

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, June 6th, 2012

The regular meeting was preceded by a Special Closed Session from 5:30 p.m. to 7:00 p.m. at Town Hall, 142 Bolinas Road for a Public Employee Appointment (Interim Public Works Director); Public Employee Performance Evaluation (Town Manager) pursuant to Govt. Code Section 54957.

Re-convened in Open Session:

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

STAFF MEMBERS PRESENT: Michael Rock, Town Manager
Inder Khalsa, Acting Town Attorney
Mike Vivrette, Finance Director
Jim Moore, Planning Director
Chris Morin, Police Chief
Roger Meagor, Ross Valley Fire Chief
Judy Anderson, Town Clerk
Tracy Lavoie, Administrative Assistant

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

Approval of Agenda and Affidavit of Posting

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

AYES: All

Announcement of Closed Session Action

Mayor Pam Hartwell-Herrero reported that the Council conducted a public employee performance evaluation, interviewed a candidate for the interim Town Manager position and gave direction to staff, with follow-up scheduled for the June 20th, 2012 Town Council meeting.

Announcements

Mayor Hartwell-Herrero made the announcements as they appeared on the agenda and asked for assurance from staff that the Flood Control public meeting regarding new FEMA maps at Drake High School on Thursday, June 28th at 7 p.m. in the Community Room, would be well publicized.

Town Clerk Anderson confirmed that the Flood Control public meeting was being publicized extensively, including on the Town website.

Councilmember Bragman stated that the Fairfax Food Pantry would be closed on Saturday, June 9th during the Fairfax Festival.

Open Time For Public Expression

Michael Mackintosh, Marin Town and Country Club., requested to move the public hearing regarding the Adoption of Resolution No. 12-39, approving the Initial Study and Mitigated Negative Declaration regarding

environmental effects and mitigation monitoring for the Pastori Storm Drain Outfall Project, to an earlier time in the meeting in the interest of general public awareness.

Mayor Hartwell-Herrero declined the request in deference to the Police Chief and the Fire Chief who both had items on the agenda.

Mimi Newton, Mono Ave, Open Space Committee (OSC) Chair, announced a fundraiser event at Iron Springs Pub on Tuesday, June 12th with 10% of proceeds to benefit the OSC.

REGULAR AGENDA

Interview and appointment of applicants to serve on the Open Space Committee for four-year terms

Town Clerk Anderson presented the staff report for re-appointments of the Open Space Committee members.

M/S, Weinsoff/O'Neil, Motion to approve the re-appointments of Mia Adler, Michael Ardito, Ted Bright, Barbara Coler, Ruth Horn and Susan Adams to the OSC to serve for full 4 year-terms to June 2016.

AYES: All

Interview and appointment of Artists-in-Residence for another term with a recommendation to issue a Request for Proposals for Artist-in-Residence in 2013 – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Weinsoff/Reed, Motion to approve the appointment of Sam and Shoshana Parry as Artists-in-Residence for another one year term to June 2013 with a recommendation to issue a Request for Proposals for Artist-in-Residence in 2013.

AYES: All

PRESENTATIONS

Annual report from the Artists in Residence – Sam and Shoshana Parry

Sam and Shoshana Parry presented an annual report on their activities as Artists-in-Residence and their plans for the rest of the year.

Mayor Hartwell-Herrero thanked them on behalf of the Council for all their efforts in enlivening and enriching the community in so many wonderful ways.

Report on the Four-Year Area Plan for Aging from the Fairfax Representative to the Marin Commission on Aging Representative - Michael Aaronson

Michael Aaronson presented the Commission's four year plan entitled, "Live Long, Live Well: Area Agency on Aging Area" and described some of the many resources available in Marin for the senior community.

Councilmember Bragman suggested that a link be provided on the Town's Web site to the report.

Report and request for direction from the Open Space Committee (OSC) regarding potential property acquisitions – Mimi Newton, OSC Chair

Mimi Newton presented a report and requested direction for the Open Space Committee (OSC) from Council regarding potential property acquisitions on Upper Ridgeway Ave. She recommended the two parcels on Upper Ridgeway for acquisition because the property was located adjacent to current open

space, with easy access to a ridgeline trail system from public roads, with wildlife present, and with the potential to block development.

Pam Hartwell-Herrero opened the discussion to the public.

Ruth Horn, OSC member, stated her support of the proposal and her concern about the lots being developed.

Pam Meigs, Cypress Drive, Planning Commissioner, thanked the OSC for keeping their vision and for their continuous work and stated that she would like to see the Town Council consider the recommended acquisition.

Michael Mackintosh, Pastori Ave., stated that the inability for the public to have access to accurate accounting for the OSC created doubt about the accuracy of all accounts.

Town Manager Rock requested and received approval from the Town Council to secure title reports for the two properties to be considered for purchase. He further stated that staff would provide a final accounting of OSC funds for review at the June 20th meeting.

Council Reports and Comments

Councilmember Weinsoff reported on his attendance at a recent MCCMC meeting.

Councilmember Reed reported on the Bike Spine project and the additional bike path being added near White Hill school, and on other meetings attended including the Finance Committee meeting, and the Transportation Authority of Marin. He also reported that a new Fairbuck token was in circulation.

Councilmember Bragman reported on a meeting with the Ross Valley Sanitary District Consolidation Committee regarding funding for infrastructure, announced that the Town Council meeting would be broadcast by the end of summer, and reported on his attendance at the recent MCCMC meeting.

Councilmember O'Neil reported on the activities of the tree committee, on the youth commission live music event, on meetings of the Ross Valley School Board where two new principals were appointed, and on his attendance at the MCCMC meeting.

Mayor Hartwell-Herrero reported that she had attended a Marin Sanitary event regarding Producer Responsibility, meetings regarding the Interim Town Manager appointment, the Cittaslow meeting, the MCCMC meeting, and a "Sunday Streets" event in San Francisco where a road was closed for an afternoon.

Town Manager Report

Town Manager Rock encouraged the public to attend three upcoming meetings: the June 20th budget workshop, the July 11th Town Council meeting and the July 18th Town Council meeting regarding four capital projects.

CONSENT CALENDAR

Approval of Town Council minutes for the May 2 and 16, 2012 meetings - Town Clerk

Approval of Financial reports for March, 2012 – Finance

Adoption of Resolution 12-29 of the Town Council of the Town of Fairfax Setting the Amount of The General Municipal Services Tax for The 2012-2013 Fiscal Year - Finance

Adoption of Resolution 12-30 of the Town Council of the Town of Fairfax Setting the Amount of the Special Municipal Services Tax for the 2012-2013 Fiscal Year - Finance

Adoption of Resolution 12-31 of the Town Council of the Town of Fairfax Setting the Amount of the Utility Users Tax for the 2012-2013 Fiscal Year - Finance

Adoption of Resolution 12-32 of the Town Council of the Town of Fairfax Setting the Amount of the Pension Override Tax for the 2012-2013 Fiscal Year - Finance

Adoption of Resolution 12-33 of the Town Council of the Town of Fairfax Setting A Fee For The Purpose Of Funding Local Stormwater Pollution Prevention Activities For FY 2012-2013 - Finance

Adoption of Resolution 12-34 of the Town Council of the Town of Fairfax Setting the Tax Rate for the general obligation bonds (Measure K Bond Assessment) for FY 2012-2013 - Finance

Adoption of Resolution 12-35 of the Town Council of the Town of Fairfax Approving the Ross Valley Paramedic Authority Tax Levy for the 2012-2013 Fiscal Year - Finance

Adoption of Resolution 12-36 of the Town Council of the Town of Fairfax continuing expenditures and revenues in accordance with the 2011-2012 Town Budget and in lieu of timely 2012-2013 Budget Adoption – Town Manager

Adoption of Resolution No. 12-37, a Resolution of the Town Council of the Town of Fairfax appointing a Representative and Alternate(s) to the Marin Emergency Radio Authority Board of Directors – Police Chief

Mayor Hartwell-Herrero opened discussion to the public.

Michael Mackintosh, Pastori Ave., inquired about the item regarding the pension override tax, questioned why this item was always on the consent calendar, and questioned if there was another way to handle this shortfall besides a property tax.

Town Manager Michael Rock lead a discussion with the Council and staff that clarified that this was an existing pension override tax that was voted on in the late 1950's; that the Council was required every year to pass a resolution allowing the town to collect the tax; that it was not a new tax and had been at the maximum for many years; and noted that there was an explanation of all taxes on the town website under the finance section.

M/S, Weinsoff/Bragman, Motion to adopt the Consent Calendar with the exception of the item regarding the abatement report on 6 San Gabriel Road and the item regarding authorization for the Town Manager to extend a contract with Wayne Bush.

AYES: All

6 San Gabriel Abatement - Report on Progress – Building Official

Building Official Mark Lockaby presented the staff report and reported that Mr. McDonald had cleaned his property with the exception of the removal of the inoperable car in the driveway and the temporary fence exceeding a 4 foot height limit. Mr. McDonald agreed to remove the car within a week with the offered help from Councilmembers O'Neil and Bragman to push it into his garage. He further reported that Mr. McDonald had agreed to follow the height limit for the fencing.

Authorization for the Town Manager to extend an agreement with Wayne Bush for public works consulting services for an amount not to exceed \$50,000 for the fiscal year July 1, 2012 to June 30, 2013 – Town Manager

Mayor Hartwell-Herrero opened the discussion regarding the contract agreement with Wayne Bush and the provision to require a 30-day notice to terminate the contract and stated this could set a precedent of giving notice to contract employees.

Councilmember Bragman noted that the work flow to Mr. Bush was determined by the Council.

Town Manager Rock stated that the clause would also require Mr. Bush to give a 30 day notice.

Inder Khalsa, Acting Town Attorney, stated her recommendation to keep all contracts consistent within the town.

Mayor Hartwell-Herrerro opened public comment.

Chris Lang, Canyon Road, stated the Town was currently saving money without a Public Works Director and proposed that the Town keep their options open to see what public works directors might be available within the community.

Mayor Hartwell-Herrerro stated that the current Town Manager and Public Works director positions were combined and had been confirmed by a Town Council vote, and that, once the 2012-13 budgets was finalized, there would be a public meeting and vote to decide if an organizational structure change was recommended.

Michael Mackintosh, Pastori Ave., suggested Judy Anderson as Town Manager and Jim Moore as Public Works Director allowing the town the value of their expertise.

David Weinsoff stated that a benefit of a contract Public Works Director was that often projects waxed and waned and contract work with Wayne Bush was financially more sound than paying a full time Public Works Director.

Larry Bragman agreed with Mayor Hartwell-Herrerro that there should be an open public discussion before the final decision.

M/S, Reed/Bragman, Motion to approve the Authorization for the Town Manager to extend an agreement with Wayne Bush for public works consulting services for an amount not to exceed \$50,000 for the fiscal year July 1, 2012 to June 30, 2013

AYES: All

REGULAR AGENDA

Authorization for the Town Manager to Sign an Agreement to provide Dispatch Services to the Marin Community College District – Police Chief

Chief of Police Morin presented the staff report.

Councilmember Bragman stated he strongly supported the proposal and thanked Chief Morin for leveraging Town assets in a way that brought in revenue and allowed the Town to keep current staff. He noted that it was an alternative model for Marin to share services increasing the efficiency and maximizing services.

Councilmember Weinsoff questioned where the additional staff time would be found to handle the extra workload.

Town Manager Rock clarified that the College of Marin call load would not significantly impact the current staff workload.

Councilmember Reed stated his support of the proposal with the caveat that, in the event of a large emergency, all hands would need to be on deck.

Councilmember O'Neil stated his support of the proposal and reiterated that this was a great model for sharing services in addition to being a community building tool.

M/S, Weinssoff/Bragman, Motion to authorize the Town Manager to sign an agreement to provide dispatch services to the Marin Community College District.

AYES: All

Request to forgive repayment of a portion of start-up funding of the Fairbuck Project – Reed

Councilmember Reed presented a report and made a request for the forgiveness of the Town loan to the Fairbuck Project.

Councilmember Weinssoff stated his support of the Fairbuck project but express concern about setting a precedent of forgiving loans.

Councilmember Bragman stated he had similar concerns and used the repayment by the Open Space Committee of the funds borrowed from the Town as an example; stated that he would be willing to extend the Fairbuck Project repayment for two more years to the three organizations that were responsible; stated his support of the Fairbuck project; and that he would like to work with them to make the terms of the loan more manageable.

Councilmember O'Neil stated he supported setting a good precedent by helping when needed but not setting a precedent of forgiving loans. He stated he was happy to extend the loan but not to forgive it.

Mayor Hartwell-Herrero stated the request was being made to make the "Streets for People" event possible.

Councilmember Weinssoff suggested a better way to pay for the Streets for People event was to request the \$1,000 directly from the Town for the event.

Mayor Pam Hartwell-Herrero opened the discussion to the public..

Michael Mackintosh, Pastor Ave., stated even though Fairbucks was a separate 501c(3) organization, if the debt was forgiven, then the Town would be required to follow it up with a formal instrument of a forgiveness of debt.

Mark Bell, Dominga Ave., expressed his opposition to forgiving the debt along with his concern about the understandability and awareness of the project.

Councilmember Reed thanked the Council for their consideration and discussion.

Adoption of Resolution No. 12-38, A Resolution of the Town Council of the Town of Fairfax approving the closure of Bolinas Road for a "Streets for People" event scheduled for Sunday, August 26, 2012 – Hartwell-Herrero

Mayor Hartwell-Herrero presented a report introducing the "Streets for People" event scheduled for Sunday, August 26, 2012.

Town Clerk Anderson presented a staff report with a summary of the potential cost of the event.

Councilmember Weinssoff noted his approval to close the street for the event, stated that if it was a Town event there would be minimal cost, and that he supported it as an alcohol free event.

Councilmember O'Neil stated his support for the event and brought up merchant concerns about not being notified prior to the event being posted or approved by the Town Council.

Mayor Hartwell-Herrero opened the discussion to the public.

Chris Lang, Canyon Road, stated his support for the event and that he would like to see it be a town sponsored alcohol free event.

Shelby Lamotte, Manor Road, Planning Commissioner, stated that the closure of Bolinas Road to cars had been considered as a part of the General Plan studies and that it had been shown that the logistics of this type of event were minor compared to the benefits.

M/S, Reed/Bragman, Motion to continue the Adoption of Resolution No. 12-38, A Resolution of the Town Council of the Town of Fairfax approving the closure of Bolinas Road for a "Streets for People" event to the June 20th, 2012 Town Council agenda.

AYES: All

PUBLIC HEARING

Adoption of Resolution No. 12-39, 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 Pastori Storm Drain Outfall Project – Planning

Planning Director Moore presented the staff report and an overview of the project history.

Councilmember Bragman described an e-mail from the adjacent property owner that expressed concern about the proposed undercutting of the hillside next to the wingwall; confirmed that the plans were engineered and wet stamped; and that the engineer designed the outfall to mitigate the potential erosive effects of the water and to improve the stability of the surrounding creek bank.

Mayor Pam Hartwell-Herrero opened the public hearing.

Wendy Orear, Pastori Ave., stated that the plans were two years old and expressed her concern about the proximity of the erosion to her home's foundation; questioned the approach to stabilize the creek with rip rap vs. rebuilding it; requested a third party impartial engineering firm to review the approved plans; and also questioned the impact the project would have on the stability and erosion of the already damaged bank.

Town Manager Rock clarified that the plans were started two years previous but had been updated as the project progressed and were updated in the last few months. He suggested that Ms. Orear discuss the plans with the project engineer for a detailed explanation of the plans and to address her concerns.

Councilmember Weinsoff also encouraged Ms. Orear to discuss her concerns with the engineer and, if not reassured, stated that the Council could revisit the idea of a third party engineering company addressing her concerns.

Planning Director Moore stated that the project would only correct the stability and erosion problems on the bank and would not cause any further damage.

Chris Lang, Canyon Rd., stated his approval of the planning report. He suggested hand placing soil along with rip rap for more stability; suggested having the engineers look at the outfall pipe under Town Hall that exited at Pastori Ave; and stated his opinion that removal of the bottom of the pipe would increase capacity and potentially decrease flooding.

Michael Mackintosh, Pastori Ave., challenged the compliance to the CEQA publishing time frame; recapped project history; challenged that he was not apprised of changes to the project progress; and expressed concern about hydrocarbons unfiltered entering into the project site.

Inder Khalsa, Acting Town Attorney, stated that the CEQA notification requirement of a 30 day notice in a public document had been met.

Planning Director Moore stated that there were not any written notices received that required response from the Town in writing. He noted that if the CEQA negative declaration document were approved, a Notice of Determination would be filed within 5 days and the public would have a 30-day period to challenge the document legally.

Councilmember Bragman stated the intent would be to fix the conveyance that was broken during the flood and that the project had been under consideration for seven years and was stopped by Michael Mackintosh. Councilmember Bragman encouraged Michael Mackintosh to submit his comments in writing for the public record and reiterated that the project had to move forward.

Mayor Pam Hartwell-Herrero closed the public hearing.

Councilmember Weinsoff suggested that Mr. Mackintosh speak with his legal counsel and come back to the Town Council within the 30 day period following the filing of the CEQA negative declaration.

M/S, Bragman/Reed, Motion to adopt Resolution No. 12-39, 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 Pastori Storm Drain Outfall Project.

AYES: All

Adoption of Resolution No. 12-40, A Resolution of the Town Council of the Town of Fairfax adopting a revised Master Fee Schedule – Town Clerk

Town Clerk, Judy Anderson, presented the staff report and requested approval of the adoption of a revised Master Fee Schedule.

M/S, Weinsoff/Bragman, Motion to Adopt Resolution No. 12-40, A Resolution of the Town Council of the Town of Fairfax adopting a revised Master Fee Schedule

AYES: All

M/S, Reed/Bragman, Motion to adjourn the meeting at 11:30pm.

AYES: All

Respectfully submitted,

Judy Anderson, Town Clerk