

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, March 6, 2013

The regular meeting was preceded by a Closed Session from 6:00 p.m. to 7:00 p.m.-
CONFERENCE WITH LEGAL COUNSEL- INITIATION OF LITIGATION pursuant to
Government Code Section 54956.9(c): two potential cases

PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government
Code Section 54957 Title: Town Manager

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Larry Bragman
Pam Hartwell-Herrero
David Weinsoff

STAFF MEMBERS PRESENT:

Garrett Toy, Town Manager
Michele Gardner, Deputy Town Clerk
Jim Karpiak, Town Attorney
Jim Moore, Planning Director
Mike Vivrette, Finance Director
Chris Morin, Chief of Police
Roger Meagor, Fire Chief

Vice Mayor Weinsoff called the meeting to order at 7:05 pm.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Hartwell-Herrero, Motion to approve the agenda and the affidavit of posting with the continuation of item #19, "Approval of a contract with Sustainable Fairfax to implement the mandates of the Zero Waste Grant" and #21, "Discussion of Protecting Pedestrian Rights-of-way" and the placement of item #18, "Discussion/Consideration of Model Ordinances for Mandatory Commercial Recycling and Construction and Demolition Debris Ordinance" after item #4.

AYES: All ABSENT: Mayor Reed.

Announcement of Closed Session Action

Vice Mayor Weinsoff announced the Council gave direction to legal counsel.

Announcements

Vice Mayor Weinsoff made the announcements as they appeared on the agenda.

Reports and Presentations

Proclamation from the Town Council of the Town of Fairfax Commending Rudy Contratti for 25 Years of Excellent Service to the Town- Mayor Reed

Vice Mayor Weinsoff presented the Proclamation to Mr. Rudy Contratti. The Council thanked Mr. Contratti for his excellent service to the Town. Mr. Contratti stated it is a pleasure to serve

the wonderful Town of Fairfax.

Annual Report from the Volunteer Board- Holly Bragman, Volunteer Board Chair

Ms. Holly Bragman, Chair of the Volunteer Board made a presentation titled "The More Things Change, the More They Stay the Same". She discussed the Board's various accomplishments for 2012.

Quarterly Report from the General Plan Implementation Committee- Bruce Ackerman, Chair

Vice Mayor Weinsoff stated this item would be continued due to the absence of Mr. Ackerman.

Annual Report from Marin Sanitary- Steve Rosa/Kim Scheible

Ms. Kim Scheible, representing Marin Sanitary Service, presented the Annual Report to the Council. She noted the report contained a comparison between 2011 and 2012 and the difference in the diversion numbers due to the new 2012 contract.

Ms. Patty Garbarino discussed upcoming programs including the Zero Waste Program.

Vice Mayor Weinsoff referred to the report and asked if only 20% of Fairfax residents use the green waste can for food refuse. Ms. Scheible stated "yes". Ms. Garbarino discussed the "ick factor" and the resistance to using these cans for food waste. Vice Mayor Weinsoff stated this was an extremely important part of the diversion opportunity.

Vice Mayor Weinsoff stated there would be an opportunity for residents to get rid of their electronic waste on April 27th. He asked staff to advertise this event.

Councilmember Hartwell-Herrero thanked MSS for their good work and a great contract.

Councilmember Bragman stated this new contract was a long-time coming. He noted commercial customers had a higher conversion rate than residential. He asked how the Town could motivate residential customers. Ms. Garbarino stated commercial waste was more generic and easier to divert. Councilmember Bragman asked if apartments and multi-unit buildings were included in the commercial rates. Ms. Garbarino stated "yes".

Discussion/Consideration of a Model Ordinance for Mandatory Commercial Recycling and Construction and Demolition Debris Ordinance- Zero Waste Committee/Town Manager

Town Manager Toy presented a staff report.

Councilmember Hartwell-Herrero discussed multi-unit dwellings and the challenges including space, compliance, etc. She would like to see green waste and organic materials included in recyclables.

Councilmember Bragman stated the potential to increase diversion rates is with the multi-unit dwellings. He asked if there were separate recycling receptacles at multi-unit dwellings. Mr. Steve Rosa, representing MSS, stated "yes". He suggested some door-to-door outreach in the residential areas.

Ms. Valerie Hood, Dominga Avenue, stated the Town should encourage neighborhood chicken and goat areas to mitigate the food waste problem.

Ms. Barbara Coler, Ace Court, stated there were no green waste cans in her

townhouse/condominium complex. Ms. Garbarino stated she would look into this matter. Ms. Coler stated in San Francisco the green waste cans are used for all waste.

Mr. Michael McIntosh supported the use of fuel cells.

Ms. Holly Bragman stated her ability to recycle was greatly enhanced when she remodeled her kitchen.

Open Time:

Mr. Michael McIntosh asked the Council to discuss the direction that was given to staff during Closed Session. Vice Mayor Weinsoff stated Mr. McIntosh had received the Town's legal interpretation of the Brown Act.

Ms. Barbara Coler, representing the Open Space Committee, discussed the Committee's fundraising efforts to acquire some open space on Upper Ridgeway. She distributed flyers.

Ms. Valerie Hood stated the next film to be shown at the Women's Club would be on Friday, March 22nd at 7:00 p.m.

Mr. Mark Bell, Dominga Avenue, stated the "15 mph" street sign at the intersection of Dominga Avenue and Napa Avenue should be removed.

Interview and Appointments

Interview and appointment of candidate(s) to serve on the Planning Commission for a full four-year term to February 28, 2017- Deputy Town Clerk

The Council interviewed Mr. Peter Hadiaris and Ms. Roxanne Ezzet-Lofstrom.

M/S, Bragman/Hartwell-Herrero, Motion to appoint Ms. Roxanne Ezzet-Lofstrom to serve on the Planning commission for a full four-year term to February 28, 2017.

AYES: All ABSENT: Mayor Reed

Vice Mayor Weinsoff encouraged Mr. Hadiaris to consider serving on the Affordable Housing or Open Space Committee.

Council Reports and Comments

Councilmember Bragman reported he attended the demonstration against the Proposed Keystone XI Tar Sands Pipeline.

Councilmember Hartwell-Herrero reported she attended a Sustainable Fairfax meeting; a Zero Waste meeting; a Marin County Council of Mayors and Councilmembers (MCCMC) meeting; a Citislow meeting.

Vice Mayor Weinsoff reported he attended the MCCMC meeting; the MCCMC Legislative Committee meeting; he discussed the recent bills regarding modifications to the California Environmental Quality Act (CEQA).

Town Manager Report

Town Manager Toy stated there was supplementary information regarding item #20 on the Council dais. He introduced newly hired Deputy Town Clerk Michelle Gardner. He thanked Town Clerk/Interim Town Manager Judith Anderson for her help during the administrative transition and wished her well in her retirement.

Consent Calendar

Approval of Town Council minutes for the February 6, 2013 meeting – Deputy Town Clerk

Approval of Financial reports for December, 2012 – Finance

Approval of By-Laws for the General Plan Implementation Committee—Planning Director

Approval of contract amendment with California Infrastructure Consultancy, Inc. for engineering/project management for Town bridge work- Town Manager

Approval of issuance of a Request for Proposals for engineering/design of future Bridge projects- Town Manager

Approval of Contract with Nerviani Paving for pavement repair required for Bike Spine and Sir Francis Drake Bike Lane Striping Project- Public Works Manager

Adoption of Notice of Completion for the Pastori Sidewalk Project- Public Works Manager

Adoption of Resolution 12-72, a Resolution of the Town Council of the Town of Fairfax designating Town Manager Garrett Toy as the Agent for the Town of Fairfax for the California Emergency Management Agency (Cal EMA)- Town Manager

Adoption of Resolution No. 12-73, a Resolution of the Town Council of the Town of Fairfax declaring a Town owned Police Department vehicle as surplus to the needs of the Town and authoring the Police Department to dispose of same by public auction- Police Chief

Mr. Michael McIntosh asked that items #10 and #11 be removed for discussion.

M/S, Hartwell-Herrero/Bragman, Motion to approve the Consent Calendar with the removal of item #10, "Approval of contract amendment with California Infrastructure Consultancy, Inc. for engineering/project management for Town bridge work", and #11 "Approval of issuance of a Request for Proposals for engineering/design of future Bridge projects" for discussion, and the continuation of item #9, "Approval of Contract with Coastland Engineering for construction management services for Bike Spine Project", #13, Adoption of Notice of Completion for the Pastori Sidewalk Project", #19, "Approval of a contract with Sustainable Fairfax to implement the mandates of the Zero Waste Grant", and #21, "Discussion of Protecting Pedestrian Rights-of-way".

AYES: All ABSENT: Mayor Reed

Public Hearings

Adoption of Resolution No. 13-9, approving the methodology for a traffic impact study to be prepared for use of the gas station property at 2001 Sir Francis Drake Boulevard as a gas station/convenience store- Planning Director

Planning Director Moore presented the staff report.

Councilmember Bragman asked if the methodology included studying pedestrian and bicycle use and safety in the area and opening up a driveway out to Broadway. The Bicycle and Pedestrian Master Plan has identified that area as problematic due to the absence of a sidewalk on the north side. Planning Director Moore stated the application did not include opening up Bank Street, however this is on the "radar". Councilmember Bragman stated the Town has an easement and they need to protect that right-of-way. Planning Director Moore stated staff could include this recommendation in the staff report to the Planning Commission. Town Attorney Karpiak stated the Town could ask the applicant to study this in the traffic impact analysis.

Mr. David Parisi, traffic engineer, stated the study would look at pedestrian and bicycle circulation around the site.

Councilmember Bragman stated the study should also look at a sidewalk on the south side of the property. Councilmember Hartwell-Herrero agreed that pedestrian access was critical.

Vice Mayor Weinsoff opened the Public Hearing.

Mr. Tony Yudice, Forrest Terrace, stated the Council is doing everything to justify running Bank Street through to Sir Francis Drake Boulevard without the consent of the public.

Vice Mayor Weinsoff stated all land use decisions are discussed in a public forum.

Councilmember Bragman stated he was talking about a putting in a driveway and not running a street through the property.

Ms. Barbara Coler stated that area was an important ingress/egress point and she looked forward to the results of the Traffic Impact Study. It is appropriate to look at a driveway on the backside of the property.

Mr. Peter Hadjaris stated he has reservations about putting a driveway through to Bank Street because people would cut through the gas station to avoid the traffic signal on Sir Francis Drake Boulevard.

Mr. Mark Bell stated a stop sign should be installed if they put in a driveway.

Ms. Daylene Whitlock, representing Whitlock and Weinberger Transportation (W-Trans), stated her firm would be preparing the traffic study. She asked the Council if they had any questions.

Mr. Arash Salki, property owner, stated he would like to revitalize the site and is eager to work with the Town.

Vice Mayor Weinsoff closed the Public Hearing.

M/S, Bragman/Hartwell-Herrero, Motion to adopt Resolution No. 13-9, a Resolution of the Town Council Establishing a Methodology for Preparing a Traffic Impact Study for a Combination Chevron Gas Station/Early Morning Convenience Store at 2001 Sir Francis Drake Boulevard with following addition to the W-Trans memorandum dated January 25, 2013: on page 2, under the paragraph referring to the "study area", the addition of #7 Driveway from Broadway via Town easement and sidewalk along Broadway.

AYES: All ABSENT: Mayor Reed

Adoption of Resolution No 13-10, a Resolution of the Town Council approving the initial study and accepting the Mitigated Negative Declaration for the Fair Anselm Creek Restoration Project at 731 to 771 Center Boulevard; Assessor's Parcel No. 002-131-14; Central Commercial CC Zone District; Rich Dowd, applicant; Rich Hall, Fairfax Center Properties LLC, owner- Planning Director

Planning Director Moore presented the staff report. He discussed several typographical corrections regarding construction hours.

Councilmember Bragman stated there was an erosion problem downstream by the Pastori Bridge and he was concerned about replacing the natural terrain with shot crete and whether or not that would speed up the flow of the creek. Mr. Sean Kennings stated the purpose of the design is to reduce bank erosion.

