

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, July 7, 2010

The regular meeting was preceded by a special meeting closed session regarding: Conference With Labor Negotiator pursuant to Government Code Section 54957.6 Agency designated representative: Michael Rock, Town Manager; Employee Organizations: Police Officers Association and Management Employees and; Public Employment pursuant to Government Code 54947 (Position Title: Police Chief)

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Larry Bragman
John Reed
Lew Tremaine
David Weinsoff

COUNCILMEMBER ABSENT: Pam Hartwell-Herrero

STAFF MEMBERS PRESENT: Michael Rock, Town Manager
Jim Moore, Planning Director
Jim Karpiak, Town Attorney
Kathy Wilkie, Public Works Director
Ken Hughes, Chief of Police
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/Bragman, 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 Labor Negotiator Rock regarding the Police Officers Association and the Management Employees and had given direction but that no action was taken and that the Council had voted unanimously to appoint Sergeant Chris Morin as the new Police Chief of Fairfax effective August 1, 2010.

Sergeant Morin thanked his friends and family and Chief Hughes for recommending him for the position. He expressed his appreciation for all the support he had been given by the staff and the community.

Mayor Tremaine thanked Chief Hughes for his long and dedicated service to the Town.

Chief Hughes noted that it was his last official Council meeting and that he was retiring at the end of the month; described the experience as a quick 39 years with the Town; that it was a great community and that he would miss the Town; that he had enjoyed the support of the Council as Chief; and thanked the men and women of the Police Department who all did a fantastic job and deserved a round of applause.

Announcements

Mayor Tremaine made the announcements as printed on the agenda.

Open Time for Public Expression

Anya Schandler, Barker Ave., read a short letter addressed to the Council; thanked the Council for the time they dedicated to Fairfax; reported that she had attended meetings of the Ross Valley School Board and of the Town Council and truly received respect from the Town Council, not the School Board; that she and others had brought a problem to the Council and that she was impressed with how they handled the problem; apologized for the treatment the Council received from some people; and expressed gratitude for their sensitive and caring approach to the public.

Janet Garvin, Porteous Ave., also wanted to echo what Anya said and thank the Town Council.

Linda Novy, 611 Cascade Drive, spoke about the fire danger in Cascade Canyon with canopied trees and dense vegetation; submitted a letter with photos to illustrate the problem; described the curb around 10 Cascade as dangerous for pedestrians with no place to step off the road; and stated that she would like to volunteer for the Open Space Committee.

Yvette Wakefield, thanked Town Clerk Anderson and Town Manager Rock for solving a noise problem for her, and described a Chemtrails and Haarp Awareness day in Bolinas Park and asked about having the subject on the agenda for August.

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

Diane Bright, Commission on Aging Representative, presented her annual report.

Presentation by the Ambassadors of Hope and Opportunity – Zara Babitzke

Zara Babitzke described the non-profit organization Ambassadors of Hope and Opportunity dedicated to providing services for homeless and at risk of homelessness youth. She described a fund raising event the youth in the program were planning sponsored by the Fairfax Parks and Recreation Commission. She introduced two of the involved youth who spoke about the program and the youth event to be held on Saturday, October 2, 2010.

Francisco Diaz, 24 years, stated that he was a community activist; that he was on the Task Force for the concert; that it would be an alcohol-free event; that they were interested in providing recycling; and that he was a member of the Community Media Center of Marin and would use their equipment to film the event.

Elliot, stated that he would be the master of ceremonies for the event; that he had also helped organize talent for the event; that there would be a variety of music including Urban Apache and Hip Hop; that he was hopeful that the names of the bands would bring a good crowd to the concert; that they wanted to raise money for the Ambassadors of Hope and Opportunity to keep it going.

Councilmember Reed suggested contacting the Marin Conservation Corps about recycling for the event.

Council Reports and Comments

Councilmember Weinsoff reported that he had heard complaints from Fairfax residents that speeding tickets on Sir Francis Drake in San Anselmo were too plentiful and that he had been talking to a San Anselmo Council member about the issue.

