

Fairfax Town Council Minutes
Regular and Special Meetings
Women's Club, 46 Park Road, Fairfax
and via Zoom
Wednesday, **October 4, 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
Kylee Otto, Assistant Town Attorney
Jeff Beiswenger, Planning Director
Christine Foster, Deputy Town Clerk

Approval of Agenda

M/S, Coler/Blash, Motion to approve the Regular and Special Meeting agendas.
AYES: Ackerman, Blash, Hellman, Vice Mayor Coler, Mayor Cutrano

Announcement of Closed Session Action

Mayor Cutrano stated there were no announcements.

Special Meeting Agenda

1. Presentation by Gary Naja-Riese, Homelessness and Whole Person Care Director at Marin County Health and Human Services

Police Chief Tabaranza, Interim Ross Valley Fire Chief Mahoney, and Ross Valley Fire Senior Fire Inspector Bastianon were available for questions.

Mr. Naja-Riese presented a PowerPoint presentation on homelessness efforts in Marin County. He, along with staff, answered questions from the Council regarding the current number of unhoused individuals; how to get individuals prioritized; if there were any current vacancies in the shelter system; what the horizon looks like for support systems; prioritizing funding; rental subsidies; the cost of providing tiny homes; the preclusion of geographic targeting; what small communities can do; structured encampments; vouchers; the cost differential of shelter beds vs. permanent housing; the efficacy of rent subsidies; laws concerning moving people; if there was anything else Fairfax could be doing; how often the police patrol the encampments; the Crisis Response Team.

Mayor Cutrano opened the meeting to public comments.

Mark Bell, Fairfax, asked about people who do not want to be in a program, and using vacant commercial spaces.

Michael Bauernfeind asked about the authority of local police to regulate encampments.

Tyler Snow, Fairfax, asked about individuals who are not able to maintain housing.

George Taylor referred to the Fairfax Food Pantry and suggested providing more basic services to the homeless.

Todd Greenberg, Bolinas Road, discussed drug addiction and homelessness.

Yuri, Fairfax, was concerned about those homeless individuals who are unable to communicate.

Michael Mackintosh stated that the Police and Fire Departments are the first responders and should be allocated funding.

Jeanie Shaw asked about the number and locations of unhoused individuals in Fairfax.

Tony Gardner, Fairfax, encouraged a continuum of care approach and cautioned against expecting Police and Fire Department employees to be social workers.

Eva stated the longer an individual is unhoused the more likely they will exhibit signs of mental illness.

Mike Little agreed with the previous speaker, and expressed concern on how the funding for housing is spent.

Philip suggested a camera be trained on any encampments and law enforcement.

Chris P. was concerned about people denigrating the unhoused population.

Gus, a local 9-year old, asked why there is no homeless center in Fairfax.

P.J. Feffer agreed with Eva and Chris P and stated there was too much negative rhetoric directed towards the homeless community.

Kay stated these are human beings in crisis. She was concerned about fires in Peri Park.

Jason Sarris discussed a homeless camp in Novato with case managers and basic services which has been successful.

Mayor Cutrano closed the meeting to public comments.

Councilmember Hellman suggested forming a subcommittee and involving the community.

The Council took a 13-minute break at 8:40 p.m.

Open Time

Michael Mackintosh stated he wanted to participate in the staff meeting with HCD regarding the Housing Element.

Mark Bell expressed concern about the 2-minute speaker limit and about a recent fire at the homeless encampment.

Kathy Flores announced a Halloween candy collection for the Dominga/Napa neighborhood.

Karen was concerned that the Council did not answer all of the questions from the public.

Frank Egger, Meadow Way, discussed an increase in crime and suggested license plate readers on police vehicles and cameras in neighborhoods.

Todd echoed the concerns of previous speaker Mark Bell and suggested an ordinance.

Yuri expressed appreciation for Fairfax having a variety of goods and services but was concerned about the large delivery trucks blocking streets.

Kristen Amlie stated 31% of Fairfax residents are 60 years old and above, with an average age of 48; the needs of older adults and caregivers should be considered when adopting policies.

Jody Timms was concerned that Fairfax was considering lowering its goal of achieving carbon neutrality by 2030, noting that Santa Clara County has just gone in the opposite direction.

Sue Saunders agreed with the previous speaker, and supported Fairfax's goal of 100% electric vehicles by 2030.

Philip was concerned that stated rent control regulations exacerbated the housing crisis.

Eva suggested people focus on using public transportation instead of buying electric vehicles.

Liz Froneberger supported alternative forms of transportation and was concerned about the goal of 100% electric vehicles by 2030.

Mayor Cutrano closed Open Time.

M/S, Coler/Blash Motion to move item #3 ahead of items #1 and #2 on the regular agenda.
AYES: Ackerman, Blash, Hellman, Vice Mayor Coler, Mayor Cutrano

Regular Agenda

3. Adopt Resolution Declaring the Conditions at 67 Live Oak Road a Public Nuisance and Ordering the Town Manager to abate the Nuisance; AP #001-236-20

Building Official Lockaby presented the staff report. Staff answered a question from the Council regarding tonight's request; how a lien against a property works.

Mayor Cutrano opened the Public Hearing.

Paula Todd stated she lived next door and the subject property was not sanitary and was a fire hazard. She added that the neighbors have spent \$25,000 in rodent removal.

Gary Denoni stated he lived across the street from the subject property. He agreed with the previous speaker and noted that taking care of the situation would benefit Ms. Bagan as well as the neighborhood.

The owner of the subject property stated rats were a problem everywhere in Marin and it there was no proof that the rats came from her property. She stated she did not leave food out, but there was an apple tree and olive tree. She added that rats predated her. She stated her neighbor had never offered help. She was doing her best to maintain the property on a limited income, but she had downsized to this house and had to store some of her belongings in the carport. She discussed some of her health challenges.

Michael Mackintosh discussed rat problems.

Mark Bell suggested a 30 or 60 day reset to allow an agency to help the property owner.

Eva stated the property owner needed help from her neighbors.

Liz Froneberger expressed her confidence in Mr. Lockaby based on past experience.

Mayor Cutrano closed the Public Hearing.

The Council discussed the matter, agreeing that it was a difficult situation.

M/S, Coler/Ackerman, Motion to Adopt Resolution Declaring the Conditions at 67 Live Oak Road a Public Nuisance and ordering the Town Manager to abate the nuisance by hiring a contractor to remove the various debris on and under the carport; hiring a towing company to remove the inoperable Honda Element automobile; prior to abatement by a contractor and towing company, the owner will be given notice and a final 10-day period of time in which to remedy the listed Code violations on the property. Any abatement will be completed in accordance with applicable law. Town staff will return to Council at a future date to report on the abatement and request that the cost of the abatement be charged to the property owners as a special assessment lien on the property.

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

M/S, Coler/Blash, Motion to waive the 10:00 p.m. rule and continue with the agenda.

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

1. Introduce and read by title only an Ordinance Amending the Town's Zoning Code to Prohibit New Gas Filling (Service) Stations and Prohibit Expansion of Fossil Fuel Infrastructure for Existing Gas Filling (Service) Stations

Town Manager Abrams presented the staff report and noted the supplement to the packet. Staff answered questions from the Council regarding whether an owner could sell the business and if its use would continue per the Conditional Use Permit; if leaking underground fuel tanks can be fixed; the 180 day extension period.

Mayor Cutrano opened the public hearing.

Todd Greenberg was concerned about the threat to gas and sales tax revenues.

Mark Bell questioned the need for this law, as there are not many applications for gas stations.

Frank Egger, the Cascades, stated Fairfax Town Code already prevented a new gas station.

Michael Mackintosh discussed his concerns with electric vehicle damage to the earth.

Yuri stated suggested focusing on trains rather than electric vehicles.

P.J. Feffer, speaking as an individual, stated the ordinance made it easier for gas stations to operate.

Liz Froneberger supported the ordinance.

Mayor Cutrano closed the public hearing.

M/S, Ackerman/Coler, Motion to introduce and read by title only an Ordinance Amending Section 17.008.020, Definitions, Section 17.096.050, Conditional Uses and Structures, and adding new Section 17.016.080 Regulation of Non-Conforming Filling (Service) Stations Uses and Structures to Title 17 of the Fairfax Municipal Code and finding the action exempt from CEQA, based on the supplement and with a typo correction.

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

2. Introduce and read by title only an Ordinance relating inclusionary housing requirements; adopt a Resolution adopting affordable housing requirements and program regulations; and adopt a Resolution adopting affordable housing in-lieu fees and commercial/non-residential linkage fees in the master fee schedule

Planning Director Beiswenger presented the staff report. Staff answered questions from the Council regarding if the minimum threshold is three units; administration of the funds by staff; the reason low and very low units cannot pencil out; tax credits; if the funds could be used to fill a funding gap; who would be responsible for managing the inclusionary housing portfolio; incentives for developers to provide low and very low income units; Section 17.140.050, Duration of Affordability Covenants; if a Variance procedure could be used with respect to the location of units.

Mayor Cutrano opened the public hearing.

Yuri opposed the concentration of units. He asked why duplexes were not included.

Michael Mackintosh stated that there was no need for the ordinance.

Todd Greenberg opposed complicating this process and taxing the population.

Mark Bell stated many people in town qualified as "low income" but there was nowhere to build new housing.

Eva discussed multistory housing in other communities that could never happen here.

Mallory Geitheim was concerned that the Affordable Housing Committee does not hold meetings- it is in name only. This should change.

Mayor Cutrano closed the public hearing.

M/S, Coler/Blash, Motion to Introduce and Waive First Reading and read by title only an Ordinance adding Chapter 17.140, Affordable Housing to Title 17, Zoning, of the Fairfax Municipal Code relating to inclusionary housing requirements; Adopt a Resolution adopting Affordable Housing Requirements and Program Regulations; and Adopt a Resolution adopting Affordable Housing In-Lieu Fees and Commercial/Non-Residential Linkage Fees in the Master Schedule and using the supplement provided tonight.

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

4. Appeal of Planning Commission August 17, 2023 action approving a new residence at 34 Hill Avenue

Mayor Cutrano stated this item had been withdrawn by the appellants.

5. This item is continued to November 1, 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.

Consent Calendar

6. Receive Financial Statement and Disbursement Reports for August, 2023- Finance Director
7. Approve Minutes for July 12, August 2, August 7, 2023 Town Council meetings- Town Clerk
8. Receive written report on Councilmembers' assignments, committees, and activities in September, 2023- Deputy Town Clerk
9. Adopt Resolution Approving a Side Letter to Amend the Memorandum of Understanding (MOU) with the Fairfax Police Officers' Association (FPOA) for salary equity adjustment of 1% for Lieutenant, Sergeant, Dispatchers and Police Services Technicians, and 3% for Officer and Corporal positions- Town Manager and Town Attorney
10. Approve amendments to employment agreement with Town Manager Heather Abrams- Town Attorney
11. Receive report of Town Hall Closure and winter furlough days for Town Hall employees from December 25, 2023 to January 2, 2024- Town Clerk
12. Adopt a Establishing the Regular Council Meeting Dates for the Months of January, July, and October, 2024 and confirm the 2024 Council regular meeting calendar- Town Clerk
13. Adopt a Resolution Thanking and Dissolving the Fairfax Volunteer Board- Town Manager
14. Appoint Councilmember Lisel Blash to the MCCMC Homelessness Subcommittee to fill vacancy- Town Attorney
15. Proclamation for Ageism Awareness Day- Mayor Cutrano
16. Proclamation for National Hispanic Heritage Month- Mayor Cutrano

Town Attorney Coleson referred to item #10 and reported the total base salary for the Town Manager as of July 1, 2023 will be \$237,052.52.

Councilmember Hellman noted there was a typo in the August 2nd minutes. She referred to item #14 and stated she was stepping down due to a recurring meeting conflict.

Councilmember Blash made a comment on item #14.

Mayor Cutrano opened the meeting to public comments.

Todd Greenberg expressed concern with the public comment limitation on consent calendar items and asked the Council to pull item #10 for his questions and comment regarding compaction.

Yuri had a question about compaction relating to item #10.

Mark Bell expressed concern with the public comment limitation on consent calendar items. He referred to item #6 and had questions about expenditures.

Michael Mackintosh was concerned that the Council does not discuss Consent Calendar items and relies on the staff reports.

Eva stated it was understandable that there were so many items on the Consent Calendar.

Mayor Cutrano closed the meeting to public comments.

Mayor Cutrano thanked everyone who has ever served on the Volunteer Board.

M/S, Hellman/Coler, 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 packets.

Future Agenda Items

Councilmember Hellman had two requests:

-A discussion on forming a subcommittee on homelessness.

-Exploration of implementation for Just Cause Eviction and Tenant Protection ordinances.

Town Manager Report

Town Manager Abrams reported the updated draft schedule for the Housing Element will be posted on the website.

Town Attorney Coleson reported that the YIMBY lawsuit had been dropped.

The meeting was adjourned at 11:40 p.m. in memory of U.S. Senator from the State of California Dianne Feinstein.