

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, April 3, 2013

The regular meeting was preceded by a Closed Session from 6:30 p.m. to 7:00 p.m.-  
Conference with Legal Counsel- Initiation of Litigation pursuant to Government Code  
Section 54956.9(c): one potential case

Conference with Legal Counsel- Anticipated Litigation pursuant to Government Code  
Section 54956.9(b): two potential cases

Conference with Legal Counsel pursuant to Government Code Section 54956.9(a):  
Moises Elterman and Kathleen Carroll, individually and as Trustees v. Town of  
Fairfax, et al, Marin Superior Court No. CIV 1300923

Conference with Labor Negotiator pursuant to Government Code Section 54957.6  
Agency designated representative: Garrett Toy, Town Manager; Employee  
Organizations: SEIU Local 949 Miscellaneous Unit, Police Officers Association and  
Un-represented Management Employees

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:**

Larry Bragman  
Renee Goddard  
Pam Hartwell-Herrero  
John Reed  
David Weinsoff

**STAFF MEMBERS PRESENT:**

Garrett Toy, Town Manager  
Jim Karpiak, Town Attorney  
Michele Gardner, Deputy Town Clerk  
Jim Moore, Planning Director  
Mike Vivrette, Finance Director  
Chris Morin, Chief of Police

Mayor Reed called the meeting to order at 7:13 pm.

Approval of Agenda and Affidavit of Posting

M/S, Bragman/Hartwell-Herrero, Motion to approve the agenda and the affidavit of posting with  
the placement of agenda item #22 after agenda item #3.

AYES: All

Announcement of Closed Session Action

Mayor Reed reported no action was taken during Closed Session. Council gave direction to  
counsel and staff

Regular Agenda

Second Reading and Adoption of Ordinance No. 769, An Ordinance of the Town Council of the  
Town of Fairfax establishing the procedure for replacement of Council Members who resign  
before the end of the elected term of office- Town Manager

Town Manager Toy presented a brief staff report.

Councilmember Bragman asked if the Council could call for an election at the next regular election or at the next specially set municipal election. Town Attorney Karpiak stated "yes".

M/S, Bragman/Weinsoff, Motion to waive further reading of Ordinance No. 769, an Ordinance of the Town Council of the Town of Fairfax adding Section 2.04.020 (Council Vacancies) to the Fairfax Municipal Code.

AYES: All

M/S, Bragman/Weinsoff, Motion to adopt Ordinance No. 769, an Ordinance of the Town Council of the Town of Fairfax adding Section 2.04.020 (Council Vacancies) to the Fairfax Municipal Code.

AYES: All

Adoption of Resolution 13-13, a Resolution of the Town Council of the Town of Fairfax proposing a special election be held in its jurisdiction on November 5, 2013; requesting the Marin County Board of Supervisors to consolidate with any other election conducted on said date; requesting election services by the County Clerk; and providing for candidate's statement of qualifications and filing fee- Town Manager

Town Manager Toy presented a brief staff report.

M/S, Bragman/Weinsoff, Motion to Resolution No. 13-13, a Resolution of the Town Council of the Town of Fairfax Proposing a Special Municipal Election be held in its jurisdiction on November 5, 2013; Requesting the Marin County Board of Supervisors to Consolidate with any other Election Conducted on said date, requesting Candidate's Statement of Qualifications and Filing Fee.

AYES: All

Appointment of Candidate to fill the vacancy caused by Ryan O'Neil's resignation from the Town Council, and oath of office to seat new Councilmember- Town Manager/Deputy Town Clerk

Town Manager Toy presented a brief staff report.

Councilmember Hartwell-Herrero stated the choice was between two worthy candidates. She supports Renee Goddard.

Councilmember Bragman agreed they were two qualified candidates. He supports Barbara Coler.

Councilmember Weinsoff stated there would be a vacancy on the Council very soon due to the resignation of Councilmember Hartwell-Herrero. He suggested the two candidates decide who should go "first".

Mayor Reed noted there is a difference in the two appointments- Councilmember O'Neil's seat has a two-year term and the other seat has a four-year term. He asked the two candidates if they had a preference.

Ms. Barbara Coler stated the decision should be made by the Council.

Ms. Mimi Newton, Mono Avenue, agreed with Ms. Coler.

Ms. Susan Adams, Tamalpais Road, stated she trusts the decisions made by the Council and the applicants should not be asked to "negotiate".

M/S, Hartwell-Herrero/Weinsoff, Motion to appoint Renee Goddard to fill the vacancy on the City Council.

