

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, October 6, 2010

The regular meeting was preceded by a special meeting closed session regarding: Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Pending Litigation, Marin Superior Court No. CV 086177, Town of Fairfax v. John and Marlia Berg.

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
Jim Karpiak, Town Attorney
Kathy Wilkie, Public Works Director
Laurie Ireland-Ashley, Finance Director
Roger Meagor, Ross Valley Fire Chief
Judy Anderson, Town Clerk

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

Approval of Agenda and Affidavit of Posting

M/S, Weinsoff/Reed, Motion to approve the agenda and the affidavit of posting.

AYES: All

Announcement of Closed Session Action

Mayor Tremaine announced that the Council had conferred with legal counsel regarding pending litigation, Fairfax v Berg, and that no action had been taken.

Announcements

Mayor Tremaine made the announcements as printed on the agenda; announced a vacancy on the Planning Commission and drew attention to the ordinance on the agenda to change the time of the Town Council meetings from 7:30 p.m. to 7:00 p.m.

Open Time for Public Expression

Mark Bell, Dominga Ave., stated that PG&E was going around Town jack hammering and leaving big patches in the roads over the holes and asked what the time limit was on newly surfaced roads before the utilities could cut into the roads.

Mayor Tremaine requested that staff report on the matter to the Town Council in their boxes.

Tom Boss, Marin County Bicycle Coalition, announced that the Biketoberfest would take place at the Fair-Anselm Plaza on Saturday, October 16th, with a race at White Hill School and a

showing of the film “Klunkerz” at Contratti Field on Friday night and invited all to attend.

Vice Mayor Bragman requested that a letter be sent to Assemblymember Huffman and Senator Leno asking that they sponsor legislation to provide for an “opt out” of the Smart Meter deployment.

Mayor Tremaine agreed to co-sign such a letter.

Presentation and acceptance of the Audit of the 2008-2009 Financial Statements, Maze and Associates

Finance Director Ireland-Ashley presented the staff report and introduced Catherine Yuen of Maze and Associates who presented the audit and responded to questions from the Town Council.

Adoption of a Resolution of the Town Council of the Town of Fairfax adopting the Final Budget of the Town of Fairfax for the Fiscal Year July 1, 2010 through June 30, 2011, providing for the appropriations and expenditures of all sums set forth in said budget and repealing all resolutions in conflict herewith – Finance

Town Manager Rock presented the budget overview. He stated that the budget was balanced for the current fiscal year; that ways to reorganize staff and other measures to address the long-term structural deficit were being explored; and that he was looking forward to the development and adoption of a fiscal sustainability plan.

Town Manager Rock and Finance Director Ireland-Ashley led a discussion of the proposed budget and answered questions from the Town Council.

Mayor Tremaine opened the discussion to the public.

Frank Egger, Meadow Way, responded to the inclusion of \$50,000 for bridge design for Creek Road and Meadow Way bridges, stated that the last time the Meadow Way Bridge was discussed there was a proposal to change the bridge from wood to concrete and the neighborhood had been vehemently opposed. He suggested that the neighborhood be notified and have a chance to comment on the project before it appeared in the budget.

Mayor Tremaine reported that the matter had been discussed in the Finance Committee, that he was fully aware of the political problem with the Meadow Way bridge, that there were CalTRANS issues with the bridge that had to be worked out, that both bridges had aging issues, and assured Mr. Egger that nothing was going to be sneaked by the neighbors.

Frank Egger, Meadow Way, stated that the Meadow Way bridge was a sturdy bridge that had been built in 1956, and asked that the neighborhood be notified before moving forward with any project on the bridge.

M/S, Weinsoff/Bragman, Motion to approve the budget as presented.

AYES: All

Rain Garden for Town Hall, Rachel DeMicco of Sustainable Fairfax (10 minutes)

Jeffrey Adams of SPAWN and Rachel DeMicco of Sustainable Fairfax, described a proposal to install a rain garden behind Town Hall.

Ms. DeMicco related the history of the project and described a rain garden workshop that Sustainable Fairfax had conducted. She described some of the benefits of a rain garden and stated that a rain garden was a valuable way to offset the impact of stormwater runoff; that it provided an environmental benefit to the community; helped protect areas from flooding and streams from pollution; that it enhanced the habitat for birds and other creatures; and that it would help protect the watershed. She introduced Jeffrey Adams of SPAWN.

Mr. Adams stated that stormwater management principles could be demonstrated with a rain garden. He described the two projects proposed: a rain garden behind Town Hall and a cover for the grass on the East side of Town Hall. He noted that the location in a flood zone complicated the project so that no rain barrel was planned. He stated that it was an aesthetic, low maintenance project to demonstrate proper water stewardship; that it would include public accessibility and educational signage; that the implementation would be done as part of hands-on workshops; and that a berm would be used to create a basin and the overflow would go to the existing storm drain. He showed a diagram of what the project would look like; stated that the materials for the project would be procured through SPAWN's rain garden program and donations; described the maintenance that would be required; and presented the schedule for completion of the project.

Public Works Director Wilkie stated that the Town's park maintenance employee, Rudy Contratti, had met with Mr. Adams and that the Public Works Department was excited about the project, that it was a great way for the Town to show their values, that it was affordable and would be a benefit to Town Hall.

There was a consensus of the Council to have the staff continue to work with Sustainable Fairfax on the project.

Update on the Marin County 680 Trail – Bicycle Coalition and Marin Trail Stewards (10 minutes)

Chris Branham, stated that he had replaced Tom Boss as the speaker to talk about the 680 Trail Project; that the project involved replacing a public path that has been used for years from Sleepy Hollow to Terra Linda; that in 2006-07 the property changed hands and, since there was no easement for the portion of the trail on private property a new trail route was designed. He stated that the new trail was designed as a shared use trail for bikes, pedestrians and horses; that the trail was designed for safety, comfort and long-term sustainability; that the proposed trail was about 3 miles long with ½ mile on existing fire roads; described the bridges and retaining walls needed for the trail; stated that the trail design had been accepted; that biological and technical consultants had been used for the project; that it had been through environmental review; that a consultant was working on the comments to that review; that all the information on the Trail was on the County Parks and Open Space Web site; that another public workshop for the project would be held; and that construction planning and budgeting for the project had begun.

Mayor Tremaine ascertained that there would be an administrative decision after the public workshop. Mr. Branham acknowledged that it was a relatively controversial project.

There was a discussion of the proposed trail.

Councilmember Weinsoff explained the position of the Marin Conservation League that it was a pristine area and should be left alone and not damaged by construction of a formal trail.

Chris Branham explained that the loss of the private property easement blocked access to 40% of the fire roads connecting the trail; described the location of the trail on a map; stated that they had moved the site of the trail to avoid the more sensitive areas; that they were trying to use

existing trails as much as possible; that the design had been changed to address environmental concerns expressed; and described efforts to make the trail safer and slower by preserving sight distances and other measures.

Mimi Newton, Open Space Committee Chair, stated that this was the first she had heard that a portion of the trail would be on open space land in Fairfax; stated that the Open Space Committee was working on the Open Space Element of the General Plan; and expressed concern about construction on pristine open space.

Jolie Egert, Gregory Drive, representing the Native Plant Society, stated that they had sent a letter about the native grasses that would be impacted by the trail.

Jim, Baywood Canyon, stated that he was on the trails two to three times per week; was a hiker and a biker and a volunteer for the Open Space District (OSD); that the OSD had looked at every aspect of the project and had designed the safest trail possible; and that he was in favor of making it as safe as possible with as little impact on the environment as possible.

Adoption of a Resolution of the Town Council of the Town of Fairfax expanding the membership requirements for the Open Space Committee and interview and appointment of applicants for the Open Space Committee for an unexpired term to June 30, 2014 and for a full four-year term to October 31, 2014 – Town Clerk

Town Clerk Anderson presented the staff report.

Vice Mayor Bragman suggested edits to the resolution.

M/S, Bragman/Weinsoff, Motion to adopt the resolution with the changes recommended.

AYES: All

The Council interviewed the two candidates, Jolie Egert and Jacob Feickert, for appointment to the Open Space Committee.

M/S, Bragman/Weinsoff, Motion to appoint Jolie Egert to serve on the Open Space Committee to complete an unexpired term to June 30, 2014.

AYES: All

M/S, Reed/Hartwell-Herrero, Motion to appoint Jacob Feickert to serve on the Open Space Committee for a full four-year term to October 31, 2014.

AYES: All

Interview and appointment of applicant(s) to serve on the Volunteer Board for an unexpired term to September 30, 2012 – Town Clerk

The Council interviewed Megan Cohen, a candidate for appointment to the Volunteer Board.

M/S, Bragman/Reed, Motion to appoint Megan Cohen to serve on the Volunteer Board to complete an unexpired term to September 30, 2012.

AYES: All

Council Reports and Comments

Councilmember Weinsoff reported on his attendance at the Marin County Council of Mayors and Councilmembers (MCCMC) dinner meeting, at the MCCMC Legislative Committee meeting, and at a meeting of the General Services Oversight Committee.

Councilmember Hartwell-Herrero reported on her attendance at the MCCMC dinner meeting. She also reported on the October 30th workday scheduled to prepare the Youth Center for the teen nights to begin on November 5th; and on the Walk to School Day and school assembly.

Vice Mayor Bragman reported on his attendance at the Community Media Center of Marin Board meeting and opportunities to webcast the Council meetings and other media opportunities.

Councilmember Reed reported on the very successful chipper days that were completed in select neighborhoods.

Mayor Tremaine stated that the Marin Energy Authority (MEA) hadn't met in September and that he was still waiting for a meeting to be scheduled with PG&E and MEA regarding Smart Meters.

Town Manager Report - Set date for Fiscal Sustainability Workshop

Town Manager Rock suggested November 15th or November 17th for a Fiscal Sustainability Workshop and there was a consensus of the Council to set the date for November 17th.

CONSENT CALENDAR

Approval of Town Council minutes of September 1, 2010 – Town Clerk

Approval of Draft Financial Reports through August 31, 2010 – Finance

Report on the status of the presence of perchlorethylene (PCE) at the Fair Anselm retail center – Town Manager

Adoption of a Resolution of the Town Council of the Town of Fairfax in support of the Ross Valley School District bond Measure "A" on the November 2, 2010 ballot – Tremaine

Adoption of a Resolution of the Town Council of the Town of Fairfax in support of Measure "B," a measure providing for transportation improvements in Marin County through a ten dollar vehicle registration fee – Town Manager

Adoption of a Resolution of the Town Council of the Town of Fairfax in support of the continuation of the Ross Valley Paramedic Special Tax, Measure "D" on the November 2, 2010 ballot - Bragman

Request for closure of Town Hall for holiday week of December 27 through December 30 – Town Clerk

Adoption of a Resolution of the Town Council of the Town of Fairfax Endorsing Proposition 19, the Regulate, Control and Tax Cannabis Act of 2010 – Bragman

Councilmember Reed requested that the item proposing the adoption of a resolution supporting funding for a preliminary engineering study for the East West (Cross Marin) Bicycle Corridor be removed from the Consent Calendar for discussion.

Vice Mayor Bragman asked that the item regarding the street sweeper be removed from the Consent Calendar for discussion.

M/S, Weinsoff/Bragman, Motion to approve the Consent Calendar with the removal of the two items requested for discussion.

AYES: All

Mayor Tremaine adjourned the meeting for a break from 9:40 p.m. to 9:52 p.m.

Adoption of a Resolution of the Town Council of the Town of Fairfax declaring the public works street sweeper and asphalt truck oiler as surplus to the needs of the Town and authorizing the Public Works Department to dispose of same by public auction – *Public Works*

Public Works Director Wilkie presented the staff report and stated that the sweeper was non-compliant with standards; that two years previous the options of repairing the sweeper, replacing it or contracting out for the service were considered; that there had been problems with Marin Sanitary but that the Town had received substantial savings from the contract; that the oiler leaked and the crew had been borrowing one from San Anselmo; and that both vehicles were taking up space in the Corporation Yard.

Vice Mayor Bragman asked if it was possible to switch the sweeper to biodiesel and Public Works Director Wilkie responded that it would have to meet air quality standards and that the blade on the sweeper was broken.

Vice Mayor Bragman stated that, while the contract saved the Town money, it was ending a public service that the Town had provided for many years; suggested that the salary quoted for an operator should have been at 20% of a full time salary with sweeping only done once a week; and that once we gave up the sweeper, it wouldn't return.

Public Works Director Wilkie stated that the department did not have the staff to do the sweeping.

Mayor Tremaine opened the discussion to the public.

Frank Egger, Meadow Way, stated that the street sweeper had been purchased to sweep the streets and to clean the catch basins and storm drains; that the air quality issues could be addressed since other small communities were looking for exemptions and exceptions for their sweepers; that once a week was minimal sweeping; that especially downtown should be swept twice a week; stated his preference for the Town to continue to provide services rather than turning them over to other companies; that the Town should see if the sweeper could be fixed; that the mileage should be a factor; and that more information was needed before a decision was made.

Public Works Director Wilkie, in response to a question from Councilmember Hartwell-Herrero, stated that the County did not charge the Town to clean out our storm drains.

Councilmember Reed stated that biodiesel would run cleaner; that the employee assigned to sweeping could do other things; and questioned the financial portion of the report.

Vice Mayor Bragman stated that he would prefer to wait and look into it a little further to see if it could run on biodiesel and other information; that he understood the proposal but was not ready to give up the sweeper without more information; and that he would like to explore any options before eliminating the sweeper.

M/S Bragman/Hartwell-Herrero, Motion to continue the item until staff had the opportunity to return with the requested information.

AYES: All

Discussion/Consideration of the Adoption of a Resolution of the Town Council of the Town of Fairfax adopting a revised Master Fee Schedule – Finance

Finance Director Ireland-Ashley presented the staff report.

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

M/S, Bragman/Weinsoff, Motion to approve the resolution presented to adopt the revised Master Fee Schedule.

AYES: All

Second Reading and Adoption of Ordinance No. 753 an ordinance of the Town Council of the Town of Fairfax implementing a temporary moratorium on the establishment of Marijuana Dispensaries within the Town of Fairfax

Vice Mayor Bragman stated that he had a relationship with Marin Alliance and recused himself.

Town Manager Rock presented the staff report and explained why the term of the ordinance was 45 days with the option to extend the ordinance.

Councilmember Hartwell-Herrero stated that she didn't understand the urgency of the ordinance.

Councilmember Weinsoff stated that the moratorium would allow the results of Proposition 19 to be evaluated.

Mayor Tremaine stated that Planning Commissioners had requested that the Council consider the issue because of their difficulty reviewing applications for dispensaries without established criteria.

Councilmember Reed stated that the reason for the moratorium was to give the planning department some time to come up with some guidelines to use.

Planning Director Moore stated that part of the intention was to put applications on hold to allow the Council to determine guidelines and zoning, and also in light of Proposition 19 on the November ballot. He suggested that the Council could direct staff to come back with suggested criteria including zoning for future applications for medical marijuana dispensaries.

Mayor Tremaine opened the discussion to the public.

Peter Gardner, Spruce Road, stated that he had spoken with several people who were considering starting delivery services; thanked the Council for their support on the issue; stated

that the Ordinance had some merit; and that applicants were waiting until after the election to come forward.

M/S, Weinsoff/Tremaine, Motion to waive further reading of Ordinance No. 753 an Ordinance of the Town Council of the Town of Fairfax implementing a temporary moratorium on the establishment of Marijuana Dispensaries within the Town of Fairfax.

AYES: All

M/S, Weinsoff/Tremaine, Motion to adopt Ordinance No. 753 an Ordinance of the Town Council of the Town of Fairfax implementing a temporary moratorium on the establishment of Marijuana Dispensaries within the Town of Fairfax.

Roll Call Vote:

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

Introduction and First Reading of Ordinance No. 755, an Ordinance of the Town Council of the Town of Fairfax changing the regular Council meeting time from 7:30 p.m. to 7:00 p.m. – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Weinsoff/Reed, Motion to waive further reading of Ordinance No. 755, an Ordinance of the Town Council of the Town of Fairfax changing the regular Council meeting time from 7:30 p.m. to 7:00 p.m.

AYES: All

M/S Weinsoff/Hartwell-Herrero, Motion to adopt Ordinance No. 755, an Ordinance of the Town Council of the Town of Fairfax changing the regular Council meeting time from 7:30 p.m. to 7:00 p.m.

AYES: All

Discussion/Consideration of reconvening the Shared Services Committee for the purpose of discussing Police Consolidation with the Town of San Anselmo – Weinsoff

Councilmember Weinsoff presented a report and asked that the Council take another look at police consolidation with San Anselmo; that the Town budgeted 2.5 million dollars a year for the Police Department; that the potential cost saving opportunity should be explored; and asked that the Council reconstitute the Shared Services Committee to approach San Anselmo to see if they were interested in resuming discussions of consolidation. If San Anselmo agreed to consider consolidation, he suggested that the issue then be put to the community for a vote.

Vice Mayor Bragman stated that he opposed the idea; that the Town had gone through a lot of analysis a few years ago with the conclusion that it wasn't practical or desirable; and that the only thing that had changed is that Twin Cities had passed a large bond for a new facility. He further stated that Fairfax paid less per capita for police services than Twin Cities; that what he took away from the last process was that we didn't really have a negotiating partner; that San Anselmo wasn't looking at it the same way we were; that it was highly disruptive to staff; that it discouraged retention and recruitment; that it was not a well considered thing to take up; that it would disrupt the Council's relationship with employees who were needed to work with the Council to solve the budget problems; and that he would rather try another ballot measure than

try police consolidation again. He also stated that the Police Department was a core service and that communities that lost control of their police departments were not particularly satisfied with the service they received.

Councilmember Reed stated that he felt the issue had already been adequately considered; that a review of the studies in the packet showed a \$40,000 savings to Fairfax with the loss of 2/3 of our police coverage, the loss of dispatch and San Anselmo police enforcing the laws in Fairfax. He further stated that the Fairfax Police Department was different than the police department in San Anselmo; that we would be cutting off our nose to spite our face to save a few bucks; and that we needed to look at ways to save money but that looking at police consolidation again was not the way to do it.

Councilmember Hartwell-Herrero quoted the International Police Chiefs in one of the reports in the packet that stated that a successful consolidation required community support, support that didn't exist in Fairfax; that having the dispatch open 24/7 was important to the community; and that she would rather not spend thousands of dollars on another study.

Mayor Tremaine stated that Measure F and Measure I were approved by more than 2/3 of the Fairfax voters to keep our 24/7 police dispatch, so that he believed the voters had spoken on the issue; that Vice Mayor Bragman's comments on the effect on staff morale were well taken; that San Anselmo had something else in mind, a contract where they were in control. He further stated that Fairfax didn't have a dance partner; that Fairfax would be giving up control of the police department; and that the merchants didn't want San Anselmo cops downtown.

Councilmember Weinsoff stated that the new facility in Twin Cities was badly needed; that all the previous reports were flawed; that each report had identified potential savings; that there had been a negative partner in San Anselmo, but that San Anselmo had a new Council in place; that the San Anselmo police wouldn't necessarily be policing in Fairfax depending on how the staffing was done; asked that the Council take a look at it and, if the savings were going to be substantial, put it up for a vote and let the public decide; stated that he was not going to support a future measure if the Council didn't look at all ways to save money; that if the policing was different in San Anselmo and Fairfax, staffing could be done accordingly; and that he had heard from members of the public that it sounded like a good idea.

Mayor Tremaine opened the discussion to the public but no speakers came forward.

Motion by Councilmember Weinsoff to reconstitute the shared services committee with San Anselmo to see if they had an interest in re-invigorating the discussion about police consolidation.

Motion failed for lack of a second.

Discussion/Consideration of exploring options for the Town's banking services - Reed

Councilmember Reed introduced the topic. He stated that he had talked to people about a different option for a bank in Town, something other than a large corporation; suggested talking to small local banks about locating in Fairfax; that a good physical location was needed; that smaller banks offered better rates; that it was a way to vote with our dollars; and asked what other Council members thought about it.

Councilmember Weinsoff stated that he would like to have the Council consider a resolution to the Bank of America about their loan modification policies at the next meeting; that it was reported that one in 397 homes in the country had received foreclosure notices; that it was imperative that something be done; that the banks could be asked to change their ways; and

that if they didn't, the Town could change the way we did our banking.

Mayor Tremaine requested that Councilmember Weinsoff draft such a resolution and stated that the Town should invite banks to our community; that there were locations for a bank in Fairfax; that the Town should approach Circle Bank and Bank of Marin about locating in Fairfax; suggested that staff work with the Chamber to do so; and stated that it would be marvelous to have one of the smaller local banks in Fairfax.

Councilmember Hartwell-Herrero stated that local banks invested locally and that it was a great idea.

Vice Mayor Bragman stated that it was a great idea; suggested a pragmatic analysis of whether it could be done; stated that accounts that didn't require frequent access could be moved; that the Finance Director's analysis would be helpful; that staff should be asked to look into it; that Bank of Marin was excellent; and that Redwood Credit Union was also excellent but might not meet the Town's criteria.

Councilmember Weinsoff stated that the State couldn't put funds into credit unions, but didn't know if there were similar restrictions for local jurisdictions.

Councilmember Reed stated that he would like to use the Town's account as an enticement to move a branch of a local bank to Fairfax.

Discussion of digital broadcasting of Town Council meetings – *Bragman*

Vice Mayor Bragman stated that he had been on the Marin Telecommunications Agency (MTA) Board for seven years; that he would like the Town to be able to broadcast the Town Council meetings; that the Community Media Center had talked about pooling the resources of the members of MTA to provide this service; and suggested that it was possible to accomplish the broadcast at a reduced cost by using volunteers and pooling resources. He further stated that the broadcast of the meetings would enhance democracy, engage more people and would include more of the community in the process. He suggested that the Media Center staff be invited to talk to the Council about the possibilities for broadcast and that perhaps an audio broadcast would be the most economical way to start.

There was a consensus of the Council to have the Media Center address the Council on the topic at a future meeting.

Approval of Town Council and Town Manager job descriptions – *Town Manager*

Town Manager Rock presented the staff report.

M/S, Weinsoff/Hartwell-Herrero, Motion to approve the Town Council and Town Manager job descriptions as presented.

AYES: All

A Resolution of the Town Council of the Town of Fairfax Supporting Funding for Preliminary Engineering Study For the East West (Cross Marin) Bicycle Corridor – *Reed/Bragman*

It was determined, after a discussion, that the resolution should be adopted despite the recent withdrawal of support for the project by San Rafael.

M/S, Reed/Bragman, Motion to adopt the resolution supporting funding for a preliminary

engineering study for the East West Bicycle Corridor.

AYES: All

Respectfully submitted,

Judy Anderson, Town Clerk