

Fairfax Town Council Minutes
Wednesday, April 15, 2020
Adjourned Regular Meeting
And Special Meeting
Via teleconference

Mayor Goddard called the Adjourned Regular Meeting to order at 7:00 p.m. via teleconference consistent with State of California Executive Order Nos. N-25-20 and N-29-20 due to the Coronavirus (COVID-19).

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Bruce Ackerman, Vice Mayor
Barbara Coler
Renee Goddard, Mayor
Stephanie Hellman
John Reed

STAFF MEMBERS PRESENT:

Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney

Approval of Agenda and Affidavit of Posting

Mayor Goddard stated she would like to rearrange the order of the agenda and move item #14 in front of item #13.

M/S, Coler/Reed/Hellman, Motion to approve the agenda for the Adjourned Regular Meeting, moving item #14 ahead of #13, the agenda for the Special Meeting, and the respective affidavits of posting.

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

Announcements

Mayor Goddard made the announcements as they appeared on the agenda. She noted there were changes at the Food Bank but it continues to be open every Saturday from 8:30 a.m. to 10:30 p.m. at the Fairfax Community Church. They are not able to take on new volunteers at this time due to social distancing protocols.

Open Time

Mr. Walter Vernon, representing the Climate Action Committee, gave an update on the actions of the committee. He discussed the Action Plan and the five major things the committee wants to accomplish: 1) Update the plan; 2) Electrification of Town buildings and de-carbonization of Town operations; 3) Continue to engage with the community; 4) Double the number of households and businesses who buy from Deep Green; 5) Work with Town staff on emergency ordinances. He looks forward to working with Town staff and the Council.

Ms. Janet Fitzgerald asked that information regarding the powers granted to the Town Manager during the COVID-19 emergency be made available on the Town Website.

Ms. Valerie Hood stated the parking lots for local open space areas should be open.

Ms. Pamela Meigs, Fairfax, asked the Town to look into getting a grant from the new Fire JPA to make sure all households are marked with an address. She also asked the Town to look into hiring a coordinator who is trained in creating and developing the concept of block captains for every ten to twenty households. She thanked Mayor Goddard and Councilmember Hellman for creating the Coronavirus Task Force.

Mr. Sean Madden, Fairfax, stated there was confusion about what was reasonable and necessary for construction, and referenced the County of Marin guidelines.

A resident stated the Zoom feed was one minute and twenty seconds earlier than the Website feed.

Consent Calendar

1. Approve minutes for the March 4, 2020 Regular Town Council meeting- Town Clerk
2. Authorize the Mayor to write a letter to our State representatives requesting the State “back-fill” the temporary reduction in Sales Tax Revenue to municipalities caused by the Governor’s small business sales tax deferral program- Town Manager
3. Receive written report on Councilmember assignments, committees, and activities from March 5 to April 15, 2020- Town Clerk
4. Second notice and adoption of a Resolution Approving a Side Letter to Amend the Memorandum of Understanding (MOU) with Fairfax Police Officers’ Association (POA) for the period July 1, 2018 through June 30, 2021- Town Manager
5. Adopt a Resolution Approving the List of Projects Funded by SB1: The Road Repair and Accountability Act for Fiscal Year 2020-21- Town Manager
6. Receive Marin Sanitary Service Annual Report for Calendar Year 2019- Town Manager
7. Adopt a Proclamation in Celebration of Fair Housing Month- Mayor Goddard
8. Receive report from a Climate Action Committee (CAC) Subcommittee regarding the exploration of a solar battery back-up system at the Pavilion and microgrid concept- Vice Mayor Ackerman
9. Authorize Mayor to send Support letter for Emergency Funding Proposal put forth by the Resource Recovery Coalition of California, which will provide immediate financial relief to our solid waste essential service providers such as Marin Sanitary Service (MSS) during this State of Emergency- Town Manager
10. Approve Amendment #2 to Agreement with Fredric C. Devine Architects (FCDA) for additional design, engineering, and historic preservation services required for the Pavilion Seismic Retrofit Project- Town Manager

Councilmember Coler stated she would like item #8 pulled for discussion. She will abstain from voting on item #1 since she did not attend the March 4th Council meeting.

Town Manager Toy referred to item #4 and noted the effective date would be April 16th as opposed to April 1st.

Councilmember Reed had a question about item #6.

Mayor Goddard made a comment in support about item #7.

M/S, Coler/Reed, Motion to approve Consent Calendar items two through ten with the removal of item #8 for discussion.

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

M/S, Ackerman/Reed, Motion to approve Consent Calendar item #1.

AYES: Ackerman, Hellman, Reed, Mayor Goddard

ABSTAIN: Coler

Public Hearings

11. 80 Crest Road: Appeal of a Planning Commission denial of a Height Variance for an unpermitted ground flood level that would result in the height of the residential structure being approximately 50 feet; Assessor's Parcel No. 002-152-32; Residential Single Family RS-6 Zone; Verle and Marlene Sorgen; appellants/owners; CEQA categorically exempt per Section 15301(e)(2)(1)- Principal Planner
This item has been continued to the May 6, 2020 meeting

Mayor Goddard stated this item was continued to the May 6, 2020 meeting.

12. Adopt resolutions adopting the California Environmental Quality Act (CEQA) Final Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed Meadow Way Bridge Replacement Project and Approving the Proposed Meadow Way Bridge Replacement Project- Town Manager
This item has been continued to the May 6, 2020 meeting

Mayor Goddard stated this item was continued to the May 6, 2020 meeting.

Regular Agenda

14. Receive report on Town communications efforts during COVID-19 and the impact of COVID-19 on Town operations- Town Manager

Town Manager Toy presented a staff report. He noted the Town Website had special section on the pandemic and was updated regularly. In addition, weekly Newsletters were being sent out during the emergency. He reported on several Public Works Department projects including sidewalk repairs and curb ramps. The bus shelter work will begin next week. He answered questions from the Council.

Councilmember Hellman discussed the creation and activities of the One-to-One Volunteer Match Program. It was launched on March 21st and includes assistance from many community leaders.

Mayor Goddard noted the daily 8:00 p.m. howling in support of our essential workers had commenced. The Council joined in the howl.

Mayor Goddard opened the public comment period, and seeing none, closed it.

Special Meeting

1. Discuss/consider business assistance programs related to COVID-19.

Town Manager Toy presented the staff report. He briefly discussed the Business Relief Program implemented by the City of San Rafael. He noted there was a possibility of matching funds from the County. He answered questions from the Council regarding the potential for a similar program in Fairfax.

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum supported the concept and suggested a ranking or rating system.

Mayor Goddard closed the meeting to public comments.

Councilmember Coler stated supported the idea and suggested an grant amount of \$2,000 with a cap on the number of businesses. It should be limited to brick-and-mortar businesses.

Councilmember Hellman agreed with the comments made by Councilmember Coler. The intent was not to save a business but to help them get from one month to the next. She suggested some type of community fundraiser.

Councilmember Reed supported the idea and suggested exploring other sources of funding. The One-to-One Volunteer Match Program could assist in this effort.

Councilmember Ackerman agreed with the comments made and supported the concept.

Mayor Goddard reported the "Fairfax Open for Business" website was launching on Friday, which would detail which businesses were open and how to access them.

Town Manager Toy suggested the Council budget \$25,000 and come up with an application process. Staff would work with the County on matching funds.

Councilmember Coler suggested budgeting \$50,000 and request a matching amount from the County and a donation from the Chamber of Commerce and some of the big businesses in Town.

Mayor Goddard reopened the meeting to public comments

Ms. Valerie Hood stated the Town should help residents before businesses.

Mayor Goddard closed the meeting to public comments.

Town Manager Toy stated staff would come back with a recommendation at the next meeting.

13. Discuss/consider preparation of a "baseline" budget for the Town's Fiscal Year 2020/21 Operating and Capital Improvement Budget due to the unknown fiscal impacts of COVID-19- Town Manager

Town Manager Toy presented the staff report. He discussed the typical budgeting process and recommended a "baseline" budget at this point for the fiscal year beginning July 1, due to the short-term and long-term economic uncertainties in the wake of the pandemic. The Council could then formally review it in September once there is more data available.

Councilmember Coler stated Governor Newsom recently issued an Executive Order to eliminate Sales Tax from small businesses through September. In addition, cities under 500,000 will not

receive “stop-gap” funding. She supported the idea of a “baseline” budget for now.

Councilmember Hellman asked if the revenue assumptions represent a “worst-case” scenario through the end of the year. Town Manager Toy stated “yes”. Staff had conducted preliminary discussions with Sales Tax consultants.

Councilmember Reed had a question about the Capital Projects that would not be funded.

Mayor Goddard opened the meeting to public comments.

Ms. Valerie Hood recommended cutting the budget back to the “bare bones”.

Mayor Goddard closed the meeting to public comments.

The Council supported the idea of a “baseline” budget.

The Council took a 5-minute break at 9:05 p.m.

15. Adopt a Resolution Authorizing the Marin General Services Authority (MGSA) to Collect Franchise and PEG Access Fees from Cable Television Providers and to Exercise All Powers and Functions Associated with the Digital Infrastructure and Video Competition Act; and Introduce and Read by Title only an Ordinance to Terminate the Marin Telecommunications Agency (MTA) by Repealing Chapter 13.12 “Telecommunications” of the Town Code. Exempt from CEQA per CEQA Guidelines Section 15378(b)(5) and Section 15016(b)(3)- Town Manager

Town Manager Toy presented a staff report. He explained the primary purpose of the MTA was to collect Franchise and Public Education and Government (PEG) Fees on behalf of the municipalities. Town Code Chapter 13.12 had nothing to do with regulating wireless telecommunication facilities (such as 5G), which is included in Chapter 19.

Councilmember Coler stated she is the Chair of the Marin Telecommunications Agency (MTA) and gave a history of the MTA. She reiterated that the purview of the MTA is to collect the Franchise and PEG Fees and distribute them to the ten member agencies. The MTA also provides PEG programming through the Community Media Center of Marin (CMCM), audits the franchise fees, and oversees CMCM (the designated access provider). She discussed the reasoning behind the transition to MGSA. The old ordinance (Town Code chapter 13.12) had nothing to do with small cell or 5G facilities.

Councilmember Hellman asked if the recommendation had anything to do with the Civil Grand Jury Report. Councilmember Coler stated “no”.

Mayor Goddard opened the meeting to public comments.

Ms. Janet Fitzgerald was concerned about 5G being installed in Town.

Ms. Valerie Hood asked questions about the CMCM Board of Directors and the MGSA’s function in terms of small cell applications, control of rights-of-way and light poles.

Councilmember Coler clarified this issue was about Marin Cable TV and the collection of franchise fees -- not telecommunications, 5G, small cell facilities, etc. There are two representatives on the CMCM Board- an elected official and a City Manager. Town Manager Toy noted that small cell applications must be approved by the local entity (Fairfax).

Mr. Frank Egger, Meadow Way, did not have a concern about turning the authority over to MGSA, but he was concerned about the repeal of Chapter 13.12, specifically the local jurisdictions' right to manage, maintain, and control public rights-of-way.

Mr. Richard Applebaum supported the previous speaker.

Mayor Goddard closed the meeting to public comments.

Town Attorney Coleson read a comment from Attorney Gail Karish, stating that repealing Chapter 13.12 will have no impact on 5G regulations. Streets within the Marin community shall not be occupied by or used for telecommunication facilities except under a franchise issued by the agency. All local governments may require some sort of permit.

Mayor Goddard asked Town Attorney Coleson if repealing Chapter 13.12 would make the Town more vulnerable and have less control. Town Attorney Coleson stated they were simply getting rid of old code sections that were no longer applicable. Mayor Goddard stated she wanted to make sure the right-of-way protections could not be preempted by the State.

Councilmember Coler stated the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) had pre-empted that authority. This was not the time to examine this but rather during discussions about the wireless ordinance. This action had to do with disbanding and passing it on to another agency. If Fairfax does not adopt the resolution and repeal the chapter then it will not be a part of the entity moving forward.

Town Manager Toy reiterated that Title 19 is the only one that affects wireless small cell facilities (such as 5G).

M/S, Coler/Reed, Motion to Adopt a Resolution Authorizing the Marin General Services Authority (MGSA) to Collect Franchise and PEG Access Fees from Cable Television Providers on behalf of the Town and Exercise All of the Functions Previously performed by the Marin Telecommunications Agency (MTA).

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

M/S, Coler/Ackerman, Motion to Introduce and Read by Title only an Ordinance of the Town of Fairfax Providing the Termination of the Marin Telecommunications Agency (MTA) and Repealing the Telecommunications Ordinance Codified in Chapter 13.12 of the Town Code.

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

16. Appoint a Town Councilmember to the Marin Wildfire Prevention Authority Board of Directors- Town Manager

Town Manager Toy presented the staff report.

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum supported Councilmember Hellman for this position.

Mr. Steven Keese supported Councilmember Hellman for this position.

Mr. Rick Hamer supported Councilmember Hellman for this position.

Mayor Goddard closed the meeting to public comments.

Councilmember Coler expressed her desire to serve on the MWPA Board of Directors and discussed her background and expertise.

Councilmember Ackerman suggested creating an alternate to the position.

Councilmember Hellman indicated her desire to serve and discussed her background and expertise.

M/S, Ackerman/Reed, Motion to appoint Councilmember Coler to the Marin Wildfire Prevention Authority Board of Directors and Councilmember Hellman as the alternate.

AYES: Ackerman, Coler, Reed, Mayor Goddard

NOES: Hellman

8. Receive report from a Climate Action Committee (CAC) Subcommittee regarding the exploration of a solar battery back-up system at the Pavilion and microgrid concept-
Vice Mayor Ackerman

Town Manager Toy presented the staff report.

Councilmember Ackerman presented a report. He discussed the composition of the subcommittee and stated they were requesting \$5,000 in seed money from the Town to prepare the preliminary plan. He discussed the proposal and the possibility of Federal and State incentives.

Councilmember Coler stated this was a wonderful idea but had questions about the timing given (1) the need for a “baseline” budget and (2) the proposed Pavilion renovation. This issue should be looked at holistically and include disaster planning and resiliency.

Mayor Goddard had questions about the battery power estimate and how that would serve as the community during a power outage.

Mayor Goddard opened the meeting to public comments.

Mr. Rick Hamer expressed his concern regarding long-term toxicity of lithium and Lead-based batteries, and asked that safer alternatives be considered.

Ms. Courtney Richardson, member of the CAC subcommittee, urged the Council to move forward.

Mayor Goddard closed the meeting to public comments.

Mayor Goddard noted the budget includes \$20,000 for the Climate Action Committee and this \$5,000 would come out of that.

Councilmember Hellman clarified that the \$5,000 request is in addition to the \$20,000 budget allocation, which was for stated projects.

Council Reports and Comments

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

Town Manager's Report

Town Manager Toy thanked Town Clerk Gardner for her work preparing and hosting Town public meetings on Zoom.

Future Agenda Items

Councilmember Reed stated he would like a future discussion, as a policy issue, on local trails and the encroachments. Councilmember Coler asked Town Manager Toy to find out how other jurisdictions handle these issues.

M/S, Reed/Hellman, Motion to adjourn the meeting at 11:10 p.m. in memory of Ms. Marcia Hagen, Mr. Leo “Buggie” Quijano, and Ms. Denise Larsen.
AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

Respectfully submitted,

Toni DeFrancis
Recording Secretary