

Fairfax Town Council Minutes
Regular Meeting
Fairfax Women's Club
Wednesday, August 7, 2013

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

Public Employee Performance Evaluation pursuant to Government Code Section 54957
Title: Town Manager

Conference with Labor Negotiator pursuant to Government Code Section 54957.6 Agency designated representative: Garrett Toy, Town Manager; Michael Vivrette, Finance Director; Employee Organization SEIU Local 949 Miscellaneous Unit; Unrepresented Management Employees; and Police Chief

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
Mike Vivrette, Finance Director
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 with the removal of Consent Calendar item #4, "Adoption of Resolution No. 13-542, adopting the 2013-14 Budget". This item shall be the first Regular Agenda item.

AYES: All

Announcement of Closed Session Action

Mayor Reed stated the Council met in Closed Session. There was nothing to report.

Interview and Appointments

Appointment of Candidate Ray Burgarella to serve on the Open Space Committee for a full four-year term

Mayor Reed noted Mr. Burgarella was not present.

Ms. Mimi Newton, Open Space Committee member, recommended appointment of Mr.

Burgarella.

M/S, Weinsoff/Coler, Motion to appoint Mr. Ray Burgarella to serve on the Open Space Committee for a full four-year term.

AYES: All

Announcements

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

Councilmember Goddard reported the Second Annual “Streets for People” Festival would occur on Sunday, August 25th from 11:00 a.m. to 4:00 p.m. Bolinas Road would be closed from 9:00 a.m. to 5:00 p.m. that day.

Reports and Presentations

Proclamation from the Town Council of the Town of Fairfax in honor of the late Jerry Garcia

Councilmember Coler read the proclamation and declared August 7, 2013 “Jerry Garcia Day” in the Town of Fairfax.

Open Time:

Mr. Steve Wasserman, Meadow Way, had a question about Wi-Fi codes.

Mr. John Fitzpatrick, Sir Francis Drake Boulevard, stated the property next to the former location of the Good Earth was for sale and he suggested that the Town purchase this property and use it as a parking lot.

Ms. Jody Themes, Fairfax representative on the Commission on Aging, stated she has attended two meetings and would be working in collaboration with Ms. Francine Bettinger (District 2 representative). Ms. Bettinger stated their focus would be on education.

Council Reports and Comments

Councilmember Weinsoff reported he attended the initial meeting about the Fairfax Theatre mural; the Annual Historic Society Luncheon; a MCLE class regarding the Brown Act and the Public Records Act.

Councilmember Coler stated she had nothing to report.

Councilmember Bragman reported he attended the Media Center of Marin Board meeting.

Councilmember Goddard reported she attended a Transportation Authority of Marin (TAM) meeting regarding the Greenbrae/Highway 101 Corridor Improvement Project; a Zero Waste Committee meeting; met with Fairfax Focus; met with the representatives on the Commission on Aging; attended a Ross Valley School Board meeting; went to the rally on Richmond.

Mayor Reed reported he attended the Safe Routes to Schools meeting; the Volunteer Board Dinner; the TAM Board meeting; several meetings regarding the Bike Spine.

Town Manager Report

Town Manager Toy reported on the recent meeting with the Good Earth and the neighbors

regarding policies and protocols for the morning truck deliveries. They have agreed to meet again in about three weeks. Staff would report back to the Planning Commission in October.

Consent Calendar

Adoption of Resolution No. 13-41, setting the Living Wage pursuant to the annual review requirements of Section 8.56.020 of the Town Code- *Town Clerk*

Adoption of Resolution No. 13-42, adopting the 2013-14 Budget- *Finance Director*

Adoption of Resolution No. 13-43, making certain findings and determinations in compliance with Section XIII B of the California Constitution (Gann Initiative) and setting the appropriation limit for Fiscal Year 2013-14- *Finance Director*

Approval of Financial Reports for April and May 2013- *Finance Director*

Award of Sir Francis Drake Bike Lane Striping bid- *Town Manager*

Appointment of Mark Solomons, Volunteer Board Alternate, to Volunteer Board vacancy- *Town Clerk*

M/S, Weinsoff/Goddard, Motion to approve the Consent Calendar with the removal of item #4.
AYES: All

Regular Agenda

Adoption of Resolution No. 13-42, adopting the 2013-14 Budget- *Finance Director*

Finance Director Vivrette presented a staff report.

M/S, Weinsoff/Goddard, Motion to adopt Resolution 13-42, a Resolution of the Town Council of the Town of Fairfax Adopting the Town of Fairfax Operating and Capital Improvement Budgets for Fiscal Year 1, 2013 through June 30, 2014 and Providing for the Appropriation of Expenditures in Said Budgets and Repealing all Resolutions in Conflict Herewith.

AYES: All

Award of the Pastori Storm Drain Outlet project bid- *Town Manager*

Town Manager Toy presented a staff report.

Councilmember Bragman stated it has taken a long time to get this project to partial completion. He asked what the cost would be to remobilize in order to finish the pipe. Town Manager Toy stated he did not know. Councilmember Bragman stated it was a shame that the Town would have to incur duplicative costs.

Mayor Reed opened the meeting to public comments.

Ms. Kathleen McCann, Wood Lane, asked why the property owner of the Marin Town and Country Club was not being held responsible for what seemed to be a public safety issue.

Ms. Wendy O'Rear, Pastori Avenue, stated the pipe broke during the 2005/06 storm and the creek bank adjacent to her home is eroding. She noted this was more than a bank stabilization project- it was a "dewatering" project and was setting up the creek bed for the influx of water that comes from the pipe.

Mr. Michael McIntosh asked the Council if they had any questions for him.

Mayor Reed closed the meeting to public comments.

Councilmember Bragman asked the Town Attorney if the Town has obtained a right of entry. Town Attorney Coleson stated Mr. McIntosh indicated "yes" to that question.

M/S, Weinsoff/Bragman, move to 1) Authorize the Town Manager to award the contract for the Pastori Outfall Pipe and Bank Stabilization Project to Ghilotti Construction for \$171,000; 2) Authorize the Town Manager to remove the storm drain work (bid alternate) from the contract in the amount of \$20,000; 3) Authorize a contingency reserve of \$15,000 (10%) for the Project to be used for unforeseen Project costs by the Town Manager; 4) Appropriate \$61,400 from the Dry Period Fund (Fund 02) for the Project.

AYES: All

Approval of contract with CSW-Stuber-Stroeh for construction administration services for the Pastori Storm Drain Outfall Project in an amount not to exceed \$37,400- Town Manager

Town Manager Toy presented the staff report.

M/S, Weinsoff/Goddard, Motion to approve the contract with CSW/Stuber-Stroeh Engineering Group for construction administration services for the Pastori Storm Drain Outfall project in the amount not to exceed \$37,400.

AYES: All

Status of clean up at 19 Manor Road- Building Official

Building Official Lockaby presented a staff report.

Councilmember Bragman stated the property has been cleaned up and he asked how staff would manage it and make sure it stays that way. Building Official Lockaby stated the job has been "red tagged" and they would not be able to use the property for staging, etc. He will monitor the property.

Councilmember Coler stated there were about 15 pallets, a pile of bricks, a tractor, and a stockpile of soil on the property that should be removed. This property should be monitored by staff on a weekly basis.

Councilmember Weinsoff asked if staff has considered implementing a time limit on Building Permits. Building Official Lockaby stated staff plans to discuss this issue with the Town Attorney in the near future. Councilmember Coler asked if the owner had a current Building Permit. Building Official Lockaby it was suspended because the work went beyond what was permitted.

Mayor Reed opened the meeting to public comments.

Mr. Robert Bifus, Manor Road, stated the front yard has been cleaned up but there was still a lot of debris in the back yard. The tarp on the house was an eyesore and noisy. He had two major concerns: 1) the house was too close to his property line; 2) the house was too high. This building is condemnable.

Councilmember Weinsoff asked if Mr. Bifus' concerns could be addressed. Building Official stated it would be very difficult since this was a new foundation. However, the Planning

Commission would be revisiting the project.

Mr. Mark Robert, representing the contractor, stated they complied with the checklist prepared by staff. The pallets and bulldozer have been removed from the property. Councilmember Coler asked Mr. Robert if the blue tarp on the house could be replaced by tyvek. Mr. Robert stated "yes". He stated he would work with the Building Official and do whatever he wants.

Mr. Benjamin Kahn, designer, stated he was recently engaged by the property owner. He would be submitting a Design Review package to the Town in the next several months.

Mayor Reed closed the meeting to public comments.

Councilmember Bragman stated Building Official Lockaby should report back to the Council at the next meeting.

Approval of agreement with California Infrastructure Consultancy for preliminary engineering, environmental and design services for bridges- *Town Manager*

Town Manager Toy presented a staff report.

Councilmember Goddard asked how and why these five bridges were chosen for replacement/rehabilitation. Town Manager Toy stated these bridges are on the National Bridge Inventory and meet other necessary criteria.

Mayor Reed had questions about Phase I and Phase II.

Councilmember Coler asked if the Town would need to refund any CalTrans funds if they choose the "no project" option. Town Manager Toy stated he did not think so.

Mr. Nader Tamannaie, President of California Infrastructure Consultancy, stated the program is highly preferential to local needs and opinions. Phase I would study the condition of the bridge and make a broad assessment. Funds could be used to address deficiencies.

Town Manager Toy noted the Phase I analysis includes funding possibilities for the various options.

Mayor Reed opened the meeting to public comments.

Ms. Nancy Wasserman, Meadow Way, stated many of the neighbors believe that the Meadow Way Bridge could use some reinforcement but at its current capacity. Enlargement of this bridge to two-lanes would be totally unnecessary and increases the potential damage to the surrounding properties.

Mr. Frank Egger, Meadow Way, stated the neighbors love this wooden bridge and feel it defines the neighborhood. It is the epitome of "Fairfax". A two-lane bridge is not a viable option and the bridge would be good for another 50 years if they replaced the wood deck and sidings. He urged that the initial public outreach program include public officials and not the consultants. He asked that the Meadow Way Bridge portion of this contract be continued for further outreach with the neighborhood.

Mr. Alex Bennett, Meadow Way, stated the Town should have done initial outreach with the Meadow Way residents before agendizing this matter. He asked that the Meadow Way Bridge be excluded from this contract. He would like the Meadow Way neighbors to have a chance to hold a meeting before they meet again with the Council.

Ms. Karen Michelson, Meadow Way, stated she agrees with what the other neighbors have said. She is concerned that the funding from CalTrans would tie them in some fashion to an outcome.

Mr. Michael Mackintosh, Pastori Avenue, stated he hoped the community would look at the opportunity to replace these bridges for future generations. The Meadow Way Bridge was a wonderful wooden bridge and he encouraged the Council to keep the charm and historic qualities of the Town.

Mr. Steve Wasserman, Meadow Way, stated they need the input of the community before the assessment. None of the neighbors want a two-lane bridge on Meadow Way. He would like to see the raw data.

Ms. Debra Benson, Cascade Drive, stated they should maintain and honor the wooden bridges. She is not sure that the study is worthwhile.

Mr. Egger agreed with the suggestion to pull the Meadow Way Bridge out of the contract. This portion could be rewritten after the neighbors meet.

Mayor Reed closed the meeting to public comments.

Councilmember Goddard asked if the Meadow Way Bridge piece of the contract could be pulled. Town Manager Toy stated "yes". Councilmember Coler stated it might be easier to delay the decision on the agreement until after the neighbors meet. Town Manager Toy stated that was doable.

Town Manager Toy stated staff would come back in September with modifications to the Meadow Way Bridge aspect of the contract. Public outreach would occur prior to the assessment. Councilmember Coler stated she would like a full range of options

The Council took a 15-minute break at 9:55 p.m.

Introduction and First Reading of Ordinance No. 771 Amending the Municipal Code by Adding Section 15.04.050 (Collection, Recycling, and Disposal of Waste Generated from Construction, Demolition, and Renovation Projects within the Town of Fairfax)

Town Manager Toy presented the staff report.

Mayor Reed opened the meeting to public comments.

Ms. Kim Scheibly, Marin Sanitary Service (MSS) Outreach and Communications Coordinator, stated this was a very important ordinance for a Town to have since there is a substantial amount of material that is generated and this would help to move diversion rates in the right direction. She urged the Council to adopt the ordinance.

Councilmember Goddard stated she would like to make sure contractors have the tools to comply with the ordinance. Ms. Scheibly stated MSS has several educational programs to help contractors.

M/S, Goddard/Bragman, Motion to waive further reading and introduce Ordinance No. 771, an Ordinance of the Town Council of the Town of Fairfax Amending the Municipal Code by Adding Section 15.04.050 (Collection, Recycling and Disposal of Waste Generated From Construction, Demolition, and Renovation Projects within the Town of Fairfax)

AYES: All

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 the staff report.

Ms. Kim Scheibly, representing MSS, stated their internal system defines multi-unit family units as “four or more” and they would have to redo their database to conform to State law (five or more units). Using the MSS definition would help to accomplish more diversion. She urged the Council to adopt the ordinance.

Councilmember Coler had questions about fiscal impacts and the Town's role. She also suggested that additional language be added to Section 8.08.130-12, “Other Actions and Remedies, C. Liability”.

Mayor Reed opened the meeting to public comments.

Mr. Michael McIntosh stated he has been very pleased with the services provided by MSS- they are very responsive.

Mayor Reed closed the meeting to public comments.

M/S, Coler/Bragman, Motion to continue this item to the next meeting.

AYES: All

Approval of response to Grand jury Report "Garbology in Marin: Wasted Energy"- Town Manager

Town Manager Toy presented the staff report.

M/S, Bragman/Goddard, Motion to authorize the Town Manager to submit the Response to the Grand Jury Report “Garbology in Marin: Wasted Energy”.

AYES: All

Adoption of policies for filling vacancies on boards and commissions- Town Manager

Town Manager Toy presented the staff report.

Councilmember Weinsoff stated he supported the existing process for Planning Commission candidates. He supported the existing approach for the Artist-in-Residence- allow the Parks and Recreation Commission (PARC) to interview applicants and make a recommendation. He did not want to interview multiple applicants.

Councilmember Coler referred to the third bullet in the staff report under the Planning Commission section and stated she would like to delete the following words: “If more than 2 applications...”.

Mayor Reed opened the meeting to public comments.

Mr. Michael McIntosh stated the democratic process should be used for all appointments and the general public should have input.

Mayor Reed closed the meeting to public comments.

M/S, Bragman/Weinsoff, Motion to adopt the staff recommended interview and appointment process for Town Boards, Commissions, and Committee, with the exception of the Planning Commission. The Council shall conduct an informal, publicly noticed interview and make an appointment at the following Council meeting for the Planning Commission.

AYES: All

M/S, Bragman/Goddard, Motion to adopt the approach of having the Parks and Recreation Commission interview Artist-in-Residence applicants and refer the top three for interview and appointment by the Council. PARC would provide input to the Council on the strengths and weaknesses of the three applicants.

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

M/S, Weinsoff/Bragman Motion to adjourn the meeting at 11:10 p.m. to an adjourned, Special Meeting.

AYES: All

Respectfully submitted,

Toni DeFrancis
Recording Secretary