



**TOWN OF FAIRFAX
STAFF REPORT
January 15, 2014**

TO: Mayor and Town Council

FROM: Michele Gardner, Town Clerk

SUBJECT: Authorization to send a letter of concern from the Fairfax Town Council to the Marin County Open Space District about Proposed Rule Changes in Elliott Nature Preserve

RECOMMENDATION

Authorize sending a letter of concern, prepared by Vice Mayor Bragman and Councilmember Reed for the mayor's signature, to send to the Marin County Open Space District regarding concerns outlined in the attached memo.

DISCUSSION

Vice Mayor Bragman and Councilmember Reed submitted the attached memo regarding the proposed rule changes by the Marin County Open Space District and their impact on Elliott Nature Preserve and the Town.

FISCAL IMPACT

None

Memo to the Fairfax Town Council Re: Proposed Rule Changes for Elliott Nature Preserve

Fairfax granted the Marin County Open Space District an open space easement over the Elliott Nature Preserve in 1987. As a condition of that grant deed, the Open Space District agreed that it would not construct any improvements on that parcel without the express written consent of the Town of Fairfax.

Residents of the Canyon Road and Cascade Canyon neighborhood are concerned about the impacts to the neighborhood that will result from the MCOSD current proposed Road and Trail plan and requested that the Town Council agendaize an action matter at the earliest possible meeting date, so that residents can tell the council of our concerns and so that the town can take a position on the MCOSD proposal, and communicate that position to the County Board of Supervisors, in its capacity as the board of directors of the MCOSD.

There is urgency in this request. At a meeting of the Marin County Parks and Open Space Commission on Thursday, January 23, 2014 staff of the Marin County Open Space District will summarize public comments received since release of the Draft Road and Trail Management Plan (RTMP) on October 1, 2013, outline proposed revisions to plan to address concerns raised, clarify certain elements of the plan, and describe the process to implement the plan.

The revisions proposed by staff will be related to the plan's merits, not its environmental review. The formal Response to Comments related to the plan's environmental review will be released as part of the plan's Final Draft Tiered Program Environmental Impact Report (TPEIR) in spring 2014. Staff's revisions to the plan will not constitute changes to the plan's scope that would require recirculation of the TPEIR.

Many of the concerns of local residents are reflected in a report found at the Marin Conservation League's web site, http://www.conservationleague.org/images/stories/pdfs/advocacy/adv_pos_rttmp-draft-tpeir_mcl_2013.12.02.pdf. These comments, based on thorough analyses of the document by MCL staff, raise some serious concerns about the new policy including but not limited to the following:

The Project Presents Itself as without impacts and Provides No Mitigation Measures

The Draft TPEIR identifies no potentially significant impacts and therefore provides no mitigation measures. It does this, first, by setting the baseline for analysis of impacts as January 31, 2011 (date of Notice of Preparation) – essentially today's environmental conditions on the preserves, which include many roads and trails in disrepair as well as redundant social and illegal trails. The Draft TPEIR takes the position that any project pursuant to the RTMP – e.g., restoring a degraded trail, narrowing a road to trail-width, building a new connector trail, decommissioning a redundant trail, installing a bridge – if done according to system-wide and Visitor Use Management Zone (VUMZ, or Zone) policies, design standards, and Best Management Practices (BMPs), will result in a net improvement to the environment. Therefore, no potentially significant impacts will occur and no mitigation measures are provided. The absence of either impacts or mitigation measures in a programmatic EIR creates problems for environmental review of future individual projects.

Dogs

The Draft TPEIR does not specifically address the impacts of dogs, on or off leash, on wildlife except in the discussion of Alternative 3, Pedestrians Only in VUMZs 1 and 2, which cites studies that relate decline in carnivore abundance and species richness to association of dogs with human visitation. The District has therefore changed its policy from dogs under voice control or on leash to all leash all the

time. The district has not substantiated or cited any study of dog depredation here. Residents seem to prefer the previous policy, dogs on leash or under voice control. This is particularly true when combined with the District's selective enforcement policy.

Selective Enforcement

Table 4-2 of the Plan specifically states that fines for violations of the MCOSD code will be greater in this zone than in zones 2-4. Thus, the District proposes to foster increased traffic to the Elliott Nature Preserve, close unspecified trails, and fine users more for using trails we have used for decades than users in any other zones.

Parking

The proposal does not address at all the impact of present or increased recreational parking on local residents. The Cascade Canyon has two main accesses to the Elliott Nature Preserve, and both of these, Cascade Drive and Canyon Road, are narrow, residential, dead-end streets with little or no on street parking and barely enough room for fire and emergency vehicles to pass. The law requires that roads be clear for 12 feet from the center of the road on either side. Parking concerns should be part of the MCOSD project evaluation process. Cascade and Canyon Roads have no additional parking available.

Construction of 5 Bridges Big Enough for Fire Trucks

The plan proposes to build bridges big enough for fire trucks. This may substantially change the character of the Elliott Nature Preserve, violate the community's peace and quiet, disturb vegetation and wildlife, bring more traffic, and in all ways be a degradation of life around here. Any such bridge construction should be expressly approved by the Town of Fairfax.

Unstated Trail Closures

The plan proposes to close existing trails and proposes to cite and fine people for going off the designated trails. Merely walking to a quiet spot or vantage point for meditation, or photographing flowers, which is currently commonplace and non-intrusive, would become illegal with this change in rules. There is also a concern that the trails to be closed have not been specified or named in the document. The RTMP states that the District intends to close existing trails wherever possible. This means that longtime users may be cited for using trails that have been patronized for many years.

Increased Usage

If the District intends to increase traffic and visitors with construction of bridges and attraction of more people from around the world, then the impacts on Fairfax residents, roads, traffic, and stewardship, and quiet enjoyment of our neighborhood are major concerns for Fairfax and should be expressed to the Open Space District via a letter from the council before the meeting on January 23rd.

Respectfully submitted,

Larry Bragman

John Reed