# Fairfax Town Council Minutes
# Fairfax Women's Club
# Thursday, July 11, 2012

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| **COUNCILMEMBERS PRESENT:** | Pam Hartwell-Herrero, Mayor<br>John Reed, Vice Mayor<br>Ryan O'Neil<br>David Weinsoff |
| **COUNCILMEMBERS ABSENT:** | Larry Bragman |
| **STAFF MEMBERS PRESENT:** | Michael Vivrette, Finance Director<br>Linda Neal, Senior Planner<br>Chris Morin, Chief of Police<br>Jim Moore, Dir. of Building & Planning Services<br>Mark Lockaby, Building Official<br>Jim Karpiak, Town Attorney<br>Judy Anderson, Interim Town Manager/Town Clerk |

Mayor Hartwell-Herrero called the meeting to order at 7:04 p.m.

Approval of Agenda and Affidavit of Posting
The Council pulled Item No. 14 and continued the matter to the July 18th Town Council meeting. The Council desired a memorandum and draft protocol that will define the Council members. Staff agreed to prepare.

Interim Town Manager/Town Clerk Judy Anderson recommended removing the June 6th and June 20th minutes from the Consent Calendar and continue to the August Town Council meeting.

M/S, Weinsoff/O'Neil, Motion to approve the agenda and the affidavit of posting with Item No. 14 continued to the July 18th Town Council meeting and continuing the June 6th and June 20th minutes to the August Town Council meeting.

AYES: All

Announcements
Mayor Hartwell-Herrero made announcements as they appeared on the agenda.

Open Time For Public Expression
Michael Mackintosh, representing Marin Town & Country Club, requested that Item Nos. 5 and 6 be pulled from the Consent Calendar in order to further discuss. Town Attorney Jim Karpiak explained that is a decision of the Council in regard to pulling items off the Consent Calendar. Mayor Hartwell-Herrero pointed out that thorough staff reports are available on both items.



AGENDA ITEM # 1

Interim Town Manager/Town Clerk Judy Anderson noted that Building Official Mark Lockaby is available to discuss during oral session. Staff further explained that the amendment to the budget is an amendment to last years budget as well as a typo that was corrected.

M/S, O'Neil/Reed, Motion to move Consent Calendar Item No. 6 to the Regular Agenda to be discussed before Item No. 13.

Interviews and Appointments

1. Interview and appointment of a community member to the Cittaslow Committee

Interim Town Manager/Town Clerk Judy Anderson summarized the staff report and recommended that the Council interview Denita Murphy for the position and to appoint Ms. Murphy to serve on the Cittaslow Committee as a community member.

Councilmember Weinsoff asked if Ms. Murphy must be a Fairfax resident in order to serve on the Cittaslow Committee. Mayor Hartwell-Herrero responded that all Ross Valley community members are eligible to serve Cittaslow. Mayor Hartwell-Herrero had personal experience working with Ms. Murphy and noted her support.

Mayor Hartwell-Herrero opened public comment.

Cindy Ross, Lansdale Avenue resident, desired clarification in regard to appointing a Ross Valley community member to serve on the Cittaslow Committee. She was under the impression that that the Town would appoint a Fairfax resident to Cittaslow. Mayor Hartwell-Herrero reiterated that it is open to members of the Ross Valley community just as the Youth Committee.

There being no further public comment on this item, the Mayor closed the public portion and brought the matter back to the Council for action.

M/S, Hartwell-Herrero/Weinsoff, Motion to appoint Denita Murphy to serve on the Cittaslow Committee.

AYES: All

2. Interview and appointment of candidate (s) to serve as the Fairfax representative to the Marin Commission on Aging

Interim Town Manager/Town Clerk Judy Anderson summarized the staff report and recommended that the Council appoint J. Michael Whyte to serve as the Fairfax representative to the Marin Commission on Aging for a full three-year term to June 30, 2015.

Councilmember Weinsoff noted appreciation to Mr. Whyte and is honored to move the nomination. The Council agreed.

M/S, Weinsoff/Reed, Motion to appoint J. Michael Whyte to serve as the Fairfax representative to the Marin Commission on Aging for a full three-year term to June 3, 2015.

