



TOWN OF TIBURON
Tiburon Town Hall
1505 Tiburon Boulevard
Tiburon, CA 94920

TIBURON TOWN COUNCIL

January 20, 2016
Regular Meeting - 7:30 p.m

AGENDA

CALL TO ORDER AND ROLL CALL

Councilmember Doyle, Councilmember Fredericks, Councilmember O'Donnell, Vice Mayor Fraser, Mayor Tollini

ORAL COMMUNICATIONS

Persons wishing to address the Town Council on subjects not on the agenda may do so at this time. Please note however, that the Town Council is not able to undertake extended discussion or action on items not on the agenda. Matters requiring action will be referred to the appropriate Commission, Board, Committee or staff for consideration or placed on a future Town Council meeting agenda. Please limit your comments to three (3) minutes.

CONSENT CALENDAR

All items on the Consent Calendar may be approved by one motion of the Town Council unless a request is made by a member of the Town Council, public or staff to remove an item for separate discussion and consideration. If you wish to speak on a Consent Calendar item, please seek recognition by the Mayor and do so at this time.

CC-1: Town Council Minutes

Adopt Minutes of November 18, 2015 regular meeting (Town Clerk Crane Iacopi)

Documents: [CC-1 TOWN COUNCIL MINUTES NOVEMBER 18, 2015.PDF](#)

CC-2: Town Council Minutes

Adopt minutes of December 2, 2015 regular meeting (Town Clerk Crane Iacopi)

Documents: [CC-2 TOWN COUNCIL MINUTES DECEMBER 2, 2015.PDF](#)

CC-3: Town Investment Summary

Adopt report for month ending November 30, 2015 (Director of Administrative Services Bigall)

Documents: [CC-3 TOWN INVESTMENT SUMMARY NOVEMBER 2015.PDF](#)

CC-4: Vacancies On Town Boards, Commissions And Committees

Announce pending vacancies in 2016 (Town Clerk Crane Iacopi)

Documents: [CC-4 ANNOUNCEMENT OF VACANCIES ON TOWN BOARDS AND COMMISSIONS.PDF](#)

CC-5: Town Council Board And Committee Assignments

Adopt updated list of Town Council committees and board representation for 2016 (Mayor Tollini)

Documents: [CC-5 TOWN COUNCIL COMMITTEE APPOINTMENTS.PDF](#)

CC-6: Administrative Fine Schedule

Adopt resolution updating the schedule of fines for violations of the Town Code enforced by administrative citation (Community Development Department)

Documents: [CC-6 ADMINISTRATIVE FINE SCHEDULE UPDATE.PDF](#)

CC-7: Annual Development Fee Report

Receive annual report on the status of the Town's Development Impact Fees pursuant to the California Government Code (Community Development Department)

Documents: [CC-7 ANNUAL DEVELOPMENT IMPACT FEE REPORT.PDF](#)

CC-8: In-Lieu Housing Fees

Receive five-year report of the Town's In-lieu Housing Fees and adopt resolution making the required findings pursuant to the California Government Code (Community Development Department)

Documents: [CC-8 IN-LIEU HOUSING FEES.PDF](#)

CC-9: Stormwater Impact Fees

Receive five-year report of the Town's Stormwater Impact Fees and adopt resolution making the required findings pursuant to California Government Code (Community Development Department)

Documents: [CC-9 STORMWATER IMPACT FEES.PDF](#)

CC-10: Las Lomas Lane Pedestrian Easement

Consider acceptance of a Grant of Easement for Public Pedestrian Access from William and Susan Lukens over an undeveloped portion of Las Lomas Lane; property adjacent to Assessor Parcel Nos. 059-12-08, 059-122-56 and 57, in the vicinity of Centro West Street at Las Lomas Lane (Community Development Department)

Documents: [CC-10 LAS LOMAS LANE PEDESTRIAN EASEMENT.PDF](#)

CC-11: Point Tiburon Bayside Stairs (Mar West Street Near Las Lomas Lane)

Consider approval of an agreement for acquisition of a Public Pedestrian Easement over the Point Tiburon Bayside Condominium Association Common Area for use and maintenance of a stairway leading down from Mar West Street to the Common Area; authorize Town Manager to execute the agreement; authorize a budget amendment

for the easement purchase (Community Development Department)

Documents: [CC-11 POINT TIBURON BAYSIDE STAIRS \(MAR WEST STREET NEAR LAS LOMAS LANE\).PDF](#)

CC-12: Associate Civil Engineer Position

Recommendation to reclassify vacant Engineering Technician position to Associate Civil Engineer (Town Engineer/ Administrative Services Department)

Documents: [CC-12 ASSOCIATE CIVIL ENGINEER.PDF](#)

ACTION ITEMS

AI-1: Golden Gate Bridge, Highway And Transportation District Route 8

Receive report from GGBHTD Planning Director regarding commuter Route 8 bus service and commuter ferry service (Mayor Tollini)

Documents: [AI-1 BUS ROUTE 8.PDF](#)

AI-2: Yellow School Bus Program

Consideration of future options for funding the Yellow School Bus Program and formation of a joint powers authority (Vice Mayor Fraser/Councilmember O'Donnell/Town Manager Chanis/Town Attorney Stock)

Documents: [AI-2 YELLOW BUS CHALLENGE PROGRAM.PDF](#)

AI-3: Regulation Of Firearms

Discussion of options for the Tiburon Town Council to consider regarding amendments to Chapter 32 - Regulation of Firearms - of the Town Code (Mayor Tollini/Vice Mayor Fraser)

Documents: [AI-3 REGULATION OF FIREARMS.PDF](#)

AI-3: Regulation Of Firearms Exhibits

Documents: [EXHIBIT 1.PDF](#), [EXHIBIT 2.PDF](#), [EXHIBIT 3.PDF](#), [EXHIBIT 4.PDF](#)

PUBLIC HEARINGS

PH-1: 145 Rancho Drive

Request to amend Cypress Hollow Precise Development Plan (PD#45) to create a secondary building envelope (Community Development Department)

Owners/Applicants: Rapport Investment Group, LLC

Assessor Parcel No.: 034-392-10

Documents: [PH-1 145 RANCHO DRIVE.PDF](#)

PH-2: 35-37-39 Lyford Drive

Request to amend 35-37-39 Lyford Drive Precise Development Plan (PD#35) and approve a condominium use permit (Community Development Department)

Owners/Applicants: Richardson Bay Land Company

Assessor Parcel No. 058-301-49

Documents: [PH-2 35-37-39 LYFORD DRIVE.PDF](#)

TOWN COUNCIL REPORTS

TOWN MANAGER REPORT

WEEKLY DIGESTS

--Town Council Weekly Digest December 4, 11 & 25, 2015

--Town Council Weekly Digests January 8 & 15, 2016

ADJOURNMENT

GENERAL PUBLIC INFORMATION

ASSISTANCE FOR PEOPLE WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Clerk at (415) 435-7377. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

AVAILABILITY OF INFORMATION

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Belvedere-Tiburon Library located adjacent to Town Hall. Agendas and minutes are posted on the Town's website, www.ci.tiburon.ca.us.

Upon request, the Town will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service at least 5 days before the meeting. Requests should be sent to the Office of the Town Clerk at the above address.

PUBLIC HEARINGS

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing(s) described later in this agenda, or in written correspondence delivered to the Town Council at, or prior to, the Public Hearing(s).

TIMING OF ITEMS ON AGENDA

While the Town Council attempts to hear all items in order as stated on the agenda, it reserves the right to take items out of order. No set times are assigned to items appearing on the Town Council agenda.

**TOWN COUNCIL
MINUTES**

SPECIAL CLOSED SESSION MEETING

The Tiburon Town Council held a special meeting on Wednesday, November 18, at 6:15 p.m., to discuss the following:

CLOSED SESSION

- 1) Public Employee Appointment (Cal. Gov. Code § 54957(b))
Title: Town Manager
- 2) CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: Five potential cases

CALL TO ORDER

At 7:30 p.m., in public session, Mayor Doyle asked the Clerk to call the roll for the special meeting.

PRESENT: Councilmember Fraser, Councilmember Fredericks, Councilmember O'Donnell, Vice Mayor Tollini, Mayor Doyle

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

Mayor Doyle said that while there was no reportable action taken by the Town Council on any of the closed session items, the Council provided direction to the Town Manager Recruitment Committee to negotiate on the Council's behalf a town manager employment agreement that will hopefully be brought forward for consideration before the full Town Council at its December 2 regular meeting.

ADJOURNMENT – to regular meeting

REGULAR MEETING

CALL TO ORDER AND ROLL CALL

Mayor Doyle called the November 18, 2015 regular meeting of the Tiburon Town Council to order at 7:30 p.m. and asked the Clerk to call the roll.

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PRESENT: COUNCILMEMBERS: Doyle, Fraser, Fredericks, O'Donnell, Tollini

PRESENT: EX OFFICIO: Town Manager Curran, Town Attorney Stock,
Director of Administrative Services Bigall, Director
of Community Development Anderson, Chief of
Police Cronin, Town Clerk Crane Iacopi

ORAL COMMUNICATIONS

None.

PRESENTATION

- The Ranch Annual Report – Cathleen Andreucci, Executive Director

Director Cathleen Andreucci presented the annual report, stating that they are “doing great”. She especially noted how well the new Dairy Knoll facility was working out for everyone. She thanked the Council for its support in building the facility.

In her power point presentation, Andreucci reviewed the programs presented to the community from Tots, to Youth (K-5th Grade), to Teens (6-12th grade). She said the latter category was very well served with 50-60 teens in attendance at the Friday night program, as well as the volunteer program. Andreucci said that the numbers of attendees at the Angel Island Camps were up, as were the number of attendees in Adult Programs.

The Director described the community events sponsored or assisted by The Ranch, such as Breakfast with Santa, Father-Daughter Dance, Walk Your History (with Landmarks), Mah Jongg tournaments, and Summertime on Main. She said these programs were in the “break even” or loss category. Others, such as the Labor Day Parade, Tiburon Half Marathon, Golf Tournament, and Tiburon Taps Beer Festival, generated income for the department.

Ms. Andreucci reviewed the 10-year financial history of the department and reported that this year The Ranch would be close to covering all its costs. She noted that the budget had been balanced since 2008 [while the department had received assistance from the two cities in covering its expenses].

Councilmember Fraser, Council representative to The Ranch committee, said that the breadth of services The Ranch provides to the community is exceptional. He said the department had developed a great culture – one of willingness to try new things. He especially commended Director Andreucci for her can-do attitude and said that the word “no” did not exist in her vocabulary.

The Council thanked Director Andreucci for her report.

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CONSENT CALENDAR

1. **Town Investment Summary** – Accept report for month ending October 31, 2015 (Director of Administrative Services Bigall)

MOTION: To adopt the Consent Calendar, as written.
Moved: O'Donnell, seconded by Fredericks
Vote: AYES: Unanimous

PUBLIC HEARINGS

1. **Seasonal Rental Units** – Amendments to Chapter 16 (Zoning) of the Tiburon Municipal Code to prohibit seasonal rental units (Community Development Department) – *hearing continued from September 2*

Planning Manager Watrous provided a summary of the written staff report. He said the Town had initiated amendments to the Tiburon Zoning Ordinance that would prohibit short-term rental units in Tiburon. Watrous said these amendments would amend Section 16-40.040 of the zoning ordinance to replace the current provisions for issuing seasonal (short-term) rental unit permits, with a prohibition of renting out a dwelling for a period of 30 days or less.

The Planning Manager said that first reading of the ordinance was held on August 19, 2015. On September 2, 2015, he said the Town Council appointed a subcommittee to study the issue and make further recommendations to the Council. He reviewed the work of the committee at its October 12, 2015 meeting, and its goals and recommendations as to possible regulations. He also outlined the options available for the Council's consideration as to further action, per the staff report:

“Option 1: Proceed with prohibition.

The Planning Commission held a public hearing, considered the draft ordinance, and made its recommendations to the Town Council. The Town Council may choose to move forward with adoption of the previously discussed ordinance prohibiting seasonal rental units.

Option 2: Amend existing regulations

The Town Council may discuss the potential amendments above and any other possible changes to the seasonal rental regulations and direct staff to prepare an ordinance for public hearing at a future date. If the Council chooses this option, it would be ideal if the Council provide direction on which of the above items should be incorporated into the draft ordinance. A checklist of potential seasonal rental regulation amendments is attached [to the staff report] for use in this discussion.

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Option 3: Table discussion to a future date

As noted above, the regulation of seasonal rentals continues to evolve. There is legislation pending at the State of California (SB 593) which would create certain statewide regulations for such uses and numerous cities in California are studying this situation and attempting to come up with regulations to address many of the same concerns facing Tiburon. The Town Council may choose to wait until a decision is made on SB 593 or wait to see how other cities deal with seasonal rentals. The Town's current seasonal rental regulations would remain in place."

Councilmember Fredericks asked to add a clarification for the record. She said that most of the people who attended the ad hoc committee meetings were people who supported short-term rentals. She said there was no consensus on whether to prohibit or permit them. Rather, Fredericks said the discussions focused on the question of whether there are regulations that would address the concern of those who oppose them.

Town Manager Curran said that since the last Council meeting, the Town had been contacted by Airbnb which had indicated that it would like to engage the Town in a discussion of revenue sharing (of transit occupancy tax) should the Town adopt an ordinance allowing short-term rentals. She said that if an agreement could be reaching on a regulatory framework deemed reasonable by Airbnb, it would collect TOT and remit them to the Town. She cited examples of other cities that have such an agreement with Airbnb, such as Oakland and San Jose.

Curran noted, however, that Airbnb, citing privacy concerns, said that while they could remit a check in an aggregate amount, they would not be willing to divulge actual rental information. She said it was likely that this data could be audited; she noted that that Airbnb indicated that it would be open to further discussion of this aspect of TOT collection.

Vice Mayor Tollini said she had read that Airbnb allows a permit number to be shown on listings, and wondered if this was a way to track the information in Tiburon. Town Manager Curran said that Airbnb said it would not or even could not allow it; she said it considered a permit number to be a "unique identifier". Curran said Airbnb maintained that the Town's request is not technically feasible in that the information in their system is "scrubbed" to remove unique identifiers and would not allow them to provide a permit number.

Town Manager Curran said that at the conclusion of the meeting, she asked the representative of Airbnb to provide a written summary of the concepts proposed. She said that her request was declined.

Vice Mayor Tollini asked if there was still a way for the Town to track the individual rentals. Town Attorney Stock said that if the Town adopts its own ordinance requesting this information, then it could be enforced. For instance, he said if the ordinance states that all rentals would be in violation of the Town's ordinance, he said Airbnb (and other platforms) might re-think their position.

Councilmember Fredericks asked if staff had a more up-to-date number of current short-term rentals in Town. Planning Manager Watrous said that staff had not done a recent count.

Town Manager Curran said the number of short-term rentals had been estimated at 90; Watrous clarified that this number was provided by a resident. Fredericks said the number 50 had been used at the last Council meeting. Mr. Watrous said that number had been verified by staff, at that time.

Mayor Doyle opened the hearing for public comment.

1. Allan Lefkof, Treasurer of Tiburon Marinero HOA, representing 132 homes, talked about short-term rentals in their neighborhood that had been problematic. He gave the example of 121 Sugarloaf, which had been listed on VRBO as a corporate meeting place for \$1400 per night. Lefkof said the problems that ensued were traffic going the wrong way on that street, smoking in the residence, and others. He said the Town had subsequently found that it was a commercial usage, incompatible with the zoning of the neighborhood. Thereafter, he said the property owner switched to advertising the property for weekend rentals, for “family reunions” and the like. He said the owner rented the home for around 100 days per year, or as he told Mr. Lefkof, “only 27% of the time”.

Lefkof said that staff and the Town Council had done a good job in preserving the peace and tranquility of Tiburon’s neighborhoods. But he went on to describe what he called, “Raccoon Mondays” that followed the family reunion weekends. He said that weekend renters did not know about the garbage and fire rules of the local area, which led to problems with trash collection and health and safety issues.

Mr. Lefkof said that he brought two recommendations from his HOA, to the hearing:

- 1) Support of a total prohibition by the Town of short-term rentals; or if that does not occur,
- 2) To establish limitations like a 7-day minimum (and maximum 14 day) rental to avoid 50 weekends of neighborhood “churn” per year. Lefkof said he understood the free market economy but stated that “churn” destroys the fundamental properties of a neighborhood.

2. Maureen Mickle said she had lived here for a long time in a 12-unit condominium building which stood isolated at the end of a street. She said that all the front doors in the building faced each other and, until recently, all the neighbors knew each other. Recently, Ms. Mickle said that two units had been sold and were now used as short-term rentals. She said, “Now, we don’t know who’s coming in or out.” She said this was disconcerting and a bit frightening.

Ms. Mickle said one listing said its rental was for not less than a month and prohibits smoking, however, she said there was no way to know if this was the case, and noted that there had been smoking violations, water left running, and other issues. Mickle said the problem is that “we don’t know these people” and in the case of water left running, there was no way to reach the owners to report the problem.

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She asked the Council to uphold its original ban until there was more information on what the State would do to address this issue. She asked for the Council's support.

3. Ulrik Binzer said that there was general consensus about the problems related to short-term rentals but that there was an "easy fix", that is, to require permanent residency of the unit's owner. He said that the Town could ask for a driver's license or utility bill, or both, to determine residency. He said that a five or seven-day minimum would not create "churn" and that people would "self-police". He said people who rent on this basis did not want massive parties; that they would have their self-interest at heart.

4. George Landau, resident of Sugarloaf Drive for 43 years, said he prided himself in having a home that was a "conflict-free" zone. He said they had entertained countless guests over the years and that it was not a commercial use. He said he had done home exchanges, as well, and thought that people who wanted to take sabbaticals, for instance, should still be allowed to do so [and rent out their homes]. He said that younger people could not afford to buy homes and rents are escalating, so he proposed allowing short-term rentals (he used three months as an example). He recommended this type of "commercial" use, which he said was not an "abuse".

5. Cleveland Justis, resident of Karen Way for 12 years, thanked the Council for its thoughtful deliberation. He said that he worked for a non-profit and that his family had used rental income to be able to live here. He said the subcommittee meetings were helpful, noting that most who favor short-term rentals want to "do it right" and care deeply about the community. In short, he said he favors the institution of regulations rather than a ban.

Justis said that bans are flagrantly abused, and said that these rentals were not part of the "new economy"; he added that it was a good sign that Airbnb is reaching out to the Town. He recommended that the Town Council adopt the Planning Commission's recommendation as to regulation of short-term rentals.

6. Sue Zimmerman Quinn, Vista Del Mar Lane, said that Old Town Tiburon was unique and may well need special handling in this issue. She said that since 1986 she had lived in a duplex and rented out the other half. She said that within 100 feet of her residence were 11 other homes, and 16 rental units. She said and 6 of the 11 homes had absentee owners. Of these rentals, she said there was nightly, weekly and monthly "churn." She said that regulations led to a "slippery slope" of rules and exceptions to rules, and that the financial incentive was so great as to lead to violation of rules.

Ms. Quinn said the problem is lopsided—that she experiences inconvenience [from "churn"]; worse, she said that the renters do not, plus they make lots of money. She said that if the ban is lifted, it will be very difficult to retract because the rentals generate income and this will create a whole class of capital and people who will fight to protect it.

Ms. Quinn said that another reason to uphold the ban was that allowing short-term rentals removes needed housing from the market, further reducing the pool.

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With regard to complaint-based enforcement, Ms. Quinn said that complaints would need to be followed up upon right away. She said that the fines should be high – a month’s rent, for instance, and on up for second offenses, etc. She said she was leery of regulations because she would not want to “rat out” her neighbors. She asked the Council to ban short-term rentals in Tiburon.

Mayor Doyle closed the hearing at 8:18 p.m. and opened the Council discussion.

Councilmember Fraser said he had voted in favor of the new ordinance (ban) in August but had asked for a “pause” in order to do a bit more work and obtain more information on this subject. Having done so, he said that he had not heard or learned anything different since that time.

Fraser said he had read the reports in the Council packet on the impacts of short-term rentals in places like Richmond, Virginia, and Los Angeles, California, and they were not all favorable. He said that Tiburon was a “one of a kind” community; not LA or Santa Monica, and that he would vote in favor of an ordinance to ban short-term rentals. He reiterated that Tiburon is not a resort community; rather, it’s a community where “people know people”. He said it has unique neighborhoods, such as Old Tiburon, and that “one size does not fit all” in this sort of community. He said it was too early to adopt rules and regulations as the industry was rapidly evolving. He said this sea change should not drive the Town’s decision.

Vice Mayor Tollini said she takes her role as “guardian” of our neighborhoods seriously, but she said that a ban on short-term rentals would have the opposite effect to what the Council was seeking to protect.

Tollini said that with 50-90 existing rentals, an outright ban would leave no room to create a budget for enforcement, and that the Town would really hold no sway unless there is a permit system and an ability to collect TOT and impose fines. She said the rules could be simple, such as establishing an annual maximum (such as 14 days), a fine if the rules were broken, and a “kitty” for enforcement. She said the best way to address the issue of “churn” and “party houses” is to allow short-term rentals, reasonable rules, and hefty fines for violators.

Councilmember O’Donnell said that this was a challenging issue, with good arguments on all sides. However, he said he would not change his position (to ban short-term rentals) and the reason is that Tiburon is primarily a “residence community”, as opposed to a “secondary residence community”, such as Palm Springs, Cape Code and others. He said in those communities, residents know what to expect; this is not the case, in Tiburon.

O’Donnell surmised that 95% of Tiburon residents think of this as a “primary residence” community, and that it was important to protect the integrity of the community spirit. He said it would not be wise to move to allow commercialization of residential property, and that it was not in the interest of the community. He said one has to ask the question, what is fair for all, and not to allow what is only great for some, because it is not in the community’s interest.

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Councilmember Fredericks said that the question considered by the ad hoc committee was one of allowing reasonable use of short-term rentals while minimizing its impacts. But Fredericks noted that short-term rentals change the ratio of permanent housing, and would be contrary to the goals of the General Plan, such as “Village Character”. Moreover, Fredericks said that outright prohibition is clear, without need for interpretation, and that this action would not implicitly lead to support of illegal activity. She said that she, too, would continue to vote in favor of banning short-term rentals.

Mayor Doyle said that he was leaning toward support of the Vice Mayor’s position. He referred to a book entitled, “Disruptive Innovation” that describes a phenomenon of change in that once it surfaces, everything around it also changes. Doyle said that he did not believe in making laws for the lowest common denominator; he said that in his mind, “fair for all” would be to make reasonable rules and make the existence of short-term rentals acceptable to the majority of the community.

Doyle said that in his view, short-term rentals were a way for people with kids in school who want to take a vacation to be able to afford it. He proposed trying a system of regulations for a trial period, such as six months. He said the 50-90 units were not going to go away; he said that most of these were people who wanted to “do the right thing”. He suggested trying an owner-occupied, primary residence rule, with a 7-days rental minimum, for a trial period.

Councilmember Fredericks made a motion to adopt the ordinance, as written.

Mayor Doyle asked to continue the discussion.

Councilmember O’Donnell said that a short-term rental on his street had been a “nightmare”. Doyle said that not all short-term rentals were like this. O’Donnell said that the bottom line was commercialization of the Town. Doyle asked how the Council planned to stop this phenomenon.

Councilmember Fraser said that it would be a regulatory nightmare, one way or the other. But he said it was an issue that would evolve. For instance, he said that rentals should not be allowed in tight, compact neighborhoods. Fraser also said that this issue could be revisited in future, as the industry evolves. But for right now, Councilman Fraser said the best course of action for the Council to take was [uphold the ban]; to “keep its powder dry” and vote to “do the right thing for the community”.

Vice Mayor Tollini said that Fraser himself had noted the changing demographics of the community; a change that represented many younger families. She said that [for these families] two-week rentals did not represent “commercialization”. She said that reasonable restrictions and enforcement would equal good neighbors.

Councilmember O'Donnell said that Councilmember Fraser's point was well taken about the uniqueness of each neighborhood. He called out Old Tiburon, Hillhaven, and others, that these were popular locations for "party houses". He said that neighborhoods that were more spread out, like Belveron, might not be as affected. But he said that preservation of neighborhood character is important—he said that is why people run for office and are voted into office. He said the Council would be wise to stop this now.

Councilmember Fredericks noted that the Vice Mayor had served on the Planning Commission which had adopted the most recent General Plan. She again cited the values and goals of the General Plan--residential and village character; she said these are not "ageist" issues; rather, they represent what is important to the community. Fredericks also said that it was valid to look at what has happened in smaller towns and how they have been affected [by short-term rentals], in making an evaluation.

The Vice Mayor said that she did not disagree.

Councilmember O'Donnell said he agreed with Tollini's statement about a lack of funds for enforcement, but he said that neighbors will call in and the Police and Community Development Departments will have to find ways to respond to complaints.

Councilmember Fredericks said that money for enforcement is a "Trojan horse". O'Donnell agreed, stating that this is not about [the Town obtaining] revenue and Airbnb knows that.

Vice Mayor Tollini countered, stating that the Town could say that a permit is required; or perhaps require them [renters] to list on another platform [if Airbnb does not cooperate] such as VRBO.

Councilmember Fraser said that under current regulations, the Town only had five or six permits currently on file, but that that the number of rentals far exceeded it.

Fraser then seconded the motion on the floor - to adopt the ordinance [Amending Title IV, Chapter 16, Zoning] to prohibit seasonal rentals.

