

Fairfax Town Council Minutes
Adjourned Meeting
Fairfax Women's Club
Thursday, May 24, 2012

The adjourned meeting was preceded by a Special Closed Session from 5:30 p.m. to 7:00 p.m. at Town Hall, 142 Bolinas Road, for a Public Employee Appointment (Interim Public Works Director); Public Employee Performance Evaluation (Town Manager) pursuant to Govt. Code Section 54957.

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

STAFF MEMBERS PRESENT: Michael Rock, Town Manager
Jim Moore, Planning Director
Judy Anderson, Town Clerk
Tracy Lavoie, Administrative Assistant

Mayor Hartwell-Herrero called the meeting to order at 7:08pm

Approval of Agenda and Affidavit of Posting

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

AYES: All

Announcement of Closed Session Action

Mayor Hartwell-Herrero reported that the Council had directed staff to continue to negotiate and work with the public works consultant and announced that the appointment of an interim Town Manager would be considered at the June 6th regular Town Council meeting agenda.

Announcements

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

Open Time For Public Expression

Yvette Wakefield, Berry Trail, requested that the Town Council consider an ordinance requiring individuals to take responsibility for cleaning up after their dogs and described her experience on Center Blvd. where the problem had gotten worse with the increased traffic in that part of town.

Councilmember Bragman stated that the Fairfax Volunteers had a program to provide disposable bags for dog owners and that he would ask them to provide a dispenser in the Center Blvd. area.

Valeri Hood, Dominga Ave., stated that she had provided the clerk with an article about the County Supervisors trying to expedite planning applications and asked the Council to be aware of these efforts and to weigh in on the issue if necessary.

Nancy Okada, San Anselmo resident, stated that she wanted to raise awareness of Assembly Bill AB1530 moving very fast by Assembly member Huffman, regarding relaxing requirements for getting new industry into the State for increased job opportunities. She also expressed concern about rodenticide used on open space land and the effects on dogs and other wildlife and requested a ban on pesticides in our community due to the danger to domestic animals and children.

Public Employee Appointment pursuant to Government Code 54957: Interim Public Works Director – Town Manager

Mayor Hartwell-Herrero reported that the Council had met with Wayne Bush, a public works consultant under contract with the Town, to consider hiring him as Acting Public Works Director and that they had decided to have the Town Manager work to secure another contract with Mr. Bush.

Mayor Hartwell-Herrero opened the discussion to the public.

Michael Mackintosh, Pastori Ave., asked if the public would have input on changes to the position. Mayor Hartwell-Herrero responded that the contract would be considered on the next Council agenda and would be open to comment by the public at that time.

Discussion/Consideration of accepting federal and state funding for the construction of a replacement bridge at Pastori Avenue – Town Manager

Town Manager Michael Rock presented the staff report and provided background on the opportunity to take advantage of funding offered by the federal bridge and highway program to replace/revitalize the Pastori Bridge; stated that the cost of the five year project was estimated at \$2 million; that it would be 100% funded by federal transportation funds; that the bridge had to be publicly owned prior to applying for funding; and that the only way to proceed would be for the Town to own the bridge. He further explained that an invitation had been extended to open a discussion with Michael Mackintosh, owner of Marin Town and Country Club and Pastori Bridge, and the Town to ascertain if there was interest from both parties and if it would be a viable use of time and resources.

Nadar Tamane, California Infrastructure Consultancy, explained the CalTrans bridge inspection reports that resulted in the “functionally obsolete” determination for the Pastori Bridge; described the scope of work covered by the grant; and answered questions from the Council.

Councilmember Weinsoff expressed uncertainty about whether or not it was a fiscally responsible project; that it would be done with other people’s money; that the bridge was not in danger of collapse, and that he wanted to be frugal with taxpayers’ money.

Mr. Tamane noted that fixing the bridge would not be covered by federal funds; that the bridge wasn’t wide enough to meet current standards; that a total replacement would be more economical; that there is no fix to the bridge that would address the fish ladder; and that the fish ladder was actually a fish impediment.

Vice Mayor Reed questioned the return on investment from the bridge; noted that the liability would revert to the Town with the ownership of the bridge; and ascertained that the federal grant would not include a platform to watch the creek nor the cost of an access bridge during construction.

Councilmember Bragman noted that the Town of Ross paid extra for the design of their new bridge.

Pam Hartwell-Herrero opened the discussion to the public.

Diane Hoffman, Porteous Ave., stated that she had fought the purchase of Marin Town and Country Club by the Town when it had been up for sale; that she didn’t feel that the town should be involved; and noted that it was private property.

Valeri Hood, Dominga Ave., agreed with the comments from Ms. Hoffman; stated that she didn’t see any benefit to the Town from replacing the bridge; that nobody wanted a second bridge on Pacheco; and that it was a good opportunity for Mr. Mackintosh, but not for the Town.

Yvette Wakefield, Berry Trail, stated that she agreed with the previous speakers; that the proposed project was a way for Michael Mackintosh to develop his property; and that it was a cul de sac, not a through street; and that it would reduce the quality of life for other residents.

David Leonard, Dominga Ave, expressed agreement with Councilmember Weinsoff about his concern about using public funds to fix private property; questioned the advantage for the Town; and stated that it seemed unethical to take funds away from other viable projects that could save lives.

Wendy O'Rear, Pastori Ave, expressed concern about the current erosion on her property next to the bridge and the potential for more damage to her property; the potential for extra noise and traffic during construction; and expressed a desire to see the replacement bridge be designed in the same spirit of the current historic bridge that would blend in with nature.

Shematsaya, Wesson Lane, stated that the Town could not afford the liability exposure; that the Town would still assume the liability whether or not the funding was secured; and questioned whether or not the Federal Government would even consider funding a project that led onto private property.

Fank Egger, Meadow Way, stated that he had consulted with an engineer who estimated that the project would cost close to \$4 million for the whole project; noted that the Ross Bridge hadn't been taken down easily which had increased the cost; and stated that a full public hearing with notification to all the neighbors was needed before action was taken.

Nancy Okada, San Anselmo resident, stated that the money could be better used in San Anselmo on bridges that were on main thoroughfares and recommended not pursuing the funding.

Susan Brandborg, Dominga Ave., asked for clarification of the scope of project, determined that extra funding from the Town wouldn't be necessary and that the outfall pipe was a separate project.

Michael Mackintosh, owner, Marin Town and Country Club, stated that there had been no secret meetings with the School District referred to by an earlier speaker; that he had sealed the bridge when it was painted; that the bridge was structurally sound but not wide enough to meet current standards; and that a new bridge would include a replacement of the fish ladder and would address the erosion problem; that the fish ladder and the erosion were the reasons the conversation about the bridge had started; and that the project would provide an opportunity to complete these upgrades at no cost to the Town.

Councilmember O'Neil asked if Mr. Mackintosh was willing to set aside an area for the public on his side of the bridge; that the public meeting on the project was scheduled to allow for a transparent decision; that he didn't see why they should support it without a public benefit like access to the property; and stated that the project wasn't just for the fish ladder and the outfall pipe.

Councilmember Bragman stated that he didn't see the public benefit in the proposed project but in contrast saw a private benefit with public liability fraught with ethical and legal challenges; that the ownership issue alone was fraught with problems; and that he would prefer to table the discussion.

Vice Mayor Reed stated that the project wouldn't benefit the public; that if it was still an active country club, it would have had some public benefit; and that he didn't approve of assuming liability for the Town.

Mayor Hartwell-Herrero closed the discussion with no action taken.

Second Reading and Adoption of Ordinance No. 765 of the Town Council of the Town of Fairfax extending a temporary Moratorium on the Installation of Smart Meters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax for an additional year – *Bragman*

Councilmember Bragman presented a report about the ordinance, stated that it was a good, comprehensive ordinance and that he and others were preparing to go to court with the CPUC within the next month on some of the issues involved.

Pam Hartwell-Herrero complimented Councilmember Bragman on his great work and opened the discussion to the public.

Shematsaya, Wesson Lane, stated that the ordinance didn't guarantee that PG&E would honor the ordinance; that Carol Brown, advisor to PG&E, had said she didn't know if the Town could override an individual's contract with PG&E; asked if the Town would have to bring the issue to a public vote; and expressed a desire to get fiber optics in the town.

Valeri Hood, Dominga Ave., thanked the Town Council for all of the time and energy they had spent on the issue; reported that she had received an e-mail from a new neighbor on Lansdale that stated that there was a smart meter on their new home; asked if the antennae installed on poles in Town were functioning; stated that the residents should be able to find out where the antennae were located; and requested that the antenna sites be made available on the Town's Web site.

Councilmember Bragman stated that they were public documents and that there was a strong argument being made to post them.

Diane Hoffman, Porteous Ave., Real Estate Agent, stated that she had clients who were aware of the issue; wanted to know if the Council would be successful in getting an "opt-out" status for the Town; and stated that it would have a positive impact on the desirability of Fairfax as a place to live.

Nancy Okada, San Anselmo resident, thanked the Council for their efforts on the issue; noted that the Fairfax Council had led the charge against PG&E; that it was like the successful efforts to stop the plans for desalination; and stated that more such action was needed.

M/S, Bragman/Reed, Motion to waive further reading and to read the title only of Ordinance 765 of the Town Council of the Town of Fairfax extending a temporary Moratorium on the Installation of Smart Meters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax for an additional year.

AYES: All

M/S, Bragman/O'Neil, Motion to adopt Ordinance 765 of the Town Council of the Town of Fairfax extending a temporary Moratorium on the Installation of Smart Meters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax for an additional year.

AYES: All

Authorization for the Mayor to send a letter of support for adoption of the Alameda County Safe Medication Disposal Ordinance - *Weinsoff*

Councilmember Weinsoff presented the report and led a Council discussion of the issue.

Mayor Hartwell-Herrero opened the discussion to the public.

Shematsaya, Wesson Lane, thanked Councilmember Weinsoff for bringing the item forward and pointed out that educating the public about the issue would be a key to success.

Diane Hoffman, Porteous Ave., thanked Councilmember Weinsoff for bringing the issue forward and agreed that the first step was the need to educate the public.

Mayor Hartwell-Herrero stated that she was excited to get the word out on the issue and noted that there was an educational awareness component included in the recently negotiated contract with Marin Sanitary as part of an annual public event to be scheduled.

Frank Egger, Meadow Way, Ross Valley Sanitary Board member, stated that pharmaceuticals were a big problem in the wastewater and anything that could be done to keep the pharmaceuticals out of the wastewater would be valuable.

M/S, Weinsoff/Reed, Motion to direct Town Clerk Anderson to send a letter of support for adoption of the Alameda County Safe Medication Disposal Ordinance.

AYES: All

M/S, O'Neil/Bragman, Motion to adjourn the meeting at 9:05 p.m.

Respectfully submitted

Tracy Lavoie