

DRAFT Fairfax Town Council Minutes
Special Meeting
Fairfax Women's Club
Wednesday, July 16, 2014

The regular meeting was preceded by a Closed Session from 5:30 p.m. to 6:30 p.m.-

Conference with Legal Counsel- Anticipated Litigation
Government Code Section 54956.9(d)(2) and (e)(1): two cases

Conference with Legal Counsel- Existing Litigation
Government Code Section 54956.9(d)(1)
Egger, et al. v. Gardner, Marin Superior Court No. CV1401704

6: 30 p.m. Reconvene in Open Session at the Women's Club

Interview and appointment of applicants for Affordable Housing Committee vacancy

The Council interviewed Mr. Anthony Loeb, Mr. David Smadbeck, and Ms. Mallory Geithem.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Larry Bragman
Barbara Coler
Renee Goddard
John Reed
David Weinsoff

STAFF MEMBERS PRESENT:

Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Jim Moore, Planning Director
Mike Vivrette, Finance Director

Mayor Weinsoff called the meeting to order at 7:00 pm.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Reed, Motion to approve the agenda and the affidavit of posting. The Council will adjourn the meeting in memory of Ms. Pauline Coler.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Announcement of Closed Session Action

Mayor Weinsoff announced the Council took no action but provided direction to counsel.

Announcements

Mayor Weinsoff made the announcements as they appeared on the agenda. Councilmember Coler announced that 19 Broadway would be hosting the Fairfax Open Space Fundraiser tomorrow evening.

Open Time

Mr. John Sergeant, Fairfax, thanked the Council and staff for hosting the Saturday Community Forum.

Mr. Bruce Ackerman stated Fairfax was an outside-the-box community with a lot of potential. Organizing was not only about resisting bad things- it was also about building good things and creating the world they want to live in. Creating a plan as a community is democracy at its finest.

Mr. Alexander Binick, Fairfax, thanked Councilmember Coler for her dedication to Fairfax.

Mayor Weinsoff stated the Council interviewed three people for the Affordable Housing Committee and he asked the Council for comments.

Councilmember Bragman stated all three applicants had good experience and were qualified. He would like to consider expanding the committee since this is a much broader topic for the community. Town Clerk Gardner stated the resolution that established the committee does not limit the membership but rather states there must be "at least three".

Councilmember Reed stated it might make sense to expand the committee by two slots given the quorum requirements.

Councilmember Coler stated she was a member of the committee and suggested adding the two slots to keep the numbers manageable. She recommended appointing Mr. Smadbeck and Ms. Geithem.

M/S, Weinsoff/Bragman, Motion to appoint Mr. David Smadbeck and Ms. Mallory Geithem to the Affordable Housing Committee.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Mayor Weinsoff thanked Mr. Loeb and encouraged him to apply for other Town vacancies.

Consent Calendar

Adoption of a resolution adopting the Town of Fairfax Operating and Capital Improvement Budgets for Fiscal Year July 1, 2014 through June 30, 2015 and Providing for the Appropriation of Expenditures in Said Budgets and Repealing All Resolutions in Conflict Therewith- Finance Director

Adoption of a Resolution 14_ Making Certain Findings and Determinations in Compliance with Section XIII B of the California Constitution (Gann Initiative) and Setting the Appropriation Limit for Fiscal Year 2014-15- Finance Director

Approve minutes for the May 7 and June 4, 2014 Town Council meetings- Town Clerk

Accept Financial Statement and Disbursement Reports May 2014- Finance Director

Adoption of a resolution authorizing Fairfax Town Manager to execute Agreement Modifying Memorandum of Understanding Between the Town of Fairfax Police Officers Association- Town Manager

Approve Town sponsorship of Streets for People event in August 2014- Councilmember Goddard

Waive application fee of \$813 for Agricultural Community Events Farmers market to apply for a use permit to extend the Fairfax Farmer's Market from October to December at St. Rita's church- Town Manager

M/S, Coler/Bragman, Motion to approve the Consent Calendar with corrections to the May 7, 2014 meeting minutes.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

Council Reports and Comments

Councilmember Reed reported he attended the Council Budget Workshop; two Transportation Authority of Marin (TAM) meetings; two Ross Valley Fire Authority Board meetings; the GPIC meeting; History Night at the Women's Club; the Chamber of Commerce Mixer; the Marin County Council of Mayor's and Councilmembers (MCCMC) meeting; the Trails Committee meeting; the General Plan Community Forum.

