

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, November 5, 2014

**COUNCILMEMBERS PRESENT:** Larry Bragman (arrived 7:10 p.m.)  
Barbara Coler  
Renee Goddard  
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

Mayor Weinsoff called the meeting to order at 7:00 pm.

Approval of Agenda and Affidavit of Posting

M/S, Coler/Goddard, Motion to approve the agenda and the affidavit of posting.  
AYES: Coler, Goddard, Reed, Mayor Weinsoff  
ABSENT: Bragman

Announcements

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

Councilmember Goddard announced that the Healthy Youth Collaborative would be making a presentation at Sir Francis Drake High School on November 19<sup>th</sup> from 6:30 p.m. to 8:30 p.m. The Manor School Winter Faire, a fundraising event for the Ross Valley School District, would be held this weekend. The film "Racing to Zero" would be aired tomorrow night on Channel 26 through the Media Center of Marin.

Councilmember Coler announced that she would be meeting with Ms. Phyllis Gold next week about a National Rosie the Riveter Day. There is a link to both a website and a Facebook page on the Town Website for the new Fairfax Artist in Residence.

Open Time

Mr. Michael Macintosh brought up the issues of civility and endorsing political candidates.

Councilmember Bragman arrived at the meeting.

Mr. Jeff Miller stated he recently had a very ugly and contentious encounter with two Fairfax Police Officers. He stated he was the victim of a false police report. Ms. Jody Timms, Fairfax representative to the Commission on Aging, gave a status report on upcoming events. She discussed the importance of having emergency information accessible to paramedics or other first responders through the use of a "Vial of Life" or phone apps.

Consent Calendar

Reappointment of Fairfax Open Space Committee Member Jacob Feickert- Town Clerk

Adoption of a Resolution to adopt an environmental purchasing and practices policy- Town Manager

Accept report of winter furlough days for Town Hall employees between December 24<sup>th</sup> and January 2<sup>nd</sup>- Town Manager

Adoption of a Resolution providing for the burrowing of funds for fiscal year 2014-15 from the County of Marin- Finance Officer

Approve an agreement with LAK Associates in an amount not to exceed \$70,000 for services related to contract planning, General Plan, Housing Element, and zoning- Planning Director

Accept Financial Statement and Disbursement Reports September 2014- Finance Director

Approval of minutes for the October 1, 2014 Town Council meeting- Town Clerk

Accept informational report on new FOCAS gymnastics program in the Pavilion- Community Resources Coordinator, FOCAS Director

Approve agreement with Coastland Engineering in an amount not to exceed \$24,000 for the design of the Pavilion Parking Lot- Town Manager

Approval of Town Council Meeting schedule for calendar year 2015- Town Clerk

Authorize purchase of Police Dispatch Center phone and radio recorder in the amount of \$16,435- Police Chief

Authorize submission of an application to the World Health Organization's Global Network of Age-friendly Cities and Communities, and request PARC to form an ad hoc age-friendly subcommittee to develop and implement an action plan- Town Manager

Accept Marin Sanitary Services Second and Third Quarterly Reports (April-Sept. 2014)- Town Clerk

Approve the policy to allow the rental of the Contratti Ballfield from November through February for private events- Town Manager

Approval of Town sponsorship of the road closure on Sunday, September 13, 2015, for the annual Car Show- Town Clerk

Approve temporary bike racks in downtown at Broadway and Bolinas during weekends- Town Manager

Councilmember Coler referred to item #2 and noted one of the goals of the Climate Action Plan was to adopt a Green Purchasing Policy. She thanked Town Clerk Gardner and the members of the Climate Action Committee for their assistance.

Councilmember Goddard asked that the section that talks about "kitchen and cleaning supplies"

be amended regarding the use of “non-plant based materials”. She also had questions about single-use water bottles.

Councilmember Coler referred to item #5 and asked for a brief explanation of the services that would be provided by LAK Associates.

Councilmember Goddard referred to item #13 and stated Marin Sanitary Services (MSS) will be sending an updated report to correctly state what the Town’s Commercial Recycling Ordinance requires with respect to mandatory commercial recycling.

Councilmember Coler requested MSS revise the chart to reflect the Town’s mandatory recycling ordinance.

Councilmember Goddard referred to item #16 and requested they amend the temporary Pilot Program for bike racks to be placed 24/7 rather than just weekends. Councilmember Coler suggested staff report back on how it’s going at the February meeting.

Town Manager Toy referred to item #4 and noted the following correction- the maturity date is December 15, 2014 and interest is calculated on 365 days.

