

Fairfax Town Council Minutes
Regular and Special Meetings
Women's Club, 46 Park Road, Fairfax
and via teleconference
Wednesday, October 6, 2022

Mayor Hellman called the Closed Session meeting to order at 4:15 p.m.

4:15 PM Call to Order/Roll Call:

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

STAFF MEMBERS PRESENT: Heather Abrams, Town Manager
Janet Coleson, Town Attorney

There was no public comment.

Adjourn to Closed Session on the following matter:

Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation
Government Code section 54956.9(d)(4)
County of Marin, et al. v. Monsanto Co., et al., No. Civ. 2202843 (Super. Ct. Marin Cnty.)

At 5:00 PM Mayor Hellman called the second Closed Session meeting to order.

There was no public comment.

Adjourn to Closed Session on the following matter:

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

6:00 PM 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

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

1. Interview and consider appointment of applicant Joe Franaszek to the Open Space Committee- Town Clerk

The Council interviewed Mr. Franaszek.

Mayor Hellman opened the meeting to public comments.

Michael Ardito, Fairfax Open Space Committee Secretary, supported Joe's appointment.

M/S, Goddard/ Cutrano, Motion to appoint Joe Franaszek to a full 4-year term on the Open Space Committee.

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

2. Interview and consider appointment of PJ Feffer to the Planning Commission- Town Clerk

The Council interviewed Mr. Feffer. There were no public comments.

M/S, Coler/Goddard, Motion to appoint PJ Feffer to fill an unexpired term on the Planning Commission.

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
Loren Umbertis, Public Works Director
Mark Lockaby, Building Official
Sean Youra, Climate Action Coordinator

Report out on Closed Session

Mayor Hellman stated at the 4:15 p.m. Closed Session meeting the Council unanimously approved giving authorization to the Town Manager to execute an agreement with Sher Edling to represent the Town and join an existing class action: *County of Marin et. al. vs. Monsanto*, Government Code Section 54959.9(d)(4), Case Number 2202843. There was no reportable action on the 5:00 p.m. Closed Session matter.

Approval of Agenda and Affidavit of Posting

M/S, Coler/Goddard, Motion to approve the affidavit of posting and the agenda.

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

Announcements

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

Climate Action Coordinator Youra introduced Climate Action Fellow Paul Whang, a shared position between the Town of Fairfax and the Town of San Anselmo.

Open Time

Rick Hamer discussed e-bikes and bike safety.

Sean Reiss and Steve Harris, field representatives for NorCal Carpenters Union Local 35, discussed the construction industry workforce and opportunities.

Michael Mackintosh discussed the consequences of accepting Housing and Urban Development (HUD) money.

Roy Wolford asked a question about Item #19.

Dr. Jody Timms, Chair of the Climate Action Committee, discussed incentives for electrification and the Marin Green Home Tour.

Jane Richardson Mack was concerned about the tree cutting done by PG&E, and the need to for them communicate with the Tree Committee and the public.

John Romaidis agreed with the previous speaker and encouraged the public to voice their concerns.

Samantha Stein, Berry Trail, was concerned about PG&E cutting down so many trees. She asked when the Town would repave Berry Trail.

Mark Bell stated the cost of restriping Cascade several years ago was \$84,000 based on his review of public records.

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

Kirsten was concerned about PG&E tree work.

Keith Silva thanked Councilmember Goddard for all she has done and was sorry she was stepping down.

Veronica Geretz made an announcement about the yoga class she offers through the Parks and Recreation Department.

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. Receive Financial Statements and Disbursement Reports August, 2022- Finance Director

3. Approve minutes for the August 9, 2022 Town Council meeting- Town Clerk
4. Receive written report on Councilmembers' assignments, committees, and activities in September- Administrative Analyst
5. 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- Public Works Director
6. Approve agreement with the County of Marin for proceeds from the Marin Parks, Open Space, and Sustainable Agricultural Transactions and Use Tax Ordinance (Measure 'A') and revise composition of the Measure 'A' Committee- Town Manager
7. Receive Climate Action Committee Annual Report and Plan- Climate Action Coordinator
8. Receive Climate Action Department Quarterly Update- Climate Action Coordinator
9. Adopt Resolution Amending Climate Action Committee Membership and Terms- Town Clerk
10. Notice of Amendments to the Memorandum of Understanding (MOU) with the Service Employees International Union (SEIU), Local 1021, for the Period of July 1, 2022 through June 30, 2024, and the Fiscal Year 2022/23 Adopted Budget (Note: No Council action to be taken at this meeting)- Town Manager
11. Notice of Amendments to the Memorandum of Understanding (MOU) with the Fairfax Police Officer's Association (FPOA) for the Period of July 1, 2022 through June 30, 2024, and Amending the Fiscal Year 2022/23 Adopted Budget (Note: No Council action to be taken at This meeting)- Town Manager
12. Notice of Amendments to the Resolution Establishing Wages and Benefits for Management and Confidential Employees and Part-Time Employees for the Period of July 1, 2022 through June 30, 2024 (Note: No Council action to be taken at this meeting)- Town Manager
13. Adopt Resolution Authorizing the Town Manager to Purchase and Outfit One Police Vehicle (Hybrid) in an amount not to exceed \$85,000- Police Chief

Councilmember Goddard asked to pull item #9 for discussion.

Mayor Hellman opened the meeting to public comments.

Dr. Jody Timms referred to item #8 and thanked Climate Action Coordinator Youra, supported item #7, and referred to item #9 and stated 3 committee members preferred 2-year terms.

Mayor Hellman closed the meeting to public comments.

M/S, Goddard/Ackerman, Motion to approve the Consent Calendar with the removal of item #9 for discussion prior to the Regular Agenda.

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

9. Adopt Resolution Amending Climate Action Committee Membership and Terms- Town Clerk

Town Clerk Gardner presented a staff report.

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

The Council discussed reducing the term to attract more members to the committee.

M/S, Goddard/Cutrano, Motion to Adopt a Resolution Amending Climate Action Committee Membership and Terms and move to the maximum range of five to seven members with the length of term being two years.

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

NOES: Coler

Regular Agenda

14. Consider a Variance for 125 Live Oak (APN #001-236-03) to have a 38-foot wide driveway/parking deck per Town Code Chapter 12.12 and Code Section 12.12.050 to access the Planning Commission approved single-family residence and ADU- CEQA Categorically exempt per Section 15303(a)

Principal Planner Neal presented the staff report. She noted Councilmember Coler recommended the following change to the Resolution: Under the fourth "Whereas", a new Finding would be added: "The granting of the Variance is necessary for compliance with the 20-foot by 40-foot fire truck staging area for the Ross Valley Fire Department which also requires that the driveway approach be widened."

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

M/S, Coler/Ackerman, Motion to adopt a Resolution approving application #22-17 for a Variance to allow for a 38-foot wide driveway/parking deck for 125 Live Oak Avenue with the change recommended by the Principal Planner.

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

15. Petition from neighbors regarding Concerns about Operations at Fairfax Lumber

Building Official Lockaby presented a staff report. He and Interim Planning Director Woltering answered questions from the Council regarding the Variance application process for a tall fence.

Mayor Hellman opened the meeting to public comments.

Kendra Scott, petitioner, gave a PowerPoint presentation about the air and noise pollution from the lumber yard, and the impact on her neighborhood and health.

Augie Venezia, representing Fairfax Lumber, discussed a plan to improve the situation by changing delivery times, adding asphalt grindings and a sprinkler system to keep the dust down, and adding a new fence and plantings along Spruce Road.

Keith Silva stated what Fairfax Lumber is planning to do sounded good.

Spruce Road neighbors James Riley, Deb Nelson, Hillary Whitman, Peter Sky, Jennifer Hibbets, and Susie Bergen each expressed their concerns about the dust creating unhealthy conditions on their property and in their homes. Paving the yard was requested.

Mayor Hellman closed the meeting to public comments.

The Council discussed how living next to a lumber yard could be problematic. The plans submitted by Fairfax Lumber and discussed with staff looked good.

Councilmember Goddard suggested a subcommittee including staff and one or two Councilmembers, to meet occasionally with residents to keep communication open as the plans submitted by Fairfax Lumber go into effect.

M/S, Goddard/Coler, Motion to appoint Councilmember Ackerman and Vice Mayor Cutrano to the subcommittee.

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

The Council took an 8 minute break at 8:44.

16. Adopt Resolution Adopting Fees for the Parklet Program for Inclusion in the Master Fee Schedule

Interim Planning Director Woltering presented a staff report. He answered questions from the Council regarding obtaining a Town Business License; public parklets; indemnification for the Town; street maintenance deposits; if there is a requirement for a business owner to fix the street should a parklet be removed; deconstruction and reconstruction; whether a low fee threshold would result in more parklets; meeting ADA requirements; if there is a policy regarding the number of parklets per street; if there is legal recourse if an owner refuses to remove a parklet; if a license fee is synonymous with the permit fee.

Mayor Hellman opened the meeting to public comments.

Michael Mackintosh stated there is no recourse against a building owner if the Town granted a tenant permission to use the public right-of-way. The fees should be used for private/public parking arrangements.

Mark Bell stated a deposit should be required from the tenant to remove a parklet. The proposed fee was not sufficient.

Rick Hamer and Mallory Geithheim agreed with Mark Bell.

P.J. Feffer was concerned about how the public/private concept would work.

Mayor Hellman closed the meeting to public comments.

Councilmember Goddard clarified that when these permits were initially issued the temporary nature was made very clear. She discussed how a public/private partnership would work.

Councilmember Coler supported the idea of a deposit.

Councilmember Ackerman agreed with staff that they should start out with a low fee and possibly raise it later. The deposit could be increased in a future year.

Mayor Hellman stated the deposit could cover a range of purposes, such as damage to the street, and removing the structure.

The Council liked the idea of a \$1,000 deposit. Interim Planning Director stated that was a very low number if the intent was to demolish and restore the area to its previous condition.

M/S, Coler/Ackerman, Motion to Adopt a Resolution Adopting Fees for the Parklet Program for

Inclusion in the Master Fee Schedule to include the following: Under the “Now, therefore be it resolved”, the Town Council of the Town of Fairfax does hereby adopt and authorize a street maintenance/remediation deposit of \$1,000, an application fee of \$500 for both private and public parklets, and an annual parking space rental fee for private parklets of \$1,000 per parking space and an annual parking space rental fee for public parklets of \$500 per parking space to be included in the Town’s Master Fee Schedule and furthermore until December 15, 2022 the parking space rental fee for private parklets that currently have a Temporary Encroachment Permit (TEP) shall be \$500 per parking space and the parking space rental fee for public parklets that currently have a TEP shall be \$250 per parking space for the first year until December 15, 2023.

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

M/S, Coler/Cutrano, Motion to waive the 10:00 p.m. rule and move item #18 in front of item #17.

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

18. Discuss Green Building Model Reach Code and provide direction to staff

Climate Action Coordinator Youra presented a staff report and a PowerPoint presentation. He answered questions from the Council regarding eliminating hardship exemptions; exemption of historic structures; the definition of a “substantial remodel”; the differences between Tier 1 and Tier 2.

Mayor Hellman opened the meeting to public comments.

Zoe stated there should be some exceptions for residents who are doing substantial remodels.

Mark Bell agreed with the concept and asked if these codes could be applied to the Housing Element Opportunity Sites. He noted that appliances in Europe were more efficient.

Michael Mackintosh stated these standards are lofty goals but expensive, and the Town should look for ways to mitigate costs for the owner.

Maurice Horn stated that current property owners need to be able to repair and maintain their homes. The considerations need to be realistic.

Zack Cordisco stated much of the housing stock in Fairfax needed a substantial amount of work.

Dr. Jody Timms stated we are headed to an all-electric future, so set goals to get there as quickly as possible.

Richard Applebaum stated he supported the concept but there needed to be a balance.

P.J. Feffer acknowledged the concern about the increased cost of upgrading a home and suggested exemptions be focused on homeowner as opposed to developers.

Mayor Hellman closed the meeting to public comments.

M/S, Coler/Cutrano, Motion to continue items #18 and #17 to the October 11th Council meeting.

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

17. Discuss allowing amplified music in parklets and provide direction to staff

Mayor Hellman stated this item was continued to the October 11th Council meeting.

19. This item is continued to October 11, 2022. Introduce Ordinance amending Title 5 of Town Code Chapter 5.54, Just Cause Evictions, and Chapter 5.55, Mandatory Mediation for Rent Increases, with a Rent Stabilization Program

Mayor Hellman stated this item was continued to the October 11th Council meeting.

20. This item is continued to November 2, 2022. 80 Crest Road: Appeal of a Planning Commissioner denial of a Height Variance for an unpermitted Ground Floor Level that would result in the height of a residential structure being approximately 50 feet; Assessor's Parcel No. 002-152-32; Residential Single-family RS-6 Zone; Verle and Marlene Sorgen, appellants/owners; CEQA Categorically exempt per Section 15302(e)(2)(1)

Mayor Hellman stated this item was continued to the November 2nd Council meeting.

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

Mayor Hellman reported there is an organization that does family support work that would like to do a canned food drive in the Town Hall Lobby.

The meeting was adjourned at 11:50 p.m. in memory of Sasheen Littlefeather.