

Fairfax Town Council Minutes
Regular Meeting and
Special Meeting in Closed Session
Via teleconference due to COVID-19
June 2, 2021

Mayor Ackerman called the Closed Session meeting to order at 6:00 p.m.

Roll Call:

COUNCILMEMBERS PRESENT: Bruce Ackerman
Barbara Coler
Chance Cutrano
Renee Goddard
Stephanie Hellman

STAFF MEMBERS PRESENT: Garrett Toy, Town Manager
Janet Coleson, Town Attorney

There was no public comment on the Closed Session.

The Council adjourned to Closed Session on the following matter:

Conference with Legal Counsel- Anticipated Litigation- Government Code Section 54956.9(d)(2) & (e)(1)- One case

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

Roll Call:

COUNCILMEMBERS PRESENT: Bruce Ackerman
Barbara Coler
Chance Cutrano
Renee Goddard
Stephanie Hellman

STAFF MEMBERS PRESENT: Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Principal Planner Linda Neal

Approval of Agenda and Affidavit of Posting

M/s, Coler/Goddard, Motion to approve the Affidavit of Posting and the agenda with the Town Manager Report placed in front of the Consent Calendar.

AYES: Coler, Cutrano, Goddard, Hellman, Mayor Ackerman (through a roll call vote)

Announcement of Closed Sessions on June 1 and June 2, 2021

Mayor Ackerman announced the Council made a recommendation and gave direction to staff at the June 1st Closed Session meeting. There was nothing to report for tonight's Closed Session.

Announcements

Mayor Ackerman made the announcements as they appeared on the agenda. Town Manager Toy stated that the Ross Valley Community Liaison is Vice Mayor Hellman and the Superintendent has organized a committee that will meet quarterly.

The meeting was dedicated to the victims of the Tulsa Massacre and to George Floyd.

Open Time for Public Expression

Cindy Ross expressed concerns about the odors and fumes from the Coin Washing Well at Fairfax Plaza and asked that the matter be added to an agenda.

Dr. Jody Timms, Fairfax representative to the Commission on Aging, gave a status report and update on activities of the Ross Valley Seniors and Age Friendly Fairfax.

Gabe, son of Cindy Ross, supported his mother's concerns regarding the health and environmental impacts of the laundromat fumes, and asked that they be taken seriously.

Walt Vernon, Climate Action Committee, discussed the Climate Action Plan and stated the committee has an information table at the Farmers Market, and invited new members to join.

Richard Applebaum supported Cindy Ross's concerns.

Rick Hamer opposed the year-long extension of the temporary parklets and would prefer the temporary structures undergo Code review.

Frank Egger asked the Town to enforce the Transient Occupancy Tax (TOT) against short-term rentals such as Airbnb.

Deborah Benson supported previous speakers Rick Hamer and Cindy Ross. She had concerns about the RESJ and PPPSA.

Michael Mackintosh supported Cindy Ross' comments. He stated closed session direction to staff should be made public.

John Romaidis stated the RESJ and PPPSA should be subject to the Brown Act.

Jane Richardson opposed the "parklet" issue being decided without a public forum.

Mark Bell opposed the Land Acknowledgement printed on every agenda.

Town Manager's Report

Town Manager Toy reported the survey regarding the use of downtown public spaces will be available soon. Staff received another bid for the Cascade Striping Project. The target date is the week of June 14th.

Consent Calendar

1. Receive Financial Statement and Disbursement Reports April 2021- *Finance Director*
2. Receive written report on Councilmembers' assignments, committee, and activities in May- *Town Clerk*

3. Approve minutes for the March 26, 2021, Town Council Special meeting and the April 21, 2021 Town Council-Planning Commission Special Joint meeting- Town Clerk
4. Adopt a Resolution Proclaiming June 2021 as LGBTQ+ Pride Month and Approving Flying the Pride Flag at Town Hall for the month of June- Town Manager
5. Authorize the Town Manager and/or Police Chief to execute Memorandum of Understanding (MOU's) for the 2021/23 Marin Operational Area with the County of Marin and for the 2021/23 Emergency Operations Center and Operational Emergency Management Services with the County of Marin Sheriff's office- Town Manager
6. Adopt a Resolution Adopting the revised Climate Action Plan- Town Clerk
7. Adopt a Resolution Approving the List of Projects Funded by SB 1: The Road Repair and Accountability Act for Fiscal Year 2021/22- Town Manager

The Council noted the March 26 minutes did not reflect the public comment made by Al Baylaq. It was suggested that there be no end date to the resolution in Item #4.

Mayor Ackerman opened public comment.

Dr. Jody Timms asked that the Pride flag be displayed now, without waiting for a flagpole.

Michael Mackintosh repeated his Open Time comment.

Mark Bell made a comment on the Town Manager's report.

Mayor Ackerman closed the meeting to public comments.

M/s, Coler/Hellman, Motion to approve the Consent Calendar with the edits to the March 26 minutes, the edits to the resolution in item #4 as suggested, and to remove item #6 and place it on after the Public Hearings on this agenda.

AYES: Coler, Cutrano, Goddard, Hellman, Mayor Ackerman (through a roll call vote)

Public Hearings

8. 63 Spring Lane: Appeal of Planning Commission action approving a Hill Area Residential Development, Design Review, Tree Removal, and Excavation Permits and a Retaining Wall Height Variance, to allow the construction of a three story, 2,511 square foot, 3-bedroom, 2 ½ bathroom single-family residence with an attached 648 square foot garage/storage; Assessor's Parcel No. 002-174-05; Residential Single-family RS-6 Zone; Stacy and John Peoples, owners; Noel Bouey, appellant; CEQA Categorically exempt per Section 15303(a)- Principal Planner

Principal Planner Neal presented the staff report and answered questions from Council.

The Council disclosed that they each had visited the project site with staff.

Mayor Ackerman opened the Public Hearing.

Noel Bouey, appellant, lives below the project. He had no objection to the project, but was concerned that the plans submitted to the Planning Commission were not the final plans and issues would be addressed by the Planning Department. He discussed the issues of concern

including the 15-foot retaining wall, road access, the driveway's use of the unpaved portion of the road, easement for utilities, the width of the road, and the drainage.

Frank Egger, Meadow Way, stated the application ignored issues of future development of other properties. He stated the site did not meet Town Code requirements for frontage on a public street and for pavement width.

Stacy Peoples, project owner, thanked staff and stated the project complied with the Code.

Doug Thompson, project architect, clarified a few items including the retaining wall height and materials, fire truck access, the driveway design and road width, and the grading and drainage.

Principal Planner Neal stated Condition #2 could be modified to say: "Use of the unpaved portion of the Spring Lane roadway for storage of construction materials and/or employee parking shall be limited to maintaining at least 10 feet of unobstructed road width to allow access to the properties east of the project site by standard vehicles."

Deborah Benson was concerned that the Planning Commission grants too many variances.

Mr. Bouey, appellant, asked for clarification from staff regarding Mr. Egger's comments.

Principal Planner Neal stated the Subdivision Ordinance is being followed. The parcel was legally created and has frontage on a street easement, and they can access their parcel from the existing improved Spring Lane right-of-way. She stated no variance was requested.

Mr. Bouey, appellant, stated a variance had been granted for the retaining wall.

Mr. Thompson stated they looked at options for the fire truck turning radius including a hammerhead. He discussed how they did not want the starting point of the turning radius to start lower down Spring Lane which would push the cut further into the hill.

Mayor Ackerman closed the Public Hearing.

Councilmember Cutrano had a question about slides in the area and drainage.

M/s, Coler/Goddard, Motion to uphold the February 18, 2021 decision of the Planning Commission, and adopt the attached resolution with the change indicated on page 4, under the second "Whereas" it should say: "Use of the unpaved portion of the Spring Lane roadway for storage of construction materials and/or employee parking shall be limited to maintaining at least 10 feet of unobstructed road width to allow access to the properties east of the project site by standard vehicles"; the addition of two new conditions, one of those conditions has two parts, and a clarification of the previous Planning Commission Condition approving Application #21-03 for construction of a new single-family residence at 63 Spring Lane.

AYES: Coler, Cutrano, Goddard, Hellman, Mayor Ackerman (through a roll call vote)

The Council took a 6-minute break at 9:02 p.m.

9. Introduce and first reading by title only an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.020 and Adding Section 17.020.030(c) to Include the Requirement of a Design Review Permit for Changes in the Exterior Color of a Structure or the Alteration of a Significant Design Element Which is a Part of the Design of the Building in All Zones Except RD 5.5-7, RS 6, RS 7.5, UR 7 and UR 10; Exempt from CEQA Pursuant to CEQA Guidelines Section 15060(c)(2), 15061(b)(3), 15305, and 15378 (continued from May 5, 2021 Council meeting)- Principal Planner

Principal Planner Neal presented the staff report. She referred to the resolution and suggested the following revisions: The third “Whereas” should read: “The exterior color.....commercially developed *and multiple family residential, Senior Multi-Family Residential, and Planned Development District zoned properties...*”. The last sentence of the fourth “Whereas” should read: “Incorporating...commercial areas *and Multiple Family Residential, Senior Multi-Family Residential, and Planned Development District zoned properties...*”.

Principal Planner Neal replied to questions from the Council regarding adding the language to other zoning districts, and stated the list should include Limited Commercial, Highway Commercial, Central Commercial, Service Commercial, Recreation Commercial, Multiple Family Residential, Planned Development District, and Senior Multi-Family Residential.

Councilmember Goddard asked about the criteria that the Planning Commission would consider when reviewing a color choice. Principal Planner Neal stated the criteria are listed in the Design Review Section of the Code.

Mayor Ackerman opened the Public Hearing.

Frank Egger, Meadow Way, supported the ordinance and stated the codification company mistakenly had removed this section of the code.

Deborah Benson supported the ordinance.

Patrece Bryan supported the ordinance.

Mayor Ackerman closed the Public Hearing.

The Council discussed the use of vague and subjective descriptive words in the code and exclusionary zoning. The following changes to the ordinance were suggested: 1) In the third “Whereas”: “The exterior color...maintain *an experience unique to Fairfax*” 2) Under the next “Whereas”; “Being able....historic *small scale of the built infrastructure* of the downtown...”. 3) list the Land Use Element Goals but eliminate the titles.

M/s, Goddard/Cutrano, Motion to Introduce and waive first reading and read by title only an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.020 and Adding Section 17.020.030(c) to Include the Requirement of a Design Review Permit for Changes in the Exterior Color of a Structure or the Alteration of a Significant Design Element Which is a Part of the Design of the Building in All Zones incorporating the amendments as directed by Council.

AYES: Coler, Cutrano, Goddard, Hellman, Mayor Ackerman (through a roll call vote)

10. 80 Crest Road: Appeal of a Planning Commission denial of a Height Variance for an unpermitted Ground Floor Level that would result in the height of the residential structure being approximately 50 Feet; Assessor’s Parcel No. 002-151-32; Residential Single-family RS-6 Zone; Verle and Marlene Sorgen, appellants/owners’ CEQA categorically exempt per Section 15301(e)(2)(1)- Principal Planner, Town Manager

Mayor Ackerman stated this item was continued to the July 7, 2021 meeting.

Regular Agenda

6. Adopt a Resolution Adopting the revised Climate Action Plan (CAP) - Town Clerk

Town Manager Toy presented the staff report.

Mayor Ackerman opened the meeting to public comments.

Mark Bell made a comment about the previous item.

Deborah Benson agreed with Mark Bell's comments

Mayor Ackerman closed the public comment.

Councilmember Coler stated it would have been helpful if the Climate Action Committee (CAC) had made substantive responses to the public comments, and she would like to understand why some of her comments had not been incorporated.

Councilmember Cutrano stated some of his comments were not incorporated and he suggested Councilmember Coler work with the CAC representatives.

Dr. Jody Timms, CAC, stated the subcommittee and CAC discussed all public and Council comments and made decisions about whether to incorporate them into the document.

Town Manager Toy clarified that if a CAC goal is inconsistent with what the Council wants, they would need to get key Council direction.

Consensus was reached for Walt Vernon and Jody Timms, CAC, to meet with Councilmembers Coler and Cutrano to resolve issues.

M/s, Coler/Cutrano, Motion to continue this item to the July 7th Council meeting.

AYES: Coler, Cutrano, Goddard, Hellman, Mayor Ackerman (through a roll call vote)

The Mayor reviewed the agenda pursuant to the 10:00 rule, and Council agreed to proceed with the remaining two items.

11. Discuss/consider report on data collected to evaluate the 6-month pilot program of two Council meetings per month; consider proposed schedule for Special Council meetings through December 2021; and provide direction to staff

Town Manager Toy presented the staff report.

In response to questions from Council, Town Clerk Gardner explained how the data was collected and further clarified data points.

The Council discussed the importance of presentations, keeping the Special Meeting to a minimum number of agenda items, and cancelling special meetings when not needed.

Mayor Ackerman opened the meeting to public comments.

Richard Applebaum asked if the goal was to cover more topics or to become more efficient.

Mark Bell stated the Council could be more efficient in their comments, and not weigh in on an issue unless they were offering a new point of view.

Mayor Ackerman closed the meeting to public comments.

M/s, Goddard/Coler, Motion to direct staff to implement the staff recommended schedule for the next six months.

AYES: Coler, Cutrano, Goddard, Hellman, Mayor Ackerman (through a roll call vote)

12. Appoint a Councilmember to the Racial Equity and Social Justice Committee (RESJ) - Town Manager

Town Manager Toy presented the staff report.

Mayor Ackerman opened the meeting to public comments.

Richard Applebaum supported appointment of any of the Councilmembers.

Alexandra, RESJ, supported the appointment Councilmember Goddard or Cutrano.

Mark Bell made a comment on the RESJ Committee's accomplishments.

Veronica Geretz, RESJ, supported the appointment of Councilmember Goddard or Cutrano.

Naomi Alessandra supported the appointment of Councilmember Goddard or Cutrano.

Mayor Ackerman closed the meeting to public comments.

M/s, Coler/Goddard, Motion to appoint Councilmember Cutrano to the RESJ.

AYES: Coler, Cutrano, Goddard, Hellman, Mayor Ackerman (through a roll call vote)

Council Reports and Comments

Mayor Ackerman noted written reports were in the packet.

Future Agenda Items

There were no items.

M/s, Coler/Cutrano, Motion to adjourn the meeting at 11:37 p.m. in memory of Jolie Egger Elan.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary