

**TOWN OF FAIRFAX
AMENDED STAFF REPORT**

To:	Mayor, Members of the Town Council
From:	Jack Judkins, Co-Chair Fairfax Open Space Committee
Date:	January 10, 2013
Subject:	Approval of Resolution 13-2, proposed terms of Option Agreement for Purchase of Real Property (Assessor's Parcel Nos. 001-193-07 and -09) and for Acceptance of Donation of Real Property (Assessor's Parcel No. 001-193-03) and Authorization of Town Manager to Negotiate and Enter into the Agreement, exercise the Option and accept the Real Property.

RECOMMENDATION

The Fairfax Open Space Committee (FOSC) recommends that the Town adopt the proposed resolution No. 13-2, attached as **Exhibit 1**, approving the proposed terms of an option agreement, by which the Town would purchase two parcels (Assessor's Parcel Nos. 001-193-07, and 001-193-09) and accept the donation of title to a third parcel Assessor's Parcel No. 001-193-03) and authorize the Town Manager to negotiate and enter into an option agreement that is substantially in the form of the attached agreement, together with such changes as are approved by the Town Attorney, and thereafter to exercise the Option and accept the property in accordance with the terms of the Agreement.

BACKGROUND

The Town created the Fairfax Open Space Committee (FOSC) by resolution in 2004. Under that resolution, FOSC is charged with the responsibility "to determine the availability of unique, threatened, or environmentally sensitive land parcels that may be appropriate to acquire to hold in perpetuity as dedicated open space for the public". At its regular meeting on September 5, 2012, the Town Council authorized FOSC to initiate negotiations with Neil Reed, the owner of three vacant, undeveloped lots located on or near Upper Ridgeway Avenue: Assessor's Parcel Nos. 001-193-07, 001-193-09 and 001-193-003 (the "Property"), for the purchase of the first two parcels (the "Purchase Parcels") by the Town and the donation to the Town of the third parcel (the "Donation Parcel"). The September 5, 2012 Staff Report (**Exhibit 2**) includes detail about the properties and their desirability as open space and as public accessways to adjacent publicly owned ridgetop lands.

DISCUSSION

Representatives of FOSC have successfully completed negotiation with Mr. Reid and have reached informal agreement on most of the major deal points, subject to Town Council approval. Those terms have been incorporated in a draft proposed "Option Agreement" (**Exhibit 3**). In brief, the deal points on which the parties have agreed are as follows:

1. The Town and Mr. Reid will enter into an option agreement that will allow for the purchase by the Town of the Purchase Parcels and for the acceptance of title to the Donation Parcel.
2. The option agreement will allow the Town up to one year to exercise the option, which will provide FOSC with time to raise additional funds for the purchase price and other costs (see below), beyond the funds currently held in the Open Space account and available for the purchase. According to the Town Finance Director, the Open Space account now has approximately \$9000, that might be directed to the costs of acquisition of this property.
3. Upon entering into the option agreement, the Town will pay an option payment of \$2,250 to secure the option and will pay a second payment of \$2,250, if the option is not exercised within the first six months. The option payment will be non-refundable if the Town elects not to exercise the option and does not purchase the property within the one year option term.
4. The Purchase Price for the Purchase Parcels is \$45,000, if purchased in the first six months of the option; it increases to \$47,250 if purchased subsequently. Mr. Reid will donate the Donation Parcel, if the Town acquires the Purchase Parcels.
5. The Town will reimburse the owner for all current property tax assessments for the property that become due prior to the exercise of the Option. Current bi-annual installments are approximately \$950.
6. The parties will split all costs of escrow. If the Town elects to have title insurance, the Town will bear that cost.

As noted above, FOSC will take the lead role in providing the additional funds required for the acquisition, through fundraising events, appeals for donation and seeking out grant opportunities. The only current Town funds that will be used are those that were raised in the past through FOSC activities. The risk of the transaction is limited to the amount of the option payment (up to \$4,500), should FOSC be unable to secure adequate funds for the acquisition through its activities.

FOSC believes that these terms are favorable to the Town and, for the reasons discussed in the September 5, 2012 Staff Report, that the purchase of the Purchase Parcels, along with acceptance of the Donation Parcel, will greatly benefit the Town, by providing additional open space lands, and by providing the opportunity for public

access to open space lands that are adjacent to the property.

FISCAL IMPACT

Only existing Town funds that are dedicated for use for open space purposes would be expended. No other current Town funds would be used or committed.

ATTACHMENTS

Exhibit 1 - Resolution No. 13-2

Exhibit 2 – Staff Report of September 5, 2012 with Exhibits

Exhibit 3 - Proposed Option Agreement