



Agenda Item No. 9g.

Staff Report

Date: February 10, 2022

To: Mayor Robbins and Councilmembers

From: Christa Johnson, Town Manager

Subject: Approval of Employment Agreement retaining David Woltering to serve as Interim Planning and Building Director

Recommendation

It is recommended that the Town Council adopt Resolution No. 2235 ratifying an Employment Agreement retaining David Woltering to serve as Interim Planning and Building Director.

Background and Discussion

The Planning and Building Director position has been vacant since the resignation of Patrick Streeter on January 21, 2022. The Town wishes to appoint an interim director while the Town conducts its recruitment to fill the position. The Town has negotiated the attached agreement with Mr. David Woltering. Pursuant to the terms of the agreement, Mr. Woltering shall serve as the Interim Planning and Building Director for up to a six-month period (or until a permanent selection is made). The Town will pay Mr. Woltering at the rate of \$76.85 per hour, which is within the salary range for this position and meets the requirements of the California Public Employees Retirement System (CalPERS) for hiring CalPERS retirees. Mr. Woltering will work approximately 24 hours per week.

Fiscal Impacts

The estimated cost of the Planning and Building Director agreement is \$7,992 per month. No additional costs will be incurred as Mr. Woltering will not receive benefits nor will he receive paid leave. The employment agreement will not exceed \$50,000. The department budget has funding available due to salary savings to absorb the cost.

Attachments

- Resolution No. 2235
- Woltering Employment Agreement
- Woltering Resume

TOWN OF ROSS
RESOLUTION NO. 2235
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ROSS
RATIFYING AN EMPLOYMENT AGREEMENT RETAINING DAVID WOLTERING
AS INTERIM PLANNING AND BUILDING DIRECTOR

WHEREAS, Government Code Section 21221(h) of the Public Employees' Retirement Law permits the governing body to appoint a CalPERS retiree to a vacant position requiring specialized skills during recruitment for a permanent appointment and provides that such an appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it is a single appointment that does not exceed 960 hours in a fiscal year; and

WHEREAS, the Town of Ross desires to appoint David Woltering as an interim appointment retired annuitant to the vacant position of Planning and Building Director for the Town of Ross under Government Code Section 21221(h), effective February 14, 2022; and

WHEREAS, the Planning and Building Director is the top management level position in the Planning and Building Department and critical to the day-to-day operations; and

WHEREAS, the Town of Ross and David Woltering certify that David Woltering has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, an appointment under Government Code Section 21221(h) requires the retiree be appointed into the interim appointment during recruitment for a permanent appointment; and

WHEREAS, the Town has begun a recruitment process for a Planning and Building Director but expects to take a number of months to complete; and

WHEREAS, David Woltering has expressed a desire to serve as an Interim Planning and Building Director during the recruitment period; and

WHEREAS, David Woltering has the specialized skills to plan, direct, manage and oversee the functions, programs and operations of the Planning and Building Department given his training and background as a Community Development Director; and

WHEREAS, the Town cannot compensate retirees less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Ross does hereby ratify the attached Town of Ross Employment Agreement retaining David Woltering as Interim Planning and Building Director.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 10th day of February 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Elizabeth Robbins, Mayor

ATTEST:

Linda Lopez, Town Clerk

Attachments:

- Woltering Employment Agreement
- Woltering Resume

TOWN OF ROSS
EMPLOYMENT AGREEMENT RETAINING DAVID WOLTERING
AS INTERIM PLANNING AND BUILDING DIRECTOR

THIS INTERIM EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between the Town of Ross, a California municipal corporation, (the "Town") and David Woltering, an individual, (hereinafter referred to as "Woltering") to be effective the 14th day of February 2022 ("Effective Date"). The Town and Woltering are sometimes hereinafter individually referred to as "party" and are hereinafter collectively referred to as the "parties."

A. The Town desires to retain and appoint on an interim basis Woltering as the Interim Planning and Building Director of the Town pending the Town's selection of a permanent Planning and Building Director following completion of the ongoing recruitment process.

B. The Town has commenced an open recruitment to permanently fill the vacant position of Planning and Building Director and this recruitment was active prior to execution of this Agreement. During the recruitment period, the Town has an immediate need for an Interim Planning and Building Director position involving specialized skills and training and which is critically necessary to the on-going duties and functions of the Town.

C. Woltering represents that he is a retired annuitant and person receiving a benefit from and enrolled in the California Public Employees' Retirement System ("CalPERS") within the meaning of Government Code §§ 7522.56 and 21221(h). Woltering acknowledges that he is restricted to working no more than a combined 960 hours for the Town, a state agency, or other CalPERS contracting agencies (collectively "CalPERS Agencies") during the Town's 2021-2022 fiscal year, and that his compensation is statutorily limited as provided in Government Code § 21221(h). Woltering represents, and by execution of this Agreement, certifies that he has not received any unemployment compensation from any CalPERS Agencies during the 12-month period preceding the effective date of this Agreement. Woltering further represents his CalPERS retirement date became effective prior to the 180-day period preceding the effective date of this Agreement; that he has not received a retirement incentive upon retirement within the meaning of Government Code § 7522.56(g), and that he has attained normal retirement age within the meaning of Government Code § 21220.5. Woltering further represents that he has not been previously appointed as an interim employee by the Town to a vacant position during the recruitment for a permanent replacement.

D. Woltering, a retired CalPERS annuitant, desires to serve as the duly appointed Interim Planning and Building Director of the Town pending the Town's selection of a permanent Planning and Building Director following completion of the ongoing recruitment, and Woltering understands that he shall hold office at the pleasure of the Town Manager. Woltering has approximately 24 years of experience as a Community Development Director, and he has the knowledge and experience required to serve as the Interim Planning and Building Director.

NOW, THEREFORE, the parties agree as follows:

1.0 Appointment

1.1 The Town hereby retains and appoints David Woltering as Interim Planning and Building Director of the Town, and Woltering hereby accepts such employment and appointment with the Town to perform the functions and duties of the Interim Planning and Building Director as set forth in the Class Specification for Planning and Building Director. This interim appointment is subject at all times to the terms and conditions of this Agreement and to perform other permissible and proper duties and functions consistent with the position of the Planning and Building Director as the Town Manager may from time to time assign. However, the appointment shall not exceed Woltering working more than 960 hours.

1.2 Woltering hereby agrees to perform fully and faithfully the functions and duties of the Planning and Building Director, as the duly appointed Interim Planning and Building Director, as specified above and in accordance with the terms and conditions set forth herein.

2.0 Term of Agreement

The term of this Agreement shall commence on the Effective Date set forth above and shall continue in full force and effect for a period of up to six (6) months, ending August 14, 2022, unless sooner terminated with or without cause or notice by the Town Manager, or by Woltering with fourteen (14) calendar days' advanced written notice to the Town Manager provided in accordance with Section 10.2 of this Agreement.

3.0 Compensation

3.1 Woltering shall maintain time records in the Town's timekeeping system for the services rendered pursuant to this Agreement.

3.2 Woltering will receive compensation at the rate of \$76.85 per hour for all hours worked pursuant to this Agreement, minus any applicable payroll taxes required by state and federal law, payable in accordance with the Town's established protocols and procedures used for Town employees. Woltering shall not be entitled to any additional compensation or any severance pay upon termination of this Agreement.

3.3 Subject to Section 4.0, Woltering is entitled to receive compensation for hours worked, which includes all time spent on Town related business, regardless of when or where performed and includes travel to and from business related meetings. Woltering may not invoice the Town for travel to and from home to the Town, or work unrelated to his work for the Town, whether personal or professional, even if performed while at the Town and during regular business hours of the Town.

3.4 Woltering shall not be entitled to receive any benefits of employment provided to Town's regular full-time or management employees, including, but not limited to, group health or medical benefits, life insurance, and vacation and other leave accruals. Woltering specifically

acknowledges that his employment by the Town under this Agreement is intended to be temporary and of limited duration, and that he will not be entitled to be a member of or accrue benefits under the California Public Employees Retirement System (CalPERS). Notwithstanding the foregoing, Woltering may elect to participate in any salary deferral program under Internal Revenue Code section 457 that is maintained by the Town and for which Woltering is eligible, without contribution from the Town.

4.0 Hours of Work

The parties hereby expressly understand and agree that Woltering's hours will not exceed 960 hours in the Fiscal Year 2021/2022 in accordance with California Government Code section 21221. Woltering shall be responsible for ensuring that he does not exceed the 960 hour per fiscal year limit. The Town shall regularly audit Woltering's hours to ensure compliance with Government Code section 21221. Woltering is expected to work approximately 24 hours a week, including attendance at Town Council meetings as needed.

5.0 General Expenses

Woltering is not entitled to receive reimbursement for general expenses incurred, nor shall he be expected to incur such expenses, in the performance of his duties pursuant to this Agreement. Notwithstanding the foregoing, if Woltering incurs an extraordinary expense related to the performance of his obligations pursuant to this Agreement and wishes to seek reimbursement from the Town for such expense incurred, he shall do so by submitting a request for reimbursement to the Town Manager and copies of receipts substantiating the expense.

6.0 Other Activity

In accordance with Government Code Section 1126, during the period of his employment, Woltering shall not accept, without the express prior written consent of the Town Manager, any other employment or engage, directly or indirectly, in any other business, commercial, or professional activity, whether or not to pecuniary advantage, that is or may be competitive with the Town, that might cause a conflict-of-interest with the Town, or that otherwise might interfere with the business or operation of the Town or the satisfactory performance of the Town's duties as Interim Planning and Building Director.

7.0 Vehicle Operation

Woltering shall operate any vehicle used in connection with the performance of his duties as Interim Planning and Building Director in a safe manner and otherwise in observance of all established traffic safety laws and ordinances and shall maintain a valid California automobile's driver's license during the period of employment.

8.0 Indemnification

Except for an act of misappropriation of public funds, or an indictment, the filing of an information, a plea of guilty or a plea of nolo contendere for a crime involving moral turpitude,

Town shall defend, hold harmless and indemnify Woltering against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of his employment as Interim Planning and Building pursuant to and to the extent required by Government Code sections 825 and 995. Pursuant to Government Code section 825(a), Town reserves its rights not to pay a judgment, compromise, or settlement until it is established that the injury arose out of an act or omission occurring within the scope of Woltering's employment under this Agreement.

9.0 Other Terms and Conditions

The Town Manager, in consultation with Woltering, shall fix any such other terms and conditions, as it may determine from time to time, relating to the performance of Woltering, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, or any other applicable law.

10.0 Compliance with Law

Woltering shall comply with all applicable laws, ordinances, codes, and regulations of federal, state, and local government in the performance of the duties and obligations that are the subject of this Agreement.

11.0 Governing Law and Venue

This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. Any legal action arising under or related to this Agreement shall be brought and prosecuted in the Marin County Superior Court.

12.0 Acknowledgement

Woltering acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

13.0 General Provisions

13.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both parties hereto, or their respective successors, assigns, or grantees. To the extent that other oral or written agreements exist or Town Personnel Rules may apply to the relationship between Town and Interim Planning and Building Director, this Agreement supersedes all others.

13.2 Any notices required by this Agreement shall be either given in person or mailed by first class mail with the postage prepaid and addressed as follows:

IF TO TOWN:	P.O. Box 320 Ross, CA 94957 Attention: Town Manager
IF TO INTERIM PLANNING AND DIRECTOR	David Woltering [Address on file with HR Department]

13.3 If any provision, or any portion thereof, contained in this Agreement is held to be invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severed, shall not be affected and shall remain in full force and effect.

13.4 The provisions of this Agreement are subject to CalPERS rules and regulations regarding the employment of CalPERS retirees. Any provision, or any portion thereof, determined by CalPERS to be inconsistent with such rules and regulations shall be deemed struck from this Agreement and shall not affect the validity or enforceability of any other provision of this Agreement.

13.5 Any modification of this Agreement shall be effective only if it is in writing and signed by the parties.

13.6 Town shall bear the full cost of any fidelity or other bonds, or insurance policies in lieu thereof, required of the Interim Planning and Building Director under any law or ordinance.

13.7 The foregoing recitals are true and correct and are incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed and. entered into this Agreement as of the date first written above.

TOWN OF ROSS

Christa Johnson, Town Manager

ATTEST:

Linda Lopez, Town Clerk

DAVID WOLTERING

David Woltering

DAVID WOLTERING, AICP, MPA
Community Planning Consultant
707/291-2858

EXPERIENCE

Woltering Community Planning, LLC
San Francisco Bay Area, CA

2018 - Present

In October of 2018, I formed the independent consulting firm of Woltering Community Planning, LLC with the purpose to continue offering my service in the field of Community Development to both public agencies and private sector clients. The focus of my work and professional passion is to create more livable, diverse, and inclusive communities, balancing the needs and interests of economic development, downtown revitalization, balanced growth, and environmental protection. Specific skills that I offer include Government Administration, Community Development, Housing Development, Economic Development, and Active Transport.

Major accomplishments during this period include providing comprehensive Interim Community Development services to two communities, the City of Clayton and the City of Healdsburg, in Northern California. In Clayton, much work involved entitling a controversial senior housing project that included affordable housing units and work in Healdsburg involved project level entitlements for mixed-use components in three large Area Plan developments - Saggio Hills/Montage; North Village; and Mill District. This work involved continuum of care senior housing, affordable housing, commercial, hotel, and resort development. In Healdsburg, a significant aspect of the work involved implementing COVID -19 protocols and continuing to deliver development services safely during this period. The duration of work in both communities was 10 months plus.

Community Development Director, City of San Bruno
San Bruno, CA

2013 - 2018

As San Bruno's Community Development Director, I was responsible for the City's Planning (Current and Long-Range), Housing, Building, Environmental, and Code Enforcement functions. I oversaw approximately 14 FTEs, other consultant staff, and had significant coordination involvement with other departments, including Police, Fire, Public Services (Public Works) and Community Services (Parks and Recreation)).

I joined the City of San Bruno during a period of completing a 155+/- acre downtown Specific Plan, referred to as the San Bruno Transit Corridors Plan (TCP); when there was a need to continue efforts to rebuild the Crestmoor residential neighborhood, where 38 homes had been completely destroyed, many more damaged, and, tragically, eight lives lost as a result of the PG&E gas line explosion and fire that occurred on September 9, 2010; when there was a strong desire to remove many long-standing vacant buildings scattered throughout the City's downtown and nearby commercial areas; when there was a desire to revitalize and redevelop many properties in the downtown and surrounding area, developing new housing units linked to public transit and employment opportunities; and, when there was a desire to substantially strengthen the community's overall Code Enforcement program. During the more than five one half years that I worked for the City of San Bruno, there was significant progress and accomplishment within all areas of my responsibility.

Within the TCP area, planned for Transit-Oriented Development in conjunction with a Bay Area Rapid Transit (BART) station and a Caltrain station, a 15,220 square foot medical office building was entitled and completed, replacing a previous obsolete and outdated office building; a three-story, 83-residential unit mixed-use building, with 7,000 square feet of ground floor commercial space was entitled and is under construction, replacing several long-vacant buildings; and a five-story, 62- unit residential condominium (18% affordable) mixed-use building, with 7,700 square feet of ground floor commercial space is in an entitlement phase, with the demolition and removal of a pre-existing long-vacant bank building on the property completed.

During my tenure as Director, I oversaw a comprehensive update to the City's Housing Element and an update to the City's Inclusionary Housing Ordinance, and adoption of Affordable Housing Commercial Linkage fees.

There are a number of Public projects that were completed or are underway including completion of the City's first Walk 'n Bike Plan (a citywide Bicycle and Pedestrian Master Plan); preparation of a comprehensive update to the City's Zoning Code; preparation and adoption of a Climate Action Plan; preparation of a Comprehensive Downtown Parking Management Plan; and, preparation of a Streetscape Plan for the downtown segment of San Mateo Avenue, the City's primary downtown shopping street.

Community Development Director, City of Clayton
Clayton, CA

2008 -2013

As Clayton's Community Development Director, I directed a range of the City's functions, including current and long-range planning, building services administration, the City's affordable housing program administration, environmental review, and code enforcement. An important aspect of this work was to assume projects that were underway and keep them progressing forward, while maintaining a sense of stability, continuity, and collaborative team effort within the Department and larger working group. Specific projects that I was involved with included the completion of the Town Center Specific Plan Urban Design Amendment; review of the Creekside Terrace mixed-use project; initiation of the review process of the Clayton Community Church project; adoption of the City's Housing Element Update; administration of the City's purchase and re-sale of affordable housing units; and, resolution of several contentious, long-standing code enforcement matters.

Director of Planning, City of Cotati,
Cotati, CA

2001-2008

As Director of Planning for the City of Cotati during one of its most significant development periods in its history, I was responsible for overseeing or directly involved with the following projects: adoption and implementation of the City of Cotati Sustainability Program; initial and subsequent phase development of Cotati's Santero Way Specific Plan, a 23-acre transit-oriented development (TOD) with transit/train station, housing and commercial development along the SMART corridor; successful entitlement processing and construction of Lowe's Home Improvement store, the City's primary economic engine, as part of a mixed commercial/residential development on 35 acres at the northwest quadrant of U.S. Highway 101 and Highway 116; preparation and successful adoption of a form-based Land Use Code; successful entitlement processing and construction of award-winning mixed-use/sustainable infill development; and, completion of the initial phase of work, involving a citywide visioning and charrette process, for a major Downtown Specific Plan and comprehensive update to the City of Cotati General Plan. To address the needs of the increased development activity, I put in place a multi-disciplinary Staff Review Committee (SRC) to help streamline the development review process as well as to improve communication among the various City departments and pertinent agencies.

Planning and Management Consultant,
Santa Rosa, CA

1999-2001

As principal of my own consulting firm, I offered a wide-range of services including Project Management, Project Feasibility Analysis, Land Use Planning, Entitlement/Permit Processing, Public Facilitation, and Land Use/Environmental Dispute Resolution. These services were offered to private entities and public agencies. My clients included the County of Sonoma Permit and Resource Management Department, the Sonoma County Local Agency Formation Commission (LAFCO), Sonoma County Regional Parks, City of Petaluma, the City of Cotati, Veale Investments, and Lindsey Michels Property Management and Investments.

Planning Director, Town of Windsor
Windsor, CA

1993-1999

As the Town of Windsor's first Planning Director after incorporation, I was responsible for overseeing current and long-range planning and working with Town officials to put the community's planning framework into place (Windsor was incorporated in 1992). Specific responsibilities included managing the preparation of the Town's first General Plan (Including Housing Element), Design Guidelines, Downtown Plan and Town Green Plan; Growth Management Ordinance; the processing of current development applications, ranging from entitlements for the Shiloh Commercial Center, the Town's primary economic engine, use permits and variances to major General Plan amendments, rezonings, and subdivision maps; overseeing the Town's compliance with the California Environmental Quality Act (CEQA) for both City and private projects; and, supervising the Town's code enforcement activities. The position also required coordinating the planning-related activities of various departments and serving as a spokesperson for the Town on planning matters with outside agencies.

Principal Planner, City of Rocklin
Rocklin, CA

1987-1993

As Principal Planner, I supervised the day-to-day activities of the City of Rocklin Planning Department. Specific responsibilities included supervising the professional and clerical staff for the purpose of processing a wide-range of development applications. Applications ranged from use permits and variances to major General Plan amendments, rezonings and subdivision maps. In addition, this position required management of special projects, including preparation of a city-wide transportation study, a Civic Center Specific Plan, and a Housing Element Update.

Planning Consultant, Martin Carpenter Associates
San Carlos, CA

1984-1987

In this position, I was involved with a broad-range of urban and regional planning assignments for both public and private sector clients. These assignments included acting in the capacity of a staff planner for both the Town of Los Altos Hills and the City of San Carlos; preparing staff reports and environmental documentation for the cities of San Mateo and Belmont; and processing development applications through communities for private clients, including the Federal Express Corporation. My concluding responsibilities included supervising the day-to-day operations of the City of San Carlos Planning Department.

EDUCATION

University of San Francisco, San Francisco, CA
Master of Public Administration, May 2009

San Francisco State University, San Francisco, CA

Post-graduate coursework in the following:

- City and Regional Planning
- Transportation Planning
- Cultural, Economic and Physical Geography
- Environmental Studies

University of California, Santa Barbara, CA

- Bachelor's Degree - Political Science
- German Studies

George August University, Goettingen, Germany

- Government
- German Studies

**PROFESSIONAL
ORGANIZATIONS**

American Planning Association (APA)
American Institute of Certified Planners (AICP)
San Francisco Planning and Urban Research Association (SPUR)
International Making Cities Livable (IMCL)

**SPECIAL
TRAINING**

Management of Planning Services - Paul Zucker, Zucker Systems
Urban and Regional Planning - University of California Extension
California Environmental Quality Act (CEQA) - University of California Extension; CA CLE

**PROFESSIONAL
PAPERS**

"Explosive Economic Growth in the San Francisco Bay Area has Created Significant Job Growth and Opportunity, but at What Cost?", 53rd International Making Cities Livable Conference, Rome, Italy, June 13-17, 2016

"Integrating High Technology Knowledge Work Environments into Communities through Purposeful Design!", 54th International Making Cities Livable Conference, Santa Fe, NM, October 2-6, 2017

"San Bruno's City of Short Distances - Creating a Vision for Bay Area Livability, while maintaining Economic, Social and Cultural Diversity", 55th International Making Cities Livable Conference, Ottawa, Ontario, Canada, May 14-18, 2018

"Experiencing the Health Benefits of the San Francisco Bay Trail", 56th International Making Cities Livable Conference, Portland, Oregon, June 17-21, 2019

"Windsor, California's Remarkable Transformation from Sprawling Subdivisions to a Beloved Town with a Vibrant, Mixed-Use Town Center", 57th International Making Cities Livable Conference, Carmel, Indiana, June 8-12, 2021

"Maintaining a Livable Community while Adapting to COVID-19 Protocols - Perspectives and Experiences from Healdsburg, California", 57th International Making Cities Livable Conference, Carmel, Indiana, June 8-12, 2021

REFERENCES

Available on Request