

Fairfax Town Council Minutes
Closed Session Special Meeting, Special Meeting and Special Meeting #2
Women's Club, 46 Park Road and via teleconference
Wednesday, **June 15, 2022**

Mayor Hellman called the Closed Session meeting to order at 5:30 p.m.

Call to Order/Roll Call:

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

STAFF MEMBERS PRESENT: Heather Abrams, Town Manager
Michael Vivrette, Finance Director
Deborah Muchmore HR Consultant

Adjourn to Closed Session on the following matter:

Conference with Labor Negotiators

Government Code Section 54957.6

Agency Designated Representatives: Town Manager Heather Abrams, Finance Director

Michael Vivrette, , Town Attorney Janet Coleson

Employee Organization: Fairfax Police Officers' Association

Mayor Hellman called the Special Meeting and Special Meeting #2 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: Heather Abrams, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Michael Vivrette, Finance Director
Rico Tabaranza, Chief of Police

Approval of Agenda and Affidavit of Posting

M/S, Coler/Cutrano, motion to approve both special meeting agendas and the affidavits of posting.

AYES: Ackerman, Coler, Cutrano, Goddard, Mayor Hellman

Report out on Closed Sessions of 6/14/22 and 6/15/22

Mayor Hellman reported there was nothing to report from either Closed Session.

Consent Calendar

1. Adopt Resolution Allowing for In-Person, Hybrid Teleconferenced, or Fully Teleconferenced Meetings of all Legislative Bodies Pursuant to the Provisions of AB 361- Town Clerk
2. Authorize the Mayor to send a letter in opposition to Senate Bill 396 (Dahle) Forestry: electric Transmission or distribution lines: clearances: notice and opportunity to be heard- Town Clerk
3. Approve minutes for the April 15, May 4 and 12, 2022 Town Council meetings- Town Clerk
4. Adopt a Resolution Declaring June 19th (Juneteenth) a Town Holiday- Town Clerk
1. (Special meeting #2) Adopt a Resolution Further Amending Resolution 18-31 establishing wages and benefits for management, confidential, and part-time employees for the period of July 1, 2018 through June 30, 2022- Town Manager, Town Attorney

Mayor Hellman opened the meeting to public comments.

Michael Mackintosh stated the public is entitled to know the subject matter of a Closed Session.

Rebekah Collins thanked the Council for its opposition to SB 396.

Mayor Hellman closed the meeting to public comments.

M/S, Coler/Ackerman, Motion to approve Consent Calendar items #1 through #4 of the Special Meeting, and Item #1 of Special Meeting #2.

AYES: Ackerman, Coler, Cutrano, Goddard, Mayor Hellman

Public Hearings

5. Introduce an Ordinance of the Town of Fairfax adding Chapter 5.58 entitled "Outdoor Dining" to Title 5 of the Fairfax Town Code and introduce an Ordinance of the Town of Fairfax amending Town Code Chapter 12.32 ("Temporary Carports and other Structures in the Public Rights-of-Way") to include separate processes for granting encroachment permits for residential structures from commercial outdoor dining structures, amending Section 12.32.020 to regulate only residential structures and adding Section 12.32.025 to regulate commercial structures and amending Chapter 17.096 ("CH Highway Commercial Zone"), Section 17.096.040 ("Principal Permitted Uses and Structures") and Chapter 17.100 ("CC Central Commercial Zone"), Section 17.100.040 ("Principal Permitted Uses and Structures") to allow outdoor dining as a permitted use and outdoor dining enclosures with an encroachment permit issued by the Public Works Department for commercially developed properties in the CH and CC zone districts; and adopt a Resolution of the Town of Fairfax adopting "Outdoor Dining Standards" and find it exempt from CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations

Town Manager Abrams presented a staff report and a PowerPoint presentation. She answered questions from the Council regarding whether staff received feedback from the business owners about the letter; the timeline for the most sensitive "fixes"; when the Council would be reviewing the fees.

Mayor Hellman opened the Public Hearing.

Tunafish Monkeymind stated Bolinas Road was too narrow to accommodate the parklets. He had concerns about the private use of public land and the impact on neighboring businesses.

Roman Martinez (Amelie) stated a parklet roof was necessary to protect people from the elements. He was concerned about the probability of another indoor dining prohibition.

Scott Porter stated parklets were key to bringing Town to life during Covid, which is still not over. He stated roofs and wind screens were necessary.

Mimi Newton agreed with previous speaker Monkeymind. She would like the encroachments to end when the pandemic ends, as they are not in line with what the downtown should look like.

PJ Feffer agreed with the previous speaker, adding that a yearly review made sense. He had questions about enforcement.

Thao Mahoney supported parklets and roofs.

Frank Egger, Meadow Way, had concerns that parklets were blocking Bolinas Road, the emergency evacuation route for over 3,000 residents.

Richard Applebaum supported the parklets but noted safety was the first priority, and asked if the Police and Fire Departments were consulted.

Kaz, member of the Chamber of Commerce, supported parklets and agreed that safety is paramount.

Mark Bell asked about the fees, supported the Planning Commission recommendations, emphasized the need for sightlines, and suggested no amplification or entertainment in parklets.

Ling Shien Bell agreed with previous speaker Frank Egger. She suggested parklets on Broadway only, and roofs and sides of parklets should be see-through.

Deborah Benson agreed with Ms. Newton and Mr. Salin. She opposed roofs, and parklets on Bolinas Road.

Mallory Geitheim agreed with Ms. Benson, Mr. Egger, and Mr. Bell.

Deborah London (Coffee Roastery) stated her structure was built to code and the Fire Department was fine with it. She stated umbrellas were unsafe based on her experience, and roofs were necessary.

Scott Porter, Ross Valley Fire, stated they have been consulted and appreciate evacuation concerns.

Kathy Flores. Safety is the top priority. She opposed opaque sides, and sidewalks being blocked.

Kai, local high school student, likes riding her bike past people enjoying themselves in the parklets.

Chad Clayton supported parklets.

Hanson supported parklets, noting that not everyone is comfortable indoors yet.

Kelly London (Coffee Roastery) stated the public is in support of parklets.

Mayor Hellman closed the Public Hearing.

Councilmember Coler asked the Chief of Police to weigh in on safety.

Councilmember Goddard there were no Temporary Encroachment Permits issued without full clearance of Police and Fire.

Police Chief Tabaranza clarified that Police vehicles only needed the required 12 feet of clearance. The turning radius was a question for the Fire Department, with their larger vehicles.

Councilmember Coler referred to "Standards" and requested a list be included. She suggested staff look at San Anselmo's Fire and Safety Access Standards, Platform Design, and Traffic protections.

Councilmember Ackerman agreed. He would like to allow roofs. He supported allowing electric heaters.

Vice Mayor Cutrano supported the concept of roofs and electric heaters. He suggested considering a two-tier fee structure: public and commercial.

Councilmember Goddard did not want the structures to be limited to outdoor dining. She would like to add to the "Definitions" in the ordinance: outdoor dining with or without table service, retail and business operations, and customer and general public seating.

After Council discussion, staff was directed to revise the ordinance and bring it back to the Council with the changes proposed by Councilmember Goddard, the changes to the standards suggested by Councilmember Coler, clear roofs and sides, and electric heaters.

Staff would also bring back a resolution to extend the November 1, 2022 temporary permit extension date.

The Council took a 5-minute break at 8:50 p.m.

6. Conduct Public Hearing for Fiscal Year 2022/23 Proposed Operating and Capital Improvement Budget and provide direction to staff (continued from June 1, 2022 meeting)

Town Manager Abrams presented a staff report and a PowerPoint presentation. Town Manager Abrams and Finance Director Vivrette answered questions from the Council regarding the projected increase in Property Tax Revenue; projected increase in Measure "F" Funds; budgeting of Measure "A" Funds; the Measure "A" Work Plan;

Mayor Hellman opened the Public Hearing.

Michele Rodriguez suggested more explicit "future goals" with targets and measurable outcomes, with hiring a new Planning Director a priority.

Frank Egger, Meadow Way, was concerned about the Town Attorney budget increase, wondered if it was tied to the proposal to rezone the Marin Town and Country Club property.

Michael Mackintosh was concerned that the budget indicated an intention to rezone his property. He asked for a refund on his overpayment of the Utility User Tax.

Mark Bell was concerned about the cost of consultants and the condition of Bolinas Road near the County line.

Stephanie Phelan, MTCC resident, was concerned about losing MTCC's affordable housing.

Jessica Herbold agreed with the comments made by Mr. Egger.

Mayor Hellman closed the Public Hearing.

Mayor Hellman stated a variance of 5% or more should be called out in the staff report or others will create a narrative around it. She noted the Town Attorney budget reflected the fees of the whole firm and not just Town Attorney Coleson. Town Attorney Coleson stated the firm has been helping the Planning Department and Public Works Department through personnel changes, and noted the Housing Element update required a CEQA expert.

Regular Agenda

7. Housing Element Status Update, including introduction of the team, Fairfax Speaks Website refresh, Sites Final, Eco-Village Concept, Objective Development and Design Standards ("ODDS")

Ande Flower, representing EMC Planning, gave a PowerPoint presentation. He introduced the team: Grace Kim, representing Schemata Workshop, and David Masenten, representing ELS. He answered questions from the Council regarding why an ordinance is needed to create eco-villages; how the State's Housing and Community Development department (HCD) views these types of developments; the three sites where eco-villages might be envisioned; what an eco-village really means; how to incentivize developers.

Mayor Hellman opened the meeting to public comments.

Joyce Sassone, Ian Campbell, and Simon Costa, tenants of the Marin Town and Country Club property, are concerned about overdeveloping the property and the impacts to traffic, water, etc.

Cindy, Pastori Avenue, was concerned about the impact to her neighborhood of development at the Marin Town and Country Club.

Faraz Ezazi stated his family owns the School Street Plaza property, and they were requesting the maximum number of units. He briefly discussed their proposal.

P.J. Feffer stated the focus should be on the best place to allocate the required number of units.

Stephanie Phelan stated Marin Town and Country Club was already an eco-village.

Frank Egger, Meadow Way, discussed the cost to prepare the Housing Element, and was concerned how what is affordable was determined. He was concerned the current tenants Marin Town and Country Club would not be able to afford the eco-village.

Deborah Benson agreed with Frank Egger and the residents of the Marin Town and Country Club.

Mark Bell opposed the proposal and questioned the additional costs.

Rick Hamer stated the population of Fairfax was growing older and suggested the Council to look at an active retirement community.

Michael Mackintosh, MTCC owner, stated he has had no contact with the consultants, and that building 400 homes on the Marin Town and Country Club property would be a very expensive.

Richard Applebaum stated there is no conceivable way to accommodate the required number of housing units. He had questions about the disruption of construction.

Mayor Hellman closed the meeting to public comments and reviewed the 10:00 rule.

M/S, Coler/Goddard, Motion to continue with this item and item #8.

AYES: Ackerman, Coler, Cutrano, Goddard, Mayor Hellman

Councilmember Goddard supported an education campaign and wanted to put on the "emergency brake". No decisions are being made any time soon and there are no plans for the Town and Country Club. She asked the owner of the School Street Plaza property to communicate with the tenants.

Councilmember Coler stated this is a very complicated path that she would like to simplify. She referred to the slide titled "Scoping Meeting- EIR Alternatives" and was in favor of removing Alternatives #3 and #4 and adding the following alternative: RHNA with a 20% buffer with a difference in the way the sites are allocated. They could come up with another alternative if they decide to eliminate the Town and Country Club site and change the School Street Plaza allocation to 175 units. Consultant Flower stated this was doable.

Councilmember Cutrano supported the increased number for the School Street Plaza site. He wanted to conserve the open space area behind Victory Village. There is a lot of information asymmetry and the process needed to be demystified. He is in favor of obtaining more information and is open to looking at the alternatives.

Councilmember Ackerman stated there is a lot of uncertainty about the Town and Country Club property. He is not sure he would want to eliminate the property from the list tonight.

Mayor Hellman asked staff if there have been discussions about five-story buildings on the Town and Country Club property. Town Attorney Coleson stated "no".

Councilmember Coler asked for comments on her proposal to look at: 1) No project; 2) The 490 unit alternative; 3) Alternative #2 (including 200 units at Marin Town and Country Club); 4) 175 units at the School Street Plaza property; 5) Taking 8 units from the RCD property and taking 20 off of White Hill and Oak Manor School; 6) Change the Central Commercial downtown number from 95 to 68.

Town Attorney Coleson stated setting alternatives in the EIR allows the Council to make informed decisions. Staff was trying to give them a range of options. A "No Project" alternative, required by CEQA, will not get them anywhere. A project with 588 units plus the buffer is an option. A project with 490 units (the RHNA number) is also an option- but one that HCD will not accept. Alternative #2, the Town and Country Club at 200 units, will provide information and require a ballot measure that passes. Looking at 400 units at the Town and Country Club gives them a broader range of options.

Councilmember Coler stated looking at 200 units at the Town and Country Club and spreading the other units around Town made more sense.

Mayor Hellman stated looking at 400 units at Town and Country Club did not seem reasonable.

The Council agreed with Councilmember Coler's recommended direction to the consultants.

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

AYES: Ackerman, Coler, Cutrano, Goddard, Mayor Hellman

8. Adopt an Urgency Ordinance barring residential evictions due to impacts from the Public Health Emergency arising from the COVID-19 virus through September 2022- CEQA exempt under CEQA Guidelines sections 15061(b)(3)

Town Attorney Coleson presented a staff report. She noted the adoption of an Urgency Ordinance requires a 4/5 vote of the Council.

Mayor Hellman opened the meeting to public comments, and seeing none, closed the meeting to public comments.

M/S, Coler/Cutrano, Motion to introduce and adopt an Urgency Ordinance of the Town Council of the Town of Fairfax barring residential evictions without cause through September 30, 2022.

AYES: Ackerman, Coler, Cutrano, Goddard, Mayor Hellman

The meeting was adjourned at 12:22 a.m.