

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, August 17, 2011

The regular meeting was preceded by a special meeting closed session regarding labor negotiations with Agency designated representatives Larry Bragman, Mayor, Pam Hartwell-Herrero, Vice Mayor and Michael Rock, Town Manager; Employee Organizations: SEIU, POA, and Management employees; and for a conference with legal counsel regarding Sipple v. City of Alameda, et al.

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  
Jim Moore, Planning Director  
Larry Kennings, Planning Consultant  
Jim Karpiak, Town Attorney  
Mike Vivrette, Finance Director  
Chris Morin, Chief of Police  
Judy Anderson, Town Clerk

Mayor Bragman called the meeting to order at 7:15 pm.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Tremaine, Motion to approve the agenda with the removal of the item regarding approval of the scope of the traffic study for the Terrapin Crossroads project at the request of the applicant.

AYES: All

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

AYES: All

Announcement of Closed Session Action

Mayor Bragman announced that the labor negotiators had met with the Council and that the labor agreements were on the Consent Calendar on the current agenda for approval. He noted that there would be a discussion about the agreements as part of the Town Manager's report early on the agenda. He further reported that the Council had met with legal counsel and had given direction in Sipple v. City of Alameda et al.

Announcements

Mayor Bragman made the announcements as they appeared on the agenda. He also announced a community-wide meeting to be held on September 1<sup>st</sup> at the Pavilion and sponsored by the Fairfax Chamber of Commerce about the Terrapin Crossroads project.

### Open Time

Yvette Wakefield, Main Court, expressed concern about the installation of SmartMeters in Fairfax. She described two incidents related to the potential installation of SmartMeters, one in a vacant unit and one in downtown Fairfax where the police were called and an employee of PG&E was involved.

Valeri Hood, Dominga Avenue, stated that she was hoping to show two films, "They're Not Green" on August 26<sup>th</sup> and "Under Our Skin" in early October at the Women's Club. She also asked the Council to support a SmartMeter Symposium to be held on September 29<sup>th</sup> at the Women's Club. She reported that PG&E had been leaving door hangers in town to inform residents that they would be installing SmartMeters and described her unsuccessful attempts to have PG&E add her name to the delay list for installation.

Victoria Carruthers, Bennett House, stated that she and the other residents were the closest neighbors to the proposed Terrapin Crossroads project and that she was against it; that it was too large a venue for the town; that she was worried about traffic and noise; that she was a former rocker who would like to see the venue in San Rafael in a commercial non-residential area; that using St. Rita's for parking didn't seem viable to her; and stated that more public involvement should happen before proceeding.

Mayor Bragman stated that all the neighbors would be notified of all the public hearings; that the Chamber was sponsoring a special meeting to talk about the project; and that the project would have to go through a long process with public input.

Alice Ducayet, Claus Drive, stated that she was disappointed that the project hadn't gone through a public process; that she had heard that the project was being supported by staff and the Town long before there was an application; that they had met with neighbors and other residents opposed to the project; that they had done nothing hostile; and that they were grateful that the Lesh's had withdrawn the project.

Nancy O'Connor of San Anselmo spoke in support of the September 29<sup>th</sup> update on the Smart Meters; that she was pursuing the legality of removing the SmartMeter and replacing it with an analog meter; announced that there was a California Public Utilities Commission (CPUC) meeting in San Francisco the following day; that PG&E had purchased millions of meters and had installed them whenever they could; related her experience when she requested that her name be added to the delay list; and asked that the installation of analog meters by customers be allowed.

Sierra Salin, Cascade Drive, stated that the pledge of allegiance had sounded a little flat and suggested doing it in three part harmony or in different languages. He further stated that he didn't trust PG&E or the CPUC; asked why the Terrapin Crossroads project was pulled from the agenda; stated that if there was vandalism at the applicants' home, the person should be punished appropriately; that he didn't support the project because 500 was too big; and suggested that the vacant Best Buy in San Rafael or the Tam Theater location would be better sites for the project.

David Kroll, Claus Drive, member of the Fairfax Community Coalition, the committee formed against the project; related a conversation he had with the applicant Jill Lesh where she told him that they would take their project elsewhere; that he was upset by the hostile nature of the call; that the flyers posted in the applicant's neighborhood were not placed there by him; that it was part of the public process to distribute flyers; that the opponents had the right to free speech; and that he and his wife had moved to Fairfax because of its small town nature and because they could afford it and couldn't afford to move.

Freddie Bloom, Claus Drive, stated that she was opposed to any project that would overload the corridor to and from Fairfax; that a capacity of 500 people was too many, especially with vendors outside; that it would promote additional pressure for illegal camping on Jolly Hill; that it had parking implications and traffic impacts; that she had many concerns; that a project for 500 people in a town of 7500 was too many; and asked that any traffic study include other areas that had similar venues and the traffic impact in those places.

David Glick, Cascade Drive, stated that every town project asked the question, "will it change the character of town?"; asked that the Town Council proceed carefully; that vandalism to the Lesh home was not to be tolerated; that 500 people was too many; that traffic and parking impacts would affect emergency response time; that eleven security guards were part of the plan; that it could be a drain on our own Police Department; that it could provide revenue for our local businesses; and that providing space for music for our youth and community events were good features.

Justin, Fairfax resident, stated that he was in favor of the project; that it was very exciting; that it was a family and community oriented project; that local solutions were needed for world problems; that it would help our community survive; and asked that the Town make local history and have fun.

Solomon Banks, West Marin resident, stated that the proposed project made him happy when he heard about it; that he was a musician; that there was a need for more opportunities for music and entertainment; that music was good for health; that he was sad that the Lesh family had to go through such negative stuff; that the logistics could be worked out with smart people working on it; that the community needed to be safe but suggested that the positive impact of the arts be taken into consideration; that the Youth Center in San Rafael had closed; that a prophet was not honored in his own land; and asked that those opposed look at the project and stay open minded.

John, Fairfax resident, stated that he worked at Fat Kat Surf Shop; that he wanted to introduce a project for a skateboard memorial park to be dedicated as Martin Luther King Skateboard Park to promote peace; that he also wanted to have a festival to raise money to support the project; that the Terrapin Crossroads project would be a good use of the property; and that the project would be a great way to enjoy life and obtain happiness.

Wayne Lesser, Fawn Ridge, stated that the project involved passion, values and giving back; that he had reviewed the project carefully and noted that their mission statement was "giving back to others;" quoted President Kennedy's 1961 inaugural speech, "ask not what your country can do for you, ask what you can do for your country;" stated that the Lesh's hadn't asked what Fairfax could do for them, but what they could do for Fairfax; and asked that the project be considered.

Mary Kelly, Bennett House, stated that they sang and danced at the Bennett House and had

musicians play; that she was not against music; that the project was wrong for Fairfax at the location proposed; that she treasured Fairfax and loved the peacefulness.

Matthew Herrero, Westbrae Drive, stated that he had looked at the old Albertson's when it was empty and wondered what could be done there; that it was going to be the new Good Earth building; that it provided an expanded business that was not a chain store; that the Terrapin Crossroads was a community opportunity and an extremely unique project; that there were problems that had to be addressed; that it was a scary thing for those who lived next door; but that the project should be looked at it as a community with an open mind.

Terry Goyan, Willow Ave., stated that process was where it was at; that there were a lot of issues with Terrapin Crossroads, but that the correct way to address all the problems was through the process; and expressed his disappointed that a small vocal minority in the Town made Phil Lesh feel like he couldn't go through the process.

Lynette Shaw, owner of Marin Alliance, stated that they were not proposing a huge venue and that she supported it; that it would only be a third bigger than 19 Broadway; that the project needed to be welcomed to Town; that she didn't know if her business would be able to survive the IRS challenges they faced; and that she would be honored to see Terrapin Crossroads built in Fairfax.

Dave Smadbeck, Co-chair of the Chamber of Commerce stated that the Chamber wanted to sponsor a community meeting at the Women's Club or at the Pavilion if the Terrapin Crossroads project was still on the books. He further stated that it would be good to have everyone address the project and the concerns.

Elizabeth McDougall expressed her support for the project; stated that she was a huge fan of the Dead, that they were planning the project when Jerry Garcia died; that she was honored that Phil Lesh chose Fairfax for the project; that Dead fans were kind thoughtful people; and asked that the Council make it happen.

Pam Meigs, Cypress Drive, stated that she had served twelve years on the General Plan Advisory Committee, eight years on the Planning Commission with two years as Planning Commission Chair; that she was nervous about the project and urged the Town Council to be cautious.

Mimi Newton, Mono Ave., stated that she was disappointed to hear about the posters in Ross; that she was sorry that it scared the Lesh family away; that there were a lot of signatures on a petition in support of the project; and stated that the project had great potential.

Brad Clarke, Claus Drive, stated that he supported the skate board park but didn't support the project.

Mark Squire, Frustuck Ave., stated that he had come to know the Lesh family during property negotiations and that they were very kind and community oriented; that their project provided an opportunity for the Town; that it would bring vitality to the downtown; that the project had been in the works for a long time; and that the Town would be foolish to miss the opportunity.

Matt Ferner, Cascade Drive, addressed those adamantly opposed to the project and asked them to consider the alternatives for that piece of property; stated that there wasn't anybody more willing to work with the community than Phil Lesh; and asked that everyone keep an open

mind.

Lisa Hunt, Claus Circle, stated that she was fully supportive of some kind of music venue but not one of the scope and size proposed with the potential impact on the traffic; that she was a Dead fan; that she had no idea who violated the Lesh property; that some of her neighbors had been threatened by Mrs. Lesh; and expressed concern about safety.

Mark Bell, Dominga Ave., stated that someone had told him that the Water District was set to build on their watershed land with a grant from the Marin Community Foundation; that he lived near three bars and that they got loud; that the scope and size of the project might be too large; that it would replace a dilapidated gas station; and that maybe a venue for 300 instead of 500 would work.

Ted Pugh, 105 Rocca, stated that, after four years, he and his wife had moved to Fairfax near the proposed project; that there might be a good way to mitigate the concerns of the neighbors; that he hoped that the applicant was willing to take another look at it; and that it could have a very positive outcome.

Linda Dover, Fairfax resident, stated that she used to patronize Patrick's Bookstore and it was the only venue in Town for live music and stated that she supported the Terrapin project.

Patrick Troupe, Woodacre, stated that there could be more activities for young people; that he was in favor of the venue; that there was a big music culture and a Grateful Dead culture in our community; that projects like this one were needed; that music and more culture were part of creating a better world; that it would benefit the Town in many ways; that it would bring people to town; and would bring a lot of positive energy to the Town.

Scott Hochstrasser, Glen Drive, stated that there were currently 625 students at White Hill and that it was expanding to 800; that the Town Council had stepped up and helped pass a school bond to create classroom space; suggested that emotions be left out and that the Council step up to the opportunity provided and explore the project; and asked that they make sure the Town was informed so that opinions could be based on information.

#### Interview and appointment of candidates to serve on the General Plan Implementation Committee

M/S, Reed/Tremaine, Motion to appoint Diane Causey to the General Plan Implementation Committee.

AYES: All

M/S, Bragman/Reed, Motion to appoint George Taylor to the General Plan Implementation Committee.

AYES: All

#### Council Reports and Comments

Councilmember Reed reported that he had met with members of the Fire Department and others for the planning of Chipper Day on September 11<sup>th</sup> and had met for the planning of the Volunteer sponsored Town Picnic on September 18<sup>th</sup>.

Mayor Bragman reported that he had met with a bicycle advisory group; that the Zero Waste Committee had met a couple of times; that he and the other labor negotiators were narrowing the issues with the employee groups; and that TAM had not met since the last meeting.

Vice Mayor Hartwell-Herrero reported that she had met with the Zero Waste Committee and was glad that they had taken their time and were meeting their goals; that she had met with the Focas Coordinator and the departing Finance Director about youth program funding; and announced that there would be a Cittaslow meeting in Fairfax in the Sustainable Fairfax backyard with dinner.

Councilmember Weinsoff stated that none of the MCCMC related meetings had been held in August.

### Town Manager's Report

Town Manager Rock reported that he had met with the labor negotiators and all the labor groups including Fire and that he had attended the recent Chamber of Commerce mixer where some creative ideas had been discussed including having Friday nights be Fair Buck nights.

Mayor Bragman stated that the public employees weren't the problem, that they were the solution; that the pensioners and recipients had been blamed in the media when the problem was due to the plunge in the stock market; that the employees were the Town's biggest asset; and stated that he hoped the voters would step up and pass the tax measure.

Vice Mayor Hartwell-Herrero stated that she was also pleased with the process and the willingness of the employees to sacrifice for the town.

### Closed Session Announcement

Town Attorney Karpiak reported that the Town Council had authorized a settlement of \$10,000 to be dismissed from the case entitled Sipple v. City of Alameda; that the Council gave direction to staff to execute such an agreement; that the dismissal with prejudice would save the Town money; and that it would be a public document once it was signed and submitted.

### CONSENT CALENDAR

**Approval of Town Council minutes for the May 4 meeting - Town Clerk**

**Authorize the Town Manager to sign agreement with Carol Golsch for Town website maintenance for an amount not to exceed \$15,000 per year - Town Manager**

**Authorize the Town Manager to extend agreement with Wayne Bush for public works consulting services for an amount not to exceed \$40,000 for the fiscal year July 1, 2011 to June 30, 2012 - Town Manager**

**Adoption of Resolution No. 11-42 a Resolution of the Town Council of the Town of Fairfax approving the negotiated Memorandum of Understanding with the Fairfax Police Officers Association for the period of July 1, 2011 through June 30, 2013, employees to pay 5% of the 9% employee portion of PERS retirement cost - Town Manager**

**Adoption of Resolution No. 11-43 a Resolution of the Town Council of the Town of Fairfax approving the negotiated Memorandum of Understanding with the SEIU for the**

period of July 1, 2011 through June 30, 2013, employees to pay 5% of the 8% employee PERS retirement cost - Town Manager

Adoption of Resolution No. 11- 44 a Resolution of the Town Council of the Town of Fairfax approving the negotiated Memorandum of Understanding with the Management Group for the period of July 1, 2011 through June 30, 2013, including employee payment of 5% of the 8% employee PERS retirement cost - Town Manager

Approval of second amendment to the Town Manager's employment agreement to increase the out of pocket contribution to the employee portion of PERS to match the contribution agreed to in the Management MOU, a total of 5% of the 8% employee contribution - Town Manager

Authorize the Town Manager to sign the first amendment to the Police Chief's employment agreement creating an out of pocket contribution of the employee portion of PERS to match the contribution agreed to in the POA MOU, a total of 5% of the 9% employee contribution - Town Manager

Adoption of Resolution No. 11- 45 a Resolution of the Town Council of the Town of Fairfax approving the borrowing of funds for Fiscal Year 2011-12 and the issuance and sale of a 2011 tax and revenue anticipation note therefore - Finance

Adoption of Resolution No. 11-46, a Resolution of the Town Council of the Town of Fairfax authorizing temporary closure of a portion of Glen Drive for a bike race fund raiser on Saturday, October 1, 2011, from 8 am to 5 pm - Town Clerk

M/S, Weinsoff/Reed, Motion to approve the Consent Calendar.

AYES: All

#### PUBLIC HEARINGS

Introduction of Terrapin Crossroads Project and Consideration of Adoption of Resolution No. 11-47, a Resolution of the Town Council of the Town of Fairfax Establishing a Methodology for Preparing A Traffic Impact Study for a project encompassing the construction of a 16,570 square foot commercial building designed for use as a Performance Art Building; Assessor's Parcel No. 001-183-17, 2000 Sir Francis Drake Blvd., Fairfax - Planning

This item was withdrawn by the applicant.

Adoption of Resolution No. 11-48, a Resolution of the Town Council of the Town of Fairfax amending the Master Fee Schedule - Town Manager

Town Manager Rock presented the staff report.

Councilmember Tremaine suggested that the fees be rounded off to the nearest dollar.

The Council discussed the banner fee and the impact of the higher charge.

Mayor Bragman opened and closed the public hearing when no speakers came forward.

There was a consensus of the Council to continue the public hearing to the September meeting and to direct staff to round the fees to the nearest dollar and to reduce the banner fee to \$250.

Adoption of Resolution 11- 49, a Resolution of the Town Council of the Town of Fairfax adopting the Fiscal Year 2011-12 Town Budget – *Town Manager*

Town Manager Rock presented the staff report and enumerated the changes since the last budget discussion.

Mayor Bragman opened and closed the public hearing when no speakers came forward.

M/S, Bragman/Reed, Motion to adopt Resolution No. 11-49, a Resolution of the Town Council of the Town of Fairfax adopting the Fiscal Year 2011-12 Town Budget.

Discussion:

Councilmember Tremaine stated that he could not vote for a budget that used reserves to balance the budget.

Councilmember Reed agreed that it was not advisable to use the reserves to balance the budget but that it was necessary.

Mayor Bragman stated that they needed to pass the sales tax and to raise the garbage franchise fee.

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

Approve authority for the Mayor to write a letter on behalf of the Town Council replying to a PG&E letter dated August 8, 2011 which would request further assurances to provide notice to town residents prior to future possible installation of smart meters in Fairfax. Authority is also requested to compose an additional letter to the California Public Utilities Commission requesting their assistance in this matter – *Bragman*

M/S, Reed/Tremaine, Motion to authorize the letter as requested.

AYES: All

Shematsya, Wesson Lane, asked for clarification of the status of the installation of SmartMeters in Fairfax.

Mayor Bragman reported that the Town had been seeking assurances from PG&E that they wouldn't be installing Smart/Meters in Fairfax until a decision was rendered by the CPUC.

Shematsya stated that she had never been as paralyzed by fear and would do whatever was possible to keep the meters off her house and that she was looking at other strategies because of the possibility that the installations would go forward despite the opt-out stance taken by the Town.

Mayor Bragman explained that the Town was asking for the option for the entire jurisdiction to opt out of SmartMeter installation; that the Town had legal representation on the issue pro bono; and that the County of Santa Cruz was going to join the petition.

Discussion/Consideration of direction to the Mayor to send a letter to the Marin Community Foundation requesting that they reconsider their decision to close the Marin Youth Center – Bragman

After a discussion of the Youth Center closure, Mayor Bragman stated that he thought the letter should be sent from him personally and withdrew the request.

Discussion and Consideration of Action to Commence Safety Improvements for Safe Routes to School – Bragman/Reed

Mayor Bragman explained the proposed project designed to improve the safety of children bicycling to school named the "Fairfax Spine" because it would run through the geographic center of Fairfax. He noted that the group working on the proposal had the assistance of Traffic Safety Engineer David Parisi through Safe Routes to School funding; that the route could be marked with brightly colored pavement markings; that it would cost about \$100,000 to install; and that it would be the recommended route for kids on bikes.

Councilmember Reed stated that it would be a safer alternative for a route and would use different streets for each direction; that they were requesting authority to go forward and to direct staff to apply to TAM for funding; and that they were hoping to get it funded for the coming school year.

There was a consensus of the Council to direct staff to apply to TAM for the funding.

Town Manager Rock explained the grant process.

The meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk