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

The regular meeting was preceded by a Closed Session from 6:30 p.m. to 7:00 p.m. for a Conference with Labor Negotiators pursuant to Govt. Code Section 54957.6. Agency designated representatives Pam Hartwell-Herrero, Mayor, John Reed, Vice-Mayor, and Judy Anderson, Acting Town Manager; Employee Organizations, SEIU, POA, and Un-represented Management employees.

Call to Order/Roll Call:

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

STAFF MEMBERS PRESENT:
Judy Anderson, Interim Town Manager
Jim Karpiak, Town Attorney
Jim Moore, Planning Director
Michael Vivrette, Finance Director
Chris Morin, Chief of Police
Jim Hansen, Ross Valley Fire Battalion Chief

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

Approval of Agenda and Affidavit of Posting

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

AYES: All

Announcement of Closed Session Action

Mayor Hartwell-Herrero announced that the Council took no action on the conference with labor negotiators.

Announcements

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

Mayor Hartwell-Herrero noted this was the first Fairfax Council meeting that would be filmed (but not broadcast) by the Community Media Center of Marin. Future meetings would be available through cablecasting and/or webstreaming. Mr. Scott Calhoun, representing the Community Media Center of Marin, stated tonight would be a test run but eventually the meetings would be broadcast live.

Open Time:

Ms. Cindy Ross, Lansdale Avenue, brought up three issues: 1) She thanked the Council for taking the Brown Act seriously; 2) She almost got hit by a car trying to walk across the street

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from the First Federal Bank- she would like to see a cross walk installed in that area; 3) She referred to the recent articles in the Patch and the Independent Journal about odd tasting tap water and stated she was concerned about the use of copper sulfate to kill algae in the lakes. Mayor Hartwell-Herrero suggested Ms. Ross bring this matter to the attention of the Marin Municipal Water District (MMWD) Board.

Ms. Rose Taber asked the Council and staff to use some discretion in finding a new Town Manager. She was concerned about hiring someone who would use the position as a "stepping stone". The new hire should also have the energy and ability to get outside funding for the Town. She also asked the Council to consider installing owl houses around Town to help control rodents. Mayor Hartwell-Herrero stated Sustainable Fairfax was looking into installing owl houses and she would encourage them to pursue this matter.

Ms. Valeri Hood, Dominga Avenue, stated she had looked into installing owl houses around Town but many residents use D-Con to kill rodents and this ultimately would kill the owls that have eaten the rodents.

Mr. Doug Gilmore, Porteous Avenue, stated the lights and noise from Deer Park Villa Restaurant have become a nuisance. He was thinking about putting up a fence to block out the lights. Planning Director Moore stated staff received an email and was following up on this issue. He noted the Town had a Noise Ordinance and the Police Department could measure the decibel level coming from the restaurant. Councilmember Weinsoff asked staff to work with the restaurant owners and stated that they should be good neighbors even if they were not exceeding the allowable decibel levels.

Ms. Grace Stevenson, Corte Madera, asked the Council to remove the Consent Calendar item regarding the adoption of Resolution No. 12-51, in support of legislation to require GMO labeling on food for discussion. She distributed some pamphlets and information about GMO's from the GMO Free Marin Education Project.

Council Reports and Comments

Councilmember Bragman stated he attended a series of meetings held by the Ross Valley Sanitary District (RVSD) Board regarding the issue of consolidation. The District hired an outside consultant to do a consolidation study of the four districts: the RVSD, Corte Madera Sanitary District, Central Marin Sanitation District (CMSA), and San Rafael Sanitation District. A financial and engineering study was completed that compared and contrasted the infrastructure among the four districts and ranked the equipment. He noted the study found that a consolidation of the four districts would save money and noted that this issue would probably come back to the Council in some form.

Councilmember Reed stated he attended a Fair Buck meeting and a Fairfax Bike Spine Project meeting. He also attended a North Bay Division meeting of the League of California Cities about the One Bay Area Plan sponsored by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) that discussed their preferred scenario for housing and job projections. They also discussed the most recent Regional Housing Needs Assessment (RHNA) numbers. He noted that most of the conversations centered on the fact that everybody was trying to do the right thing but had limited tools.

Councilmember Weinsoff stated he was the alternate on the committee looking at sewer consolidation and he received a copy of the draft study. He noted there was movement among the elected officials in the Ross Valley to formulate a response to the RVSD in support of consolidation. He stated that he would work with Councilmember Bragman to bring the issue

back to the Council.

Mayor Hartwell-Herrero reported that she had attended the Green Party National Convention in Minnesota as a guest speaker and several Streets for People organizing meetings.

Town Manager Report

Interim Town Manager Anderson stated she had nothing to report.

Consent Calendar

Approval of Town Council minutes for the June 6, 20, 29 and July 11, 18, 2012 meeting - *Town Clerk*

Approval of Financial reports for May, 2012 – *Finance*

Adoption of Resolution 12-49, a Resolution of the Town Council of the Town of Fairfax setting the Living Wage pursuant to the annual review requirements of Section 8.56.020 of the Town Code - *Town Clerk*

Adoption of Resolution No. 12-45, a Resolution of the Town Council of the Town of Fairfax setting the terms of office for the Open Space Committee to be four-year terms from the time of appointment of individual members- *Town Clerk*

Approval of the Notice of Completion for the Oak Manor Sidewalk Project- *Building Official*

Adoption of Resolution No. 12-50, a Resolution of the Town Council of the Town of Fairfax in Support of Proposition 37 "The California Right to Know Genetically Engineered Food Act"- *Bragman*

M/S, Bragman/Reed, Motion to approve the Consent Calendar with the removal for discussion of item #6, Resolution No. 12-50, a Resolution of the Town Council of the Town of Fairfax in Support of Proposition 37 "The California Right to Know Genetically Engineered Food Act".

AYES: All

Councilmember Bragman referred to Consent Calendar item #2, Approval of Finance Report for May, 2012, and stated his legal firm filed briefs for the Town of Fairfax with the California Public Utilities Commission (CPUC) regarding Smart Meters. He stated that Pacific Gas and Electric (PG&E) was levying the Utility Users Tax on the Opt-Out Fee. He noted that the Town could ultimately be collecting too much Utility Users Tax Revenue because of this.

Public Hearings

Adoption of Resolution No. 12-50, a Resolution of the Town Council of the Town of Fairfax in Support of Proposition 37 "The California Right to Know Genetically Engineered Food Act"- *Bragman*

Councilmember Bragman stated Proposition 37 would enable consumers to know if the products they bought contained genetically modified organism (GMO), that it was a consumer rights proposition, and, if it passed it could lead to changes for consumers. He stated Genetic Roulette contains information on studies about how some GMO's have allergens and could be a

health concern for consumers. He stated there were also environmental impacts because of the increase in the use of pesticides associated with GMO's.

Mayor Hartwell-Herrero opened the public hearing.

Ms. Valeri Hood, Dominga Avenue, stated she attended a symposium in San Rafael that had about 300 people in attendance. She stated toxic viruses and bacteria were used in the processing of GMO's- livestock were getting sick from eating GMO crops.

Ms. Edina Beaumont, San Rafael, commended the Council for bringing this topic to the attention of the public. She asked them to encourage other Councils to get on board.

Mr. Neil Krauss, San Anselmo, thanked the Council for bringing this topic to the public's attention. He stated the notion of GMO's being put into our food was terrifying because the short-term and long-term effects were unknown.

Ms. Grace Stevenson, Corte Madera, stated she had been working with the "Yes on Proposition 37" Coalition. She stated 50 other countries already had GMO labeling on food packaging.

Ms. Cindy Ross, Lansdale Avenue, asked if Proposition 37 was a step towards banning GMO products or if it simply applied to food labeling. Councilmember Bragman stated the proposition was strictly a labeling law and that the philosophy behind the law was that it would give consumers the information they needed to make a choice.

Ms. Kathy Eagle, San Anselmo, stated she supported labeling for GMO's.

Ms. Patty Brett, Fairfax, stated she was a proponent of the labeling campaign, that she would like local restaurants to announce that they were serving non-GMO foods; and stated that farming had turned into a petroleum-product based industry rather than simply "tilling the soil".

Ms. Bonnie Leonard, Dominga Avenue, thanked the Council for bringing the issue forward and stated that it was imperative that consumers had a choice.

Mayor Hartwell-Herrero closed the public hearing.

M/S, Bragman/O'Neil, Motion to approve Resolution No. 12-50, a Resolution of the Town Council of the Town of Fairfax in Support of Proposition 37 "The California Right to Know Genetically Engineered Food Act".

AYES: All

<u>Second Reading and Adoption of Ordinance No. 768, An Ordinance of the Town Council of the Town of Fairfax to Set Animal Control Fees and to establish a process to adopt future fees by Council Resolution- Interim Town Manager</u>

Interim Town Manager Anderson presented a staff report.

Councilmember Bragman ascertained that passage of the ordinance would allow them to adjust the fees by resolution in the future.

M/S, Weinsoff/Reed, Motion to waive further reading of Ordinance No. 768, An Ordinance of the Town Council of the Town of Fairfax to Set Animal Control Fees and to establish a process to adopt future fees by Council Resolution.

AYES: All

M/S, Weinsoff/Reed, Motion to adopt Ordinance No. 768, An Ordinance of the Town Council of the Town of Fairfax to Set Animal Control Fees and to establish a process to adopt future fees by Council Resolution.

AYES: All

Adoption of Resolution No. 12-51, a Resolution of the Town Council of the Town of Fairfax adopting the 2012-2013 Budget

Interim Town Manager Anderson acknowledged Finance Director Vivrette's hard work on the budget and noted the document was much easier to ready.

Finance Director Vivrette presented the staff report. He recommended the following adjustment to Resolution No. 12-51: #4, Now, Therefore Let it Be Resolved, should read, "That $1,396,711 is hereby appropriated for Capital Improvement Programs for Fiscal year 2012-13". He stated staff neglected to include the balance of expenditures for Fund 53 in the amount of $171,000.

Councilmember Bragman had questions about the Pension Override Tax. Finance Director Vivrette stated the Override Tax included expenses from the Ross Valley Fire Department. Councilmember Bragman asked if staff has made a contribution to the Employee Post Employment Benefits in the form of a trust. Finance Director Vivrette confirmed that the contribution had been made and referred to page 42 of the budget where the 2012/13 contribution was shown as $60,000. Councilmember Bragman asked if staff was making contributions into the Dry Period Fund and Finance Director Vivrette stated that the $200,000 transferred the previous year to cover the General Fund deficit would be paid back.

Councilmember Reed stated there were probably some surprises down the road and noted that they had yet to hire a new Town Manager and possibly a Public Works Director.

Councilmember O'Neil stated he was very pleased with the proposed budget and thanked Finance Director Vivrette for finding the "truth in the numbers".

Councilmember Weinsoff asked Town Treasurer Barbara Petty to comment on the 2012/13 Budget.

Town Treasurer Petty reiterated the positive feedback on the budget and noted the document gave a very clear picture of the General Fund, the other funds, and the fund balances. She noted the numbers were not substantially different from what was presented to the Council in June.

Mayor Hartwell-Herrero opened the public hearing.

There were no comments.

Mayor Hartwell-Herrero closed the public hearing.

M/S, Weinsoff/Bragman, Motion to adopt Resolution No. 12-51, a Resolution of the Town Council of the Town of Fairfax adopting the 2012/13 Budget with the adjustment noted in item #4 by Finance Director Vivrette.

AYES: All

Mayor Hartwell-Herrero adjourned the meeting for a break from 8:10 to 8:20 p.m.

Discussion and Consideration of Plans for Fairfax Bike Spine Project (designated bike route through Town to schools)- *Bragman/Reed*

Councilmember Reed pointed to the map displayed on the wall and described the route, explained that the project included signage, street markings, and new crosswalks; that he committee had been working with Traffic Engineer David Parisi; and that the project was intended to encourage students to bike and/or walk to school by providing a safer route.

Councilmember Bragman stated this was the Town's way of creating a "green lane" for bicyclists since the designated streets did not have enough room for the creation of a bike lane. The intent was to eliminate the conflict between motorists and bicyclists and that it was a very innovative program that would use very bright logos to get the immediate attention of motorists and bicyclists.

Mayor Hartwell-Herrero stated she was very excited about the project and asked how it would be funded. Councilmember Bragman stated that they had identified a couple of pools of money from the Transportation Authority of Marin (TAM).

Councilmember Reed added this is was designated as a Pilot Program by TAM and no Town funds would be used.

Councilmember O'Neil stated some people did not read maps well and he suggested they mount a camera on a bicycle and film the route and that the film could be posted on the Town Website. Councilmember Bragman stated they had discussed this with the traffic engineer.

Councilmember Bragman stated they were planning to go out to bid in September and that the work should start sometime in October.

Mayor Hartwell-Herrero opened the meeting to public comments.

Ms. Cindy Ross, Lansdale Avenue, stated she used to live on Shemran Court and noted this was a very congested street. She was not sure that Shemran would be a safe part of the route. She stated that the project sounded great but that she would also like some consideration for the east side of Town.

Mayor Hartwell-Herrero closed the meeting to public comments.

Councilmember Reed stated Shemran Court was a dead-end street that ended at an easement that led to Lefty Gomez Field; that there would be signage and pavement markers added to the street; that White Hill School had a policy of trying to get all bicycles and pedestrian off of Glenn Drive; and that the project was not meant to be exclusive and the route did go to the east end of Town via Dominga Avenue.

Councilmember Bragman stated this project was a good start.

Mayor Hartwell-Herrero stated that this item would be on the next Council agenda.

Second Reading and Adoption of Ordinance No. 766, an Ordinance of the Town Council of the Town of Fairfax to protect fish and wildlife from the impact of latex balloons released into the environment by prohibiting their release with the Town of Fairfax- *Weinsoff*

Councilmember Weinsoff presented a brief report and noted this was a very important statute in term of the effects on the environment.

M/S, Weinsoff/O'Neil, Motion to waive further reading of Ordinance No. 766, an Ordinance of the Town Council of the Town of Fairfax to protect fish and wildlife from the impact of latex balloons released into the environment by prohibiting their release with the Town of Fairfax.

AYES: All

M/S, Weinsoff/O'Neil, Motion to adopt Ordinance No. 766, an Ordinance of the Town Council of the Town of Fairfax to protect fish and wildlife from the impact of latex balloons released into the environment by prohibiting their release with the Town of Fairfax.

AYES: All

Approval of response to Grand Jury Report "Pre-Schoolers Learn to Share- Can Local Governments?"- *Interim Town Manager*

Councilmember Weinsoff presented a brief report and noted the Town was required to respond to the Grand Jury Report. He asked for comments on the response letter.

Councilmember Reed stated they were looking at a number of situations where there could be better coordination between utility companies. He thought the concept of a "raceway" under the streets could be explored that would allow the utility companies to replace pipes, conduits, etc. without digging up the street and noted that easier access could save money.

Councilmember Bragman referred to paragraph 4 on the first page and stated he would like to delete the following sentence: "Ross Valley Sanitary District (RVSD) had not consolidated services as of the filing of this response". He noted it was not up to one single agency to consolidate service and he thought the RVSD had, to some extent, become a bit of a scapegoat. Councilmember Weinsoff stated he could support the deletion of that sentence.

Councilmember O'Neil referred to paragraph four and stated he was hesitant to support the language recommending consolidation of sewer services given the recent shake-up in the RVSD.

Councilmember Weinsoff stated the response was telling the Grand Jury what the Council had done and not what they would do. Councilmember O'Neil stated he did not remember the Council recommending that the RVSD consolidate with the Central Marin Sanitary District. Councilmember Bragman agreed.

Councilmember Weinsoff suggested the following wording: "The Town Council has communicated to the District its concern over spiraling rate increases and has recommended that it *consider* consolidation....".

Mayor Hartwell-Herrero opened the meeting to public comments.

There were no comments.

Mayor Hartwell-Herrero closed the meeting to public comments

M/S, Weinsoff/Bragman, Motion to approve the response letter to the Marin County Civil Grand Jury Report with the recommended change to the second sentence in paragraph four and the deletion of the last sentence in paragraph four.

AYES: All

Report on FEMA Flood Map Update meeting, impact on property owners and discussion of public outreach- O'Neill

Councilmember O'Neil presented a brief report. He noted the maps presented by FEMA at a workshop held at Drake High School on June 28th were working versions of the preliminary maps; that residents had an opportunity to challenge the maps; that there would be a mailer and a walking piece prior to the next FEMA sponsored meeting sometime in October; and asked the Council for support in walking precincts that would be most affected by the new FEMA maps.

Mayor Hartwell-Herrero asked how a resident could protest his or her flood zone designation. Councilmember O'Neil stated that was unclear at that time but would probably be explained at the October meeting. He noted that the Town Website could post this information.

Councilmember Bragman stated there is a process to protest a designation that included obtaining a survey that would prove that the structure was above the flood plain. Councilmember Reed stated residents had to obtain a certificate of elevation performed by a specific type of surveyor.

Mayor Hartwell-Herrero opened the meeting to public comments.

There were no comments.

Mayor Hartwell-Herrero closed the meeting to public comments.

Discussion/Consideration of the adoption of Resolution No. 12-52, a Resolution of the Town Council of the Town of Fairfax establishing a protocol for the placement of items on the Council agenda- *Town Clerk*

Interim Town Clerk Anderson presented a staff report.

