

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

Mayor Cutrano called the Special Meeting to Conduct Interviews and Make Appointments to order at 6:00 p.m.

Call to Order/Roll Call:

**COUNCILMEMBERS PRESENT:** Bruce Ackerman  
Lisel Blash  
Barbara Coler  
Chance Cutrano

**COUNCILMEMBER ON ZOOM:** Stephanie Hellman, appeared via Zoom audio-video using the just cause exception (contagious illness). She left the meeting at 11:00 p.m.

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

1. Interview and consider appointment of applicants to the Open Space Committee and the Community Emergency Preparedness Committee

The Council interviewed Christine Kelly for appointment to the Open Space Committee.

Michael Ardito, Co-Chair of the Open Space Committee, supported Ms. Kelly's appointment.

M/S, Blash/Coler, Motion to appoint Christine Kelly to the Fairfax Open Space Committee for a full 4-year term.

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

The Council interviewed Jody Timms and James Fair for appointment to the Fairfax Community Emergency Preparedness Committee.

Michael Mackintosh made a comment about aging in place.

M/S, Blash/Hellman, Motion to appoint Jody Timms to the Fairfax Community Emergency Preparedness Committee as the Age-Friendly representative, and to appoint James Fair to the Fairfax Community Emergency Preparedness Committee as the Firewise representative.

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

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

**COUNCILMEMBER ON ZOOM:** Stephanie Hellman, appeared via Zoom audio-video using the just cause exception (contagious illness). She left the meeting at 11:00 p.m.

**STAFF MEMBERS PRESENT:** Heather Abrams, Town Manager

Michele Gardner, Town Clerk  
Janet Coleson, Town Attorney  
David Woltering, Interim Planning Director  
Loren Umbertis, Public Works Director  
Sean Youra, Climate Action Coordinator

### Approval of Agenda

Mayor Cutrano stated he wished to continue items #12 and #14.

M/S, Coler/Blash, Motion to approve the agenda with the continuation of items #12 and #14 to the April 5<sup>th</sup> meeting.

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

### Presentations

1. Presentation of a Proclamation to David Woltering, Interim Planning and Building Services Director

Town Manager Abrams presented a staff report.

Mayor Cutrano read the Proclamation and presented it to Mr. Woltering.

Former Director Woltering stated it was a pleasure to have served the Town of Fairfax.

Mayor Cutrano opened the meeting to public comments.

Michael Mackintosh appreciated Mr. Woltering for being gracious, willing to look at things, and calm.

Mayor Cutrano closed the meeting to public comments.

2. Presentation from PG&E regarding Smart Meter Implementation

Mark Van Gorder and Austin Sharp, representing PG&E, gave a PowerPoint presentation. They, along with staff, answered questions about the cost to opt-out; penalties to the Town for noncompliance; if a digital metering is needed for a "time of day" rate plan; the timeline for residents to make a decision; if this technology is similar to what the water district uses; how the "opt-out" system works; how many Smart meters have been installed in Fairfax; if the Town of Fairfax has the authority to stop this.

Mayor Cutrano opened the meeting to public comments.

Frank Egger, Meadow Way, stated the SmartMeter program should be an opt-in rather than an opt-out program.

Diana Perdue and Todd Greenberg opposed the installation of SmartMeters and opposed the opt-out fee.

Michael Mackintosh discussed PG&E's authority to implement and the Utility Users Tax.

Mark Bell, Nina Beedy, Richard Applebaum, Deborah Benson, Liz Froneberger, and Kathy Flores opposed the installation of SmartMeters.

Mayor Cutrano closed the meeting to public comments.

## Announcements

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

## Open Time

An individual representing Fairfaxresidents.org was concerned about the scope of the proposed workshop on the Town's just cause eviction ordinance. He opposed the rent stabilization and just cause ordinances.

Maureen, member of UFCW Local 5, supported the Rent Stabilization and Just Cause Eviction ordinances.

Erika Milligan supported the Rent Stabilization and Just Cause ordinances.

Michael Mackintosh was interested in the status of the Housing Element update. He stated the ordinances should be voted on by Fairfax residents.

Mark Bell, Fairfax, suggested the Council start over on the rent stabilization program and invite the whole community to participate in a process to develop equitable ordinances.

Rick Hamer, Fairfax, announced potentially disruptive sewer work starting in Town. He disagreed with repealing the Rent Stabilization and Just Cause ordinances.

Candace stated if the Council had involved residents more in the Rent Stabilization ordinances, morale would not be so low now.

Lynnette Shaw stated homeowners are affected by the Rent Stabilization ordinances and should have been consulted before passage. She suggested the Council rescind and start over.

Todd Greenberg, Fairfax, asked that Consent Calendar item #6 be pulled and added to an upcoming agenda. He stated the agenda had too many items.

Lucy, Fairfax, thanked the Council.

Joe McGarry, Fairfax renter and DSA member, supported implementation of the Rent Stabilization Ordinances.

Frank Egger, Meadow Way, asked about his business license application.

Brad Levenoff asked the Council to repave lower Scenic Road.

Liz Froneberger stated she was concerned about whether the rent ordinances would prevent elders from being allowed to evict tenants in their homes who make them uncomfortable.

Philip Feffer, speaking on his own behalf, discussed data on housing and tenant protection laws, news items, and case law with respect to suits from the California Apartment Association.

Deborah Benson, Fairfax, opposed the Rent Stabilization and Just Cause ordinances, and asked the Council to focus on basic Town business instead.

Michael Sexton, organizer of Fairfaxresidents.org, stated the Town website FAQs regarding the Rent Stabilization ordinances were insufficient. He opposed the ordinances.

Jody Timms, Chair of the Climate Action Committee, discussed recent activities.

Melann Mushet opposed the Rent Stabilization Ordinances.

### Consent Calendar

3. Receive Financial Statement and Disbursement Reports for January, 2023- Finance Director
4. Approve Minutes for the November 2 and 11, 2022 Town Council meetings- Town Clerk
5. Receive written report on Councilmembers' assignments, committees, and activities in February- Town Clerk
6. Adopt a Resolution opposing Initiative No. 21-0042A1, the Taxpayer Protection and Government Accountability Act- Town Manager
7. Adopt a Resolution Establishing the Council's Regular Meeting Date in July 2023 on July 12, 2023- Town Clerk
8. Adopt Resolution Terminating the Local Emergency Declared by the Town Manager on January 5, 2023 and ratified by Resolution No. 23-02 by the Town Council on January 10, 2023 as a result of the December and January winter storms- Public Works Director

Mayor Cutrano opened the meeting to public comments.

Mark Bell stated building permit revenue is low because building permit fees are too high. He requested Item #6 be pulled for discussion.

Michael Mackintosh and Todd Greenberg agreed that item #6 should be pulled

Philip Feffer, speaking as a resident, supported Item #6.

Mayor Cutrano closed the meeting to public comments.

M/S, Coler/Ackerman, Motion to approve the Consent Calendar as submitted.

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

### Regular Agenda

#### 9. Receive 2022/23 Mid-Year Budget Review Report

Finance Director Vivrette presented the staff report and gave a PowerPoint presentation. He answered questions from the Council regarding Capital Improvement Budget carryovers; if expenses related to pavement are in the General Fund and the Capital Improvement Fund.

Mayor Cutrano opened the meeting to public comments.

Michael Mackintosh asked about funds and grants budgeted for the Pavilion.

Todd Greenberg asked several questions and suggested residents could help with grants.

Mark Bell had questions about spending on consultants and using reserves.

Frank Egger was concerned that one of the Parks/Street Department crew had been on paid leave for months, resulting in additional expenses, as well as pressure on the other crew.

Philip Salaverry was concerned about whether the Town Attorney budget was sufficient to cover potential lawsuits.

Kathy Flores, Fairfax, agreed with Frank Egger's comments.

Mayor Cutrano closed the meeting to public comments.

10. Receive and Discuss report on the Town Pavement Condition Index (PCI) Report known as PTAP-23, and Authorize Town Manager to execute an amendment in the amount of \$66,720 to the contract with Pavement Engineering Inc. (PEI) to develop Bid Documents including Plans and Specifications for proposed Roadway Improvements for Fiscal Year 2022/23

Public Works Director Umbertis presented the staff report. Joe Riley from Pavement Engineering Incorporated gave a PowerPoint Presentation. Director Umbertis gave a second PowerPoint. They answered questions from the Council regarding funding for the PTAP Report; if staff is obtaining funding from Safe Routes to Schools; how the condition of roads is determined; how dangerous conditions should be reported; if there will be a larger discussion regarding PCI.

M/S Coler/Ackerman to waive the 10:00 rule.

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

Mayor Cutrano opened the meeting to public comments.

Bruce and Linda McDermott, Ridge Road, stated there were portions of Scenic Road that need work in addition to the portion presented.

Frank Egger, Meadow Way, suggested the Town explore federal funding for the downtown section of Bolinas Road.

Todd Greenberg, Fairfax, supported attention to infrastructure, and asked about the funding.

Mark Bell suggested the parklets fees be used to fund the paving costs.

Patrece stated the Council should also fix the sidewalks.

Lori Kramer, Taylor Drive, discussed runoff and storm drains in her neighborhood.

Mayor Cutrano closed the meeting to public comments.

M/S, Coler/Blash, Motion to authorize Town Manager to execute an amendment in the amount of \$66,720 to the contract with Pavement Engineering Inc. (PEI) to develop Bid Documents including Plans and Specifications for proposed Roadway Improvements for Fiscal Year 2022/23.

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

At 11:00 pm Councilmember Hellman left the meeting due to illness.

11. Discuss fencing along banks of Fairfax Creek from School Street to Town Hall and

direct staff to proceed with design and solicitation of bids for construction

Public Works Director Umbertis and Eric Stromberg of RDG (and a Fairfax resident) presented a report and a PowerPoint presentation. They answered questions from the Council regarding whether this plan tied into prior discussions about renovating the park including planting new Redwood trees; if the work will require permits from Fish and Wildlife or other agencies.

Mayor Cutrano opened the meeting to public comments.

Frank Egger stated they should first stabilize the creek banks for erosion control and safety.

Todd Greenberg agreed with the previous speaker.

Mark Bell stated he did not oppose the project but did not see its value.

Deborah Benson supported the debris rack idea but not the fence.

Patrece, Merwin Avenue, stated she did not understand the purpose of the fence.

Mallory Geitheim stated she did not understand the purpose of the fence.

Mayor Cutrano closed the meeting to public comments.

The Council reached consensus that staff should move forward with the project.

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

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

ABSENT: Hellman

12. Discussion of an offer of a land donation from the Cresci Family for a property near the Canyon Road bridge; Assessor's Parcel #003-044-19; RS-6 Residential Single Family Zone

Mayor Cutrano stated this item was continued.

13. Introduce a Reusable Foodware Ordinance and Introduce an Ordinance Prohibiting the sale of Polystyrene Foam Coolers and Ice Chests

Climate Action Coordinator Youra presented the staff report. He answered questions from the Council regarding whether there was a fee for enforcement by the County; the compliance date in 2020; the amount of outreach done by staff; the types of utensils; if schools would be subject to the ordinance; exemptions for cups. He noted a reciprocal indemnification clause was added to the contract.

Dana Armanino, County Sustainability Coordinator, thanked the Council for their efforts and answered a couple of questions.

Mayor Cutrano opened the meeting to public comments.

Todd Greenberg stated there should be incentives to help businesses comply.

Jinesse Reynolds, representing Plastic Free Marin, supported the ordinance and stated there was grant funding.

Susan Hopp supported the ordinances, stating she worked with the previous speaker.

Joe McGarry supported the ordinance.

Mayor Cutrano closed the meeting to public comments.

M/S, Cutrano/Ackerman, Motion to Introduce, waive first reading and read by title only an Ordinance adding Section 8.16.030(c) regarding the Prohibition on Polystyrene EPS Foam Coolers and Ice Chests to the Town Code.

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

ABSENT: Hellman

M/S, Cutrano/Blash, Motion to Introduce, waive first reading and read by title only an Ordinance requiring all food facilities vendors to use reusable foodware for dine-in operations and compliant and compostable food ware for takeout services.

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

ABSENT: Hellman

M/S, Cutrano/Coler, Motion to authorize the Town Manager to execute the agreement between the County of Marin and Town of Fairfax regarding enforcement of the Foodware Ordinance including the language for the reciprocal County indemnification.

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

ABSENT: Hellman

14. Introduce an Ordinance Establishing Regulations for the Land Division and Development of Qualified Senate Bill 9 Properties- Statutorily exempt from CEQA

Mayor Cutrano stated this item was continued.

15. This item is continued to April 5, 2023: 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.

Council Reports and Comments

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

Town Manager Report

Town Manager Abrams provided a brief report on the Housing Element Update and on the upcoming just cause eviction ordinance workshop and survey.

Future Agenda Items

There were none.

The meeting was adjourned at 12:40 a.m. in memory of Bob Bretzel.