

Fairfax Town Council Minutes  
**Special and Regular Meetings**  
Wednesday, **April 3, 2019**  
Fairfax Women's Club

Mayor Coler called the **Special Meeting** to order at 6:00 p.m.

**Roll Call:**

Councilmembers present: Bruce Ackerman, Vice Mayor Renee Goddard, Peter Lacques, John Reed (arrived 6:14 pm), Mayor Barbara Coler.

Staff present: Michele Gardner, Town Clerk.

1. Interview three applicants and make appointments as appropriate to the Tree Advisory Committee- Town Clerk

The Council interviewed Mr. John Romaidis, Ms. Deborah Benson, and Ms. Kathy Flores for the three vacancies on the Tree Advisory Committee. The Council referred to their adopted appointment policy, which calls for each candidate to be appointed to a specific vacancy on the Tree Committee.

M/S Lacques/Goddard to appoint John Romaidis to the Tree Committee to fill the Planning Commission seat until such time as the Planning Commission appoints a Planning Commissioner to the seat.

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

M/S Lacques/Goddard to appoint Deborah Benson to the Tree Committee to fill the Parks and Recreation Commission seat on the until such time as PARC appoints a Commissioner to the seat.

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

M/S Lacques/Goddard to appoint Kathy Flores to the Tree Committee to fill the Open Space Committee seat until such time as the Committee appoints a Committee member to the seat.

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

2. Interview and appointment of applicant to the Parks and Recreation Commission- Town Clerk

The Council interviewed Ms. Dennise Abad.

M/S Ackerman/ Lacques, to appoint Dennise Abad to the Parks and Recreation Commission to fill an unexpired term to October 31, 2021.

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

The Special Meeting was adjourned at 6:50 p.m.

Fairfax Town Council Minutes  
**Regular Meeting**  
Fairfax Women's Club  
Wednesday, **April 3, 2019**

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

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:** Bruce Ackerman  
Barbara Coler, Mayor  
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, Reed/Lacques, Motion to approve the Affidavit of Posting and the agenda as submitted.  
AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

Announcements

Mayor Coler made the announcements as they appeared on the agenda. Councilmember Goddard announced that the Ross Valley Fire Authority will be hosting a seminar called "Living with Fire" on Monday, April 29<sup>th</sup> between 6:00 p.m. and 8:00 p.m. at the Women's Club. She reminded everyone that April 22<sup>nd</sup> is Earth Day and Sustainable Fairfax will be hosting a Climate Talk at the Fairfax Library from 7:00 p.m. to 8:00 p.m.

Mayor Coler stated residents have expressed concern that it takes the Council too long to get to items that are of concern. In response, the Council is looking for ways to get to those items sooner, such as moving the Open Time for Public Expression part of the meeting to the end of the agenda. This will be done starting in May, for a trial period.

Open Time

Mr. Tom O'Neal, Dominga Avenue, remembered the Siegenthaler family, whose daughter passed one year ago today. He reminded drivers to be mindful of bicyclists and pedestrians.

Dr. Jody Timms, Fairfax representative to the Commission on Aging, reported the Aging Action Initiative Event was scheduled for April 30<sup>th</sup> at the Tiburon Lodge. The Age Friendly Fairfax forums have been very well attended. The May 24<sup>th</sup> forum will be on emergency preparedness for older adults. Speaking as a member of 350 Marin, she announced a demonstration in front of the Chase Bank to protest their funding the fossil fuel industry.

Mr. Michael Mackintosh was opposed to moving Open Time to the end of the agenda.

Mr. Rick Hamer, Bolinas Road, opposed reducing the amount of time people are allowed to speak during Open Time.

Ms. Debra Benson, Cascade Drive, was opposed to moving Open Time to the end of the meeting and suggested moving “hot topics” to the beginning instead and giving the Councilmembers time limits.

Mr. Richard Applebaum, Woodland Avenue, encouraged the Council to be proactive in terms of reducing the fuel load for fires.

Frank Egger, Meadow Way, was opposed to Open Time to the end of the agenda. He asked when an EIR consultant for the Wall Property would be retained.

Mr. Mark Bell, Dominga Avenue, requested more agenda copies be provided at meetings, and was opposed to Open Time to the end of the agenda.

Ms. Jessica Green, Ridgeway Avenue, was opposed to moving Open Time to the end of the agenda. Ms. Stephanie Hillman, Fairfax, was opposed to Open Time to the end of the agenda.

Mr. John Sergeant was opposed to moving Open Time to the end of the agenda. He supported Council for considering time limits for Councilmembers.

Ms. Valerie Hood asked the Council to from refrain from calling residents by name in case people did not want to be identified.

Mr. Jack Gescheidt, Redwood Road, was opposed to moving Open Time to the end of the meeting, and to reducing the amount of time people are allowed to speak.

Ms. Mallory Geitheim, Willow Avenue, stated the public should be allowed to speak for three minutes during Open Time at the beginning of the meeting.

Wendy stated everyone wants to be heard, but it’s complicated and meetings go to midnight.

Ms. Kathy Flores stated presentations should be shorter or scheduled for a Special Meeting.

### Presentation

#### Marin Municipal Water District (MMWD) Update- MMWD staff

Mr. Charlie Duggan, Administrative Services Division Manager for MMWD, gave a PowerPoint presentation regarding their Proposition 218 rate increase request.

MMWD Boardmember Larry Bragman stated the rate increase would increase the budget for the watershed. They are looking at different financial strategies and the potential impacts to rate payers. He answered questions from the Council.

Mayor Coler opened the meeting to public comments.

Mr. Doug Kelly, representing the Coalition of Sensible Taxpayers, acknowledged there were infrastructure needs but the group was concerned about rates being based on meter size, exemptions, and the methodology of the Capital Maintenance Fee.

Mr. Michael Macintosh stated the proposal was not unreasonable, but the fee structure should be uniform, without carving some people out.

Mr. John Sergeant, Fairfax, stated it was the wrong time to implement a “pay as you go” system. He opposed placing the fee on the property tax bill instead of the water bill. He opposed basing the fee on meter size. He noted the issue of conservation is missing from the proposal.

Mr. Jason Morrison, Fairfax, stated that Americans typically underinvest in water infrastructure and sustainable watershed management. He supported the increase.

Mr. Mark Bell, Dominga Avenue, stated people who have been conserving water should pay a lower rate.

Mr. Bragman encouraged people to come to the MMWD meetings between now and May 28<sup>th</sup>, when the final decision would be made.

Ms. Mallory Geitheim agreed with the comment made by Mr. Bell.

Ms. Valerie Hood, Fairfax, supported the increase, particularly for fire protection .

The Council thanked Mr. Duggan and Boardmember Bragman for the presentation.

#### Consent Calendar

1. Accept Financial Statements and Disbursement Reports February 2019- Finance Director
2. Approve minutes for the March 6 and 15, 2019 Town Council meetings- Town Clerk
3. Approve preliminary design and approve agreement with Fredric C. Divine Architects (FCDA) for structural engineering and architectural services in an amount not to exceed \$37,000 for the design for the Pavilion Seismic Retrofit project- Town Manager
4. Approve the establishment of a Citizen of the Year Award- Mayor Coler
5. Adopt Town Council Goals for 2019- Town Manager
6. Adopt a Resolution to purchase one police vehicle (pick-up truck) and one public works pick-up truck for an amount not to exceed \$79,587 and declare two outgoing vehicles as surplus- Town Manager
7. Receive 2018-19 Mid-Year Budget Review Report and approve mid-year budget adjustment for additional Town Attorney services needed (e.g., drafting cannabis and 5G ordinances and regulations)- Town Manager
8. Receive update regarding the Ross Valley Yellow Bus program and commit up to \$30,500 for Yellow School Bus service for Fiscal Year 2019-20- Town Manager
9. Approve change order to the contract with Maggiora & Ghilotti for the Parkade Improvement Project to include the repaving of Mono Avenue (Mono Alley) from Bolinas Road to Pacheco Avenue in a not-to-exceed amount of \$59,743- Public Works Director
10. Adopt Fair Housing Proclamation- Mayor Coler

11. Adopt a Resolution Approving the List of Projects Funded by SB1: The Road Repair and Accountability Act for Fiscal Year 2019-20- Town Manager

Mr. Mark Bell asked the Council to pull Consent Calendar item #7 for discussion.

Ms. Kathy Flores had a question about Consent Calendar item #9.

A resident had a question about the Parkade Rehabilitation Project.

Ms. Stephanie Hillman had a question about Consent Calendar item #5.

M/S, Ackerman/Reed, Motion to approve the Consent Calendar as submitted.

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

### Public Hearings

12. Adopt a resolution approving a 19.85% service rate increase for Marin Sanitary Service (MSS) for the provision of solid waste (garbage) and recycling services due to increases in the amounts of garbage, recycling, and labor and fuel costs; exempt from the California Environmental Quality Act (CEQA) per 14 CCR 15061(b)(3)- Town Manager

Town Manager Toy presented a staff report.

Mr. Garth Shultz, representing R3 Consulting, gave a PowerPoint presentation. He noted that the market for plastic recycling was gone, and that people were generating more waste than ever.

Ms. Patty Garbarino, President of Marin Sanitary Service (MSS), stated R3 Consulting did a great job in its analysis. She regretted the increase but noted Fairfax has enjoyed lower rates than other cities in the MSS service area.

Mayor Coler opened the Public Hearing.

Mr. Michael Macintosh stated his interaction with MSS employees has always been pleasant and professional.

Ms. Mallory Geidheim had a question about the salary increases.

Mr. Mark Bell, Dominga Avenue, stated he did not remember his bill going down. He asked why they spent \$25,000 on a study.

Mayor Coler closed the Public Hearing.

Ms. Garbarino stated all employees received the same pay increase, but they were looking at possibility of "merit based" increases. She emphasized that with virtually no market for plastic recycling, MSS was focusing on educating the public to use less plastic.

Councilmember Goddard discussed the increases in diversion, and stated the educational bill inserts from MSS were excellent.

Councilmember Lacques, in response to a public comment, stated that the cost of the R3 Consulting was included as part of the Town's agreement with Marin Sanitary Service.

Mr. Joe Garbarino stated only three garbage companies in the Bay Area use dual stream. He noted there was no market for plastics.

M/S, Goddard/Lacques, Motion to adopt a resolution approving a 19.85% service rate increase for Marin Sanitary Service (MSS) for the provision of solid waste (garbage) and recycling services due to increases in the amounts of garbage, recycling, and labor and fuel costs.

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

13. Adopt a resolution approving the issuance of bonds by the California Municipal Finance Authority (CMFA) for the benefit of Mercy Housing California 84, L.P., to provide for the financing of the Bennett House Apartments Affordable Housing Project with *no financial obligation to the Town*; such adoption is solely for the purposes of satisfying the requirements of TEFRA, IRS Code and the California Government Code Section 6500; Exempt from CEQA per 14 CFR 15301- Town Manager

Town Manager Toy presented the staff report.

Mayor Coler opened the Public Hearing.

Mr. Jesse Ozanion, Project Manager for Mercy Housing, assigned to the Bennett House renovation, stated Rents will still be restricted to 30% of a tenant's income regardless of the renovations. The property will transfer to a new Mercy Limited Partner with Mercy Housing being the managing general partner. The current deed restrictions will remain in force for another 55 years. Community meetings started in July of last year. He answered questions from the Council.

Mr. Travis Cooper, CMFA, stated his firm would be issuing the bonds. He answered questions from the Council. He clarified that this is a private loan between a borrower and a bank. The IRS requires that a Public Hearing be held since it is an affordable housing project and that the Town approve CMFA as the issuer.

Mr. Frank Egger, Meadow Way, expressed concern for what would happen to the tenants during the renovations.

Ms. Valerie Hood, Dominga Avenue, was concerned that the Town would be financially liable.

Ms. Mallory Geitheim agreed with Mr. Egger and Ms. Hood.

Mr. Michael Mackintosh supported renovating the building, but he had questions.

Ms. Jackie Hoffman, Fairfax, stated she was an employee of Mercy Housing. They have a deep commitment to provide affordable housing.

Mr. Ford Fish stated he is on the Mercy Housing Board and stated that this transaction was typical. The building had deficiencies that need to be fixed. He urged the Council to move forward.

Ms. Lisel Blash, Pacheco Avenue, stated the Town would not be losing anything by letting this go forward. She would like to see the complex stay affordable since locals live there.

Ms. Jessica Green had a question about the figures and whether or not Fairfax would be liable.

Mayor Coler closed the Public Hearing.

M/S, Lacques/Ackerman, Motion to adopt a resolution approving the issuance of bonds by the California Municipal Finance Authority (CMFA) for the benefit of Mercy Housing California 84, L.P., to provide for the Financing of the Bennett House Apartments Affordable Housing Project with *no financial obligation to the Town*; such adoption is solely for the purposes of satisfying the requirements of TEFRA, IRS Code and the California Government Code Section 6500.

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

The Council took a 5-minute break at 9:30 p.m.

14. Consider a resolution granting a driveway width variance per Town Code Section 12.12.090, to construct a 33-foot-wide driveway that exceeds the 20-foot-wide driveway limit, to allow construction of a single-family residence at 251 Scenic Avenue (Assessor's Parcel No. 002-121-50); CEQA categorically exempt per Section 15303(a)- Planning Director

Planning Director Berto presented the staff report.

Mayor Coler opened the Public Hearing.

Mr. Rick Hamer, Bolinas Road, stated the site might not be appropriate for a 2,100 square foot improvement.

Mayor Coler closed the Public Hearing.

M/S, Goddard/Reed, Motion to adopt a resolution granting a variance for an over-width driveway at 215 Scenic Road to allow for a 33-foot-wide driveway that exceeds the permitted 20-foot-wide driveway width by 13 feet.

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

15. Introduce and read by title only an ordinance amending Chapters 17.008, 17.016, and 17.136, to reduce the allowable home size from 5,000 square feet to 3,500 square feet; CEQA exempt per CEQA Guidelines Sections 15060(c)(2), 15061(b)(3), and 15302- Planning Director

Planning Director Berto presented the staff report.

Mayor Coler opened the Public Hearing.

Ms. Marianne Querry, Cascade Drive, asked why a limit was being considered, when there were already regulations in place to address the issue.

A resident stated she supported having a limit. The Town did not need more houses and people.

Gabriel stated he was in favor of accessory dwelling units on single-family properties and concerned that a cap on the square footage of all structures could directly impact families.

Stephan stated people who build a 5,000-square foot house have enough money to pay taxes. People should be free to build as big as they want.

Mayor Coler closed the Public Hearing.

Mayor Coler stated she would like to continue this item.

M/S, Goddard/Reed, Motion to continue this item to the April 23<sup>rd</sup> Special Meeting.  
AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

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

M/S, Ackerman/Goddard, Motion to keep the agenda as is and not continue any more items.  
AYES: Ackerman, Goddard, Lacques, Reed, Mayor Coler

### Regular Agenda

16. Introduce and read by title only an ordinance adding Chapter 5.55, Entitled “Mandatory Mediation for Rental Increases” to Fairfax Municipal Code Title 5, Requiring Mediation for Rental Increased Exceeding Five Percent; exempt from CEQA pursuant to Section 15061(b)(3), of the CEQA Guidelines- Mayor Coler, Town Manager

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

Mayor Coler opened the meeting to public comments.

Ms. Leelee Thomas, County of Marin Community Development Agency, stated the County had adopted a similar ordinance in December 2017. She answered questions from the Council.

Mr. Rick Hamer, Bolinas Road, stated he supported the proposal but did not like the “teeth.”

Ms. Sammi Miracle read a statement from Ms. Patti Breitman of the Marin Organizing Committee in support of the ordinance. She urged the Council to support renter protections and adopt the ordinance.

Mr. David Levin, attorney with Legal Aid of Marin, thanked the staff for their work on this important issue and urged the Council to adopt the ordinance.

Ms. Casey Epps, attorney with Fair Housing Advocates and Boardmember of the Marin Environmental Housing Collaborative, applauded the Council for considering this necessary rental protection for the most vulnerable residents in Marin. The ordinance will provide an opportunity for landlords and tenants to come together to participate and will not take away any control for landlords.

Ms. Meredith Parnell, San Anselmo, representing Marin Kids, supported the ordinance, adding that housing stability is a critical component to a child’s health.

Mr. Romeo Arieta, CEO of the Marin Association of Realtors, stated their organization supported best policies supported by data. They were concerned that additional regulations on landlords may discourage them from investing in more property or encourage current landlords to leave the market.

Ms. Lisel Blash, Pacheco Avenue, thanked the Council for considering this ordinance that would allow people of low and moderate income to continue to live in Fairfax.

Wendy, Fairfax, stated she supported the ordinance, although it did not provide enough protection. She urged the Council to find a way to educate landlords and tenants.

Mr. Bob Kahn, Bothin Road, supported the ordinance and thanked Fairfax for doing the right thing.

Mayor Coler closed the meeting to public comments.



M/S, Reed/Goddard, Motion to Introduce and read by title only an ordinance of the Town Council of the Town of Fairfax adding Chapter 5.55, Entitled “Mandatory Mediation for Rental Increases” to Fairfax Municipal Code Title 5, Requiring Mediation for Rental Increases Exceeding Five Percent with the changes in the supplement.

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

17. Second reading by title only and adoption of 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; Exempt from CEQA pursuant to Section 15061(b)(3)- Mayor Coler, Town Manager

Town Manager Toy presented the staff report.

Mayor Coler opened the meeting to public comments.

Mr. Rick Hamer, Bolinas Road, referred to Section 5.54.040(A)(1) and asked for clarification. He was concerned that a tenant could be displaced.

A resident read a letter on behalf of Ms. Francie Salle supporting the ordinance.

Mr. Romeo Arieta, CEO of the Marin Association of Realtors, stated Just Cause did not increase housing inventory; it did the opposite. He asked the Council to review the ordinance in one year if it passed.

Ms. Casey Epps, attorney with Fair Housing Advocates and Boardmember with the Marin Environmental Housing Collaborative, supported the ordinance. She discussed unlawful evictions she had been involved with during her career.

Mayor Coler closed the meeting to public comments.

M/S, Lacques/Reed, Motion to waive second reading and read by title only and adopt 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 the edit noted by Mayor Coler.

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

M/S, Reed/Lacques, Motion to suspend the 11:30 p.m. rule

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

18. Discuss/consider the renewal of the existing Special Municipal Services Tax of \$195 per Business occupancy and dwelling unit (Measure J)- Town Manager

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

Mayor Coler opened the meeting to public comments.

Mr. Rick Hamer stated the impact on emergency services is greater for larger businesses and dwellings and they should pay more.

Mayor Coler closed the meeting to public comments.

Mayor Coler stated the Council would be discussing this issue again in the future. Staff would come back to the Council with information on options.

19. 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 exempt per Section 15301, 15305, and 15308- Town Manager

Town Attorney Coleson presented the staff report. She noted a typographical error in Section 1.12.060 of the Ordinance.

Mayor Coler opened the meeting to public comments.

There were no comments.

Mayor Coler closed the meeting to public comments.

Councilmember Lacques suggested the following amendments: 1) In Section 1.12.060, “Initial Staff Investigation”, should provide that staff reach out to the property owner; 2) Section 1.12.070, “Method of Service”, should include that notice be mailed to and posted at the physical address.

Mayor Coler presented her suggested amendments.

M/S, Lacques/Reed, Motion to 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 with the amendments suggested by Councilmember Lacques and Mayor Coler.

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

### Council Reports and Comments

Councilmember Ackerman reported he attended the climate conversation meetings; the MCCMC meeting; several Flood Zone 9 meetings; a Mosquito Abatement Board meeting; the Town Council Retreat.

Councilmember Reed reported he attended a Ross Valley Fire Board meeting; the Council Retreat; a meeting sponsored by Marin Commutes.org; the MCCMC meeting; a Transportation Authority of Marin (TAM) meeting.

Councilmember Goddard reported she met with a County Fire representative regarding fire safety in the Cascades; met with a representative of R3; attended the newly formed General Plan Advisory Committee (GPAC) meeting; helped with the Brewfest; worked with some Drake High School students about composting; attended several climate talks at the Fairfax Library; the MCCMC meeting; two Fire Wise meeting; the Fair Housing Conference; an LTF meeting; a Zero Waste Marin meeting; the Council Retreat.

Mayor Coler reported she attended a Community Media Center of Marin Board meeting; the Council Retreat; volunteered for Meals on Wheels; a “Get Ready Together Marin” meeting; the Age Friendly Breakfast; met with County representatives regarding the Mandatory Mediation issue; the Marin Clean Energy Board meeting; the MCCMC Legislative Committee meeting; the MCCMC meeting and got to meet the Major Crimes Task Force drug sniffing dog named Max who came from Ireland! People can relax- Max is a Springer Spaniel who only sniffs on command.

## Town Manager's Report

Town Manager Toy reported the work on the Forrest Terrace steps had started. The FHWA and CalTrans have officially approved the Forrest Avenue funding and the Town should see reimbursement in a few weeks in the amount of around \$300,000. The Parkade project is moving along with the irrigation and curb ramp work scheduled for this week. The project should be completed by the end of April.

M/S, Goddard/Reed, Motion to adjourn the meeting at 12:15 a.m. in memory of Iva Joe Collins and Marie Siegenthaler.

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

Respectfully submitted,  
Toni DeFrancis,  
Recording Secretary