Vice Mayor Bragman reported that he and Councilmember Reed had met with Patrick Seidler, president

of a bike advocacy group, and were told that there was likely to be money available for preliminary engineering for the East-West Bikeway project and that legislation entitled the Active Communities Transportation Act (ACT), was working its way through Congress and would make money available for construction.

Vice Mayor Bragman requested that staff send a Letter to Marin County Public Works with a copy to Hal Brown to get money for a preliminary engineering grant for 30% of the cost for the East-West bikeway project.

Councilmember Reed spoke in support of the request and stated that it was an opportunity to secure 30% of the preliminary engineering costs; that the funding was there and the Town just needed to make a formal application for the funds; and that the funds could be used to leverage for the ACT grant money.

Town Manager Report

Town Manager Rock reported that all of the necessary fiber optic equipment had arrived and that the trench would be done and that there would soon be wireless access to the Women's Club which would allow the web-streaming of Council meetings. He noted that audio recordings of the Council meetings were available on the Town's Web site.

Interview and appointment of applicants for the Open Space Committee

The Town Council interviewed Chelsea Donovan for appointment to the Open Space Committee (OSC). Mimi Newton was interviewed for re-appointment to the OSC and asked that Helen Fauss and Jack Judkins be re-appointed to serve additional four-year terms as well, even though neither of these incumbents was present at the meeting.

M/S, Bragman/Weinsoff, Motion to appoint Chelsea Donovan to a full four-year term on the Open Space Committee to June 30, 2014, and to re-appoint the three incumbents, Mimi Newton, Helen Fauss and Jack Judkins for additional four-year terms to June 30, 2014.

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

Interview and appointment of candidates to serve on the Design Review Board for 2 full three-year terms to July 31, 2013

The Town Council interviewed Laura Kehrlein for re-appointment to the Design Review Board and Karl Vavrek for appointment.

M/S, Weinsoff/Bragman, Motion to appoint Laura Kehrlein and Karl Vavrek to serve on the Design Review Board for full three-year terms to July 31, 2013.

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

CONSENT CALENDAR

Approval of Financial Reports through May, 2010 - Finance

Approval of Town Council minutes of May 24, 2010 – Town Clerk

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

Adoption of a Resolution of the Town Council of the Town of Fairfax Approving the Ross Valley Paramedic Authority Tax Levy for the 2010-11 Fiscal Year - Finance

Adoption of a Resolution of the Town Council of the Town of Fairfax Calling and Giving Notice of the Holding of an Election to Be Held November 2, 2010 and Requesting the Board of Supervisors of the County of Marin to Consolidate said Election; and Authorizing the Town Clerk or Her Duly Authorized Officers and Agency to Carry out All the Necessary Procedures for Said Election Submitting to the Voters the Question Relating to a Special Tax for Paramedic Services – 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 2010-11 fiscal year – Finance

Adoption of a Resolution of the Town Council of the Town of Fairfax amending Resolution No. 2457 Establishing the Youth Commission to add a Member to the Youth Commission – Tremaine

Adoption of a Resolution of the Town Council of the Town of Fairfax Accepting the Offer of Dedication of Vanni Way Roadway Easement relating to 161 Ridgeway Avenue – Planning

Report on the award of contracts to qualified bidders for chipper services, brush clearing, tree trimming and tree removal for the Hazardous Fuels Elimination Grant - Town Manager

Adoption of a Resolution of the Town Council of the Town of Fairfax in Opposition to Proposition 23, an effort to delay implementation of AB 32 – Bragman/Hartwell-Herrero

Authorization for the Mayor to sign a letter of opposition to the Courts Funding Package-Local Parking Citation Surcharge – Town Manager

Comments on Marin County Civil Grand Jury Report- “The Cost of Governance: Local Control Comes at a Price” – Weinsoff

Discussion of the Consent Calendar

Vice Mayor Bragman reported that he and Town Manager Rock had met with representatives from the California Department of Toxic Substances Control (CDTSC) and referred to the report in the packet; stated that a survey would be done by CDTSC within a quarter mile of the property; that the survey of the occupants would help them produce a work plan by the Fall; that they visited the site with CDTSC; and that they were awaiting their next communication.

In response to a question from Mark Bell, Dominga Ave., Planning Director Moore explained the item regarding Vanni Lane. Vice Mayor Bragman asked for the reasons why the Town would assume responsibility for the roadway. a synopsis of the item regarding Vanni Lane, and Director Moore explained that the Town already maintained the roadway, that it was part of the settlement of an entitlement of the Planning Commission and that maintenance of the wall was important to secure the bank on the roadway. The Council discussed the issue.

In response to a question from Linda Novy, Town Manager Rock explained the work to be done as part of the Hazardous Fuels Elimination Grant.

George Bianchini, Broadway Video, thanked Vice Mayor Bragman for staying on top of the PCE situation; reported that the address of the former site of Broadway Video had been changed from 705 to 707; that the space was available for immediate occupancy; and that construction was going on at 771

Center providing an opportunity for the building inspector to look at the exposed beams while they were visible to view the dry rot.

M/S, Weinsoff/Reed, Motion to approve the Consent Calendar.

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

PUBLIC HEARINGS

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.

Councilmember Weinsoff noted that the numbers were dramatic because fees hadn't been raised in a long time but that the Town needed to recover costs; that the Town had been subsidizing some of the services and could not afford to do so; and that the Town had to identify any additional sources of income to help balance the budget.

Vice Mayor Bragman expressed his opinion that raising residential construction costs would motivate people to build without permits; that there was a point of diminishing returns and the rise in rates might not produce the gain in income anticipated; and that resale reports shouldn't be subsidized.

Councilmember Reed stated that raising fees so much would result in more illegal work being done; suggested the use of more online and streamlining to process applications to use less staff time; and that it was good not to subsidize fees, but that the proposed banner fee was very high and suggested that another way of putting up the banners be explored.

Mayor Tremaine suggested that the Council members submit their concerns about the fees and let staff respond to them; that the fees were developed the proper way with a fee study done first; that some of the reaction was sticker shock; that it was a real concern that the fees would discourage people from seeking permits to do work; and that there would have to be more enforcement.

Planning Director Moore noted that there was an administrative citation process in place that addressed enforcement and that it had been effective.

Vice Mayor Bragman requested a memo regarding the police research fee of \$45/hour.

Mayor Tremaine opened the public hearing

Mark Bell, Dominga Ave., stated that since employees were paid with public money, wasn't the public already paying a portion of their salaries and that, since salaries were already paid during the business days why were certain fees were raised more than others.

Diane Hoffman, Porteous Ave., stated that the fee for a resale inspection had to be paid by the owner of the property, that it didn't come out of escrow, and that it was a hardship for some.

Vice Mayor Bragman ascertained that the Council would email their questions and concerns to be addressed by staff before the next meeting on the fee schedule.

Mayor Tremaine continued the public hearing on the item to the August 4th meeting.

Discussion/Consideration of Draft Budget for Fiscal Year 2010-2011 and Adoption of a Resolution of the Town Council of the Town of Fairfax continuing expenditures and revenues in accordance with the 2009-2010 Town Budget and in lieu of timely 2010-2011 Budget Adoption – Town Manager

Mayor Tremaine stated that the Council had performed an evaluation of the Town Manager who had presented the budget and the projected shortfall presented to the Council at the June 5th meeting; that the Council would not adopt a budget until the audited numbers from '08-'09 were available; and that the Council had also requested information from staff about how to manage some management positions.

Town Manager Rock presented the budget and recommended that the Council adopt the resolution continuing authorization to make expenditures. He reported that, since the June 5th meeting, the \$430,000 deficit had been reduced to \$215,000; that he would be bringing forward some reorganization plans that would be discussed by staff next week; that the Town had a structural deficit, driven by increasing health costs and increasing pension costs, that had to be dealt with; that the two-tiered retirement system entered into recently would help, but that other measures were necessary to make the town solvent over the long term.

Mayor Tremaine opened the public hearing.

No speakers came forward.

Mayor Tremaine closed the public hearing.

Finance Director Ireland-Ashley stated that the working draft for the '08-'09 audit would be available in August.

M/S, Bragman/Reed, Motion to adopt the resolution continuing expenditures and revenues in accordance with the 2009-2010 Town Budget and in lieu of timely 2010-2011 Budget Adoption.

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

Mayor Tremaine adjourned the meeting for a break from 9:07 to 9:13 p.m. and asked that the item regarding FOCAS programming be heard next after the break.

Discussion/Consideration of a proposal for the provision of youth services via FOCAS – Assistant to the Town Manager

Assistant to the Town Manager Anderson presented the staff report.

Vice Mayor Bragman expressed his interest in providing a skateboard park in town; described a temporary skateboard park at the tennis courts during the Festival; and noted that there was a piece of Town-owned property behind St. Rita's that could be used for a skateboard park.

Councilmember Reed told Ms Esposito that she was doing great things but that more activities were needed for older children and teens and that it was crucial that the programs become self-sustaining.

Camille Esposito, FOCAS Coordinator, stated that San Anselmo's program was fee based and that San Geronimo's was completely grant based, and that she envisioned the Fairfax programs as a hybrid; that she wanted the program to become self-sustaining; that she was using the brochure from San Anselmo to advertise private events in our buildings as well as the programs offered; that she was committed to making our program work; that she wanted to consider the community and our demographics to make the classes affordable; and that she wanted to grow the youth program working with Councilmember

Hartwell-Herrero and the Youth Commission.

M/S, Bragman/Weinsoff, Motion to approve the proposal for the provision of youth services via FOCAS.

AYES: Bragman, Reed, Tremaine, Weinsoff

NOES: None

ABSENT: Hartwell-Herrero

Review and discussion of the Draft Open Space, Land Use and Noise Elements and report on the status of the Fairfax General Plan – Planning

Planning and Building Services Director Moore presented the staff report. He suggested that the eight drafted elements, once reviewed, be packaged for the Council's final review and adoption. He noted that there was a lot of housekeeping to do to make the elements consistent with proper references. He suggested, pending environmental review, that a "super committee" be established for the "packaging" of the elements. He suggested that the committee be comprised of the Mayor and Vice Mayor, the Chair and Vice Chair of the Planning Commission, the Chair and Vice Chair of GPAC, and the Chair of the Open Space Committee.

He further reported that staff anticipated that the balance of outside consulting fees budgeted for the upcoming fiscal year would be used for the environmental review of the updated General Plan once the draft was complete.

Mayor Tremaine stated that the "super committee" was a good idea and that the Land Use Element presented to the Council was an excellent document.

Vice Mayor Bragman stated that he also liked the "super committee" idea.

Councilmember Reed stated that he liked the "super committee" too and suggested that the Town Council take notes as they reviewed the elements and turn their notes in to staff to facilitate the production of a final draft.

Councilmember Weinsoff stated that he also liked the super committee concept and thanked Planning Director Moore for his extraordinary work on the General Plan.

Mayor Tremaine opened the discussion to the audience.

Jim Rice, Laurel Drive, thanked Planning Director Moore and everyone who worked on the General Plan for their work.

Discussion/Consideration of intervening in the City and County of San Francisco motion at the CPUC to suspend deployment of Smart Meters, adoption of an ordinance regarding the installation of Smart Meters in Fairfax and additional options for addressing SMART meters – Bragman

Vice Mayor Bragman presented a report on Smart Meters. He stated that the Smart Meter program would eliminate hundreds of union jobs when the State was experiencing unprecedented unemployment; that there was a model form for intervention in San Francisco's action with the Public Utilities Commission (PUC); that the Council only had jurisdiction in Fairfax; that the PUC had California as a jurisdiction; that there had been other actions outside of the area including the State of Maryland PUC that denied Smart Meter deployment in the State of Maryland; that the California PUC had approved Smart Meters despite concerns about privacy; that usage could be monitored every fifteen minutes so that it could be determined whether or not you were home and whether you were taking a bath; that there were significant concerns that individual data be protected; that data be protected from being shared by other agencies or other commercial enterprises; that the technology was being installed

before security or data control had been developed; that a program to use the data was needed but that no such program had been developed; that there were no national standards for Smart Meters; that the presumption was that consumers would change their use of energy based on information provided by the Smart Meter but such information couldn't be provided until another system was developed; that the Smart Meter was not going to save any electrical power; that it was designed to give information, information that couldn't yet be managed; that there was a study underway to determine if Smart Meters were even accurate; that there was concern in the community about electro-magnetic fields (emf's); that the FCC was only looking at thermal damage; that the jury was still out on the studies on human health effects; that a Smart grid could be created without Smart Meters, perhaps with a meter on each block instead of on individual homes; reported that an antennae had been installed at Frustuck and Bolinas; that Section 19.04 of our Town Code required a use permit from the Planning Commission to install antennae; and that PG&E had been informed of this requirement by letter.

Vice Mayor Bragman outlined the three possible courses of action for the Council to take regarding Smart meters. He stated that the Town could proceed to get PG&E to comply with our ordinance and go through the use permit process to install antennae; that the Town could join San Francisco's motion to intervene with the PUC; and that the Council could adopt an ordinance banning Smart Meters in Fairfax

Mayor Tremaine stated that Vice Mayor Bragman had done excellent work and that the Town should take all three recommended actions; that the strongest possible ordinance should be drafted and that the Town should fiercely enforce the existing ordinance. He further stated that a nuisance abatement process should be started if the antenna was not removed; that the Town had been resolute against the installation of cell towers and the same needed to be done with the Smart Meters.

Councilmember Reed expressed support for all three options; stated that he had a time and use meter on his home for his solar and that it didn't take a Smart Meter to determine when you were using energy; that the Smart Meter program was a 2.2 billion dollar project that was using Federal stimulus money; and that jobs were being eliminated.

Councilmember Weinsoff asked how the Council would bring the ordinance forward; that the Town was in dire financial straits; that PG&E was a formidable foe with unlimited funds; that the Town was already going to court in a matter that had cost the Town \$100,000; and that the Town could not afford to defend such an ordinance.

Vice Mayor Bragman stated that they wouldn't incur extraordinary fees drafting an ordinance and Councilmember Weinsoff stated that he would support the introduction of an ordinance on that basis.

Mayor Tremaine opened the discussion to the public.

The following citizens spoke in favor of the three courses of action:

Mark Bell, Dominga Ave.; Sierra Salin, Cascade Drive; Diane Hoffman, Porteous Ave., Lynn Corwin, Cascade Drive; Suzanne Degrew, Cascade Drive; July Schells, San Anselmo; Kristy Sloan, Lagunitas; Kristy Sloan, Lagunitas, Mary Beth Bragan, Bolinas; Sudi Scullin, San Francisco; Judy Hitchcock, Chester Ave.; Jim Rice, Laurel Drive; and Doug Delong, Laurel Drive.

Bruce Ackerman, Valley Road, stated that he appreciated all the work done on the subject; that the original purpose of the SMART meters was to save energy; asked that the Council didn't throw out with the baby with the bath water; that it wasn't necessarily true that they never wanted meters; that if it went through the wires instead of being wireless, many of the concerns would be addressed.

Bob Conn, Bothin Road, stated that he was retired but had worked for PG&E and had worked on Smart meters; that some of the comments made by previous speakers were untrue including the claim that

thousands of union jobs will be lost;" that PG&E had spent months of negotiations to find other jobs for union members or retirement with generous benefits; that the Smart Meter project had actually created jobs; that there was a way to read the data and programs were in place; that the data was being carefully controlled by PG&E; that it was not new technology; that there were millions around the world; that he had spoken to correct what he believed were untrue statements; that it was possible to sign up for a tiered rate schedule and be charged more for electricity used at the peak times; that people had said bad things about PG&E, but that it was one of the greenest companies in the nation and had won many environmental awards; and that there was a big risk for legal involvement.

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

Town Manager Rock clarified that the first reading of the ordinance would be in August; that a PG&E spokesman had informed him that PG&E had notified residents by letter before the installation of smart meters; and that PG&E had stated in their own literature that defective meters had been installed and then removed.

Discussion/Consideration of contracting out the business license program – Finance

Finance Director Ireland-Ashley presented the staff report.

M/S, Weinsoff/Reed, Motion to bring back a contract for administration of the business license program for Council consideration at the August 4th meeting.

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

Discussion and consideration of Status of Financial Reporting – Bragman

Vice Mayor Bragman stated that he was willing to consider this item as part of future budget discussions.

The meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk