

Fairfax Town Council Minutes  
Regular Town Council Meeting  
Fairfax Women's Club  
Wednesday, **August 2**, 2017

The regular meeting was preceded by a Closed Session from 5:45 p.m. to 6:30 p.m.

Public Employee Performance Evaluation pursuant to Government Code Section 54957:

Title: Town Attorney

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

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:**

Barbara Coler  
Renee Goddard  
Peter Lacques  
John Reed  
David Weinsoff

**STAFF MEMBERS PRESENT:**

Garrett Toy, Town Manager  
Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney  
Ben Berto, Planning Director  
Michael Vivrette, Finance Director

Interviews and Appointments

1. Interview and Appointment of applicant to FOSC youth position- *Town Clerk*

The applicant was unable to attend the meeting.

2. Interview and Appointment of applicant to the FOSC vacancy- *Town Clerk*

The Council interviewed and appointed Mr. Chris Borjian to the Fairfax Open Space Committee.

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

Approval of Agenda and Affidavit of Posting

M/S, Coler/Goddard Motion to approve the agenda and Affidavit of Posting.

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

Announcement of Closed Session Action

Mayor Reed announced there was nothing to report.

Introduction of New Planning and Building Services Director Ben Berto

The Council welcomed Mr. Ben Berto. Mr. Berto stated he looks forward to working with the Council, Planning Commission, and staff.

## Announcements

Mayor Reed made the announcements as they appeared on the agenda. Councilmember Goddard announced that the Streets for People Event will be held on Sunday, August 27<sup>th</sup> on Bolinas Road from 10:00 a.m. to 4:00 p.m. She will be speaking on a panel regarding civil discourse on August 17<sup>th</sup>. Councilmember Coler reported there were nine spots remaining in Marin Clean Energy Deep Green Fairfax Incentive Program.

## Open Time

Mr. Sierra Salin spoke about community and family.

Ms. Linn Walsh, Dominga Avenue, stated there was a major PG&E gas line project on Dominga and wondered if the street could handle the traffic load from the Streets for People event.

Mr. Frank Egger, Meadow Way, stated he was concerned that the Town Attorney was not a Fairfax employee and therefore her performance evaluation should not be done in Closed Session. He asked if Public Hearing Item #5 was discussed in Closed Session. Councilmember Weinsoff stated "no". Town Attorney Coleson stated the Government Code allows the evaluation of an appointed Town Attorney to be discussed during Closed Session.

Mr. Ray Moritz, Pine Drive, stated he had submitted a Wildland Fuels and Fire Behavior Analysis of Cascade Canyon funded by Fire Safe Marin and had not received a response. He stated he believed an evacuation plan for the canyon was needed.

Ms. Annie Schafer, Dominga Avenue, stated the PG&E work would continue on Dominga through October.

Mr. Ross Asselstine, San Anselmo, agreed with Mr. Moritz about the need for evacuation plans.

Ms. Gina Farr, Forrest Avenue, stated there was a need for an evacuation plan for Forrest Avenue, and she was concerned that a fire hydrant had been out of service since March. She stated that the Town was focused on fixing the Forrest Avenue roadway and not the landslide.

Mr. Doug Smith, Forrest Avenue, was concerned Forrest Avenue would not be fixed before the rainy season.

Ms. Valerie Hood, Dominga Avenue, discussed the issue of fire danger and stated the emergency pathways were not noticed. The area is experiencing high temperatures.

Ms. Deborah Benson, Cascade Drive, asked if the bid for Forrest Avenue included fixing the slide. She had questions about the Town's budget.

Ms. Cheryl Gould, Bolinas Road, was concerned about a fire in Fairfax.

Ms. Kiki La Porta, Glenn Drive, requested a key to the open space gate at the end of her road, as part of an evacuation plan. She stated this was done in Sleepy Hollow.

Mr. Michael Mackintosh introduced Buttercup the snake, who was draped around his neck.

## Consent Calendar

1. Accept Financial Statement and Disbursement Reports June, 2017- Finance Director

2. Approval of minutes for the May 3, 2017 Town Council meeting- *Town Clerk*
3. Adopt a resolution setting the living wage pursuant to the annual review requirements of Section 8.56.020 of the Town Code- *Finance Director*
4. Adopt a resolution amending the Debt Management Financial Policy- *Finance Director*

Councilmember Coler noted an incorrect date in item #4 on the first page of Exhibit A.

Councilmember Weinsoff noted there was an addendum to item #2.

M/S, Coler/Goddard, Motion to approve the Consent Calendar with the correction made by Councilmember Coler and the addendum to item #2.

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

### Council Reports and Comments

Councilmember Weinsoff reported all of his committees had gone dark for the summer.

