TOWN OF FAIRFAX
COUNCILMEMBER REPORT

To: **Mayor and Town Council**

Meeting Date: **August 1, 2012**

From: **Councilmember Weinsoff**

Subject: **Second Reading and Adoption of Ordinance 766, protecting fish and wildlife from the impact of latex balloons released into the environment by prohibiting their release within the Town of Fairfax**

Recommendation

1. Open the public hearing and take testimony.

2. Close the public hearing.

3. Waive reading of Ordinance No. 766 and authorize introduction by Title only.

4. Adopt Ordinance No. 766: an Ordinance adding Section 8.12.170 establishing a "Prohibition Against the Release of Balloons" impacting fish and wildlife.

Background and Discussion

Mimi Newton, staff attorney with the federal Environmental Protection Agency and chair of our Open Space Committee, raises an important concern regarding the environmental impacts of indiscriminate balloon releases – commonly done for celebrations, memorials, advertising - to both marine and land-based species. Despite the public's (and particularly Fairfax's) concern about the broad spectrum of environmental issues, the environmental impacts from the release of balloons made from latex are not well known. The proposed Ordinance, amending the provisions in Title 8 of our Municipal Code governing litter, is a reasonable and focused approach to addressing this environmental challenge.

By way of background, mylar balloon releases are already prohibited under California law, but the balloon industry touts latex balloons as "biodegradable," without talking about the time latex takes to biodegrade, the rates of biodegradation in the marine environment, or the risks that can nonetheless result from latex balloon debris.

The balloon industry promotes the argument that balloons are great for a range of long-accepted reasons. But the environmental reality is that balloons, even latex balloons or those promoted as "biodegradable," are often mistaken for food by marine creatures, and that the ribbons used to tie them can become entangled in birds' beaks, and around

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the necks of birds and both land and marine animals.

As we debate this issue, Mimi identifies a set of issues to consider:

1. *Latex balloon problems*

While releasing thousands of balloons into the air might provide a quick thrill for humans, it is the start of years of potential trouble for the rest of the planet's inhabitants. It's true that latex balloons that rise to an altitude of 5 miles will become brittle and shatter into many pieces, but many don't get that high, and any that fall into rivers and the sea can take over a year to degrade.

2. *Balloon science*

Balloons fall generally into two categories - latex and metalized plastic. The former are your typical party balloon. They can be filled with helium and used in mass balloon releases outdoors. The second type is usually a laminate of nylon and aluminum foil. It is illegal in many states, including California, to release these "mylar" balloons into the environment.

3. *Impacts to Wildlife*

To a turtle a latex balloon might look like a jellyfish; to a whale it might resemble a squid. Dolphins, turtles, sharks, sea birds, whales and seals are some of the creatures that have been found dead with balloons in their digestive system. But the harm is not limited to sea creatures. Even desert tortoises have been known to be impacted by balloon debris they have ingested.

4. *Ribbons and other Hazards*

Many balloons are tied with ribbons, which pose a separate hazard. These can become entangled around beaks, or even around the necks of curious young animals that then face danger as they grow larger and the decorative noose tightens around them. One desert tortoise has been documented to have lost his leg to a balloon string entanglement. The truth is we do not know how many animals suffer and die because of balloons and the very nature of the environment makes it impossible to record even a fraction of the casualties.

5. *Mass balloon releases*

Environmental groups have been campaigning for years for a ban on mass balloon releases, and in many places legislation has been introduced to do just that. The Sea Turtle Foundation, consistent with the call from other environmental organizations, provides representative text on its website:

"Hundreds of balloons ascending into the sky can be an amazing sight. However people seldom think what happens to all those balloons once they return to earth. Few people realize that a balloon release that is over in a matter of minutes, leaves a legacy that remains for months, if not years.

Balloon litter floating at sea can be deadly for many animals. Sea turtles are particularly at risk as they mistake deflated balloons for their jellyfish food. Swallowed balloons block their gut and lead to death by starvation. Entanglement and subsequent drowning for baby turtles is an added risk. These risks also affect other marine wildlife like seabirds, dolphins and fish

Most balloons are made from 'biodegradable' latex, which degrades on exposure to air. However degradation can take up to six months and balloons floating in seawater can take up to twelve months to degrade.

Balloon releases have been banned in many places, including New South Wales in Australia, Plymouth City and Lancaster in the UK and Florida, California and Texas in the USA.

Sea Turtle Foundation is calling for a total ban of balloon releases worldwide." (http://www.seaturtlefoundation.org/stf-current-projects/campaigns/marine-debris/)

Mimi's request of the Council is based on her well-founded belief that an increase in media attention to the problem can, as we know, have a strong ripple effect. Fairfax and its Council, because of our recognized attention to environmental issues, can initiate a state-wide legislative conversation, particularly in the coastal areas throughout California, where latex balloon releases are particularly harmful.

ORDINANCE NO. 766

AN ORDINANCE ADDING SECTION 8.12.170 TO CHAPTER 8.12 TO THE FAIRFAX TOWN CODE TO BAN BALLOON RELEASES WITHIN THE TOWN OF FAIRFAX

The Town Council of the Town of Fairfax does ordain as follows.

Section 1. Statement of Intent

(a) The Town Code currently regulates in Chapter 8.12 a broad range of activities involving the deposit of "litter." These restrictions include, but are not limited to, depositing litter in public places, on sidewalks, from vehicles, in parks, our waterways, on private property, and into vacant lots.

(b) In order to expand the protections governed under the definition of littering to include the impacts to our natural environment from the uncontrolled intentional release of balloons, The Town Council is expanding the range of actions regulated under the Health and Safety provisions of this Chapter of the Town Code.

Section 2. Municipal Code Amended:

(a) The following is added as new Section Chapter 8.12.170 of the Town Code:

8.12.170 Prohibition Against the Release of Balloons.

The uncontrolled release of balloons into the environment, whether they are biodegradable or not, constitutes litter within the meaning of this chapter and no person shall intentionally release balloons into the environment within the Town of Fairfax for any purpose.

Section 3. Severability.

If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Town Council of the Town of Fairfax hereby declares that it would have adopted each article, section, and sentence thereof, irrespective of the fact that any one or more of said provision be declared unconstitutional or invalid.

Copies of the foregoing ordinance shall within fifteen (15) days after its final passage and adoption be posted in three public places in the Town of Fairfax, to wit:

(a) Bulletin Board, Fairfax Town Offices, Town Hall;

(b) Bulletin Board, Fairfax Post Office; and

(c) Bulletin Board, Fairfax Women's Club Building, which said places are hereby designated for that purpose, and shall be in full force and effect thirty (30) days from and after its final passage and adoption.

The foregoing ordinance was duly and regularly introduced at a regular meeting of the Town Council of the Town of Fairfax held in said town on the 11th day of July, 2012 and thereafter adopted on the 1st day of August, 2012 by the following vote, to wit:

AYES:

NOES:

ABSENT:

_____
PAM HARTWELL-HERRERO, MAYOR

ATTEST:

_____
JUDY ANDERSON,
TOWN CLERK