

Fairfax Town Council Minutes  
DRAFT Regular Town Council Meeting  
Fairfax Women's Club  
Wednesday, December 6, 2017

The regular meeting was preceded by a Special Meeting in Closed Session from 6:00 p.m. to 7:00 p.m.

Public Employee Performance Evaluation pursuant to Government Code Section 54957:  
Title: Town Manager

Public Employee Performance Evaluation pursuant to Government Code Section 54957:  
Title: Town Attorney

Conference with Labor Negotiator pursuant to Government Code Section 54957.6 Agency designated representative: Garrett Toy, Town Manager; Michael Vivrette, Finance Director; Employee Organizations: SEIU Local 949 Miscellaneous Unit, and Unrepresented Management Employees

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:** Bruce Ackerman (incoming)  
Barbara Coler  
Renee Goddard  
Peter Lacques  
John Reed  
David Weinsoff (outgoing)

**STAFF MEMBERS PRESENT:** Garrett Toy, Town Manager  
Michele Gardner, Town Clerk  
Janet Garvin, Town Treasurer  
Janet Coleson, Town Attorney  
Ben Berto, Planning Director  
Linda Neal, Principal Planner  
Michael Vivrette, Finance Director  
Chris Morin, Police Chief

Approval of Agenda and Affidavit of Posting

M/S, Weinsoff/Goddard, Motion to approve the agenda as submitted.  
AYES: Coler, Goddard, Lacques, Weinsoff, Mayor Reed

Announcement of Closed Session and Special Meeting Action

Mayor Reed stated the Council gave direction to staff during the Closed Session.

Announcements

Mayor Reed read the announcements as they appeared on the agenda. Councilmember Coler announced there were 110 Fairfax residents signed up in the Marin Clean Energy Deep Green Incentive Program. Councilmember Goddard encouraged everyone to take the Community Forum cannabis survey on the Town website. The Council will host a panel discussion on cannabis, December 11<sup>th</sup>, from 6:30 p.m. to 8:15 p.m., in the Women's Club.

## Regular Agenda

1. Adopt a Resolution reciting the fact of the General Election held on November 7, 2017, declaring the result and such other matters as provided by law- Town Clerk

Town Clerk Gardner presented a staff report.

M/S, Weinsoff/Lacques, Motion to approve a Resolution reciting the fact of the General Election held on November 7, 2017, declaring the result and such other matters as provided by law.  
AYES: Coler, Goddard, Lacques, Weinsoff, Mayor Reed

2. Proclamation in Honor of Councilmember David Weinsoff- Mayor Reed

Mayor Reed presented a proclamation to Councilmember Weinsoff in honor of his years of service on the Council.

Mr. Michael Mackintosh thanked Councilmember Weinsoff for his service.

Marin County Supervisor Rice presented a proclamation from the Marin County Board of Supervisors recognizing Councilmember Weinsoff for his years of service.

Ms. Joan Lubamersky, representing State Assemblyman Marc Levine, presented Councilmember Weinsoff with a proclamation.

Ms. Michele Garcilazo, representing Congressman Jared Huffman, presented Councilmember Weinsoff with a Congressional Record Statement.

Councilmember Weinsoff expressed his gratitude and stated it was a privilege to have served the Town of Fairfax. He left the dais.

3. Administer Oath of Office to newly elected Councilmembers- Town Clerk

Town Clerk Gardner administered the Oath of Office to Councilmembers Ackerman, Coler, and Reed, who assumed their seats on the dais.

4. Reorganization of the Town Council: Selection of Mayor and Vice Mayor-Town Clerk

M/S, Coler/Goddard, Motion to nominate Councilmember Lacques as Mayor.  
AYES: Ackerman, Coler, Goddard, Lacques, Mayor Reed

M/S, Goddard/Lacques, Motion to nominate Councilmember Coler as Vice Mayor.  
AYES: Ackerman, Coler, Goddard, Lacques, Weinsoff, Mayor Reed

Mayor Lacques presented Councilmember Reed with a plaque and thanked him for his year of service as Mayor.

## Break

The Council took a 15-minute break for refreshments.

## Open Time

Mr. Tom O'Neil, Dominga Avenue, stated he donated \$2,100 to the North Bay Fire victims through grass-root sales of his jams and jellies. He thanked Peri's Bar, Naves Bar, and others.

Ms. Ling Shien Bell, Dominga Avenue, asked the Council to adopt a resolution to impeach President Trump.

Mr. Michael Mackintosh stated he sent a letter to the County Board of Supervisors expressing his displeasure in not disclosing information from a Closed Session regarding the possible sale of the San Geronimo Golf Course.

