

Draft Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, November 6, 2013

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:** Larry Bragman  
Barbara Coler  
Renee Goddard  
John Reed, Mayor  
David Weinsoff, Vice mayor

**STAFF MEMBERS PRESENT:** Garrett Toy, Town Manager  
Janet Coleson, Town Attorney  
Michele Gardner, Town Clerk  
Mark Lockaby, Building Official  
Mike Vivrette, Finance Officer  
Roger Meagor, Fire Chief  
Chris Morin, Police Chief

Mayor Reed called the meeting to order at 7:06 pm.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Weinsoff, Motion to approve the agenda and the affidavit of posting.  
AYES: All

Announcement of Closed Session Action

Mayor Reed reported the Council did not meet in Closed Session.

Interview and Appointments

1. Interview and Appointment of three Candidates to serve on the Parks and Recreation Commission- Town Clerk

The Council interviewed Mr. Monty Stephens and Ms. Claudia Tomaso. Ms. Sisi Parry Hansen was not in attendance.

M/S, Coler/Bragman, Motion to appoint Mr. Monty Stephens, Ms. Claudia Tomaso, and Ms. Sisi Hansen to the Parks and Recreation Commission. Ms. Tomaso will serve on the seat that expires in March.  
AYES: All

2. Interview and Appointment of Candidate to serve on the Fairfax Open Space Committee- Town Clerk

The Council interviewed Ms. Nancy Morita.

Ms. Mimi Newton, Chair of the Fairfax Open Space Committee, stated Ms. Morita would be a great addition to the committee.

M/S, Bragman/Weinsoff, Motion to appoint Ms. Nancy Morita to serve on the Fairfax Open Space Committee.

AYES: All

### Announcements

Mayor Reed made the announcements as they appeared on the agenda.

Councilmember Goddard announced that the Manor School Winter Fair would be held on Saturday, November 16<sup>th</sup>- she encouraged everyone to attend.

### Open Time:

Mr. Sierra Salin stated global issues were local issues.

Mr. Tony Yudice, Forrest Terrace, stated he received a letter in the mail about the Creek Road Bridge Restoration and he wanted assurances that the bridge would continue to be used for pedestrian, bicycle, and vehicular access.

Mr. George DeTunq, Ridge Road, stated he and his neighbor have a problem with water flowing onto their property from the Town streets. They are requesting that a curb be installed across the front of their properties. Town Manager Toy stated he sent Mr. DeTunq an email this afternoon. The Town Engineer is of the opinion that there is not a discernable change in the water flow related to the paving of the property and asphalt berming would have a minimal benefit to the properties other than during a light rainfall. The applicant could apply to put in some type of drainage but it is not the responsibility of the Town to install those improvements. Councilmember Weinsoff recommended that Mr. DeTunq speak to Town staff.

Mr. Peter Verdone, Spruce Road, stated the basketball hoop outside of the Women's Club was underutilized because of the irregular surface. Councilmember Weinsoff asked if this was a Town owned facility. Mayor Reed stated "yes". Mr. Verdone stated there was a streetlight in front of his house that causes a large amount of light pollution. Councilmember Weinsoff stated the Town could ask the contractor to install a shield.

Mr. Bryce Hoffman, Penny Lane, was concerned about alcoholic beverages being served on sidewalks in front of restaurants. Police Chief Morin stated the sidewalk in front of Iron Springs was private property and these activities were regulated by the Alcoholic Beverage Control Board (ABC).

Mr. Michael Dunn, Wood Lane, agreed with the concerns expressed by Mr. Hoffman and stated the public could not avoid the restaurant's "private property". He was concerned about children's exposure to alcohol.

### Council Reports and Comments

Councilmember Weinsoff reported he attended the Chamber Mixer; the Ross Valley Fire Board meeting; he and Mayor Reed met with Supervisor Katie Rice regarding the action plan for flood relief; was asked by Assemblyman Levine to speak on the California Coastal Act.

Councilmember Coler reported she attended the Chamber Mixer.

Councilmember Bragman reported he attended the Marin County Council of Mayors and Councilmembers (MCCMC) meeting; a Marin Telecommunications Agency meeting; was reappointed to the Community Media Center Board; the Ross Valley Paramedic Authority

(RVPA) Board meeting.

