

Fairfax Town Council Minutes  
Regular Meeting  
Fairfax Women's Club  
Wednesday, **June 5, 2019**

The Regular meeting was preceded by a Closed Session from 5:00 p.m. to 7:00 p.m.

Conference with Real Property Negotiators

Government Code Section 54956.8: Property: APN 001-160-09 (portion of 18.45 acres)

Negotiating parties: Marin Open Space Trust; Marshall Rothman, Managing Partner, Timberstone 4038T, LLC

For Town: Town Attorney and Town Manager

Closed Session Topic/Under Negotiations: Price and Terms

Conference with Legal Counsel- Existing Litigation

Government Code Section 54956.9(d)(1)

James Young and Debra Young v. Town of Fairfax, et al., Marin Superior Court

No. CIV 1900255

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  
Heather Lee, Assistant Town Attorney  
Michael Vivrette, Finance Director  
Ben Berto, Planning Director

Announcement of Closed Session Action

Mayor Coler announced that there were two Closed Session items and the Council gave direction to staff regarding the item pertaining to Existing Litigation. She referred to the other Closed Session item (Real Property Negotiations) and read the following statement: There is no action and no direction was given to staff. At the last meeting the Council reported out of Closed Session that it discussed a conceptual proposal from the managing partner of the Marinda Heights property, also known as the Wall property, to purchase 10 acres of an existing 18 acre parcel west of Ridgeway for \$500,000. We indicated that the Council decided not to further explore the conceptual proposal regarding the Marinda Heights property at that time. However, later this evening this proposal is on the agenda for discussion. Please remember that with regard to the Marinda Heights development application Councilmembers cannot opine on the merits of the application until it is brought to the Council for consideration after a recommendation from the Planning Commission. The Request for Proposal for the Environmental Impact Report consultant has been not yet been issued so it will take some time before the Planning Commission and Council considers the application. She noted that anyone wanting to comment on the Closed Session should have been in attendance.

Mr. Frank Egger stated if there is an item on the agenda and the Council speaks to it then the

public has a right to address the Council. Assistant Town Attorney Lee stated it would be appropriate for Mr. Egger to speak. Mr. Egger stated the Council has not discussed this proposal in public.

#### Approval of Meeting Agenda and Affidavit of Posting

M/S, Goddard/Reed, Motion to approve the affidavit of posting and the agenda as submitted. AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler.

#### Presentations

##### Plaque from National Fire Protection Association Certification of Manor Hill FireWise Neighborhood

Mr. Todd Lando, Executive Coordinator for Fire Safe Marin, discussed wildfire prevention activities and presented the certification to the Manor Hill FireWise Neighborhood.

#### Announcements

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

#### Open Time

Dr. Jody Timms, Fairfax representative to the Commission on Aging, gave an update on the Commission's activities including tomorrow's monthly meeting. She discussed two new flyers.

Mr. Mark Vendetti, Muriel Place, thanked the Fairfax Public Works Department for the amazing work they did over the winter.

Ms. Bogan stated the Town should raise money by going after illegal second units, and noted they not been inspected and could pose safety risks.

Ms. Mallory Geithem, Willow Avenue, asked about the plastic straw ban. She stated the small paths that go from street to street should be cleared. She was opposed to the sale of rat poison in Town.

Mr. Walter Vernon, representing the Climate Action Committee, stated with the most recent Green House Gas Inventory the Town has achieved its 2020 Goals. He reported on the Committee's goals.

Mr. Richard Applebaum, Woodland Avenue, stated there is a disconnect and contentiousness within the Town. He asked the Council to create an open dialogue.

Mr. Rick Hamer stated that the public comment speaker limit should be three minutes.

Mr. Christopher Lang, Canyon Road, suggested disabled parking spots could be used for bike parking at the Fairfax Festival. He requested shade trees for the Mono Parking Lot.

Ms. Lisel Blash, Pacheo Avenue, thanked the Public Works Department for its good work. She asked everyone to learn how to be engaged without being mean.

Wendy stated she was looking for a place to live.

#### Consent Calendar

1. Accept Financial Statements and Disbursement Reports April 2019- Finance Director
2. Approve minutes for the April 3, April 23, and May 1, 2019 Town Council meetings- Town Clerk
3. Reappoint Norma Fragoso to another full term on the Planning Commission- Town Clerk
4. Reappoint Michele Rodriguez to a full term on the Planning Commission- Town Clerk
5. Reappoint Sam Perry to another full term on the Parks and Recreation Commission- Town Clerk
6. Adopt five resolutions setting taxes to be collected by the Marin County Auditor-Controller for Fiscal Year 2019-20- Finance Director
  - a. Resolution Setting amount of the Special Municipal Services Tax for Fiscal Year 2019/20
  - b. Resolution Setting the amount of the Utility Users Tax for Fiscal Year 2019/20
  - c. Resolution Setting the Pension Tax Rate to Support Fairfax Pension Obligations for Fiscal Year 2019/20
  - d. Resolution Setting a Fee for the Purpose of Funding Local Stormwater Pollution Prevention Activities for Fiscal Year 2019/20
  - e. Resolution Setting the Tax Rate for the General Obligation Bonds (Measure K Bond Assessment) for Fiscal Year 2019/20
7. Adopt a Resolution Continuing Expenditures and Revenues in Accordance with the Fiscal Year 2018/19 Town Budget and continuing the Fiscal Year 2019/20 Town Budget Adoption- Town Manager, Finance Director
8. Adopt a Resolution Confirming and Levying the Ross Valley Paramedic Authority (RVPA) Tax for Fiscal Year 2019/20- Town Manager
9. Receive written report on Councilmembers' assignments, committees, and activities in May- Town Clerk
10. Adopt a Resolution Calling for the Federal Government to Pass a Green New Deal- Vice Mayor Goddard
11. Approve amendment #1 to agreement with Fredric C. Divine Architects (FCDA) for archeology and historic review services required to evaluate the preliminary design for the Pavilion Seismic Retrofit project- Town Manager
12. Approve the 2019/21 Marin Operational Area Memorandum of Understanding for County Emergency Management Services- Town Manager
13. Adopt a Resolution Authorizing the Town Manager to Collaborate with Marin County and Other local Marin Jurisdictions in Applying for Building Jobs and Homes Act Planning Grant (SB 2) Program Grant Funding to Develop Objective Development Standards, Facilitate Accessory Dwelling Unit (ADU) Projects, and Develop Inclusionary Housing Requirements- Town Manager

Councilmember Goddard made a comment in support of item #10.

Mayor Coler referred to item #7 and noted it was for 2019 not 2018 in the resolution.

Mr. Frank Egger, Meadow Way, referred to item #6 and stated the dollar amounts should be reflected on the agenda. Mayor Coler noted the staff report included the amounts and read them aloud. She asked staff to include them on the agenda in the future.

Ms. Zoe Vavrek spoke in support of item #10.

M/S, Goddard/Ackerman, Motion to approve the Consent Calendar with Mayor Coler's correction to item #7.

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

### Public Hearings

14. Introduce by title only two ordinances: 1) An Ordinance Amending Chapter 17.110 and Repealing Article III ("Medical Marijuana Cultivation") of Chapter 17.138, to Adopt Zoning Standards and Restrictions for Commercial Cannabis Uses and Cannabis Cultivation for Personal Use; and 2) An Ordinance Amending Chapter 5.56 to Regulate Commercial Cannabis Businesses within the Town of Fairfax- CEQA Exempt pursuant to State CEQA Guidelines Section 15061(b)(3) and Business and Professions Code Section 26055(h)- Planning Director Berto

Planning Director Berto presented the staff report and gave a PowerPoint presentation. He answered questions from the Council.

Mayor Coler opened the Public Hearing.

Mr. Michael Dunn, Wood Lane, opposed regulating cannabis businesses.

Mr. Elliot Sherman, Taylor Drive, questioned whether the buffer zone left any locations open for a cannabis business.

Mr. Mark Whine, representing the Musicians Community of Fairfax, supported having a cannabis dispensary in Fairfax.

Ms. Char Randall, Napa Avenue, asked why cannabis businesses in Town would be treated differently from alcohol businesses.

Mr. Connor Trouper, student at Drake High School, stated he does his homework downstairs at TLC and has never been upstairs. People do not hang out there.

Mr. Will Farris, student at Drake High School, did not support a buffer zone for TLC.

Mr. Greg Hall, Fairfax, stated limiting the number of dispensaries in Town would increase delivery traffic.

Mr. Rick Hamer, Fairfax, questioned a setback from a tutoring center.

Ms. Mimi Newton, Mono Avenue, speaking as a Fairfax resident and not as a Planning Commissioner, stated she supported having a retail cannabis business in Town, and opposed having buffer zones for delivery-only cannabis businesses.

Mr. Art Chartock, owner of 1620 Sir Francis Drake Boulevard, supported having a medical cannabis dispensary and delivery business at this location.

Ms. Bonnie Gillespie, Director of the Tutoring and Learning Center (TLC), stated she was in favor of the buffer zone for the tutoring center.

Larry supported having a medical dispensary at 1620 Sir Francis Drake.

Mr. Lew Tremaine, representing Marin Alliance, stated the Town has had a cannabis industry for a long time.

Cathy, Taylor Drive, stated she had plans to operate a non-profit, medical cannabis dispensary at 1620 Sir Francis Drake.

Mr. Don Carney, Mt. View Road, requested the continued protection of the community's children.

Ms. Brigit Clark stated she had concerns about traffic and a cannabis storefront and delivery business.

Ms. Jasmine Garrety, representing the Marin Prevention Network, stated she opposed an adult-use cannabis storefront and supported the buffer zones.

Mr. Richard Applebaum questioned what they were protecting the children from. He did not support a buffer for the TLC.

Natasha supported a dispensary at 1620 Sir Francis Drake and was opposed to the buffer zone.

Ms. Erin Corbier, San Anselmo, supported the buffer zones and was concerned about traffic from a storefront and delivery business.

Ms. Mallory Geithem agreed with the comments made by Mr. Applebaum.

Ms. Kelsey Fernandez stated there was data both for and against the use of CBD's.

Chelsea, co-founder of Fairfax Cares, stated she was opposed to the buffer zone.

Lauren, Fairfax, stated a cannabis store should not be treated differently from a liquor store.

Mr. Mark Bell, Dominga Avenue, supported cannabis microbusinesses, labs, and vetting products.

Mr. Pete Taylor, San Anselmo, supported the recent application.

Mayor Coler closed the Public Hearing.

The Council took a 10-minute break at 9:20 p.m.

M/S, Reed/Lacques, motion to move agenda item #16 ahead of item #15.

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

Councilmember Ackerman stated opening a recreational storefront in Fairfax would have a huge impact on the Town since it would be the only one in the County. He supports the ordinance as presented. He proposed that the 250-foot buffer around a tutoring center, if located on Sir Francis Drake Boulevard, be applied only on the side that the tutoring center is located.

Councilmember Reed stated the ordinance allows two different businesses in Town, one being

the existing medical dispensary, and he was not sure what would happen if the existing business were to close. He thought the intention was to still allow two businesses. There are few locations available for a cannabis business given the various buffer zones. He agreed with the Planning Commission's recommendation regarding possible locations. They should re-examine the buffer zone around the tutoring center on Sir Francis Drake. He could support Councilmember Ackerman's suggestion.

Councilmember Goddard stated setting these regulations and this policy is a process and not an event. She stated this product is "fast and furious" and they do not know enough about it. She likes the ordinance even though it is not perfect. The buffers are important and should remain intact. She stated for the record that her position has not been that she does not support anything at all. She does not want the outcome to be that there is no place for someone to walk in to buy cannabis.

Councilmember Lacques stated there are hazards associated with marijuana due to the high concentrations. He sees this as a land use decision, similar to allowing a Costco in Fairfax. There should not be a buffer zone for delivery-only businesses and he does not support the buffer zone for the tutoring center since it eliminates so many potential sites. In exchange for this, he would advocate restrictive rules on signage. He would consider possibly shrinking the buffer zones around schools. The rest of the ordinance has evolved well. He is torn about allowing adult use recreational retail- is it good for Fairfax? He would support a total of two businesses- one delivery and one retail (if others would support this).

Mayor Coler stated she supported a retail adult use storefront and does not support including the tutoring center in the buffer zone- it is different from a school. The buffer zones basically create a "ban". She agreed with eliminating a buffer for delivery-only businesses and restricting the signage (it should be discreet). She would eliminate the definition of a tutoring center from both ordinances. If the current medical dispensary went out of business then two potential businesses would be allowed. She referred to the time length of a permit and stated 12 months was too short- it should be 24 months. She had some suggestions for the scoring criteria. She felt there were substantive changes that need to be made to the ordinances.

Planning Director Berto asked for clarification about the tutoring center. Mayor Coler stated four of the Councilmembers were opposed to a buffer.

Planning Director Berto asked about a buffer for delivery-only businesses. Mayor Coler stated she was opposed to a buffer. Councilmember Lacques, Reed, and Ackerman stated they were in favor of maintaining a 250-foot buffer for a school or youth center. Councilmember Goddard agreed but added tutoring centers.

Planning Director Berto asked the Council if they supported a 24-month permit renewal requirement. The Council stated "yes".

Planning Director Berto asked if they supported the 90-day period to submit a renewal. The Council stated "yes".

Planning Director Berto asked about the idea of restricting signage. Mayor Coler asked staff to come back with some ideas to keep signs small and discrete.

Mayor Coler noted it was past 10:00 p.m. and time to review the agenda.

M/S, Reed/Goddard, Motion to continue the Council and Town Managers Reports.  
AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

## Regular Agenda

### 16. Discuss/consider residents petition for the acquisition of a 10-acre parcel for open space- Town Manager

Town Manager Toy presented the staff report.

Mayor Coler opened the meeting to public comments.

Mr. Bill Long, Chair of Marin Open Space Trust, stated the trust was involved in on-going discussions regarding the Wall property. They were willing to work with the Town and the property owner on the acquisition, to create a purchase and sale agreement and fundraise.

Ms. Michele Simonson, Fairfax, stated she would like more open space.

Ms. Helen Rosenthal, Fairfax Heights, supported the petition.

Ms. Jessica Green, Ridgeway Avenue, stated she supported the petition but had concerns about mudslides and was therefore on "both sides of the fence."

Ms. Virginia Rosenthal, Ridgeway Road, supported the petition.

Mr. Michael Macintosh supported the petition and had suggestions.

Mr. Richard Applebaum stated was not sure if this was a good use of Town funds.

Ms. Helen Stroedel, Chester Avenue, supported the petition.

Ms. Judy Hitchcock, Chester Avenue, supported the petition.

Ms. Michele Acosta, Chester Avenue, supported the petition.

Mr. Mark Bell stated the purchase price was too high.

Ms. Lynn Yetter, Marinda Drive, supported the petition.

Mr. David Weinsoff supported the petition, stating it would authorize Town staff to begin a conversation with the property owners to draw up a contract for further consideration. He discussed possible funding sources including Measure "A."

Mr. Sierra Salin, Oak Manor, supported the petition if the price was right.

Mr. Frank Egger, representing Save Fairfax, was concerned about landslides on the property.

Mr. Victor Harris, Willow Avenue, stated it was not wise to go forward with an EIR on 10 lots since the property owner will need to recoup his costs.

Ms. Ruth Horn, Upper Ridgeway, stated it would be good to explore this lot and to have a debate about all the issues.

Mayor Coler closed the meeting to public comments.

Mayor Coler reiterated that the Council is not inclined to consider this proposal at this time. She explained the process that needs to be followed with respect to the development application

including hiring a consultant to prepare an EIR, review of the application by the Planning Commission and the Council, deliberations and public input.

### Public Hearing

#### 15. Discuss/consider Fiscal Year 2019/20 Proposed Operating and Capital Improvements Budget- Town Manager, Finance Director

Town Manager Toy presented the staff report. He answered questions from the Council.

Mayor Coler opened the Public Hearing.

There were no public comments.

Mayor Coler closed the Public Hearing.

Councilmember Lacques asked staff to budget \$20,000 towards Climate Action Committee (CAC) tasks (energy efficiency upgrades). Town Manager Toy stated staff could put that in Fund 05- Building Improvements.

Councilmember Lacques asked to budget \$2,000 for Climate Action Committee incidentals including outreach.

Councilmember Ackerman asked to impose a "carbon tax" on Town operations. He estimated it would generate about \$3,600 per year that could be put into a fund that would be available for citizens to do improvements. Town Manager Toy stated the CAC is included in the Town Council budget, but it could be moved to Non-Departmental. Mayor Coler requested more information.

Mayor Coler asked for the Meadow Way Bridge Repairs Project to be included in the Capital Improvement Budget.

Staff will bring back the budget for adoption at the July meeting.

M/S, Reed/Ackerman, motion to waive the 11:30 p.m. rule.

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

### Regular Agenda

#### 17. Adopt a Resolution Calling for a General Municipal Election to be Held on November 5, 2019, 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- Town Manager

Town Clerk Gardner presented the staff report.

Mayor Coler opened the meeting to public comments.

There were no comments.

Mayor Coler closed the meeting to public comments.

M/S, Ackerman/Goddard, Motion to adopt a Resolution Calling for a General Municipal Election to be Held on November 5, 2019, 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.

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

18. Adopt a Resolution Calling for a Special Municipal Election to be held on November 5, 2019, for the Purpose of Submitting to Voters a Measure Authorizing the Continuance of a Special Tax for Police and Fire Services Staffing, Public Works Safety Improvements, Match Funding for State and Federal Public Works Grants, and Youth and Senior Programs Requesting the Marin County Board of Supervisors to Consolidate with the General Election Conducted on that Date; and Requesting Election Services of the County Elections Department; and designate Councilmembers to author ballot arguments and rebuttals, if needed, and find signers for said arguments and rebuttals- Town Manager

Town Manager Toy presented the staff report. He answered questions from the Council

Mayor Coler volunteered to author the ballot argument and rebuttals along with Ms. Barbara Petty. Mayor Coler stated she would like to think about the signers.

Mayor Coler opened the meeting to public comments.

There were no comments.

Mayor Coler closed the meeting to public comments.

M/S, Goddard/Lacques, Motion to adopt the Resolution contained in the supplement (with revised ballot language) Calling for a Special Municipal Election to be held on November 5, 2019, for the Purpose of Submitting to Voters a Measure Authorizing the Continuance of a Special Tax for Police and Fire Services Staffing, Public Works Safety Improvements, Match Funding for State and Federal Public Works Grants, and Youth and Senior Programs Requesting the Marin County Board of Supervisors to Consolidate with the General Election Conducted on that Date; and Requesting Election Services of the County Elections Department; and designate Councilmembers to author ballot arguments and rebuttals, if needed, and find signers for said arguments and rebuttals.

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

M/S, Goddard/Reed, Motion to appoint Mayor Coler and Ms. Barbara Petty to author the ballot argument and rebuttals and find signers for said arguments and rebuttals.

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

19. Second reading by title only and adopt an ordinance entitled "An Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.008 ("Definitions"), 17.016 ("Nonconforming Uses and Structures"), and Chapter 17.136 ("Floor Area"), of the Fairfax Municipal Code, Title 17 ("Zoning"), to Limit Maximum Floor Area for Single Family Residential and Duplex Properties and to Revise the Standard for Determining Whether a Legal Non-Conforming Structure is more than 50% Destroyed". CEQA Exempt per CEQA Guidelines Section 15060(c)(2), 15061(b)(3) and 15302- Planning Director

Town Manager Toy presented the staff report.

Mayor Coler noted that the ordinance under consideration was contained in the supplement.

Mayor Coler opened the meeting to public comments.

There were no comments.

Mayor Coler closed the meeting to public comments.

M/S, Ackerman/Reed, Motion to read by title only and adopt an ordinance entitled “An Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.008 (“Definitions”), Chapter 17.016 (“Nonconforming Uses and Structures”), and Chapter 17.136 (“Floor Area”), of the Fairfax Municipal Code, Title 17 (“Zoning”), to Limit Maximum Floor Area for Single Family Residential and Duplex Properties and to Revise the Standard for Determining Whether a Legal Non-Conforming Structure is more than 50% Destroyed”.

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

#### Council Reports and Comments

Mayor Coler stated this item was continued.

#### Town Manager’s Report

Mayor Coler stated this item was continued.

M/S, Coler/Reed, Motion to adjourn the meeting at 12:05 a.m. in memory of the 30<sup>th</sup> Anniversary of the events that took place at Tiananmen (“Gate of Heavenly Peace”) Square, the 75<sup>th</sup> Anniversary of D-Day, Mayor Coler’s father, and Ms. Deb Hubsmith, founder of the Marin County Bicycle Coalition.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary