

DRAFT  
Fairfax Town Council Minutes  
Special Meeting  
Women's Club, 46 Park Road, Fairfax  
and via teleconference  
Wednesday, **May 22, 2024**

Mayor Coler called the Special Meeting to order at 4:30 p.m.

Call to Order/Roll Call:

Councilmember Cutrano will participate via teleconference from 317 K St NW, Washington, DC 2000.

**COUNCILMEMBERS PRESENT:**

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

**STAFF MEMBERS PRESENT:**

Heather Abrams, Town Manager  
Janet Coleson, Town Attorney  
Christine Foster, Deputy Town Clerk  
Jeff Beiswenger, Planning and Building Services  
Director  
Public Works Director Loren Umbertis

Adjourn to Closed Session on the Following Matters:

1. CONFERENCE WITH LABOR NEGOTIATORS  
Govt Code Section 54957.6  
Employee Organization: Fairfax Police Officers Association, Service Employees Union International ('SEIU') Local 1021; Unrepresented Employee Units  
Agency Representatives: Town Manager, Town Finance Director, Town Attorney
2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Govt Code section 54957  
Town Attorney

[Open Session: Regular Meeting — 6:30PM](#)

Hybrid meeting at the Fairfax Women's Club and via [Zoom](#)

Report out on Closed Session:

Mayor Coler announced that no reportable action was taken in Closed Session.

Approval of Agenda

Mayor Coler announced many people were present for Item 2 and she suggested the Council move it up to be heard as Item 1.

M/S, Cutrano/Hellman, Motion to approve the agenda, as amended, to move up Item 2 to be heard as Item 1.

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

Pledge of Allegiance: Mayor Coler led in the Pledge of Allegiance.

Mayor Coler read the Land Acknowledgement Statement and delivered a brief statement regarding the Town's position and protocols on hate speech. She asked speakers to be civil and refrain from using profanity and/or disparaging people based upon race, religion, orientation, or country of origin. She will disconnect anyone's comments that disrupt the orderly conduct of the meeting and/or absent appropriate findings are not under the Council's subject matter jurisdiction or are not germane to the topic or matter being discussed.

Regular Agenda:

2. Consideration and Approval of Memorandum of Understanding (MOU) Between the Town of Fairfax and Marin Open Space Trust (MOST) Regarding the Acquisition of the Wall Property – *Town Attorney Janet Coleson*

Town Attorney Janet Coleson provided background and an overview of the item regarding the MOU between the Town of Fairfax and the Marin Open Space Trust (MOST) regarding the potential acquisition of the Wall property.

Mayor Coler stated she and Councilmember Cutrano are on the subcommittee, and she asked if there were questions from Councilmembers.

Councilmember Cutrano commented and asked for confirmation that the MOU is not necessarily the final binding agreement, but it puts forward a plan of action where MOST would need to raise the full acquisition cost of \$2.3 million and the additional \$500,000 for maintenance and restoration in order for the MOU to lead to the next step of formal acquisition.

Town Attorney Coleson said there is no next step necessarily, other than all monies must be placed in escrow. Then, this MOU states the Town will proceed with accepting the assignment of the purchase agreement and purchase the property with the funds in escrow. So, no Town funds will be added to that, and the Town will accept the property with those funds on or before October 29, 2024.

Mayor Coler also noted the Town is receiving \$100,000 of Measure A funds towards acquisition of open space property, which would be deposited into the escrow account, which are not General Fund monies.

Councilmember Cutrano asked if there is a point in time between this meeting and the October deadline where the public or Council would receive confirmation that all monies identified within the MOU have been placed in escrow and the Town is proceeding. Town Attorney Coleson said there is no public meeting for purposes of making another decision. This is the decision and the Town Council is free to announce that at a public meeting and the only condition is that all monies be in escrow and the Town will accept the assignment and purchase the property.

Vice Mayor Blash asked and confirmed that any agreement regarding trail maintenance or maintenance is not being decided tonight.

Mayor Coler opened the meeting to public comments.

Michelle Simonsen, Forest Knolls, asked the Council to approve the MOU and spoke about her love of the property.

Jack Judkins, Vice Chair, Fairfax Open Space Committee, voiced support of the Town's acquisition of the Wall property and thanked those that worked on the matter.

Chris Cook, 301 Scenic, supported the acquisition of the Wall Property.

Myron Walters, Marinda Oaks, thanked the Town Council for its efforts in purchasing the property.

Ray Moritz, forester, fire ecologist, and the Town's arborist, spoke about the health of the Wall Property's native forest.

Bill Long, Chair of MOST, spoke about the formation and properties considered by MOST, the process of acquiring the Wall property, and prospective fundraising and grant opportunities.

John Reed encouraged the Council to enter into the MOU and cited the significant support of the Wall property.

Todd Greenberg voiced support of the purchase, voiced concerns regarding liability, insurance risks, and development.

Brenna Govins, Marinda Drive, thanked the Council and others for their work to purchase and save the Wall property.

Jane Richardson-Mack thanked the Council and others for their work to purchase and save the Wall property and that it remains as open space.

Lynn thanked everyone who has worked to keep the Wall property undeveloped for over 60 years.

Sierra Tunafish voiced support of the Wall property purchase and retention of its undisturbed natural environment.

Mimi Newton thanked everyone who has worked hard to get to this point and voiced appreciation of the work for preservation of the Wall property over the decades.