Councilmember Coler reported she attended “Give Back Tuesday” (for the Fairfax Volunteers) at Iron Springs; the Marin Clean Energy Board meeting; a dedication for former County Supervisor Pete Arrigoni at the Fairfax Library; a Community Media Center of Marin Board meeting; the Fairfax Age Friendly Task Force meeting;

Councilmember Lacques reported he attended a Finance sub-committee meeting; a screening of “Fractured Lands” sponsored by Sustainable Fairfax.

Councilmember Goddard reported PG&E had program that sends interns to households to change light bulbs to LED, install water-saving devices, etc.; she attended the Hazardous Waste Task Force meeting; met with the representatives of the Farmer’s Market; went to the dedication for former Supervisor Arrigoni; the “Give Back Tuesday” night at Iron Springs; a Cascade Neighborhood Disaster Preparedness meeting.

Mayor Reed reported he met several times with the North Bay Conservation Corp.; attended the Volunteer Board meeting; the Chamber of Commerce meeting; the Finance sub-committee meeting.

### Town Manager’s Report

Town Manager Toy reported the Forrest Avenue project went out to bid on July 20<sup>th</sup> with the bid opening scheduled for August 10<sup>th</sup>. Staff applied to the Federal Highway Administration for emergency relief funds but had not heard back. The estimate for the Tamalpais roadwork far exceeds the thresholds for FEMA so the Town will be bidding out this project. The Madrone Road work is under the threshold and the Town received only one bid from a contractor. Staff is talking to FEMA about whether or not this project should go out to bid. PG&E is still working on the project to switch out the street lights to LED.

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

### Public Hearing

13. Initiative measure “Amending Town General Plan to Prohibit Land Uses That Adversely Affect Community Recreation Sport Fields, Including Lefty Gomez Field, Without Voter Approval”. As part of the consideration and discussion, the Council will:

- a. Receive a 9212 Elections Report analyzing the effects and impacts of the Initiative Measure on the Town; and
- b. Accept certification of the Initiative Petition; and
- c. Adopt a resolution to either adopt the measure without alteration or call for an election to submit the measure to the voters at the November 7 regular election- *Town Manager and Town Clerk*

Town Manager Toy and Town Clerk Gardner presented staff reports.

Town Attorney Coleson gave a staff report on the 9212 Elections Report.

Staff answered questions from the Council.

Mayor Reed opened the Public Hearing.

Mr. Michael Macintosh stated the title of the case cited by Town Attorney Coleson was “The Park at Cross Creek vs. Malibu”. He stated the velocity of flood water needed to be reduced in order to reduce the amount of water during a flood. People want to know what they are getting with their Flood Tax Revenue.

Mr. John Simmons, Fairfax, stated people should have a voice, and he understood the initiative to be specific to recreational fields.

Ms. Norma Fragoso discussed flooding in her neighborhood last winter. She stated the petition was ill-conceived and not consistent with existing laws, and she did not support it.

Ms. Sabrina Simmons stated the initiative was not a debate about detention basins. Flood Zone 9 has been ineffective in achieving any goals.

Mr. Bruce Ackerman, Valley Road, stated the sirens went off three times last winter and he thought the Town was not protected. Frequent and extreme winter storms will continue and they needed to address how to avoid flooding. He supported the Town and Flood Zone 9 fully evaluating the options before making a decision.

Mr. Berkeley Bouleheim stated supporters of the initiative wanted the flooding problem solved in an effective way.

Mr. Sierra Salin stated who owns the land was important. He agreed with everybody on all sides.

Ms. Diane Hoffman stated she lived in a flood zone. She opposed spending hundreds of thousands of dollars on consultants. The petition represented citizens who want to participate in what happens in Town.

Mr. Mike VanMeter, Shadow Creek, agreed with Ms. Hoffman. He thought Councilmember Weinsoff should not be allowed to vote on this issue.

Ms. Valerie Hood stated the Council should defend local interests. Overbuilding of properties in Town has exacerbated the flooding problem.

Ms. Flora Schneider stated real solutions solve problems and do not create any. She would like to see a rain garden on every property and more permeable surfaces.

Ms. Kyle Redford, Shadow Creek Court, resented that the initiative had been framed in a

condescending way- the supporters shared the concerns about flooding. She had no trust in what had gone on so far in terms of missed opportunities and payments to consultants.

Ms. Roberta Anthes, Snowden Lane, had a question about the 2007 Resolution (No. 2474) regarding the Town joining Flood Zone 9.

Ms. Stephanie Burns, Mountain View, stated the process was disturbing. Stakeholders should be considered in any construction project.

Mr. David Haskell, Glenn Drive, stated he gained a lot of knowledge from reading the 2008 Fairfax Flood Plan which calls for detention basins for 100-year floods. He believes in a participatory process.

Ms. Rebecca Collins, Monte Vista Road, stated she did not feel comfortable with the initiative because it narrows the Town's options. They needed to maintain flexibility.

Ms. Gina Farr stated some people did not want a broader discussion in the community.

Mr. Frank Egger, Meadow Way, stated flooding in downtown Fairfax was caused, in part, by culverts that are too small and the extension of the Town Hall building. The petition protects the Town's limited sports fields.

Lisel, Pacheco Avenue, stated she had to evacuate three times last winter. She discussed climate change and the need to be prepared for the long-term. The initiative should go to the ballot for a vote.

Ms. Laura Miway, Maiden Lane, stated the Sunnyside Nursery property was going to be a detention basin, two blocks from Lefty Gomez Field, and both in Fairfax. She questioned why all the detention basins being discussed were in Fairfax, and why Fairfax should bear all the risk for the entire Ross Valley.

Mr. Larry Bragman discussed the 2007 resolution and noted it requested a reservation of rights to review any project- this was rejected by the County. The Council adopted a resolution in accord with the County's response. This initiative was not the same thing and it should be put on the ballot.

Mr. Ross Asselstine, San Anselmo, stated the Flood Zone 9 process had been backwards- it should have been planning and advisement first and then engineering tied to that. The question that should have been asked initially is: Do we want our playgrounds dug up?

Mr. Marc Hammerman, Fairfax, stated the initiative took no position on detention basins- it called for a vote. He urged the Council to adopt the initiative tonight.

Ms. Lisa Tormey, San Anselmo, stated that solving flooding is one of the most important public safety issues. She stated they must consider what would happen to the communities downstream. She stated the Council should not move forward with the initiative.

Ms. Kiki La Porta, Glenn Drive, stated they must not foreclose options for the future. She would support putting the measure on the ballot.

Ms. Deborah Benson stated this was about the right to vote and she urged the Council to listen to the voice of the people.

Ms. Mallory Geithem, Willow Avenue, stated the residents should have the right to vote. She

asked about other solutions to flooding, such as walls and dykes.

Mayor Reed closed the Public Hearing.

M/S, Coler/Goddard, Motion to receive, file and accept the Certificate of Sufficiency of Initiative Petition from the Town Clerk, and receive and file the report on the effects and impact the Initiative Measure "Amending Town General Plan to Prohibit Land Uses That Adversely Affect Community Recreational Sports Fields, Including Lefty Gomez Field, Without Voter Approval" has on the Town pursuant to California Elections Code Section 9212, and adopt a Resolution to adopt Measure without alteration- A Resolution of the Town Council of the Town of Fairfax adopting an Initiative Measure Amending the Town of Fairfax General Plan to Prohibit Land Uses that Adversely Affect Community Recreational Sports Fields including Lefty Gomez Park without voter approval in lieu of calling election for said purpose pursuant to Elections Code Section 1295.

AYES: Coler, Goddard, Weinsoff, Mayor Reed

ABSTAIN: Lacques

M/s, Coler/Lacques, move to continue agenda items #6 and #7 with the provision that staff bring back the ordinance for #7 including the Amnesty Provisions.

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

The Council took a 10-minute break at 11:05 p.m.

M/s, Coler/Lacques, move to waive the 11:30 p.m. rule.

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

### Workshop

6. Discuss/consider preliminary concepts for design of Parkade and traffic circulation in the downtown- Town Manager

Mayor Reed noted this item was continued.

### Regular Agenda

7. Discuss an ordinance to bring the Town Code pertaining to Accessory Dwelling Units (formerly residential second units and junior second units) into compliance with new State Regulations; CEQA categorically exempt per Section 15300.1, and Statutory Exemptions, Public Resources Code Section 21080.15(b)(15) and 21080.17- Town Manager

Mayor Reed noted this item was continued.

8. Discuss/consider response to Marin Civil Grand Jury Report: *Marin's Retirement Health Care Benefits*- Town Manager

Town Manager Toy presented the staff report.

There were no questions or comments from the Council.

M/s, Goddard/Coler, move to approve the response to Marin Civil Grand Jury Report: *Marin's Retirement Health Care Benefits*

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

9. Discuss/consider response to Marin Civil Grand Jury Report: *The Budget Squeeze; How Will Marin Fund its Public Employee Pensions?*- Town Manager

Town Manager Toy presented the staff report.

Councilmember Coler stated she would work with staff on a cover letter regarding some of the assumptions made by the Grand Jury.

M/s, Coler/Goddard, move to approve the response to Marin Civil Grand Jury Report: *The Budget Squeeze; How Will Marin Fund its Public Employee Pensions* with the caveat that staff work with Councilmember Coler on the cover letter.

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

10. Approve revised response to Marin Civil Grand Jury Report: *Overcoming Barriers to Housing Affordability*- Town Manager

Town Manager Toy presented the staff report.

M/s, Goddard/Lacques, move to approve the revised response to Marin Civil Grand Jury Report: *Overcoming Barriers to Housing Affordability*.

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

M/S, Coler/Goddard, Motion to adjourn the Council meeting at 11:35 p.m. in memory of Ross Valley Fire Fighter Chris Mahoney, Ms. Karen Schwin, and Ms. Joan Fong.

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

Respectfully submitted,

Toni DeFrancis  
Recording Secretary