

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, January 11, 2012

The regular meeting was preceded by a Closed Session from 6:30 p.m. to 7:00 p.m. for a Conference with Legal Counsel regarding anticipated litigation in one case.

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
Jim Moore, Planning Director
Chris Morin, Chief of Police
Roger Meagor, Ross Valley Fire Chief
Judy Anderson, Town Clerk

Mayor Hartwell-Herrero called the meeting to order at 7:08 p.m.

Approval of Agenda and Affidavit of Posting

Mayor Hartwell-Herrero requested that two items be removed from the Consent Calendar for discussion, the item regarding Chemtrails and the item about Corporate Personhood.

Councilmember Bragman stated that he had an urgent item that came up after the posting of the agenda regarding a petition to the California Public Utilities Commission (CPUC) and a possible petition against the PG&E SmartMeter Opt-out for a meeting that was scheduled for the following day.

M/S, Reed/Weinsoff, Motion to approve the agenda and the affidavit of posting with the removal of the items regarding Chemtrails and Corporate Personhood from the Consent Calendar for discussion and with the addition of the consideration of a petition to the CPUC regarding SmartMeter Opt-Outs at the request of Councilmember Bragman.

AYES: All

M/S, Weinsoff/Bragman, Motion to remove the items from the Consent Calendar for discussion regarding the release of plans and specifications for the three projects listed and to have the SmartMeter petition item heard at the end of the agenda.

AYES: All

M/S, Bragman/Reed, On the advice of the Town Attorney, a motion to amend the agenda to remove the appeal hearing for 62 Valley Road.

AYES: All

Announcement of Closed Session Action

Mayor Hartwell-Herrero announced that the Council had received information and had given direction to legal counsel.

Announcements

Mayor Hartwell-Herrero made the announcements as they appeared on the agenda and also announced that Marin Clean Energy was offering rebates up to \$4500 to homeowners for energy upgrades and that an informational meeting about the rebates would be held on Thursday, Feb 9th at the Women's Club at 7 p.m.

Open Time:

Valeri Hood, Dominga Avenue, reported that the GMO Labeling Project was starting to gather signatures to get the issue on the 2012 State Ballot; announced a training on signature gathering to be held in Corte Madera; stated that there was a need for volunteers to circulate the petitions; and that the goal was to make it so that consumers could tell by the labels on food whether or not the product had been genetically modified.

Joe Wright, Attorney, described elder financial abuse; noted that there was no law enforcement for the described type of elder abuse case; that the community needed to be aware of the problem; that law enforcement couldn't do anything about it; and that the community needed to address the problem. In response to a question from Councilmember Weinsoff about what the Council could do, Mr. Wright stated that there had been no arrests, no trials and no press coverage, that the word wasn't out in the community, and that the District Attorney couldn't prosecute such cases.

Councilmember Bragman stated that there was an Adult Protective Services Agency in Marin, a social service agency, that would look into such matters and that families could file a petition for conservatorship in some cases.

Mr. Wright responded that the Agency had no investigative capability and that there was no guarantee of success with conservatorship proceedings.

Melanie Peratis, Volunteer Board member and Coordinator of the Community Garden, requested that an item be placed on the next Council agenda requesting \$200 from the Town for the Community Garden budget; reported that the disputed water bill with the County for the garden had been resolved; and stated that the Volunteer Board missed out on the money that used to be budgeted for the Garden.

Jory Prum, Wreden Ave., stated that it had been a dry winter with increased fire danger; that the Council ought to consider a dragon-free zone for the Town of Fairfax; that he had drafted a resolution to make Fairfax dragon-free; and that it was in the spirit of the chemtrail-free zone resolution.

Cindy Ross, Lansdale Avenue, stated that she hadn't been to a Council meeting for a long time; that she supported Mr. Prum with his "Puff" resolution and would like it to be added to the agenda as an urgency item; expressed concern about the lack of proper crosswalks in Town; noted that the sidewalks were dangerous for her 91-year-old mother who had difficulty getting around because of the poor condition of the sidewalks; and asked about the Cittaslow Committee and the cost of such a committee for the Town.

Councilmember Bragman stated that the Town's Bicycle/Pedestrian Plan had addressed the potential for a pedestrian crossing at First Federal and that the Town was trying to address the sidewalk issues as money allowed.