Councilmember Coler reported she attended the Council Budget Workshop; two Fairfax Climate Action Committee meetings; the Marin Telecommunications Agency meeting; the Fairfax Open Space Fundraiser at Iron Springs; the Chamber of Commerce Mixer; the MCCMC meeting in Larkspur; the ad hoc Pedestrian Trails Committee meeting.

Councilmember Bragman reported he attended the Open Space Fundraising meeting; the Chamber of Commerce Mixer; the General Plan Community Forum; a Marin Energy Authority (MEA) meeting.

Councilmember Goddard reported she attended the General Plan Community Forum; the Council Budget Workshop; the Chamber of Commerce Mixer; the County Committee on Homelessness; an Association of Bay Area Governments (ABAG) meeting; the Eco Fest and History Night; a Coalition for Healthy Youth meeting; a Tree Committee meeting; a Chamber of Commerce meeting.

Mayor Weinssoff reported he attended two Chamber of Commerce meetings; the Fairfax Historical Society Luncheon; a Flood Zone 9 meeting; the Council Budget Workshop; the General Plan Community Forum; Countywide Disaster meeting on behalf of MCCMC; a Ross Valley Fire Board meeting; a Cittislow Conference in the Netherlands.

Town Manager Report

Town Manager Toy reported the Town received a grant for eight electronic bike lockers and staff would report back to the Council with proposed locations, matching requirements, etc.

Regular Agenda

Discuss/consider report on the Community Forum regarding the General Plan and Housing Element held on Saturday, July 12th from 1:00 p.m. to 3:00 p.m. in the Women's Club- Town Manager

Town Manager Toy presented a staff report and made a Powerpoint presentation.

Mr. Clayton Smith, Mill Valley, stated Fairfax should retain its character and charm. He found it curious that they could easily amend the General Plan and tuck away several acres for extreme density. He was worried that at a later date several more acres could be similarly designated.

Ms. Wendy Kallins stated she was concerned about separating out the Lutheran Church property. She supported the senior housing proposal for that site. The upland area should remain as open space. She asked for a clarification on "affordability".

Ariel stated there is an enormous amount of business conducted at School Street Plaza. She supported low-income housing but did not want businesses to be overlooked.

Ms. Shelly Hamilton, Canyon Road, applauded the Town staff and Council for their efforts in bringing information forward at the forum. They went the extra mile to do what was necessary to work with citizens to find common ground.

Mr. Michael Macintosh requested language in the ordinance that would guarantee that housing that comes into the community is affordable. He would like affordable housing to be available to Fairfax seniors and people who work in the community.

Ms. Allison Mulligan, Fairfax, asked what would happen to Cascade Canyon School should the Lutheran Church site be developed. Mayor Weinsoff asked Ms. Mulligan to meet with Town staff and representatives of the school and the church.

Mr. Sierra Salin asked what constituted affordable housing. He was opposed to fencing off the planet and for personal use.

Alexander Binik, Fairfax, had questions about the Lutheran Church site property and would like to see the project move forward. Town Manager Toy stated the representatives of the Church would submit an application for rezoning of the property, a Tentative Parcel Map indicating the location of the 2 acres, and a site plan including Design Review. These applications would be reviewed at a Public Hearing by the Planning Commission and the Town Council.

Mr. John Sergeant, Fairfax, stated planning people plan and if there is nothing to plan then they will create something to plan. He did not have confidence in the Planning Commission to look out for the best interests of the residents of Fairfax.

A representative of Cascade Canyon School Board stated they had been shown some plans by representatives of the Lutheran Church but had never been invited to comment on the plans. The plans were preliminary and he would like to see something more definitive.

Mr. Martin Koppel, Fairfax, asked that the effects of parking on traffic be taken seriously. Traffic was a big problem in the County.

Councilmember Coler stated she would like to see the remaining 18 acres of the Lutheran Church site designate" as open space.

M/S, Bragman/Reed, Motion to accept the report regarding the July 12th General Plan Community Forum and direct staff to proceed with the recommended actions.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Consideration of response to receipt of certified referendum petition regarding Ordinance No. 778 and determine next steps, which may include either introduction of Ordinance No. 780 repealing Ordinance No. 778, a zoning ordinance that amended Town Code Chapters 5.52, 17.012, 17.020, 17.092, 17.096, and 17.104, and added Chapter 17.130, rezoned all parcels then-zoned Highway Commercial (CH) to Central Commercial (CC) Zone, rezoned APN 002-112-13 and 001-104-12 from Limited Commercial (CL) to Planned Development District (PDD); rezoned APN's 174-070-17 and 174-070-50 from UR-7 to PDD, added a Public Domain (PD) Zone, rezoned selected parcels to Public Domain (PD), provided for the supremacy of the

Zoning Map over the text in event of discrepancy, corrected typographical errors, and updated the Town Zoning Map to reflect these zoning changes, in its entirety; or placement of Ordinance No 778 on the November 2014 ballot for voter consideration- Town Manager

Town Manager Toy presented a staff report.

Councilmember Coler referred to page 3 of the staff report, third paragraph, first sentence, (c) and stated the reference should be to three and not four properties that would be rezoned to PDD. Town Manager Toy agreed.

Councilmember Goddard asked staff to clarify the four options. Town Attorney Coleman discussed the two statutory options and the two options offered by case law including taking "no action".

Mayor Weinsoff opened the meeting to public comments.

Mr. Michael Macintosh stated the Council should not take a "no action" approach and stated it would be a disadvantage to the community. If the referendum were to win in a November election it would be embarrassing to the Council and bar the Town from re-agendizing the item for 12 months. He urged the Council to move forward with the repeal.

Ms. Jessica Green, Fairfax, stated it would be better to judge one project at a time instead of having a big ordinance that covered so many things. She would like to see more affordable housing in Fairfax.

Mr. Sierra Salin stated the right thing to do was to build community.

Mr. Clayton Smith, Mill Valley, stated the Council should repeal the ordinance and spare the residents of Fairfax an election, which would waste public funds and energy.

Mr. John Sergeant, Fairfax, asked the Council to either repeal the ordinance or put it on the ballot.

Ms. Marian Weinstein, Fairfax, stated the County of Marin had a compliance agreement with Federal Housing Authority which included a requirement to market/advertise to low-income minorities out of the County.

Berkeley, Merwin Avenue, stated development at School Street Plaza would create traffic, congestion, and pollution in the neighborhood. She would like the Council to repeal the ordinance and start fresh.

Mr. Mark Bell, Dominga Avenue, stated the Council should repeal the ordinance since it has so much baggage attached to it. He stated people should stop spreading false information in the community.

A resident was concerned about a comment made by one of the Councilmembers.

Ms. Wendy Kallins stated it was important not to do "project by project" planning- the General Plan and Housing Element should designate zoning in Town. Repeal of the ordinance should not be considered a repudiation of the Housing Element and General Plan.

Mr. John Ramirez, Madrone Road, stated the intention of Senate Bill 375 was to encourage development. He asked the Council to be creative.

Ms. Eileen Brown, Manor Road, commended the Council and Town staff on the many years spent on this long process. She is in favor of better public transportation, affordable housing, and diversity in the community.

Mr. Don O'Donnell, Fairfax, stated the Council should repeal the ordinance and address the issues one-by-one.

A resident stated he trusted the process. He was concerned that they might be in the same situation a year from now if they repeal the ordinance. There will always be disagreements. He was concerned about rumors and inaccuracies. The goal should be to create a plan.

Mr. Bruce Ackerman agreed with the comments made by the previous speaker and Ms. Kallins.

Ms. Shelly Hamilton, Canyon Road, stated some of the individuals involved with the referendum were attempting to block the General Plan and not fix or strengthen it.

Ms. Yvette Wakefield, Alhambra Circle, urged the Council to do sustainable development and pass a one-year moratorium on rent increases.

Ms. Jennifer Hammonds, Fairfax, stated she was speaking as a resident of Fairfax and not on behalf of any organization or affiliation. She previously recommended not repealing the ordinance in order to comply with State law. She now believes it could be best to repeal the ordinance as long as the findings indicate there is still support for the policies, goals, and objectives of the Housing Element and that the repeal is an interim step in correcting errors and inconsistencies.

Ms. Diane Hoffman, Porteous Avenue, asked who was responsible for the errors in the document and whether or not the Town could get some of the money back that was paid to consultants.

Mr. Chris McManus, Fairfax, stated he lives across the street from the Lutheran Church and supported the Peace Village project. He was concerned about misinformation being disseminated in the community.

Ms. Jane Richardson, Madrone Road, supported the repeal of the ordinance. She thanked the Council and staff for holding the Community Forum on the General Plan.

Mr. Alexander Binik, Fairfax, read a statement from Mr. Lew Tremaine indicating support for the repeal of the ordinance.

Ms. Norma Fragoso, Meernaa Avenue, stated the General Plan process was being held hostage by a referendum that included misinformation. She was disappointed in the lack of support for the extensive and elaborate work done on the document. She asked the Council to stand up for the ordinance and get it back on the adoption schedule quickly.

Ms. Jody Timms, Cascade Drive, stated she was disappointed in the process and the role that litigation has played. The General Plan Community Forum should have involved more problem solving. She would like to move forward with a plan.

Mayor Weinsoff closed the meeting to public comments.

Councilmember Goddard referred to the staff report for agenda item # 8, pages 1 through 4 of "What We Heard", and noted the Council had been listening to the public's comments. She commended staff for putting together an informative Community Forum. She stated she could

not vote in good conscience for the repeal of Ordinance No. 778. Repealing the ordinance would put them out of compliance with Government Code Section 65860 which requires the Town to have a compliant General Plan and Municipal Code. The concerns addressed by the public could be addressed. She did not want the Town to be put on a five-year cycle of Housing Element review, which would be burdensome. She did not want to put the Town at risk legally. She would like to move forward.

Councilmember Bragman stated he had been on the Affordable Housing Committee for five years and made a commitment to build affordable housing whether it was in compliance with the State's dictates or not. The two affordable housing sites cited in the General Plan had the most consensus in the community and would survive any outcome. Ordinance No. 778 was not a worthy vehicle for the Housing Element or General Plan and was in conflict with those two documents. He discussed some of the major missteps. He wanted to get beyond the breakdown in communication and the polarization in the community.

Councilmember Coler stated the Community Forum helped to bring people closer together. The Housing Element that was developed works with the character of Fairfax and she believed strongly in the General Plan. Both documents will be revised and she supported planning as opposed to doing things on a piece-meal basis. She would vote to repeal the ordinance and would like to move forward. She suggested some findings that would bolster the ordinance.

Councilmember Reed discussed the four options and stated "doing nothing" and litigating were bad options. Putting the ordinance on the ballot was not a good idea and would divide the community even more. The ordinance had been rushed and was driven as an attempt to extend the Formula Store Ordinance to the Highway Commercial Zone. He stated his opposition to planning on a parcel-by-parcel basis. He supported the repeal of Ordinance No. 778.

Mayor Weinssoff stated thanked everyone for his or her participation. He was concerned there could be another referendum if some form of compromise were to take place. He did not like the idea of putting the ordinance on the ballot as it would be very divisive to the community. He suggested a middle road option - "do nothing" and hope that the public continued to participate in community forums. He wanted to bind the wounds and move forward as a community by scheduling as many community forums as possible.

Councilmembers Bragman, Coler, and Goddard suggested some additional added language to Ordinance No. 780.

The Council took a 15-minute break at 10:10 p.m.

Town Manager Toy stated staff would like to take some time incorporating the suggested language into the ordinance. The language has to be exactly the same in the introduced and adopted versions of the ordinance. An ordinance can be introduced at a Special Meeting but adoption must be done at a Regular Meeting. The Council could hold a Special Meeting on Thursday, June 24th.

M/S, Coler/Reed, Motion to direct staff to begin the process to repeal Ordinance No. 778.

AYES: Bragman, Coler, Reed

NOES: Goddard, Mayor Weinssoff

Town Attorney Coleman asked for direction on the repeal process.