Mr. Frank Egger, Meadow Way, referred to item #5 and stated that any units not built in the previous Regional Housing Needs Assessment cycles (1999-2006, and 2007-2014) could be transferred to the current cycle (2015-2022), instead of adding 61 new units.

Ms. Rose Tabor referred to the bike rack pilot program, and noted bike riders parked their cars in front of businesses and then went for three to four hour rides. This was not good for business.

Ms. Diane Hoffman referred to item #5 and stated LAK Associates was responsible for the mistakes in the recent rezoning issue, and therefore the Town should ask them for a refund. She referred to item #9 and questioned the expenditure of \$24,000 for an engineer, when they could just repave the lot. Town Manager Toy stated the lot needed more than just repaving; it needed to be properly reconstructed. The expenditure is covered by a grant.

M/S, Goddard/Reed, Motion to approve the Consent Calendar as amended.

AYES: Coler, Goddard, Reed, Mayor Weinsoff

NOES: Bragman

### Council Reports and Comments

Councilmember Reed reported he attended a Ross Valley Fire Board meeting; a General Plan Implementation Committee (GPIC) meeting; participated in Chipper Day; worked with Safe Routes to Schools; a Marin Council of Mayors and Councilmembers (MCCMC) meeting; several Transportation Authority of Marin (TAM) meetings; a Volunteer Board meeting; met with residents of Power Lane about the dilapidated trail steps.

Councilmember Coler reported she attended a Fairfax Trails Project meeting; a Climate Action Committee meeting; a Marin Organizing Committee meeting; the Iron Springs 10<sup>th</sup> Anniversary Celebration and benefit concert for Open Space; the MCCMC Meeting; a County Wide Public Disaster and Emergency Preparedness meeting; and she worked on the Measure “J” campaign.

Councilmember Bragman reported he worked on the Measure “J” and “K” campaigns; reported that the California Public Utilities Commission (CPUC) denied the Smart Meter petition regarding the “opt-out” fees being charged by PG&E.

Councilmember Goddard reported she attended a presentation by the Transportation Alternatives of Marin; the Marin Conservation League breakfast; a Healthy Community Collaborative meeting; a school and law enforcement coalition meeting; the Safe Routes to Schools "Walk and Roll" Day; several Ross Valley School Board meetings; the Marin Organizing Committee rally; the Red Cross Emergency Shelter drill/training session at the Pavilion; a Tree Committee meeting.

Mayor Weinsoff reported he attended an MCCMC Legislative Committee meeting; the MCCMC meeting; met with Ms. Jody Timms, representative to the Commission on Aging; a Chamber of Commerce meeting; the Ross Valley Fire Board meeting; joined Sir Francis Drake High School teacher Francie Salle 's History classes for a day .

### Town Manager Report

Town Manager Toy reported staff submitted a Community Rating System (CRS) application to FEMA which could result in reduced flood insurance premiums for residents in the flood plain. It will take several months and another meeting for FEMA to make a determination. Staff is submitting a Safe Pathway Grant application to the Transportation Authority of Marin for a Class I bike lane at the end of the Bike Spine. In early December staff will send a letter to those property owners who list their homes as vacation rentals on the Internet, to notify them they are subject to the Hotel Users Tax.

### Regular Agenda

#### Discussion/consideration of amplified music policy for Women's Club- Town Manager

Town Manager Toy presented a staff report.

Councilmember Coler stated there have been very few instances of amplified music in the Women's Club for the past few years. She added that since it had already been advertised, the Irish Festival event scheduled for October 25<sup>th</sup> should proceed as planned.

Councilmember Goddard had concerns about a double standard with respect to Town-sponsored events. Additionally, she suggested a policy to limit amplified music events to one per month.

Councilmember Coler stated that instead of a policy, staff could exercise their discretion more carefully.

Councilmember Bragman stated setting a deadline for live music is a procedure and not a policy. He supported a 9:30 p.m. deadline.

Mayor Weinsoff stated that renters of the Women's Club should not interfere with the neighbors' use and enjoyment of their homes. He suggested limiting amplified music events to the Pavilion.

M/S, Bragman/Coler, Motion to adopt the staff recommendation to end amplified music in the Women's Club at 9:30 p.m. on Fridays and Saturdays.

AYES: Bragman, Coler, Goddard, Reed

NOES: Mayor Weinsoff

#### Discuss/consider residents' petition regarding the noise ordinance- Town Manager

Town Manager Toy presented a staff report. He noted that Deer Park Villa noise was the subject of the Residents' Petition, even though it doesn't specifically say so. He stated that the owner of Deer Park Villa has indicated that back in 1981 there was a settlement agreement between the owners and the Town regarding the noise issue.

Councilmember Bragman had a question about the proposed change to the Noise Ordinance. Town Manager Toy stated the change would be to one paragraph of the Ordinance relative to how the standards were enforced; the table would not change. Police Chief Morin stated the change eliminated confusion with respect to the Chief's ability to lower the limits.

Mr. Michael Ghiringhelli, owner of Deer Park Villa, stated this issue was litigated in the late 1970's and the Town settled with Deer Park Villa, and that the current noise ordinance came about as a result. He believed he had a use permit. He stated he abided by the letter and the spirit of the law by voluntarily doing things that mitigate sound and noise in the neighborhood. He had indoor music one night a week. He continued to work with the Town and installed sound walls, a live wall, and reduced the number of days they play music. He did not want to give up what he fought for in the 1970's.

Mayor Weinsoff asked if more could be done on the technical side to keep the sound from "bleeding out" from the restaurant.

Mr. Ghiringhelli stated lowering the volume would probably be the best remedy, adding there are other neighborhood factors that bring the ambient noise level up.

Councilmember Goddard stated she would like to see Mr. Ghiringhelli explore a real sound engineering solution.

Mr. Ghiringhelli stated sound engineers had suggested some of the measures he implemented, and that he had spent over \$30,000 on this project.

Councilmember Reed stated the Marin Civic Center had a very efficient sound/living wall, involving fabric, soil, and plants that might work at Deer Park Villa.

Mr. John Sergeant, Fairfax, stated sound walls were very effective, and urged the neighbors to purchase sound meters.

Ms. Bell, Dominga Avenue, stated decibel readings were not be the only way to evaluate the problem. She noted a discrepancy between the restaurant and the surrounding residential uses. She supported the idea of a sound wall.

Ms. Alison Mullikan, Porteous Avenue, stated she other cities in Marin regulated amplified music and prohibited it outside. She supported limiting all amplified sound to inside the building.

Ms. Rose Taber stated this had been a problem since 1965. She did not remember a court case related to the Noise Ordinance. She did not want the restaurant to go out of business, but felt the neighbors were entitled to peace and quiet. She would like the owner to work with the neighbors. She supported banning all outdoor amplified music in Fairfax.

Ms. Lynn Corwin, Fairfax, suggested the neighbors contribute to the cost of the sound wall. She noted the restaurant had been there for a hundred years.

Ms. Norma Fragoso, Meernaa Avenue, noted the restaurant pre-dated many of the homes in the neighborhood, and she had enjoyed many evenings there. She stated that the noise from neighbors' air conditioners was more disturbing to her than the music from Deer Park Villa. She

noted there was a lot of noise, natural and otherwise, in the neighborhood.

Mr. Bob Stempel, Porteous Avenue, stated that the current management had turned the historic, family-run restaurant into a public nuisance, and that he had a right to peaceful enjoyment of his property. He referred to other cities where there was no outdoor amplified music or speech.

Mr. Frank Egger, Meadow Way, stated that the Town Council had had to deal with music from Deer Park Villa in the past, and that there had been litigation although he did not recall the outcome. The restaurant had been in existence for a long time. There was no easy solution.

Ms. Mullikan stated she supported community events such as the Fairfax Festival, which felt more respectful of the community, but the private events at Deer Park Villa sometimes included people arriving on tour buses.

Ms. Nancy O'Connor, San Anselmo, stated late night music was better than the noise pollution in her town.

Town Manager Toy reiterated that the Council was not taking any action to amend the ordinance at this meeting. Staff would continue to look for the settlement agreement and court documents.

Councilmember Goddard stated she understood the neighbors' concerns about outdoor amplified music, but the issue was not black and white. She supported a review of the daytime hours set forth in Noise Zone B, and suggested as a first step to change those hours to end at 8:00 p.m., pending review of more documents.

Councilmember Bragman asked who had the burden of proof with respect to missing documents. Town Attorney Coleson stated documents do not exist unless the Town has a copy. Councilmember Bragman asked staff to do some research regarding the litigation and use permit referred to by the owner. He noted there was no easy solution but they needed something that was enforceable. He supported a review of the definition of "daytime hours".

Mayor Weinsoff directed staff to look for the documents and continue this item to the January meeting.

The Council took a 15-minute break at 9:45 p.m.

It was the consensus of the Council to continue items #20 and #23 to the December meeting.

Discuss/consider residents' petition regarding parking issues in the Inyo Avenue neighborhood-  
Town Manager

Town Manager Toy presented a staff report.

Councilmember Bragman asked if overnight parking at the Parkade would ease the overnight parking problem in the Inyo Avenue neighborhood. Town Manager Toy stated that was the rationale but it would need to be monitored.

Mr. Steve Ardito, Inyo Avenue, stated the parking problem on his street occurred weekends and weekdays due to insufficient parking downtown. He submitted a petition requesting an overnight parking permit system for residents only from the hours of midnight to 6:00 a.m.

A resident of Pacheco Avenue stated she often parked on Inyo Avenue because it had parking when her street did not. She noted that the parking problem was not unique to Inyo Avenue.

She asked how an overnight parking system would work.

Chris, Inyo Avenue, stated there was a 50% chance of being able to park in one of the six spaces in front of her house. She reported that people started cars in the middle of the night, left trash in her front yard, camped overnight in their vehicles, and used the creek as their bathroom. Weekend bicyclists parked on the street all day long.

Mr. Andrew Ardito, Inyo Avenue, stated there was garbage, broken glass, and urine in the streets. He had seen cars left on the street for up to four weeks. He believed residents should be able to park close to home.

Mayor Weinsoff stated this matter needed immediate attention and could not wait until the Council reviewed the Downtown Element in the spring.

Town Manager Toy stated a residential parking system needed to be comprehensive. Staff would come back in December with an interim recommendation.

Councilmember Coler stated they should take a little more time and better define the problem areas.

Councilmember Reed stated there were several different layers of problems. It made sense to allow overnight parking in the Parkade and the Mono lot as a starting point.

Vice Mayor Bragman asked staff to look into the possibility of limiting parking in the residential neighborhoods to 24 hours as opposed to the 72 hours as defined in the Vehicle Code.

Mayor Weinsoff asked staff to report back in December with options.

Discuss/consider follow-up actions to the Town Forum regarding 10 Olema and School Street Plaza- Town Manager. Planning Director

Mayor Weinsoff stated this item was continued to the December meeting.

Discussion/consideration of 2015-2023 (5<sup>th</sup> Cycle RHNA) Housing Element Update- *Planning Director*

Planning Director Moore presented a staff report.

Councilmember Coler noted the “fast track” schedule allowed the City to add some sections and do some redline work. Planning Director Moore clarified this would be a stand alone, new document. Councilmember Coler confirmed with the Planning Director that the Town would not need to submit another Regional Housing Needs Allocation (RHNA) until 2023 if they use the “fast track” schedule now.

Councilmember Bragman asked staff if Housing and Community Development (HCD) was aware of what the Town had been dealing with the last six months, and if that could get us some “breathing room”. Planning Director Moore replied yes, but he doubted they would give the Town an exception. There was a lot of other planning occurring on a macro level including One Bay Area Program.

Mr. Frank Egger, Meadow Way, stated ABAG allowed for the transfer of previous cycle units if they had not been constructed by December 31, 2014.

Mr. Tony Gardner, member of the Affordable Housing Committee, stated there was Committee

consensus to support the fast-track schedule, but that he was in favor of more discussion about opportunity sites.

Ms. Norma Fragoso stated she worked at a city for many years and had produced four Housing Elements. This "fast-track" process was HCD's way of providing cities an opportunity to save money and time. She supported fast track for Fairfax.

Ms. Wendy Kallins, representing the Coalition for Livable Marin, agreed with the previous speaker and supported fast-track.

Ms. Jody Timms, Cascade Drive, asked the Council to direct staff to move forward with this process. She was in favor of following the law.

Joseph, Porteous Avenue, asked about the plan to zone Deer Park Villa. Planning Director Moore stated there was no plan at this time. Joseph stated there was no obligation to obey crazy laws- it was time for a little bit of rebellion.

Lisel Blash, Pacheco Avenue, stated she was impressed with the Affordable Housing Committee meeting. They were incredibly creative. She supported a focus on affordability.

M/S, Coler/Goddard, Motion to direct staff to continue with the 2015-2023 (5<sup>th</sup> Cycle RHNA) Housing Element update process including CEQA review, to meet the fast track deadline of January 15, 2015.

AYES: Coler, Goddard, Reed, Mayor Weinsoff

NOES: Bragman

Discussion of preliminary ballot results from the November 4, 2014 general election- *Town Manager*

Town Manager Toy thanked the Council for their leadership in the passage of Measures "J" and "K".

Discussion/consideration of the concept of expanding the Fairfax Youth Center- *Town Manager*

Mayor Weinsoff stated this item was continued to the December meeting.

M/S, Bragman/Coler, Motion to adjourn the meeting at 11:49 p.m. in memory of Ms. Dede Teeler and Kathy Palmieri.

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

Respectfully submitted,

Toni DeFrancis  
Recording Secretary