

Fairfax Town Council Minutes
Special Meeting
Women's Club, 46 Park Road, Fairfax
and via teleconference
Wednesday, **January 10, 2024**

Mayor Coler called the Special meeting to order at 5:30 p.m.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Bruce Ackerman
Lisel Blash, Vice Mayor
Barbara Coler, Mayor
Chance Cutrano
Stephanie Hellman

STAFF MEMBERS PRESENT: Heather Abrams, Town Manager
Christine Foster, Deputy Town Clerk
Janet Coleson, Town Attorney
Jeff Beiswenger, Planning Director
Loren Umbertis, Public Works Director

Closed Session – 5:30 p.m.

Liability Claim
Claimant: David Cron
Agency claimed against: Town of Fairfax
Govt Code Section 54956.95

Special Meeting to Conduct Interviews and Make Appointments at 6:00 P.M.

1. Interview and consider appointment of applicants to the Parks and Recreation Commission

The Council conducted interviews of candidates, Rachel Fischbein and Lita Zigounakis, for the Parks and Recreation Commission.

M/S, Cutrano/Hellman, Motion to appoint candidates Rachel Fischbein and Lita Zigounakis to the Parks and Recreation Commission.

AYES: Ackerman, Cutrano, Hellman, Vice Mayor Blash, Mayor Coler

Reconvene: The Council reconvened in Open Session at 6:30 p.m.

Pledge of Allegiance – Led by Mayor Coler.

Approval of Agenda

M/S, Cutrano/Ackerman, Motion to approve the agenda.

AYES: Ackerman, Cutrano, Hellman, Vice Mayor Blash, Mayor Coler

Mayor Coler read the Land Acknowledgement Statement, delivered a brief statement regarding the Town's position and protocols on hate speech, and announced there was no reportable action taken in Closed Session.

Public Hearing – 6:30 p.m.

2. Introduce and read by title only zoning amendments to implement Program 2-D (Standards for Low Impact Clustered Residential Development on Large Sites) of the Housing Element by amending the following chapters of Title 17 (Zoning) of the Fairfax Municipal Code: 17.060 (Ridgeline Development); 17.072 (Hill Area Residential Development Overlay Zone); 17.124 (UR Upland Residential Zone). Adoption of this ordinance has been analyzed as part of the Environmental Impact Report prepared for the 2023-31 Housing Element project – *Jeff Beiswenger, Planning and Building Services Director*

Jeff Beiswenger, Planning and Building Services Director presented the staff report and provided a PowerPoint presentation. He introduced Andrew Hill, Principal at Dyett & Bhatia who also provided an overview of the Housing Element.

Council members provided questions and comments.

Staff responded to questions from the Town Council.

In answer to Councilmembers questions, Mr. Beiswenger and Mr. Hill explained ways of assigning open space and conservation easements; clustered development benefits to the Town and developer; overview of the Housing Element and how text amendments relate to it; criteria used to develop clustered housing; Planning Commission discretionary review; CEQA compliance; permanency of open space, Housing Element strategies for programs; ADUs and JADUs; open space accessibility; the process required for a development review permit; negotiations and putting 75% of property into open space through a conservation easement; the identification of 5 R-6 sites and standards.

Mayor Coler opened the public hearing.

Nancy Prickett voiced concern about the Housing Element process drastically changing the Town.

Tony Gamberdella voiced opposition to including 615 Oak Manor in the Housing Element.

Dave Cadudo, Snowden Lane, stated he is party to the Settlement Agreement the Town is in breach, asked the Town to listen to its constituents regarding open space, and read recall provisions of Town officials.

Miriam Weinstein asked questions about the zoning of the Community Church and voiced concerns about the impacts of that.

Michelle Simonson agrees with fire dangers and being stuck in traffic and voiced concerns about being able to maintain the Town's charm.

Rick Hamer made comments about 615 Oak Manor regarding RHNA and developers' interests.

Michael Mackintosh made comments about the use of open space changing.

Christine Orella supports planned unit developments in clustered development but voiced concerns with building in the urban wildland interface.

Michelle Padilla Gudde voiced concerns with State requirements for affordable housing, gridlock getting in and out of town, and the Camp/Paradise fires and their impacts.

Mark Bell commented on the Town's investment in this process and questioned ridgeline protection.

Frank Egger opposes the Housing Element, and voiced concerns about homeowner policies, increased rents, and RS-6 zoning of 615 Oak Manor Drive.

Barbara Hefling voiced concerns with current and increased traffic congestion, emergency egress, loss of fire insurance, and opposed clustered development, ADUs being used as Airbnb's vacation rentals versus low-income housing.

Will Soverthorne asked to consider the liability on 615 Oak Manor, insurance, and fire issues.

Todd Greenberg questioned Town spending, disclosure of conflicts of interest on housing related matters, and prohibition of clapping and free speech.

James Cosgrove spoke about fire, insurance, and traffic concerns, and density bonuses on School Street.

Mayor Coler clarified School Street Plaza is not impacted by this zoning text amendment and there is also no specific proposal at this time.

Mallory Geitheim spoke of changes with the Council, free speech and clapping, legal counsel concerns, fire concerns, and ADUs used for guests and not low-income population needs.

Brent Sharschmidt opposed the development of 615 Oak Manor because of its beauty.

A speaker said she and her husband lost their original Fair Plan fire insurance and now pay more for a different Fair Plan policy.

Tunafish Salin asked why public open time was not allowed at the start of the meeting and opposed environmental destruction.

Kiersten asked to retain the protected open space that has zoning protections from 50 years ago, asked that early residents be named in the Land Acknowledgement Statement, and voiced opposition to the text amendments.

Debra Benson asked for specific language for clustering to retain open space and undeveloped hillsides.

Lynn asked the Clerk to announce names of upcoming speakers, asked to prove residents will be able to evacuate before developing and for Councilmembers to protest the State's housing requirements.

Barbara Petty questioned how the Council can change zoning for parcels and asked to do the right thing.

Mayor Coler clarified that she did not talk about zoning but rather changing a recorded easement, which is more difficult than changing zoning.

John Reynolds described his concerns with Marin cities' environments, preservation of lands, native populations, housing, disadvantaged members, and supported buffers and provisions for needed affordable housing.

Jane urged the Council to fight for its residents and turn down the State's demands for housing growth.

Christy, Firewise member from Oak Manor, voiced concerns with evacuation risk and gridlock, the programmatic EIR, and unfounded mitigation responses.

Mary Vidal, Firewise member and EMT, voiced concerns with evacuation routes, water shortages, insurance cancellations, ADUs, open space access restrictions, suggested a ballot measure to rezone the Marin Town and Country property, and to fight the State to reduce the Town's RHNA.

Skylar asked if the Council studied Paradise or other towns that have dealt with evacuations. She is skeptical that consideration is given to safety, and voiced distrust of Councilmembers.

Mayor Coler closed the Public Hearing.

Mayor Coler responded to questions and comments from speakers.

Mayor Coler voiced support of what has been done thus far; supported affordable housing development; clustering close to roads and infrastructure and asked if the Council could add specific language as to where clustering can be used.

Mr. Hill briefly explained where clustering would apply.

Mayor Coler called for Council deliberation.

Councilmember Ackerman voiced concerns with evacuation issues, and does not see a way to fight the State to disregard work towards getting a certified Housing Element

He also commented that there are provisions for common spaces in clustered development and he asked staff to elaborate on the limits of this.

Mr. Hill said it is helpful to clarify that the intent is to allow for communal buildings for the common use of residents and not the public for commercial or retail use. There is a minimum size stipulated but not a maximum size.

Vice Mayor Blash said another question she heard was whether the Council can require public open space as a condition of getting that designation.

Town Attorney Janet Coleson stated if the Council is going to require a dedication there must be a nexus for it, and this is not something that can be added as a requirement.

Councilmember Cutrano voiced support of the water efficient landscape code being included, information about Ross Valley Fire Department, the language revisions regarding scenic highways, inclusion of the dark sky language, and the way this text is strengthening some sections of the ordinances to remove ambiguity to protect ridgelines.

Councilmember Cutrano requested the following minor amendments:

1) The top of page 5 of Attachment A, Section 17.060.050; Criteria for Review of Application. In subsection b.1, the second sentence talks about "extensive tree pruning and tree removal." To remove ambiguity, he asked to remove the word "extensive." He also referred to the middle of page 8, the Hill Area Residential Development Overlay. In Section 17.072.010; Purpose, subsection b.1 talks about encouraging maximum retention of natural topographic features such as drainageways, streams, slopes...." so he again would like to remove the word "extensive."

2) The top of page 5, under that same section for Criteria for Review of Application, subsection b.2 states, "additional screening and cover shall be provided with new planting with native species

and other approved suitable species. He appreciates the opportunities for replanting, and he would like to remove “other approved suitable species” and just focus on replanting with native plant communities.

Mr. Beiswenger stated staff can make these two changes, and Councilmembers concurred with his suggestions.

Councilmember Cutrano then referred to the middle of page 6, subsection 9.b; Ridgeline View Protections, which states, “No part of a building ~~may~~ **shall** exceed 28.5 feet on the upslope, 35 feet on the downslope lot.” Staff is recommending moving this language from “may” to “shall.” He asked and confirmed with Mr. Beiswenger that these numbers exist in the code and have been tried and true in terms of ridgeline protection. Staff have taken several single-family home expansions and remodels forward and have used these regulations.

Mayor Coler asked if it is possible to add language to require clustering on the lower part of the property. Mr. Beiswenger referred to page 12/13, subsection h.6 under a; and Mayor Coler asked that it be revised to read: “Site Layout and Building Design; All cluster development shall a) locate development along the lower portion of the property away from ridgelines, along existing streets and/or on already disturbed land to the extent feasible to protect undeveloped areas.”

Mayor Coler asked to maintain her original suggestion for revision. She added that there is an Errata, the revisions Councilmember Cutrano just made and her revision, and asked for a motion.

M/S, Ackerman/Cutrano, Motion to introduce and read by title only zoning amendments to implement Program 2-D (Standards for Low Impact Clustered Residential Development on Large Sites) of the Housing Element by amending the following chapters of Title 17 (Zoning) of the Fairfax Municipal Code: 17.060 (Ridgeline Development); 17.072 (Hill Area Residential Development Overlay Zone); 17.124 (UR Upland Residential Zone). Adoption of this ordinance has been analyzed as part of the Environmental Impact Report prepared for the 2023-31 Housing Element project, including the Errata Sheet published as a packet supplement, including the change by Councilmember Cutrano and Mayor Coler made, as follows:

1) The top of page 5 of Attachment A, Section 17.060.050; Criteria for Review of Application. In subsection b.1, second sentence, be amended to read, “**extensive** tree pruning and tree removal.” The middle of page 8; the Hill Area Residential Development Overlay, in Section 17.072.010; Purpose, subsection b.1, remove the word “**extensive**” where it talks about encouraging maximum retention of natural topographic features such as drainageways, streams, slopes.....”

2) The top of page 5, under section for Criteria for Review of Application, subsection b.2 be amended to read, “additional screening and cover shall be provided with new planting with native species ~~and other approved suitable species.~~”

3) Page 13 under subsection h.6 under a should read, “Site Layout and Building Design; All cluster development shall a) locate development along the lower portion of the property away from ridgelines, along existing streets and/or on already disturbed land to the extent feasible to protect undeveloped areas.”

AYES: Ackerman, Cutrano, Hellman, Vice Mayor Blash, Mayor Coler

The Council took a break at 9:23 p.m. and, thereafter, reconvened at 9:34 p.m.

Regular Agenda

3. Discuss and Consider Town Council Board and Committee Assignments for 2024 –*Christine Foster, Deputy Town Clerk*

Deputy Town Clerk Christine Foster presented the staff report.

Mayor Coler moderated a brief discussion.

Mayor Coler opened the meeting to public comments.

Todd Greenberg asked Councilmembers to report back on their meetings and assignments and voiced concerns with the homeless situation.

Michael Mackintosh questioned Council activities.

PJ Feffer voiced support for the Legislative Committee alternate assignment, asked Councilmembers to urge State representatives for advanced legislation that supports Fairfax.

M/S, Hellman/Ackerman, Motion to approve the Town Council Board and Committee Assignments for 2024, as amended.

AYES: Ackerman, Cutrano, Hellman, Vice Mayor Blash, Mayor Coler

4. Discuss and Consider Bond Measure for Road Repairs and Provide Direction to Staff –
Heather Abrams, Town Manager

Town Manager Abrams presented the staff report and gave a PowerPoint presentation.

Wing-See Fox, Managing Director from Urban Features, also gave a PowerPoint presentation.

The Mayor reviewed the 10:00 p.m. rule.

M/S, Ackerman/Hellman, Motion to keep going with the agenda.

AYES: Ackerman, Blash, Hellman, Vice Mayor Coler, Mayor Cutrano

Ms. Fox then continued with the PowerPoint presentation.

Staff and Ms. Fox responded to Council questions about voter thresholds under ACA-1 if passed; issuance of G.O. bond tranches; assessed value growth rate; ad valorem tax rate collection which pays debt service on bonds; the scientific survey or poll; timing; residents forming a campaign; an estimate of the tax bill and threshold; including the specific amount for roads in the poll to determine voter support; the case study of PCI scores in other jurisdictions and potential use of Pavement Engineering, Inc. and development of a 5-year plan; possible November ballot measures; limited grant use and other funding sources; and creation of a citizens' oversight committee.

Mayor Coler opened the meeting to public comments.

Pamela Miggs voiced concerns about the Town's plan to budget for roads, questioned grants and sharing bonds throughout the County, bidding requirements, the length of the bond, debt service costs, and issues with retaining walls and canyons.

Todd Greenberg voiced concerns about a bond measure.

Mark Bell voiced concerns about a bond measure.

Michael Mackintosh had questions about the bond measure.

Rick Hamer opposed a bond measure.

Lynn Yetter questioned funds used from not having a Public Works Director, thinks the proposal would restrict property owners if they cannot pass costs down to renters, cited overwhelming ballot measures for November, asked the Town to block holes, address slippery conditions, and fix the water coming up from the ground on Marinda Drive.

Debra Benson voiced concerns about Town spending.

Mallory Geithem voiced concerns about Town spending and supports some portion of the budget being spent on the Town's infrastructure and roads.

Mayor Coler closed the meeting to public comments.

Mayor Coler responded to comments from the public.

All Councilmembers voiced support for a scientific poll.

Town Manager Abrams agreed to work with the consultant to develop and conduct a scientific poll and return with the results.

Councilmembers then discussed consideration of a subcommittee, whether the draft poll should return to the Council, and possible bias for the community to see the poll ahead of time. Town Manager Abrams agreed to ask the polling consultant about these details and return to the Council with a response under the Town Manager's Report.

The Mayor reviewed the 11:30 p.m. rule.

M/S, Ackerman/Cutrano, Motion to keep going with the agenda.

AYES: Ackerman, Blash, Hellman, Vice Mayor Coler, Mayor Cutrano

Consent Calendar

Mayor Coler announced there are supplements for Items #5, #6, and #10.

5. Adopt Resolution Dissolving and Terminating the Affordable Housing Committee – *Heather Abrams, Town Manager*
6. Adopt a Resolution Approving a Supplemental Budget Appropriation in the Amount of \$18,613.72, Authorizing Final Payment, Accepting Work as Complete and Authorizing the Town Manager to Issue a Notice of Completion for the Fairfax Streets and Roads Improvement Project – *Loren Umbertis, Public Works Director*
7. Adopt a Resolution Authorizing the Town Manager to Issue a Notice of Completion for the 145 Canyon Road Retaining Wall Repair and Road Re-stabilization Project – *Loren Umbertis, Public Works Director*
8. Adopt a Resolution Authorizing the Town Manager to Issue a Notice of Completion for Sidewalk Improvement Project – *Loren Umbertis, Public Works Director*
9. Approval of Project Charter with Marin County for Bolinas Road – *Heather Abrams, Town Manager*
10. Adopt a Resolution Authorizing the Town Manager to Purchase and Outfit One Building Official Vehicle (EV) for an amount not to exceed \$50,000 – *Rico Tabaranza, Chief of Police*

11. Receive Cease and Desist letter from Fairfax Resident Mark Bell and Town's Response – *Heather Abrams, Town Manager and Janet Coleson, Town Attorney*

Mayor Coler opened the meeting to public comments.

Mark Bell asked to pull #11

Todd Greenberg asked for Items 5, 8, 9, and 11 to be removed,

Tunafish Salin referred to a script he sent the Council, how he would like the item to be continued or voted on separately.

Mallory Geitheim mentioned her involvement on the Affordable Housing Committee, she was not alerted that the Council was going to remove it and believes the committee is worth continuing.

Debra Benson agreed with the previous speaker.

Lynn Yetter asked the Council to reach out to people, and to keep committees going.

Other speakers commented on the Council's protocol for Consent Calendar items.

Mayor Coler closed the meeting to public comments.

Mayor Coler responded to comments from the public.

M/S, Cutrano/Hellman, Motion to approve the Consent Calendar, including Supplements for Items #5, #6, and #10.

AYES: Ackerman, Cutrano, Hellman, Vice Mayor Blash, Mayor Coler

Council Reports and Comments

Mayor Coler asked to adjourn in memory of Constance I. Judson, (Parsons, Connelly) and Joan Jones.

Town Manager Report

Town Manager Abrams had no report.

Future Agenda Items

None.

Adjournment

The meeting was adjourned at 12:02 a.m. in memory of Constance I. Judson, (Parsons, Connelly) and Joan Jones.