

Fairfax Town Council Minutes
Regular Meeting
July 7, 2021
Via teleconference due to COVID-19

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

Call to Order/Roll Call: Regular Meeting

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
Ben Berto, Planning Director
Linda Neal, Principal Planner

Approval of Agenda and Affidavit of Posting

M/s, Coler/Goddard, Motion to approve the Affidavit of Posting and the agenda moving #27 to before the Consent Calendar.

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

Announcement of July 1, 2021, Closed Session Action

Mayor Ackerman announced there was nothing to report.

Announcements

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

Open Time for Public Expression

Minna Kim commented on the Elliot Nature Preserve and the last Open Space Committee meeting.

Linda Novy commented on the last Open Space Committee meeting discussion on sustainable mountain bike practices.

Joe McGarry, speaking on behalf of Rethink Police, discussed lack of transparency of Police Department arrest records.

Walt Vernon, representing the Climate Action Committee, urged everyone to save water and sign up for Deep Green.

Patrece Bryan disagreed with previous speaker Mr. McGarry's comments.

Linda B. opposed the Marin County Bridge Project in the Elliot Nature Preserve.

John Romaidis opposed the idea of the RESJ interviewing potential members to make a recommendation to the Council.

Richard Applebaum commented on differences of opinion between Town residents.

Lisel Blash, speaking as a resident and not as a RESJ member, stated that being an inclusive community took work.

Jane Richardson Mack supported the Fairfax Police Department and had concerns about the RESJ committee.

Mark Bell agreed with the comments made by the previous speaker.

Brian Poindexter quoted a passage from the book *White Fragility*.

Kathy Flores had concerns about the RESJ committee.

Danette Citti had concerns about the RESJ committee.

Veronica Geretz supported the RESJ committee.

Deborah Benson had concerns about the RESJ and PPPSA committees.

Chris supported the RESJ committee.

Regular Agenda

1. Ratification of appointment of Rico Tabaranza as Fairfax Chief of Police and approval of Police Chief employment contract

Town Manager Toy presented the staff report, delivered a summary of the salary, and answered questions from Council.

Mayor Ackerman opened the meeting to public comments.

Deborah Benson, Mimi Newton, Patrece Bryan, Pam Meigs, Steven Keese, Jane Richardson Mack, John Romaidis, Joe McGarry, and former Fairfax Police Chief Chris Morin supported the appointment of Rico Tabaranza.

Lisel Blash commented on another matter.

Veronica Geretz congratulated Chief Tabaranza.

Mayor Ackerman closed the meeting to public comments.

M/s, Coler/Goddard, Motion to ratify the appointment of Interim Police Chief Rico Tabaranza to the permanent Police Chief position and to approve the employment agreement with Chief Tabaranza.

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

2. Adopt resolution to appoint and approve contract for interim Town Manager- Town Manager

Town Manager Toy presented the staff report and answered questions from Council. He confirmed that a CalPERS retiree could work up to 960 hours.

Mayor Ackerman opened the public comment and, seeing none, closed it.

M/s, Coler/Hellman, Motion to adopt resolution to appoint and approve the contract with Adam Politzer to be Interim Town Manager with an hourly rate of \$100.53.

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

Mr. Adam Politzer stated he was pleased to work with a very talented team of employees.

3. Administer Oath of Office to newly appointed officials- Town Clerk

Town Clerk Gardner administered the Oath of Office to Fairfax Police Chief Tabaranza.

Police Chief Tabaranza thanked the Council for the opportunity to serve the Town as Chief of Police.

Adopt a Proclamation in Honor of Garrett Toy- Mayor Ackerman

Mayor Ackerman read the Proclamation aloud.

Town Clerk Gardner presented Town Manager Toy with a gift from the Town Hall staff.

Mayor Ackerman opened the public comment.

John Romaidis, Jane Richardson Mack, Lisa Jimenez, and Anne Mannes wished Town Manager Toy well.

Mayor Ackerman closed the public comment.

Each Councilmember thanked the Town Manager for his service.

M/s, Coler/Goddard, Motion to adopt the proclamation in honor of Garrett Toy.

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

The Council took a 5-minute break at 9:15 p.m.

Regular Agenda

27. Discuss and consider request of the Racial Equity and Social Justice Committee (RESJ) to allow the RESJ's Police Practices and Public Safety Alternatives (PPPSA) Subcommittee to not be subject to the Brown Act and direct staff as appropriate- Town Manager

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

Mayor Ackerman opened the meeting to public comments.

Kevin Curtis, San Anselmo, read aloud from the Government Code regarding legislative bodies.

John Romaidis, Frank Egger, Jane Richardson Mack, Deborah Benson, and Mark Bell stated the PPPSA should be subject to the Brown Act.

Laurie Berliner, Fairfax, was concerned about how RESJ members conducted themselves.

Naomi Alessandra, Brian Poindexter, Joe McGarry, Jessie Lumb, Zianah Griffin, Richard Applebaum, and Veronica Geretz, supported lifting the Brown Act requirement from the PPPSA.

Lisa Jimenez asked that the community members most impacted by racism be listened to.

Ling Shien Bell discussed the resignation of a RESJ member.

Patrece Bryan had concerns about the RESJ.

Veronica Geretz announced an event.

Mimi Newton supported the comments made by previous speaker Patrece Bryan.

Mayor Ackerman closed the public comment.

Town Attorney Coleson discussed the definitions of legislative bodies, subcommittees, and standing committees.

The Council noted that the Brown Act's goal was to have meetings open to the public and there was a lot of public interest in the PPPSA. However, not being subject to the Brown Act would allow the subcommittee to work more efficiently.

M/s, Goddard/Cutrano, Motion to allow the RESJ's Police Practices and Public Safety Alternatives Subcommittee to not be subject to the Brown Act.

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

NOES: Coler

Mayor Ackerman reviewed the agenda pursuant to the ten o'clock rule.

M/s, Coler/Cutrano, Motion to continue item #28 to the August meeting.

AYES: Coler, Cutrano, Goddard, Mayor Ackerman

NOES: Hellman (through a roll call vote)

Consent Calendar

5. Receive Financial Statement and Disbursement Reports May 2021- Finance Director
6. Receive report on Councilmembers' assignments, committee, and activities in June- Town Clerk
7. Approve minutes for the April 7, 2021 Town Council meeting- Town Clerk
8. Adopt Resolution Adopting the revised Climate Action Plan (CAP)- Town Manager
9. Authorize the Town Manager to create and implement a vegetation management grant program to assist seniors, disabled, and lower income households- Town Manager
10. Adopt Resolution Adopting the Operating and Capital Improvement Budgets for Fiscal Year July 1, 2021 through June 30, 2022, and Providing for the Appropriation of Expenditures in Said Budgets and Repealing All Resolutions in Conflict Herewith- Town Manager, Finance Director

11. Adopt a Resolution Making Certain Findings and Determinations in Compliance with Section XIII B of the California Constitution (Gann Initiative) and Setting the Appropriation Limit for Fiscal Year 2021/22- Town Manager
12. Authorize Town Manager to file an appeal of the Regional Housing Needs Allocation numbers for Fairfax to the Association of Bay Area Governments- Town Manager, Planning Director
13. Approve schedule for the Town Council and Planning Commission to return to in-person meetings in September and allow for Town Board, Commissions, and Committees to return to in-person meetings beginning as soon as July- Town Manager
14. Adopt a Resolution extending the Marin County Abandoned Vehicle Abatement Vehicle Registration Fee until April 2032- Town Manager
15. Approve Agreement with Ralph Anderson and Associates for Recruitment Services for Town Manager and Public Works Director- Town Manager
16. Approve Amendment No 9 to the master agreement with California Infrastructure Consultancy (CIC) to increase the contract amount by \$142,150 for additional design and right-of-way (ROW) services for the Creek Road Seismic Retrofit and Bridge Preventive Maintenance Program (BPMP-Canyon, Marin, Spruce) bridge projects- Town Manager
17. Ratify letter sent by the mayor in opposition to Assembly Bill 537 which would allow Wireless companies to construct wireless facilities without local permits- Town Manager
18. Ratify letter sent by the mayor in opposition to Assembly Bill 215 (Chiu), which would create a new, mid-cycle regional housing needs progress determination process- Town Manager
19. Receive report from the Parks and Recreation Commission (PARC) regarding locations for a permanent skate park and defer discussion to a future Council meeting- Town Manager
20. Approve reopening of the Mono Parking Lot in August 2021- Town Manager
21. Authorize the Town Manager to enter into an agreement with the County of Marin to provide funding for homeless case management in an amount not to exceed \$33,000- Town Manager
22. Receive report on the Council's workshop to discuss the allocation of funding to be received from the American Rescue Plan- Town Manager
23. Notice of Amendments to the Memorandum of Understanding (MOU) with SEIU Local 1021 (Fairfax non-management employees) for the period July 1, 2021 through June 30, 2022 (Note: No Council action to be taken at this meeting)- Town Manager
24. Notice of Amendments to the Memorandum of Understanding (MOU) with Fairfax Police Officers' Association (POA) for the period of July 1, 2021 through June 30, 2022- Town Manager
25. Notice of Amendments to the Resolution Establishing Wages and Benefits for Management, Confidential, and Part-Time Employees for the period July 1, 2021 through June 30, 2022- Town Manager

The Council made comments on items #8, #9, #15, and #20, and asked questions about items #13, #15, and #20.

Mayor Ackerman opened the public comment.

Frank Egger referred to item #15 and confirmed the agreement did not set salaries for the two positions.

Mayor Ackerman closed the public comment.

M/s, Coler/Hellman, Motion to approve the Consent Calendar including the supplements to items #23 and #25, the continuation of item #7 to the next meeting, and to pull item #12 for discussion and place it after the Consent Calendar.

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

Mayor Ackerman reviewed the agenda pursuant to the eleven-thirty rule.

M/s, Coler/Goddard, Motion to waive the 11:30 p.m. rule.

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

12. Authorize Town Manager to file an appeal of the Regional Housing Needs Allocation numbers for Fairfax to the Association of Bay Area Governments- Town Manager, Planning Director

Planning Director Berto presented the staff report.

In response to questions from Council, Planning Director Berto stated the Housing and Community Development Department (“HCD”) did not carry over overages or lack of achievement from previous RHNA cycles. Staff would work with EMC and legal counsel to determine what should go into the appeal, and would include numbers if required.

Vice Mayor Hellman noted the director’s name was misspelled in the letter.

Mayor Ackerman opened the meeting to public comments.

Frank Egger stated Fairfax should exercise its administrative remedy. Much of Fairfax was in the Wildland Urban Interface (WUI) Zone, and the map showing 2,178 potential sites should be revised.

Kevin Curtis asked the Council to review their October 13, 2020 letter to ABAG.

Lynn Yetter stated the impact to emergency evacuation was important.

Richard Applebaum was concerned this appeal was not being taken seriously.

Lisel Blash supported the appeal but also supported housing equity.

Mayor Ackerman closed the meeting to public comments.

Councilmember Cutrano stated the attachments’ headings could be improved for clarity.

M/s, Goddard/Coler, Motion to Authorize Town Manager to file an appeal of the Regional Housing Needs Allocation numbers for Fairfax to the Association of Bay Area Governments with the typographical correction and clarifying the attachments.

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

Town Manager Toy stated he would work with the housing consultant to come up with a number.

Public Hearings

26. This item has been continued to the August 4, 2021 Town Council Meeting 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 August 4, 2021 meeting.

Regular Agenda

28. Introduce by title only an Ordinance Adding Chapter 15.05 entitled "All-Electric Constructed Buildings" to Title 15 of the Fairfax Municipal Code; CEQA exempt pursuant to CEQA Guidelines Sections 15378(b)(5), 15061(b)(3), and/or 15307 and 15308- Town Manager

Mayor Ackerman stated this item was continued to the August meeting.

29. Second reading by title only and adoption of 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 or the Alteration of a Significant Design Element Which is a Part of the Design of the Building in Limited Commercial CL, Highway Commercial CH, Central Commercial CC, Service Commercial CS, Commercial Recreation CR, Planned Development District PDD, Multiple Family Residential RM and Multiple Family Residential- Senior Residential RM-S Zones; Exempt from CEQA Pursuant to CEQA Guidelines Section 15060(c)(2), 15061(b)(3), 15305, and 15378- Principal Planner

Principal Planner Neal presented the staff report

Mayor Ackerman opened the public comment and, seeing none, closed it.

M/s, Goddard/Cutrano, Motion to waive second reading and read by title only and adopt 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 Limited Commercial CL, Highway Commercial CH, Central Commercial CC, Service Commercial CS, Commercial Recreation CR, Planned Development District PDD, Multiple Family Residential RM and Multiple Family Residential- Senior Residential RM-S Zones.

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

- 6.02.50 30. Second reading by title only and Adoption of an Ordinance amending Municipal Code Chapter 2.12; "Town Manager" to remove the requirement that the Town Manager be a Resident of Marin County; CEQA Exempt pursuant to CEQA Guidelines Section 15061(b)(3)- Town Manager

Town Manager Toy presented the staff report.

Mayor Ackerman opened the public comment.

Richard Applebaum opposed the adoption. He supported a Marin County residency requirement at a minimum.

Frank Egger opposed the adoption. He supported a requirement for the Town Manager to move to Marin County within six months of appointment.

Mayor Ackerman closed the meeting to public comments.

M/s, Coler/Goddard, Motion to waive second reading and read by title only and Adopt an Ordinance of the Town Council of the Town of Fairfax removing Subsection B from Section 2.12.030," Residency Requirement".

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.

Town Manager's Report

Town Manager Toy stated the Town will receive the first \$900,000 tranche from the American Rescue Plan Act on July 13th. The second allotment will arrive in twelve months. Work will start on Bolinas Road tomorrow to repair the sink hole. He thanked everyone.

Future Agenda Items

The next ARPA discussion was added to September, to potentially include committee input with proposals or ideas.

A check in on the temporary skatepark and a permanent skatepark with survey results was added to October, with the survey to go out in August.

The meeting was adjourned at 1:30 a.m.

Respectfully submitted,

Michele Gardner
Town Clerk