

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, October 5, 2011

The regular meeting was preceded by an interview of Planning Commission Candidates from 6:40 to 7:00 p.m.

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 Karpiak, Town Attorney
Mike Vivrette, Finance Director
Chris Morin, Chief of Police
Judy Anderson, Town Clerk

Mayor Bragman called the meeting to order at 7:08 pm.

Approval of Agenda and Affidavit of Posting

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

AYES: All

Announcements

Mayor Bragman made the announcements as they appeared on the agenda. He also announced a vacancy for the representative to the Marin Commission on Aging; thanked Mike Hazel for the donation of a beautiful new gate outside the Women's Club; and described the cleanup of PCE to be conducted by the California Department of Toxic Substances Control (DTSC) at the Fair-Anselm Center.

Open Time

Peter Kirby, local activist, stated that he was involved with the Chem Trail issue and had written a paper on the issue; provided copies of a ten-page report; suggested that the Council make Fairfax into a "Chem-Free Zone;" and stated that it was a very important issue and requested that a symbolic resolution be adopted to bring attention to the issue.

Councilmember Tremaine stated that he would sponsor such a resolution on the next Town Council agenda.

Ed Tilton, Claus Circle, stated that he had provided the Clerk with a copy of an article from a Eugene, Oregon newspaper about problems encountered at a recent concert that included Phil Lesh.

Appointment of candidate to complete an unexpired term on the Planning Commission to February 28, 2012

Mimi Newton, Mono Ave., Open Space Committee (OSC) Chair, stated that it had been wonderful to work with Barbara Coler on the OSC and recommended her heartily for appointment to the Planning Commission.

Jack Judkins, Bolinas Road, stated that he had the pleasure of working with Barbara Coler on the OSC, that he had also served on the Planning Commission and knew the qualities needed, that Barbara was dedicated and would spend the time necessary, and would bring an abundance of the qualities to the Planning Commission.

M/S, Tremaine/Hartwell-Herrero, Motion to appoint Barbara Coler to the Planning Commission to complete an unexpired term to February 28, 2012.

AYES: All

Councilmember Weinsoff suggested that Laura Kehrlein, member of the Design Review Board and the other applicant for the Planning Commission appointment, keep her application on file for a future opening.

Discussion/Consideration of a newly negotiated Franchise Agreement with Marin Sanitary – Zero Waste Committee

Mayor Bragman introduced the item; stated that the draft agreement was the result of a long and sometimes difficult process; that both sides had done an incredible amount of work in understanding the various issues involved; that it had been very hard to reconcile all the conflicting issues and that the agreement was not perfect but was a compromise. He thanked all of those involved in getting the agreement done and thanked Vice Mayor Hartwell-Herrero for her sustainability expertise in the process.

Vice Mayor Hartwell-Herrero stated that the agreement was on the agenda for discussion to allow public comment before it was presented for adoption so that input could still be incorporated. She noted that the agreement included the goals of 80% of waste diversion by 2012 and 94% by 20/20 in the effort to get to Zero Waste; and stated that she was looking forward to hearing from the public.

Mayor Bragman noted that the agreement called for \$10,000/year to be set aside for brush clearance in Fairfax to reduce the amount of fire fuel and included the start of a model green waste/food waste program in multi-unit apartment buildings in Fairfax to help reduce the solid waste from Fairfax.

Councilmember Weinsoff asked about potential roadblocks and what should they be thinking about before they adopted the agreement.

Mayor Bragman stated that the agreement was before the Council because they believed they had finished the negotiations.

Town Attorney Karpiak stated that he had reviewed the document but that his comments were not included on the version before the Council and in the packet.

Town Manager Rock noted that there had been no rate increases for six years and anticipated rate increases to compensate for the additional services provided for in the new contract.

Councilmember Weinsoff asked if the Town could get on track to have regular increases for the services provided.

Vice Mayor Hartwell-Herrero stated that the rates would be reviewed every January along with an annual report.

