

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, June 3, 2015

The regular meeting was preceded by a Closed Session from 5:00 p.m. to 6:30 p.m.-

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,
Police Officers Association and Unrepresented Management Employees

Conference with Legal Counsel- Anticipated Litigation
Government Code Section 54956.9(d)(2) and (e)(2): one case

Conference with Legal Counsel pursuant to Government Code Section 54957(b),
54957.1(a)(5): Consideration of Application of Police Officer Mark Howlett for
Industrial Disability Retirement

The Council reconvened for a Special Meeting at 6:30 p.m. to conduct interviews.

Interviews

Interviews of applicants to fill vacancy on Planning Commission

The Council interviewed Ms. Cindy Swift and Mr. Chris Skelton.

Interviews of applicants to fill vacancy on Parks and Recreation Commission

The Council interviewed Mr. Sam Parry.

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
Mike Vivrette, Finance Director
Chris Morin, Chief of Police

Mayor Coler called the meeting to order at 7:05 pm

Announcement of Closed Session Action

Mayor Coler announced the Council unanimously approved the application and resolution for industrial disability retirement for Police Officer Mark Howlett. There was no other reportable action.

Approval of Agenda and Affidavit of Posting

Mayor Coler stated she would like to move Consent Calendar item #4 to coincide with the Presentation and to hear these items prior to Open Time

M/S, Reed/Weinsoff, Motion to approve the agenda including the change made by Mayor Coler and the affidavit of posting.

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

Announcements

Mayor Coler made the announcements as they appeared on the agenda. Councilmember Goddard read an announcement from Marin Sanitary Service indicating that residents can get four additional green waste carts for a small fee and place five carts at the curb for pick-up. Green waste will soon be going to the composting program at the Redwood Landfill in Novato. Councilmember Weinsoff stated Planning Director Moore had prepared a concise explanation of some of the details of the Housing Element, which would be posted on the Town Website.

Presentations

Presentation of a plaque honoring the contributions and service of "Rosie The Riveters" with special recognition for Phyllis Gould of Fairfax- Mayor Coler

Adoption of a resolution honoring the contributions and service of "Rosie the Riveters" with special recognition for Phyllis Gould of Fairfax who served at the Kaiser Shipyards- Mayor Coler

Mayor Coler read aloud the resolution and presented Ms. Gould with the plaque to be hung in the Council Chambers.

Supervisor Katie Rice thanked Ms. Gould on behalf of the Board of Supervisors for her service and presented a resolution and a plaque to be hung at the Civic Center.

Ms. Gould thanked the Council for the recognition and stated all the women who worked during World War II helped pave the way for future women.

Appointments

Appointment of candidate to fill vacancy on the Planning Commission- Town Clerk

Mr. Larry Bragman spoke in support of Ms. Mimi Newton for appointment to the Planning Commission.

M/S, Weinsoff/Reed, Motion to appoint Ms. Mimi Newton to the Planning Commission.

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

Appointment of candidate to fill vacancy on the Parks and Recreation Commission- Town Clerk

M/S, Weinsoff/Reed, Motion to appoint Mr. Sam Parry to the Parks and Recreation Commission.

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

Open Time

Mr. Steven Franks, Willow Avenue, reported progress was being made by the owners of the

Good Earth to institute a noise-free hour between 5:00 a.m. and 6:00 a.m.

Mr. Michael Macintosh reported on some facts regarding the Marin History Museum and asked the Council to add this information to their letter.

Mr. Sierra Salin, Manor View, stated the Council should not change the order of the agenda. He recently received a mailer from a realtor regarding the increase in rents in Marin County. This increase in rents messes up the community and he would not mind if property values “tanked”. He would like to see a tax on “spec” houses.

Ms. Lynn Shenbel, Dominga Avenue, asked who was responsible for bridges and the adjoining easements, as there was maintenance needed. Councilmember Reed referred to the bridge at the end of Bridge Court and noted it was a public right-of-way and should be maintained by the Town. Mayor Coler asked Town Manager Toy to look into this issue.

Ms. Sue Byrne, Mono Avenue, discussed the issue of food scarcity and the Cal-Fresh Program.

Ms. Melanie Peratis, Park Road, stated a swath of green space was paved over during the repaving of the Pavilion Parking Lot. She asked if the Town had a policy about the preserving “open, permeable ground”. Town Manager Toy stated “no”. Mayor Coler stated this is something the Town Council could discuss in the near future.

Ms. Marsha Custer, Porteous Avenue, stated she worked with the San Francisco Food Bank and clarified how the Cal Fresh Program worked with the local pantries.

Ms. Mark Bell, Dominga Avenue, asked if the Town had a “permeable surface” ordinance. Town Manager Toy stated “no”. Councilmember Weinssoff clarified that it was a stormwater runoff issue related to construction.

Mr. Larry Bragman stated there would be more surface water flow from the paved parking lot. The policy should be zero runoff.

Consent Calendar

Adoption of a resolution honoring the contributions and service of “Rosie the Riveters” with special recognition for Phyllis Gould of Fairfax who served at the Kaiser Shipyards- Mayor Coler

Accept Financial Statement and Disbursement Reports April 2015- Finance Director

Approve minutes for the March 18 and April 29, 2015 Town Council meetings- Town Clerk

Reappointment of Holly Bragman to the Fairfax Volunteer Board- Town Clerk

Reappointment of Fairfax Representative Jody Timms to the Marin Commission on Aging- Town Clerk

Adoption of a resolution calling for a General Municipal election to be Held on November 3, 2015, for the Election of Certain Officers, Requesting the Marin County Board of Supervisors to Consolidate with the General Election Conducted on that Date, and Requesting Election Services of the County Clerk- Town Clerk

Approval of sponsorship of Streets for People Event on August 30, 2015- Town Clerk

**Approval of the Notice of Completion for the Bank Street (Pavilion) Parking Lot Project-
Town Manager**

Approval of a second six-month period of the agreement with Sustainable Fairfax to implement the mandates of the Zero Waste grant and provide public education and outreach services for the Mandatory Commercial Recycling Ordinance and to encourage commercial composting- Town Manager

Adoption of a Resolution Setting the Amount of the Special Municipal Services Tax for FY 2015-16- Finance Director

**Adoption of a Resolution Setting the Amount of the Utility Users Tax for FY 2015-16-
Finance Director**

Adoption of a Resolution Setting the Pension Tax Rate to Support Fairfax Pension Obligations for FY 2015-16- Finance Director

Adoption of a Resolution Setting a Fee for the Purpose of Funding Local Stormwater Pollution Prevention Activities for FY 2015-16- Finance Director

Adoption of a Resolution Setting the Tax Rate for the General Obligation Bonds (Measure K Bond Assessment) for the FY 2015-16- Finance Director

Adoption of a Resolution continuing expenditures and revenues in accordance with the 2014-15 Town Budget and continuing the 2015-16 Budget Adoption- Town Manager, Finance Director

Adoption of a Resolution Opposing the Trans-Pacific Partnership (TPP) and Any “FastTrack” Ratification Process, Expressing Concerns About Elements of the TPP, and Supporting Fair Trade Practices that Protect Jobs, Workers, the Environment, Public Health, and the Free and Open Internet- Councilmember Lacques

Authorize Mayor to send a letter in opposition to Assembly Bill 57 re Wireless Telecommunication Facilities- Mayor Coler

Authorize Mayor to send a letter to the Marin History Museum regarding disposition of artifacts and/or archival documentation associated with Fairfax- Councilmember Reed

Councilmember Goddard asked for removal of item #7 and #12 from the Consent Calendar. She noted she would need to recuse herself from voting on item #12.

Mayor Coler stated item #7 and #21 would be heard after approval of the Consent Calendar.

Councilmember Weinsoff referred to item #20 and stated the MCCMC Legislative Committee has taken the same position. He noted he would abstain from voting on item #19 since it was an item regarding matters beyond the Fairfax borders.

