

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, May 1, 2013

The regular meeting was preceded by a Closed Session from 6:00 p.m. to 7:00 p.m.

CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION pursuant to Government Code Section 54956.9(b): one potential case

CONFERENCE WITH LEGAL COUNSEL pursuant to Government Code Section 54956.9(a): Moises Elterman and Kathleen Carroll, individually and as Trustees v. Town of Fairfax, et al, Marin Superior Court No. CIV 1300923

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 949 Miscellaneous Unit, Police Officers Association and Unrepresented Management Employees

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, Deputy Town Clerk  
Jim Karpiak, Town Attorney  
Jim Moore, Planning Director  
Mike Vivrette, Finance Director  
Chris Morin, Chief of Police  
Roger Meagor, Fire Chief  
Mark Lockaby, Building Official

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

Approval of Agenda and Affidavit of Posting

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

AYES: All

Announcement of Closed Session Action

Mayor Reed announced the Council gave direction to staff and legal counsel. There was nothing to report.

Interview and Appointments

Selection and Appointment of Candidate to fill term of resigned Councilmember Pam Hartwell, and oath of office to seat new Councilmember- *Town Manager/Deputy Town Clerk*

Town Manager Toy presented a brief staff report. He noted staff did not receive any new applications.

Mr. Frank Egger, Meadow Way, stated the Council received a good number of qualified candidates. He recommended the Council appoint Ms. Barbara Coler to fill the vacancy.

Ms. Mimi Newton, Mono Avenue, stated Ms. Barbara Coler was the best candidate for the position.

Ms. Susan Adams and Mr. Jack Judkins supported Ms. Barbara Coler for the position.

Mr. Ryan O'Neal stated he worked extensively with Ms. Barbara Coler and stated she would be the best fit for the position.

M/S, Bragman/Weinsoff Motion to appoint Ms. Barbara Coler to fill the seat of resigned Councilmember Pam Hartwell.

AYES: All

Deputy Town Clerk Gardner gave the Oath of Office to newly appointed Councilmember Coler.

Councilmember Coler took her seat at the Council dais.

Councilmember Coler thanked everyone for his or her support.

### Announcements

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

### Reports and Presentations

#### Presentation to former Councilmembers O'Neil and Hartwell

Mayor Reed and the Council thanked former Councilmembers Hartwell and O'Neil for their years of service to the Town of Fairfax and presented them with a gift.

Mayor Reed reported that Town Attorney Karpiak has decided to resign and he thanked him for his service to the Council and the Town.

The Council took a 15-minute break for refreshments at 7:35 p.m.

#### Annual Report regarding the Marin-Sonoma Mosquito and Vector Control- *Frank Egger, Town Representative*

Mr. Frank Egger, Fairfax representative on the Marin-Sonoma Mosquito and Vector Control Board, gave an annual report. He introduced Mr. Phil Smith, newly hired manager of the district.

Councilmember Bragman asked about the district's relationship with West Marin. District Manager Smith discussed the West Marin Mosquito Control Coordinating Council. They rely heavily on education, source reduction, and prevention. Boardmember Egger stated the Council could discuss whether or not the West Marin option was a good fit for Fairfax. Councilmember Bragman stated he would like to explore options. District Manager Smith noted the agreement with West Marin would expire at the end of the year.

Presentation by the Marin Municipal Water District on the pipeline replacement project on Sir Francis Drake Boulevard

Mr. Kevin McDonald, representing the Marin Municipal Water District (MMWD), discussed the pipeline project that would take place in the Town of San Anselmo but impact the residents of Fairfax. The project would start on June 3<sup>rd</sup> near United Market and proceed down Red Hill Avenue towards The Hub. Work near The Hub would occur at night. They will try to finish the project as quickly as possible and are hoping to complete the project by mid-July.

Councilmember Weinsoff asked if the repaving would be from sidewalk to sidewalk. Mr. McDonald stated they are coordinating with the Town of San Anselmo who plans to do an overlay project.

Presentation from MCE regarding EPA awards to “Fairfax is a Green Power Community”

Mr. Justin Kudo, Account Manager for MCE, presented the Council and the Town with the “Green Power Community” Award. He noted the goal of MCE is to support the use of renewable energy. The power purchased by the Town of Fairfax is approximately 45% renewable which places the Town 8th in the country for the use of green power.

Councilmember Bragman discussed the “Deep Green” option which provides 100% sustainable power.

Presentation by Resilient Neighborhoods

A representative from Resilient Neighborhoods presented a brief Powerpoint presentation. She stated Resilient Neighborhoods allows citizens to take action against climate change. She asked the Council to partner with them in this endeavor by publicizing the project, providing a venue for their meetings, and helping to create a model for using Resilient Neighborhoods

Open Time:

Mr. Justin Kudo encouraged people to team up with Resilient Neighborhoods.

Mr. Christopher Lang congratulated the two new Councilmembers. He suggested the Town start a “Carefree, Car-free Sunday” since transportation adds to the carbon footprint. The Town should focus its energy on education and communication.

Mr. Sierra Salin stated people need to reduce the amount of energy they used. He urged the Council to write a letter to the Marin Municipal Water District (MMWD) in opposition to the use of pesticides in the watershed.

Ms. Mimi Newton, Mono Avenue, stated the Open Space Committee was holding a fundraiser/benefit concert in Peri Park on Sunday, May 26<sup>th</sup>, from 2:00 p.m. to 6:00 p.m.

A resident from Dominga Avenue stated it was not necessary to have loud music at the Farmers Market. Councilmember Weinsoff asked staff to speak to the vendor about keeping the noise level to a minimum. Town Manager Toy stated he would report back to the Council.

Ms. Kiki LaPorta, Glen Drive, representing Sustainable Marin, Sustainable San Rafael, and the Marin Environmental Housing Coalition, stated the Marin Conservation League and the League of Women Voters was hosting a forum on Plan Bay Area on May 9<sup>th</sup> at Dominican University at

1:00 p.m. The forum is titled "Choosing the Future We Want".

Mr. David Haskell, representing the Chamber of Commerce, stated there was a fragmented approach in attempting to beautify the downtown. The Chamber has initiated a new program called the "Fairfax Civic Garden Guild" that will look at how to take care of the public "nature space" with the idea of giving it a unity of design.

Mr. Nicolo Coldararo welcomed the new Councilmembers. As he travels the world he is seeing former "hunters and gathers" now homeless or living in slums. He would like the Council to review the housing inventory since the average size of homes in Fairfax is rising. Speculators are making homes less affordable and they need to think about affordable housing in the context of the housing inventory.

### Council Reports and Comments

Councilmember Weinsoff reported he attended the Fire Board meeting; two Marin County Council of Mayors and Councilmembers (MCCMC) meetings; the MCCMC Legislative Committee meeting; the Plan Bay Area meeting; the League of California Cities Conference in Pasadena; met with the head of the Chamber of Commerce.

Councilmember Coler stated she would have a report next month.

Councilmember Bragman reported he attended the Community Media Center Board meeting; the Finance and Policy Committee of the Marin Telecommunications Agency; the Marin Energy Authority meeting.

Councilmember Goddard reported she attended the MCCMC meeting; a Chamber of Commerce Board meeting; a Solid and Hazardous Waste Task Force meeting; helped coordinate the "Take Back" Day for e-waste and prescription drugs.

Mayor Reed reported he attended the Fire Board meeting; the MCCMC meeting; worked on a grant application for trail access to the Egger Preserve; a GPIC meeting; a Chamber of Commerce meeting; several Highway 101/Greenbrae Corridor meetings; the Transportation Authority of Marin (TAM) Board meeting.

### Town Manager Report

Police Chief Morin reported the collection of prescription drugs on "Take Back" Day occurred from 10:00 a.m. to 2:00 p.m. and they collected 98 pounds.

Planning Director Moore reported the Planning Commission reviewed the Good Earth Conditional Use Permit application and approved the applicant's request with the addition of one condition (screening the equipment on the lower back roof along Sir Francis Drake Boulevard). The Commission also reviewed the morning truck delivery schedule and eliminating the 5:00 a.m. delivery and relaxed the restrictions on the 6:00 a.m. deliveries.

Building Official Lockaby reported FEMA has prepared preliminary flood maps with new base flood elevations and new requirements for construction in "floodways". Town officials met with Stetson Engineering about possible revisions to the FEMA Flood Maps. Boardmember Bragman asked if the Town sent notices to all effected homeowners. Building Official Lockaby stated "yes".

Mr. Mark Bell, Dominga Avenue, had questions about the new map and flood insurance rates. Ms. Cathy Schafer, representing FEMA, stated the maps were on their Website. She discussed

how the maps were developed.

Consent Calendar

**Adopt Resolution Increasing Parking Bail Amounts Consistent with Other Marin Agencies – Town Manager/Police Chief Morin**

**Approval of Town Council minutes for the April 3, 2013 meeting – Deputy Town Clerk**

**Accept sponsorship request by Resilient Neighborhoods- Town Manager**

**Accept FEMA Flood Map status report—Public Works Manager**

**Approve contract with Coastland Engineering for construction management and re-bidding services for the Sir Francis Drake striping project- Town Manager**

**Adopt Resolution of the Town Council of the Town of Fairfax calling for general election- Town Manager**

**Adopt Resolution of the Town Council of the Town of Fairfax opposing AB 162 Wireless Telecommunications Facilities- Councilmember Bragman**

**Adoption of Resolution of the Town Council of the Town of Fairfax Opposing Reduction in Social Security- Councilmember Bragman**

**Authorize the Mayor to sign a letter to Assembly Member Gatto in support of AB 1194 to maintain funding for the Safe Routes to School program- Councilmember Bragman**

M/S, Weinsoff/Bragman, Motion to approve the Consent Calendar with amendments to the language in item #13, "Resolution of the Town of Fairfax Opposing AB 162 Wireless Telecommunications Facilities".

AYES: All

Regular Agenda

Discuss/consider of School Bike Route Project ("Fairfax Bike Spine")

Mayor Reed and Councilmember Coler recused themselves from discussing this item.

Town Manager Toy presented the staff report.

Ms. Carol Avis, Scenic Road, stated she did not receive notice about the project. She is concerned about safety but "more is not necessarily better". She asked if other options were explored. She asked how the three-way stop sign would be enforced and how it would impact parking along Scenic Road.

Mr. Malcolm Ferran, Scenic Road, stated he was concerned about the safety of the route (Arroyo through Scenic) and noted it was dangerous due to the speed of vehicles. He questioned the installation of a stop sign at the bottom of a blind hill.

Mr. Sierra Salin, Manor View, stated he rides his bike with his children and they ride along Manor or Sequoia but never along Arroyo Road.

Mr. John Reed, Scenic Road, acknowledged that the sight lines at Arroyo and Scenic were

problematic and installing the stop sign at Sequoia could be a better option.

Mr. David Parisi, traffic engineer, stated the committee worked on the project for two years and held several public meetings. The committee thought the route along Arroyo and Scenic was preferable. He agreed that the sight lines on Arroyo were poor but a route along Sequoia would require bicyclist to meander through many streets. There are other options that would not have the same level of safety. He discussed the need to eliminate some parking spaces during certain times of the day.

Councilmember Bragman asked if parking would be restricted in the morning or if a red zone would be created. Mr. Parisi stated stop signs would provide the largest margin of safety followed by red zones and then restricted parking.

Mr. Jay Davis, Scenic Road, stated there is parking on both sides of Arroyo Road and they need to install crosswalks. He was concerned about the speed of traffic along Arroyo Road.

Mr. Jay Avis, Scenic Road, stated he rarely sees children riding their bikes in front of his house in the morning. He opposed the idea of stop signs that would change the character of the neighborhood. He asked the Council to come up with a logical compromise.

Councilmember Weinsoff asked Mr. Parisi if the two alternatives were the installation of stop signs or the loss of a few parking spaces. Mr. Parisi stated "yes". They expect hundreds of children to be taking this route. These bike routes have been proven to slow traffic down.

Town Manager Toy stated staff would report back to the Council next month with the following options- installing stop signs, removing parking, or re-routing.

The Council took a 5-minute break at 10:00 p.m.

Discuss/consider options for the Pastori outfall pipe and bank stabilization project- *Town Manager*

Town Manager Toy presented the staff report.

Councilmember Coler had questions about the project and if the intent was to address potential flooding. She noted Options A and B had similar price tags but Option B would have the benefit of dealing with potential flooding. She stated she would like more information about the potential removal of the Maple tree. Town Manager Toy stated Building Official Lockaby is of the opinion that the tree does not need to be removed but this option could be included in the bid document.

Councilmember Weinsoff stated this project started and should remain a flood control project.

Councilmember Bragman asked if there were funds in the Capital Improvement Budget for this project. Town Manager Toy stated there were some funds available but not the amount listed in the report. Councilmember Bragman asked if Flood Zone District 9 could help with some funding. Councilmember Weinsoff stated he did not think so. Town Manager Toy agreed but noted a loan might be available.

Councilmember Bragman had questions about the construction timeline. Georgia stated they would have to get started fairly soon to complete the project this season. The engineer stated they have the option of doing what is currently permitted in the creek and coming back and doing something with the pipe later on.

Ms. Wendy O'Rear, Pastori Avenue, stated the pipe broke in the flood of 2005/06 and started eroding the creek bank. She agreed that two issues have been combined. The bank is in imminent risk of collapsing. There is a seven-foot deep cavern that is moving closer and closer to her home.

Mr. Frank Egger, Meadow Way, recommended that the Council look at prior staff reports on this project. He was in favor of continuing the 48" pipe through the wing wall to help the property owner who is experiencing erosion on her property.

Mr. Michael McIntosh asked the Council to listen to the engineer. The use of a different crane would alleviate the need to remove the tree. He gave a history of the project. Councilmember Bragman asked Mr. McIntosh if he was agreeable to allowing the Town to enlarge the drain outfall on the wing wall. Mr. McIntosh stated "no". Councilmember Bragman asked Mr. McIntosh if he would be willing to allow the Town to do the direct route if they got an insurance policy. Mr. McIntosh stated he would be willing to entertain a conversation. Councilmember Bragman asked Mr. McIntosh to forward any information about this to the Town.

M/S, Weinsoff/Bragman, Motion to direct staff to take a look at bid option B and any legal issues pertaining to that option. Staff is directed to come back with some financing options.

AYES: All

Introduction and First Reading of Ordinance No. 770, an Ordinance of the Town Council of the Town of Fairfax concerning the collection, recycling, and disposal of waste generated from construction, demolition, and renovation projects within the Town of Fairfax- *Town Manager*

Mayor Reed stated this item would be continued.

Accept Response to Grand Jury Report Marin on Fire Redux- *Town Manager/Councilmember Bragman and Vice Mayor Weinsoff*

Councilmember Weinsoff presented a report.

Councilmember Bragman thanked Ross Valley Fire Chief Meagor for his assistance.

Mr. Michael McIntosh stated he has manually removed the broom on his property and it makes a big difference. It is not necessary to use pesticides.

M/S, Coler/Weinsoff, Motion to accept the response to the Grand Jury Report Form to the "Marin on Fire Redux" report.

AYES: All

Adopt Resolution of the Town Council of the Town of Fairfax establishing an administrative purchasing policy including local preferences for professional services, supplies and materials, and public works projects using informal bid process- *Town Manager*

Mayor Reed stated this item would be continued.

Discuss Budget process and Schedule- *Town Manager/Finance Director*

Town Manager Toy presented a staff report. He asked the Council to choose a date for a Budget Workshop.

It was the consensus of the Council to hold a Budget Workshop on Monday, June 10<sup>th</sup>. The meeting would start at 6:00 p.m. The Public Hearing on the Proposed Budget for Fiscal Year

2013/14 would be held on Wednesday, July 24<sup>th</sup>. Adoption of the budget would take place at the Regular Meeting in August.

Adopt Resolution establishing a policy regarding the use of contributions to the Open Space Fund- Councilmember Bragman

Mayor Reed stated this item would be continued.

Review Council board/committee assignments- Deputy Town Clerk

Mayor Reed stated this item would be continued.

Discuss/consider Measure I Oversight Committee- Deputy Town Clerk

Councilmember Bragman stated he, along with one of the past members, have volunteered to continue and he asked if another Councilmember would like to volunteer. Councilmember Weinsoff volunteered to serve on the Measure I Oversight Committee. Councilmember Bragman stated they need to meet with the Finance Director prior to adoption of the Budget.

Mayor Reed stated he would like to see a breakdown of the distribution of the Measure I Funds.

Discuss/consider draft EIR for Plan Bay Area- Mayor Reed, Town Manager

Councilmember Coler recused herself from this item. She left the meeting at 11:20 p.m.

Mayor Reed presented a report. The plan sponsored by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) is an attempt to concentrate development, housing, and jobs along existing transportation corridors.

Councilmember Weinsoff stated the Mayor of Novato has requested that each jurisdiction take a position on the plan. Staff has identified a reasonable position- the plan would have minimal or no impact on the Town of Fairfax and no comments are warranted on the Draft EIR.

Councilmember Goddard stated she would like to take more time to review the plan.

Councilmember Bragman stated he was provided with information about the impacts to Fairfax from Lead Planner Linda Jackson from the County of Marin. He thought there was some legitimate criticism about the plan and the process. He suggested that he, along with Mayor Reed, work with the Planning Director on a letter of comments and concerns. He thought the comments period should be extended.

Mr. Michael McIntosh asked the Council to urge ABAG and MTC to slow down the process. He does not support the plan.

Discuss/consider Summer Meeting Schedule- Deputy Town Clerk

Mayor Reed stated this item was already discussed.

M/S, Weinsoff/Bragman, Motion to adjourn the meeting at 11:30 p.m.

AYES: All

Respectfully submitted,  
Toni DeFrancis  
Recording Secretary