Councilmember Goddard reported she attended a Ross Valley School Board meeting; Biketoberfest; a Zero Waste Committee meeting; several Solid Hazardous Waste JPA Task Force meetings.

Mayor Reed reported he attended the Biketoberfest; Ross Valley Fire Board meeting; met with representatives of Oak Manor regarding Manor School; the Chamber Mixer; the MCCMC meeting; several Transportation Authority of Marin (TAM) meetings; Safe Routes to Schools meeting; Chipper Day.

#### Town Manager Report

Town Manager Toy reported the Friends of Peri Park would hold a "Clean Up Day" this Saturday and would kick off the fundraising activities for the \$10,000 match for the Kaboom Grant. Staff has scheduled a meeting regarding noise at Deer Park Villa on Tuesday, November 12<sup>th</sup> at 7:00 p.m. at Deer Park Villa. Staff has scheduled a community meeting regarding the Meadow Way Bridge on November 20<sup>th</sup>, at 6:00 p.m., at the Women's Club. He reported there were no plans to change the use of the Creek Road Bridge since it is a seismic retrofit project. Notices will be sent out to surrounding neighbors about the community meetings that will be held in January or February. The Open Space Committee has selected several Drake High School students to help them with their activities. Staff will present plans to the Council for a disaster preparedness public outreach awareness program in January or February.

Police Chief Morin discussed the protocol for addressing noise complaints at Deer Park Villa. He stated no special consideration was given to the owners of Deer Park Villa; the department deals with every complaint in the same manner – fair and impartial. The department often makes a courtesy call to a business when a complaint is received.

Councilmember Coler asked if a Councilmember could attend the November 20th meeting regarding the Meadow Way Bridge. Town Manager Toy stated "yes".

#### Consent Calendar

**Approval of the Notice of Completion for the Bike Spine Project-*Town Manager***

**Approval of the Notice of Completion for the Sir Francis Drake Bike Lane Striping Project- *Town Manager***

**Approval of agreement with Marin County for proceeds from Marin Parks, Open Space, and Farmland Preservation Transactions and Use Tax Ordinances (Measure A)- *Town Manager***

**Adoption of Resolution 13-53 requesting a change to the Funding Agreement 2008-2009 with the Transportation Authority of Marin to substitute the repaving of Scenic Road for Tamalpais Road- *Town Manager***

**Approval of Town Council minutes for the October 2, 2013 regular and special meetings and the October 22, 2013 special meeting –*Town Clerk***

**Acceptance of July, August, and September Financial reports- *Finance Director***

**Adoption of Resolution 13-54 adopting a policy for the Town Manager to establish furlough days for Town Hall employees between the regular holidays of December 24<sup>th</sup> and January 1st- Town Manager**

**Adoption of Resolution 13-55 Directing Staff to Develop Requirements for Posting Noticing Signs for Projects Proposed in the Town's Commercial Zone- Town Manager**

**Adoption of Resolution 13-56 to apply to the Bay Area Air Quality Management District for a grant to fund bike racks- Town Manager**

**Adoption of Resolution 13-57 in support of urgent international rescue of Fukushima Daiichi nuclear facility- Mayor Reed and Councilmember Bragman**

**Authorization to become a signatory to MOMAS Draft Comments regarding the Marin County Department of Agriculture's 10-Year Invasive Weed Management Plan- Councilmember Bragman**

M/S, Bragman-Coler, Motion to approve the Consent Calendar with the removal of item #5, #10, and #11 for discussion and the continuation of #4, and #12.

AYES: All

#### Reports and Presentations

##### Farmers Market Report- Kelly Smith, Agricultural Community Events

Town Manager Toy presented the staff report.

Ms. Kelly Smith, representing Agricultural Community Events, reported the Farmers Market consisted of 34 vendors including twelve farms (eight returning and four new farms). She stated they would like to extend the market into October in the park. They have been talking to the local businesses.

Ms. Janet Gleason, farmer, stated this was her first year in Fairfax and she enjoyed the community. She stated it would be nice to be able to go further into the season.

Ms. Graham Wheeler, Laguna Farms, stated this was one of the few Farmers Markets that people use as a "grocery store".

Councilmember Goddard asked Ms. Smith if she was able to run a financially sustainable market. Ms. Smith stated "yes".

Mr. Tony Yudice, Forrest Terrace, was concerned about the noise and traffic from the market and the potential to jeopardize public safety. He suggested using the Fairfax Library parking lot for the market on Fridays or Sundays when the library is closed.

Mr. Sierra Salin stated the Pavilion parking lot could be also used for the Farmers Market.

Councilmember Weinsoff stated staff could discuss with Ms. Smith some type of alternative turf/grass for the park in order to extend the season.

##### Roots to Branches youth activities- Zach Laurie, Armando Spatero

Mr. Zach Laurie made a PowerPoint presentation that included the following: 1) What is R2B?; 2) How Do We Work; 3) Four Program Arenas; 4) Service Learning; 5) Rites of Passage; 6)

Community Workshops; 7) Youth Commission; 8) What's Missing; 9) Professional Development; 10) Our Vision.

Mr. Armando Spatero discussed the upcoming workshop/programs that would be provided in Fairfax including Kung Fu, Yoga, African Dance, movies, etc.

Mr. Laurie stated the organization was always looking for volunteers or sponsors.

The Council thanked Mr. Laurie and Mr. Spotero for their presentation and good work.

Mayor Reed stated he would like to rearrange the order of the agenda as follows: item #16, #17, #22, #23, #24.

### Public Hearings

#### Appeal of Planning Commission denial of a Setback Variance, application 13-23, 130 Wood Lane, to legalize an unpermitted carport within the required 5-foot setback- Planning Director

Building Official Lockaby presented a staff report.

Councilmember Coler asked if the structure could be relocated without relocating the sewer line. Building Official Lockaby stated the cleanout for the sewer was not in the same location and the carport could be moved (twisted) over a few feet to get it out of the setback. Councilmember Coler asked if the shed would need to be moved. Building Official Lockaby stated he did not think so.

Councilmember Bragman asked if the southern post was located in the setback. Building Official Lockaby stated "yes". Councilmember Bragman asked if the post could be moved out of the setback resulting in an overhang, but no construction, in the setback. Building Official Lockaby stated that might not be possible.

Councilmember Goddard asked if there were any physical features that were offending anyone. Councilmember Weinsoff stated this was built by a licensed contractor who did not bother to get permits. Granting the variance would set a precedent. Councilmember Coler agreed and noted the Planning Commission is very concerned about setting a precedent.

Councilmember Bragman stated the Council would need to make findings to grant the variance.

Mayor Reed opened the Public Hearing.

Mr. John Leimer, contractor, pleaded "youthful exuberance" and acknowledged that he "got ahead of himself". He stated it would cost a lot of money to move the structure.

Ms. Suzanne Quentin, applicant, stated it would be a challenge to move the structure and several of the options would move the footing to the middle of the driveway and hit the sewer line. Option #1 is the most logical but there is a roofline issue with the shed.

Councilmember Coler had questions about the cost estimates from the contractor.

Mayor Reed closed the Public Hearing.

Councilmember Goddard stated she understood the issue regarding setting a precedent but noted the neighbors were not objecting to the structure and they should focus their energies on deterring people from taking advantage of this situation in the future.

Town Manager Toy reminded the Council that they would need to make the findings to grant the variance.

Councilmember Weinsoff suggested they give the applicant a winter grace period but he was of the opinion that the structure would need to be relocated.

It was the consensus of the Council to continue this item to the first meeting in May. The applicant agreed to a continuance.

Discussion/consideration of 76 Spruce Road regarding compliance with Town Code and site maintenance issues- Building Official

Building Official Lockaby presented a staff report.

Councilmember Weinsoff asked if the homeowner was running a drumming business out of the home and whether or not he had a business license. Building Official Lockaby stated he did not know if a business license had been issued.

Councilmember Coler noted the staff recommendation was to work with the applicant to obtain a Second Unit Use Permit and she asked if this included the idea of running a business out of the location. Town Manager Toy stated "yes" but the applicant has indicated to staff that he is not running a business from this location.

