

Fairfax Town Council
Regular Meeting Minutes
Fairfax Women's Club
Wednesday, October 2, 2013

The regular meeting was preceded by a Closed Session from 5:45 p.m. to 6:30: p.m.- Conference with Legal Counsel- Anticipated Litigation pursuant to Government Code Section 54956.9 (d) 2 and (e) 1: One case.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Larry Bragman
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
Mike Vivrette, Finance Director
Roger Meagor, Fire Chief
Chris Morin, Chief of Police
Mark Lockaby, Building Official

Mayor Reed called the Regular meeting to order at 7:15 pm.

Approval of Agenda and Affidavit of Posting

M/S, Weinsoff/Coler, Motion to approve the agenda and the affidavit of posting with the removal of item #11 from the Consent Calendar for discussion and the continuation of items #13 and #18.

AYES: All

Announcement of Closed Session Action

Mayor Reed announced there was nothing to report.

Interview and Appointments

Interview and Appointment of Applicants to serve on the Planning Commission, one for unexpired term to 2-29-16, and one for an unexpired term to 1-31-15

The Council interviewed the following candidates: Mr. Karl Vavrek, Ms. Heather Bennett, Ms. Esther Gonzalez-Parber, and Mr. Philip Green.

M/S, Coler/Bragman, Motion to appoint Mr. Philip Green to serve on the Planning Commission for the unexpired term to February 29, 2016 and to appoint Ms. Esther Gonzalez-Parber to serve for an unexpired term to January 31, 2015.

AYES: All

Announcements

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

Reports and Presentations

MERA- Fire Chief Roger Meagor

Ross Valley Fire Chief Meagor made a Powerpoint presentation regarding the Marin Emergency Radio Authority (MERA). The presentation included an update on the current status and future plans of MERA. He stated MERA has started the planning process to replace the current Public Safety Communications System with a new system in 2018.

Councilmember Bragman stated each agency currently pays an annual fee for the MERA system through a Debt Service in the amount of \$39,000. The proposal would add a line item in homeowner's annual Property Tax bill as a Parcel Tax. Councilmember Bragman asked if the Town would continue to pay operating costs. Fire Chief Meagor stated "yes". Councilmember Bragman asked what the Town's operating costs would be. Mr. Dave Jeffries, MERA Special Project Manager, stated it would be a bit higher than the current cost since the system would be more expensive to maintain.

Councilmember Coler asked if the system would work in the event of a major earthquake. Mr. Jeffries stated the systems have a lot of different redundancies with five different zones built in. The radios have more normal frequencies built into them.

Councilmember Coler noted they would still be paying for the old system for five years and she asked if the old system could be "sold off". Mr. Jeffries stated this could be done if it makes sense. They hope to reuse much of the old equipment.

Mayor Reed had questions about "co-location" and noted there were areas in Fairfax that do not get cell phone reception. Mr. Jeffries discussed the infill sites they were looking at and stated "co-locating" makes a lot of sense.

Mayor Reed opened the meeting to the public.

Mr. Frank Egger, Meadow Way, stated the MERA system was obsolete when it was purchased. He urged the Council to take a close look prior to supporting the new system.

Mr. Steve Vanni, Chester Avenue, stated he was a Boardmember for MERA in 1996. He encouraged the Council to support the proposal for a new MERA system.

Mayor Reed stated he would like to rearrange the order of the agenda.

Open Time:

Mr. Bob Stemple, Porteous Avenue, expressed concern with excessive noise coming from events at Deer Park Villa. He stated the problem has gotten worse under the new management. He submitted a petition signed by neighbors requesting that the Council solve the problem.

Ms. Diane Hoffman, Porteous Avenue, stated the noise from Deer Park Villa was not a problem in the past but things have changed in the last few years.

Ms. Alice Beltran, Porteous Avenue, stated she has lived on Porteous for five years and agreed that the problem has recently gotten worse and the management is not responsive to the neighbors' concerns.

Mr. Mark Thompson, manager of Deer Park Villa for the past six months, stated he reacts to each and every phone call made to the restaurant. He acknowledged there was a recent problem that resulted in the installation of a "kill switch" on the DJ's sound systems. He intends to work with the community while also increasing business for the restaurant.

Mr. Michael Ghirenghelli stated he manages Deer Park Villa for the Ghirenghelli family, the owners. He stated that Mr. Thompson carries a sound meter with him throughout the night. He assured the neighbors that he understands the problem and takes the matter very seriously. He would like to sit down with the neighbors and come up with a solution.

Councilmember Weinsoff asked staff to arrange a meeting with the appropriate parties. Town Manager Toy discussed how the Fairfax Police Department handles complaints.

Mr. Tom Dawson, Marin County Bicycle Coalition, invited everyone to Biketoberfest scheduled for Saturday, October 12th from 11:00 a.m. to 6:00 p.m. at the Fair Anselm Shopping Center. There will be over 70 vendors and exhibitors at the event.

Ms. Kim Tuold, Spruce Road, stated she recently filed a complaint regarding a non-permitted unit in her neighborhood. The Building Department has worked with the owner to legalize the unit but the property owner has not met any of the deadlines. There were three tenants in this non-permitted unit. She is also concerned about a home occupation being run out of the house and garbage that is strewn around the property. She is asking the Council to direct the Building Department to initiate abatement proceedings. She distributed photographs to the Council.

Building Official Lockaby stated he confirmed an illegal second unit at this residence and the Planning Department has been corresponding with the property owner. The Council could direct staff to start abatement proceedings. Mayor Reed asked staff to bring this item back for an update and Council action.

Mr. Louie Vacarro Jr. stated the large green bicycle arrows recently painted on some of the local streets were excessive. He asked if some of the arrows could be removed.

Marin Sanitary Quarterly Report- Kim Scheibly (Marin Sanitary)

Ms. Kim Scheibly, representing Marin Sanitary Service (MSS), gave a quarterly report to the Council (April through June) and made a Powerpoint presentation.

Friends of the Library/Proclamation Declaring Friends of Library Week in Fairfax- Margaret Miles, Librarian

Ms. Margaret Miles, Fairfax Librarian, asked the Council to adopt the Proclamation and discussed the recent activities of the Friends of the Fairfax Library.

M/S, Coler/Goddard, Motion to adopt the Proclamation Declaring National Friends of Libraries Week October 20-26, 2013.

AYES: All

M/S, Weinsoff/Coler, Motion to move agenda item #16 up and hear it as the next item.

AYES: All

Status of clean up at 159 Willow Road

Building Official Lockaby presented a staff report. He stated he has been in contact with the property owner but not a lot has happened since the last Council meeting. He received recent complaints about some hazardous trees, a fourth living unit on the property, and use of the wood stove. Mayor Reed expressed concern about residue in the chimney of the wood stove. Building Official Lockaby stated the property owner had agreed to remove the wood stove.

Mr. Roy Murrin, property owner, stated he did a lot of work to the property. He stopped using the fireplace and got rid of the wood. All the stoves are disconnected. Councilmember Coler asked Mr. Murrin if he would remove the wood stove. Mr. Murrin stated it was a fireplace and he agreed to stop using it. It does burn clean, natural gas. He stated he would get rid of it- although it would take some work and money. Councilmember Bragman asked if there was a gas insert in the fireplace. Mr. Murrin stated "yes".

Councilmember Weinsoff asked about the trash in the back yard. Mr. Murrin stated there was no trash in the back yard. Councilmember Weinsoff asked about the accessory structures. Mr. Murray stated he was of the opinion that they were both legal living units.

Councilmember Bragman asked if the house had central heating. Mr. Murrin stated "yes".

Councilmember Coler stated capping the fireplace but still running the gas line would result in a dangerous situation.

Planning Director Moore recommended staff come up with a checklist of items that need to be resolved. Mayor Reed stated this would provide some clarity.

Mayor Reed opened the meeting to public comments.

Mr. Steve Vanni, Chester Avenue, stated smoke from the neighbor's property continues to come into his home. Burning gas would be worse than burning wood- that flue does not have property venting for carbon monoxide. Nothing has been done to the property and there were vehicles in the driveway and materials in the side yard and backyard. The problems have been going on for seven years and he is glad that staff is putting a timeline to resolving the issues. The flue should be capped off at minimum.

Mr. James Heard, Chester Avenue, stated the fireplace should be capped off. No work has been done in the back yard. He is surprised that the owner of record is not present given the gravity of the situation. The debris needs to be cleaned up around the house. This should not be a temporary fix but rather an ongoing process.

Ms. Sandra Cornell, Willow Avenue, stated they were talking about a smoke stack and not a chimney. She questioned its legality.

Mr. Murrin asked why he was not informed earlier that the fireplace was a problem. He stated he has done a lot of work around the house. He clarified that he purchased and owns the house.

Ms. Chris Vertacki, Chester Avenue, stated she would like everyone to work together to solve the problems.

Mayor Reed closed the meeting to public comment.

Councilmember Weinsoff stated making corrections and resolving these types of problems

should not take this long. He asked the staff about the process for assessing administrative fines.

Town Manager Toy stated administrative fines are at the discretion of staff. Staff could also schedule a nuisance abatement hearing if it is felt that progress is not being made. He suggested the Planning Director and Building Official visit the property, assess the situation, and set a timeline for resolving the issue.

Councilmember Coler asked that staff visit the site as soon as possible and implement short deadlines.

Council Reports and Comments

Councilmember Weinsoff reported he attended the Marin Council of Mayors and Councilmembers (MCCMC) dinner; the MCCMC Legislative Committee meeting; went to the Town Picnic; met with Town Manager Toy to discuss FEMA Flood Grants; attended the Army Corp. of Engineers meeting; attended a Ross Valley Fire Board meeting.

Councilmember Coler reported she attended a meeting on the Fairfax Climate Action Plan with several GPIC members; the MCCMC dinner; went to the Fairfax Town Picnic; attended a Community Development Block Grant meeting; attended a Town Hall Flood Plan Project Subcommittee meeting regarding FEMA Grants.

Councilmember Bragman reported he attended a Ross Valley Paramedic Authority (RVPA) Board meeting; attended the Marin Energy Authority's Annual Retreat; attended several meetings regarding the Community Media Center of Marin; attended a Closed Session meeting of the Marin Open Space District regarding the potential sale of some open space land.

Councilmember Goddard reported she attended the Ross Valley School Board meeting; met with the Principal of White Hill School and the homeowner's association regarding parking, lighting, and other issues; went to the Town Picnic; participated in a video about the Bike Spine; attended several Rotary Club meetings; attended the Solid and Hazardous Waste Local Task Force meeting; reported the Live Water Surf Shop hosted a Surf Movie Night on Contratti Field giving hundreds of teens a safe place to go for the night.

Mayor Reed reported he attended the Ross Valley Fire Board meeting; met with Town Manager Toy to discuss the development of a volunteer base for a downtown gardening/maintenance landscape program; attended a Climate Action Committee meeting; several Transportation Authority of Marin (TAM) meetings regarding the Highway 101/Greenbrae Improvement Project; several Ross Valley School Board meetings; a Safe Routes to Schools meeting; the MCCMC dinner; the Open Space District Closed Session.

Town Manager Report

Town Manager Toy reported the Town Picnic was a huge success, including the Potato Sack race won by Mayor Reed.

Town Clerk Gardner reported on the status of Board/Commission vacancies: applications have been received for two current vacancies on the Parks and Recreation Commission (and one coming up next month) and one vacancy on the Open Space Committee.

Planning Director Moore reported staff has received feedback from the State regarding the Housing Element. Staff plans to include the changes suggested by the State consultant and present this draft to the Council at a Special Meeting. He noted they were on a tight timeline and

would need to meet the week of October 21st.

The Good Earth application is on the October 17th Planning Commission agenda. It has been six months since the conditions of approval have been reviewed. He noted staff has facilitated two meetings between the neighbors and the representatives of the Good Earth.

Consent Calendar

Acceptance of Kaboom! Grant for playground equipment at Piper Park- *Town Manager*

Acceptance of Marin Sanitary Second Quarterly Report for July-Sep 2013- *Town Manager*

Approval of Town Council minutes from the 9-4-13 Town Council meeting - *Town Clerk*

Acceptance of Treasurer's report for June 30, 2013 – *Finance*

Adoption of Resolution 13-50 establishing authority to sign Town checks- *Finance Director*

Authorize additional funding to complete the Pastori Bank Stabilization Project- *Town Manager*

Adoption of Resolution No. 13-51 supporting a moratorium on hydraulic fracturing in the State of California- *Councilmember Bragman, Mayor Reed*

M/S, Coler/Weinsoff Motion to approve the Consent Calendar with the removal of item #11 for discussion, corrections to the September 4, 2013 minutes, and a modification to item #9, Resolution of the Town Council Establishing a Policy for Authority to Sign Checks.

AYES: All

Mayor Reed stated he would like to rearrange the order of the agenda.

Public Hearings

Approval of agreement with CIC for preliminary engineering, environmental, community outreach, and design services for Meadow Way Bridge- *Town Manager*

Town Manager Toy presented a staff report.

Councilmember Coler stated she understood the contract to cover only an assessment of the options and impacts to vegetation (among other things). She would like to forward a list of concerns she received from a resident about impacts to the vegetation in the creek to Town Manager Toy.

Mayor Reed indicated that the initial inspection should yield enough information for the community discussions.

Mayor Reed opened the meeting up for public comments.

Mr. Frank Egger, Meadow Way, stated although the Meadow Way Bridge has been listed as "functionally obsolete" he feels quite safe. He is pleased that the Council is in tune with the quality of life issue surrounding this bridge. He noted they need to address the issue about how the temporary bridge would work.

M/S, Weinsoff/Goddard, move to approve the agreement with CIC for preliminary engineering, environmental, community outreach and design services for Meadow Way Bridge as amended.
AYES: All

Traffic Impact Permit for 2001 Sir Francis Drake Blvd. for a combination Chevron Gas Station/Express Mile convenience store- Planning Director

Town Manager Toy recommended that this item be continued due to a Councilmember having filed a Directed Referral.

M/S, Weinsoff/Bragman, Motion to continue this item to November 6, 2013.
AYES: All

Appeal of Planning Commission denial of a variance regarding Application 13-23, 130 Wood Lane, to legalize an un-permitted carport within the required 5 foot side yard setback- Planning Director

Mayor Reed noted this item has been continued.

Introduction and First Reading of Ordinance No. 770- Amending Fairfax Town Code Chapter 8.20, Noise Control- Town Manager, Planning Director

Planning Director Moore presented a staff report.

Mayor Reed referred to Section 5 of the ordinance and stated the Fire Chief should be added to the sentence.

Councilmember Bragman stated he would like to address the issue of utility boxes maintained in the public right-of-way that make constant humming noises at a future meeting.

M/S, Weinsoff/Bragman, move to introduce and waive first reading of Ordinance No. 770, an Ordinance of the Town Council of the Town of Fairfax Amending Sections 8.20.060(C)(1) and 8.20.120(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 Exception Application Process and Lifting of Limitation During Declared States of Emergency as amended.
AYES: All

Adoption of Resolution 13- establishing front load compactor fees- Town Manager

Town Manager Toy asked the Council to continue this item due to notice requirements.

Regular Agenda

Introduction and First Reading of Ordinance No. 772 Amending the Municipal Code by Adding Section 8.08.130 (Establishing Mandatory Commercial Recycling Within the Town of Fairfax)

Town Manager Toy presented a staff report.

Mayor Reed asked for clarification about the exemptions.

M/S, Bragman/Goddard, move to introduce and waive first reading of Ordinance No. 772, an Ordinance of the Town Council of the Town of Fairfax Amending the Municipal Code by Adding Section 8.08.130 (Establish Mandatory Commercial Recycling Within the Town of Fairfax).

AYES: All

Approval of contract with Sustainable Fairfax to implement the mandates of the Zero Waste grant and provide public education and outreach for the Mandatory Commercial Recycling and Construction Debris Ordinances- *Town Manager*

Mayor Reed noted this item had been continued.

Approval of Short-term Franchise Fee Support for the Community Media Center of Marin (CMCM)- *Councilmember Bragman*

Councilmember Bragman presented a report. He stated the cost to Fairfax would be about \$7,500 per year.

Councilmember Coler asked Councilmember Bragman if he had a sense about the direction of the formula. Councilmember Bragman stated he did not think the hybrid formula would fly and it would probably be based on the percentage of franchise fees. It remains a work in progress.

Mayor Reed opened the meeting to public comments.

There were no comments.

M/S, Goddard/Coler, move to approve the short term Franchise Fees support to fund the Community Media Center of Marin.

AYES: All

Discuss/consider disposition of Town surplus property- *Town Manager*

Mayor Reed noted this item had been continued.

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

Town Manager Toy presented a staff report.

Councilmember Weinsoff stated he was in favor of forming the ad hoc committee and holding off on authorizing the agreement.

Councilmember Bragman stated Councilmember Coler should be a member of the ad hoc committee. He would also be interested in being on the committee.

Mayor Reed stated he was also interested in being on the committee. He felt the network of pedestrian trails in Town needs some attention.

M/S, Weinsoff/Goddard, move to appoint Councilmember Bragman and Councilmember Coler to the ad hoc committee that will prepare a work plan for Council consideration regarding the proposed use of Measure "A" Funds.

AYES: All

Adoption of Resolution No. 13-51 supporting a moratorium on hydraulic fracturing in the State of California- *Councilmember Bragman, Mayor Reed*

Councilmember Coler stated she supported the resolution. She referred to the second "Whereas" and clarified that California Department of Conservation, Division of Oil, and

Geothermal Resources (DOGGR) does have a database. Records could be obtained at Geotracker.waterboards.ca.gov-gama. She discussed the organization Fracfocus.

Councilmember Bragman suggested the language in the second "Whereas" be changed to DOGGR has *incomplete* records about the locations or number of wells....." Councilmember Goddard suggested using the word "insufficient". The Council agreed.

Councilmember Bragman asked if there was an exception that allows companies to not disclose chemicals (trade secrets) that are being used. Councilmember Coler stated "yes".

Councilmember Bragman displayed a map of the potential hydraulic fracturing areas in California. He wanted to add to the resolution a statement urging the Marin County Board of Supervisors to include a moratorium on hydraulic fracturing in the County-Wide Plan. This could be added to the following paragraph: "Now, therefore, be it resolved.....moratorium in the State of California *and the Marin County General Plan.....*".

Mayor Reed opened the meeting to public comments.

A resident spoke in support of the resolution and noted there was concern that hydraulic fracturing has impacts on seismically sensitive areas.

M/S, Coler/Goddard, move to adopt Resolution 13-51, a Resolution of the Town Council of the Town of Fairfax Supporting a Moratorium on Hydraulic Fracturing in the State of California as amended.

AYES: All

M/S, Goddard/Coler, Motion to adjourn the meeting at 11:25 p.m.

AYES: All

Respectfully submitted,

Toni DeFrancis
Recording Secretary