AYES: All

COUNCIL REPORTS AND COMMENTS (Brief announcements and reports on Councilmember assignments, committees and activities, including reports from meetings attended at Town expense)

Councilmember Weinsoff attended the FEMA meeting at Drake and the Legislative Committee of the MCCMC.

Vice Mayor Reed reported on Streets for People; the General Plan Implementation Committee *(GPIC)* meeting; the Fire Board meeting; and the Meadowlands Homeowners meeting in regard to the Spike Pine Project. He also attended the Bay Area Air Quality meeting; MCCMC; School Board meeting; and the Transportation Authority of Marin *(TAM)* meeting in regard to Chipper Days.

Councilmember O'Neil reported on the Youth Commission meeting, the Major Crime Taskforce, and the FEMA map update meeting.

Mayor Hartwell-Herrero thanked Town staff for all their hard work during the Fairfax Festival. 93% of waste was diverted from the landfill, which is more than the previous year. She then reported on the Search Committee meeting; the Chamber; Streets for People; and Cittaslow.

Interim Town Manager Report

3. Discussion/Consideration of Recruitment for Town Manager and desirable qualifications for the position

Interim Town Manager/Town Clerk Judy Anderson summarized the staff report and recommended that the Council hold a discussion of the desirable qualifications for the position of Town Manager, receive public input and provide direction to the Selection Committee. Direction could include whether the Council wishes to have the Committee proceed to the selection of candidates to present to the Council for a final decision, whether or not a search firm should be hired, and the role the management team would play in the selection.

Mayor Hartwell-Herrero noted that guidance from the Council and input from the public is needed as to whether it makes sense to combine the two positions in regard to a Public Works Director/Town Manager.

Vice Mayor Reed was approached by the San Anselmo Public Works Director. Interim Town Manager/Town Clerk Anderson spoke to San Anselmo's Town Manager and felt it would be more expensive to hire the San Anselmo's Public Works Director. Also, the Town of Fairfax would not have a dedicated Public Works Director. Staff explained that some projects have been delayed because they did not have a dedicated Public Works Director and believed a Public Works Director is needed for the Town of Fairfax.

Councilmember Weinsoff expressed concern for the $100,000 salary in regard to a Public Works Director. Interim Town Manager/Town Clerk Anderson explained that an active Public Works Director is able to find funding and seek grants, which will save the Town money. Staff felt

combining a Public Works Director and a Town Manager would not benefit the Town. Councilmember Weinsoff pointed out that there is a disconnect between the income and expenses and what is expected from the public and what the Town can afford. Interim Town Manager/Town Clerk Anderson believed this is an opportunity for the Town to reorganize.

Vice Mayor Reed agreed the Town of Fairfax needs a Public Works Director to start aggressively pulling down grants, otherwise the infrastructure of the Town will crumble.

Councilmember Weinsoff recommended looking at every possible option and then make a determination. Mayor Hartwell-Herrero agreed to discuss at the committee level. Choosing a Town Manager is a very important task. The Town can consider having a separate Public Works Director and Town Manager as well as the possibility of either position not being a full-time position. Councilmember Weinsoff believed it is a full-time job. The Town must be able to balance their budget and do what they can with limited tax dollars. He further agreed to have staff come back with every logical combination and then have the Finance Director review in order to understand the budget.

Mayor Hartwell-Herrero opened public comment.

Barbara Coler, Fairfax resident, agreed a Public Works Director is needed in order to seek funding for the Town, which is important. She objected to having San Anselmo's Public Works Director work for the Town of Fairfax. Also, not having a full-time position might be an option. She suggested considering retired Town Managers/Public Work Directors that might be eligible to work for the Town. She understands it is difficult to find funds, so a reduction in pay for the Town Manager should be considered in order to fund a Public Works Director.

Cindy Ross, Lansdale Avenue resident, supported a Public Works Director in order to fix the sidewalks and enforce traffic violations. She further wished there was more resources to address the Town's infrastructure.

Michael Mackintosh, Pastori Avenue resident, advocated to the Council to hire someone in the community such as former Councilmember Lew Tremaine because he understands the community in order to accomplish what is desired. He encouraged the Council to help staff who is overwhelmed and believed prior members of Town Council have the experience. Councilmember Weinsoff pointed out that it is a highly professional job and smart individuals with phenomenal amounts of training and education in government are needed to fill such position.

Mark Bell, Dominga Avenue resident, supported the Town hiring a Public Works Director.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for action.

*Mayor Hartwell-Herrero announced that the Selection Committee would continue to meet and bring back options for the Council to consider at the August Town Council meeting.*

CONSENT CALENDAR

4. Approval of Town Council minutes for the May 24, June 6, 20 and 29, 2012 meetings - *Town Clerk*
5. Approval of Financial reports for April, 2012, and adoption of Resolution No. 12-44, a Resolution of the Town Council of the Town of Fairfax adopting amendments to the 2011-2012 Budget – *Finance*
6. Status report on abatements at 6 San Gabriel and 39 Wood Lane – *Public Works Manager*
7. Appointment of Interim Town Manager Anderson as the Fairfax representative to the Board of the Marin County Hazardous and Solid Waste JPA – *Town Manager*
8. Adoption of Resolution No. 12-45, a Resolution of the Town Council of the Town of Fairfax setting the terms of office for the Open Space Committee to be four-year terms from the time of appointment of individual members – *Town Clerk*
9. Adoption of Resolution No. 12-46, a Resolution of the Town Council of the Town of Fairfax in opposition to SB 1161 (Padilla) that would remove regulation of Phone Companies that use IP by the California Public Utilities Commission - *Bragman*
10. Adoption of Resolution No. 12-47, a resolution of the Town Council of the Town of Fairfax authorizing an amendment to the contract with Muni Services to track and report on the newly imposed ½ cent sales tax – *Finance*

M/S, O'Neil/Weinsoff, Motion to approve the Consent Calendar as amended by continuing the June 6th and June 20th minutes to the August Town Council meeting; Item No. 6 will be discussed under the Regular Agenda before Item No. 13; and continue Item No. 8 to the August Town Council meeting

AYES: All

Public Hearings

11. 150 Bolinas Road, Appeal of Planning Commission approval of a Use Permit Modification to allow 7-11 to remain open 24 hours a day; Assessor's Parcel No. 002-101-13; Central Commercial CC Zone District; Richard Mathews Trust, owner; Rajiv Uppal, business owner; Misty Moreno, appellant

Senior Planner Linda Neal summarized the staff report and recommended that the Council open the public hearing and take public testimony; close the public hearing; and move to uphold the decision of the Planning Commission to approve the requested Use Permit modification to allow 7-Eleven to remain open 24-hours a day subject to the Commission's conditions of approval.

Planning & Building Director Jim Moore noted that Councilmember Bragman requested that the Town refund the appellants cost.

Police Chief Chris Morin explained that in a 10-month period there were a total of 569 incidents logged by the Police Department along Park Road, including 150 Bolinas Road with a total of 20 incidents as follows: 2 noise complaints; 15 officer initiated activities not logged as noise or disturbance issues; and 3 officer initiated contacts or stops that were tagged at this address, but not related at all.

Mayor Hartwell-Herrero pointed out that there has been some mitigation in regard to noise. Senior Planner Neal responded in the affirmative.

Councilmember O'Neil asked the Chief if this is a good idea and whether or not it will cause more issues. He desired to know the recommendation in regard to the community because he expressed concern for the character of the Town changing. Police Chief Morin did not see this being an issue. He explained that when 7-Eleven was closed there were more noise problems, so from a law enforcement perspective, it is not an issue. He further believed it is a benefit to those that need the service.

Mayor Hartwell-Herrero opened public comment.

Misty Moreno, Park Road resident, believed the situation is worse due to people hanging out and impacting her quality of life. She constantly picks of garbage from 7-Eleven and Skateboarders play out front of 7-Eleven all night. She noted appreciation for the chain, but it does not mitigate the noise, which awakens her and impacts her sleep. She expressed concern for her quality of life and did not believe 7-Eleven is part of the Town. Also, the fence stops the glare from headlights, but not the noise. She further requested that this matter be continued when there is a full Town Council present.

Town Attorney Jim Karpiak pointed out that when there is a quorum, it is in the Council's power to act or delay. Tonight four councilmember's are present, which is a quorum of the Council, so the Council has the ability to act on this matter tonight, if so desired.

7-Eleven employee Sammy installed a fence and chain. He finds it surprising that the vibration from the fire trucks opposite of Ms. Moreno's house is not a disturbance, but a vehicle idling is a disturbance to her. 7-Eleven is doing a great job serving the members of the community. He further noted that sales at night are increasing as well as during the day.

Rajiv Uppal, applicant, indicated that they are complying with the Police Department and the Council. They are doing whatever possible to accommodate the concerns of the neighbors. The night shift employees inform individuals that they are not allowed to loiter.

Ms. Moreno appreciated the convenience of 7-Eleven, but her rest and quality of life has changed due to the hours of operation and believed the 7-Eleven must work within reason.

Kevin Wright, Cascade Drive resident, believed it would be a bad idea to extend the hours of operation since this is a residential neighborhood. He further believed it could become a hazard. Mayor Hartwell-Herrero clarified with staff that 7-Eleven have been operating 24-hours per day for one year. Senior Planner Neal responded in the affirmative.

Councilmember Weinsoff would be inclined to roll the hours back. Ms. Moreno has a compelling argument and they must accommodate one another to improve the quality of life. He believed it cuts against the grain of what they are trying to achieve in the neighborhood. He further believed closing between the hours of 12 midnight to 6 a.m. would not be an unreasonable burden.

Councilmember O'Neil stated that the biggest issue is creating a 24-hour Town. There are several signatures of residents in favor of the hours of operation. Several work from home and wake up early. It is not an 8 a.m. to 8 p.m. society. He is not prepared to vote on this matter tonight without considering a 24-hour community. He discussed with the Police Department and the Planning Commission and the actual calls decreased from the extended hours of operation, so having this open is serving the public. He is not comfortable moving forward or against until they better understand the question of a *"24-hour Town."*

Councilmember Weinsoff believed Fairfax is already a 24-hour Town. The bigger question is, being a 24-hour Town, does it impact individual homeowners who moved in after a particular business but before expanding their hours of operation. Also, there is a different perspective between the Planning Commission guided by the zoning code and the Council, elected by the people to make decisions. He further pointed out that if milk is needed at 2 a.m., the Sir Francis Drake 7-Eleven is open, which is within five minutes away. Vice Mayor Reed added that the Sir Francis Drake 7-Eleven is within five minutes if in a motorized vehicle. Several houses are close to downtown. There are mitigating measures. It is a major connector street and people are present. He felt skateboarders would continue to conjugate whether the store is open or closed, but he is willing to continue the matter to have another voice present.

Mayor Hartwell-Herrero desired to know the motivating factor for the extended hours of operation. Mr. Uppal explained that it was at the request of the community. He pointed out that their sales have increased and that he is invested in the community. He has been a member of the Chamber for the last nine months, so they are doing what they can do to serve the community.

Councilmember O'Neil asked if there is an advantage for an employee to work more hours. Is there a bonus or incentive program. Mr. Uppal responded that 7-Eleven does not care if they are open or closed. They receive their percentage no matter what. If closed from 12 midnight to 6 a.m. it does not effect them because they take their 56%. Employees have nine hour shifts and he hired two other employees during the night shift. He further noted that all employees live in Fairfax. Ms. Moreno stated to her knowledge the main workers came when they bought the 7-Eleven, so employees moved to Fairfax. They were not locals to begin with.

Town Attorney Karpiak stated given that there is an existing use permit, he recommended that Council direct staff to come back with a resolution related to facts and circumstances with legal authority to act, particularly if the Council acts to revoke.

Mayor Hartwell-Herrero indicated that the Police Department show that mitigations have been made and they would continue to review. If incidents are going down by all measures, she is not able to ignore the reports.

Mr. Wright stated once 7-Eleven received the temporary extension, the emphasis was on liquor. He desired a definition in regard to a *"24-hour Town."* Councilmember Weinsoff pointed out that the ship has sailed. Fairfax is a Town based on having a good time, but they can balance the rights and

protection of the community. It is a delicate balance to remain the best Town in Marin being mindful of the rights protected to those living in neighborhoods. He would move to uphold the appeal, but senses others do not agree.

Mark Bell, Dominga Avenue resident, suggested that the Council continue to explore mitigation measures in regard to sound.

Cindy Ross, Lansdale Avenue resident, understands and has compassion for the neighbors, but a lot of the complaints identified by the Police Department were not directly related to 7-Eleven. She does not regularly shop at 2 a.m., but several occasions when she has, 7-Eleven has been open. She believed it is a benefit to have that convenience. She further hoped there is a way to mitigate the noise to address the concern.

Mimi Newton, Mono Avenue resident, agreed with Ms. Ross's comments. She also appreciated 7-Eleven and felt the location across from the Police Station is best.

Steven Franks, Willow Avenue resident, lives next to Good Earth and understands the concerns in regard to noise. He further pointed out that the Police Department has no enforcement mechanism over noise, which is an issue.

Scott Hochstrasser, Fairfax resident, worked for 7-Eleven and at 2 a.m. it was very difficult to keep people from buying alcoholic beverages. With a 24-hour business, they are inviting that desire to buy alcohol after 2 a.m. The owner should think seriously about taking on that responsibility. He further suggested a reasonable compromise of closing the store at 2 a.m.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Councilmember Weinsoff recommended upholding the appeal and close the 7-Eleven from 12 midnight to 6 a.m.

Vice Mayor Reed understands the concern, but it is very convenient to walk to everything downtown. He believed they must exhaust all mitigation measures in order to keep the sound level down.

Town Attorney Karpiak indicated that action could be taken tonight to impose other conditions or continue for the purpose of coming back and having further consideration of what those conditions might be. Also, the Council has the option of denying the request of the appellants and allow the permit to stand without any new conditions.

Councilmember O'Neil believes there is cause for concern, but has a problem with the 220 signatures of those that feel it is a benefit and the possibility of the situation becoming worse. The area is what it is whether the store is open or not. By closing the store the noise problem will not be solved. The 7-Eleven franchise has done an amazing amount of give to make this work. The most popular item would be alcohol and they voluntarily chose not to go there. He felt they are trying to serve the

community. Also, they employee locals, which is a benefit. He is willing to consider more mitigating factors to help address concerns. He pointed out that 7-Eleven installed cameras; blocked off parking spaces; joined the Chamber; added landscaping; and voluntarily gave up their right to sell alcohol between 12 midnight to 2 a.m. If more mitigation measures are needed, then this item should be continued. Several in the community desired this convenience and a few believe it is a negative impact. He believed the majority of issues could be addressed. He further suggested continuing the matter in order to ask for more mitigating measures.

M/S, O'Neil/Reed, Motion to continue the public hearing at 150 Bolinas Road to a specific date of September 5, 2012, in order for the Council to consider further mitigation measures.

AYES: All

*The Council took a short recess at 9:02 p.m. and then reconvened at 9:12 p.m. with the next agenda item.*

12. Adoption of Resolution No. 12-48, a Resolution of the Town Council of the Town of Fairfax declaring the conditions at 15 Belmont (APN: 002-212-04) a Public Nuisance and Ordering the 15 Belmond Abatement Hearing - *Building Official*

Building Official Mark Lockaby summarized the staff report and recommended that the Council adopt Resolution No. 12-48 declaring the described conditions on the property and in the public right of way to be a public nuisance and specifically:

1. Order the Acting Town Manager to cause the abatement of the nuisance by hiring a contractor to remove the litter, refuse, rubbish, salvaged items, construction debris, and complete minor landscaping.
2. Hire a towing company to remove the two abandoned trailers.
3. Prior to abatement by a building contractor and towing company, the owners will be given notice and a final ten day period of time in which to remedy the listed code violations on the property. Any abatement will be completed in accordance with applicable law.
4. Unless written permission is obtained from the property owner, authorize the Town Attorney to seek a warrant to enter the property and abate the nuisance conditions.
5. Town staff will return to the Council at a future date to report on the abatement and request the costs of abatement be charged to the property owners as a special assessment lien on the property.

Councilmember Weinsoff pointed out that staff has been trying to deal with this property since 2003, so the community has been living with this for quite some time.

Mayor Hartwell-Herrero opened public comment.

Michael Kenyon, owner/15 Belmont, explained that his wife, Sarah, has been ill and he planned to clean up the property. There is a lumber company that will recycle some of the lumber and his brother will help clean up the brush. He has collected items his entire life. He asked the Council for their consideration and apologized to the neighbors. He further requested that the Council allow him six weeks to clean up the property.

Michael Cunningham, Belmont resident, shares a property line and the hoarding is a major problem. A truck on the property recently caught on fire in the middle of the night, so the situation is very bad. The area is infested with rats, skunks and raccoons. A new load is dropped off on a daily basis. This is a constant problem and must be addressed comprehensively with social services.

Deborah Baker, Kent Avenue resident, has no issue with Mike or Sarah Kenyon, they are great people. The house and garden use to be impeccable. This problem has been going on well before 2003. She has a tenant and is embarrassed by the situation. Mr. Kenyon has cleaned up the driveway somewhat, but the same large items still sit that have been present for years and years along with debris. From every window of her house she views the garbage. The inside of the ford mustang is full of garbage and an attractant to varmints. The bigger issue is to avoid this problem in the future. She is very uncomfortable discussing this matter since Mr. Kenyon is her neighbor.

John De Martini, owner of nearby property, filed three complaints about this problem. He spent well over $100,000 to fix up his property on Belmont to attract tenants that are like minded. They must maintain the standards of living and hopes the Town of Fairfax enforces these standards. Items are removed and then return in a few weeks. This is a big problem and wanted the problem addressed as soon as possible and hoped to avoid such problems in the future.

John Crow, Belle Avenue resident, pointed out that there has been no improvement to the property in the one year he has lived on Belle Avenue. He suggested a standing enforcement by staff occur on this property. He explained that the threat of outside intervention is what caused action. Without an ongoing requirement that can be immediately enforced by the Town it will occur again. Mr. Kenyon is willing to work on the problem and would appreciate additional time.

Building Official Lockaby noted that social services were involved one year ago.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Councilmember O'Neil understands the manpower needed to clean up this property. He has sympathy for Mr. Kenyon, but would not allow Mr. Kenyon to do the work at the rate it is going because it would not get done. He toured the property today and it is disturbing. There are environmental hazards on the property such as mice and viruses, so it may be easier to have the Town abate the issue. He suggested that the Town put an assessment lien on the property to recoup the funds. Also, he agreed with a monthly status report from staff to ensure the property does not return to its current state. He further stated that it is well beyond an eyesore; it is a public safety issue that must be addressed. Vice Mayor Reed agreed this has become bigger than Mr. Kenyon and help is needed.

Mayor Hartwell-Herrero asked staff about a standing order of abatement. Town Attorney Karpiak responded that the Council does not have authority in that regard, but staff can visit the property on a routine basis.

Building Official Lockaby recommended giving notice to the owners that they have 30-days before abatement begins.

M/S, Weinsoff/O'Neil, Motion to adopt Resolution No. 12-48 declaring the described conditions on the property and in the public right of way to be a public nuisance with an amendment to allow the owners 30-days to remedy the listed code violations on the property before abatement begins.

AYES: All

Regular Agenda

6. Status report on abatement at 6 San Gabriel and 39 Wood Lane - *Public Works Manager*

Building Official Mark Lockaby noted that Mr. McDonald from 6 San Gabriel has complied with all the conditions set by the Council at the abatement hearing. Mr. Hansbery from 39 Wood Lane has removed a lot of the material that was required to be removed including the dumpster full of dirt and a large pile of concrete rubble. Mr. Hansbery agreed to remove all of the other items from the site, but as of July 5, 2012 there is no change. Mr. Hansbery submitted plans for the slide repair that can be issued at any time, but he asked to make changes and new plans have been submitted.

Councilmember O'Neil felt 6 San Gabriel is a massive success story. In terms of 39 Wood Lane, it is important to keep this item on the agenda each month to make sure Mr. Hansbery is making progress.

Councilmember Weinsoff believed people are generally nice and asked staff if it is possible without trespassing to receive permission to the remove some of the garbage. He offered his monthly per diem to address the neighbors concern. Town Attorney Karpiak noted with permission it could be done, if within the budget. Councilmember O'Neil expressed concern for setting precedence to keep a storage container on the property with the knowledge that he would progress with plans.

Planning & Building Director Jim Moore explained that the deal was that everything, except for the container was to be removed, which has not occurred, so Mr. Hansbery is in violation. With the container, Mr. Hansbery had 60-days to file his building permit for the wall and start construction. The container could remain if the permit was issued and the wall was started. He further reiterated that the agreement made with Mr. Hansberry has been broken.

*The Council indicated that staff has the authority to move forward with abatement.*

13. Report on FEMA Flood Map Updating meeting, impact on property owners and discussion of public outreach - *O'Neil*

Councilmember O'Neil indicated that they must inform the public about the recently released draft maps designating new flood-risk areas. Building Official Lockaby explained that the big change is the floodway and staff sent out 600 letters to those at risk.

Vice Mayor Reed lives in the flood zone and did not remember seeing the letter, so if there is a project, the suggestion is to do it now. Interim Town Manager/Town Clerk Judy Anderson suggested

informing the public about the next meeting because it could have an impact on their properties. Letters were sent out before the last meeting. The next meeting is scheduled for October.

Mayor Hartwell-Herrero directed staff to work with Councilmember O'Neil in order to identify those in the floodway. Councilmember O'Neil believed it could be broken up into manageable sections. This will hit Fairfax hard and once they do outreach then they have done their due diligence.

Mayor Hartwell-Herrero opened public comment.

Michael Mackintosh, representing Marin Town & Country Club, explained that this would be the most significant financial impact that has come to the Town of Fairfax. Over 300 downtown parcels and business will be affected by this flood zone and floodway. Current programs through FEMA allow different mortgage holders to assess an insurance premium to the homeowners mortgage if they cannot or do not pay. Between $700 to $1000 per $100,000 value. Property owners and business owners cannot rebuild until they petition to FEMA. The County will give lower assessments, which will impact the Town. Fairfax will take a substantial hit since 25% of gross income comes from property tax.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

*The Council directed Councilmember O'Neil to move forward with outreach.*

*14.* Approval of three (3) Pavilion Chipper Days in October to encourage fire fuel reduction – *Reed*
*This item was continued to the July 18th Town Council meeting.*

15. Approval of response to Grand Jury Report, "Pre-Schoolers Learn to Share – Can Local Governments?" – *Interim Town Manager*

Interim Town Manager/Town Clerk Judy Anderson summarized the staff report and recommended that the Council approve the draft response to the Grand Jury Report.

Councilmember Weinsoff discussed Recommendation No. 4 and believed there is no reason for the duplication to exist. They are a financial blight. He agreed to draft language to identify the fact that this agency has to go and agreed to bring back such language for the Council's consideration at the August Town Council meeting. The Council and staff agreed.

M/S, Weinsoff/Reed, Motion to continue this item to the August 1st, 2012, Town Council meeting.

AYES: All

16. Approval of Installation of Car Chargers in the Parkade as part of Electric Vehicle Charging Station Pilot Program and authorization to execute the Grant and Service Agreement for the program – *Building Official*

Building Official Mark Lockaby summarized the staff report and recommended that the Council approve the locations for the installation of three electric vehicles charging stations on Town property. Approve the general form of the four agreements necessary to receive grant funding, purchase electric vehicle charging stations, and install the charging stations. Authorize the Town Manager to execute the following agreements for the installation of three electric vehicle charging stations, subject to review and changes at the discretion of the Town Attorney:

1. Association of Bay Area Governments *(ABAG)*

2. Transportation Authority of Marin *(TAM)*

3. Clean Fuel Connection

4. Coulomb Technologies, Inc.

Building Official Lockaby noted that the vehicle charging parking spaces will be signed for 4-hour parking limit, which allows sufficient time to charge an electric vehicle while also encouraging vehicle turnover to allow usage by multiple vehicles. Also, after the initial one year pilot program of free usage, staff intends to recommend making the charging stations cost recovery.

Councilmember Weinsoff stated the day is coming when the redwood trees will fall over. He would not be in favor of this location because it will exacerbate the problem. He further suggested placing the charging stations in a different location in order not to compromise the redwood trees.

Mayor Hartwell-Herrero opened public comment.

Suzanne Lucent, TAM representative, reported that 17 electric charging stations are being placed around Marin County: 6 in Novato; 3 in Larkspur; 1 in Mill Valley; and hopefully 3 in Fairfax.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Building Official Lockaby agreed to have an arborist review the area in question in regard to the redwood trees.

M/S, O'Neil/Reed, Motion to approve the Installation of Car Chargers with the caveat that an arborist will review the roots of the redwood trees.

AYES: All

17. Introduction and First Reading of Ordinance No. 766, an Ordinance of the Town Council of the Town of Fairfax to protect fish and wildlife from the impact of latex balloons released into the environment by prohibiting their release within the Town of Fairfax – *Weinsoff*

Mimi Newton, Chair of Fairfax Open Space Committee/Mono Avenue resident, noted her excitement for being in front of the Council on this issue. She has been trying to stop mass balloon releasing for

many years. She explained that the environmental impacts from the release of balloons made from latex are not well known. Every conceivable cause imagined from seat belt awareness to opening of a new business release balloons. Fairfax should take a strong stance against releasing balloons into the environment, which is liter. She further noted that it is a straightforward resolution and hoped Fairfax can be the leader on this matter in order to protect fish and wildlife.

Vice Mayor Reed pointed out that the Town of Fairfax is small and symbolic and requested that Ms. Newton draft a letter addressed to State and Federal representatives. Ms. Newton agreed.

Councilmember O'Neil appreciated Ms. Newton's efforts and noted that Fairfax is a small town, but believed everyone loved the environment.

Mayor Hartwell-Herrero opened public comment, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for action.

M/S, Weinsoff/O'Neil, Motion to waive first reading of Ordinance No. 766 and authorize the introduction by Title only.

AYES: All

M/S, Weinsoff/O'Neil, Motion to approve first reading and introduce Ordinance No. 766: an Ordinance adding Section 8.12.170 establishing a "Prohibition Against the Release of Balloons" impacting fish and wildlife.

AYES: All

18. Adoption of Urgency Ordinance No. 767, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees - *Interim Town Manager*

Interim Town Manager/Town Clerk Judy Anderson summarized the staff report and recommended that the Council move to waive further reading and read the title only of Urgency Ordinance No. 767, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees; and adopt Urgency Ordinance No. 767, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees.

Mayor Hartwell-Herrero opened public comment, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for action.

M/S, O'Neil/Reed, Motion to waive further reading and read the Title only of Urgency Ordinance No. 767, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees.

AYES: All

M/S, O'Neil/Reed, Motion to adopt Urgency Ordinance No. 767, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees.

AYES: All

19. Introduction and First Reading of Ordinance No. 768, An Ordinance of the Town Council of the Town of Fairfax to Set Animal Control Fees and to establish a process to adopt future fees by Council Resolution – *Interim Town Manager*

Interim Town Manager/Town Clerk Judy Anderson summarized the staff report and recommended that the Council waive further reading and read the title of Ordinance No. 768, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees and to establish a process to adopt future fees by Council resolution; and introduce Ordinance No. 768, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees and to establish a process to adopt future fees by Council resolution.

Mayor Hartwell-Herrero opened public comment, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for action.

M/S, Weinsoff/Reed, Motion to waive further reading and read the title of Ordinance No. 768, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees and to establish a process to adopt future fees by Council resolution.

AYES: All

M/S, Reed/Weinsoff, Motion to introduce Ordinance No. 768, an Ordinance of the Town Council of the Town of Fairfax to set Animal Control Fees and to establish a process to adopt future fees by Council resolution.

AYES: All

10:42 p.m. Adjournment to a Special Meeting Closed Session on the following matter:

CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION pursuant to Government Code Section 54956.9 (c): one potential case.

Re-convene in Open Session:

Announcement of Closed Session Action:
Mayor Hartwell-Herrero announced that direction had been given to Town Attorney Karpiak and that no litigation would be initiated.

Upon motion duly made and carried, the meeting adjourned at 11:10 p.m.

Respectfully submitted,
Jessica Woods