

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, October 3, 2018

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 and appointed Ms. Gail Koffman to the full 4-year term on the Climate Action Committee.

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

Approval of Meeting Agenda and Affidavit of Posting

Councilmember Coler stated she would like to move item #14 in front of item #13.

Mayor Lacques stated he would like to pull Consent Calendar item #9 and consider it at a Special Meeting.

M/S, Coler/Reed, Motion to approve Affidavit of Posting and the agenda with the continuation of Consent Calendar item #9 to a Special Meeting and to move item #14 in front of item #13.

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

Announcements

Mayor Lacques made the announcements as they appeared on the agenda. Councilmember Coler announced it was Breast Cancer Awareness Month. She reported on a UC Berkeley study on carbon emissions in the Bay Area- Bolinas was #1, Fairfax was #2 in Marin County. Councilmember Goddard thanked the Police Department for its participation in the Pharmaceutical Take-Back Day.

Open Time

Mr. Tom O'Neal, Dominga Avenue, discussed his opposition to a Department of Homeland Security policy regarding immigrants. He stated the Town of Fairfax was awarded "The Best

Festival” by the Pacific Sun. He stated bicycles continue to run the stop signs along Lansdale Avenue.

Dr. Jody Timms, Fairfax representative to the Commission on Aging, gave a status report. The Commission is embarking on an initiative called “Reframing Aging” in an effort to address collective and individual attitudes towards aging in America. The goal is to work towards an age integrated society. She reported on upcoming Age Friendly Fairfax activities, including a presentation by the Marin Humane Society.

Mr. Aaron Alercon, Executive Director of In-Home Supportive Services, stated the organization is under the umbrella of the County Health and Human Services Department. He discussed the program. Ms. Maria Garcia, Board member and former recipient of services, discussed how the program worked. Mr. Alercon answered questions from the Council.

Ms. Jennifer Hammond, representing the Fairfax Climate Action Committee, discussed the mission and gave an update of the Commission. She also discussed the activities of Sustainable Fairfax.

Ms. Cheryl Tatum discussed health concerns and emissions pertaining to wood burning stoves. She stated smoke can be very toxic particularly when caught in low valley areas. She would like to be protected from inhaling smoke all winter.

Dr. Jody Timms, Cascade Drive, discussed “350 Marin”, a part of the International Climate Justice Movement and its advocacy for a public bank for the public good. She noted this is the next CCA (Community Choice Aggregation). She distributed flyers about an upcoming meeting.

A resident reminded everyone that the Farmers Market will run through the month of October.

Ms. Barbara MaCalley stated her concerns about the health and environmental impacts of wood burning.

Ms. Janet Fitzgerald proposed ideas to increase communication between government and citizens.

Wendy, Fairfax, proposed the Town should ban trees and plants that pose a high fire danger.

### Consent Calendar

1. Accept Financial Statements and Disbursement Reports August 2018- Finance Director
2. Approve minutes for the September 5, 2018 Town Council meeting- Town Clerk
3. Award of contract for repaving Scenic Road from Shapiro Lane to Bay Road- Town Manager
4. Receive Marin Sanitary Service Semiannual Report (January-June 2018)-Town Clerk
5. Adopt a resolution establishing the regular council meeting dates for the months of January and July in 2019, and confirm meeting calendar- Town Clerk
6. Receive report of winter furlough days for Town Hall employees from December 21<sup>st</sup> through January 1<sup>st</sup>- Town Manager
7. Receive report on status of shields for LED street lights- Town Manager

8. Receive final report on Town vegetation management, including chipper day results- Town Manager
9. Adopt a resolution approving Final Parcel Map for Victory Village, 2626 Sir Francis Drake Boulevard- Planning Director
10. Receive report on the status of work on pedestrian trail improvements- Town Manager

Councilmember Coler had a comment about items #4 and #10.

Councilmember Goddard referred to item #4 and had a question for a Marin Sanitary Service representative.

Ms. Diana Purdue, Scenic Road, had a question and comment about item #3.

M/S, Reed/Ackerman, Motion to approve the Consent Calendar with the removal of item #9.  
AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

### Public Hearings

11. Adopt a report describing the measures taken to alleviate the conditions which led to the adoption of Ordinance Nos. 809 and 812 (moratorium on commercial cannabis) and adopt an urgency interim Zoning Ordinance of the Town of Fairfax adopted pursuant to Government Code section 65858 extending for a period of one year until October 31, 2019 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 zoning codes; CEQA Categorically exempt per Section 15308, 15060(c)(2), and 15061(b)(3)- Town Manager

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

Mayor Lacques opened the Public Hearing.

Mr. Doug Harning, Mono Avenue, stated there were over 100 companies delivering to Fairfax, with only 14 from Marin County. He was concerned that Fairfax was losing money.

Mr. Larry Bragman, Hickory Road, discussed an easy path that would save the Marin Alliance. This path would be to amend the Medical Marijuana Ordinance to allow licensed facilities that have a track record during a probationary period to apply for an amendment to the use permit to permit adult use. This would allow the Town to not have to "reinvent the wheel". The second part involves navigating the State regulatory system. A microbusiness approach is the best for the Marin Alliance.

Ms. Lynette Shaw, owner of the Marin Alliance, stated her medical dispensary business has decreased by about 90% since the legalization of cannabis. She asked the Council to consider modifying her use permit to sell adult-use cannabis in addition to medical.

Mr. Lew Tremaine, Sir Francis Drake Boulevard, supported the modifying the Marin Alliance's use permit.

Ms. Kelsey Fernandez, representing the Ross Valley and Twin Cities Coalitions, stated she was concerned about how regulations would affect youth in Marin. She supported allowing the Marin Alliance to stay viable in this changing market by allowing delivery only.

Mr. Frank Egger, Meadow Way, supported modifying the Marin Alliance's use permit to keep them in business, and recommended a one-year trial period for recreational sales. He stated the moratorium would give outside businesses an advantage.

Mr. Sierra Salin supported the previous speaker. He supported business within the community, rather than having things brought in from outside.

Mr. Ling Shien Bell, Dominga Avenue, supported the previous speaker.

Ms. Bridget Clark supported allowing recreational sales from the Marin Alliance but not storefronts, with limits on delivery (such as residences only).

Ms. Jazzy Garrity, Park Road, supported temporarily allowing the Marin Alliance to make deliveries until regulations are in place.

Ms. Patti Bredt, Bolinas Road, stated the Town should not to push away revenue, noting that the cannabis industry is highly regulated.

A woman asked who on the Council had not smoked pot.

Andy Peri, Cypress Drive, stated allowing the Marin Alliance to sell adult-use cannabis would not make difference in the availability of cannabis, which has been readily available for decades.

Mayor Lacques closed the Public Hearing.

The Council directed staff to prepare an ordinance for the Planning Commission's consideration to allow existing medical marijuana dispensaries to make adult-use deliveries.

M/S, Coler/Goddard, Motion to adopt the report describing the measures taken to alleviate the conditions which led to the adoption of Ordinance Nos. 809 and 812.

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

M/S, Coler/Reed, Motion to introduce by title and waive further reading and adopt an Urgency Interim Zoning Ordinance of the Town Council of the Town of Fairfax adopted pursuant to Government Code Section 65858 extending for a period of one year until October 31, 2019 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.

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

The Council took a 13-minute break at 9:17 p.m.

12. Review of a Use Permit to allow live music performances outdoors on a covered patio and in the rear yard area of an existing commercial establishment, Peri's Bar, 29 Broadway; CEQA categorically exempt per Section 15301- Planning Director

Planning Director Berto presented the staff report and answered questions from the Council. Chief Morin answered questions from the Council.

Mayor Lacques opened the Public Hearing.

Mr. Rick Hamer stated he had volunteered to make the sound favorable for the musicians and the public. He installed a decibel meter on the outside patio with an LED display. He noted playing music on outdoor decks in Fairfax has gone on for a long time.

Ms. Ling Shien Bell, Dominga Avenue, was thankful that there was less noise at night. She noted that the current space at Peri's was not acoustically fit for music the acoustics of the patio. The is unfit for music and she is asking the Council to consider acoustic music only- amplified music is better suited indoors where it can be contained.

Ms. Valerie Hood, Dominga Avenue, stated this is an environmental issue. The ambiance of her neighborhood has been destroyed on the weekends- constant traffic, running stop signs, and noise.

Mr. Mark Bell, Dominga Avenue, stated the EPA recommendation for daily exposure to 80 decibels is three hours and for 98 decibels it is three minutes. He asked the Council why they were dismissing these medical studies. He asked why Policy N-3.1.3 of last year's study has been ignored. He stated the Use Permit Findings could not be made. He discussed how the decibel readings should be done. He is of the opinion that this permit is not exempt from the California Environmental Quality Act (CEQA). Mayor Lacques addressed some of Mr. Bell's concerns.

Mr. Andy Peri discussed the number of violations per month. The owners want to keep the music going and to be a good neighbor. The owners and management are doing their best but vow to do better. They want to see the complaint numbers plummet to zero. They will come up with a way to ensure that the door is closed when the band is playing.

Mr. Sierra Salin stated there were two issues- the outside patio during the day and during the night. If the door is shut, no problem- if it is open, there is a problem. An automatic closing device might be the answer.

Mr. Michael Peri stated they wanted to keep the bar in the family. It has been a place for people to gather for many years. They want to address the problems.

Mayor Lacques closed the Public Hearing.

M/S, Coler/Lacques, Motion to approve the Conditional Use Permit and add the following conditions: 1) The door must be closed when music is playing; 2) The bar shall install a monitoring system with an alarm or light signal that would alert the bartender or other employees whether or not the door was open. The system shall be subject to staff approval. AYES: Ackerman, Coler, Goddard, Reed, Mayor Lacques

#### Regular Agenda

14. 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 alterations and removals as part of a development application; categorically exempt from CEQA- Town Manager

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

The Town Clerk distributed a supplement to the Council and the public, with changes proposed by Vice Mayor Coler prior to the meeting.

Wendy stated people should be made aware of the requirement for a tree removal permit, and of the existence of the Tree Committee.

Mayor Lacques recommended a change in the wording of the ordinance as follows: “The Tree Committee will provide recommendations to the decision-making body on the application within 30 days”.

M/S, Coler/Reed, Motion to introduce, waive first reading, and read by title only an ordinance of the Town Council of the Town of Fairfax amending Chapter 8.36 (“Trees”) of the Town Code as amended by the supplement and with Mayor Lacques ‘ amendment.

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

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

Town Manager Toy presented the staff report, noting that staff was asking for direction prior to any decision.

Wendy stated the disabled community should be considered when deciding this issue.

M/S, Coler/Reed, Motion to waive the 11:30 p.m. rule.

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

15. Introduce 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

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

There were no public comments.

M/S, Ackerman/Goddard, Motion to introduce, waive first reading, and read by title only an ordinance of the Town Council of the Town of Fairfax . Introduce 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.

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

The Council took a 2-minute break at 11:40 p.m.

16. Appoint the Mayor and a councilmember to a subcommittee to explore fiber optic cable in the Town- Town Manager

Mayor Lacques presented a report.

A resident thanked the Council for taking up this matter. She asked about FTTP (fiber to the premises). She asked the Council to appoint an informed citizen to the subcommittee.

The Council reached consensus to that the subcommittee to explore fiberoptic cable in Town shall consist of Mayor Lacques and Councilmember Ackerman.

Council Reports and Comments

Councilmember Coler reported she attended the recent Age-Friendly event and the monthly breakfast; the Town Picnic; the Countywide Community Development Block Grant (CDBG) meeting; the Spirit of Marin Awards; the Community Media Center of Marin Board meeting; a Marin Clean Energy Board Retreat; the Fairfax Art Walk; as the Chair of the Marin Telecommunications sent a letter to the FCC regarding its wireless deployment.

Councilmember Goddard reported she attended several Cascade Canyon Fire Wise meetings; the Chamber Mixer; the North Bay Climate Summit; a Yellow School Bus meeting; the Art Walk; the Age-Friendly event; a Ross Valley School Board meeting.

Councilmember Reed reported he attended several Ross Valley Fire Board meetings; several Manor Hill Fire Wise community meetings; several Volunteer Board meetings; a Town Picnic subcommittee meeting; several Yellow School Bus meetings; several Transportation Authority of Marin (TAM) meeting; a Ross Valley Paramedic Authority (RVPA) meeting; a Safe Routes to Schools Task Force meeting; the Art Walk.

Councilmember Ackerman reported he attended the North Bay Climate Summit; the Climate Action meeting at the College of Marin; the Fairfax Climate Action Committee meeting; several Fire Wise meetings; the MCCMC Disaster Preparedness Committee meeting; the Marin Coalition meeting regarding lessons from the recent fires; a Marin Clean Energy Technical Committee meeting; the MCE Board retreat; a Flood Zone 9 Advisory Committee meeting; the Housing Crisis Action Group meeting; a Coalition Connection meeting; the Art Walk.

Mayor Lacques report he attended the Climate Action Committee meeting; a Ross Valley Fire Board meeting; the Town Picnic; the Art Walk; several Chamber of Commerce meetings; a Zero Waste Subcommittee meeting.

#### Town Manager's Report

Town Manager Toy stated there was nothing to report.

#### Future Agenda Items

There were no items.

M/S, Coler/Reed, Motion to adjourn the meeting at 12:15 a.m. in memory of Zachary Christopher Scott, and Mr. Jack Adams, former Fairfax Maintenance Worker Extraordinaire and one heck of a nice guy.

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

Respectfully submitted,

Toni DeFrancis  
Recording Secretary