



Agenda Item No. 16.

Staff Report

Date: October 9, 2014

To: Mayor Elizabeth Brekhus and Council Members

From: Rob Braulik, Town Manager

Subject: Council discussion of request from Marin Art & Garden Center for fee waiver/reduction associated with Design Review and Variance for Shed, 30 Sir Francis Drake Boulevard

Recommendation

Staff recommends the Council deny waiving or reducing the fees for the Marin Art & Garden Center design review and variance for Shed, 30 Sir Francis Drake Boulevard. Please see narrative below.

Background and discussion

The Council reviewed the design and variance for the Marin Art & Garden Center shed at 30 Sir Francis Drake Boulevard at the September 11th meeting. At the meeting MAGC representatives requested the Council consider a fee waiver/reduction for fees associated with this project. Since this request was only presented by the applicant at the meeting the Council could not deliberate on it then. The item is now before the Council for review.

MAGC is listed as an exempt organization in the Internal Revenue Service (IRS) database and the deductibility status is Public Charity (PC) which means up to 50% of donations can be deducted. According to the IRS there are 36 other PC's in Ross (see attached list). Also provided to the Council is an IRS tax-exempt organization reference chart which shows there are over twenty types of 501(c)3 organizations.

Thus if the Council decides to grant a fee waiver/fee reduction it is suggested Council be specific on what types of 501(c) 3's it may want to consider. According to MAGC they are a 501(c)3 nonprofit organization. In 2012 the Town received a request for a building permit waiver for Pixie Park improvements (see attached Council minutes). The Council at that time, reduced the fees eighty (80%) from \$5,126 to \$4,100. Pixie Park then subsequently never pulled a permit for the work.

Staff does not support a waiver or reduction in the fees for the following reasons:

▪ MAGC has demonstrated <u>no financial hardship</u> to support a fee waiver or reduction. There is no quantitative documentation to support this request. Furthermore, MAGC is in the process of hiring a new Operations Manager with a compensation estimated to be between \$80,000 and \$120,000; further demonstrating no financial hardship
▪ MAGC paid the standard fees associated with the recent SFD/Lagunitas pedestrian project capital improvements they needed to do. These fees were higher than the fees referenced here
▪ The Town assumed the new lease entered into by the former Ross Recreation for use of space at MAGC for a preschool. The increase in net new revenues to MAGC from this lease was approximately \$54,000, thus MAGC has experienced a substantial increase in rental revenues from this lease
▪ <u>Precedent</u> . This would set a precedent for possibly many other Ross nonprofit agencies seeking the same relief (see attached list of up to 36 organizations). This could result in tens of thousands of dollars in revenue loss while the Town is still providing services to these organizations. There are no established quantitative criteria which an organization has to demonstrate in writing a financial hardship to justify a fee waiver or reduction. Also many of these organizations are exempt from paying property tax, the main revenue source for the Town
▪ A waiver or fee reduction puts the financial burden on all other general taxpayers as the general fund will need to subsidize the cost

Fiscal, resource and timeline impacts

The applicant paid three thousand thirty (\$3,030) dollars. The Town charges this fee to cover the costs of providing services for these types of projects. If the Council decides to waive/reduce the fee then the general fund will subsidize the cost of providing services to this applicant.

Alternative actions

1. Council could create a new fee tier for qualified 501 (c)3 nonprofits that can demonstrate a financial hardship based on quantitative objective criteria (e.g., set a fee rate @ 75% of the normal fee rate)
2. Council could approve full waiver of the fees
3. Council could reduce the fees by some %

Environmental review (if applicable)

N/A

Attachments

- Council May 10, 2012 minutes
- IRS Public Charities list
- Tax-exempt organizations reference chart and Other Tax-Exempt Organizations

Mayor Small asked for a motion.

Mayor Small moved and Mayor Pro Tempore Russell seconded, to adopt Resolution No. 1768, approving fees for special permits for events in public parks. Motion carried unanimously. Hunter absent.

a. **Approval of contract for appointment and compensation of Town Manager.**

The Town Council continued item 18.b "*Approval of contract for appointment and compensation of Town Manager*" to an adjourned regular meeting to be held on Thursday, May 24, at 6:30 p.m. The Council will take public input on the proposed contract for the new Town Manager at that meeting. The Council hopes to award the employment contract and announce the new Town Manager at that meeting.

* 19. **Town Council consideration/approval of Building permit fee waiver for Pixie Park improvements.**

Public Works Director Bob Hemati summarized the staff report and recommended that the Council consider and approve a building permit fee waiver for Pixie Park improvements.

Council Member Strauss asked staff the actual cost to process. Public Works Director Hemati responded that it is a total of 16 hours. Council Member Strauss noted it is a nonprofit and wanted to make sure the Town is covering their cost. Public Works Director Hemati explained that the structural designer is donating time. The material is not donated, but it is the same idea as 3 Bear Hut, so the team is under the same theory.

Mayor Small stated they are hosting their Town Dinner at Marin Art & Garden Center and asked staff if they are getting a break on the cost. Interim Town Manager Thompson responded that the Town received a better rate. Mayor Small stated it is always a give and take. They are a wonderful part of their community and they are raising funds for their improvements, but believed the Town must be careful. If they are planning a major master plan and making major changes, those fees will not be waived. The changes they are considering down the road with their master plan could have a significant impact on staff time, so they must be careful.

Council Member Strauss recommended waving a portion of the fee. Council Member Martin suggested a percentage of the normal fee, which would protect the Town in the event the project changes.

Mayor Small opened the public hearing on this item.

Elizabeth Brekhus, Sir Francis Drake resident, is a Pixie parent and has been for 10 years. This has been a very hard project for Pixie parents to fund and has been in the works for a long time. The facility is in terrible condition. Pixie Park is a great benefit for the community. It serves residents of Ross. It is also a great program and facility for the Town. It has been such a community event with donations and individuals dedicating their time and energy to make it happen. It would be great for the Town to support and waive the fee. She further noted that Pixie Park is struggling and it would be appreciated by the parents and the Pixie community.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

May 10, 2012 Minutes

Council Member Martin suggested reducing the fee by 80%. Council Member Strauss agreed.

Mayor Small stated that Pixie Park is one of the nonprofits widely used by Ross residents. They do want to recover, so it would be great to waive the entire fee, but she is not sure how to justify if the Artist Group or Laurel House comes in, so they must have some sense of fairness and respect. They must look at the budget, staff time and impact and an 80% reduction is significant.

The Council agreed to waive 80% of the building permit fees for renovation of the Pixie Park playground clubhouse at the Marin Art & Garden Center, or approximately \$4,100 of the estimated \$5,126 in fees. The proposed renovations include installation of a new restroom, tar and gravel roof, exterior doors and windows, interior finishes and lighting, and repair and repainting of the exterior siding. Pixie Parents, Inc., a non-profit organization and volunteer cooperative, manages the playground.

Pixie Park parents had asked the Council to waive all building permit fees, but Council members were concerned about covering costs for staff time and setting a precedent for other building fee waiver requests, especially in light of the current budget deficit.

Mayor Small asked for a motion.

Council Member Martin moved and Council Member Strauss seconded, to approve a Building Permit fee for Pixie Park improvements with an 80% reduction from the anticipated fee. Motion carried unanimously. Hunter absent.

20. No Action Items:

a. Council correspondence received

- Have Interim Town Manager Patricia Thompson send a letter in regard to what is happening with the Post Office and Postmaster
- Workshop for California Public Officials on disaster preparedness hosted by Marin County Sheriff

b. Future Council items

- Recommendation from staff in regard to 20 minute parking spaces downtown and enforcement
- Bicycle lane
- Warning vehicles to park in the right direction
- Update on Sir Francis Drake Boulevard/Lagunitas Road intersection project

21. Discussion of the five Town Council goals for FY 2011-2012 developed at the Town Council retreat and the implementation of these goals.

a. Development of right-of-way regulations

Mayor Small announced that a public workshop on right-of-way regulations should occur shortly.

b. Development of Council procedures

Council Member Martin had nothing further to add.

c. Development of overlay landscape plan

Council Member Strauss is waiting to see if the first phase is fully funded after the June 5th election.

THE MORNING AFTER

*Highlights from the
Ross Town Council Meeting
of May 10, 2012*

Volume 6, No. 5

May 11, 2012

Town Annual Audit Completed

The Council received a presentation by the Town's audit firm Vavrinek, Trine, Day and Company and accepted the annual audit for the fiscal year ending July 30, 2011. The audit provides a comprehensive picture of the Town's finances, benefits, investment protocols, reserve balances and retirement accounts. It was the audit firm's opinion that the Town's financial statements were presented fairly and conformed to accounting principles generally accepted in the United States.

Special Event Permit Fees Established

The Council adopted a resolution establishing fees for special event permits for the use of Town parks and other Town-owned properties. The new fees include a \$125 permit processing fee and a reservation fee of \$200 for up to four hours use of the park or public area and \$400 for up to eight hours. A clean-up deposit may also be required. Fees for multiple day events, such as the Farmers Market, will be set on an individual basis by agreement of the parties. Organizations may ask for a fee reduction or waiver, but will need to get their applications in a couple of months before the event in order to be considered by the Council.



The Council discussed restricting the type or number of special events that will be allowed in order to ensure the community is not overwhelmed with too many events. The Council will address this issue in the near future.



Building Permit Fees Reduced for Pixie Park Clubhouse

The Council agreed to waive 80% of the building permit fees for renovation of the Pixie Park playground clubhouse at the Marin Art & Garden Center, or approximately \$4,100 of the estimated \$5,126 in fees. The proposed renovations include installation of a new restroom, tar and gravel roof, exterior doors and windows, interior finishes and lighting, and repair and repainting of the exterior siding. Pixie Parents, Inc., a non-profit organization and



Exempt Organizations Select Check

[Exempt Organizations Select Check Home](#)

Organizations Eligible to Receive Tax-Deductible Charitable Contributions (Pub. 78 data) - Search Results

The following list includes tax-exempt organizations that are eligible to receive tax-deductible charitable contributions. Click on the "Deductibility Status" column for an explanation of limitations on the deductibility of contributions made to different types of tax-exempt organizations.

Results are sorted by EIN. To sort results by another category, click on the icon next to the column heading for that category. Clicking on that icon a second time will reverse the sort order. Click on a column heading for an explanation of information in that column.

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Results Per Page

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<u>EIN</u>	<u>Legal Name (Doing Business As)</u>	<u>City</u>	<u>State</u>	<u>Country</u>	<u>Deductibility Status</u>
20-0486174	Ross School Endowment Fund	Ross	CA	United States	SOUNK
20-3907074	Ross Police Officers Association	Ross	CA	United States	PC
26-4552418	Haslett Family Foundation	Ross	CA	United States	PF
27-3980915	Lenore and Frank Heffernan Family Foundation Inc.	Ross	CA	United States	PF
45-0933237	Brick by Brick Global Education Fund Inc.	Rossmoor	CA	United States	PC
45-1611066	Miss Representation	Ross	CA	United States	PC
45-2572241	Los Alamitos High School Girls Soccer Booster Club	Rossmoor	CA	United States	PC
45-3638189	Creative Rescue	Ross	CA	United States	PC
46-3255564	North Bay Rugby Club Inc.	Ross	CA	United States	PC
46-4328689	Brent Strawsburg Apogetics	Rossmoor	CA	United States	PC
68-0057165	Marin Handicapped Housing No 5	Ross	CA	United States	PC
68-0281430	Marin City Childrens Program	Ross	CA	United States	PC
68-0425256	Dante House Inc.	Ross	CA	United States	PC
68-6084391	Joseph R Parker Foundation	Ross	CA	United States	PF
68-6188514	Mamontor Foundation	Ross	CA	United States	PF
75-6028620	McBurney Foundation	Ross	CA	United States	PF
80-0526530	Rotary Central Marin Foundation	Ross	CA	United States	PC
93-1135081	Leathers Family Foundation	Ross	CA	United States	PF
94-0338330	The Branson School	Ross	CA	United States	PC
94-0608100	Tamalpais Conservation Club	Ross	CA	United States	PC
94-1085734	Marin Art and Garden Center	Ross	CA	United States	PC
94-1606518	Cedars of Marin	Ross	CA	United States	PC
94-1707580	Northgate Group R Y Martz	Ross	CA	United States	PC
94-2702046	Town of Ross Property Owners Association	Ross	CA	United States	PC
94-2838271	Ross School Foundation	Ross	CA	United States	PC
94-2885102	Jose Moya Del Pino Library Ross Historical Society	Ross	CA	United States	PC
94-3039716	Gruber Family Foundation	Ross	CA	United States	PF
94-3105570	Oceanic Society Expeditions	Ross	CA	United States	PC
94-3169393	Cal Beta Sae Educational Institute Inc.	Ross	CA	United States	PC
94-3292800	Lamont House Inc.	Ross	CA	United States	PC
94-3306712	Diary Project	Ross	CA	United States	PC
94-3354830	Amini Foundation for the Study of Affects	Ross	CA	United States	PF
94-6089826	Marin Society of Artists Inc.	Ross	CA	United States	PC
94-6088438	Pixie Parents	Ross	CA	United States	PC
94-6102752	Marin Music Chest	Ross	CA	United States	PC
95-2122883	Lil Cottonwood Play Group	Rossmoor	CA	United States	PC

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Other Tax-Exempt Organizations

The following is a list of other types of tax-exempt organizations. For more information regarding these types of organizations, download [Publication 557, Tax-Exempt Status for Your Organization](#), or contact IRS [Customer Service](#).

§ 501(c)(1)	Corporations Organized Under Act of Congress (including Federal Credit Unions)
§ 501(c)(2)	Title Holding Corporations for Exempt Organization
§ 501(c)(11)	Teachers' Retirement Fund Associations
§ 501(c)(12)	Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, or Like Organizations (if 85 percent or more of the organization's income consists of amounts collected from members for the sole purpose of meeting losses and expenses)
§ 501(c)(13)	Cemetery Companies (owned and operated exclusively for the benefit of their members or which are not operated for profit)
§ 501(c)(14)	State Chartered Credit Unions, Mutual Reserve Funds
§ 501(c)(15)	Mutual Insurance Companies or Associations
§ 501(c)(18)	Cooperative Organizations to Finance Crop Operations
§ 501(c)(18)	Employee Funded Pension Trusts (created before June 25, 1959)
§ 501(c)(21)	Black Lung Benefit Trusts
§ 501(c)(22)	Withdrawal Liability Payment Funds
§ 501(c)(25)	Title Holding Corporations or Trusts with Multiple Parents
§ 501(c)(26)	State-Sponsored High-Risk Health Coverage Organizations
§ 501(c)(27)	State-Sponsored Worker's Compensation Reinsurance Organizations
§ 501(c)(28)	National Railroad Retirement Investment Trust (45 U.S.C. 231n(j))
§ 501(c)(29)	Qualified Nonprofit Health Insurance Issuers
§ 501(d)	Religious and Apostolic Associations
§ 501(e)	Cooperative Hospital Service Organizations
§ 501(f)	Cooperative Service Organizations of Operating Educational Organizations
§ 501(k)	Child Care Organizations
§ 521(a)	Farmers' Cooperative Associations

Page Last Reviewed or Updated: 13-May-2014

Tax-Exempt Organization Reference Chart

Derived from "IRS Publication 557: Tax-Exempt Status for Your Organization (1997)"

Note: This table may not include every type of organization that qualifies for some form of federal tax-exemption. It should not be considered legal advice or otherwise used to determine matters of law, and is provided for educational purposes only. Please use official IRS materials to insure your information is completely up-to-date and accurate.

Section of 1986 Tax Code	Description of organization	General nature of activities	Application Form	Annual return required to be filed	Contributions allowable	
501(c)(1)	Corporations Organized Under Act of Congress (including Federal Credit Unions)	Instrumentalities of the United States	No Form	None	Yes, if made for exclusively public purposes	
501(c)(2)	Title Holding Corporation For Exempt Organization	Holding title to property of an exempt organization	1024	990 ¹ or 990EZ ⁸	No ²	
501(c)(3) (also here)	Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations	Activities of nature implied by description of class of organization	1023	990 ¹ , 990EZ ⁸ , or 990-PF	Yes, generally	
		All 501(c)(3) organizations are further categorized as one of five types under IRC 509(a):				
		Sub-class	Section	Description		
		Private foundations		All 501(c)(3) organizations that don't qualify as public charities. Some private foundations are additionally subclassified as private operating foundations or private non-operating foundations, which receive some of the advantages of public charities.		

		<u>Public charities</u>	509(a)(1)	Publicly-supported charities.	
			509(a)(2)	Exempt purpose activity-supported charities.	
			509(a)(3)	Supporting organizations for 509(a)(1) or 509(a)(2) charities.	
			509(a)(4)	Public safety charities.	
501(c)(4) (also <u>here</u>)	<u>Civic Leagues, Social Welfare Organizations, and Local Associations of Employees</u>	Promotion of community welfare; charitable, educational or recreational	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No, generally ^{2,3}
<u>501(c)(5)</u> (also <u>here</u>)	Labor, Agricultural, and Horticultural Organizations	Educational or instructive, the purpose being to improve conditions of work, and to improve products and efficiency	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)(6)</u> (also <u>here</u>)	Business Leagues, Chambers of Commerce, Real Estate Boards, Etc.	Improvement of business conditions of one or more lines of business	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)(7)</u> (also <u>here</u>)	Social and Recreation Clubs	Pleasure, recreation, social activities	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)(8)</u> (also <u>here</u>)	Fraternal Beneficiary Societies and Associations	Lodge providing for payment of life, sickness, accident, or other benefits to members	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	Yes, if for certain Sec. 501(c)(3) purposes
<u>501(c)(9)</u> (also <u>here</u>)	Voluntary Employees' Beneficiary Associations	Providing for payment of life, sickness, accident or other benefits to	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²

here)		members			
<u>501(c)(10)</u> (also here)	Domestic Fraternal Societies and Associations	Lodge devoting its net earnings to charitable, fraternal, and other specified purposes. No life, sickness, or accident benefits to members	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	Yes, if for certain Sec. 501(c)(3) purposes
<u>501(c)(11)</u>	Teachers' Retirement Fund Associations	Teachers' association for payment of retirement benefits	No Form ⁶	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)(12)</u>	Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, Etc.	Activities of a mutually beneficial nature similar to those implied by the description of class of organization	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)(13)</u>	Cemetery Companies	Burials and incidental activities	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	Yes, generally
<u>501(c)(14)</u>	State Chartered Credit Unions, Mutual Reserve Funds	Loans to members	No Form ⁶	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)(15)</u>	Mutual Insurance Companies or Associations	Providing insurance to members substantially at cost	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)(16)</u>	Cooperative Organizations to Finance Crop Operations	Financing crop operations in conjunction with activities of a marketing or purchasing association	No Form ⁶	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c)</u>	Supplemental	Provides for	<u>1024</u>		

<u>(17)</u> (also here)	Unemployment Benefit Trusts	payment of supplemental unemployment compensation benefits		<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
501(c) (18)	Employee Funded Pension Trust (created before June 25, 1959)	Payment of benefits under a pension plan funded by employees	No Form ⁶	<u>990</u> ¹ or <u>990EZ</u> ⁸	No ²
<u>501(c) (19)</u>	Post or Organization of Past or Present Members of the Armed Forces	Activities implied by nature of organization	<u>1024</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	No, generally ⁷
<u>501(c) (20)</u>	Group Legal Services Plan Organizations	n/a	n/a	n/a	n/a
<u>501(c) (21)</u>	Black Lung Benefit Trusts	Funded by coal mine operators to satisfy their liability for disability or death due to black lung diseases	No Form ⁶	<u>990-BL</u>	No ⁴
501(c) (22)	Withdrawal Liability Payment Fund	To provide funds to meet the liability of employers withdrawing from a multi-employer pension fund	No Form ⁶	<u>990</u> or <u>990EZ</u> ⁸	No ⁵
<u>501(c) (23)</u>	Veterans Organization (created before 1880)	To provide insurance and other benefits to veterans	No Form ⁶	<u>990</u> or <u>990EZ</u> ⁸	No, generally ⁷
<u>501(c) (25)</u>	Title Holding Corporations or Trusts with Multiple Parents	Holding title and paying over income from property to 35 or fewer parents or beneficiaries	<u>1024</u>	<u>990</u> or <u>990EZ</u>	No
<u>501(c) (26)</u>	State-Sponsored Organization Providing Health	Provides health care coverage to high-risk	No Form ⁶	<u>990</u> ¹ or <u>990EZ</u> ⁸	No

	Coverage for High-Risk Individuals	individuals			
<u>501(c)(27)</u>	State-Sponsored Workers' Compensation Reinsurance Organization	Reimburses members for losses under workers' compensation acts	No Form ⁶	<u>990</u> ¹ or <u>990EZ</u> ⁸	No
501(d)	Religious and Apostolic Associations	Regular business activities. Communal religious community	No Form	<u>1065</u> ⁹	No ²
501(e)	Cooperative Hospital Service Organizations	Performs cooperative services for hospitals	<u>1023</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	Yes
501(f)	Cooperative Service Organizations of Operating Educational Organizations	Performs collective investment services for educational organizations	<u>1023</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	Yes
501(k)	Child Care Organization	Provides care for children	<u>1023</u>	<u>990</u> or <u>990EZ</u> ⁸	Yes
501(n)	Charitable Risk Pools	Pools certain insurance risks of 501(c)(3)	<u>1023</u>	<u>990</u> ¹ or <u>990EZ</u> ⁸	Yes
521(a)	Farmers' Cooperative Associations	Cooperative marketing and purchasing for agricultural producers	<u>1028</u>	<u>990-C</u>	No

¹ For exceptions to the filing requirement, see Chapter 2 and the Form instructions.

² An organization exempt under a Subsection of Code section 501 other than (c)(3), may establish a charitable fund, contributions to which are deductible. Such a fund must itself meet the requirements of section 501(c)(3) and the related notice requirements of section 508(a).

³ Contributions to volunteer fire companies and similar organizations are deductible, but only if made for exclusively public purposes.