

Fairfax Town Council Minutes  
Regular Meeting  
Women's Club, 46 Park Road, Fairfax  
and via teleconference  
**Wednesday, November 2, 2022**

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  
Mark Lockaby, Building Official  
Loren Umbertis, Public Works Director

Approval of Agenda

M/S, Cutrano/Goddard, Motion to approve the agenda as submitted.  
AYES: Ackerman, Coler, Goddard, Vice Mayor Cutrano, Mayor Hellman

Land Acknowledgement

Announcements

Mayor Hellman made the announcements as they appeared on the agenda. Vice Mayor Cutrano stated it was Native American Heritage Month. He announced that PG&E is doing a Virtual North Coast Town Hall on November 15<sup>th</sup>. Councilmember Goddard thanked the Chamber of Commerce and the residents of Dominga Avenue for hosting a wonderful Halloween Parade.

Open Time

Rick Hamer, member of the Affordable Housing Committee, supported the decreasing the speaker time limit when there are many speakers.

Holly Baade, representing Marin Freedom Rising, asked if the Council had discussed the surveillance state and corporate fascism.

Joe McGarry stated fentanyl test strips should be more readily available; they save lives.

Deborah Benson, Cascade Drive, opposed the two-minute speaker limit and the thirty-minute Open Time limit. She was upset by the number of trees that PG&E has cut in Town.

Jane Richardson Mack supported the comments made by the previous speaker.

Mark Bell, speaking for Save Dominga Avenue, supported a three-minute time limit for public comments.

He discussed Supreme Court rulings regarding Land Use and the General Plan.

Michael Mackintosh asked the Council to be respectful of its residents.

Todd Greenberg, Bolinas Road, asked about the Town Council's decision-making authority.

Ann Roman, Porteous Avenue, asked about the Town Council's decision-making authority.

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

Megan opposed the organization, Marin Freedom Rising.

### 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 September 2022- Finance Director
3. Approve minutes for the September 2022 Town Council meetings- Town Clerk
4. Receive written report on Councilmembers' assignments, committees, and activities in October- 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- CEQA Exempt pursuant to Section 15269(b)(d)- Public Works Director
6. Receive Treasurer's Report Quarter ending September 30, 2022- Town Treasurer
7. Receive Public Works Projects and Program Status Update- Public Works Director
8. Reappoint Ted Pugh to the Tree Advisory Committee- Town Clerk
9. Receive Fairfax Recreation and Community Services Department Quarterly Finance Reports for July-September, 2022- Recreation Manager
10. Authorize the Mayor to send a letter of concern to MTC and CalTrans regarding Highway 37 Interim Solution and Elevated Causeway- Town Clerk
11. Receive report on Town Hall closure and winter furlough days for Town Hall employees from December 23, 2022 to January 3, 2023- Town Manager
12. Adopt a Resolution Establishing the Regular Council Meeting dates for the months of January and July, 2023, and confirm 2023 regular meeting calendar- Town Clerk
13. Authorize the mayor to send letter to the Marin County Board of Supervisors in support of Golden Gate Village's Plan for Deep Green Renovations and a Pathway to Ownership- Town Clerk

Councilmember Coler asked to pull item #13 for discussion.

Mayor Hellman opened the meeting to public comments.

Deborah Benson, Cascade Drive, referred to item #7 and stated the arborist suggested a curb cut to allow runoff to irrigate the redwoods.

Mayor Hellman closed the meeting to public comments.

Vice Mayor Cutrano noted clerical corrections to item #3, the September minutes.

Mayor Hellman referred to item #1 and asked the Town Attorney to describe changes coming to hybrid meeting rules.

Mayor Hellman referred to item #7, introduced Public Works Director Umbertis and asked him questions about projects underway.

M/S, Cutrano/Coler, Motion to approve the Consent Calendar with the removal of #13 for discussion and corrections to the September minutes.

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

13. Authorize the mayor to send letter to the Marin County Board of Supervisors in support of Golden Gate Village's Plan for Deep Green Renovations and a Pathway to Ownership- Town Clerk

Mayor Hellman opened the meeting to public comments.

Michael Mackintosh discussed public purpose bonds.

Mark Bell, Peter Anderson, Jinesse Reynolds (Sierra Club), Lisa Bennett, Barbara Bogard, Maureen Kroll, Tom McAfee, Jess Lerner, and Jody Timms supported the letter.

Mayor Hellman closed the meeting to public comments.

Councilmember Coler stated that while she supported the sentiments she would abstain from voting on the letter because the Council should not get into other agencies' business.

M/S, Cutrano/Goddard, Motion to approve Consent Calendar item #13 with the clerical corrections noted by Mayor Hellman and Councilmember Coler.

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

ABSTAIN: Coler

#### Regular Agenda

14. Discuss Electric Bicycle ("E-bike") Safety Actions in Fairfax

Town Manager Abrams presented a staff report.

Gwen Froh, representing Safe Routes to Schools, gave a PowerPoint presentation and answered question from the Council regarding legislation requiring stickers on e-bikes; how communities are sharing training information; community engagement and tabling.

Mayor Hellman opened the meeting to public comments.

Deborah Benson, Cascade Drive, suggested a license requirement for ebikes and prohibiting them on sidewalks.

Linda Novy stated there was a need for more education and enforcement, accountability, and signage.

Zoe Rekas, representing Marin County Bicycle Coalition (MCBC), stated she is developing the E-Bike Smart Marin program to be launched in 2023.

Todd Arendazo, instructor with Safe Routes to Schools, acknowledged the concerns about e-bike safety and the importance of education and awareness.

Mayor Hellman closed the meeting to public comments.

At 8:08 p.m. the Council took a 5-minute break.

15. Adopt Ordinance Amending Chapter 5.54 “Just Cause Evictions” of Title 5 of the Fairfax Town Code and Adopt Ordinance Amending Chapter 5.55 “Mandatory Mediation for Rental Increases” of Title 5 of the Fairfax Town Code CEQA; Exempt pursuant to Section 15061(b)(3)

Town Attorney Coleson presented the staff report. She answered questions from the Council regarding the distinction between the effective date and the implementation date; if it is possible to raise the rent for a new tenant after a year lease has expired; what constitutes an eviction.

Mayor Hellman opened the meeting to public comments.

Philip stated he owns a two-unit building (lives in one unit) in Fairfax. He found the ordinances difficult to understand without the help of an attorney. The issue should be voted on by the people of Fairfax.

Holly Baade, representing Marin Freedom Rising, supported rent control but not the proposed ordinances.

Susan Mulloy, Fairfax renter, thanked the Council and noted usually public policy was developed to protect landlords.

Susan Adams, Fairfax, supported the adoption.

Michelle, years ago rented on Cascade, liked to see how the Town helped renters.

Claire Armitage, Fairfax, owns a two-unit with Phil Smith, stated there was not adequate notification to property owners and requested the Council delay the adoption for more outreach and conversation. She asked that owner-occupied units should be exempt along with landlords over the age of 62, and that there be a 5% cap on rental increases rather than using the CPI.

Phil Smith, husband of the previous speaker, discussed the challenges of older landlords, and supported the exemptions that exist in State law.

Maureen McManus stated that California Alliance for Retired Americans, DSA, and North Bay Labor Council were all in support of the ordinances. She asked the Council to protect renters.

Matt Towers opposed the ordinances, stating that they placed the burden of society on landlords, suppressed building new housing, and resulted in a shortage of housing.

Diane Ridden, stated she has made substantial repairs on her three duplexes, and the ordinances would impact an owner’s ability to make improvements such as solar, water recycling. She suggested the Town use subsidies to help renters instead of putting the burden on the landlords.

Erika Milligan, supported the ordinances. She stated they protect renters and noted there had been meetings on the topic for 8 months.

John Pope, 50-year Fairfax resident, a landlord, asked that the Council not treat small local landlords the same as corporate landlords.

Susie Dershowitz, San Rafael, supported the ordinances and noted the policies were proven to stabilize communities.

John Boran, Fairfax resident, supported the ordinances. His neighbor just lost her husband and is scared her rent will be raised.

Curt Ries, San Anselmo renter and CO-Chair of Marin DSA, supported the ordinances. He discussed statistics regarding renters and costs.

Laura, Fairfax renter, stated she lived in an affordable housing building and supported the ordinances.

Melann, 46-year resident of Fairfax and realtor with clients with rental properties, opposed the ordinances, stating they would result in landlords not being able to afford to maintain the properties.

Meagan, Fairfax renter, supported the ordinances. She noted she spends 33% of her income on rent, so any increase in rent would make it hard.

Michael Burke, realtor, stated he sent a notice about this item last week to his Fairfax clients who owned rental properties and there was an indication that they were not aware of this ordinance. He opposed the ordinances, stating they would reduce rental supply and put pressure on the remaining units.

Chris, lifelong Fairfax resident and a DSA member, supported the ordinances and stated the process had been democratic and that the Council members were elected to make decisions.

Todd Greenberg, Fairfax, opposed the ordinance. He was concerned about the cost and potential liability for the Town. He suggested the Council focus on developing more housing.

Kyle Amsler, renter, supported the ordinances. She noted the importance of housing stability in the public health crisis. She stated that some of the 650 petition signers have been evicted during this process.

Joe McGarry, Fairfax renter, supported the ordinances.

Lucie Hollingsworth, Legal Aid of Marin Senior Attorney, stated that there had been at least six articles in newspapers and six noticed public agenda items since February on this topic. She was planning outreach, free legal clinics, and materials. She noted that landlords were needed for tenants to exist.

Erin Billman, Fairfax, learned about this from Michael Burke's letter. She owns her home with a studio apartment she rents out. She stated that 50% of her income is spent on housing costs and asked that small local landlords be treated differently, perhaps a rental cap.

Mark Bell, Fairfax, the ordinances had both good and bad parts. He stated the Council needed more information and discussion with landlords before proceeding.

Deborah London, Fairfax resident, business owner, and landlord, stated that small landlords provide the majority of Fairfax rental units and they were not informed of this program. She was concerned that the ordinances were so restrictive they would put the small landlords out of business, and 60% of CPI would not be sustainable.

Michael Mackintosh, local landlord, stated the ordinances should be fair to both landlords and tenants. Landlords' expenses, such as utilities and property taxes, increased annually.

Jay Greenberg, landlord of a duplex in Fairfax, was concerned that one group should have to subsidize another; either the Town should subsidize rents or put this issue to a vote.

Michael Sexton, landlord of a duplex in Fairfax, just found out about the ordinances and opposed them. He noted that housing here was expensive for small local landlords such as himself, and they provided most of the rentals in Fairfax. He supported the idea of putting the issue to a vote of the people.

Lakshmi DeSesto, Marin County resident, supported the ordinances.

Ian Gray opposed the ordinances. He stated he and his wife had not raised the rent on their Fairfax duplex in years, but the taxes, insurance, water bills increased significantly.

PJ Feffer, speaking as a resident, supported the ordinances. He stated that renting property is a business and nobody was forced into any kind of business. He was concerned about vacant properties.

Ellen Lovelige supported the ordinances.

Pamela Meigs opposed the ordinances, stating they were difficult to understand without help, and they would result in Fairfax losing rental units.

Mallory Geitheim, speaking as a resident and not as a member of the Affordable Housing Committee, stated there should be a different set of rules for small local landlords.

Margaret DeMatteo, Housing Policy Attorney for Solano County Legal Aid, supported the ordinances, stating housing was a human right and being a landlord was a business decision.

Megan Feffer stated good and fair landlords would not be affected by the ordinances. She noted that tenants subsidized landlords.

Wynn Richards, longtime renter, supported the ordinances, noting that even small local landlords charged high rents.

Tunafish opposed the ordinances. He was concerned about the unintended consequences they would have, and the lack of notice to landlords.

Jack Buckhorn, President North Bay Labor Council, supported the ordinances.

Jess Lerner supported the ordinances.

Rick Hamer supported the ordinances, noting that delaying them would result in more people being evicted.

Liz Froneberger, Fairfax, stated she supported rent control, but these ordinances made her nervous. She owned a home and recently turned part of it into an ADU to rent out.

Maureen Kroll, longtime Fairfax resident, supported the ordinances, noting that her adult child could not afford to live here.

Mayor Hellman closed the meeting to public comments.

The Council discussed the history of their consideration of the ordinances and the concerns they heard tonight, noting that they could always revisit the ordinances and modify them over time.

Concerns were raised regarding the cost to the Town of the program; the impact on staff for the administration of the program; the impact on the Town of small local landlords pulling out of the rental market; whether the non-biased metric of 60% of CPI was sustainable over time; outreach to both landlords and tenants; the impact on the Town's affordable housing stock; the Just Cause Eviction provisions in junior accessory dwelling units (JDUS) and rooms in single family homes, as well as ADUs within the house; housing instability and its impact on tenants' mental health; and retaining tenants as part of the community.

Councilmember Coler stated she would like to remove some of the burdensome provisions in the Just Cause Evictions ordinance. She was concerned about the small local landlords, and issues such as potential inability to make repairs and renovations, gentrification, and private equity firms grabbing the properties that are sold.

M/S, Cutrano/Hellman, Motion to Waive Second Reading and Read by Title only and Adopt an Ordinance Amending Chapter 5.54, "Just Cause Evictions", of Title 5 of the Fairfax Town Code with the two amendments in the Ellis Act Provisions, changing the years from ten to five, and with a review in one year post implementation date of Junior Accessory Dwelling Units (JADUs) and ensuring they will have clear information about lodger vs. tenant rights and definitions in the outreach to the community.

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

NOES: Coler

M/S, Cutrano/Hellman, Motion to Waive Second Reading and Read by Title Only and Adopt Ordinance Amending Chapter 5.55, "Mandatory Mediation for Rental Increases", of Title 5 of the Fairfax Town Code.

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

The Council took a 15-minute break and reconvened at 11:38 p.m.

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

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

16. Introduce Ordinance to Adopt the 2022 California Building Standards Code, California Code of Regulations, Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 10, 11 & 12, Which Consists of the California Administrative, Building, Residential, Electric, Mechanical, Plumbing, Energy, Historic Building, Existing Building, Green Building Standards, and Referenced Standards Codes, with Local Amendments, and Adopting the 2021 Edition of the International Property Management Code- CEQA Exempt pursuant to Sections 15061(b)(3), or in the alternative Sections 15307 and 15308

Building Official Mark Lockaby and Climate Action Coordinator Sean Youra presented a staff report. They answered questions about requirements for a Level 3 charger and passive solar hot water heaters.

Mayor Hellman opened the meeting to public comments.

Michael Mackintosh stated the Town should encourage residents to get permits, noting that more regulations can result in a deterrent because they can significantly increase the cost of a project.

Rick Hamer agreed that the Town should encourage residents to get permits. He suggested the Town think twice about investing in electric car chargers, with solar cars on the horizon.

Frank Egger questioned why septic tanks were included in the ordinance since they are banned in new construction.

Mayor Hellman closed the meeting to public comments.

M/S, Coler/Ackerman, Motion to Waive full reading, read by title only and Introduce Ordinance to Adopt the 2022 California Building Standards Code, California Code of Regulations, Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 10, 11 & 12, Which Consists of the California Administrative, Building, Residential, Electric, Mechanical, Plumbing, Energy, Historic Building, Existing Building, Green Building Standards, and Referenced Standards Codes, with Local Amendments, and Adopting the 2021 Edition of the International Property Management Code and to set the Public Hearing for December 7, 2022. AYES: Ackerman, Coler, Goddard, Vice Mayor Cutrano, Mayor Hellman

17. Introduce Ordinance to adopt the 2022 California Fire Code, portions of the 2021 International Fire Code with certain local amendments and additions, and Appendix A of the 2021 International Wildland-Urban Interface Code- CEQA Exempt pursuant to Section 15061(b)(3) or in the alternative Sections 15307 and 15308

Ross Valley Fire Inspector Bastianon presented a staff report and noted several typographical errors. He answered a question from the Council regarding home back-up generators.

Mayor Hellman opened the meeting to public comments.

Michael Mackintosh asked about restrictions for home back-up generators.

Rick Hamer referred to an email he had sent the Council regarding the need for Appendix D and discussed its importance.

Mayor Hellman closed the meeting to public comments.

M/S, Cutrano/Goddard, Motion to Waive First Reading and Introduce an Ordinance Adopting the 2022 California Fire Code, portions of the 2021 International Fire Code with certain local amendments and additions, and Appendix A of the 2021 International Wildland-Urban Interface Code prescribing regulations governing conditions hazardous to life and property from fire or explosion and providing for the issuance of permits for hazardous uses or operations and establishing a Fire Prevention Bureau and providing officers therefore and defining their powers and duties and the changes noted by Fire Inspector Bastianon and setting a Public Hearing for adoption of the ordinance for December 7, 2022. AYES: Ackerman, Coler, Goddard, Vice Mayor Cutrano, Mayor Hellman

18. This item is continued to December 7, 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 Marlene Sorgen, appellants/owners; CEQA categorically exempt per Section 15301(e)(2)(1)

Mayor Hellman stated this item has been continued to the December 7, 2022 Council meeting.

#### Council Reports and Comments

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

#### Town Manager's Report



Town Manager Abrams stated there was no report.

Future Agenda Items

There were no items.

The meeting was adjourned at 12:21 a.m. in memory of Tom Shearer.