Councilmember O'Neil stated this was a good idea.

Councilmember Reed stated the title for the agenda item should be descriptive.

Councilmember Bragman stated there was an ordinance on the books that addressed this issue- Town Code Section 2.08.090 that was drafted in 2008. He stated he does not rely on staff to draft and type up the reports and felt the Council should be responsible for his or her own work. He would like to see the fourth "Whereas" deleted. He does think that Councilmembers should put his or her proposed agenda item in writing for review.

Councilmember Weinsoff stated he thought Town Code Section 2.08.090 related to agenda items that did not pertain to local issues but rather national or international issues. The resolution is intended to create a standardized format in which to present the material. Staff could send each Councilmember a template for reports. Councilmember Bragman stated he could support that suggestion.

Mayor Hartwell-Herrero opened the meeting to public comments.

There were no comments.

Mayor Hartwell-Herrero closed the meeting to public comments.

M/S, Weinsoff/Bragman, Motion to approve Resolution No. 12-52, a Resolution of the Town Council of the Town of Fairfax Regarding Preparation of and Requirements for Council and Town Staff Memoranda, with the deletion of the fourth "Whereas".

AYES: All

Adoption of Resolution No. 12-53, a Resolution of the Town Council of the Town of Fairfax continuing implementation of all of the requirements of the Brown Act during the State of California's three-year suspension of State mandates as contained in AB 1464 and SB 1066- *Weinsoff*

Councilmember Weinsoff presented a report. He noted the State of California had decided to discontinue reimbursing municipalities for this mandate. He stated transparency was the hallmark of Fairfax government.

Councilmember Reed stated the State had not been reimbursing municipalities for this mandate for several years. He agreed that transparency in government was crucial.

Councilmember Bragman asked Interim Town Manager Anderson if the Town had ever received reimbursement for the Brown Act mandate. Interim Town Manager Anderson stated "yes" but the last reimbursement occurred probably five years ago and that the Town had always, whether reimbursement occurred or not, complied with the Brown Act. Councilmember Bragman thanked staff for their vigilance in observing the requirements.

M/S, Weinsoff/O'Neil, Motion to approve Resolution No. 12-53, a Resolution of the Town Council of the Town of Fairfax continuing implementation of all of the requirements of the Brown Act during the State of California's three-year suspension of State mandates as contained in AB 1464 and SB 1066.

AYES: All

Discussion/Consideration of enacting an ordinance to give the Town of Fairfax further tools to abate fire danger from un-maintained bank-owned properties- *Reed*

Councilmember Reed presented a report. He noted the Fire Chief often had problems establishing ownership of these un-maintained bank-owned properties. He stated the City of Oakland adopted an Ordinance that established an earlier timeline in which the bank was responsible to abate the nuisance and that it included the levying of a daily fine.

Councilmember O'Neil asked Ross Valley Fire Battalion Chief Hansen to discuss enforcement issues and whether or not a lien could be placed on a property.

Interim Town Manager Anderson stated the Ross Valley Fire Department had the ability to declare the property a public nuisance without court action but that the Fire Department had to diligently pursue the owner of the property, which could be time-consuming and costly.

Ross Valley Fire Battalion Chief Hansen stated the Town of Fairfax adopted the California Fire Code; that Fairfax Municipal Code Title 8, Section 8.04.010, applied to the abatement of vegetation hazards around structures; that the abatement process needed to be implemented by the Ross Valley Fire Board; and that the cost of clearing the property was levied as a lien against the property.

Councilmember Weinsoff stated Councilmember Reed was talking about a system that included a daily fine that could ultimately be very costly and cause the bank to take notice and abate the nuisance. He stated the Town should not be burdened with the bank's negligence.

Ross Valley Fire Battalion Chief Hansen stated that it would be a topic for the Ross Valley Fire Board to discuss.

Mayor Hartwell-Herrero stated she would prefer to see a less cumbersome process.

Discussion of status of cablecasting and webstreaming of Council meetings- *Bragman*

Councilmember Bragman stated the next Council meeting would be publicly broadcast. He stated other public meetings could also be broadcast out of the Council Chambers. He noted the Marin Telecommunications Agency had paid for all the equipment.

M/S, O'Neil/Reed, Motion to adjourn the meeting at 9:40 p.m.

AYES: All

Respectfully submitted,

Toni DeFrancis
Recording Secretary

DRAFT