

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, February 3, 2010

The regular meeting was preceded by a special meeting closed session regarding pending litigation, Fairfax v. 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
Ken Hughes, Chief of Police
Jim Moore, Planning Director
Laurie Ireland-Ashley, Finance Director
Jim Karpiak, Town Attorney
Kathy Wilkie, Public Works Director
Judy Anderson, Town Clerk

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

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Weinsoff, Motion to approve the agenda and the Affidavit of Posting.

AYES: All

Announcement of Closed Session Action

Mayor Tremaine announced that the Council had met 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 a *Project Homeless Connect* event scheduled at the Fairfax Women's Club, Thursday, February 18th, 10 a.m. to 2 p.m., and a Special Town Council Meeting on *Updating Financial Plan and Goals*, set for Saturday, February 27, 2010.

Open Time for Public Expression

Trevor Hughes, Porteous Ave., began to comment on the siting of the new school and was advised that he could speak to the item on the regular agenda.

Presentation by the Ross Valley Sanitary District (RVSD) – Brett Richards, General Manager

Mr. Richards presented an overview of the history and function of the 110-year-old agency. He explained the rate structure, what services were provided, the capital improvements planned, and the availability of grants and loans to the consumer for work done on private laterals. He used a simple drawing to illustrate the private laterals and how they functioned and described the possible blockages that could occur. He stated that loans and grants were available to consumers to clear

such blockages or for other sewer related problems on private property and that interested parties should contact the RVSD.

Councilmember Weinsoff asked about the status of consolidation efforts with Central Marin.

Mr. Richards responded that a consolidation study was being performed and that the decision would be a political one decided by the elected board members.

Councilmember Weinsoff reported that he had been informed that the Sanitary District had not adopted a second tier for retirement for future reduction in retirement costs and recommended that they do so to save the ratepayers money.

Mayor Tremaine opened the discussion to the public.

Rick Holland, Willow Ave., stated that the 1996 Grand Jury report described the fiscal mismanagement of the Ross Valley Sanitary District Board, that he had run for the board unsuccessfully to address the issues brought up in the Grand Jury report; stated that several lawsuits in the past few years had resulted in only two miles of pipe replacements per year; that only seven miles were to be replaced in the current year; that consolidation efforts had stalled because of the financial mismanagement at RVSD; that about one million dollars had been spent on legal fees in the last year; that the work wasn't getting done; and that they were no longer meeting with other districts about consolidation. He requested that RVSD be continually asked to consolidate.

Mark Bell, Dominga Ave., stated that, according to the Grand Jury report, five board members had gone to San Diego on Sanitary District business and had spent a lot of ratepayer money on an expensive dinner.

Mr. Richards noted that the money spent had been paid back to the District.

Diane Hoffman, Porteous Ave. stated that she paid \$1,000/year because she owned a duplex and didn't like hearing that the District didn't need to save money because they were doing so well.

Council Reports and Comments

Councilmember Weinsoff reported that he had attended a Marin County Mayors and Council Members dinner the previous Wednesday at the Town's expense and that he had received an invitation to attend a Flood Committee meeting in San Anselmo for the following Monday and invited the other members to attend.

Town Attorney Karpiak stated that a majority of the Council attending the flood meeting would not violate the Brown Act.

Vice Mayor Bragman reported that he had met with Anita Franzi, U.S. Representative Woolsey's aide, about the Town's sister community in Colombia and the trial of soldiers and paramilitary members who committed murder and where the attorney for the defendants was being threatened. He stated that her office was very responsive and noted that when he was there, her office was filled with Haitian refugees. He also reported on a meeting the previous week that he had attended at the new Community Media Center at 817 "A" Street in San Rafael; stated that if anybody in the community wanted to learn about it, that training was being offered; and stated that it might be possible to televise the Council meetings by the end of the year.

Councilmembers Hartwell-Herrero and Reed stated that they had attended, along with Town Manager Rock, the League of California Cities training for new Council Members, at Town expense.

Councilmember Reed stated that he had also attended meetings about the siting of a new school in the District.

