

DRAFT Fairfax Town Council Minutes
Special and Regular Meeting
Wednesday, **September 4, 2019**
Fairfax Women's Club

The Regular meeting was preceded by a **Special Meeting** in Closed Session from 6:00 p.m. to 7:00 p.m.

Public Employee Performance Evaluation pursuant to Government Code Section 94957:
Title: Town Manager

Mayor Coler called the Regular meeting to order at 7:03 p.m.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Bruce Ackerman
Barbara Coler
Renee Goddard
Peter Lacques
John Reed

STAFF MEMBERS PRESENT: Garrett Toy, Town Manager
Hannah Politzer, Deputy Town Clerk
Janet Coleson, Town Attorney
Ben Berto, Planning Director
Michael Vivrette, Finance Director
Anne Mannes, Recreation Manager

Approval of Meeting Agenda and Affidavit of Posting

Town Manager Toy asked the Council to continue item #5 at the applicant's request.

M/S, Goddard/Reed, Motion to approve the agenda, with the continuation of #5 to October 2, 2019, and the affidavit of posting.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Announcement of Closed Session Action

Mayor Coler announced there was nothing to report.

Proclamation

1. Proclamation thanking and commending the Fairfax Planning Commission for their dedication and hard work on recent policy- Mayor Coler

Mayor Coler read the proclamation to Planning Commissioners Swift, Fragoso, and Gonzalez-Parber. Chair Swift thanked the Council and her colleagues for their good work.

Announcements

Mayor Cole made the announcements as they appeared on the agenda. She stated the governor just signed AB 273, a bill that prohibits fur collection. Councilmember Goddard announced Biketoberfest will be held on October 12th, a film about cargo bikes will be shown on

October 12th and the Streets for People Event will be held on October 13th.

Open Time

Ms. Emmy Bergin read a letter she sent to Marin County Superintendent of Schools Mary Jane Buke, Assemblyman Marc Levine, and Senator Mike McGuire about charter schools.

Mr. Michael Bauerfeind asked the Council to move agenda item #22 up in the agenda since there were a large number of neighbors in attendance.

Dr. Jody Timms, Fairfax representative to the Commission on Aging, gave an update on commission activities including tomorrow's meeting regarding insights on Medicare and the HICAP Program. It will be held at Pickleweed Community Center from 10:00 a.m. to 11:00 a.m. She also discussed Age Friendly Fairfax activities.

Mr. John Fitzpatrick stated there were a lot of cigarette butts around the benches in Peri Park. He suggested placing an ashtray near the benches since these butts end up in the bay.

Ms. Bridget Clark discussed a book titled High, written by local residents, that is geared towards middle-school aged youth. The authors will be speaking on Wednesday, October 16th, at Dominican University starting at 7:00 p.m.

Mr. Frank Egger, Meadow Way, disagreed with the assertion made by Mayor Coler at a previous meeting that temporary signs such as "Save Fairfax" could only be up for 67 days. "Save Fairfax" obtained a legal opinion that this would be in violation of case law regarding First Amendment Rights.

Mayor Coler reported the Fairfax Town Code specifies that resident petitions are to be placed at the end of the agenda but they could be moved forward. She suggested hearing item #22 after item #19.

M/S, Ackerman/Goddard, Motion to place agenda item #22 after item #19.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Consent Calendar

2. Accept Financial Statements and Disbursement Reports July 2019- Finance Director
3. Approve minutes for the August 7, 2019 Town Council meeting- Deputy Town Clerk
4. Receive written reports on Councilmember assignments, committees, and activities in August- Deputy Town Clerk
5. Authorize the Town Manager to execute an agreement with Ascent Environmental Inc., to prepare an Environmental Impact Report (EIR), at the applicant's costs, for the Marinda Heights Subdivision (aka "Wall Property") in an amount not to exceed \$649,000- Planning Director
6. Approve contract with C.R. Baumsteiger Construction for a bank stabilization project at approximately 6 Bridge Ct. for an amount not to exceed \$59,200- Town Manager
7. Authorize Town Manager to contract, up to \$80,000, for the repair and/or replacement of sidewalks in downtown- Town Manager

