

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, May 7, 2014

The regular meeting was preceded by a Closed Session from 5:30 p.m. to 7:00 p.m.-

Public Employee Performance Evaluation pursuant to Government Code Section 4957
Title: Town Manager

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

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
Mark Mills, Fire Chief

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

Approval of Agenda and Affidavit of Posting

M/S, Coler/Goddard, Motion to approve the agenda and the affidavit of posting with the removal of item #10.

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

Announcement of Closed Session Action

Mayor Weinsoff announced that there was nothing to report.

Announcements

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

Reports and Presentations

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

Presentation by St. Rita students on Flag project.

The students from St. Rita School presented reports and scale models of Fairfax businesses.

Phyllis Gould, "Rosie the Riveter", reflects on her recent visit to the White House

Ms. Phyllis Gould discussed her experience as a welder at the shipyards during the war and her recent visit as Vice President Joe Biden's guest to the White House, to take part in a ceremony honoring six "Rosies" for their contributions not only to the war effort, but to paving the way for women in the workforce.

Open Time

Ms. Jody Timms, Fairfax representative to the Commission on Aging, gave a brief report on what the Commission is working on, including a symposium on Health Living and a presentation by Adult Protective Services (APS) in June. She discussed the "Silver Tsunami" that will be hitting Marin County very soon.

Mr. Sierra Salin thanked Ms. Gould for her informative presentation. He asked people to consider "how they are living and what they are giving back".

Ms. Alexandra Rossi, Fairfax, stated she recently moved into a multi-family housing complex and now feels ostracized. She plans to file a complaint with Fair Housing of Marin. Mayor Weinsoff asked Ms. Rossi to give all the information to Town Clerk Gardner.

Mr. John Sergeant, Madrone Road, discussed the issue regarding correcting codes and calling them "typos" especially when it changes the meaning of the code section. He stated the Council should approve code "changes". He was opposed to any proposal that would close Bolinas Road. He asked the Council to find a way to keep citizens better informed.

Consent Calendar

Accept Financial Statement and Disbursement Reports March 2014- Finance Director

Adoption of a resolution confirming the Ross Valley Paramedic Authority (RVPA) tax for the 2014/15 Fiscal Year- Town Manager

Adoption of a resolution appointing a representative and up to two (2) alternates to the Marin Emergency Radio Authority Board of Directors- Chief Morin

Accept status update on the clean up of the property located at 159 Willow Avenue- Building Official

Approve FY 2014/15 work plan for the use of the Town's Measure A (County sales tax for parks) funds- Town Manager

Appointment of applicant for PARC youth commission- Town Clerk

Adoption of Proclamation in honor of Elon Rosenfeld- Town Clerk

Approve contract amendment with Stetson Engineers to prepare an application for funding under the FEMA Hazard Mitigation Assistance grant program- Town Manager

M/S, Reed/Coler, Motion to approve the Consent Calendar with the removal of items #7 and #10. Item #7 would be heard after item #18.

AYES: All

Council Reports and Comments

Councilmember Reed reported he attended the Special Council Meeting regarding Measure "I"; a General Plan Implementation Committee (GPIC) meeting; two Safe Routes to Schools meetings; opening of the new Open Space area above Willow Avenue; met with the Gardener's Alliance.

Councilmember Coler reported she attended the Marin Clean Energy meeting; two meetings of the Fairfax Climate Action Committee; the Measure "I" renewal forum; the Measure "A" Committee meeting; Open Space Committee fundraiser; the County Wide Public Disaster and Emergency Preparedness meeting.

Councilmember Goddard reported she attended Earth Day Marin; the Environmental Forum of Marin; the Town Passover Seder hosted by the Fairfax Volunteers; met with an inspector from Cal Recycle regarding waste reduction around Town; attended several Teen Task Force meetings; the Sustainable Fairfax Film series; an Association of Bay Area Government (ABAG) meeting; the Measure "I" workshop; participated in "Bike to School" Day.

Vice Mayor Bragman reported he attended the Measure "I" meeting; the Open Space dedication at the top of Willow Avenue; the Marin Telecommunications Agency meeting; the Marin Clean Energy meeting.

Mayor Weinsoff reported he attended Earth Day Marin; Measure "I" meeting; an MCCMC Mayors meeting regarding homelessness in Marin; the MCCMC Legislative Committee meeting; a League of California Cities Environmental Quality meeting in Southern California; a number of Chamber of Commerce meetings; the Ross Valley School District Board meeting;

Mayor Weinsoff congratulated Mr. Jolon Tims on receiving the Environmental Stewardship Award from the Marin Conservation League.

Town Manager Report

There was no report.

Public Hearings

Adopt a resolution updating Exhibit D to the Master Fee Schedule to increase youth rental fees from \$25/hr to \$50/hr and non-profit resident fee from \$50/hr to \$60/hr for the rental of Town facilities - Town Manager

Town Manager Toy presented a staff report.

Mayor Weinsoff asked if the intent was to get closer to cost recovery and not necessarily make a profit. Town Manager Toy stated "yes".

Councilmember Bragman stated it seemed like a reasonable proposal but he would like to get a report on any impact on the number of events that get booked. He asked about Town policies regarding music at these events. Town Manager Toy stated staff would report back next month.

Councilmember Coler asked if the Town had a policy that allowed for a sliding scale basis for fees. Town Manager Toy stated "no" but that this could be discussed by the Council.

Mayor Weinsoff opened the Public Hearing.

Anne Mannes, the director of FOCUS, discussed the groups this fee change would affect.

Ms. Cindy Swift, Madrone Road, stated she was concerned about raising the non-profit/resident fees since this additional increase could be a burden. She suggested raising the youth fees to match the existing nonprofit fees.

Mr. Michael Mackintosh stated he has rented the Pavilion as a youth athletic coach and there were many children who could not afford even the basic fees.

Ms. Yvette Wakefield, Alhambra Circle, expressed concern about the volume of music coming from these facilities and from Little League games.

Mr. John Sergeant, Madrone Avenue, stated he was concerned about raising the fees for the anonymous groups that use the facilities.

Mayor Weinsoff closed the Public Hearing.

Councilmember Coler stated they should move forward on the youth fees and discuss the non-profit fees at the next meeting.

Staff was directed to bring this item back at the next meeting to discuss the non-profit groups.

M/S, Bragman/Coler, Motion to adopt a resolution of the Town of Fairfax updating Exhibit D to the Master Fee Schedule adopted by Resolution No. 12-40 phasing the increase of the youth rental fees from \$25 per hour to \$50 per hour and the day rate from \$150/day to \$300/day and AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Regular Agenda

Discuss status update on noise issues regarding Deer Park Villa and consider proposed revisions to Noise Ordinance- Town Manager

Town Manager Toy presented a staff report.

Mr. Michael Ghiringhelli, owner of Deer Park Villa, discussed the steps he intends to take to solve this problem including reducing the number of events with amplified music, eliminating the music from the deck, building "live green" walls, placing sound walls throughout the property, and placing speakers lower to the ground. He has spent about \$15,000 on mitigation measures and noted this would be an ongoing process. He stated they want to be good neighbors.

Councilmember Goddard stated Mr. Ghiringhelli invited the Council to tour the property. She asked the Building Official to work with Mr. Ghiringhelli.

Vice Mayor Bragman stated he toured the property and stated steps were being taken to mitigate the situation. These are difficult conflicts to resolve. He was opposed to raising the daytime noise limit to 60 decibels. They need to work with what they have.

Mr. Matt Kine, Westbrae Drive, stated he is a musician and he has never played "softer" than when he has played at Deer Park Villa. The other bars/clubs in Town are not being required to defend themselves.

Ms. Yvette Wakefield stated there was a worldwide problem with noise pollution and supported the neighbors' concerns.

Mr. David Mulligan, Porteous Avenue, stated he did not want any decisions to affect the business in a negative way. The noise and volume has gotten worse over the last year. The current or newly agreed upon decibel levels should be enforced.

Mr. Tom Wilson, Porteous Avenue, stated Deer Park Villa is a great asset to the community and he has never been bothered by the noise.

A resident who lives on Rocca Avenue stated she invested approximately \$30,000 (windows, doors, etc.) in her property and can still hear noise from the Town. She is concerned that the Council might allow an increase in the noise levels. She had questions about how the decibel levels were measured.

Danny Buell, Director of Deer Park Villa, discussed some of the policies that they have implemented, including using an in-house audio/visual company familiar with the local laws, instead of DJ's. He stated staff is hard at work on trying to solve this issue.

Ms. Allison Mulligan, Porteous Avenue, stated this was a new issue due to recent technology. She asked why Deer Park Villa was allowed to have music until 10:00 p.m. when festivals need to close down at 7:00 p.m.

