

Fairfax Town Council Minutes
Special and Regular Town Council Meeting
Fairfax Women's Club
Wednesday, **April 5, 2017**

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

Conference with Legal Counsel- Existing Litigation
Government Code Section 54956.9(d)(1)
Anderson v. Town of Fairfax, et al, Marin Superior Court No. CIV 1601605

Conference with Legal Counsel- Existing Litigation
Government Code Section 54956(d)(1)
Encompass Insurance Company a/s/o Melanie Peratis v. Town of Fairfax, et al., Marin Superior Court No CIV 1700070

Mayor Reed called to order the **Special Meeting to Conduct Interviews** at 6:35 p.m.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT Renee Goddard
Peter Lacques
John Reed
David Weinsoff

COUNCILMEMBERS ABSENT: Barbara Coler

STAFF MEMBERS PRESENT: Garrett Toy, Town Manager (arrived 7:00 p.m.)
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney (arrived 7:00 p.m.)
Linda Neal, Principal Planner (arrived 7:00 p.m.)
Michael Vivrette, Finance Director (arrived 7:00 p.m.)

Interviews and Appointments

1. Interview and Appointment of applicant to the Parks and Recreation Commission (PARC)-

The Council interviewed the Mr. Chris Borjian. There was no comment from the public.
M/S, Weinsoff/Goddard, Motion to appoint Mr. Chris Borjian to fill an unexpired term to 4/30/19.
AYES: Goddard, Lacques, Weinsoff, Mayor Reed
ABSENT: Coler

2. Interview and Appointment of applicant to the Fairfax Open Space Committee (FOSC)-

The Council interviewed the Mr. Charles Cornwell.
Ms. Lauren Hinxmann, representing the Fairfax Open Space Committee, confirmed that Mr. Cornwell has attended a committee meeting

M/S, Lacques/Reed, Motion to appoint Mr. Charles Cornwell for a full term to expire 4/05/21.
AYES: Goddard, Lacques, Weinsoff, Mayor Reed
ABSENT: Coler

The special meeting was adjourned at 6:58 p.m.

Mayor Reed called the **Regular Meeting** to order at 7:00 p.m.

Approval of Agenda and Affidavit of Posting

M/S, Weinsoff/Goddard, Motion to approve the Agenda and Affidavit of Posting, with the addition of the Special Meeting with one consent item to be considered at the same time as the regular consent calendar.

AYES: Goddard, Lacques, Weinsoff, Mayor Reed

ABSENT: Coler

Announcement of Closed Session Action:

Mayor Reed announced there was nothing to report.

Announcements

Mayor Reed made the announcements as they appeared on the agenda. Councilmember Goddard announced the Annual "Take Back Day" was scheduled for Saturday, April 29th in the Pavilion parking lot, and the Ross Valley Healthy Community Collaborative Town Hall meeting in San Anselmo. Mayor Reed announced there were still a few spots left for Fairfax residents to take advantage of the incentive program for Marin Clean Energy Deep Green Energy.

Open Time

Ms. Jody Timms, Fairfax representative to the Commission on Aging, announced the Commission's monthly meeting at the San Rafael Community Center. She briefly discussed the "Age Friendly" process that several communities have adopted. She stated the "350 Marin" organization would be meeting to join the march for Science in San Francisco on April 22nd, and on April 29th for the march in support of jobs, justice, and climate change from Fairfax to the San Anselmo Hub.

Ms. Ling Shien Bell, Dominga Avenue, thanked staff for clearing the ivy on the Forrest Avenue Bridge. She requested the following topic be added to an upcoming agenda: quality of the soundscape.

Mr. Tom Castle, Fairfax, stated the bicyclists on Landsdale Avenue did not obey stop signs, which created a hazardous situation.

Ms. Debra Benson, Cascade Drive, agreed with Mr. O'Neal. She stated a public path between Cascade and Pine Drive that could serve as an emergency evacuation route was blocked by bamboo planting, a temporary fence, and a car regularly parked across the entry.

Mr. Michael Mackintosh stated the Noise Ordinance should be applied to all properties consistently.

Ms. Rose Taber stated that people parking cars downtown while going for bicycle rides were negatively impacting businesses. She suggested changing the 2-hour parking limit to 1 hour.

Mr. Sam Luke, Fairfax, noted that cyclists are also a part of Fairfax and they spend money in Town.

Presentation

Certificate of Appreciation for Larry Lauter for Power Lane improvements.

Mayor Reed presented a Certificate of Appreciation to Mr. Lauter for the 109 beautiful steps.

Consent Calendar

Mayor Reed opened the Special Meeting with one consent item to be considered at the same time as the regular consent calendar:

1. Authorize Mayor Reed to write a letter in support of SB 1 (Beall) and ACA 12 (Frazier) which together represents a comprehensive transportation proposal (The Road Repair and Accountability Act of 2017) to provide \$5.2 billion annually to address California's transportation infrastructure –
Town Manager
1. Accept Financial Statement and Disbursement Reports February 2017- Finance
Director
2. Approval of minutes for the January and February, 2017 Town Council meeting- Town Clerk
3. Accept Marin Sanitary Service 2016 Annual Report- Town Clerk
4. Approval of Town Council Goals for 2017- Town Manager
5. Approval of Planning Commission recommendations regarding short-term rentals- Town
Manager
6. Approve a Memorandum of Understanding with the Marin County Open Space District
consenting to the construction of two bridges in the Elliott Nature Preserve within Cascade
Canyon Open Space Preserve- Town Manager
7. Adoption of a Resolution designating Town Manager as the Town's agent for purposes of
obtaining certain federal and state financial assistance (i.e., FEMA and Cal OES)- Town
Manager
8. Accept report on Town's position on non-enforcement of immigration laws- Town Manager
9. Accept Planning Commission's appointment of Commissioner Norma Fragoso as the Town
Representative to the Sunnyside Nursery Neighborhood Committee formed by the County
of Marin- Town Manager
10. Receive report on the status of the code enforcement action at 177 Canyon Road- Town
Manager
11. Award contract for construction of Class I Bike Lane from Glen Drive to White Hill School's
Athletic field (Lefty Gomez) along Sir Francis Drake Boulevard to complete the Fairfax
Bicycle Spine Project- Town Manager
12. Adoption of a Resolution in support of delaying the appointment of any nominee to the
U.S. Supreme Court- Mayor Reed

Councilmember Goddard asked for the removal of item #5 for discussion, and noted a correction on page 5 of the February minutes: "Marin Transportation Authority" should be changed to "Marin

Telecommunications Agency.”

Mr. Michael Mackintosh asked for the removal of item #10 for discussion and he opposed Item #12.

Mr. Rick Hamer, Fairfax, confirmed that Item #5 was moved to the regular agenda after Item #15.

Ms. Debra Benson, expressed disappointment that Marin County Open Space lands are not closed at night, so there were night bicyclists in the Eliot Preserve with bright lights.

M/S, Goddard/Weinsoff, Motion to approve the Consent Calendar including Special Meeting item #1, with the removal of item #5 to the regular agenda, the removal of item #12, and a correction to the minutes of February 1, 2017.

AYES: Goddard, Lacques, Weinsoff, Mayor Reed

ABSENT: Coler

Council Reports and Comments

Councilmember Weinsoff reported he attended the Flood Zone 9 Quarterly Meeting; the Council retreat; the MCCMC dinner; the MCCMC Legislative Committee meeting; spoke to Manor School 5th graders on the life of Ruth Ginsberg.

Mayor Reed reported he attended the Ross Valley Paramedic Authority meeting; a bench dedication and memorial service for Jory Prum; the Ross Valley Fire Board meeting, the Chamber of Commerce meeting; the Council retreat; the MCCMC dinner; the Fairfax Brewfest; the Volunteer Board meeting; met with the Ross Valley School District; the dedication of the new metal sculpture in the Parkade.

Councilmember Lacques reported he attended the MCCMC meeting; the Council retreat; the Climate Action Committee meeting; the Sustainable Fairfax fundraiser.

Councilmember Goddard discussed the efforts to bump up waste reduction; would like to request that the Ross Valley School Board hold a community forum.

Town Manager's Report

Town Manager Toy reported staff is designing and planning on the storm damage repairs for Madrone, Forrest, and Tamalpais Road. The Town is eligible for federal and state funds. He reported the Town's Sign Ordinance allows non-commercial signs to be posted on private property for 67 days.

Regular Agenda

13. Appeal of Planning Commission conditions of approval for 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- Town Manager

Principal Planner Neal presented the staff report.

The appellant stated he was requesting a trial period to use a less expensive monitor prior to investing in a big system, which would be visible to bands so they could stay within the acceptable decibel levels. He stated he was committed to ensuring that the back door was closed, and personally selecting the outdoor bands. He answered questions from the Council.

Mr. Michael Sturdevant, Pine Drive, stated Fairfax was about music, and that he enjoyed the outdoor music at Peri's.

Ms. Anie Schafer, Dominga Avenue, enjoyed Fairfax and the music, but suggested the Town clarify for everyone the specific protocols, consequences, and enforcement around music and noise.

Mr. Michael Bennett, Mono Avenue, stated he enjoyed the music from the patio, and it mixed well with the ambient noise. It was not that loud; he could also hear people talking outside.

Mr. Ruffin Bailey, Mono Avenue, stated he did not have an issue with the music from Peri's. He enjoyed it.

Mr. Sean Humphrey, Fairfax, stated he understood the concern about excessive noise but noted if someone wanted peace and quiet then they should not live downtown.

Ms. Tru Heights, Scenic Road, suggested taking advantage of the power of signs.

Ms. Debra Benson enjoyed the afternoon music at Peri's. She noted the noise level of the Little League games. She noted the music history of the Town.

Mr. Sierra Salin stated sound did not stay downtown: it bounced around. The only way to keep it in place was to close the doors. He noted the natural history of the area prior to the arrival of the Town.

Mr. Mark Bell, Dominga Avenue, discussed the effect of loud music on hearing. He and his wife made over 50 complaints regarding Peri's loud music.

Ms. Ling Shien Bell, Dominga Avenue, supported acoustic music in the afternoon outside and amplified in the evening inside.

Mr. Gavin Gunnigle, Fairfax, stated he appreciated the value of not being bombarded by sound during the day, but that it was unrealistic to expect silence when living among others.

Mr. Simon Carstair, Fairfax, stated when he played at Peri's on the patio, he used amplification to balance out the instruments. Peri's request was reasonable.

Ms. Rose Taber stated she had been fighting noise since 1965, and that music was sometimes noise.

Mr. Bob Stempel, Porteous Avenue, cited the Noise Ordinance.

Mr. Rick Hamer, Bolinas Road, stated the business manager was open to compromise, and he encouraged the Council to work with the proprietors.

Mr. Frank Egger, Meadow Way, stated Fairfax had long been an artist's community. He opposed a ban on outdoor music.

M/S, Lacques/Goddard, motion to adopt the Resolution of the Town Council of the Town of Fairfax (attached to the Supplement to Agenda Item #13) Denying the Appeal and Modifying the Planning Commission Conditions of Approval to Allow Outdoor Acoustic Music on the Side Patio of the Commercial Bar Establishment at 29 Broadway Avenue, with the following modification of the language on page 2, third bullet point: "The business shall have a decibel reader with a visual monitor displaying decibel levels in real time visible to the performers to allow them to monitor their sound levels in real

time in operation at all times during performances to ensure the decibel levels do not exceed the established limit of 94 to 98 decibels.”

AYES: Goddard, Lacques, Mayor Reed

NOES: Weinsoff

ABSENT: Coler

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

Mayor Reed stated he would like to rearrange the order of the agenda.

15. Discuss/consider options for compliance with SB 415 to hold elections in even-numbered year-Town Manager

Town Manager Toy presented the staff report.

Mr. Frank Egger, Meadow Way, stated that when Fairfax elections used to be held in even-numbered years and had to change to odd-numbered years, the Council decided to shorten their terms. He supported holding regular elections in 2017 and 2019 for terms of either three years or five years.

Mr. Rich Hamer, Bolinas Road, supported extending all current Council terms by one year (Option 1).

M/S, Weinsoff/Lacques, Motion to approve Option Two and hold the 2017 and 2019 elections as scheduled, decreasing the Council terms from four years to three years.

AYES: Lacques, Weinsoff

NOES: Goddard, Mayor Reed

ABSENT: Coler

The motion did not pass (tie vote).

M/S, Goddard/Reed, Motion to approve Option One.

AYES: Goddard, Mayor Reed

NOES: Lacques, Weinsoff

ABSENT: Coler

The motion did not pass (tie vote).

Town Manager Toy stated staff would come back with both options at the April 25th Special meeting.

5. Approval of Planning Commission recommendations regarding short-term rentals- Town Manager

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

Mr. Rick Hamer, Bolinas Road, agreed with the Council comments about short-term rentals interfering with affordable housing. He supported the concept with oversight on life/safety issues, with annual inspections.

Ms. Debra Benson stated that it was turning homes into businesses. She opposed AirBnB. There were pockets of rentals on her street and she noticed the impacts.

Wendy, Fairfax, stated she was concerned about the impact on affordable housing She was not

opposed to short-term rentals, but she was opposed to using second units for short term rentals.

Town Manager Toy stated staff would come back with some suggested language for the Ordinance at the Special meeting.

14. Discuss local regulatory options for nonmedical marijuana- Town Manager

Mayor Reed stated this item was continued to the Special Meeting.

M/S, Coler/Goddard, Motion to adjourn the Council meeting at 12:05 a.m.

AYES: Goddard, Lacques, Weinsoff, Mayor Reed

ABSENT: Coler

Respectfully submitted,

Toni DeFrancis
Recording Secretary