaine announced that the Council had met with the Planning Director regarding a potential site for an affordable housing project and had conferred with legal counsel regarding Fairfax v. John and Marlia Berg, that direction had been given to staff and that no action had been taken.

Announcements

Mayor Tremaine announced the openings on the General Plan Advisory Committee, the Youth Commission, the Open Space Committee and the Affordable Housing Committee and announced that a public Fire Forum would be held on Saturday, January 30th, at the Women's Club from 9:30 a.m. to 12:30 p.m.

Open Time for Public Expression

Anya Schandler, Barker Ave., stated that she wished to speak to the item regarding the school siting. Mayor Tremaine informed her that she could speak to the item when it was heard later on

the agenda.

Presentation on Project Homeless Connect – Mary O’Mara

Mary O’Mara, of Marin Link, Inc., presented an overview of Project Homeless. She described Project Homeless Connect as an initiative organized by MarinLink, a non-profit organization located at the Northgate Mall, in close collaboration with the Department of Health and Human Services, other government agencies, the private sector, community nonprofits, religious organizations and individuals. She stated that one of the goals of Project Homeless Connect was to improve access to services for homeless citizens and that through a contract with the Marin County Board of Supervisors, they were staging outreach events at various locations in the County. She announced that an event was planned for Thursday, February 18th at the Fairfax Women’s Club from 10 a.m. to 2:00 p.m. where services would be brought in for the homeless. She described the services that would be available including medical screening, dentists, food and clothing; noted that it was being done in cooperation with the Town of San Anselmo; that there would be no cost to the Town; that the outreach was to the precariously housed as well as to the homeless; and that she was asking for the Town’s support for the venture.

There was a consensus of the Council to support the venture.

Presentation of the FY 2007/08 Audit – Caporicci and Larson, CPA

Town Manager Rock introduced Mr. Larson of Caporicci and Larson, who presented the 2007-08 Audit. He stated that great improvement had been made but that there was still work to do; that Finance Director Ireland-Ashley had done a tremendous amount of work to enable the audit to be completed; and that the balances presented at the end of the 2007-08 were accurate.

Finance Director Ireland-Ashley stated that the 2008-09 Audit should be the one being considered, but that it would be presented in Spring of 2010 and the Audit of 2009-10 presented the first part of 2011, to accomplish a return to normal scheduling of audits. She outlined some of the changes that had been made in the Finance Department including the creation of a detailed structure document, the creation of a Finance Committee to provide more oversight, and the use of the Town Treasurer to review financial statements before presentation to the Council.

Vice Mayor Bragman asked if Director Ireland-Ashley had clerical support in the department and was told that she did not. Town Manager Rock stated that he was going to try to provide part time financial help for Finance in the next Town budget.

Presentation on Model Green Building Ordinance - Bob Brown, City of San Rafael Community Development Director

Planning and Building Services Director Moore introduced Mr. Brown and noted that he was a member of the Marin Climate and Energy Group and BERST (Green Building, Energy Retrofit and Solar Transformation).

Mr. Brown described the efforts that had been made to provide a model ordinance for implementation by the various Marin jurisdictions. He stated that that they were attempting to have all the Marin jurisdictions adopt green building regulations for new construction and remodeling and to recommend parameters for a comprehensive energy efficiency and renewable energy retrofit program for existing buildings. He explained the various green building standards and rating systems available and how they were applied. He gave examples of the added costs required for green building projects to illustrate how the extra cost produced value savings. He described the provisions of AB811 that allowed local governments to provide property assessed clean energy financing. He stated that all nine Bay Area counties were working on similar financing with the guidance of the Association of Bay Area Governments and that they might get a ten million dollar

federal stimulus grant for that purpose.

Councilmember Weinsoff thanked the City of San Rafael for taking the lead in the process and noted that Marin Builders Association had a display of green building materials available to the public.

Councilmember Hartwell-Herrero ascertained that there were ways to individualize the model ordinance, including modifications to accommodate the smaller homes in Fairfax. She also suggested that applicants be advised to earn points in a variety of categories for the best results.

Mayor Tremaine opened the discussion to the public.