The Town Clerk called for a roll call vote:

AYES: Fraser, Fredericks, O'Donnell
NOES: Doyle Tollini.

Motion passed 3-2. Ordinance adopted.

TOWN COUNCIL REPORTS

Councilmember Fraser gave a report and update on the Yellow Bus program, as well as some insights into the future of the program and a return to the Council in January. He talked about successes (reduction of traffic on Tiburon Boulevard, counted during certain hours of the day),

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and areas that still needed work (bus schedules and meeting arrival times). He gave credit to the many stakeholders in the program, and the people who had worked so hard to ensure its success, including Councilmember McCaskill of Belvedere and Chief Cronin of Tiburon, who were in the audience. Councilmember Fraser also commended Sally Wilkinson who had volunteered to work on a “real-time” platform to track bus schedules.

Councilmember Fraser said the idea was to keep moving forward with the Yellow School Bus program, however, he said it would need support. To this end, Fraser said that options on the table included the formation of a joint powers authority between Tiburon and Belvedere, and the need to find a way for a revenue stream, such as a parcel tax, to fund the program. He said these matters would come before the Council for its consideration in the new year.

Councilmember O’Donnell gave a report on a PG&E proposal to increase exit fees charged to new Marin Clean Energy customers. Also part of the packet was a sample letter to the California Public Utilities Commission (CPUC) in opposition to these fees. O’Donnell said as the Town’s representative to Marin Clean Energy, he was prepared to sign the letter. The Council concurred.

Mayor Doyle reported that the Blackie’s Picnic Area project would be completed shortly.

TOWN MANAGER REPORT

None.

WEEKLY DIGESTS

- Town Council Weekly Digests – November 6 & 13, 2015

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Doyle adjourned the meeting at 8:59 p.m.

FRANK X. DOYLE, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

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**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Mayor Doyle called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, December 2, 2015, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

PRESENT: COUNCILMEMBERS: Doyle, Fraser, Fredericks, O'Donnell, Tollini

PRESENT: EX OFFICIO: Town Manager Curran, Town Attorney Stock, Director of Administrative Services Bigall, Director of Public Works/Town Engineer Barnes, Director of Community Development Anderson, Chief of Police Cronin, Town Clerk Crane Iacopi

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

There was no closed session.

ORAL COMMUNICATIONS

Judson Walsh, nine-year resident, reported that there was a petition circulating in opposition to the elimination of Golden Gate Transit Bus Route 8 [ferry feeder]. He said that he offered to attend the meeting and speak in support of reconsideration.

Mr. Walsh said the he believed in public transit and the route served the purpose of keeping Marin "eco-friendly" by keeping cars off the road. He said the route served the people who did not want to drive to the ferry and while its elimination was no doubt based on "business reasons," he asked the Council to consider keeping the route and placing a discussion of the item on an agenda in January.

Councilmember Fredericks said that while the Council usually did not comment on Oral Communications, she thought it would be helpful to note that the Golden Gate Bridge, Highway and Transportation District was planning to hold a public hearing on the matter in January and that all interested parties should attend.

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CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of November 4, 2015 meeting (Town Clerk Crane Iacopi)
2. **Town Council Appointments List** – Adopt annual List of Town Council appointments pursuant to State Law (Town Clerk Crane Iacopi)
3. **Town Council Election Results** – Adopt resolution certifying results of November 3, 2015 Municipal Election (Town Clerk Crane Iacopi)
4. **Town Signature Authority** – Adopt resolution updating signature authority on Town checks and financial instruments (Director of Administrative Services Bigall)
5. **Commendation of Margaret A. Curran** – Adopt resolution commending retiring Town Manager Margaret A. Curran for her outstanding service to the Town of Tiburon (Town Clerk Crane Iacopi)

MOTION: To adopt Consent Calendar Item Nos. 1-5, as written.

Moved: O'Donnell, seconded by Fredericks

Vote: AYES: Unanimous

ACTION ITEM – APPOINTMENT OF NEW TOWN MANAGER

1. **Appointment of Town Manager** – Consider appointment of Town Manager and authorize Mayor Doyle to execute contract on behalf of the Town (Recruitment subcommittee)

Councilmember O'Donnell said that a Council subcommittee, comprised of he and Councilmember Fraser, had been appointed over the summer to begin the recruitment for a new Town Manager. O'Donnell said that the Council was truly sorry to see current manager Peggy Curran go (retire) at the end of the year. He said she had been a terrific Town Manager.

O'Donnell said the subcommittee had reviewed 50 resumes and selected five finalists. All were excellent candidates, according to O'Donnell. He said that the top three finalists were interviewed by the entire Council who was unanimous in its decision to make an offer to Greg Chanis, currently an employee of Santa Barbara County government.

Councilmember O'Donnell gave some background on Mr. Chanis' work history and experience that includes 20 years in Parks Management and Land Conservation in New Hampshire, and a number of years as the County Administrator in Sullivan County, New Hampshire. He said that he was pleased to introduce Greg, and his wife, Polly, who were in the audience.

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Town Council Minutes #xx -2015

December 2, 2015

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Councilmember O'Donnell said Mr. Chanis was a collegial person with excellent skills, and he recommended approval of his employment agreement and appointment as the next Tiburon Town Manager.

Mayor Doyle asked for public comment. There was none.

MOTION: To appoint Greg Chanis as the new Town Manager and authorize Mayor Doyle to execute his employment agreement on behalf of the Town Council.

Moved: Tollini, seconded by Fredericks

Vote: AYES: Unanimous

ACTION ITEM – SEATING AND REORGANIZATION OF THE TOWN COUNCIL

1. **Oath of Office** – The Town Clerk will administer the oath of office to Council members-elect Doyle and Tollini.

Councilmembers-elect Doyle and Tollini were sworn in.

2. **Recognition of Outgoing Mayor Frank Doyle** – Mayor Doyle is invited to share his comments and the Council is invited to share their comments with the outgoing Mayor, as well.

Councilmember Fraser lauded outgoing Mayor Doyle for his vision for the community and the way he brought projects forward in a down-to-earth manner, making this a better place for everyone. In addition, he said that he had a great sense of humor and that working with him had been fun due to his energy, vision, and laughter.

Councilmember O'Donnell said that he had started his public service on the Design Review Board (DRB). He said how much he had enjoyed working with his fellow board members including Doyle, Liz Bird and Cathy Frymier. He said that Frank had a great creative vision and had made the work fun.

Vice Mayor Tollini said that she had served on the Planning Commission with Doyle, and also appreciated his down-to-earth approach to problem-solving. Tollini said that another quality she appreciated was that Frank listens to everyone's point of view, and she said that the Town Council was better for it.

Councilmember Fredericks seconded all of these comments and said that she had never had so much fun working with someone that she occasionally disagreed with.

Mayor Doyle talked about his experience serving on the DRB, Planning Commission and Council, to which he humorously attributed his rise as a kind of "Peter Principle". He noted that all along the way he had been supported by an "incredible staff" and thanked them, while also

DRAFT

thanking his colleagues for their support. He said it had been a lot of fun to serve on the Council which is one of the reasons he ran for re-election.

3. **Election of New Mayor** – Outgoing Mayor Doyle will receive nominations for the Office of Mayor and conduct the election.

MOTION: To appoint Vice Mayor Tollini as the new Mayor [2015-16].

Moved: Fredericks, seconded by O'Donnell

Vote: AYES: Unanimous

4. **Election of Vice Mayor** – The Mayor-elect will take the Chair and conduct the election of Vice Mayor.

MOTION: To appoint Councilmember Fraser as Vice Mayor [2015-16].

Moved: Doyle, seconded by Fredericks

Vote: AYES: Unanimous

5. **Town Council Comments** – The Council may share any additional comments at this time.

None.

TOWN COUNCIL REPORTS

Councilmember Fredericks reported on the Golden Gate Bridge, Highway & Transportation District (GGBHTD) proposal to eliminate Route 8 which she said had consistently low ridership (an average of 10 passengers per run) for a number of years. She said the District was considering elimination of the route based on low ridership and the fact that there is now a shuttle that goes the length of Tiburon Boulevard to Highway 101.

Fredericks said that the District would be holding a hearing on this proposal in January, and she encouraged people to attend the hearing to find out the facts and to have input on the proposal.

TOWN MANAGER'S REPORT

There was no report; however, Town Manager Curran noted that this was her last Council meeting before her retirement.

WEEKLY DIGESTS

- Town Council Weekly Digests – November 20 & 27, 2015

Accepted.

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Town Council Minutes #xx -2015

December 2, 2015

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ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor-elect Tollini adjourned the meeting at 7:57 p.m.

ERIN TOLLINI, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK



STAFF REPORT

To: **Mayor and Members of the Town Council**
 From: **Administrative Services Department**
 Subject: **Investment Summary – November 2015**
 Reviewed By: 

BACKGROUND

Pursuant to Government Code Section 53601, staff is required to provide the Town Council with a report regarding the Town’s investment activities for the period ended November 30, 2015.

ANALYSIS

November 2015

Agency	Investment	Amount	Interest Rate	Maturity
Town of Tiburon	Local Agency Investment Fund (LAIF)	\$19,987,949.08	0.374%	Liquid
	Housing note to Town Manager	\$ 800,000.00	0.330%	Based on Contract
	Money Market (Bank of Marin)	\$ 100,000.00	0.10%	Liquid
Total		\$20,887,949.08		

The total invested at the end of the prior month was \$21,162,949.08; therefore the Town’s investments decreased by \$275,000 over September 2015.

FINANCIAL IMPACT

No financial impact occurs by accepting this report. The Town continues to meet the priority principles of investing – safety, liquidity and yield in this respective order.

RECOMMENDATION

Staff recommends that the Town Council:
 Move to accept the Investment Summary for November 2015

Prepared By: Heidi Bigall, Director of Administrative Services 



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-4

STAFF REPORT

To: Mayor and Members of the Town Council
From: Office of the Town Clerk
Subject: Announcement of Vacancies on Town Boards, Commissions & Committees
Reviewed By: 

BACKGROUND

Town Council Resolution No. 16-2007 (Appointments Procedure) requires that the Mayor announce pending vacancies on Town boards, commissions and committees at the first regular meeting of the New Year. A notice is subsequently published in the *Ark* newspaper and posted at Town Hall and the Belvedere-Tiburon Library for the purpose of informing the public of these vacancies and to seek applicants to fill the positions.

Commissioners whose terms are expiring in 2016 will be notified by the Town Clerk of their term expirations and asked whether they are interested in seeking reappointment. Due consideration will be given to incumbent commissioners, however, the Council is required to interview all *new* applicants, pursuant to Resolution No. 16-2007. An exception to this rule is for commissioners who have served terms of less than two years in duration; the Council is not required to interview new applicants for these pending vacancies, if the incumbent seeks reappointment to the position.

The attached Notice of Current & Pending Vacancies itemizes all of the known vacancies to which the Council will make appointments in 2016.

RECOMMENDATION

Staff recommends that the Town Council:

1. Announce the pending vacancies in 2016 on Town boards, commissions and committees by adoption of this report on the Consent Calendar;
2. Direct staff to publish and post the notice of pending vacancies in accordance with Town policy.

Exhibit: Notice of Pending Vacancies on Town Boards, Commissions & Committees, January 2016

Prepared By: Diane Crane Iacopi, Town Clerk



TOWN OF TIBURON
NOTICE OF CURRENT & PENDING VACANCIES
On Town Boards, Commissions & Committees
January 2016

BELVEDERE-TIBURON LIBRARY AGENCY BOARD
BUILDING CODE APPEALS BOARD
DESIGN REVIEW BOARD
HERITAGE & ARTS COMMISSION
PARKS, OPEN SPACE & TRAILS COMMISSION
PLANNING COMMISSION
THE RANCH (Belvedere-Tiburon Jt. Recreation Committee)
Town Treasurer
Town Artist Laureate

The following vacancies on Town Boards, Commissions and Committees are current or pending in 2016. Pursuant to Resolution No. 16-2007, **the Tiburon Town Council will conduct interviews of interested applicants beginning in February 2016.**

Current commissioners whose terms are expiring may seek reappointment for another term; commissioners who have served terms of less than two years are eligible for automatic re-appointment.

Most appointments are made for four-year terms, effective March 1. Other terms are stated in the agency's bylaws; for instance, the Belvedere-Tiburon Library Agency terms are for three years and expire at the end of June; and The Ranch committee members serve for two-year terms.

Applicants should be residents of the Town of Tiburon and have the time, interest and desire to serve on the board or commission, including attendance at regular monthly meetings and other activities. Some commissions, such as the Heritage & Arts Commission, and The Ranch, are comprised of residents of both Tiburon and Belvedere, or the Tiburon Peninsula.

Applications can be obtained at Town Hall, 1505 Tiburon Boulevard, or from the Town's website, www.townoftiburon.org (click on "Useful Forms" under "Government"). You may also contact Town Clerk Diane Crane Iacopi at dcrane@townoftiburon.org (tel: 435-7377) for more information.

TOWN OF TIBURON
NOTICE OF CURRENT & PENDING VACANCIES ON
BOARDS, COMMISSIONS & COMMITTEES
JANUARY 2016

BELVEDERE-TIBURON LIBRARY AGENCY BOARD OF TRUSTEES

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expires</u>
• Jeff Foran	May 2013	6/30/16

BUILDING CODE APPEALS BOARD

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expired</u>
• David Kallmeyer	April 2012	2/28/15 [position vacant]

DESIGN REVIEW BOARD

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expires</u>
• Bryan Chong	March 2008; 2012	2/28/16
• Michael Tollini	June 2008; 2012	2/28/16

HERITAGE & ARTS COMMISSION

• Daniel Amir	February 2012	2/28/16
• Kenna Norris	July 2015	2/28/16*

PARKS, OPEN SPACE & TRAILS

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expires</u>
• Phillip Feldman	June 2008; Feb. 2012	2/28/16
• Michael McMullen	June 2008; Feb. 2012	2/28/16

PLANNING COMMISSION

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expires</u>
• Lou Weller	June 2011; Feb. 2012	2/28/16

THE RANCH (Belvedere-Tiburon Jt. Recreation Committee)

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expires</u>
• Nuria Ibars	Oct. 2012; March 2014	2/28/16

TOWN TREASURER

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expires**</u>
• William Osher	January 1998	Resigned 10/7/15 [position vacant]

TOWN ARTIST LAUREATE

<u>Appointee</u>	<u>Appointed</u>	<u>Term Expires</u>
• Jaleh Etemad	September 2012	8/31/2016

*Appointees who have served terms of 2 years or less are eligible for automatic reappointment pursuant to Town Council Resolution No. 16-2007.

**No set term limit

*Copies to: The Ark (for publication on 1/27 and 2/3/16;
Courtesy copy to: The Marin Independent Journal
Notice Posted at Tiburon Town Hall and Belvedere/Tiburon Library*



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-5

STAFF REPORT

To: Mayor and Members of the Town Council
From: Office of the Town Clerk
Subject: 2016 Town Council Committee Appointments
Reviewed By: *L.C.*

BACKGROUND

Members of the Town Council are appointed to serve on a variety of local and regional boards and committees and as Town representatives on a number of joint powers authorities. They also serve on ad hoc Town committees, formed to study specific issues or projects in town.

The Town Council reorganized at its December 2, 2015 regular meeting, appointing Erin Tollini as Mayor and Jim Fraser to the Vice Mayor position. It is now timely for the Council to review its list of committee appointments and make any changes or new appointments.

Staff also notes that it may be timely for the disbandment of some ad hoc committees, such as the *Dairy Knoll Project* and *Town Manager Recruitment* (both of which are now complete).

If there are no additional changes to the current schedule, the Council may adopt this list on the Consent Calendar. If the Council wishes to discuss the matter and make further recommendations for changes to committee appointments, it is free to pull the matter from Consent Calendar and move it to Action Items.

RECOMMENDATION

Staff recommends that the Town Council consider any revised or new appointments for 2016.

Exhibit: 2015 Council Committee Appointments, last updated on September 2, 2015

Prepared By: Diane Crane Iacopi, Town Clerk

TIBURON TOWN COUNCIL
COMMITTEE APPOINTMENTS
2015

I. STATE & REGIONAL AGENCIES

1. ASSOCIATION OF BAY AREA GOVERNMENTS
(General Assembly meets in April and October)
Jim Fraser, Delegate
Emmett O'Donnell, Alternate

2. MARIN CLEAN ENERGY BOARD OF DIRECTORS
(Meets 1st Thursday from 7–9 p.m. at 1 McGinnis Parkway, San Rafael)
Emmett O'Donnell, Delegate
Erin Tollini, Alternate

3. COMMUNITY DEVELOPMENT BLOCK GRANT
PRIORITY-SETTING COMMITTEE (CDBG)
(Meets twice a year in Marin City and at Civic Center)
Frank Doyle, Delegate
Jim Fraser, Alternate

4. HOMELESS POLICY STEERING COMMITTEE (HPSC)
(Under auspices of County Dept. of Health Human Services)
Frank Doyle appointed as Town representative to the
“Homeless Policy Makers Committee” in Feb. 2014 – (this is a
subcommittee chaired by San Rafael Councilmember Kate Colin
comprised of policy makers from each city)

5. LEAGUE OF CALIFORNIA CITIES
(Meets quarterly and at the Annual Conference in September; other events as published)
Alice Fredericks
 - Voting Delegate for Town of Tiburon
 - North Bay Division Executive Committee
 - Transportation, Communication & Public Works State Policy Committee -
(Appointment by League President)

6. MARIN CLIMATE ENERGY PARTNERSHIP (ICLEI)
Local Governments for Sustainability *(Meets 1st Thursday, San Rafael City Hall)*
Kyra O'Malley, Staff Liaison & voting board member

7. MARIN EMERGENCY RADIO AUTHORITY BOARD OF DIRECTORS
(Meetings scheduled as needed)
Police Chief Michael Cronin, Delegate
Retired Capt. David Hutton, volunteer Delegate
Erin Tollini, Alternate

8. MARIN TELECOMMUNICATIONS AGENCY BOARD OF DIRECTORS
(Meets 2nd Wednesday from 7-9 p.m., San Rafael City Hall)
Jim Fraser, Delegate
Frank Doyle, Alternate

9. RICHARDSON BAY REGIONAL AGENCY BOARD OF DIRECTORS
(Meets monthly on 2nd Wednesday at 6:00 p.m. - Sausalito City Hall)
Erin Tollini, Delegate
Emmett O'Donnell, Alternate

10. TRANSPORTATION AUTHORITY OF MARIN BOARD OF COMMISSIONERS (Meets monthly on 4th Thursday at 7:30 p.m. - Board of Supervisors Chambers, Civic Center)
[Four year terms, effective May 1, 2008]
Alice Fredericks, Delegate
Erin Tollini, Alternate
 - Fredericks serves as TAM's representative to MCCMC
 - Fredericks serves on the TAM Legislative Committee, and Programming and Projects Executive Committee
 - Fredericks was appointed to serve on the SB 375 Marin SCS Ad Hoc Committee formed by TAM in February 2011 – *committee now inactive*

11. TRANSPORTATION AUTHORITY OF MARIN (Safe Routes to School ad hoc subcommittee)
Jim Fraser – Town Appointee (January 2014)

12. CITIZEN'S ADVISORY COMMITTEE OF THE WATER EMERGENCY TRANSIT AUTHORITY
--Committee has sunsetted

II. LOCAL AGENCIES/COMMITTEES

1. BELVEDERE-TIBURON JOINT DISASTER ADVISORY COUNCIL
(Meets bi-monthly on 2nd Tuesday from 4:00 - 5:30 p.m. in the Town Council Chambers)
Jim Fraser, Town Council Representative

2. BELVEDERE-TIBURON JOINT RECREATION COMMITTEE (The Ranch)
(Meets bi-monthly on 3rd Monday in the Town Hall Community Room)
Jim Fraser, Town Council Voting Member (as of June 2012)

- III. TOWN AD HOC COMMITTEES - *(in alphabetical order)*
(Meetings scheduled as needed)
- 1 AFFORDABLE HOUSING
 - i. Alice Fredericks
 - ii. Erin Tollini

 - 2 2015-2016 BUDGET
 - i. Emmett O'Donnell
 - ii. Erin Tollini

 - 3 DAIRY KNOLL PROJECT
 - i. Jim Fraser
 - ii. Emmett O'Donnell

 - 4 DOWNTOWN PARKING
 - i. Jim Fraser
 - ii. Emmett O'Donnell

 - 5 DOWNTOWN REVITALIZATION
 - i. Jim Fraser
 - ii. Frank Doyle

 - 6 LEGISLATIVE ACTION (current Mayor/ MCCMC Legislative Committee appointee)
 - i. Frank Doyle
 - ii. Alice Fredericks

 - 7 LITIGATION
 - i. Alice Fredericks
 - ii. Jim Fraser

 - 8 MARTHA PROPERTY APPLICATIONS
 - i. Alice Fredericks
 - ii. Jim Fraser

 - 9 PATHS & OPEN SPACE ACCESS
 - i. Frank Doyle
 - ii. Alice Fredericks

 - 10 RECRUITMENT (Town Manager transition)
 - i. Jim Fraser
 - ii. Emmett O'Donnell

 - 11 SEASONAL RENTALS
 - i. Frank Doyle
 - ii. Alice Fredericks

12 TIBURON BOULEVARD RELINQUISHMENT

- i. Emmett O'Donnell
- ii. Jim Fraser

13 YELLOW BUS CHALLENGE 2.0

- i. Emmett O'Donnell
- ii. Jim Fraser

V. MCCMC APPOINTMENTS

- *Nominated by MCCMC and appointed by Board of Supervisors*

Golden Gate Bridge, Highway & Transportation District Board of Directors

(Meets 2nd & 4th Fridays at 10 a.m., GGBHTD offices)

Alice Fredericks

Fredericks GGBHTD Committee Appointments: Building and Operating Committee; Finance Committee; Strategic Financial Planning Committee; OPEB Committee; Transportation Committee

Fredericks is also District representative to the GGB/Amalgamated Transit Union Pension Board of Trustees

- *Town Appointments to MCCMC Committees*

1. Legislative Committee [a Standing Committee per MCCMC Bylaws]

(Meets 4th Monday at 8:00 a.m., San Rafael City Hall)

Alice Fredericks (also serves as Chair)

No alternate

2. JPA Oversight Ad Hoc Committee

(Meetings scheduled as needed)

Jim Fraser, delegate

No alternate

3. Sea Level Rise –Ad Hoc Committee (August 19, 2015)

(Meetings scheduled as needed)

Alice Fredericks, delegate

No alternate

VI. TOWN APPOINTMENTS IN OTHER AREAS OF INTEREST

MarinMap Steering Committee

(Meetings scheduled as needed)

Pat Barnes

Marin County Hazardous & Solid Waste JPA

(Meets quarterly)

Peggy Curran



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-6

STAFF REPORT

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

From: **Community Development Department**

Subject: **Consider Adoption of Resolution Updating the Schedule of Fines for Violations of the Municipal Code Enforced by Administrative Citation**

Reviewed by:

BACKGROUND

The Town's Schedule of Fines is adopted pursuant to Chapter 31 (Enforcement of Code) of the Municipal Code, and sets forth the amount of the "fine" applied and in which instances the Town issues an Administrative Citation for a violation of the Municipal Code.

The Town updated its Schedule of Fines in September 2015. At that time, the staff report noted the possibility that the Schedule of Fines would need further updating pending the outcome of the vacation rental issue that was still being studied by the Town Council at the time. The Town Council subsequently voted to prohibit vacation (short-term) rentals, and the increase of fines associated with vacation rental regulation violations is being returned for consideration of adoption.

The only proposed change to the Schedule of Fines is that associated with violation of the Vacation Rental provisions of the Zoning Ordinance. A redlined document highlighting the proposed change to the current Schedule of Fines is attached as **Exhibit 1**. A draft resolution updating the Schedule of Fines is attached as **Exhibit 2**.

ANALYSIS

Because of the community's highly desirable location, physical beauty and other attributes, vacation rentals in Tiburon can command high prices and constitute a lucrative endeavor for hosts. Staff believes in order to be a more effective deterrent to violating the Town's vacation rental provisions, the penalty associated with administrative citation fines needs to be the maximum allowed by state law, which is \$1,000 per violation. In the absence of a specific line item for vacation rental violations, the current default penalty is \$158 per day for a Zoning Ordinance violation. Staff does not believe this latter amount would constitute an effective deterrent and a means of quickly rectifying violations, which are the primary purposes of the Administrative Citation process.

RECOMMENDATION

Staff recommends the Town Council adopt the Resolution approving the updated Schedule of Fines.

EXHIBITS

1. Redlined Schedule of Fines document.
2. Draft Resolution.

Prepared by: Scott Anderson, Director of Community Development



REDLINED VERSION
ADMINISTRATIVE FINES SCHEDULE

1. Work without a Permit [Building, Plumbing, Electrical, etc.] (Municipal Code § 13-2):

Project valuation less than or equal to \$5,000: \$250.
Project valuation greater than \$5,000 but less than or equal to \$10,000: \$500.
Project valuation greater than \$10,000 but less than or equal to \$50,000: \$1,000 plus two (2) times the permit fee.
Project valuation in excess of \$50,000: \$1,000 plus four (4) times the permit fee.

2. Violation of Building Permit Conditions (Municipal Code §§ 13-10, 23-31, 23-34, 26-3, 31-3, etc):

First violation: \$500
Second violation: \$1,000
Third violation: \$2,000
Fourth violation: \$3,000 penalty and suspension of permit.

In addition to assessing monetary fines, the Building Official may, in his sole discretion, issue a Stop Work Order upon ascertainment of the violation. All penalties must be paid, and violations corrected, before the Stop Work Order is lifted. Upon a fourth offense, the Building Official will make a formal complaint to the State Contractors License Board.

3. Failure to obtain a Report of Residential Building Record prior to sale or exchange of a dwelling unit (Municipal Code § 13A-3): \$500 for each day the violation persists.

4. Failure to make “mandatory” corrections required by a Report of Residential Building Record (Municipal Code § 13A-8): \$100 per each day the failure persists

5. Violation of any conditions included in a resolution designating property as an historic landmark (Municipal Code §§ 13B-4): \$500 for each day the violation persists.

6. Violation of Zoning Ordinance or of Zoning Permit Conditions (Municipal Code § 16-56.030): \$158 for each day that the violation persists, unless a higher fine is otherwise imposed for that specific violation in this Exhibit A.

- 7 Violation of Zoning Ordinance Regulations Prohibiting Vacation Rentals (Municipal Code § 16-40.042): \$1,000 for each violation.

87. Alteration, Planting, or Removal of Tree without Permit (Municipal Code § 15A-3): \$1,000 per tree.

- | 98. Violation of the Town of Tiburon Urban Runoff Pollution Protection Ordinance (Municipal Code §§ 20A-7, 20A-8, 20A-9, 20A-10, and 20A-11):

First violation: \$250 per day
Second violation: \$500 per day
Third and subsequent violations: \$1,000 per day.

- | 109. Violations of the Town of Tiburon Solid Waste Ordinance (Municipal Code §§ 26-3, 26-4, 26-5, 26-6, 26-7, and 26-8): \$100 for each violation.

- | 110. Violation of the Town of Tiburon Smoking and Tobacco Ordinance (Municipal Code §§ 28-3, 28-4, 28-5, 28-6, 28-7, 28-9, 28-10 and 28-11): \$100 for each violation otherwise punishable as an infraction and \$773 for each violation otherwise punishable as a misdemeanor (§ 28-11 only).

- | 121. Unlawful Use of Leaf Blower or Hedge Trimmer (Municipal Code § 30-4): \$250 for each violation.

- | 132. All other violations of the Municipal Code: In the absence of a different fine specifically imposed in the Municipal Code or this Exhibit A, or a higher fine imposed in the applicable Bail Schedule, the fine shall be \$158 for violations otherwise punishable as infractions and \$773 for violations otherwise punishable as misdemeanors.

RESOLUTION NO. DRAFT-2016

**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF TIBURON
SUPERSEDING RESOLUTION NO. 40-2015
AND SETTING FORTH THE VIOLATIONS OF THE
MUNICIPAL CODE THAT MAY BE ENFORCED BY
ADMINISTRATIVE CITATION PURSUANT TO CHAPTER
31 OF THE MUNICIPAL CODE AND ADOPTING AN
UPDATED SCHEDULE OF FINES FOR VIOLATIONS**

WHEREAS, on September 16, 2015, the Town Council adopted Resolution No. 40-2015, which superseded Resolution No. 45-2011 and set forth the violations of the Municipal Code that may be punished by administrative citation and established a schedule of fines for said violations; and

WHEREAS, Resolution No. 40-2015 incorporated in part the amounts set forth in the most recent Uniform Penalty and Bail Schedules published by the Marin County Courts for violations of the Tiburon Municipal Code ("Bail Schedule"); and

WHEREAS, the Town Council finds that certain amendments to the Municipal Code adopted since adoption of Resolution No. 40-2015, specifically provisions for vacation rental regulation violations, require amendment to the said resolution; and

WHEREAS, the Town Council finds that adjustments to the fine schedule for such violations are warranted; and

WHEREAS, the Town Council finds that the amendment of the fine schedule is not a project under the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Tiburon as follows:

1. Resolution No. 40-2015 is hereby superseded by this Resolution on its effective date.
2. Any violation of the Town of Tiburon Municipal Code may be enforced by administrative citation pursuant to Chapter 31 of the Municipal Code in the discretion of the Town Attorney.
3. Exhibit A, attached hereto and adopted herein, sets forth a list of fines for particular violations of the Municipal Code. In some instances, the Municipal Code and/or the applicable Bail Schedule may also establish a fee, fine or other penalty. In case of direct conflict in fine amounts, the Municipal Code shall govern, followed by Exhibit A, then the

applicable Bail Schedule. The applicable Bail Schedule shall be that in effect at the time of the violation.

4. The fine amounts imposed herein shall become effective immediately.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on _____, 2016 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ERIN TOLLINI, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

EXHIBIT A
ADMINISTRATIVE FINES SCHEDULE

1. Work without a Permit [Building, Plumbing, Electrical, etc.] (Municipal Code § 13-2):

Project valuation less than or equal to \$5,000: \$250.
Project valuation greater than \$5,000 but less than or equal to \$10,000: \$500.
Project valuation greater than \$10,000 but less than or equal to \$50,000: \$1,000 plus two (2) times the permit fee.
Project valuation in excess of \$50,000: \$1,000 plus four (4) times the permit fee.

2. Violation of Building Permit Conditions (Municipal Code §§ 13-10, 23-31, 23-34, 26-3, 31-3, etc):

First violation: \$500
Second violation: \$1,000
Third violation: \$2,000
Fourth violation: \$3,000 penalty and suspension of permit.

In addition to assessing monetary fines, the Building Official may, in his sole discretion, issue a Stop Work Order upon ascertainment of the violation. All penalties must be paid, and violations corrected, before the Stop Work Order is lifted. Upon a fourth offense, the Building Official will make a formal complaint to the State Contractors License Board.

3. Failure to obtain a Report of Residential Building Record prior to sale or exchange of a dwelling unit (Municipal Code § 13A-3): \$500 for each day the violation persists.

4. Failure to make “mandatory” corrections required by a Report of Residential Building Record (Municipal Code § 13A-8): \$100 per each day the failure persists

5. Violation of any conditions included in a resolution designating property as an historic landmark (Municipal Code §§ 13B-4): \$500 for each day the violation persists.

6. Violation of Zoning Ordinance or of Zoning Permit Conditions (Municipal Code § 16-56.030): \$158 for each day that the violation persists, unless a higher fine is otherwise imposed for that specific violation in this Exhibit A.

7. Violation of Zoning Ordinance Regulations Prohibiting Vacation Rentals (Municipal Code § 16-40.042): \$1,000 for each violation.

8. Alteration, Planting, or Removal of Tree without Permit (Municipal Code § 15A-3): \$1,000 per tree.

9. Violation of the Town of Tiburon Urban Runoff Pollution Protection Ordinance (Municipal Code §§ 20A-7, 20A-8, 20A-9, 20A-10, and 20A-11):

First violation: \$250 per day
Second violation: \$500 per day
Third and subsequent violations: \$1,000 per day.

10. Violations of the Town of Tiburon Solid Waste Ordinance (Municipal Code §§ 26-3, 26-4, 26-5, 26-6, 26-7, and 26-8): \$100 for each violation.
11. Violation of the Town of Tiburon Smoking and Tobacco Ordinance (Municipal Code §§ 28-3, 28-4, 28-5, 28-6, 28-7, 28-9, 28-10 and 28-11): \$100 for each violation otherwise punishable as an infraction and \$773 for each violation otherwise punishable as a misdemeanor (§ 28-11 only).
12. Unlawful Use of Leaf Blower or Hedge Trimmer (Municipal Code § 30-4): \$250 for each violation.
13. All other violations of the Municipal Code: In the absence of a different fine specifically imposed in the Municipal Code or this Exhibit A, or a higher fine imposed in the applicable Bail Schedule, the fine shall be \$158 for violations otherwise punishable as infractions and \$773 for violations otherwise punishable as misdemeanors.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-7

STAFF REPORT

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

From: **Community Development Department**

Subject: **Recommendation to Accept Annual Reporting of Development Impact Fees Pursuant to the California Government Code**

Reviewed by: *L.C.*

BACKGROUND

Similar to most cities and counties in California, the Town of Tiburon imposes public facilities fees on development projects during the approval process. Certain of these fees are categorized as “development fees” under Section 66000 et seq. of the California Government Code. Section 66006 of that code requires specific data regarding development fees to be made available to the public within 180 days following the end of each fiscal year, with a public meeting held on the matter at the next regularly scheduled meeting following release of the data. This report sets forth the required annual data reporting for the Town’s development fee accounts for Fiscal Year (FY) 2014-2015, which closed on June 30, 2015.

ANALYSIS

The Town of Tiburon imposes four categories of fees that could qualify as development fees. These categories are: 1) traffic impact fees 2) street impact fees 3) affordable housing in-lieu fees and 4) stormwater runoff fees. Park and recreation in-lieu fees, which the Town also collects, are not defined as development fees in the statute. Reporting data for each of the Town’s development fee categories is shown below.

Traffic Mitigation Fees

Traffic mitigation fees have been collected by Town since 1980; the two current fee accounts were established in 1996, each addressing different portions of the Tiburon Planning Area. In March 2007, an updated Traffic Mitigation Fee Schedule based on projections from the Town’s General Plan *Tiburon 2020* went into effect. The Town Council received a mandatory five-year report on these funds in January 2012 and made findings regarding the future use of unexpended funds in these accounts; the next five-year review is scheduled for January 2017. The two traffic mitigation accounts and the required data for this annual report are as follows:

Circulation System Improvement Fund (CSIF): This fund contains the collected exactions for construction of public traffic improvements in the incorporated portions of the Tiburon Planning Area. The fee varies depending on the location of the project in relation to intersections

identified in the General Plan Circulation Element as requiring improvement. The fee varies from \$0 per PM peak trip to \$5,278 per PM peak trip.

TIBURON CIRCULATION SYSTEM IMPROVEMENT FUND		
Fund Balance, July 1, 2014		\$45,020
Revenues:		
Fees Collected	\$39,221	
Interest Income	\$112	
TOTAL REVENUES		\$39,323
Expenditures:	\$0	
TOTAL EXPENDITURES		\$(0)
Fund Balance, June 30, 2015		\$84,353

In the adopted FY 2015-16 budget there are no planned expenditures identified from this account. No inter-fund loans or transfers occurred from this account for FY 2014-15 and no refunds from this account were issued in FY 2014-15.

Planning Area Mitigation Fund (PAMF): This fund contains the collected exactions for public traffic improvements in portions of the Tiburon Planning Area outside of the Town’s corporate limits. The fee varies depending on the location of the project in relation to intersections identified in the General Plan Circulation Element for improvement. The fee varies from \$0 per PM peak trip to \$361 per PM peak trip.

TIBURON PLANNING AREA MITIGATION FUND		
Fund Balance, July 1, 2014		\$181,984
Revenues:		
Fees Collected	\$2,884	
Interest Income	\$458	
TOTAL REVENUES		\$3,342
Expenditures:	\$0	
TOTAL EXPENDITURES		\$(0)
Fund Balance, June 30, 2015		\$185,326

The FY 2015-16 Town budget does not contain any planned expenditures from this account. Additional future projects to which these funds would be contributed include a merge/acceleration lane at the Tiburon Boulevard/Cecilia Way intersection and capacity improvements at the Tiburon Boulevard/Redwood Highway Frontage Road intersection. These improvements are set forth in the General Plan Circulation Element, but are likely to be at least five years away. The cost of these improvements will exceed funds available at this time. No inter-fund loans or transfers occurred in this account for FY 2014-15 and no refunds from this account were issued in FY 2014-15.

Street Impact Fee

The street impact fee went into effect in July 1999. This fee partially off-sets the Town’s costs of public roadway maintenance by assessing a fee of 1.0% (.01) on the valuation of all building permits issued by the Town. A project with a \$100,000 building permit valuation would therefore be subject to a street impact fee of \$1,000.

TIBURON STREET IMPACT FUND		
Fund Balance, July 1, 2014		\$1,595,148
Revenues:		
Fees Collected	\$891,175	
Interest Income	\$4,838	
Refund/Reimbursement	\$3,720	
TOTAL REVENUES		\$899,733
Expenditures:	\$759,480	
TOTAL EXPENDITURES		\$(48,632)
Fund Balance, June 30, 2015		\$2,446,249

EXPENDITURES		
Projects completed FY 2014-15:	<u>Cost</u>	<u>% from Fund</u>
Annual Pavement Management Program	\$0	
Miscellaneous Projects	\$48,632	100%
Total Projects FY 2014-15	\$48,632	

For FY 2015-16, the Town has identified in its adopted budget \$825,000 in planned street improvement projects to be funded by the Street Impact Fund. The Town maintains a Pavement Management Program (PMP), which analyzes the condition of the Town’s streets and suggests

appropriate repair/replacement techniques based on this analysis. In 2006, the Town embarked on an aggressive program to eliminate its “failed” street segments, which has been successfully completed. According to the most recent Pavement Management Program (PMP) update report, the Town’s overall Pavement Condition Index (PCI) now stands at approximately 78, up from a PCI of 66 in 2006. No refunds or transfers were issued from this account in FY 2014-2015. The Town Council received a mandatory five-year report on these funds in January 2015; the next such report is due in January 2020.

Affordable Housing In-Lieu Fee

This fee is collected either at the subdivision map or building permit stage, at the option of the developer. Its revenues are used for the design and construction of permanently affordable housing units or for other actions that would directly preserve, conserve, rehabilitate, or increase the supply of affordable units in the Tiburon Planning Area. The fee is calculated using a formula contained within Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code. The formula contains several variables (such as interest rates) and the amount of the fee can vary over time depending on these variables. Generally, at the current time, the in-lieu fee amount is approximately \$405,000 for each required affordable unit that is not built, dependent upon prevailing interest rates and other variables at the time of calculation. A project creating 12 or more units or lots would be responsible to provide 20% affordable units or pay the resulting in-lieu fee. Projects that create 7 through 11 units would be responsible for providing 15% affordable units or pay the resulting in-lieu fee. Projects that create 2 through 6 new lots or units pay a prorated share of the in-lieu fee for a single affordable unit. For example, a 6-unit project would pay 0.9 (15% X 6 units = 0.9) of the in-lieu fee. It is unclear whether affordable housing in-lieu fees are a “development fee” as defined in state law; however, the following information is public record.

AFFORDABLE HOUSING IN-LIEU FUND		
Fund Balance, July 1, 2014		\$1,237,524
Revenues:		
Reimbursements	\$7,001	
Interest Income	\$2,874	
TOTAL REVENUES		\$9,875
Expenditures:		
Bank Fees	\$144	
Marin Housing JPA	\$10,746	
Legal Expenditures	\$0	
TOTAL EXPENDITURES		\$(10,890)
Fund Balance, June 30, 2015		\$1,236,509

The Town Council is due to receive a mandatory five-year report on these funds in January 2016.

For FY 2015-16 the Town has \$33,774 in expenditures planned from the Affordable Housing In-Lieu Fund, primarily for Marin Housing Authority-related services, an annual contribution to the Homeward Bound program for homeless persons, and a contribution to the Marin Homelessness program. Several affordable housing sites are identified in the Housing Element of the Tiburon General Plan, and as developers move forward with actual projects, the housing in-lieu funds collected will be expended toward affordable housing projects. No inter-fund loans or transfers occurred in this account for FY 2014-15, and no refunds from this account were issued in FY 2014-15.

Stormwater Runoff Fee

The Town began collecting stormwater runoff fees, also known as impervious surface fees, in 2005. The stormwater impact fee helps recover the costs of upgrading the Town’s public storm drain system to accommodate additional runoff caused by new construction. The fee is \$1.00 per square foot of new impervious surface created by construction projects. The Town Council received a mandatory five-year report on these funds in January 2011 and made findings regarding the use of unexpended funds in this account. The next such report is due in January 2016.

STORMWATER RUNOFF FUND		
Fund Balance, July 1, 2014		\$69,941
Revenues:		
Fees Collected	\$106,745	
Interest Income	\$235	
TOTAL REVENUES		\$106,980
Expenditures:		
Storm Drainage Improvements	\$0	
Railroad Marsh Maintenance	\$0	
TOTAL EXPENDITURES		\$(0)
Fund Balance, June 30, 2015		\$176,921

For FY 2015-16 the Town has \$100,000 in expenditures planned from the Storm Water Runoff Fund. No inter-fund loans, transfers, or refunds were issued to or from this account in FY 2014-15.

RECOMMENDATION

Staff recommends the Town Council accept this annual report. No other action is required.

Prepared By: Scott Anderson, Director of Community Development 



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

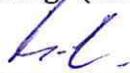
Town Council Meeting
January 20, 2016
Agenda Item: CC-8

STAFF REPORT

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

From: **Community Development Department**

Subject: **Housing In-lieu Impact Fees: Required Five-Year Reporting and Findings (Adopt Resolution)**

Reviewed by: 

BACKGROUND

As part of the Town's implementation of its General Plan Housing Element policies and programs, the Town requires developers of housing projects that do not provide affordable housing units on-site or off-site to contribute to an affordable housing in-lieu fund. The mechanism is enforced through Article VII of the Tiburon Zoning Ordinance (Inclusionary Housing and Density Bonuses). The fees have been used over the years to purchase affordable housing units, maintain affordable units owned by the Town, fund payments to the Marin Renters Rebate Program, and make loans to the Marin Housing Authority for the construction of additional affordable units in Tiburon.

As in-lieu housing fees may constitute a "development fee" pursuant to Government Code section 66000, the Town may be required to make periodic findings regarding the collection, retention, and expenditure of these funds. In an abundance of caution, the Town is preparing this report in the event that affordable housing in-lieu fees are actually found subject to provisions of Section 66001 of the Government Code. The purpose of this report is to provide background information in support of the findings that will be adopted by resolution.

The Town of Tiburon has been collecting affordable housing in-lieu fees for approximately 30 years. Only fees collected after January 1, 1989 are subject to the state-mandated reporting/findings procedure, as this requirement was not made retroactive by the Legislature in its adoption of AB 1600 in 1988. Findings regarding unexpended monies are required to be made every fifth fiscal year. The Town Council most recently adopted the findings for housing in-lieu fees on January 5, 2011. As there were no developer contributions subject to AB1600 remaining in the fund at that time, this report addresses only fund activity for the past five fiscal years.

ANALYSIS

Over the past five (5) fiscal years, the Town has received revenues of \$211,258 into the housing in-lieu fund, and has expended \$114,328 from the account, primarily for Marin Housing Authority-related services, legal services, and annual contributions to the Homeward Bound

program for homeless persons. Since 2013, the Town has collected more deposits into this account than have been expended, due to a substantial deposit made in FY 2013-2014 from a development project. The Town continues to identify sites and pursue with private developers and property owners suitable projects upon which the accumulated affordable housing in-lieu funds would be spent to provide new affordable housing units. These sites are identified in the General Plan Housing Element and in the Housing Implementation Plan for the Tiburon Redevelopment Project Area.

REQUIRED FINDINGS

The Tiburon Municipal Code states as follows:

No later than January 30 of each year, the Town Manager shall prepare a report for the Town Council to make findings with respect to any fees in the Town-wide housing in-lieu fund remaining unexpended or uncommitted for five years or more after their deposit. The findings shall identify the purpose to which the fees are to be put and shall demonstrate a reasonable relationship between the fees and the purpose for which they were collected. The findings need only be made for moneys in the possession of the Town.

The report for fiscal year 2014-2015 is set forth as a separate item on this agenda for Council acceptance. Findings for the most recent five fiscal-year cycle are made in the attached Resolution (**Exhibit 1**).

RECOMMENDATION

Staff recommends the Town Council adopt the attached Resolution as part of the Consent Calendar.

EXHIBITS

1. Draft Resolution.

Prepared by: Scott Anderson, Director of Community Development 

RESOLUTION NO. XX-2016

**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF TIBURON
MAKING CERTAIN FINDINGS REGARDING FEES
COLLECTED FOR AFFORDABLE HOUSING PURPOSES**

The Town Council of the Town of Tiburon does hereby resolve as follows:

WHEREAS, the Town of Tiburon has collected housing in-lieu fees since adoption of Ordinance No. 339 N.S. in November of 1988, prior to legislation regarding annual fee reporting. Pursuant to the California Government Code, the Town Council may be required to make certain findings relative to unexpended funds collected for in-lieu housing purposes on a five-year basis; and

WHEREAS, pursuant to Section 16-70.090 of the Tiburon Municipal Code, the Town Manager shall annually prepare a report to the Town Council with respect to unexpended funds; and

WHEREAS, the Town has prepared such documentation regarding the housing in-lieu fees and such documentation has been available for public review for at least fifteen (15) days prior to the scheduled public hearing, and

WHEREAS, the Town Council received the documentation in the form of a Staff Report prior to its meeting of January 20, 2016 and held a public meeting on the matter on January 20, 2016.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Tiburon does hereby make the following findings relative to its unexpended housing in-lieu fees.

1. **Purpose of the Fees.** The Town Council finds the purpose of the housing in lieu fees is to enhance the public welfare by ensuring that further housing development contributes to the attainment of the Town's General Plan Housing Element goals, policies and programs by (1) increasing the stock of dwelling units accessible to the handicapped; (2) increasing the stock of dwelling units affordable by households of low or moderate income; and (3) requiring housing in-lieu fee contributions for the production or preservation of affordable units. Revenues collected (including interest earned) shall be used for the following purposes:
 - a. Design and construction of permanently affordable units.

- b. Other actions which would directly preserve, conserve, rehabilitate, or increase the supply of affordable units in the Tiburon Planning Area.

The aforementioned goals, policies, and programs are found in the Tiburon General Plan Housing Element, copies of which are available at Town Hall and on the Town's web site at www.townoftiburon.org.

- 2. **Reasonable Relationship Between the Fees and the Purpose for which they are Charged.** Housing in-lieu fees are calculated on the basis of the difference between the affordable purchase price of a dwelling unit for which a moderate income family (earning 80% of median income) can qualify, and the estimated cost of constructing a market rate unit of appropriate size. The Town Council finds that the justification and the mechanism for calculating fees are adequately set forth in Chapter 14B and in Chapter 16, Article VII of the Tiburon Municipal Code, which is available for public review at Tiburon Town Hall and on the Town's web site at www.townoftiburon.org.

- 3. **Sources and Amounts of Funding Anticipated to Complete Financing of Improvements.**

- a. The Town Council finds that affordable housing projects constructed in southern Marin County are generally required to be heavily subsidized in order to be economically feasible. This is primarily due to very high land and development costs, although other factors, such as environmental sensitivity, also play a role.

- b. The Town Council finds that the creation of affordable housing units is an ongoing process, largely driven by the State of California's affordable housing policies as implemented through the Housing Element revision and regional fair share allocation processes. The Town adopted a new Housing Element on August 20, 2014, which identifies several sites as affordable housing opportunity sites upon which housing in-lieu fees are anticipated to be expended. The Housing Element is available for review at Tiburon Town Hall and on the Town's web site at www.townoftiburon.org. The Town Council, acting as successor agency to the now-dissolved Tiburon Redevelopment Agency, has also adopted a Housing Implementation Plan that identifies several housing sites in the Town's solitary Redevelopment Project Area for future projects containing affordable housing units. The Housing Implementation Plan is available for review in the Planning Division and Town Clerk offices at Tiburon Town Hall.

- c. The Town Council finds that the Town of Tiburon housing in-lieu funds, while helpful to the financing of affordable housing projects, by no means constitute the primary funding source for such projects. The Town is reliant on

private property owners for its affordable housing sites, as it does not own any of these sites. Many other sources of funding are typically used in the production of affordable housing developments, which dwarf any subsidy provided by the Town's housing in-lieu fund. The Town Council therefore further finds the collection and expenditure of housing in-lieu fees is an ongoing process for which the funding on hand (\$1.23 million) will not be sufficient to insure actual production of the affordable housing units sufficient to meet the Town's regional fair share housing allocations, which currently call for forty (40) units of extremely low, very low, or low-income units. Therefore, the sources and amounts of funding anticipated as necessary to complete the financing of affordable housing improvements are unknown and will vary from project to project.

4. **Approximate Dates When Necessary Funding is Anticipated to be Deposited.**

As stated above, the production of affordable housing is an ongoing process. The Town Council finds housing in-lieu funds collected will be expended toward the purposes stated above and will be used in a timely fashion as new affordable housing project sites are identified and development is pursued. The Town Council anticipates all funds currently in the Town's in-lieu housing fund that are subject to the provisions of Government Code Section 66000 et seq. will be expended within five to ten years.

In adopting this resolution, the Town Council neither admits nor implies that the above findings are required by law for its housing in-lieu fees.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon, State of California, held this 20th day of January, 2016, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ERIN TOLLINI, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-9

STAFF REPORT

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

From: **Community Development Department**

Subject: **Storm Runoff Impact Fees: Required Five-Year Reporting and Findings**

Reviewed by: 

BACKGROUND AND ANALYSIS

The Town began collecting stormwater runoff fees in 2005. The stormwater impact fee helps recover the costs of upgrading the Town's public storm drain system to accommodate additional runoff caused by new construction. The fee is \$1.00 per square foot of new impervious surface created by construction projects. The fee is collected at the time of building permit issuance.

In the past five (5) fiscal years, the Town has received revenues of \$265,578 into the stormwater runoff fund, and has expended \$248,542 from the account for drainage-related improvements. However, as of July 1, 2013, the fund was nearly depleted (balance under \$8,000), due to the prolonged recession and the continuing need for drainage system repair and replacement. No expenditures were made from this account in the past two years. With the advent of the economic turnaround, stormwater fund revenues have increased substantially in the prior two fiscal years, and budget programming to expend the recently-accumulated funds has been resumed. For FY 2015-16 the Town has \$100,000 in expenditures planned from the Storm Water Runoff Fund for culvert and storm drain repairs and other improvements identified in the *Tiburon Storm Drain Master Plan*. Major unexpected storm drain repairs, such as the roughly half-million dollar Stewart Drive project completed in 2015, will continue to place demands on the revenues placed into this mitigation fund beyond its funding capacity. Additional funding sources are required and are used to maintain the Town's storm drain system.

RECOMMENDATION

Staff recommends the Town Council adopts the attached Resolution as part of the Consent Calendar.

EXHIBITS

1. Draft Resolution.

Prepared by: Scott Anderson, Director of Community Development 

RESOLUTION NO. XX-2016

**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF TIBURON MAKING CERTAIN FINDINGS REGARDING
FEES COLLECTED FOR STORMWATER RUNOFF PURPOSES**

The Town Council of the Town of Tiburon does hereby resolve as follows:

WHEREAS, since 2005 the Town of Tiburon has assessed stormwater runoff impact fees in conjunction with building permits creating new impervious surface in order to partially offset the cost of upgrading the Town's public drainage system; and

WHEREAS, pursuant to the California Government Code, the Town Council is required to make certain findings relative to unexpended funds collected for such purposes after the fifth fiscal year in which the initial deposit is made, and

WHEREAS, the Town has prepared the required documentation regarding the unexpended fees and such documentation has been available for public review for at least fifteen (15) days, and

WHEREAS, the Town Council received the required documentation in the form of a Staff Report prior to its meeting of January 20, 2016 and held a public meeting on the matter on January 20, 2016.

NOW, THEREFORE, BE IT RESOLVED the Town Council of the Town of Tiburon does hereby make the following findings relative to its unexpended stormwater runoff fees.

1. **Purpose of the Fees.** The Town Council finds the purpose of the stormwater runoff fees is to partially offset the costs of upgrading, enhancing, and/or rehabilitating the Town's storm drain system to accommodate drainage water resulting from the creation of new impervious surfaces resulting from construction activity.
2. **Reasonable Relationship Between the Fees and the Purpose for which they are Charged.** The Town has conducted studies and analyses regarding the extent of its storm drain system and the estimated cost of its future rehabilitation. The Town's future storm drainage rehabilitation costs are estimated at \$12,210,100 in the *GASB 34 Infrastructure Valuation Study* (hereafter "*GASB Analysis*"), prepared by the engineering firm of Harris & Associates, dated March 3, 2004, and available for review in the Office of the Town Engineer. The Town Engineer also prepared the *Town of Tiburon Drainage Impact Fee Analysis* (hereafter "*Fee Analysis*"), revised

March 29, 2004, available for review in the office of Town Engineer, which estimates an impervious surface total for the Town of 12.17 million square feet that contributes to stormwater runoff. The Town has also caused to be prepared the Town of *Tiburon Storm Drainage Master Plan*, conducted by the engineering firm of CSW/Stuber-Stroeh and dated May 1, 2008, that extensively identifies needed upgrades to the Town's public storm drain system. This Plan may be viewed in the office of the Town Engineer. Based on these studies, the proportionate unit cost to rehabilitate the storm drain system is approximately \$1.00 per square foot of impervious surface.

3. **Need for the Fees.** In the judgment of the Town Council, the current storm drain system will not be sufficient to accommodate the amount of runoff likely to be generated by new impervious surfaces in the foreseeable future. Without significant drainage improvements, the Town's storm drain system will likely deteriorate to a point where flooding and property damage would occur.

4. **Sources and Amounts of Funding Anticipated to Complete Financing of Improvements.** The Town Council finds as follows:

- a. The Town of Tiburon uses the Tiburon Storm Drainage Master Plan to help prioritize its stormwater drainage system upgrade and/or rehabilitation. The total cost estimate for the complete list of upgrades to the system approaches \$11 million. The fund balance at the end of FY 2014-15 was \$176,921.
- b. Stormwater drainage system upgrade and rehabilitation is an ongoing process. As long as new construction, remodeling, and other construction-related activity occurs in the Town that creates new impermeable surfaces, stormwater drainage system upgrades will be required.

5. **Approximate Dates When Necessary Funding is Anticipated to be Deposited.**

The Town Council finds stormwater drainage upgrading, enhancement and rehabilitation is an ongoing process. As long as new construction, remodeling, and other construction-related activity occurs in the Town that creates new impervious surfaces, stormwater drainage system upgrades will be required. Typically, stormwater impact fees are expended within 2-3 years of collection.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon, State of California, held this 20th day of January, 2016, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ERIN TOLLINI, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-10

STAFF REPORT

To: Mayor and Members of Town Council

From: Community Development Department

Subject: Consider Acceptance of a Grant of Easement for Public Pedestrian Access from William and Susan Lukens over an Undeveloped Portion of Las Lomas Lane; Property Adjacent to Assessor Parcels 059-121-08, 059-122-56 and 57; Vicinity of Centro West Street at Las Lomas Lane

Reviewed By: KL

BACKGROUND

William and Susan Lukens are offering to the Town at no expense a public pedestrian easement over the undeveloped portion of Las Lomas Lane below Centro West Street. The easement would follow a well-travelled route through undeveloped Las Lomas Lane connecting to the paved and Town-maintained lower portion of Las Lomas Lane. The walking route then down Las Lomas Lane to Mar West Street and to points beyond, including downtown Tiburon.

The Old Tiburon neighborhood (Lyford's Hygeia Subdivision of 1893) contains several informal and/or semi-improved lanes and paths used by the local citizenry to reach destination areas such as downtown Tiburon and the ferry landing. Since Dr. Lyford did not dedicate these lanes and paths to the public as part of his subdivision, the Town and its citizens have made efforts over the years to improve certain lanes and paths for regular use and, where possible and reasonable, secure public access rights over them. The undeveloped portion of Las Lomas Lane is one such route. Acceptance of the easement would perfect the public access rights over the existing stairway and pathway and thereby remove any uncertainty or potential claims regarding public access rights over it in the future.

ANALYSIS

The public has used this route for many years, but the Town had no formal dedication document indicating the public had a right to use the path, since the ownership was officially with the heirs of Hugh A. Boyle (a Benjamin Lyford descendant), dating from a 1921 deed. In 2005, the Town Council adopted a resolution "accepting" the path as a public trail; however, the proposed easement is a superior document that would definitively secure the public's access rights over this pathway. Fortunately for the Town, the ownership of the underlying parcel changed in 2015, when adjoining property owners Bill and Susan Lukens, with the Town's encouragement, obtained title to the undeveloped portion of Las Lomas Lane through a quiet title action in Marin superior court. Mr. and Mrs. Lukens agreed to offer the Town, free of charge, a formal public pedestrian easement

to ensure the public's continued access through the site, using the existing well-travelled route, and they have paid for all related surveying costs. Mr. and Mrs. Lukens have also placed the parcel under a conservation easement held by the Belvedere-Tiburon Landmarks Society to ensure its undeveloped status in perpetuity. Staff would like to thank Mr. and Mrs. Lukens for their public spirit and generosity in this matter.

General Plan Consistency Factors (Location, Purpose, Extent)

The easement would follow a well-established route that connects Centro West Street to the improved portion of Las Lomas Lane and thence to Mar West Street, from which other public easements and rights-of-way connect to Downtown. The purpose of the proposed easement is to perfect public pedestrian access rights over an area historically used by the local residents living in the Old Tiburon and Hill Haven neighborhoods, but which at present lacks any recorded easement or other offer of permanent public rights from the property owner. The extent of the acquisition is an easement of varying width (but generally at least six feet wide) for a length of approximately 300 feet, for a total easement area of roughly 2,000 square feet. The easement follows the existing path with space to either side and is adequate for its intended public pedestrian access purposes. Relevant General Plan policies goals and policies are as follows:

- DT-D To improve and enhance pedestrian and vehicular connectivity throughout Downtown.
- C-E Bike-Pedestrian Improvements. To improve the circulation system for pedestrians and bicyclists, including safety enhancements.
- C-J Non-Auto Travel. To provide facilities and incentives to encourage non-auto travel throughout the Planning Area.
- C-22 The pedestrian paths and bicycle trails in Tiburon should connect with other paths and trails where practical.
- C-24 Pedestrian routes, particularly for school children, shall be established for all neighborhoods.

Staff concludes the proposed acquisition would be consistent with the General Plan and would further public interests set forth in the General Plan.

PLANNING COMMISSION REVIEW

The Planning Commission reviewed the proposed acquisition of this real property interest at its meeting of January 13, 2016 and determined the acquisition would be consistent with the Tiburon General Plan.

FUTURE STEPS

The easement proposed for acceptance would precisely match the current route used by the public across the undeveloped portion of Las Lomas Lane, unlike the recreational trail accepted in 2005, which deviated from the now-established route in the uppermost portion as it approached the paved portion of Centro West Street. If the Town Council accepts the currently offered easement, the Town would initiate proceedings to vacate the recreational trail accepted by Resolution 51-2005, and quitclaim any right or title to that pathway that might have been gained by adoption of Resolution 51-2005, to the Lukens. That item would appear on a subsequent Town Council agenda following recordation of this easement.

RECOMMENDATION

Staff recommends the Town Council adopts the Resolution (**Exhibit 2**) accepting the grant of easement and authorizing its recordation in Marin County Records.

EXHIBITS

1. Grant of Easement.
2. Draft Resolution of Acceptance.

Prepared by: Scott Anderson, Director of Community Development



**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Town Clerk
Town of Tiburon
1505 Tiburon Boulevard
Tiburon, CA 94920

No Tax Due
Exempt Transfer
Revenue & Taxation Code § 11922

SPACE ABOVE THIS LINE FOR RECORDER'S USE
[Exempt from recording fee per Gov. Code § 27383]

GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made this _____ day of _____, 2016, by and between William M. Lukens and Susan F. Lukens, husband and wife ("Grantor"), and the Town of Tiburon, a California municipal corporation ("Grantee").

RECITALS

A. Grantor is the fee owner of that certain real property located in the Town of Tiburon, County of Marin, State of California shown on Exhibit A, attached hereto and incorporated herein by this reference ("Grantor Property").

B. Located on the Grantor Property, there exists a stairway and pathway connecting two public streets and further described in the legal description on Exhibit B, attached hereto and incorporated herein by this reference ("Las Lomas Lane Stairway and Pathway").

C. Grantor has filed a quiet title action in Marin County Superior Court for the purposes of quieting title to property including the Las Lomas Lane Stairway and Pathway with judgment (amended) quieting title entered on March 6, 2015 and recorded on April 20, 2015.

D. Grantor desires to grant to Grantee a public access easement over the Las Lomas Lane Stairway and Pathway ("Easement Area") for pedestrian egress and ingress to and from public roadways, right of ways or easements adjacent thereto.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained in this Grant of Easement, Grantor and Grantee agree as follows:

1. Grant of Easement. Grantor hereby grants and conveys to Grantee, its successors and assigns, a permanent nonexclusive easement over and across the Easement Area for the purposes of public pedestrian egress and ingress to and from public roadways, right of ways or easements geographically adjacent thereto and which are otherwise legally open and/or accessible to members of the general public (the "Easement").

2. Maintenance Obligation. Grantee shall be responsible for maintaining the stairway within the Easement for public use and shall indemnify, defend and hold Grantor harmless from any claims arising from the public's use of the Easement, except for those arising from the negligence or willful action or omission of Grantor.

3. Duration of Easement. Grantee, its successors and assigns shall hold the Easement forever, for the objects and purposes above stated.

4. Entire Agreement. This Grant of Easement represents the entire understanding of Grantor and Grantee as to those matters contained herein. No prior oral or written understanding shall be of any force or effect.

5. Amendment. This Grant of Easement may be modified only by the written consent of the parties, evidenced by a document that has been fully executed, acknowledged and recorded in the Official Records of Marin County, California.

6. Authority. Each party executing this Grant of Easement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind.

7. Binding Upon Successors and Assigns. This Grant of Easement shall run with the Easement Area. All of the terms, covenants and conditions of this Grant of Easement shall be binding upon Grantor and Grantee and their permitted successors and assigns.

8. No Waiver. A waiver by either party of a breach of any of the covenants, agreements, restrictions or conditions under this Grant of Easement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Grant of Easement.

9. Recordation. Following execution by all parties, Grantee shall record this Grant of Easement with the Marin County Recorder's Office.

10. Interpretation. This Grant of Easement has been drafted by both parties and no rule of construction shall be applied that would result in ambiguities being interpreted against either party as drafter.

IN WITNESS WHEREOF, the parties have executed this Grant of Easement as of the date first above written.

GRANTOR:

William M. Lukens
(signature must be notarized)

Susan F. Lukens
(signature must be notarized)

GRANTEE:

Town of Tiburon, a municipal corporation

By: _____
(signature must be notarized)

Name: _____

Its: _____

ATTEST:

Diane Crane Iacopi, Town Clerk

APPROVED AS TO FORM:

Benjamin L. Stock, Town Attorney

Attachments: Exhibits A and B

Exhibit A

Legal Description of Grantor's Property

A portion of Las Lomas Lane and Centro West Street situated in the City of Tiburon, County of Marin, State of California, described as follows:

Beginning at a point on the easterly line of Las Lomas Lane, as said Lane is shown on that certain Record of Survey entitled, "Lot Line Adjustment, Record of Survey, Lands of Lukens, As Described in D.N. 94-087632, 94-087633, & 94-087634," filed for record on August 2, 1997, in Book 33 of Surveys at Page 97, Marin County Records, said point bears South 08°20'00" West 63.67 feet from the intersection of the courses North 08°20'00" East 84.50 feet and North 26°11'08" East 73.61 feet as shown on said Record of Survey;

1. Thence continuing along the easterly line of said lane North 08°20'00" East 63.67 feet;
2. Thence North 26°11'08" East 189.11 feet (North 26°14' West 189.2 feet Deed) to the northerly corner of the parcel of land described in the Grant Deed to William M. Lukens and Susan F. Lukens, filed for record December 29, 1994, as Document Number 94-087633, Marin County Records and the intersection of said Las Lomas Lane and Centro West Street ;
3. Thence North 26°11'08" East 13.85 feet;
4. Thence North 67°16'41" West 9.21 feet;
5. Thence along a curve to the left, whose center bears South 22°43'19" West, with a radius of 64.00 feet, through a central angle of 22°04'16" with a length of 24.65 feet;
6. Thence North 89°20'57" West 11.88 feet;
7. Thence on a curve to the left whose center bears South 00°39'03" West, with a radius of 34.00 feet, through a central angle of 42°06'52" with a length of 24.99 feet;
8. Thence South 48°32'11" West 16.82 feet;
9. Thence on a curve to the right, whose center bears South 15°58'03" West, with a radius of 17.76 feet, through a central angle of 55°34'46", with a length of 17.22 feet;
10. Thence on a compound curve to the right, whose center bears South 71°32'49" West, with a radius of 30.00 feet, through a central angle of 38°55'40", with a length of 20.38 feet to the northeasterly corner of the parcel of land described in that certain Grant Deed to Maria S Lukens and Peter A Lukens, filed for record July 8, 2014, as Document Number 2014-0028174, Marin County Records and the intersection of Las Lomas Lane and Centro West Street;
11. Thence along Las Lomas Lane South 20°28'29" West 142.57 feet (South 19°44'00" West 143.90 feet Deed);
12. Thence South 09°04'29" West (South 09°04'29" West Deed) 65.21 feet;
13. Thence leaving said line South 80°55'31 East 30.00 feet to the Point of Beginning.

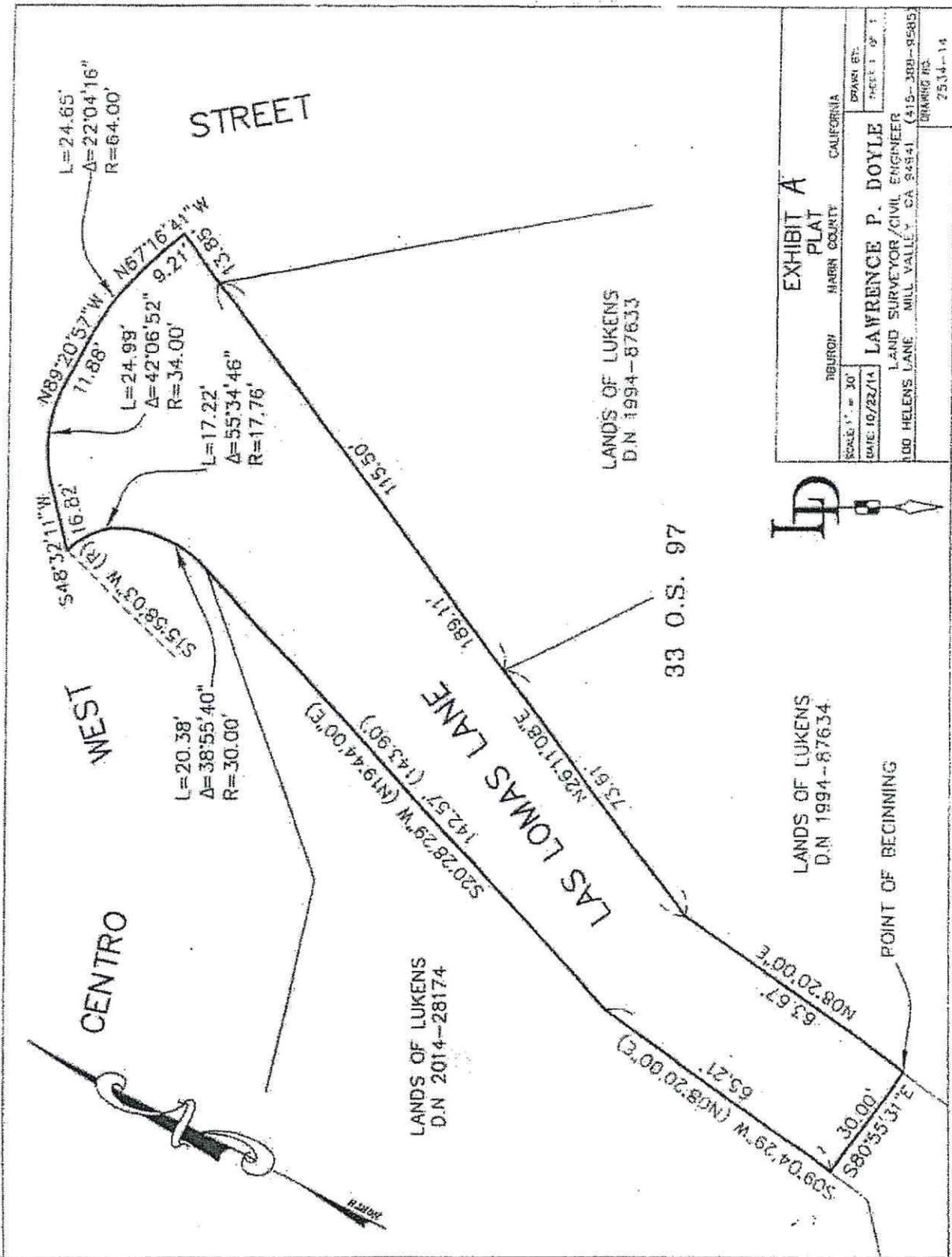


EXHIBIT A	
PLAT	
TEHRON	HARRIS COUNTY
SCALE: 1" = 30'	CALIFORNIA
DATE: 10/22/14	DRAWN BY:
100 HELENS LANE	LAWRENCE P. DOYLE
MILL VALLEY, CA 94541	LAND SURVEYOR/CIVIL ENGINEER
DRAWING NO. 2534-14	(415) 388-9585



Exhibit B

Legal Description of the Los Lomas Stairway & Pathway Property

All that certain real property situate in the Town of Tiburon, County of Marin, State of California, described as follows:

A portion of the Lands of Lukens, as described in that certain Amended Judgement of Quiet Title, recorded April 20, 2015 as Document Number 2015-18082, Marin County Records, also being a portion of the lands commonly known as "Las Lomas Lane" as shown on that certain map entitled, "Lot Line Adjustment, Record of Survey, Lands of Lukens, As Described in D.N. 94-087632, D.N. 94-087633, & D.N. 94-087634" recorded on August 2, 1995 in Book 33 of Surveys at Page 97, Marin County Records.

Beginning at the most southerly corner of said Lands of Lukens, said point being on the easterly line of said Las Lomas Lane, as said Lane is shown on said Record of Survey, 33 O.S. 97, said point bears South 08°20'00" West 63.67 feet from the intersection of the courses North 08°20'00" East 84.50 feet and North 26°11'08" East 73.61 feet as shown on said Record of Survey;

1. Thence along the southwesterly line of said Lands of Lukens, North 80°55'31" West 6.37 feet;
2. Thence leaving said line North 09°23'00" East 67.87 feet;
3. Thence North 27°55'00" East 23.87 feet;
4. Thence North 64°55'30" West 4.06 feet;
5. Thence North 25°04'30" East 20.15 feet;
6. Thence South 65°21'00" East 4.91 feet;
7. Thence North 26°11'08" East 88.50 feet;
8. Thence North 63°48'52" West 3.00 feet;
9. Thence North 26°11'08" East 50.09 feet;
10. Thence North 42°44'03" West 9.60 feet;
11. Thence North 56°29'15" West 9.42 feet to a point on the northerly line of said Lands of Lukens, said line being also the southeasterly line of Centro West Street;
12. Thence along said line, South 89°20'57" East 4.49 feet;
13. Thence on a curve to the right whose center bears South 00°39'03" West, with a radius of 64.00 feet, through a central angle of 00°45'29", a length of 0.85 feet;
14. Thence leaving said line South 40°44'50" East 7.51 feet;
15. Thence South 56°29'15" East 9.35 feet;
16. Thence South 42°44'03" East 12.82 feet;
17. Thence South 26°11'08" West 47.63 feet;
18. Thence South 63°48'52" East 4.00 feet to a point on the southeasterly line of said Lands of Lukens;
19. Thence along said line South 26°11'08" West 140.25 feet;
20. Thence South 08°20'00" West 63.67 feet to the Point of Beginning.

This description was written by:

Lawrence P. Doyle

Lawrence P. Doyle
P.L.S. 4694



RESOLUTION NO. XX-2016

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
ACCEPTING AN OFFER OF DEDICATION FROM WILLIAM AND SUSAN
LUKENS FOR A PUBLIC PEDESTRIAN ACCESS EASEMENT OVER AN
UNDEVELOPED PORTION OF LAS LOMAS LANE**

WHEREAS, William and Susan Lukens have offered to the Town of Tiburon an easement for public pedestrian purposes over a portion of their property comprising an undeveloped segment of Las Lomas Lane; and

WHEREAS, the grant of easement will perfect public access over a well-used pathway and stairway connecting Centro West Street to Mar West Street and points beyond and will constitute a fine addition to the Town's pedestrian circulation system; and

WHEREAS, the Planning Commission and Town Council have found and determined that the acquisition would be consistent with the Tiburon General Plan;

WHEREAS, the Town of Tiburon greatly appreciates the community spirit and generosity of the grant of easement by Mr. and Mrs. Lukens free of charge and on a purely voluntary basis.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Tiburon Town of Tiburon hereby accepts the offer of dedication of the easement, attached hereto as **Exhibit 1** and incorporated herein, and authorizes the Town Manager to execute it and cause said document, along with this Resolution, to be recorded in the Official Records of Marin County.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on _____, 2016 by the following vote:

AYES: COUNCILMEMBERS:

NAYS: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ERIN TOLLINI, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

Exhibits:

1. Grant of Easement



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-11

STAFF REPORT

To: Mayor and Members of Town Council

From: Community Development Department

Subject: Mar West Street Near Las Lomas Lane: Consider Approval of an Agreement for Acquisition of a Public Pedestrian Easement over the Point Tiburon Bayside Condominium Association Common Area and for Use and Maintenance of a Stairway Leading down from Mar West Street to the Common Area; Authorize Town Manager to Execute the Agreement and Authorize a Budget Amendment for the Easement Purchase

Reviewed By:

BACKGROUND

The Town of Tiburon contains several informal pathways used by the local citizenry to reach destination areas such as Downtown Tiburon and the ferry landing. One such route extends down Las Lomas Lane, crosses Mar West Street in a crosswalk, winds down a stairway and traverses the common area of the Point Tiburon Bayside Condominium Association before reaching the access roadway to the Point Tiburon Plaza parking lot near the turning circle opposite Shoreline Park. This pathway is frequently used by locals and provides a safe and convenient short-cut to the Downtown area. The proposed Agreement would create a framework for Town acquisition of a public pedestrian easement in this already well-used location.

ANALYSIS

The proposed acquisition is an easement for public pedestrian access over a 10 foot wide strip of the Point Tiburon Bayside Association common area, beginning in the vicinity of Mar West Street opposite Las Lomas Lane, down a stairway and across the driveway area of the Bayside Association to an ending point at the Point Tiburon Plaza access road located at the western property line of the Bayside Association (see **Exhibit 1**).

The public has used this route since construction of the point Tiburon Bayside project in 1985, but public access over it is not clearly spelled out in any easement of record. Prior to the Town's purchase of the easement, the Association would reconstruct the stairway leading down to from Mar West Street to meet current codes. The Bayside Association Board of Directors has already approved the Agreement and executed it.

