

DRAFT

Fairfax Town Council Minutes
Special Meeting
Women's Club, 46 Park Road, Fairfax
and via teleconference
Wednesday, **October 18, 2023**

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

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Bruce Ackerman
Lisel Blash
Barbara Coler
Chance Cutrano
Stephanie Hellman

STAFF MEMBERS PRESENT:

Heather Abrams, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Jeff Beiswenger, Planning Director
Christine Foster, Deputy Town Clerk

Approval of Agenda

M/S, Coler/Blash, Motion to approve the agenda.

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

Interview and Appointment

1. Interview Theodore Catrini and consider his appointment to the Open Space Committee

The Council interviewed Theodore Catrini for appointment to the Open Space Committee.

Public Hearings

2. Introduce by Title Only an Ordinance Amending Title 17 (Zoning) of the Fairfax Municipal Code to Add the Following New Chapters: Chapters 17.010 (Rules of Measurement), 17.026 (Ministerial Approvals for Qualifying Housing Developments), 17.027 (Procedures for SB 330 Application for Housing Development), 17.050 (Affordable Housing Density Bonus), 17.006 (Definitions), 17.020 (Design Review Regulations), 17.024 (Required Permits), 17.032 (Use Permits), 17.040 (General Zone Regulations), 17.044 (Exceptions and Modifications), 17.048 (Residential and Accessory Dwelling Units and Junior Accessory Dwelling), 17.052 (Off-Street Parking and Loading Requirements), 17.056 (Traffic Impact Permit), 17.076 to 17.090, and 17.116 (Related to Residential Zones), 17.138 (Regulations Applying in Multiple Zone Districts), and 15.02 (Construction Codes) to Implement the General Plan Housing Element and Determining the Ordinance to be Exempt from CEQA

AGENDA ITEM #7

Planning Director Beiswenger presented the staff report and gave a PowerPoint presentation. Staff answered questions from the Council regarding a definition of density bonus and builders remedy; the constraints regarding the inclusion of the Marin Town and Country Club in the Housing Element document; Section 17.010.040(c) and if retaining walls were included in measuring fence heights; Section 17.020.090 and how the six-month time period was decided for Design Review; Section 17.040.010, if the waiver provision was different from the current code; Section 17.048.010(C) and (F) and where (A) comes into play; the notion of open space within a development; Exhibit E and the number of allowable ADUs vs. JADUs; the required number of parking spaces for apartments and single-family homes.

Mayor Cutrano opened the public hearing.

Todd Greenberg asked the Council to be more receptive to public input.

Philip Salaverry was concerned about development of School Street Plaza without additional parking.

Mark Bell stated he was entitled to speak for three minutes. He asked why the Council would approve an ordinance that would be immediately amended.

Frank Egger was concerned about Section 17.044.090 giving the Planning Director authority to grant waivers ; evacuation out of the Cascades; and new State legislation regarding housing.

Michael Mackintosh was concerned about doing a first reading with amendments. He would like a discussion about whether his property should be on the site inventory list. He was concerned about the cost of infrastructure necessary for more housing.

Jessica Green was concerned that more housing in the hills would make evacuations more difficult.

A resident opposed increasing the density in Fairfax. She was concerned about fire danger.

Johnson stated there are many people who work in Marin who cannot afford to live here.

Carmella, speaking on behalf of the Marin Environmental Housing Collaborative, supported rezoning School Street Plaza, housing people who work in Marin, and density housing.

Mayor Cutrano closed the public hearing.

M/S, Coler/Blash, Motion to Introduce by Title Only an Ordinance Amending Title 17 (Zoning) of the Fairfax Municipal Code to Add the Following New Chapters: Chapters 17.010 (Rules of Measurement), 17.026 (Ministerial Approvals for Qualifying Housing Developments), 17.027 (Procedures for SB 330 Application for Housing Development), 17.050 (Affordable Housing Density Bonus), 17.006 (Definitions), 17.020 (Design Review Regulations), 17.024 (Required Permits), 17.032 (Use Permits), 17.040 (General Zone Regulations), 17.044 (Exceptions and Modifications), 17.048 (Residential and Accessory Dwelling Units and Junior Accessory Dwelling), 17.052 (Off-Street Parking and Loading Requirements), 17.056 (Traffic Impact Permit), 17.076 to 17.090, and 17.116 (Related to Residential Zones), 17.138 (Regulations Applying in Multiple Zone Districts), and 15.02 (Construction Codes) to Implement the General Plan Housing Element and Determining the Ordinance to be Exempt from CEQA, including the supplement, errata, and changes recommended tonight.

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

The Council took a 5-minute break.

3. Receive a Status Update on the Town of Fairfax 2023-31 Housing Element Update

Planning Director Beiswenger presented the staff report and a PowerPoint presentation. Staff answered questions from the Council regarding whether the Sherwood Oaks apartments are counted towards the RHNA numbers; the red line copy of the document and waiver of fees; Exhibit C and if ADUs are eligible for short-term rentals; current interest rates;

Mayor Cutrano opened the meeting to public comments.

Frank Egger discussed a lawsuit filed against the planning consultants. He was concerned that clustered development would result in large houses near the ridgeline.

Todd Greenberg opposed the proposed development and increased density.

Mark Bell questioned recent housing laws. He discussed the current minimum wage, workforce housing, the lack of public transportation, the density bonus percentage, and several of the proposed sites.

Michael Mackintosh discussed the steep slopes of several Town-owned properties that are on the housing opportunity site list. He supported more parking.

A resident stated the Council was ceding control of the Town to Sacramento.

Lynn asked for fire drills in Fairfax. She did not like the direction Fairfax is headed. .

Sierra Salin discussed environmental concerns, infrastructure failures, and an increasing population.

Casey had a question about Sherwood Oaks and a recent Fairfax lawsuit.

Mayor Cutrano closed the meeting to public comments.

The Council was appreciative of the report.

Consent Calendar

4. Adopt Resolution Authorizing the Temporary Closure of Dominga and Napa Avenues Following the 2023 Halloween Parade on October 31, 2023- Deputy Town Clerk

5. Receive proposal letter from Marin Open Space Trust regarding Wall Property and Mayor Cutrano's reply to said letter- Town Manager

Mayor Cutrano opened the meeting to public comments.

Frank Egger had a comment about item #5.

Todd Greenberg was opposed to more development.

Michael Mackintosh supported more community engagement.

Mayor Cutrano closed the meeting to public comments.

M/S, Coler/Hellman, motion to approve the Consent Calendar.

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

The meeting was adjourned at 9:27 p.m. in memory of Terry Wayne Scott.

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Fairfax Town Council Minutes
Regular Meeting
Women's Club, 46 Park Road, Fairfax
and via teleconference
Wednesday, **November 1, 2023**

Mayor Cutrano called the Regular meeting to order at 6:30 p.m.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Bruce Ackerman
Lisel Blash
Barbara Coler
Chance Cutrano
Stephanie Hellman

STAFF MEMBERS PRESENT:

Heather Abrams, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Jeff Beiswenger, Planning Director
Christine Foster, Deputy Town Clerk
Dan Mahoney, Interim Fire Chief

Approval of Agenda

Mayor Cutrano stated he would like to move item #19 up in the agenda and hear it before Open Time.

M/S, Cutrano/Hellman, Motion to approve the agenda with the change recommended by Mayor Cutrano.

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

Mayor Cutrano delivered a brief statement regarding the Town's position and protocols on hate speech.

19. Adopt a Proclamation in Support of United Against Hate Week

Mayor Cutrano opened the meeting to public comments.

Mark Solomons, on behalf of UAHW, received the proclamation and discussed the group's activities.

Todd Greenberg supported the proclamation.

Michael Mackintosh supported the proclamation.

Mallory Geitheim agreed with the previous speakers.

Jamal, Mike, Eva, Nash, Siran, Anne, Hank, Cindy, Sandy, Kayla, Isaac, and Candy spoke against the proclamation.

P.J. Feffer, speaking on his own behalf as an individual, supported the proclamation but not ADL as a partner.

Sierra Salin, Naomi, and Kay supported the Proclamation.

Leo opposed the ADL.

The Council took a 4-minute recess at 6:55 p.m.

Tunafish, Naomi, and Kay supported the proclamation.

Mayor Cutrano closed the meeting to public comments.

M/S, Coler/Ackerman, Motion to adopt the Proclamation in Support of United Against Hate Week.

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

Announcement of Closed Session Action, if any

Mayor Cutrano stated there had not been a Closed Session, so there was nothing to report.

Open Time

Mark Bell stated the Council should follow the law, allow free speech, and answer questions asked by the public.

Todd Greenberg stated there were too many items on the Consent Calendar.

Michael Sexton, representing Marin Residents, discussed the rent control ordinance and stated it would be on the ballot in 2024.

Michael Mackintosh discussed protecting vulnerable people. He preferred hiring consultants who live in the community.

Frank Egger stated the Consent Calendar had too many items, and opposed ordinances being adopted on Consent.

Mallory Geitheim asked the Council to listen to the residents.

Sierra Salin stated this was a matter of unexamined beliefs battling unexamined beliefs- no dialogue occurs.

Kay discussed the lack of an ordinance regarding open fires on private property.

Phillip suggested a speed bump on Scenic Road and reported cars running the stop sign at Scenic and Manor.

Liz Froneberger supported the United Against Hate Proclamation.

Brenna stated that ordinances should not be on the Consent Calendar.

David stated the Council should let people talk.

Sharon opposed the time limit of two minutes for public comments .

Kevin thanked the Council for denouncing hate.

Public Hearings

1. Adopt a Resolution Approving Maximum Rates Collected by Marin Sanitary Service (MSS) for Solid Waste Services to be Effective January 1, 2024

Town Manager Abrams presented the staff report. Jim Honisen and Garth Schultz, representing R3 Consulting Group, gave a PowerPoint presentation. They answered questions from the Council regarding the March 2023 CPI; SB 1383; Zero Waste Marin fee; why Novato's rates are so low; if Fairfax rates are among the lowest; the MSS business model; food to energy equipment; other fees and the Franchise Fee.

Patty Garbarino, Vice President of MSS, and Justin Wilcox discussed progress being made by MSS along with new technologies.

Mayor Cutrano opened the Public Hearing.

Todd Greenberg stated he supported the resolution. He had a question about bidding.

Michael Sexton supported the resolution.

Michael Mackintosh stated his utility costs had gone up 10% over the last year, not including the upcoming increases from MMWD and PG&E. MSS should be given a larger allowance given the hilly nature of Fairfax. He opposed any kickback to the Town.

Philip agreed with the previous speakers. He suggested consideration of a different pick-up schedule, such as every 9 or 10 days.

Mark Bell stated the trucks should be quieter and the process should go out to bid.

Ling Shien Bell stated the pick-up was too early and the trucks were too loud.

Mimi was concerned with the Franchise Fee and other agency fees embedded in the rates. With no analysis, such fees could be considered a tax. Residents should be able to vote on these fees.

P.J. Feffer stated the report could contain more details regarding the fees. He supported the model with a 5% cap, and successful labor negotiations.

Tunafish noted we wrap our garbage in plastic and have somebody haul it away. There was too much waste.

Michael stated there was a lot of waste at a particular location in Fairfax.

Mayor Cutrano closed the Public Hearing.

M/S, Coler/Ackerman, Motion Adopt a Resolution Approving Maximum Rates Collected by Marin Sanitary Service for Solid Waste Services to be Effective January 1, 2024 in the Town of Fairfax.

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

The Council took a 7-minute break at 8:37.

2. This item is continued to January 24, 2024: 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 Cutrano stated this item was continued to the January 24, 2024 meeting.

Regular Agenda

3. Adopt a Resolution Adopting Fleet-Zero Emissions Policy

Climate Action Coordinator Youra presented a report and a PowerPoint presentation. Staff answered questions from the Council regarding whether the Police Department inventory is correct; if the resolution pertains to resident's vehicles; if a "Union made" condition could be incorporated as a preference; grants for EV charging; if the Fleet Manager position is a job title or a task assigned to an existing employee; the power outage issue; if "zero emission" can be accomplished by electrification or other alternatives; are there guide rails to help assure they are getting ethically sourced batteries; how the Fleet Advisory group would work.

Mayor Cutrano opened the meeting to public comments.

Todd Greenberg was concerned about charging during power outages and emergencies.

Frank Egger urged the Council to only purchase union built EV's built in the United States. He noted Police Department vehicles run 24/7, which would require a lot of Vs to accommodate all shifts.

Mark Bell suggested a requirement prohibiting cobalt in the batteries and adding biodiesel.

An individual agreed the vehicles should be made in the US by Union workers. He supported solar power.

Michael Mackintosh was concerned about taking out the incentives and the environmental concerns of batteries. He suggested alternatives to EVs, such as fuel cells and hydrogen.

Philip Salaverry was concerned about cobalt mines in Africa.

P.J. Feffer supported a requirement for Union made vehicles.

Tunafish Salin supported EV's and American-made.

Liz Froneberger supported American and union made EVs and echoed concerns about the environmental and human costs of mining.

Rick Hamer stated supported solar and renewable energy, American/union made, and ethical pedigrees for battery components.

Mayor Cutrano closed the meeting to public comments.

M/S, Coler/Blash, Motion to Adopt a Resolution Adopting Fleet-Zero Emissions Vehicle EV Policy with the addition of a preference for union-made vehicles.

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

4. Discuss/consider Residents' Petition submitted per Town Code regarding implementation of rent control ordinances, and direct staff as appropriate

Michael Sexton, founder of FairfaxResidents.org, discussed the petition, rent control policies, costs vs. benefits, and the need for resolution on the expenditures necessary to implement the Rent Stabilization and Just Cause policies.

Town Manager Abrams answered questions from the Council regarding whether the one-page budget explanation is posted to the website.

Mayor Cutrano opened the Public Hearing.

Philip Salaverry asked the Council to delay implementing the ordinances until after the issue is voted on in November 2024, and not before a cost estimate of implementation.

Susan Mulloy, Fairfax tenant, and Naomi supported implementing the ordinances as soon as possible.

An individual supported implementing the ordinances as soon as possible.

Todd Greenberg stated this was creating a bureaucracy that would drive up rents.

Mark Bell suggested the Town create a fund to help people pay their rent. He was concerned about the costs associated with implementation.

Michael Mackintosh agreed with the previous speaker.

The Mayor reviewed the 10:00 rule.

M/S, Coler/Ackerman, Motion to keep going with the agenda.

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

Johnson Reynolds, Canal area resident, supported implementing the ordinances as soon as possible.

Sierra Salin supported waiting until after the election.

Rick Hamer supported implementing the ordinances as soon as possible.

Liz Froneberger supported delaying implementation until after the election to avoid spending unnecessary funds.

P.J. Feffer, speaking on his own behalf as an individual, supported implementing the ordinances as soon as possible.

Joe McGarry supported implementing the ordinances as soon as possible.

KC, Sleepy Hollow, discussed the County's mandatory tenant/landlord registry, which provided metrics that can be used toward RHNA numbers.

Mayor Cutrano closed the Public Hearing.

The Council discussed the matter and reached consensus to add a discussion about implementation on a future agenda, with options for partial implementation and data on costs.

Mayor Cutrano reviewed the agenda.

M/S, Coler/Hellman, Motion to move Agenda Item #6 ahead of Item #5.

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

6. Provide Direction to Town Representatives on the Ross Valley Fire Board regarding the Funding Plan and Start Date for a third fire fighter on certain engines

Town Manager Abrams presented the staff report. Staff answered questions from the Council regarding the increased cost and what is included; if the RVFD is the last agency with two to an engine; if all members of the JPA are voting on this issue; grant applications and funding; the possibility of a four person engine; how often new PPE is bought; impacts to response time and collaboration.

Mayor Cutrano opened the Public Comment.

Michael Mackintosh supported the proposal.

Frank Egger stated the Fairfax station should staff up both engines during Red Flag days.

Mayor Cutrano closed the Public Comment.

It was the consensus of the Council to support the Funding Plan Option 1 and the third fire fighter position start date of July 1, 2024.

5. Adopt Resolution Authorizing the Temporary Closure of Bolinas Road between Elsie and Broadway for a Chamber of Commerce Holiday Event on December 15, 2023 from 4 p.m. to 9 p.m. and approve sponsorship of the closure

Town Manager Abrams presented the staff report. Staff answered questions from the Council regarding signage; the detour route; how residents can obtain information about the event; if a menorah lighting has been scheduled; if the name is set in stone; lighting.

Mayor Cutrano opened the Public Hearing.

Todd Greenberg and Michael Mackintosh supported the resolution.

Mayor Cutrano closed the Public Comment.

M/S, Blash/Coler, Motion to Adopt Resolution Authorizing the Temporary Closure of Bolinas Road between Elsie and Broadway for a Chamber of Commerce Holiday Event on December 15, 2023 from 4 p.m. to 9 p.m. and approve sponsorship of the closure.

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

Consent Calendar

7. Receive Financial Statement and Disbursement Reports for September, 2023- Finance Director
8. Approve Minutes for September 6, 13, and October 4, 2023 Town Council meetings- Town Clerk
9. Receive written report on Councilmember assignments, committees and activities in October 2023- Deputy Town Clerk
10. Receive Treasurer's Report for Quarter Ending September 30, 2023- Deputy Town Clerk
11. Receive Public Works Department Quarterly Status Update- Public Works Director
12. Receive Fairfax Recreation and Community Services Department Quarterly Financial Report for July-September, 2023- Recreation Manager
13. Receive Climate Action Department Quarterly Status Update- Climate Action Coordinator
14. Second Reading by Title Only and Adoption of Ordinance Amending the Town's Zoning Code to Prohibit New Gas Filing (Service) Stations and Prohibit Expansion of Fossil Fuel Infrastructure for Existing Gas Filing (Service) Stations- Planning Director
15. Second Reading by Title Only and Adoption of Ordinance Adding Chapter 17.140 "Affordable Housing" to Title 17 "Zoning" of the Fairfax Municipal Code Relating to Inclusionary Housing Requirements- Planning Director
16. Second Reading by Title Only and Adoption of an Ordinance Amending Title 17 (Zoning) of the Fairfax Municipal Code to Add the Following New Chapters: Chapters 17.010 (Rules of Measurement), 17.026 (Ministerial Approvals for Qualifying Housing Developments), 17.027 (Procedures for SB 330 Application for Housing Development), 17.050 (Affordable Housing Density Bonus), 17.006 (Definitions), 17.020 (Design Review Regulations), 17.024 (Required Permits), 17.032 (Use Permits), 17.040 (General Zone Regulations), 17.044 (Exceptions and Modifications), 17.048 (Residential and Accessory Dwelling Units and Junior Accessory Dwelling), 17.052 (Off-Street Parking and Loading Requirements), 17.056 (Traffic Impact Permit), 17.076 to 17.090, and 17.116 (Related to Residential Zones), 17.138 (Regulations Applying in Multiple Zone Districts), and 15.02 (Construction Codes) to Implement the General Plan Housing Element and Determining the Ordinance to be Exempt from CEQA- Planning Director
17. Receive report on Traffic Improvement Safety Project at Creek Road, Meernaa Avenue, and Porteous Avenue to improve safety for vehicles, bicyclists and pedestrians including the addition of a stop sign and other street markings- Public Works Director
18. Adopt a Resolution Adopting Rules of Decorum for Town of Fairfax Public- Town Manager
19. Adopt a Proclamation in Support of United Against Hate Week- Deputy Town Clerk
20. Adopt a Proclamation Declaring November 2023 Native American Heritage Month- Mayor Cutrano
21. Adopt a Proclamation Recognizing Veterans Day- Mayor Cutrano

It was noted that there were supplements for items #9, #12, #15, and #16. and that item #11 was a heat pump with HVAC, not just air conditioning.

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

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

Mayor Cutrano opened the meeting to public comments.

Todd Greenberg stated the Consent Calendar was for non-controversial items. He asked to pull items #11, #14, #15, #16, and #18 for discussion.

Michael Sexton agreed with the previous speaker and would like #18 pulled for discussion. He suggested rules of decorum for the Council, and that the minutes reflect clapping and booing.

Michael Mackintosh asked to pull items #16 and #18 for discussion.

Frank Egger referred to item #11 and noted Bolinas Road had received federal funding in the past. He stated #14 was unnecessary; #15 incorrectly relied on County income average; and #18 was an attempt to limit public participation.

Philip Salaverry was opposed to Item #18 as it was restricting public comment .

Liz Froneberger referred to item #14 and suggested a change. She stated the Climate Action goal of 100% was unrealistic. She agreed with concerns about the consent calendar.

P.J. Feffer referred to item #9 and Councilmember Coler's report on the MCCMC Legislative Committee and discussed governor vetoes.

Mayor Cutrano closed the meeting to public comments.

M/S, Coler/Ackerman, motion to approve the Consent Calendar including the supplements for items #9, #12, #15, and #16.

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

Council Reports and Comments

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

Town Manager Report

Town Manager Abrams stated she would include these items in the Town Newsletter.

Future Agenda Items

Councilmember Hellman stated she would like to discuss the creation of a Homeless Subcommittee and Ebike bike/helmet safety enforcement at a future meeting.

The meeting was adjourned at 12:02 a.m. in memory of long-time San Anselmo Councilmember Kay Coleman.