Artime Schneider, San Gabriel Drive, thanked everyone for moving this forward and working on this, said he is new to Fairfax.

Rick Hamer voiced support for the purchase and concerns about preserving it.

Mayor Coler stated the property is not in escrow. There is a purchase agreement that will end on or before October 29<sup>th</sup> and work remains to be done. She read a portion of the MOU regarding permanent protection of the property and purpose of the acquisition, which means it will not be developed, and she suggested the Town look into Mr. Hamer's comments.

Councilmembers recognized the time and energy put into the matter, described fundraising efforts, restoration of habitat and trail access, and cited this as a momentous occasion.

M/S, Cutrano/Coler, Motion to approve the Memorandum of Understanding (MOU) between the Town of Fairfax and Marin Open Space Trust (MOST) regarding the acquisition of the Wall Property

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

NOES: None

BREAK

Mayor Coler called a brief recess and, thereafter, reconvened the special meeting.

1. Conduct Public Review for Fiscal Year 2024-25 Proposed Operating and Capital Improvement Budget and provide direction to staff – *Town Manager Heather Abrams, Finance Director Michael Vivrette*

Town Manager Heather Abrams introduced the budget. The Town has a targeted reserve they are maintaining very well and are paying expenses as they go.

Finance Director Michael Vivrette gave a PowerPoint presentation and overview of the FY 2024-25 Proposed Operating and Capital Improvement Budget. The Town held a budget workshop earlier this month and the budget will be presented again next Wednesday, May 29<sup>th</sup> at which time the Final Budget will be adopted. He provided explanations on various group funds, budget line items, how funds are spent, funds relating to Measures, expenditures, debt service funds, and capital improvement funds.

Mayor Coler commented on page 75 under Property Acquisitions. The Town donated \$12,000 out of the Open Space budget and it was not Measure A money for upper Hawthorne and San Anselmo, which is not reflected at the bottom table, and she asked to make this change.

Mr. Vivrette continued and spoke about projects in the capital improvement budget, revenue sources from the General Fund, gas tax, transportation fund, Measure A park money, and ARPA monies.

Councilmember Cutrano referred to pages 16 and 17 in the budget and asked if the Town Attorney expense section has been broken down and reformatted to better identify the full picture of the Town's legal costs in the budget.

Mr. Vivrette said he was not yet able to get all information together and must coordinate with the Town Clerk on the legal bills.

Town Attorney Coleson said they can break this down into general and specialized services. One thing that remains confidential are litigation matters but it can be part of a special services heading as well as with personnel-related matters.

Mayor Coler asked that this be completed before the final budget.

Mayor Coler opened the meeting to public comments.

Todd Greenberg asked questions about detail in the Town Attorney's budget, commented on Town expenditures, the rate of the new minutes clerk, and asked for confirmation that the Town is not in debt.

Mark Bell asked about road impact fees, agreed with the previous speaker about Town Attorney budget detail, and asked about the cost for measures brought to the Town Council.

Lynn Yetter asked that the Town not spend more money on signage.

Deborah Benson asked about the stormwater section of the budget as it relates to Park Road and suggested installing curb cuts.

Mayor Coler returned to Council discussion.

Mayor Coler asked and confirmed that monies are detailed out under line items and financial statements as to what has been received for road impact fees. The funds stay in the General Fund and cover the Street Department for maintenance expenses.

Council discussion ensued regarding the Town's debt service, confirmation that the Town is not in debt unlike some cities in Marin, likened the debt to a mortgage or large debt instrument, discussed low interest rates where the Town was able to refinance its debt from 7% to 3.45%, maintain its 25% reserve, and the Town's work to refinance its pension obligations, saving over \$1 million, statistics for pothole and sidewalk repairs, and thanked staff for their work on the budget. The Council confirmed staff will make changes on page 75 under Property Acquisitions, the Open Space budget, to reflect the Town's donations of \$12,000.

### Consent Calendar

1. Authorize the Town Manager to Prepare and Submit the Fiscal Year 24-25 Work Plan to Marin County for the Use of the Town's Measure A Park Funds – *Town Manager Heather Abrams*

Mayor Coler pointed to one correction to page 2 of the staff report, regarding the Advisory Committee for Measure A. There is one Fairfax Open Space member and one Fairfax Parks and Recreation representative.

Mayor Coler asked and confirmed there were no questions of staff. She then opened the meeting to public comments, and there were no speakers.

M/S, Ackerman/Blash, Motion to approve the Consent Calendar.

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

NOES: None

### Adjournment

The meeting was adjourned at 8:33 p.m. in memory of James Ross Masson Jr. and Cathy Cortez.

DRAFT  
Fairfax Town Council Minutes  
Special Meeting  
Community Center, 16 Park Road, Fairfax  
and via teleconference  
Wednesday, **May 29, 2024**

Mayor Coler called the Special Meeting to order at 4:30 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  
Janet Coleson, Town Attorney  
Jeff Beiswenger, Planning and Building Services  
Director  
Christine Foster, Deputy Town Clerk  
Public Works Director Loren Umbertis

Adjourn to Closed Session on the Following Matters:

1. CONFERENCE WITH LABOR NEGOTIATORS  
Govt Code Section 54957.6  
Employee Organization: Fairfax Police Officers Association, Service Employees Union  
International ('SEIU') Local 1021; Unrepresented Employee Units  
Agency Representatives: Town Manager, Town Finance Director, Town Attorney
2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Govt Code section 54957  
Town Attorney
3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Government Code §54954.5  
Property: APN No. 002-113-08  
Agency negotiators: Town Manager & Town Attorney  
Property owner negotiators: Bank of America  
Under negotiation: Both price and terms

[Open Session: Regular Meeting — 6:30PM](#)

Hybrid meeting at the Community Center, 16 Park Road, Fairfax and via [Zoom](#)

Pledge of Allegiance – Mayor Coler led in the Pledge of Allegiance.

Approval of Agenda

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

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

Mayor Coler read the Land Acknowledgement Statement and delivered a brief statement regarding the Town's position and protocols on hate speech.

Report out on Closed Session:

Mayor Coler announced that there was no reportable action on Item 1. She then referred to Item 2 under Closed Session and read portions of the Brown Act to correct misinformation, stating Government Code Section 54957B.4 says, "For purposes of the subdivision, the term 'employee' shall include an officer or an independent contractor who functions as an officer or employee but shall not include any elected official, member of a legislative body, or other independent contractors." The Town Attorney position is an officer of the Town or a Town official. Regarding Item 3 – Real Property Negotiations, Mayor Coler announced there was consensus of the Council not to pursue this matter further at this time.

Regular Agenda:

1. Adopt Resolutions Calling for a General Municipal Election to be held on November 5, 2024, for the Election of Certain Officers, Requesting the Marin County Board of Supervisors to Consolidate with any other Election Conducted on that Date and Requesting Election Services of the County Elections Department, and Adopting Regulations for Candidate Statements; Adopt a Resolution Submitting to the Qualified Voters of the Town of Fairfax on the November 5, 2024, General Municipal Election Ballot an Initiative Measure Amending the Town Code Regarding Just Cause Eviction and Rent Stabilization Standards in the Town of Fairfax — *Town Attorney Janet Coleson*

Town Attorney Janet Coleson gave a PowerPoint presentation and overview of the matter relating to the Town's General Municipal Election to be held on November 5, 2024. The first resolution calls for the election and announcing there are three Council seats open this November.

The second resolution refers to general rules about Candidate Statements. The third resolution is requesting a consolidation from Marin County of this election on November 5<sup>th</sup> and do all things necessary to hold the election. Staff recommends the resolutions be adopted with individual votes.

The fourth resolution is the Initiative Measure. The Council has previously voted to put this on the November 5, 2024 ballot and she reviewed the Initiatives and try to clear up confusion, and she described: 1) a Referendum; 2) a Recall; and 3) an Initiative which are found in the California Constitution.

There had been one Referendum since her start with Fairfax which was successful after having gone to court, and was related to an ordinance.

Regarding Recall, it is the power of electors to remove officials or Town Councilmembers in this case, but is also for other elected positions. The California Secretary of State has put together a booklet of guidelines on Recall and she cited the sources the Town sends to people whenever they are trying to bring forward a Recall. The Clerk and Town Attorney are bound to accept documentation that complies with the law and they are not permitted to assist or advise people trying to do this. People can also choose to hire attorneys or to consult others in the community.

The next is an Initiative which is embodied with procedures and one where people wish to bring forward their own laws and ordinances relating to the Town. This is one of the most complicated of the three, and the resolution before the Council tonight is an example of a successful Initiative. Outside sources were consulted and it had no errors in it, was accepted, and it is for rent stabilization and just cause eviction.

Town Attorney Coleson said she would like to add one modification to the ballot question for the Initiative Resolution in Section 3 on page 2, the box in the center. It states:

*“Shall a measure be adopted to amend the Fairfax Town Code to repeal the Town’s current just cause eviction ordinance and rent stabilization ordinance and replace them with just cause eviction and rent stabilization standards in the California Tenant Protection Act of 2019 and prior Town Code requiring mandatory mediation for rent increases over 5% in a one-year period.”*

Town Attorney Coleson then referred Section 5 on page 3, under Arguments and Impartial Analysis, and said she will be doing an impartial analysis on this measure and this will be included in the Voter Information Guide. The Town did not have the entire text of the Initiative printed in the voter information guide because it is many pages long. A copy is available free of charge by contacting the Clerk. She referred to the Arguments section (Section 5 on page 3) and assumes the proponents of this measure will be drafting and submitting an argument in favor and will be submitting that. Arguments against are also submitted to the Clerk. The Clerk will select in the prioritization contained in the Elections Code Section 9287 for an argument against.

Then, for the rebuttals (Section 6), Arguments for will be given to the people writing against, and the argument against will be given to the people writing the argument for. Rebuttals will be drafted, turned in, and there are deadlines for that.

Councilmember Hellman asked Ms. Coleson to elaborate what party develops the argument against. Ms. Coleson replied the arguments are accepted by the Clerk and the Clerk will select. The prioritization listed in the Elections Code Section 9287 puts the Council first, but she is assuming that this will be members of the public. It states “any individual voter, eligible to vote, a bona fide association of citizens, or any combination of bona fide association and citizens.”

Town Attorney Coleson said she imagines the argument for the measure will be the proponents of the measure and the argument against will fall under (c); a bona fide association of citizens, but it could be (d); individual voters.

Councilmember Hellman asked and confirmed that the Council can discuss arguments for and against and determine tonight that it be the Council first.

The fourth Resolution’s Exhibit A is the ordinance, and the Council will see the Initiative measure where it repeals 5.54 and 5.55 and replaces both of those with other text. These are the four Resolutions before the Council. Three of them are standard, and the fourth is the Initiative which was previously brought to the Council and voted upon to put it on the November 5<sup>th</sup> election, and this is the implementation of that.

Vice Mayor Blash asked and confirmed the Town Clerk will be responsible for sending a copy of the Initiative Measure to anyone who requests. Ms. Coleson stated Exhibit A is what will be handed to people free of charge if requested, which is the Initiative Measure which was against the original ordinances.

Mayor Coler opened the meeting to public comment.



Todd Greenberg complained that the regulations on this should be posted on the Town's website and questioned why the Town Attorney is an officer and why she just works for the Town Council and not the Town of Fairfax.

Michael Mackintosh echoed comments regarding the Town Attorney, and voiced concerns about her authority.

Sierra Salin agreed with the previous speaker, talked about State rent regulations, and cited the increased costs landlords are responsible for.

Rick Hamer said the ballot initiative is very calculated and asked that it be kept the way it was requested by the people.

Mark Bell commented that a woman attending a Council meeting was told by the Attorney that it was against the law to respond to each individual speaker.

Philip Salaverry cited the hard work and monies raised by the people of Fairfax to put the Initiative on the ballot and thinks Councilmembers failed the Town with enacting rent control.

Steven Keys said he is speaking on behalf of Pam Meggs who conveys that she is supporting whatever Frank Egger says, and he added his endorsement as well.

P.J. Feffer asked for confirmation of what the scope of the content for the impartial statement is, whether it includes an analysis of HCD consequences for the Town to the extent they determine a repeal of the programs included in the approved Housing Element is a materially adverse reduction in the Town's policies, and also whether it could trigger State control over the Town's planning and approval processes. He also asked at what point the Town incurs the cost of including these on the ballot to the extent there are legal challenges.

Frank Egger said the Initiative presented should be what shows upon the ballot and asked that the full Initiative be on the ballot.

Deborah Benson voiced concerns about statements of candidates in elections, spoke about her experience running for Council in 2017, said this seems to be aimed at protecting seats, disallowing the public free speech, and agreed with the previous speaker's comments.

Michael Sexton, Director of Marin Residents, said there should be no discussion about changing the Initiative, and asked to put the Initiative on the ballot as is.

Town Attorney Coleson clarified for speakers that the Town is not changing anything connected with the Initiative measure. She referred to the attachment to the Resolution on Exhibit A, Attachment D which is the full Initiative Measure in whole, unaltered, and with all strikeout of 5.54 and 5.55 as currently exists in the Town Code.

What she is talking about modifying is something that is not drafted by the Initiative proponents but by the Town, and it is the ballot question which is different from the Initiative measure. There is certain language under the Elections Code that needs to be in a ballot question which is limited to 75 words: "Shall a measure be adopted to amend the Fairfax Town Code to repeal the Town's current just cause eviction ordinance and rent stabilization ordinance and replace them with just cause eviction and rent stabilization standards in the California Tenant Protection Act of 2019 and prior Town Code." The addition she asked was to explain the prior Town Code provision which requires mandatory mediation for rent increases over 5% over a one-year period.

Mayor Coler noted this is Chapter 5.5 which no longer exists.

Town Attorney Coleson agreed, and said the Council will see that they are taking 5.55 out right now and putting it back to what it was almost verbatim prior to that. In looking at the text of the Initiative measure, this is what is going back in—the mandatory mediation for increases over 5%.

Mayor Coler said the ballot question is a separate issue. Rather than printing the whole Initiative which would cost the Town a lot of money in the voter information guide, the Town will prepare an impartial analysis which is also required by the Elections Code. She would rather pay whatever it costs to print and include the whole Initiative along with the impartial analysis and did not think it was worth causing more rancor over this issue.

Town Attorney Coleson pointed out that the Initiative runs from page 6 to page 31, will be printed in 8-point font type, and will cost thousands of dollars.

Mayor Coler said the people paid money, submitted the Initiative, and she asked to leave it as is, and the Town Attorney will still do the impartial analysis.

Vice Mayor Blash questioned the cost of printing 30+ pages in the Voter Information Guide, and Deputy Town Clerk Christine Foster stated costs are not confirmed but she could obtain an estimate from the Marin County Elections Office.

Vice Mayor Blash voiced support to put the Initiative language on the website, confirmed with the Town Attorney that the rules for the candidate's statement is outlined in the California Elections Code, and noted that she was not on the Council when rent control was initially adopted but has supported it.

Regarding the impartial analysis and some people's feeling it will not be impartial, and she asked how this is guaranteed.

Town Attorney Coleson said people can challenge it if they do not think it is impartial, but it is supposed to inform the voters as to what the Initiative says, what it does, and what will happen if it is passed. It is not an advocacy piece but a recitation of the facts.

Councilmember discussion ensued regarding the Initiative language, additional language proposed for the argument against, the cost of printing the entire Initiative, support for having the Initiative on the website, a correction on Attachment D, which should be edited to state "Town Council" versus "City Council," and clarification relating to who drafts the argument against based upon the prioritization in the California Elections Code.

Mayor Coler asked if anyone on the Council was interested in writing an argument against. Councilmember Cutrano stated he would write an argument against. Town Attorney Coleson noted it can be no more than two Councilmembers to write an argument against and the Council would need to authorize those Councilmembers to write the argument against, noting the Council has the first priority. Secondly are sponsors or proponents of the measure which will be the argument for, and third, a bona fide association of citizens, and fourth, an individual voter eligible to vote on the measure.

Councilmembers recommended taking action for the first three resolutions.

Town Manager Abrams interjected and confirmed that all materials have been posted to the Town's website and are viewable now.

Mayor Coler proposed motions for the three resolutions.

M/S, Cutrano/Ackerman, Motion to adopt a Resolution calling for a General Municipal Election be held on Tuesday, November 5, 2024 for the election of certain officers as required by the provisions of the laws of the State of California relating to General Law cities and towns.

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

NOES: None

M/S, Cutrano/Blash, Motion to adopt a Resolution adopting regulations for Candidate for elective office pertaining to Candidate Statements submitted to the voters at the General Municipal Election to be held on November 5, 2024.

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

NOES: None

M/S, Cutrano/Blash, Motion to adopt a Resolution requesting the Board of Supervisors of the County of Marin to consolidate a General Municipal Election to be held on November 5, 2024 with the Statewide General Election to be held on that date, pursuant to Section 10403 of the California Elections Code.

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

NOES: None

Mayor Coler asked for a motion to place the entire Initiative in the voter information guide.

Town Attorney Coleson pointed to page 4 of Attachment D, Section 7; placement on the ballot, which states "The full text of the measure shall not be printed in the Voter Information Guide." She recommended striking the word "not" from this if the Council wishes to print the entire Initiative in the voter information guide.

Town Attorney Coleson clarified that what is proposed to replace the stricken 5.55 is almost verbatim to the original 5.55. There is some additional language added in to what is going to be a new section 5.55. When she wrote "prior Town Code" she was referring to the prior 5.55 that includes the mandatory mediation provision for rent increases of over 5% in a one-year period, but it is a clarification of what she wrote.

Vice Mayor Blash stated they bought into County services at 5%. It is the County's program for mandatory mediation so it is not that shocking and what was already in the Town's Code.

Council discussion ensued regarding the language and use of "prior Town Code" for the ballot question.

BREAK - Mayor Coler cleared the room and called for a 5-minute break. Thereafter, she reconvened the special meeting.

Mayor Coler suggested continuing the last Resolution to June 5, 2024 when the Council can obtain firm information on the cost of printing the entire Initiative in the Voter Information Guide.

M/S, Ackerman/Hellman, Motion to continue the last Resolution to June 5, 2024 so the Town Council can obtain complete information on the cost to print the entire Initiative in the Voter Information Guide.

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

NOES: None

2. Adopt a Resolution Submitting to the qualified Voters of the Town of Fairfax a Measure Adding Chapter 2.10 to Title 2 of the Fairfax Town Code to Change the Office Of Town Clerk from an Elected Office to an Appointed Office; at a General Municipal Election to be Consolidated with the Statewide General Election to be held on November 5, 2024; and Setting Rules and Deadlines for the Submittal of Arguments for and against the Measure – *Town Manager Heather Abrams and Town Attorney Janet Coleson*

Town Manager Heather Abrams introduced the item and provided a brief overview of the elected Town Clerk which is unpaid, and said the current elected Town Clerk has delegated 100% of the responsibilities of the Clerk to the Deputy Town Clerk, Christine Foster. She described the technical and professional requirements of the position, noted this question was put before the voters in town about 16 years ago in 2008, and most Clerks within California are full-time appointed professionals. Fairfax has two paid positions in this department. The needs of the Town and office have evolved over time.

Town Manager Abrams explained that the Town has heard before about letting the voters decide, and the question for the Council today is whether to put this on the ballot or not. If it is placed on the ballot, it would go on the November 2024 ballot and if not, the Town will continue in its current situation; however, it may be challenging to find an elected Clerk.

Councilmember Cutrano questioned the lack of finding someone to step into the role or not, costs, and the Clerk's role in relationship to the Town Attorney interaction. Staff explained that the Fairfax resident base is shrinking, the Council can appoint a Town Clerk or hold a special election. This will incur added costs and can be a problem if a person is elected with no qualifications and no knowledge as to what needs to be done.

Councilmember Hellman asked, and Town Attorney Coleson delineated the distinctions and roles for the position, noting the elected position is unpaid, has no requirements except that the person must be 18 years of age, a resident and registered voter. She then described her experience in another city where the elected Clerk refused to attend meetings and take minutes and there was no one else to do so, which resulted in controversy and a public outcry, so the remedy is at the ballot box.

Councilmember discussion ensued regarding elected Clerk supervisory duties, recruitments conducted and interviews held, whether an appointed position would have three total employees in the Clerk's Department, vulnerability and the limited pool of individuals who could run for Town Clerk that are trained in the position's technical requirements and duties, clarity of the ballot language to tell voters the position is unpaid, which the Town Attorney said would be included in the impartial analysis which lays out the facts, and clarification of the decision tonight which is whether or not the Council should put this question to the voters.

Mayor Coler opened the meeting to public comments.

Frank Egger said the Town Clerk has been an elected position since 1931, described San Anselmo's recent vote to make their Town Clerk an appointed, voiced support for an independent Town Clerk, and urged rejection of the proposal.

Mayor Coler clarified that the decision is not whether the Council would make the Clerk appointed or elected. The decision is whether or not the Council would put the question to the voters.

Michael Mackintosh said the Town needs an elected Town Clerk to protect voter's voices and opposed the ballot measure.

Phillip Salaverry urged the Council to continue with the Town Clerk being an elected official because he thinks the public does not trust the Town Council or Town Manager.

Susan Branborg voiced support for keeping the Clerk as an elected position, and asked to be sure there are checks and balances.

Mark Bell echoed comments of the previous speakers, commented on the handling of Clerk responsibilities, and asked for a more concise idea of what the Council would be voting on.

Deborah London asked not to put this measure on the ballot for a vote, as keeping the elected position does not preclude the Council's ability to appoint when necessary, noting there are likely many people available in the Town to serve in the elected position.

Todd Greenberg echoed comments about not putting this on the ballot, asked that the Council retain an elected Town Clerk.

Mallory Geitheim agreed with previous speakers and asked that the Council represent its citizens.

Charlene Elden said she believes the Council does not need to put this on the ballot for a vote.

Deborah Benson asked not to put this on the ballot, said the Town Clerk is accountable to the people and, if appointed, they will be part of the staff and accountable to staff and Council, and questioned why this needs to be changed given the work is being done by paid staff.

Rick Hamer said he supports keeping things the way are and not putting this on the ballot, thinks accountability is important, and said the elected Town Clerk is in Fairfax whereas appointed Town Clerks are not necessarily from Fairfax.

Cindy Ross noted that for over 90 years this has been an elected position which has worked well.

Sierra Salin questioned why the Council is doing this, recognized former Town Clerk Gardner for all she has done, thinks an independent Town Clerk is important and hopes the Town can find someone as good as Clerk Gardner.

Lynn Yetter echoed comments, thanked former Clerk Gardner, thinks the Town Manager and Attorney have taken on too much power and control, and asked that residents have a voice.

Jody Timms asked the Council to put this on the ballot and let voters decide if they think this is a worthwhile position or not. She would like a choice and the ability as a voter to vote on whether this elected position should be continued.

Jane said she supports most speakers' comments tonight, and hoped the Council will pay attention.

Eva Chrysanthe said people want to be able to elect the Town Clerk which seems like a good thing for checks and balances and for a more democratic process, as well as turnaround to process PRA requests, and asked that it be put to the voters.

Mayor Coler commented that there were 17 people who spoke on this measure and there are 5,700 registered voters in Fairfax. People who are not here and not speaking does not mean they do not care. There were people who demanded the Council put something on the ballot and now are saying they should not, and asked for deliberation by the Council.

Councilmembers posed questions and comments regarding whether an elected Town Clerk has any oversight and supervisory duties over the processes of the hired Town Clerk, the argument for and against on the ballot, that the Town Council appoints the position if not elected, confirmation that this ballot measure would be approximately 1½ pages in print, questions and concerns of litigation and liability for the Town if the Clerk has no technical skills or training, is non-responsive to PRA requests, or other required work, increased complicated work requirements by the State and local laws for Clerks and reporting requirements, other cities and agencies with appointed Clerks such as the Registrar of Voters running all Marin elections and her staff, certificated training designations of City and Town Clerks, grappling with whether the Clerk should be appointed or elected and whether it can work either way, recognition of the current Deputy Clerk Foster's capabilities and training, and Town Attorney Coleson clarified that if the answer at the ballot box is "no," the Town is not appointing anyone. In 2026, if no one runs for the position, the Council can choose to appoint a Town Clerk. Councilmember deliberation ensued, and Councilmembers voiced their struggle in not giving the people a voice in the election for an elected Town Clerk versus appointing a Town Clerk.

Mayor Coler summarized that there are 5,786 registered voters, 17 people who spoke tonight mostly not in favor of putting this on the ballot. This is not a decision by the Council to appoint a Town Clerk. It is a decision to be put before the voters. She said many people want to vote and she would like people to be able to vote on this issue. If it fails or is successful, the Town will move forward.

M/S, Cutrano/Ackerman, Motion to adopt a Resolution Submitting to the qualified Voters of the Town of Fairfax a Measure Adding Chapter 2.10 to Title 2 of the Fairfax Town Code to Change the Office Of Town Clerk from an Elected Office to an Appointed Office; at a General Municipal Election to be Consolidated with the Statewide General Election to be held on November 5, 2024; and Setting Rules and Deadlines for the Submittal of Arguments for and against the Measure.

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

NOES: None

Mayor Coler asked for two interested Councilmembers to write a ballot argument for the measure, and Councilmember Cutrano and Mayor Coler both volunteered.

Councilmember Ackerman asked and confirmed that Town Attorney Coleson would be drafting an impartial analysis, and Mayor Coler suggested a motion.

M/S, Cutrano/Blash, Motion to authorize Councilmember Cutrano and Mayor Coler to draft the ballot argument for the Measure.

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

NOES: None

1. Approve Publicly Available Pay Schedule in Compliance with Title 2 California Code of Regulations, Section 570.5 — *Town Attorney Janet Coleson*

Town Attorney Coleson said this item is a Resolution to approve and adopt a publicly available pay schedule for all employee positions eligible for CalPERS membership in accordance with CalPERS requirements. The Council has done this in the past as it is required by CalPERS.

Vice Mayor Blash confirmed the item can be considered at a regular or special meeting, but not under Consent Calendar items.

Mayor Coler opened the meeting to public comment.

Todd Greenberg complained about transparency and was confused as to information contained in the staff report.

Mark Bell questioned the list of employee titles, the cost of salaries, benefits, new positions, Town Attorney costs, and asked to delay approval.

Michael Mackintosh asked that any position not filled should be excluded from the budget and not be allocated for funds.

Pamela asked if the Town could do comparable positions based upon other communities, to review attorney fees of \$389,000, and to break down exact services for that cost.

Deborah Benson cited the 38 positions and their cost, the Town Attorney's increased costs due to rent stabilization work, and asked the Council to get a handle on this.

Charlene Elden was cut off due to being off topic.

Eva referred to other Marin positions, pointed out that CPRA requests among other things are items that can be delayed when positions are not filled, and questioned the marketing director position.

Vice Mayor Blash noted the item is a salary schedule and this does not necessarily include who the Town has on staff right now but how much the Town is budgeting for each of them. The item identifies the range in which how much people can earn, similar to every jurisdiction. She also noted the Town Attorney is an officer of the Town but a contractor and will not be on the salary schedule.

Mayor Coler stated the salary schedule is a procedural requirement by CalPERS system, and she agreed that some positions are not planned to be filled but they are not eliminated from the list.

M/S, Cutrano/Blash, Motion to adopt a Resolution to approve the Publicly Available Pay Schedule in Compliance with Title 2 California Code of Regulations, Section 570.5.

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

NOES: None

M/S, Cutrano/Blash, Motion to waive the 10:00 p.m. rule.

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

NOES: None

BREAK

Mayor Coler called for a brief recess at 9:50 p.m. and reconvened the meeting at 10:00 p.m.

### [Consent Calendar](#)

Mayor Coler asked for discussion on Item 4, given there had been some changes requested by Councilmembers and others.

4. Adopt a Resolution Adopting the Operating and Capital Improvement Budgets for Fiscal Year July 1, 2024, through June 30, 2025 — *Town Manager Heather Abrams and Finance Director Michael Vivrette*

Councilmember Cutrano questioned the Town Attorney's costs and the breakdown of items.

Finance Director Mike Vivrette replied that staff had to post the budget last Friday and this information was not received at that time. Staff decided it will be outlined in the final budget and posted when it becomes available.

Mayor Coler stated a supplement was received today with corrections which she had asked for with the exception of the Town Attorney's information. She asked why that information could not be captured for today's meeting. Town Attorney Coleson apologized but it can be read out and staff can repost the page with that information on page 17 under the Town Attorney's budget.

Town Attorney Coleson announced there are two months remaining in the fiscal year. There is a projection and figure for just the first 10 months. If doing a projection for the entire 2023-24 year, with May and June as projected, General Services is \$296,149 and Special Services is \$182,159.50.

Mayor Coler asked if there are projections for the adopted budget for FY 2024-25 and the split between General Services and Special Services. Town Attorney Coleson said it is too early and difficult to project the split in the \$340,000 figure because it includes litigation which comes and goes, as well as pension benefits, and employment law. She would not imagine General Services would be more, but less because the Town has finished the Housing Element and other tasks.

Mayor Coler said if it is too early to project the split, she suggested putting the \$340,000 under General Services with a footnote explaining the Town will split this later on in the year when they have a better sense of the actual numbers. She asked and confirmed that the Finance Director can add a footnote that explains the Town will split out General and Specialized Services when they have a better sense of what those are, as well as what Specialized Services and General Services include.

Councilmember Cutrano suggested looking at the last couple of years and the breakdown of General Services and come up with an average as a safe projection, which is an alternative to choosing \$340,000 and adding a footnote.

Town Attorney Coleson explained the reason it is difficult to project Special Services is because it includes work that they do not know will come, and it is also a varying rate whereas General Services are a set rate.

Vice Mayor Blash noted Line 821 is being used for everything from BBK, but what Councilmembers are asking for is General Services from BBK would go in Line 821 and Special Services would go under Line 822 which are Professional Services. Councilmembers agreed to leave this to staff to reflect whatever makes it easily distinguishable.

Councilmember Cutrano said he recognizes the Council is requesting a change to the budget which can be difficult. He thinks it behooves the Town to try to continue this effort because it is such a large budget item and questions from the community. He thinks it would be good for the Finance Department to break up the different areas the Town is spending money in.

Mayor Coler pointed out an error on the Utility Users Tax and the resolution on Attachment B, the second 'Whereas' states, "The Town Council has reviewed a preliminary Operating and Capital Budget for FY 2022-2023," which is incorrect and should be changed to "FY 2024-2025."

5. *Adopt five resolutions setting taxes to be collected by the Marin County Auditor-Controller for Fiscal Year 2024-25 – Finance Director Mike Vivrette*



- a. Resolution Setting the Amount of \$215 for the Special Municipal Services Tax for Fiscal Year 2024-25
  - b. Resolution Setting the Utility Users' Tax Rate of 4% for Fiscal Year 2024-25.
  - c. Resolution Setting the Pension Tax Rate of \$.091 per \$100 of assessed valuation to Support Fairfax Pension Obligations for Fiscal Year 2024-25.
  - d. Resolution Setting a Fee of \$15 per run-off unit for the Purpose of Funding Local Stormwater Pollution Prevention Activities for Fiscal Year 2024-25.
  - e. Resolution Setting the Tax Rate of \$.0225 per \$100 of Assessed Valuation for the General Obligation Bonds (Measure K Bond Assessment)
6. Adopt a Resolution Confirming and Levying the Ross Valley Paramedic Authority (RVPA) Tax in the amount of \$97.50 for Fiscal Year 2024-25– *Finance Director Michael Vivrette*
  7. Adopt a Resolution Authorizing the Display of Chamber of Commerce Banners on Downtown Light Posts from July 1 through October 31, 2024; Authorize the Town Manager to Pay for Banner Placement – *Town Manager Heather Abrams*
  8. Adopt Gun Violence Awareness Month Proclamation – *Mayor Coler*

Councilmember Cutrano commented and thanked staff and the Mayor for including the Gun Violence Awareness Month Proclamation. Moms Demand Action in Every Town USA will hold their annual Wear Orange Week at the end of next week. There will be a walk across the Golden Gate Bridge and a rally related to gun violence awareness on Saturday, June 1<sup>st</sup> at 11:00 a.m. on the Marin side of the bridge.

9. Adopt Pride Month Proclamation – *Mayor Coler*

Mayor Coler noted the Council recognized the Adopt Pride Month Proclamation and thanked the Town Manager and Town Clerk for placing the Chamber of Commerce banners on downtown light posts from July 1 to about October 31, 2024 and the Town has paid for the banners and are also paying for their placement.

Mayor Coler confirmed there were no other items to be pulled from the Consent Calendar and opened the item to public comments.

Michael Mackintosh thanked Mayor Coler and Councilmember Cutrano for bringing forward the breakdown in the Town Attorney budget.

Todd Greenberg asked to remove Items 4, 5, and 7 for separate discussion, complained about the Town Attorney's additional charges and increased projections.

Mark Bell complained about the cost of paying for and putting up banners.

Frank Egger requested the Town Council fill the vacant police officer position, and congratulated the Council on the Coastal Conservancy's disbursement of up to \$500,000 for the Wall property.

Mayor Coler summarized there is a supplement to the budget as well as changes to be made for the Town Attorney budget discussed, and for Item 5 on the agenda; Resolution B setting the Utility Users tax rate to change FY 2022-23 to FY 2024-25. She confirmed that the Council can approve the Consent Calendar Items 4 through 9 with attachments, even if previously posted with different numbering.

M/S, Cutrano/Ackerman, Motion to approve the Consent Calendar, as amended, to include a supplement to the budget, to make changes for the Town Attorney budget as discussed, to amend Item 5 on the agenda which is Resolution B setting the Utility Users tax rate--to change "FY 2022-23" to "FY 2024-25", and to recognize all Items 4 through 9 with attachments are approved even if previously posted with different numbering.

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

NOES: None

### Future Agenda Items

Councilmember Ackerman said in the past the Council received a great deal of public input encouraging the Council to consider a resolution about the war in Gaza. They all agreed they should place it on a future agenda. They have received a great deal of public input and given the receipt of numerous emails he asked the Council if it should be agendized in the future.

Mayor Coler opened the meeting to public comment.

Gina DeAngeles, San Anselmo, lawyer and Administrative Law Judge, asked the Council not to agendize a ceasefire resolution.

A speaker addressed the Council about the intimidation and harassment towards the Jewish community and asked the Council to not agendize the ceasefire resolution.

Michael Mackintosh agreed the issue is anti-Semitic and asked that the Council either say nothing or stand up for what is right.

Holly said the community is strongly requesting not putting the ceasefire resolution on the agenda.

Diana said she is the granddaughter of holocaust survivors and asked the Council not to agendize a ceasefire resolution.

Esther asked the Council not to agendize a ceasefire resolution.

An I-Phone caller was cut off by Mayor Coler.

Adam asked that the Council not entertain any ceasefire resolutions.

Cindy Wass thanked Councilmember Ackerman for his remarks and said this will divide the community.

Lori opposed a ceasefire resolution and talked about other cities that have passed a ceasefire resolution.

Eva Chrysanthe questioned why individuals were cut-off by the Mayor and spoke about genocide.

Councilmember Ackerman said he thinks a resolution will not change what is happening in Israel, Gaza or the U.S. and individual Councilmembers could write letters without dividing the community.

### Town Manager's Report

Town Manager Abrams reported on a PG&E project at Tamalpais and Berry Trail where a grinder truck overturned on Friday. Work will begin at 6:00 a.m. to remove the grinder truck and conduct a full inspection of the road and retaining wall underneath it. Staff publicized the traffic control in the Town's newsletter today and she will keep the Council updated.

The good news is that electricity, sewer, and water are all operating and are uninterrupted.

There is work being done by the County on Upper Bolinas Road repairs and people can also expect delays.

She reminded everyone for the June 5<sup>th</sup> meeting that staff will have the survey results and presentation.

Councilmember Cutrano said everyone is starting to see signs from Ross Valley Sanitary District about their forthcoming work and the elongated timeline and unpredictability when disruptions might occur. He asked if there is any information on details, and he recommended posting information on the Town's website.

Mayor Coler opened the meeting to public comment.

Michael Mackintosh voiced opposition to the Sanitary District work, having equipment in parking areas, and asked that all trenches be properly closed.

#### Adjournment

The meeting was adjourned at 11:04 p.m.