

**LARKSPUR CITY COUNCIL  
REGULAR MEETING  
MINUTES  
JULY 19, 2006**

CITY COUNCIL:   PRESENT: Mayor Larry Chu, Ron Arlas, Kathy Hartzell,  
Dan Hillmer

CITY COUNCIL:   ABSENT: Joan Lundstrom

STAFF:           PRESENT: City Manager Jean Bonander, City Attorney  
Sky Woodruff, Public Works Director Hamid  
Shamsapour

INTERVIEW FOR PLANNING COMMISSION- 2 SEATS OPEN  
THE INTERVIEWS ARE IN THE CITY MANAGER'S OFFICE

6:45- Richard Young

7:10- Rick Bryson

Mayor Chu called the meeting to order at 7:42 p.m.

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF CONSENT CALENDAR**

The City Clerk certifies that this Agenda has been posted in accordance with the requirements of the Government Code

Approval of Warrants

Approval of Minutes: June 21, and July 5, 2006

Resolution No. 33/06, Amending the Fee Schedule to Include Charging a Nominal Fee For Duplicating Requested Recordings of Council and Commission Meetings

Resolution No. 34/06, Confirming the RVPA Tax Levy

Resolution No. 35/06, Continuing the Clean Water Activity Fee

Resolution No. 36/06, Establishing Authorized Positions in the Competitive Service and Assigning a Salary Range to Each Position

## Status Report- Downtown Tree at 484 Magnolia Avenue

Resolution No. 40/06, Authorizing the City Manager to Execute Amendments to the Ground Lease Between the City of Larkspur and it's Assignment to EAH Larkspur Creekside II, L.P. to Execute Loan Documents as Described Herein, and to Authorize Assumption of a \$19,375 Loan from the City of Larkspur as Described Herein

M/s, Hillmer/Hartzell and approved 4-0 (Lundstrom absent) to approve the Consent Calendar with the continuation of the June 21, 2006 minutes to the August 2, 2006 meeting.

### **CITY MANAGER'S ORAL REPORT**

The City Manager reported the next Council meeting would be held on August 2<sup>nd</sup>. The August 16<sup>th</sup> Council meeting has been cancelled. The City Council would hold CLASP Public Hearings on September 6<sup>th</sup> and 20<sup>th</sup> at the Hall Middle School Gymnasium. The Twin Cities Police Council meeting would be held on Thursday, July 27<sup>th</sup> in Corte Madera. Several City hall staff members have been called for Jury Duty. The following groups have been meeting regularly: 1) the working group for the Twin Cities Police Facility, 2) the Ross Valley Watershed/Flood Control area, 3) the Centennial Committee. The first Closed Session item on tonight's agenda has been postponed to August 2<sup>nd</sup>. Staff, along with the Kentfield and Ross Fire Authorities, has been working on a Request for Proposal (RFP) for a financial analysis regarding consolidation. Staff, along with the Humane Society, is continuing to work on leash law violations at Greenbrae School Park and Niven Park. Mold remediation work is being done in the Planning Department offices and the Greenbrae Fire Station.

### **COUNCILMEMBER REPORTS AND COMMENTS**

Mayor Chu stated he, along with the City Manager and Councilmember Lundstrom, attended the Ross Valley Sanitary District Board meeting. Director Vanni suggested selling their property and consolidating facilities with the Central Marin Sanitation Agency in San Rafael. The Board postponed further discussion on this item to their next meeting. The Board also continued approval of the budget which includes a potential increase in sewer rates.

Councilmember Hillmer asked staff to research their options in terms of land use alternatives for the Sanitary District property should they decide to sell the land. The City Manager stated staff would be happy to research this issue. She noted that the District Managers for the Ross Valley Sanitary District and the Central Marin Sanitary Agency (CMSA) met this week to look at sites at the CMSA facility for a shared Corporation Yard.

## **PUBLIC COMMENT**

There were no comments.

## **PUBLIC HEARINGS**

NONE

## **BUSINESS ITEMS**

### **1. DISCUSSION OF SONOMA MARIN RAIL TRANSIT AUTHORITY (SMART) FINAL EIR**

Mayor Chu stated he attended the SMART meeting today and the Board certified the EIR, the expenditure plan, and an ordinance authorizing placing the sales tax measure on the ballot, and approval of the ballot language. Supervisor Harold Brown cast the single dissenting vote on the first three of the four issues, but the ballot language was unanimously approved by the Board. The general attitude of the SMART staff report was fairly aggressive and they felt the 14-day review period was adequate.

The City Manager presented the staff report.

Mayor Chu stated the general assessment by the author of the EIR was that there was no new information nor was there anything that made a new or significant environmental impact. He told the Board that the EIR was inadequate before and continues to be inadequate. He provided clarification to one of the responses in the document regarding the Larkspur City Council's request that the Board consider a third station site within the Northwestern Pacific Railroad right-of-way. In addition, all other environmental concerns raised by the City Council were not responded to or addressed.

Councilmember Arlas referred to item #4 in the report prepared by Mr. Robert Harrison, traffic engineer, and asked for clarification about the "182 daily passengers". The City Manager stated the projections for passenger transportation purposes seem to indicate that this is a southbound train only. The Council did not request a third station site. The third site was selected in response to SMART's request to select from one of the five alternatives being presented. Council objected to all sites and the third site was considered the least onerous. Councilmember Arlas stated this would be a Sonoma County commuter train. The City Manager agreed. She stated the "182 daily passenger" figure was at build-out, 20 years from now. Between 40 to 55 of those "182 people" would get off and get on the ferry and the rest would work at the shopping center, go hiking, etc. Councilmember Arlas asked about any northbound projections. The City Manager stated she did not recall any comments about these figures.

Mr. Jim Schmidt, San Rafael resident, clarified that the number of passengers expected to come to the Larkspur station on a daily basis was 182. This figure is for the year 2025. The majority of those will be in the morning and afternoon peak periods. They are now projecting an estimated morning commute past the Marin/Sonoma County line, in a 2-hour period, of 230 passengers. They estimate that 840 residents of Marin will ride the train in 2025 per day. The estimated cost of the project is \$1.4 billion.

Mayor Chu noted the Marin Conservation League has issued a statement in opposition to the project. He added the Final EIR and the ballot measure were a done deal. He asked the Council whether or not they wanted to take a final position, based on the merits of the project, to support or not support the ballot measure or whether to take a neutral position.

Councilmember Arlas stated his position has been clear from “day one” and there is no way he would support this project. It is not fiscally responsible or viable. This position has been pretty well laid out by Mr. Robert Harrison and the City Manager. He stated there was no new information presented in the EIR and obviously they have not addressed the Council’s original concerns. Their position should be that the issues have not been adequately answered and they cannot support the project.

Councilmember Hillmer agreed with the comments made and direction given by Councilmember Arlas.

Councilmember Hartzell stated she agreed with the comments made by Councilmember Arlas and the position taken by the Marin Conservation League. She disagreed with one of the statements made and felt that population growth belongs in transit friendly locations.

Mayor Chu stated Larkspur has opposed a station for many years and that should have been reason enough to make the San Rafael terminus an alternative to be studied. Leaving this alternative out of the study makes it inadequate.

Mayor Chu opened the meeting to public comments.

Ms. Barbara Salzman, representing the Audubon Society, stated she attended the meeting today and presented some environmental issues. Speaking as a Larkspur resident, she urged the Council to oppose the proposal. The document does not adequately address the environmental issues. It would not benefit Larkspur to have the project end at the Larkspur Landing Shopping Center and would not add to the small-town atmosphere. The purpose of the project has been changed and the intent is no longer to improve transit or conditions on Highway 101 but rather to provide alternatives. This project would be an economic boondoggle.

Mr. Jim Schmidt, San Rafael resident, stated the data available from SMART regarding financial performance, economic justification, and fiscal liability is dismal. This is not a viable project and would be staggeringly unproductive. This would drain \$198 million of sales tax revenue that could be used for more effective projects. It is getting increasingly difficult to get the electorate to approve tax and bond measures. He offered his technical support to staff and the Council. He stated there was as much omitted from the document as was presented.

Councilmember Arlas had questions about some of the estimates regarding ridership.

Mayor Chu suggested the Council ask staff to draft a resolution that states the Council's objections including the lack of information that does not allow them to support the project. Councilmember Hartzell stated the resolution should also stress the information that they do know, including Mr. Harrison's findings.

Councilmember Hillmer stated he thought Councilmember Arlas' suggestion was to continue the current direction already expressed in the letters to SMART. He was concerned about the timing and thought they should wait until the project itself comes forward to take a formal action in opposition.

Councilmember Hartzell disagreed and stated the Board voted to put the measure on the ballot.

Councilmember Arlas stated staff spent a lot of time putting together a package of requests when the EIR first came out. The Board, at their meeting today, stated that nothing new or significant had changed and therefore the original questions, comments, and concerns were not answered satisfactorily. He made suggestions on the format of the response. Councilmember Hartzell stated she did not want Larkspur's concerns to be trivialized and she suggested enumerating the concrete information they do know.

Mayor Chu asked staff to bring the resolution back to the Council at a meeting at which all five Councilmembers will be present.

## 2. DISCUSSION OF HERITAGE TREE REMOVAL FINES/MONAHAN PACIFIC/DRAKE'S COVE PROPERTY

The City Manager presented the staff report. She noted a letter from Mr. Victor Gonzales was placed on the dais.

Councilmember Arlas stated fines are assessed by a governmental entity and are for the public. He did not think they could be transferred to a private, non-governmental entity.

Mayor Chu asked if the fine had to go into the General Fund or if it could be put into the Housing Fund. The City Manager stated that would be a Council decision but it would normally go into the General Fund.

Councilmember Hillmer asked if the money could be used to offset fees instead of waiving fees for the EAH project. The City Manager stated “yes”.

Mayor Chu opened the meeting to public comments.

Mr. Victor Gonzalez, representing Monahan Pacific, stated Larkspur Capital Partners, LLC, was the owner and applicant and not Monahan Pacific. He stated the points in his letter were clear- they own the property but did not remove any trees. The contractor, on his own, cut an access road from the Sanitary District up to the property in a matter of two days under the guise of preparation for tree preservation. Every month that goes by they are damaged and penalized. He discussed the benefits of the project including direct tree preservation, donation of parkland, the affordable housing component, etc. They regret the situation and reminded everyone that the trees that were removed took value away from their property. He stated a fine was not in order.

Councilmember Arlas asked about the progress of the project. Mr. Gonzalez stated they decided to go to a lot sale program and the conditions of Ordinance No. 947 have held up those sales. The property would look better with houses on it. The subdivision improvements have been done for a year.

Councilmember Arlas asked if they plan to build any homes. Mr. Gonzalez stated they were picking up four permits tomorrow.

Ms. Barbara Salzman stated the project managers were responsible for their contractors. The City of Larkspur should not suffer and she strongly suggested the Council choose alternative #3 in the staff report. She was somewhat shocked that the Council is talking about transferring money for environmental damage to a housing project. The citizens of Larkspur should be paid for those trees. Councilmember Hillmer asked Ms. Salzman for suggestions on how to use the money. Ms. Salzman stated restoring more trees, on site or nearby, would be the most beneficial remedy.

Councilmember Arlas stated the idea of community service was well intentioned but was not appropriate when dealing with this type of operation. He asked if they could allocate the fine between the project manager and the contractor. The contractor did not do this blindly and should have read the plans.

The City Manager stated the language in the ordinance states “any person that violates a provision of this chapter” and most situations involve one household and one tree. Staff would be happy to bill in whatever proportion the Council suggests.

Councilmember Arlas stated he was concerned that they have not given notice to the contractor. The City Attorney agreed that this could be a problem since they have not had the opportunity to make their case to the Council.

Councilmember Hillmer stated he would be in favor of a fine with the money being used to repair the environmental impact.

Councilmember Hartzell stated she agreed with levying a fine and would like to keep it simple. They should levy the fine against the owner of the property if that has been past practice. The funds should have some loosely stated environmental purpose to compensate the loss and could be shared with the EAH project.

Mayor Chu stated he did not have much to add and the fine per tree approach was appropriate. Ultimately the property owner was responsible and could attempt to recoup from the contractor. Community service would not be appropriate under these circumstances since it is an entity rather than an individual. He would like the Council to revisit the fine structure and clarify the language. Councilmember Arlas stated he would like to review the issue regarding the use of fines.

Councilmember Hartzell asked if they could require a landscape plan for the EAH project in lieu of community service. Councilmember Arlas stated he would not be in favor of this suggestion and did not think they could compel a private entity to do something for another entity. The City Attorney agreed.

M/s, Arlas/Hillmer and approved 4-0 (Lundstrom absent) to levy a fine against the property owner to the maximum extent allowed by the ordinance (\$1,000 for each tree, for a total of \$36,000for 36 trees) and waive community service.

### 3. ADOPT RESOLUTION NO. 41/06 AWARDING PUBLIC WORKS CONTRACT AND AUTHORIZING EXPENDITURES FOR THE 2006 PAVEMENT REHABILITATION PROJECT

The City Manager presented the staff report.

Councilmember Hartzell stated she was concerned about paving Alexander Avenue and then performing the bridge repairs. The Public Works Director stated Alexander Avenue was in terrible condition and ultimately needs reconstruction. He discussed the new paving product they plan to use and stated it was a cross between a slurry seal and an overlay. His goal is to cover all the residential streets in Larkspur in the next three to five years. Councilmember Hartzell stated many of the streets in the hills were crowned so high that mufflers and tailpipes were damaged.

M/s, Arlas/Hillmer and approved 4-0 (Lundstrom absent) to adopt Resolution No. 41/06.

4. ADOPT RESOLUTION NO. 39/06, APPROVING THE CITY OF LARKSPUR'S ALL HAZARDS MITIGATION PLAN

The City Manager presented the staff report.

M/s, Hillmer/Hartzell and approved 4-0 (Lundstrom absent) to adopt Resolution No. 39/06.

5. APPOINT MEMBERS TO THE PLANNING COMMISSION, HERITAGE PRESERVATION BOARD, PARKS AND RECREATION COMMISSION AND COMMISSION ON AGING

The City Manager presented the staff report.

M/s, Hillmer/Arlas and approved 3-0 (Lundstrom absent, Hartzell had left the room) to appoint JoAnne Weber to the Commission on Aging, a four-year term.

M/s, Hillmer/Arlas and approved 3-0 (Lundstrom absent, Hartzell had left the room) to appoint Jerry Hauser and Bob Matteo to the Parks and Recreation Commission, both four-year terms.

M/s, Hillmer/Arlas and approved 4-0 (Lundstrom absent) to appoint Helen Heitkamp, Marilyn River, and Grayson Marshall to the Heritage Preservation Board, all four-year terms.

M/s, Hartzell/Hillmer and approved 3-0 (Lundstrom absent, Arlas abstained) to appoint Helen Heitkamp and Richard Young to the Planning Commission, both four-year terms.

Councilmember Arlas stated he abstained from voting because he was unable to attend the interviews and the Planning Commission had more applicants than there were open positions.

**ADJOURN MEETING TO CLOSED SESSION**

The City Council and the City Manager adjourned to closed session at 9:30 p.m. to discuss the following item:

CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION  
(Government Code Section 54956.9) McLeran Properties, LLC vs. City of Larkspur (Marin County Superior Court action number CV-050529)

This item has been postponed to the August 2<sup>nd</sup> meeting.

CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION-  
Pursuant to Government Code Section 54956.9(b)- 3 cases

**ADJOURN TO OPEN MEETING AND REPORT ANY REPORTABLE ACTION  
TAKEN**

The Mayor adjourned to open session at 10:14 p.m. and indicated that the Council had taken no reportable action.

**ADJOURN MEETING**

The Mayor adjourned the meeting at 10:16 p.m.

Respectfully submitted,

Toni DeFrancis  
Recording Secretary