Ms. Gail Holland, Wood Lane, stated the representatives of Deer Park Villa were trying very hard to work on this sound issue.

Ms. Carole Haffner, former resident of Wood Lane, stated the noise from Deer Park Villa was never a problem.

Mr. David Smadbeck, representing the Fairfax Chamber of Commerce, stated this was a complicated problem. He had toured the property and found the mitigation measures were very impressive.

Mr. Michael Macintosh stated he got married at Deer Park Villa and the business was a part of the community. This business generated a "happy" noise.

Ms. Michelle Gillette, Frustuck Avenue, stated her windows vibrated from the noise at Deer Park Villa at night. She asked them to turn the volume down.

Ms. Marsha Custer, Porteous Avenue, stated the noise from the restaurant deck could be offensive.

Ms. Valeri Hood, Dominga Avenue, was opposed to raising the noise level in Town. There was noise from traffic, construction, etc.

Mr. Randall Gillette, Frustuck Avenue, stated he lived on Porteous in the past and was not bothered by the noise. He noticed a big change in the last two years- the noise is too loud and it should be turned down.

Ms. Rose Taber, Hillside Avenue, stated this was an on-going problem. She resented having to go down to the Police Department and taking up their time. People had a right to have peace and quiet in their homes.

Mr. Vinny Ghiringhelli, Archangel Court, stated he was disturbed by the hourly bell from St. Rita Church, but he did not request it be removed. Marin County thrived on music.

Ms. Brown, Forrest Terrace, stated the music and noise from Deer Park Villa kept her awake at

night.

Ms. Valery Tajero, Willow Avenue, stated there was a problem with the noise levels and delivery vehicles from the Good Earth in her neighborhood, but that she was not disturbed.

Mr. Terry Humphrey, Wood Lane, stated he never had any problem with the noise from Deer Park Villa.

Mr. Bob Stempel, Porteous Avenue, stated pointing the speakers towards the guests instead of the neighbors, could make things more manageable. There were numerous events at the restaurant in the month of April that had amplified music. Moving the amplification indoors would help to solve the problem

Mr. Henry Fratterberger, attorney for Deer Park Villa, stated he was working with Mr. Ghiringhelli on a solution.

Mr. Bob Koppelman, representing the Chamber of Commerce, stated Mr. Ghiringhelli was trying to address the problem and it could take some time. It was reasonable to look at the progress over the next several months.

Mayor Weinsoff stated the Council should consider revisions to the Noise Ordinance at another meeting and asked Mr. Ghiringhelli to come up with a timeline for his proposed mitigation measures.

The Council took a 10-minute break at 9:45 p.m.

M/S, Bragman/Coler, Motion to continue items #15, #18, and #19 to the June meeting.

Discuss/consider the process for future General Plan and Housing Element amendments- Town Manager

Town Manager Toy presented a staff report.

Mayor Weinsoff noted this agenda item pertained to the Wall property issues and setting up a community conversation.

Mr. John Sergeant, Madrone Avenue, stated if a document contained an "errata" that changed the definition of a section then it should not be considered an errata. He had questions about the Wall property. He urged the Council and staff to better explain the issues in the staff reports- tables are very difficult to understand.

Ms. Shelley Hamilton, Canyon Road, had questions about the intent of the community conversation vs. the policy issues.

Mayor Weinsoff stated the plan was probably to have "General Plan Bootcamp"- a conversation about terms, concepts and how the broader picture would be developed

Ms. Jennifer Hammond, Iron Springs Road, stated a workshop would offer an opportunity for residents to be engaged in the process.

Ms. Valeri Hood, Dominga Avenue, stated the issue was about trust. The terms in these documents should be looked at more closely. She was concerned that the density increased, and did not decrease, on all of the cited properties. She was opposed to a charette format, as it excluded community conversations.

Mr. Lou Vaccaro, Olema Road, stated the Olema Road property was zoned for 22 units but it was completely surrounded by single-family homes.

Ms. Mimi Newton stated she supported keeping the Wall property at one house per ten acres.

Mr. Michael Macintosh stated he attended the meeting when the Council adopted the Housing Element. He discussed the number of daily car trips that would be generated by the increased density. He looked forward to the upcoming workshops.

Ms. Yvette Wakefield asked the Council to change direction and not have any more fossil fuel-based development whatsoever. She is concerned about increased pollution.

Ms. Jody Timms, Cascade Drive, encouraged everyone to come from a starting point of "assumed trust". There were a lot of people in the community who wanted to learn about the General Plan process. She would like the community to find some common ground.

Ms. Hannah Doress, Porteous Avenue, stated the community meetings were very important. Fairfax should have an "outside the box" process.

Ms. Michelle Garcia, Bolinas Road, agreed with the comments made by Ms. Doress. The community workshop should include some ground rules.

M/S, Weinsoff/Bragman, Motion to direct staff to schedule a community workshop to discuss possible amendments to the General Plan, including the Housing Element, to address inconsistencies between the Zoning Code and the General Plan.

Discuss/consider repeal of all or a portion of Ordinance No. 778 which, among other things, rezoned properties from CH (Highway Commercial) to CC (Central Commercial), added new PDD (Planned Development District) zoned properties, and rezoned properties PD (Public Domain)- Town Manager

Councilmember Coler stated she had previously recused herself from this item on the advice of the Town Attorney, but she recently received a legal opinion from the Fair Political Practices Commission (FPPC) providing her the opportunity to participate.

Town Manager Toy presented the staff report.

Vice Mayor Bragman noted they seemed to be in a bit of "legal limbo" due to the referendum and subsequent actions. If a certified referendum were submitted to the Council, then the Council would have two options: 1) put the matter to the vote of the residents; 2) repeal the ordinance that is the subject of the referendum in its entirety. He had questions about the repeal process.

Mr. Phil Green, speaking as a resident of Fairfax, stated there is a larger issue regarding the PDD Zones. He stated he would like public employees to be able to live in Fairfax

Ms. Michelle Garcia stated her rent in Fairfax has gone up \$500 a month in the last three years. She is afraid she is going to lose her subsidized childcare.

Ms. Hannah Doress stated it was important not to settle this issue through an election. She would like everyone to find some common ground through some community meetings. Senior housing is very important and she encouraged the Council to commit to affordable housing.

Mr. John Sergeant, Madrone Road, stated the ordinance should be completely repealed. The Town should turn down any ABAG funding. He disagreed with the assertions made by regional agencies that high-density housing would cut down on car trips and traffic.

Ms. Patti Breitman supported affordable and senior housing and noted these residents tended to use public transit.

Ms. Jean Ita, representing the Christ Lutheran Church, stated the church appreciates the Town's support of their vision to create new homes on the church site. Affordable housing is vital in maintaining a multi-generational community.

Ms. Alicia Cline, representing Resources for Community Development, stated they were working with Christ Lutheran Church on their plan for low income and senior housing. She was impressed with the Town's history of creating a diversity of housing stock.

Ms. Amy Carlson, Oak Manor Drive, stated she serves on the Board of the Christ Lutheran Church and asked the Council to work through the process as quickly as possible.

Ms. Jennifer Hammond, Iron Springs Road, supported the option discussed in the staff report to not rescind the ordinance and simply put a moratorium on PDD's. She asked the Council to wait until the completion of the workshops to take action.

Mr. David Edmondson stated he was a member of the Steering Committee for A Livable Marin. He agreed with the comments made by Ms. Hammond.

Ms. Rebecca Burgess, Meernaa Avenue, wanted to redefine some terms and uncouple the issue of affordable housing from the conversation. Workshop conversations should include how to keep the character of the Town alive.

Ms. Kiki LaPorta, Glen Drive, endorsed the statements made by Ms. Hammond and Mr. Edmondson. We needed to start living within the available resources.

Ms. Whitley Mason, San Anselmo, stated she was an expert on housing policy and acknowledged the concerns that people had about the issue but thought it was much ado about nothing. Changing zoning did not create a big rush of housing development.

Mr. Bruce Ackerman stated this mess was created by a small number of people who decided they did not trust the political process and put the Town between a rock and a hard place. He supported senior housing at the church site.

Ms. Wendy Kallins stated she was a member of the Coalition for Livable Marin (CALM) whose mission was to create and maintain the vibrant and sustainable communities in Marin.

Ms. Shelley Hamilton, Canyon Road, stated the process and decision before the Council was not a clear path forward. She stated the problem was in the tables and the Council was deciding whether or not to repeal something they did not have an issue with.

Mr. David Kroll, Claus Circle, stated there was a simple request about a gas station that was taken to an extreme. The policy should be driving the law and not the other way around.

Ms. Valeri Hood stated she had not received an answer when she asked at a previous meeting how much affordable housing would be created and what did "affordable" mean.

Mr. Michael Macintosh stated the Council should take ownership of this issue- they had an

opportunity to allow the public to give input. He supported the plan for senior and affordable housing on the church site.

Mr. Alexander Binik, Meadow Way, stated he was concerned about change that is damaging and irrevocable. Fairfax is unique with regard to traffic- two narrow passageways in and out.

Mr. Scott Hochstrasser, Glen Drive, urged the Council to rescind the entire ordinance and not to do it piecemeal. He was concerned about invalidation of the Housing Element. He urged the Council to give direction to the Planning Commission to move as quickly as possible on the PDD so the good projects could move forward and go slow with the commercial re-zonings.

A resident stated he tried to improve the local community by putting on different events.

M/S, Bragman/Reed, Motion to direct staff: to begin the process to repeal Ordinance No. 778; to investigate a means by which the Council could express its consensus of support for the Lutheran Church project as contemplated by the affordable housing committee and support of the concept of density of 20 units per acre with the proviso that it go through the Planned District Development process; to look into how to keep the formula business policy in place during this process.

AYES: Bragman, Coler, Reed

NOES: Mayor Weinssoff, Goddard

Discuss/consider the extension of the Special Municipal Services Tax for five years and direct staff as appropriate- Town Manager

Mayor Weinssoff noted this item was continued to the June meeting.

Adoption of a resolution adopting intended ballot language which proposes an increase in the paramedic service tax; adopting a ballot argument; calling and giving notice of the holding of an election to be held November 4, 2014; requesting the County of Marin to consolidate said election; authorizing the Town Clerk to carry out all the necessary procedures for said election; and directing that rebuttal arguments may be received- Town Manager

M/S, Coler/Bragman, Motion to adopt a resolution of the Town Council of the Town of Fairfax Proposing an Increase in the Paramedic Service Tax, Establishing a Date for Election, Adopting intended Ballot Language, Requesting the Consolidation of said Election, Requesting Election Services of the County Clerk and Directing that Rebuttal Arguments may be Received.

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

Adopt resolution opposing a proposed rate increase by Ross Valley Sanitary District and directing the Town Manager to file a vote of protest in accordance with Prop. 218- Mayor Weinssoff

Town Manager Toy presented the staff report.

Vice Mayor Bragman stated he served on the multi-jurisdictional Consolidation Committee and he asked that the reference to consolidation in the third Whereas of the Resolution be deleted.

M/S, Weinssoff/Coler, Motion to adopt a Resolution of the Town of Fairfax, as amended by Vice Mayor Bragman, Opposing a Proposed Rate Increase by Sanitary District No. 1 of Marin County (Ross Valley Sanitary District) and Directing the Town Manager to File a Vote of Protest in Accordance.

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

Discuss/consider revisions to sign ordinance to allow political signs more than 30 days prior to the election- Councilmember Coler

Mayor Weinssoff noted this item had been continued to the June 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

Mayor Weinssoff noted this item had been continued to the June meeting.

Approve response to Grand Jury Report: *Get the Picture? Audiovisual Technology and Marin Law Enforcement*"- Town Manager

Town Manager Toy presented a staff report.

Vice Mayor Bragman stated this issue should be revisited in a couple of years when the technology gets cheaper.

M/S, Coler/Bragman, Motion to approve the response to the Grand Jury Report titled "Get the Picture? Audiovisual Technology and Marin Law Enforcement", dated February 11, 2014.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

Accept Preliminary Budget report and TC Budget workshop- Finance Director

Town Manager Toy presented a staff report. He stated he would send an email to the Council with possible workshop dates.

Approve FY 2014/15 work plan for the use of the Town's Measure A (County sales tax for parks) funds- Town Manager

Mayor Weinssoff noted the individual who requested that this item be pulled from the Consent Calendar had left the meeting. Town Manager Toy recommended the Council approve the work plan so it could be submitted to the County.

M/S, Coler/Goddard, Motion to approve the Fiscal Year 2014-15 Work Plan for the use of the Town's Measure A (County Sales Tax for parks) funds.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinssoff

M/S, Reed/Goddard, Motion to adjourn the meeting at 1:35 a.m. in memory of Mr. J. Frank George.

AYES: All

Respectfully submitted,

Toni DeFrancis
Recording Secretary