

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, February 1, 2012

The regular meeting was preceded by a Closed Session from 6:30 p.m. to 7:00 p.m. for a Public Employee Performance Evaluation (Town Manager) pursuant to Govt. Code Section 54957.

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
Mark Lockaby, Building Official
Linda Neal, Senior Planner
Judy Anderson, Town Clerk

Mayor Hartwell-Herrero called the meeting to order at 7:05 pm.

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

AYES: All

Announcement of Closed Session Action

Mayor Hartwell-Herrero announced that the Council had received information from staff and that no action had been taken.

Announcements

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

Open Time:

Shematsya, Wesson Lane, thanked Councilmember Bragman for attending the California Public Utilities Commission (CPUC) meeting earlier in the day when the SmartMeter opt-out plan had been approved and stated that she would like to try to keep Smart Meters out of Fairfax. She further stated that she had received an automated call from PG&E informing her that she had thirty days to opt out, and that thirty days wasn't much time to spread the word.

Councilmember Bragman responded with a brief report on the CPUC meeting, stated that President Peevey's decision, that allowed for opting out of the SmartMeter program, had been adopted but with fees attached; that there was supposed to be a second phase to the

discussion where the CPUC would consider area-wide opt-outs and would review the basis for the fees to be charged; that the CPUC didn't listen to any of the petitions from jurisdictions they had received on the issue; and he proposed that a letter be sent to PG&E to ask them to continue to keep Fairfax on the delay list until the second phase had been completed.

Valeri Hood, Dominga Avenue, stated that only the people who were on the opt-out list were receiving the PG&E calls. She also stated that the Enemy Repatriation Act was a dangerous Act that was in Congress

Mark Bell, Dominga Ave., stated that a crosswalk was needed on Bolinas Road near the French cleaners and Sorella's, and that the request came from his wife. He further stated that a petition should be started for the recovery of the 2.2 billion dollars the taxpayers had paid for the smart meters and were being asked to pay again.

Morgan Hall, 10 Walsh Lane, Planning Commissioner, Chamber of Commerce Board member, talked about the dire condition of the housing and construction industries; stated that there were regulatory agencies outside of Fairfax that were doing damage to the Town; that things were leaner than they were in 2007 but that compliance was required for regulations adopted when the economy was strong; that the Wildland Interface Zone was adopted as part of the Fire Code update; that some of the mandated requirements from these codes were burdensome financially; that a woman who had been burned out of her home was required by the Fire Department to build a \$100,000 driveway, upgrade the water meter, and to meet other requirements so that the house hadn't yet been built; that young owners bought property in Town only to find that they couldn't afford to do upgrades, which meant that needed work wasn't done and that was bad for everyone; and suggested that the Council might want to take a look at the requirements imposed by outside agencies like MMWD, the Sanitary District, the State, etc.

Interview and appointment of candidate(s) to serve a four-year term on the Fairfax Planning Commission to February 29, 2016

Town Clerk Anderson presented the staff report.

M/S, O'Neil/Reed, Motion to appoint Barbara Coler to serve a four-year term on the Fairfax Planning Commission to February 29, 2016.

AYES: All

Council Reports and Comments:

Councilmember Weinsoff reported on his attendance at two Marin County Council of Mayors and Council Members (MCCMC) dinners; at a meeting of the MCCMC Legislative Committee; at a meeting of the Ross Valley Fire Board; at a dinner where the Human Rights Commission honored people in the community including Melba Beals; and at a Marin Community Foundation (MCF) meeting where their recently published book about Marin and the needs in the community was launched.

Vice Mayor Reed reported on his attendance at the recent MCCMC dinner meeting; at a meeting about White Hill access issues; a meeting about the Fairfax Bike Spine, a funded project; a meeting about the latest Fairbuck; and a Transportation Authority of Marin meeting. He also reported on a Workshop put on by ABAG and MTC that he had attended regarding the mandate to reduce greenhouse gases; a meeting of the Ross Valley Fire Board; a Ross Valley School District meeting; a Safe Routes to School meeting and a Finance Committee meeting.

