

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, April 4, 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
Roger Meagor, Ross Valley Fire Chief
Tracy Lavoie, Administrative Assistant
Judy Anderson, Town Clerk

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

M/S, Weinsoff/Bragman, Motion to approve the agenda and the affidavit of posting with the addition of adjournment in memory of Peter Douglas, conservationist and protector of the coast.

AYES: All

Announcement of Closed Session Action

Mayor Hartwell-Herrero announced that the Council had taken no action on an evaluation of a public employee.

Announcements

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

Open Time:

Frank Gonzalez spoke about his work with Laura Honda at Manor School and announced that he was looking for a place in Fairfax to stay during the construction of a peace bird for the Festival parade.

Yvette Wakefield, Berry Trail, Fairfax, reported that the Houston, Texas Police Department was getting a new unmanned drone to be used on criminals; stated that she wanted the Council to be sure that nothing like that would be allowed in Fairfax; that San Anselmo had an SUV equipped with crowd control and civil unrest equipment; asked that the Council pass a resolution against the Dept of Homeland Security; and described a town in Spain that was completely wireless and stated that she would like Fairfax to be the same.

Valeri Hood, Dominga Ave., stated that she had come to speak in opposition to the drone system; that the FAA was selecting sites for unmanned drones in our country; that law enforcement in Texas had purchased a drone system; expressed concern about having such things in our air space; that she would like to get drones banned state-wide; reported that there were 7,000 unmanned aerial systems; that spy technologies could be hooked to drones; read aloud from news articles on the subject of drones; stated that Chicago had cameras that could follow people around the city; described clandestine surveillance in other communities; and urged the Town Council to make a statement about it.

Mallory Geitheim, requested that the smoking ordinance that required that nightclub doors remain closed be enforced.

Councilmember Bragman suggested that Ms. Geitheim could call "Smoke-Free Marin" to get suggestions on actions that could be taken.

Sierra Salin, Cascade Drive, stated that he thought a mistake had been made when he was put on this planet; that he was in charge of homeland insecurity and society was a menace to him; that he agreed with the comments about drones; that citizens could be strip searched for almost anything; asked what could be done to educate the electorate and to restore peace and justice and liberty that we no longer had; and stated that he had been hassled for climbing a tree.

Oath Of Office

Town Clerk Anderson administered the Oath of Office to newly hired Reserve Police Officer Bill Drolla.

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

The Town Council interviewed Susan Adams, the only candidate for appointment.

Mimi Newton, Chair of the Open Space Committee, stated that the members of the Open Space Committee were very supportive of the application.

M/S, Weinsoff/O'Neil, Motion to appoint Susan Adams to the Open Space Committee to complete an unexpired term to June 30, 2012.

AYES: All

Interview and appointment of candidate(s) to serve as a community member of the Cittaslow Committee – Town Clerk

The Town Council interviewed Mallory Geitheim, the only candidate for appointment.

Councilmember Bragman stated that he would like to see the Cittaslow Committee have a table at the upcoming EcoFest because of their compatibility.

M/S, Weinsoff/Reed, Motion to appoint Mallory Geitheim as a community member of the Cittaslow Committee.

AYES: All

Council Reports and Comments

Councilmember Weinsoff reported on his attendance at meetings of the Legislative Committee of MCCMC, the MCCMC monthly dinner meeting, the Flood Zone Board meeting, the Marin Community Coalition, and three meetings of the Ross Valley Fire Board.

Vice Mayor Reed reported on his attendance at meetings of the Ross Valley Fire Board, the Fairbuck Committee, a White Hill School meeting on safe routes to school, the Bike Spine community workshop, the MCCMC dinner meeting, and a planning meeting for the Human Scale Fairfax event.

Councilmember Bragman reported on his attendance at the Bike Spine community meeting and a meeting of the Marin Telecommunications Agency. He announced that the Fairfax Town Council had been challenged by the San Anselmo Town Council to compete in the annual Human Race charitable event.

Councilmember O'Neil reported on his attendance at the Tree Committee meeting, the Ross Valley School Board meeting, meetings with parents about the School Board, a Youth Commission meeting, and the MCCMC dinner meeting.

Mayor Hartwell-Herrero reported on her attendance at the Finance Committee meeting, a Festival volunteer recruitment meeting, and a Chamber/Town meeting.

Town Manager Report

Town Manager Rock announced that the new agreement with Marin Sanitary provided for free compost deliveries and that a delivery had happened that day and another was scheduled for the coming Saturday. He provided an update on the nuisance abatement at 39 Wood Lane, and announced that Avatar Punjabi restaurant would open on the following Friday.

CONSENT CALENDAR

Approval of Town Council minutes for the March 7, 2012 meeting - Town Clerk

Adoption of Resolution No. 12-16 a Resolution of the Town Council of the Town of Fairfax authorizing the Town Manager to Release Plans and Specifications: Oak Manor Drive Sidewalk Improvement Project –Town Manager

Consideration of a Memorandum of Understanding between the Marin Agricultural Institute (Marin Farmers Market) and the Town of Fairfax for the 2012 Fairfax Farmers Market – Town Manager

Adoption of Resolution No. 12-19, a Resolution of the Town Council of the Town of Fairfax adopting a revised Conflict of Interest Code – Town Clerk

M/S, Weinsoff/Reed, Motion to adopt the Consent Calendar with the removal of the item regarding the Gann limit resolutions for discussion and the Financial Reports to be removed for discussion later on the agenda with the mid-year budget review .

AYES: All

At the request of Councilmember Weinsoff, and with a consensus of the Council, the item regarding the Fire Department expansion was moved up on the agenda to be heard after the Consent Calendar.

Adoption of Resolution No. 12-17 and Resolution No. 12-18 Resolutions of the Town Council of the Town of Fairfax making certain findings and determinations in compliance with Section XIIB of the California Constitution (Gann Initiative) and Setting the Appropriation Limit for Fiscal Years 2010/11 and 2011/12 – Finance

Finance Director Vivrette presented the staff report. He described the history of the State proposition that resulted in the setting of appropriations limits for cities and explained the formula used to get the “growth factor” used to set the limit. He noted that Fairfax had always been under their limit and that the resolutions met the requirements to set the limit.

Jory Prum, Wreden Ave., asked when the resolutions were supposed to be adopted to comply with the State requirement and which staff member was responsible for the late adoption. He stated that blaming it on staff turnover when the Town wasn’t meeting requirements wasn’t satisfactory and expressed concern about the lack of compliance with requirements.

Finance Director Vivrette stated that there wasn’t an opportunity to adopt the resolutions until the audit was completed and the oversight was brought to their attention.

M/S, Weinsoff/Reed, Motion to adopt Resolution No. 12-17 and Resolution No. 12-18, Resolutions of the Town Council of the Town of Fairfax making certain findings and determinations in compliance with Section XIIB of the California Constitution (Gann Initiative) and Setting the Appropriation Limit for Fiscal Years 2010/11 and 2011/12.

AYES: All

Preliminary approval for the expansion of the Ross Valley Fire Department JPA to include the Town of Ross – Fire Chief Meagor

Ross Valley Fire Chief Roger Meagor presented a staff report about the progress of the addition of Ross as a member of the Joint Powers Agreement (JPA). He stated that the addition of Ross wouldn’t require any major changes in the JPA; that the purpose of the expansion was to improve service and to save money; that the Ross Fire Station would remain open with the Ross Firefighters to become Ross Valley Fire Service employees; that there would be no change in service; and he reviewed each of the major elements of the plan.

In response to a question from Councilmember O’Neil, Chief Meagor explained the different circumstances in the 1980’s that kept an expansion to include Ross from happening.

In response to questions from Councilmember Bragman about how service would improve and how savings would be realized, Chief Meagor explained that service would be improved because of better coverage with a fourth available engine and the ability to run multiple calls without the aid of outside agencies. He further stated that savings would be realized by having battalions work together; with the use of a current Battalion chief assigned to Ross; to be able to provide joint training; by adding half of an administrative position and the elimination of a Chief; and because the fourth engine company didn’t have the call volume of the other three allowing for better coverage.

Councilmember Bragman acknowledged the generosity of the Town of Ross for paying for the Ross Valley Paramedic ambulance and noted that most of the calls were medical calls.

Ross Fire Chief Vallee described their intern program and noted that it enabled them to place a third person on each engine and also provided a cost savings when an apprentice was subsequently hired who was already trained.

In response to a question from Councilmember Bragman, Chief Meagor stated that each jurisdiction would retain their individual pension obligations and retiree medical costs with future retirees becoming the responsibility of the Ross Valley Fire JPA.

Mayor Hartwell-Herrero opened the discussion to the public.

Pam Meigs, Cypress Drive, asked if the fire fighters were cross-training with the paramedics.

Chief Meagor responded that all first response fire fighters were paramedics.

M/S, Weinsoff/O'Neil, Motion to give preliminary approval for the expansion of the Ross Valley Fire Department JPA to include the Town of Ross.

AYES: All

Mayor Hartwell-Herrero adjourned the meeting for a break from 9:05 to 9:15 p.m.

PUBLIC HEARINGS

There was a consensus of the Council to hear the item regarding the General Plan as the first public hearing.

Adoption of Resolution No. 12-22, a Resolution of the Town Council of the Town of Fairfax approving the Initial Study and Mitigated Negative Declaration, adopting findings regarding environmental effects and a Mitigation Monitoring and Reporting Program for the Fairfax 2010-30 General Plan, AND adopting the Fairfax 2010-30 General Plan - *Planning*

Planning Director Moore presented the staff report. He introduced Larry and Sean Kennings from LAK Associates who had worked on the project for 12 years and announced that the Affordable Housing Committee and the General Plan Implementation Committee would both be meeting soon.

Mayor Hartwell-Herrero thanked all concerned.

M/S, Reed/Weinsoff, Motion to approve Resolution No. 12-22, a Resolution of the Town Council of the Town of Fairfax approving the Initial Study and Mitigated Negative Declaration, adopting findings regarding environmental effects and a Mitigation Monitoring and Reporting Program for the Fairfax 2010-30 General Plan, AND adopting the Fairfax 2010-30 General Plan.

AYES: All

Adoption of Resolution No. 12-20 a Resolution of the Town Council of the Town of Fairfax adding a new rate for compactors to the Town of Fairfax Refuse Collection Rates (Exhibit C of the Marin Sanitary Services Resource Recovery Agreement) – *Town Manager*

Town Manager Rock presented the staff report. He explained that the compactor service wasn't included in the original rate schedule because the service had not been previously offered in Fairfax but that, with the opening of the Good Earth, the service was requested and the fee had to be established.

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

M/S, Bragman/O'Neil, Motion to adopt Resolution No. 12-20, a Resolution of the Town Council

of the Town of Fairfax adding a new rate for compactors to the Town of Fairfax Refuse Collection Rates (Exhibit C of the Marin Sanitary Services Resource Recovery Agreement).

AYES: All

(Continued from March 7, 2012) 62 Valley Road: Application # 11-29, Appeal of Design Review Board approval of a 2,696 square foot single-family residence; Assessor's Parcel Numbers 001-063-31, 003-191-01 and 003-191-02; Residential Single-family RS 6 Zone District; Rochelle Ereman and Charles and Sherrie Richardson, appellants; Frances Kibbe, owner; CEQA categorically exempt, § 15303(a); Adoption of Resolution No. 12-21, a Resolution of the Town Council of the Town of Fairfax acknowledging the Agreement with the involved parties and granting the appeal – Planning

Planning Director Moore presented the staff report.

Councilmember Bragman asked about the additional conditions imposed in the agreement and Planning Director Moore clarified the terms agreed to by the neighbors that settled the issues.

Councilmember O'Neil stated that the ability to work things out was one of the reasons he ran for office, to solve problems and that the resolution was a "win-win."

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

M/S, Bragman/Reed, Motion to adopt Resolution No. 12-21, a Resolution of the Town Council of the Town of Fairfax acknowledging the Agreement with the involved parties and granting the appeal of the Design Review Board approval of a 2,696 square foot single-family residence at 62 Valley Road.

AYES: All

Approval of the selected proposal for banking services for the Town of Fairfax – Finance

Finance Director Vivrette presented the staff report and expressed his appreciation for the work done by the Finance Committee.

Vice Mayor Reed described the process the Committee went through to make their selection.

Mayor Hartwell-Herrero stated that she was happy about the selection of Bank of Marin and the move to a local bank and that she felt very positive about the decision.

Councilmember Weinsoff stated that he had worked to repair the damage done by some of the large banks in his law practice and hoped that the rest of the County would also consider using local banks.

Michael Kadel, a Bank of Marin representative, spoke to the Council and promised to provide the Town with excellent customer service.

M/S, Reed/Hartwell-Herrero, Motion to accept Bank of Marin as our bank as recommended by the Finance Committee.