General Plan Consistency Factors (Location, Purpose, Extent)

The location of the proposed acquisition is ideal in it provides the most direct and logical route from that portion of Mar West Street to Downtown, and connects upslope across Mar West Street to Las Lomas Lane and the public pathway leading up Las Lomas Lane to Centro West Street. The stairway and route are already used by local residents, children and adults alike, for a variety of purposes, including access to the ferry landing, bus stops and to Downtown in general. The purpose of the proposed agreement is to perfect public pedestrian access rights over an area historically used by the local residents living in the Old Tiburon and Hill Haven neighborhoods. The extent of the acquisition is an easement 10 feet wide for a length of approximately 500 feet, for a total easement area of roughly 5,000 square feet.

Relevant General Plan policies goals and policies are as follows:

- DT-D To improve and enhance pedestrian and vehicular connectivity throughout Downtown.
- C-E Bike-Pedestrian Improvements. To improve the circulation system for pedestrians and bicyclists, including safety enhancements.
- C-J Non-Auto Travel. To provide facilities and incentives to encourage non-auto travel throughout the Planning Area.
- C-22 The pedestrian paths and bicycle trails in Tiburon should connect with other paths and trails where practical.
- C-24 Pedestrian routes, particularly for school children, shall be established for all neighborhoods.

Staff concludes the proposed acquisition would be consistent with the General Plan and would further public interests set forth in the General Plan.

PLANNING COMMISSION REVIEW

The Planning Commission reviewed the proposed acquisition of this real property interest at its meeting of December 14, 2015 and determined the acquisition would be consistent with the Tiburon General Plan.

RECOMMENDATION

Staff recommends the Town Council:

1. Move to approve the Agreement (**Exhibit 2**) and authorize the Town Manager to execute it.
2. Authorize a transfer of \$15,000 from the General Fund Unallocated Reserves for the purchase of the easement.

EXHIBITS

1. Diagram showing easement location.
2. Proposed Agreement with attachments.

Prepared by: Scott Anderson, Director of Community Development



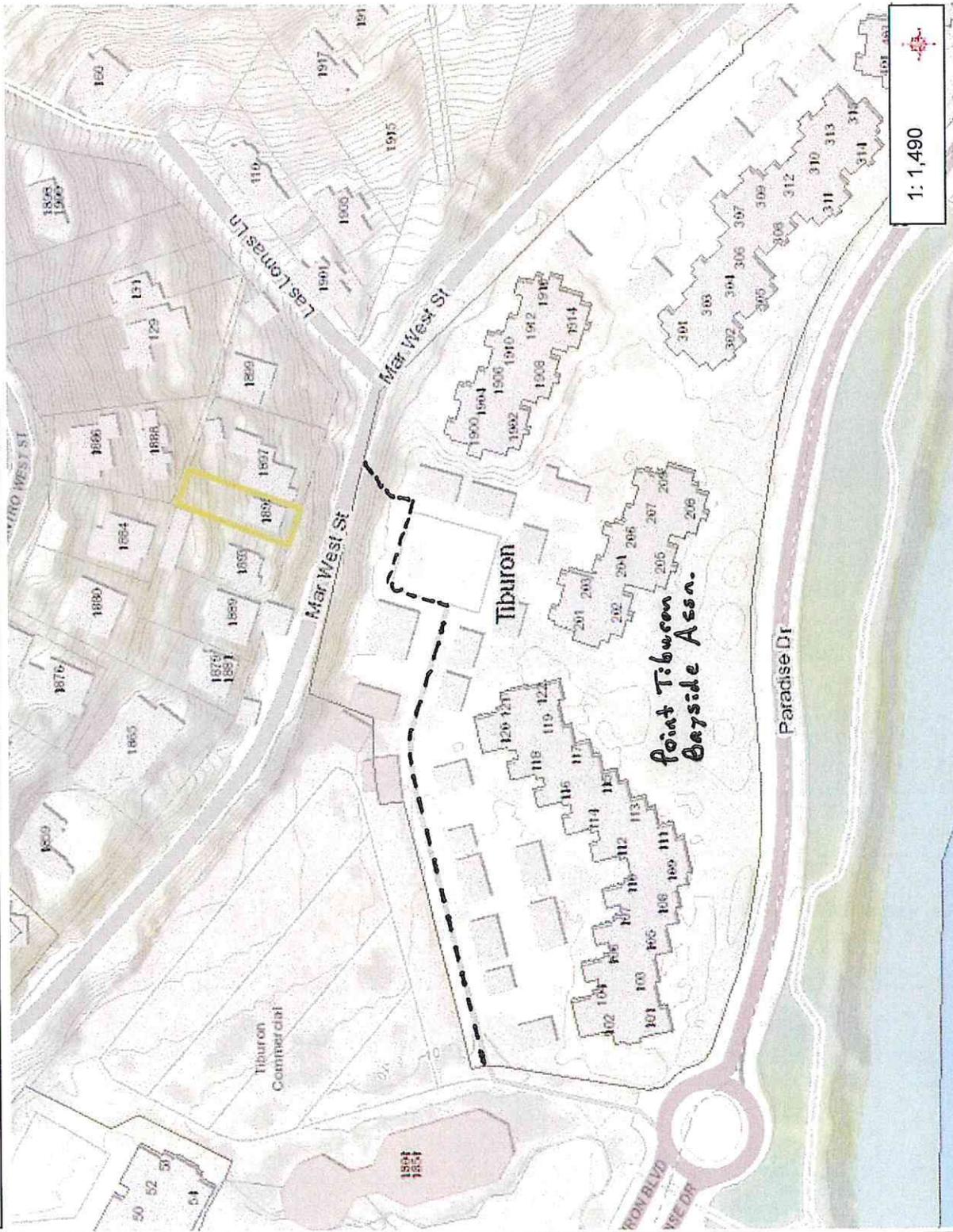


MarinMap GIS Map Report



Legend

- Condominium Common Area
- Mobile Home Pad
- City
- Community
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay
- Proposed Easement



1: 1,490

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

0.0 0 0.02 0.0 Miles

NAD_1983_HARN_StatePlane_California_III_FIPS_0403_Feet
 © Latitude Geographics Group Ltd.

**PUBLIC PEDESTRIAN EASEMENT AGREEMENT
BETWEEN THE TOWN OF TIBURON AND THE POINT
TIBURON BAYSIDE HOMEOWNERS ASSOCIATION
REGARDING THE USE AND MAINTENANCE OF THE
MAR WEST STAIRWAY AND A CONNECTING
PATHWAY**

This Public Pedestrian Easement Agreement ("Agreement") made this _____ day of _____, 2016, by and between THE TOWN OF TIBURON, a municipal corporation ("Town") and THE POINT TIBURON BAYSIDE HOMEOWNERS ASSOCIATION, a California Corporation ("HOA").

RECITALS

- A. The HOA is the sole owner of certain real property commonly known as the Point Tiburon Bayside "common area", as defined and depicted on the Condominium Plan for Point Tiburon Bayside, filed for record with the Marin County Recorder as Document Number 1985-0023362 on June 5, 1985 ("HOA Property"). A portion of the HOA Property, graphically depicted on Exhibit A, contains a stairway ("Stairway") leading down from Mar West Street toward downtown Tiburon. The HOA Property also contains certain common area ("Pathway") that allows pedestrians to walk from the base of the Stairway across the Point Tiburon Bayside complex to the parking lot entrance roadway adjoining the HOA Property at its western edge. The Pathway location is graphically depicted in Exhibit B.
- B. The Town owns and maintains the public right of way for the portion of Mar West Street adjoining the Stairway; said portion of Mar West Street is more precisely described in Exhibit C.
- C. For many years, members of the public have used the Stairway and Pathway as a means of walking to downtown Tiburon. The Stairway is currently in need of reconstruction to, among other things, meet current building code requirements.
- D. To ensure that the Stairway and Pathway will remain available to the pedestrian public, the parties have agreed to provide for future maintenance and responsibility for said features as set forth in this Agreement.

AGREEMENT

- 1. Reconstruction of the Stairs. The HOA will reconstruct the Stairway as set forth in August 17, 2015 revised plans submitted, approved by and on file in the Town Building Division, which are incorporated herein by this reference ("Reconstruction Project").
- 2. Purchase of Easement. Upon completion of the Reconstruction Project, as determined by the Town's Building Division, Town will purchase a non-exclusive public pedestrian easement across the Stairway and the Pathway ("Easement") as set forth in this Section.

- (a) The purchase price of the Easement will be fifteen thousand dollars and no cents (\$15,000).
- (b) The Easement shall commence when the Town accepts the Easement and shall continue thereafter in perpetuity.
- (c) The Easement will consist of two portions, the Stairway Access Easement, consisting of the area graphically depicted in Exhibit A, and the Pathway Access Easement, consisting of the area graphically depicted in Exhibit B. Prior to recording the deed referenced below, the parties shall obtain a legal description of the Easement that will be attached to the deed.
- (d) The deed used for the conveyance of the Easement shall be in substantial conformance to the form set forth in Exhibit D.

3. Escrow.

3.1 Opening of Escrow. Within one business day after entry into this Agreement, the Town shall open escrow (“Escrow”) with Fidelity National Title Company (Mill Valley Office) (“Escrow Holder”). The Town and HOA agree to execute and deliver to Escrow Holder, in a timely manner, all escrow instructions necessary to consummate the transaction contemplated by this Agreement. Any such supplemental instructions shall not conflict with, amend or supersede any portion of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control.

3.2 Close of Escrow. For the purpose of this Agreement, the “Close of Escrow” shall be the date that the grant deed is recorded in the Official Records of the County. The Close of Escrow shall occur within 10 business days after the expiration of the Contingency Period, unless extended by the mutual written consent of the parties hereto.

4. Conditions to Close of Escrow.

4.1 Conditions to Town’s Obligations. The Close of Escrow and Town’s obligation to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions (or Town’s waiver in writing thereof) for Town’s benefit on or prior to the dates designated below for the satisfaction of such conditions, or the Close of Escrow in the absence of a specified date:

- (a) Title. Within 5 calendar days of the Building Official’s acceptance of the Reconstruction Project as complete, the Town shall order a preliminary title report. The Town will have the right to approve any and all matters of and exceptions to title of the Easement as disclosed by that preliminary title report. The parties shall work together in good faith until 5:00 PM (local time) on the date that is 20 calendar days following receipt of the preliminary title report (“Contingency Period”) to resolve any title issues.

No later than the end of the Contingency period, the Town must give the HOA and Escrow Holder written notice ("Town's Title Notice") of Town's approval or disapproval of the title documents. The failure of the Town to give Town's Title Notice to the HOA within the specified time period shall be deemed the Town's disapproval of the title documents. In the event that the Town's Title Notice disapproves, or is deemed to have disapproved, of any matter of title shown in the title documents, the parties will have no further obligations or rights to one another under this Agreement.

- (b) Title Insurance. As of the Close of Escrow, Title Company shall have committed to issue a title policy to the Town.
- (c) HOA's Obligations. As of the Close of Escrow, the HOA shall have performed all of the obligations required to be performed by the HOA under this Agreement.
- (d) Truthfulness at Close of Escrow. The representations and warranties of the HOA set forth in this Agreement shall be true and correct, in all material respects, on and as of the Close of Escrow as if those representations and warranties were made on and as of such time.

4.2. Conditions to HOA's Obligations. The Close of Escrow and HOA's obligation to consummate the transactions contemplated in this Agreement are subject to the satisfaction of the following conditions (or HOA's waiver thereof) for HOA's benefit on or prior to the dates designated below for the satisfaction of such conditions, or the Close of Escrow in absence of a specified date:

- (a) Town's Obligations. Town shall have timely performed all of the obligations required to be performed by the Town under this Agreement.
- (b) Purchase Price. Town shall have timely delivered \$15,000 in good funds to Escrow Holder and fully, faithfully and timely performed all of its other obligations under this Agreement.
- (c) Truthfulness at Close of Escrow. The representations and warranties of the Town set forth in this Agreement shall be true and correct, on and as of the Close of Escrow as if those representations and warranties were made on and as of such time.

4.3 Failure of Condition to Close of Escrow. If any of the conditions set forth in Section 4.1 or Section 4.2 are not timely satisfied or waived by the appropriate benefited party for a reason other than the default of the Town or HOA, this Agreement shall terminate, and any deposit and all other monies delivered to Escrow Holder by the Town shall be immediately returned to the Town, and except as otherwise provided herein, the parties shall have no further obligations hereunder.

- 4.4 Deposits By HOA. At least one business day prior to the Close of Escrow, HOA shall deposit with Escrow Holder the following documents:
- (a) Grant Deed. The grant deed, duly executed and acknowledged in recordable form by the HOA, conveying the Easement to the Town.
 - (b) FIRPTA Certificate. A certification, acceptable to Escrow Holder, duly executed by the HOA under penalty of perjury, setting forth the HOA's address and federal tax identification number in accordance with and/or for the purpose of the provisions of Sections 7701 and 1445, as may be amended, of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
 - (c) California Franchise Tax Withholding. A certification, acceptable to Escrow Holder, that the HOA is exempt from the withholding provisions of the California Revenue and Taxation Code, as may be amended from time to time, and that neither Town nor Escrow Holder is required to withhold any amount from the purchase price pursuant to such provisions.
- 4.5 Deposits By Town. At least one business day prior to the Close of Escrow, the Town shall deposit or cause to be deposited with Escrow Holder the following:
- (a) Purchase Price. The purchase price, in cash or immediately available funds.
 - (b) Certificate of Acceptance. A Certificate of Acceptance, substantially in form attached hereto as Exhibit E.
5. Maintenance of Stairway Improvements. After the Town has recorded record title to the Easement, Town shall be responsible for maintaining all improvements within the Stairway Access Easement portion of the Easement and shall indemnify, defend and hold the HOA harmless from any claims arising from the public's use of the Stairway Access Easement and the Pathway Access Easement, except for those arising from the negligence or willful action or omission of the HOA. The HOA shall retain maintenance responsibility for all other portions of the HOA Property with the exception of the Stairway Access Easement.
6. Miscellaneous.
- 6.1 Governing Law; Venue. The laws of the State of California shall govern this Agreement. If any dispute should arise from this Agreement, the venue for resolving said dispute shall be the Superior Court of Marin County.
 - 6.2 Severability. If any provision of this Agreement is found to be invalid or unenforceable, the validity and enforceability of the remaining portions shall not be affected unless the effect thereof would materially change the economic

burden on either party.

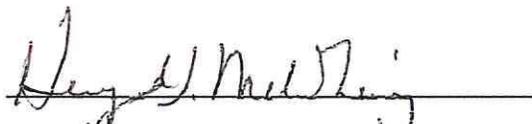
- 6.3 Successors in Interest; Assignment. This Agreement shall be binding on the assigns and successors in interest to both parties. Neither party may assign their obligations under this Agreement without the written consent of the other party.
- 6.4 Entire Agreement; Amendment. This Agreement represents the entire Agreement between the parties. This Agreement may only be amended in writing.
- 6.5 Exhibits. This Agreement includes the following Exhibits, which are attached hereto and incorporated herein by reference:

- Exhibit A:** Graphical depiction of Stairway and Stairway Easement across a Portion of the HOA Property
- Exhibit B:** Graphical depiction of Pathway and Pathway Easement across a Portion of the HOA Property
- Exhibit C:** Legal Description of Mar West Street Right of Way
- Exhibit D:** The Form Deed
- Exhibit E:** Certificate of Acceptance

IN WITNESS WHEREOF the parties hereto have caused their duly authorized representatives to execute this Agreement the day and year above written.

POINT TIBURON BAYSIDE
HOMEOWNERS ASSOCIATION

TOWN OF TIBURON



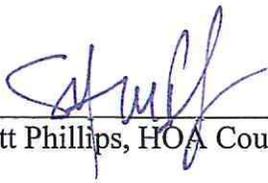
By: Henry G. McKinney
Its: President, Board of Directors

By:
Its: Town Manager

ATTEST:


By: Mark A. Wolfendale
Its: Secretary of the Board

APPROVED AS TO FORM:



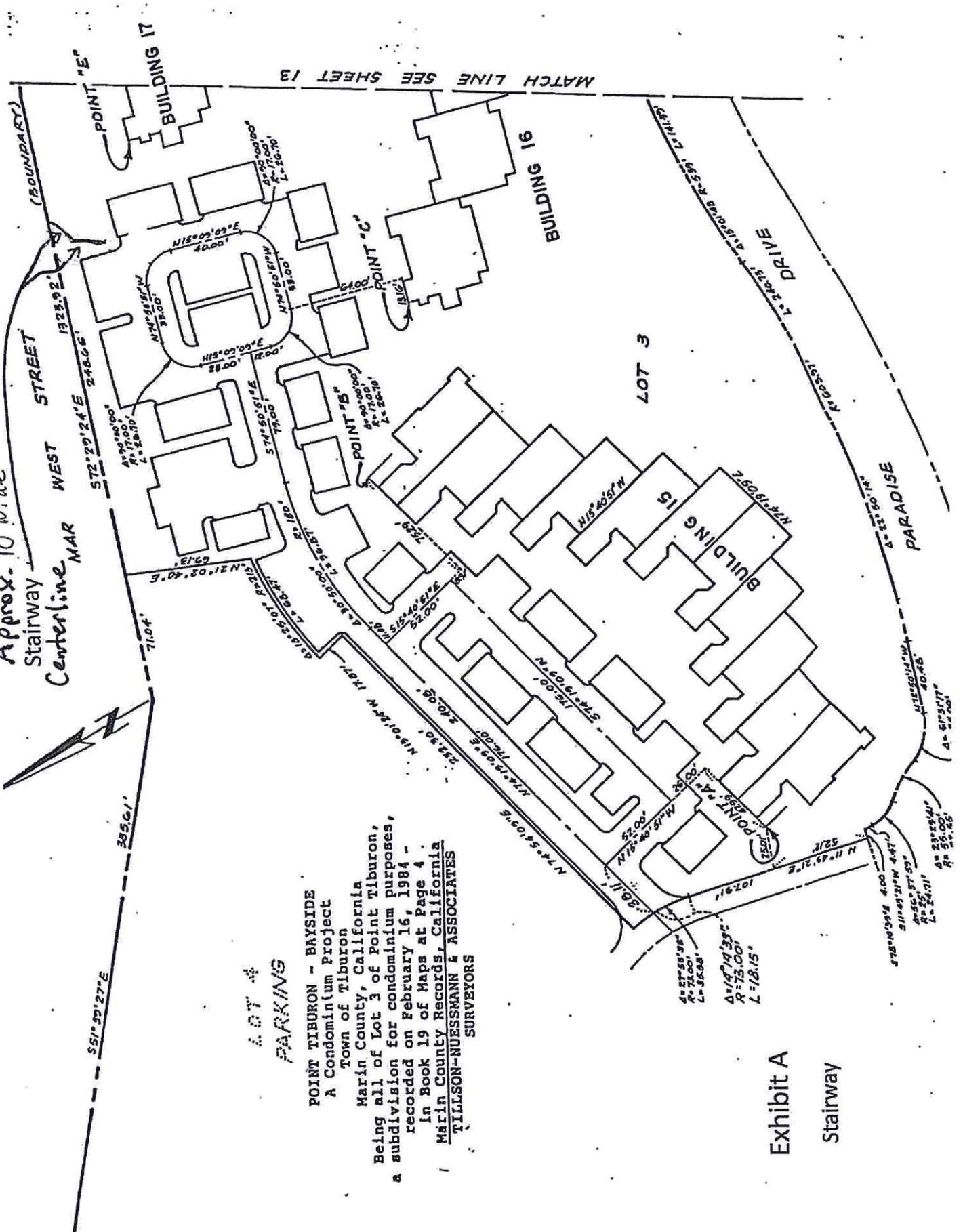
Scott Phillips, HOA Counsel

APPROVED AS TO FORM:



Benjamin L. Stock, Town Attorney

Approx. 10' wide
Stairway
Centerline
MAR

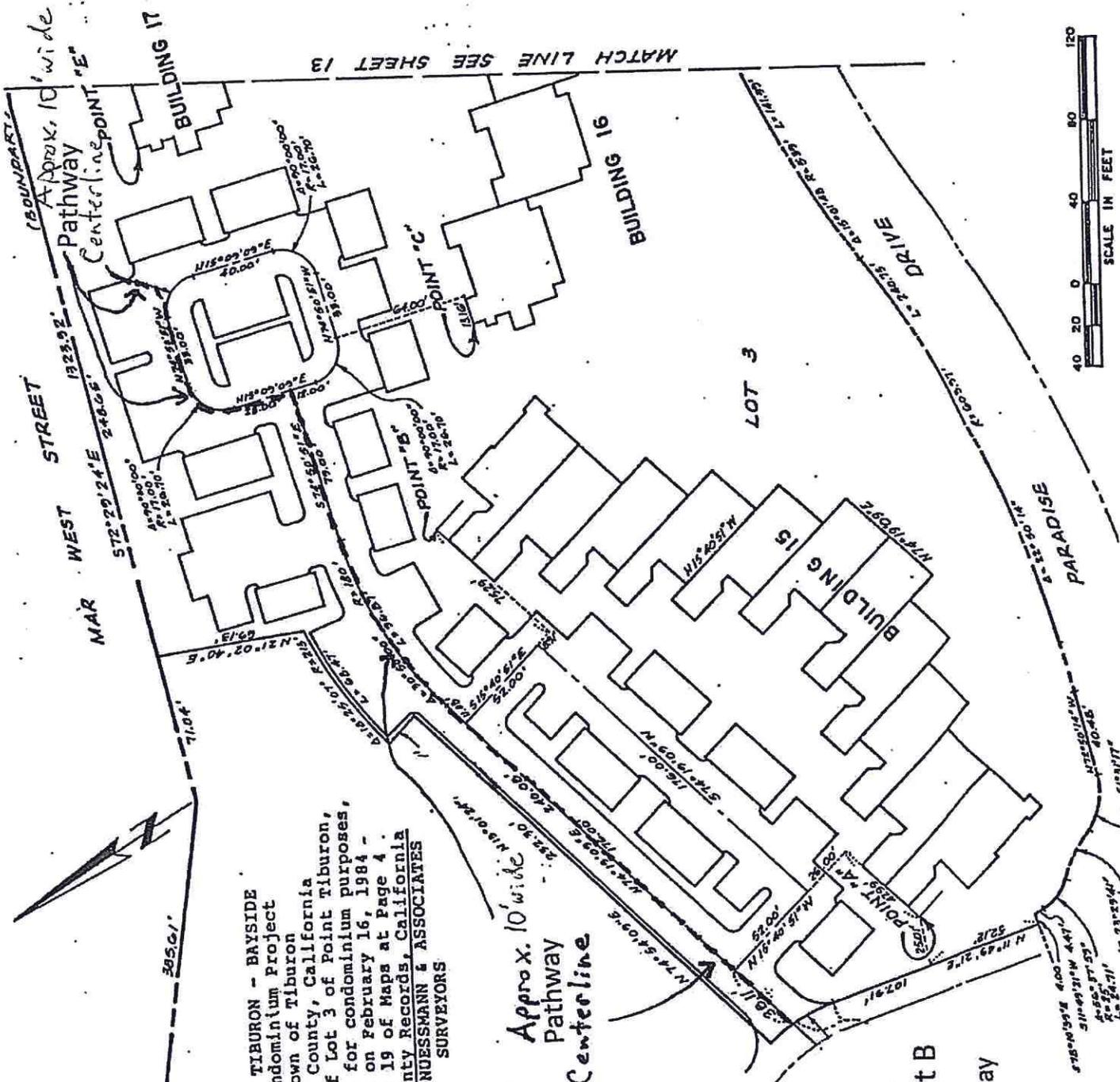


LOT 4
PARKING

POINT TIBURON - BAYSIDE
A Condominium Project
Town of Tiburon
Marin County, California
Being all of Lot 3 of Point Tiburon,
a subdivision for condominium purposes,
recorded on February 16, 1984 -
In Book 19 of Maps at Page 4 -
Marin County Records, California
TILLSON-NUESSMANN & ASSOCIATES
SURVEYORS

Exhibit A

Stairway



POINT TIBURON - BAYSIDE
 A Condominium Project
 Town of Tiburon
 Marin County, California
 Being all of Lot 3 of Point Tiburon,
 a subdivision for condominium purposes,
 recorded on February 16, 1984 -
 in Book 19 of Maps at Page 4 -
 Marin County Records, California
 TILLSON-NUSSMANN & ASSOCIATES
 SURVEYORS

Approx. 10' wide
 Pathway
 Centerline

Exhibit B
 Pathway

MATCH LINE SEE SHEET 13

Exhibit "C"
Legal Description
Portion of Mar West Street, Tiburon, California

All that certain real property comprising a portion of Mar West Street, situate in the Town of Tiburon, County of Marin, State of California, described in the deed from Hugh Boyle and Ida Boyle to the County of Marin, recorded at Book 191 of Deeds at Page 498, Official Records of Marin County, to wit:

FIRST: A strip of land fifty (50.0) feet wide and lying on the right or southerly side of the following described line, to wit:

Beginning at a point distant South 73 degrees, 43 minutes, East 125.5 feet; and thence South 52 degrees, 17 minutes, East 378.4 feet from "T.L.S. 447" of the official Survey of the Swamp and Overflowed Tide and Salt Marsh Lands in Section 6, Township No. 1, South Range No. 5 West M.D.X., running thence South 73 degrees, 8 minutes, East 475.7 feet.

SECOND: A strip of land sixty (60.0) feet wide and lying on the left or southwesterly side of the following described line, to wit:

Beginning at the initial point of the first above described strip of land; running thence North 52 degrees, 17 minutes, West 378.4 feet; thence North 7 degrees, 42 minutes, West 310.5 feet; thence North 16 degrees, 47 minutes, West 105.7 feet; thence North 46 degrees, 54 minutes, West 95.3 feet; thence North 69 degrees, 47 minutes, West 61 feet; thence North 83 degrees, 7 minutes, West 90 feet; thence North 87 degrees, 58 minutes, West 173.9 feet; thence South 54 degrees, 5 minutes, West 91.2 feet; thence North 50 degrees, 49 minutes, West 200 feet; thence North 57 degrees, 50 minutes, West 87 feet; thence curving to the right on the arc of a circle having a radius of 55.64 feet, 54.56 feet; thence North 10 degrees, 20 minutes, West 93.5 feet; thence curving to the right on the arc of a circle having a radius of 39.8 feet, 36.7 feet; thence North 43 degrees, 00 minutes, East 185.9 feet; thence North 33 degrees, 13 minutes, East 49.9 feet; thence curving to the left on the arc of a circle having a radius of 91.25 feet, 57.6 feet; and thence North 3 degrees, 11 minutes, West 78 feet to a point in the southerly line of Esperanza Street, said point being distant South 3 degrees, 11 minutes, East 4 feet from a iron bolt.

**EXHIBIT D
FORM OF DEED**

Recording Requested by:

Town Clerk of the Town of Tiburon
1505 Tiburon Boulevard
Tiburon, CA 94920

**GRANT DEED
GRANT OF PUBLIC PEDESTRIAN ACCESS EASEMENT, WITH
COVENANTS**

For valuable consideration, receipt of which is hereby acknowledged, THE POINT TIBURON BAYSIDE HOMEOWNERS ASSOCIATION, a California Corporation ("HOA" or "Grantor"), hereby grants to the TOWN OF TIBURON, County of Marin, State of California, a Municipal Corporation ("Town" or "Grantee") an Easement for Public Pedestrian Access, subject to the terms and conditions set forth herein, on this _____ day of ____, 2016 ("Effective date").

RECITALS

- A. The HOA is the owner of certain real property commonly known as the Point Tiburon Bayside "common area", as defined and depicted on the Condominium Plan for Point Tiburon Bayside, filed for record with the Marin County Recorder as Document Number 1985-0023362 on June 5, 1985 ("HOA Property"). A portion of the HOA Property, described in Exhibit A attached hereto and incorporated herein by reference, contains a stairway ("Stairway") leading down from Mar West Street toward downtown Tiburon, and a pathway ("Pathway") leading from the base of the Stairway across the HOA Property to its western edge. Said Stairway and Pathway together constitute the public pedestrian access easement area ("Easement Area").
- B. The Town owns and maintains the public right of way for the adjoining portion of Mar West Street, said portion being described in Exhibit B attached hereto.
- C. For many years, members of the public have used the Easement Area as a means of walking to the downtown. To ensure that the Easement Area will remain available to the pedestrian public, the parties have agreed to provide for future maintenance and responsibility for said Easement Area as set forth herein and in the Use and Maintenance

Agreement between the Town and the HOA regarding the Use and Maintenance of the Mar West Stairway and a Connecting Pathway dated _____, 2016 and recorded in the County of Marin Official Records on _____, 2016 as document No. _____ (“Easement Agreement”)

- D. The Town of Tiburon Town Council adopted Resolution No. __-2016 on _____, 2016, agreeing to accept the Easement being conveyed herein and authorizing the Town Manager to execute all documents necessary and appropriate to complete the contemplated transaction.

Grant of Easement

1. For good and valuable consideration, receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, a ten foot (10’) wide non-exclusive easement (“Easement”) for public access with the right of immediate entry and possession for a public pedestrian trail in, on, over, across, under, through and along that portion of the HOA’s Property described in Exhibit A attached hereto and incorporated herein by this reference (“Easement Area”).

Description and Purposed of Easement

2. The Easement is for public pedestrian access purposes for use by the general public. The portion of the Easement Area shown on Exhibit A containing the Stairway shall be known as the “Stairway Easement.” The remainder of the Easement Area shown on Exhibit A shall be known as the “Pathway Easement.”

Term of Easement

3. The Easement and rights and obligations herein shall commence when the Grantee accepts the Easement and shall continue thereafter in perpetuity.

Maintenance of Improvements

4. Grantee shall maintain the Stairway Easement in good repair, at Grantee’s sole cost and expense, including, without limitation, performing all maintenance, repair and other work reasonably necessary to preserve and maintain the Stairway in a good and safe state of repair.

5. Grantor shall retain responsibility for maintenance, repair and all other work for the HOA Property outside the Stairway Easement including, without limitation, the Pathway Easement.

Hold Harmless and Insurance

6. Grantee shall hold harmless, indemnify and defend Grantor from any claim, lawsuit or liability involving the use by the public of the Easement Area. This Section shall not apply to claims, lawsuits or liabilities arising from the negligent or willful act or omission of Grantor.

Notices

7. All notices, demands, consents, requests or other communications required to or permitted to be given pursuant hereto shall be in writing, shall be given only in accordance with the provisions of this section, shall be addressed to the parties in the manner set forth below, and shall be delivered by certified mail return receipt requested, or by overnight courier or delivery service with signature required, to the addresses set forth below, or to such other place as any party may similarly in writing designate to the others. Notices shall be effective three business days after mailing by certified mail or upon delivery by overnight courier or delivery service (or, if delivery is not during regular business hours on a business day, then on the next business day). The addresses of the parties to receive notices are as follows:

- Grantor: POINT TIBURON BAYSIDE HOMEOWNERS ASSOCIATION
210 Paradise Drive
Tiburon, CA 94920
- Grantee: Town Manager
Town of Tiburon
1505 Tiburon Boulevard
Tiburon, California 94920

Exhibits and Recitals

8. All exhibits and recitals referenced herein are incorporated into this Deed as though set forth in full. This Deed includes the following Exhibits, which are attached and identified as follows:

- Exhibit A: Legal Description of Easement Area
- Exhibit B: Legal Description of Adjoining Portion of Mar West Street

[signatures follow on next page]

Executed on _____, 2016, at Tiburon, Marin County, California.

POINT TIBURON BAYSIDE
HOMEOWNERS ASSOCIATION

TOWN OF TIBURON

By:
Its: President, Board of Directors

By:
Its: Town Manager

ATTEST:

By:
Its: Secretary of the Board

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Scott Phillips, Association Counsel

Benjamin L. Stock, Town Attorney

Acknowledgment (attached notarizations for both signatures)

EXHIBIT E

CERTIFICATE OF ACCEPTANCE

This is to certify that the easement interests in real property conveyed by the Grant Deed dated _____, 2016, from The Point Tiburon Bayside Homeowners Association, A California Corporation, as grantor, to the Town of Tiburon, a municipal corporation, as grantee, are hereby accepted by the Town Manager of the Town of Tiburon pursuant to authority conferred by Resolution No. _____ of the Town Council adopted on _____, 2016, and the Town, as grantee, consents to recordation of said Grant Deed.

Date: _____, 2016

By: _____
Town Manager



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: CC-12

STAFF REPORT

To: Mayor and Members of the Town Council
From: Pat Barnes, Town Engineer
Suzanne Creekmore, Management Analyst
Subject: Recommendation to reclassify vacant Engineering Technician position to Associate Civil Engineer
Reviewed By: *[Signature]*

BACKGROUND & ANALYSIS

Upon the retirement of the Town's Engineering Technician in December 2015, Staff reviewed the organizational structure of the Public Works Department to ensure it has the appropriate staffing resources for its administrative and engineering functions. Given the increasing demand for technical services and project management, it was determined the efficiency and effectiveness of the department would be improved with a reclassification of the Engineering Technician position to Associate Civil Engineer. This is not a staff increase, rather a reclassification of one position to provide greater technical expertise in the department. The Town Council Finance Committee was advised of this proposed change in November 2015 and indicated their support for the proposed reclassification at that time.

All other Marin county municipalities who have in-house engineering staff employ a minimum of two engineers, plus additional support staff. Approval of this reclassification will bring Tiburon in alignment with this staffing pattern and allow the Public Works Department to:

- Develop a systems approach to storm drain maintenance, road maintenance and open space maintenance.
- Monitor and comply with increasingly complex environmental regulations. For instance, the municipal stormwater permit provisions now entail greater level of expertise than can be expected of a technician.
- Monitor and comply with evolving contractual requirements, including new laws and required processes.
- Decrease the amount of work contracted out to independent consultants. Recent examples of this include the construction management of Blackie's Picnic Meadow, which resulted in \$30,000 in consultant charges, and design of a slurry seal project that had been planned for in-house design but was sent to a consultant to accommodate other in-house workloads.
- Meet the demands of increasing workloads. For instance, encroachment permits have been at all time highs the last two years, up about 25% compared to previous years.

In 2007, the Town commissioned a report by Matrix Consulting Group entitled, "Management Study of the Public Works Department." The report recommended authorizing an associate engineer position, in addition to existing staff. It noted consultants were being used on a "routine ongoing basis". The Matrix Report discussed the need for an additional in-house engineer to:

- Reduce consultant costs on routine projects.
- Increase project management capabilities.
- Improve systemic infrastructure maintenance.

Staff has reviewed the past use of consultants as Deputy Town Engineers and found numerous instances of consultants providing services that could be provided by a qualified Associate Civil Engineer, and our analysis indicates even a modest reduction in consultant use will offset the additional cost associated with the proposed reclassification for this upgrade. It is important to note even with approval of the proposed reclassification, consultants will continue to be contracted for complex design and construction management work and project management for very large projects like the proposed Hawthorne Undergrounding Project. However, there is a need to increase our level of in house expertise to facilitate improved planning and implementation of infrastructure maintenance and to meet increasing regulatory requirements.

FINANCIAL IMPACT

As of July 1, 2015 the salary range for the Engineering Technician is \$5,535 - \$6,642. The proposed monthly salary range for the Associate Civil Engineer is \$7,070 - \$8,485. The range was calculated using the average maximum monthly salary of four Marin County agencies with comparable classifications.

Agency	Classification*	Max Salary Range
Corte Madera	Associate Civil Engineer	\$8,521
Mill Valley	Associate Engineer	\$8,829
Novato	Associate Civil Engineer	\$8,225
San Rafael	Associate Engineer	\$8,365

* The primary difference between the Associate Engineer and Associate Civil Engineer classification is the latter is specialized to perform duties specifically related to civil engineering and requires Engineer in Training (EIT) certification. The Town of San Anselmo, Town of Corte Madera, City of San Rafael, City of Novato, and City of Sausalito have senior-level engineers paid at a higher rate.

Average Max Monthly Salary: \$8,485

As a result of the salary savings associated with the temporary vacancy in this position, staff anticipates no additional cost to this year's budget if the proposed reclassification is approved. The maximum projected budgetary increase associated with this proposed reclassification for fiscal year 2016-2017 is \$25,140.

If approved, Staff will begin recruitment efforts for the reclassified position immediately.

RECOMMENDATION

Staff recommends the Town Council authorize the reclassification of a vacant Engineering Technician position to Associate Civil Engineer and authorize Staff to recruit for and fill the position.

Exhibits: Associate Civil Engineer Job Description

Prepared By: Suzanne Creekmore, Management Analyst

ASSOCIATE CIVIL ENGINEER**DEFINITION**

Performs a variety of professional engineering work involving the planning, permitting, design, and construction of a variety of capital improvement projects and/or private development projects, from conception to completion; to oversee, review and approve the work of outside consultants; to perform professional engineering studies; and to receive, research and respond to inquiries from the public and outside agencies.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Department of Public Works/Town Engineer or other assigned supervisor or manager. Employee may oversee the work of contractors for assigned projects and may provide lead work assistance to other departmental staff performing tasks on the same assigned projects.

EXAMPLES OF ESSENTIAL JOB FUNCTIONS/DUTIES

- Develops Requests for Qualifications (RFQs) and participate with other department staff in the selection of consulting engineers.
- Prepares and/or assists in the preparation of plans, specifications and estimates pertaining to construction projects.
- Interprets plans and specifications and renders decisions regarding construction methods, design changes, and cost analyses.
- Makes engineering calculations, completes design drawings, makes and revises maps, charts and diagrams.
- Conducts pre-construction meetings with contractors to establish job requirements, i.e. timing, noise-level, traffic impact.
- Performs field inspections of various municipal construction projects, in progress and upon completion.
- Prepares written reports on civil engineering issues/problems.
- Performs project-management on Capital Projects during the design, environmental, bidding, and construction phases of the project.
- Performs Resident Engineer duties on Capital Projects during construction.
- Performs inspection and enforcement duties to ensure compliance with applicable design standards, specification, contracts, legal documents, codes and ordinances.
- Meets with State, Federal, Local Districts, Agencies, consultants, and engineers to discuss project guidelines, design parameters, policies and procedures.
- Performs work in accordance with local, State, and Federal standards and regulations.
- Designs and prepares plans and specification and cost estimates for a variety of public works projects, including streets, storm drains, parks, parking lots, and other public facilities. Researches project design requirements, performs calculations, prepares estimates of time and materials costs and determines sequencing and detour requirements.
- Serves as Project Engineer for projects of moderate size and complexity, including design, handling contract administration and providing design support for the inspector during construction.

- Review plans and maps submitted by private developers for conformity with laws, ordinances, Town imposed requirements and accepted professional standards with the goal of protecting the health, safety, and welfare of the community. Performs certain administrative duties associated with private development approvals such as preparing agreements, collecting fees, obtaining dedications, and coordinating with other agencies and Town departments.
- Investigates field problems affecting the public, property owners, contractors and maintenance operations; collects the necessary data or assigns the collection of data to technical personnel; develops recommendations and meets with the appropriate parties to discuss and implement recommendations.
- Provides engineering information, including Town requirements related to property improvements to the public and other Town departments. Arranges and participates in conferences with other engineers, developers and the general public on engineering problems.
- Develops revised design and construction standards for public facilities.
- Researches publications and industry information sources and attends conferences and continuing education courses to keep abreast of new developments in the field of public works engineering.
- Prepares special engineering studies and reports.
- Participates in engineering inspection and survey activities.
- Prepares written recommendations, correspondence and reports on assigned projects.
- May attend and present information at public meetings.
- Coordinates road closure requests.
- Secures various easements on the Town's behalf.
- Provides administrative support to the Town Engineer.
- Administers Municipal Stormwater Permit Program.
- Staff a variety of Town commissions, boards, and committees on public works, utility matters, traffic and transportation, and building code appeals.
- Search, inquire and apply for and/or administer Federal and/or State grants.
- Performs related duties as required.

JOB RELATED AND ESSENTIAL QUALIFICATIONS

Knowledge of:

- Principles and practices of civil engineering and surveying.
- Basic methods and equipment used in civil engineering construction.
- Thorough knowledge of principles and practices of civil engineering and surveying; and working methods and equipment used in civil engineering construction; pertinent Federal, State, and local rules, regulations and ordinances; and computer application relating to civil engineering.
- Modern Civil Engineering tools and equipment including a PC and related software.

Ability to:

- Analyze engineering problems.
- Present clear, concise written and verbal reports.
- Dealing effectively with other engineers, other Town and agency staff, private contractors, and the general public.
- Use modern Civil Engineering Equipment included a PC and related software.
- Communicate effectively with a wide range of citizens, other Town and agency staff, and private contractors both in oral and written format.
- Analyze civil engineering problems, evaluate alternatives, and reach sound conclusions.
- Prepare clear, concise, and accurate reports, records, and correspondence.
- Complete mapping and drafting assignments.
- Establish and maintain effective working relationships.
- Inspect public works construction projects.

EXPERIENCE AND EDUCATION

Any combination of experience and training that would likely provide the required knowledge, skills and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Three years of increasingly responsible engineering experience, including adequate experience in the field of construction.

Education:

Graduation from an accredited college or university with a Bachelor of Science degree in Civil Engineering or a related field.

License

Possession of, or ability to obtain, a valid California driver's license. Possession of, or ability to obtain, a valid Engineer in Training Certificate from the California State Board of Registration for Professional Engineers.

PHYSICAL DEMANDS

Requires the ability to work in a standard office environment. Some duties require field visits with exposure to construction sites and inclement weather such as heat or cold. Requires the ability to exert a small amount of physical effort in daily activities; may require walking over uneven and steep terrain while carrying light equipment; requires sufficient hand/eye coordination to perform semi-skilled repetitive movements, such as drafting (hand and computer aided), drawing, field survey work, operation of a motor vehicle, and/or use of other office equipment or supplies; must be able to perceive forms and colors. Requires the ability to lift or carry weight of 25 pounds or less.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: AI-1

STAFF REPORT

To: Mayor and Members of the Town Council
From: Office of the Town Manager
Subject: Bus Route 8: Golden Gate Bridge, Highway and Transportation District
Reviewed By: *GC*

BACKGROUND

The Golden Gate Bridge, Highway and Transportation District (GGBHTD) is studying the feasibility of taking over the commuter ferry service between Tiburon and San Francisco, currently operated by the Blue and Gold Fleet. As part of that analysis, GGBHTD is considering eliminating its Route 8 bus service to cover the cost of taking over the ferry service. According to the district, Route 8 has had low ridership for many years. The route currently serves residents of Belvedere, Tiburon and Mill Valley, carrying them to the San Francisco Financial District during commute hours.

At the December 2, 2015 Town Council meeting, a resident spoke during public open time against the elimination of the route, and said the alternative proposed by GGBHTD – using the Tiburon Boulevard shuttle (Route 219) to reach Highway 101 to pick up San Francisco-bound buses – was neither convenient nor feasible. The speaker expressed concern that the elimination of Route 8 would force riders back into their cars, thereby adversely impacting traffic on Tiburon Boulevard. A petition from riders of Route 8 was submitted to the Council.

The Belvedere City Council considered this matter at its December 14, 2015 meeting. After discussion, the Council authorized Mayor McAuliffe to send a letter to GGBHTD supporting the continuation of Route 8.

Tiburon Mayor Tollini has asked representatives of GGBHTD to address the Tiburon Town Council on this matter in order to continue the discussion of the proposal and its possible impacts and solutions. The GGBHTD is conducting a public information session at the Belvedere-Tiburon Library tonight, between the hours of 6 and 8 p.m. The GGBHTD board will consider the matter at a public hearing on January 21, 2016.

RECOMMENDATION

Staff recommends that the Town Council hear a brief presentation from GGBHTD representatives and direct staff if it wishes to take any action on this matter.

Exhibit: Letter from Belvedere Mayor McAuliffe to GGHBT
Prepared By: Greg Chanis, Town Manager



CITY of BELVEDERE

450 San Rafael Ave. • Belvedere, CA 94920-2336
Tel: 415/435-3838 • Fax: 415/435-0430

Claire McAuliffe, Mayor

December 14, 2015

DENNIS MULLIGAN
GENERAL MANAGER
GOLDEN GATE BRIDGE HIGHWAY
& TRANSPORTATION DISTRICT
PO BOX 9000, PRESIDIO STATION
SAN FRANCISCO CA 94129-0601

RE: City of Belvedere Support for keeping GGBHTD Bus Route 8

Dear Mr. Mulligan,

Belvedere is pleased that GGBHTD is studying the feasibility of taking over the Blue & Gold Fleet's commuter ferry service in Tiburon. We are concerned, however, with the suggestion that GGBHTD may redirect funds from Bus Route 8 to achieve this objective. Eliminating a viable public transportation option is counterproductive to the statewide goal of encouraging use of public transit and reducing carbon emissions.

Currently, Bus Route 8 provides an alternative means of transportation from a single-occupancy vehicle for commuters in Belvedere and surrounding areas travelling to San Francisco. With a bus stop located inside Belvedere city limits at Beach Road and San Rafael Avenue, access to this service is within walking distance of most Belvedere neighborhoods.

The City supports affordable and varied commuter transportation options between the Tiburon Peninsula and San Francisco, as well as transit options that ease congestion on local streets and roads. In fact, this year the City is subsidizing expanded school bus service on the Tiburon Peninsula, to encourage ridership at all grade levels and reduce peak hour traffic congestion on Tiburon Boulevard.

As we have learned from our school bus project, in order to maximize the use of public transportation by consumers the service must be convenient, affordable and easy to use. Eliminating Route 8 would reduce options for residents and may also have the effect of exacerbating commute hour traffic congestion on Tiburon Boulevard.

The City requests that, as you investigate providing ferry service in place of the Blue & Gold Fleet in Tiburon, you also prioritize maintaining the current bus routes serving our community.

Sincerely,

A handwritten signature in blue ink that reads "Claire McAuliffe".

Claire McAuliffe
Mayor

*Exhibit
1-20-16*



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

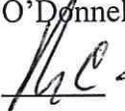
Town Council Meeting
January 20, 2016
Agenda Item:
Action Item 2

STAFF REPORT

To: Mayor and Members of the Town Council

From: Office of the Town Manager

Subject: Consider future options for funding the Yellow Bus Challenge Program and formation of a Joint Powers Authority (Vice Mayor Fraser/Councilmember O'Donnell/Town Manager Chanis/Town Attorney Stock)

Reviewed By: 

BACKGROUND

In the current school year, a number of changes were made in the operation of the Yellow Bus Challenge Program (YBCP) including: Expanding the number of routes, clustering passengers by school, and subsidizing the cost of bus passes. These changes, along with the decision to stagger "bell times" at the schools, have resulted in increased ridership on buses serving the Reed Unified School District (RUSD) and reduced school-related traffic congestion on Tiburon Boulevard.

A committee comprised of representatives and volunteers from the City of Belvedere (City), Town of Tiburon (Town) and RUSD (the Committee) meets regularly to oversee implementation of the YBCP, troubleshoot problems or issues, and develop a strategy to ensure the YBCP continues and improves in the future. Although the Committee feels this year's experience has been positive, it has identified a number of areas in need of improvement. These areas include:

- Performance of the current service provider, who has been unable to consistently provide the level of service required for a successful operation.
- Administrative management of the YBCP, which has placed an unanticipated burden on RUSD staff.
- Streamlining of the bus pass purchasing process and improved access to information about the YBCP.
- Long-term funding of the YBCP.

The Committee has also developed a list of recommendations, which if implemented, will allow the YBCP to better serve the users of the service and partner agencies in the future. These recommendations include:

- Develop a bus pass purchasing platform that creates efficiencies, streamlines administration and improves the flow of YBCP information to families and staff. Due to the timelines associated with the goal of having passes for the 2016-2017 school year available for sale in April/May 2016, this work needs to be completed in the first quarter of 2016, which makes it an expense in the current fiscal year.

- Create a Joint Powers Authority (JPA), initially comprised of the Town, City and RUSD, to establish, operate and maintain a school bus system to mitigate traffic congestion during RUSD bell times. A draft agreement to establish the proposed JPA is attached hereto as **Exhibit 1**. Once established, the Committee recommends the JPA consider the following actions:
 - Solicit proposals from qualified companies to provide bus service beginning in the 2016-2017 school year.
 - Recruit and hire administrative staff to coordinate the YBCP.
 - Explore options for identifying and securing a permanent source of funding (In addition to bus pass sales) for the program, including investigating the possibility of seeking a voter-approved parcel tax.
 - Study the potential benefits of inviting the Town of Corta Madera and County of Marin to join the JPA in the future.

FINANCIAL IMPACT

The fiscal impact of operating the YBCP should be looked at by fiscal year.

Fiscal/School Year 2015-2016 (Current)

In the current fiscal year, the estimated total cost to operate the YBCP is \$576,500. This figure assumes the program will continue next year and therefore, includes expenses to ensure the program transitions smoothly into its second year, including the cost of developing and implementing a new web-based bus pass purchasing platform. Bus pass sales currently total approximately \$271,000, leaving a balance of approximately \$305,000 to be funded by other sources (Program Subsidy). The Town of Corte Madera contributed \$25,000 to the Program Subsidy this year, which leaves approximately \$280,000 to be funded by the Town and City. Based on the agreed upon 80/20 percent split, the City is responsible for approximately \$56,000 of the Program Subsidy, leaving the Town responsible for approximately \$224,000. In the Fiscal Year 2015-2016 Town Operating Budget, the Council approved \$250,000 to be used to support the YBCP.

Fiscal/School Year 2016-2017

The Council is being asked to consider the formation of a Joint Powers Authority (JPA) to operate the YBCP in Fiscal/School Year 2016-2017, but even if a JPA is formed, the YBCP will require at least one more year of Program Subsidy to operate in the coming year. The preliminary estimated cost to operate the YBCP for the 2016-2017 Fiscal/School Year is approximately \$810,000. The significant increase over the current year's cost can be attributed primarily to three factors: The higher cost of contracting with a new transportation provider, the cost of hiring part-time staff to administer the program, and an **optional** one time cost to outfit the buses with GPS mobile data technology, allowing users to receive real time information on bus location, schedule etc. In terms of revenue, we are estimating \$378,000 in bus pass sales, which would leave an estimated unfunded Program Subsidy of approximately \$432,000. If Corta Madera again contributes \$25,000, a \$407,000 Program Subsidy would remain. Based on the same 80/20 split, the City and Town would be responsible for approximately \$81,400 and \$325,600 respectively. On January 11, 2016, the Belvedere City Council authorized City staff to include in the Fiscal Year 2016-2017 Proposed Operating Budget, funds to support the YBCP.