Mr. Sierra Salin discussed rent control and the high rents in Marin County.

Ms. Jody Timms, Fairfax representative to the Commission on Aging, gave a report on the Commission's activities, the Fairfax Age Friendly Task Force, the Victory Village project, the Ready-Set-Go Program, and classes including end of life planning and memory issues.

Wendy discussed the Marin County Board of Supervisor's recommendations on housing.

#### Consent Calendar

5. Accept Financial Statement and Disbursement Reports October 2017- Finance Director
6. Receive Town Treasurer's Report as of June 30, 2017- Town Treasurer
7. Approve minutes for the November 1, 2017 Town Council meeting- Town Clerk
8. Receive report on filling vacancy on Planning Commission- Town Clerk
9. Authorize Town Manager to sign lease agreement for purchase of two police vehicles- Chief Morin
10. Adopt resolution granting Town Manager Authority to sign programmatic agreement and related documents for the Pavilion Seismic Retrofit project- Town Manager
11. Receive Marin Sanitary Services Third Quarterly report- Town Clerk
12. Approve contract with Maggiora & Ghilotti to perform pavement repair on Sir Francis Drake Boulevard from Marin Road to Oak Manor Road in an amount not-to-exceed \$44,000- Town Manager
13. Approve improvements to town-wide pedestrian trails (e.g., Tamalpais to Scenic) in an amount not to exceed \$75,000- Town Manager
14. Authorize Mayor to send letter of opposition to the U.S. Senate Commerce Committee draft bill limiting local authority over wireless facilities, which would force local governments to lease out publicly owned infrastructure- Councilmember Coler
15. Notice of Amendment to Memorandum of Understanding (MOU) with SEIU Local 1021 Fairfax non-management employees)- Town Manager
16. Approve contract amendment No. 1 with the California Infrastructure Consultancy for Phase II preliminary engineering, community outreach, environmental, and design work for the replacement of the Azalea Avenue Bridge- Town Manager

17. Receive annual report on the Marin/Sonoma Mosquito & Vector Control District (MSMVCD)- Fairfax Representative to MSMVCD
18. Receive report on the preparation of a FAQ to address issues raised during the recent election period and schedule for discussion at a future Council meeting- Mayor Reed
19. Adopt Resolution Transferring Certain Streetlights to the Marin General Services Authority and Delegating Authority to the Director of Public Works to Transfer Streetlights on an on-going basis- Town Manager

Councilmember Coler referred to item #11 and requested information on bulky waste.

Councilmember Reed referred to item #19 and asked for clarification.

Councilmember Goddard referred to item #18 and asked for clarification.

Mr. Michael Macintosh had questions about items #15 and #16.

Mr. Frank Egger, Fairfax representative to the Marin/Sonoma Mosquito and Vector Control District (MSMVCD), presented a report.

M/S, Coler/Reed, Motion to approve the Consent Calendar, with the exception of item #7.  
AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

M/S, Coler/Goddard, Motion to approve Consent Calendar item #7.  
AYES: Coler, Goddard, Reed, Mayor Lacques  
ABSTAIN: Ackerman

#### Councilmember Reports and Comments

Councilmember Goddard reported she attended a meeting with the Coalition Connection; helped coordinate the "Not in our Town" film night; took a tour of the Santa Rosa fire areas with the Fire Chief of Mill Valley; attended the Fire Wise Cascade community meeting; a Chamber of Commerce meeting; a meeting at Drake High School regarding marijuana; a Yellow Bus meeting with the Ross Valley School District; a local task force meeting of Zero Waste Marin.

Councilmember Coler reported she attended the Fairfax Community Rummage Sale; several Marin Clean Energy Board meeting; a County-wide assessment of fair housing meeting; an Age Friendly Task Force meeting; an ad hoc trails meeting; several MCCMC meetings; a Marin Telecommunications Agency meeting; a Community Media Center of Marin Board meeting; a mandatory Sexual Harassment Training; an Open Space Committee meeting.

Councilmember Reed reported he toured the site of the former Sunnyside Nursery growing grounds; attended several Ross Valley Fire Board meetings; several MCCMC meetings; several Volunteer Board meetings; continues to work with the North Bay Conservation Corp. on trails; took a tour of the Santa Rosa fires areas.

Councilmember Ackerman stated he attended the Fire Wise Cascade community meeting; a meeting in Mill Valley about affordable housing.

Mayor Lacques reported he attended a Marin Clean Energy meeting; several Climate Action Committee meetings; several MCCMC meetings; the Fire Wise Cascade community meeting.

