

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, September 5, 2018

The Regular and Special meetings were preceded by a Closed Session from 5:30. to 6:30 p.m.

Conference with Legal Counsel- Anticipated Litigation  
Government Code Section 54956.9(d)(4): one case

Mayor Lacques called the Special meeting to order at 6:30 p.m.

1. Interview and appointment of applicant to the Climate Action Committee- Town Clerk

The Council interviewed Mr. Walt Vernon.  
M/S Goddard/Ackerman to appoint Mr. Walt Vernon to a full 4-year term on the Climate Action Committee.

AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

Mayor Lacques called the Regular meeting to order at 7:00 p.m.

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:**

Bruce Ackerman  
Barbara Coler  
Renee Goddard  
Peter Lacques  
John Reed

**STAFF MEMBERS PRESENT:**

Garrett Toy, Town Manager  
Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney  
Ben Berto, Planning Director  
Michael Vivrette, Finance Director  
Chris Morin, Chief of Police  
Jason Weber, Ross Valley Fire Chief

Approval of Meeting Agenda and Affidavit of Posting

Councilmember Goddard asked for the rearrangement of the agenda.

M/S, Goddard/Coler, Motion to approve Affidavit of Posting and amend the agenda as follows:  
Remove Consent Calendar item #11 and continue it to the November meeting, place item #16 before item #15, place item #15 before #18.

AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

Announcement of Closed Session Action

Mayor Lacques announced the Council had met to discuss a request from residents that the Town consider commencing an action for a judicial determination that there is a right of public access across hiking trails on the former Wall property (a.k.a. Marinda Heights). The Council decided unanimously to decline to pursue such an action.

## Announcements

Mayor Lacques made the announcements as they appeared on the agenda. Councilmember Goddard added that the Farmer's Market that is every Wednesday until the week before Halloween.

## Presentations

1. Presentation of a proclamation in honor of Frank Gonzalez on the occasion of his 95th Birthday- Mayor Lacques

Mayor Lacques read and presented the proclamation to Mr. Frank Gonzales.

2. Introduction of Marin County Fire Chief Jason Weber, who will serve as the Ross Valley Fire Chief under the new shared services agreement- Town Manager

Town Manager presented a staff report.

3. Presentation of Police Lieutenant Rico Tabaranza, Corporal Jonathon Judge, Cadet Shahil Khan, Dispatcher Vanessa Pintos, PST Mohammed Jaffrey, and Action Corporal Aaron Odom- Police Chief Moran

Police Chief Moran introduced the promoted and new employees. Town Clerk Gardner administered the Oath of Office.

## Open Time

Mr. Tom O'Neal, Dominga Avenue, stated that when riding his bike throughout Fairfax and San Anselmo, cars and bikes did not obey stop signs and were not courteous to other road users.

Ms. Jody Timms, Fairfax representative to the Commission on Aging, gave an update on the commission's activities and the Fairfax Age-Friendly Task Force activities.

Ms. Valerie Hood suggested that everyone watch the Senate confirmation hearings.

Ms. Mallory Geithem, Willow Avenue, stated the area behind the Pavilion could be used as a place where dogs could run free.

Mr. Steve Wasserman, Meadow Way, complained about a 50-foot utility pole that was placed by PG&E in front of his house without notice or a hearing. He asked the Council to protect its residents.

Ms. Mariam Weinstein, Oak Tree Lane, stated when Sir Francis Drake Boulevard was closed during an emergency it became a public safety issue and created a "death trap".

Ms. Robert Anthes, Snowden Avenue, stated the Community Land Trust Association of West Marin's (CLAM) addressed the issue of affordable housing by acquiring existing properties and turning them into affordable units. She supported this model for Fairfax.

Ms. Debra Benson, Cascade Drive, asked for an update on the shields for the LED streetlights.

Mr. David Haskell, Glen Drive, urged residents to volunteer to serve on the Climate Action Committee. He invited people to attend the "Climate Conversations" the Committee will hold on

the third Monday of each month through December from 7:00. to 8:00 p.m. at the Fairfax Library.

Mr. Mark Bell, Dominga Avenue, stated the Council's decision to allow Peris Bar to have 98 decibels on the outdoor patio was worst noise legislation in the world by a factor of three, and that it violated the General Plan and the Town Code.

Wendy, Fairfax, stated the County of Marin is bringing back the issue of "just cause". She stated the housing crisis is very serious.

#### Consent Calendar

4. Accept Financial Statements and Disbursement Reports July 2018- Finance Director
5. Approve minutes for the July 18 and August 1, 2018 Town Council meeting- Town Clerk
6. Adopt a Resolution Proclaiming September 2018 as Disaster Preparedness Month- Town Clerk
7. Adopt a proclamation naming September Prostate Cancer Awareness Month- Town Clerk
8. Adopt a proclamation in honor of Fairfax Nonagenarians- Town Clerk
9. Adopt a proclamation in honor of President Jimmy Carter- Town Clerk
10. Approve sponsorship of temporary closure of Dominga and Napa Avenues following the Halloween Parade- Town Clerk
11. Receive Marin Sanitary Service Semiannual Report (January-June 2018)- Town Clerk
12. Receive report on Town vegetation management, including Chipper Day results- Town Manager
13. Approve expenditure of up to \$25,000 to slurry seal Dominga and Napa Avenues- Town Manager

Councilmember Coler referred to item #12 and asked staff for a comprehensive report at a future meeting.