Update on the Ross Valley School District (RVSD) Plans for a new K-5 school at Deer Park site –
Town Manager

Town Manager Rock presented the staff report and outlined four options: 1) Reopen Red Hill; 2) Reopen Deer Park; 3) increase the size of existing schools; or 4) increase the number of portables. He noted that the first three options would require a bond measure. He stated that there had been a public meeting at Manor the previous night and that more meetings were scheduled. He further stated that there was information about the alternatives on the Town's Web site, the School District Web site, and in the Marin Independent Journal.

Vice Mayor Bragman stated that there was insufficient fire flow for the Deer Park site as revealed by the site studies; asked if there was money available to upgrade the fire flow and if there was a tax stream to fund such improvements; and, if a fund existed, whether some of the funds be used to improve the fire flow for the whole neighborhood?

Trevor Hughes, Porteous Ave., stated that he had listened to the tape of the discussion from the last meeting and had been impressed by the Council's comments on the issue; that there were health and welfare issues and environmental impacts that were his concerns about the Deer Park site and the impact on the Town of Fairfax; that it seemed like if the bond were to pass, there would be a school at Deer Park; that the decision would be made soon; that he lived in the area and was naturally going to be called a NIMBY; and asked whether politics got in the way of common sense.

Lou Vaccaro, Olema Rd., stated that he had attended the school board's meeting on the subject; that he had looked at the property to the East of White Hill; that it was a pretty good sized property, half filled with solar panels; that there was already bus service to the school at the site; that the solar panels could be moved; and that it seemed like an ideal location for another school.

Jack Powell, 99 Porteous Ave., stated that residents were interested in preserving the environment at Deer Park; that it provided the main entrance to most hiking and biking trails in Marin; that it housed the best nursery school in the USA; that Porteous Ave was already jammed with traffic at certain times; that a new grammar school would require new sidewalks; that preschool kids didn't leave the school, but that school children would be walking to and from school; and that anybody who supported a school at Deer Park didn't live anywhere near it.

Rick Holland, Fairfax resident, stated that the School Board hadn't made a decision yet; that he had attended all the meetings; that there had been misrepresentations about the Deer Park site; that he was a local realtor; that many of the neighbors were excited about a school at Deer Park; that none of the sites were ideal sites; that 150 more Fairfax children were expected in the schools; and that there was a lot of misinformation about trees being removed and sidewalks being installed in connection with Deer Park.

Helen Fauss, Scenic Rd., stated that the Fire Marshall had said that within 100 feet of the new school building trees would have to be removed and that the Chief recommended that another 100 feet should be cleared. She reported that at a meeting the previous night another possibility was mentioned which was to put the fifth graders at White Hill and that it had originally been planned to have an elementary school at the White Hill site. She stated that, as a member of the Open Space Committee, she was opposed to building in a beautiful space in an idyllic natural setting. She further stated that Deer Park was the headwaters for one of the Corte Madera creeks, contained a native fish breeding ground, had a diversity of nature, was used by picnickers, hikers, dog walkers, and mountain bikers as part of a recreation area. She also stated that to cover the land with buildings and concrete would severely limit the ability of the land to absorb water, noted that the trees helped absorb water too, and that Deer Park was at severe risk for catastrophic fire.

Pam Meigs, Cypress Drive, stated that she had been attending the meetings and didn't realize that the proposed bond was for thirty years and that there was already a school bond that would run for another 12 years; that she believed in quality education and knew that classrooms were crowded because of her granddaughter at Manor School; that she wasn't sure that another bond was sustainable, especially for forty-two million dollars; and suggested that the School District fix what they had and make it better.

Valeri Hood, Dominga Ave., read from a newspaper article that stated that the two towns were at odds over the issue; that the School Board had become more organized around the issue so that information was available on the School District Web site; that the Sir Francis Drake corridor was

the safest place for a school because of the fire danger at the Deer Park site; that she couldn't imagine losing such a beautiful piece of landscape; and that it was upsetting to think that San Anselmo could be deciding what would happen in Fairfax.

Diane Hoffman, Porteous Ave., stated that in 2008 Fairfax residents had gone before the School Board to request support against the brown moth spraying and that the Board hadn't wanted to get involved while the Marin Board of Realtors came out against the spraying. She further stated that she hoped the District would be more responsive to Fairfax regarding the site of a new school and asked for the Council's help.

Catherine Caldwell, Porteous Ave., stated that she understood the issues and asked the Town Council to help keep the school from being at Deer Park.

Robert Schumacher, Porteous Ave., asked for the approximate cost to upgrade the water flow in the Deer Park area; stated that the School Board had asked them about the water flow rate in the area; and stated that there wasn't water available at Bolinas Road making it a very big project to improve the water flow in the Deer Park area.

Joseph Odom, Porteous Ave., referred to safety issues at the Deer Park site and Title 5 regulations that spelled out the safety requirements; stated that the Deer Park site had serious geological problems, and cited Wood Lane and Spring Lane liquefaction incidents; quoted from a checklist for schools, "no site shall be subject to...landslides;" stated that geologic requirements could not be met; that the School Board was making a decision without vetting any of the sites regarding safety; and that safety was the number one priority.

Mark Bell, Dominga Ave., read a list of all the upcoming meetings of the School Board on the issue.

Vincent D'Amico, stated that he didn't care if they had to take down trees or build the school, but he didn't want it done at Deer Park.

Dave, Fawn Drive, San Anselmo, stated that it was a community issue and not a San Anselmo vs. Fairfax issue; that there was a crisis with overflowing classrooms; that only bad choices were available; that everybody needed to get involved to come up with some alternatives; and that the schools were outgrowing the space and something had to be done.

Erik Schweningen, stated that he was not a Fairfax resident but had a daughter at Manor; that he understood all the issues; that the Fairfax-San Anselmo Children's Center (FSACC) had been at Deer Park for 28 years; that they served the lowest income families and the most underrepresented families; that FSACC was a nationally recognized center; that FSACC had spent nearly \$200,000 in the last two years on infrastructure at Deer Park; and that a large population could be adversely affected by the decisions made about Deer Park.

Sierra Salin, Cascade Drive, stated that nothing was more important than education, that the school board was doing their best to find the best solution; that there were time constraints because they were expecting more students; asked how could we create schools that work and keep our money away from killing overseas; and stated that it would be great to work together on solutions.

Fire Chief Meagor stated that the hillside fire flow and Deer Park fire flow were separate issues; that they were in the process of evaluating the fire flow in different areas; that homeowners were charged \$75/year for fire flow; that in February of 2009, the Fire Department was asked to do an evaluation of the Deer Park site; that "vegetation management" didn't mean taking out all the trees; that water flow could be improved; that he had attended a facilities meeting to inform the committee of fire concerns at Deer Park and the other 2 sites under consideration at that time; that he had let them know that they needed to address emergency evacuation and vegetation management; and that schools were under the jurisdiction of the State Architect and the State Fire Marshall.

Vice Mayor Bragman noted that 440 gallons of water per minute was available at the 199 Porteous hydrant and asked if an upgrade for Deer Park would have a positive impact on other areas in the neighborhood and was assured by Fire Chief Meagor that it would but that he wasn't sure which main you would tap into for the increased waterflow.

Councilmember Reed stated that seeing the damage that slides could do was important; that it was an incredibly difficult problem with no easy solutions; that the liquefaction factor could be a deal

breaker; that things could be done with traffic; that he had worked with Safe Routes to School to get people out of their cars; that there were mitigation measures that were possible; that looking at the Red Hill site might be a good solution; and that nothing was ideal but a solution was needed for the community and our children.

Councilmember Hartwell-Herrero, stated that she felt like the Council had a request from their community to delay the decision to properly pursue the alternatives before making a decision

Mayor Tremaine stated that his preference would be to add more to existing sites or to look more carefully at Red Hill, but noted that they would be considering the issues, and would have other opportunities to speak to the issue.

CONSENT CALENDAR

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

Authorize the Town Manager to sign a Consultant Services Agreement for Audit Services with Maze & Associates for the fiscal years 2008-2009; 2009-2010; 2010-2011 - Finance

Adoption of Proclamation honoring the League of Women Voters on the Occasion of their 90th Anniversary

Report on the status of the General Plan Update – Planning

Adoption of a Resolution of the Town Council of the Town of Fairfax Adopting the Fee Schedule Established by the Marin General Services Authority for Taxicab Regulations – Town Clerk

Adoption of a Resolution of Intention to Approve an Amendment to the Contract between the Board of Administration California Public Employees' Retirement System and the Town Council of the Town of Fairfax to Reflect the change to 2% at 55 retirement for Newly Hired Miscellaneous Members – Town Clerk

Adoption of a Resolution of the Town Council of the Town of Fairfax Authorizing Temporary Closure of Certain Streets and Portions Thereof, to allow a Little League Opening Day Parade on Saturday, March 13, 2010 – Town Clerk

Adoption of a Resolution of the Town Council of the Town of Fairfax authorizing the issuance of the second private placement tax and revenue anticipation note (TRAN) for the 2009-10 fiscal year - Finance

Adoption of a Resolution forwarding model Green Building Ordinance to the Planning Commission for consideration per the Town Zoning Ordinance – Planning

Report on Parks and Recreation Commission support of a proposed batting cage at Central Ballfield – Town Manager

Adoption of a Resolution of the Town Council of the Town of Fairfax promoting expedited implementation and completion of scheduled flood control work in Corte Madera Creek ("Unit 4" in Kentfield and Ross) by the U.S. Army Corps of Engineers.- Weinsoff

Mayor Tremaine reviewed the items on the Consent Calendar.

Councilmember Weinsoff read from the Proclamation honoring the League of Women Voters and acknowledged the presence in the audience of Fairfax resident Marcia Hagen representing the League.

Vice Mayor Bragman asked that the item regarding the Town Manager's job description be taken off the Consent Calendar for discussion and that the item in support of AB 909 be withdrawn from consideration because it was no longer pertinent.

M/S, Bragman/Hartwell-Herrero, Motion to remove the item regarding the Town Manager's job description for discussion.

AYES: All

M/S, Weinsoff/Reed, Motion to remove approve the Consent Calendar with the deletion of the item regarding AB 909.

AYES: All

Adoption of a Resolution of the Town Council of the Town of Fairfax approving the job specifications for the Town Manager position - *Town Manager*

Vice Mayor Bragman stated that he had gone through the process of changing from a Town Administrator to a Town Manager; that the Town Council should have input on changes to the duties; that he had asked to add some reporting standards regarding the Town Manager back in June and that it was done in closed session at that time; that the financial reporting was given to the Town Council after the cash transactions, so they were behind the obligations at times; that the job specifications should be discussed in a closed session of the Council, not presented as a Consent item; that some of the description presented was in conflict with the Town Code; and that he would like to have it done as a collaborative effort. He also noted duties not included in the proposed description, unclear wording in the Town Code, and the omission of suggested changes requested previously.

M/S, Bragman/Reed, Motion to continue the item to the next meeting.

AYES: All

Mayor Tremaine adjourned the meeting for a break from 9:26 p.m. to 9:40 p.m.

Introduction and First Reading of Ordinance No. 749, an Ordinance of the Town Council of the Town of Fairfax, adopting by reference a revised Animal Control Ordinance fee schedule, Marin County Ordinance No. 3532 – *Town Clerk*

Town Clerk Anderson 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 waive further reading of Ordinance No. 749, an Ordinance of the Town Council of the Town of Fairfax, adopting by reference a revised Animal Control Ordinance fee schedule, Marin County Ordinance No. 3532.

AYES: All

M/S, Bragman/Weinsoff, Motion to introduce Ordinance No. 749, an Ordinance of the Town Council of the Town of Fairfax, adopting by reference a revised Animal Control Ordinance fee schedule, Marin County Ordinance No. 3532.

AYES: All

Discussion of the status of the perchlorethylene (PCE) spill at the Fair Anselm retail center – Bragman (Continued from 1-13-10)

Vice Mayor Bragman noted that since the last meeting he had corresponded with the attorneys for the property owner and had spoken to the Department of Toxic Substance Control (DTSC); stated that the parties were in the process of doing a Consent Order that would specify testing procedures so that the testing could be done and mitigation measures implemented; and that he wanted to get the matter addressed as soon as possible.

George Bianchini, Broadway Video co-owner with his wife, presented a packet of information to the Council. He stated that he had been in the area for 54 years and had attended local schools; that he had owned Broadway Video since 1985; that he had paid for the Town's canine and graffiti removal programs; that the package he submitted included information on the \$8500 state-of-the-art testing of the health club that he had paid for himself; that he had done the testing to find out why his staff was sick and why he was sick; and that he intended to reopen the video store. He highlighted some of the results of the testing at the site and requested copies of the reports that Town Manager Rock had referred to that said that testing had come up clean. He further stated that his employees were being denied unemployment benefits because of the publicity about the contamination; that PCE turned into gas that was used in WWI to kill people; and that the building should be monitored.

Mr. Bianchini stated that there were other things going on at the building including the presence of lead and asbestos in amounts exceeding standards, structural beams that were in very bad condition, and concrete posts under the building that were failing. He stated that 120 days into the incident, the Town Manager's blog reported that he was in contact with the DPSC (blog 256), that plans would be in place and the remedial plans presented to the Council in four weeks, but that nothing had yet been done. He stated that he had no problem with the Town, that it was a landlord-tenant dispute, but that it affected a lot of people; that people were living under the building; that the Town should at least get the homeless people out of there until it was determined whether or not the site was contaminated; and that the problem at the cleaners had been fixed but not at the Mario's restaurant site before he moved the video store into that location.

Vice Mayor Bragman stated that he had been trying to stay on top of the issue at DTSC; that he had talked to Matthew Wayne at that agency; that it was a very frustrating experience; that there was a layer of legal representation on the part of the landowner; that it was not easy to get responses from the agencies involved; that the Town Manager had also corresponded with DTSC; and that it wasn't a quick acting agency.

Councilmember Weinsoff noted that it was a landlord/tenant dispute but that the Town would be concerned about any off-site migration of pollutants.

Vice Mayor Bragman, in response to Councilmember Weinsoff's question about what else the town might do, described his efforts to introduce an ordinance banning harmful and toxic cleaning chemicals to facilitate change to non-toxic ways to clean garments; stated that he was working on a countywide ordinance with Supervisor Brown that would allow dry cleaning businesses the useful life of their current machinery before they would have to switch to a non-toxic alternative; and noted that they needed to be aware of the possible migration of the chemicals into the creek.

George Bianchini stated that since the Town was going to be sure that the agencies involved would be working to solve the contamination issue, he suggested that the other issues that he had described in the building be addressed. He stated that he was willing to hold the town harmless if it will help communication on the issues he had raised.

Brett "Blue" Marsh, former employee of Broadway Video, stated that he was present to support George Bianchini and to represent other employees; that he had been in Fairfax for 3 years; that he was a victim of Katrina who came to Fairfax to go to school and to become a standup comic and a massage therapist; that he was thinking about doing a movie about the video store; that working at the video store helped him adjust; that it hurt not to have the store; that it was unfair that George was getting hammered in the papers; that he hoped that something positive could come out of it; and that it put a big hole in Fairfax when the video store closed.

Discussion of a deep green discount for entities providing security for the implementation financing of the Marin Clean Energy program – *Tremaine* (Continued from 1-13-10)

Mayor Tremaine presented the report. He stated that the Marin Energy Authority (MEA) had passed a resolution at their last meeting to offer discounts on energy use to organizations that provided financing; that the Marin Board of Supervisors had contributed \$950,000 for the second phase on a three to two vote; that the County had shouldered most of the financial burden for MEA; and that he was requesting that the Town Council direct staff to come up with an amount to offer to the County for financing in the range of \$47,000 to \$50,000 to lower the County's financial liability. He stated that MEA would like a sum more like \$100,000, but wasn't asking any of the cities for contributions and that he would like to have staff work with MEA to come up with an appropriate level of commitment from the Town of Fairfax.

Councilmember Weinsoff recalled that he had been told that the towns that chose to join MEA were at no financial risk when Dawn Weisz of MEA had made her presentation to the Town Council. He further stated that it was not the money but it was the inherent risk involved that concerned him; that it would open the way for PG&E to add Fairfax to future litigation; and that he wanted MEA to indemnify the Town from litigation costs.

Mayor Tremaine stated that the PG&E proposition to be on the June ballot was a bigger risk; that he didn't think the initiative would pass; that legal counsel for MEA had stated that there wasn't a risk to the members; that PG&E was wearing an ugly public face; that it was worth the investment; that the benefit being offered for investors was a discount on utility bills; that the principle that the Town was stepping up was more important than the savings to be gained.

Vice Mayor Bragman ascertained from staff that such a loan would not affect the Town's bonding limit.

Mayor Tremaine opened the discussion to the public.

Lou Vaccaro, Olema Road, stated that he had been watching the MEA as it formed; stated that PG&E's tiered rate system had started in the 1970's when Jerry Brown was governor; that renewable power was not dependable power; that solar energy didn't turn on the lights in the middle of the night but was great in the summer when demand was high; and that the County was going to sign a contract with Shell who had about 6% renewable energy. He described how energy was distributed in Marin County; stated that it wasn't possible for Shell's energy to get to Marin County; that geysers ran out of steam so there were no more power plants using steam; questioned how energy would be delivered green to one neighbor and not green to another; read from a letter to the editor that he had written that was critical of MEA; and questioned the "opt out" process.

Mark Bell, Dominga, stated that he was skeptical of statements made by PG&E about their green power goals.

M/S, Hartwell-Herrero/Bragman, Motion to direct staff to explore the request from Mayor Tremaine to contribute to the Marin Energy Authority.

AYES: All

There was a consensus of the Council to move the item regarding the Tobacco Control Ordinance to be heard next on the agenda.

Discussion and Consideration of an Ordinance Expanding Fairfax's Tobacco Control Ordinance to Include Certain Multi-Unit Apartment Buildings – *Bragman*

Vice Mayor Bragman presented the report. He posed the question of whether the rights of smokers outweighed the health of their neighbors; noted that smoking was the leading cause of fire in our community; that the proposal would expand the Town's current ordinance to apply to multi-unit housing with options to consider; that the process needed to be done slowly and properly; that perhaps a Saturday meeting could be held so that the community could discuss the issues; that the fundamentally dangerous consequences of tobacco and the tobacco industry couldn't be ignored;

and that the Council prided itself on health and safety and needed to examine the issue. He reported that Novato and Richmond were two cities that had adopted similar ordinances to the one proposed and that they had worked very well in the communities where they had been adopted. He introduced Elizabeth Emerson and Bob Curry of Smoke-Free Marin who were present to speak to the issue.

Bob Curry, Coordinator of the Tobacco Related Disease Control Program for Marin County, stated that he had worked with Fairfax before; that his agency had legal counsel available to help get the proper ordinance for Fairfax; and that he was working with three other jurisdictions in Marin. He further stated that he worked in three areas: educating youth, youth access to smoking (no retail sales to youth), and cessation of smoking assistance. He reported that the second hand smoke issue was no longer debatable and that he often received calls about second hand smoke from tenants in multi-unit housing. He introduced Elizabeth Emerson as one of the most respected tobacco control experts in the country who was working as their policy consultant.

Elizabeth Emerson recalled helping the Town with their smoking ordinance in the 1990's. She stated that the most recent campaign being used by the tobacco industry was that the rights of smokers were being violated; that they had launched a public campaign for other communities like Novato to support their efforts to pass an ordinance; that they had decals for all businesses to post on their doors; that they had a Web site, smokefreemarin.com, where a publication simplifying the ordinance for the business owners was available; that the Smoke Free Coalition had been in existence since 1990; and she described all the organizations that supported their efforts. She referred to warning letters they had sent to businesses when necessary. She further stated that Novato hadn't written a citation in 18 months; that the public opinion survey showed that 75% were in favor of such an ordinance; that compassionate outreach to smokers had been successful; and that, when Marin County received money from the tobacco company lawsuit, it was used for programs not roads.

John Reed suggested compassion for smokers who were trying to quit and that helping them to quit should be part of any program.

Vice Mayor Bragman suggested that staff work with Bob and Elizabeth on the issue along with the community, the tenants and the property owners and that the ordinance and approach should grow out of input and discussion.

M/S, Hartwell-Herrero/Weinsoff, Motion to have staff work with Smoke Free Marin to conduct a workshop on the issue.

AYES: All

Mayor Tremaine opened the discussion to the public.

Mark Bell, Dominga Ave., stated that smokers already couldn't smoke within 20 feet of a doorway; that he didn't have a problem not smoking in a restaurant, but asked where the regulation would stop; that he didn't support tobacco companies but if you couldn't smoke in your own apartment or on the deck, it was very limiting; that there were other health concerns to address; and that just one group shouldn't be picked on.

Discussion of Pilot Water Conservation Project - Hartwell-Herrero (Continued from 1-13-10)

Councilmember Hartwell-Herrero reported that Fairfax had been selected for a water conservation pilot program; that the program was for two years; that all Fairfax residents would be contacted to inform them of all the water conservation programs and tools available from the Marin Municipal Water District; and that ordinances would be forthcoming. In response to a question from Councilmember Weinsoff, she acknowledged that some of the programs, like rebates for toilets and other fixtures, would be subject to funding availability; and she encouraged everyone to review their

water bills to learn about their usage.

Discussion of providing Flood Gate Plans for individual homeowners and local builders in Fairfax – Reed (Continued from 1-13-10)

Councilmember Reed reported that the Town provided floodgate plans after the 2005 flood and had funded some of the installations for merchants and suggested that floodgate design plans should also be made available to everyone who lived in the flood zone. He stated that a sample design and installation instructions were available at Town Hall.

Mayor Tremaine suggested that the Volunteer Board might be able to get involved in spreading the word and that the information could also be placed on the Web site.

Town Manager Rock cautioned that flood gates weren't appropriate for most residential homes and suggested that homeowners check with the Town's Building Official before installing them. He noted that they worked well in flat areas but not everywhere else.

Introduction and First Reading of Ordinance No. 750, an Ordinance of the Town Council of the Town of Fairfax Amending the Contract Between the Town of Fairfax and the Board of Administration of the California Public Employees' Retirement System to Reflect the change to 2% at 55 retirement for Newly Hired Miscellaneous Members – Town Clerk

Town Clerk Anderson presented the staff report.

Vice Mayor Bragman stated that it was something the Council was forced to do that was a result of the poor handling of the economy and that he hoped it could be reversed some day.

M/S, Bragman/Weinsoff, Motion to waive further reading of Ordinance No. 750, an Ordinance of the Town Council of the Town of Fairfax Amending the Contract Between the Town of Fairfax and the Board of Administration of the California Public Employees' Retirement System to Reflect the change to 2% at 55 retirement for Newly Hired Miscellaneous Members.

AYES: All

M/S, Bragman/Weinsoff, Motion to introduce Ordinance No. 750, an Ordinance of the Town Council of the Town of Fairfax Amending the Contract Between the Town of Fairfax and the Board of Administration of the California Public Employees' Retirement System to Reflect the change to 2% at 55 retirement for Newly Hired Miscellaneous Members.

AYES: All

Town Manager Rock noted that employees had begun paying a portion of the retirement costs, were forming a healthcare committee to explore less expensive options for health programs, and had agreed to eliminate raises.

Annual Report from the Fairfax Festival Committee and Request for paid support for Festival – Richard Pedemonte

Town Manager Rock presented the staff report and noted that the Festival had grown to the point where the all-volunteer effort might warrant the addition of paid staff to facilitate the event. He clarified that the Festival Fund was a part of the Town budget so that such a decision would be made by the Town Council. He also stated that the Festival did not completely pay for itself because the actual costs weren't all included in the accounting.

Finance Director Ireland-Ashley stated that she would be allocating actual costs to different accounts in the budget including the Festival to better define the expense related to the functions.

Vice Mayor Bragman stated that the Festival had been paying the police overtime as well as the public works overtime for a few years and that the Festival actually had a surplus in the fund which it hadn't always had in the past.

Discussion of Measure F and Measure I Oversight Committees – Bragman

Vice Mayor Bragman suggested that a meeting be called for the Measure F Oversight Committee before going forward with the Measure I Oversight Committee.

There was a consensus of the Council to hold such a meeting to finalize their efforts before the Measure I Committee was appointed going forward.

Town Manager Rock stated that the Finance Director would convene the Measure F Committee for a meeting as requested.

Mayor Tremaine adjourned the meeting at 11:35 p.m.