

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, November 7, 2012

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Larry Bragman
Pam Hartwell-Herrero
Ryan O'Neil
John Reed
David Weinsoff

STAFF MEMBERS PRESENT: Judy Anderson, Interim Town Manager
Jim Karpiak, Town Attorney
Jim Moore, Planning Director
Mike Vivrette, Finance Director
Chris Morin, Chief of Police

Mayor Hartwell-Herrero called the meeting to order at 7:05 pm.

Finance Director Vivrette asked the Council to add the following item to the agenda: Adoption of Resolution No. 12-71, a Resolution of the Town of Fairfax Town Council Providing for the Borrowing of Funds for Fiscal Year 2012/13.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Reed, Motion to add Resolution No. 12-71 to the agenda as an urgency item.

AYES: All

M/S, Bragman/Reed, Motion to approve the agenda as amended and the affidavit of posting.

AYES: All

Announcements

Mayor Hartwell-Herrero made the announcements as they appeared on the agenda.

Central Marin Food to Energy Program, overview and roll-out- Patty Garbarino, Marin Sanitary and Jason Dow, Central Marin Sanitation District

Mr. Jason Dow and Ms. Patty Garbarino made a Powerpoint presentation that included: 1) Commercial Food to Energy (F2E) Initiative; 2) Marin Sanitary Service (MSS) Project Elements; 3) Central Marin Sanitary Agency (CMSA) Project Elements; 4) Program, Permitting, Benefits, Next Steps.

Mayor Hartwell-Herrero discussed how this project was key to the goal of zero waste.

Councilmember Bragman discussed how the Marin Energy Authority (MEA) was working on a methane conversion field and how MSS and CMSA could partner with MEA.

Councilmember O'Neil asked if there were any problems with odors or digestion. Ms. Garbarino

stated her concerns pertained to contamination or having loads rejected by CMSA.

Ms. Cindy Ross, Lansdale Avenue, asked if any costs would be passed on to the ratepayers. Ms. Garbarino stated there could be a 3.14% annual increase spread among all the ratepayers.

Mr. Tony Yudice had questions about the potential for expansion in the future and the impacts on the environment from emissions. Mr. Dow stated the existing generator runs 24/7 and has a certain emissions profile. They could purchase another type of generation system in the future and would look at alternatives to minimize the impact to the environment.

Mr. Michael Mackintosh asked if they have done a cost/benefit study regarding the use of fuel cells.

Presentation of Mayor's Proclamation for Dottie Miller for her contribution to the beautification of Manor Circle- Hartwell-Herrero

Mayor Hartwell-Herrero presented the proclamation to Dottie Miller's neighbors.

Open Time

Ms. Cindy Ross, Lansdale Avenue, asked if there was an updated report on the level of toxic chemicals in her neighborhood that had leaked from a Fair Anselm business. Interim Town Manager Anderson stated "not yet". Councilmember Bragman referred Ms. Ross to the Department of Toxic Substances Website.

Ms. Claudia Belshan, Shemran Court, referred to Consent Calendar item about the award of the bid for the Fairfax Bike Spine Project and stated Shemran Court was very congested and a safety hazard for bicycles and pedestrians. She submitted letters to the Council.

Ms. Kathy Shupe, Shemran Court, stated the residents of Shemran Court were not notified about the Bike Spine Project and the Council should get some input from the residents. Vice Mayor Reed discussed the history of the Bike Spine Project.

Ms. Laine Sprague, Belle Avenue, stated the former Town Manager promised to solve the traffic problem in her neighborhood. Councilmember Weinsoff stated he would meet with Interim Town Manager Anderson to discuss this issue.

Interview and appointment of candidate to the Open Space Committee for a full four-year term- Town Clerk

M/S, O'Neill/Weinsoff, Motion to appoint Linda Futrell to serve on the Open Space Committee for a full four-year term to November 30, 2016.

AYES: All

Council Reports and Comments

Councilmember O'Neil reported he attended the Ross Valley School District and Major Crimes Task Force meetings and that the Halloween Parade was fabulous and had wonderful community support.

Councilmember Bragman reported he attended the Marin Energy Authority (MEA) meeting; MEA's PCIA charge (similar to a stranded asset charge) is vulnerable to challenge by the

California Public Utilities Commission (CPUC).

Vice Mayor Reed reported Chipper Day was held on two consecutive Sundays and it was a huge success; he attended the General Plan Implementation Committee meeting; he worked on some Fair Bucks matters; he helped out on Creek Clean Up Day.

Councilmember Weinsoff reported he attended the Transportation Authority of Marin (TAM) Board meeting; the Marin County Council of Mayors and Councilmembers (MCCMC) Legislative meeting; the Ross Valley Fire Board meeting; and a meeting in San Anselmo about the possibility of converting Memorial Park into a floodwater detention basin.

Mayor Hartwell-Herrero reported she attended the Chamber of Commerce meeting; spoke at the Northern California Transition Conference; and attended a Zero Waste meeting.

Interim Town Manager Report

Interim Town Manager Anderson reported staff would be interviewing four applicants for the Town Manager position on November 16th and that the Pastori Sidewalk Project was under way and included installation of a new sidewalk and 10 new trees.

Councilmember Weinsoff asked staff to report back to the Council about the health of the trees along Center Boulevard.

Consent Calendar

Approval of Town Council minutes for the September 24 and October 3, 16 and 20, 2012 meeting - Town Clerk

Approval of Financial reports for August, 2012 – Finance

Award of bid for the Sir Francis Drake Bike Lane Striping Project- *Interim Town Manager*

Award of bid for the Fairfax Bike Spine (Bike Route to School) Project- *Interim Town Manager*

Authorization to refer the discussion of Downtown signs to the General Plan Implementation Committee as part of their consideration of the Downtown Center Element- *Planning*

Adoption of Resolution No 12-68, a Resolution of the Town Council of the Town of Fairfax authorizing the execution of an agreement with Wulff Hansen & Co. to provide investment banking/underwriting services to the Town where a transaction is contemplated- *Finance*

Adoption of Resolution No. 12-69, a Resolution of the Town Council of the Town of Fairfax authorizing the execution of an agreement with Wulff Hansen & Co. to provide analytic services as financial advisor where no transaction is contemplated- *Finance*

M/S, O'Neill/Bragman, Motion to approve the Consent Calendar as submitted.

AYES: All

Public Hearings

Adoption of Resolution No. 12-70, a Resolution of the Town Council of the Town of Fairfax adopting findings for the granting of the Appeal of Planning Commission approval of a Use Permit Modification to allow 7-11 to remain open 24 hours a day; Assessor's Parcel No. 002-101-13; 150 Bolinas Road- *Planning*

Planning Director Moore presented a staff report.

Mayor Hartwell-Herrero opened the public hearing.

Mr. Stephen Byers, attorney for 7-11, stated the findings for granting the appeal could not be made and the appellant's attorney misconstrued Ordinance No. 17.032.06, Subdivision (B). He is of the opinion that Subdivision (B) only applies to situations where multiple adjoining properties are negatively impacted.

The Council discussed the following issues: Ms. Moreno submitted a petition including signatures from her neighbors at a prior meeting; there were a number of complaints; Mr. Byers was misinterpreting the language in the ordinance; they do not want to push this issue off until February.

Mr. Tony Yudice stated the Council has spent a lot of time on this issue and only one neighbor was complaining.

Ms. Michelle Garcia, Bolinas Road, stated having the 7-11 open 24 hours created a quality of life issue.

Ms. Cindy Ross, Landsdale Avenue, stated she supported the 7-11 store and liked the fact that the store was open 24 hours. The problems mentioned by the appellant were not necessarily related to the store.

Megan Arnold, Bolinas Road, stated she lives directly across the street from 7-11 and they are affected by the noise.

Mr. Riley Hurd, attorney for the appellants, stated the Council has already voted on the matter of the appeal and there was no new evidence that would change their minds. He stated there were multiple properties affected by the noise and the negative impacts were much greater as a result of the expanded hours.

Councilmember Bragman suggested the following amendment to Resolution No. 12-70: finding #1 shall read: "The approval of the modification to the Use Permit permitting 24-hour operations has resulted in, and will continue to cause, public nuisances *and excessive or unreasonable detriment* such as noise....."

M/S, Weinsoff/Bragman, Motion to uphold the appeal and adopt Resolution No. 12-70, a Resolution of the Town Council of the Town of Fairfax adopting findings for the granting of an appeal of Planning Commission approval of a Use Permit Modification to allow 7-11 to remain open 24 hours as amended by Councilmember Bragman.

AYES: Mayor Hartwell-Herrero, Bragman, Reed, Weinsoff

NOES: O'Neil

The Council took a 10-minute break at 9:05 p.m.

Adoption of Resolution No. 12-71, a Resolution of the Town of Fairfax Town Council Providing for the Borrowing of Funds for Fiscal Year 2012/13.

Finance Director Vivrette presented a staff report.

Mr. Mark Pressman, representing Wulff Hansen & Co., stated the County of Marin was ready to fund the short-term loan on Friday and stated that the Town would pay it off on December 14th.

Mr. Mark Belle, Dominga Avenue, asked about the status of the FEMA reimbursements. Finance Director Vivrette stated there were a number of items in dispute.

M/S, Bragman/Weinsoff, Motion to adopt Resolution No. 12-71, a Resolution of the Town of Fairfax Town Council providing for the Borrowing of Funds for Fiscal Year 2012/13.

AYES: All

Discussion of questions regarding Good Earth Market Use Permit Compliance- *Planning*

Planning Director Moore presented a staff report.

Mayor Hartwell-Herrero asked Planning Director Moore if he had spoken to the representatives of the Good Earth about their goals (compliance, changing the conditions, etc.). Planning Director Moore stated “no” but the Building Official had been in touch with them.

Councilmember O’Neil asked staff if they had any delivery schedules from the former markets (Luckys or Albertsons). Planning Director Moore stated “no”.

Vice Mayor Reed asked if the observations cited in the memorandum from the Building Official dated October 31st were complaint based. Chief of Police Morin stated some were citizen generated.

Mr. Steve Franks, Willow Avenue, stated the problem started about nine months ago and the noise from the delivery trucks often begins at 3:30 a.m. He stated there was no enforcement and no end in sight.

Mr. Al Balack, representing the Good Earth, stated they care about the community and promised to take care of the problem. He has a procedure in place and looks forward to the upcoming Planning Commission meeting.

Ms. Laine Sprague, Belle Avenue, agreed with the comments made by Mr. Franks and stated there was a general disregard on the part of the Good Earth for the welfare of the neighbors.

Ms. Cindy Ross, Landsdale Avenue, stated she lives near the Good Earth and the impacts to traffic and parking in the neighborhood were overwhelming.

Mr. Sierra Salin stated the Good Earth should move back to its former location on Bolinas Road.

Ms. Gwen White encouraged the Council to move forward and direct the Good Earth to comply with the conditions of approval.

Mr. Steve White, Cascade Drive, stated he has driven by the Good Earth before 5:00 a.m. and has seen delivery trucks in the parking lot. He was concerned about the aesthetics of the western side of the building. The mechanical equipment on the roof should be screened.

Mr. James Heard, Chester Avenue, stated he does not hear the noise but noted the complaints from his neighbors should be taken seriously. This is an opportunity to rectify the problem.

Councilmember O'Neil stated they should not forget the needs of businesses; the Council should come up with a compromise; these problems could be solved.

Councilmember Bragman stated there is much work to do; had questions about an ordinance that would allow the Town to cite delivery trucks for deliveries made before a certain hour.

Vice Mayor Reed stated an ordinance regulating delivery trucks was a good idea.

Councilmember Weinsoff stated this was an important store that provides a necessary service; they do not need to adopt a new ordinance; the Good Earth will make the necessary adjustments.

Mayor Hartwell-Herrero stated there were strategies in place and they should let the process move forward.

Report on the "parklet" concept and its possible use as public open space in the Town of Fairfax- Planning

Planning Director Moore presented a staff report.

Mayor Hartwell-Herrero asked about capital and administrative costs. Planning Director Moore stated staff has not looked into administrative costs but the capital costs could be quite expensive (up to \$100,000).

Councilmember O'Neil asked about proposed locations. Planning Director Moore stated staff would work cooperatively with the Chamber of Commerce and the local businesses.

Councilmember Bragman stated businesses would benefit from "parklets".

Mr. Tony Yudice stated parking was very hard to find in downtown Fairfax and he opposed closing the street.

Mayor Hartwell-Herrero stated there was a consensus of the Council to direct staff to move forward on the "parklet" concept.

Approval of Town Council meeting schedule for 2013 and closure of Town office from December 26 through December 28- Interim Town Manager

Interim Town Manager Anderson presented a staff report.

M/S, Weinsoff/Reed, Motion to approve the Town Council meeting schedule for 2013 and closure of Town Hall offices from December 26th through December 28th.

AYES: All

M/S, O'Neil/Reed, Motion to adjourn the meeting at 10:35 p.m. in honor of Steven Kent Balick and Tony Coboara.

AYES: All

Respectfully submitted,

Toni DeFrancis
Recording Secretary