

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, November 3, 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
Mark Lockaby, Building Official
Judy Anderson, Town Clerk

Mayor Tremaine called the meeting to order at 7:40 pm.

Approval of Agenda and Affidavit of Posting

M/S, Weinsoff/Hartwell-Herrero, Motion to approve the agenda and the affidavit of posting with the change in order of the first two items on the agenda.

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.

Open Time for Public Expression

Yvette Wakefield, Main Ct., presented information to the Town Clerk for distribution to the Town Council including information from Rosalind Peterson about the expansion of warfare testing and the danger to marine mammals and marine habitats; a flyer about a Gray Panthers event in Mill Valley where Ms. Peterson would be speaking about contrails; and an article about the resolution of neighborhood noise complaints in San Rafael.

Ms. Wakefield complained about excessive noise from Town events, specifically the Good Festival. She stated that the loud live music continued after the time the event was scheduled

to end. She asked that the Town enforce the time limits set for events and that the volume of the music be lowered. She noted that the recent Biketoberfest was at a reasonable level of sound.

Pam Meigs, Ross Valley Sanitary Board member, announced that the Sanitary District was offering financial help with lateral replacements, reimbursing up to \$4,000 per resident and noted that 50% of spills came from laterals. In response to a question from Councilmember Weinsoff, Ms. Meigs stated that the lateral connection first had to be scoped by a certified person to be eligible and that there weren't necessarily signs that such a replacement was required.

Presentation to the Pavilion Clean-up Day volunteers in recognition of their efforts – Mayor Tremaine

Mayor Tremaine presented Certificates of Appreciation to volunteers who had worked on the Pavilion cleanup.

Elon Rosenfeld, Chair, Parks and Recreation Commission, thanked the Town Council for the acknowledgment, and thanked the Eco Fest and the Chamber for their donations that made the painting of the stage at the Pavilion possible.

Community Media Center of Marin presentation on broadcasting Town Council meetings – Michael Eisenmenger, Executive Director

Michael Eisenmenger, Executive Director of the Community Media Center of Marin presented an overview of what was necessary to broadcast the Town Council meetings. A number of different options were described in the proposal that he had previously submitted and which was included in the packet. He described some of the costs involved. He suggested that the cost could be reduced if a number of cities decided to use the Earth Channel.

Vice Mayor Bragman stated that there was an opportunity for Fairfax and other jurisdictions to purchase equipment through the cable franchise; that he had been part of the negotiation for a private franchise with Comcast; and described the State's ability to provide DIFCA as an alternative and a possible revenue stream for local broadcasting; that finding consistent financial support was key to sustaining and fostering the program; and led a discussion about possible funding sources for the Media Center to provide the services required.

Councilmember Reed stated that it was mostly about the money required to broadcast; that multiple cameras and a switcher were pretty essential for basic production values; that identifying a revenue stream for a camera person was necessary; that audio streaming was pretty cheap; that people were used to the quality they saw on television; and that the Council needed to be aware of what it would cost to produce something worth watching.

Mr. Eisenmenger stated that a single camera didn't capture everything but that equipment was easier to use than previously so that staff could be trained.

Building Official Lockaby asked about the cost for providing closed captioning of broadcasts.

Mr. Eisenmenger stated that closed captioning wasn't required for public or educational channels, and that it was quite expensive and was an ADA requirement for commercial television.

Quarterly Treasurers Report – Town Treasurer

Barbara Petty, Town Treasurer, presented the quarterly investment report.

There was a discussion about investment accounts and the wish of the Council to look at alternatives to large corporate banks and the possibility of investing in a smaller local bank. There was a consensus of the Council to request that the Finance Committee discuss the topic at their next meeting.

Interview and appointment of applicant to serve on the Planning Commission to complete an unexpired term to January 31, 2011 - Town Clerk

Town Clerk Anderson presented the staff report.

The Town Council interviewed four applicants for the Planning Commission appointment: Morgan Hall, Ryan O'Neil, Barbara Coler and Roxanne Ezzet-Lofstrom.

Mayor Tremaine opened the discussion to the public.

Ted Pugh, Fairfax resident, asked to correct the record because of a statement made by one of the applicants that Mr. Pugh's application to the Planning Commission had been denied. He stated that it had not been denied but that he had worked with the Commission to modify his plans which were ultimately approved.

M/S, Weinsoff/Tremaine, Motion to appoint Morgan Hall to the Planning Commission to complete an unexpired term to January 31, 2011.

Roll Call Vote:

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

Mayor Tremaine thanked all of the applicants and noted that more vacancies on the Planning Commission were anticipated and asked that they consider applying again to fill those vacancies.

Interview and appointment of applicant to serve on the Affordable Housing Committee – Town Clerk

Town Clerk Anderson presented the staff report.

The Town Council interviewed Roxanne Ezzet-Lofstrom and Philip Green to serve on the Affordable Housing Committee.

M/S, Weinsoff/Bragman, Motion to appoint Roxanne Ezzet-Lofstrom to serve on the Affordable Housing Committee and to appoint Philip Green as an alternate member of the Committee with the direction to staff to return at a future meeting with a resolution expanding the membership of the Affordable Housing Committee.

AYES: All

Council Reports and Comments

Vice Mayor Bragman reported on his recent attendance at the Marin County Council of Mayors and Councilmembers (MCCMC) dinner and the Marin Telecommunications Agency meeting.

Councilmember Hartwell-Herrero reported on a meeting with the Youth Commission; on a meeting with Town Manager Rock about a street Chaplaincy program active in San Rafael; announced that the rain garden at Town Hall would be installed on Sunday, November 7th; reported on her attendance at the MCCMC dinner; and announced that a professor from Korea would be visiting Fairfax regarding Cittaslow tourism.

Councilmember Weinsoff reported that he had also attended the MCCMC dinner and thanked Councilmember Hartwell-Herrero for revitalizing the Youth Commission and program.

Councilmember Reed reported that he had attended the MCCMC dinner; had met with San Rafael Public Works staff and Hal Brown about funding for the East-West Bike Corridor; and that he would serve as the alternate for Vice Mayor Bragman at the General Plan Super Committee meeting later in the week.

Mayor Tremaine reported that he had attended the MCCMC dinner and a Mayors' meeting before the dinner where the Mayors decided to form an ad hoc committee to look at pensions post OPEB. There was a consensus of the Council to have Councilmember Weinsoff serve on that Committee. Mayor Tremaine also reported on a meeting with the Marin Energy Authority (MEA) and PG&E wherein MEA requested that PG&E offer an alternative to the Smart Meters in partnership with MEA, something that was no wireless; that MEA had given PG&E two weeks to respond to their request; and that if PG&E agreed, MEA would go with PG&E before the Public Utilities Commission to get a change authorized.

Michael Mackintosh, Pastori Ave., asked if Smart Meters were being installed in Fairfax.

Mayor Tremaine responded that PG&E was only installing Smart Meters for the replacement of defective meters.

Vice Mayor Bragman responded that gas meters seemed to be getting replaced in Fairfax and reported that he had seen a truck loaded with old meters in town.

Michael Mackintosh reported that two Smart meters had been installed at the Fair-Anselm Shopping Center.

Town Manager Report

Town Manager Rock reported that the San Francisco Giants were the World Champions.

Consent Calendar

Approval of Town Council minutes of September 11, 15, 29, 2010 – Town Clerk

Approval of Financial Reports through September, 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 approving the creation of a Town Theater Director position – Town Manager

Approval of a change of the regular Town Council meeting date to January 12, 2011 – Town Clerk

Adoption of a Resolution of the Town Council of the Town of Fairfax Adopting the Police Department Plan to Allocate Funds for the Citizens Option for Public Safety (COPS) Program for 2010-2011 – Police Chief

Mayor Tremaine asked for comments from the audience on the Consent Calendar.

Sam Parry, Artist in Residence and newly appointed Theater Director, thanked the Council for the appointment and stated that he would like to work with Councilmember Hartwell-Herrero on a drama program for youth.

M/S, Weinsoff/Hartwell-Herrero, Motion to adopt the Consent Calendar with the deletion of a statement made by Councilmember Weinsoff in the draft September 11th minutes and the removal of the item regarding the street sweeper and the item regarding a cell tower at Tamarancho for discussion.

AYES: All

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

Vice Mayor Bragman stated that he had received information that the Air Quality Board might exempt the sweeper; that he wanted to pursue that possibility and get an opinion from the Board on the issue; asked for clarification of the conversion cost for biodiesel; and also offered to donate a 250-gallon biodiesel tank to the Town.

Public Works Director Wilkie clarified the costs quoted in the staff report; stated that biodiesel was slightly more expensive; that there were different grades of biodiesel; that it would deteriorate rubber fuel lines; that the filter would need to be changed more frequently; and that the only exemptions that she knew of were for low population counties. She responded to questions from the Council and stated that sweeping with a current employee and paying overtime would not be practical; that the sweeper would get more expensive to repair and would have to be replaced in 2013; and that most of the storm drain cleaning was done manually.

Councilmember Reed ascertained that the storm drain cleaning function still worked and noted that the sweeper had been used in early 2006 to clean out storm drains after the flood. He suggested that it would be good for safety to keep the machine around and just use it for less than 50 hours/year for storm work.

In response to a question from Councilmember Weinsoff, Director Wilkie responded that the sweeper hadn't been used at all the previous year.

Town Manager Rock stated that the repair and maintenance costs were higher than any other Town vehicle.

Mayor Tremaine opened the discussion to the audience.

Frank Egger, Meadow Way, stated that one of the reasons the sweeper was originally purchased was to clean the storm drains, drains that the backhoe couldn't clean; that once the sweeper was gone, it wouldn't come back; that the quality of the sweeping was better when it was done in-house; that there had been a recent article in the San Francisco Chronicle that small cities were being granted air quality exemptions for their old sweepers; and he recommend that the Town sell the oiler and keep the sweeper and look for alternatives.

LB/JR, Motion to adopt the resolution authorizing the sale of the asphalt tack oiler with the

deletion of the sweeper.

AYES: All

Vice Mayor Bragman offered to take responsibility to contact the Air Quality Board about the sweeper.

Approval of a letter to the County of Marin Community Development Agency opposing the proposed installation of a cell phone tower at Camp Tamarancho – Open Space Committee

Councilmember Hartwell-Herrero asked for more information about the proposed Tower at Tamarancho.

Mimi Newton, Open Space Committee (OSC) Chair, stated that the issue had been brought to the Committee by a member who saw the story poles from her home; that it was a proposed Verizon cell phone tower; that they weren't asking for flat out opposition, and were just asking that the County take into account their own General Plan and the Town's General Plan when considering the project; that that Verizon was proposing that the tower would look like a tree on top of the ridge; that the County General Plan stated that such towers should be located near buildings; that it didn't appear that the applicant followed the guidelines; that they weren't sure when the comment period for the project would end; and they just wanted to open a dialog about the project.

The Council discussed the situation and there was a consensus of the Council to have Vice Mayor Bragman work with Councilmember Weinsoff and the OSC on a letter.

Introduction and first reading of Ordinance No. 756 adopting Uniform Building Codes – Building

Introduction and first reading of Ordinance No. 757 adopting Uniform Fire Codes – Fire Chief

Town Attorney Karpiak presented the staff report.

Building Official Lockaby and Ross Valley Fire Chief Meagor responded to questions.

Vice Mayor Bragman asked Chief Meagor about the exemption from the sprinkler requirements for certain dry cleaning establishments that used flammable solvents and requested that Chief Meagor look into it and noted that wet cleaning or steam cleaning was preferable to the use of solvents.

There was a consensus of the Council to continue the public hearings to the regular Council meeting scheduled for December first.

Introduction and first reading of Ordinance No. 758 extending Interim Ordinance No. 753, an Interim Ordinance of the Town Council of the Town of Fairfax prohibiting the establishment of new medical marijuana dispensaries in any zoning district within the Town – Planning

Vice Mayor Bragman recused himself because of his pro bono relationship with Marin Alliance.

Town Manager Rock presented the staff report.

Planning Director Moore responded to Mayor Tremaine's question about the length of time necessary and explained that the six-month time frame would allow the Planning staff to draft criteria and zoning recommendations for the Council's consideration.

M/S, Weinsoff/Reed, Motion to waive further reading and to read the title only of Ordinance No.

758 extending Interim Ordinance No. 753, an Interim Ordinance of the Town Council of the Town of Fairfax prohibiting the establishment of new medical marijuana dispensaries in any zoning district within the Town.

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

M/S, Weinsoff/Reed, Motion to introduce Ordinance No. 758 extending Interim Ordinance No. 753, an Interim Ordinance of the Town Council of the Town of Fairfax prohibiting the establishment of new medical marijuana dispensaries in any zoning district within the Town.

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

Approval of amendment to contract with Marin Humane Society to forgo the scheduled 4% increase for fiscal year 2010-2011, to extend the current contract to June 30, 2012, and to provide a two percent contract increase in FY 2011-2012 – Town Clerk

Town Manager Rock presented the staff report.

M/S, Weinsoff/Tremaine, Motion to approve the amendment to the contract with Marin Humane Society as presented.

AYES: All

Second Reading and Adoption 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

M/S, Weinsoff/Hartwell-Herrero, Motion to waive further reading and to read the title only of Ordinance No. 755, a 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/Reed, 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 direction to staff to work with the Marin Community Food Bank to locate a food pantry in Fairfax – Town Manager

Town Manager Rock presented the staff report. He reported on a meeting with the Director of the Marin County Food Bank who had requested that they work with Fairfax to locate a suitable space in Fairfax for a food pantry.

Councilmember Hartwell-Herrero expressed concern about funding for such a project; stated that San Anselmo and Ross should help fund it; and that it took a lot of work to make it happen and doing it as a coalition would make it easier.

Councilmember Weinsoff recommended approaching Marin Community Foundation for funding.

Vice Mayor Bragman expressed his support for the effort. Councilmember Reed stated that, if it was done as a volunteer, it could become your life and suggested contacting the coordinator of the program in San Geronimo for help with the organization.

There was a consensus of the Council to pursue the matter.

Adoption of a Resolution of the Town Council of the Town of Fairfax authorizing the Mayor to send a letter to mortgage lenders requesting that they amend their home loan modification programs to better serve Fairfax homeowners – Reed

Councilmember Weinsoff recused himself from the item because he had taken on a couple of predatory lending cases.

Councilmember Reed introduced the topic and noted that there was a sample letter and resolution in the packet.

Vice Mayor Bragman asked why the letter and resolution didn't also call for a moratorium on foreclosures and proposed that language be added to both documents requesting a moratorium on foreclosures in Fairfax or Marin.

Mayor Tremaine opened the discussion to the audience.

Michael Mackintosh, Pastori Ave., explained how the loans could be purchased and profits made.

Vice Mayor Bragman noted that the IRS could assess people for the amount of the forgiven loan amount.

M/S, Reed/Bragman, Motion to adopt the resolution as amended and to authorize that the letters be sent with language added to request that the banking institutions place a moratorium on their pending home foreclosures until such time as they modify their home loan modification programs.

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

Discussion of status of the Smart Meter deployment in Fairfax - Bragman

Vice Mayor Bragman reported that meter installers seemed surprised that Fairfax had a Smart Meter moratorium; suggested that PG&E be asked to provide their contractors with a copy of the moratorium ordinance; and suggested that the subcontractors be sent certified letters with a copy of the ordinance requesting compliance.

Planning Director Moore reported that Building Official Lockaby was taking about two hours of his time every week to cite PG&E for the illegal Smart Meter antennae that were installed on light poles in Fairfax.

Vice Mayor Bragman asked how the citations increased leverage with PG&E. Town Attorney Karpiak responded that he didn't think the citations were necessary since PG&E's contention was that they did not need to go through the use permit process and that the Town didn't have the authority to require them to do so.

There was a consensus of the Council to proceed with a hearing on the antenna issue and to direct staff to send a certified letter to Wellington or whoever the subcontractor was for the installation of Smart Meters in Fairfax.

The meeting was adjourned at 11:20 p.m. to November 17th.

Respectfully submitted,

Judy Anderson, Town Clerk