

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, June 1, 2011

The regular meeting was preceded by a special meeting closed session.

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  
Mark Lockaby, Building Inspector  
Jim Moore, Planning Director  
Jim Karpiak, Town Attorney  
Laurie Ireland-Ashley, Finance Director  
Chris Morin, Chief of Police  
Roger Meagor, Fire Chief  
Maria Baird, Community Resources Coordinator

Mayor Bragman called the meeting to order at 7:00 p.m.

Approval of Agenda and Affidavit of Posting

The agenda was approved.

Announcement of Closed Session Action

Mayor Bragman announced that the Council had met earlier on the Public Employee Performance Evaluation in closed session. There was also a conference with labor negotiators. Direction was given to staff.

Announcements

Mayor Bragman made the announcements as printed on the agenda. Councilmember Reed added that the Fairfax Volunteers Trail Project has been re-scheduled for Saturday, June 4<sup>th</sup> from 10:00 a.m.-1 p.m. In the event of rain, the trail day will be cancelled. Councilmember Reed also added that the Fairbuck coin will be rolled out at the Fairfax Festival the weekend of June 11<sup>th</sup> & 12<sup>th</sup>.

## Open Time

Misty Marino, 9 Park Road stated she has lived at her current residence for over 21 years. She is concerned about crime occurring in her neighborhood in June of last year. Mayor Bragman stated he file a Town Council appeal on her behalf in regards to the conditional use permit. The item will go before the Town Council in July or August.

Bill Madsen, 109 Porteous had a question on the noise ordinance. Does the exterior noise limit of the General Plan guidelines of 60-70 decibels take precedent over the 40-60 Town Code decibels. Jim Karpiak responded that the General Plan can allow for higher decibel levels than the Town Code.

Yvette Wakefield, 3 Marin Court, stated the music is too loud at the Farmer's Market. She feels the Farmer's Market should not have amplified music. Town Manager Michael Rock replied he asked the Farmer's Market manager to turn down the music this week.

Laine Sprague, 66 Dominga-stated that the Town of San Anselmo has a leaf blower ordinance as to what times of the day leaf blowers can be operated. She would like a similar ordinance considered in Fairfax.

## Interview and appointment of candidate to General Plan Implementation Committee (GPIC)

Diane Causey was not present. Council requested this item be deferred to next month's meeting. A motion was made to continue the item.

## Council Reports and Comments-

Councilmember Reed announced the Fairfax Volunteers had sponsored a wonderful song contest at the Sleeping Lady on May 10<sup>th</sup>. The winner, Tim Barrett of Hobo and the Song Dogs, will perform the song at the Fairfax Festival on Saturday, June 11<sup>th</sup>. He assisted with the Fairfax Food Pantry this week at the Fairfax Community Church.

Councilmember Tremaine reported he represented the Marin Energy Authority at a meeting of the Richmond City Council recently. Richmond is very interested in becoming part of the Marin Energy Authority. There will be a fee structure for admission. He also attended a meeting among Fairfax, San Anselmo, and Ross regarding Ross becoming a member of the Ross Valley Fire Authority.

Mayor Bragman attended an Affordable Housing Meeting at which some interested property owners who would like to partner with the Town on affordable housing. He also attended a Transportation Authority of Marin meeting regarding SMART Train, which has gone off the track. TAM is looking to get funding. If Marin County chips in \$8 million dollars, the federal government will contribute \$10 million. The train will run from Santa Rosa to San Rafael. Alternatively, TAM is spending money on widening highway 101.

Councilmember Hartwell-Herrero announced that the Town is entering a contract with Thomas Vence for solid waste management consulting services. She also participated in a training "Fire Opps 101" where she extinguished a fire and conducted rescue activities.

Councilmember Weinsoff attended the Marin County Council of Mayors and Councilmembers (MCCMC) meeting, at which the topic of Flood Zone 9 was discussed. A parcel tax of \$125 has been added to property tax in the Ross Valley. This funding will provide detention basins, i.e., dams that can be inflated above White Hill to prevent flooding. It will also identify chokepoints in the creek, such as culverts as well as aging bridges.

### Town Manager's Report

Town Manager Rock presented a power point presentation on the recent Town fiscal challenges and possible solutions to balancing the current structural deficit. The discussion included the possibility of a local sales tax in the Town of Fairfax. A special Town Council meeting will be held on June 22<sup>nd</sup> at 7:00 p.m. to discuss the proposed fiscal year 2011-12 Town budget and discuss possible new revenue sources including considering placing a local sales tax measure on the ballot. The entire amount collected from a one half cent local sales tax would go to the Town and could generate about \$150,000 per year. A local sales tax of three quarters of one percent would generate about \$225,000 per year. A one percent local sales tax would generate about \$300,000. The projected Town budget for fiscal year 2011-12 will have a deficit of about \$350,000 due to declining property and other tax revenues and increasing retirement and health care costs for employees. Some of the employee groups already pay a portion of the employee portion of the PERS system and discussions will occur in the next few months with all bargaining groups in Fairfax and with the Ross Valley Fire employees.

Yvette Wakefield, 3 Marin Court suggested the Town figure out how to stop giving away money.

Sierra Salin, Cascade, stated our model is based on consumption, rather than conservation, and the paradigm needs to change.

Councilmember Tremaine suggested the Town needs to look at revenue that might be generated by the medical marijuana industry.

Councilmember Bragman added that the medical marijuana dispensaries are paying sales tax.

### Consent Calendar

#### **Approval of Financial Statements for April 2011- Finance**

**Authorize the Town Manager to sign a Professional Services Agreement with Thomas Vence for solid waste management consulting services for a not to exceed amount of \$5,000 – Town Manager**

**Item #5 – Adoption of Resolution 11-24, opposing a proposed rate increase by Sanitary District No. 1 of Marin County (Ross Valley Sanitary District) and directing the Town Manager to file a vote of protest in accordance with Proposition 218 – Weinsoff – (this item was pulled off the consent calendar).**

Councilmember Weinsoff made the following motion: APPROVE RESOLUTION 11-24 THAT WOULD OPPOSE A RATE INCREASE BY PROPOSITION 218 OF THE ROSS VALLEY SANITARY DISTRICT.

Councilmember Weinsoff added that up until 2005-2006, Ross Valley residents have been paying \$200 per year for sewer fees on their property taxes. A rate increase at that time brought the figure to \$520 per year. Now, the proposed rate increase will raise the amount to \$697 per year. Councilmember Weinsoff suggested the Ross Valley Sanitary District does not have a complete handle on their finances and that their budget is not transparent.

Frank Egger, Board Member of the Ross Valley Sanitary District stated the voters need to make this decision. It would be a 34% rate increase. He stated PERS increases as a contributing factor to their budget deficit.

Pam Meigs, 210 Cypress, also a Board Member of the Ross Valley Sanitary District, stated there is no tolerance for waste. A consent decree has mandated that the aging pipes of the District need to be replaced. She stated there is a shortfall of \$1.9 million for the San Quentin area.

Councilmember Hartwell-Herrero noted the Ross Valley does not have the highest rates in the County; with Mill Valley residents paying \$1,000 per year to their sanitary district.

Councilmember Tremaine seconded the motion proposed by Councilmember Weinsoff.

AYES: All

### Public Hearings

Adoption of Resolution 11-26, a Resolution approving an initial study, Draft Mitigated Negative Declaration and a Traffic Impact Permit for a project encompassing remodeling the existing commercial building, including 416.5 square foot of interior space on a new second floor within the existing building footprint, in order to; 1)bring the structure into compliance with current Building Codes; 2) add exterior improvements and landscaping; and 3) resurface the parking lot in order to open as a natural foods grocery store.

Larry Kennings addressed the re-location of the Good Earth Natural Foods to a renovated building in a highway commercial zone. This is consistent with the proposed General Plan. There will be two parking lots consisting of 96 spaces. A negative declaration has been made. John Frye of LRG Capital Real Estate Partners, the applicant representative, presented on the topic.

Mr. Frye is the project manager for the demolition site. The project began with a letter of intent on August 14, 2010. There were 9 studies conducted; 88 mitigations evaluated; and 57 conditions imposed at plan check.

Councilmember Weinsoff stated he is concerned about the impact this project will have on the Belle Avenue neighborhood as far as noise, traffic. He offered to re-examine the traffic impact in 90 days. He also suggested posting signs stating "Not for Business Traffic" to address the morning offload by commercial trucks.

There was a synopsis of a May 31<sup>st</sup> letter from Mr. Frye stating Item 2 – Further analysis of asbestos containment & removal. Item #15 – Construction hours are between 8:00 a.m.-5:00 p.m. Monday through Friday. This allows for construction between 8 a.m.- 8 p.m. The mitigation measures have been changed. All agency requirements must be complied as state law.

At the third request of the Planning Commission, all agency requirements must be stated below.

#4-Ross Valley Fire Code- Fire Department must be able to connect to closest hydrant as per the 2010 California Fire Code.

3<sup>rd</sup> & 4<sup>th</sup> Marin Municipal Water District – purchase additional water entitlements.

Marin County Environmental Health – plans must be submitted prior to start of new tenants.

There is no cleaning or hosing floor mate outside of the building allowed.

Landscaping will cost \$55,000. A civil engineer will replace the geotechnical engineer. It is up to the Town Council to decide support. Staff recommends that Council not do so.

#### Public Comment

Sierra Salin, Cascade Drive – stated it would be better if the Good Earth opened up 50 stores throughout Fairfax.

Erica Kalve, 30 Belle Ave.- submitted letter. She will be potentially significantly affected by the proposed move. She is an environmental consultant. She is concerned about air quality, and the cumulative impact. She believes a fair argument exists for an EIR, and believes the decision can be challenged in court. An EIR would take 6 months to one year to prepare. She is requesting the Town Council postpone approving the project. She also believes there should be a community agreement that identifies what mitigation measures are and consequences if conditions are not met. This will satisfy opposition to the project.

Debra Baker, Kent Ave.- is concerned about the potential traffic the relocated store will have on her street. She is worried people will use Kent Ave. as a thoroughfare. She would like an addendum study to be conducted. She is worried about increasing the hours of operation from 9:00 a.m. to 9:00 p.m. to 8:00 a.m. to 9:00 p.m.

Chris Lang, Canyon Road – suggested putting speed bumps in the neighborhoods. He also suggested there be permeable paving, since the area is prone to flooding.

John Hall, 19 Belle Ave – said his neighborhood is the most impacted. He is worried about the noise level of back up trucks, that they are louder than garbage trucks.

Peter Anderson, 19 Claus Dr. – is concerned the noise level will exceed the decibel level allowable in the Town Code.

Laine Sprague, 17 Belle Ave – believes the noise study is inadequate. She believes the neighborhood will be impacted. She submitted a petition that has been circulated. She believes a CEQA study is in order, since there will be potential adverse impact to the environment.

Bill Madsen, 109 Porteous – is in support of the project. He inquired as to what type of oven the bakery will use. It was indicated a gas oven will be used. He is also concerned about the sound level. Back up trucks need to be heard from a distance of 200 feet. They are between 75-90 decibels, at approximately 85 decibels.

Mary Seal, 15 Belle Ave. – her neighborhood is only quiet at night. She is concerned this will change with the proposed project. She suggested putting the loading dock at the other end of the building.

Nancy Rolle, 53 Belle Ave. – is concerned about traffic and the delivery trucks. She suggested putting in speed bumps and imposing no left turn at the intersection.

Kelly Day, 5 Belle Ave – she is the owner of Pancho Villas at 1625 Sir Francis Drake Blvd. She wants to ensure the Good Earth will be a good neighbor at this location.

Helen Jewell, 161 Sir Francis Drake Blvd. – is worried there will be a rat problem. She is also concerned about the noise level, garbage issues, and dumpsters.

10:10 P.M.MAYOR BRAGMAN ADJOURNED THE MEETING FOR A 10 MINUTE BREAK

At this point, items number 14, 16, & 17 from the regular agenda were deferred until the June 22<sup>nd</sup> meeting.

Jim Moore recommended holding an immediate meeting with the neighborhood and members of the traffic committee to address the concerns related to the Good Earth relocation project.

Jim Karpiak added that new letters that come in need to be addressed. Staff can go through them and respond. Mayor Bragman agreed that a community meeting was needed. Councilmember Weinsoff inquired as to how Good Earth would be affected if the Council does not vote on the item until June 22<sup>nd</sup>.

John Frye replied the store was hoping to open by the end of October. They are getting ready to put in steel. They will need a courtesy inspection. They will wait to approve a negative

declaration. He indicated there needs to be trust and commitment between the Good Earth and the community, and there is an opportunity for continuing dialogue. He also suggested there be a process that gives the community a remedy if conditions become intolerable.

A date of Saturday, June 4<sup>th</sup> was set for a special meeting with the community. The meeting will be from 9 a.m. – 12 noon at the Women’s Club. There was a request that the Police Chief, Fire Chief, and Acting Public Works Director be present at the meeting. A motion was made to continue the hearing on the project until June 4<sup>th</sup>.

Shelby LaMotte announced that the landscaping at the entrance would consist of either native or edible plants.

Second Reading and Adopting of Ordinance No. 754, an Ordinance of the Town Council of the Town of Fairfax amending the Town’s smoking ordinance to provide Clean Indoor Air and Health Protection including the Regulation of the Exposure to Smoke in Multi-Unit Apartment Buildings – *Bragman*

Councilmember Weinsoff made a motion to approve; Councilmember Hartwell-Herrero seconded the motion. A motion to waive further reading of Ordinance 754 was adopted.

Pam Ranger of the American Lung Association stated the Marin County Department of Health & Human Services will provide implementation material supporting the ordinance.

AYES: All

Second Reading and Adoption of Ordinance No. 759, an Ordinance of the town Council of the Town of Fairfax regulating the location, number and operation of medical marijuana dispensaries in the Central Commercial (CC), Highway Commercial (CH), Limited Commercial (CL) Districts of the Town – *Planning*

Councilmember Weinsoff made a motion to approve; Councilmember Tremaine seconded the motion. A motion to waive further reading of Ordinance 759 was adopted.

Dan Rush of the United Food Workers Union Local 5 Medical Cannabis Industry Union expressed his support for the ordinance.

AYES: All

Second Reading and Adoption of Ordinance No. 761, extending the 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 –*Bragman*

Mayor Bragman stated the World Health Organization has classified Electro Magnetic Radiation as a potential carcinogen to humans. Councilmember Tremaine waived further reading of this Ordinance and made a motion to adopt; Councilmember Reed second.

AYES: All

The meeting was adjourned at 10:45 p.m.