It was the consensus of the Council to incorporate the language suggested by Councilmembers Coler, Bragman, and Goddard into Ordinance No. 780.

M/S, Weinssoff/Coler, Motion to direct staff to incorporate the language suggested by Councilmembers Coler, Bragman, and Goddard and bring back Ordinance No. 780 at a Special Meeting next week for introduction.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

It was the consensus of the Council to continue items #12, #14, and #15.

Adopt a resolution calling for a special municipal election to be held on November 4, 2014 for the purpose of submitting to voters a measure authorizing the continuation of a special tax for police and fire services staffing, public works safety improvements, match funding for state and federal public works grants, and youth and senior programs; requesting Marin County to consolidate with the general election conducted on that date; and requesting election services of the County; and designate Councilmembers to author ballot arguments and rebuttals, if needed, and find signators for said arguments and rebuttals- Town Manager

Town Manager Toy presented a staff report.

Councilmember Bragman noted it would be a challenge to inform and educate residents that they are increasing the tax by only \$20. He asked if they could revise the ballot language to reflect the situation. Town Manager Toy stated "yes" but they need to stay within the 75-word limit. Mayor Weinssoff stated he would work with Councilmember Bragman to revise the ballot language.

Mr. Michael Macintosh stated a \$50 rollover tax was for perpetuity and he was surprised they would gamble on that. He asked if this was a "per unit" or "per parcel" tax. Town Manager Toy stated it was a "per unit" tax. Mr. Macintosh stated these additional taxes are asking the poorest people to subsidize the wealthiest people. This was unfair.

Mr. Mark Bell, Dominga Avenue, stated there should some type of "quid pro quo" regarding all these taxes being imposed.

M/S, Bragman/Goddard, Motion to adopt a Resolution of the Town Council of the Town of Fairfax calling a Special Municipal Election to be held in its jurisdiction on November 4, 2014 for the purpose of submitting to voters a measure authorizing the continuation of a special tax for Police and Fire services staffing, public works safety improvements, and enhancement of youth and senior programs; requesting the Marin County Board of Supervisors to consolidate with the general election conducted on that date; and requesting election services of the County Clerk.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

Town Manager Toy asked the Council to designating two Councilmembers to work on the ballot argument and rebuttal language at the August meeting.

Discussion/consideration of preparing an interim urgency zoning ordinance prohibiting approvals of formula based businesses within the Highway Commercial (CH) zoning district pending the adoption of permanent zoning regulations- Town Manager

Town Manager Toy presented the staff report.

Councilmember Bragman asked if they would need to redraft the formula businesses ordinance for the existing Central Commercial (CC) Zone. Town Manager Toy stated "yes".

Mr. Michael Macintosh stated he recently drove through the Midwest and noticed "big box" stores changed the infrastructure with their single use buildings. Once the store leaves, it

creates blight. He suggested putting a limit on the size of stores. He noted a chain store is not necessarily bad because it is an opportunity to create competition.

M/S, Coler/Reed, Motion to direct staff to prepare an urgency zoning ordinance (i.e., moratorium) for Council consideration prohibiting approvals of formula based businesses within the Highway Commercial (CH) zoning district pending the adoption of permanent zoning regulations to address this issue.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

Discuss/consider residents' petition regarding the noise ordinance-Town Manager

Mayor Weinssoff stated this item was continued to the August Council meeting.

Discuss/consider a requirement for all stores, shops, eating places, food, and retail food vendors to charge a mandatory charge for paper bags provided at check out- Town Manager, Councilmember Goddard

Town Manager Toy presented a staff report.

Councilmember Coler stated people using food stamps should be exempt.

The Council directed staff to bring the ordinance back in August.

Discuss/consider revisions to sign ordinance regarding non-commercial signs- Councilmember Coler, Town Manager

Mayor Weinssoff stated this item was continued to the August Council meeting.

Discuss/consider a Fairfax Rent Control Ordinance- Vice Mayor Bragman

Mayor Weinssoff stated this item was continued to the August Council meeting.

M/S, Reed/Coler, Motion to adjourn the meeting at 11:20 p.m. in memory of Ms. Pauline Coler.

AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

Respectfully submitted,

Toni DeFrancis
Recording Secretary