

Munoz, Cristal

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Monday, January 27, 2025 11:52 AM
To: City Clerk
Cc: Whippy, Isaac
Subject: Public Comment -- 1/27/25 CC Mtg., Item No. 8B, Mill Site Contract

City Council & Manager,

While I support the concept of you approving this proposed contract--I have been advocating for a development agreement since the litigation began as the most sensible way to deal with the situation--I only see a resolution and a draft scope of work and no draft contract in the agenda materials. How can you be asked to approve a contract that isn't actually presented for your (or the public's) review?

I look forward to the staff presentation regarding this item, it is a great step forward and I am pleased that Isaac and Chris have been able to get this far already. That said, a couple of the details in the draft scope of work appear to be premature (or even incorrect and/or controversial) so it is important to remember that this is merely a draft and not necessarily reflective of the final product that will facilitate the LCP update and eventual development agreement. Technically, it might involve development agreements for the different plan areas since we are much further along with the north half and wouldn't want uncertainty about the southern half to delay physical and economic development in the northern half.

Regards,

--Jacob

Council Members, City Manager Whippy, et al,

We were surprised to see the item #8B enclosure, "Phase 1 Scope/Work Program" and are concerned by what this "Mill Site Master Development Agreement Phase 1 Work Program: Development Strategy Preparation" may indicate as the course of action for the City and the level of transparency (or lack thereof) in negotiations with Mendocino Railway/Sierra Northern Railway/Sierra Railroad (MRY/SNR). The history of actions taken by Georgia Pacific/Koch Industries and MRY/SNR do not instill confidence that the highest and best use of the Noyo Headlands for the sake of the public will be served without robust enforcement by controlling authorities and full public participation early and often. To hear now of the negotiations behind closed doors that generated this document on December 6th, which we only are seeing now as part of obtaining permission to commit resources for the consultation of the Walter Kieser of Economic & Planning Systems (EPS), raises this level of concern.

We do not accuse you or the City of anything nefarious, but wish to alert you to the heightened sensitivity within the community and the unflagging need for full transparency. If the decision at this time is solely to engage EPS and no commitments or assurances have been given that the process will result in any specific outcomes, then we look forward to participating throughout the process, again, both early and often. By participation, this should not be understood as merely having frequent public meetings in which we are told what has been proposed and/or decided and that our "concerns will be noted", but without any substantive changes to those proposals and decisions. That is not public engagement. That is, at best, public information and, frankly, rather patronizing.

True public engagement will necessarily involve actually changing what is proposed to address the stated concerns and interests of the Community. We believe that public engagement is among the priorities that are on the table in this negotiation. However, as negotiations progress and encounter stumbling blocks, priorities shift. We ask that you adopt Public Engagement and Participation in the significant decisions regarding the Headlands not as a priority, but as a fundamental value that will not be traded away. The International Association for Public Participation lists seven **Core Values for the Practice of Public Participation**

1. Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
2. Public participation includes the promise that the public's contribution will influence the decision.

3. Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers.
4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
5. Public participation seeks input from participants in designing how they participate.
6. Public participation provides participants with the information they need to participate in a meaningful way.
7. Public participation communicates to participants how their input affected the decision.

Most of the people in Fort Bragg have been left out of the previous decisions and decision making processes and do not understand what has taken so long. Some wish to blame the City for the delay, which is specious and perhaps promulgated by those who have an axe to grind or something to gain. We do not believe that closed doors will be an effective path forward in this instance. We trust that the City Council has the intention of doing what is best for the City and the surrounding community. The only way to ensure that is to adopt the values described above and ensure that development on this jewel in the rough truly serves the highest and best use for the people who live and work in and around Fort Bragg. For instance, at what point will the Pomo original owners of the land be included, or the Latino Community, if there is not an extensive outreach and engagement effort beyond a few City Council meetings?

Consideration must go beyond the “Affected Landowners” as land may change hands, but the Community remains and the location is immovable. We are a bit concerned also that “maximizing use of existing information, plans and decision”, may be weighted heavily in favor of plans previously generated by the participating principals, as opposed to the others mentioned (NHUDG, GRI, Wynn’s Creek Daylighting plan, etc.) or other, more current understandings of the Climate Crisis and Sea Level Rise, the need for carbon sequestration and wildlife preservation, and the necessary redress of environmental injustice.

The remediation of the remaining contamination, not just containing Pond 8 and leaving the beach and other areas fenced off, may have a greater role in this than the need to “assure the public that there will be plenty of community process during the environmental review”. Please remember that the use of the land and the resulting exposure potential determines the level of risk and the appropriate degree and manner of decontamination. All that is currently being offered is containment, not remediation, and that is for pond 8, but all of the ponds are in OU-E as well as the wetlands and upland areas. There remain questions

as to the characterization of the contamination in this area and the potential for finding new hot spots within this and other operational use areas.

Another area of concern is the Local Coastal Plan (LCP) Revision for the Noyo Headlands. As the City's grant is focused strictly on the Harbor's LCP and the County has the rest of the Coast (with the exception of the Sea Level Rise Analysis which also covers the Headlands), the revision of the LCP for this specific area is a bit in limbo. We recommend that the City obtain the available grant funds to hire the consultants necessary for the LCP revision. If the landowner does so, as the client, the consultant's work will serve their interests. If the consultants conducting the analyses work for the City, the revision is far more likely to serve the greater Community. We noticed that the Coastal Commission took exception to the 90-day Stay and do not appear to be part of these negotiations. MRY/SNR is currently in violation of several Coastal Commission regulations and have potential fines assessed. How is the question of jurisdiction being handled within this negotiation? It does not appear in the document.

It is unclear what happens if these negotiations break down prior to the signing of the DA. If the City wishes to engage the Community in the process beyond what is comfortable for MRY/SNR, who will win the City's favor? Does that mean a return to Lawfare? It is not our intention to sabotage this effort, but to ensure that it serves the entire Community and not just the players who currently sit at the table.

We look forward to your response and to collaborating in a transformational planning process that encompasses the long-term resiliency and benefits the entire Fort Bragg and Coastal Community. Thank you for your hard work thus far and we trust that you will find your way to a more inclusive and transparent process that engages all aspect of our Community.

In Gratitude and with Respect,

The GRI Noyo Headlands Workgroup