Mayor Reed opened the Public Hearing.

Mr. Gabriel Harris, property owner, stated he has a business that does drumming workshop but not from his residence. He has had a business license for "Rhythm Village" for about ten years. He fully intends to legalize the second unit and has spent \$2,500 on a land survey. He submitted floor plans to the Planning Department today.

Councilmember Bragman stated there have been complaints about garbage on the property. Mr. Harris stated he is trying to clean it up.

Councilmember Weinsoff stated there have been complaints about parking in the neighbor's parking spots. Mr. Harris stated he would be happy to post a sign.

Councilmember Goddard stated she was concerned about the cover over the creek and how this could be a safety issue. Mr. Harris stated the underground culvert has become an issue and he has had to clean it out numerous times. He has a grate and cover for the cleanout that was provided by the Public Works Department.

Building Official Lockaby stated the homeowner built over the creek, which is in the public right-of-way, to gain access to his house. The issue is maintenance of that access.

Mr. Tom Bruce, Fairfax Public Works Maintenance Worker, stated this area of Mr. Harris' yard has been a problem for years. The Public Works Department could install the grate so that it could be removed to facilitate clean out of the culvert.

Ms. Kim Tuold, Spruce Avenue, asked who would pay for installation of the grate and be responsible for it. Building Official Lockaby stated if the Town installs the grate then the Town would keep it clean. Ms. Tuold distributed information indicating there was a home business being run out of 76 Spruce Road. She stated there were parking and noise impacts due to the home business. She added that the property needs to be tidied up.

Mr. Steve Vanni, Chester Avenue, stated he was concerned about the precedent that is being set in terms of the Town installing a grate and taking care of a property owner's drainage.

Councilmember Bragman stated perhaps this issue should be addressed along with the Second Unit Permit Application.

Ms. Olive Bartholomew, Spruce Road, stated she lives across the street from the subject property. The yard is full of junk and is in a neglected state. She is concerned about the noise and extra traffic that results from the drumming business.

Mayor Reed closed the Public Hearing.

Councilmember Bragman stated this issue should be reviewed by the Council in January to make sure there is progress being made.

The Council took a 15-minute break at 10:10 p.m.

Traffic Impact Permit for 2001 Sir Francis Drake Blvd. for a combination Chevron Gas Station/Express Mile convenience store- continued to December 4<sup>th</sup> per Applicant's request

Mayor Reed noted that this item has been continued to the December 4<sup>th</sup> Council meeting.

#### Regular Agenda

Approval of the Notice of Completion for the Pastori Bank Stabilization Project- Town Manager

Town Manager Toy presented a staff report.

Mr. Greg Grubin, Project Engineer with CSW/ST2 engineers, made a Powerpoint presentation and discussed the history of the project. He stated the project went well and it was "built to last".

Councilmember Coler thanked CSW/ST2 for doing an amazing job of staying on track and on schedule.

Councilmember Bragman asked about the expected duration of the pipe lining and whether or not it would have to be replaced. Mr. Grubin stated it should last 15 to 20 years.

M/S, Coler/Goddard, Motion to authorize the Town Manager to issue a Notice of Completion for the Pastori Bank Stabilization Project.

AYES: All

Discussion/consideration of the status of the clean up of the property at 159 Willow- Building Official

Building Official Lockaby presented a brief staff report.

Councilmember Coler referred to the last item on the staff report "Clean Up /Violation Checklist" and asked what was being removed (wood stove or fireplace). Building Official Lockaby stated what was being removed was a very old, antique Ben Franklin stove that was converted to use gas. It is in the area of the existing fireplace. Councilmember Coler asked if the fireplace could be used. Building Official Lockaby stated "no" since it was bricked up.

Councilmember Coler stated she would like to see shorter timelines. Building Official Lockaby stated it was pretty slow going and he thought the timeframes were realistic. Staff wants to see steady progress.

Mr. Steve Vanni, Chester Avenue, stated the neighbors would like to see removal of the wood stove stack pipe (flue). He thanked staff for their hard work.

Discuss/consideration of regulations regarding roosters with in Town limits- *Town Manager*

Town Manager Toy presented a brief staff report.

Mr. Peter Verdone, Spruce Road, stated a homogenized community is not a good thing and he appreciated the color and flavor of Fairfax. Neighbors should work on problems one-on-one.

Ms. Rye Cohen, Live Oak Avenue, stated she lives in Fairfax for the "quiet". She works from home and hears roosters crowing all day long. Roosters should live in agricultural areas.

Ms. Queenelle Minet, Ridge Road, stated she needs a good night's sleep to maintain her health but she is often awakened by the loud, shrill and constant crowing of a rooster.

Mr. Rob Nye, Ridge Road, stated the rooster crows intermittently and he is losing hours of sleep since this happens every day. He stated it would be difficult, given the location of his home and the size of his neighbor's yard, to get two complaints from different residences.

Ms. Diane Rudden stated she owns three properties on Main Court and has tenants that are complaining about roosters. Fairfax is not an agricultural zone. She suggested the Council implement a temporary ban on roosters to see how it works.

Ms. Joanne Perez, Cascade Drive, stated she has had roosters for 35 years and has never gotten a complaint. People should not move to Fairfax knowing that roosters are legal. Banning roosters would not be fair to people who already have roosters. Councilmember Bragman asked Ms. Perez how to keep roosters quiet. Ms. Perez stated they should be put in a covered wooden box weighted with a stone that does not allow them to stand up.

Councilmember Weinsoff stated Marin County has vast public open spaces while the residential neighborhoods are somewhat constrained with houses close together. He will not vote to have roosters in Town. Trade-offs must be made.

Councilmember Bragman stated he did not think they should ban roosters and felt there was a middle ground. The complaint-based system should not require two separate residences. He would like to give the revised ordinance a chance to correct the neighbor's problems. The Council should look at this issue again in six months. He referred to Exhibit D, Chapter 8.15 Noise Abatement and Control, #7, the last sentence, and suggested striking the words "having separate residences".

Councilmember Goddard agreed with the suggestion made by Councilmember Bragman. She wanted to limit the amount of staff time needed for enforcement.

Councilmember Coler agreed with Councilmember Bragman's suggestion.

M/S, Bragman/Goddard, Motion to direct the Town Attorney to draft an ordinance based on the Calimesa's Town Code, Chapter 8.15, Noise Abatement and Control, that incorporates the language that written affirmation by two persons is a violation of this code section and disturbs the peace and quiet of said persons and shall be prima facie evidence of a violation of this



section.

AYES: Mayor Reed, Bragman, Coler, Goddard

NOES: Weinsoff

Discussion/consideration of disposal of Town surplus personal property- *Town Manager*

Mayor Reed noted this item has been continued.

Approval of Town Council Meeting schedule for calendar year 2014- *Town Clerk*

Mayor Reed noted this item has been continued.

Adoption of Resolution 13-55 Directing Staff to Develop Requirements for Posting Noticing Signs for Projects Proposed in the Town's Commercial Zone- *Town Manager*

Mayor Reed noted this item has been continued.

Introduction and First Reading By Title Only of Ordinance No. 773 to Adopt the 2013 California Building Standards Code, California Code of Regulations, Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 10, 11, and 12, Which Consists of the California Administrative, Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical Building, Existing Building, Green Building Standards, and Referenced Standards Codes, and Adopting the 2012 Edition of the International Property Maintenance Code- *Building Official*

Building Official Lockaby presented a staff report.

Councilmember Bragman referred to page 5 of the ordinance, Sections 313.1 and 313.2, (2), and suggested the following revision to the language: "in newly *constructed* second units". He was concerned that the process of legalizing second units was somewhat onerous. Town Manager Toy stated this issue is addressed through the Amnesty Ordinance. Fire Chief Meagor noted the Amnesty Ordinance does not address the requirement to install a sprinkler system except in the Wildland Urban Interface.

Mayor Reed opened the Public Hearing. There were no public comments. Mayor Reed closed the Public Hearing.

M/S, Weinsoff/Goddard, Motion to introduce and waive first reading of Ordinance No. 773, an Ordinance of the Town of Fairfax Amending Chapter 15-04 of the Town Code and Adopting the 2013 California Building Standards Code, California Code of Regulations, Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 10, 11, and 12, which Consists of the California Administrative, Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historic Buildings, Existing Buildings, Green Building Standards, and Referenced Standards Codes, and Adopting the 2012 Edition of the International Property Maintenance Code.

AYES: All

Introduction and First Reading By Title Only of Ordinance No. 774 to Adopt the 2013 California Fire Code, Portions of the 2012 International Fire Code, and Appendix A of the 2012 International Wildland-Urban Interface Code- *Fire Chief*

Fire Chief Meagor presented a staff report.

Councilmember Coler had a question about requirements for upgrading fire hydrants.

Mayor Reed opened the Public Hearing. There were no public comments. Mayor Reed closed the Public Hearing.

M/S, Weinsoff/Goddard, Motion to introduce and waive first reading of Ordinance No. 774, an Ordinance of the Town of Fairfax Amending Chapter 8.04 of the Fairfax Municipal Code, Adopting the 2013 California Fire Code, Portions of the 2012 International Fire Code, and Appendix A of the 2012 International Wildland-Urban Interface Code Prescribing Regulations Governing Conditions Hazardous to Life and Property From Fire or Explosion; Providing for the Issuance of Permits for Hazardous Uses or Operations; and Establishing a Fire Prevention Bureau and Providing Officers Therefore and Defining Their Powers and Duties.

AYES: All

Adoption of Resolution 13-58 Approving a new garbage and recycling service rate for front load compactor fees in the Town of Fairfax- *Town Manager*

Town Manager Toy presented a staff report.

Mayor Reed opened the Public Hearing. There were no public comments. Mayor Reed closed the Public Hearing.

M/S, Weinsoff/Goddard, Motion to adopt Resolution No. 13-58, A Resolution of the Town Council of the Town of Fairfax Approving a New Garbage and Recycling Service Rate for Front Load Compactors in the Town of Fairfax.

AYES: All

Second Reading by title only and Adoption of Ordinance No. 770, An Ordinance of the Town Council of the Town of Fairfax Amending Sections 8.20.060 (C)(1) and (2), 8.20.070(D) and 8.20120(A)(2) and (B) of the Town Code of the Town of Fairfax Relating to the Control of Noise and Noise-Generating Equipment, Permitted Hours of Operation, Including an Exemption Application Process and Lifting Limitations During Declared States of Emergency- *Planning Director*

Town Manager Toy presented a brief staff report.

There were no public comments.

M/S, Bragman/Weinsoff, Motion to waive second reading and adopt Ordinance No. 770, an Ordinance of the Town Council of the Town of Fairfax Amending Sections 8.20.060(c)(1) and (2), 8.20.070(D), 8.20.120(A) and (B) of the Town Code of the Town of Fairfax Relating to the Control of Noise and Noise Generating Equipment, Permitting Hours of Operation, Including an Exception Application Process and Lifting of Limitation During Declared States of Emergency.

AYES: All

Second Reading by title only and Adoption of Ordinance No. 772 Amending the Municipal Code by Adding Section 8.08.130 (Establish Mandatory Commercial Recycling Within the Town of Fairfax)- *Town Manager*

Town Manager Toy presented a brief staff report.

There were no public comments.

M/S, Bragman/Weinsoff, Motion to waive second reading and adopt Ordinance No. 772, an Ordinance of the Town Council of Fairfax Amending the Municipal Code by Adding Section 8.08.130 (Establishing Mandatory Commercial Recycling within the Town of Fairfax).

AYES: All

Approval of agreement with Marin County for proceeds from Marin Parks, Open Space, and Farmland Preservation Transactions and Use Tax Ordinances (Measure A)- Town Manager

Town Manager Toy presented a brief staff report.

M/S, Bragman/Weinsoff, Motion to authorize the Town Manager to execute an agreement with the County of Marin to receive proceeds from Measure A.

AYES: All

M/S, Bragman/Coler, Motion to adjourn the meeting at 12:30 a.m. in honor of Ms. Barbara George who was instrumental in the establishment of the Marin Energy Authority.

AYES: All

Respectfully submitted,

Toni DeFrancis  
Recording Secretary