Yvette Wakefield, Main Court, requested that the Council consider an ordinance to ban light bulbs that contained mercury; noted that mercury thermometers had been banned and replaced with other thermometers; stated that she would like "no smoking" zones between signs downtown; that she would like to see a senior swing installed in the park, because it would be good for senior health and for the community; and announced that the Gray Panthers would be hosting a presentation about wind farms on Saturday, the 21st following a showing of the film "Windfall" for free at the Dance Palace in Pt. Reyes.

Tony Yudice, Forrest Terrace, asked about public use of the ballfield and stated that he used to be able to play football and Frisbee there.

Town Manager Rock stated that the ballfield was open to the public when it was not reserved or being used by Little League, except when maintenance work was being done by the Town.

Mark Bell, Dominga Ave., spoke against the National Defense Authorization Act, which allowed for the indefinite military detention of American citizens without charge or a trial; stated that it abolished the 6th Amendment's guaranteed right to a jury trial; that Boxer, Feinstein and Pelosi had voted for it and Woolsey against it; that the detention was allowed until the end of hostilities in the War on Terror, hostilities that might never end; that it allowed the President to transfer detainees outside the U.S.; and suggested that the Council go on record against it. He further suggested that if there were blocks downtown where smoking wasn't allowed, that there should also be blocks where only smokers were allowed.

Morgan Hall, Walsh Lane, Planning Commissioner and member of the Board for the Chamber of Commerce; stated that he had been in the construction business for 40 years; that there was a recession going on; that the housing industry had been hard hit and hadn't even bottomed out; that construction business was off 70%; and that two million construction workers were out of work. He described how he had talked to a couple in Fairfax about expanding their home and stated that all the fees for the work they wanted to do would add up to \$10-15,000 for a \$50,000 project.

Presentation regarding the inclusion of the Town of Ross as a Member of the Ross Valley Fire Department JPA, Fire Chief

Ross Valley Fire Chief Meagor made a PowerPoint presentation regarding the potential inclusion of the Town of Ross as a member of the Ross Valley Fire Department JPA. He provided information regarding the history, staffing and configuration of the current fire service JPA and outlined the basic concepts and benefits of an expanded JPA that would include the Town of Ross.

Interview and appointment of candidates to complete an unexpired term as the Fairfax Representative to the Marin Commission on Aging to June 30, 2012 – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Weinsoff/O'Neil, Motion to appoint Michael Aaronson to complete an unexpired term as the Fairfax representative to the Marin Commission on Aging to June 30, 2012.

AYES: All

Interview and appointment of candidates to serve on the Planning Commission to complete an unexpired term to January 31, 2012 and possible additional appointment for a full four-year term to January 31, 2016 – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Weinssoff/Bragman, Motion to appoint Laura Kehrlein to serve on the Planning Commission for a full four-year term to January 31, 2016.

AYES: All

Interview and appointment of candidate to serve on the General Plan Implementation Committee as a Community Member – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Weinssoff/Reed, Motion to appoint Bruce Ackerman to serve on the General Plan Implementation Committee as a Community Member.

AYES: All

Interview and appointment of candidate to serve on the Open Space Committee to complete an unexpired term to June 30, 2012 – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Hartwell-Herrero/O'Neil, Motion to appoint Mia Andler to serve on the Open Space Committee to complete an unexpired term to June 30, 2012.

AYES: All

Interview and appointment of candidate(s) to serve on the Volunteer Board to complete an unexpired term to December 31, 2012 – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Reed/Weinssoff, Motion to appoint Helen Fauss to serve on the Volunteer Board to complete an unexpired term to December 31, 2012.

AYES: All

COUNCIL REPORTS AND COMMENTS

Councilmember Weinssoff reported that he had attended meetings regarding the consolidation of fire services.

Vice Mayor Reed reported that he had attended three meetings of the Ross Valley School Board, a closed session meeting of the Transportation Authority of Marin, a couple of meetings regarding Fairbucks, and a meeting with the County and Safe Routes to School about circulation problems.

Councilmember Bragman reported on a Marin Energy Authority meeting and on efforts regarding the opt-out tentative ruling by the CPUC.

Councilmember O'Neil noted that he still served on the Tree Committee; reported that some dangerous trees had been removed from both public and private property as part of the fire fuel removal grant; that he had started the work with the Youth Commission; and reported on his attendance at the Ross Valley School Board meeting.

TOWN MANAGER REPORT

Town Manager Rock reported on the proposals received for banking services and noted that there was a sample LED streetlight at the corner of Park and Bolinas to illustrate the amount of light produced.

CONSENT CALENDAR

Approval of Town Council minutes for the December 7, 2011 meeting and edited minutes from the November 2, 2011 meeting - Town Clerk

Approval of Financial reports for October and November, 2011 – Finance

Adoption of Resolution No. 12-04, a Resolution of the Town Council of the Town of Fairfax urging Congress and the Drug Enforcement Administration to Reschedule Cannabis as a Drug with Recognized Medical Benefits – Bragman

Adoption of Resolution No. 12-06, a Resolution of the Town Council of the Town of Fairfax authorizing the Town Manager to execute agreements with the State Board of Equalization for implementation of a local Transactions and Use Tax – Town Attorney

Approval of a letter from the Mayor to the Board of Supervisors and the Marin County Sheriff supporting the right of private ownership of farm animals – Hartwell-Herrero

M/S, Weinsoff/Reed, Motion to adopt the Consent Calendar as amended.

AYES: All

Adoption of Resolution No. 12-01, a Resolution of the Town Council of the Town of Fairfax authorizing the release of plans and specifications for the Streetlight Energy Efficiency Project – Town Manager

Councilmember Bragman noted that the lowering of the streetlights on Center Boulevard had not been included in the bid package as requested.

Town Manager Rock reported that the cost to lower each pole would be \$1700 or about \$30,000 for all the poles, more than possible with the grant funding.

Adoption of Resolution No. 12-02, a Resolution of the Town Council of the Town of Fairfax authorizing the release of plans and specifications for the Pastori Sidewalk Project and authorizing the Town Manager to award a contract to the lowest qualified bidder – Town Manager

Adoption of Resolution No. 12-03, a Resolution of the Town Council of the Town of Fairfax authorizing the release of plans and specifications for the Sir Francis Drake Bike Lane and Striping Project and authorizing the Town Manager to award a contract to the lowest qualified bidder – Town Manager

Councilmember Bragman stated that the Town Council, not the Town Manager, was authorized to award contracts, specifically contracts that exceeded \$15,000, and requested that the resolutions be amended accordingly.

Town Manager Rock explained that he was asking that he be allowed to award the contracts if the bids came in at the amount of the grants.

Town Attorney Karpiak suggested that the wording that allowed the Town Manager to award the contracts be deleted from the resolutions.

Vice Mayor Reed suggested that the Fairfax living wage ordinance be reflected in the bid

package and noted that the provisions included were for laborers to make the State's minimum wage. He also suggested that, since there were no bike lanes on Sir Francis Drake beyond Claus Drive, a sign should be included directing bicyclists to Broadway off of Sir Francis Drake at Claus.

Mayor Hartwell-Herrero suggested that a sign be included for the Pastori sidewalk project at the end of Willow at Sir Francis Drake to warn pedestrians that the sidewalk ended.

M/S, Bragman/Reed, Motion to approve the adoption of Resolutions 12-02 and 12-03 as amended and with the Council suggestions noted.

AYES: All

Adoption of Resolution No. 12-07, a Resolution of the Town Council of the Town of Fairfax declaring Fairfax a Chemtrail-Free Zone – Hartwell-Herrero

Mayor Hartwell-Herrero opened the discussion to the public and requested that former Councilmember Tremaine speak to the issue.

Lew Tremaine, Sir Francis Drake Blvd., stated that he had been tracking the issue for 13 years; that he could see it in the sky every day; that high flying jet planes left these trails that would result in citations for pollution if done on the ground; that they didn't go away; that if they were visible for seconds and then the particulates fell away and it became a high level cloud cover; that the public wasn't told what it was; that chemicals like aluminum were showing up in our lakes; that what we were seeing was the release of aluminum dust to create a cloud cover to counteract the depletion of the ozone layer and to prevent levels causing skin cancer; that aluminum was known to cause Alzheimers disease; that it was not just jet steam in the sky; that someone needed to stand up in a public way and ask for proof that it was safe; and that he supported the adoption of the resolution.

Peter Kirby stated that he was working with Valeri Hood on a resolution and that it should be called the 'geoengineering resolution'; that the term 'geoengineering' was an accepted term whereas chemtrails wasn't; that it had been admitted that geoengineering had been used to change the weather; that the x's and circles in the sky had started about 15 years previous; and that he had seen planes overhead dispensing chemtrails.

Tom Slaigh, Lake County, stated that they had the same thing up in his county; that he had been working on the issue for twelve years; that experts had said it was the same as what came out of your car on a cold day; and that the standard answers to questions about the chemtrails were that what came out of jet planes wasn't tested and it wasn't in our jurisdiction.