Mr. Michael Macintosh asked for clarification on item #13 and #15 regarding how a tax rate was set. Finance Director Vivrette explained that the rates were not changing.

M/S, Reed/Goddard, Motion to approve the Consent Calendar with the removal of item #7 and #21 for discussion and item #12 and #19 which would be voted on separately.

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

M/S, Lacques/Reed, Motion to approve Consent Calendar item #19.

AYES: Goddard, Lacques, Reed, Mayor Coler

ABSTAIN: Weinsoff

M/S, Reed/Lacques, Motion to approve Consent Calendar item #12.

AYES: Lacques, Reed, Weinsoff, Mayor Coler

RECUSED: Goddard

Reappointment of Holly Bragman to the Fairfax Volunteer Board- *Town Clerk*

Ms. Holly Bragman discussed the Volunteer Board's accomplishments and the many projects they undertake.

M/S, Reed/Goddard, Motion to reappoint Ms. Holly Bragman to the Volunteer Board.

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

Authorize Mayor to send a letter to the Marin History Museum regarding disposition of artifacts and/or archival documentation associated with Fairfax- *Councilmember Reed*

Mr. Michael Macintosh stated the letter should be sent to the Attorney General in charge of the investigation. He discussed the status of the situation.

M/S, Reed/Lacques, Motion to authorize Mayor to send a letter to the Marin History Museum regarding disposition of artifacts and/or archival documentation associated with Fairfax and the County at large.

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

Council Reports and Comments

Councilmember Lacques reported he attended the Marin Clean Energy Board meeting.

Councilmember Goddard reported parents should go on line and sign up for a spot on the yellow school bus which would be servicing school lines next year- Golden Gate Transit would no longer be running those buses; Marin County is working on a Pharmaceutical Ordinance that would require pharmaceutical companies to pay for safe disposal of expired pills.

Councilmember Reed reminded everyone that using rat poison could kill predators such as hawks and owls; he attended a traffic-calming workshop in San Anselmo; presented proclamations to Eagle Scouts; attended a Fire Board meeting; attended several Council Budget Workshops.

Councilmember Weinsoff reported he did a ride-along with a Fairfax Police Officer; reported that Flood Zone 9 would be meeting on June 16th regarding alternative sites for flood control projects; reported that the Measure "A" Committee has identified and recommended re-doing the park at Claus Circle- he plans to meet with the neighbors.

Mayor Coler reported she attended the installation of the new Fairfax Postmaster; attended several Marin Clean Energy meetings; a Fairfax Climate Action meeting; testified before the Board of Supervisors in support of the Sky Ranch Project; participated as a judge at the Ross School Speech Tournament.

Town Manager's Report

Town Manager Toy stated there was nothing new to report on the Wall property.

The Council took a 10-minute break at 8:30 p.m.

Public Hearings

Discuss/consider Fiscal Year 2015-16 Proposed Operating and Capital Improvement Budget- Finance Director

Town Manager Toy presented a staff report and a Powerpoint presentation that included: 1) Fiscal Year 2015-16 Proposed Budget; 2) Comparing General Fund Revenues and Expenses; 3) Where the Money Comes From- Sources of Funds; 4) Where the Money Goes To- Use of Funds; 5) Budget Highlights Fiscal Year 2015-16; 6) General Fund 5-Year Forecast; 7) General Fund Revenue and Expenditure Forecast in Percentages; 8) Revisions from Council Budget Workshop (May 28); 9) Five Year Capital Improvement Program; 10) Future Funding Issues to Consider; 11) Budget Schedule/Next Steps. He noted revenues will meet expenditures and there will not be a need to tap into General Fund Reserves.

Mayor Coler noted at the workshop the Council had talked about a one-time \$2,000 augmentation for the Volunteer Board and funding a one-quarter Administration Assistant position.

Councilmember Goddard suggested holding another Budget Workshop. Councilmember Weinsoff recommended discussing the budget at the July Council meeting and setting aside other matters. He expressed concern about reducing the Reserves. Mayor Coler agreed.

Mayor Coler opened the Public Hearing.

Ms. Holly Bragman had questions about the augmentation of funds for the Volunteer Board and the proposed budget.

Ms. Helen Fauss, Scenic Road, discussed the danger of a wildfire in the hills and the importance of trail development and access.

Ms. Melanie Peratis, Park Road, thanked the Public Works Department for assisting the Fairfax Gardeners Alliance projects. She asked for continued funding for the Alliance in the amount of \$10,000.

Mr. George ("Geo") Taylor, Toyon Road, stated the Volunteer Board is a conduit for community service and generosity, and helps to build a healthy community.

Ms. Rose Taber, Hillside Drive, stated the Town should levy a tax on remodels and apply it to sidewalks because it is difficult to walk in Town.

Mr. Mark Bell, Dominga Avenue, asked about the future projection of \$250,000 from "parking". He agreed with Councilmember Weinsoff's comments about the Reserves but supported a one-time expenditure for trails.

Mayor Coler closed the Public Hearing.

Councilmember Reed stated he liked the idea of leveraging the Measure "A" funds for the park at Claus Circle.

Mayor Coler asked staff to look at increasing funding on trails, the allocation of \$10,000 towards the Gardener's Alliance, and adding a .25 FTE administrative assistant.

It was the consensus of the Council to continue this item to the July meeting.

Mayor Coler stated she would like to continue items #24 and #25 to the July meeting.

Regular Agenda

Discuss/consider residents' petitions regarding the Noise Ordinance- Town Manager

Town Manager Toy presented a staff report.

Councilmember Reed stated he had met with Mr. Mike Ghiringhelli, owner of Deer Park Villa, regarding installing a sound wall and other measures to help mitigate the noise.

Councilmember Goddard had a question about the 1976 Use Permit.

Ms. Marsha Custer, Porteous Avenue, stated the neighbors support Option #2 in the staff report. The Planning Commission should conduct a Public Hearing to ratify the conditions of the Use Permit.

Mr. Michael Macintosh stated the Town should review the previous litigation. He had concerns regarding altering the conditions of a Use Permit.

Mr. Bob Stempel, Porteous, agreed with the comments made by Mr. Macintosh. He supported changing the Principle Permitted Uses of the CL Zone. The petition proposed to add rights to allow indoor amplified music, outdoor acoustical music until 8:30 p.m., and the restaurant business to be conducted outdoors. He supported Option #2 in the staff report. He asked the Council to instruct staff to enforce the Noise Ordinance as it is written.

Ms. Allison Mulligan, Porteous Avenue, stated the Noise Ordinance states that the decibel level should be lowered by 5 decibels if the offending noise is music or speech. This would give the surrounding neighbors some relief.

Ms. Amanda Martin, Meernaa Avenue, stated she has lived in the neighborhood for 18 years and the sound level from Deer Park Villa has never been an issue. It seems unfair that a vocal minority could affect a business.

Mr. Michael Ghiringhelli, owner of Deer Park Villa, distributed a proposal from a music supply vendor and some photographs to the Council. Mayor Coler asked if the mitigation measures would be installed soon. Mr. Ghiringhelli stated the information he passed out was the first step.

Mr. Bill O'Connell, attorney for Mr. Ghiringhelli, stated he was new to the matter but thought it could be resolved in a common sense manner. The Use Permit was granted on May 24, 1976 and is available in the Town Council minutes. It is not time limited. It allows outdoor, amplified music and live entertainment. State law and the Fairfax Municipal Code specify that a Use Permit is a vested right- it cannot be taken away except in the case of a public nuisance. He was of the opinion that Deer Park Villa has not crossed over the line.

Councilmember Weinsoff asked why Mr. Ghiringhelli would not make the technological fixes to alleviate the problem. He wanted to avoid litigation. Mr. Ghiringhelli stated he has made various mitigations measures and has worked with the neighbors.

Ms. Rose Taber, Hillside Drive, stated the problem has gotten worse over the years. She has a right to enjoy her property.

Councilmember Goddard suggested forwarding the issue of the Use Permit to the Planning Commission, due to its complexity.

Mayor Coler suggested continuing this item to the July meeting in terms of the sound measures and discuss whether to send it to the Planning Commission.

M/S, Weinssoff/Reed, Motion to continue this item to the July 15th Council meeting at which time the Council will review the actions taken by Deer Park Villa to go forward with a new sound system and the other mitigation ideas discussed with Councilmember Reed and the sound technician. In the event that the Council is not provided with either completed actions or evidence that the improvements are going to be made by a date certain then the Council will take up the discussion of referring the matter to the Planning Commission and look at the Noise Ordinance in greater detail.

AYES: Reed, Weinssoff, Mayor Coler

NOES: Goddard, Lacques

Discuss policies regarding short-term/vacation rental of residential units- Town Manager

Mayor Coler stated this item was continued to the July meeting.

Discuss/consider continuing the temporary bike rack at Broadway and Bolinas- Town Manager

Mayor Coler stated this item was continued to the July meeting.

Second reading by title only and adoption of Ordinance No. 790, Amending the Town Code Title 8 ("Health and Safety"), Chapter 8.44 ("Clean Indoor Air and Health Protection"), to include restrictions on the usage of electronic smoking devices and prohibit smoking in tobacco retail stores- Town Manager

Town Manager Toy presented a staff report.

Mr. Mark Bell, Dominga Avenue, had questions about the ordinance and its prohibitions. He stated "vaporizing" was not smoking.

M/S, Weinssoff/Lacques, Motion to waive second reading and adopt Ordinance No. 790, an Ordinance of the Town Council of the Town of Fairfax Amending Town Code Title 8 ("Health and Safety"), Chapter 8.44 ("Clean Indoor Air and Health Protection"), to include Restrictions on the Usage of Electronic Smoking Devices and Prohibiting Smoking in Tobacco Retail Stores.

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

Second reading by title only and adoption of Ordinance No. 791 Amending Chapter 8.32 of the Town Code ("Urban Runoff Pollution Prevention") to be consistent with the State Water Resources Control Board Stormwater Permit requirements- Town Manager

Town Manager Toy presented a staff report.

M/S, Weinssoff/Goddard, Motion to waive second reading and adopt Ordinance No. 791 an Ordinance of the Town of Fairfax Amending Town Municipal Code, Chapter 8.32, to Update the Urban Runoff Pollution Prevention Regulations.

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

Second reading by title only and adoption of Ordinance No. 792 An Ordinance of the Town Council of the Town of Fairfax amending Chapter 10.04 of the Town Code ("Uniform Traffic Ordinance Adopted") to allow overnight parking in Downtown by Town Council Resolution-

Town Manager

Town Manager Toy presented a staff report.

M/S, Goddard/Reed, Motion to waive second reading and adopt Ordinance No. 792 an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 10.04 of the Town Code ("Uniform Traffic Ordinance Adopted") to Allow Overnight Parking in Downtown by Town Council Resolution.

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

Adoption of a resolution to allow overnight parking on Center Boulevard between Pacheco and Pastori Avenues- Town Manager

Town Manager Toy presented a staff report.

M/S, Lacques/Reed, Motion to adopt a Resolution of the Town Council of the Town of Fairfax to Allow Overnight Parking on Center Boulevard Between Pacheco and Pastori Avenues.

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

Second reading by title only and adoption of Ordinance No. 793 Amending Chapter 17.036 of the Town Code, to update the procedure for directed referrals by the Town Council - Town Manager

Town Manager Toy presented a staff report.

M/S, Weinsoff/Goddard, Motion to waive second reading and adopt Ordinance No. 793 an Ordinance of the Town of Fairfax Amending Town Code Chapter 17.036, to Update the Procedure for Directed Referrals by the Town Council.

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

M/S, Weinsoff/Lacques, Motion to adjourn the meeting at 11:52 p.m. in memory of Ms. Alane Childress Grant.

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

Respectfully submitted,

Toni DeFrancis
Recording Secretary