

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, June 4, 2014

The regular meeting was preceded by a Closed Session from 6:00 p.m. to 7:00 p.m.-

Conference with Legal Counsel- pursuant to Government Code Sections 54957(b), 54957.1(a)(5): Consideration of Application of Police Sergeant Stuart Baker for Industrial Disability Retirement

Conference with Legal Counsel- Anticipated Litigation
Government Code Section 54956.9(d)(2) and (e)(1): one case

Conference with Legal Counsel- Existing Litigation
Government Code Section 54956.9(d)(1)
Egger, et al. v. Gardner, Marin Superior Court No. CV1401704

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Larry Bragman
Barbara Coler
Renee Goddard
John Reed
David Weinsoff

STAFF MEMBERS PRESENT:

Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Jim Moore, Planning Director
Mike Vivrette, Finance Director
Chris Morin, Chief of Police

Mayor Weinsoff called the meeting to order at 7:00 pm

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Reed, Motion to approve the agenda and the affidavit of posting.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Announcement of Closed Session Action

Mayor Weinsoff announced the Council gave direction to staff. The Council considered the application of Police Sergeant Stuart Baker for Industrial Disability Retirement and unanimously adopted a resolution approving it.

Announcements

Mayor Weinsoff made the announcements as they appeared on the agenda.

Open Time

Ms. Valeri Hood, Dominga Avenue, asked if there had been any spills of contaminants in the San Anselmo Creek. She noticed the absence of several bird species.

Mr. Sierra Salin stated there was a lot of weird stuff going on in the world and it was up to each individual to fix it. He stated someone needs to speak up for the non-human "stakeholders" of climate change.

Ms. Helen Fauss, Scenic Road, presented a proposal for a part-time Trail Steward for Fairfax. Fairfax has one hundred and twenty trails in Town and the cleanup/maintenance work is done by volunteers. Climate change has increased the risk of fire. Mayor Weinsoff stated the Council will be meeting this Friday morning from 11:00 a.m. to 2:00 p.m. in a Budget Workshop and he invited Ms. Fauss to attend.

Ms. Denise Ferry, Laurel Drive, agreed with the comments made by Ms. Fauss.

Ms. Anya Shandler, Barker Avenue, thanked everyone for the work done on the trails. She noted some of the trails are a fire hazard.

Ms. Mimi Newton, Mono Avenue, stated Iron Spring Brewery was holding a benefit for the Open Space Committee. She noted the General Plan calls for care of the Internal Trail Network.

Consent Calendar

Approve minutes for the April 4, 2014 Town Council meeting- Town Clerk

Accept Financial Statement and Disbursement Reports April 2014- Finance Director

Accept Marin Sanitary Services Quarterly Report (Jan-March 2014)- Town Clerk

Approval of Town Manager employment agreement- Mayor and Vice Mayor

Approve Revised Town Council meeting schedule for calendar year 2014- Town Clerk

Accept status update on the clean-up of property located at 159 Willow Avenue- Building Official

Adoption of a resolution adopting an escheatment policy for unclaimed property- Finance Director

Information on non-profit resident fee for the rental of Town facilities and amplified music policies for Town facilities- Town Manager

Reappointment of Two Fairfax Open Space Committee Members- Town Clerk

Approval of two-month extension for the current Artist-in-Residence term- Town Manager

Approval of Town sponsorship of the road closure for the Fairfax Festival and Parade June 14-15, 2014- Town Clerk

Approval of Town sponsorship of the road closure for the Car Show on Sunday, September 14, 2014- Town Clerk

Adoption of a Resolution Setting the Amount of the Special Municipal Services Tax for FY 2014-15- Finance Director

Adoption of a Resolution Setting the Amount of the Utility Users Tax for FY 2014-15- Finance Director

Adoption of a Resolution Setting the Pension Tax Rate to Support Fairfax Pension Obligation for FY 2014-15- Finance Director

Adoption of a Resolution Setting a Fee for the Purpose of Funding Local Stormwater Pollution Prevention Activities for FY 2014-15- Finance Director

Adoption of a Resolution Setting the Tax Rate for the General Obligation Bonds (Measure K Bond Assessment) for FY 2014-15- Finance Director

Adoption of a Resolution continuing expenditures and revenues in accordance with the 2013-14 Town Budget and continuing the FY 2014-15 Budget Adoption- Finance Director

