

Fairfax Town Council Minutes
Regular Meeting
Via teleconference due to COVID-19
Wednesday, **October 7, 2020**

Mayor Goddard called the Regular Meeting to order at 7:00 p.m.

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
Ben Berto, Planning Director
Chris Morin, Police Chief

Approval of Meeting Agenda and Affidavit of Posting

M/S, Reed/Coler, Motion to approve the Affidavit of Posting and the agenda as submitted.
AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

Announcements

Mayor Goddard made the announcements as they appeared on the agenda. She acknowledged the work of Community Services Department employees Camille Esposito, Ann Mannes, and Maria Baird.

Open Time

Mr. Elias Karkabi discussed racism in Fairfax and expressed frustration with the land acknowledgement statement on the agenda.

Dr. Jody Timms, Fairfax representative to the Commission on Aging, gave a status report on various activities, including the regular Breakfast with Friends; the annual celebration for Fairfax residents over 90 years of age; and the Commission's work.

Mr. Walter Vernon, representing the Climate Action Committee, gave a status report.

Mr. John Romaidis disagreed with the comments of Mr. Karkabi. He addressed visibility at night of the outdoor dining parklets on the street, and suggested reflectors.

Michelle stated that the Tree Committee should review public trees that are slated for removal.

Ms. Florence Schneider opposed the County of Marin's public health orders.

Ms. Valerie Hood, representing Fairfax Tomorrow, disagreed with the comments made by Mr. Karkabi. She asked the Council to focus on local issues.

Ms. Veronica Geretz addressed the defacement of a Black Lives Matter piece of artwork.

Ms. Barbara McVeigh thanked the Council for endorsing the Jimmy Carter Jamboree Event in 2018. She supported getting a second opinion from an arborist before cutting down trees.

Mr. Rick Hamer stated climate change should be a consideration when reviewing building applications.

Ms. Deborah Benson, Cascade Drive, supported Mr. Hamer's comments. She urged the Council to put back the double yellow line on Cascade Drive.

Ms. Audrey Narlock stated the Fairfax is racist and calling it out matters. She stated paying Police Officers overtime was unnecessary.

Mr. Richard Applebaum wished Mr. Frank Egger a happy birthday.

Ms. Julia Ledyard asked the Council to adopt a resolution in support of the Golden Gate Village residents.

Ms. Jane Richardson stated she did not believe Fairfax was a racist community.

Mr. Tunafish Salin stated people get attached to the downtown art but it changes. He was concerned about ageism. Fairfax is not necessarily racist.

Mr. Brian Poindexter disagreed with the opinion that Fairfax is not racist. He noted intent is less important than effect.

Consent Calendar

1. Receive report on the issuance of lease revenue bonds to refinance unfunded pension obligations- Finance Director, Town Manager
2. Receive written report on Councilmember's assignments, committees, and activities in September- Town Clerk
3. Approve Town Council Meetings Minutes for July 1 (revised), July 15, and August 5- Town Clerk
4. Approve Amendment No. 8 to the master agreement with California Infrastructure Consultancy (CIC) to increase the contract amount by \$619,790 for additional design and ROW services for Meadow Way Bridge replacement project- Town Manager
5. Authorize the Town Manager to sign Amendment to extend Agreement for five years to provide dispatch services to the Town of Ross/Police Department- Chief of Police
6. Authorize Town Manager to contract, up to \$45,000, for tree services, per the recommendations of the Town Arborist report, to prune trees in the Parkade, Peri Park, Bolinas Park, and Doc Edgar Park and to remove upward of 12 dead or dying trees in the Bolinas/Peri Park area- Town Manager
7. Receive report on the Town's 2020 Chipper Days- Town Manager

M/S, Coler/Ackerman, Motion to remove item #6 from the Consent Calendar for discussion and take up the rest of the Consent Calendar after that.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

6. Authorize Town Manager to contract, up to \$45,000, for tree services, per the recommendations of the Town Arborist report, to prune trees in the Parkade, Peri Park, Bolinas Park, and Doc Edgar Park and to remove upward of 12 dead or dying trees in the Bolinas/Peri Park area- Town Manager

Mr. Ray Moritz, Town Arborist with Urban Forestry, stated the qualifications of his company for tree risk assessment. They have inspected the Parkade and park trees since 2009. They recently inspected 538 trees and are recommending removal of eight trees, based on science.

Councilmember Coler confirmed if the recommendation was to remove the “priority one” trees, including tree #237. She confirmed the recommendation to also removal of some of the priority “two” or “three” trees at a later date after they are reviewed by the Tree Committee.

Councilmember Hellman asked if it was typical to get a second opinion. Mr. Moritz stated he does this type of work for public and private entities and he is often the second opinion, adding that a second opinion should only be done by a certified tree risk assessor.

Councilmember Reed confirmed the trees were tagged by staff, not Mr. Moritz’s firm.

Town Manager Toy asked Mr. Moritz if his work has ever been peer reviewed. Mr. Moritz stated no, but he would not be opposed to it.

Mayor Goddard opened the meeting to public comments.

Ms. Lisa Hunt asked if this proposal had been reviewed by the Tree Committee. She supported getting a second opinion.

Ms. Deborah Benson, member of the Tree Committee, stated the Committee should review these trees. She supported a second opinion or more detailed report.

Mr. Peter Lacques stated public safety was important. Trees in public parks must have the risks weighed against the benefits.

Mr. John Romaidis, member of the Tree Committee, noted the Town Code Section requires an application to remove a tree except in the case of an emergency.

Mr. Tunafish Salin supported risk assessment was important, as trees do fall and hurt people.

Ms. Valerie Hood stated that using the words “imminent threat” in the report felt like a fear tactic.

Mr. Frank Egger, representing Save Fairfax, supported Tree Committee review before removal of Town trees. He was concerned about cutting of the redwood saplings in Peri Park.

Rebecca, Monte Vista Road, stated a tree on her property fell and almost killed her neighbor. She trusted the opinion of Mr. Moritz and did not recommend waiting.

Ms. Barbara McVeigh discussed the nature of Redwood trees and asked about the impact to the other Redwoods when one is removed.

Ms. Jane Richardson, member of the Tree Committee, stated trees should be reviewed by the Tree Committee. The tags could be color coded to indicate what action they are subject to.

Mr. Chance Cutrano supported the involving the Tree Committee in these decisions and color coding the tags.

Mr. Mark Bell stated the Town needed to maintain its trees.

Ms. Kathy Flores agreed with the comments of Ms. Hood and Ms. Benson.

Mayor Goddard closed the meeting to public comments.

Vice Mayor Ackerman asked how quickly the Tree Committee could meet to review the high priority (number one) trees, and whether they could hold a special meeting. Planning Director Berto stated the Tree Committee meets on the fourth Monday of the month and would check on this.

Councilmember Hellman asked whether staff could respond to the questions raised. Town Manager Toy stated he did not think trees #136 or #137 were slated for removal but they were pruned. A second opinion is not required to remove dead trees. He supported getting the Tree Committee involved but was concerned about waiting three weeks. He did not think it was necessary to get a second opinion on these trees.

Councilmember Coler asked staff to comment on Section 8.36.040 of the Tree Ordinance (Dead or Diseased Trees). Town Attorney Coleson stated there are two different sections of the ordinance: the emergency removal section and Section 8.36.040(b)(1) which allows the director to grant a ministerial permit to remove a dead or diseased tree. A ministerial permit granted by the director would not go before the Tree Committee. Section 8.36.120 pertains to an emergency removal by permission of the director, an officer of the Police, Fire, or Public Works Department, or any member of the Committee. An "emergency" is defined as an immediate or significant threat to life or property. Planning Director Berto stated there was no need to take the dead trees to the Tree Committee.

Councilmember Hellman asked about the maintenance of the trees. Town Manager Toy stated staff implements what is in the arborist's report.

Councilmember Coler stated she did not support different colored ribbons for tagging trees. She would like the Council to consider moving forward on the eight priority one trees and take the priority two and three trees to the Tree Committee for review.

Councilmember Reed stated trees should be tagged as soon as possible. He supported using color coded ribbons. He supported Councilmember Coler's suggestion on moving forward.

Councilmember Ackerman supported Councilmember Coler's suggestion.

Councilmember Hellman supported the Tree Committee reviewing the priority two and three trees at its next meeting and getting a second opinion and involving the Tree Committee when possible. She would like to see a process for more consistent maintenance.

Councilmember Coler suggested a yearly update during the Budget Hearings.

Mayor Goddard supported the priority one trees being removed immediately without a second opinion. She stated the Tree Committee should review the others.

M/S, Coler/Reed, Motion to authorize the Town Manager to contract up to \$45,000 for services to prune certain trees and/or remove trees marked priority “one” on the Proposed Tree Removal List, Attachment “A” in the supplement, per the recommendations of the Town Arborist report in the Parkade/Peri Park/Bolinas Park/Doc Edgar Park; trees that are marked priority “two” or “three” on Attachment “A” in the supplement shall go to the Tree Committee on October 26th; and any of the trees in the spreadsheet referred to as Attachment “C” that require some type of removal in the near future shall also be considered by the Tree Committee on October 26th or if not at that meeting at its subsequent meeting.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

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7. Receive report on the Town’s 2020 Chipper Days- Town Manager

Councilmember Coler made a clarification regarding the staff report for Item #1. Referring to Item #2, she added she had also participated in a SURJ Cohort training. Referring to Item #3, the August 5, 2020, Town Council minutes on pages 8 and 9 should be corrected to reflect \$60,000 as the total program amount.

Mr. Frank Egger referred to item #4 and addressed the added costs and the new consultant.

Jackie referred to item #5 and opposed extending the agreement before looking at alternatives.

Ms. Valerie Hood supported Police and Fire protection and had questions about the RESJ.

Mr. Elias Karkabi agreed with the comments made by Jackie. He stated there should be a reduction in the Police Department.

M/S, Coler/Ackerman, Motion to approve the Consent Calendar items #1 through #5 and #7, with the changes noted by Councilmember Coler to items #2 and #3.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

The Council took a 5-minute break at 10:25 p.m.

The Mayor reviewed the agenda.

M/S, Coler/Ackerman, Motion to continue items #8 and #10 to a Special Meeting on October 21st.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

Regular Agenda (Special Meeting)

1. Discussion of Preliminary Regional Housing Needs Allocation (RHNA) and Authorization for Mayor to Sign Letter from Town Council Regarding Recommended Methodology- Planning Director and Town Manager

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

Mayor Goddard opened the meeting to public comments.

Mr. Frank Egger, Meadow Way, was concerned with where the proposed 530 new units would be, and the existing high wildland fire threat to the town.

Ms. Valerie Hood was concerned about water availability and the cost of new infrastructure.

Mr. Richard Applebaum stated the RHNA number was too high for the town.

Mr. Chance Cutrano suggested the proposed letter include vehicle miles travelled.

Mayor Goddard closed the meeting to public comments.

Councilmember Ackerman referred to the draft letter, the first page, second to the last paragraph and suggested the following change: "...other similarly...*would be expected to grow according to this methodology.*"

Councilmember Hellman stated the letter could refer to the report that came out last year about Fairfax's problem with evacuation.

M/S, Ackerman/Hellman, Motion to Authorize the Mayor to Sign Letter from Town Council Regarding Recommended Methodology and allow the Mayor to make any edits she deems appropriate.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(through a roll call vote)

Regular Agenda

8. Discuss/consider the concept of holding two regular Council meetings per month and direct staff- Town Manager

Mayor Goddard stated this item had been continued to the Special Town Council Meeting scheduled for October 21st.

9. Receive report on the Police Chief recruitment process and consider the appointment of an Interim Police Chief in December to allow for more community input into the process for a permanent replacement- Town Manager

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

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum stated this was a unique opportunity to learn about public safety needs of Fairfax.

Ms. Valerie Hood stated Fairfax had a model police force.

Ms. Cindy Swift supported the appointment of Lieutenant Tabaranza as Interim Police Chief.

Mr. Chance Cutrano supported flexibility and a community process, and the appointment of Lieutenant Tabaranza as Interim Police Chief.

Ms. Naomi Schultz stated the Police Practices and Public Safety Alternatives Subcommittee of the RESJ should be a part of the review and approval process.

Mr. Brian Poindexter agreed with the comments made by Mr. Cutrano and Ms. Schultz. The RESJ Committee should have decision making authority in the appointment of a Police Chief.

Ms. Mimi Newton supported the appointment of Lieutenant Tabaranza as Interim Police Chief.

Ms. Veronica Geretz supported the appointment of an Interim Police Chief so the subcommittee of the RESJ can be a part of the recruitment process.

Mr. Joe McGarry supported the appointment of Lieutenant Tabaranza as Interim Police Chief, a broad community survey, a technical panel of Bay Area progressive thinkers, and the participation of the RESJ police subcommittee.

Ms. Deborah Benson supported appointing Lieutenant Tabaranza as the Interim Police Chief. She was concerned about the RESJ's involvement.

Zianah stated the process should be flexible and involve the community through the RESJ.

Mr. Elias Karkabi discussed how the RESJ addresses the need to empower people who have been disenfranchised.

Ms. Jane Richardson supported appointing Lieutenant Tabaranza as the Interim Police Chief. The entire community should have a voice in decision for the permanent position.

Mayor Goddard closed the meeting to public comments.

Vice Mayor Ackerman supported the recommendation to appoint Lieutenant Tabaranza as the Interim Police Chief.

Councilmember Coler agreed with Councilmember Ackerman. She supported using a community panel (with RESJ representatives) and a technical panel. She recommended using a recruiter for the permanent position. She supported a finite interim term.

Councilmember Hellman agreed with Councilmember Coler. The community panel could also include local business representatives. She supported appointing Lieutenant Tabaranza as the Interim Police Chief. She confirmed there was an appropriate allocation for police overtime. She noted that anti-racism was not anti-police. She supported a finite interim term.

Councilmember Reed supported appointing Lieutenant Tabaranza as the Interim Police Chief.

He supported hiring internally. Based on his experience hiring a fire chief, smaller entities do not get a lot of good candidates.

The Council discussed the recruitment process for the permanent position, including a community survey.

Mayor Goddard stated the Town Manager could begin work on a Request for Proposals (RFP) from recruiters to give the Council that option once an interim chief is appointed.

Town Manager Toy stated he would return in December with a proposal for the Interim Chief.

10. Receive report on the Town's Business Recovery Programs and provide direction on the extension of the terms of the temporary encroachment permits and temporary outdoor use permits beyond the November 30, 2020 expiration date- Town Manager

Mayor Goddard stated this item had been continued to the Special Town Council Meeting scheduled for October 21st.

M/S, Reed/Coler, Motion to waive the 11:30 rule.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(through a roll call vote)

11. Receive update on the selection of a facilitator for the Racial Equity and Social Justice Committee (RESJ)- Town Manager

Vice Mayor Ackerman and Councilmember Hellman presented a report and discussed the individuals they interviewed for this position. Councilmember Ackerman noted they did not want a major part of the RESJ budget used for the facilitator.

Councilmember Coler asked about a resume and list of clients of the facilitator. She questioned the \$425 hourly rate and stated it was too high.

Mayor Goddard asked who would do the hiring. Town Manager Toy stated the contract would come to the Council in November. The facilitator's resume will be posted on the Town website.

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum stated he was confused by the 300 hours of service when the RESJ will meet once a month for a year.

Ms. Valerie Hood stated \$100 per hour was enough.

Ms. Veronica Geretz stated it would be helpful to retain some of the \$100,000 allocation to the RESJ for community events, education, and outreach.

Mr. Joseph McGarry stated he came up with 72 hours of work based on the proposal, suggested there was a miscalculation in the report.

Mayor Goddard closed the meeting to public comments.

Councilmember Ackerman stated the estimate of \$30,000 was appropriate for a facilitator who was going to do a good job on this important committee.

Councilmember Coler recommended they move forward with Ms. Lisa Jimenez with the idea of

negotiating a lower hourly rate.

Town Manager Toy stated he would bring back draft two contracts: one to cover the October 26th RESJ meeting and one for the remaining work.

Public Hearings

12. 80 Crest Road: Appeal of a Planning Commission Denial of a Height Variance for an unpermitted Ground Floor 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 Sections 15301(e)(2)(1), 15060(c)(3)- Principal Planner, Town Manager
This item has been continued to the November 4, 2020 Town Council Meeting

Mayor Goddard noted this item was continued to the November 4, 2020 meeting.

Council Reports and Comments

Mayor Goddard reported Councilmembers written reports and comments were contained in the packet.

Town Manager's Report

There was no report.

M/S, Reed/Coler, Motion to adjourn the meeting at 1:12 a.m. in memory of Mr. Robert "Bob" Bernard Keating and Ms. Rosemary K. Lang.

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

Respectfully submitted,

Toni DeFrancis,
Recording Secretary