Mayor Bragman stated that there would be additional services provided like hazardous waste pickup, brush clearance, and continued support for the Fairfax Festival. He noted that the Committee tried to bring in some of the best community building aspects.

Mayor Bragman opened the discussion to the public.

Bruce Baum, Chair of the Green Coalition for Responsible Waste and Resource Management that opposed the landfill expansion and an early proponent of Zero Waste, presented comments about the proposed agreement. He recited a goal from 2006 “to change the discussion from the garbage industry, the haulers and landfill operators dictating the rules to a community with elected officials to design market sustainability.”

Mr. Baum provided comments on the agreement in written form to the Town Council. His comments included asking whether or not the recycling was being delegated to another entity of Marin Sanitary in violation of Section 20 (A) of the contract that stated that “no interest of Contractor in this Agreement can be assigned;” that the term “green waste/food waste should be replaced by the term “organic materials;” suggested alternative wording for Section 3 “Redirection of compostable materials;” that the 10% franchise fees didn’t include revenue from recycling; that audited financials had never been produced by Marin Sanitary; that brush clearing shouldn’t be a line item on a customer’s bill but should be a fire department issue that was sent out to bid; that it was a “cost-plus 9.5% contract” where the more cost to the hauler, the more money they would make; that the CPI should be used, not Marin Sanitary’s figures; advised against joining the Marin Franchisors’ Group; that Attachment #1 was missing; asked why the hauler was performing other functions like prescription collection, shredding and brush clearance noting that other agencies provided those services; stated that all services should be sent out to bid; and suggested that the Council look at the Novato agreement that would provide a good model.

Mayor Bragman clarified that the brush clearing would go out to bid and that the Town would manage the program themselves; that the agreement would provide funding for the brush clearing; that the agreement didn’t say that the Town would join the franchisors group, but that their figures would be used for some of the rate considerations; and that the prescription drug collection was included in the matrix but not in the agreement.

Lou Vaccaro, Olema Road, stated that he was not clear about zero waste and didn’t understand how to sort his garbage.

Mayor Bragman explained how the sorting of organic material worked.

Patty Garbarino of Marin Sanitary made a presentation describing their “Path to Zero Waste” with a chart that used a tree to represent the steps involved. The steps or branches included multi-unit apartment food waste recycling; carpet recycling and Drywall composting, residential food waste composting, construction and demolition recycling; multi-family recycling; enhanced commercial recycling, commercial food scrap pre-consumer composting; and extended

producer responsibility. She described the percentage of reduction each element represented and noted that their rates had always been lower than in other areas of the Bay Area.

Mayor Bragman acknowledged the enhanced services and community building aspects of the new contract; noted that the Town would be getting some of the compost back to the community; stated that they had made a lot of progress; and that the contract would be presented at the next meeting for adoption after legal review.

Councilmember Tremaine stated that multi-residential units needed an educational campaign; described his experience after moving into an apartment complex where tenants did not know how to recycle; asked why the cost of a consultant for Marin Sanitary was in the contract; asked if it would be a line item on the ratepayer's bill; and stated that it shouldn't be hidden and that he didn't understand why it was in the agreement.

Mayor Bragman stated that it was for the rate review every three years; that it was a very small fraction of a percentage; and that he was anticipating that it would be for a professional consultant.

The Town's Zero Waste Consultant, Tom Vance, explained the use of the consultant and stated that Marin Sanitary paid for the rate review and the Town paid for the consultant to review the rate review. He further explained that the Franchisor's Group did an audit of Marin Sanitary every three years and adjusted the amounts the other two years after a review; that Fairfax would get the benefit of the audit; and that \$3,000 was reasonable for the professional consultant's services.

Mayor Bragman explained that they used the numbers from the Franchisor's Group as a base for rate settings and that the consultant would determine whether or not the rate determinations would apply to Fairfax. He noted that the rate review was done by a third party and reviewed by the Town's consultant.

Councilmember Reed, stated that Marin Sanitary had been very generous at the last brush clearing and wanted to know if providing such services.

Mayor Bragman stated that such services weren't included in the agreement but that Marin Sanitary did it voluntarily.