Adoption of a Resolution authorizing execution of Community Development Block Grant (CDBG) program and HOME program Cooperation Agreement with the County of Marin- Town Manager

M/S, Coler/Bragman, Motion to approve the Consent Calendar with the removal of item #8 which will be heard after agenda item #27, and corrections to the April 4, 2014 minutes.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Council Reports and Comments

Councilmember Reed reported he met several times with an Eagle Scout regarding a trails project; attended a Fire Board meeting; met with the Trails Committee; attended the Flood Zone 9 meeting; attended a Transportation Authority of Marin (TAM) meeting; attended a Safe Routes to Schools meeting.

Councilmember Coler reported she attended a Flood Zone 9 meeting; the Countywide Public Disaster and Emergency Preparedness meeting; the Marin County Council of Mayors and Councilmembers (MCCMC) meeting; met with Fire Chief Mills to discuss fire prevention ideas; met with Ms. Fauss about reclaiming some trails.

Councilmember Bragman reported he attended the Fire Board meeting; the Flood Zone 9 meeting; Napa County was joining the Marin Energy Authority.

Councilmember Goddard reported she attended the Healthy Youth Coalition Forum; the Safe Routes to Schools meeting; the Marin Organizing Committee's gathering regarding the homeless issue; a Zero Waste Committee meeting; a Graywater Bike Tour with Sustainable Fairfax; the MCCMC meeting; the Flood Zone 9 meeting;

Mayor Weinsoff reported he attended the MCCMC meeting; the MCCMC Legislative Committee meeting; the Flood Zone 9 meeting; the Peri Park celebration; the Chamber of Commerce meeting; the Fire Board meeting;

Town Manager's Report

Town Manager Toy stated he did not have a report.

Public Hearings

Continued consideration of an appeal of Planning Commission denial of Setback Variance, application 13-23, 130 Wood Lane, to legalize unpermitted carport with the required 5 foot setback- Planning Director

Planning Director Moore presented the staff report. Staff was recommending that the appellant be given 24 months to apply for the required use permit, with the fees waived, to move the carport to a conforming location.

Mayor Weinsoff opened the Public Hearing.

Appellant stated he would like to leave the carport where it was because it would cost \$5,000 to move it.

M/S, Coler/Goddard, Motion to allow the appellant 24 months to apply for the required use permit, with the fees waived, to move the carport to a conforming location. If the appellant does not proceed with the property application within the 24 month timeframe that the carport structure be removed immediately thereafter.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Regular Agenda

Discuss status of repeal process of Ordinance No. 778 which, among other things, rezoned properties from CH (Highway Commercial) to (CC) Central Commercial, added new PDD (Planned Development District) zoned properties, and rezoned properties PD (Public Domain), and direct staff as appropriate- Town Manager

Mayor Weinsoff noted the Council would not be taking any action tonight.

Town Manager Toy presented a staff report and a background of the issues.

Town Attorney Coleson discussed the status of the Writ of Mandate proceedings.

Mayor Weinsoff stated the Community Meeting would be held on July 12th. Councilmember Goddard asked if the Community Meeting could be held during the Council's Regular July 2nd meeting. Mayor Weinsoff stated he would rather hold a separate Community Meeting in a more relaxed atmosphere. It was the consensus of the Council to hold the Community Meeting on Saturday, July 12th at 1:00 p.m. in the Women's Club Building.

Mr. Lou Vacarro, Olema Road, stated rezoning the Olema Road property to PDD was not appropriate. The neighbors should receive notification so they could give testimony. Town Manager Toy stated notices were sent to property owners within a 300-foot radius of the subject property for any Public Hearing item.

Ms. Marquez, Fairfax resident, stated she was raising three children and she was concerned about housing here, and whether she could continue to pay rent. She spoke in favor of affordable housing.

A resident read a letter in support of senior and affordable housing. The letter noted there was a growing Latino community in Fairfax.

Ms. Michele Garcia, Bolinas Road, requested the Community Meeting also be in Spanish for the growing Latino community. She stated people who would benefit from affordable housing were

already a part of Fairfax.

Mr. Steve Guastucci, Creek Road, spoke in support of affordable housing. He grew up in Fairfax and saw many changes. Rising rents are forcing people even with good income to leave. Concerned Fairfax was losing characters. He would like his son and other people to be able to stay and be a part of this community.

Mr. David Grabel, attorney representing people who need affordable housing in Marin County, stated it was difficult to get affordable housing approved and built in the county. He stated 60% of the people who work in Marin County commuted from other areas. Supported letting the matter go to the ballot instead of repealing the ordinance.

Ms. Jessica Green, Ridgeway Avenue, stated there were lots of mistakes in the zoning ordinance that should be fixed before passing it. She was not against affordable housing, but the ordinance should be done right.

Mr. Sierra Salin, resident of Earth, stated there were more people on the planet and all had to live somewhere. He asked what people were giving back to the community and to the earth. There was no such thing as affordable housing in Marin County.

Mr. David O'Callahan, Olema Road, stated Sir Francis Drake Boulevard was a residential street and not Highway 101. He was opposed to the density planned for 10 Olema Road. He thought the zoning ordinance lumped too many changes together, and was really a gating action to implementing the plan and for development.

Hannah, Porteous Avenue, stated many homeowners were in support of affordable housing and a diverse community. She urged the Council to focus on the issues and policy. Lawsuits and up/down vote referendums were not a way to resolve this issue. The Community Meeting would lead to a discussion about priorities. She supported the proposal for affordable housing on the Christ Lutheran Church property, the protection of the Wall property, public transit.

Mr. David Levin, member of the Mill Valley Affordable Housing Committee, stated there was a desperate need for affordable housing and the Council was being asked to help solve this regional problem.

Brad, a resident, stated there was a need for more affordable housing in Fairfax, and we could not simply close the Town to people who don't already live here. Conversation and discussion at a community meeting would be helpful. Reasonable development would preserve the Town. .

Ms. Wendy Kallins, Fairfax business owner, stated 90% of people who worked in Fairfax do not live in Fairfax. Fairfax did an exemplary job of creating a General Plan that reflected the unique character of the Town including the housing plan. She was opposed to abandoning the process because of extreme legal and political pressures. She supported waiting until after the Community Meeting to take action. She saw no good reason to repeal the ordinance.

Mr. Bob Pendoley, representing the Board of Directors of Fair Housing of Marin, stated their goal was to maximize housing opportunities for all people. He urged the Council to maintain Ordinance No. 778 and consider the fair housing implications of impeding the development of affordable and senior housing in Fairfax.

Ms. Mimi Newton stated there was a lot of hyperbole going on in the community and people were taking extreme positions. People needed to work together. She supported rescinding the ordinance and taking a fresh start.

Ms. Kiki LaPorta, Fairfax resident, spoke in support of keeping the ordinance. She stated Marin County is one of the most expensive housing markets in the country. Needed to be vigilant about protecting diversity in Fairfax. If people opposed formula businesses then they should oppose efforts to rescind Ordinance No. 778.

Mr. Tom Childers, Glen Drive, stated he was on the GPAC for several years, where they debated these issues. He supported affordable and senior housing but he had concerns about traffic. He noted that the zoning ordinance did not make changes to Town; it simply set up the possibility of it. Proposals would have to get through the Planning process. He supported the zoning changes.

Lisel, Fairfax resident, stated she put in a lot of time and energy to understand this issue and was frustrated that the process had stalled. Home prices and rents in Fairfax were very high. She urged the Council to slow down before rescinding. She noted that the Green party platform included reasonable affordable housing and density.

Mr. Joseph Odem, Porteous Avenue, stated he was in favor of affordable housing but not wholesale rezoning. He stated that if Assembly Bill 1537 passed the Senate, it would rezone Fairfax from "urban" to "suburban", thus changing the density requirements.

Mr. Chris McManus stated Christ Lutheran Church was a good neighbor to him and he applauded both the senior housing project and the General Plan. He expressed that we had a moral obligation to house the elderly, the sick, and the disabled.

Ms. Alycia Cline, senior project manager for Resources for Community Development, briefly discussed the proposal for 40 units of low income housing at the Christ Lutheran Church. She noted a repeal of the ordinance and subsequent one-year moratorium on development in Fairfax could severely hamper their ability to get financing, and requested the Council carve out the site to enable the project to move forward.

Mr. Morgan Hall stated the General Plan was an amazing document 14 years in the making. It was the "state of the art" and should not be tweaked. He noted the ordinance controlled what may be built in a given zone, but that there was a long process for a project (up to three years) to give the public a chance to weigh in.

Mr. Roy Bateman, representing the Marin County Home Funding Program, stated HUD changed the housing regulations about a year ago requiring a two-year time limit to put funds under contract. This transformed his role from supporting housing projects into enforcing time-limits in an on-going competition for funding. He supported the senior housing project.

Mr. Eric Sohn, Chair of the Board of Trustees of Cascade Canyon School, stated they leased their site from Christ Lutheran Church. They were concerned that they were not consulted as a stakeholder in the process. They did not support or oppose the senior housing project since they had not been given enough information to form an opinion.

Ms. Jennifer Hammond, Fairfax, stated that the ordinance followed the policy of the General Plan. She saw no reason to repeal the ordinance and urged the Council to slow down, hold workshops, and to see if revisions to the General Plan were needed.

Ms. Heather Gould, Claus Circle, a parent and Board member of Cascade Canyon School, supported increased diversity in Town and more affordable housing. She reiterated that Cascade Canyon School had not taken a position on the proposal at Christ Lutheran Church; they were asking for more information and to be part of the conversation.

Ms. Norma Fragoso, Meerna, stated she was impressed with the participation, deliberation, and caliber of analysis at the recent Planning Commission meeting regarding this issue. She urged the Council to support their recommendation NOT to repeal the ordinance.

Mr. Frank Egger, Meadow Way, stated the housing debate occurred throughout Marin County. He noted that of the four issues that affect affordability, Fairfax is a leader, having the highest living wage statewide, and highest density in Marin. He stated that the referendum did not prohibit the Lutheran Church project or workforce housing project on Olema from applying for rezoning under PDD codes. He urged the Council to rescind the ordinance.

Mr. Lew Tremaine, Sir Francis Drake Boulevard, stated he spent a lot of time working on the General Plan and it was a good document, but that the ordinance had flaws that concerned people in the community, and had to be repealed.

Yvette Wakefield, Village West, stated she was opposed to the senior affordable housing project because it would not be available to the poorest people in the community. She did not support building any housing near transit corridors because it exposed residents to harmful pollution.

Ms. Angela Gott, San Rafael, stated she fell into the “extremely low income” category and there was no housing in Marin County for people in that category.

Ms. Valeri Hood, Dominga Road, stated she was concerned for her friends who could not find affordable housing. The referendum was about fixing mistakes that up-zoned parcels- it would change the quality of life in Fairfax. She asked what affordable meant. She supported a community discussion, but without charettes.

Ms. Mallory Geithem, Fairfax, stated she could understand both sides of the issue but she was concerned about the polarization. She suggested we do something innovative; rethink what we call low-income, look at shared housing.

Mr. Alexander Binick, Meadow Way, asked the Council to repeal the ordinance and then deal with the rezoning on a parcel-by-parcel basis instead of a package deal. He requested no charettes at the community meeting.

Ms. Jody Timms, Fairfax, stated we already had the General Plan in place, which meant a fresh start was not an option. She hoped to be able to address concerns by consensus. A diverse community is critical.

Ms. Shannon Savage, Porteous Avenue, stated although she does not own property in Fairfax she contributes to the economy. She would like everyone to work together to build amazing developments.

Mayor Weinsoff closed the public comment period, and repeated the Council would not be taking any action tonight. He looked forward to the Community Meeting in July.

Councilmember Reed acknowledged that the process could be polarizing and not particularly fun but they owed it to everyone to get to a positive place. He stated they might have rushed in the beginning of the process but they needed to slow down and get the details in the General Plan right. He supported having the conversation with Cascade Canyon School. He urged the community to come together and do it right, instead of fighting over details that were done wrong.

Vice Mayor Bragman stated that when the Council took the time to listen to the community they made better decisions. He did not believe putting the issue on the ballot would help us to move

forward. Concerned that it would create winners and losers, and further divide us. Ordinance No 778 was flawed because of errors in the General Plan Housing Element (specifically on page H-15). He believed the Council could repeal it and then bring it back piece by piece starting with the Church property.

Councilmember Coler stated she saw a lot of division and the need to step back, and to then move forward quickly in a collaborative, positive way and take this piecemeal. It would be a mistake to put this issue on a ballot and further divide the community.

Councilmember Goddard stated that the General Plan was about innovation and creating new opportunities. The Housing Element was a roadmap for new opportunities and they had to be willing to not go back but also not dive forward. Everything that has been brought to their attention can be fixed. She did not believe in a piecemeal approach.

Mayor Weinsoff thanked everyone for his and her comments.

The Council took a 10-minute break at 10:00 p.m.

Mayor Weinsoff stated he would like to rearrange the order of the agenda.

Adoption of a resolution supporting and endorsing a proposed County of Marin parcel tax as the funding mechanism for the second-generation Marin Emergency Radio Authority public safety communications system- Town Manager

Mr. Dave Jefferies, Project Manager for MERA, stated the MERA Board approved the feasibility study and funding mechanism for the new system late last year.

Vice Mayor Bragman asked how much the Town currently pays for MERA. Town Manager Toy stated there were two payments- one towards the membership and one towards the debt service. Staff budgeted \$80,000 per year. Councilmember Bragman noted the proposal was for a Parcel Tax in the amount of \$29.

Mr. Jefferies agreed and stated it was a County-wide tax that spread the cost evenly. The Town would continue to pay for operating and maintenance costs. Town Manager Toy stated the debt service would get shifted directly to the property owners.

Councilmember Coler asked at what point the Town would start paying the Generation II Bond costs. Mr. Jefferies stated the bonds would be sold in 2015. The system would become active in 2018. Councilmember Coler asked when the Town would no longer pay the \$47,000 for the Generation I Bonds. Mr. Jefferies stated the last payment would be during Fiscal Year 2020/21. Councilmember Coler asked about the operations and maintenance costs for the Generation II system. Mr. Jefferies stated they did not break that out between the two systems. There will be a brief period of time when they are running both systems. The new system would be larger with four additional sites. Councilmember Coler asked if they had considered leasing the equipment. Mr. Jefferies stated there was a Finance Committee which was involved in the process.

Councilmember Reed stated technology changed quickly and a leasing approach was worth exploring.

Mayor Weinsoff asked the Council to forward his or her questions to Mr. Jefferies.

M/S, Bragman/Reed, Motion to continue this item to the July 2nd Council meeting.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Conduct workshop to discuss/consider the extension of the Special Municipal Services Tax for five years and direct staff as appropriate- Town Manager

Mayor Weinssoff gave a brief history of Measure F and Measure I, an extension of Measure F.

Town Manager Toy noted there was a Budget Workshop scheduled for this Friday and he recommended that, given the late hour, the Council continue this item to that date.

Vice Mayor Bragman asked staff to calculate the Bay Area Cost of Living Increase from 2005 to 2014. Town Manager Toy stated he would bring that information to the Budget Workshop.

Councilmember Coler stated she would like to discuss both the amount and the length of time of the tax at the upcoming meeting.

Discuss/consider a requirement for all stores, shops, eating places, food, and retail food vendors to charge a mandatory charge for public bags provided at check out- Town Manager, Councilmember Goddard

It was the consensus of the Council to continue this item to the July 16th Council meeting.

Discuss/consider resident' petition regarding the noise ordinance- Town Manager

It was the consensus of the Council to continue this item to the July 16th Council meeting.

Designate Council Members to sign ballot argument and to prepare and sign rebuttal for the Ross Valley Paramedic Authority ballot measure regarding an increase in the paramedic service tax- Town Clerk

Vice Mayor Bragman stated he would like to sign the measure, and to ask Ms. Jody Timms, Fairfax representative to the Marin Council on Aging, and a few others to sign the measure.

M/S, Coler/Reed, Motion to designate Councilmember Bragman to sign and recruit other people to sign the ballot measure for the Ross Valley Paramedic Authority ballot measure regarding a parcel tax.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

Discuss/consider revisions to the Sign Ordinance- Councilmember Coler, Town Manager

It was the consensus of the Council to continue this item to the July 16th Council meeting.

Information on non-profit resident fee for the rental of Town facilities and amplified music policies for Town facilities- Town Manager

It was the consensus of the Council to continue this item to the July 16th Council meeting.

M/S, Bragman/Reed, Motion to adjourn the meeting at 11:07 p.m.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

Respectfully submitted,

Toni DeFrancis
Recording Secretary