

Fairfax Town Council Minutes
Regular Meeting preceded by a Special Meeting
Fairfax Women's Club
Wednesday, September 3, 2014

The regular meeting was preceded by a Closed Session from 5:30 p.m. to 6:15 p.m.-

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

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

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
Chris Morin, Police Chief

Mayor Weinsoff called the special meeting to order at 6:20 p.m.

Interview of Applicants for Artist in Residence 2014-15- *Town Manager*

The Council interviewed Ms. Sawyer Rose and Mr. Rob Nye.

Mayor Weinsoff adjourned the Special Meeting at 6:58.

Mayor Weinsoff called the Regular Meeting to Order at 7:00 p.m.

Approval of Agenda and Affidavit of Posting

M/S, Coler/Reed, Motion to approve the agenda and the affidavit of posting.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Interviews/Appointments

Interview/appointment of candidate for the Volunteer Board- *Town Clerk*

The Council interviewed Mr. George Taylor for the open position on the Volunteer Board.

M/S, Bragman/Goddard, to appoint Mr. George Taylor to the Volunteer Board.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Appointment of Artist in Residence 2014-15- *Town Manager, FOCAS Director*

Councilmember Coler stated two very qualified individuals applied for this position.

M/S, Coler/Bragman, to appoint Ms. Sawyer Rose as the 2014-15 Artist in Residence.
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Announcement of Closed Session Action

Mayor Weinsoff announced the Council took no action.

Announcements

Mayor Weinsoff made the announcements as they appeared on the agenda. Councilmember Goddard stated the DEA was sponsoring the next "Take Back Pharmaceuticals/Drop-Off Day" on September 27th at Town Hall from 10:00 a.m. to 2:00 p.m. Councilmember Coler stated the fundraising goal of \$1.2 million for the purchase of Sky Ranch had been reached. Details of the purchase are being worked out. Additional fundraising would be needed for restoration costs.

Open Time

Mr. Sierra Salin stated America was a drug culture. He talked about zero waste and the impacts of waste to the environment. He suggested putting our trash in the middle of the living room for a week to see how much there is.

Mr. Bob Kopelman, Executive Director of the Fairfax Chamber of Commerce, stated the Chamber was sponsoring the First Annual Fairfax Wine Stroll on Saturday, October 4th from 2:00 p.m. to 4:00 p.m. He encouraged everyone to attend.

Amy, Oak Manor Drive, requested the curb near the crosswalk at the north end of Oak Manor Drive needed to be painted red, as cars are parking on top of the crosswalk. Town Manager Toy stated it would be done this week.

Ms. Holly Bragman, Chair of the Fairfax Volunteers, thanked the Council for appointing Mr. Taylor to the Volunteer Board. She discussed the Town Picnic and noted they needed volunteers. She thanked local businesses for sponsoring the event.

Mr. John Sergeant, Ridge Road, asked the Town Manager if the fan in the Women's Club building had been replaced. Town Manager Toy stated "yes".

Ms. Jody Timms thanked the Council and Sustainable Fairfax for sponsoring the Streets for People event. She stated the Commission on Aging booth got a very good response.

Consent Calendar

Approve a restated and amended employment agreement with the Police Chief- Town Manager

Approval of Management Analyst job classification and salary range- Town Manager

Accept request from Councilmember Bragman to withdraw the rent control issue from consideration by the Town's Affordable Housing Committee and the Town Council- Town Manager, Councilmember Bragman

Approve Contract Amendment No. 3 with the California Infrastructure Consultancy to begin and complete the design phase for the Creek Road Bridge and Marin, Spruce, and Canyon Road Bridge projects- Town Manager

Accept Financial Statement and Disbursement Reports for July 2014- Finance Director

Approve minutes for the July 16, 2014 Town Council meetings- Town Clerk

Designate Cittaslow Committee as an unofficial town committee- Town Manager

Adopt a resolution to opt-in to the CaliforniaFIRST PACE program enabling property owners in the Town of Fairfax to access PACE financing for eligible renewable energy, energy efficiency, and water conservation improvements to real property- Town Manager, Councilmember Coler

Support for California Assembly Bill 1014, a bill to reduce gun violence in our Communities - Mayor Weinsoff

Proclamation Declaring September 2014 Prostate Cancer Awareness Month- Town Clerk

EPA Green Power Community Challenge Rankings 2014- Town Clerk

Approve the reprogramming of State Park Per Capita Grant funds from the Pavilion Seismic Retrofit project to the construction of a new Pavilion parking lot- Town Manager

Ms. Wendy Kallins had questions about item #6. Councilmember Bragman stated he received a number of emails from various members of the community in opposition to rent control. He noted rent control was very difficult to implement in California and stated there was an inherent unfairness built into the structure provided by the State.

Mr. John Sergeant had questions about item #10. He asked if any town funds had been spent on the Cittaslow program. Mayor Weinsoff stated “yes”- the dues for the first two years.

Mr. Michael Macintosh had questions about item #5. Town Manager Toy stated the Town Clerk would take on the Management Analyst duties with a corresponding increase in salary.

Councilmember Coler stated she was a member of the Climate Action Committee and briefly discussed item #11. Ms. Becky Menten, representing Marin Clean Energy, briefly discussed the PACE program. Councilmember Coler asked Ms. Menten to make a presentation about the program at an upcoming Council meeting.

Councilmember Bragman asked that item #7 be removed from the Consent Calendar for discussion. Mayor Weinsoff stated this item would become agenda item #21.

M/S, Coler/Goddard, Motion to approve the Consent Calendar as submitted with the removal of item #7 for discussion.

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

Presentations

REST Program - Marin Organizing Committee (Patti Breitman)

The Marin Organizing Committee (MOC) discussed the Rotating Emergency Shelter for (“REST”) program and why it should operate year-round and in one location, rather than rotating between various locations from November through April. REST currently serves 40 men and 20 women per night, from November through April, for \$350,000 per year. MOC estimated the cost

of a permanent solution to be approximately \$1.25 million per year, and was asking Fairfax to commit \$16,391.83 based on population. MOC allocated shares among the County of Marin (40%), private funds (20%), local towns and cities (20%), and local congregations (20% in kind). They had not yet found a site.

Mr. Michael Macintosh supported the request from MOC.

Mr. Sierra Salin stated human rights get lost when the emphasis is on owning land.

Ms. Leah Madison discussed the need for affordable housing. She was in favor of rent control.

Mr. John Sergeant, Fairfax, stated he volunteered at a homeless shelter and found that some individuals do not want shelter and preferred to live outside. He supported a total program that included counseling (drug and alcohol, career, etc.).

Ms. Megan Dillon, Drake High School student, stated students have interacted with the homeless and it has helped them to be more compassionate. She asked the Council to support the program.

Mr. Niccolo Calderaro supported saving small, affordable houses as a way to keep people from becoming homeless.

Mayor Weinsoff directed staff to add the request for funding to the Town Council's October agenda. The representatives of MOC were invited to attend and asked to bring more specific information, including budget figures and possible locations.

Council Reports and Comments

Councilmember Reed reported he attended a Ross Valley Fire Board meeting; a GPIC meeting.

Councilmember Coler reported she attended the Climate Action Committee meeting; several Conservation Corp. meetings/tours regarding wildfire egress; Streets for People event; a Measure "J" meeting.

Councilmember Bragman reported he worked on two ballot measures (Measure "J" and "K").

Councilmember Goddard reported she conducted two compost workshops; attended a Healthy Youth Coalition meeting; a subcommittee meeting on homelessness; helped with the Streets for People event.

Mayor Weinsoff reported he attended the Streets for People event; the Chamber of Commerce meeting; met with the neighbors regarding 39 Wood Lane.

Town Manager Report

Town Manager Toy reported the *Egger vs. Gardner* lawsuit has cost the Town about \$45,000 in litigation costs. Councilmember Bragman asked how much it cost the Town when Fairfax Hills sued the Town for a zoning error in the Code.

Mayor Weinsoff and Town Manager Toy discussed the agenda-setting process and how agenda items were worded.

Town Attorney Coleson discussed how the Brown Act and State Law allows certain topics to be discussed in Closed Session and the use of the "Safe Harbor" headings.

Mr. John Sergeant urged the Council to openly discuss, in general terms, some of the Closed Session items.

Mr. Michael Macintosh questioned the characterization of the cost of the *Egger vs. Gardner* litigation, and stated the matter could have been resolved by repealing the ordinance sooner. He stated the Brown Act allows the Council to disclose the direction given to staff when an expenditure of public funds is involved.

Mr. Frank Egger, Meadow Way, stated the Council chose to fight the referendum and held at least eleven Closed Sessions. The Council could have saved money by agreeing with the referendum.

Town Manager Toy briefly discussed the fiscal impact of the MERA Parcel Tax. Mr. Michael Macintosh asked if this was a “per unit” or “per parcel” tax. Town Manager Toy stated it was a “per parcel” tax.

Public Hearings

Adoption of a report describing the measures taken to alleviate the condition which led to the adoption of Ordinance No. 781, and adoption of Ordinance no. 782, an Ordinance of the Town Council of the Town of Fairfax Enacted Pursuant to California Government Code Section 65858 Extending the Interim Urgency Zoning Ordinance Prohibiting Approval of Formula Businesses and Formula Restaurants Within the Highway Commercial (CH) Zoning District During the Pendency of the Town’s Adoption of Permanent Zoning Regulations For Such Uses and Declaring the Urgency Thereof- *Town Manager*

Town Manager Toy presented a staff report.

Councilmember Goddard referred to Section 2, the last sentence in the first paragraph, and requested the word “peace” be removed from “public peace, health, safety, and welfare” for consistency.

Mayor Weinsoff opened the Public Hearing.

There were no public comments.

Mayor Weinsoff closed the Public Hearing.

M/S, Bragman/Reed, Motion to adopt the report describing the measures taken to alleviate the condition which led to the adoption of Ordinance No. 781, and adopt Ordinance No. 782, an Ordinance of the Town Council of the Town of Fairfax Enacted Pursuant to California Government Code Section 65858 Extending the Interim Urgency Zoning Ordinance Prohibiting Approval of Formula Businesses and Formula Restaurants Within the Highway Commercial (CH) Zoning District During the Pendency of the Town’s Adoption of Permanent Zoning Regulations For Such Uses and Declaring the Urgency Thereof
AYES: Bragman, Coler, Goddard, Reed, Mayor Weinsoff

Adoption of a resolution adopting an Amendment to the General Plan to (1) Formally correct typographical errors on tables and maps, (2) make minor narrative revisions to correct numerical inconsistencies and provide additional clarity regarding the PDD zoning for Opportunity Sites, (3) correct the listing of the General Plan designation for Assessor’s Parcel No. 174-070-50 (commonly known as 2600 Sir Francis Drake Boulevard, site of the Jehovah’s Kingdom Hall), from Planned Development District (PDD) to Upland Residential 7-10 (UR-7),

and (4) clarify that figures contained in Housing Element tables are for illustrative purposes only; Exempt from CEQA per 14 C.C.R. Section 15061(b)(3)- Planning Director, Town Manager

Town Manager Toy presented a staff report.

Mayor Weinsoff asked if minor changes could be made tonight or if these changes had to be reviewed by the Planning Commission. Town Attorney Coleson stated any changes not within the scope of previous Planning Commission review would need to go back to the Commission.

Councilmembers Bragman and Goddard had questions about Table H-3, Zoning District FPA (Fairfax Planning Area). Planning Director Moore noted these were the unincorporated areas near Fairfax that were pre-zoned .25 dwelling units per acre (one unit per four acres). These areas had the potential of being annexed.

Councilmember Bragman stated the Lutheran Church site should be reflected as UR-7, and not PDD, on the Zoning Map based on Repeal of Ord. No. 778. Planning Director Moore clarified that the repeal of Ordinance No. 778 eliminated the Zoning Map in the Zoning Ordinance, but not in the General Plan. This map was the General Plan Map. The Zoning Ordinance Map should be in compliance with the General Plan Zoning Map. The intent was to target two of the 20 acres for the PDD designation. Councilmember Bragman suggested this be clarified on the Map.

Councilmember Bragman stated the Central Commercial and the new Public Domain zone should be reflected as potential emergency shelter sites.

Councilmember Coler stated the obvious errors needed to be fixed but she did not support the qualifying statement (disclaimer) that was added to the Land Use Element, the tables, and the figures. She had a number of suggestions which were included in a redline version, copies of which the Town Clerk distributed to Council and the public.

Town Manager Toy discussed the redline version provided by Councilmember Coler.

Mr. Bruce Ackerman supported the changes discussed by the Council, particularly the removal of the disclaimer.

Mr. Michael Macintosh asked why there were ongoing legal fees since Ordinance No. 778 was repealed. He referred to page H-16 and asked about the change in the Commercial Recreation zone and whether CEQA review was required.

Mr. John Sergeant stated he was nervous about correcting errata and typographical errors. He referred to the Council discussion and asked for an explanation, in layman's terms, of the effects on specific sites. He stated the process was being handled in a piecemeal fashion.

Ms. Bell, Dominga Avenue, asked whether the 20-dwelling units per acre designation was a maximum or minimum. Planning Director Moore answered, "Minimum."

Mr. Frank Egger, Meadow Way, stated there should be public hearings and CEQA review on this General Plan Amendment since there could be significant environmental impacts. He submitted his comments in writing to the Town Clerk.

Councilmember Bragman stated they should move forward with the correction of the errors but he would like to see the corrected text prior to adoption. Town Manager Toy reiterated the changes.

Councilmember Coler suggested staff bring back the resolution with revisions for the Council to consider at their September 17th Special Joint Meeting. Staff was directed to add a special meeting on September 17th immediately prior to the Special Joint Meeting.

Mayor Weinssoff reviewed the agenda and it was the consensus of the Council to continue item #18.

The Council took a 10-minute break at 11:00 p.m.

Regular Agenda

Discuss/consideration of the concept of expanding the youth center- Town Manager

Mayor Weinssoff stated this item had been continued to the October meeting.

Introduction and first reading by title only of Ordinance No. 784, an Ordinance of the Town Council of the Town of Fairfax Amending Title 8 (“Health and Safety”) of the Town Code by Adding Chapter 8.19 (“Paper Bag Reduction”) to Reduce Paper Bag Waste by Imposing a Ten Cent Charge at the Point of Sale. CEQA: exempt per Section 14 C.C.R. Sections 15061(b)(3), 15307, and 15308- Town Manager, Councilmember Goddard

Town Manager Toy presented a staff report.

Councilmember Goddard stated she did not want to delete the following as recommended by staff: “(E) Exceptions (1) A store may provide...*only when combined with a time limited promotional program, not to exceed 12 days per year*”. Councilmember Goddard agreed.

Mr. John Sergeant stated he did not support the proposal since it would be a burden to businesses in Fairfax. Councilmember Coler noted this would apply only to Fairfax Lumber, Fairfax Market, and The Good Earth.

M/S, Goddard/Coler, Motion to Introduction and Waive first reading of Ordinance No. 784, an Ordinance of the Town Council of the Town of Fairfax Amending Title 8 “Health and Safety” of the Town Code by Adding Chapter 8.19 “Paper Bag Reduction” to Reduce Paper Bag Waste by imposing a Ten Cent Charge at the Point of Sale.

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

Second reading by title only and adoption of Ordinance No. 783, an Ordinance of the Town Council of Town of Fairfax Amending Title 8 (“Health and Safety”) of the Town Code to Add Chapter 8.14 (“Collection, Recycling, and Disposal of Waste Generated from Construction, Demolition, and Renovation Projects”) CEQA: exempt per 14 C.C.R Section 15061(b)(3) and 15308- Town Manager

Town Manager Toy presented staff report.

Mr. John Sergeant asked if the Novato Landfill would be one of the recycling sites, as he had toured it and learned much of the material was not recycled. Councilmember Goddard stated “yes”. He asked if the Building Code would require that recycled lumber be used in new construction. Councilmember Coler noted this ordinance dealt with waste.

Mr. Michael Macintosh stated he was told that 77% of the construction materials in his debris boxes would be recycled. Reusing wood might be a problem due to the presence of lead paint or other toxins.

M/S, Goddard/Coler, Motion to waive second reading and adopt Ordinance No. 783, an Ordinance of the Town Council of Town of Fairfax Amending the Town Code to Add Chapter 8.14 ("Collection, Recycling, and Disposal of Waste Generated from Construction, Demolition, and Renovation Projects").

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

Approve Contract Amendment No. 3 with the California Infrastructure Consultancy to begin and complete the design phase for the Creek Road Bridge and Marin, Spruce, and Canyon Road Bridge projects- *Town Manager*

Town Manager Toy presented a staff report.

Mr. Michael Macintosh stated these bridges could be designed to maintain their character.

M/S, Coler/Reed, Motion to authorize the Town Manager to prepare and execute an amendment to the agreement with California Infrastructure Consultancy (CIC) to increase the contract amount by \$737,110 for a total not to exceed \$1,243,360 to begin and complete the design phase of the Creek Road Bridge and Marin, Spruce, and Canyon Road bridges.

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

M/S, Bragman/Coler, Motion to adjourn the meeting at 11:31 p.m. in memory of Mr. Richard Bragman.

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

Respectfully submitted,

Toni DeFrancis
Recording Secretary