

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, **February 3, 2016**

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
Jim Moore, Planning Director
Michael Vivrette, Finance Director
Chris Morin, Police Chief
Linda Neal, Principal Planner

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

Approval of Agenda and Affidavit of Posting

Town Manager Toy asked the Council to pull items #5, #9, and #11 from the agenda

M/S, Coler/Weinsoff, Motion to approve the agenda, pulling off items #5, #9, and #11, and the affidavit of posting.

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

Oath of Office

Promotion and swearing in of William Cade to Police Sergeant- Chief Morin, Town Clerk

Police Chief Morin introduced Sergeant William Cade and Town Clerk Gardner administered the Oath of Office.

Introduction and Swearing in of Police (Reserve) Officer Les Santos- Chief Morin, Town Clerk

Police Chief Morin introduced Officer Les Santos and Town Clerk Gardner administered the Oath of Office.

Announcements

Mayor Goddard made the announcements as they appeared on the agenda. She added the following announcements: Supervisor Rice's "Neighborhood Office Hours" at the Fairfax Library on February 27; "Get Ready" class at the Fairfax Library on February 9; PG&E electrical upgrade on Bolinas Road starting February 8 for 2 to 3 weeks; Bicycle and Pedestrian Advisory Committee (BPAC) workshop at the Women's Club on February 29, from 7:00 to 9:00 p.m.; Pedestrian Flag Pilot Program begins Saturday, February 27; Fairfax Climate Action Committee will sign up residents for MCE "Deep Green" at the Farmer's Market. Fairfax residents are

encouraged to sign up for the Cool California Challenge to earn points for the Town.

Presentations

Manor School Green Team- Laura Honda, Manor School Teacher

The Manor School Green Team made a presentation and asked the Council to implement a Pollinator Policy.

Presentation of a Proclamation in honor of Laura Honda and her Manor School class- Mayor Goddard

Mayor Goddard presented a Proclamation to Ms. Laura Honda.

Open Time

Mr. Sierra Salin discussed environmental issues.

Mr. Ryan O'Neill, Iron Springs Road, expressed his opposition to a Councilmember's use of his or her position to advocate for the Ross Valley Charter School.

Consent Calendar

2. Accept Financial Statement and Disbursement Reports December 2015- Finance Director

3. Approval of minutes for the January 13, 2016 Town Council meeting- Town Clerk

4. Approve Contract with Conservation Corps North Bay to perform work on pedestrian trails - Town Manager

5. Acceptance of Fairfax Open Space Committee Annual Report- Town Manager

6. Acceptance of Councilmember Memorandum regarding flood control- Councilmember Weinsoff

7. Acceptance of Ross Valley Healthy Community Collaborative (RVHCC) Report- Town Manager

8. Sponsorship of the Little League Opening Day Parade on March 5, 2016- Town Clerk

9. Adopt a Resolution Confirming Biennial Review of the Conflict of Interest Code (Form 700 filers) to remove the General Plan Implementation Committee, add Town Staff Positions, and add the Fairfax Open Space Committee- Town Manager

10. Approval of Agricultural Community Event Farmers Market to continue to operate a Farmer's Market in Bolinas Park in 2016 and 2017- Town Manager

Councilmember Coler asked that item #7 be pulled for discussion of the lobbying goal.

A resident asked that item #6 (Memo re Flood Control) be pulled for discussion.

M/S, Reed/Coler, Motion to approve Consent Calendar items #2, #3, #4, #8 and #10 and to continue items #5 and #9; and to pull items #6 and #7 for discussion on the regular agenda.

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

6. Acceptance of Councilmember Memorandum regarding flood control- Councilmember Weinsoff

Ms. Diane DeMarlie distributed some information to the Council. She stated she represented the Save Lefty Gomez group and was opposed to the use of Lefty Gomez Field as a flood detention basin.

Ms. Suzuki Cady stated she supported increasing the holding capacity of Phoenix Lake, channel improvement projects, system-wide water retention strategies, and other flood-proofing solutions. She opposed the use of Lefty Gomez Field as a storm water detention basin.

A resident was concerned about the distribution of information and the notification process. He stated Lefty Gomez field was not identified as the most effective location for flood detention, and that Deer Park and the former Sunnyside Nursery ranked higher.

Mr. Gary Roth thanked Councilmember Weinsoff for his time and energy in this matter. Lefty Gomez Field is his “backyard” and he has an emotional connection to it. He is not sure the proposal to use it as a detention basin is the right solution but also feels that a “No” campaign would not serve the community well.

Mr. Sierra Salin stated there were a lot of unknowns. He discussed the effects of climate change.

Council Reports and Comments

Councilmember Weinsoff reported he attended the MCCMC meeting; the MCCMC Legislative Committee meeting; the Glen Drive Homeowners Association (HOA) meeting; the Chamber of Commerce meeting.

Councilmember Coler reported she attended a meeting regarding the Pedestrian Flag Pilot Program; the Marin Clean Energy (MCE) meeting; the Marin Telecommunications Agency Strategic Planning Workshop.

Councilmember Reed reported he met with the Volunteer Trail Committee, attended the MCCMC meeting; a Transportation Authority of Marin (TAM) meeting.

Councilmember Lacques reported he attended the MCCMC meeting; several Zero Waste Subcommittee meetings; the Marin Telecommunications Agency Strategic Planning Workshop.

Mayor Goddard reported she attended a Safe Routes to Schools Task Force meeting; a “Millennials Speak Out” forum; a Ross Valley School Board meeting; participated in a waste audit at White Hill Middle School; attended a screening of the documentary “Screenagers”; a Disaster Council meeting; three Zero Waste meetings; several Ross Valley Healthy Community Collaborative meetings.

Town Manager’s Report

Town Manager Toy reported the repair of the Pavilion roof would begin tomorrow, and be completed by the middle of next week. Town Manager Toy stated there had been vendor delays with the Women’s Club stage improvements, but by April the project would be complete.

The Council took a 5-minute break at 8:45 p.m.

Public Hearings

Adoption of an Urgency Zoning Ordinance of the Town Council of the Town of Fairfax regulating the cultivation of medical marijuana by banning marijuana cultivation with exemptions for personal cultivation for qualified patients and primary caregivers and declaring the urgency thereof; exempt from CEQA- Town Manager, Planning Director

Mayor Goddard noted this item (#11) had been removed from the agenda.

Mayor Goddard stated she would like to rearrange the order of the agenda.

Regular Agenda

Second Reading and adoption of an Ordinance of the Town of Fairfax Amending Town Code Chapter 17.132, Water Conservation, Reducing the Effective Flush Volumes for Newly Installed Toilets and for Toilets on Properties Involved in Sales or Transfers from 1.6 to 1.28 Gallons; or consider revisions and conduct the first reading of the revised Ordinance. CEQA Categorically exempt, Section 15061(b)(3) and 14 C.C. R. Section 15308- Planning Director

Town Manager Toy presented a staff report. He noted he and Councilmember Coler had discussed a change in the language in Section 17.132.040 regarding a point of sale requirement: "no later than 60 days after the sale."

Mr. David Smadbeck, member of the Marin Association of Realtors, stated the Association was opposed to point-of-sale ordinances because they interfere in the transaction of a property. Councilmember Coler asked Mr. Smadbeck if he supported the change in the language noted by Town Manager Toy. Mr. Smadbeck stated he would like to run it by the Association.

Mr. Larry Bragman, Marin Municipal Water District, stated the water district was under Governor Brown's order to decrease water use by 25% from 2013 usage, and that plumbing efficiency was important to the effort. He suggested adding language to the ordinance to expressly exempt the requirement from impacting escrow, in addition to the new language proposed by staff. He also recommended requiring a receipt be attached to the self-certification form.

Mr. Todd Greenberg asked the Council to avoid procedures that impede the close of a transaction.

Mr. Sierra Salin stated there was waste in replacing fairly new toilets, and suggested people flush less frequently.

M/S, Coler/Reed, Motion to revise the ordinance to include the language suggested by Town Manager Toy and Mr. Larry Bragman, to share it with the Marin Association of Realtors, and to bring the ordinance back to the Council next month for introduction and first reading.

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

Discussion/consideration of legal non-conforming uses and structures as they pertain to residential second units and request the Planning Commission to make recommendations to the Council regarding the Second Unit Amnesty Ordinance and revisions to the Second Unit Ordinance to encourage the development and legalization of second units- Town Manager and Planning Director

Principal Planner Neal presented a staff report.

Mr. John Stalp, Taylor Drive, stated once something was labeled “non-conforming” there were more hurdles in the planning application process. The issue should be about preserving affordable housing in Fairfax.

Ms. Laura Kerhlein, speaking as an individual and not a Planning Commissioner, stated she lived in a legal non-conforming structure and this was an important issue.

Principal Planner Neal discussed the difference between “non-conforming uses” and “non-conforming structures”.

Town Manager Toy clarified the issue is should the Town allow the expansion of legal nonconforming second units since they are a form of affordable housing. The Town Code currently requires an applicant to have a legal conforming structure before being allowed to expand. Staff did not believe it appropriate to modify the actual standards for legal non-conforming second units because there is process for legalizing them. Staff suggested and Council agreed the Planning Commission should begin its review of the Second Unit ordinance including an Amnesty Ordinance to encourage the legalization of second units. Staff anticipates the PC could begin its discussions in Spring and would share the Council’s comments regarding this issue with the Planning Commission.

Second reading by title only and adoption of an Ordinance Adding a New Article III (“Medical Marijuana Cultivation”) to Town Code Chapter 17.138 (“Regulations Applying in Multiple Districts”) of Title 17 (“Zoning”) of the Fairfax Town Code, to ban marijuana cultivation with exemptions for personal cultivation for qualified patients and primary caregivers; exempt from CEQA- Town Manager, Planning Director

Town Manager Toy presented a staff report. He noted the Council had more options since the March 1st deadline had been removed by AB 21, signed by Governor Brown earlier in the day.

Mr. Andy Newell, Fairfax, stated there should be a buffer zone around schools and preschools.

Mr. Tim Nardell, President of the Marin Child Care Council, echoed Mr. Newell’s concerns. He stated Section 17.138.340 should include a provision that no cultivation be allowed within 200 feet of a school or public park.

Councilmember Weinsoff agreed with the suggestion made by Mr. Reidell.

Councilmember Coler supported using the wording “adjacent to” as opposed to “200 feet”.

Vice Mayor Reed supported adding a buffer zone to preschools too, and supported the use of the word “adjacent” instead of 200 feet.

Councilmember Lacques supported “adjacent” and was willing to delay adoption of the ordinance, but would prefer to adopt it tonight.

Mayor Goddard was opposed to adopting the ordinance tonight, and encouraged the Council to slow down the process, to do more public outreach, and to improve the ordinance now that the pressure was off.

The Council discussed at length how to balance the need for regulations with the shifting legal landscape regarding marijuana, and whether the proposed ordinance should be adopted and then revised, or sent back for fine-tuning after additional outreach and attention, including

adding regulations regarding deliveries. The Council also considered taking a wait and see approach.

Town Attorney Coleson noted that while the pressure to adopt regulations regarding cultivation was off, the issues of cultivation and delivery remained to be addressed.

Town Manager Toy expressed that from a staff perspective, certainty was always preferable.

M/S, Coler/Weinsoff, Motion to direct staff to come back with a plan that would include public outreach and time frames for consideration of the ordinance, to include both cultivation and deliveries.

AYES: Coler, Reed, Weinsoff, Mayor Goddard

NOES: Lacques

Councilmember Lacques commented that he believed the Council should address the ordinance before them, and not mix it in with a discussion of an ordinance regarding delivery or dispensary.

Second Reading by title only and adoption of an Ordinance Amending Section 17.138.010 ("Emergency Homeless Shelter Standards") of Title 17 ("Zoning") of the Fairfax Town Code, amending on-site management provisions; exempt from CEQA- Town Clerk

Town Manager Toy presented a staff report.

M/s Coler/Reed, motion to waive second reading and adopt an Ordinance Amending Section 17.138.010 ("Emergency Homeless Shelter Standards") of Title 17 ("Zoning") of the Fairfax Town Code.

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

Second reading by title only and adoption of an Ordinance Amending Chapters 17.048 ("Residential Second Units"), 17.076 ("RS-7.5 Single Family Residential Zone, Medium Density"), 17.080 (RS-6 Single Family Residential Zone, High Density"), 17.084 ("RD 5.5-7 Residential Zone, High Density), 17.116 ("SF-RMP Single-Family Residential Master Planned District"), and 17.124 ("UR Upland Residential Zone"), of Title 17 ("Zoning") of the Fairfax Town Code to allow and regulate Junior Second Units within existing single family residences; exempt from CEQA- Town Clerk

Town Manager Toy presented a staff report.

M/s Reed/Coler, motion to waive second reading and adopt an Ordinance Amending Chapters 17.048 ("Residential Second Units"), 17.076 ("RS-7.5 Single Family Residential Zone, Medium Density"), 17.080 (RS-6 Single Family Residential Zone, High Density"), 17.084 ("RD 5.5-7 Residential Zone, High Density), 17.116 ("SF-RMP Single-Family Residential Master Planned District"), and 17.124 ("UR Upland Residential Zone"), of Title 17 ("Zoning") of the Fairfax Town Code to allow and regulate Junior Second Units within existing single family residences.

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

Discuss/consider Council Committee Assignments- Town Clerk

Town Clerk Gardner presented a staff report.

It was the consensus of the Council to make the following changes to the Council Committee

assignments: Councilmember Lacques is the alternate to Association of Bay Area Governments; Councilmember Lacques is the alternate to the Marin Telecommunications Agency; and the "Youth Commission Liaison" assignment is deleted.

Acceptance of Ross Valley Healthy Community Collaborative (RVHCC) Report- Town Manager

Mayor Goddard noted this item had been continued to the next meeting.

M/S, Coler/Reed, Motion to adjourn the meeting at 11:26 p.m.

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

Respectfully submitted,

Toni DeFrancis
Recording Secretary