

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, December 7, 2011

The regular meeting was preceded by a Closed Session from 6:30 p.m. to 7:00 p.m. for a Conference with Legal Council regarding possible initiation of litigation in one case and Town Manager Evaluation.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

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

STAFF MEMBERS PRESENT:

Michael Rock, Town Manager
Jim Karpiak, Town Attorney
Mike Vivrette, Finance Director
Chris Morin, Chief of Police
Judy Anderson, Town Clerk

Mayor Hartwell-Herrero called the meeting to order at 7:10 pm.

Pledge of Allegiance

Councilmember Weinsoff suggested that those present reflect on the anniversary of Pearl Harbor Day during the pledge.

Approval of Agenda and Affidavit of Posting

Town Attorney Karpiak announced that there had been a late development on the 62 Valley Road Appeal on the agenda wherein the application had been deemed complete and that the appeal was moot. He noted that anyone who wanted to speak to matter would be heard.

M/S, Bragman/Reed, Motion to approve the agenda and the affidavit of posting with the removal of the appeal hearing for 62 Valley Road.

Announcement of Closed Session Action

Mayor Hartwell-Herrero announced that the Council had received information and had given direction to staff on the Closed Session items.

Announcements

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

Open Time:

Dan Rubinstein, speaking for himself and his wife Janet, stated that they owned a house on Cypress where a large oak tree had fallen onto their property; that they had paid for the removal of the tree and had agreed to put in a retaining wall; that they wanted to change the look of the

rail with the same dimensions but with different material; and that they had been told that the Planning Commission couldn't change it as part of their application. He brought photos for the Town Council and stated that they had spent \$70,000 on the wall and thought that the change should be allowed.

Michael Mackintosh, Pastori Avenue, asked for an explanation of the litigation being considered; stated that the public should be able to have input before a suit was filed; and that he would prefer that the matter be discussed openly before filing suit against anyone.

Town Attorney Karpiak stated that the information was protected by law from disclosure before the filing of a lawsuit.

Councilmember Weinsoff clarified that the case would be named once the Town initiated litigation but that it was just in the discussion stage.

Interview and appointment of candidate as the Fairfax Representative to the Marin/Sonoma Mosquito and Vector Control District Board – *Town Clerk*

Frank Egger, Fairfax Representative to the Marin/Sonoma Mosquito and Vector Control District Board, presented a report on the activities of the Board and the District.

M/S, Bragman/Reed, Motion to re-appoint Frank Egger to serve a four-year term on the Marin/Sonoma Mosquito and Vector Control District Board.

AYES: All

Interview and appointment of candidate to serve on the Fairfax Youth Commission – *Town Clerk*

M/S, Weinsoff/Bragman, Motion to appoint Sophia Lahey to the Fairfax Youth Commission.

AYES: All

Council Reports and Comments

The members of the Council gave reports on their assignments, committees and activities.

Town Manager Report

Town Manager Rock reported that the Town offices would be closed from December 23rd through January 2nd, re-opening on Tuesday, January 3rd. He noted that the Police Department would be open 24/7, as usual.

CONSENT CALENDAR

Approval of Town Council minutes for the November 4 and 30, 2011 meetings - Town Clerk

Approval of Financial reports for August and September, 2011 – Finance

Adoption of Resolution 11-62, a Resolution of the Town Council of the Town of Fairfax to create a Cittaslow Committee – Hartwell-Herrero

Authorization for the Town Manager to sign an Agreement to provide Dispatch Services to the Town of Ross – Police

Authorization for the Mayor and the Town Manager to sign an Agreement to Share Police Supervisory Services with the Town of Ross – Police

Approval of list of terms of Boards, Commissions and Committees for posting by December 31, 2011 – Town Clerk

M/S, Bragman/Reed, Motion to adopt the Consent Calendar with the removal of the minutes of November 2nd for review of Vice Mayor Reed's comments regarding recreational use of rights-of-way made during the public hearing on the 132 Wood Lane appeal for consideration at the next meeting.

AYES: All

Adoption of Resolution No. 11-63, a Resolution of the Town Council of the Town of Fairfax approving a garbage and recycling service rate increase in the Town of Fairfax – Town Manager

Town Manager Rock presented the staff report.

Mayor Hartwell-Herrero opened the public hearing and closed the public hearing when no speakers came forward.

M/S, Bragman/Hartwell-Herrero, Motion to adopt Resolution No. 11-63, a Resolution of the Town Council of the Town of Fairfax approving a garbage and recycling service rate increase in the Town of Fairfax.

AYES: All

Discussion/Consideration of Refinancing the 2002 General Obligation Bonds (Measure K) - Finance

There was a consensus of the Council to hear this item out of order.

Finance Director Vivrette presented the staff report. He noted that the Finance Committee had reviewed the possible re-financing and the options for use of the savings made on the re-financing.

Mark Pressman, Wulf and Hanson Co., San Francisco, explained that the possible re-financing had been explored because of the current low interest rates; that the same life of the bonds could be kept; and that the re-financing could save the Town about \$30,000/year. He asked that the Council consider how to use the proceeds of the re-financing: (1) pass the savings on to property owners; (2) accelerate the reduction of the amount owed; (3) re-invest in the infrastructure; or (4) a combination of the described options. He noted that the savings could only be invested in Measure K approved projects if re-investing in the infrastructure was the choice. He suggested that a public hearing be conducted at the January 11th Council meeting.

Mayor Hartwell-Herrero opened the public hearing.

Barbara Petty, Town Treasurer, asked about the cost of refinancing the bonds.

Mr. Pressman responded that the cost of the issuance was built in so that the \$30,000 was a net benefit, and that they were working on a contingency basis and wouldn't be paid until the bonds were sold. He noted that the recent success of the sales tax measure would help the Town's rating.

Finance Director Vivrette stated that costs would include \$7-8,000 for the rating.

M/S, Weinsoff/Reed, Motion to move forward with the refinancing with the proceeds to be used to re-invest in the infrastructure.

AYES: All

Introduction and First Reading of Ordinance No. 764, an Ordinance of the Town Council of the Town of Fairfax, combining the Design Review Board and the Planning Commission – Planning

Planning Director Moore presented the staff report and outlined the advantages to a combined commission.

The Council discussed the pros and cons of a combination of the two bodies.

Mayor Hartwell-Herrero opened the public hearing.

Karl Vavrek, Design Review Board member, stated that he was generally opposed to the combination; that the proposed ordinance did not include design professionals on the Commission; that he thought there should be design professionals on the Planning Commission too; that the Design Review Board looked at the aesthetics of a project; that it was important to have design professionals as part of the review; that the Commission should balance the rights of property owners with aesthetics; that if the combination happened it should be done in a way that they worked together; that checks and balances were important; and that having two different groups of people looking at a project was valuable.

Laura Kehrlein, Design Review Board member, stated that she thought the combination was a good idea; that she had personal experience as an architect; that there could be separate meetings with one for design issues and one for entitlements; that complicated projects might need more than one meeting; that Design Review Board meetings were usually attended only by the applicants and not the public; that she had been personally frustrated when the size and mass of a project had been approved before being heard by Design Review; and that she thought the combination would result in the approval of better projects.

Mayor Hartwell-Herrero closed the public hearing.

Town Attorney Karpiak clarified that the ordinance would abolish the Design review Board and assign the Board's tasks to the Planning Commission, and that the design review would be considered with the entitlements.

Motion by Councilmember Weinsoff to waive further reading of Ordinance 764 died for lack of a second.

M/S, Weinsoff/Reed, Motion to continue the public hearing to January 11, 2012.

AYES: All

Mayor Hartwell-Herrero adjourned the meeting for a break from 9:27 to 9:42 p.m.

Approval of the Release of a Request for Proposals (RFP) for banking services - Finance

Councilmember Weinsoff presented an overview of the item to date.

Finance Director Vivrette presented the staff report. He noted that the RFP gave the banks about a month to respond; that the Finance Committee would review the responses and make recommendations; and that it would be back before the Council in February.

There was a consensus of the Council to ask about whether or not the bank was local as part of the process.

Mayor Hartwell-Herrero opened the discussion to the public.

Bruce Ackerman, 17 Valley Road, stated that he supported the RFP, noted that Redwood Credit Union had ATM machines in other locations including 7-11 stores, and that he would like to have an ATM in Fairfax that could take deposits.

M/S, Weinsoff/Reed, Motion to authorize staff to issue the RFP with the option to add more banks to the list and to ascertain whether or not applicant banks were truly local as part of the process.

AYES: All

Discussion/Consideration of street light replacement plans and specifications – Town Manager

Town Manager Rock presented the staff report regarding a \$38,000 grant for energy efficient lighting for streetlights.

Mayor Hartwell-Herrero asked if it was possible to see the proposed street light in action.

Councilmember Bragman suggested that a bid be sought to replace the oversized poles on Center or make them shorter and that staff investigate how to adjust the amount of light produced.

Councilmember O'Neil asked how many lumens the current lights used and how much it would cost to upgrade all the streetlights downtown.

Councilmember Weinsoff suggested that the owners of the Fair-Anselm Center be asked to contribute to the cost of any lighting upgrades in their portion of Center Blvd.

Mayor Hartwell-Herrero opened the discussion to the public.

Lindsey Hassett, Director of Lighting Sales for Evolve Electric, a local electrical contractor, described funds that were available from PG&E at 0% interest for capital improvements; described different scenarios for the proposed lighting project; stated that any electrical contractor would be able to provide samples of lighting options; stated that she lived in San Rafael; and that her company had just completed a lighting project at the Red Hill Shopping Center.

Discussion/Consideration of the status of Marin Alliance for Medical Marijuana - Bragman

Councilmember Bragman presented an overview of the status of the dispensary.

Lynette Shaw, owner of Marin Alliance, stated that she would be removing herself from the business permanently; that December 17th would be her last day; that her staff had agreed to re-form as a collective without her participation; that it was okay for her to be a consultant; that

she had to give up the use permit and not do the distribution any longer; and that she wouldn't be actively involved until the Federal government changed the law.

Possible locations for the future operation of the business were discussed.

Councilmember Bragman stated that there would be a resolution on the next Council agenda requesting that the governor send a letter in support of the re-classification of marijuana.

Council Committee Assignments

The following assignments were approved:

- Bragman:**
- Affordable Housing Committee
 - Flood Zone 9 Advisory Board, Alternate
 - Marin Energy Authority
 - Marin Telecommunications Agency
 - MCCMC Joint Services Authority Oversight Committee
 - Measure "I" Oversight Committee
 - MERA Alternate (Chris Morin, representative)
 - Ross Valley Paramedic Authority (Frank Egger, Alternate)
 - Safe Routes to School Task Force, Alternate
 - TAM (Transportation Authority of Marin), Alternate
 - Zero Waste Committee
- Hartwell-Herrero:**
- Affordable Housing Committee
 - Chamber of Commerce Liaison as Mayor
 - Citizens' Disaster Council as Mayor
 - Cittaslow Committee
 - Community Development Block Grant Committee – HCDA
 - Finance Committee as Mayor
 - League of California Cities as Mayor
 - Marin Energy Authority, Alternate
 - Measure "I" Oversight Committee
 - Zero Waste Committee
- Reed:**
- Finance Committee as Vice Mayor
 - General Plan Implementation Committee
 - Local Currency Steering Committee
 - Measure K Oversight Committee
 - Ross Valley School Board Liaison, Alternate
 - Ross Valley Fire Authority
 - Safe Routes to School Task Force
 - TAM (Transportation Authority of Marin)
- O'Neil:**
- Marin Telecommunications Agency, Alternate
 - Ross Valley Fire Authority, Alternate
 - Ross Valley School Board Liaison
 - Tree Committee
 - Youth Commission Liaison
- Weinsoff:**
- ABAG (Assoc of Bay Area Governments) Representative
 - Flood Zone 9 Advisory Board Representative
 - MCCMC Legislative Committee Representative (3/11/10)

Ross Valley Fire Authority

Mayor Hartwell-Herrero adjourned the meeting in memory of former Police Chief Chuck Grasso at 11:05 p.m.

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