

Fairfax Town Council Minutes  
Adjourned Meeting  
Fairfax Women's Club  
Wednesday, June 22, 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

COUNCILMEMBERS ABSENT: 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

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

Approval of Agenda and Affidavit of Posting

M/S Tremaine, Reed to approve the agenda.

AYES: Bragman, Hartwell-Herrero, Reed, Tremaine

ABSENT: Weinsoff

Announcement of Closed Session Action

Mayor Bragman announced that the Council had met earlier with labor negotiators. There had also been a conference on public employee performance evaluations. Direction was given to staff.

Announcements

Mayor Bragman made the announcements as printed on the agenda.

Open Time for Public Expression

Yvette Wakefield, Fairfax resident commented on the California Sky Watch issue

Garry Graham, 19 Broadway, addressed the Council regarding a group of concerned business persons that have formed a Sustainable Fairfax Budget committee. He raised concerns over the proposed budget in terms of the deficit and the Town's ability to move forward in the long term to balance the budget. Garry also suggested that there are savings to be found in the budget and that he would like to discuss the

possible savings with the Town. Mayor Bragman suggested a future meeting with the Sustainable Fairfax Budget Committee be scheduled and Garry agreed that was a good idea.

Consent Calendar

**Approval of Town Council minutes for the June 1, 2011 meeting - Town Clerk**

**Approval of Financial Statements for period ending May 31, 2011 - Finance**

**Adoption of Resolution 11-28 of the Town Council of the Town of Fairfax Setting the Amount of the General Municipal Services Tax for The 2011-2012 Fiscal Year - Finance**

**Adoption of Resolution 11-29 of the Town Council of the Town of Fairfax Setting the Amount of the Special Municipal Services Tax for the 2011-2012 Fiscal Year – Finance**

**Adoption of Resolution 11-30 of the Town Council of the Town of Fairfax Setting the Amount of the Utility Users Tax for the 2011-2012 Fiscal Year - Finance**

**Adoption of Resolution 11-31 of the Town Council of the Town of Fairfax Setting the Amount of the Pension Override Tax for the 2011-2012 Fiscal Year - Finance**

**Adoption of Resolution 11-32 of the Town Council of the Town of Fairfax Setting A Fee For The Purpose Of Funding Local Stormwater Pollution Prevention Activities For FY 2011-2012 – Finance**

**Adoption of Resolution 11-33 of the Town Council of the Town of Fairfax Setting the Tax Rate for the general obligation bonds (Measure K Bond Assessment) for FY 2011-2012 - Finance**

**Adoption of Resolution 11-34 of the Town Council of the Town of Fairfax Approving the Ross Valley Paramedic Authority Tax Levy for the 2011-12 Fiscal Year - Finance**

**Adoption of Resolution 11-36 of the Town Council of the Town of Fairfax continuing expenditures and revenues in accordance with the 2010-2011 Town Budget and in lieu of timely 2011-2012 Budget Adoption - Town Manager**

**Approve the Notice of Completion for the Peri Park Tennis Court Bank Stabilization and Pedestrian Bridge Replacement project - Public Works**

M/S, Tremaine, Reed to adopt the Consent Calendar

AYES: Bragman, Hartwell-Herrero, Reed, Tremaine

ABSENT: Weinsoff

Council Reports and Comments

Vice-Mayor Hartwell-Herrero announced that she had had a positive meeting with a consultant on the zero waste contract with Marin Sanitary Services. She also reported that she had met with the Police Department's bargaining unit.

Councilmember Reed announced that he had met with a traffic consultant and citizens to discuss safety issues for pedestrians and kids on bikes.

Councilmember Tremaine stated that he had nothing to report.

Mayor Bragman attended a bicycle ad hoc committee with concerned citizens with the goal to improve safe routes. He also attended Congresswoman Woolsey's peace rally which he said was not well attended. Budget priorities for the country had been addressed and a resolution made to end the wars and redirect finances to benefit this country.

Mayor Bragman announced a five-minute break at 7.30 p.m. since the applicants for the Good Earth project had not arrived.

### Public Hearings

14. 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; Assessor's Parcel No. 002-131-12; Highway Commercial CH Zone District; Good Earth Natural Foods, applicant; John Fry, applicant's representative; LRG Capital Real Estate Partners, owners - Planning

Planning Director Moore presented the staff report. He discussed the review process that had occurred and the purpose of the discussions. Mr. Moore recommended that the Town Council accept the Planning Commission's recommendations and approve the Traffic impact Permit based on the findings in the Resolution and approve the CEQA process.

Mr. Moore noted that a special community evening had been held following the Council's meeting on June 1, 2011, when mitigation measures had been discussed with members of the community. He noted that, subsequent to the meeting, the applicant's construction hours would be between 5 a.m. and 8 p.m., although there would be a prerequisite that the hours would be reduced to 5 p.m. if the later hours generated complaints.

Mr. Moore continued with discussion of the Mitigated Negative Declaration which he recommended should be adopted by the Town Council. He also discussed an archeology report in relation to an Inadvertent Discovery Plan.

Mr. Moore went on to discuss the documents that made up the packet. He noted the concerns in an e-mail from a local resident, and discussed the reasons he believed there were no additional mitigation impacts mentioned in the e-mail that had not already been addressed.

In response to Mayor Bragman, John Frye, applicant, said that he had nothing to add to Mr. Moore's presentation.

Mayor Bragman opened the public comment period.

James Fair, Canyon Rd, stated that he favored the project and its sustainable business model.

Mike Hazel, Canyon Road, stated that truck noise had not been an issue when he lived in the area. He stated that the Good Earth project should be expedited.

Erica Kalve, Belle Avenue, said that she supported the project. She discussed noise mitigation measures.

Debra Baker, Kent, discussed her concerns regarding traffic problems on Kent Avenue. Otherwise, she said that she supported the project.

Brad Widelock, Maple Ave, discussed the noise and traffic impacts but said that he supported the project.

Evette Wakefield, Marin Court, said that she shopped at the Good Earth store and that she supported the project. She said that she hoped noise caused by back-up beeps could be worked out.

Vincenza Costa, Alder court, said that she and her neighbors supported the project and she presented a petition of support to staff.

Paddy Brett, Live Oak, stated that the new grocery store would revitalize that part of town and that noise should be tolerated. She said that she supported the project.

Jean Kinsey, San Geronimo, said that she supported the project and she noted that a market had been there for decades.

Laine Sprague, Belle Avenue, stated that she supported the project but that noise caused health issues. She discussed her concerns about early morning deliveries and the reasons she disagreed with the findings in the noise study. Ms. Sprague suggested that deliveries should not start before 7 a.m.

Larry Nigro, Hill Ave, stated that he supported the project. He discussed traffic issues and safety.

Dave Smadbeck, Co-Chair, Fairfax Chamber of Commerce, stated that the Board of Directors supported the project and that he encouraged the process to move forward.

Sierra Salin, Cascade, stated that the Good Earth store would pay living wages to staff, sell organic food and that the store had demonstrated a willingness to support the community. He noted that the building had previously been a store.

David Kitts, Center, said that he appreciated what the Good Earth represented and that he would like the project to move forward so that the community could be served.

Kerry Alter, said that she appreciated the neighborhood's concerns but that it might not be possible to alter the delivery times. She stated that she supported the project.

John Hall, Belle Ave, stated that delivery trucks should have quieter back-up beeps and that traffic issues should be addressed. However, he said that he supported the project.

Ingrid White, Scenic, said that she had lived in Fairfax for a long time and that there had never been an attractive building at the location. She said that there would be a lovely building with landscaping and that she supported the project.

Morgan Hall, Bolinas, said that an eyesore would be transformed into an attractive building and that Good Earth had a long track record as being a good business. He expressed concern that a delay in the permit process would send the wrong message to prospective Fairfax businesses.

Mallory Geitheim, Willow, noted that, although noise issues existed for nearby residents, there would always be traffic. She said that she preferred the town when it was quiet but that it was no longer so and that the Good Earth store would make Fairfax a more beautiful little town.

Ethan Garrett, Belle Avenue, encouraged everyone to work towards a solution regarding the noise issues, such as modified delivery times.

Debra Baker reiterated her support of the Good Earth Store but said that she remained concerned about traffic issues.

Christina Nau, Claus Drive, stated that they had dealt with noise issues at Good Earth's present location and that she hoped it would be quieter when the store moved.

Jay McOuat, resident, said that the Good Earth store was representative of Fairfax and that although some people would be unhappy, the issues should be worked out.

Nancy Rolle, Belle Avenue, said that the traffic had intensified on the street and that she appreciated the conditions that seem to have been mitigated.

Erica Kalve reiterated her concern regarding noise and traffic issues.

Chair Bragman closed the public comment period.

In response to public comment, Mr. Moore discussed the Town's Code in relation to the traffic impact report and peer review. He said that the analysis was rigorous and that they had gone beyond the recommendations of the analysis in terms of mitigating traffic impacts in the neighborhood. With regard to noise issues, Mr. Moore noted that concessions had been made by the applicant such as limiting deliveries before 7 a.m. He discussed further noise mitigation impact measures that were included in the conditions.

Councilmember Tremaine said that he would also be able to hear noise caused by delivery vehicles and that downtown was already noisy with garbage trucks and street sweepers in the early morning. However, he said that it should be expected in a downtown area and that he supported the project. Councilmember Tremaine said that it would revitalize that end of town and that he supported the Mitigated Negative Declaration and silent back-up beeps, although he said that the latter would not be a deal breaker.

Councilmember Reed stated that the new store would be a positive move for the community and that street cut-throughs would be limited. He said that he supported the project.

Vice-Mayor Hartwell-Herrero noted that not everyone would be 100% happy but that the project was right; that opportunities were in place to solve the problems as they arose and that Good Earth had been a helpful applicant. She said that she supported the project. In response to the Vice-Mayor, Mr. Moore confirmed that construction hours could be reduced to 5 p.m. if there were noise complaints.

Mayor Bragman noted that the project had been halted because it went beyond the permit conditions and not through complaints. He discussed the project's process, which he said had resulted in a better project for which everyone would benefit and that he felt confident it would meet the obligations to the neighborhood. Mayor Bragman noted that there were further remedies available to the neighborhood for noise and traffic problems that had not already been addressed. He believed that the project would provide an over-riding public benefit that would off-set the impacts. Mayor Bragman said he supported the project.

M/S, Tremaine/Reed, Motion to accept the Initial Study and approve the Draft Mitigated Negative Declaration and 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; Assessor's Parcel No. 002-131-12, to include the revised conditions that were drawn up at the Public Meeting on June 4, 2011.

AYES: Bragman, Hartwell-Herrero, Reed, Tremaine  
ABSENT: Weinsoff

M/S, Tremaine/Reed, Motion to Approve Resolution 11-26, a Resolution approving an Initial Study, Draft Mitigated Negative Declaration and a Traffic Impact Permit for the Good Earth Project.

AYES: Bragman, Hartwell-Herrero, Reed, Tremaine  
ABSENT: Weinsoff

Town Manager Rock noted that the no right-hand turn sign had been removed from Pastori on to east bound Sir Francis Drake Blvd and that several streets in the Bell, Belmont neighborhood would be resurfaced this year.

Mayor Bragman announced a 10-minute break at 9.05 p.m.

#### Regular Agenda

#### Introduction and Overview of Proposed 2011-2012 Budget

Town Manager Rock presented the staff report. He discussed the deficit, which he said was lower than expected because more revenue had been received than had been budgeted for. However, he noted that some positions had been left vacant and that less revenue had been collected from property and sales taxes.

Town Manager Rock discussed his concern that some funding for the Police Department might not be forthcoming and that the town needed to borrow money to balance the budget. He noted that health care and retirement costs had increased.

Town Manager Rock went on to discuss capital improvement projects that could not be funded, which included storm drain problems.

#### Individual Department Presentations: Town Manager, Town Clerk, Planning and Building, Public Works, Finance and Police Department.

Town Manager Rock presented his report. He discussed staff appointments in relation to the budget and the Town's accomplishments, which included the Draft General Plan and completion of the Pedestrian Bridge at Peri Park. He also discussed goals for the upcoming fiscal year, which included work on two sites for affordable housing. He noted that there would not be salary increases for employees.

Finance Director Ireland-Ashley presented her report. She noted that when the current fiscal year closes at June 30, 2011 the Town would be current for the first time in five years. All reporting and audits would be current. She said that most of the budget remained the same with a modification to the street report and

financial audit being moved to the auditor department for better representation in the budget of the true costs. She noted that the State Controller's office had required more reporting structure which she discussed.

Ms. Ireland-Ashley went on to discuss fees and accomplishments for the year, which included the completion of a finance department requested CalPERS audit, and completion of the 08-09 and 09-10 annual audits, adoption of Reserve and Financial Policies.

Planning Director Moore presented his department budget report. He discussed the services that the Planning Department provided and the need to reserve time in the afternoon away from the counter. Mr. Moore discussed the year's accomplishments, which included completion of the final draft of 2010 General Plan and an environmental analysis. He also discussed the Draft Climate Action Plan and he noted that the Building Code had been updated. Mr. Moore discussed projects for the forthcoming year, which included completion of the environmental Plan for CEQA, and implementation of the General Plan Implementation Committee (GPIC).

Chris Morin, Chief of Police presented his report. He noted that the proposed budget was over the previous year's budget for reasons he explained. He discussed staff and overtime budgets, and he noted that a new 911 dispatch system had been installed, in addition to the completion of a finger-printing and Police recording system. Chief Morin stated that a new sergeant should start in September and that their goals were to continue to find ways to reduce costs.

Mayor Bragman and Chief Morin discussed arrests and bookings costs. In response to Mayor Bragman, Chief Morin said he would investigate the reimbursement of traffic citation fees from the County of Marin. They also discussed the MERA communications system.

Town Manager Rock presented the Public Works report. He said that there were a lot of capital projects for which a consultant would be needed. He discussed accomplishments, which included maintenance of the Master Plan, and he noted that the retrofit of street lights would be moving forward. Town Manager Rock also discussed special projects and their funding. He discussed personnel issues and landscaping maintenance, and he noted that revenues generated by youth services covered its expenditure. He noted that state and federal excise taxes on gasoline remain unchanged since 1994 and it was severely affecting the Town's ability to fund street maintenance repairs.

Town Manager Rock also discussed the forthcoming year's goals, which included resurfacing projects and a Pastori sidewalk project.

Mayor Bragman and Finance Director Ireland-Ashley discussed account transfers and protected accounts.

#### Public Comment on the Proposed 2010-2011 Town Budget

Garry Graham, stated that his committee did not understand how the budget could work. In response, Mayor Bragman agreed to meet Mr. Graham and the committee with a staff member and he requested that questions were e-mailed to him beforehand.

Yvette Wakefield, Marin Court, suggested that some Police services could be undertaken by volunteers.

Mayor Bragman and staff discussed the budget process.

#### Town Manager Report

Discussion/Consideration of propose ballot language for a Local Sales Tax and Discussion of a Special Medical Marijuana Tax (Cannabis Tax).

Town Manger Rock presented the staff report. He noted that the tax would be local, that it would directly benefit the Town and would help to meet the deficit. Town Manager Rock said that staff recommended a ballot measure on the sales tax proposal.

There was general consensus amongst Council Members to support the measure before Mayor Bragman opened the public comment period.

Garry Graham said that he did not favor a rise in sales tax because it would not help businesses. Furthermore, he noted that an audit had not been completed, which would provide a true picture of Fairfax' finances, and that the Town should be able to live within its means.

Councilmember Tremaine stated that the Town could not run on the current budget and that sales tax would be more egalitarian than property tax. He said that he supported a ballot measure to increase sales tax.

Mayor Bragman opened the public comment period. Ryan O'Neil, resident, said that he would support the measure because the Town needed the additional income.

Lynette Shaw, Marin Alliance, addressed the item on the Cannabis Tax. She believed that the Town's budget should not be balanced by taxing the sick and she explained why her business could not afford an additional hike in taxes. She discussed other ways of taxing marijuana.

Evette Wakefield, Marin Court, said she supported an additional sales tax on marijuana.

Craig Litwin, Fairfax resident, stated that while he supported an increase in sales tax, he would not support an additional hike for marijuana dispensaries for reasons he discussed.

Mayor Bragman led a discussion on the ballot tax. Mayor Bragman stated that he would oppose arbitrarily taxing medical marijuana dispensaries and Vice-Chair Hartwell-Herrero said that she would not be willing to support an additional tax for sick people.

Councilmember Reed stated that marijuana dispensaries did not generate a large profit margin.

Mayor Bragman noted that the Board of Equalization would need to approve the proposed tax measure ballot and that a local sales tax of 1% may be possible because the temporary 1% state wide sales tax expires June 30, 2011.

General consensus was reached to direct staff to investigate a ballot tax measure that would include options for a 1/2% and 3/4% increase.

Discussion/Consideration of revising the Town Code to allow the use of a home hobbyist bee keeping for personal use and directing staff to return to the Town Council on July 13 2011 with amendment

Vice-Mayor Hartwell-Herrero presented her report. She discussed her concern that the Town Code on keeping honeybees, which benefitted a community, had been interpreted by staff as an agricultural use that required a Special Use Permit. Vice-Mayor Hartwell-Herrero suggested that the interpretation of the Code should be changed to reflect bee-keeping as a hobby for which a Use Permit would not be necessary.

There was general consensus amongst Council Members not to impose a Use Permit for bee-keeping as a hobby purpose.

Chair Bragman opened the public comment period.

Dave Peterson, a Ross beekeeper, discussed his reasons for advocating non-regulation of bee-keeping as a hobby.

Evette Wakefield discussed a movie, “The Vanishing Bees”, which explained the importance of bees.

Chair Bragman closed the public comment period. There was general consensus that staff should be directed to prepare an amendment to the Town Code to reflect bee-keeping as a home hobby, which would not necessitate a Use Permit and therefore a fee.

Discussion/Consideration of a Volunteer based pedestrian and bicycle road market project.

Councilmember Reed presented his report. He discussed his proposal to use volunteers to paint “sharrows” on Fairfax roads. There was general consensus among Council Members to support such a project.

Planning Director Moore noted that discussions would take place on converting Bolinas Avenue into a pedestrianized area as part of the Town Center Plan.

There was general consensus amongst Council Members to more forward with a road marking project on Cascade. Town Manager Rock stated that he would bring forward a report on the project to Council and would solicit input from Councilmember Reed.

Discussion and consideration of natural gas fracking

Due to the lateness of the hour, general consensus was reached that the item would be continued to the next meeting for discussion.

Adjournment

A motion was made, seconded and unanimously approved to adjourn the meeting at 12.05 a.m.

Respectfully submitted,

Joanne O’Hehir