

CITY MANAGER'S ORAL REPORT

The City Manager reported that City Hall would be closed on Monday, February 20th, due to the Presidents Day Holiday. The appeal of a Tree Permit application for William Avenue will be postponed at the appellant's request. The February MCCMC meeting will be held in Mill Valley with Dr. Tom Peters from Marin Community Foundation scheduled as the guest speaker. She reported she, along with other public officials, would be attending a meeting tomorrow morning regarding the request for a FEMA Declaration. She reported on a vehicular accident that occurred on Saturday in the Library parking lot. There were no injuries. The February Twin Cities Police Council meeting has been postponed to March at the request of the representatives of Corte Madera. The Dog Park at Piper Park will open soon, as staff is awaiting the installation of the gates.

COUNCILMEMBER REPORTS AND COMMENTS

Councilmember Lundstrom reported the Corte Madera Flood Control District Board (Zone 9) is having difficulty in obtaining a quorum and has not yet met. They will hold a preparatory meeting tomorrow.

Councilmember Hartzell stated she would report on the Legislative Commission discussion in the weekend report. She, along with the City Manager, would be attending a March 3rd workshop in San Francisco regarding the proposed State infrastructure bonds. They hope to gain some insight on funding strategies, measures, and requirements in advance of setting the date for an election. Councilmember Lundstrom asked if this information could be included in the financial workshop session scheduled for March 29th. Councilmember Hartzell stated "yes".

Mayor Chu stated there is interest in wireless Internet access through MTA. Prospective vendors want to place wireless equipment on streetlight poles which are under the jurisdiction of the Marin General Services Authority. The Marin General Services Authority will make a presentation on March 2nd to the Joint Services Oversight Committee on this issue.

PUBLIC COMMENT

Mr. Leo Arnold, Ward Street, submitted a document to the Council regarding collection letters from Marin Sanitary Service. He discussed the Municipal Code Section pertaining to this issue and stated the matter should be between the property owner and the garbage company.

BUSINESS ITEMS

1. REVIEW OF THE MID-YEAR FINANCIAL REPORT AND ADOPTION OF RESOLUTION 05/06

The City Manager presented the staff report.

Councilmember Hartzell had questions about Property Tax and Sales and Use Tax Revenue figures in the report. The City Manager stated the recognition of the revenue has to do with the "Triple Flip" implemented by the State several years ago. The report is showing the loss on the Sales Tax side and the gain on the Property Tax side. The revenue received is higher than anticipated in both categories. The report is still showing the "Triple Flip" as an anomaly.

M/s, Lundstrom/Hillmer and approved 4-0 (Arlas absent) to adopt Resolution No. 05/06.

2. RECEIVE AND ACKNOWLEDGE THE ANNUAL FY 2004-05 AUDIT OF THE CITY OF LARKSPUR

The Finance Director presented the staff report. He referred to page 8 of the report and noted several corrections.

Mr. Tim Krisch, representing Maze and Associates, stated they have determined there are no reportable material weaknesses among the financial reports or internal controls and they have given an unqualified (clean) opinion. The City remains in a very solid financial position.

Mayor Chu stated the excellent report reflects upon the efforts of the Finance Director and Accountant Amy Koenig.

M/s, Hartzell/Hillmer and approved 4-0 (Arlas absent) to acknowledge and accept the Annual FY 2004-05 Audit.

Mayor Chu discussed the Unrestricted Funds and asked if in the future the emergency line items under the Reserves could be broken out in detail.

3. CAL PARK TUNNEL UPDATE

The City Manager presented the staff report.

Mr. Bill Whitney, TAM Project Manager made a Powerpoint presentation which discussed the 1) Project Scope, 2) History and Current Status, 3) Restore and Reuse, 4) Roles and Responsibilities of the Different Agencies, 5) Project Schedule, 6) Project Funding, 7) Remaining Design Decisions, and 8) Next Steps.

Mr. David Parisi, TAM Transportation Consultant, stated he was hired to provide assistance with the connection points of the project. He discussed the southern connection and the various options.

He stated all of the options have pros and cons and he discussed the following issues: 1) Shared and separate pathways, 2) Existing easements, 3) Conflict points, 3) Connection to the Larkspur Landing Circle, 4) Emergency vehicle access, 5) Compliance with ADA, 6) Impacts to trees and parking, and 7) Maintenance.

Councilmember Hillmer stated private property owners would try to protect existing parking and he asked if it were possible for bicycles and automobiles to somehow share a travel lane. Mr. Parisi stated that was possible and something they would look at. He stated there would be opportunities to replenish some of the lost parking.

Councilmember Hillmer asked if they had met with any representatives from the Larkspur Fire Department or the Twin Cities Police Department. Mr. Whitney stated they met with representatives from the Larkspur Fire Department as part of the technical working group and they have requested access to the south portal. They are working on this issue.

Councilmember Hillmer stated he supported moving forward with this project primarily based on the support of the Twin Cities Police Department. He would like the department to be involved in the detailed security measures. Mr. Whitney stated they are working closely with the Twin Cities and the San Rafael Police Departments. The design includes installing cameras in the tunnel and broadcasting to both departments. Monitoring is a decision left to the departments.

Councilmember Lundstrom asked for clarification on the gating of the tunnel in terms of security. Mr. Whitney stated they would construct gates that can be opened and closed depending on the hours of operation. Both City Managers have expressed a desire that the gates be closed from dusk to dawn. Other groups have expressed a desire for the tunnel to be open 24/7.

Councilmember Lundstrom stated the operational decisions should be up to the City of San Rafael and the City of Larkspur and the County of Marin cannot override this crucial security aspect. The County Sheriff's Department will not be responding to emergencies. Larkspur and San Rafael have the ultimate liability for security. She discussed the problem in the past with fires in the tunnel and the current problem with homeless encampments in the area. There are some valid safety concerns that need to be considered. She reiterated that Larkspur and San Rafael should determine the hours of operation.

Councilmember Hartzell agreed and stated she would not want to produce a false sense of security by using cameras and a monitoring system. She had questions about the emergency call boxes and stated there should be some type of demarcation in the tunnel. She was concerned about the lack of mechanical ventilation on the pedestrian/cyclist side.

She stated there would be a need to do some serious cleaning inside the tunnel. Mr. Whitney agreed and added the County Parks Department has also expressed that concern.

Councilmember Hillmer stated the Public Safety aspects need to be worked out and they should be setting the standards and the costs. Security should be the top priority.

The City Manager stated representatives from both Police Departments have been participating in the Technical Advisory Groups and it has been made clear that Larkspur and San Rafael will be determining the basic safety requirements. These public safety requirements and standards will need to be worked out before opening of the tunnel.

Councilmember Hillmer stated the County should not have the ability to override the security decisions made by Larkspur and San Rafael. The City Manager agreed. She added that both entities have some concerns about different types of transportation mode occupying the same enclosed vehicular tunnel.

Councilmember Lundstrom stated the City should clarify, in writing, to the County Parks and Open Space District and other appropriate entities that the City of Larkspur and the City of San Rafael will make the final decisions about security and hours of operation. Councilmember Hillmer stated this letter should include a statement from the Twin Cities Police Authority.

Mayor Chu asked if staff received a draft of the Memorandum of Understanding from the Technical Advisor Committee. The City Manager stated "no". Mayor Chu stated the local control issues need to be resolved. These recommendations should come from the Larkspur representatives on the Technical Advisory Committee. He would like to see San Rafael's comments on these issues. They also need to resolve the pathway alignments and connections on the Larkspur side. He asked for comments.

Councilmember Lundstrom stated she would like to minimize the loss of parking. She stated they have presented the interior pathways but once it gets to the street it will need to be evaluated by the Public Works Director.

Mr. Parisi stated they are creating a matrix that evaluates the criteria and options.

The City Manager stated once they develop the matrix and come up with a preference it would need to be reviewed by Larkspur from a land use perspective.

Mr. Whitney stated they would be holding a Technical Advisory Committee meeting next week and he would present the Council's concerns at that time.

Mayor Chu opened the meeting to public comments.

Ms. Nancy Weninger, Vice-President of the Marin Bicycle Coalition, Elm Avenue, stated she was glad everyone wanted to make this tunnel safe. She has studied 78 tunnels in the country and stated 67% of the managers reported no negative consequences. There has been only one incident of a serious crime reported in all of the 78 tunnels. Tunnels seem to be self-policing and the more people that use the facility the fewer opportunities there are for undesirable activities. She would like the tunnel open 24/7 for the following reasons: 1) safety, 2) cost of operation, 3) usability, 4) return of investment.

Mr. Bob Burton, Mill Valley, stated he was on the Citizens' Oversight Committee of the Transportation Authority, and he understood the Council concerns. He stated this was not a Larkspur or San Rafael facility but rather a Countywide resource. He agreed with the comments made by Ms. Weninger.

Mr. Joseph Garbarino, representing Marin Sanitary Service, stated the safety issue was monumental. He discussed the problem of homelessness in the area and garbage in the tunnel.

Mr. Rick Adler, William Avenue, stated the tunnel should have cameras, lights, and motion detectors.

Mr. Doug Kerr, Monte Vista Avenue, stated the representatives from Larkspur and San Rafael should hold a workshop meeting to discuss these issues. The security problem was interdependent. He would like to see barriers placed between bicycle and vehicles wherever possible.

Mayor Chu closed the meeting to public comments.

Councilmember Hartzell stated there could be some creative solutions for reimbursement and the provision of services. This is a Countywide resource and perhaps the County should share in some of the costs. They can come up with solutions on how to make it more cost effective and usable to the public.

Councilmember Hillmer stated he would like to see operational security added as a budget line item.

Councilmember Lundstrom stated security includes risk management and assessment along with operational costs. She stated the cost of liability would be significant.

The Council took a 5-minute break at 8:55 p.m.

The meeting reconvened at 9:00 p.m.

PUBLIC HEARINGS

1. PARTIAL RE-HEARING OF THE CITY COUNCIL'S APPROVAL OF THE ROBERT BURTON APPEAL, OVERTURNING THE PLANNING COMMISSION'S DECISION TO APPROVE THE REMOVAL OF SEVEN (7) HERITAGE TREES FOR MONAHAN PACIFIC'S DRAKE COVE DEVELOPMENT, A 23-UNIT HOUSING PROJECT ON 10.2 ACRES. CAMPUS PROPERTIES IS REQUESTING THAT THE CITY COUNCIL RE-HEAR THE APPEAL RELATIVE TO HERITAGE OAK TREE #104, REQUESTING THAT THE REMOVAL OF THAT ONE TREE BE APPROVED

The Senior Planner presented the staff report.

Councilmember Hillmer asked about the size of the additional trees. The Senior Planner stated they would be 24" box specimens. Councilmember Hillmer discussed the unauthorized removal of trees and asked about the size of the replacement trees. The Senior Planner stated these specimens range in size from 18", 24", and 48" box. The Planning Commission has approved a replanting plan. Councilmember Hillmer asked if staff received an arborist report stating that the tree would thrive after relocation. The Senior Planner stated "yes". The Planning Director stated there are required mitigations and there is a 50-50 chance the tree will not survive in its current state given the amount of grading around it. Councilmember Hillmer asked about a second opinion. The Planning Director stated they could obtain one.

Councilmember Lundstrom asked about the status of the fines and penalties for the illegal removal of trees. The City Manager stated staff was reviewing some new information and it is too soon to come up with an accurate figure. Councilmember Lundstrom asked if it would take a couple of months. The City Manager stated "yes".

Councilmember Hillmer stated the illegally removed trees were a result of inaccurate information and he wanted to make sure they were not repeating the same error.

Mayor Chu opened the meeting for public comments.

Mr. Michael Hooper, representing Campus Properties, stated they performed a survey that included the location, elevation, and type of tree. They went to great lengths at looking at the alternative and the impact the curved alignment might have. It would increase the wall heights and would be uncomfortably close to the Parkside Building. In addition, there are safety issues that would result from the alternative alignment. The straight alignment is the preferred one and the curved alignment does not work for them.

Mr. Doug Nicks, professional forester, stated he reviewed the site and felt there was adequate room to relocate the tree. It is a young and vigorous Coast Live Oak with a nice, balanced canopy. Coast Live Oaks are very amendable to being relocated if done properly. He met with one of the estimators of Valley Crest Company who was optimistic that they could successfully relocate the tree. He briefly described the process and stated the first year maintenance of the tree was critical.

Councilmember Hillmer had questions about drainage and the slope upon which the tree would sit. Mr. Nicks stated the natural drainage patterns have already been altered and they would install sub drains in the bottom of the planting hole to avoid over saturation.

Mr. Robert Burton, Mill Valley, distributed a document to the Council. He discussed the concept of a split roadway and stated this could be a possible solution. This would include a stepped roadway and sidewalks with a series of retaining walls. He stated the parties concerned should do everything possible to save the trees. This particular tree can be seen from many vantage points. The proposed alternative is much more extreme than it needs to be and they only have to move the road a few feet. He would be agreeable to relocating the tree if that is the only way to save it. He urged the Council to look for the best solution.

Ms. Jennifer Hitchcock, Greenbrae Boardwalk, stated she was concerned about the removal of Heritage Oaks. These old trees are not replaceable and many of the replacement trees will not survive.

Ms. Margot Biehle, representing the Sierra Club, stated the organization wanted to convey their disgust with the way Monahan Pacific has conducted this project. They agreed with the letter submitted by the Audubon Society dated February 14th. She stated the City should require mitigations in case the tree does not survive and should also obtain a second opinion. If the tree is moved, the City should closely monitor the work. In addition, the tree should be monitored, at Monahan Pacific's expense, for at least a year.

Ms. Ann Thomas, representing the Friends of the Corte Madera Creek Watershed, referred to the letter dated February 15th from Monahan Pacific and stated that they should not be allowed to cut any more trees. If the tree needs to be relocated it should be done by a reputable company. There should also be a backup mitigation of perhaps a 4:1 ratio and a maintenance contract of three to four years.

Mr. Doug Kerr, Monte Vista Avenue, asked what was being valued- the road or the tree. He discussed the trees that were illegally removed and felt this relocation was a "bait and switch".

Mr. Rick Adler, William Avenue, stated they did not “accidentally” remove all those trees and the Council should not allow them to remove this tree. They should be required to spend, in mitigations, the amount of money they will save by relocating the tree. He stated the Heritage Tree Ordinance should be upgraded to current standards.

Mr. Victor Gonzales, representing Monahan Pacific, stated their letter dated February 15th discussed a “win-win” solution. Valley Crest Company is the best company to perform this work. He stated the road was not their idea and this tree has been discussed multiple times in connection with the road. Their arborist has recommended a minimum of 15 feet around the tree and to curve the road. Campus Properties outlined the negative impacts could occur if the road were curved. They felt relocating the tree was a “win-win” solution and they are proposing a year of maintenance.

Mr. Hooper stated they looked at the split road idea but discovered it would move the road further into the Oak woodland. This tree is presently in jeopardy and they are doing their best to save it.

Councilmember Hartzell asked how the tree was already in jeopardy. The Planning Director stated the contractor did more grading than was allowed in the area and dumped soil onto the adjacent property. Mr. Hooper stated the lower side of the tree was on a cut and the root system is exposed.

Mayor Chu closed the meeting to public comments.

Councilmember Lundstrom stated she was in favor of moving the tree since there would be negative impact to a curved road, i.e., more grading and paved surface area, higher retaining walls, bringing the road closer to the Oak woodlands. She would like to require the following: 1) mitigation with a ratio of 2:1 or 4:1, 2) relocation done by an experienced company, 3) the relocation plan should be on record, 4) a one year-maintenance plan on record that is verifiable, 5) a monitoring mechanism, such as a quarterly report, etc., 6) some type of bonding requirement.

Councilmember Hartzell agreed with the comments made by Councilmember Lundstrom and added the situation has pushed them into a corner. She would not want to further jeopardize the health of the woodland below. They need to move with the more expeditious location of the road. She could approve the relocation of the tree. She would like to see a mitigation ratio of 4:1 and monitoring by the City arborist.

Councilmember Hillmer had questions about the purpose of the connector road and asked if they needed a two-lane width. The Public Works Director stated “yes”.

The Planning Director stated the traffic consultant feels the Sir Francis Drake entry to the project would be the least likely to be used and this will become a major entry point. Mr. Gonzales added this was the access point to the park.

Mayor Chu stated everyone has made a good effort to save this tree through a series of compromises. He would prefer the higher mitigation ratio of 4:1 and that the relocation be performed by an experienced firm. He would also like an independent assessment performed by the City arborist. There should be a relocation and monitoring plan on record. The maintenance plan should be at least two seasonal cycles.

Mr. Gonzales had questions about the bonding requirement. Councilmember Lundstrom stated those details would be worked out by staff and submitted to the Council at a later date.

M/s, Lundstrom-Hartzell and approved 4-0 (Arlas absent) to direct staff to prepare a resolution for review at the next available meeting outlining an action plan for moving the tree as described tonight.

2. ADOPT RESOLUTION NO. 04/06 REQUEST FOR RATE INCREASE,
MARIN SANITARY SERVICE

The City Manager presented the staff report.

Ms. Patty Garbarino, President of Marin Sanitary Service, introduced the representatives of the firm. She referred to Attachment #6 and stated they were below the median in services charged in the Bay Area. They will soon be accepting "universal waste" which includes keyboards and anything with a plug (cell phones, televisions, etc.). They have plans to expand the facility.

Councilmember Hillmer had questions about the dual sort program and stated it would not be convenient for customers with smaller sized properties. Ms. Garbarino stated those customers could still use their recycle buckets. It could be considered an option.

Councilmember Hartzell had questions about separation of building construction waste, the rates for compacted refuse, and whether or not the company was a part of the County-wide disaster planning efforts.

Mayor Chu asked how Larkspur was doing compared to the rest of the County in terms of recycling numbers. Ms. Garbarino stated the numbers in Larkspur were still depressed a bit and it could have to do with the thievery of glass.

Councilmember Hillmer discussed the problem with glass thievery in the commercial areas, particularly near the restaurants.

Councilmember Lundstrom asked staff to look into this problem. Councilmember Hartzell suggested Ms. Garbarino work with the Larkspur Community Association.

Mr. Ray Holmes, controller for Marin Sanitary Service, stated there was only one customer in Larkspur that received the compacted rate.

Mr. Joseph Garbarino, Chairman of the Board, discussed the recycling of construction materials.

Mr. Steve Rosa displayed the new, dual sort recycling can. This new process will be optional and customers can use their old recycling buckets along with the new cans. They are buying new trucks that will be clean fuel compliant.

Mayor Chu opened the meeting to public comments.

Mr. James Holmes, Madrone Avenue, stated the new cans would not work for small, steep properties, could obstruct sidewalks, and become a security issue. He asked the Council to ask the City Manager to work with him on problems specific to his property.

Mayor Chu closed the meeting to public comments.

M/s, Hillmer-Lundstrom and approved 4-0 (Arlas absent) to adopt Resolution No. 04/06.

ADJOURNMENT TO CLOSED SESSION

The City Council and the City Manager adjourned to closed session at 10:35 p.m. to discuss the following item:

CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code Section 54856.9(c)

One potential case

ADJOURN MEETING TO REPORT ANY ACTIONS TAKEN

The Mayor adjourned to open session at 11:08 p.m. and indicated that the City Council has authorized the City Attorney to initiate the legal action that was the subject of the closed session. Once the action has been formally commenced, the nature of the action, the defendants, and other particulars will be disclosed to any person upon inquiry, unless doing so would jeopardize the City's ability to effectuate service of process on one of more unserved parties or to conclude existing settlement negotiations to its advantage.

ADJOURN MEETING

The Mayor adjourned the meeting at 11:10 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary