

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, September 4, 2013

The Regular Meeting was preceded by a Special Meeting from 6:00 p.m. to 7:00 p.m. to conduct informal interviews of applicants for Planning Commission vacancies.

Call to Order/Roll Call:

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

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

Mayor Reed called the Regular meeting to order at 7:05 pm.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Goddard Motion to approve the agenda and the affidavit of posting with the following revisions to the agenda: item #2 shall be continued (and opened up to other candidates); item #23 shall be moved up in the agenda and heard after item #18, and item #18 shall be moved up in the agenda and heard prior to item #17.

AYES: All

Oath of Office

Introduction and swearing in of newly hired Police Officer Sheldon Short- *Town Clerk*

Town Clerk Gardner administered the Oath of Office to Police Officer Sheldon Short.

Police Chief Morin and the Town Council welcomed Police Officer Short to the Fairfax Police Department.

Interviews and Appointments

Interview and Appointment of Candidates to serve on the Planning Commission one for unexpired term to 2-29-16, and one for an unexpired term to 1-31-15- *Town Clerk.*

Mayor Reed noted this item was continued to the next meeting and would be opened up to other candidates.

Announcements

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

### Open Time

Mr. Mike Ardito, representing the Open Space Committee, reported that there was a vacancy on the Open Space Committee. Committee members are planning to give a presentation to the Sir Francis Drake High School Leadership Class to recruit students to apply for a position on the Committee. He would come back to the Council in November with a recommendation. Councilmember Goddard asked if this student would fill the vacancy or if this would be an additional position. Mr. Ardito stated there were options. Councilmember Coler stated the criteria for the position is residency in the 94930 zip code- there was no age limit.

### Council Reports and Comments

Councilmember Weinsoff reported he attended the MCCMC meeting; an MCCMC Legislative Committee meeting; the Streets for People event; a Ross Valley Fire Board meeting; met with the Town Manager several times on various issues; the Special Council meeting regarding the Housing Element; and he will attend a Flood Zone 9 and Army Corp. of Engineers meeting regarding funding for dredging the creek near the Town of Ross.

Councilmember Coler reported she attended the MCCMC meeting; the Streets for People event; and the Special Council meeting regarding the Housing Element.

Councilmember Bragman reported he attended a Marin Telecommunications Agency meeting; a meeting regarding the Community Media Center of Marin.

Councilmember Goddard reported she attended the MCCMC meeting; a meeting regarding the Climate Action Plan; a Solid and Hazardous Waste JPA Task Force meeting; and helped to organize and staff the Streets for People event.

Mayor Reed reported he attended a General Plan Implementation Committee (GPIC) meeting; a Chamber of Commerce meeting; three meetings of the working group for the Greenbrae/Twin Cities Highway 101 Interchange Project; Streets for People event; Ross Valley Fire Board meeting; and the Special Council meeting on the Housing Element.

### Town Manager Report

Town Manager Toy reported the Town Clerk placed several supplementary agenda items on the dais.

Planning Director Moore stated he mediated another meeting between representatives of the Good Earth and the neighborhood regarding truck delivery patterns. The meeting resulted in a positive direction. The application will be reviewed by the Planning Commission on October 17<sup>th</sup>. The Good Earth is proposing an extension of the fence along Sir Francis Drake Boulevard as a mitigation measure to the noise.

Finance Director Vivrette reported the on the contract with a new company called GovTeller that would reduce credit card processing fees. Customers would pay the fee. The Town spent approximately \$3,000 last year on credit card fees. Staff plans to go live with this system on October 1<sup>st</sup>.

Town Manager Toy reported they were not able to install plumbing for showers at the new restrooms at Contratti Field due to the footprint. Staff will look for alternatives. The Pastori Bank Stabilization Project started this week and should be finished by the end of the month.

The Sir Francis Drake Boulevard Bike Striping Project will start on September 23<sup>rd</sup>.

Consent Calendar

**Adoption of Resolution 13-45 approving SEIU Local 1021 MOU- *Town Manager***

**Adoption of Resolution 13-46 establishing wages and benefits for management and confidential employees- *Town Manager***

**Approval of Chief of Police employment agreement- *Town Manager***

**Approval of Town Manager employment agreement- *Mayor and Vice Mayor***

**Approval of Principal Planner job classification- *Planning Director***

**Second Reading and Adoption of 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)- *Town Clerk***

**Adoption of Resolution 13-47 in support of HR 2692: Saving America's Pollinators Act- *Mayor Reed***

**Approval of contract with Wayne Bush for engineering project management services- *Town Manager***

**Approval of Town Council minutes for the July 24, August 5, and August 7, 2013 meetings- *Town Clerk***

**Approval of June Financial Reports- *Finance Director***

**Adoption of Resolution 13-48, authorizing the Town Manager to execute an agreement with the Marin County Flood Control and Water Conservation District to share creek maintenance responsibilities for specific creek reaches within the Town of Fairfax- *Building Official***

**Approval of sponsorship of Skate and Surf movie night at Contratti field on September 27, 2013- *Councilmember Goddard***

**Adoption of Proclamation declaring September "Prostate Cancer Awareness Month" in Fairfax- *Town Clerk***

**Status report on clean up at 19 Manor Road- *Building Official***

Mr. Michael MacIntosh asked that items #4 and #13 be pulled from the Consent Calendar for discussion.

Ms. Cary Benchly, Executive Director of The Away Station, referred to Consent Calendar item #8, Ordinance No. 771, and stated she supported the ordinance. She stated she would make it stricter. She noted the best "diversion" is reuse.

M/S, Weinsoff/Bragman Motion to approve the Consent Calendar with the removal of items #4, #8, #13, and #16 and with corrections to the minutes of August 7 and August 24, 2013.

AYES: All

Status report on clean up at 19 Manor Road- *Building Official*

Building Official Lockaby presented a brief staff report. He noted a lot of work has been done on the property and it looks much better. However, some neighbors are concerned about a large pile of dirt, some cut brush, and stacks of lumber.

Mr. Mark Roberts, contractor for owner, stated they have done what the Building Official asked of them. The property owner hired an architect to complete the project. They are waiting to begin Phase II of the project. He would gladly haul away the dirt.

It was the consensus of the Council that the dirt and the brush should be removed from the property.

Public Hearings

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

Mayor Reed stated this item would be continued.

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

Building Official Lockaby presented a staff report. He noted there was debris on the property along with a second and possibly third unit.

Mayor Reed opened the Public Hearing.

Ms. Patricia Vanni, Chester Avenue, stated there was a smoke stack on the property that burns incessantly- 24/7, 365 days. It is about 50 feet from the back of her house. The smoke smells toxic and does not smell like burning wood. Her family's quality of life is negatively affected.

Ms. Sandra Cornell, Willow Avenue, stated the property owner is not burning wood- it smells toxic and she has pain in her lungs. She now needs to use an inhaler.

Mr. Steve Vanni, Chester Avenue, distributed some photographs. The property owner has been burning toxic materials for six or seven years. He was concerned about the illegal outbuildings and the numerous building and safety code violations.

Mr. Brad Beard, Willow Avenue, stated he would support legalizing the lower living unit. He acknowledged there were issues with the property.

Ms. Judy Hitchcock, Chester Avenue, stated she lives in a "bowl" and the smoke settles around her house. The property owner should be required to take out the fireplace since he is not burning wood- the smell is acrid.

Mr. Todd Stock, Willow Avenue, stated there were nine cars parked in front of his property and the subject property. Parking in the neighborhood is always a problem. He is worried about fire danger from the fireplace.

Mr. James Heard, Chester Avenue, stated there has been a steady decline in the property since around 2005. There is an accumulation of trash in the back yard. The outbuildings are a concern.

Mr. Frank Egger, Meadow Avenue, explained the definition of a legal, non-conforming unit. He noted that the Town has always required Building Permits.

Ms. Kim Tuold, Chester Avenue, stated smoke hovers in the yard where she works. She thinks the property owner is burning particleboard.

Mr. Roy Murrin, property owner, stated he was not aware that his fireplace was a problem. He is burning oak wood. He stated he would stop burning wood and clean up the property. He does not rent any of the units- his family lives on the property. He apologized to his neighbors.

Mayor Reed closed the Public Hearing.

Planning Director Moore thanked the neighbors for their statements. He thanked Mr. Murray for volunteering to stop using his fireplace. He briefly discussed the Administrative Citation and Nuisance Abatement processes.

Councilmember Weinsoff asked Building Official Lockaby to report back to the Council at the next meeting.

The Council took a 15-minute break at 8:50 p.m.

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

#### 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

Town Manager Toy presented a staff report.

Councilmember Weinsoff stated there were only three customers that qualify under the ordinance but who were not participating in a recycling program. Section 8.08.130-1 Findings, "G", should be "tweaked". Town Manager Toy noted that "diversion" is the actual percentage as opposed to actual participation. Councilmember Weinsoff noted there were several typographical errors that should be corrected.

Councilmember Coler asked if Marin Sanitary Service (MSS) does outreach and education at no cost to the Town. Town Manager Toy stated "yes". Sustainable Fairfax supplements these programs.

Councilmember Goddard stated a huge amount of waste was still being generated and she would like to lower the threshold to two to three cubic yards.

Mayor Reed opened the meeting to public comments.

Mr. Steve Rosa, representing MSS, stated there was 100% compliance but they were not at the desired diversion rate. They are prepared to implement the lower threshold. All of the multi-unit dwellings of 4 or more units are recycling. Triplexes, duplexes, and single- family homes are considered residential accounts in the MSS accounting system.

Councilmember Bragman asked if they could include language in the ordinance requiring all commercial accounts to recycle. Mr. Rosa stated he would support this suggestion. Town Attorney Coleson stated the definitions set in the ordinance by the Council do not have to

necessarily match the MSS definitions.

Mr. Michael MacIntosh encouraged the Council to “look forward” and define waste on a “per unit” basis. He stated the Town should never discourage people from putting garbage in a garbage can since this is an opportunity to clean up the Town.

Councilmember Weinsoff suggested they continue this item to allow staff to clean up the language per Councilmember Bragman’s and Goddard’s comments.

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

Town Manager Toy presented a staff report. Staff is recommending bifurcation of the contract and continuing the Meadow Way bridge portion to the October 2<sup>nd</sup> meeting.

Mayor Reed opened the meeting to public comments.

Mr. Michael MacIntosh urged the Council to retain the character of the Meadow Way Bridge. This is an opportunity to replace this bridge with another wood bridge similar in size with a 200-year life span.

Mr. Frank Egger, Meadow Way, stated a one-lane bridge at Meadow Way would be more appropriate than a two-lane bridge. He was concerned that a temporary bridge would encroach into the front yard of 6 Meadow Way. The Request for Proposal (RFP) calls for testing during Phase I and talks about removal of vegetation along the creek bank. He noted that removal of Heritage trees requires a Tree Permit. He referred to the Canyon Road Bridge and asked if the steel fish ladder would be removed. Town Manager Toy stated that would be addressed in the environmental documents.

Mr. Alex Bennett, Meadow Way, thanked the Council for giving the Meadow Way neighborhood a chance to “do their homework”. He noted staff received a list of concerns from the neighbors. Councilmember Bragman asked that this list be forwarded to the contractor.

M/S, Weinsoff/Coler, Motion to bifurcate the contract and authorize the Town Manager to execute an agreement with CIC for preliminary engineering, environmental, community outreach and design work for the Creek, Marin, Spruce, and Canyon Road Bridges. Further conversation about the Meadow Way Bridge would occur at the October 2<sup>nd</sup> meeting.

AYES: All

Discussion/Consider proposal by Fairfax Theater Company – *Town Manager*

Town Manager Toy presented the staff report.

Councilmember Bragman had questions about the storage under the Pavilion. Mr. Sam Parry stated there was a limited amount of storage space under the building. The lights, sound equipment, etc. would be stored upstairs in the Pavilion.

Mayor Reed reminded everyone that the Pavilion was the Town’s Emergency Operations Center (EOC).

Councilmember Bragman stated he would like the group to offer more classic theater pieces in addition to the contemporary pieces. Mr. Parry stated that was the plan and they were trying to reach a wider audience including families.

Mr. Michael MacIntosh stated the Town should consider getting a single-use container for storage.

M/S, Coler/Bragman, Motion to accept the recommendation of the Town Manager and accept the proposal from the Fairfax Theater Company to be the Town's home theater company and authorize the Town Manager to execute an MOU to memorialize the relationship for a two year period and eliminate the Town Theater Program Director position.

AYES: All

Discuss/Consider Temporary Franchise Fee Support for the Community Media Center of Marin (CMCM) – Councilmember Bragman

Councilmember Bragman presented a report and noted the media center is facing a funding gap for the next three years.

Mr. Michael Eisenmenger, Executive Director of CMCM, made a Powerpoint presentation that included: 1) CMCM History; 2) What CMCM does; 3) How CMCM compares to similar centers nationwide; 4) CMCM 5-Year Budget Plan.

Councilmember Coler had questions about the different payment options. Councilmember Bragman stated there was a third option: all the member agencies contribute some up-front money the first year (perhaps \$10,000 to \$15,000) thereby reducing the total amount that would need to be paid by all the jurisdictions.

Councilmember Weinsoff stated he supported the proposal but had questions about the payment options.

Mayor Reed opened the meeting to public comments.

Mr. Sierra Salin stated he did not want the Town to be "penny-wise and pound stupid". He discussed the nature of communication and media and asked the Council to preserve the CMCM.

Mr. Michael MacIntosh supported the preservation of CMCM. He stated residents should not be precluded from obtaining media information.

Town Manager Toy noted this item would come back to the Council at the next meeting.

Adoption of Resolution 13-48, authorizing the Town Manager to execute an agreement with the Marin County Flood Control and Water Conservation District to share creek maintenance responsibilities for specific creek reaches within the Town of Fairfax- *Building Official*

Mayor Reed noted this item had been removed from the Consent Calendar.

M/S, Bragman/Goddard, Motion to adopt Resolution No. 13-48, a Resolution of the Town Council of the Town of Fairfax authorizing the Town Manager to execute the creek maintenance agreement and any amendments thereto with the Marin County Flood Control and Water Conservation District, for the maintenance of various drainage channels and portions thereof, with the Town of Fairfax and Flood Control Zone No. 9 of the Marin County Flood Control and Water Conservation District.

AYES: All

Adoption of Resolution 13-46 establishing wages and benefits for management and confidential employees- *Town Manager*

Mayor Reed stated this item had been removed from the Consent Calendar.

M/S, Weinsoff/Coler, Motion to adopt Resolution No. 13-46, a Resolution of the Town Council of the Town of Fairfax Establishing Wages and Benefits for Management and Confidential Employees for the Period of July 1, 2013 through June 30, 2015

AYES: All

Discuss/consider amendment to the Animal Control Chapter of Town Code to ban roosters- *Planning Director*

Planning Director Moore presented a staff report.

Mayor Reed opened the meeting to public comments.

Mr. Rob Nye, Ridge Road, stated he supported the proposed ban on roosters within the Fairfax Town limits. His neighbor has several adult roosters who are kept near his fence line and start crowing around 5:00 a.m. The crowing continues throughout the day into the late afternoon. The noise affects his sleep and serenity. Fairfax is a residential area and no long agrarian.

Town Manager Toy stated an individual who could not stay for the entire meeting had indicated support of the ban.

Building Official Lockaby stated staff has used the Noise Ordinance effectively in the past, but that it does not specifically address the noise roosters make.

M/S, Weinsoff/Coler, Motion to direct staff to return to the Council with possible amendments to the Miscellaneous Animal Control Chapter of the Town Code, Title 6, Chapter 6.16, banning the keeping of roosters with Town limits.

AYES: All

Acceptance of Green House Gas inventory prepared by the Marin Climate and Energy Partnership (MCEP)- *Planning Director*

Planning Director Moore presented a staff report.

Ms. Christine O'Rourke, representing MCEP, made a Powerpoint presentation that included: 1) Greenhouse Gas Inventory; 2) Greenhouse Gases; 3) How to Calculate Emissions; 4) Sector Share of Emissions; 5) Community Emissions 2005 vs.2010; 6) Residential, Commercial, Transportation; 7) Countywide VMT; 8) Off Road Vehicles and Equipment; 9) MMWD Water Use; 10) Wastewater; 11) Countywide Waste.

Councilmember Bragman noted one of the reasons the Town was dealing with waste reduction ordinances was to address climate change.

Councilmember Goddard referred to page 9 of the inventory and noted the target date for 94% diversion rate should be 2020 and not 2025.

M/S, Weinsoff/Goddard motion to approve the final draft of the 2010 Greenhouse Gas Emissions Inventory with the revision noted by Councilmember Goddard and authorize staff and the GPIC to include this report in their drafting of the Climate Action Plan as baseline data.

AYES: All

Mr. Michael MacIntosh stated this was a valuable discussion. A hotel in Fairfax would reduce the traffic to West Marin and its greenhouse effect.

Second Reading and Adoption of 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)- *Town Clerk*

Mayor Reed stated this item had been removed from the Consent Calendar.

M/S, Bragman/Weinsoff motion to waive further reading of 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 with the Town of Fairfax).

AYES: All

M/S, Bragman/Weinsoff motion to adopt 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 with the Town of Fairfax).

AYES: All

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

Mayor Reed stated this item would be continued.

Discuss/consider application for funding for Town Hall under FEMA's Flood Mitigation Assistance Program- *Town Manager*

Town Manager Toy presented a staff report.

Councilmembers Coler and Weinsoff volunteered to serve on the Council subcommittee to work with staff to develop an application for Town Hall flood prevention project.

Discuss/consider Resolution 13-49 opposing the sale and purchase of rat and mouse poisons- *Mayor Reed*

Councilmember Bragman presented a report.

M/S, Bragman/Weinsoff motion to adopt Resolution No. 13-49, a Resolution of the Town Council of Fairfax in Opposition to the Sale and Purchase of Rat and Mouse Poisons Deemed an Unreasonable Risk to Children, Pets and Wildlife.

AYES: All

M/S, Bragman/Coler Motion to adjourn the meeting at 11:43 p.m.

AYES: All

Respectfully submitted,

Toni DeFrancis  
Recording Secretary