



TOWN OF FAIRFAX

STAFF REPORT

June 26, 2013

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager ^{GT}

SUBJECT: Resolution authorizing the issuance of a bid package for the Pastori Outfall Pipe and Bank Stabilization project

RECOMMENDATION

Adopt a resolution authorizing staff to bid out the Pastori Outfall Pipe and Bank Stabilization project.

DISCUSSION

For the past several years, the Town has been discussing the stabilization of the creek bank in the San Anselmo Creek near the Pastori Bridge, as well as replacing the existing 24" storm drain pipe with a 48" pipe to prevent water from "bottle-necking" in that location. In August 2012, the Council bid out only the first portion of that work (i.e., the bank stabilization work) due to technical, legal and funding barriers on the installation of the larger outfall pipe. However, the 2012 project was ultimately cancelled due to concerns related to unexpected costs, access to the adjacent properties to perform the work, and other issues.

After numerous meetings on the topic, at its June 5th meeting, the Council directed staff to prepare plans and specifications for the Pastori Outfall Pipe and Bank Stabilization project (Project). Bidders will be requested to separate their bids into two components: bank stabilization work (base bid) and enlargement of the pipe (bid alternate). At its August 7th meeting, the Council can decide whether to award only the base bid or both the base bid and bid alternate. For your reference, attached is a letter from one of the adjacent property owners.

In order to have the possibility of completing the work this year, staff has authorized CSW to begin preparing the plans and specifications. Should the Council authorize staff to bid the Project, the following is the tentative timeline, assuming no nesting birds are found during the bird survey and that access can be obtained to adjacent properties:

Issue Bids	July 15
Bid Opening	Aug. 2
Council Awards Bid	Aug.7
Complete work in creek	Oct. 15
Complete all work	Nov. 1

Fiscal Impact

Attached are the estimated project costs and identified funding sources. Any contract for professional services above the Town Manager's authority will be brought to the Council for consideration at its August 7th meeting.

AGENDA ITEM # 1

Estimated Project Costs

	<u>Base Bid</u>	<u>W/Bid Alternate+</u>
Plans and Spec Preparation/Bid Award*	\$12,000	\$12,000
Fish Relocation/Collection & Bird Survey**	\$10,000	\$10,000
Water Quality Monitoring***	\$20,000	\$20,000
Construction Management/Engineering	\$30,000	\$46,000
Bank Stabilization	\$100,000	\$100,000
Pipe enlargement	n/a	\$80,000
Project Contingency (20% of hard cost)	<u>\$20,000</u>	<u>\$36,000</u>
Total Estimated Costs	\$192,000	\$304,000

Funding Sources

FEMA	\$ 49,000	\$ 49,000
General Fund	<u>\$143,000</u>	<u>\$255,000</u>
Total Estimated Funding	\$192,000	\$304,000

+ Base bid and bid alternate costs combined.

*Based on estimate received from CSW

**Based on estimates received from three firms

***Staff plans to have better estimates at the meeting.

RESOLUTION NO. 13-38

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AUTHORIZING THE ISSUANCE OF A BID PACKAGE FOR THE
PASTORI BANK STABILIZATION AND STORM DRAIN OUTFALL PIPE PROJECT**

WHEREAS, the Town Council has discussed the merits of the Pastori Bank Stabilization and Storm Drain Outfall Pipe Project (Project) at numerous Council meetings; and

WHEREAS, the Project would help alleviate flooding in specific neighborhoods in Town and prevent the further erosion of the creek bank in San Anselmo Creek near the Pastori Bridge; and

WHEREAS, funding from the Federal Emergency Management Agency (FEMA) for the bank stabilization portion of the Project will expire unless the Project is completed by November 1, 2013; and

WHEREAS, the enlargement of the pipe will be prepared as a bid alternate;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Fairfax hereby:

Authorizes the Town Manager to do everything necessary and appropriate to issue a bid package for the Pastori Bank Stabilization and Storm Drain Outfall Pipe Project (Project).

The foregoing Resolution was duly introduced and adopted at a special meeting of the Town Council of the Town of Fairfax held in said Town on the 26th day of June 2013, by the following vote:

AYES:
NOES:
ABSENT:

JOHN REED, MAYOR

Attest: _____
Deputy Town Clerk

**Marin Town & Country Club
P.O. Box 150870
San Rafael, CA 94915
(415) 925-1518**

RECEIVED

JUN 24 2013

TOWN OF FAIRFAX

FAX: (415) 925-1704

EMAIL: mtcc@classactionlocator.com

Larry Bragman
Fairfax Town Council member
142 Bolinas rd
Fairfax, CA 94930

June 19, 2013

RE: Pastori Bridge
13/06/17 ROE to move forward

Dear Larry:

Although I did not appreciate your presentation at the last Council meeting, it was not the place to bring up old election issues. You apologized a long time ago and that was all I wanted. So I apologize for bringing it up out of context.

It has been 41 years of the Town not working with this property. 30 years fighting with the Freemans and 11 years fighting with me. Many of these issues you are aware of and some you might not be.

The bridge is the sole access to my property. "Jack Hammering" out my wing wall and foundation is not an option either of us can afford. You do not have the money to rebuild or replace the bridge should the removal of the foundation compromise the bridge. Permitting costs and time would exceed the Town's resources. Litigation between parties to determine percent of liability before an insurance claim is made would still exceed 6 months; hence jeopardizing my entitlements.

Even if a crack appeared from your work, you might shut the bridge down for months of study.

In 2006 I did not challenge your project until the Town refused to insure the bridge. Bill Whitney said it would set a bad precedence for the Town to insure outside of being self insured. The only reason the insurance came up was because I asked the Town not to drop the rocks against my lower foundation. I was concerned it would break the lower foundation and it would drift into the creek.

The Town went ahead and dropped the rocks, broke my lower foundation, and the lower foundation drifted into the creek. It has been 7 years and my lower foundation has not been repaired. There is only a big hole where it used to be. It took engineers and an attorney before the Town acknowledged liability. So can I believe that if the Town breaks the wing wall foundation, holding up my bridge and Wendy's bank collapses, you will fix it more timely; I can't. We can only judge the future by the past.

Last year I gave the Town manager a ROE that would allow the Town to stabilize the bank below Wendy's house. Judy and I sat down and agreed to ROE language over lunch. The Town chose not to move forward after the bid was publically awarded?

At the last Council meeting John Reed said the Town has spent close to \$500,000.00 plus numerous staff hours on this project. My FOIAs have gone unanswered as to cost. You state that FEMA gave the Town \$49,000.00 for this project. Now after 7 years FEMA said it will take the funds back if this is not completed by November 1, 2013.

The Proposals to move forward and stabilize the bank were recently quoted between \$250,000.00 and \$400,000.00. The Council also asked where would this money come from to move forward on this project? Suggestions were made to borrow the money.

Also at the meeting you said that I was not cooperating by not providing the type of insurance required to move ahead. I sent an email to Garret on May 29, 2013, explaining what CCIP insurance was for and how it works. Possibly you were not aware of this email.

Back when David sat on the RVSD acquisition committee he suggested the RVSD make an offer to buy a part of my property. At that same time he suggested the RVSD replace the bridge with the Federal grant for 88%.

At the May 2, 2012, Council meeting the engineer replacing the bridges in the Ross Valley made a presentation to the Council and offered that the Federal Government would pay 88% and the State would pay 12.5% for a new bridge. This would replace the fish ladder, design a new bridge to look the same, allow public access, stabilize the bank, seismically upgrade the bridge for 200 years, and pay the Town possibly \$200,000.00 + to oversee the administration of the grant. This grant would also lend itself to address 300 feet of approach down Pastori Ave. The problem was that we own the bridge; and the funds are only available for publically owned bridges. We then offered to give the bridge and the dirt it sits on to the Town for free. The Town refused the gift citing that it "might help me".

In 2011 the Town attempted to stop me from putting up a gate on the bridge, citing that the Town owned the improvement and that we had no encroachment permit. Please recall that this bridge is a recorded improvement with the County of Marin. It is recorded to the benefit of the MT&CC LLC.

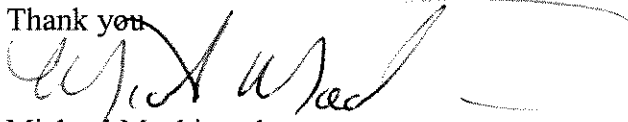
Have you looked at the culvert parallel to Center Blvd where it goes under Center by the Redwood tree? It has not been cleaned out. This would relieve the neighborhood of possible flooding. This culvert is the lowest area where water drains to naturally.

Please do not make Wendy go through another winter scared about her bank. David's public comment that her house could fall into the creek, scared her.

I have offered you a ROE limited to the work required to stabilize her bank. The Town was going to move forward with my language last year. We can not in good faith allow the Town to touch, Jack Hammer, or enlarge the pipe through the bridge's wing wall foundation. History tells me I can't trust the Town to act as they should as our fiduciary when it involves this property.

Please accept the ROE language as I presented to you last year and move forward to repair Wendy's bank before FEMA takes the money back. I will update the dates of the ROE upon request.

Thank you

A handwritten signature in black ink, appearing to read "Michael Mackintosh", with a long horizontal flourish extending to the right.

Michael Mackintosh