

**LARKSPUR CITY COUNCIL
REGULAR MEETING
MINUTES
MARCH 19, 2008**

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

STAFF: PRESENT: Deputy City Manager Bob Sinnott, City Attorney
Sky Woodruff, Public Works Director Hamid
Shamsapour, Recreation Director David
Wilkinson, Twin Cities Police Chief Phil
Green, Twin Cities Police Captain Mike McDuffy

Mayor Hartzell called the meeting to order at 7:31 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

Adopt Resolution No. 08/08 Establishing Authorized Positions in the Competitive Service and Assigning a Salary Range to Each Position

M/s, Lundstrom/Hillmer and approved 5-0 to approve the Consent Calendar with the deletion of item #3, Adoption of Resolution No. 08/08.

Mayor Hartzell noted the following revisions to the agenda: Business Items #2 and #4 have been continued, Business Item #1 would become #3, Business Item #3 would become #1 and would be heard first.

CITY MANAGER'S ORAL REPORT

The Deputy City Manager reported the MCCMC meeting would be held in Corte Madera on Wednesday, March 26th.

The next Council meeting would be held on April 2nd and would include a workshop meeting with the SMART Board of Directors. The Twin Cities Police Council meeting is scheduled for April 10th at 7:30 p.m.

The Larkspur Community Association is holding a fundraiser for the Food and Flower Festival on Wednesday, April 2nd at 6:00 p.m. The Town of Fairfax and the City of Mill Valley have gone on record in opposition to aerial spraying for the Light Brown Apple Moth. The County is taking a position in favor of a land-based defense. The item could be added to a future agenda if it is the desire of the Council. He noted the matter is really beyond local control. Councilmember Chu stated the MCCMC Legislative Committee plans to put the item on the April agenda.

COUNCILMEMBER REPORTS AND COMMENTS

Councilmember Arlas asked the Council to adjourn tonight's meeting in memory of Mr. Anthony John Harrow, long-time Larkspur resident and coach for the Marin Rowing Association, who recently lost his life in a sailing accident.

M/s, Arlas/Lundstrom and approved 5-0 to adjourn the meeting in memory of Mr. Anthony John Harrow.

Councilmember Chu reported he attended the "Every Fifteen Minutes" Program at Redwood High School and they did an outstanding job.

Councilmember Chu stated he attended the last Marin Telecommunications Agency (MTA) meeting. He was the only "No" vote regarding the Strategic Plan. The document seems to be more of a Vision Statement with no analysis of alternatives, evaluation of the internal capacities and external environment, implementation plan or post-implementation evaluation.

Councilmember Lundstrom stated she would be attending the Corte Madera Creek Flood Zone 9 meeting in Ross. They will be discussing use of funds and upcoming studies. The budget for this project includes creek cleanup in various areas. She briefly discussed the lawsuit and noted they would be borrowing against the funds that are set aside pending outcome of the litigation. Councilmember Arlas stated there was an incredible amount of debris (pipes, trees, etc.) in the portion of the creek from the Bon Air Bridge to the College of Marin. Councilmember Lundstrom stated the budget for the creek was small but she would mention this to the Board. Councilmember Arlas stated he would provide photographs.

Councilmember Hillmer stated Councilmember Chu's position paper to the Marin Telecommunications Agency (MTA) was clear and effective. He stated this position should be put in Resolution form.

Mayor Hartzell stated she would be attending the Community Development Block Grant (CDBG) Priority Setting Committee meeting tomorrow night.

Mayor Hartzell stated she discussed the status of the Drake's Way Project with representatives of Ecumenical Association for Housing (EAH). They indicated they are anxious to pull the building permits and move forward with the project.

Mayor Hartzell reported the next Centennial Celebration event, the first of the Historic Tours, was scheduled for April 12th. Interested parties should meet at 10:00 a.m. in front of City Hall.

PUBLIC COMMENT

Mr. Jeff Leslie, Corte Amado, expressed concern with the condition of his street and stated the City's offer to pay 1/3rd of the cost for repaving was unacceptable. He asked the City to prioritize this project in its Capital Improvement Budget. He distributed photographs.

BUSINESS ITEMS

3 PRESENTATION ON THE ALTERNATIVES FOR THE GREENBRAE INTERCHANGE/HIGHWAY 101/TWIN CITIES CORRIDOR PROJECT AND CONSIDERATION OF A REQUEST TO IDENTIFY PREFERRED ALTERNATIVES FOR EVALUATION DURING THE ENVIRONMENTAL REVIEW

The Public Works Director presented the staff report.

Ms. Diane Steinhauser, Executive Director of TAM, stated they had a very successful public workshop on March 8th. They are seeking additional input from the Council and the public for consideration by the TAM Board of Directors in April or May. They narrowed the original 20 alternatives for improvements to the corridor down to two significant southbound options and two significant northbound options. The next step is environmental review and the preparation of the environmental document.

Mr. Bill Whitney, project manager, stated the TAM Board has embraced the principles of Context Sensitive Design which engages the project stakeholders very early in the process. They then developed the Purpose and Needs Statement which is the guiding document. The intent of the project is to reduce congestion along the corridor and improve safety for traveling motorists. He referred to the letter from Mr. Robert Harrison, traffic engineer, and stated he would like Mr. Harrison to become more involved in the process.

Ms. Dina Potter, and Mr. Ben Stromwasser, consultants, made a Powerpoint presentation including the following: 1) Public Workshop Agenda, Guidelines, and Purpose; 2) Project Schedule, Funding, and Purpose; 3) Corridor Projects; 4) Existing Conditions and Traffic Volumes and Collisions; 5) Alternatives Development Process; 6) Recommended Preliminary Alternatives:

7) Northbound Option D- ESFDB Flyover; 8) Northbound Option E- Wornum Braid; 9) Southbound Option A- Frontage Road; 10) Southbound Option C- Lucky Braid; 11) Key Environmental Constraints; 12) Preliminary Cost Estimates; 13) Next Steps. She noted there were variations in some of the options. She presented some photographic simulations of the options.

Councilmember Arlas had questions about Northbound Option E. Ms. Potter stated the intersection would be signalized. Councilmember Arlas expressed concern about traffic backing up onto the highway. Mr. David Parisi, consultant, stated there would be an auxiliary lane.

Councilmember Hillmer had a question about one of the simulations.

Mayor Hartzell asked about the comments that were made at last night's Corte Madera Town Council meeting. Ms. Steinhauser stated the Corte Madera Town Council supported Northbound Option E and strongly recommended it be studied in more detail than Northbound Option D. There was general consensus that the Madera ramps be left open. They recognized that the Southbound Options were more complex and the Northbound Options provided more traffic relief and should be a priority over the Southbound Options. Any option that adds traffic to the Tamalpais interchange and Tamalpais Drive was not acceptable.

Councilmember Lundstrom stated the Council is already on record supporting the following: 1) adequate bicycle/pedestrian access; 2) sensitivity to wetlands intrusion; 3) sensitivity to bus stop locations. She appreciated the comments made by Mr. Harrison. She suggested the Council indicate priorities because the \$65 million that is available will not cover everything.

Councilmember Hillmer stated there were some very complex challenges and it seemed that the concept of Context Sensitive Design was in conflict with the desire to reduce interchanges to a mile apart. Interests can change depending on how you "turn the drawing". He would consider the convenience to local residents to be a priority in terms of getting in and out of the area and the access and distribution of traffic on local streets. This seems to be in conflict with trying to increase the convenience to the drivers on the highway. Tamal Vista and Wornum Drive should not be given equal weight since Wornum Drive is not an arterial and simply provides a link under the highway. He was concerned about traffic backing up on the highway with each of the options and people avoiding Tamal Vista during peak periods due to congestion. Consolidating access to the freeway compounds this problem.

Councilmember Lundstrom stated there was no perfect solution and all the options would have some type of impact. She disagreed with Councilmember Hillmer and stated closing some of the off-ramps would have an enormous benefit in terms of safety. She stated the first priority should be to relieve the Northbound congestion since it backs up onto

Larkspur and Corte Madera interior streets. She stated Northbound Option D, which includes a new bridge over the creek, was a non-starter for environmental reasons. She stated Northbound Option E and the two alternatives were preferable. Southbound Option C and the Lucky Braid would create an enormous structure and was also a non-starter.

Councilmember Arlas disagreed with the consultant's assertion that a lane change was not a "weave" and stated it was very dangerous. He could not support the Southbound Options since there were so many variations. He stated the priority should be one of the Northbound Options

Councilmember Chu agreed with Councilmembers Lundstrom and Arlas and stated a Northbound Option should be the priority. Option E would be the better of the two. He did not see any real solution in terms of Southbound options and stated there were too many problems. The Madera exit should be taken off the table if it is a deal-breaker for Corte Madera. There should be a consensus and the focus should be on the Northbound Options.

Mayor Hartzell agreed with the comments made by Councilmember Chu.

Mayor Hartzell opened the meeting to public comments.

Ms. Barbara Salzman, representing the Audubon Society, stated she was pleased to hear the Council comments regarding the Southbound Options. It should remain as is. She was opposed to any option that would impact the marsh. She noted the separation of the bicycle trail was of great concern and would direct traffic towards the marsh and be growth inducing.

Mr. Thomas Jakowitz, Corte Madera resident and business owner, stated he agreed with the Council comments. He was opposed to the Southbound Options and stated the area should remain as is. There should be a surface street from Sir Francis Drake to Lucky Drive that could be used for local traffic.

Mayor Hartzell closed the meeting to public comments.

The Council took a 5-minute break at 8:50 p.m.

The meeting reconvened at 8:55 p.m.

1. CONSIDERATION OF A REQUEST FOR A THREE-YEAR EXTENSION OF THE USE PERMIT FOR MARIN ROWING ASSOCIATION

The Recreation Director presented the staff report. Councilmember Lundstrom had a question about Condition #1 regarding the horsepower of the motors for the coaching launches. The Recreation Director

stated the Parks and Recreation Commission was recommending an increase of up to 25 horsepower.

Councilmember Chu stated Chapter 9.36 of the Municipal Code specifies that permit renewal terms are for one year but Condition #8 stated the permit shall be valid for three years. Mayor Hartzell stated they could talk about that housekeeping matter later.

Mayor Hartzell opened the meeting to public comments.

Ms. Sandy Armstrong, Director and Head Coach of the Marin Rowing Association (MRA), stated she has managed the organization for 17 years and they have had crews on the creek for 40 years. They have never been considered recreational but have been coached to be as competitive as possible. The size of the squad has remained at 100 to 125 since the 1980's. In 2003 the City capped the number of athletes to 125. They do not have more boats on the water nor are the boats going faster than in prior years. The permit to allow the coaching launches to exceed a 5 mph limit has been in effect for 22 years and renewal of the permit will not allow an increase in speed in the launches. The conditions of the permit offer reasonable solutions for the neighbors on the creek regarding noise and wakes. The MRA has never been cited for non-compliance by the Twin Cities Police Department. The request to increase the size of the engines in the coaching launches to 25 mph was previously approved in 1988. This allows for greater safety on the water. She emphasized that they do not need to increase the speed of the launches to follow the crews. Not all of the coaches use electronic megaphones and many use a plastic cone and internal radios. They are not breaking the noise ordinance. The MRA is an avid supporter of the Corte Madera creek wildlife and have participated in invasive plant removal and coastal and creek clean up programs. The MRA has a Wildlife Pause Policy in their rules. Adult team practices take place from 5:30 a.m. to 7:30 a.m. (Monday through Friday) and the high school program takes place from 3:30 p.m. to 6:30 p.m. (Monday through Friday).

Councilmember Hillmer stated the packet contained letters from neighbors stating that resident along the creek deserve the expectation of peace and quiet that is found in other residential neighborhoods. He asked Senior Planner Toft if this is something found in the Zoning Ordinance. Senior Planner Toft stated the zoning found along the waterway was divided between R-1, residential, and R-3, multi-family and the creek itself is an open waterway with public access.

Councilmember Hillmer asked Twin Cities Police Chief Green if the department has received any reports from residents about rowers ordering other boater to "get out of the way". Twin Cities Police Chief Green stated they have recorded 12 complaints from March of 2007 to March of 2008. The majority of complaints had to do with the speed of the launch and noise from the megaphone. The department has used radar in the past and found there

was no violation. Councilmember Chu noted they have never been found to be in violation of the Noise Ordinance and he asked about the acceptable decibel level. Twin Cities Police Chief Green stated he would need to look that up.

Mayor Hartzell opened the meeting to public comments.

Ms. Dana King, member of the MRA for ten years, stated they take great care to watch out for traffic patterns along the creek and for the wildlife. She has never seen anyone hit a bird or heard anyone talk about hitting a bird. She noted there were three, critical environmental disasters since November that affected the creek and the Bay and stated that could account for the increase in morbidity. The goal of rowing is to remain quiet and to “row as one”. Coaching instruction is done at close range. The MRA was voted “Club of the Year” by U.S. Rowing in 2006 and has brought home medals from State and National meets every year. Rowing teaches confidence, citizenship, and respect. She stated the allegations against the MRA are false.

Mr. John McCray, MRA Boardmember, Wilson Way, stated the Board has eleven members that oversee the staff and the program. They take all complaints very seriously and work hard to institute rules and guidelines regarding speed, noise, safety, and wildlife protection issues. The MRA has existed for forty years and is a pre-existing condition along the creek.

Ms. Kay Washburn, Boardwalk One, stated she has lived on the creek for 49 years and enjoys watching the rowers. She has never heard the rowers yelling out or making noise. She stated the creek belongs to everyone, including the rowers. Councilmember Hillmer stated he noticed Ms. Washburn’s name on the petition against renewing the permit. Ms. Washburn stated she did not read the petition in its entirety and they should disregard her signature.

Ms. Christy Wensel stated she and her fellow teammates are on the Varsity Crew Team and practice six days a week in order to be the best they can be. The coaches make sure they abide by all the rules and regulations, including no profanity, respect for the wildlife, and keeping the noise levels low. They look forward to practicing every day and asked the Council to renew the permit.

Michael Rosenbaum, Ross, U.S. Rowing Referee, presented a handout to the Council pertaining to safe speeds. He discussed the time it would take to affect the rescue of a boat and stated it was not safe to have a coach approximately nine minutes away from a boat. The use of profanity in a race would result in an automatic rejection.

Ms. Barbara Salzman, representing the Audubon Society, stated her concern is the protection of the wildlife. She discussed the importance of the creek for migratory birds. They do not want the program closed down. She asked if increasing the horsepower of the

launches meant that they would go faster. Councilmember Arlas stated the rowers determine the speed and the launches only go as fast as the boats being rowed. Ms. Salzman stated there were cumulative impacts to the wildlife. She offered her services to the MRA.

Mr. Mark Batluer, Berkeley, stated Mr. Tony Harrow was a coach at the MRA and an avid birder.

Mr. Rhett Kronn, Boardwalk One, stated he would like everyone to get along and share the creek. There are times when the noise, speed, and congestion along the creek was overwhelming.

Mr. Jed Tuckman, Boardwalk One, stated he rows on the creek every morning and is supportive of the MRA. He expressed concern that some of the members think they own the creek. The creek belongs to everyone. He added the power on the boats should be restrained to modest proportions.

Mr. Lee Miller, representing the Greenbrae Improvement Club, stated he had no problem with the MRA. The club recently held a meeting and he asked if anyone had a problem with the MRA. There were 23 people who had no objections and were supportive of the rowers.

Mr. Erik Smeir, Riviera Circle, stated he is supportive of the MRA and felt they were great neighbors and a joy to watch. The permit should be renewed.

Mr. Rick Davis, Fairfax, stated he recently took up rowing due to a bicycle accident and some other health issues and the MRA has been his savior. He urged the Council to renew the permit.

Mayor Hartzell closed the meeting to public comments.

Councilmember Lundstrom recommended the following additional conditions: 1) The permit shall apply only to catamaran-type coaching launches with motors not exceeding 25 horsepower; 2) Speaker systems shall be installed in all shells with a coxswain; 3) Noise levels should be kept to a minimum; 3) All MRA coaches shall read and acknowledge the conditions.

M/s, Arlas/Hillmer and approved 5-0 to approve the renewal of the Use Permit with the additional conditions suggested by Councilmember Lundstrom.

Councilmember Hillmer asked Councilmember Arlas if he has ever been a member of the MRA Board of Directors. Councilmember Arlas stated "no".

The City Attorney stated the Municipal Code section that regulates this permit indicates that the period of the permit shall not exceed one year although this has not been the past practice of the Council. He asked the Council to consider

amending the code in the near future. Councilmember Arlas stated the Council has been renewing the permit for a three-year period since the 1980's and the one-year period has "sunsetted". He noted things do not change much in one year and he did not want to clog up the Council calendar. Councilmember Hillmer agreed and stated the Council should recognize past practices regarding this matter and ask the City Attorney to bring back revisions to the Municipal Code.

The Council took a 5-minute break at 10:00 p.m.

The meeting reconvened at 10:05 p.m.

2. CONSIDERATION OF A REQUEST TO AUTHORIZE A MILLS ACT CONTRACT, BY JOHN AND CAROL KNORPP, 55 WALNUT AVENUE

Mayor Hartzell announced this item was taken off the agenda and continued.

PUBLIC HEARINGS

2. INTRODUCE AND WAIVER OF FIRST READING OF ORDINANCE NO. 961, AN ORDINANCE OF THE CITY OF LARKSPUR ADDING NEW CHAPTER 9.56 TO THE LARKSPUR MUNICIPAL CODE ENTITLED "SOCIAL HOST ORDINANCE"

Twin Cities Police Captain Mike McDuffee presented the staff report. He stated the language in the ordinance needs some work and he asked the Council to make comments and return the ordinance to staff for further work.

Councilmember Arlas stated the ordinance contains a lot of "fuzzy language" and he would like to sit down with Captain McDuffee and go over the ordinance. Captain McDuffee noted staff has been working with the Corte Madera Town Attorney and the attorney for the Twin Cities Police Authority. He asked for the assistance of the Larkspur City Attorney and stated he would welcome Councilmember Arlas' attendance at any meeting.

Mayor Hartzell stated she would like to move forward on this issue. She would like to be in synch with the County ordinance since it would apply to a significant number of the students at Redwood High School.

Councilmember Chu stated there are variations in all the ordinances he has reviewed. He discussed the San Rafael Ordinance and stated he supported the option of making the violation a misdemeanor since that would give it some "teeth".

Councilmember Hillmer asked if the intent of the ordinance was to establish criminal liability. Captain McDuffee stated they want the greatest amount of flexibility. He agreed with Councilmember Chu that making the violation a

misdemeanor would give it some “teeth” but they would also like to change behaviors through the administrative portion of the ordinance. Councilmember Hillmer did not want the ordinance to be too broad. Captain McDuffee agreed and added they will get calls no matter what the ordinance says. Councilmember Hillmer asked if the City would be liable for the outcome of a party that goes awry. The City Attorney stated “no”

Councilmember Chu asked if a juvenile should be defined as an “unemancipated” juvenile. The City Attorney stated he would look into this.

The City Attorney asked the Council to submit any changes to Captain McDuffee.

M/s, Arlas/Hillmer and approved 5-0 to continue this item to a date uncertain to allow staff to work on the language and blend it so there is consistency with Corte Madera’s ordinance.

1. ADOPT RESOLUTION 07/08, ESTABLISHING THE 2008 CITY OF LARKSPUR FEE SCHEDULE

The Deputy City Manager presented the staff report.

Mayor Hartzell asked is the City was allowed to charge for faxes. The City Attorney stated “yes” as long as the fee covers the cost to provide the service. The Deputy City Manager stated this request was brought forward by the Library Director since patrons often ask to use the fax machine.

Mayor Hartzell opened the meeting to public comments.

Ms. Debra Busse, Via La Brisa, noted some of the figures look odd and should be rounded. She stated the City should waive the fee to install residential solar panels. Councilmember Lundstrom noted the fee was approximately \$300. Councilmember Chu noted the fee had been reduced to cover the cost of the inspection. Ms. Busse referred to the Administrative Fees section and noted that the 20% charge for overhead seemed low. Councilmember Lundstrom agreed and stated it should be about 35%.

Mayor Hartzell closed the meeting to public comments.

Councilmember Hillmer moved to adopt Resolution No. 07/08 and direct staff to look at the areas commented upon and to return to the Council with the analysis. The motion died for lack of a second.

M/s, Hillmer/Arlas and approved 5-0 to direct staff to analyze the figures in the resolution and bring it back to the Council.

BUSINESS ITEMS

4. PRESENTATION ON THE STREETSMARTS PILOT PROGRAM

Mayor Arlas stated this item was continued.

ADJOURN MEETING TO CLOSED SESSION

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

CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION
(Government Code Section 54956.9) Frank McClain vs. City of Larkspur
(Marin County Superior Court action number CV- 061765)

ADJOURN MEETING OUT OF CLOSED SESSION AND NOTE ANY REPORTABLE ACTION TAKEN

The Mayor adjourned to open session at 10:50 p.m. and indicated that no reportable action had been taken.

ADJOURN MEETING

The Mayor adjourned the meeting at 10:52 p.m. in memory of Mr. Anthony John Harrow, long-time Larkspur resident and rowing coach for the Marin Rowing Association.

Respectfully submitted,

Toni DeFrancis
Recording Secretary