Councilmember O'Neil stated that there was nothing to report on the Youth Commission; that the Tree Committee continued to be rewarding; and that he also attended a meeting of the Ross Valley School Board.

Councilmember Bragman reported on his attendance at the California Public Utilities Commission meeting and asked for consensus from the Town Council to send a letter to PG&E regarding the proposed fees to be collected from customers who opted out from the installation of SmartMeters. He also reported on his attendance at the meeting with Vice Mayor Reed about the Bike Spine; at a meeting of the Marin Community Foundation regarding a grant for a trolley from San Rafael to Fairfax; and a meeting with Terry Hamilton Poore, pastor at Lutheran Church, regarding another site capacity study scheduled for Saturday, Feb 11th. Councilmember Bragman stated that he had met with John Sharp and Jack Judkins about the Berg appeal and that they would like to draft a letter to other jurisdictions inviting them to join an amicus brief on the issues.

Mayor Hartwell-Herrero reported that she had attended a Chamber of Commerce meeting with Town Manager Rock; the MCCMC dinner meeting with a speaker about producer responsibility; that the resolution about geoen지니어ing had been tabled; that she had met with the Greenbelt Alliance and they were interested in working on affordable housing; and had met with the Finance Committee and had reviewed all the proposals from banks to provide service to the Town.

Councilmember Weinsoff described the vacation check service provided by the Police Department as "amazing," and extended his thanks for the service provided during a recent vacation.

There was a discussion about SmartMeters and there was a consensus of the Council to schedule an extra meeting for the topic on Monday, February 13th at 7 p.m. in the Women's Club.

Town Manager Report

Town Manager Rock stated that he didn't have anything to report.

CONSENT CALENDAR

Adoption of Resolution 12-08, a Resolution of the Town Council of the Town of Fairfax authorizing the Issuance and Sale of Its 2012 General Obligation Refunding Bonds - Finance

Approval of the re-appointment of two Design Review Board members to the Design Review Board for full three-year terms – Town Clerk

Acceptance of Report on staffing in the Planning and Building Services Department – Planning

Authorize the Town Manager to apply for the Cal Recycle Beverage Container Annual Funding in the amount of \$5,000 – Town Manager

M/S, Weinsoff/O'Neil, Motion to adopt the Consent Calendar as presented.

AYES: All

Fairfax Finance Authority

M/S, Reed/Weinsoff, Motion to recess as the Town Council.

AYES: All

M/S, Bragman/Weinsoff, Motion to meet as the Fairfax Financing Authority.

AYES: All

Mark Pressman, Bond Consultant, related the steps taken to date for the issuance of the bonds, including getting a rating from Standard and Poore's; stated that he was optimistic that the Town would get a good rating, due on Friday; described the steps yet to be taken up to the issuance of the bonds; noted that the old bonds would be paid off effective March 16th; that the new bonds would go into effect March first; that he anticipated an "AA" rating and expected good bids; and stated that he would report on the sale in April.

Mr. Pressman led a discussion of the bond issuance.

In response to a question from Councilmember Weinsoff, Mr. Pressman stated that the anticipated net proceeds were \$185,000 to the Town and a little more savings to the property owners of about \$20,000/year, depending on interest rates.

Vice Mayor Reed clarified that the \$185,000 would be spent on Measure K projects and noted that a meeting of the Measure K Oversight Committee was necessary.

Councilmember Weinsoff requested that the Measure K Committee consider the Morgan Hall plan for the downtown sidewalks.

In response to a question from Mayor Hartwell-Herrero, Mr. Pressman reported that most of the bonds last time were sold to individuals in Marin, but could be purchased by anyone anywhere, and that the lowest possible interest rate was sought.

Mark Bell, Dominga Ave., asked for clarification of the amount of the savings.

Finance Director Vivrette stated that \$185,000 would go to the Town and the rest would go to reduce the tax burden.

M/S, Bragman/Reed, Motion to adopt Resolution 2012-1, a Resolution of the Board of Directors of the Fairfax Financing Authority authorizing the Issuance and Sale of Revenue Bonds for the Purpose of Financing the Acquisition of Town of Fairfax, California, General Obligation Refunding Bonds and for other Purposes and Approving Related Agreements and Actions.

AYES: All

Mayor Hartwell-Herrero adjourned as the Fairfax Finance Authority and re-convened as the Fairfax Town Council.

Second Reading and Adoption 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.

Mayor Hartwell-Herrero opened the public hearing.

Morgan Hall, Walsh Lane, Planning Commissioner and former Chair of the Design Review Board (DRB), stated that it was a good idea to combine the DRB with the Planning Commission, that it would provide a more holistic approach, and would streamline the process for staff and citizens.

Mayor Hartwell-Herrero closed the public hearing.

Councilmember O'Neil stated that he liked it that consensus had been reached on the combination and asked for a six-month review of the new process.

Councilmember Weinsoff suggested a report from the Planning Commission on how it was going before the six months.

Mayor Hartwell-Herrero asked that the Council and staff be sensitive to the DRB members who would be losing their positions.

M/S, Weinsoff/Reed, Motion to waive further 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.

AYES: All

M/S, Weinsoff/Reed, Motion to adopt Ordinance No. 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
NOES: Bragman

There was a consensus of the Council to have the Planning Commission report to the Town Council on the consolidation.

Adoption of Resolution 12-09, a Resolution of the Town Council of the Town of Fairfax declaring the conditions at 39 Wood Lane a Public Nuisance and ordering the Town Manager to abate the Nuisance – Building Official

Building Official Lockaby presented the staff report. He described some progress that had been made at the property during the previous week; reported that the property owner did not want to remove the storage container on the property; and recommended that the property owner be given a little more time to comply.

Upon the request of Councilmember O'Neil, Building Official Lockaby clarified what had been done and what was left to be done.

Councilmember Bragman noted that the link fence had been ugly but that it had kept people off the property. Planning Director Moore explained that the fence being removed had been a rented chain-link fence and that the owner had been asked to build a six-foot wooden fence.

Mayor Hartwell-Herrero opened the public hearing.

Kathleen McCann, 25-year resident, Wood Lane, across the street from the subject property, thanked the staff who had helped move it along; stated that she had spent six years watching

the property deteriorate; that the fence hadn't been removed until the previous day; that equipment had been stored there and never used to improve the property; that the surplus windows were finally removed the previous day; asked that the storage shed and the dumpster with weeds growing out of it be removed; that she was not sure of the condition of the slide; that she appreciated the efforts made to protect her property; reported that cars still slowed down to look at the property; that she was speaking for herself and her family; that she had raised her children on that street; that they were a community of neighbors who cared for each other; that she had been dismayed to read the property owner's letter; that he didn't live on the property; that he used a weed whacker every couple of months; that there was a huge mound of dirt and weeds on the property; that some carving had been done at the bottom of the hillside; that Mr. Hansberry was less than truthful; that it had been six years and he shouldn't get more time; and that there had been a lack of honesty on his part.

Chris Bradley, Wood Lane, stated that he supported what Ms. McCann had said; that he didn't think the property owner should be given more time; that he wanted the property to be cleaned up; that the dumpster and the storage container should go; that the neighbors didn't know whether or not the property was safe; and urged the Council to be sure that whatever happened to the property was appropriate for the site.

Mayor Hartwell-Herrero closed the public hearing.

Town Manager Rock stated that the Council could continue the public hearing to the next Council meeting or could proceed with the abatement.

Councilmember O'Neil suggested that the storage container used for his salvaged belongings be excluded from the abatement; that the situation was a result of a catastrophe; that what was seen at the property was the aftermath of a slide that could have ruined the property owner financially; that because there was no fire, there was no insurance; that he would like to give the property owner the opportunity to address the Council to hear his plans; that the windows and the debris box had to be removed; and suggested that the storage container could be moved out of sight behind the berm.

Vice Mayor Reed stated that the absence of Mr. Hansberry was very disappointing; that the situation was caused by a disaster that wiped him out financially; and that he was in favor of giving him another month.

Planning Director Moore stated that the most important thing was the public safety aspect and the disposition of the slide.

Councilmember O'Neil ascertained that a soils report on the slide had not been received and that it would cost approximately two- to three-thousand dollars to get a soils report. He recommended that everything on the property but the storage box be removed and that the property owner be given another month to comply.

Mayor Hartwell-Herrero stated that if he was given an extra month, he needed to get it all done.

M/S, Bragman/Reed, Motion to continue the public hearing to the next regularly scheduled Council meeting on March 7, 2012.

AYES: All

Mayor Hartwell-Herrero adjourned the meeting for a break from 8:50 p.m. to 9:05 p.m.

Discussion/Consideration of utilizing PEG funds for the purchase of video equipment for Town Council Chambers and Granicus discount through June, 2012, for Broadcasting and Webcasting of Town Council meetings – Town Manager

Town Manager Rock presented the staff report. He stated that the equipment necessary to broadcast the Council meetings could be purchased and installed for free using PEG funds. He further stated that the Town's server wouldn't be adequate to host the information from the meetings, but that Granicus had a separate server for the hosting.

Michael Eisenmenger, Executive Director of the Community Media Center of Marin (CMCM) referred to the proposal made to the Town Council the previous October and acknowledged that CMCM could do the setup and installation necessary to broadcast the meetings.

Barbara Thornton, Executive Officer of the Marin Telecommunications Agency (MTA), stated that CMCM could use the PEG fees to install the equipment in the Council chambers; that to be able to archive the videos and to index the meetings the Town could use a service like Granicus; that all of the video could be stored on the vendor's server; that Granicus could handle a large volume of access and was off-site. She described other features of the Granicus system and stated that multiple cities could share a server to reduce the cost.

Councilmember Bragman stated that installing video would be a huge asset to the community for live webcasting or cable casting; that Phase I was getting the building equipped by CMCM; and that the Town could get the benefit without the expense of a system like Granicus. He noted that there were limitations to broadcasting from the same server; that Granicus would require some training for the clerk; that he thought the technology was changing; that he was not confident about committing to Granicus; that there were opportunities to find no-cost ways to access files in the "cloud;" and that the Town should move forward to get the Women's Club equipped to allow for live broadcasts or streaming through the Web site.

Michael Eisenmenger stated that the meetings could be televised live on Channel 27, the government channel, and could be streamed simultaneously. He noted that free services were available to archive videos.

Councilmember O'Neil expressed concern about the access, asked about the costs, and suggested that someone on staff could be trained to provide the camera work.

Mr. Eisenmenger stated that 5% of the franchise fees from Comcast went to cities to pay for the services.

Councilmember Bragman stated that the Town was being equipped at no charge; that the MTA wanted to support the media center and was funding the efforts; and that they were trying to create a public agency broadcasting network for streaming and also for emergency use.

Vice Mayor Reed stated that transparency in government was essential and broadcasting would help with that; that the opportunity to have the room wired was a no-brainer; that it would give the Town a more valuable facility for use by the community; that he was not in favor of Granicus; that it would be good to support the Media Center; that there was a cost but that the service would be provided by a local non-profit; that the Town had a fiduciary responsibility to spend carefully; but that it would provide a benefit to the community.

In response to a question from Mayor Hartwell-Herrero, Mr. Eisenmenger estimated that it would take about a month to equip the building.

Councilmember Bragman urged the Council to move forward in getting the building wired; that it would make it easier for the community to watch the Council meetings; that it would increase the value of the building; and that all the meetings might not need to be broadcast.

Mayor Hartwell-Herrero opened the discussion to the public.

Mark Bell, Dominga Ave., stated that there was no need for a contract with Granicus and that the broadcast could be divided into sections for easy review without Granicus.

There was a consensus of the Council to go forward with Councilmember Bragman's recommendation to direct staff to work with the MTA and the Media Center to implement the plan presented in the Video Proposal from the Community Media Center of Marin.

Town Manager Rock stated that he would have an agreement for work with the Media Center for the Council's approval at the next meeting.

Councilmember Bragman suggested that the contract be for a minimum of six meetings per year with a review after a year.

Discussion/Consideration of permitting "parklets" (temporary sidewalk extensions turning parking spaces into pedestrian nooks) in Fairfax – Bragman

Councilmember Bragman presented an overview of the item. He described the success of the program in San Francisco as covered in a recent article in the San Francisco Chronicle; handed out the guidelines from a similar program in Mountain View; suggested that it be referred to the Planning Commission as an idea worth exploring; and noted that there were a lot of safeguards built into the guidelines.

There was a consensus of the Council to direct the Planning Commission to explore the idea.

Adoption of Resolution 12-10, a Resolution of the Town Council of the Town of Fairfax authorizing the Town Manager to enter into an Easement Agreement with Fairfax Center Properties, LLC for the Construction and Maintenance of a Public Sidewalk on Pastori Avenue - Town Manager

Town Manager Rock presented the staff report. He stated that the proposed sidewalk on Pastori was not entirely in the public right-of-way and that the easement was necessary to get the sidewalk built.

M/S, Weinsoff/Bragman, Motion to adopt Resolution 12-10, a Resolution of the Town Council of the Town of Fairfax authorizing the Town Manager to enter into an Easement Agreement with Fairfax Center Properties, LLC for the Construction and Maintenance of a Public Sidewalk on Pastori Avenue.

AYES: All

Discussion/Consideration of the Adoption of Resolution 12-11, a Resolution of the Town Council of the Town of Fairfax Objecting to the Military Detention Provisions of the National Defense Authorization Act – Bragman

Councilmember Bragman presented a report on the issue. He stated that the National Defense Authorization Act (NDAA, gave the Executive the ability to detain citizens and deny them the right to trial; that it was a very disappointing and chilling development in the law; that it was

passed the same week that we pulled out of Iraq; that it was bringing the battlefield home and compromising the rights of citizens; that it offended the Constitution that it purported to protect; that the government already had the power to detain citizens; that it allowed the Executive to invoke military authority and deny citizens their constitutional rights; and that he would like the Marin County Council of Mayors and Council Members to address the issue as well.

Mayor Hartwell-Herrero opened the discussion to the public.

Mark Bell, Dominga Ave., stated that Boxer and Feinstein both voted for the Act; that the Constitution of the U.S. had been violated, and that it was destroying rights of the citizens.

M/S, Bragman/Reed, Motion to adopt Resolution 12-11, a Resolution of the Town Council of the Town of Fairfax Objecting to the Military Detention Provisions of the National Defense Authorization Act.

AYES: All

Discussion/Consideration of appointing a subcommittee of the Town Council to speak with neighbors about the possibility of a pedestrian bridge connecting Hawthorne Court to Sir Francis Drake - Bragman

Councilmember Bragman presented a report and stated that the possibility of a bridge had come up during a discussion about the Bike Spine project and that a bridge used to be at that location.

Vice Mayor Reed stated that it was a historic route to school and that to locate a bridge at the end of Hawthorne Court would require the agreement of the eight property owners on the Court.

There was a consensus of the Council to appoint Councilmember Weinsoff and Vice Mayor Reed to serve on an Ad Hoc Committee to speak with the Hawthorne Court property owners about the possibility of a pedestrian bridge connecting the Court to Sir Francis Drake.

The meeting was adjourned at 10:27 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk