

Fairfax Town Council Minutes
Regular and Special Meetings
Fairfax Women's Club
Wednesday, **May 1, 2019**

The Regular meeting was preceded by a Closed Session from 5:45 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

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

Approval of Special Meeting Agenda and Affidavit of Posting

M/S, Goddard/Reed, Motion to approve the affidavit of posting and the Special Meeting agenda as submitted.

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

Adopt a Resolution of the Town Council of the Town of Fairfax in Support of Team Marine's Efforts to Eliminate Plastic Straws in the Town for the Protection of our Waterways

Councilmember Goddard introduced the members of Team Marine and read the Resolution.

M/S, Goddard/Lacques, Motion to Adopt a Resolution of the Town Council of the Town of Fairfax in Support of Team Marine's Efforts to Eliminate Plastic Straws in the Town for the Protection of our Waterways

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

Mayor Coler called the Regular meeting to order at 7:15 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
Amanda Charne, Assistant Town Attorney
Ben Berto, Planning Director

Announcement of Closed Session Action

Mayor Coler announced that typically the Town Council would not comment on Closed Session

items. However, due to significant public interest in the matter the Council will share its direction on the topic. First, it should be noted that the Closed Session is listed so staff has an opportunity to discuss with the entire Council the item listed. Otherwise the Brown Act prohibits staff from discussing with Councilmembers individually their thoughts regarding the issue. Thus, the Town Council is being transparent in its consideration of this matter. With regard to the Closed Session, the Council did discuss a conceptual verbal proposal from the managing partner of the Marinda Heights Property (a.k.a. the Wall Property) to purchase 10 acres of an existing 18-acre parcel west of Ridgeway for \$500,000. The Council has decided not to further explore the conceptual proposal regarding the Marinda Heights Property at this time. Public comment on Closed Session items is listed and received prior to the Closed Session. We received none. There will be no further discussion of this issue at this meeting. Please note that with regard to the Marina 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 not yet been issued so it will be quite some time before the Planning Commission and Council consider the application.

Approval of Regular Meeting Agenda and Affidavit of Posting

M/S, Lacques/Ackerman, 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 the Fairfax Farmers Market opened today and will be open every Wednesday evening in Bolinas Park until the month of September.

Open Time

Mr. Tom O'Neal expressed concern about the recent pedestrian death in Sleepy Hollow. He asked drivers to slow down and pay attention.

Ms. Bonnie Cohen, Live Oak Avenue, discussed the Grand Jury Report on Wildfire Preparedness. She asked the Town to do more to prepare for a wildfire.

Mr. Ted Pugh, Acacia Road, read from a statement regarding his residential building project, and his issues with it.

Ms. Shelley Hamilton, Canyon Road, thanked the Council for their work in supporting the Town of Fairfax, and presented them each with flowers.

Ms. Lisel Blash, thanked the Council for their good work, noting the current Parkade and Mono Alley improvement projects.

Yvonne Roberts, Scenic Road, expressed gratitude for various accomplishments of the Council.

Shelby LaMotte, Manor Road, thanked the Council and stated she wished to bring positivity to the public process.

Rebekkah Collins, Monte Vista, expressed appreciation for the Council and staff, and noted the Town often served as a model for other jurisdictions to follow

Kiki La Porta, Glenn Drive, thanked the Council, noting the number of hours they volunteered. David Haskell, Glenn Drive, thanked the Council for upholding the Town's shared values.

Lena Maria Estrella, Muriel Place, thanked the council for acting with integrity and passion.

Mark Vendetti, Muriel Place, agreed with the former speakers, and thanked the Council for their courage and grit.

Ms. Cindy Swift, Madrone road, asked for an update on the Parkade bus stop structure.

Jody Timms, Cascade Drive, thanked staff and the Council. As Fairfax representative to the Commission on Aging, she gave an update on the commission activities and noted this was Older Adult Month. She also discussed the activities of Age Friendly Fairfax.

Monty Stephens, Fairfax, expressed support for the Council and Town Manager, and echoed the former speakers.

Ms. Kiki LaPorta and Mr. David Haskell, representing the Climate Action Committee, gave an update and presented the Council with the Annual Action Plan.

Mr. Victor Harris, Willow Avenue, made a comment on the Closed Session item and the traffic burden that the Marinda Height Project would cause.

Mr. Richard Applebaum, Woodland Avenue, stated his concern with the Town's fuel load.

Mr. Frank Egger, Meadow Way, asked about the Environmental Impact Report (EIR) process for the proposed Wall Property development.

Ms. Wendy Botwin, Fairfax, thanked the Fairfax Police Department for their help in a recent incident with an injured animal.

Mr. Mark Bell, Dominga Avenue, expressed concern with the cost of hiring a consultant to look at the new Sanitation Fees and attorney fees for the 5G issue.

Mr. Michael Macintosh discussed the possible acquisition of the Wall property and Brown Act regulations pertaining to closed session.

Mayor Coler closed the public comments and made a brief statement about the Marin Telecommunications Agency (MTA), a Joint Powers Agency that represents nine Marin cities and towns plus the County of Marin. It does not have jurisdiction over cellular facilities.

Consent Calendar

1. Accept Financial Statements and Disbursement Reports March 2019- Finance Director
2. Receive Treasurer's Report as of March 31, 2019- Finance Director
3. Proclamation Recognizing Kids to Parks Day on May 19, 2019- Town Clerk
4. Reappoint Chris Borjian to full term on the Parks and Recreation Commission- Town Clerk
5. Approve joining the Mayors Climate Network- Mayor Coler

6. Receive Marin Sanitary Service 2018 Annual Report- Town Clerk
7. Receive report on the schedule for the Fiscal Year 2019/20 Proposed Operating and Capital Improvement Budget- Town Manager, Finance Director
8. Approve request from Drawdown Marin to use the Town logo on their homepage- Assistant Planner
9. Authorize the Town Manager to negotiate and execute agreements with Tyler Technologies, Inc. for Tyler InCode accounting software as a cloud-based service (SaaS), in an amount not to exceed \$100,000- Finance Director
10. Receive written report on Councilmember's assignments, committees, and activities in April- Town Clerk
11. Authorize the Town Manager to prepare and submit the Fiscal Year 2019/20 work plan to to Marin County for the use of the Town's Measure A Park Funds- Town Manager
12. Authorize Vice Mayor to send a letter supporting the Marin Transit staff proposal to increase Annual supplemental funds by \$30,000 for the Ross Valley Yellow School Bus Program- Town Manager

Councilmember Goddard had a question about Consent Calendar item #5.

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

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

Presentation

The damage caused by the production and consumption of single use plastics and disposable foodware- Perri Russell, Sustainable Fairfax Intern, Drake High School

Ms. Peri Russell gave a PowerPoint presentation, and requested the Town adopt an ordinance.

Mayor Coler stated this issue would be placed on the June agenda. She thanked Ms. Russell for her good work.

Regular Agenda

13. Discuss regulations pertaining to certain commercial cannabis uses including store-front retail and delivery-only businesses, non-commercial cannabis cultivation, cannabis business permit process, and scoring criteria for applications- Planning Director

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

Mayor Coler opened the meeting to public comments.

An individual stated he was interested in freedom in general, and supported more legal options.

Ms. Chris Wellish stated she used cannabinoids medical purposes. She supported requiring all dispensaries to go through the permit process.

Chelsea, San Geronimo stated she submitted an application for a new medical cannabis facility

in the buffer zone and discussed her business model.

Ms. Deb Nelson, Spruce Road, supported the 600-foot buffer zone and would include Contratti Ballfield in this zone. She supported one, and not three, storefronts, and regulation of potency.

Mr. Patrick Fosano, San Anselmo, stated cannabis merchants want to help people.

Ms. Jasmine Garrity discussed cannabis regulations to protect youth, including product regulation.

Ms. Julia Rose was concerned that vaping pods and edible cannabis products attracted young people.

Mr. Sebastian Meyer, Mill Valley, advocated for youth with substance abuse problems. He was opposed to a retail storefront in Fairfax.

Ms. Fiona Core, Drake High School student, was concerned that a storefront in Fairfax would increase teen drug use.

Ms. Patrice Bryan, Fairfax, stated cannabis was an alternative to opioids to address pain. She was concerned that allowing only one dispensary created a monopoly, with negative results.

Mr. Mike Zelesky, owner of the TLC tutoring center on Sir Francis Drake Boulevard, stated it should be in the buffer zone. Three dispensaries were too many.

Mr. Thor Lowengard, White Hill Middle School student, stated a retail storefront would create the potential for more kids to use pot.

Ms. Annie Lowengard, Fernwood Drive, recognized the medical benefits of cannabis, but also had concerns with kids using drugs. She was opposed to a retail store front.

Ms. Bridget Clark agreed with the comments made by Mr. Zelesky. She discussed the need for more education.

Ms. Monica Hooley, Fairfax, stated high potency THC was a risk to mental health.

Mr. David Finnane, school principal, opposed recreational storefronts. He stated the existing medical dispensary and delivery were adequate for medical use.

Mr. Sierra Salin agreed with the previous speaker.

Mr. Lew Tremaine, representing Marin Alliance, stated a cannabis storefront should be a second-floor facility and out of sight, and signage was an issue.

Mr. Mark Bell, Domina Avenue, stated he did not see a connection between a storefront and teen drug abuse.

Mr. Charlie Hickox, Manor Road, stated he did not want somebody delivering pot to his house; he should be able to go to a storefront.

Mr. Roger Marsden, Porteous Avenue, stated discretion and quality of product was important.

Mr. Michael Macintosh was concerned the Town could assume some liability without regulations for buildings that had multiple units.

Ms. Kelsey Fernandez stated the issue was whether the Town needed a recreational cannabis storefront considering the existing issues such as youth drug use and traffic.

Mr. Don Carney, Mountain View Road, stated the THC content of today's marijuana can trigger a psychotic break and was highly addictive. A storefront tells young people that marijuana use is normative.

Mayor Coler closed the meeting to public comments.

The Council took a 10-minute break at 9:40 p.m.

Councilmember Lacques referred to cultivation and supported six plants for recreational, and ten plants for medical. He referred to retail and stated he was concerned about the traffic it would create. Impacts from a delivery business would be minimal. He would like to phase out medical and allow up to two delivery businesses in Town in the Limited Commercial (CL), Central Commercial (CC), and Highway Commercial (CH) Zones. A buffer zone for a delivery-only business could be 300 feet. There should be a dedicated parking space and minimal signage. He would like to talk about how to limit THC levels at another meeting. The existing medical dispensary should not have to go through the application process.

Councilmember Ackerman agreed with most of the comments made by Councilmember Lacques. He supported up to two business locations in Town in any combination except for adult-use storefront at this time. Ten plants for medical use was reasonable.

Councilmember Reed supported six plants and perhaps more for medical with a note from a physician. He did not support lumping in duplexes and triplexes with multi-unit apartment buildings. He supported the model of adult-use recreational delivery and would support up to three. He is not good with walk-in recreational but supports walk-in medical in conjunction with delivery (up to two or three). He would support 200-foot buffer zone for delivery. He would like to limit the products that are available. He would support a buffer around the tutoring center.

Councilmember Goddard stated she opposed having a recreational storefront in town. She agreed with Councilmember Lacques' comments about cultivation. She supported a 600-foot buffer from schools; 200-300feet for delivery. The existing medical dispensary should go through the application process. She supported one medical dispensary with a combination recreational delivery and one other business that would only be recreational delivery. She supported looking at a buffer around the tutoring center.

Mayor Coler supported the earlier Council decision to eliminate certain categories. She supported the recommendation of the Commission (only medical retail, adult-use retail, and delivery uses) in combination. She supported two potential locations and would allow the continuation of the existing medical dispensary with adult-use retail delivery. She supported six mature plants and six total outdoor per property for multi-family. She supported the 200-foot buffer from schools/day care centers and the 600-foot buffer for retail and 200 or 300 for retail/delivery. She supported a dedicated parking space for delivery businesses.

Mayor Coler asked staff to bring a draft Ordinance to the Council in June.

Mayor Coler stated she would like to continue the Councilmember Reports hear items #15 and #16 prior to #14.

15. Second reading by title only and adoption of an Ordinance adding Chapter 5.55, Entitled "Mandatory Mediation for Rental Increases" to Fairfax Municipal Code Title 5, Requiring

Mediation for Rental Increases Exceeding Five Percent- Town Manager

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

Mayor Coler opened the meeting to public comments.

Mr. David Levin, attorney for Legal Aid of Marin, discussed the housing crisis and supported the ordinance.

Mr. Michael Macintosh stated he looked at this differently as a landlord. He found the ordinance was disproportional. "Rent" should be defined to exclude all the utilities that a landlord pays.

Mr. Richard Applebaum stated he was sympathetic to the renter mentality and affordability issues but understood Mr. Macintosh's concerns.

Ms. Lisel Blash, Pacheco Avenue, stated the ordinance was not about rent control; it was about mediation requested by the tenant or landlord.

Wendy stated this was a minor protection for renters; more were needed.

Mayor Coler closed the meeting to public comments.

M/S, Goddard/Ackerman, Motion to read by title only and adopt an Ordinance adding Chapter 5.55, Entitled "Mandatory Mediation for Rental Increases" to Fairfax Municipal Code Title 5, Requiring Mediation for Rental Increases Exceeding Five Percent.

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

16. Second reading by title only and adoption of 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- Town Manager

Town Manager Toy presented the staff report.

Mayor Coler opened the meeting to public comments.

Mr. Michael Macintosh asked for better definitions.

Mayor Coler closed the meeting to public comments.

M/S, Lacques/Reed, Motion to read by title only and adopt 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

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

14. Discuss/consider the renewal of the existing Special Municipal Services Tax of \$195 per business occupancy and dwelling unit- Town Manager

Town Manager Toy presented the staff report and a PowerPoint presentation. He answered questions from the Council.

Mayor Coler opened the meeting to public comments.

Mr. Michael Macintosh stated this tax was putting the burden on the people who could least afford it and asking them to subsidize the larger footprints.

Mr. Richard Applebaum asked if the original intention was for this tax to renew forever.

Mayor Coler closed the meeting to public comments.

The Council discussed extending the tax for 11 years (to November 2030) with a \$5 per year increase. Town Manager Toy stated staff would bring this back to the Council in June.

M/S, Reed/Lacques, Motion to waive the 11:30 rule.

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

17. Introduce and read by title only 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 Nonconforming Structure is More than 50% Destroyed- Planning Director

Planning Director Berto presented the staff report and noted several corrections to the proposed ordinance. He answered questions from the Council

Mayor Coler opened the meeting to public comments.

Mr. Michael Macintosh stated limitations on houses should be done on a case-by-case basis.

Mayor Coler closed the meeting to public comments.

M/S, Ackerman/Goddard, Motion to Introduce and read by title only 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 Nonconforming Structure is More than 50% Destroyed including the supplement presented by staff.

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

Council Reports and Comments

Mayor Coler noted this item has been continued.

Town Manager’s Report

Town Manager Toy announced the Ribbon-Cutting Ceremony for the Parkade next Friday. The bus shelter will be installed on Broadway next week. He is contacting the contractor for the Sir Francis Drake Boulevard bus stop. The rapid flashing beacons and the handrails are on order. One additional charging station has been added to the Parkade, funded through a grant.

M/S, Coler/Reed, Motion to adjourn the meeting at 12:15 a.m. in memory of Ms. Carolyn Allen and her dog who were struck and killed by a vehicle on Butterfield Road.

Respectfully submitted,
Toni DeFrancis, Recording Secretary