



TOWN OF FAIRFAX

STAFF REPORT

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager ^{GT}

DATE: June 5, 2013

SUBJECT: Discuss/consider options for the Pastori Outfall Pipe and Bank Stabilization project.

RECOMMENDATION

Select an option and direct staff to proceed.

DISCUSSION

For several years, the Town has been considering stabilizing and repairing the eroded 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, tree removal, access to the adjacent properties to perform the work, and other issues.

At its May 2013 meeting, the Council discussed the options with the objective of providing a "fresh start" for the project. There were several issues raised by the Council regarding status of permitting, the removal of the tree on the bank, financing plan, and a question to an adjacent property owner related to insurance. The following are the responses:

- The permits from the outside agencies are still in effect. The Army Corp permit is valid until June 2014. The CDFW Streambed Alteration Agreement expires in December 2013 and will need to be extended to construct the project in 2014. Attached is a letter from CSW, project engineer, discussing the status of permits.
- The environmental clearance remains valid.
- Staff contacted two contractors who indicated they do not believe the tree has to be removed in order to perform the work. The Town's Building Official/Public Works Manager also believes the work can be performed without removal of the tree.
- Staff is working on a financing plan which would probably involve loans and use of general fund reserves. FEMA has granted an extension of funding for the \$49,000. This funding would be available to the project only if it is completed by November 2013.

- The adjacent property owner has indicated the type of insurance policy he is looking for (Contractor Controlled Insurance Program), but no information on cost. Staff has contacted a commercial insurance broker for information on bridge insurance.

Attached are three options for consideration. The option of installing temporary improvement was eliminated because it would not be approved by outside agencies. The only option with the possibility of being completed this year is the bank stabilization only project.

Fiscal Impact

If a decision is made to proceed, staff would develop a financing plan for Council consideration prior to bidding the project out. As part of the effort, staff would get proposals for the fish relocation plan and other project related costs (e.g., bird survey, construction management). Depending on the option selected, a special Council meeting may be needed to approve the financing plan and various consultant agreements in order to complete the project within the permitting deadlines.

PASTORI OUTFALL PIPE OPTIONS

A. Re-bid project without pipe replacement and only with bank stabilization component

Advantages

- Has environmental clearance
- Bid packet would only need minor revisions and, thus, could be rebid relatively quickly
- Has outside agency permits
- Has lowest, best defined costs (\$200,000-\$250,000)
- Has possibility of being completed this year; however, all work in the creek must be completed by October 15th
- Eligible for FEMA funds of \$49,000 if completed by November 2013
- Does not remove tree and, thus, does not require additional environmental clearance or other agency permits

Disadvantages

- Project does not address flooding in adjacent neighborhood
- Does not achieve economies of scale in cost by including the pipe replacement
- May need special Town Council meetings to approve contracts for the project

Possible Barriers

- Obtaining Right of Entry from adjacent property owners for temporary access; it should be noted that the property owners did previously execute right of entry agreements (ROE) for the bank stabilization project only, but the ROE has expired.
- Availability of funding for project

B. Bid project with original pipe replacement and bank stabilization component (see attached Plan B)

Advantages

- Has environmental clearance
- Has outside agency permits
- Has better defined costs
- Project addresses flooding in adjacent neighborhood
- Achieves economies of scale in cost by including the pipe replacement
- Does not require permanent easement from a property owner

Disadvantages

- Bid packet would need revisions
- Property owner will not permit the Town to install a larger pipe in the wing wall of the bridge among other issues
- Delays project to next year
- Project is costly (estimated cost of \$270,000- \$320,000)

- No FEMA funding
- Would be unlikely to begin Project this year

Possible Barriers

- Obtaining Right of Entry from property owners for temporary construction access
- Property owner(s) may object/oppose any removal of trees to perform work
- Obtaining permission to install pipe in the wing wall of the bridge
- Availability of funding for Project

C. Bid project with pipe realignment and with bank stabilization component (attached Plan C)

Advantages

- Project addresses flooding in adjacent neighborhood
- Achieves economies of scale in cost by including the pipe replacement
- Only requires permanent easement and access from one adjacent property owner, as the pipe is re-located outside of the town right of way and creek bed

Disadvantages

- Requires outside agency approvals and permits
- Project has the highest cost of the three option (rough estimate: \$350,000-\$400,000)
- Requires a property owner to grant permanent easement and temporary access
- Requires additional environmental clearance
- Requires significant revisions to the bid packet
- Delays construction to next year

Possible Barriers

- Obtaining Right of Entry from Property Owner for temporary access and permanent easement
- Property owner(s) may object/oppose any removal of trees to perform work
- Availability of funding for the Project

Date: May 9, 2013
File: 4.1086.14

RECEIVED

MAY 13 2013

TOWN OF FAIRFAX

Mr. Garrett Toy
Town Manager
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

**RE: PASTORI STORM DRAIN OUTFALL
STATUS OF ENVIRONMENTAL PERMITTING**

Dear Garrett:

This letter summarizes the status of environmental permitting for the Pastori Storm Drain Outfall project.

APPROVED PLANS FOR ENVIRONMENTAL PERMITTING

Authorization under the U.S. Army Corps of Engineers (Corps) Nationwide Permit #3, the San Francisco Bay Regional Water Quality Control Board (Water Board) Conditional Water Quality Certification, and the California Department of Fish and Wildlife (CDFW - formerly California Department of Fish and Game) Final Streambed Alteration Agreement were all issued based upon the attached Bank Stabilization for Pastori Storm Drain Outfall set of plans consisting of 4 sheets (EN1 and EN2 are dated April 14, 2010 and EN3 and EN4 have a revision date November 21, 2011).

ENVIRONMENTAL PERMITTING PROJECT DESCRIPTION

The project description for the approved set of plans and environmental permitting includes the installation of a 48-inch diameter HDPE pipe that will replace the existing 24-inch diameter pipe, stabilization of the failed creek bank with a stable engineered rock slope protection (RSP) energy dissipation structure including a rootwad (with trunk) installed to enhance fish habitat and provide refugia. The project also includes the installation of four (4) "perma-jack" piles to protect and support the existing bridge wingwall footing and the filling of voids that have developed between the concrete footing and the wingwall. The dewatering plan to be implemented so construction can occur has also been approved. Removal of the bigleaf maple tree adjacent to the bridge wingwall is not included in the project description.

CEQA

"The Water Board, as a responsible agency under CEQA, has considered the MND and finds that the Project's significant environmental effects that are within the Water Board's purview and jurisdiction have been identified and will be mitigated to less-than-significant levels. Specifically, significant impacts pertaining to wetland and aquatic habitat and water quality will be mitigated to less-than-significant levels."

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Before the CDFW may issue an Agreement, “it must comply with the California Environmental Quality Act (“CEQA”). In this case, the Department, acting as a responsible agency, filed a notice of determination (“NOD”) on June 12, 2012, based on information contained in the Pastori Storm Drain Outfall Project, Mitigated Negative Declaration the lead agency prepared for the Project. Under CEQA, filing a NOD starts a 30-day period within which a party may challenge the filing agency’s approval of the project.” No party challenged the filing of the CDFW’s approval of the project.

EXPIRATION OF ENVIRONMENTAL PERMITTING

The Corps “verification will remain valid for two years” from the June 12, 2012 date of the Corps letter or until June 12, 2014. “Activities which have commenced (i.e. are under construction) or are under contract to commence in reliance upon a NWP will remain authorized provided the activity is completed within 12 months of the date of a NWP’s expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d).” In other words, per the Corps, the Town can construct the project in 2013 or 2014. If it is to be constructed in 2014, then the construction contract must be signed before June 12, 2014.

Per the CDFW Final Streambed Alteration Agreement, the Town can construct the project in 2013. The Town will need to extend the Agreement before December 31, 2013 if it would like to construct the project in 2014.

There is no expiration date stated in the Conditional Water Quality Certification.

CONDITIONAL APPROVALS

All of the environmental permitting is based upon certain conditions of approval being met. All letters contain the measures that must be implemented and tasks that must be completed. The measures to be implemented should be included in the bid documents so the contractors can include the costs for implementing the measures in their bids. The letters from the Corps, Water Board and CDFW plus the National Marine Fisheries Service (NMFS) Biological Opinion are attached.

PUBLIC COMMENTS

If there are any concerns voiced by the public or creek groups, they should be informed that the design for the Pastori Storm Drain Outfall project was prepared in conjunction with Matt Smeltzer, author of the “Geomorphic Assessment of Town of Fairfax Project Sites, Final Report” for all of the FEMA Fairfax creek projects. In addition, the plans and “Hydrology and Hydraulic Analysis” were reviewed and approved by Jack Curley, Capital Planning and Project Manager at County of Marin Public Works Department.

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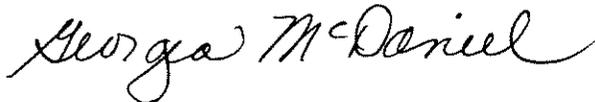
Please notify the agencies if the Town decides to move forward with the construction of the project. Below is the contact information for the agency representatives assigned to the project.

Corps	Roberta Morganstern, (415) 503-6782 Roberta.A.Morganstern@usace.army.mil
Water Board	Xavier Fernandez, (510) 622-5685 xafernandez@waterboards.ca.gov
CDFW	Tim Dodson, (707) 944-5513 tdodson@dfg.ca.gov
NMFS	Amanda "Mandy" Morrison, (707) 575-6083 Amanda.Morrison@noaa.gov

If you have any questions or need additional information, please contact me at my cell number (707) 529-7643 or via email at Georgia@gmcdassoc.com.

Best regards,

CSW/STUBER-STROEH ENGINEERING GROUP, INC.



Georgia McDaniel, M.C.P., R.L.A.

GKM:kab

- Attachments:
1. Letter to Georgia McDaniel from Jane M. Hicks, U.S. Army Corps of Engineers, dated June 12, 2012;
 2. Letter to Michael Rock from Bruce Wolfe, San Francisco Bay Regional Water Quality Control Board, dated June 14, 2012;
 3. Letter to Michael Rock from Craig J. Weightman, California Department of Fish and Game (now California Department of Fish and Wildlife), dated June 13, 2012;
 4. NMFS Biological Opinion, dated June 4, 2012
 5. Bank Stabilization for Pastori Storm Drain Outfall, EN1-EN4, revised November 21, 2011

cc: Gregg Grubin, CSW|ST2