AYES: Hartwell-Herrero, Weinsoff, Mayor Reed

NOES: Bragman

Deputy Town Clerk Gardner administered the Oath of Office to Ms. Renee Goddard.

Councilmember Goddard took her seat at the Council dais.

Discussion/Consideration of a process to select a candidate to fill the seat being vacated by Councilmember Hartwell-Herrero effective April 9, 2013- Town Manager

Councilmember Hartwell-Herrero recused herself and stepped down from the dais.

Town Manager Toy presented a brief staff report.

Mayor Reed stated he would like to open up the process for additional candidates

Councilmember Bragman stated they should move as quickly as possible. He did not want to modify the application process (keep same questions, same application) and thought they should notify all candidates who previously applied. They could accept applications until the end of next week. He asked if they could accept applications prior to the effective date of Councilmember Hartwell-Herrero's resignation. Town Attorney Karpiak stated "yes".

Councilmember Weinsoff agreed and did not want to re-interview prior applicants. They could interview new applicants at the May meeting or hold a Special Meeting for interviews if they receive more than three new applicants.

Town Manager Toy stated staff would begin this process.

Councilmember Hartwell-Herrero took her seat at the dais.

The Council took a 15-minute break at 7:55 p.m.

Town Manager Toy asked the Council to consider agenda item #17 prior to the Announcements.

M/S, Bragman/Weinsoff, Motion to move agenda item #17 and consider it prior to the Announcements.

AYES: All

### Public Hearing

Adoption of Resolution No. 13-17, adopting traffic study methodology for 1599 Sir Francis Drake Boulevard ("Salami Factory")- Planning Director

Planning Director Moore presented a staff report.

Councilmember Bragman asked if the Council could require bicycle parking/racks to mitigate car trips.

Mr. Doug MacIntosh, applicant, stated they are planning to install bicycle racks on-site.

Mayor Reed opened the Public Hearing.

Mr. Bruce Ackerman, Valley Road, stated the General Plan includes the concept of a secure storage place for bicycles.

Molly, Hill Avenue, stated she had traffic concerns and she asked the applicant how he would encourage bicycle and pedestrian traffic. She asked about the hours of operation. She stated the Town should install a crosswalk from Belle Avenue to Pastori.

Mayor Reed closed the Public Hearing.

Mr. McIntosh stated the busiest time would be from 8:45 a.m. to noon, Monday through Friday. There will be some early morning classes (6:30 a.m.) that would have about eight people in attendance.

Councilmember Hartwell-Herrero asked the applicant if he would be willing to offer some incentives to clients who walk or bicycle to class. Mr. McIntosh stated they are open to all suggestions.

Mr. Wayne Walker, Sir Francis Drake Boulevard, stated he shares a common driveway with the subject property. He stated the traffic study should consider the speed bump in the driveway and the visual hazard posed by the Golden Gate Transit bus stop. He noted the neighborhood is very congested. There were some jurisdictional issues surrounding the driveway.

Mr. Steve Franks, Willow Avenue, expressed concern about noise levels in the morning.

Mayor Reed closed the Public Hearing.

Councilmember Goddard asked if the traffic study addressed ingress and egress into the property. Planning Director Moore stated "yes".

Mr. David Parisi, traffic engineer, stated he helped formulate the traffic study approach which includes estimated trip generation for autos for several scenarios. They also looked at driveway operations and parking.

Councilmember Weinsoff asked if the traffic study took into consideration traffic violations that could occur. Mr. Parisi stated "yes".

M/S, Weinsoff/Hartwell-Herrero, Motion to adopt Resolution No. 13-17, a Resolution of the Fairfax Town Council Establishing a Methodology for Preparing a Traffic Impact Study for a Daily Method Fitness Program that Combines Pilates, Yoga, and Orthopedic Exercises in an Hour Long Exercise Regime at 1599 Sir Francis Drake Boulevard, Fairfax California.

AYES: All

### Announcements

Mayor Reed made the announcements as they appeared on the agenda.

### Reports and Presentations

Quarterly Report from the General Plan Implementation Committee- Bruce Ackerman, Chair

Mr. Bruce Ackerman, Chair of the GPIC, thanked the Council for adopting the GPIC by-laws. He reported they are working on the core mission and prioritizing General Plan Programs, including the creation of a Draft Climate Action Plan.

Open Time:

Mr. Mark Bell, Dominga Avenue, stated the street sign at the intersection of Napa and Dominga has been removed. He thanked staff.

Mr. Steve Franks, Willow Avenue, stated the Good Earth continues to be in violation of its Use Permit. Planning Director Moore stated the Planning Commission would be reviewing the Use Permit on April 18<sup>th</sup>.

Council Reports and Comments

Councilmember Weinsoff reported he attended the Marin County Council of Mayors and Councilmember (MCCMC) meeting; the MCCMC Legislative Committee meeting and participated in a discussion regarding SB 7 (bill regarding a prevailing wage); the Ross Valley Fire Board meeting; he will be attending the League of California Cities Conference.

Councilmember Hartwell-Herrero reported she attended the MCCMC meeting; the Cittaslow USA retreat; met with the new Farmer's Market vendor.

Councilmember Bragman reported he attended the MCCMC meeting; a Community Media Center of Marin Board meeting; will attend the Marin Energy Authority (MEA) meeting tomorrow night

Mayor Reed reported he attended the MCCMC meeting; a Fair Bucks meeting; the Greenbrae/Twin Cities Highway 101 Corridor Project meeting; met with representatives of Meals on Wheels. He discussed an electronic ride-sharing program through the Transportation Authority of Marin (TAM).

Town Manager Report

Planning Director Moore reported on the successful merging of the Design Review Board with the Planning Commission

Consent Calendar

**Discussion/Consideration of expansion of Volunteer Board- Town Manager**

**Approval of Town Council minutes for the March 6, 2013 meeting – Deputy Town Clerk**

**Approval of a contract with Sustainable Fairfax to implement the mandates of the Zero Waste Grant- Town Manager/Zero Waste Committee**

**Approval of Financial reports for January 2013 – Finance**

**Adoption of Resolution 13-14, a Resolution of the Town Council of the Town of Fairfax Authorizing Temporary Closure of Broadway from Pacheco to Bolinas Road to allow a Car Show on Sunday, September 8, 2013- Deputy Town Clerk**

**Adoption of Resolution No. 13-15, a Resolution of the Town Council of the Town of Fairfax Authorizing Temporary Closure of streets for the Fairfax Festival and Parade- Deputy Town Clerk**

**Adoption of Resolution No. 13-16, A Resolution of the Town Council of the Town of Fairfax electing to become subject to the uniform construction cost accounting procedures set forth in the Uniform Public Construction Cost Accounting Act, Cal. Public Contract Code Section 22000 *et seq***

**Adoption of Proclamation declaring National Library Week April 14-20, 2013- Deputy Town Clerk**

**Adoption of Proclamation declaring April as Fair Housing Month in Fairfax- Deputy Town Clerk**

**Proclamation Declaring Thursday, April 25<sup>th</sup> and Sunday, April 28<sup>th</sup>, 2013 as Muscular Dystrophy Association "Fill the Boot Days" at Ross Valley Fire Headquarters at 777 San Anselmo Avenue, San Anselmo- Deputy Town Clerk**

**Approval of Request to have the public parking space across the street from 1 Belmont Avenue converted to accessible parking space- Planning Director**

M/S, Bragman/Weinsoff, Motion to approve the Consent Calendar with the removal of item #5 for discussion, corrections to the March 6, 2013 minutes, and a correction to the Budget Report- Measure "F" should be changed to Measure "I".

AYES: All

ABSTAIN: Hartwell-Herrero and Goddard abstained from voting on item #7

Discussion/Consideration of expansion of Volunteer Board- Town Manager

Mayor Reed presented a brief report.

M/S, Hartwell-Herrero/Bragman, Motion to establish an alternate on the Volunteer Board.

AYES: All

Interview and Appointment

Interview and Appointment of candidate(s) to the Volunteer Board for a full three-year term- Town Clerk

Mr. Mark Solomons briefly discussed his background and qualifications. He asked if the alternate would be a voting member. Mayor Reed stated "yes".

Ms. Anya Schandler briefly discussed her background and qualifications

Ms. Maryann O'Sullivan briefly discussed her background and qualifications

M/S, Weinsoff/Bragman, Motion to re-appoint Ms. Anya Schandler to the Volunteer Board for a three-year term to March 31, 2016; appoint Ms. Maryann O'Sullivan to the Volunteer Board for a three-year term to April 30, 2014; and appoint Mr. Mark Solomons as the alternate to the Volunteer Board.

AYES: All

Regular Agenda (continued)

Discussion/Consideration of potential projects for the State Department of Parks and Recreation grant funding; adoption of Resolution No. 13-18, a Resolution of the Town Council of the Town of Fairfax authorizing the filing of an application for grant funds for the Per Capita grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002; and Adoption of Resolution No. 13-19, a Resolution of the Town Council of the Town of Fairfax authorizing the filing of an application for grant funds for the Roberti-Z'Berg-Harris Block Grant Program Under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002- Town Manager

Town Manager Toy presented a staff report.

Councilmember Bragman stated all the projects have merit. Adding the catering kitchen to the Pavilion was a good idea since it would generate revenue and increase its utility in the event of an emergency. The stage in the Women's Club should be more flexible.

Councilmember Goddard asked if these were the only items up for discussion. Town Manager Toy stated staff was open to suggestions. Councilmember Goddard stated she would like to see the bathrooms in the Pavilion renovated. Town Manager Toy stated that was included in the retrofit program and was a separate project.

Mayor Reed stated refinishing the floor in the Pavilion was not the best use of these funds. Adding a catering kitchen in the Pavilion was a good idea. He would like to see them stub out the restrooms at the Little League Ball field for showers.

Councilmember Weinsoff stated adding a catering kitchen in the Pavilion was very important.

Councilmember Hartwell-Herrero stated her priority would be the addition of a catering kitchen in Pavilion.

Councilmember Bragman asked if the ball field restroom project has gone out to bid. Town Manager Toy stated "yes" and noted it came in above budget at \$58,000. Staff is looking for some volunteer contractors.

Mr. Mark Squires, Frustuck Avenue, stated the plans for these public buildings should be on the Town Website. The ball field restroom project was critical.

Mr. Mark Bell stated the amount of water used by the showers in the Pavilion should be monitored. Councilmember Hartwell-Herrero stated they could be coin/token operated.

M/S, Weinsoff/Hartwell-Herrero, Motion to adopt Resolution No. 13-18, a Resolution of the Town of Fairfax Authorizing the Filing of an Application for Grant funds Per Capita Grant Program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.

AYES: All

M/S, Weinsoff/Hartwell-Herrero, Motion to adopt Resolution No. 13-19, a Resolution of the Town of Fairfax Authorizing the Filing of an Application for Grant Funds for the Roberti-Z'Berg-Harris Block Grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.

AYES: All

Discussion of Protecting Pedestrian Rights-of-way- Mayor Reed

Mayor Reed presented a report.

Town Attorney Karpiak stated from a real estate law perspective each site would be different depending on who has title and how the right-of-way was established. There could be some offers of dedication or donation by the property owners.

Councilmember Bragman asked if the Town has an inventory of these sites. Mayor Reed stated "yes, in the General Plan".

Town Attorney Karpiak stated this would be an excellent summer project for a law student.

Councilmember Goddard asked about maintenance responsibilities. Town Manager Toy stated it would depend on the right-of-way location.

Town Attorney Karpiak stated this would be an excellent summer project for a law student. He would work on a job description with the Town Manager.

Mr. Mark Bell had questions about a house that was constructed in the public right-of-way.

Mr. Mark Squires suggested they prioritize the most valuable pieces of property in terms of serving as a foot transportation system in Town

Discussion/Consideration of a street mandala project- Councilmember Hartwell-Herrero

Councilmember Hartwell-Herrero presented a report. She noted a street mandala could serve as a traffic calming device and help to build community.

Councilmember Bragman stated it was a good idea that should go through Design Review. The dogleg on Bolinas that leads into Deer Park was another possible location. They would need to get the stakeholders involved.

Councilmember Goddard stated it was a good idea and she would like to help make it happen.

Discussion/Consideration of response to Grand Jury Report Marin On Fire Redux- Town Manager

Town Manager Toy presented a brief staff report.

Councilmember Weinsoff stated the Town does not have to respond to all the Findings and Recommendations. He referred to page 15, Request for Responses, and stated F1, F2, F3, R3, and R5 are mostly benign. He noted there was a limited scope to what the Town is being asked to approve.

Councilmember Bragman stated he would like the Council to have an opportunity to respond to the report. This report is a "cut and paste" of the Marin Municipal Water District (MMWD) Vegetation Management Plan and does not take a critical look at the overall needs of the community.

Town Manager Toy suggested the Council appoint two members to draft a response. Councilmembers Bragman and Weinsoff agreed to work together on a response to the report.

Mr. Mark Bell was opposed to the water district's attempt to poison the community's drinking water.

Mr. Mark Squire discussed the documented health problems with the use of Round Up. It should not be allowed to get into the public's drinking water.

M/S, Hartwell-Herrero/Bragman, Motion to adjourn the meeting at 10:30 p.m.  
AYES: All

Respectfully submitted,

Toni DeFrancis  
Recording Secretary