

Fairfax Town Council Minutes
Regular and Special Meeting
Women's Club, 46 Park Road, Fairfax
and via Zoom
Wednesday, **September 6, 2023**

Mayor Cutrano called the Regular and Special meetings 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
Christine Foster, Deputy Town Clerk
Jeff Beiswenger, Planning Director
Sean Youra, Climate Action Coordinator

Approval of Agenda

Mayor Cutrano stated he would like to hear the Special Meeting item after Open Time.

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

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

Announcement of Closed Session Action, August 29, 2023

Mayor Cutrano announced the Town Council voted unanimously to establish a subcommittee consisting of himself and Vice Mayor Coler to explore the feasibility of acquisition of the Wall property and to move forward with acquiring an appraisal and preliminary geotechnical report.

Announcements

Town Manager Abrams introduced newly hired Planning and Building Director Jeff Beiswenger.

Open Time

Jody Timms gave a report on the activities of the Climate Action Committee.

Sheila Neill McNeill discussed her need for help with a three-day eviction notice and a rent increase notice.

Pam Meigs, Ross Valley Sanitary District Board Member, discussed the district's recent ordinance regarding loans to residents to remove septic tanks.

Matt Butler, San Rafael, stated the Wall property should be used for new housing.

Philip Salaverry, Scenic Road, suggested speed bumps on Scenic Road, and stated his concerns with the campers in Peri Park.

David Caduto opposed development plans for 615 Oak Manor Drive and referenced a 1991 settlement agreement.

Krista Gellman, Oak Manor Drive, discussed historical drainage issues for neighbors of 615 Oak Manor Drive.

Rick Hamer, Bolinas Road, asked the new Planning Director for consistent code enforcement.

Michael Mackintosh supported the first speaker and asked if the rent control ordinances would help her.

Candace Ricker, Fairfax, stated over the last two weeks she had noticed a marked increase in the unhoused population in Fairfax, and was concerned about the safety of the park at night.

Frank Egger, Meadow Way, discussed the Fairfax Hills Subdivision Settlement Agreement, and suggested the minutes be reviewed by staff.

Todd Greenberg, Bolinas Road, asked the Council to address the concerns raised by previous speaker Candace Ricker.

Deborah London, Fairfax, raised concerns about the Housing Element, the Wall property, the homeless encampment, and the coyotes.

Mark Bell, Fairfax, stated the time limit on public comment violated the Brown Act.

Deborah Benson, Cascade Drive, was concerned about Councilmembers looking at their personal devices during public meetings.

Special Meeting Agenda

1. Authorize the Mayor and Vice Mayor to negotiate and execute an agreement consisting of initial provisions and potential future amendments to the agreement with the Marin Open Space Trust (MOST) regarding the exploration of the purchase of the 100 acres commonly referred to as the Wall property

Town Manager Abrams presented the staff report.

Mayor Cutrano opened the meeting to public comments.

Susan Pascal Beran, Open Space Committee Chair, supported moving forward.

Toby Jansen Smith, Pam Meigs, Rick Hamer, Michelle Simonson, Myron Walters, Frank Egger, Mark Bell, Todd Greenberg, Candace Ricker, and Mallory Geitheim supported the proposal.

Michael Mackintosh asked for a feasibility study; he had concerns about going through MOST.

Deb London expressed concerns about the source of funds for purchasing the property, and potential landslide liability.

Philip Salaverry, agreed with the previous speaker's comments.

Mayor Cutrano closed the meeting to public comments.

M/S, Blash/Hellman, Motion to authorize the Mayor and Vice Mayor to negotiate and execute an agreement consisting of initial provisions and potential future amendments to the agreement with the Marin Open Space Trust (MOST) regarding the exploration of the purchase of the 100 acres commonly referred to as the Wall property

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

Regular Agenda

1. Receive 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

Climate Coordinator Youra presented the staff report and County Coordinator O'Rourke gave a PowerPoint presentation. Staff answered questions from the Council regarding how to calculate single-family home chargers, and whether the Town's goal of 100% ZEVs by 2030 was realistic or aspirational.

Mayor Cutrano opened the meeting to public comments.

Todd Greenberg supported lowering the 100%goal for ZEVs by 2030.

Deb London opposed requiring homes to have electric chargers and opposed EVs and batteries. She asked where the power would come from.

Mark Bell, Fairfax, had concerns about the proposal, including the environmental impact of batteries and the grid's capacity.

Michael Mackintosh stated hydrogen was the preferred energy source.

Candace stated not everyone could afford to acquire an electric car and the 100% goal was not realistic. She had safety concerns.

Rick Hamer, Fairfax, stated lithium batteries were a problem; he discussed nontoxic solutions.

Mallory Geithem, Fairfax, was opposed to the proposal, citing safety concerns of batteries.

Mayor Cutrano closed the meeting to public comments.

Staff was directed to bring back more realistic ZEV targets and a workplan in collaboration with other departments for the Council to consider.

The Council took an 8-minute break at 8:31 p.m.

2. Read by Title only and adopt ordinance revising Town Code Chapters 5.54 'Just Cause Eviction' and 5.55 'Rent Stabilization Program'

Town Attorney Coleman presented the staff report. Staff answered a question from the Council regarding approval of the second reading and when the amendments would go into effect.

Mayor Cutrano opened the meeting to public comments.

Rich Hamer, Joe McGarry, Wendy, Susan Malloy, Morgan Schmidt Feng, Jody Timms, Claire Armitage, and Rainero Miranda supported the ordinance.

Todd Greenberg, Michael Sexton, Candace, Mark Bell, Philip Salaverry, Deb London, Claire Armitage, Deborah Benson, Sierra Salin, P.J. Feffer (speaking as a homeowner), Mallory Geitheim opposed the ordinance.

Yuri, Fairfax, stated the provisions regarding maximum allowance and the requirement for a mediator needed to be reworked.

Michael Mackintosh stated these laws should be set aside until after the election.

Kay stated the rent stabilization ordinance should be implemented to allow landlords due process and full rate of return.

Dave Baranco, Fairfax property owner, stated the amendments were not helpful.

Mayor Cutrano closed the meeting to public comments.

Staff responded to the questions from the public.

The Council discussed the amendments that were made.

M/S, Hellman/Blash, Motion to waive second reading and read by title only and adopt an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 5.54, "Just Cause Evictions", and 5.55, "Rent Stabilization" Program of Title 5 of the Fairfax Town Code.
AYES: Ackerman, Blash, Hellman, Vice Mayor Coler, Mayor Cutrano

3. Discuss/consider Residents' Petition submitted per Town Code regarding costs associated with Ordinances No.870 and No. 871, and direct staff as appropriate

Town Manager Abrams presented a report. Staff answered questions from the Council regarding legal costs; if any consultants were hired to do work; start up and implementation costs; if there could be shared services with other jurisdictions in order to bring costs down; cyber security; if estimates can change; if other jurisdictions have experienced any data security issues.

Mayor Cutrano opened the Public Hearing.

Philip Salaverry, who submitted the petition, made a brief presentation.

Michael Sexton stated the costs should be known before imposing regulations.

Michael Mackintosh asked for transparency.

Todd Greenberg echoed the comments made by previous speaker Michael Sexton.

Mark Bell, Fairfax, was concerned about cyber security costs.

Candace was concerned that laws were passed without knowing the financial benefits or costs.

Joe McGarry noted that the Town Manager had provided an estimate of costs, and the monthly that the monthly financial statements published in the Council packet show actual expenditures.

Mallory Geitheim stated people have a right to know how taxes are spent.

Deb London stated was concerned that there were many costs associated with the new laws that were not transparent.

Susan Mulloy discussed fees for landlords to register their unit.

Deborah Benson discussed rules of order.

Sierra Salin stated he would like to know the real costs of these laws.

P.J. Feffer stated he was in favor of greater fiscal transparency and disclosure, but noted there was a cost to gathering the requested information.

Mayor Cutrano closed the public comment period and reviewed the ten o'clock rule.

M/S, Coler/Ackerman, Motion to waive the 10:00 rule and continue with the agenda.
AYES: Ackerman, Blash, Hellman, Vice Mayor Coler, Mayor Cutrano

The Council discussed the cost estimates for the program.

Councilmember Hellman noted "for the record" that the data points used by the petitioners were false, and that no consultants or facilitators were funded by the Town for this program.

Town Manager Abrams noted the program estimated costs are included on page 44 of the FY23-24 Adopted Budget posted on the Town website, but that no resolution authorizing spending had been adopted yet.

Staff was directed to bring back firmer estimates in a spreadsheet when a resolution to implement the ordinances is brought back to the Council.

4. This item is continued to October 4, 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 October 4, 2023 Council meeting.

The Council took a 5-minute break at 10:57 p.m.

Consent Calendar

5. Receive Financial Statement and Disbursement Reports for July, 2023- Finance Director

6. Approve Minutes for May 19, June 7 and 21, 2023 Town Council meetings- Town Clerk
7. Receive written report on Councilmembers' assignments, committees, and activities in August, 2023- Deputy Town Clerk
8. Receive Treasurer's Report for Quarter Ending July 30, 2023- Town Treasurer
9. Receive Age-Friendly Strategic Plan Implementation Scorecard prepared by Vice Mayor Coler
10. Receive Climate Action Committee Annual Report and Plan- Climate Action Coordinator
11. Proclamation in support of Prostate Cancer Awareness Month- Mayor Cutrano
12. Receive Notice of Amendments to the Fairfax Police Officers Association Memorandum of Understanding (FPOA MPU) for salary equity adjustment of 1% for Lieutenant, Sergeant, Dispatchers and Police Services Technicians, and 3% for Officer and Corporal positions- Town Manager
13. Approve Amended and Restated Employment Agreement with Police Chief Rico Tabaranza for the period of July 1, 2023 through June 30, 2024- Town Manager
14. Receive Notice of Amendments to employment agreement with Town Manager Heather Abrams- Town Attorney
15. Receive status update on the Fairfax bridge projects- Public Works Director
16. Receive Multi-Jurisdictional Hazard Mitigation Plan Update- Building Inspector
17. Receive status update on the Sixth Cycle Housing Element Update- Planning Director
18. Authorize execution of Second Amendment to the Three-Year Cooperative Agreement with the County of Marin for the Community Development Block Grant (CDBG) and HOME Programs- Town Manager

Town Clerk Gardner noted a correction to the May 19th minutes.

Mayor Cutrano opened the meeting to public comments.

Mark Bell, Fairfax, asked the Council to pull items #10 and #17 for discussion.

Todd Greenberg, Fairfax, asked the Council to pull items #5, #7, #9, #10, #12, #13, #14, #17, and #18 from the Consent Calendar. He had questions regarding the HCD report.

Michael Mackintosh asked the Council to pull items #15 and #17.

Deb London asked the Council to pull items #17, #15, #14, and #10.

Frank Egger, Meadow Way, asked that item #17 be pulled off consent.

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

Council Reports and Comments

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

Town Manager Report

Town Manager Abrams reported on the slurry seal of Center Boulevard, Scenic Road repaving, a special Planning Commission meeting, the Women in Law Enforcement conference, a new HVAC system for Town Hall, and hosting this month's Marin County Council of Mayors and Councilmembers (MCCMC) meeting.

The meeting was adjourned in 11:26 p.m. in memory of Barbara Burghart-Perreault, Diane Sherry Bright, and John (Radj) Hauf.