Councilmember Ackerman had a question and made comments about item #13.

M/S, Reed/Ackerman, Motion to approve the Consent Calendar with the continuation of item #11 to the next meeting.

AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

The Council took a 10-minute break at 8:10 p.m.

#### Presentations

14. Presentation by Coffee Roastery of their conceptual proposal to widen the sidewalk adjacent to the business for outdoor seating

Town Manager Toy presented a staff report.

Ms. Debra London, co-owner of Coffee Roastery, gave a PowerPoint presentation.

Mr. Rich Rushton, architect, described the proposal including the potential impacts to parking, traffic, and the loading zone. He, along with Ms. London, answered questions from the Council.

Mayor Lacques opened the meeting to public comments.

Mr. Sierra Salin stated he did not totally support the proposal. He had concerns that a bulb-out on this corner could shove bicycles into moving traffic, and it privatized public space.

Mr. Rob Nye, Director of the Fairfax Chamber of Commerce, stated the Chamber endorsed the proposal, which had been presented to the Chamber in May.

Mr. Lorenzo Jones, co-owner of Taste, had questions regarding the project, and concerns for fairness to the business community as a whole.

Mr. Frank Egger, Meadow Way, noted Bolinas Road was an evacuation route, was concerned that the proposal narrowed the roadway. He suggested an alternative: put the outdoor seating on Broadway where the bicycle rack currently is.

Mr. Mike Ghiringhelli, owner of Ghiringhelli Pizza, supported the idea, and believed the safety concerns raised would be addressed by the applicants.

Ms. Jane Richardson, Madrone Road, stated she did not support the idea. Bolinas Road should be left alone. She opposed taking a public sidewalk and turning it into a private restaurant.

A Fairfax resident was concerned that the walkway would be narrow and filled with obstacles such as dogs tied to chairs, backpacks. It would also add to the already visually busy intersection.

Mr. Steve Wasserman, Meadow Way, stated the proposal might be too big in scale for the area. He was concerned about making the sidewalk bigger on Broadway.

Ms. Linn Walsh, Dominga Avenue, supported the idea as long as they found a way to ensure a clear path of travel, a dog policy, and an education program for delivery drivers.

Ms. Mallory Geithheim, Willow Avenue, did not support the project, because Bolinas Road was the escape route.

Ms. Debra Benson, Cascade Drive, did not support the proposal due to the location, and the danger of pushing the crosswalk further out onto Broadway.

Ms. Valerie Hood, Dominga Avenue, stated she did not support the proposal due to the congestion on the sidewalk, and taking away a delivery vehicle spot.

A resident from Scenic Road stated the sidewalk would become a tripping hazard with dogs, people, backpacks, etc.

Ms. Rochelle Edwards, co-owner of Taste, stated she was concerned that the proposal would draw customers away from other businesses, and would be unfair competitive advantage using public property.

Wendy stated she was concerned there was no access for the disabled, that chairs would migrate into walkway, and that it would be public space becoming private property space.

Ms. Pam Meigs, Cypress Avenue, did not support the proposal because it did not fit within the character of Fairfax. She was concerned about safety and being able to walk on the sidewalk.

Mr. Morgan Hall, former President of the Chamber of Commerce, stated the proposal would promote downtown pedestrian traffic but not help circulation.

Mr. Rick Hamer, Bolinas Road, stated no additional parking was included, but he understood that expanded seating in existing establishments required additional off-street parking.

Ms. Michelle Simonson was concerned about the construction and how long it would take.

Mr. Larry Castle, owner of the Gesthalt Haus, supported the owners of the Coffee Roastery and added that the Mono Avenue parking lot was a disgrace.

Ms. London stated the rendering was simply an artist's conception and does not reflect the actual design. They will make it work.

A resident stated the existing business was wonderful the way it was.

Mayor Lacques noted the Council was not taking any formal action.

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

#### 16. Discuss concept of amending Town Code to address small cell attachment devices- Town Manager

Town Manager Toy presented the staff report and a PowerPoint presentation. He answered questions from the Council.

Mayor Lacques opened the meeting to public comments.

Mr. Arthur Sampras stated what was being proposed was harmful to the health and safety of residents. The FCC had been taken over by "big tech".

Mr. Sierra Salin, Fairfax, stated he agreed with the comments made by the previous speaker, and added some people are more sensitive than others.

Ms. Jane Richardson, Madrone Avenue, stated she was concerned devices were a danger to humans. She noted that other Towns were protesting the installation.

Ms. Jess Lerner, Fairfax, stated she had a personal health experience from wireless including not being able to sleep. Health should be the top priority.

Ms. Vicki Severs, representing the EMF Safety Network, discussed the erosion of local control over wireless communications facilities.

Ms. Chia Bosey, a provider of education and mitigation of electromagnetic radiation for individuals and families, is herself hypersensitive to EMF radiation. She submitted a document to the Town Clerk.

Mr. Sean Schertell, Fairfax, expressed his concern that the Council would ignore science, research, and facts and set policy based on their "gut".

Ms. Roberta Anthes, Snowden Avenue, asked the Council to oppose the legislation regarding the 5 G roll out. The proposed legislation eliminated local review and oversight and undermined the democratic process.

Ms. Frank Egger, Meadow Way, stated Fairfax should enforce its two antennas ordinances, and that the Federal government should not give away its downtown streetlight poles to AT&T.

Ms. Mallory Geithem asked the Council to place the important issues at the beginning of the agenda. She read a letter from Diane Peterson discussing her EHS (electro hyper sensitivity).

Ms. Katrina Peterson, Fairfax, stated she was opposed to small cell installations because they were ugly, decreased property values, and impacted the health of residents.

Mr. Lestine Star stated he worked in holistic modalities, and was concerned that EMF's lead to serious health problems.

Ms. Janet Fitzgerald, Fairfax, urged the Council to try to stay the Greenest Town in the United States.

Mr. Steve Wasserman, Meadow Way, agreed with the previous comments. He noted just because the FCC has put forth a regulation does not mean it is legal and constitutional. It is important to litigate this issue.

Mr. Larry Bragman, Fairfax, opposed 5G as the privatization of the public right-of-way and infrastructure. He recommended using the ordinance adopted by Petaluma as a model.

Mr. David Glick, Cascade Drive, stated this was a moral, political, and health care issue. The FCC was captured by the telecommunications corporations, who did not care about the ill effects of wireless technology, only profits.

Ms. MaryBeth Brandon, representing the Ecological Options Network (EON), stated more wireless technology was not necessary.

Mr. Jim Hettle, Co-Director of EON, stated the testimonials boil down to two concepts- pre-emption and pro-action. He urged the Council to not allow the telecomm companies to abrogate its power of decision making and public service. He stated the Council can pass ordinances and supplying its own fiber optic networks and charge the telecom companies for access to the bandwidth.

Ms. Kim Hahn, San Rafael, stated she was electrically sensitive, and was concerned about how people were addicted to technology.

Mr. Robert Ernst stated he was tired of corporations telling him they are people too. This proposal is crazy and nobody knows how it works in the long term.

Mr. Jim Rice, Laurel Drive, encouraged the Council to do the right thing.

A resident stated she was sensitive and using cell phones could be painful. She was opposed to the proposal.

Ms. Paige Hudson, Mill Valley, stated the push for 5G had to do with Verizon and AT&T's desire to take over the residential WiFi market from Comcast. She discussed the effects on health, fire safety, decreased property values, and unsightly poles.

Wendy, Fairfax, discussed the addictive nature of technology.

Ms. Lea Wildflower, Fairfax, stated the issue is unprecedented. The Council should consider the fiber optic option.

Mr. Alexander Binick, representing the Detox Institute, stated these devices would provide profits for corporations. Residents will be subject 24/7, 365 to the radiation from these devices.

Mayor Lacques asked staff to look at the ordinances of other cities.

Town Manager Toy stated staff could craft an ordinance that would address the Council's concerns, which would be reviewed by the Planning Commission and then the Town Council.

15. Introduce and read by title only an ordinance amending Chapter 8.36 ("Trees") of the Town Code to provide the Town Council flexibility to appoint at-large member(s) to the Tree Advisory Committee and modify the process for the Planning Commission to consider/approve tree removals as part of a development application; categorically exempt from CEQA- Town Manager

Mayor Lacques stated this item had been continued.

17. Discuss concept to reduce the use of disposable food containers, straws, and utensils- Town Manager

Mayor Lacques stated this item had been continued.

18. Introduction and first reading by title only of an Ordinance Amending Chapter 3.36 ("Public Bidding") of the Fairfax Town Code to Increase Contract Award Limits per the Uniform Public Construction Cost Accounting Act; categorically exempt from CEQA- Town Manager

Mayor Lacques stated this item had been continued.

#### Council Reports and Comments

Mayor Lacques stated this item had been continued.

#### Town Manager's Report

Mayor Lacques stated this item had been continued.

M/S, Coler/Reed, Motion to adjourn the meeting at 12:55 a.m. in memory of Ida Donals, Mary Grealish Parnow, Marcia Fisher, Coltrane the dog, and in honor of Mr. Jack Adams, former Public Works Maintenance Worker, and one heck of a nice guy.

AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

Respectfully submitted,

Toni DeFrancis  
Recording Secretary