

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, June 6<sup>th</sup>, 2012

The regular meeting was preceded by a Special Closed Session from 5:30 p.m. to 7:00 p.m. at Town Hall, 142 Bolinas Road for a Public Employee Appointment (Interim Public Works Director); Public Employee Performance Evaluation (Town Manager) pursuant to Govt. Code Section 54957.

Re-convened in Open Session:

**COUNCILMEMBERS PRESENT:** Larry Bragman  
Pam Hartwell-Herrero  
Ryan O'Neil  
John Reed  
David Weinsoff

**STAFF MEMBERS PRESENT:** Michael Rock, Town Manager  
Inder Khalsa, Acting Town Attorney  
Mike Vivrette, Finance Director  
Jim Moore, Planning Director  
Chris Morin, Police Chief  
Roger Meagor, Ross Valley Fire Chief  
Judy Anderson, Town Clerk  
Tracy Lavoie, Administrative Assistant

Mayor Hartwell-Herrero called the meeting to order at 7:08pm

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Reed, Motion to approve the agenda and the affidavit of posting.

AYES: All

Announcement of Closed Session Action

Mayor Pam Hartwell-Herrero reported that the Council conducted a public employee performance evaluation, interviewed a candidate for the interim Town Manager position and gave direction to staff, with follow-up scheduled for the more to come at the June 20<sup>th</sup>, 2012 Town Council meeting.

Announcements

Mayor Hartwell-Herrero made the announcements as they appeared on the agenda and asked for assurance from staff that the Flood Control public meeting regarding new FEMA maps at Drake High School on Thursday, June 28<sup>th</sup> at 7 p.m. in the Community Room would be well publicized.

Town Clerk Anderson confirmed that the Flood Control public meeting was being publicized extensively, including on the town website.

Councilmember Bragman stated that the Fairfax Food Pantry would be closed on the Saturday, June 9<sup>th</sup> during the Fairfax Festival.

Open Time For Public Expression

Michael Mackintosh, Marin Town and Country Club., requested to move the public hearing regarding the Adoption of Resolution No. 12-39, approving the Initial Study and Mitigated Negative Declaration regarding

environmental effects and mitigation monitoring for the Pastori Storm Drain Outfall Project, to an earlier time in the meeting in the interest of general public awareness.

Mayor Hartwell-Herrero declined the request in deference to the Police Chief and the Fire Chief who both had items on the agenda.

Mimi Newton, Mono Ave, Open Space Committee (OSC) Chair, announced a fundraiser event at Iron Springs Pub on Tuesday, June 12<sup>th</sup> with 10% of proceeds to benefit the OSC.

## **REGULAR AGENDA**

### Interview and appointment of applicants to serve on the Open Space Committee for four-year terms

Town Clerk Anderson presented the staff report for re-appointments of the Open Space Committee members.

M/S, Weinsoff/O'Neil, Motion to approve the re-appointments of Mia Adler, Michael Ardito, Ted Bright, Barbara Coler, Ruth Horn and Susan Adams to the OSC to serve for full 4 year-terms to June 2016.

AYES: All

### Interview and appointment of Artists-in-Residence for another term with a recommendation to issue a Request for Proposals for Artist-in-Residence in 2013 – Town Clerk

Town Clerk Anderson presented the staff report.

M/S, Weinsoff/Reed, Motion to approve the appointment of Sam and Shoshana Parry as Artists-in-Residence for another one year term to June 2013 with a recommendation to issue a Request for Proposals for Artist-in-Residence in 2013.

AYES: All

## **PRESENTATIONS**

### Annual report from the Artists in Residence - Sam and Shoshana Parry

Sam and Shoshana Parry presented an annual report on their activities as Artists-in-Residence and their plans for the rest of the year.

Mayor Hartwell-Herrero thanked them on behalf of the Council for all their efforts in enlivening and enriching the community in so many wonderful ways.

### Report on the Four-Year Area Plan for Aging from the Fairfax Representative to the Marin Commission on Aging Representative - Michael Aaronson

Michael Aaronson presented the Commission's four year plan entitled, "Live Long, Live Well: Area Agency on Aging Area" and described some of the many resources available in Marin for the senior community.

Councilmember Bragman suggested that a link be provided on the Town's Web site to the report.

### Report and request for direction from the Open Space Committee (OSC) regarding potential property acquisitions – Mimi Newton, OSC Chair

Mimi Newton presented a report and requested direction for the Open Space Committee (OSC) from Council regarding potential property acquisitions on Upper Ridgeway Ave. She recommended the two parcels on Upper Ridgeway for acquisition because the property was located adjacent to current open

space, with easy access to a ridgeline trail system from public roads, with wildlife present, and with the potential to block development.

Pam Hartwell-Herrero opened the discussion to the public.

Ruth Horn, OSC member, stated her support of the proposal and her concern about lots being developed.

Pam Meigs, Cypress Drive, Planning Commission, thanked the OSC for keeping their vision and for their continuous work; stated that she would like to see the Town Council consider this acquisition.

Michael Mackintosh, Pastori Ave., stated that the inability for the public to have access to accurate accounting for the OSC created insecurity in the accuracy of all accounts.

Town Manager Rock requested and received approval from the Town Council to secure title reports for the two properties to be considered for purchase. He further stated that staff would provide a final accounting of OSC funds for review at the June 20<sup>th</sup> meeting.

### Council Reports and Comments

Councilmember Weinsoff reported on his attendance at a recent MCCMC meeting.

Councilmember Reed reported on the Bike Spine project and the additional bike path being added near White Hill school, and on other meetings attended including the Finance Committee meeting, Transportation Authority, GPIC, and the Transportation Authority of Marin. He also reported that a new Fairbuck token was in circulation.

Councilmember Bragman reported on a meeting with the Ross Valley Sanitary District Consolidation Committee regarding funding for infrastructure; announced that the Town Council meeting would be broadcast by the end of summer, and reported on his attendance at the recent MCCMC meeting.

Councilmember O'Neil reported on the activities of the tree committee, on the youth commission live music event, and on meetings of the Ross Valley School Board where two new principals were appointed, and on his attendance at the MCCMC meeting.

Mayor Hartwell-Herrero reported that she had attended the Marin Sanitary Event "Zero Waste Project", meetings regarding the Interim Town Manager appointment, the Citiaslow meeting, the MCCMC meeting, and the "Sunday Streets" event in San Francisco where a road was closed for an afternoon.

### Town Manager Report

Town Manager Rock encouraged the public to attend three upcoming meetings: the June 20<sup>th</sup> budget workshop, the July 11<sup>th</sup> Town Council meeting and the July 18<sup>th</sup> Town Council meeting regarding four capital projects.

### **CONSENT CALENDAR**

**Approval of Town Council minutes for the May 2 and 16, 2012 meetings - Town Clerk**

**Approval of Financial reports for March, 2012 – Finance** .....

**Adoption of Resolution 12-29 of the Town Council of the Town of Fairfax Setting the Amount of The General Municipal Services Tax for The 2012-2013 Fiscal Year - Finance**

**Adoption of Resolution 12-30 of the Town Council of the Town of Fairfax Setting the Amount of the Special Municipal Services Tax for the 2012-2013 Fiscal Year - Finance**

**Adoption of Resolution 12-31 of the Town Council of the Town of Fairfax Setting the Amount of the Utility Users Tax for the 2012-2013 Fiscal Year - Finance**

**Adoption of Resolution 12-32 of the Town Council of the Town of Fairfax Setting the Amount of the Pension Override Tax for the 2012-2013 Fiscal Year - Finance**

**Adoption of Resolution 12-33 of the Town Council of the Town of Fairfax Setting A Fee For The Purpose Of Funding Local Stormwater Pollution Prevention Activities For FY 2012-2013 - Finance**

**Adoption of Resolution 12-34 of the Town Council of the Town of Fairfax Setting the Tax Rate for the general obligation bonds (Measure K Bond Assessment) for FY 2012-2013 - Finance**

**Adoption of Resolution 12-35 of the Town Council of the Town of Fairfax Approving the Ross Valley Paramedic Authority Tax Levy for the 2012-2013 Fiscal Year - Finance**

**Adoption of Resolution 12-36 of the Town Council of the Town of Fairfax continuing expenditures and revenues in accordance with the 2011-2012 Town Budget and in lieu of timely 2012-2013 Budget Adoption – Town Manager**

**Adoption of Resolution No. 12-37, a Resolution of the Town Council of the Town of Fairfax appointing a Representative and Alternate(s) to the Marin Emergency Radio Authority Board of Directors – Police Chief**

Mayor Hartwell-Herrero opened discussion to the public.

Michael Mackintosh, Pastori Ave., inquired on the item regarding the pension override tax, questioned why this item is always on the consent calendar, and questioned if there is another way to handle this shortfall beside a property tax.

Town Manager Michael Rock lead a discussion with the Council and staff that clarified that this is an existing pension override tax that was voted on in the late 1950's. The Council is required every year to pass a resolution allowing the town to collect the tax. This is not a new tax and has been at the maximum for many years. There is an explanation of all taxes on the town website under the finance section.

M/S, Weinsoff/Bragman, Motion to adopt the Consent Calendar with the exception of the item regarding the abatement report on 6 San Gabriel Road and the item regarding authorization for the Town Manager to extend a contract with Wayne Bush. Councilmember Bragman requested an amendment to the informational letter regarding flood rezoning.

AYES: All

**6 San Gabriel Abatement - Report on Progress – Building Official**

Building Official Mark Lockaby presented the staff report to the Town Council and reported Mr. McDonald has cleaned his property with the exception of the removal of the inoperable car in the driveway and the temporary fence exceeding a 4 foot height limit. Mr. McDonald agreed to remove the car within a week with the offered help from Councilmembers O'Neil and Bragman to push it into his driveway. Mr. McDonald agreed to follow the height limit for the fencing stated by Mark Lockaby.

**Authorization for the Town Manager to extend an agreement with Wayne Bush for public works consulting services for an amount not to exceed \$50,000 for the fiscal year July 1, 2012 to June 30, 2013 – Town Manager**

Mayor Hartwell-Herrero opened the discussion regarding the contract agreement with Wayne Bush and the disclaimer to give 30 days notice if the contract was revised and stated this would set a precedent of giving notice to contract employees.

Councilmember Bragman noted that the work flow to Mr. Bush is determined by the Council.

Town Manager Rock noted that this clause also would require Mr. Bush to give a 30 day notice.

Inder Khalsa, Acting Town Attorney stated her recommendation to keep all contracts with contractors consistent within the town.

Mayor Hartwell-Herrero opened public comment.

Chris Lang, Canyon Road, stated the Town is currently saving money without a current Public Works Director and proposed that the Town keep their options open to see what public works directors may be available within the community.

Mayor Hartwell-Herrero stated that the current Town Manager and Public Works director positions are the same and have been codified by a Town Council vote. Once 2012-13 budgets are finalized there will be a public meeting and vote to decide if an organizational structure change is recommended.

Michael Mackintosh, Pastori Ave., suggested Judy Anderson as Town Manager and Jim Moore as Public Works Director allowing our town the value of their expertise.

David Weinsoff stated the benefit of a contract Public Works Director as often projects wax and wane and contract work with Wayne Bush is financially more sound than paying a full time Public Works Director salary.

Larry Bragman agreed with Mayor Hartwell-Herrero that this will be an open public discussion once the time comes to make a final decision.

M/S, Reed/Bragman, Motion to approve the Authorization for the Town Manager to extend an agreement with Wayne Bush for public works consulting services for an amount not to exceed \$50,000 for the fiscal year July 1, 2012 to June 30, 2013

AYES: All

**REGULAR AGENDA**

**Authorization for the Town Manager to Sign an Agreement to provide Dispatch Services to the Marin Community College District – Police Chief**

Chris Morin, Chief of Police, presented the staff report and opened a discussion with the Councilmembers.

Councilmember Bragman stated he strongly supports the proposal and thanked Chief Morin for leveraging Town assets in a way that brings in revenue and allows the Town to keep current staff. He noted this is an alternative model for Marin to share services increasing the efficiency and maximizing services.

Councilmember Weinsoff questioned where the additional staff time is coming from to handle the extra workload.

Town Manager Rock clarified that the College of Marin call load would not significantly impact the current staff workload.

Councilmember Reed stated his support of the proposal with the caveat that in the event of a large emergency all hands would need to be on deck.

Councilmember O'Neil stated his support of the proposal and reiterated that this is a great model for sharing services in addition to being a community building tool.

M/S, Weinsoff/Bragman, Motion for approval of Authorization for the Town Manager to sign an agreement to provide dispatch services to the Marin Community College District.

AYES: All

Request to forgive repayment of a portion of start-up funding of the Fairbuck Project – Reed

Councilmember Reed presented the staff report and opened a discussion with the Town Council.

Councilmember Weinsoff stated his support of the Fairbuck project in addition to his concern about setting this precedent.

Councilmember Bragman stated he had similar concerns and used the OSC funds as an example; stated that he would be willing to create a forbearance agreement to extend the Fairbuck Project repayment for two more years to the three organizations that are responsible; stated his support of the Fairbuck project; he would like to work with them to make the terms of the loan more manageable.

Councilmember O'Neil stated he supports setting a good precedent about helping when needed but not setting a precedent of forgiving loans. He stated he is happy to extend the loan but not to forgive it.

Mayor Hartwell-Herrero stated this request was being made to make the "Streets for People" event possible.

Councilmember Weinsoff suggested a better way to do this is to come directly to the Town Council and request the \$1,000 from the Town for the "Streets for People" event.

Mayor Pam Hartwell-Herrero opened the discussion to public comment.

Michael Mackintosh, Pastor Ave., stated even though Fairbuck is a separate 501c, if the debt was forgiven then the Town would be required to follow it up with a formal instrument of a forgiveness of debt.

Mark Bell, 63 Dominga Ave., expressed his opposition to forgiving the debt along with his concern about the understandability and awareness of the project.

Councilmember Reed thanked the Council for their consideration and discussion.

Adoption of Resolution No. 12-38, A Resolution of the Town Council of the Town of Fairfax approving the closure of Bolinas Road for a "Streets for People" event scheduled for Sunday, August 26, 2012 – Hartwell-Herrero

Mayor Hartwell-Herrero presented staff report introducing the "Streets for People" event scheduled for Sunday, August 26<sup>th</sup> 2012.

Town Clerk, Judy Anderson, presented the financial responsibility of the "Streets for People" event listed in the staff report and led a discussion with the Council and staff.

Councilmember Weinsoff noted his approval to close the street for this six hour event, stated that if it is a town event there would be less cost. He supported it being an alcohol free event.

Councilmember O'Neil stated his support for the event and brought up merchant concerns about not being notified prior to the event being posted or approved by the Town Council.

Mayor Hartwell-Herrero opened public comment.

Chris Lang, Canyon Road, stated his support for the event and would like to see it be a town sponsored alcohol free event.

Shelby Lamotte, Manor Road, Planning Commission, stated that this proposal was considered as possibly a permanent event within the general plan studies and it has been shown that logistics of this type of event are small compared to the benefits.

M/S, Reed/Bragman, Motion to continue the Adoption of Resolution No. 12-38, A Resolution of the Town Council of the Town of Fairfax approving the closure of Bolinas Road for a "Streets for People" event scheduled for Sunday, August 26<sup>th</sup>, 2012 to the June 20<sup>th</sup>, 2012 Town Council agenda.

AYES: All

### **PUBLIC HEARING**

Adoption of Resolution No. 12-39, a Resolution of the Town Council of the Town of Fairfax approving the Initial Study and Mitigated Negative Declaration adopting findings regarding environmental effects and a mitigation monitoring and reporting program for the Pastori Storm Drain Outfall Project – Planning

Director of Planning Jim Moore presented project history, staff report and lead discussion with Town Council and staff. Mr. Moore was tasked to complete and process the initial studies (items 4-11) with LAK associates. He also coordinated the work that had already been done by CSW to replace the existing outfall pipe with a larger pipe to work with already existing pipe upstream and these documents dated back to 2006. Mr. Moore advised that this was a push to ensure funds from FEMA would not be lost. The initial studies were completed, routed and submitted on April 30<sup>th</sup>, 2012 and were formally submitted to county, state, and noted in the Independent Journal beginning the 30 day review period at that time. The 30 day public comment period closed on March 30<sup>th</sup> with no public comment received. Mr. Moore recapped a discussion he had with Michael Mackintosh during the routing period on the 22<sup>nd</sup> where he noted to Michael Mackintosh that the 30 day period was coming up and encouraged him to make comments. Mr. Moore stated there had been no intent to go into private property and do work without authorization that this public hearing is for the approval of the CEQA Mitigative Negative Declaration review document.

Councilmember Bragman stated an e-mail from the adjoining property owner was received which expressed concern about undercutting of the hillside next to the wingwall. Councilmember Bragman confirmed that these plans are engineered and wet stamped, that the engineer designed the outfall to mitigate the potential erosive effects of the water and to improve the stability of the surrounding creek bank. It was stated that structurally the standard CalTrans design will not be used due to the need to add additional rip rap below the outfall pipe and that a structural engineer has reviewed and wet stamped these plans.

Mayor Pam Hartwell-Herrero opened the discussion to the public.

Wendy O'Rear, Pastori Ave., stated the plans are two years old and expressed her concern about the proximity of the erosion to her home's foundation. She questioned the approach to stabilize the creek with rip rap vs. rebuilding it and requested a third party impartial engineering firm to review the approved plans. She also questioned the impact the project would have on the stability and erosion of the already damaged bank.

Town Manager Rock lead public comment discussion and clarified that the plans were started two years ago but have been updated as the project progressed as recently as a few months ago. He suggested that Ms. O'Rear discuss the plans with the CSW engineering company for a detailed explanation of the plans and address her concerns.

Councilmember Weinsoff also encouraged Ms. O'Rear to discuss her concerns with the engineer at CSW and if not reassured the council would revisit the idea of a third party engineering company assessing her concerns.

Jim Moore, Planning Director, stated that the project would only correct the stability and erosion problems on the bank and would not cause any further damage.

Mayor Harwell-Herrero stated that there would be an engineer on hand at the project approval meeting and if after Ms. O'Rear spoke with CSW she was not reassured then to return to the Town Council.

Chris Lang, Canyon Rd., stated his approval of the planning report. He suggested hand placing soil along with rip rap for more stability. He also suggested having the engineers look at the outfall pipe under town hall that exits at Pastori Ave. He indicated that removal of the bottom of the pipe would increase capacity and potentially decrease flooding.

Michael Mackintosh, Pastori Ave., challenged the compliance to the CEQA publishing time frame; recapped project history; challenged that he was not apprised of changes to the project progress; expressed concerns about hydrocarbons unfiltered entering into the project site.

Inder Khalsa, Acting Town Attorney stated that the CEQA notification requirement of a 30 day notice in a public document had been met.

Mayor Hartwell-Herrero asked to look at the hydrocarbons report and it was determined that this report was not in the scope of the mitigated negative declaration project. Engineers would address it at the project discussion.

Jim Moore, Planning Director, stated that there were not any written notices received that required response from the town in writing. He noted if the CEQA negative declaration document is approved, notice of determination would be filed within 5 days and the public would have a 30 day period to challenge the document legally.

Councilmember Bragman stated the intent would be to fix the conveyance that was broken during the flood; that the project has been under consideration for seven years and was stopped by Michael Mackintosh. Councilmember Bragman encouraged Michael Mackintosh to submit his comments in writing for public record and reiterated the project must move forward and had been approached to assure that it is completed in best practice.

Mayor Pam Hartwell-Herrero closed public comment.

Councilmember Weinsoff suggested that Michael Mackintosh speak with his council and come back to the town council within the 30 day period following the filing of the CEQA negative declaration.

M/S, Bragman/Reed, Motion to adopt Resolution No. 12-39, a Resolution of the Town Council of the Town of Fairfax approving the Initial Study and Mitigated Negative Declaration adopting findings regarding environmental effects and a mitigation monitoring and reporting program for the Pastori Storm Drain Outfall Project.

AYES: All

Adoption of Resolution No. 12-40, A Resolution of the Town Council of the Town of Fairfax adopting a revised Master Fee Schedule – Town Clerk

Town Clerk, Judy Anderson, presented the staff report and requested approval of the adoption of a revised Master Fee Schedule.

M/S, Weinsoff/Bragman, Motion to Adopt Resolution No. 12-40, A Resolution of the Town Council of the Town of Fairfax adopting a revised Master Fee Schedule

AYES: All

M/S, Reed/Bragman, Motion to adjourn the meeting at 11:30pm.

AYES: All

Respectfully submitted,

Tracy Lavoie

DRAFT