Niccolo Caldararo, Frustuck Ave., cautioned the Council to be careful about unintended consequences. He stated that tearing down buildings used lots of energy and that green products didn't always live up to their claims. He commended the efforts to reduce the carbon footprint but advised that tearing down buildings should be done with skepticism and caution.

Chris Elanus, stated that many people would be needed and would have to be trained to execute the retrofits and to evaluate them.

Mr. Brown stated that specific training was needed and that some Federal stimulus money was being used to train contractors, architects and others in green technology.

Councilmember Hartwell-Herrero ascertained that BERST would be providing information about certified green point raters.

Vice Mayor Bragman asked if the San Francisco ordinance had been reviewed and Mr. Brown responded that the San Francisco ordinance only addressed new building, not remodeling, and stated that they had reviewed all the green building ordinances in the Bay Area.

Councilmember Reed noted that some policy changes could be made to reduce traffic and its impact and that transportation should also be considered.

Director Moore stated that the Marin Climate and Energy group was working with the Transportation Authority of Marin on the transportation piece.

Councilmember Reports and Comments

Councilmember Hartwell-Herrero reported on her attendance at the Marin County Mayors and Council Members meeting in December. Councilmembers Weinsoff and Reed also reported that they had attended the same meeting.

Councilmember Hartwell-Herrero also reported on a Community Development Block Grant meeting that she had attended representing the Town.

Mayor Tremaine reported on a meeting of the Marin Energy Authority and stated that all the other cities except Ross had voted to continue their participation in the Authority.

Discuss/set council meeting date(s) for Updating Strategic Financial Plan

Town Manager Rock led a discussion about updating the Town's Strategic Financial Plan and the date of Saturday, February 27th from 9 a.m. to Noon was set for a special Council meeting to update the Plan.

Consent Calendar

Approval of Town Council minutes of November 30, December 2 and 14 , 2009 – Town Clerk

Accept and File Monthly Finance Reports for November, 2009 – Finance

Report on the status of the General Plan Update – Planning

Adoption of a Resolution of the Town Council of the Town of Fairfax as a Member Agency of MERA (Marin Emergency Radio Authority), Authorizing Refunding and Approving the Restated Operating Agreement – Town Manager

Award of a Consultant Services Agreement to California Infrastructure Consultancy, Inc. for the preparation of an RFP for the Creek Road Bridge Seismic Upgrade Design – Public Works

The draft minutes of December 3rd were discussed; Councilmember Hartwell-Herrero requested that the employer of Paul Finn be corrected to be “Local Power;” Councilmember Reed asked for a correction of the area of sidewalk that needed improvement downtown; and Councilmember Weinsoff asked that “and staff” be added to the description of a meeting with Dr. Peters of the Marin Community Foundation.

Michael Mackintosh, Marin Town and Country Club, asked to discuss the item about the General Plan Update and the Creek Road Bridge seismic upgrade on the Consent Calendar.

Planning and Building Services Director Moore presented the staff report orally regarding the General Plan Update and Public Works Director Wilkie presented a report on the Creek Road Bridge seismic upgrade.

Second Reading and adoption of Ordinance No. 748, an Ordinance extending a second unit amnesty program for a one-year period by amending chapter 17.048 of the Fairfax code regarding certain existing residential second units - *Planning*

Planning and Building Services Director Moore presented the staff report.

Vice Mayor Bragman requested that the adoption of the ordinance be continued until after the upcoming Fire Forum.

Peter Ramsay, Mono Ave., stated that he had been involved in planning and remodeling most of his career; that he was in the process of legalizing a second unit; that the fire department was requiring a sprinkler system for his entire house as a requirement for the second unit; that he believed that the Fire Code was being interpreted in a very strict way; and that something needed to be done to address the problem.

M/S, Bragman/Weinsoff, Motion to continue the item to the February 3rd Town Council meeting.

AYES: All

Mayor Tremaine adjourned the meeting for a break from 9 to 9:15 p.m.

Referring to the item discussed before the break, Town Attorney Karpiak explained the timing of the second unit amnesty ordinance and its effective date that would create a short period of time when the ordinance wouldn't be in force if the ordinance wasn't adopted at the current meeting.

M/S, Weinsoff/Reed, Motion to reconsider the last item.

AYES: All

M/S, Motion to waive further reading and to read the title only of Ordinance No. 748, An Ordinance of the Town Council of the Town of Fairfax extending the Second Unit Amnesty program.

AYES: All

Mayor Tremaine opened the public hearing and no speakers came forward.

M/S, Motion to adopt Ordinance No. 748, An Ordinance of the Town Council of the Town of Fairfax extending the Second Unit Amnesty program.

Roll Call Vote:

Weinsoff: AYE; Hartwell-Herrero: AYE; Bragman: NO; Reed: AYE; Tremaine: AYE

Update on the Ross Valley School District plans for a new K-5 School (Deer Park School or Marin Town and Country Club as potential sites), and remodel and addition to White Hill School – Town Manager

Town Manager Rock presented the staff report and introduced Sharon Sagar, Ross Valley School Board Chair, who presented an overview of the School District and its sites, and the project growth figures that necessitated the need for a new Kindergarten through 5th grade school site. She stated that the projected enrollment figures indicated that the schools would exceed capacity by 30% in 2014.

Councilmember Hartwell-Herrero asked how the enrollment numbers had been projected; how it was determined that it was a trend rather than a bubble; noted that there were almost no new homes built in Fairfax; that both of the proposed Fairfax sites would impact the creek and have environmental impacts; asked if the daycare center moved out, whether or not there would be sufficient space for a K-5 school at the site; asked if the District had looked at a possible purchase of the field site at Upper Brookside; and asked how many of the School District trustees lived in Fairfax.

Ms. Sagar described how the projections had been created using statistic including families moving into the community and children returning from private schools; stated that they were aware that both the sites in Fairfax had issues but that they didn't have perfect sites to consider; that classroom space would have to be added at Deer Park School to create a K-5 school; that there weren't many students in the area of Upper Brookside; and that she was the only Fairfax resident on the school board.

Councilmember Reed stated that people were questioning the growth numbers quoted and suggested that, if it were a bubble, whether or not the cost of portables had been examined; and asked about the impact on Safe Routes to School in terms of traffic impacts.

Ms. Sagar described the District's consideration of portables at an estimated cost of \$70,000 each to install and stated that they would work with the Safe Routes to School program regarding traffic.

Mayor Tremaine led a discussion of the Marin Town and Country Club site with questions about the impact of the voter approved zoning for the property, the environmental impact and the amount of money necessary for the purchase of the portion of the property considered as a school site.

Vice Mayor Bragman suggested that the money be used to improve the existing campuses.

Councilmember Weinsoff asked if it would be possible to replace the current structures with two-story buildings as was being done at Ross School and whether building would be done on the upper side of the school at White Hill. He also expressed concern about fire danger, ingress and egress and traffic impacts for the Deer Park School site.

Ms. Sagar stated that two-story buildings wouldn't give them any flexibility and could impact program quality, that building would occur on the upper side at White Hill and that all the impacts would be considered for any potential school site.

The Council reviewed the agenda because of the lateness of the hour, and agreed to continue the following items: discussion of the status of the perchlorethylene (PCE) spill at the Fair Anselm retail center; the implementation financing of the Marin Clean Energy program; the pilot Water Conservation Project; and providing Flood Gate Plans for individual homeowners and local builders in Fairfax.

Mayor Tremaine opened the discussion to the public.

Mimi Newton, Chair, Fairfax Open Space Committee, asked for permission to send a letter to the Ross Valley School District that was presented to the Town Council at the previous meeting for their review.

Anya Schandler, Barker Road, expressed concern about the financial, environmental and community impact of a new school at Deer Park and stated that Fairfax was not fairly represented on the School Board.

Donnie Poe, Creek Road, stated that nobody in his neighborhood had been told anything about the School District's plans for a new school at Deer Park; that they had been talking about existing traffic problems in the neighborhood with the Town for years; and expressed concern about Deer Park going from 120 to 280 students.

Mark Bell, Dominga Ave., stated that he wouldn't support a bond for the schools if the architects Rushton-Chartock were involved and expressed concern about traffic if a school were built at the Marin Town and Country Club site.

Janet Garvin, Porteous Ave., stated that there was no notice to the neighborhood of the meeting about the school siting and that she was alarmed by the possible traffic impacts as presented by Trevor Hughes.

Rebecca Burgess, Meernaa Ave., stated that both potential sites in Fairfax were part of the Corte Madera Creek Watershed, that the Marin Town and Country Club was a seasonal wetland, an Indian burial ground and a historical site, and that an impervious surface should not be built on a wetland.

Mallory Geitheim, Willow Ave., suggested that the District work with what they had and explore second stories at the existing sites.

Cindy Ross, Lansdale Ave., stated that she lived near Marin Town and Country Club and hadn't heard anything about the proposed new school site; that her son had gone through school in the Ross Valley School District; asked where the money would come from; stated that she wouldn't support a bond; and stated that she didn't want a new school but would support fixing the schools we already had.

Pam Meigs, Cypress Drive, asked that the School District be very careful about their projections and the numbers presented, especially if they were going to put concrete on open space land.

Valeri Hood, Dominga Ave., stated that she had been directed to the Ross Valley School District Web site and that accurate information was not available there. She challenged the numbers presented and stated that \$400,000 for portables sounded better than a \$41 million dollar bond.

Joseph Odom, 98 Porteous Ave., stated that the Town Council had an important role because a school bond wouldn't pass without the support of the Town Council; that an additional bridge and upgrade to the existing bridge at Marin Town and Country Club would be very expensive; that a sidewalk for Deer Park would also be expensive and would involve the removal of trees; that one-way streets in the neighborhood might be necessary to safely handle the traffic; that there should

be time to do environmental studies of both sites; and suggested that a public forum be convened to examine environmental impacts.

Diane Hoffman, Porteous Ave., stated that she had been a school teacher and a real estate broker; that the influx of families with children was due to the housing boom that was over; that the declining real estate market should reduce enrollment; and thanked the Town Council for their questions.

William Hill, Lansdale resident since 1972, suggested that the District either go back to using School Street Plaza or consider the former Albertson's as a site as part of urban renewal.

Vicki Burns, Pastori Ave., stated that the Marin Town and Country Club was a seasonal wetland that flooded; that she had raised two children in the Ross Valley School District; and that a school at the site would have a negative environmental impact and would increase traffic dramatically on a small street.

Valeri Hood, Dominga Ave., stated that Fairfax was under-represented on the Ross Valley School Board and that San Anselmo had the votes to make the decision.

Frank Egger, Meadow Way, stated that the possibility of a school at Marin Town and Country Club raised a number of community issues and that three ballot measures would be necessary to proceed; one to buy the property, one to zone the property and one to build the new school. He described the political history of the property and the zoning that had been accomplished by a vote of the people. He suggested that the Flood Zone District could purchase the back half of the property and the School District could purchase the front portion to satisfy both needs.

David Mollekin, 60 Porteous Ave., stated that he would soon have two young children in the Ross Valley School District but that he also cared about the planet; and reiterated Ms. Sagar's response that second stories didn't provide quality education.

Ryan O'Neil, Open Space Committee, stated that, if the School District valued Fairfax residents, they wouldn't consider the Marin Town and Country Club at all; that he had a 3-year-old and a one-year-old; and that it was the most contested property since the West Bank.

Scott Hochstrasser, stated that he had done pro bono work for the School District in years past and suggested that it be considered an opportunity to create facilities and that it should be done with a positive attitude.

Michael Mackintosh, owner of Marin Town and Country Club, stated that transparency was important; that the Town Council should inform the community about the committees they serve on and what those committees were doing; that FEMA had mapped his property as part of the 500-year flood zone while Fairfax and San Anselmo were mostly in the 125-year flood zone; that if the Town was interested in flood control, the Town wouldn't have increased the pipe's capacity to put four times more water into the creek; that the Town had paid \$900,000 to accommodate drainage from the Hawthorne Hill portion of San Anselmo; and that he would like to keep flood water on his property.

Discussion of letter received from residents on Piper Lane on fire lane turnaround – Ross Valley Fire

Ross Valley Fire Chief Meagor presented the staff report and noted that the turnaround was a requirement of construction and was on private property.

Fairfax Police Sergeant O'Callaghan stated that the Police Department was working with the Fire Department and that they were waiting for the final paving and signage to develop a standard for

enforcement.

Building Official Lockaby suggested that the Town could start an abatement process to get the owner to act.

Carol Ferenchek, Piper Lane neighbor, stated that she represented the neighbors and that they had been fighting with the property owner for years.

There was a consensus of the Council to have staff meet and confer on the issue and present the Council with a plan to address the problem.

Update on the Pavilion Restoration Master Planning process – *Pavilion Restoration Committee*

Karen Arnold, member of the Pavilion Restoration Committee, presented a report about the progress made and noted that they would be applying to the Marin Community Foundation for funding to prepare a feasibility study for the Pavilion improvements.

Vice Mayor Bragman suggested that excavation be done under the Pavilion to create classroom space; that there would be major problems meeting the ADA (Americans with Disabilities Act) requirements for classrooms upstairs; that the space could be created as part of the vision for the Pavilion and as part of the seismic retrofit; and that an archaeologist would have to be on site during excavation.

Councilmember Reed thanked Ms. Arnold for all of her work on the project; stated that there was a need for more storage space; and that the building could be lifted.

Ms. Arnold clarified that a Capital Campaign was necessary to secure the funding for the improvements and that the grant application to the Marin Community Foundation was to begin that process. She explained how important community collaboration was to the Foundation and for the success of the project; that the Foundation was pleased about the cooperative efforts with San Anselmo to provide recreation programs; that they were not trying to change the look of the building; and that there were challenges to any design.

Mayor Tremaine opened the discussion to the public.

Bruce Ackerman, General Plan Advisory Committee, stated that the Town Center Element of the General Plan was before the Town Council and that the Pavilion was an important part of that Element.

William Hill, Lansdale Ave., suggested that the Pavilion be made into a museum in cooperation with Native Americans since it was on a midden and would promote an awareness of the archaeological history of the building.

Councilmember Hartwell-Herrero suggested that more public forums might get more collaborators involved in the project.

Update on the Hazardous Fuel Reduction Grant – *Public Works*

Public Works Director Wilkie presented the staff report. She stated that contracts were needed for community outreach, chipping services and for the clearing of roadside brush, and that the first step was to complete an environmental analysis.

Ross Valley Fire Chief Meagor stated that it would be a two-year grant process with the environmental review followed by public education with the actual vegetation removal possibly a year away.

Councilmember Hartwell-Herrero expressed concern about possible silt and erosion that would be created and the desire to remove non-native species. She stated that she was a Master Gardener and that leaving fallen trees in place was recommended.

Chief Meagor stated that a rotten tree was not a fire hazard but that trees that were infested with sudden oak death could be in the wrong place.

Councilmember Reed stated that the removal days were good for building community and neighborhoods and described a chipper day that was held that could be used as a kind of pilot for the program.

Director Wilkie noted that it would all be part of the environmental review.

Adoption of a Resolution of the Town Council of the Town of Fairfax approving the Maintenance Worker III position and establishing the salary range and deleting the Equipment Operator and Leadworker positions – Town Manager

Town Manager Rock presented the staff report.

Mayor Tremaine opened the discussion to the public.

Frank Egger, Meadow Way, asked if the Town was adding employees; whether or not the Town was paying for street sweeping; and stated that the Town would have been better served to hire a worker to sweep the streets.

Town Manager Rock clarified that no new employees were being added and that the Town would have to buy a new sweeper and someone to drive the sweeper at great expense to provide the service.

M/S, Weinsoff/Hartwell-Herrero, Motion to adopt the resolution approving the Maintenance Worker II position and establishing the salary range and deleting the Equipment Operator and Leadworker positions.

AYES: All

On motion duly made and carried, the meeting was adjourned at 11:50 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk