

Fairfax Town Council Minutes
Regular Meeting
via teleconference
Wednesday, May 6, 2020

Mayor Goddard called the Regular meeting to order at 7:00 p.m. via teleconference due to the Coronavirus (Covid-19).

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Bruce Ackerman
Barbara Coler
Renee Goddard
Stephanie Hellman
John Reed

STAFF MEMBERS PRESENT: Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Gail Karish, Assistant Attorney
Michael Vivrette, Finance Director

Approval of Agenda and Affidavit of Posting

M/S, Coler/Reed, Motion to approve the agenda and the affidavit of posting.
AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

Report out on Closed Session held on April 21, 2020

Mayor Goddard stated at the April 21, 2020 closed Session meeting the Town Council adopted a Resolution determining the Industrial Disability of employee David Cron.

Announcements

Mayor Goddard made the announcements as they appeared on the agenda. The Farmer's Market is taking place on Wednesdays using safe distancing protocols. Online ordering and curbside pick-up are available. The Mobile Shower Care Pilot Program has started and will be hosted by the Fairfax Community Church on Saturdays from 9:00 a.m. to noon. It is run in conjunction with the Food Bank.

Open Time

Mr. Walter Vernon, Chair of the Climate Action Committee, urged everyone not to forget about the climate change challenge during the pandemic. He stated the committee would like to meet this month since subcommittees are working diligently. He discussed the committee's recent accomplishment including the development of a Town survey.

Dr. Jody Timms, Fairfax representative to the Marin Commission on Aging, gave a status report on Commission activities. The Commission continues to meet on a regular basis. The Age Friendly Marin Network is also meeting regularly. Age Friendly Fairfax will hold two forums this month and hold a Breakfast with Friends on May 20th. The group is working on how to help the vulnerable population in Fairfax

Mr. Richard Applebaum, Woodland Road, discussed his concerns with the method by which

Councilmembers are appointed as representatives to various committees.

Mr. Mark Bell stated having a Farmer's Market during the shelter-in-place did not make sense. He stated the public should be able to speak after the Council has weighed in on an issue.

Ms. Valerie Hood agreed with the comments made by Mr. Applebaum and Mr. Bell. She was concerned about people in the community trying to find housing and enough food. She would like the parking lots near open space areas opened up.

Ms. Mallory Geithem stated the public pathways that lead from street to street are very overgrown and she was concerned about the upcoming fire season. She announced the 8:00 p.m. "howling" has begun!

Consent Calendar

1. Accept Financial Statements and Disbursement Reports February 2020- Finance Director
2. Approve minutes for the March 17, 2020 Town Council Special meeting- Town Clerk
3. Receive written report on Councilmember's assignments, committees, and activities from April 15 to May 6, 2020- Town Clerk
4. Receive report on Chipper Day schedule for 2020- Town Manager
5. Receive report on sidewalk repairs- Town Manager
6. Receive the "baseline" budget for the Town's Fiscal Year 2020/21 Operating and Capital Improvement Budget for discussion at the May 15th budget workshop Town Manager, Finance Director
7. Appoint Mayor Goddard and Councilmember Hellman to the Economic Recovery MCCMC Ad Hoc Subcommittee- Town Clerk
8. Authorize Mayor Goddard to send a letter to Governor Newsom requesting the State address the general revenue shortfall over the next two fiscal years through the establishment of a revenue stabilization fund for direct aid to cities and towns, a share of the CARES Act funding and a COVID-19 financing vehicle for cities/towns to access cash for immediate needs- Town Manager
9. Approve agreements with the Town's Financial Advisor, Wulff, Hansen & Co., to explore Financing strategies for the Town's current retirement obligations- Town Manager, Finance Director
10. Receive status update regarding Objective Design and Development Standards- Planning Director
11. Receive report on the cancellation of all Town Board, Committee, Commission meetings through the end of May with the exception of the Town Council and Planning Commission meetings- Town Manager

Councilmember Coler referred to item #5 and asked staff to submit estimated costs at the upcoming Budget Workshop.

Councilmember Hellman stated she would like to pull item #9 for discussion.

Councilmember Ackerman stated he would like to pull item #11 for discussion.

Councilmember Reed referred to item #2 and asked that the minutes reflect his suggested legal strategy to protect local businesses from eviction. He referred to item #7 and stated he supported an "outdoor dining" concept.

Mayor Goddard referred to item #4 and stated the dates of Chipper Day are posted on the Town website. She referred to item #7 and clarified the purpose of the ad hoc committee.

Mr. Rick Hamer suggested permitting, on a temporary basis, restaurants, and other similar sit-down establishments to expand into adjoining sidewalks and parking lots until social distancing rules are relaxed.

Ms. Valerie Hood stated she would like to know how the Council votes on item #6 and the cost of the financing for item #9.

M/S, Coler/ Reed, Motion to approve the Consent Calendar with Councilmember Reed's change to the March 17, 2020 minutes, and the removal of #9 and #11 for discussion.

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

9. Approve agreements with the Town's Financial Advisor, Wulff, Hansen & Co., to explore financing strategies for the Town's current retirement obligations- Town Manager, Finance Director

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

Councilmember Hellman stated she would have liked more information in the staff report.

Mr. Bud Levine, financing specialist in UAL and CalPERS, stated the lease through Capital One was issued over a 20-year period at an interest rate of 5.40%. Based on the comparison of the payment on the lease vs. the amortization payment to CalPERS on the unfunded liability, there would be a savings of \$1.5 million over the 20-year period. They approached Capital One about a new bond deal as an existing client and restructure of existing lease agreement. They agreed to lower the interest rate, waive the premium call, and allow the bonds to be called now with no need to escrow the funds. This renegotiation would result in a savings of \$1.8 million or more. He noted this is an extremely good opportunity.

Mr. Mark Pressman, financial advisor, stated the 2017 lease transaction proceeds were used to pay off the side fund and pre-2013 UAL. The lease is secured by Townhall and the Pavilion. Mr. Pressman and Mr. Levine explained the financing options available to the Town. Option #1 is renegotiating the interest rate with Capital One who currently holds the lease agreement secured by Town Hall and the Gymnasium. Option #2 is refinancing the lease agreement with a new lender. Option #3 is refinancing the unfunded pension liability. Option #4 is combining the side fund, pre-2013 UAL, and unfunded pension liability into one new refinancing structure. Option #4, in essence, combines options #1 and #3.

Councilmember Hellman asked if the Town was wedded to using Capital One with regard to the refinancing of the lease. Mr. Pressman stated the Town was not wedded to Capital One. However, the savings to the Town would be negligible if we refinanced outside of Capital One because of prepayment penalties and the escrowing of interest requirements. These provisions would be waived by Capital One if we refinanced the lease with them.

Councilmember Coler stated she supported signing the agreement but had questions on the timing. Mr. Pressman stated they would try to mobilize as quickly as possible and could be ready in several months.

Mayor Goddard opened the meeting to public comments.

Ms. Valerie Hood stated the public needs guidance on this important topic.

Ms. Mallory Geithem stated the presentation was informative.

Mayor Goddard closed the meeting to public comments.

M/S, Coler/Reed, Motion to authorize the Town Manager to execute agreements with the Town's Financial Advisor, Wulff, Hansen & Co., to explore financing strategies for the Town's current retirement obligations.

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

The Council took a 5-minute break at 8:50 p.m.

Public Hearings

12. 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 July 1, 2020 meeting

Mayor Goddard stated this item was continued to the July 1, 2020 meeting.

13. 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

Mayor Goddard recused herself from this item since she lives within 500 feet of the project, and left the meeting at 9:00 pm.

Town Manager Toy presented the staff report. He gave a history of the project and answered questions from the Council.

Mr. Nader Tamannaie, Project Engineer, California Infrastructure Consultancy (CIC), gave a PowerPoint presentation describing the project and the surrounding environment.

Mr. Geoffrey Riley, Senior Environmental Planner with WRA, gave a PowerPoint presentation and addressed some of the comments from the public regarding the Initial Study and the Negative Declaration and Mitigation Monitoring Reporting Program. He stated that the entire length of the San Anselmo Creek is perennial, but the portion at Meadow Way is intermittent.

Councilmember Reed had a question about the nature of the stream (intermittent or perennial) and how this is determined. Nick Binton, wildlife biologist WRA, stated an intermittent stream dries up seasonally; a perennial stream can go dry but only occasionally and for a short period.

Councilmember Hellman asked which maps WRA used when they classified the stream as intermittent, as she understood the stream to show as a solid blue line on maps.

Mr. Riley and Mr. Binton acknowledged the perennial designation of the stream and stated the “intermittent” designation was for the project site only and pertained to that portion of the creek for effects on wildlife at that location.

Vice Mayor Ackerman opened the Public Hearing.

Ms. Valerie Hood asked if the speed of the water at the site during flood events had been evaluated. She was concerned about environmental costs and the aesthetics of the proposal.

Ms. Jane Knowles, Meadow Way, stated the bridge needs to be replaced as soon as possible. She was concerned about evacuation during a disaster. She would like the Council to move forward with the project.

Mr. Larry Bragman, speaking as a resident of Fairfax, urged the Council not to approve the Mitigated Negative Declaration. He was concerned that the proposed replacement bridge was costly and carbon intensive. He had concerns about the construction impact to steelhead downstream. He suggested an enhanced environmental review, if not an EIR.

Mr. Nadim Nahas, Meadow Way, supported moving forward with the project as proposed. He noted it had been voted for by the neighbors. He stated the creek is dry during the summertime.

Chance Cutrano, Fairfax, stated parts of the proposal sound similar to the work that SPAWN is doing in Lagunitas Creek to restore habitats. He agreed with the concerns about the carbon footprint from the concrete. He asked if the permitting process was different for an intermittent than for a perennial creek.

Ms. Jess Lerner, Canyon Road, agreed with the comments made by Mr. Bragman. She supported the preparation of an Environmental Impact Report (EIR).

Mark Knowles, Meadow Way, urged the Town to build the bridge as soon as possible. He stated its current condition is not safe.

Matt Towers, Meadow Way, agreed with the previous speaker. He noted that the project had been reviewed and approved by the all regulatory agencies and it was time to move forward.

Ms. Mallory Geithem agreed with the comments made by Mr. Bragman and Ms. Hood, and suggested moving forward without concrete to address the environmental concerns.

Mr. Frank Egger, representing Save Fairfax, stated COVID-19 shelter-in-place is restricting the public’s right to participate in important governmental decisions. He was concerned that the groundwater flows were not addressed in the Mitigated Negative Declaration. He was concerned about the critters, the blackberry removal method, and that the MND was a pre-determined decision. He proposed a drop-in steel bridge as a better and cheaper alternative. He supported the preparation of an Environmental Impact Report (EIR).

Ms. Kirsten Asher stated there was no need to build such a large bridge or pay residents for their land. She supported the preparation of an Environmental Impact Report (EIR).

Mr. Richard Applebaum stated he understood the urgency that the neighbors were feeling. There may be other solutions that are less disruptive, cheaper, and have a shorter timeline.

Mr. Peter Arnold, Meadow Way, discussed the history of the project going back 7 years, and the need to move ahead now. He noted that emergency repairs have been performed on the old bridge twice, adding to the cost. An EIR would cost a lot of money and further delay the project.

Mr. Mark Bell stated that other technologies and solutions should be considered beyond was presented.

Mr. Alexander Binik, representing the DE-Toxics Institute, supported the project. He stated the current bridge is unsafe and has required costly repairs. The Meadow Way neighbors are the primary stakeholders and they support the project.

Ms. Ling Shien Bell agreed with Mr. Egger and stated the proposed project is not the only solution.

Ms. Karen Arnold thanked the Town for the extensive work on this project. She noted that building in this location was a challenge. She stated an EIR was not needed and the proposed mitigations would enhance the environment. She urged the Council to approve the project.

Vice Mayor Ackerman closed the Public Hearing.

Councilmembers Reed and Hellman asked about the cost and timeline for an EIR.

Town Manager Toy replied staff would bring back detailed information regarding an EIR to the next meeting. He stated an EIR would probably take 8-12 months and cost approximately \$200,000. He noted that the grant covers 100% of construction and right-of-way costs, and 89% of environmental and design costs.

Vice Mayor Ackerman expressed concern with the additional delay of EIR comment periods.

Councilmember Hellman had questions about a steel bridge, and whether staff and consultants supported it.

Town Manager Toy stated a steel bridge was an option, but noted that it would require abutments and wingwalls, which would require construction in the creek bed. It would not be possible to "drop in" a steel bridge on top of the existing bridge without any additional supports.

Councilmember Coler stated the project as proposed would protect and improve the environment and she supported it. She noted the Chronology attached to the staff report contained useful information.

Vice Mayor Ackerman agreed with Councilmember Coler. He noted this bridge was the only evacuation route for that neighborhood.

M/S, Reed/Coler, Motion to continue this Public Hearing to the June 3rd meeting.

AYES: Coler, Hellman, Reed, Vice Mayor Ackerman

RECUSED: Mayor Goddard

M/S, Coler/Reed, Motion to suspend the 11:30 p.m. rule.

AYES: Coler, Hellman, Reed, Vice Mayor Ackerman

ABSENT: Mayor Goddard

Mayor Goddard returned to the meeting at 11:40 pm

Regular Agenda

14. Approve creation of Fairfax small business relief program due to the economic impact of COVID-19- Town Manager

Town Manager Toy presented the staff report. He discussed running the program through a not-for-profit organization that would allow donors a tax write-off. He asked the Council for guidance on the program parameters and answered their questions.

Mayor Goddard opened the meeting to public comments.

Ms. Mallory Geithem stated the Town should eliminate the hiring of one or two consultants for the upcoming year and use the savings to help the businesses.

Mayor Goddard closed the meeting to public comments.

Councilmember Coler recommended the Town allocate \$42,500, which along with the \$7,500 from the County, would be a total of \$50,000. This would allow for 50 mini grants.

Councilmember Reed suggested a total of \$30,000 (\$22,500 from the Town), noting they could always add more money later.

Councilmember Hellman supported Councilmember Coler's approach. She did not want to turn away any eligible business.

Mayor Goddard and Councilmember Ackerman agreed with Councilmember Coler's suggestion.

The Council discussed the eligibility criteria.

Councilmember Coler stated a business should be eligible if it can document a loss of 40% or more of gross revenues even if an essential business. She supported a simple application.

It was the consensus of the Council to delete the "Go Fund Me" exclusion.

It was the consensus of the Council to use a full service, third party, non-profit fiscal sponsor at a minimum cost (5% or less).

Town Manager Toy stated he would work on the Grant Selection Committee and asked the Council for some recommendations.

The Council delegated coming up with a name for the fund to Mayor Goddard and Councilmember Hellman. They will serve as the subcommittee.

M/S, Coler/Ackerman, Motion that the Town will commit \$42,500 (for a total of \$50,000 with a \$7,500 grant from the County) towards the program. The Town Manager has the authority to choose a fiscal sponsor with up to a 5% charge. The criteria shall be simple and as set forth in the staff report. This program shall consist of a "mini-grant" of \$1,000 per business. The Council subcommittee shall consist of Mayor Goddard and Councilmember Hellman, and the Town Manager.

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

15. Conduct Second Reading by Title only and Adopt an Ordinance to Terminate the Marin Telecommunications Agency (MTA) by Repealing Ordinance 13.12 "Telecommunications" of the Town Code. Exempt from CEQA per CEQA Guidelines Section 15378(b)(5) and Section 15061(b)(3)- Town Manager

Town Manager Toy presented a staff report.

Attorney Karish discussed Town Code Section 13.12.030(a) and Public Utility Code Section 7901.

Mayor Goddard opened the meeting to public comments.

There were no comments.

Mayor Goddard closed the meeting to public comments.

M/S, Ackerman/Coler, Motion to read by title only and Adopt an Ordinance of the Town of Fairfax Providing for the Termination of the Marin Telecommunications Agency (MTA) and Repealing the Telecommunications Ordinance Codified in Ordinance 13.12 of the Town Code. AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

11. Receive report on the cancellation of all Town Board, Committee, Commission meetings through the end of May with the exception of the Town Council and Planning Commission meetings- Town Manager

Town Manager Toy presented the staff report. The Climate Action Committee and Open Space Committee would like to meet by Zoom in May. He answered questions from the Council.

Councilmember Coler was concerned about the potential for inadvertent violation of the Brown Act.

Councilmember Ackerman stated the Climate Action Committee (CAC) had three active subcommittees that had a lot to report to the whole committee. The committee would like to meet on May 12th to address certain time-sensitive issues.

Town Manager Toy stated staff would make it work and would coordinate a May meeting via Zoom for the Climate Action Committee.

Council Reports and Comments

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

Town Manager's Report

There was no report.

M/S, Reed/Hellman, Motion to adjourn the meeting at 12:57 a.m. in memory of Mr. Edwin Kileen Taber, Mr. William Samuel McDanel, and Ms. Rosalind Golden (Councilmember Coler's aunt). AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

Respectfully submitted,

Toni DeFrancis
Recording Secretary