## Town Manager's Reports

Town Manager Toy reported the Street Light LED Retrofit Project will start this month. He reported on winter storm road repair projects: 300 Tamalpais is complete, the project at 93 Madrone Road has started, and the Forrest Avenue project is progressing. The rapid flashing beacon crosswalk light was installed on Sir Francis Drake Boulevard at Oak Tree Lane.

## Public Hearing

20. Report on Study of Commercial Cannabis Uses and Adoption of an Urgency Interim Zoning Ordinance Extending for 10 months and 15 days the Temporary Moratorium on the Establishment, Creation or Expansion of Commercial Cannabis Uses, With Exceptions, Pending the Completion of Studies and the Preparation of an Update to the Town's Municipal and Zoning Codes. Effective from November 1, 2017 through October 31, 2018. CEQA categorically exempt per Section 15060(c)(2), 15061(b)(3) and 15308- Planning Director

Planning Director Berto presented the staff report, noting the ordinance before the Council was contained in the packet supplement. He answered questions from the Council.

Mayor Lacques opened the Public Hearing.

Ms. Emily Sanders, Fairfax, asked if the moratorium would impact her application for a medical dispensary on Bolinas Road she had submitted six months ago. Town Attorney Coleson stated "no"- the moratorium applied to commercial, non-medical uses only.

Mayor Lacques closed the Public Hearing.

M/S, Goddard/Coler, Motion to waive further reading, read by title only and adopt an Urgency Interim Zoning Ordinance Extending for 10 months and 15 days the Temporary Moratorium in all Zoning Districts on the Establishment, Creation or Expansion of any and all Commercial Cannabis Uses, With Exceptions, Pending the Completion of Studies and the Preparation of an Update to the Town's Municipal and Zoning Codes, as amended by the supplement to agenda item #20.

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

## Regular Agenda

21. Discuss/consider review of a Use Permit to allow live music performances outdoors on a covered patio of an existing commercial establishment, Peri's Bar, 29 Broadway- Planning Director

Principal Planner Neal presented the staff report. She answered questions from the Council.

Adam, the manager of Peri's Bar, stated the monitoring system for the patio was working effectively to keep the decibel levels down. He saw no need to spend additional money on hardwiring it. He had installed an alarm on the back door to solve the problem of people propping the back door open. He answered questions from the Council.

Ms. Ling Shien Bell, Dominga Avenue, stated there had been about three bands a month playing on the patio for the last six months, which was not a good indication of what it would be like when there is music on the patio four times a week during the summer.

Peggy, Dominga Avenue, acknowledged everyone's willingness to work on this. She stated that

the situation had improved a lot, although music four days a week is a lot. She supported the bar hiring only acoustic musicians.

Mr. Troy Harmon, Scenic Road, stated he was inspired by the live music at Peri's. He noted that the employees of the bar monitored the back door closely, and that Peri's had come up with solutions.

Matt, San Geronimo, discussed the physics of sound and stated 40 decibels is equivalent to the sound of a whisper in a room. He supported Peri's music.

Mr. Mark Bell, Dominga Avenue, stated he was representing the Noise Pollution Clearinghouse. He was concerned that the noise readings were performed by untrained staff to create public policy, and that the decibel readers were not calibrated recently. He supported extending the trial period into the summer, lowering the decibel level limit, and limiting the number of bands.

Mr. Simon Costa, resident of the Marin Town and Country Club and occasional musician at Peri's, disagreed with the previous speaker. He stated that musicians used the decibel meter. He supported Peri's music.

Mr. Sean Humphrey, Cascades, disagreed with Mr. Bell and supported Peri's music. He noted Peri's had been proactive in taking steps to try to rectify the situation.

Ms. Mallory Geitheim, Willow Avenue, stated she understood both viewpoints, but that it was important to try to keep the live music. She suggested addressing the calibration and having the musicians take responsibility.

Mr. Josh Burkes, Bolinas Road and bartender at Peri's, stated that Peri's had made compromises which negatively affected the business and the employees. He noted there had been no violations of the noise ordinance.

Mr. Rick Hamer, Bolinas Road, stated he would like to see a conclusion to this issue, rather than another 6-month review period. During this past review period Peri's did what the Town Council had requested and it was successful; it should become permanent.

Mr. Sierra Salin noted people have different sensitivities. He suggested Peri's close all doors to keep the music inside.

Mr. Michael Mackintosh stated businesses should be encouraged but he also is a supporter of private property rights. He suggested clarifying the rules that contribute to the problem.

M/S, Reed/Coler, Motion for the management at Peri's to install a permanent alarm with a timer on the door and an alarm speaker at the bar, to continue to use the existing decibel reader and maintain a log sheet of the calibration of the decibel monitor. Staff was directed to report back to the Council at the September meeting regarding the progress.

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

It was the consensus of the Council to rearrange the agenda as follows: item #25 next, then #22, #24, and #23.

25. Second reading by title only and adoption of an Ordinance of the Town Council of the Town Of Fairfax Amending Chapter 8.44 of the Fairfax Municipal Code, Title 8, Entitled "Clean Indoor and Outdoor Air and Health Protection- Smoking Regulations" to Prohibit Smoking In Unenclosed Service Area, Raise the Age to Purchase Tobacco Products and Require The Licensure of Tobacco Retailers to Ensure Compliance with Tobacco Control Laws

which would improve air quality and health in Town; CEQA Categorical Exemption, CEQA Guidelines Sections 15060(c)(2), 15060(c)(3)- Town Manager

Town Manager Toy presented the staff report.

There were no comments from the public.

M/S, Coler/Reed, Motion to waive the second reading and adopt an Ordinance of the Town Council of the Town Of Fairfax Amending Chapter 8.44 of the Fairfax Municipal Code, Title 8, Entitled "Clean Indoor and Outdoor Air and Health Protection- Smoking Regulations" to Prohibit Smoking in Unenclosed Service Area, Raise the Age to Purchase Tobacco Products and Require The Licensure of Tobacco Retailers to Ensure Compliance with Tobacco Control Laws. AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

Mr. Michael Mackintosh asked how this ordinance would apply to marijuana.

22. Introduce and read by title only an Ordinance Amending Chapter 9.28, Entitled "Social Host Accountability" of the Fairfax Municipal Code to Prohibit Loud or Unruly Gatherings Where Marijuana is Served to, Ingested by or in Possession of Underage Persons; Adding Party Buses and Limousines to the Gatherings where Loud and Unruly Parties are Prohibited; and Adding Participation and Graduation from a Juvenile Diversion Plan or Payment of a Civil Fine. CEQA categorically exempt, CEQA Guidelines Sections 15060(c)(3) and 15061(b)(3)- Town Manager

Town Manager Toy presented the staff report.

Ms. Nancy Vernon, Aide to Marin County Supervisor Rice, had worked on the County's ordinance and stated it was important to the County for cities and towns to have consistent policies. She noted that Mill Valley and Tiburon had adopted similar ordinances.

Mr. Michael Mackintosh stated he was supported the restorative justice option to the Ordinance. He acknowledged the work of Mr. Don Carney.

Chief Morin discussed the two restorative justice programs that the Town used.

M/S, Goddard/Coler, Motion to Introduce and read by title only an Ordinance Amending Chapter 9.28, Entitled "Social Host Accountability" of the Fairfax Municipal Code to Prohibit Loud or Unruly Gatherings Where Marijuana is Served to, Ingested by or in Possession of Underage Persons; Adding Party Buses and Limousines to the Gatherings where Loud and Unruly Parties are Prohibited; and Adding Participation and Graduation from a Juvenile Diversion Plan or Payment of a Civil Fine.

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

24. Second reading by title only and adoption of an Ordinance to Amend the Town Municipal Code, Chapter 8.08 (Garbage and Rubbish Disposal), Section 8.08.050 (Duties of Owners and Occupants) to Require Single Source Separation of Recyclable and Compostable Materials from Solid Waste which would ban organics and recyclables from residential landfill containers; CEQA Categorically exempt Class 8, CEQA Guidelines Sections 15060(c)(2), 15061- Town Manager

Town Manager Toy presented the staff report. He answered questions from the Council.

Mr. Michael Mackintosh stated that in a housing complex, some people comply and some do not.

M/S, Goddard/Reed, Motion to waive the second reading and adopt an Ordinance to Amend the Town Municipal Code, Chapter 8.08 (Garbage and Rubbish Disposal), Section 8.08.050 (Duties of Owners and Occupants) to Require Single Source Separation of Recyclable and Compostable Materials from Solid Waste.

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

23. Appoint a Council representative to the Ross Valley Fire Board- Town Manager

Town Manager Toy presented the staff report.

There were no comments from the public.

M/S, Coler/Reed, Motion to appoint Mayor Lacques as the second representative to the Ross Valley Fire Board.

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

M/S, Coler/Reed, Motion to adjourn the Council meeting at 11:20 p.m. in memory of Ms. Diane Hoffman, Ms. Shirley Ann Mahoney, and Ms. Teresa O'Hare-Lacques.

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

Respectfully submitted,

Toni DeFrancis  
Recording Secretary