AYES: All

Adoption of Resolution No. 12-23, a Resolution of the Town Council of the Town of Fairfax opposing the proposed Ross Valley Sanitary District rate increase and Prop 218 election - Weinsoff

Councilmember Weinsoff presented a report and noted that the Fairfax representatives on the District Board, Frank Egger and Pam Meigs had voted against the increased rates; stated that the numbers were stunning; that it would be the most expensive item on a tax bill; and that it was approved on a 3-2 vote.

Councilmember Bragman reported that he had talked to Marcia Johnson about the proposed rate increase and was referred to the capital improvement plan on the Sanitary District's Web site that didn't include a budget. He stated that the resolution lacked an acknowledgment of the Sanitary District's need to do a substantial amount of capital improvements in the district; that bonds could be secured at a very good rate; and that the problem was how the rate increase was decided, without a vote of the people, and without an effort to inform the public of the need.

Pam Meigs, Cypress Drive, liaison to Ross Valley Sanitary, stated that she was absolutely appalled; that it should have been part of a process; that the rate increase appeared on an agenda without any warning; that it would be broken up into two 50-million-dollar bonds; that Proposition 218 was a debilitating way to do government; that a protest from 50% of the ratepayers was needed to overturn the rates; that she had done what she could to no avail; that it should go to a vote; that the District would run out of money soon; that it was a health and environmental issue; that many people didn't look at their tax bills; and that the rates would double.

Councilmember Bragman stated that the financing mechanism for Proposition 218 was not spelled out; that the law allowed an agency to take on that huge amount of obligation with very little oversight; and that the District shouldn't have been spending their money on public relations, but should have been out talking to the stakeholders in the community;

Sanitary District Liaison Meigs stated that a revenue bond should have required a 4/5 vote, but that she had researched the issue and found that it was legally passed with a simple majority vote.

Mark Bell, Dominga Ave., asked if Fairfax could protest as a town; stated that the Sanitary District was out of control; that he had received a glossy flyer with inaccurate information; suggested that they could save money by joining forces with the water district; and asked why the District manager was paid \$350,000/year.

Councilmember Weinsoff stated that the protests had to be lodged by individual parcel owners.

M/S, Weinsoff/Reed, Motion to adopt Resolution No. 12-23, a Resolution of the Town Council of the Town of Fairfax opposing the proposed Ross Valley Sanitary District rate increase and Prop 218 election.

AYES: All

Mid-year budget review for current 2011-2012 Budget (continued from April 7, 2012) AND Approval of Financial reports for January, 2012 – Finance

Finance Director Vivrette presented the staff report. He stated that the projections that were made in June had turned out to be fairly accurate; that sales tax revenue was doing a little better than anticipated; noted that the recent sales tax passed by the voters wouldn't be realized

until the next fiscal year; that only four departments had exceeded their budgets; that no budgets had been increased; and that any changes could be absorbed in the existing budget.

Councilmember Bragman asked about the adjusted rate of return for the Public Employees Retirement System (PERS) and how it would affect the Town.

Finance Director Vivrette responded that it wouldn't affect the Town in the current fiscal year, that there wasn't enough information yet to determine the actual rates. He further stated that it might just be a percent or two and that he would let the Council know when the Town received projections from PERS.

In response to a question from Councilmember Bragman, Finance Director Vivrette stated that it was anticipated that the budget would be about \$250,000 short and that it was on track to be \$250,000 short.

Councilmember Bragman noted that the bond interest was reflected differently on different pages of the budget.

Town Manager Rock stated that it was an issue of the comment section and having it reflect back appropriately and stated that it could be easily corrected.

Councilmember O'Neil stated that it was paramount to the trust and accountability of the public to produce accurate reports.

Mayor Hartwell-Herrero stated that she wanted to highlight the 500% increase in rents received for the Pavilion and extended her congratulations to Camille Esposito for this accomplishment.

M/S, Reed/Hartwell-Herrero, Motion to approve the financial reports for January and the mid-year financial report.

AYES: All

Appointment of a representative to the Ross Valley Sanitary District Consolidation Feasibility Study Steering Committee – Town Clerk

M/S, Hartwell-Herrero/Reed, Motion to appoint Councilmember Bragman as the representative and Councilmember Weinsoff as the alternate to the Ross Valley Sanitary District Consolidation Feasibility Study Steering Committee.

AYES: All

Mayor Hartwell-Herrero adjourned the meeting in memory of Peter Douglas at 10:25 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk