

Fairfax Town Council Minutes
Special and Regular Meeting
Women's Club, 46 Park Road, Fairfax
and via teleconference
Wednesday, April 5, 2023

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

1. Interview and consider appointment of applicants to the Marin Commission on Aging and the Community Emergency Preparedness Committee

The Council interviewed Kristin Amlie for the Marin Commission on Aging vacancy and Jody Timms, supported Ms. Amlie's appointment.

The Council interviewed Cindy Swift for the Community Emergency Preparedness Committee.

M/S, Coler/Ackerman, Motion to appoint Kristin Amlie as the Fairfax Representative to the Marin Commission on Aging.

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

Jody Timms, supported Ms. Swift's appointment.

M/S, Coler/Ackerman, Motion to appoint Cindy Swift to the Community Emergency Preparedness Committee as the CERT 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
Stephanie Hellman

STAFF MEMBERS PRESENT: Heather Abrams, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Loren Umbertis, Public Works Director

Michael Vivrette, Finance Director
Linda Neal, Principal Planner

Approval of Agenda

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

Announcement of March 17, 2023 Closed Session Action

Mayor Cutrano announced there was no reportable action.

Announcements

Mayor Cutrano made the announcements as they appeared on the agenda. Councilmember Coler announced the appointments to the Commission on Aging and the Community Emergency Preparedness Committee.

Open Time

Jody Timms, Chair of the Climate Action Committee (CAC), discussed recent storms, and announced a CAC event on actions we can take regarding the climate.

Michael Mackintosh was concerned about recent Town Council decisions.

Mark Bell was concerned that the Smart Meter and 5G Ordinances were not being followed.

Michael Sexton, representing FairfaxResidents.org, stated he agreed with the previous speaker, and noted there were many contentious issues on tonight's agenda.

Liz Froneberger was concerned that the CAC's recommended requirements would increase the cost of a residential remodel.

Barbara McVeigh, Fairfax renter, discussed the exploitation of paid labor in Marin County.

Frank Egger opposed the installation of PG&E Smart Meters in Fairfax.

Todd Greenberg was concerned about the number of items on the Consent Calendar and the order of the agenda.

Rick Hamer agreed with the comments made by Liz Froneberger. He was concerned about the weeds on Center Boulevard.

Candace, Fairfax renter, was concerned about the difficulty of buying a home in Fairfax.

Deborah Benson agreed with the comments made by Michael Mackintosh; opposed the new color of the Thai restaurant; and advocated for ebike regulations.

Sierra Salin agreed with the comments made by Michael Mackintosh, Michael Sexton, Mark Bell, and Frank Egger. He stated that not buying stuff was a way to protect the environment.

Eva agreed with the comments made by Barbara McVeigh.

Consent Calendar

1. Receive Financial Statement and Disbursement Reports for February 2023- Finance Director
2. Approve Minutes for the December 2022 and January 2023 Town Council meetings- Town Clerk
3. Receive written report on Councilmembers' assignments, committees, and activities in March 2023- Town Clerk
4. Adopt a Proclamation Proclaiming April 2022 Fair Housing Month- Town Clerk
5. Adopt a Resolution in support of SB 252: Fossil Fuel Divestment Act- Town Clerk
6. Authorize Mayor to send a letter of opposition to SB 423 (Wiener) Streamlined housing approvals: multifamily housing developments: SB 35 (Chapter 366, Statutes of 2017) Expansion- Town Clerk
7. Approve request for the Town to sign on to a California Community Choice Association (CalCCA) letter urging the California Legislature to address the state's interconnection crisis and ensure timely and equitable access to the electric grid- Town Clerk
8. Adopt a Resolution Changing the Regular Meeting Place and Time of the Volunteer Board to the Women's Club at 5:00 p.m.- Recreation Coordinator
9. Adopt a Resolution Authorizing Town Manager to execute a contract with Trenchless Titan in an amount not to exceed \$65,725 for the replacement of Town Hall Sanitary Sewer Line- Public Works Director
10. Adopt a Resolution Directing the Issuance of a Notice of Completion for the Wreden Ave. and Scenic Road Repair and Road Stabilization Projects- Public Works Director
11. Adopt an Ordinance Prohibiting the Sale of Polystyrene Foam Coolers and Ice Chests, and Adopt a Reusable Foodware Ordinance- Climate Action Coordinator
12. Designate Police Chief to make determinations of Public Convenience or Necessity for ABC License applications pursuant to CA Business & Professionals Code Section 23958.4- Police Chief
13. Adopt Resolution Approving Revised Publicly Available Pay Schedules Effective During Fiscal Years 2014-15 through 2020-21 and Clarifications of Fairfax Police Officers' Agreements for CalPERS Compliance- Town Manager
14. Authorize the Town Manager to execute an agreement with Peckham & McKenney, in an amount not to exceed \$26,750, for Recruitment Services for Planning and Building Services Director, in a form approved by the Town Attorney- Town Manager
15. Adopt Resolution Accepting the Annual Progress Reports on the General Plan and Housing Element for Calendar Year 2022- Principal Planner
16. Housing Element Update and Release of Public Review Draft Sixth Cycle Housing Element- Town Manager

17. Receive Update on Workshop on the Just Cause Eviction Ordinance to be held on May 6, 2023- Town Manager

At the request of the Council, Town Manager Abrams discussed the purpose and intent of the Consent Calendar.

Councilmember Coler noted there was a supplement for item #15 and she had provided edits to staff. She referred to item #13 and asked for clarification on the number of holidays. Town Attorney Coleson stated it should be twelve. She referred to item #6 and asked staff to send copies to Senator McGuire and Assemblyman Connelly.

Mayor Cutrano opened the meeting to public comments.

Michael Mackintosh stated item #15 should not be on the Consent Calendar.

Mark Bell referred to item #1 and asked about the non-Departmental expenses. He referred to Item #4 and stated the word "entitled" should be removed. He opposed placing the second reading of an Ordinance (item #11) on the Consent Calendar.

Michael Sexton had a question about item #17.

Todd Greenberg stated that items #1, #4, #11, #13, #15, #16, and #17 should not be on Consent.

Joe McGarry supported item #11 and noted former Councilmember Goddard's leadership on it.

Kay, referred to item #17 and requested a hybrid format, rather than Zoom-only, for the workshop, and that attendees be limited to Fairfax residents.

Philip Feffer, speaking as a resident of Fairfax, supported items #4, #5, #6, #16, and #17.

Niccolo Caldararo commented on the budget, public safety, and housing and stated they are related to the climate.

Deborah Benson referred to item #4 and stated the word "entitlement" should be removed.

Sierra Salin stated democracy is messy and takes time.

Eva Chrysanthe stated there was a generational shift in how housing is viewed.

Kay K. discussed housing for everyone and wondered whether the government should be paying for it.

Morgan Schmidt-Feng stated it was critical to have a diverse population.

Mayor Cutrano closed the meeting to public comments.

M/S, Coler/Hellman, Motion to approve the Consent Calendar with Vice Mayor Coler's suggested edits to the supplement for item #15, the correction to item #13 to provide 12, and not 11, paid holidays, and the direction that staff send copies of item #6 to Senator McGuire and Assemblyman Connelly.

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

Regular Agenda

18. Receive Independent Auditor's Report for Fiscal Year 2021/22

Finance Director Vivrette presented a staff report and introduced the independent auditors from Maze & Associates.

Whitney Crockett and Vicki Rodriguez, representing Maze and Associates, made a PowerPoint presentation and answered a question from the Council regarding the number of ratings/ranks of levels of assurance.

Mayor Cutrano opened the meeting to public comments.

Michael Mackintosh asked if certain tax revenue could be used for affordable housing.

Todd Greenberg asked questions about liability.

Deborah London was concerned the attorney fees were over-budget.

Philip Feffer, speaking as an individual, highlighted areas of this audit showing Fairfax was in good shape.

Mayor Cutrano closed the meeting to public comments.

In response to a request from the Council, the Town Attorney explained the attorney fees.

Councilmember Coler referred to pages 53, 54, and 55 and noted the changes that needed to be made to the various agencies: Marin Telecommunications Agency should be replaced by the Marin General Services Administration. The Major Crimes Task Force was disbanded in early 2020. She asked that the Marin Wildfire Prevention Authority be added. These items should be corrected. On page 8, Measure J should be Measure F.

19. Review and approve Town Council Goals for 2023

Town Manager Abrams presented the staff report and a PowerPoint presentation. She answered questions from the Council regarding rebates from the Ross Valley Sanitary District; bridge projects; how to make sidewalks more walkable.

Mayor Cutrano opened the meeting to public comments.

Michael Mackintosh asked if the bridges and the storm drain goals included anything on Pastori.

Frank Egger, Meadow Way, discussed funding for infrastructure improvements.

Todd Greenberg suggested the goals be put in order of priority.

Mark Bell referred to "divisiveness" on the list of weaknesses and supported prioritizing it.

Philip Salaverry noted housing providers were left out of the tenant protection provision goal.

Deborah London agreed with the previous speaker and opposed the goal.

Philip Feffer, speaking as an individual, supported the staff recruitment and retention goal, as well as the tenant protection goal.

Claire Armitage also noticed the absence of housing providers, and agreed they are part of the equation.

Kay suggested adding assistance for the aging population.

Mayor Cutrano closed the meeting to public comments.

The Council discussed the Sidewalk Rebate Program, adding housing providers to the goals, and the Age-Friendly Fairfax scorecard.

M/S, Hellman/Ackerman, Motion to adopt the Town Council goals for 2023 with an amendment to Item #6 to read: Tenant Protection Policy Revisions including Housing Providers, Tenants, and other Stakeholders.

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

20. Adopt a Resolution Authorizing the Display of Rainbow Flags during the month of June, 2023; authorize use of staff time to place flags; accept donation of flags for lamp posts; and authorize staff to paint a rainbow crosswalk

Town Manager Abrams presented the staff report. Staff answered questions from the Council regarding designs and colors; the original idea for the Fairfax Festival flags; extra costs for staff time; traffic safety issues.

Mayor Cutrano opened the meeting to public comments.

Michael Mackintosh supported the resolution.

Todd Greenberg was concerned about the cost of the proposal.

Michael Sexton, Fairfax, supported the resolution.

Kay K. supported the proposal but was concerned about the safety of a brightly colored crosswalk.

Kay supported the rainbow crosswalk.

Mayor Cutrano closed the Public Hearing.

M/S, Hellman/Blash, Motion to Adopt a Resolution Authorizing the Display of Rainbow Flags during the month of June, 2023, authorize use of staff time to place flags; accept donation of flags for lamp posts, and authorize staff to paint a rainbow crosswalk.

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

21. Consider the request from the Fairfax Open Space Committee (FOSC) for Council to authorize donation of \$12,000 to Marin Open Space Trust (MOST) for their acquisition of Upper Hawthorne Canyon property in San Anselmo directly adjacent to Fairfax, and adopt Resolution making findings as appropriate

Town Manager Abrams presented the staff report.

Mayor Cutrano opened the meeting to public comments.

Susan, Chair of the Open Space Committee, supported the proposal.

Jonathon Braun, Chair of the San Anselmo Open Space Committee, supported the project.

Michael Mackintosh supported the proposal.

Deborah London and Kay discussed their disappointment about another Open Space project (Sky Ranch).

Mayor Cutrano closed the Public Hearing.

M/S, Coler/Cutrano, Motion to approve the request from the Fairfax Open Space Committee (FOSC) for Council to authorize the donation of \$12,000 to Marin Open Space Trust (MOST) for their acquisition of Upper Hawthorne Canyon property in San Anselmo directly adjacent to Fairfax, and adopt Resolution making findings as appropriate

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

At 9:20 pm, the Council took a 7-minute break.

22. Discuss/consider the resident's petition submitted per Town Code requesting repeal of Town Code Chapters 5.54 and 5.55, and direct staff as appropriate

Town Manager Abrams noted this was a Residents Petition, and that it took an ordinance to change an ordinance.

Mayor Cutrano opened the meeting to public comments.

Philip Salaverry, who had filed the petition, discussed the impact of the ordinances on homeowners.

The following individuals spoke in support of the petition: Michael Sexton, Bob Kopelman, Michael Burke, Blain Morris, Dave Ronco, Norma Neal, Liz Froneberger, Candace Neal-Ricker, Melann Mushet, Michael Mackintosh, Mark Bell, Todd Greenberg, Frank Egger, Deborah London, Mike Ghiringhelli, Frank Egger, Deborah London, Molly Rea, Georgia Gibbs, John Reed, Kay K, Danielle Salk.

The following individuals spoke in support of the adopted ordinances (in opposition to the petition): Wynn Richards, Susan Adams, Denise Serramonte, Laura, Peter Guest, a psychologist, Skylar Collins, Naomi Schultz, Joe McGarry, Barbara McVeigh, Jack Buckhorn (NBLC), Maddy Hershfield (NBLC), Curt Ries (Marin DSA), Morgan Schmidt-Feng, PJ Feffer, Suzanne Acquio, Wendy Botwin, Susan Mulloy, Chris Perrando (DSA), Jenny Silva, Mo McManus, Chris Morales, Eva, and Bob Pendoley (MEHC).

Sierra Salin stated the population was growing but resources were limited.

Mayor Cutrano closed the meeting to public comments.

The Council discussed the item, and raised the following ideas and concerns:

- To give the Council time to talk about the issues and work together on the ordinances, leave them in effect for a limited number of months, with a set date to rescind them.
- Go back to the prior ordinances and repeal the current ones, then take up rent control after the Housing Element Update.
- Balance the three P's: production of new housing, preservation of existing housing, and protection from displacement.
- Concern for the needs of the aging population.
- Concerns about that ballot initiative: (1) would tie the Council's hands from being able to do what they need to do on this important issue; (2) would attract big money from outside Fairfax.
- Concern that some people felt left out of the discussion.
- Concern that repealing the ordinances would leave people unprotected.
- Concern about the uncertainty for both housing providers and renters.

The Council reached consensus to proceed with the workshop, and then consider amendments.

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

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

M/S, Hellman/Blash, Motion to establish a new subcommittee consisting of Mayor Cutrano and Vice Mayor Coler focused on the Just Cause Ordinance amendments post-workshop.

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

23. This item is continued to May 3, 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 to the May 3, 2023 Council meeting.

Council Reports and Comments

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

Town Manager Report

Town Manager Abrams reported staff is performing a tremendous amount of work on storm clean up and met with FEMA and Cal Office of Emergency Services (OES) representatives.

Future Agenda Items

Mayor Cutrano stated he would like to discuss the adoption of an Ebike ordinance at a future meeting.

The meeting was adjourned at 1:00 a.m. in memory of Jack Marsala, Neil Holland, Jean Trombla, Harry Ghiringhelli, and Jean Berensmeier.