

Fairfax Town Council Minutes  
Regular and Special Meetings  
Women's Club, 46 Park Road, Fairfax  
and via teleconference  
Wednesday, September 7, 2022

Mayor Hellman called the Closed Session special meeting to order at 5:00 p.m. at Town Hall, 142 Bolinas Road, Fairfax.

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

There was no public comment.

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, Service Employees International Union ('SEIU') Local 1021, Unrepresented Employee Units.

Mayor Hellman called the **Special Meeting** to order at 6:00 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  
Rico Tabaranza, Chief of Police  
Loren Umbertis, Public Works Director

Mayor Hellman called the Special meeting to order at 6:00 p.m.

1. Interview and consider appointment of applicant Kelly Newman to the Climate Action Committee- Town Clerk

The Council interviewed Kelly Newman. There was no public comment.

M/S, Ackerman/Cutrano, Motion to appoint Kelly Newman to the Climate Action Committee for a full 4-year term.

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

Mayor Hellman called the **Regular 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:** Heather Abrams, Town Manager  
Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney  
David Woltering, Interim Planning Director  
Linda Neal, Senior Planner  
Michael Vivrette, Finance Director  
Loren Umbertis, Public Works Director

Report out on Closed Sessions- August 9 and September 7, 2022

Mayor Hellman stated there was nothing to report out on either Closed Session.

Approval of Agenda and Affidavit of Posting

M/S, Coler/Cutrano, Motion to approve the affidavit of posting and the agenda as submitted.

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

Introductions

1. Introduction of new Public Works Director Loren Umbertis- Town Manager

Town Manager Abrams introduced new Public Works Director Umbertis and discussed his experience.

Public Works Director Umbertis stated he was excited to join the team.

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

2. Proclamation for Camille Esposito- Mayor Hellman

Mayor Hellman read the Proclamation for Camille Esposito for her service to the Town of Fairfax.

Mayor Hellman opened the meeting to public comments.

Dr. Jody Timms and Anne Mannes thanked Camille Esposito for her years of service including the promotion and development of Age Friendly Fairfax. They wished her well in her future endeavors.

Mayor Hellman closed the meeting to public comments.

The Council commented on Camille's many contributions and thanked her.

M/S, Coler/Goddard, Motion to move Consent Calendar item #17 off of Consent and move Open Time for Public Expression after item #17 and before item #3.

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

17. Adopt Proclamation to Designate September 2022 as Prostate Cancer Awareness Month- Town Clerk

Town Clerk Gardner presented the staff report.

Mayor Hellman opened the meeting to public comments.

Stan Friedman thanked the Council for the Proclamation. Early detection saves lives.

Mayor Hellman closed the meeting to public comments.

M/S, Coler/Ackerman, Motion to approve Consent Calendar item #17, a Proclamation to Designate September 2022 as Prostate Cancer Awareness.

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

### Open Time

Dr. Jody Timms, Chair of the Climate Action Committee, encouraged everyone to get a heat pump because they do not run on fossil fuel.

Kendra Scott, speaking on behalf of residents of Spruce Road, discussed their concerns about Fairfax Lumber, including dust pollution and disturbing the peace.

Joe McGarry stated running working class people could not afford to run for Town Council and suggested a need-based salary.

Mark Bell asked everyone to follow the rules of civility.

Michael Mackintosh stated the Council should support transparency.

### Community Forum

3. Rent Stabilization and Just Cause Eviction Forum- Interim Planning Director, Town Attorney, Town Manager

Town Attorney Coleson, Town Manager Abrams, and Interim Planning Director Woltering presented a staff report and a PowerPoint presentation. They answered questions regarding outsourcing the implementation; working with the City of Berkeley; staff support; cost for outside consultants; proposal and services provided by Legal Aid of Marin; Option A; when the units indicated in the staff report were constructed; if this is a hybrid approach; if the basic components would be coming back in the form of an ordinance; the intention to fund this program from the fee; start-up costs; how the Costa Hawkins exemptions interface with just

cause eviction points; do the just cause eviction protections apply to all rental units including single-family homes; ADUs that were rented prior to 1995 but permitted more recently; would just cause and rent stabilization apply to new units; should there be two separate ordinances; funding sources; sharing of IT resources.

Mayor Hellman opened the meeting to public comments.

Susan Adams, Curt Ries, Essence Goldman, Tunafish Monkeymind Salin, John Reed, Winn Richards, Susan Malloy, Max Bell Alper (N. Bay Labor Council), Wendy, Chris Perrando, Meaghan Maddock, P.J. Feffer, Leah Simon-Weisberg, Mo McManus, Rainero Miranda, Joe McGarry, Jack Buckhorn, Sunanda, and Lisel Blash spoke in support of rent stabilization and just cause protections.

Mark Bell was concerned about the unintended consequences and the use of consultants.

Michael Mackintosh speaking as a landlord, noted the increased cost of repairs and maintenance in expenses, and cautioned the Council about penalizing property owners.

Kirsten asked the Council to take a balanced approach for both landlords and tenants.

Mayor Hellman closed the meeting to public comments.

Mayor Hellman asked for comments about the Just Cause Ordinance, Amendment #5, Relocation Payments, number of months or specific dollar amounts.

Vice Mayor Cutrano was in favor of using months instead of a fixed price.

Councilmember Coler proposed one and one-half rather than two months' rent.

Councilmember Ackerman was in favor of two months' rent. He did not support a dollar figure.

Councilmember Goddard stated two months' seemed reasonable.

Mayor Hellman preferred three months' rent.

Mayor Hellman asked for comments about item #12 regarding Junior Accessory Dwelling Units (JADU) and applicability to affordable units.

The Council agreed they did not want to include affordable units

Councilmember Coler did not want to include JADUs, as they are more affordable by design.

Vice Mayor Cutrano wanted to include JADUs, as these renters could be in a more precarious situation.

Councilmember Goddard supported including JADUs.

Councilmember Ackerman supported exempting JADUs.

Mayor Hellman supported including JADUs.

Mayor Hellman asked for comments on the roll-back provision and the effective date.

Town Attorney Coleson stated she would do more research and bring it back with a recommendation.

Vice Mayor Cutrano stated the date they first began discussing this made sense (March).

Councilmember Ackerman agreed.

Councilmember Coler would like staff to do more research and bring back a recommendation.

Mayor Hellman asked for comments about the approach to the ordinance- for example, amending or repealing

Councilmember Coler preferred to amend the existing Just Cause ordinance.

Vice Mayor Cutrano did not have a preference.

Councilmembers Ackerman and Goddard stated they would defer to the Town Attorney.

Mayor Hellman asked for comments on rent stabilization.

Interim Planning Director Woltering stated the items were fairly standard. The Council might want to focus on item E.

Mayor Hellman, Vice Mayor Cutrano, and Councilmembers Ackerman and Goddard stated they were in favor of E as written.

Councilmember Coler stated there were normal costs that landlords have to encumber and the formula might not allow landlords to recoup reasonable costs and stay in business. She would like to stay in the range of not less than 3% or more than 5%.

Councilmember Coler asked if the Berkeley Rent Control Board would serve as the Fairfax Rent Control Board. Mayor Hellman stated the Town Council would serve as the Rent Board and hear appeals. She anticipated four to six petitions per year and 0.28 appeals per year.

The Council agreed the hybrid approach was the most viable.

M/S, Coler/Ackerman, Motion to waive the 10:00 rule and move #20 in front of the Consent Calendar.

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

### Regular Agenda

20. 75 Pine Drive; Request for a Driveway Width Variance to construct a new single-family residence and three car parking deck. (Permits for the construction previously approved by the Planning Commission at its 8/25/22 public hearing). Residential single-family RS 6 Zone; Assessor's Parcel No. 003-101-06; Lauri Puchall and Turk Kaufmann, applicants/owners; CEQA Categorically Exempt per Section 15303(a)- Principal Planner

Principal Planner Neal presented the staff report. She answered a question from the Council regarding the possibility of covered tandem parking and whether the proposal is uncovered.

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

M/S, Ackerman/Goddard, Motion to approve Request for a Driveway Width Variance to construct a new single-family residence and three car parking deck at 75 Pine Drive and adopt Resolution approving Application #22-18 for a Variance to allow a 27 foot driveway parking deck for 75 Pine Drive.

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

Councilmember Coler asked staff to look into making this type of application within the purview of the Planning Commission.

#### Consent Calendar

4. 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
5. Receive Financial Statements and Disbursement Reports July, 2022- Finance Director
6. Approve minutes for the July and August, 2022 Town Council meetings- Town Clerk
7. Receive written report on Councilmembers' assignments, committees, and activities in July- Administrative Analyst
8. Adopt a Resolution Confirming the Continuing Existence of a Local Emergency at or near 195 Pine Drive, Fairfax, and Continuing Authorization for the Emergency Procurement of Materials and Labor Without Competitive Bidding- Town Manager
9. Reappoint Sam Silverstein to the Volunteer Board- Town Clerk
10. Biennial review of the Conflict of Interest Code and adoption of Resolution Confirming Biennial Review of the Conflict of Interest Code (Form 700 filers) with Amendment to include the Climate Action Coordinator on the List of Designated Positions- Town Clerk
11. Receive Report on Fairfax Volunteers Town-wide Picnic September 18, 2022- Community Services Manager
12. Authorize the Town Manager to execute agreement with Miller Pacific Engineering Group to conduct geotechnical investigation of retaining wall at 560 Bolinas- Public Works Director
13. Receive Report on work completed to date on the Diversity, Equity and Inclusion Initiatives for Fairfax- Administrative Analyst
14. Adopt Resolution Recognizing Racism as a Public Health Crisis- Administrative Analyst
15. Adopt an Ordinance of the Town of Fairfax adding Chapter 5.58 entitled "Parklets" to Title 5 of the Fairfax Town Code; adopt an Ordinance of the Town of Fairfax amending amending Town Code Chapter 12.32 ("Temporary Carports and other Structures in the in the Public Rights-of-Way") to include separate processes for granting encroachment permits for residential structures from commercial parklet 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 parklets as a permitted use and parklet enclosures with an encroachment permit issued by the Public Works Department for commercially developed properties in the CH and CC zone districts. Exempt from CEQA pursuant to Sections

15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations – Town Manager, Interim Planning Director

16. Approve responses to the 2021-2022 Marin County Civil Grand Jury Report entitled Affordable Housing: Time for Collaboration- Town Manager
17. Adopt Proclamation to Designate September 2022 as Prostate Cancer Awareness Month- Town Clerk
18. Authorize Mayor to sign Letter of Support for the Fairfax Library Application to BayRENS's Resilient Libraries Network Pilot- Climate Action Coordinator

Mayor Hellman opened the meeting to public comments.

Mark Bell commented on items #13 and #15

Mayor Hellman closed the meeting to public comments.

Councilmember Coler had a comment on items #9, #11, #13, #14, and #16

Councilmember Ackerman noted a typographical error in item #14.

Mayor Hellman and Vice Mayor Cutrano commented on item #13.

Councilmember Goddard asked to bring back item #15 for a minor amendment.

M/S, Coler/Cutrano, Motion to approve the Consent Calendar, with the exception of item #17 which has already been approved, with the changes to item #14 as expressed by Councilmember Ackerman and including the supplement to item #16.

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

#### Public Hearings

19. This item is continued to October 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 October 6, 2022 Council meeting.

#### Regular Agenda

21. Adopt Resolution Adopting Fees for the Short-term Rental Program for Inclusion In the Master Fee Schedule- Interim Planning Director

Interim Planning Director Woltering presented a staff report. He answered questions from the Council regarding who would be handling the communication and if information would be posted to the Town Website; what would be handled by Host Compliance; the audit.

Mayor Hellman opened the Public Hearing.

Frank Egger noted the single-family zones were exempt and asked if the RD 5.5-7 Zone, the RM Multiple Family Zone, and Commercial Properties with second floor residential use would be exempt. Short-term rentals will adversely impact affordable housing.

Mayor Hellman closed the Public Hearing.

Councilmember Goddard was concerned about how short-term rental policies affect the long-term rental housing stock and asked the Council to review this issue in the near future.

The Council shared Councilmember Goddard's concern.

M/S, Coler/Ackerman, Motion to Adopt the amended Resolution included in the Supplement Adopting Fees for the Short-term Rental Program for Inclusion in the Master Fee Schedule.  
AYES: Ackerman, Coler, Vice Mayor Cutrano, Mayor Hellman  
ABSTAIN: Goddard

M/S, Coler/Ackerman, Motion to waive the 11:30 rule and continue with the agenda.  
AYES: Ackerman, Coler, Goddard, Vice Mayor Cutrano, Mayor Hellman

### Regular Agenda

#### 22. Receive Independent Auditor's Report for Fiscal Year 2020-21- Finance Director

Finance Director Vivrette presented a staff report.

Vikki Rodriguez and Whitney Crocket, representing Maze and Associates CPA, presented the audit. They answered questions from the Council regarding the increase in the OBEP Liability and if an increase in the contribution was possible; the CRBT and 115 account.

Mayor Hellman opened the meeting to public comments.

Frank Egger, Meadow Way, asked about the figures for the Unfunded Pension Liability (PERS), and Unfunded Liability for Retiree Health Care. These should be in the audit.

Mayor Hellman closed the meeting to public comments.

### Council Reports and Comments

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

### Town Manager's Report

Town Manager Abrams stated there was nothing to report.

### Future Agenda Items

Mayor Hellman noted several future agenda items were discussed during the meeting. She would also like to discuss bike and Ebike safety at a future meeting.

The meeting was adjourned at 12:07 a.m. in memory of Boris Kondratieff.