

DRAFT  
Fairfax Town Council Minutes  
Regular and Special Meetings  
via teleconference only  
**Wednesday, June 1, 2022**

Mayor Hellman called the Closed Session special meeting to order at 6:15 p.m. via teleconference due to the Coronavirus (Covid-19).

Call to Order/Roll Call:

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

**STAFF MEMBERS PRESENT:** Heather Abrams, Town Manager  
Michele Gardner, Town Clerk

Mayor Hellman opened the meeting to public comment. There was none.

The Council adjourned 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, HR Consultant Deborah Muchmore, Town Attorney Janet Coleson  
Employee Organization: Fairfax Police Officers' Association

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

Call to Order/Roll Call:

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

**STAFF MEMBERS PRESENT:** Heather Abrams, Town Manager  
Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney  
Michael Vivrette, Finance Director  
Linda Neal, Principal Planner  
Sean Youra, Climate Action Coordinator

Approval of Agenda and Affidavit of Posting

M/S, Cutrano/Coler, Motion to approve the affidavit of posting and the agenda with the continuation of items #19 and #21 to the June 15<sup>th</sup> meeting.

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

June 1, 2022, Town Council Meeting Minutes

## Report out on Closed Session

Mayor Hellman reported there was nothing to report.

## Open Time

Frank Egger, Meadow Way, was concerned about the unauthorized cutting of trees on private and public property by PG&E contractors.

Josephine Buennagel, Fairfax representative to the Commission on Aging, gave an update on the Commission and on Age Friendly Fairfax activities.

Rebekah Collins discussed a property owner's right to refuse PG&E tree removal and trimming on private property.

Adrian Shanker, Executive Director of the SPAR Center, discussed the expansion of Harm Reduction Service into Fairfax and Pride Month.

Deborah Benson thanked the Council for working with PG&E to prevent overcutting of trees. She supported SB 396.

PJ echoed the concerns about PG&E's tree cutting.

Mark Bell opposed the Land Acknowledgment and was concerned there were too many items on the Consent Calendar.

## Consent Calendar

1. Adopt Resolution Allowing for In-Person, Hybrid Teleconferenced, or Fully Teleconferenced Meetings of all Legislative Bodies Pursuant to the Provisions of AB361- Town Attorney
2. Receive Financial Statements and Disbursement Reports April 2022- Finance Director
3. Receive written report on Councilmembers' assignments, committees, and activities in May- Administrative Analyst
4. Adopt a Resolution Declaring the Existence of a Local Emergency at or near 195 Pine Drive, Fairfax, and Authorizing the Emergency Procurement of Materials and Labor Without Competitive Bidding, Superseding Emergency Resolution 22-21- Interim Public Works Director
5. Adopt five resolutions setting taxes to be collected by the Marin County Auditor-Controller for Fiscal Year 2022/23- Finance Director, Town Clerk
  - a. Resolution Setting the Amount of \$205 for the Special Municipal Services Tax for Fiscal Year 2022/23
  - b. Resolution Setting the Utility Users' Tax Rate of 4% for Fiscal Year 2022/23
  - c. Resolution Setting the Pension Tax Rate of \$.91 per \$100 of assessed value to Support Fairfax Pension Obligations for Fiscal Year 2022/23
  - d. Resolution Setting a Fee of \$15 per run-off unit for the Purpose of Funding Local Stormwater Pollution Prevention Activities for Fiscal Year 2022/23
  - e. Resolution Setting the Tax Rate of \$.0250 per assessed valuation for the General Obligation Bonds

6. Adopt a Resolution Confirming and Levying the Ross Valley Paramedic Authority (RVPA) tax in the amount of \$91.50 for Fiscal Year 2022/23- Town Clerk
7. Adopt a Resolution Authorizing the Temporary Closure of Certain Streets for the Fairfax Festival and Parade on June 11-12, 2022 and approve sponsorship of the closure- Town Clerk
8. Adopt a Resolution Approving an Agreement with the Marin Open Space Trust to Fund the Purchase of Two Undeveloped Parcels on Upper Ridgeway Avenue to Preserve Open Space and Authorizing the Town Manager to Execute the Agreement and Take All Necessary Actions to Complete the Purchase- Town Manager
9. Second Reading and Adoption of Ordinance Authorizing a Special or Military Equipment Use Policy for the Fairfax Police Department Pursuant to California Assembly Bill 481- Town Attorney, Chief of Police
10. Second Reading and Adoption of an Ordinance Amending Section 2.08.010 (“Council Meetings”) of the Town Code to set a 6:30 p.m. state time for Town Council regular Meetings; not subject to CEQA per Guidelines Sections 15060(c)(3), 15378, and 15061(b)(3)- Town Clerk
11. Adopt a Resolution Continuing Expenditure and Revenues in Accordance with FY 2021/22 Town Budget and Continuing the FY 2022/23 Town Budget Adoption- Town Manager, Finance Director
12. Adopt Resolution Approving the List of Projects Funded by SB1: The Road Repair and Accountability Act- Interim Public Works Director
13. Adopt a Resolution Electing to be Exempt from the Congestion Management Program (“CMP”)- Interim Public Works Director
14. Authorize Mayor to submit letter to the State Legislature in opposition to a revised proposed trailer bill released in connection with the State’s May Budget Revision regarding “insufficient Educational Revenue Augmentation Fund (ERAF) backfills”- Town Manager
15. Authorize Mayor to send letter to the State Legislature opposing Assembly Bill 2011 (Wicks) Affordable Housing and High Road Jobs Act of 2022 (as amended 4/18/22)- Town Manager
16. Authorize Mayor to send a letter to the State Legislature in support of a one-time allocation of \$1.6 billion in Fiscal Year 2022/23 to establish a housing and economic development program, implement organic waste recycling regulations, and reimburse local governments for unfunded, State-mandated programs- Town Manager
17. Adopt a Resolution Proclaiming June 2022 as LBGTQ+ Pride Month and Approving Flying the Pride Flag at Town Hall for the Month of June- Town Clerk

Councilmember Cutrano had a question about item #8. Town Attorney Coleson stated staff would add clarifying language.

Finance Director Vivrette noted the tax rate in item #5(e) was lower than last year’s rate.

Mayor Hellman opened the meeting to public comments.

Larry Bragman supported item #7.

Frank Egger, Meadow Way, supported item #6.

Jack Judkins, Vice Chair of the Open Space Committee, supported item #8.

Bill Long, Chair of the Marin Open Space Trust (MOST), supported item #8.

Virginia Balogh-Rosenthal, Ridgeway Avenue, referred to Item #8 and expressed concern about fire safety on the parcels.

Allan agreed with the previous speaker. He discussed the threat of wildfire on public property.

Mark Bell stated residents should be able to have a dialog with Councilmembers during public comment time.

Mayor Hellman closed the meeting to public comments.

Councilmember Goddard referred to item #12 and asked that bike lanes be considered as a matter of policy.

Interim Public Works Director Shamsapour briefly responded to Councilmember Goddard's request regarding item #12.

M/S, Ackerman/Cutrano, Motion to approve the Consent Calendar with the change to #5(e) making it clear that the rate is less than last year's and the change in the Resolution for item #8 to add clarifying language regarding the type of property sale.

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

### Public Hearings

18. This item is continued to July 6, 2022: 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. 002-152-32: Residential Single-Family RS-6 Zone: Verle and Marene Sorgen, appellants/owners; CEQA categorically exempt per Section 15301(e)(2)(1)

Mayor Hellman stated this item was continued to the July 6, 2022 Council meeting.

19. Discuss/consider the Fiscal Year 2022/23 Proposed Operating and Capital Improvement Budget and provide direction to staff

Mayor Hellman stated this item was continued to the June 15<sup>th</sup> Council meeting.

20. Introduce an Ordinance Amending Town Code Title 17 (Zoning), Chapters 17.008 ('Definitions'), 17.052 ('Off-Street Parking and Loading Requirements'), Chapters 17.076 ('RS-7.5 Single-Family Residential Zone, Medium Density'), 17.080 ('RS-6 Single-Family Residential Zone, High Density'), 17.124 ('UR Upland Residential Zone'), Incorporating a Definition of "Short-Term Rental", Providing Parking Regulations for Said Short-Term Rental Use and Including Short-Term Rentals as Permitted Uses in All Single-Family

Residential Zone Districts; and Introduce an Ordinance of the Town Council of the Town of Fairfax Adding New Chapter 5.57 Entitled “Short-Term Rental Program”; and Adopt a Resolution Adopting Policies and Procedures for the Administration of “Short-Term Rental Program” as set forth in Fairfax Town Code Chapter 5.57. This item is exempt from further review under CEQA pursuant to Guidelines Sections 15061(b)(3) and 15301(a)

Town Attorney Coleson presented a staff report. She referred to Attachment “A”, Section 1, and clarified the definition of “short-term rental”: “An existing single-family residence, portion of an existing single-family residence, or an Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU) established prior to January 1, 2020 (limited to ADUs/JADUs created prior to January 1, 2020) in which overnight accommodations are provided to guests for compensation, etc.” She answered questions from the Council regarding vegetation inspections for Wildland Urban Interface (WUI) Units; who conducts these inspections; incorporating a compliance monitoring system with the inspection; how complaints from neighbors would be handled; properties with multiple units and owner occupancy requirements; if there is a cap on the number of days that a unit could be rented; jurisdictions that are allowing short-term rentals; penalties for violations; if this covers a one-time rental for longer than 30 days.

Mayor Hellman opened the meeting to public comments.

Frank Egger, Meadow Way, stated he wished to speak to three Consent Calendar items. Fairfax had more than 75 short-term rentals. He asked why the Multiple Residential (RM) Zone was exempt and worried about affordable housing.

Mallory Geithem asked about the number of Airbnb’s in Fairfax.

Mark Bell stated the public should be able to have a dialogue with the Council at the meeting.

Michael Branton, Hickory Road, had questions about renting out his entire home.

PJ wondered how the existing short-term rentals would be brought into compliance.

Mayor Hellman closed the meeting to public comments.

Councilmember Cutrano had concerns about how short-term rentals could impact long-term rental housing and rental costs.

Councilmember Ackerman supported monitoring the actual impacts. He did not want this to diminish the housing stock.

Councilmember Goddard stated her concern that allowing short term rentals would in fact decrease the availability of long-term rental units, particularly affordable units., and result in the loss of housing stock. She suggested permit fees that do not go to the third-party consultants should go into a trust for affordable housing or rent control.

Mayor Hellman stated that the rental housing stock is a separate market from short-term rental stock. She supported reviewing the program in six months.

Councilmember Coler supported a review, but later than 6 months. She referred to the third “Whereas” of the zoning ordinance and proposed the following language replace the second part of the sentence “...while assuring that their existence is regulated *in a safe and effective manner*”.

M/S, Coler/Hellman, Motion to Waive First Reading and Ready by Title Only an Ordinance of the Town Council of the Town of Fairfax Amending Town Code Title 17 (Zoning), Chapters 17.008 ('Definitions'), 17.052 ('Off-Street Parking and Loading Requirements'), Chapters 17.076 ('RS-7.5 Single-Family Residential Zone, Medium Density'), 17.080 ('RS-6 Single-Family Residential Zone, High Density'), 17.124 ('UR Upland Residential Zone'), Incorporating a Definition of "Short-Term Rental", Providing Parking Regulations for Said Short-Term Rental Use and Including Short-Term Rentals as Permitted Uses in All Single-Family Residential Zone Districts, with the change to the third "Whereas: "While assuring that their existence is regulated in a safe and effective manner"; and also the change to the definition of short-term rental which for ADUs and JADUs says "limited to ADUs/JADUs created prior to January 1, 2020"; and Introduce an Ordinance of the Town Council of the Town of Fairfax Adding New Chapter 5.57 Entitled "Short-Term Rental Program"; and Adopt a Resolution Adopting Policies and Procedures for the Administration of "Short-Term Rental Program" as set forth in Fairfax Town Code Chapter 5.57.

AYES: Ackerman, Coler, Cutrano, Mayor Hellman

NOES: Goddard (through a roll call vote)

21. Introduce an Ordinance of the Town of Fairfax adding Chapter 5.58 entitled "Outdoor Dining" to Title 5 of the Fairfax Town Code; 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

Mayor Hellman stated this item was continued to the June 15<sup>th</sup> Council meeting.

#### Regular Agenda

22. Introduce by title only an Ordinance Regulating the Use of Gasoline-Powered Landscape Equipment. This item is exempt from CEQA pursuant to Section 15061

Coordinator Youra presented a staff report and a PowerPoint presentation. He answered questions from the Council regarding the exemption clause, the process for claiming a hardship, and how the January 1, 2023, date was developed.

Mayor Hellman opened the meeting to public comments.

Michael Mackintosh stated it would be expensive to replace all the equipment required to maintain his large property. He suggested phasing in electrification of one type of equipment at a time.

Jody Timms, Chair of the Climate Action Committee, supported adoption of the Ordinance.

Todd G. was opposed to the ordinance as dangerous and expensive.

Frank Egger was concerned about the expense to homeowners to replace equipment and stated all Fairfax property owners should be notified about the proposed ordinance.

Mark Bell supported the proposal.

Mallory Geithem supported the proposal.

Mayor Hellman closed the meeting to public comments.

The Council discussed adding a new subparagraph “(d)” to allow the Town to provide an additional extension of six months for residents on the basis of financial hardship.

The Council discussed moving the deadline up for commercial use, and the concept of a program for residents to borrow and/rent equipment to avoid all residents buying new equipment.

M/S, Ackerman/Hellman, Motion to Introduce by title only an Ordinance of the Town Council of the Town of Fairfax Amending Section 1.08.020(a) , Violations and Designated Infractions of Title 1 of the Fairfax Municipal Code and adding Chapter 8.74, Gasoline Powered Landscape Equipment, to Title 8 of the Fairfax Municipal Code, with the addition of a provision that if a resident in the first year of the ordinance coming into effect (2023) applied to the Town Manager stating that they had a financial hardship could be granted a one-time, six-month extension of the provision and the effective date for landscape professionals shall be changed from January 2025 to January 2024.

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

#### Council Reports and Comments

Mayor Hellman stated these reports were included in written form in the packets.

#### Town Manager's Report

There was no report.

#### Future Agenda Items

Vice Mayor Cutrano and Councilmember Goddard will prepare a presentation on the unsheltered population in Fairfax.

The meeting was adjourned at 10:17 p.m.