Fairfax Town Council Minutes
Special Meeting
Fairfax Women's Club
Monday, May 24, 2010

The special meeting was preceded by a special meeting closed session regarding: PUBLIC EMPLOYMENT pursuant to Government Code 54947 (Position Title: Police Chief) and PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Govt. Code Section 54957 Title: Town Attorney

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:
Larry Bragman
Pam Hartwell-Herrero
John Reed
Lew Tremaine
David Weinsoff

STAFF MEMBERS PRESENT:
Michael Rock, Town Manager
Jim Moore, Planning Director
Laurie Ireland-Ashley, Finance Director
Jim Karpiak, Town Attorney
Judy Anderson, Town Clerk

Mayor Tremaine called the meeting to order at 7:40 pm.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Weinsoff, Motion to approve the agenda and the Affidavit of Posting.

AYES: All

Announcement of Closed Session Action

Mayor Tremaine announced that the Council had interviewed a candidate for Police Chief and also discussed a performance evaluation to determine whether to hire independent counsel to review the proposed revisions to the Fire Service Joint Powers Authority Agreement and decided to hire John Sharp, Municipal Attorney, for that purpose.

Announcements

Mayor Tremaine made the announcements listed on the Agenda.

Open Time for Public Expression

Diane Hoffman, Porteous Ave., stated that a PG&E representative told her that the Public Utilities Commission (PUC) was pushing smart meters, not PG&E; that Harry Williams with PUC stated that the Federal government was promoting smart meters under the guise of getting people to use less energy; that if the State Legislature asked for a moratorium, it could happen; that Senator Flores had been the point person for smart meters; that an independent study about smart meters was due out in July; and it was suggested by another speaker that she contact an organization called "Turn" to join the efforts for utility reform, especially regarding smart meters.

Valeri Hood, Dominga Ave., reported that she had contacted Senator Leno about the issue and was told that it was too late to do a moratorium; that she was circulating a petition; asked that something be placed on the Town's Web site including a sign to place on meters to indicate that smart meters

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weren't wanted; and stated that the matter was urgent since smart meters were already being installed.

Susan McLean, 217 Scenic Road, stated that it was difficult for seniors in Fairfax; that there was a senior exemption available for the Library measure before the voters; that bikers had become a problem for seniors because they rode on sidewalks in Town forcing seniors off the sidewalks; that bikers didn't follow the rules, caused hostility and were rude; that tree branches and sidewalks that needed repair also contributed to making it unsafe for seniors to walk in Fairfax.

Adoption of a Resolution of the Town Council of the Town of Fairfax Accepting the Fairfax to San Rafael Cross Marin Bikeway Study – *Planning*

Planning and Building Services Director Moore presented the staff report and recommended adoption with the edits recommended by the Marin Bicycle Coalition. He described the changes and acknowledged Public Works Director Wilkie for her early work on the study.

Vice Mayor Bragman acknowledged the work of the Bicycle and Pedestrian Advisory Committee.

Andy Peri, Cypress Drive, thanked Vice Mayor Bragman for securing the funds for the project; thanked Director Moore for his diligence and hard work; noted that the study allowed for the funding for the project to actually get it built; stated that funding was available for "shovel ready" projects; and thanked everyone involved in the project.

Vice Mayor Bragman stated that the project proposed in the study would help resolve some of the conflicts noted by Mrs. McLean by making pedestrians safer too.

M/S, Bragman/Reed, Motion to approve the resolution accepting the Fairfax to San Rafael Cross Marin Bikeway Study.

AYES: All

Adoption of a Resolution of the Town Council of the Town of Fairfax adopting a telecommuting policy – *Finance*

Finance Director Ireland-Ashley presented the staff report.

Vice Mayor Bragman stated that he had previously expressed his reservations about the policy; that two employees had been hired with the understanding that they would be telecommuting; that the policy presented was intended for a much larger agency; that Fairfax had only one layer of managers; that he had reservations about not having a supervisor present to supervise, especially in public works; that "hands on" supervision was desirable; that there were references throughout the policy to "satellite work center" that were not applicable; that it would improve the morale of some employees, but perhaps not all employees; that they needed flesh and blood people; and that cautionary things needed to be done. He suggested that the language be changed about who applies and who approves; that all references to satellite work centers be deleted; that how many days in a given week be spelled out; that the job classifications not subject to the policy be spelled out; and asked how the Town could monitor the dependent care provisions. He also asked if there was any relevant labor law that the Council needed to be aware of and asked that two or three samples of telecommuting policies from other towns in Marin be included in the packet.

Mayor Tremaine stated that Fairfax could only pay so much money that made it difficult to recruit employees; that telecommuting was an enticement for employment; that there were environmental advantages to the proposed policy; that the question was how to make it work in a small agency like Fairfax; that it was having a negative impact on staff morale; that there was a rumble in the community that it was only being offered to certain people and that Fairfax was paying people not to work; that it created problems with the operation; and that he could support it as a cutting edge policy, but that the problems with implementation needed to be addressed.

Councilmember Weinsoff stated that the quality of work was important and that the Finance Director had performed extremely well for the Town; that it was incumbent upon staff to solve the problem of

facilitating the policy; that the Town should go for the best talent available and then solve the logistical problems; and stated that 50% of the employee's time telecommuting seemed a little high.

Councilmember Reed stated that the effectiveness of telecommuting depended on the job at hand; that finance was certainly a job that demanded a quiet place to work; that it was a problem for public works; that Fairfax was a small town with employees who wore many hats making interaction important; that it was also important to save energy and to have a policy; asked if we could afford to have staff live an hour or an hour and a half away; noted that positions appropriate for telecommuting weren't specified in the policy.

Councilmember Hartwell-Herrero stated that it was a complex issue and might need another revision; that she and her husband both benefitted from telecommuting; and suggested that they look at the policy again with revisions.

Councilmember Weinsoff suggested that the Town try the telecommuting for a year and then review the policy.

Mayor Tremaine suggested that the Council approve the policy in concept because there were employees telecommuting without a policy in place.

Finance Director Ireland-Ashley stated that she was the employee doing the most telecommuting and that it enabled her to continue to work after hours.

Town Manager Rock stated that only two employees out of 28 were telecommuting and one of the two was only commuting one day per week. He stated that it wasn't an arbitrary decision but depended on many factors; that the public had reasonable access to the employees involved; and that the public works staff was being supervised.

Mayor Tremaine stated that telecommuting was being discussed at his place of work and that if telecommuting were allowed, the policy couldn't state that certain positions were not eligible; that the Council was opening the door to more telecommuting; and cautioned the Council to proceed carefully.

Mayor Tremaine opened the discussion to the public.

Terry Goyan, Planning Commissioner, Bolinas Road, asked if the telecommuting employees were so extraordinary that they needed to telecommute and stated that the policy had to be equitable to all employees.

Councilmember Weinsoff stated that it had been difficult to find a qualified finance director.

Anne Marie Alexander, Cascade Drive, asked about any liability the Town might have for employees working at home.

Finance Director Ireland-Ashley explained that the home office had to meet specific safety requirements.

Town Manager Rock noted that the home workplace required all the same ergonomic work stations.

Ethel Seiderman, San Anselmo, suggested that the Council shouldn't adopt a policy just because it was a trend but that the job should determine the policy.

M/S Weinsoff/Tremaine, Motion to approve of a telecommuting policy in concept with a revised policy to be brought back to the Council for approval.

Roll Call Vote:

Weinsoff: AYE; Hartwell-Herrero: AYE; Bragman: AYE; Reed: AYE; Tremaine: AYE

<u>Review and discussion of the Draft Safety Element and report on the status of the Fairfax General Plan - *Planning*</u>

Planning and Building Services Director Moore presented the staff report.

The Council suggested corrections and edits to the Safety Element.

Approval of Open Space Committee request to purchase one tax default property, APN 00316107 for $5,700- *Bragman*

Ryan O'Neil, Co-Chair of the Open Space Committee, stated that tax-defaulted property provided an opportunity to purchase property with limited resources. He further stated that the Open Space Committee (OSC) was developing criteria for future purchases that would include considerations like proximity to existing open space or protection from development in pristine areas. He also stated that they looked at a property's potential risk to the Town before recommending purchase.

Vice Mayor Bragman noted that the property proposed for purchase was located just beyond Toyon contiguous to Marin County Open Space.

Town Manager Rock stated that staff did look at the property and concluded that the Ross Valley Fire Service could require weed abatement which would incur a cost to the Town; that there would be some maintenance on any property; and that there was no budget for such maintenance so that any cost would be taken from the General Fund.

Ryan O'Neil, stated that he was one of the first members of the OSC and that their first task had been identifying existing open space parcels in Town and that OSC would maintain the properties themselves.

Terry Goyan, Bolinas Road, Planning Commissioner, stated that he had received a copy of the draft Open Space Element of the General Plan as a Commissioner and that smaller properties adjacent to Marin County Open Space could be dedicated to the County for maintenance purposes, but noted that the County also had limited funds for maintenance.

Town Attorney Karpiak stated that he wanted to be sure that the staff had done due diligence on the property including assuring clear title, identifying any access or environmental issues, and to be sure there were no debts on the property.

Councilmember Reed stated that liability and maintenance were major issues; that slide potential and clear title were important; that it was good that staff had checked it out; that he had trouble locating the property on a map; and that, in principle, it was a good thing to do.

Councilmember Weinsoff stated that there needed to be a larger discussion of the access issue in light of the six-figure like expense of the Town's efforts to preserve access to the Egger Redwood Reserve.

Councilmember Hartwell-Herrero asked about the size of the parcel and suggested that it would be helpful to be provided with a parcel map of the property.

Mayor Tremaine stated that immediate action needed to be taken so that the opportunity wouldn't be lost.

M/S, Bragman/Weinsoff, Motion to conditionally approve the purchase after due diligence regarding the issues raised by the Town Attorney including clear title.

AYES: All

Report on the status of the perclorethylene (PCE) spill at the Fair Anselm retail center – *Bragman*

Vice Mayor Bragman reported on the issue. He stated that he had been corresponding with the State Department of Toxic Substances Control (SDTSC); that the agency had issued an order and had included a remedial action order; stated that there was evidence of a public health risk at the site that had to be remediated; that the order included steps to be taken; that the representatives acknowledged that there were serious issues to be dealt with; that part of the action to be taken was outreach to the community; that the amount of contamination had to be accurately measured; that there was concern about possible contamination of the adjacent creek; and that the community

was aware of a problem and needed to receive accurate information about the extent of the problem. He noted that the owners had thirty days to come up with a plan for the site and that the steps were outlined in the report. He expressed his hope that the work would be done diligently.

George Bianchini, Broadway Video, stated that the balls were rolling; that the new option owners didn't seem to be aware of the problem; that he wasn't sure what the Town could do about it; that if the contaminated area were to be encased instead of removed, that it would eventually leak to the creek; that the Town should stay on top of the issue; that SDTSC was on top of the situation; and that the owners were in total denial.

Town Manager Rock met with the managing partners/new owners, and stated that they were working with SDTSC.

Vice Mayor Bragman stated that the SDTSC order named the Friedmans and that they were the responsible party and that outreach needed to be done to the tenants of the building.

George Bianchini stated that the toxic contamination was just one of the issues that he had raised about the site; that an engineer had stated that the beams were weak and that the building could collapse in an earthquake; and that the lead level in the building was too high.

Scheduling of a public forum on parking options for downtown Fairfax – *Planning*

Planning and Building Services Director Moore described a parking forum planned with the author of The High Price of Free Parking and a director of SamTrans to be coordinated with other agencies and to take place in Fairfax in September. There was a consensus of the Council that Thursday, September 16th, in the evening would be the best date for the forum.

Set a date for a special Council meeting to update the Town's Strategic Plan and Fiscal Sustainability Plan

A tentative date of Saturday, September 11th was set for a special Council meeting to update the Strategic Plan and the Fiscal Sustainability Plan.

Ethel Seiderman, San Anselmo, asked that the Council take a public stand on the siting of a new elementary school in Fairfax.

The meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Judy Anderson, Town Clerk