

Fairfax Town Council Minutes  
Regular and Special Meeting  
Fairfax Women's Club  
Wednesday, **March 6, 2019**

The Regular Meeting was preceded by a Special Meeting from 6:30 p.m. to 7:00 p.m.

Mayor Coler called the **Special Meeting** to order at 6:30 p.m.

1. Interview and appointment of applicant to Volunteer Board- Town Clerk

The Council interviewed Ms. Veronica Geretz.

Mr. George ("Geo") Taylor, Chair of the Volunteer Board, supported Ms. Geretz's appointment.

Mr. Jesse Hoffman, Volunteer Board member, supported Ms. Geretz's appointment.

Ms. Marcia Custer, Volunteer Board member, supported Ms. Geretz's appointment.

M/S, Goddard/Lacques, Motion to appoint Veronica Geretz to the Volunteer Board to complete an unexpired term to May 31, 2021.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Mayor Coler called the **Regular Meeting** to order at 7:00 p.m.

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:**

Bruce Ackerman  
Barbara Coler  
Renee Goddard  
Peter Lacques  
John Reed

**STAFF MEMBERS PRESENT:**

Garrett Toy, Town Manager  
Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney  
Ben Berto, Planning Director

Approval of Meeting Agenda and Affidavit of Posting

M/S, Goddard/Ackerman, Motion to approve the Agenda and the Affidavit of Posting.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Announcements

Mayor Coler made the announcements as they appeared on the agenda. She announced the Town had obtained the services of a contractor to rehabilitate the Forrest Terrace steps.

Open Time

Mr. George ("Geo") Taylor, Chair of the Volunteer Board, gave the Annual Report. The Board's mission is to create community spirit by creating projects of all types. Recent projects included

working on the Artist-in-Residence Program, the Art Walk, supporting Age Friendly Fairfax, Chamber of Commerce, the Historical Society, and the Trails Committee. Annual events include Creek Clean-Up and the Town Picnic.

Dr. Jody Timms, representative to the Commission on Aging, gave a monthly status report. The Commission will meet tomorrow from 10 to 11:00 a.m. and will include a discussion on legal services and the Ombudsman Program. This month's forums include: 1) Wills and trusts; 2) End of life/medical planning; 3) Resources for veterans. The forums are held at the Fairfax Library on Fridays, from 1 to 2:00 p.m. generally. The forum for veterans will be from 1 to 4:00 p.m.

Ms. Ling Shien Bell, Dominga Avenue, referred to Chapter 19 of the Town Code and stated she would like it to remain intact.

Ms. Cindy Swift, Fairfax, asked the Town to chainsaw and remove the trees that had fallen onto the trail between Madrone Road and Lower Cypress. She would like the Town to partner with residents to maintain that trail.

Ms. Roberta Anthes, representing 5G-free Fairfax, stated the protections in "old" Chapter 19 should be included in the "new" Chapter 19. The Council should write the ordinance that they want, as the severability clause would allow them to reverse course if they were challenged.

Mr. Richard Applebaum, Woodland Road, supported the comments of Ms. Anthes.

Ms. Mallory Geithem, Willow Avenue, asked about the status of a dog park in Fairfax, the walkways between roads (such as Maple to Willow), and a plastics ban.

Ms. Debra Benson, Cascade Drive, asked about the status of shading the LED lights. She asked about the deferral of permit fees for Victory Village, and payments made to Coastland Engineering and BBK Attorneys.

Ms. Jess Lerner, Canyon Road, discussed a deadline of April 15<sup>th</sup> regarding 5G regulations, and the references to landscaping, vegetation, and the procedure for requiring a Conditional Use Permit.

Ms. Jennifer Hammond, Vice-Chair of the Fairfax Climate Action Committee, stated the committee met the second Tuesday of the month at the Fairfax Community Center at 7:00 p.m. She noted the vacancies on the committee, including one for a youth member. Speaking as the Executive Director of Sustainable Fairfax, she discussed the Zero Waste Program.

A resident from Tamalpais Road asked that pedestrian crosswalk flags be added at Sir Francis Drake and Azalea Road.

Ms. Christine Tulis was opposed to 5G technology and its ill effects on the health of living beings.

Mr. Jack Gescheidt, Redwood Road, was concerned about the vegetation being pulled and left on the Toyon fire road and the Cul-de-Sac trail.

Ms. Kathy Flores stated that: the flag pole needed to be repainted; the Mono Lane entrance next to Village Sake is too steep; and that portions of Peri Park Playground structures had been closed off for too long.

Mr. Sierra Salin offered to repair the playground structures.

Wendy, Fairfax, stated she was sad that at the way people were treating each other.

Mr. Mark Bell, Dominga Avenue, asked when the two trees across from Town Hall would be replaced. He complained about the noise from the annual Town Picnic in September.

Mayor Coler suggested moving the Consent Calendar to the end of the agenda in order to get to the items on the regular agenda sooner.

M/S, Goddard/Reed, Motion to move the Consent Calendar to the end of the Regular Agenda.  
AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

### Regular Agenda

#### 8. Receive report on the Parkade project including a presentation from the Town arborist regarding the removal and replacement of trees- Town Manager

Town Manager Toy presented the staff report and reviewed the process the Town had followed regarding the tree removal. He answered questions from the Council, and introduced Mr. Ray Moritz.

Mr. Ray Moritz, Town Arborist and Senior Urban Forester and Fire Ecologist for Urban Forestry Associates, gave a PowerPoint presentation of his two written reports on the Parkade trees, and the possible replacement species for those trees that had been removed. He noted that Tree #13 might also need to be removed. He answered questions from the Council.

Mr. Wayne Leach, Project Engineer, CWS Stuber/Stroh, stated the project design addressed tree health, including improving the permeability of the area, enlarging the tree wells, adding some additional landscape areas, and creating bio-retention areas.

Mayor Coler opened the meeting to public comments.

Mr. Sierra Salin stated the foundation work for the bus stop should be done. He noted the risk of a tree falling is real – he had direct experience.

Ms. Jane Richardson Mack, Tree Committee member but speaking as a resident, was concerned that the Tree Committee was not part of the decision-making process with respect to the Parkade trees.

Ms. Debra Benson, Cascade Drive, was concerned that: the tree removal was not planned and the Tree Ordinance not followed and the process not transparent.

Ms. Jess Lerner opposed cutting down all the trees in the Parkade.

Mr. Monty Stevens, Porteous Avenue, supported the project, noting it was well thought-out.

Ms. Richard Applebaum, Woodland Avenue, agreed with Ms. Benson regarding the need for a transparent process. He stated the notice of construction was too short for merchants.

Ms. Blanche Mader, Fairfax, stated she worked with trees and did not support Crepe Myrtles as a replacement tree.

Ms. Valerie Hood had concerns about the process, and whether the replacement trees could handle climate change.

Ms. Mallory Geithem, Willow Avenue, stated the remaining trees should only be removed as needed basis, and after a second opinion from an arborist.

Mr. Frank Egger, Meadow Way, representing Save Fairfax, supported saving as many of the trees as possible, and getting a second arborist's opinion.

Mr. Gary Roth, Fairfax, stated he is a landscape architect and he would never recommend planting Liquidambar because the roots are very aggressive and lift the pavement.

A resident read a statement from Michele Simonson expressing concern about the removal of the trees in the Parkade. She supported getting a second arborist's opinion.

Mr. William Benson stated he saw no tree emergency. He supported a second opinion.

Ms. Kathy Flores supported a second opinion, the filing of an application, and notification of the Tree Committee.

Ms. Jessica Green, Ridgeway Road, was concerned that the project was not well-planned, and that the people of Fairfax should have voted on the trees.

Ms. Rebekah Collins, Monte Vista Road, stated the Parkade had needed an upgrade for a very long time, and thanked the Council for taking care of it.

Mr. Jack Gescheidt, Redwood Road, opposed cutting down any tree.

Mr. Mark Bell, Dominga Avenue, stated they should move the ADA-compliant steps to save a tree.

Mr. Christopher Kenton, Cascade Drive, stated the Council was responsible for creating a safe environment for pedestrians and providing sufficient parking.

Ms. Patty Patterson, Scenic Road, shared the concerns about removing the trees, and wanted to keep as many as possible.

Ms. Mimi Newton, Mono Avenue, stated Fairfax works best when they work together: people should not take sides. Following the process was important.

A resident stated saving one tree takes a lot of work and a commitment.

Mr. Ed Tilton stated the shrubs along the walkway at Claus Circle should be thinned, so they do not block the view of pedestrians. He did not want any more trees removed.

Laurie, Fairfax, stated the process felt rushed and noted the trees were not falling.

Mayor Coler closed the meeting to public comments.

Mayor Coler stated it was the consensus of the Council to save as many trees as possible, and to work with the Tree Committee in picking the replacement trees. There might be a need to get the Parkade Subcommittee together again on site for a decision on Tree #13.

9. Receive 2018-19 Mid-Year Budget Review Report and approve mid-year budget adjustment for Town Attorney services- Town Manager

Mayor Coler stated this item was continued.

10. Introduce and adopt an Urgency Ordinance of the Town Council of the Town of Fairfax Enacted Pursuant to California Government Code Section 36937 Adding Fairfax Town Code Chapter 5.54 Requiring Cause to Terminate a Residential Tenancy (“Just Cause” Ordinance); Exempt from CEQA pursuant to Section 15061(b)(3)- Mayor Coler

11. Introduce by title only an Ordinance of the Town of Fairfax Adding Fairfax Town Code Chapter 5.54, Requiring Cause to Terminate a Residential Tenancy (“Just Cause” Ordinance), Exempt from CEQA pursuant to Section 15061(b)(3)- Mayor Coler

The Mayor opened agenda items #10 and #11 together, stating that the Council would take separate action and public comments on each.

Town Manager Garrett Toy presented the staff reports, and answered questions from the Council.

Mayor Coler opened the meeting to public comments.

Mr. David Levin, Legal Aid of Marin, supported both ordinances, stating they would help many of their clients who are suffering from the housing crisis.

Ms. Leelee Thomas, Marin County Community Development Agency, supported the ordinances and complimented the Town on being the first jurisdiction in Marin County to consider a Just Cause Ordinance.

Ms. Julia Howard-Gibbon, Fair Housing Advocates of Northern California, stated the organization supported both ordinances.

Mr. Steve Katz, Cascade Drive, supported both ordinances stating they represented a step towards a more humane housing market in Fairfax.

Mr. Dutch Verlotus, Fairfax, supported both ordinances. He was concerned that the social fabric and character of Fairfax was deteriorating and becoming a quaint “bedroom community.”

Resident, Archangel Court, supported both ordinances stating diversity was important.

Lisel Blash, Fairfax, supported both ordinances as well as the Fair Housing Ordinance passed last year that protects Section 8 Voucher holders.

Wendy, Fairfax, supported both ordinances.

Mr. Michael Macintosh was concerned with “shorting the process” through urgency ordinances.

Mayor Coler closed the meeting to public comments.

Mayor Coler, referring to the packet supplement, discussed her suggested edits.

Councilmember Lacques referring to a second packet supplement, discussed his revisions to the ordinance.

M/S, Goddard/Reed, Motion to waive the 11:30 p.m. rule and continue item #12 and the Councilmember and Town Manager Reports to the next meeting.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Ms. Leelee Thomas, County of Marin, commented on some of the suggested edits.

The Council discussed the proposed revisions and agreed to the following changes in both ordinances:

Change the title of both ordinances as noted in the second supplement.

Add “very low” to the eighth “whereas.”

Change “six” to “seven” in the twelfth “whereas.”

In Section 5.54.010(b), delete the rest of the paragraph after the word “Chapter” on the second line.

In Section 5.54.020(b), add two new subparagraphs:

“(4) Any Junior Accessory Dwelling Unit as Defined in Fairfax Town Code §17.048.230.

“(5) A room or rooms in a single-family home where the landlord also lies in the home.”

In Section 5.54.040(a)(1), add “if applicable” after the word “License.”

In Section 5.54.040(a)(3), change line 2 to read “required by this Chapter; and” – and delete the rest of the sentence.

In Section 5.54.040(b)(5), on line 6 insert “without limitation” after “includes” and add “applicable local” before “state.”

In Section 5.54.040(b), add new subparagraph:

“(6) Causing damage to, or trespass to, any property or possession of any other tenant or landlord, or otherwise committing waste to the Dwelling Unit or premises.”

In Section 5.54.040(c)(2), insert “grandparents” after “parents.”

In Section 5.54.040(c)(3), insert “ “making the Dwelling habitable or” after “for the primary purpose of.”

In Section 5.54.050(a), delete paragraphs 5 and 6.

In Section 5.54.050(a)(7), insert “At least” before “one applicable cause.”

Change Section 5.54.050(d) to a new separate Section 5.54.055.

In Section 5.54.070(b), add at the end of the paragraph: “The court may award the defendant attorney’s fees and costs as the prevailing party in cases where the plaintiff’s claim is deemed unreasonable, frivolous, meritless or vexatious.”

Delete Section 5.54.090.

M/S, Lacques/Ackerman, Motion to Introduce and adopt an “Urgency Ordinance of the Town Council of the Town of Fairfax Enacted Pursuant to California Government Code Section 36937 Adding Chapter 5.54 Entitled ‘Just Cause Evictions’ to Fairfax Municipal Code Title 5, Requiring

Cause to Terminate a Residential Tenancy” with all of the changes agreed to tonight by the Council.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

M/S, Lacques/Goddard, Motion to Introduce by title only an “Ordinance of the Town of Fairfax Adding Chapter 5.54 Entitled ‘Just Cause Evictions’ to Fairfax Municipal Code Title 5, Requiring Cause to Terminate a Residential Tenancy” with all of the changes agreed to tonight by the Council.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

12. Introduce and read by title only an Ordinance entitled “An Ordinance of the Town Council of the Town of Fairfax Amending Fairfax Municipal Code, Chapter 1.12 Regarding the Abatement of Public Nuisances” to update and clarify the Town’s nuisance abatement procedures and cost recovery provisions; CEQA categorically exemption CEQA guidelines Section 15301, 15305, and 15308- Town Manager

Mayor Coler stated this item was continued.

13. Discuss/consider the establishment of a Citizen of the Year Award- Mayor Coler

Mayor Coler stated this item was continued.

#### Consent Calendar

1. Accept Financial Statements and Disbursement Reports January 2019- Finance Director
2. Approve minutes for the February 6, 2019 Town Council meeting- Town Clerk
3. Approve contract with Sustainable Fairfax to implement the mandates of the Zero Waste granting including public education and outreach services related to recycling and green waste- Town Clerk
4. Adopt a Resolution Endorsing the Declaration of a Climate Emergency and Requesting Regional Collaboration on an Immediate Just Transition and Emergency Mobilization Effort to Restore a Safe Climate- Councilmembers Ackerman and Lacques
5. Receive Fairfax Department of Recreation and Community Services Annual Report- Recreation Manager
6. Adopt a Resolution in support of HR 530, a congressional bill to reinstate local zoning Authority over small cell wireless (5G) deployments by reversing recent FCC actions- Town Manager
7. Receive report on the status of the Special Municipal Services Tax of \$195 per business occupancy and dwelling unit- Town Manager

Town Clerk Gardner referred to items #4 and #6 and noted clerical revisions to the resolutions.

M/S, Reed/Goddard, Motion to approve the Consent Calendar items #1, #2, #4, #5, #6, and #7, with the changes to items #4 and #6 as recommended by the Town Clerk.

AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Vice Mayor Goddard recused herself from Item #3 because she sat on the Board of Sustainable Fairfax and left the Chambers.

M/S, Lacques/Reed, Motion to approve Consent Calendar item #3.  
AYES: Ackerman, Lacques, Reed, Mayor Coler  
RECUSED: Goddard

Council Reports and Comments

Mayor Coler stated this item was continued to the next meeting.

Town Manager's Report

Mayor Coler stated this item was continued to the next meeting.

M/S, Reed/Goddard, Motion to adjourn the meeting at 1:10 a.m. in memory of Ms. Nancy Lynn Kraus, Mr. John Quijano, and Mr. Peter Tork of the Monkees, who was known to play many gigs at 19 Broadway and the Sleeping Lady.  
AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Respectfully submitted,

Toni DeFrancis  
Recording Secretary