Vice Mayor Hartwell-Herrero, stated that she expected the Zero Waste Committee would meet one more time before the November Council meeting.

Report on FOCAS (Fairfax Open Circle Arts and Sports) program activities – *Camille Esposito*

Camille Esposito, Program Director for FOCAS, presented a report on the program's activities including the new classes available and the success of Camp Fairfax. She described how FOCAS was growing and reviewed the goals for the Pavilion and how some of the goals had been met by FOCAS. She thanked the Council members for their support.

Council Reports and Comments

Councilmember Reed reported on his attendance at several Fairbuck meetings; on the success of the Town Picnic; on a Measure K meeting attended to determine how to spend remaining funds; and his attendance at a Ross Valley School District Board meeting. He also reported on AB 750, legislation to establish a commission to study the formation of a State Bank that had been vetoed by the Governor. He encouraged the Council to write a letter to the people who

brought the issue forward asking them to develop a revised proposal.

Councilmember Tremaine reported on his attendance at a Fire Board meeting, his anticipated attendance at a Marin Energy Authority (MEA) meeting; noted that he would be unable to attend a day-long planning session for MEA; and reported on his attendance at a Larkspur City Council meeting to speak about Larkspur joining MEA.

Mayor Bragman reported on his attendance at four Zero Waste Committee meetings; attendance at a CPUC meeting regarding SmartMeters; attendance at a Transportation Authority of Marin (TAM) meeting with no quorum; and on his anticipated attendance at a meeting of the Paramedic Authority the following evening. He noted that Corte Madera had not passed the paramedic tax and would be taking the issue back to the voters. He reported on a Marin Telecommunications Agency meeting that he attended where a low-income and disabled discount program for cable television was adopted and a fund established to provide internet and broadcast capabilities to Marin towns and cities. He also reported on his attendance at a JPA Oversight Committee meeting.

Vice Mayor Hartwell-Herrero reported on her attendance at a Finance Committee meeting; a Marin County Mayors and Council Members (MCCMC) meeting in Tiburon; several Zero Waste Committee meetings; and described an upcoming Healthy Marin event.

Councilmember Weinsoff reported on his attendance at a Fire Board meeting; at the dedication of the 911 memorial at the Ross Valley Fire headquarters; and at a MCCMC Legislative Committee meeting. He suggested that Council members could contact him to take issues regarding State legislation to the MCCMC Legislative Committee; and asked if the Council had any objections to him writing a letter to Kay Ryan congratulating her for being awarded a "genius grant" from the MacArthur Fellows Program for her poetry.

Town Manager Report

Town Manager Rock explained that Governor Brown had vetoed AB 760 because he thought a State bank could be created by the legislature without the formation of another Blue Ribbon Committee; suggested that the Town Council adopt a resolution of support and send it to the State Legislature; and offered to draft a resolution for the November meeting.

Councilmember Weinsoff suggested that a copy of the resolution be sent to Assemblyman Huffman.

Town Manager Rock reported that the Healthy Marin Event was scheduled for Thursday, October 13th; that Congresswoman Woolsey's office had requested the Town's support of legislation regarding coastal sanctuary boundary modification and protection.

Councilmember Tremaine asked that the Council Members be given copies of the proposed legislation.

Discussion and direction to staff to enter into negotiations to provide police dispatch services to the Town of Ross – Police

Chief Morin presented the staff report and stated that he was asking for direction from the Town Council to enter into negotiations with Ross to provide dispatch services. He stated that a quote was provided to them, which would cover the costs for five (5) years of full dispatching services with a 3-year partial fee reduction to allow Ross to purchase a compatible system. He noted that the Town Council would have the final approval of any resulting contract.

Councilmember Tremaine commended Chief Morin for his work to bring the proposal forward. He stated that the Ross Valley Fire Board had been talking to Ross about becoming a member.

M/S, Tremaine/Weinsoff, Motion to direct staff to move forward to enter into negotiations to provide police dispatch services to the Town of Ross.

AYES: All

Consent Calendar

Approval of Town Council minutes for the August 17 and September 7, 2011 meetings - Town Clerk

Adoption of Resolution No. 11-53, a Resolution of the Town Council of the Town of Fairfax commending the Fairfax Chamber of Commerce for their timely leadership on sponsoring the Community Meeting on the Terrapin Crossroads Project – Town Manager

Adoption of Resolution No. 11-54, a Resolution of the Town Council of the Town of Fairfax requesting CalPERS to deem employee contributions to the employee portion of PERS pre-tax income - Finance

Request for direction to staff to prepare a Request for Proposals for banking services for the Town's finances - Weinsoff

Adoption of Resolution No. 11-55, a Resolution of the Town Council of the Town of Fairfax Calling on Congress to Re-direct Military Spending to Domestic Priorities – Bragman

Craig Slater, Marin Peace and Justice, presented a chart showing the true cost of the war in the Middle East; recommended a book entitled The Three Trillion-Dollar War; stated that the cost was already at three trillion dollars; that the money would have been better spent on domestic issues; that the real cost of the war included a half-million disabled soldiers; and commended the Council for addressing the issue.

David Glick, Cascade Drive, enumerated four things that caused the country's financial woes: the cost of the wars; the 800 military bases all over the world; the lack of a single-payer health care system; and corporate tax breaks. He read aloud a poem and personal comment against war entitled, "Here Where I Stand."

Councilmember Reed stated that he was very supportive of the preparation of a Request for Proposals for banking services and asked that the request be sent to credit unions as well.

Town Manager Rock stated that most credit unions didn't provide checking services.

Councilmember Weinsoff stated that, according to Assemblyman Huffman, credit unions could not accept State funds.

Councilmember Reed stated that the Redwood Credit Union offered a full array of services.

M/S, Tremaine/Weinsoff, Motion to adopt the Consent Calendar as presented.

AYES: All

Discussion of Tree Ordinance fines and penalties – Reed

Councilmember Reed introduced the topic and asked about the difference between the \$500 fee listed on the fee schedule and the \$1,000 penalty in the Tree ordinance. He noted that the amount of the fine for cutting down a heritage tree could be considered the cost of doing business and not as a deterrent.

There was a discussion of the issue and the Town Attorney recommended that the \$500 fee be removed from the fee schedule.

M/S, Reed/Tremaine, Motion to delete the \$500 fee for tree cutting from the recently adopted fee schedule.

AYES: All

Lou Vaccaro, Olema Road, stated that he didn't understand why removing a tree was considered a public nuisance; that there were too many trees in Fairfax; that he didn't like the tree ordinance because it made things worse than ever; that the Town shouldn't be able to tell people whether or not they could remove trees from their own property; and suggested that the Council get rid of the tree ordinance. He shared photos of the Manor Road train station from when the trains were still running to compare to a current photo of the same area to illustrate how few trees were in the original landscape of Fairfax. He stated that the Town had planted non-native trees downtown and in front of the market that obscured the business fronts; that trees blocked views; and that the public works crews had to remove leaves from all the trees.

Mayor Bragman explained that the Tree Committee granted permission for tree removal in most cases; that there was no fee for a tree permit; and that sometimes valuable advice was given to homeowners and direction to consult arborists.

Discussion/Consideration of video services for the Women's Club - Bragman

Mayor Bragman presented a report. He stated that \$60,000 had been dedicated by MTA to equip towns with audio and video equipment to allow for live cablecasts and/or live Web streaming of meetings. He reported that the Community Media Center of Marin had provided a quote for such an installation and that the enhancement provided would increase the value of the building for other uses and would allow for more people to participate in meetings.

Councilmember Reed noted that the quote received didn't include the ongoing operational costs which would include as much as \$100/hour to operate the cameras.

Mayor Bragman stated that they wouldn't have to broadcast all the meetings and could just use the audio broadcast unless it was a big meeting, and that the funding provided a good opportunity for the Town.

There was a consensus of the Council to move forward.

Mayor Bragman adjourned the meeting in honor of Arlen Philpott at 9:45 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk