TOWN OF FAIRFAX
STAFF REPORT

To: **Mayor, Members of the Town Council**

From: **Garrett Toy, Town Manager** GT

Date: **April 3, 2013**

Subject: **Adopt Resolution establishing a policy regarding the use of contributions to the Open Space Fund**

RECOMMENDATION

1) Adopt a resolution establishing a policy regarding the use of contributions to the Open Space Fund.
2) Authorize Town Manager to transfer $3,600 from General Fund Reserves to the Open Space Fund.

DISCUSSION

Attached is a memo from Mimi Newton, Chair of the Fairfax Open Space Committee (OSC), requesting that the Melvin Property funds repaid by the OSC be transferred to the Town's Open Space Fund. The OSC repaid approximately $30,000 to the Town for the purchase. The OSC also wants to ensure that the monies contributed to the Open Space Fund are devoted to open space purposes and that the balance of funds owned (approximately $3,600) be transferred to the Open Space Fund. Ms. Newton's memo also provides background on the transaction.

As clarification, the Town transferred the funds in question to the Open Space Fund in FY11-12. However, the Town only transferred $26,400 which was probably the amount net of acquisition costs (i.e., escrow and closing costs). However, rather than research the transaction, staff recommends the approval of the transfer of $3,600 to the Open Space Fund.

The attached resolution was prepared by Councilmember Bragman. Although the title of the resolution suggests the establishment of an Open Space Fund, both staff and Councilmember Bragman agreed that the primary purpose of the resolution is to adopt a policy governing the use of funds contributed to existing Open Space Fund. As a matter of practice, the monies in the Open Space Fund are only used for open space purposes for uses identified in the adopted budget. This resolution, in essence, converts the practice into a formal policy.

FISCAL IMPACT

The General Fund Fund Balance reserve (Fund 01) would be reduced by $3,600 and the Open Space Fund (Fund 73-673) fund balance would be increased by $3,600.

ATTACHMENTS

Memo from Mimi Newton, Chair of the OSC

AGENDA ITEM # 22

RESOLUTION NO. 13-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX ESTABLISHING AN OPEN SPACE FUND

WHEREAS, the citizens of the Town of Fairfax have long cultivated a deep appreciation of the biodiversity and special beauty of their local environment; and,

WHEREAS, there remain environmentally sensitive lands in the Town of Fairfax that are subject to development pressures which threaten the loss of unique environmental and aesthetic qualities for future generations of citizens; and,

WHEREAS, development issues can be particularly divisive to the social fabric of our community and the web of relationships which sustain it; and,

WHEREAS, the citizens of Fairfax have long demonstrated a preference to exercise local control and dominion over our remaining open space; and,

WHEREAS in 2004, the Town of Fairfax established an Open Space Committee to meet the challenges of preserving and protecting open space lands; and,

WHEREAS, in 2004 it was ascertained that the then residence of Denise M. Dunn ("Dunn") and a significant number of related improvements encroach upon the parcel owned by the Town, Assessors Parcel #002-145-35; and,

WHEREAS, at the direction of the Town, Dunn provided and paid for a title search, a survey and an appraisal of said Parcel #002-145-35, and the results of said title search, survey, and appraisal were deemed acceptable to the Town; and

WHEREAS, Dunn purchased from the Town the portion of APN #002-145-35 on which the encroachments were located for the appraised value of $29,966.04; and,

WHEREAS, the Town subsequently used the $29,966.04 received from Dunn to help purchase its first open space property, now known as Egger Grove, on the condition that the Fairfax Open Space Committee raise funds to replenish the funds; and,

WHEREAS, the Fairfax Open Space Committee, through the tireless efforts of its members over a period of almost five years, succeeded in raising the money to replenish these funds; and,

WHEREAS, there remains a continuing need to have a viable and robust open space fund to access as acquisition opportunities and challenges arise; and,

WHEREAS, the Fairfax Town Council has informally indicated its preference that these funds be dedicated for open space purposes; and,

WHEREAS, the Town Manager is authorized and has established a dedicated Open Space Fund within the Town of Fairfax budget;

NOW, THEREFORE, BE IT RESOLVED, that The Town Council of the Town of Fairfax hereby authorizes and directs the Town Manager to deposit to the dedicated Open Space Fund within the Town of Fairfax budget all monies received from any source for open space purposes and all monies raised by the Fairfax Open Space Committee, including all monies raised and repaid to the Town for the Egger Grove purchase, less any expenditures of monies for open space purposes that have been approved by the Fairfax Open Space Committee and the Town Council.

BE IT FURTHER RESOLVED, that the Open Space Fund shall be used solely for open space purposes including but not limited to analysis, acquisition, or operational purposes.

The foregoing Resolution was duly introduced and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said town on the 1st day of May 2013 by the following vote, to wit:

AYES:
NOES:
ABSENT:

_____
JOHN REED, MAYOR

Attest:

_____
Deputy Town Clerk

MEMORANDUM

TO: Mayor and Town Council

FROM: Fairfax Open Space Committee
By Mimi Newton, Chair

DATE: May 1, 2013

SUBJECT: Request for Resolution Confirming that Melvin property funds repaid by FOSC be transferred to the Town Open Space Fund

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Background.

In 2004, the Town sold property to Denise Dunn for $29,966.04. Apparently, Ms. Dunn had built structures on her property that inadvertently encroached onto adjacent Town-owned land. In order to resolve the issue, the Town sold that land to Ms. Dunn.

Subsequently, the Town used the $29,966.04 in funds received from Ms. Dunn as seed money for the purchase of the Melvin property (now Egger Grove) in order to preserve it as open space. At the time of the purchase of the Melvin property, the Fairfax Open Space Committee (FOSC) committed to repaying the $29,966.04 to the Town, with the understanding that once repaid, these funds would be used in the future for open space purposes. However, this understanding was never formalized by resolution of the Town Council.

In July 2008, this matter was brought to the Town Council for discussion and resolution. At the time, the proposal appeared to be supported by the Town Council. However, due to inadvertence, no follow-up resolution was ever presented to or adopted by the Council. FOSC now requests that the Town Council adopt a resolution requiring that the full amount of the $29,966.04 be transferred to the Town Open Space Fund.

Repayment of the Funds

Soon after the acquisition of the Melvin property by the Town, FOSC began the process of raising money to repay the Town. Over the course of the next several years, FOSC held a number of fundraising events, sent out mailers and sought donations from citizens. In 2008, FOSC had raised the full amount of $29,966.04 and the funds were presented to the Town. Since that time there has been uncertainty as to how the repaid funds should be treated. Most of the repaid funds ($26,400) have been transferred to the Open Space Fund. In order to formalize that

the repaid funds should be devoted to open space purposes and to accomplish the transfer to the Open Space Fund of the remaining balance of $3,566.04, a resolution of the Council is needed.

FOSC Recommendation

FOSC volunteers spent a number of years and many, many hours raising the funds that were repaid to the Town. It was the understanding of FOSC that the funds would be allocated to the Open Space Fund for use for future open space purposes. The proposed resolution would clarify the longstanding intention of the Town Council and FOSC. Accordingly, FOSC recommends that the Council adopt the resolution.