Councilmember Bragman was concerned about the restriction of pedestrian access due to the installation of a gate.

Mr. Michael Watkins, engineer with Ballard and Watkins, stated there was a retaining wall in the area adjacent to the parking lot and they put in a guardrail and fence to protect people from falling over that steep bank. They put in a gate to provide access. The flow of the creek was addressed through hydrologic calculations and contouring the shot crete would help the situation. Councilmember Bragman asked if the project would slow down the flow of the creek. Engineer Watkins stated they are trying to maintain the existing flow.

Councilmember Hartwell-Herrero referred to the Initial Study and had questions about the Cultural Resources and Geology and Soils (liquefaction) sections. Mr. Sean Kennings stated they would be using helical piers to avoid liquefaction, landslides, and erosion.

Vice Mayor Weinsoff opened the Public Hearing.

Mr. Tony Yudice stated he grew up playing in the creek and he was concerned about Native American artifacts.

Mr. Michael McIntosh thanked the Council for their efforts in this project. He was concerned that the shot crete would slow down the flow of the creek. They need to look at the creek as a whole and look at both sides of the bank.

Mr. Watkins stated they looked at the entire reach of the creek both upstream and downstream. The project attempts to maintain the creek in its current state.

M/S, Bragman/Hartwell-Herrero, Motion to adopt Resolution No 13-10, a Resolution of the Town Council approving the initial study and accepting the Mitigated Negative Declaration for the Fair Anselm Creek Restoration Project at 731 to 771 Center Boulevard; Assessor's Parcel No. 002-131-14; Central Commercial CC Zone District

AYES: All ABSENT: Mayor Reed

The Council took a 10-minute break at 9:10 p.m.

Regular Agenda

Vice Mayor Weinsoff stated he would like to rearrange the order of the agenda.

Selection of operator for the management of the Farmers Market for 2013 and authorization for the Town Manager to execute a contract- *Town Manager*

Town Manager Toy presented a staff report. He asked for a brief presentation by the four vendors.

Representatives from the following organizations made a presentation and discussed their organization's background and qualifications: Agricultural Community Events Farmers Markets; Marin Community Farmers Markets Association; Marin Community Farm Stands & CSA; Next Generation Events.

Councilmember Hartwell-Herrero stated they were all qualified candidates. Some of the issues of concern included the financial feasibility of the market, dinner/market atmosphere, parking, licensing, credentials, etc. She asked the vendors to address these concerns.

Vice Mayor Weinsoff asked the Town Manager if this item could be continued to the Special Council Meeting schedule for March 14th. Town Manager Toy stated "yes".

Mr. Mark Bell, Dominga Avenue, stated there should be more farmers and fewer "dinner" vendors. The price of produce should change according to the season.

Mr. Jim Gary stated he sits on the Advisory Council for the San Rafael Downtown Market and he supports Next Generation Services.

Mr. Diane Hoffman, Porteous Avenue, stated the Town might want to find another location so they could extend the market season.

Ms. Valerie Hood, Dominga Avenue, stated she was in favor of a year-round Farmer's Market. The Council should think in terms of long-term survival.

Vice Mayor Weinsoff stated it was the consensus of the Council to continue this item to the March 14th Special Council meeting.

Approval of contract amendment with California Infrastructure Consultancy, Inc. for engineering/project management for Town bridge work- *Town Manager*

Town Manager Toy presented the staff report.

Councilmember Bragman asked if the intent of the contract was to pay the contractor to re-obligate the funds for the studies. Town Manager Toy stated "yes". He noted "de-obligating" was different from "reapplying". Councilmember Bragman asked how much funding was obligated. Town Manager Toy stated he did not have the exact figure but it was several hundred thousand dollars.

Mr. Michael McIntosh asked if all documents were available to the public. Town Manager Toy stated "yes".

Mr. Tony Yudice, Forrest Terrace, asked about funding for foot bridges since they are heavily used. Vice Mayor Weinsoff asked Town Manager Toy to look into funding for footbridges.

M/S, Bragman/Hartwell-Herrero, Motion to authorize the Town Manager to execute a contract amendment with California infrastructure Consultancy for engineering and technical services required to secure funding for two bridges under the Highway Bridge Program (HBP) in an

amount not to exceed \$11,000.

AYES: All ABSENT: Mayor Reed

Approval of issuance of a Request for Proposals for engineering/design of future Bridge projects- Town Manager

Town Manager Toy presented the staff report.

Mr. Michael McIntosh stated he would like access to all pertinent documents.

Mr. Frank Egger, Meadow Way, stated no public notice was given on this item. He wanted to know who wants to replace the Meadow Way Bridge and what is meant by “functionally obsolete’. CalTrans will want a two-lane, concrete bridge with a sidewalk which would speed up the traffic in that neighborhood. He asked the Council to continue the item, notify the neighborhood, and bring back more detailed cost information.

Town Manager Toy stated the bridge program was 100% funded on the construction side and the only cost to the Town was an 11% match of the design costs.

Mr. Tony Yudice asked if Creek Road Bridge would be replaced. Town Manager Toy stated the current plan is for a seismic retrofit.

M/S, Bragman/Hartwell-Herrero, Motion to authorize the Town Manager to issue a Request for Proposal (RFP) for preliminary engineering, environmental clearance, and design work necessary to replace the Meadow Way Bridge, seismically retrofit Creek Road Bridge, and prepare a Bridge Preventive Maintenance Program (BPMP) for three other bridges in Town.

AYES: All ABSENT: Mayor Reed

Approval of a contract with Sustainable Fairfax to implement the mandates of the Zero Waste Grant- Town Manager/Zero Waste Committee

Vice Mayor Weinsoff stated this item has been continued.

Discussion of Protecting Pedestrian Rights-of-ways- Mayor Reed

Vice Mayor Weinsoff stated this item has been continued.

Mid-Year Budget Review- Finance

Finance Director Vivrette presented a staff report.

Vice Mayor Weinsoff referred to the \$150,000 savings in the General Fund and asked if this could be expected next fiscal year. Town Manager Toy stated it was hard to say since there were “a lot of moving parts” including health and retirement costs, etc.

Councilmember Bragman stated he would like to put money back into the Reserves.

M/S, Hartwell-Herrero/Bragman, Motion to accept the 2012-13 Mid-Year Budget Review.

AYES: All ABSENT: Mayor Reed

Discussion/Consideration of local preference purchasing policy for professional services.

supplies and materials, and public works projects using informal bid process- *Town Manager*

Town Manager Toy presented the staff report.

Councilmember Bragman stated he liked the idea of a local purchasing preference with a \$15,000 threshold. They need to balance the overall financial needs of the Town.

Vice Mayor Weinsoff asked staff to return with a policy for the Council to review.

Council Committee Assignments: Appointment of Alternate to the Ross Valley Fire Board, Liaison to the Youth Commission and Tree Committee member to replace former Councilmember O'Neil- *Deputy Town Clerk*

Councilmember Bragman stated he could fill in as the Alternate to the Ross Valley Fire Board in Mayor Reed's absence. He is already filling in on the Tree Committee.

Vice Mayor Weinsoff stated he would like to discuss folding the Youth Commission into FOCUS.

Adoption of Resolution No. 13-11, a Resolution of the Town Council of the Town of Fairfax Authorizing Temporary Closure of Certain Streets and Portions Thereof, to allow a Little League Opening Day Parade on Saturday, March 9, 2013- *Deputy Town Clerk*

M/S, Hartwell-Herrero/Bragman, Motion to adopt Resolution No. 13-11, a Resolution of the Town Council of the Town of Fairfax Authorizing Temporary Closure of Certain Streets and Portions Thereof, to allow a Little League Opening Day Parade on Saturday, March 9, 2013.

AYES: All ABSENT: Mayor Reed

M/S, Bragman/Hartwell-Herrero, Motion to adjourn the meeting at 11:05 p.m. to March 14th.

AYES: All ABSENT: Mayor Reed

Respectfully submitted,

Toni DeFrancis
Recording Secretary