

Fairfax Town Council Minutes
Regular Meeting
Women's Club, 46 Park Road, Fairfax
and via teleconference
Wednesday, **August 2, 2023**

Mayor Cutrano called the **Special Meeting** to order at 6:00 p.m. to Conduct a Planning Commission Interview and Consider Appointment.

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
Christine Foster, Deputy Town Clerk

1. Interview and Consider Appointment of Applicant to Serve on the Fairfax Planning Commission

The Council interviewed John Bela for appointment to the Planning Commission.

Mayor Cutrano opened the meeting to public comments.

Todd Greenberg asked if the applicant had read the Town's conflict code and whether he lived here.

Michael Mackintosh was concerned that the applicant had previously lived and worked outside of Fairfax.

M/s, Coler/Blash, Motion to appoint John Bela to the Planning Commission.
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
Lisle Blash
Barbara Coler
Chance Cutrano
Stephanie Hellman

STAFF MEMBERS PRESENT: Heather Abrams, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Christine Foster, Deputy Town Clerk
Mark Lockaby, Building Official
Loren Umbertis, Public Works Director

Approval of Agenda

Mayor Cutrano stated item #6 would be pulled from the agenda.

M/S, Coler/Ackerman, Motion to approve the agenda with the removal of item #6.

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

Announcement of Closed Session Action, If Any

Mayor Cutrano announced there was no reportable action from the July 26, 2023, Closed Session.

Announcements

Mayor Cutrano thanked the following volunteers who had stepped down from committees: Chris Borjian for his service on the Parks and Recreation Commission, Norma Fragoso, for her service on the Planning Commission, and Phil Green, for his service on the Planning Commission. He also thanked Paul Whang for his service to the Town as a Climate Action Fellow.

Open Time

Jody Timms, Chair of the Climate Action Committee, discussed the Committee's activities, and suggested "mini solutions" to address the climate crisis.

Susie Bergen, Spruce Road, discussed the issues the neighbors have with Fairfax Lumber.

Roland Lee, owner of local rental property, asked about the Rent Stabilization Ordinance, which he learned about from a tenant.

Tony Gamberella, Snowden Lane, stated 615 Oak Manor Drive should be removed from the housing opportunity sites inventory list, because it would be a violation of a settlement agreement with Fairfax Hills.

David Caduto, Snowden Lane, agreed with the previous speaker and opposed development of 615 Oak Manor Drive.

Woman, Oak Manor, agreed with the previous two speakers.

Michael Sexton found it odd how many closed session meetings had no reportable actions.

Deb London agreed with the previous speaker. She noted that Fairfax Lumber was at its current location before the surrounding homes were built.

Michael Mackintosh agreed with the comments about closed session reporting.

Todd Greenberg stated residents should be allowed to vote on important items and housing providers should be allowed to raise rents to keep up with inflation.

Candace asked that the Council address the increase in the number of unhoused people in Fairfax and the trip hazards. She was opposed to the idea of a vacancy tax.

Pamela Meigs, Ross Valley Sanitary District Board member, stated they were awarded “System of the Year” from the California Water Environment Association.

Richard A., Woodland Avenue, stated the condition of Oak Road between Laurel and Woodland was very poor and needed a little patch at the least.

Cindy Ross, Landsdale Avenue, discussed the ongoing nuisance and public health concern regarding off-gassing from the laundromat off Pastori Avenue. She added that parking was needed on Pastori Avenue, and a dedicated pedestrian pathway was needed on Lansdale.

Paul Whang thanked the Council and staff for the opportunity to serve the Town of Fairfax.

Kristin Amlie, Fairfax representative to the Marin Commission on Aging, gave an update on Commission activities.

Janet Turner thanked the first responders in Town and opposed reducing funding of the Police Department.

Morgan Schmidt Feng expressed appreciation for everyone’s efforts.

Sierra Salin discussed the need to be careful about electrification, and encouraged more conservation. He opposed building on upper Oak Manor.

Deborah Benson, Cascade Drive, was concerned about open communication in public meetings and requested the removal of cell phones and laptops from the dais.

Malcolm Feron stated Scenic Road between Azalea and Arroyo required repair.

Lynn stated there was a hole at the corner of Sir Francis Drake Boulevard and Marinda Oaks, and loose gravel at 200 Marinda. Camping in Peri Park should not be allowed.

Regular Agenda

1. Accept Certification of Sufficiency of Petition Entitled “Initiative Measure Repealing Fairfax Just Cause Eviction Ordinance and Replacing it with Just Cause Eviction Standards in the California Tenant Protection Act of 2019; and Repealing Fairfax Rent Stabilization Ordinance and Replacing it with a Mandatory Local Good-Faith Rent Mediation Process” and Consideration of Additional Council Actions Related to the Initiative

Town Attorney Coleson presented the staff report. Staff answered questions from the Council regarding who would be preparing the report; if the campaign finance had any bearing on what was before the Council tonight; the Political Action Committee (PAC) associated with the petition; if a Special Election with a “mail only” option was possible; statutory provisions regarding this type of election.

Mayor Cutrano opened the meeting to public comments.

Candace, Fairfax, was concerned that a vote of the people could lock things in that they might not want in perpetuity.

Michael Sexton, proponent of the petition, supported the option to place the measure on the November 2024 ballot.

Philip Salaverry, Scenic Road, supported adoption of the measure tonight.

Susan Adams, Tamalpais Road, supported the option to place the measure on the November 2024 ballot.

Cindy Swift, Fairfax, supported adoption of the measure tonight.

Curt Ries, San Anselmo, Co-Chair of the Marin Chapter of the Democratic Socialists of America (DSA), supported rent control to make Marin County livable for ordinary working people, supported the option to place the measure on the November 2024 ballot.

Norma Neal opposed the ordinances as written since they put seniors who are landlords at risk.

Jessica Green supported the option to place the measure on the November 2024 ballot.

Naomi Schultz supported the option to place the measure on the November 2024 ballot.

Michael Mackintosh supported the option to place the measure on the November 2024 ballot.

Joe McGarry supported the option to place the measure on the November 2024 ballot.

Miriam Weinstein, Fairfax, supported the option to place the measure on the November 2024 ballot.

Todd Greenberg was concerned about the cost of the election.

Blaine Morris, Cascade Drive, supported adoption of the measure tonight.

Chelsea, Fairfax, supported the option to place the measure on the November 2024 ballot.

Frank Egger, Meadow Way, noted three of the Councilmembers would be up for re-election in November 2024. He asked about a "vote by mail only" option.

Jody Timms supported the comments made by Curt Ries.

Deb London supported adoption of the measure tonight, and agreed with the comments made by Michael Sexton, Philip Salaverry, and Frank Egger.

Roland Lee stated he has been a landlord in Fairfax for 23 years, only heard about this yesterday, and he is opposed to the ordinances.

Melann Mouchette, Meernaa Avenue, supported adoption of the measure tonight.

John Hoffman, Fairfax renter, supported the rent control ordinances currently in effect.

Morgan Schmidt Feng, Fairfax renter, supported the option to place the measure on the November 2024 ballot.

Patrick Costello, Frustuck Avenue homeowner, supported the option to place the measure on the November 2024 ballot.

Richard A agreed with the prior speaker.

Johnson Reynolds, Marin City, supported the option to place the measure on the November 2024 ballot.

Sierra Salin stated the Council should start over.

Wendy supported the option to place the measure on the November 2024 ballot.

Claire Armitage supported the option to place the measure on the November 2024 ballot.

Susan Malloy supported the option to place the measure on the November 2024 ballot.

Eryka, Fairfax, supported the option to place the measure on the November 2024 ballot.

P.J. Feffer, speaking on his own behalf as a Fairfax homeowner, supported the option to place the measure on the November 2024 ballot.

Maddy Hirschfield, North Bay Labor Council, supported the option to place the measure on the November 2024 ballot.

Rainero Miranda, Fairfax, urged the Council not to repeal the ordinances.

Mo McManus, Fairfax renter for 30 years, supported the option to place the measure on the November 2024 ballot.

Kay asked questions about amending and implementing the ordinances if this measure were to go on the November 2024 ballot.

Wendy Todd, San Anselmo, supported the option to place the measure on the November 2024 ballot

Rick Hamer supported the option to place the measure on the November 2024 ballot.

Jason Sanders supported placing the measure on the ballot in 2023.

Sandy Handsher supported the option to place the measure on the November 2024 ballot.

Chris P. supported the option to place the measure on the November 2024 ballot.

Sierra Finn urged the Council not to repeal the ordinances.

Mayor Cutrano closed the meeting to public comments.

The Council took a 5-minute break at 8:40 p.m.

The Council discussed the matter and reached consensus on the November 2024 election date, with the exception of Vice Mayor Coler, who believed that a November 2023 election would be better for the community, because the sooner the issue is resolved, the sooner the Town will be able to move forward on this matter and other pressing needs.

M/S, Hellman/Ackerman, Motion to Receive, File, and Accept the Certification of Sufficiency of Initiative Petition.

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

M/S, Hellman/Cutrano, Motion to support Option B: submit the Measure to the voters at the next Regular municipal election occurring at least 88 days later. A “regular municipal election” is one where Council members are elected. The next regular municipal election upon which this Measure can be placed will be November 5, 2024. A resolution adding this Measure to that election would be brought before the Council along with a resolution calling that election during the normal time period, at a Council meeting scheduled for next June or July.

AYES: Ackerman, Blash, Hellman, Mayor Cutrano

NOES: Vice Mayor Coler

2. Discuss and Introduce Ordinance Revising Town Code Chapters 5.54 “Just Cause Evictions” and 5.55 “Rent Stabilization Program.”

Town Attorney Coleson presented the staff report. Staff answered questions from the Council regarding the California Health and Safety Code and the natural disaster exemption.

Mayor Cutrano opened the meeting to public comments.

Candace stated no money should be spent on the ordinances now that residents will vote on them in 2024.

Todd Greenberg was concerned the changes to the ordinances were major.

Michael Sexton agreed with the comments made by Candace, and supported AB 1482 rent control.

Naomi Schultz, Fairfax, supported the amendments except that the relocation payments should be higher and the right to return should be 5 years.

Curt Ries, Marin DSA, discussed the need for right of return, relocation expenses, and triple damages to remain in the ordinances.

Michael Mackintosh stated the ordinances should be repealed.

Joe McGarry, supported the amendments except for the right of return, relocation expenses, and triple damages.

Deb London stated the amendments did not go far enough to help landlords.

The Council reviewed the 10:00 o’ clock rule.

M/S, Coler/Ackerman, Motion to waive the 10:00 p.m. rule and continue item #4 to the next meeting.

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

Mo McManus, Fairfax, supported the comments made by Curt Ries.

Morgan Schmidt Feng asked a question.

Philip agreed with previous speakers that no more money should be spent on these ordinances.

Sierra Salin stated fairness and balance were needed.

Wynn stated that the renter protections were needed.

Jason discussed the Costa Hawkins Act.

P.J. Feffer, referred to his letter to the Council, and opposed amending the ordinances.

Lynn was concerned that the ordinances left landlords paying for tenants' choices.

Richard A, Fairfax, suggested differentiating those having one or two units.

Sarah B. stated that small "mom and pop" landlords required more protection.

Liz Froneberger stated the amendments helped her situation with an ADU to rent out.

Wendy supported the amendments.

Mayor Cutrano closed the meeting to public comments.

At 10:26 the Council took an 8-minute break.

The Council reviewed the amendments line by line, and reached consensus on several more amendments. In order to introduce the amended ordinance, they asked the Town Attorney to read the amendments in to the record.

Town Attorney Coleson read the amendments into the record as follows:

For Chapter 5.54 "Just Cause Evictions" 1) On page 13, under (E), "Right of Return and First Right of Refusal", shall be within three years and not two; at the end of (E) there shall be an additional line stating "The tenant shall provide written notice of their forwarding address to the landlord upon their departure from the unit"; 2) Under (J), "Failure to Comply", it shall read: "... any attempt to recover possession of a rental unit or recover a possession in violation of this chapter *may* render the landlord liable to the tenant in a civil action for wrongful eviction for treble damages"; 3) On page 15, under Section 5.54.050, "Relocation" (C)(3) shall read: "... a per diem of \$190 per day..." and in (C)(4), it shall say "The Town Manager shall publish on the Town Website the new *per diem*...", and (F) shall be added to say "A landlord is not required to provide relocation benefits in the event of a natural disaster" and we will cite to the State Law; 4) Under Section 5.54.060(A), "Re-rental of Rental Unit", it shall say within two years; and (1) The landlord of the rental unit *may* be liable to any tenant who was displaced from the property by that action for *treble* damages."; 5) On page 17, #3, the very last paragraph and also on page 13 (E), shall read: "That tenant or former tenant *shall* advise the landlord at any time during the eligibility of a change of address..."

For Chapter 5.55 "Rent Stabilization" 1) On page 9, Section 5.55.080 (A) "Establishment of Base Rent", the February 2, 2022 date shall be changed to March 2, 2022 throughout the entire paragraph; 2) Section 5.55.080 (C) (1), shall read, "The annual general adjustment shall be equal to 75% of the percentage increase..."

The redline-strikeout amendments included in tonight's packet supplement shall also be included.

M/S, Hellman/Blash, Motion to Introduce, waive first reading and read by title only an Ordinance Revising Town Code Chapters 5.54 "Just Cause Evictions" and 5.55 "Rent Stabilization Program" as amended.

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

3. Conduct a public hearing on the second reading by title only and adoption of an Ordinance Adding Chapter 15.17 “Gate Safeguards” to Title 15 “Buildings and Construction” of the Fairfax Municipal Code

Building Official Lockaby presented a report. He answered questions from the Council about the cost to retrofit these gates and the number and location of gates in Fairfax.

Mayor Cutrano opened the Public Hearing.

Todd Greenberg stated the costs and availability should be provided.

Michael Mackintosh disagreed with the previous speaker and supported adoption.

Mayor Cutrano closed the Public Hearing.

M/S, Coler/Blash, Motion to waive second reading and read by title only an Ordinance Adding Chapter 15.17 “Gate Safeguards” to Title 15 “Buildings and Construction” of the Fairfax Municipal Code, including the supplement (changing the date).

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

4. Receive the Marin Countywide Electric Vehicle Acceleration Strategy presentation from Christine O’Rourke, MCEP Sustainability Coordinator, and provide direction to staff on whether to develop a work plan as proposed in Appendix A of the EV Acceleration Strategy

Mayor Cutrano stated this item was continued to the next meeting.

5. Authorize the Town Manager to issue a Request for Proposal (RFP) for Street Sweeping Services for the Town of Fairfax

Public Works Director Umbertis presented the staff report. He answered questions from the Council regarding the insurance requirements; having the RFP specifically call out the California Air Resources Board; what is charged for these services; the value plugged into the budget; if contracting this service would be more environmentally friendly.

Mayor Cutrano opened the public comment.

Michael Mackintosh stated Worker’s Compensation Insurance should be required.

Frank Egger, Meadow Way, objected to privatizing this public service.

Todd Greenberg noted there was no requirement that the sweeper be electric. He had concerns about the estimated costs.

Mayor Cutrano closed the Public Hearing.

M/S, Coler/Blash, Motion to Authorize the Town Manager to issue a Request for Proposal (RFP) for Street Sweeping Services for the Town of Fairfax with the following changes: 1) Addition of the vehicular insurance requirements; 2) Inclusion of a reference to the California Air Resources Board.

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

6. Introduce 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

Mayor Cutrano stated this item was taken off the agenda.

7. This item is continued to September 6, 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 September 6, 2023 Council meeting.

Consent Calendar

8. Receive Financial Statement and Disbursement Reports for June, 2023- Finance Director
9. Approve Minutes for April 19 and May 3, 2023 Town Council meetings- Town Clerk
10. Receive written report on Councilmembers' assignments, committees, and activities in July, 2023- Town Clerk
11. Receive Status Report on the Sixth Cycle Housing Element Update- Town Manager
12. Receive Climate Action quarterly update- Climate Action Coordinator
13. Receive Recreation and Community Services quarterly update- Recreation Manager
14. Adopt Resolution Setting a Regular Meeting Date, Time, and Place for the Community Emergency Preparedness Committee- Town Clerk and Deputy Town Clerk
15. Reappoint Jody Timms to the Climate Action Committee- Deputy Town Clerk
16. Proclamation in support of Bidirectional Vehicles and Charging Equipment for Municipal Fleets- Mayor Cutrano
17. Adopt Resolution Setting the Living Wage for Town Employees and Town Contract Employees pursuant to the Annual Review Requirements of Section 8.56.020 of the Town Code- Finance Director
18. Receive notice of amendments to the employment agreement with Rico Tabaranza, Police Chief, for the period of July 1, 2023 through June 30, 2024- Town Manager
19. Authorize Town Manager to execute contract with Marin Heating to install new electric Heating and cooling HVAC system in Woman's Club in an amount not to exceed \$29,500 and include a 10% contingency of \$2,950 for a total of \$32,450- Public Works Director
20. Award a bid and authorize Town Manager to execute a contract with RWR Construction, Inc. in the amount of \$406,588 and include a 10% contingency for a total project cost of \$447,246 for the 145 Canyon Road Re-stabilization and Repaving Project- Public Works

Director

Vice Mayor Coler stated she submitted changes to the May 3, 2023 minutes.

Mayor Cutrano opened the meeting to public comments.

Michael Mackintosh referred to item #8 and stated the Town should issue a monthly P&L. He made comments on items #10, #12, #13, and closed session meeting disclosures.

Frank Egger referred to item #9 and stated he had never seen a Building Permit attached to a parklet. He had questions about items #11, #15, and #16.

At 12:46 a.m. Councilmember Hellman left the Council Chambers.

Todd Greenberg made comments on items #8, #11, #12, #16, #18, #19, and #20.

Deb London agreed with Michael Mackintosh and Todd Greenberg.

Mayor Cutrano closed the meeting to public comments.

Town Clerk Gardner read the proposed change to the May 3, 2023 minutes into the record, to replace Item 17 direction to Council on page 5 with the following language: "The Council reached consensus that staff should be firmer with the businesses that still have not complied, by sending certified letters with a deadline of between 2 and 4 weeks, depending on the issue. If a business missed that deadline, staff would red tag and/or issue a citation."

M/S, Coler/Ackerman, motion to approve the Consent Calendar with the changes to May 3, 2023 minutes.

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

ABSENT: Hellman

Council Reports and Comments

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

Town Manager Report

Town Manager Abrams reported on an MMWD project just outside of Town.

Future Agenda Items

There were none.

The meeting was adjourned at 12:55 a.m. in memory of Jules Emile Chourré Jr., and Thomas Thibeau (former Town Hall electrician).