Tony Yudice, Forrest Terrace, posted photos of the skies over Fairfax; asked why the public wasn't told if the weather was being altered; asked who was responsible if it caused a disaster and who would have the financial liability; stated that something was going on whether it was chemtrails, weather tampering or whatever; that public safety was involved; that if something unhealthy was being sprayed, the public should be informed; that it was important to have discussions about the issue; and asked what recourse he had.

Yvette Wakefield, Main Court, stated that action was long past due; that it might be too late; that nobody knew what was going on except those who were doing it; that there was fog with no moisture that possibly contained aluminum; that the air was poisonous; that all the air was white; that PG&E was doing geoengineering; thanked the Council for addressing the issue; and suggested that they occupy PG&E and do something about it.

Roni Hoffman, Dominga Ave., stated that she used to automatically dismiss anyone who talked about the issue but had since observed the sky and knew that something was going on.

Valeri Hood, Dominga Ave., stated that, in the public mind, it had been linked to aliens, man-made climate and geoengineering. She stated that when she tried to stop the spraying for the light brown apple moth, she became aware of something else in the sky; that Rosalind Peterson had urged them not to use the term "chemtrails" because NASA and the military had called it a hoax and dismissed it; stated that similar resolutions were being considered in New York and Hawaii; and left material from Rosalind Peterson about geoengineering and relating it to the 30% decline in crop production.

Tom Slaigh stated that the word 'persistent contrails' or 'chemtrails' were terms that shouldn't be used and stated that he would be willing to work with the Town to come up with clearer terms.

Craig Slater stated that chemtrails were a mystical theory, but that we knew about geoengineering and could get information on it. He further stated that anyone who looked at the evidence with an open mind would want to know more.

Mayor Hartwell-Herrero asked that the matter be continued to February to allow for the resolution to be re-worked.

Tom Riley of San Rafael stated that he knew the damage that was being done and presented four videos for the Council to watch on the issue.

Michelle Bell, Dominga Ave., asked about the LED light and what made it so bright; stated that staff had said it was twice as bright with less energy; and asked why it had to be twice as bright.

Adoption of Resolution No. 12-05, a Resolution of the Town Council of the Town of Fairfax calling for an amendment to the United States Constitution Abolishing Corporate Personhood – Hartwell-Herrero

Mayor Hartwell-Herrero introduced the topic. She opened the discussion to the audience.

Councilmember Bragman stated that Corporations were created as limited liability companies to protect owners from liability for corporate activities, that it didn't seem right to give an entity that had limited legal responsibility the rights of an individual, and suggested that language could be added to point this out.

Tony Yudice, Forrest Terrace, stated that people expired, corporations didn't.

Craig Slater stated that it was a huge idea upon which our legal structure had been built; that the law had been so stretched that corporations could get away with a lot; that they needed to build community interests and fight corporations; and that they should be moving toward the rights of communities and nature. He read from Bolivia's Mother Earth law about giving the right to nature, the right to clean air, etc., to their people.

Ginger Sauterspasen, Kentfield, described a swearing in ceremony for new citizens she had attended where a new citizen had led the pledge of allegiance with the words "justice and liability for all" as an attempt at a translation of the English version. She stated that it had occurred to her that it was a big issue to consider corporations to be the same as our people and that organizations and people needed to speak out against corporate personhood.

Mark Bell, Dominga Avenue, stated that it would be good if corporations were considered as people and could be sentenced to death, like PG&E for gas explosions and other crimes.

M/S, Bragman/Reed, Motion to approve the resolution as presented.

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 (public hearing continued from December 7, 2011) – Planning

Planning Director Moore presented the staff report.

The Council discussed the issue and Mayor Hartwell-Herrero opened the discussion to the public:

Morgan Hall, Planning Commissioner and former Design Review Board member, Walsh Lane, stated that he thought merging the two bodies was a good idea; that it would allow every project to be given a comprehensive evaluation; that the Planning Commission looked at projects in a very quantitative way with a little bit of interpretation of the components while consciously trying not to set precedents; that the Design Review Board (DRB) considerations were qualitative and looked at aesthetics and how the project related to the town and to its location, and that when the Planning Commission referred a project to the DRB, it was a little intimidating. He used the recent expansion of the Fairfax Theater as an example of a project that allowed for very little design review once it was sent to the DRB; that the combination could mean a savings of time and money, a shorter time for approval of projects, and could perhaps result in a reduction in fees.

Mallory Geithem, DRB member, stated that she wanted to do whatever would serve the Town well; that it was not whether there would be a board, but the courtesy shown to the Board to be disbanded; that she thought it would take more time for the Planning Commission to review a project with the design elements; that checks and balances were needed for all projects; that the DRB served a purpose; that she wasn't a design professional but was an artist; that she didn't think it would save all that much to combine them; that the DRB needed to have more authority to be effective; and that the DRB had done a very good job for the Town.

Mark Bell, Dominga Ave., suggested that if the membership on the Planning Commission was raised from seven to nine members, including a couple from the DRB, they could look at the aesthetic elements and would have more members to make decisions when a member had to recuse himself.

Shelby LaMotte, stated that she had served six years on the DRB; that the DRB used to hear a project first before it went before the Planning Commission, but it was currently the reverse; that there was a sense of being ineffectual on the DRB; that the decisions could be just over paint chips; that it wasn't easy to separate the elements of a project because they overlapped a lot; that the Planning Commission already considered design elements; that combining the two boards wouldn't get rid of anything; that how the criteria was set for projects would determine more; that we were lucky to live in a Town where volunteers were so involved; that it was burdensome to staff and a luxury to have the two boards; that it was a hardship to the applicants to have the two boards; and that it wouldn't be taking away a filter but would empower a board to do what they would be doing anyway. She further stated that, for the amount of money people were spending on vegetation management plans, sprinklers, and other requirements was burdensome and expensive for applicants.

Laura Kehrlein, DRB member, stated that she thought the town would end up with better projects if all the elements were looked at together and that the extra review did sometimes become a burden on families in town.

Planning Director Moore stated that applicants would still pay the same fees for Design review and for the entitlements, that there was an economy of scale to review a project all at once, but that the savings would not be passed on to the applicant.

Town Attorney Karpiak noted that a typo on page two of the ordinance, at 17.064.120(a), would be corrected to read ten days, not five days.

M/S, Weinsoff/Hartwell-Herrero, Motion to waive further reading of Ordinance No. 764, and to read the title only.

AYES: All

M/S, Weinsoff/Reed, Motion to introduce Ordinance 764, an Ordinance of the Town Council of the Town of Fairfax, combining the Design Review Board and the Planning Commission.

AYES: Hartwell-Herrero, O'Neil, Reed, Weinsoff
ABSTAIN: Bragman

M/S, Weinsoff/Reed, Motion to review the ordinance in six months and again after a year with the Planning Director to report back to the Council.

AYES: All

Discussion/Consideration of allocation of the proceeds from the refinancing of the General Obligation Bonds (Measure K Bonds)

Finance Director Vivrette presented the staff report and noted that the amount realized from the refinancing would be about \$220,000, less than first estimated.

Mayor Hartwell-Herrero opened the public hearing.

Morgan Hall, Planning Commissioner, Chamber of Commerce Board Member, stated that, in 2008, there was money for sidewalk improvements in Measure K; that he and others had developed a plan for Bolinas Road with street trees, etc.; and that, by the time the plan was developed, the funds were basically depleted. He asked, on behalf of the Chamber, that some of the money be used for sidewalk improvements downtown. He suggested that trees could be put in containers along Bolinas, and that perhaps the Town could lease parking spaces to businesses in Town like Mountain View had done.

Councilmember Bragman stated that they were called "parklets" in San Francisco, and were leased parking spaces and that the program had been very successful.

M/S, Bragman/Weinsoff, Motion to allocate as much of the proceeds of the refinancing of the Measure K bonds back in Measure K, and to allocate the remainder to the taxpayers.

AYES: All

Petition to the California Public Utilities Commission re: PG&E SmartMeter Opt-out Application,

A.11-03-014, Bragman (added as an urgency item)

Councilmember Bragman submitted a petition urging the CPUC to continue the hearing on the petition for further discussion. He stated that CPUC President Peevey published a recommended decision that the CPUC had adopted, a decision allowing PG&E to charge to opt-out for a fee that Peevey set; that Peevey had cut off the hearing process; that he was surprised to learn that PG&E offered to let people keep their analog meters; that the case was being litigated; that the CPUC set rates without having public hearings; and that the rates, in his opinion, discriminated against people with sensitivities; and noted that other legislative bodies, including the Marin County Board of Supervisors, had signed the petition, along with other public officials. He asked the Council members to sign the petition if they wished to do so.

M/S Bragman/Weinsoff, Motion to adjourn the meeting at 11:30 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk

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