

Fairfax Town Council Minutes  
Regular Meeting  
Wednesday, **January 19, 2022**  
Via teleconference due to COVID-19

Mayor Hellman called the **Closed Session Meeting** to order at 6:30 p.m.

Call to Order/Roll Call:

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

**STAFF MEMBERS PRESENT:** Adam Politzer, Interim Town Manager  
Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney

There was no public comment.

Adjourn to Closed Session on the following matter:

Public Employee Performance Evaluation  
Government Code Section 54957  
Title: Town Manager

Mayor Hellman 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:** Adam Politzer, Interim Town Manager  
Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney  
Michael Vivrette, Finance Director

Approval of Agenda and Affidavit of Posting

M/s, Goddard/Cutrano, Motion to approve the Agenda and Affidavit of Posting.  
AYES: Ackerman, Coler, Cutrano, Goddard, Mayor Hellman (through a roll call vote)

Report out on Closed Session

Mayor Hellman announced there was nothing to report.

Land Acknowledgement

Announcements

Mayor Hellman made the announcements as they appeared on the agenda and added the COVID testing facilities available in Fairfax.

### Open Time for Public Expression

Josephine Buennagel, Fairfax representative to the Commission on Aging, gave an update.

Dr. Jody Timms, representing Age Friendly Fairfax, gave an update.

Dirk Oojkaas stated he needed a facility to run his gymnastics program, due to the Pavilion closing for construction soon.

Aiden Mann, Water Conservation Club of Archie Williams High School, discussed their water conservation education efforts, and requested funding from the Town.

Peter Anderson discussed climate change and suggested rainwater catchment and graywater systems.

Paul Mann stated the reservoirs needed twice the current storage capacity, and suggested residents use rainwater cisterns and graywater systems.

Mark Bell opposed the Land Acknowledgement and recent text amendment to the General Plan.

### Consent Calendar

1. Adopt a Resolution Making Findings and Determinations under AB 361 for the Continuation of Virtual Meetings- Town Attorney
2. Receive Financial Statement and Disbursement Reports November 2021- Finance Director
3. Approve minutes for the Town Council meetings of October 20 and November 3, 2021- Town Clerk
4. Receive written report on Councilmembers' assignments, committees, and activities in December- Town Clerk,
5. Adopt Resolution Authorizing Amendment No 2 to the Professional Services Agreement with Tom Origer & Associates for Pavilion Project Archeology- Interim Public Works Director
6. Adopt a Resolution Authorizing an Agreement with the Federated Indians of Graton Rancheria for Treatment of Tribal Cultural Resources and Tribal Monitoring for the Pavilion Project- Interim Public Works Director
7. Adopt a Resolution Authorizing a Professional Services Contract with SPI Consulting Engineers, Inc. for Pavilion Project Bid Document Consulting- Interim Public Works Director
8. Adopt a Resolution Setting the Planning Commission Regular Meeting Date and Time on the Fourth Thursday of Each Month and Repealing and Replacing All Former Resolutions re Same- Planning Director
9. Adopt a Resolution Confirming the Continued Existence of a Local Emergency at or Near 2378 Sir Francis Drake Boulevard, Fairfax, and Continuing Authorization for the Emergency Procurement of Materials and Labor without Competitive Bidding- Interim Public Works

Director

10. Receive Town Telecommunications Status- Interim Public Works Director

Councilmember Coler stated she would like to pull item #10 for discussion. She noted the budget amount for items #5, #6, and #7 should be corrected to reflect an additional \$2,000 with Council's authorization.

Mayor Hellman opened the meeting to public comments.

Mark Bell agreed with the recommendation to pull item #10 for discussion.

Mayor Hellman closed the meeting to public comments.

Councilmember Goddard noted a clerical correction to the November 3<sup>rd</sup> minutes.

Councilmember Coler referred to item # 6 and asked for a recommendation on the wording in the second "Whereas". Town Attorney Coleson recommended the following: "...an agreement under review by the Town Attorney's office and to be approved by the Town Attorney's office". Councilmember Coler referred to item #7 and recommended the following change in the title: "Advice on constructability...".

M/s, Coler/Goddard, Motion to approve the Consent Calendar with the removal of item #10 for discussion, authorizing a total expenditure for items #5, #6, and #7 in the amount of \$82,000, the change in the wording in item #6 as recommended by the Town Attorney, a change to the title of the Resolution in item #7 as follows: "A Resolution of the Town Council of the Town of Fairfax...for Constructability and Bid Document Preparation Advice Associated with the Pavilion Seismic Retrofit Project", and the correction to the November 3<sup>rd</sup> minutes.

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

10. Receive Town Telecommunications Status- Interim Public Works Director

Interim Public Works Director Goldman presented a staff report. He answered questions from the Council regarding software subscriptions, the timing of this proposal, a possible interim solution, and formation of a work group to look at this more comprehensively.

Public Hearings

11. Adopt an Urgency Ordinance Amending Section 17.048.010 of the Fairfax Municipal Code Regarding Accessory Dwelling Units and Determining the Ordinance to be exempt from CEQA- Planning Director, Town Attorney

Town Attorney Coleson presented the staff report.

Assistant Town Attorney Ryan Stager presented a PowerPoint presentation that included the following: 1) Urgency Ordinance Amending Fairfax Municipal Code Section 17.048.010 Regarding Accessory Dwelling Units; 2) Introduction; 3) Recent Legislation; 4) Proposed Amendments; 5) Recommendation. He answered questions about the Amnesty Program and a waiver on penalties, owner occupancy requirements with respect to JADU's and ADU's, Housing and Community Development (HCD) review, utility connections and fees, non-conforming ADU's and discretionary approval, if the stream setback regulation applied to ADU's.

Mayor Hellman opened the Public Hearing.

Frank Egger, speaking for Save Fairfax, was concerned that five decades of environmental protections are being undone and overturned.

Dr. Jody Timms asked about garage conversions.

Mayor Hellman closed the Public Hearing.

M/s, Coler/Cutrano, Motion to waive reading and Introduce and Adopt by Title Only an Urgency Ordinance of the Town Council of the Town of Fairfax Amending Section 17.048.010 of the Fairfax Municipal Code Regarding Accessory Dwelling Units and Determining the Ordinance to be exempt from CEQA as contained in the supplement.

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

12. This item has been continued to the February 2, 2022 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, Attorney

Mayor Hellman stated this item was continued to the February 2, 2022 meeting.

#### Regular Agenda

13. Housing Site Draft Inventory Discussion and Engagement Update- Planning Director

Ande Flower, representing EMC Planning Group, gave a PowerPoint presentation that included the following: 1) Housing Sites Inventory Discussion; 2) Housing Element Update and Overview; 3) Outreach Update; 4) Table of Potential Sites; 5) Accessory Dwelling Units and SB9; 6) How many future units? 7) Where are we in the process? 8) When will the State review the plan? 9) What is a sites inventory? 10) Map and list of potential sites; 11) Missing middle opportunities; 12) Objective Development and Design Standards; 13) Recommendations. He answered questions regarding previous Housing Element sites and ministerial approvals, re-zoning opportunity sites, what is meant by the minimum number of units, how the breakdown of RHNA numbers by income levels is determined, if property owners of the opportunity sites have been contacted, the relationship between the Housing Element and the Safety Element, status of the Good Earth Focus Group, opposition by property owners, rationale for the minimum capacity for accessory dwelling units (ADUs), how SB9 figures into the RHNA numbers, and why the Mountain Bike Museum parcel is not included on the list.

Mayor Hellman opened the meeting to public comments.

John Christian, Executive Director of the Real Property Support Corporation of the Archdiocese of San Francisco, stated the St. Rita site is not for sale. There is no need for further study relative to housing on this site.

Frank Egger, speaking for Save Fairfax, stated the common theme in Town management for 50 years was to preserve Fairfax's small-town character.

Richard Applebaum was concerned they were not having the correct conversation.

Mark Bell stated more housing would endanger residents during a wildfire evacuation.

Lynn agreed with the comments made by the last three speakers.

Michael Mackintosh suggested creation of a Business Improvement District to support affordable housing.

Mayor Hellman closed the meeting to public comments.

Councilmember Coler stated they needed to accommodate more people living in Town. She suggested the removal of the Jolly Hill site.

Councilmember Cutrano inquired about the removal of sites where the property owners decline to participate. He agreed with the removal of the Jolly Hill site.

Councilmember Ackerman noted cars, not people, are the problem: an increase in traffic, parking, evacuation due to housing are the problem.

Councilmember Goddard supported more affordable housing. She asked about the Bike Museum property..

Mayor Hellman asked about the consequences for non-compliance. Town Attorney Coleson stated the consequences are harsh and include the potential for litigation, ineligibility for certain grants, and fines. A court could limit the Town's ability to make land use decisions and even appoint a receiver to bring the Housing Element into compliance.

M/s, Coler/Ackerman, Motion to approve the Draft Housing Site Inventory List with modifications to numbers as discussed, the removal of the Jolly Hill site and the St. Rita site and ask the consultants to look into the property near Manor School, the property near O'Donnell's Nursery, the Mountain Bike Museum property, reduce the School Street Plaza number, and revise the Fair Anselm property to accommodate removing that one building envelope. The consultants shall also reevaluate the discussion on zoning, revisit the Central Commercial (CC) Zone to make sure the Highway Commercial (CH) Zone is depicted correctly, and look into how the duplex situation might benefit the numbers.

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

The Council took a 10-minute break at 10:30 p.m.

#### 14. Discuss/consider short-term rental regulations and provide direction to staff

Town Clerk Gardner presented a brief staff report.

Councilmember Coler made a PowerPoint presentation that included the following: 1) Regulation of Short-Term Rentals in Fairfax; 2) Benefits to Creating a Program; 3) What do other Marin jurisdictions do? 4) Program Aspects to Consider; 5) Property Eligibility; 6) Ineligible Properties; 7) Program Requirements; 8) Enforcement; 9) Fiscal Impact; 10) Next Steps.

Kester Bonsu, representing Host Compliance, made a PowerPoint presentation that included the following: 1) Host Compliance; 2) Monitoring Short-Term Rentals (STR); 3) Short-Term Rental Market is Exploding; 4) Identified 75 unique rental units; 5) Fairfax STR Market Details; 6) Address Identification; 7) Mobile Permitting and Registration; 8) Detailed Reports and Dashboards. He answered questions regarding permitting and registrations, the short-term rental sites being used in Fairfax, whether some properties are owned by the rental companies, how to determine ownership of properties, whether hosts must be present during the lease, maximum number of days allowed, how to make sure these temporary rentals are not taking away from the permanent rental stock, assessing fines and penalties, whether to include ADUs,

and enforcement.

Mayor Hellman opened the meeting to public comments.

Frank Egger, Meadow Way, stated short-term rentals should be subject to the Transient Occupancy Tax (TOT).

Mayor Hellman closed the meeting to public comments.

The Council supported the proposal but expressed concerns about the elimination of long-term rental housing.

Councilmember Coler stated she would continue to work the Town Clerk and Town Attorney to refine this proposal.

It was the consensus of the Council to direct the Town Attorney to draft two ordinances. One would go to the Planning Commission to rezone to allow STRs in certain residential zones. The other would go directly to the Council to establish the STR program. Town Attorney Coleson stated she would need to examine the Town's TOT Ordinance.

Councilmember Ackerman's internet connection broke off and he was briefly absent from the meeting.

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

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

ABSENT: Ackerman (due to his internet connection)

#### Discuss/consider Council Board and Committee Assignment for 2022

Town Clerk Gardner presented a staff report. She pointed out that the following committees were no longer active and should be deleted: Cascade Drive Striping Ad Hoc Subcommittee, Marin County Assessment of Fair Housing Committee, and the Sir Francis Drake Ad Hoc Working Group.

Councilmember Ackerman returned to the meeting.

It was the consensus of the Council to make no changes to their assignments.

#### Town Manager's Report

Interim Town Manager Politzer reported the hiring process for a Climate Action Coordinator continued. Recruitment for a Public Works Director was underway. The temporary repair at Sir Francis Drake Boulevard (near 2378 SFD) is coming to an end. The sidewalks and fence will be installed this week.

#### Council Reports and Comments

Mayor Hellman noted written reports were in the packet.

#### Future Agenda Items

Mayor Hellman stated she would like a discussion regarding an electric vehicle ordinance.

Vice Mayor Cutrano stated he would like a discussion about the Open Space Committee letter regarding Town-owned properties that are mis-zoned.

The meeting was adjourned at 12:30 a.m.

Respectfully submitted,  
Michele Gardner, Town Clerk