8. Authorize Town Manager to purchase a bucket truck from the Town of San Anselmo for \$7,500- Town Manager
9. Receive report on the Town's Chipper Days- Town Manager
10. Receive Marin Sanitary Service Semiannual Report (January-June 2019)- Town Manager
11. Approve response to Marin County Grand Jury Report *Marin's Telecommunications Disconnect*- Town Manager
12. Approve Notice of Completion for the Parkade Project- Town Manager
13. Adopt a Resolution Approving Job Classification for the Accountant I/II position- Town Manager
14. Adopt a Resolution Establishing Wages for Accountant I/II job classification- Town Manager
15. Adopt a Proclamation naming September Prostate Cancer Awareness Month- Deputy Town Clerk
16. Adopt a Proclamation Congratulating the Community Media Center of Marin on their 10th Anniversary- Mayor Coler
17. Second reading and adoption of two ordinances: 1) An Ordinance Amending Chapter 17.110 and repealing Article III ("Medical Marijuana Cultivation") of Chapter 17.138, to Adopt Zoning Standards and Restrictions for Commercial Cannabis Uses and Cannabis Cultivation for Personal Use; and 2) An Ordinance Amending Chapter 5.56 to Regulate Commercial Cannabis Businesses within the Town of Fairfax; CEQA exempt pursuant to State CEQA Guidelines Section 15061(b)(3) and Business and Professions Code Section 26055(h)- Town Manager
18. Second reading and adoption of an Ordinance Amending Chapter 8.44 of the Fairfax Municipal Code, Title 8, Entitled "Clean Indoor and Outdoor Air Health Protection- Smoking Regulations" to prohibit the sale of flavored tobacco products; CEQA Categorically Exemption; CEQA Guidelines Sections 15060(c)(2), 15060(c)(3)- Town Manager

Mayor Coler noted there were supplements to items #4, #13, and #16.

Mr. Stan Rosenfeld thanked the Council for declaring September Prostate Cancer Awareness Month. He discussed new methods for defining PSA test results and encouraged men to get checked out.

Dr. Jody Timms supported Consent Calendar #7.

Mr. Frank Egger referred to items #7 and stated it was decided by the Design Review Board long ago to use exposed aggregate, as opposed to flat concrete, for downtown sidewalks. It offers a more rural appearance. He referred to item #8 and stated the Town had already bought the bucket truck from San Anselmo- Fairfax paid 1/3rd of the cost of the original purchase. Town Manager Toy stated he would check into this and make adjustments as appropriate.

Councilmember Goddard had questions about Chipper Day costs.

M/S, Lacques/Reed, Motion to approve the Consent Calendar with the supplements to items #4, #13, and #16, and the continuation of item #5 to the October meeting, and to direct staff to

further investigate the possibility of a 1/3rd purchase of the bucket truck referred to in item #8 and report back at next month's meeting.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Presentations

Presentation on Defensible Space Fire Inspections, Firewise Marin Vegetation Management Activities and Marin County Parks Management Activities- Chief Weber (Ross Valley Fire Department), Todd Lando (Firewise Marin), and Jim Chayka (Marin County Parks)

Marin County/Ross Valley Fire Department Chief Weber, Marin County Parks Director Jim Chayka, and Firewise Marin representative Tod Lando presented a report and a Powerpoint presentation. They answered questions from the Council.

Mayor Coler opened the meeting to public comments.

Mr. Michael Macintosh stated he used goats on his property to remove brush, but it was a temporary fix. Manually pulling up broom made a big difference, but it was inevitably replaced by another invasive species such as star thistle.

Mr. Frank Egger, Meadow Way, stated the Town is making good headway. They still need the following: 1) voice-over commands for emergency sirens; 2) automatic generation for the sirens; 3) evacuation signs for high risk areas; 4) solar power for night evacuations; 5) review and better enforcement of roadway clearance laws.

Ms. Mary Fleming, Firewise Leader of Forest Avenue, stated they were getting terrific support from Fire Safe Marin and she asked the Council to support this group.

Mayor Coler closed the meeting to public comments.

Presentation on Marin Wildfire Prevention Authority- Chief Weber, Marin County Fire Department

Marin County/Ross Valley Fire Department Chief Weber presented a video on wildfire prevention and a PowerPoint presentation. He answered questions from the Council.

Mayor Coler opened the meeting to public comments.

Mr. Michael Macintosh had questions about how the plan would be funded and the removal of vegetation in creeks, etc. He stated there needs to be an egress that people can use to get to a safe place.

Dr. Jody Timms spoke on behalf of a large group of climate and environmental organizations including 350 Marin and stated they support the Wildlife Prevention and Mitigation Initiative. She discussed the issue of climate change.

Ms. Stephanie Hellman had a question about the county wide initiative, how the funds would be allocated, and staffing for the Ross Valley Fire Department.

Mayor Coler closed the meeting to public comments.

The Council took a 10-minute break at 9:00 p.m.

Regular Agenda

19. Receive update on the Peri Park Play Structure Preliminary Design Concepts- Recreation and Community Services Manager

Recreation Manager Mannes presented the staff report. Ms. Therese Tamley, landscape architect, presented a PowerPoint presentation. Richard stated that some of the elements were purchased through generous donations. They answered questions from the Council

22. Discuss/consider petition from residents of Hickory Road regarding the paving of their road- Town Manager

Town Manager Toy presented the staff report. He answered questions from the Council.

Mayor Coler opened the meeting to public comments.

Mr. Michael Bauernfiend, Hickory Road, stated the neighbors presented a similar petition to the Council about five years ago. They are concerned about the safety of the residents on the street. The condition of the street is deplorable.

Mr. Michael Branton, Hickory Road, stated his son's bus driver would not drive up Hickory Road because it was too dangerous.

Mr. John Barrett, Hickory Road, stated it was treacherous going down the road on a bicycle. He read a letter from Mr. Pelitter.

Mr. Stewart Cubley, Hickory Road, stated the road has gone from being "quaint" to "alarming".

Ms. Genevieve Sollenito, Hickory Road, discussed the huge potholes that collect debris during the winter. There are 4" to 6" cracks in the road that make it dangerous for motorcycles or bicycles.

Mr. Larry Bragman, Hickory Road, stated there was a lot of water coming off the hill which is one of the reasons the road is deteriorating. The status quo is not sustainable.

Ms. Ellie Barrett, Hickory Road, stated the road is an "accident waiting to happen"- there is hardly any road left in some places.

Mr. Brett Kelly, Hickory Road, stated his kids ride their bikes to school but some parts of the road are "scary".

Mr. Greg Shaw, Hickory Road, stated he thought Measure K would be used to pave his street and he was wondering if he should have voted against the measure.

Ms. Nicole Delecce, Hickory Road, stated she has witnessed delivery trucks getting towed off the road. Repaving the road should be a priority.

Mr. George Oliver, Hickory Road, discussed the legal aspects of not maintaining the road. He noted construction vehicles were constantly parked at the bottom of the road.

Mr. John Fitzpatrick, Hickory Road, stated a tremendous amount of water runs down the road from the creek. They need to do something with the creek.

Ms. Patty Oliver, Hickory Road, stated she could not use a stroller on the road in 2004 and her

daughter could not ride her bike. Ducks hang out in the water filled potholes.

Mr. Frank Egger, Meadow Way, stated fixing the road might be cheaper than a lawsuit.

Mr. Cliff Koch, Hickory Road, stated a subterranean drainage system that flows into a storm drain needs to be installed- or a curb and gutter system with a sidewalk. Patching the holes is a waste of money.

Mayor Coler closed the meeting to public comments.

Mayor Coler asked Town Attorney Coleson if Councilmember Ackerman should recuse himself since he lives within 500 feet of the road. Town Attorney Coleson stated they were talking about a roadway that would not impact his property.

Councilmember Ackerman stated they need to get a better overall picture of what is going on in that watershed since that is the core of the issue.

Councilmember Goddard stated they should get an engineer's opinion and then find the money.

Councilmember Reed stated the runoff needs to be managed.

Councilmember Lacques stated there were a number of streets that become "creeks" and this needs to be addressed with at least some "soft engineering". He would like to look at the root cause.

Mayor Coler stated they could not make a decision on reconstructing the road at this point in time but should go forward and fix the potholes and large cracks in the interim. She mentioned the name of a resident who could do some of the review pro bono.

Town Manager Toy stated any scope of work that addresses runoff would be extensive, time consuming, and expensive.

It was the consensus of the Council to direct staff to patch the cracks and potholes in the road with hot mix, look at the hole where an Oak tree was removed, get an engineer to take a look at the road and the sheet flow, look into green infrastructure and report back to the Council in October.

Mayor Coler noted it was 10:30 p.m. and there was a request to move item #21 in front of item #20.

M/S, Goddard/Ackerman, Motion to move item #21 in front of item #20.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Regular Agenda

21. Introduce and read by title only an ordinance adding Chapter 8.72 to Title 8 of the Fairfax Municipal Code Regulating Single-Use Foodware to require businesses to use compostable or reusable materials for take-out food; CEQA exempt per CEQA Guidelines 15061(b)(3), 15307, and 15308- Town Manager

Town Manager Toy presented the staff report. He answered questions from the Council.

Mayor Coler opened the meeting to public comments.

Mr. Al Baylacq, representing Good Earth Natural Foods, stated there has to be a behavior change and a lot of education. The Good Earth is contemplating charging \$1.00 for any throw-away container. This is a complex issue.

Mr. Chance Catrano, representing the Sierra Club of Marin, stated this is an important issue aimed at getting us off fossil fuels. The Sierra Club of Marin supports this ordinance.

Mr. Richard Applebaum and Wendy supported the ordinance.

Ms. Mallory Geitheim, Willow Avenue, stated it was important for owners to give customers a "for here" cup unless they ask for a "to go" cup. The cost should be \$.25 or \$.50- not \$1.00.

Mayor Coler closed the meeting to public comments.

Mayor Coler cited the 11:30 p.m. rule and asked if it should be suspended.

M/S, Goddard/Lacques, Motion to suspend the 11:30 p.m. rule.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Councilmember Goddard stated the intent of the ordinance was to stop disposing "things".

Councilmember Lacques asked Mr. Baylacq about the poly lactic acid (PLA) containers, toxic levels, and possible alternatives.

Councilmember Ackerman made an editing comment on page 8 of the ordinance.

Councilmember Lacques asked if nine months was enough time to give businesses to implement the change. Mayor Coler stated it should be a bit longer. Councilmember Lacques referred to the disposable cup charge section and stated it should be clearly stated at the point of sale. The following language should be added to Section 8.72.070, (D): "All food vendors shall prominently display signage which notices the disposable cup charge at the point of sale and on all menus."

Councilmember Reed stated it was a good ordinance that would have to be revisited as the industry changes.

Mayor Coler stated she was concerned about markets being able to make a change in the take-out/grab and go sections. They will need time to work this out. She was also concerned about the out-reach efforts. She would like to change the effective date to September 1, 2020. She referred to page 9, Enforcement, (D) and stated she would like to issue administrative citations instead of enacting an abatement proceeding. The goal should be compliance. Town Attorney Coleson stated Administrative Citations were included in Section (B) to provide flexibility.

Councilmember Ackerman was not sure about changing the effective date. He suggested some type of reward for businesses who implement the change sooner. Councilmember Goddard stated there were many who want to incentivize businesses.

Councilmembers Ackerman, Goddard, and Reed did not want to push the effective date back.

Councilmember Lacques stated pushing the date back several months would be a good idea as a practical matter.

M/S, Goddard/Ackerman, Motion to Introduce and read by title only an ordinance adding Chapter 8.72 to Title 8 of the Fairfax Municipal Code Regulating Single-Use Foodware to

require businesses to use compostable or reusable materials for take-out food with the change suggested by Councilmember Lacques adding additional language to Section 8.72.070, (D): "All food vendors shall prominently display signage which notices the disposable cup charge at the point of sale and on all menus."

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Public Hearings

20. Introduce and read by title only an ordinance to establish time limits for incomplete applications and project entitlement approvals by adding Sections 17.020.130 ('Time Limits; Extensions') for Design Review, 17.032.100 ('Time Limits; Extensions') for Conditional Use Permits, 17.040.100 ('Incomplete Discretionary Permit Applications'), 17.040.110 ('Permit Time Limits and Extensions') and Amending Sections 17.028.090 ('Lapse; Renewal; Term') for Variances and 17.060.090 ('Time Limits; Extensions') for Ridgeline Development, and Consolidating and Revising Sections 17.072.140 and 17.027.050 ('Expiration' and 'Extension') for the Hill Area Residential Development Overlay Zone", CEQA Exempt per CEQA guidelines Sections 15060(c)(2), 15061(b)(3), and 15305- Planning Director

Planning Director Berto presented a staff report. He answered questions from the Council.

Councilmember Ackerman asked for clarification on page 4, the CEQA section, and the reference to the PDD Zone. Planning Director Berto stated this was a typo and needed to be clarified. Councilmember Ackerman noted a typographical error at the bottom of page 3.

Mayor Coler opened the Public Hearing.

There were no comments.

Mayor Coler closed the Public Hearing.

Town Manager Toy referred to page 4, the CEQA section, the third sentence and stated the following should be deleted: "... and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will now allow for housing development densities to exceed what was previously allowed in the PDD regulations".

M/S, Ackerman/Lacques, Motion to Introduce and read by title only an ordinance of the Town Council of the Town of Fairfax establishing time limits for incomplete Applications and project entitlement approvals by adding Sections 17.020.130 ('Time Limits; Extensions') for Design Review, 17.032.100 ('Time Limits; Extensions') for Conditional Use Permits, 17.040.100 ('Incomplete Discretionary Permit Applications'), 17.040.110 ('Permit Time Limits and Extensions') and Amending Sections 17.028.090 ('Lapse; Renewal; Term') for Variances and 17.060.090 ('Time Limits; Extensions') for Ridgeline Development, and Consolidating and Revising Sections 17.072.140 and 17.072.050 ('Expiration' and 'Extension') for the Hill Area Residential Development Overlay Zone with the edits suggested by Councilmember Ackerman in Section 4 and the change suggested by Town Manager Toy in Section 7.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Council Reports and Comments

Mayor Coler stated these reports were included in written form in the packets.

Town Manager's Report

Town Manager Toy stated there was no report.

M/S, Goddard/Reed, Motion to adjourn the meeting at 12:20 a.m. in memory of former Fairfax Town Attorney Leland Jordan, George William Maloney, Michael Angelo Mannheimer, Tony Starilli, and Jack Mosher as well as all of the victims of the Conception dive boat fire.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Respectfully submitted,

Toni DeFrancis
Recording Secretary