RECOMMENDATION

Staff recommends the Town Council:

1. Reaffirm the Town's support of the Yellow Bus Challenge Program and continued participation on the Yellow Bus Challenge 2.0 Committee and,
2. Review the Draft "*Joint Powers Agreement to establish, operate and maintain a school bus system to reduce traffic*" and provide direction to the Town Manager, who will work with representatives from Belvedere and the Reed Union School District to finalize the document for Town Council consideration at the February 17, 2016 Town Council meeting and,
3. Direct staff to include, for Town Council consideration, an appropriation in the Fiscal Year 2016-2017 Town Operating Budget, to subsidize the Yellow Bus Challenge program in School Year 2016-2017.

Exhibits: 1) Tiburon Boulevard Joint Powers Authority: Joint Powers Agreement To Establish, Operate, and Maintain a School Bus System to Reduce Traffic

Prepared By: Greg Chanis, Town Manager

TIBURON BOULEVARD JOINT POWERS AUTHORITY

**JOINT POWERS AGREEMENT
TO ESTABLISH, OPERATE AND MAINTAIN A SCHOOL BUS SYSTEM TO
REDUCE TRAFFIC**

THIS JOINT POWERS AGREEMENT (the “**Agreement**”) is entered into this __ day of _____, 2016, by and among the Town of Tiburon, the City of Belvedere, and the Reed Union School District (each a “**Member Agency**” and collectively, the “**Member Agencies**”) pursuant to the Joint Exercise of Powers Law (Articles 1 through 4 [commencing with Section 6500] of Chapter 5, Division 7, Title 1 of the California Government Codes, as now or hereafter amended (the “**Act**”)) for the purposes of providing traffic relief along Tiburon Boulevard by operating and maintaining school bus service for the students of Reed Union School District.

RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the Member Agencies:

WHEREAS, California Government Code section 6502 provides that two or more public agencies, by agreement, may jointly exercise any power common to the contracting parties; and

WHEREAS, the Member Agencies each have and possess the power to provide bussing services and to hire private contractors to provide bussing services; and

WHEREAS, the Member Agencies desire to join together for the purpose of providing traffic relief along Tiburon Boulevard by operating and maintaining bus service for the students of Reed Union School District.

NOW, THEREFORE, it is agreed by and between the Member Agencies hereto as follows:

Exhibit 1

ARTICLE 1

CREATION OF THE AUTHORITY

1.1 **Creation.** Pursuant to Government Code sections 6500 et seq., there is hereby created a public entity to be known as the “Tiburon Boulevard Bus Joint Exercise of Powers Authority” (“**Authority**”). It is the intent of the Member Agencies that the Authority shall be a public agency separate from the Member Agencies.

1.2 **Member Agencies.** The Member Agencies currently include the Town of Tiburon, the City of Belvedere, and Reed Union School District.

ARTICLE 2

PURPOSES AND POWERS

2.1 **Purpose.** The purpose of this Agreement is to enable the Member Agencies, through power common to each of them, to provide traffic relief along Tiburon Boulevard by operating and maintaining school bus service for the students of Reed Union School District.

2.2 **Powers.** The Authority shall have the authority to exercise any power common to all of the Member Agencies as authorized by the law. The Authority is hereby authorized to do all acts necessary for the exercise of these common powers, including, but not limited to, any of the following:

- 2.2.1 To make and enter into contracts, leases, and other agreements;
- 2.2.2 To incur debts, liabilities, and obligations;
- 2.2.3 To acquire, hold and dispose of property to the full exercise of its powers;
- 2.2.4 To employ agents, employees, consultants, advisors, independent contractors and other staff;
- 2.2.5 To sue and be sued in its own name, provided that the Authority shall not commence or intervene in any lawsuit without the approval of all of the Member Agencies;
- 2.2.6 To raise revenue, to levy and collect taxes, fees and charges, and to issue bonds, notes, warrants, and other evidence of indebtedness to finance costs and expenses incidental to the purpose of the Authority;
- 2.2.7 To apply for, accept and receive, federal or local licenses, permits, grants, loans, or other aid from any agency of the United States of America, the State of California, or other public or private entities necessary or convenient for the Authority’s full exercise of its powers;

2.2.8 To perform all acts necessary or proper to carry out full the purposes of this Agreement;

2.2.9 To insure itself and the parties from loss, liability, and claims arising out of or in any way connected with the performance of this Agreement; and

2.2.10 To invest any money in the treasury pursuant to Government Code section 6505.5, that is not required for the immediate necessities of the Authority, as the Authority determines advisable, in the same manner and upon the same conditions as local agencies pursuant to Government Code section 53501.

2.3 **Obligations of the Authority.** No debt, liability or obligation of the Authority shall be a debt, liability or obligation of any Member Agency.

2.4 **Restriction.** To the extent required under Government Code section 6509, the manner in which the Authority exercises its powers shall be restricted in the same manner in which the Town of Tiburon is restricted in its exercise of similar powers.

2.5 **Privileges and Immunities.** All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of officers, agents or employees of any of the Member Agencies when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties under this Agreement.

ARTICLE 3

GOVERNING BODY

3.1 **Board of Directors.** This Agreement and the Authority created hereby shall be administered by the governing body of the Authority, which shall be known as the "Board of Directors of the Tiburon Boulevard Bus Joint Exercise of Powers Authority" (the "Board"). All of the power and authority of the Authority shall be exercised by the Board.

3.2 **Membership.** Each Member Agency shall designate and appoint one member of its governing body to act as its representative on the Board and the City of Belvedere and the Town of Tiburon shall additionally each designate their City Manager and Town Manager as an additional representative on the Board (each, a "Director"). Each Director shall have one vote. Each Director shall serve at the pleasure of the Member Agency that appointed the Director, and may be removed at any time, with or without cause, in the sole discretion of the appointing Member Agency.

ARTICLE 4

CONDUCT OF MEETINGS

4.1 **Regular Meetings.** Regular meetings of the Board shall be held at such times and places as the Board may fix by resolution from time-to-time.

4.2 **Special Meetings.** Special Meetings of the Board may be called in accordance with the provisions of Government Code section 54956.

4.3 **Call, Notice and Conduct of Meetings.** All meetings of the Board, including without limitation, regular, adjourned regular and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act, Government Code sections 54950 et seq.

4.4 **Minutes.** The Secretary shall cause minutes to be kept of the meetings of the Board, and shall, as soon as possible after each meeting, cause a copy of the minutes along with copies of all ordinances and resolutions to be forwarded to each Director and to each of the Member Agencies.

4.5 **Quorum, Required Votes; Approvals.** Any action of the Board shall require the affirmative vote of a majority of the entire voting membership of the Board (currently three (3) votes); provided however, that amendment or termination of this Agreement shall require approval by the governing body of each Member Agency.

4.6 **By-laws.** The Board may adopt, from time-to-time, such rules and regulations for the conduct of its affairs as may be required.

4.7 **Conflict of Interest Code.** As required by the Political Reform Act, Government Code section 81000, *et seq.*, the Board shall adopt and promulgate a conflict of interest code substantially similar to the standard conflict of interest code promulgated, and from time-to-time amended, by the Fair Political Practices Commission in 2 California Code of Regulations Section 18730.

ARTICLE 5

OFFICERS

5.1 **Chair.** The Board shall elect from its membership a Chair who shall perform the duties customary to said office. The Chair may sign contracts on behalf of the Authority, and shall perform such other duties as may be imposed by the Board.

5.2 **Vice-Chair.** The Board shall elect from its membership a Vice-Chair. In the absence of the Chair, the Vice-Chair shall perform the duties of the Chair and shall perform all duties customary to such office.

5.3 **Secretary.** The Authority shall have a Secretary who need not be a Director and who shall be selected by the Board and shall perform all duties customary to such office.

5.4 **Auditor/Treasurer.** Pursuant to Government Code section 6505.5 and 6505.6, the _____ of [*one of the Members*] _____ is designated as the Treasurer/Auditor of the Authority. The Treasurer/Auditor shall be the depository, shall have custody of all of the accounts, funds and money of the Authority from whatever source, shall have the duties and obligations set forth in Government Code sections 6505 and 6505.5, and shall assure strict accountability of all funds and reporting of all receipts and disbursements of the Authority. As

provided in Government Code section 6505 and 6505.6, the Treasurer/Auditor shall make arrangements with a certified public accountant or firm of certified public accountants for an annual independent audit of accounts and records of the Authority.

5.5 **Official Bonds.** The Board shall require officers, employees, and agents of the Authority to file official bonds to the extent required by Government Code section 6505.1.

5.6 **Removal and Reappointment.** Unless otherwise expressly stated, all officers of the Authority shall serve at the pleasure of the Board. However, nothing in this paragraph shall authorize the Board to appoint or dismiss a Director.

5.7 **Other Officers.** The Board shall have the power to appoint such additional officers as may be appropriate.

5.8 **Term.** The term of each office shall be a maximum of two years. It shall be the policy of the Board to encourage the rotation of the offices among Board members.

ARTICLE 6

CONTRIBUTIONS; ACCOUNTS AND REPORTS; FUNDS

6.1 **Contributions.** Each of the Member Agencies may in the appropriate circumstance when required hereunder: (1) make contributions from their treasuries for the purposes set forth herein; (2) make payments of public funds or private funds to defray the costs of such purposes; (3) make advances of public funds for such purposes, such advances to be repaid as provided in Section 6.2; or (4) use its personnel, equipment or property in lieu of contributions or advances.

6.2 **Repayment of Advances.** Advances of public funds extended to the Authority by any Member Agency shall be repaid on such terms and conditions as provided by the Board and agreed to by the governing body of such Member Agency.

6.3 **Revenue Bonds.** The Authority shall have the power and authority to issue Revenue Bonds in accordance with State Law, including Government Code sections 6540 et seq. and the Marks-Roos Local Bond Pooling Act of 1985 (Government Code section 6584 et seq.).

6.4 **Accounts and Reports.** The Treasurer/Auditor shall establish and maintain such funds and accounts as may be required by any applicable laws or regulations, good accounting practice, or by any provision of any trust agreement entered into with respect to the proceeds of any bonds issued by the Authority. In particular, the Treasurer of the Authority shall strictly comply with the requirements governing joint powers agencies, Government Code sections 6500 et seq. The books and records of the Authority in the hands of the Treasurer/Auditor shall be open to inspection at all reasonable times by representatives of the Member Agencies. The Treasurer/Auditor, within 120 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Member Agencies.

6.5 **Fiscal Year.** The fiscal year of the Authority shall be from July 1 of one year to June 30 of the following year, or any other twelve-month period hereafter designated by the Board by resolution.

6.6 **Right to Audit.** Each Member Agency shall have the right to audit the records and accounts of the Authority, the cost and expense of which shall be borne by the Member Agency seeking such audit.

ARTICLE 7

ADMISSION, WITHDRAWAL, AND TERMINATION

7.1 **Admission.** The Member Agencies recognize that Public Entities, as defined by Government Code section 6500, other than the original Members Agencies, may wish to participate in the Authority. Additional public entities may become parties to this Agreement on such terms and conditions as provided by the Board and with the consent of the governing bodies of each of the existing Member Agencies, evidenced by the execution of a written addendum to this Agreement, and signed by all of the Member Agencies including the additional party. Provided, however, that the County of Marin and/or the City of Corte Madera may become parties to this Agreement with the unanimous consent of the existing members of the Board, and with the consent of the governing bodies of the County of Marin or the City of Corte Madera, evidenced by the execution of a written addendum to this Agreement, and signed by the Director of each Member Agency and by the County of Marin or the City of Corte Madera.

7.2 **Withdrawal.** The withdrawal of any Member Agency, either voluntary or involuntary, shall be conditioned as follows:

7.2.1 Any Member Agency may withdraw from this Agreement by providing six (6) months written notice of such withdrawal to the Authority and to all Member Agencies;

7.2.2 Withdrawal shall not relieve the Member Agency of its proportionate share of any debts or other liabilities incurred by the Authority prior to the effective date of the Member Agency's notice of withdrawal; and

7.2.3 The withdrawal of any Member Agency from the Authority shall not terminate this Agreement or the Authority.

7.3 **Termination.** This Agreement may be terminated at any time upon the unanimous approval of the governing bodies of all Member Agencies. Upon such termination, the Authority, to the extent of the assets thereof, shall continue to be responsible for claims arising out of its operations prior to termination. No assets of the Authority shall be divided among or returned to the Member Agencies until all outstanding obligations of the Authority have been resolved or discharged. Thereafter, all assets of the Authority shall be returned to the Member Agencies in proportion to the contributions made.

ARTICLE 8

MISCELLANEOUS

8.1 **Notices.** Any notices required by or given pursuant to this Agreement shall be in writing and shall be delivered to each of the Member Agencies at the business offices listed below or at such other address as any party may specify in the writing to the Authority:

Town of Tiburon
Attn: Town Attorney
1505 Tiburon Boulevard
Tiburon, CA 94920

City of Belvedere
Attn: City Attorney
450 San Rafael Ave.
Belvedere, CA 94920-2336

Reed Union School District
Attn: _____
277 A Karen Way
Tiburon, CA 94920

8.2 **Complete Agreement.** The foregoing constitutes the full and complete Agreement of the Member Agencies. There are no oral understandings or agreements not set forth in writing herein.

8.3 **Governing Law.** This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of California.

8.4 **Headings.** The section headings herein are for convenience only, and are not to be construed as modifying or governing language in the section.

8.5 **Amendments.** This Agreement may be amended from time-to-time in writing by unanimous action of the Member Agencies; provided, however, that any such amendment shall take into consideration the holders of any revenue bonds or other forms of indebtedness.

8.6 **Severability.** If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable, for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

8.7 **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors of the Member Agencies. The Member Agencies may not assign any right or obligation hereunder without the written consent of the other Member Agencies to this Agreement.

8.8 **Execution in Counterparts.** This Agreement may be executed on behalf of the respective Member Agencies in one or more counterparts, all of which collectively shall constitute one document and agreement.

8.9 **Effective Date.** This Agreement shall take effect upon its execution on behalf of the later of the Member Agencies to do so.

IN WITNESS HEREOF, the Member Agencies have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, on the day and year set opposite the name of each Member Agency.

Signatures on Following Page

DRAFT

<p>TOWN OF TIBURON</p> <p>By: _____ _____, _____</p> <p>Dated: _____, 2016</p> <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Benjamin L. Stock, Town Attorney</p>	<p>CITY OF BELVEDERE</p> <p>By: _____ _____, _____</p> <p>Dated: _____, 2016</p> <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Robert Epstein, City Attorney</p>
<p>REED UNION SCHOOL DISTRICT</p> <p>By: _____ _____, _____</p> <p>Dated: _____, 2016</p> <p>APPROVED AS TO FORM:</p> <p>_____</p>	<p style="text-align: center; opacity: 0.5; font-size: 48px; transform: rotate(-30deg);">DRAFT</p>



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
January 20, 2016
Agenda Item: *AI-3*

STAFF REPORT

To: Mayor and Members of Town Council
From: Town Manager
Subject: Discussion Regarding Amendments to Chapter 32 of the Tiburon Municipal Code
Reviewed By: *h.c.*

SUMMARY

In reaction to increased mass shootings throughout this country, a number of local jurisdictions have considered and enacted various measures relating to firearms. The Town has previously enacted Chapter 32 in the Municipal Code addressing firearms. Chapter 32 addresses several areas of concern, including, (a) firearm dealer's requirement to obtain a permit from the Town for selling firearms, (b) recordkeeping for ammunition sales, and (c) the discharging of air rifles and firearms within Town limits. The Town may wish to consider adding additional measures to Chapter 32, and this matter now comes to the Town Council for direction on whether to proceed with further amendments to Chapter 32.

ANALYSIS

Under the California Constitution, the Town has the authority to regulate all things that are injurious to the public welfare, and firearms have been interpreted to be a proper item for regulation. While the Second Amendment of the U.S. Constitution and California State law preempt certain areas for regulation, California cities have the ability to regulate other areas that are not preempted by the State.

Consistent with the authority referenced above, the Town of Tiburon enacted Chapter 32 regulating three issues surrounding firearms. A copy of Chapter 32 is attached hereto as **Exhibit 1**. First, the Chapter requires firearm dealers to apply annually for a permit to sell, lease or transfer firearms. As part of that permit application, the applicant must supply certain information and verifications in order to obtain any such Town permit. Second, the Chapter requires every holder of a business license to sell ammunition to maintain records pertaining to the ammunition sales. The records require certain personal information about the buyer of ammunition and the amounts and types of ammunition bought on the licensed premise. Finally, the Chapter regulates the discharge of both a firearm and air rifle. In regards to air rifles, subject to certain exceptions, the Chapter prohibits discharge of any air rifle within five hundred feet of any structure or the street. In regards to firearms, subject to certain exceptions, the Chapter prohibits any person from

discharging firearms anywhere within the Town limits. Additionally, the Chapter prohibits any person from possessing any firearm on any land belonging to another without written permission.

As a result of recent mass shootings that have occurred throughout this country and our state, some local jurisdictions have begun reviewing their regulations to determine whether there are additional measures that can be enacted at a local level to address the increase in gun violence. Most California cities that have considered further regulation have focused on regulations in the following areas:

1. Possession of large capacity magazines.
2. Reporting requirements for lost or stolen firearms.
3. Requirements for the safe storage of firearms.
4. Further regulating firearm dealers.

Large Capacity Magazines

In regards to the possession of large capacity magazines, in 1994, Congress adopted a law prohibiting the transfer and possession of large capacity magazines as part of the federal assault weapon ban. That law was enacted with a sunset clause, however, providing for its expiration after ten years. Congress allowed the federal ban to expire on September 13, 2004.

Since January 1, 2000, California law has, with limited exceptions, prohibited any person from manufacturing, importing into the state, keeping for sale, offering or exposing for sale, giving, or lending any large capacity magazine. California does not currently ban the *possession* of large capacity magazines.

Large capacity magazines can hold up to 100 rounds of ammunition, and magazines with a capacity of more than 10 rounds of ammunition are generally considered to be “large capacity” magazines. While large capacity magazines are typically associated with semi-automatic assault weapons or machine guns, such devices are generally available for any semi-automatic firearm that accepts a detachable magazine.

In 2013, the City of Sunnyvale and the City and County of San Francisco both adopted ordinances prohibiting the possession of large capacity magazines. A copy of Sunnyvale’s Ordinance is attached hereto as **Exhibit 2**. A legal challenge to the Sunnyvale ordinance was unsuccessful, and subsequently, the cities of Los Angeles and Oakland enacted similar bans.

Lost or Stolen Firearm Reporting Requirements

Local jurisdictions are also considering regulations relating to mandatory reporting of lost or stolen firearms. Federal and California laws currently require licensed firearms dealers, but not gun owners, to report the loss or theft of firearms. Local governments in California with reporting laws include San Francisco, Sacramento, Oakland, Berkeley, Los Angeles, West Hollywood, Thousand Oaks, Simi Valley, Sunnyvale and Port Hueneme. Jurisdictions that have

imposed this type of reporting requirement have adopted findings that conclude that the reporting requirements are useful for law enforcement investigatory purposes.

Firearm Storage Regulations

Local jurisdictions, including Sunnyvale, Los Angeles, Oakland and San Francisco, have also considered and adopted requirements mandating that any firearm be kept securely in a locked container or disabled with a trigger lock in any residence. These ordinances also provide certain exceptions, including that the firearm does not need to be kept in safe storage if the weapon is carried on a person over the age of 18. San Francisco's ordinance was unsuccessfully challenged, and other jurisdictions have replicated this prohibition. A copy of San Francisco's Safe Storage Law is attached hereto as **Exhibit 3**.

Further Regulation Regarding Firearm Dealers

Finally, local jurisdictions are now considering requiring that firearm dealers also videotape all transactions in order to assist law enforcement. The Town already regulates firearm dealers and requires them to obtain a permit prior to operating in the Town. Therefore, should the Town require videotaping, the Town could amend this Chapter and add this requirement to the conditions of approval. The Council may also wish to consider amending the Town's municipal code to clearly articulate that both firearm and ammunition dealers only be permitted within the commercial zones of the Town, and that either activity is prohibited anywhere but in the Town's commercially designated zones.

Other issues for the Council to consider is should the State decide to enact legislation covering any of these above referenced topics, the Town's regulations would become obsolete and would be repealed. Recently, Lt. Governor Gavin Newsom announced that he is sponsoring the "Safety for All" ballot initiative that will appear on the 2016 California ballot. A copy of this initiative is attached hereto as **Exhibit 4**. This initiative will seek instant background checks for purchases of ammunition, strengthen background checks for gun purchases, prohibit possession of large capacity magazines, require reporting of lost or stolen guns, and require the immediate surrender of firearms for people convicted of certain crimes. If this initiative passes, it will likely preempt consideration of items 1 and 2 referenced above. The Council may choose to direct staff to bring back a Resolution supporting the statewide initiative.

RECOMMENDATION

Staff recommends that the Town Council accept public comment and direct staff on any further action.

EXHIBITS

1. Town Municipal Code, Chapter 32
2. Sunnyvale Ordinance
3. San Francisco Ordinance
4. Safety For All Ballot Initiative

Prepared By: Greg Chanis, Town Manager

Chapter 32

REGULATION OF FIREARMS

Sections:

Article I. Regulation of Firearms Dealers

- 32-1 **Definition of firearm.**
- 32-2 **Definition of firearm dealer.**
- 32-2A **Definition of police—Chief—
Sheriff.**
- 32-3 **Chief's permit required.**
- 32-4 **Application.**
- 32-5 **Investigation by chief.**
- 32-6 **Conditions of approval.**
- 32-7 **Requirement of a secured
facility.**
- 32-8 **Liability insurance.**
- 32-9 **Issuance of permit issued by
chief—Duration.**
- 32-10 **Grounds for permit denial.**
- 32-11 **Grounds for permit revocation.**
- 32-12 **Hearing for permit denial or
revocation.**
- 32-13 **Nonassignability.**
- 32-14 **Compliance by existing dealers.**
- 32-15 **Record of ammunition sales.**
- 32-16 **Penalty.**

Article II. Repealed

Article III. Restrictions on the Use of Air Rifles and Other Firearms

- 32-25 **Air rifles—Restrictions on use.**
- 32-26 **Firearms—Discharge—
Trespass with.**

Article I. Regulation of Firearms Dealers

32-1 **Definition of firearm.**

“Firearm” means any device, designed to be used as a weapon or modified to be used as a weapon, from which a projectile is expelled through a barrel by force of explosion or other means of combustion. (Ord. No. 453 N.S., § 1 (part))

32-2 **Definition of firearm dealer.**

“Firearm dealer” and “licensee”, as used in this article, means any person licensed to sell, lease or transfer firearms pursuant to California Penal Code Section 12071(a)(1). (Ord. No. 453 N.S., § 1 (part))

32-2A **Definition of Police—Chief— Sheriff.**

“Police” or “police department” as used in this chapter shall mean the Town of Tiburon Police Department. “Chief” as used in this chapter shall mean the chief of police or his designee. “Sheriff” as used in this chapter shall mean the Marin County sheriff or his designee. (Ord. No. 453 N.S., § 1 (part))

32-3 **Chief's permit required.**

It is unlawful for any firearms dealer to sell, lease or transfer firearms without a permit issued by the chief. (Ord. No. 453 N.S., § 1 (part))

32-4 **Application.**

(a) An applicant for a permit or renewal of a permit under this chapter shall file with the chief an application in writing, signed under penalty of perjury, on a form prescribed by the town. The applicant shall provide all relevant information requested to demonstrate compliance with this chapter including:

(1) The name, including any aliases or prior names, age and address of the applicant;

(2) The applicant's Federal Firearms License and California Firearms Dealer numbers;

(3) The address of the proposed location for which the permit is required, together with the business name, and the name of any corporation, partnership or association that has ownership in, or control over, the business, if any;

(4) The names, ages and addresses of:

(A) All persons who will have access to or control of workplace firearms, including but not limited to, the applicant's employees, agents and/or supervisors, if any;

(5) Proof of a possessory interest in the property at which the proposed business will be conducted in the form of ownership, lease, license or other enti-

tlement to operate at such location and the written consent of the owner of record of the real property;

(6) A floor plan of the proposed business, which illustrates the applicant's compliance with security provisions as outlined in Section 32-7 of this chapter;

(7) Proof of compliance with town zoning requirements at the proposed location by presentation of a zoning clearance letter from the planning director of the Town of Tiburon or his designee. The planning department may adopt an appropriate fee to implement this requirement;

(8) Proof of compliance with all federal and state licensing laws;

(9) Information relating to every license or permit to sell, lease, transfer, purchase, or possess firearms sought by the applicant from any jurisdiction in the United States, including, but not limited to, the date of application; whether each application resulted in the issuance of a license and the date and circumstances of any revocation or suspension;

(10) Information relating to every revocation of a license or permit relating to firearms, including, but not limited to, date and circumstances of the revocation;

(11) Applicant's agreement to indemnify, defend and hold harmless the town, its officers, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind, including attorney fees arising in any manner out of the applicant's negligence or intentional or willful misconduct;

(12) Certification of satisfaction of insurance requirements;

(13) The date, location, and nature of all criminal convictions of the applicant, if any, in any jurisdiction in the United States.

(b) The application shall be accompanied by a nonrefundable fee of twenty-five dollars for administering this chapter. The fee may be increased by resolution of the town council upon evidence of the actual cost of administering the application. The council finds that the twenty-five dollar fee is reasonable and proper for administering this chapter and, in fact, represents a fraction of the cost that will be incurred by the police in processing the application. (Ord. No. 453 N.S., § 1 (part))

32-5 Investigation by chief.

The chief shall conduct an appropriate investigation of the applicant to determine for the protection of the public safety whether the permit may be issued. The chief shall require an applicant, or any officer, agent or employee thereof, that will have access to or control of firearms to provide fingerprints, a recent photograph, a signed authorization for the release of pertinent records, a complete personal history set forth on a questionnaire provided by the chief, and any other additional information which the chief considers necessary to complete the investigation. (Ord. No. 453 N.S., § 1 (part))

32-6 Conditions of approval.

In addition to other requirements and conditions of this chapter, a permit by the chief is subject to the following conditions, the breach of any of which is sufficient cause for revocation of the permit by the chief:

(a) The business shall be carried on only in the building located at the street address shown on the permit. This requirement, however, does not prohibit the permittee from participating in a gun show or event that is authorized by federal, state and local law upon compliance with that law and upon compliance with any Town of Tiburon ordinance regulating the permissible locations of gun shows;

(b) The chief's permit or a certified copy of it shall be displayed on the premises and at gun shows where it can be easily seen;

(c) The applicant shall not permit any person under eighteen years of age to enter or remain within the premises without being accompanied by the parent, grandparent, or legal guardian for the minor child where the firearm sales activity is the primary business performed at the site. (Ord. No. 453 N.S., § 1 (part))

32-7 Requirement of a secured facility.

Firearms dealers must comply with California Penal Code Section 12071(b)(14) which provides:

At any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(a) Store the firearm in a secure facility as defined by Penal Code Section 12071(c)(3) that is part of, or that constitutes, the licensee's business premises;

(b) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(c) Store the firearm in a locked fireproof safe or vault on the licensee's premises. (Ord. No. 453 N.S., § 1 (part))

32-8 Liability insurance.

(a) No permit issued by the chief shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the town and executed by an insurance company approved by the town, whereby the applicant is insured against liability for damage to property and for injury to or death of any person as a result of the sale, lease or transfer or offering for sale, lease or transfer of a firearm. The minimum liability limits shall not be less than one million dollars for each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the town attorney if deemed appropriate in his or her sole discretion.

(b) The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until notice in writing has been given to the town manager at least thirty days prior to the time the cancellation becomes effective;

(c) Upon expiration of a policy of insurance and if no additional insurance is obtained immediately, the permit is considered canceled without further notice. (Ord. No. 453 N.S., § 1 (part))

32-9 Issuance of permit issued by chief—Duration.

(a) The police department may grant a chief's permit to the applicant if it finds that the applicant complies with all applicable federal, state and local laws including but not limited to, the State Penal Code, Town Building Code, fire, zoning and planning codes;

(b) A permit issued by the chief expires one year after the date of issuance. A permit may be renewed for additional one-year periods upon the permittee's submission of an application for renewal, accompanied by a nonrefundable twenty-five dollar renewal fee. The renewal application and the renewal fee must be received by the police department no later than forty-five days before the expiration of the current permit;

(c) A decision regarding issuance or renewal of a permit may be appealed in the manner provided pursuant to Section 32-12. (Ord. No. 453 N.S., § 1 (part))

32-10 Grounds for permit denial.

The chief shall deny the issuance or renewal of a chief's permit when one or more of the following conditions exist:

(a) The applicant has not complied with the requirements of this chapter or, has violated the provisions of Section 32-20 of the municipal code pertaining to prohibited activity in connection with the sale, display or transfer of "Saturday night specials";

(b) The applicant, or any officer, employee or agent thereof who will have access to and control of firearms is under twenty-one years of age;

(c) The applicant is not licensed as required by federal and state law;

(d) The applicant or any officer, employee or agent thereof who will have access to or control of firearms has had a license or firearms permit to sell,

lease, transfer, purchase or possess from any jurisdiction in the United States revoked, suspended or denied for good cause within the immediately preceding five years;

(e) The applicant or any officer, employee or agent thereof who will have access to or control over firearms has made a false or misleading statement of a material fact or omission of a material fact in the application for a police permit. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of five years;

(f) The applicant or any officer, employee or agent thereof who will have access to or control over firearms has been convicted of:

(1) An offense which disqualifies that person from owning or possessing a firearm under federal, state and local law, including, but not limited to, the offenses listed in Penal Code section 12021;

(2) An offense relating to the manufacture, sale, possession, use or registration of a firearm or dangerous or deadly weapon;

(3) An offense involving the use of force or violence upon the person of another with a deadly weapon;

(4) Any felony, misdemeanor burglary or misdemeanor fraud;

(5) An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the State Health and Safety Code.

(g) The applicant or any officer, employee or agent thereof who has control over firearms is within a class of persons defined in Welfare and Institutions Code Sections 8100 or 8103;

(h) The applicant or any officer, employee, or agent thereof who has control over firearms is currently, or has been within the past five years, an unlawful user of a controlled substance as defined by the Health and Safety Code;

(i) The operation of the business as proposed would not comply with federal, state or local law. (Ord. No. 453 N.S., § 1 (part))

32-11 Grounds for permit revocation.

In addition to the violation of any other provisions contained in this chapter, circumstances constituting grounds for denial of a chief's permit also constitute grounds for revocation. (Ord. No. 453 N.S., § 1 (part))

32-12 Hearing for permit denial or revocation.

(a) A person whose application for a permit is denied or revoked by the chief has the right to a hearing before the chief before final denial or revocation.

(b) Within ten days of the mailing of written notice of intent to deny the application or revoke the permit, the applicant may appeal by requesting a hearing before the chief. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the chief should set a time and place for the hearing within thirty days.

(c) The decision of the chief shall be in writing within ten days of the hearing. An applicant may appeal the decision of the chief to the town manager or his designee. (Ord. No. 453 N.S., § 1 (part))

32-13 Nonassignability.

A chief's permit issued under this section is not assignable. An attempt to assign a chief's permit renders the permit void. (Ord. No. 453 N.S., § 1 (part))

32-14 Compliance by existing dealers.

A person engaging in firearm sales activity on the effective date of this chapter or any amendment to it shall, within sixty days after the effective date, comply with this chapter and any amendment to it. (Ord. No. 453 N.S., § 1 (part))

32-15 Record of ammunition sales.

Every holder of a business license to sell ammunition shall maintain records pertaining to ammunition sales prescribed by this chapter on the licensed premises and in the manner prescribed herein. The record shall show:

- (a) The date of the transaction;
- (b) The purchaser's name, address and date of birth;
- (c) The purchaser's driver's license number or other identification and state where issued;
- (d) The brand of ammunition purchased;
- (e) The type and amount of ammunition purchased;

- (f) The purchaser's signature; and
- (g) Log of ammunition sales.

The information required by this subsection 32-15(g) shall be completed in the logbook at the time of the purchase. Such information shall be recorded in the following format:

**AMMUNITION SALES REGISTRATION LOG
STORE:**

Date	Name	Address	Date of Birth	License/ID & State	Ammunition Brand	Ammunition Type & Amount	Purchaser Signature

(1) The record shall be maintained in chronological order by date of sale of the ammunition, and shall be retained on the licensed premises of the business licensee for a period of two years following the date of the purchase of the ammunition.

(2) At the direction of the chief, Town of Tiburon police officers may enter the premises of any licensed vendor of ammunition during regular business hours for the purpose of examining or inspecting any record required by this chapter.

Exception. The provisions of this section shall not apply to the sale of firearm ammunition by a firing range licensed to do business in the Town of Tiburon when the ammunition so purchased is expended on the premises of the range and not removed for use outside the range premises. (Ord. No. 453 N.S., § 1 (part))

32-16 Penalty.

(a) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this section is committed, continued or permitted by such person.

The Marin County district attorney is hereby designated as the prosecuting agency for violations of this article whenever such violations are to be charged as misdemeanors.

(b) Any person found to be in violation of this chapter shall be subject to the revocation of his or her law enforcement permit to sell, lease or transfer firearms.

(c) In addition to any other penalty or remedy, the county counsel or town attorney may commence a civil action to seek enforcement of these provisions. The town attorney may also elect to enforce this chapter by administrative citation pursuant to Chapter 31 of the municipal code. (Ord. No. 453 N.S., § 1 (part))

Article II. Repealed

Article III. Restrictions on the Use of Air Rifles and Other Firearms

32-25 Air rifles—Restrictions on use.

(a) It is unlawful for any person to discharge an air rifle within five hundred feet of any structure or street.

(b) The provisions of this section shall not be applicable to the following:

(1) When such person is in the immediate charge and presence of a parent, guardian or adult person having responsibility for the conduct of such person.

(2) When such person is lawfully hunting pursuant to the provisions of the Fish and Game Code of the state, and has in his possession a valid hunting license issued as prescribed in such code.

(3) When the discharge occurs at a bona fide shooting gallery, target range, gun club, educational institution or military institution, organized, operated and supervised by adult personnel.

(4) When such person is engaged in the necessary defense of his person or property.

(c) Any air rifle discharged in violation of this section shall be deemed a public nuisance and shall be surrendered immediately to the chief of police. Annually, the chief of police shall destroy or cause to be destroyed such air rifles unless the town council shall, by resolution, provide for the disposal of such air rifles in some other lawful manner.

(d) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Air rifle" means any air rifle, B-B gun, air pistol or air gun, or similar instrument, from or by means of which any bullet, shot, B-B or similar missile may be projected.

(2) "Person" means one under the age of eighteen years.

(3) "Street" means any state highway, county highway, city street or public roadway used by the public or available to the public for use.

(4) "Structure" means any building, residential or otherwise, used, normally used or available for use by human beings for purposes of inhabitation of business. (Ord. No. 52, §§ 1, 2, 3, 5; Ord. No. 453 N.S., § 2 (part))

32-26 Firearms—Discharge—Trespass with.

(a) No person shall discharge any firearm within the city.

(b) No person shall possess any firearm on or upon any lands belonging to or occupied by another unless he has in his possession the written permission

of the owner of such lands or his agent or person in lawful possession thereof.

(c) The provisions of this section shall not apply to the following:

(1) Any peace officer or person summoned by peace officers to assist in making an arrest or in preserving the peace, or to any person who is a member of the armed services of the United States, the National Guard or the State Guard, or to any person employed by the county, state or by the United States to destroy predatory animals, birds or pests, while such persons are acting in a lawful discharge of their duties.

(2) Guards or messengers of common carriers, banks and other financial institutions while actually employed in and about the shipment, transportation or delivery of any money, treasure, bullion, bonds or other thing of value.

(3) Members of any bona fide club or organization organized for the principal purpose of practicing shooting at targets upon established target ranges, while such members are using any firearm upon such target ranges, or while going to or coming from such ranges. Nothing in this section shall be deemed to authorize the use of any property in the town as a target range without the specific approval of the town council.

(4) Licensed hunters while going to or returning from a hunting expedition.

(d) Any firearm discharged or possessed in violation of this section shall be deemed a public nuisance and shall be surrendered immediately to the chief of police. Annually, the chief of police shall destroy or cause to be destroyed such firearms unless the town council shall by resolution provide for the disposal of such firearms in some other lawful manner.

(e) For the purposes of this section, the term "firearm" means any gun, pistol, revolver, rifle, automatic pistol or rifle, shotgun or any other weapon of a similar nature. The term "firearm" shall not mean "air rifle," "B-B gun," "air pistol" or "air gun," or similar instrument from or by which any bullet, shot, B-B or similar missile may be projected. (Ord. No. 53, §§ 1 to 4, 7; Ord. No. 453 N.S., § 2 (part))

Sunnyvale Municipal Code

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[Title 9. PUBLIC PEACE, SAFETY OR WELFARE](#)

Chapter 9.44. FIREARMS**9.44.010. Discharge—Permit required.**

It is unlawful for any person except a “peace officer” as defined in Sections 830 et seq., of the Penal Code of California, or as hereafter amended, in the performance of duties or a person acting in self-defense or in defense of others, within the city of Sunnyvale, to discharge any cannon, firearm, airgun, or any instrument of any kind, character or description which throws or projects bullets or missiles of any kind, to any distance, by means of explosion, combustion, release of compressed air or gas, or otherwise, without first having obtained a permit to do so granted by the chief of the department of public safety; or to make or use, any slingshot in any manner causing danger to or annoyance of any person or injury to property. (Ord. 2570-97 § 2; Ord. 1468 § 1, 1968; prior code § 4-1.07).

9.44.020. Licensed shooting gallery exempt.

Nothing in Section 9.44.010 shall be construed so as to prohibit any person from shooting in any licensed shooting gallery. (Prior code § 4-1.08).

9.44.030. Duty to report theft or loss of firearms.

Any person who owns or possesses a firearm (as defined in Penal Code Section 16520 or as amended) shall report the theft or loss of the firearm to the Sunnyvale Department of Public Safety within forty-eight (48) hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the city of Sunnyvale; or (2) the theft or loss of the firearm occurs in the city of Sunnyvale. (Ord. 3027-13 § 1).

9.44.040. Safe storage of firearms.

Except when carried on his or her person, or in his or her immediate control and possession, no person shall keep a firearm (as defined in Penal Code Section 16520 or as amended) in any residence owned or controlled by that person unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock that is listed on the California Department of Justice’s list of approved firearms safety devices. (Ord. 3027-13 § 1).

9.44.050. Possession of large-capacity ammunition magazines prohibited.

(a) No person may possess a large-capacity magazine in the city of Sunnyvale whether assembled or disassembled. For purposes of this section, “large-capacity magazine” means any detachable ammunition feeding device with the capacity to accept more than ten (10) rounds, but shall not be construed to include any of the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than ten (10) rounds; or
- (2) A .22 caliber tubular ammunition feeding device; or

Exhibit 2

- (3) A tubular magazine that is contained in a lever-action firearm.
- (b) Any person who, prior to the effective date of this section, was legally in possession of a large-capacity magazine shall have ninety (90) days from such effective date to do either of the following without being subject to prosecution:
 - (1) Remove the large-capacity magazine from the city of Sunnyvale; or
 - (2) Surrender the large-capacity magazine to the Sunnyvale Department of Public Safety for destruction;or
 - (3) Lawfully sell or transfer the large-capacity magazine in accordance with Penal Code Section 12020.
- (c) This section shall not apply to the following:
 - (1) Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;
 - (2) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;
 - (3) A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her duties;
 - (4) Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity's armored vehicle business;
 - (5) Any person who has been issued a license or permit by the California Department of Justice pursuant to Penal Code Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or 33300, when the possession of a large-capacity magazine is in accordance with that license or permit;
 - (6) A licensed gunsmith for purposes of maintenance, repair or modification of the large-capacity magazine;
 - (7) Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;
 - (8) Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm and the person possesses the large-capacity magazine solely for use with that firearm.
 - (9) Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to California Penal Code. (Ord. 3027-13 § 1).

9.44.060. Ammunition sales.

- (a) It is unlawful for any person to engage in the business of selling, leasing, or otherwise transferring firearm ammunition within the city of Sunnyvale except in compliance with this code.
- (b) Definitions:
 - (1) "Ammunition" means any cartridge or encasement containing a bullet or projectile, propellant, or explosive charge, and a primer which is used in the operation of a firearm.
 - (2) "Ammunition vendor" means any person engaged in the business of selling, leasing, or otherwise transferring firearm ammunition.
 - (3) "Person" means a natural person, association, partnership, firm, corporation, or other entity.

(c) Every ammunition vendor shall maintain an ammunition sales log which records all ammunition sales made by the vendor. The transferee shall provide, and the ammunition vendor shall record on the ammunition sales log, at the time of sale, all of the following information for each sale of firearms ammunition:

- (1) The name, address, and date of birth of the transferee;
- (2) The date of the sale;
- (3) The transferee's driver's license number, state identification card number, passport number, or other valid government-issued photographic identification;
- (4) The brand, type, and quantity of firearms ammunition transferred;
- (5) The identity of the person transferring the firearms ammunition on behalf of the ammunition vendor;
- (6) The transferee's signature and right thumbprint.

(d) The ammunition sales log shall be recorded on a form approved by the Chief of Public Safety. All ammunition sales logs shall be kept at the location of the firearms ammunition sale for a period of not less than two years from the date of the sale. Ammunition sales logs shall be open to reasonable inspection by peace officers at all times the ammunition vendor is regularly open for business.

(e) No person shall knowingly provide false, inaccurate, or incomplete information to an ammunition vendor for the purpose of purchasing firearms ammunition. No ammunition vendor shall knowingly make a false, inaccurate, or incomplete entry in any ammunition sales log, nor shall any ammunition vendor refuse any reasonable inspection of an ammunition sales log subject to inspection. (Ord. 3027-13 § 1).

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San Francisco Police Code

ARTICLE 45: FIREARMS AND WEAPONS VIOLENCE PREVENTION ORDINANCE

- Sec. 4500. Title.
- Sec. 4501. Definitions.
- Sec. 4502. Discharge of Firearms and Firing of Projectile Weapons.
- Sec. 4503. Enforcement.
- Sec. 4504. Parental Responsibility for Minors.
- Sec. 4505. Firearms and Projectile Weapons; Confiscation and Disposal Of.
- Sec. 4506. Firearms and Projectile Weapons; Exceptions.
- Sec. 4507. Firearms and Projectile Weapons; Possession of by Minors.
- Sec. 4508. Severability.
- Sec. 4511. Findings.
- Sec. 4512. Handguns Located in a Residence to be Kept in a Locked Container or Disabled with a Trigger Lock.

Editor's Note:

See also the following Police Code provisions:

- *Art. 9, Secs. 613et seq., Miscellaneous Conduct Regulations (relating to firearms and ammunition).*
- *Art. 14, Secs. 840et seq., Miscellaneous Regulations for Professions and Trades (relating to carrying firearms).*
- *Art. 35, Firearm Strict Liability Act.*
- *Art. 36, Prohibiting the Carrying of a Firearm While under the Influence of an Alcoholic Beverage or Drug, or Possession of a Firearm While upon Public Premises Selling or Serving Alcoholic Beverages.*
- *Art. 36A, Sale, Manufacture and Distribution of Firearms and Ammunition; Possession of Handguns.*

SEC. 4500. TITLE.

This Article shall be known as the Firearms and Weapons Violence Prevention Ordinance.

(Added by Ord. 89-94, App. 2/25/94)

SEC. 4501. DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

- (a) "Firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, that expels a projectile by the force of an explosion or other form of combustion.
- (b) "Projectile weapon" means any device or instrument used as a weapon which launches or

propels a projectile by means other than the force of an explosion or other form of combustion with sufficient force to cause injury to persons or property. A projectile weapon shall include, but not be limited to, air gun, air pistol, air rifle, gas operated gun, BB gun, pellet gun, flare gun, dart gun, bow, cross-bow, slingshot, wrist rocket, blow gun, paint gun, or other similar device or instrument.

(Added by Ord. 89-94, App. 2/25/94)

SEC. 4502. DISCHARGE OF FIREARMS AND FIRING OF PROJECTILE WEAPONS.

Subject to the exceptions in Section 4506, it shall be unlawful for any person to at any time fire or discharge, or cause to be fired or discharged, any firearm or any projectile weapon within the City and County of San Francisco.

(Added by Ord. 89-94, App. 2/25/94; amended by Ord. [50-11](#), App. 3/16/2011)

SEC. 4503. ENFORCEMENT.

(a) Except as otherwise provided in this Section, any person violating any provision of this Article shall be guilty of a misdemeanor or an infraction. The complaint charging such violation shall specify whether the violation is a misdemeanor or infraction, which decision shall be that of the District Attorney. If charged as an infraction, upon conviction, the violator shall be punished by a fine of not more than \$100 for each provision violated. If charged as a misdemeanor, upon conviction, the violator shall be punished by a fine of not more than \$500 for each provision violated or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

(b) Any person violating any provision of this Article a second or subsequent time within a 10-year period shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 for each violation, or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

(c) Any person violating any provision of this Article within 1,500 feet of a day care center, school or school yard, whether public or private, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 for each such violation, or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

(d) A person shall be guilty of a separate offense for each and every discharge of a firearm or firing of a projectile weapon, and shall be punished accordingly.

(e) Juveniles arrested pursuant to this Section shall be subject to Section 602 of the Welfare and Institutions Code.

(Added by Ord. 89-94, App. 2/25/94)

SEC. 4504. PARENTAL RESPONSIBILITY FOR MINORS.

Any parent or legal guardian, or a person over the age of 18, is also guilty of an offense punishable in accordance with Section 4503 if he or she knows or reasonably should know that a

minor is likely to gain access to a firearm or a projectile weapon kept within any premises or vehicle which is under his or her custody or control, and a minor obtains and fires or discharges the firearm or projectile weapon within the City and County of San Francisco, in violation of Section 4502.

(Added by Ord. 89-94, App. 2/25/94)

SEC. 4505. FIREARMS AND PROJECTILE WEAPONS; CONFISCATION AND DISPOSAL OF.

Any firearm or projectile weapon discharged within the City and County of San Francisco in violation of the provisions of Section 4502 is hereby declared to be a nuisance, and shall be surrendered to the Police Department of the City and County of San Francisco. The Chief of Police, except upon the certificate of a judge of a court of record, or of the District Attorney that the preservation thereof is necessary or proper to the ends of justice, shall destroy or cause to be destroyed such firearms and projectile weapons, provided, however, that in the event any such firearm or projectile weapon is determined to have been stolen, the same shall not be destroyed but shall be returned to the lawful owner as soon as its use as evidence has been served, upon identification of the firearm or projectile weapon and proof of ownership thereof.

(Added by Ord. 89-94, App. 2/25/94)

SEC. 4506. FIREARMS AND PROJECTILE WEAPONS; EXCEPTIONS.

(a) The provisions of Section 4502 shall not apply to or affect:

(1) Sheriffs, constables, marshals, police officers, or other duly appointed peace officers in the performance of their official duties, or any person summoned by such officer to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer;

(2) Persons in lawful possession of a handgun who discharge said handgun in necessary and lawful defense of self or others while in a personal residence; or

(3) Persons in lawful possession of a firearm or projectile weapon who are expressly and specifically authorized by federal or state law to discharge said firearm or projectile weapon under the circumstances present at the time of discharge.

(b) Use of firearms and projectile weapons may be permissible when integral to the pursuit of specific competitive and sporting events, including but not limited to events such as target and skeet shooting, upon issuance of a permit from the Chief of Police to persons conducting the event or engaged in the business of providing the location at which the event is to take place. The Chief of Police shall formulate criteria for the application, issuance, and renewal of such permits, and may require as a condition of approval the posting of any bond, or proof of adequate liability insurance.

(Added by Ord. 89-94, App. 2/25/94; amended by Ord. [50-11](#), App. 3/16/2011)

SEC. 4507. FIREARMS AND PROJECTILE WEAPONS;

POSSESSION OF BY MINORS.

(a) It shall be unlawful for any person under the age of 18 to have in his or her possession within the City and County of San Francisco any firearm or projectile weapon, as defined in Section 4501. Violation of this provision shall be punishable in the manner provided in Section 4503.

(b) It shall be unlawful for any parent or legal guardian, or any person over the age of 18 years, to sell, give or otherwise transfer to any minor in the City and County of San Francisco under the age of 18 years, or to allow such minor to possess, any firearm or projectile weapon, as defined in Section 4501. Violation of this provision shall be punishable in the manner provided in Section 4503.

(c) Any firearm or projectile weapon, which is in possession of a minor in violation of this Article, is hereby declared to be a nuisance, and shall be surrendered to the Police Department of the City and County of San Francisco and disposed of in accordance with the provisions of Section 4505 above.

(Added by Ord. 89-94, App. 2/25/94)

Editor's Note:

See also the following Police Code provisions:

Sec. 602, Sale or Possession of Sling Shots or Toys Projecting Missiles by Air or Gas Prohibited.

Sec. 607, Possession of Sling Shots or Metal Knuckles Prohibited.

Sec. 608, Prohibiting Sale of Darts and Similar Weapons to Minors.

Sec. 609, Prohibiting Possession of and Purchase by Minors of Darts and Similar Weapons.

SEC. 4508. SEVERABILITY.

This Article shall be enforced to the full extent of the authority of the City and County of San Francisco. If any subsection, sentence, clause, phrase, or word of this Article should be for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or the effectiveness of the remaining portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would have adopted this Article notwithstanding the unconstitutionality, invalidity, or ineffectiveness of any one or more of its subsections, sentences, clauses, phrases, or words.

(Added by Ord. 89-94, App. 2/25/94)

SEC. 4511. FINDINGS.

1. Firearm injuries have a significant public health impact both nationally and locally.

a. In the United States, firearm injuries accounted for 6.6 percent of premature deaths from 1999-2007. Shootings are a leading cause of injury deaths in the nation, second only to motor vehicle crashes. On average, there were 30,125 firearm deaths in the United States annually between 2000 and 2007, inclusive. In 2007, 31,224 Americans died in firearm-related homicides, suicides, and unintentional shootings – the equivalent of 85 deaths each day and more than three deaths each hour.

b. Nationally, more than two thirds of homicides and over half of all suicides are committed with firearms.

c. Unintentional shootings killed over 5,700 people in the U.S. between 2000 and 2007. In 2009, over 18,000 people were treated for unintentional gunshot wounds in the United States.

d. The firearm-related homicide, suicide, and unintentional death rates for children 5-14 years old in the United States are significantly higher than those other industrialized nations.

e. Over the last five years, firearm injuries have ranked third of all causes of injury death in San Francisco, after pedestrian fatalities and falls, respectively. Almost two thirds of these firearm deaths were homicides. In addition, gunshot wounds were the third most common reason for injury-related hospitalizations in San Francisco from 2005 to 2008 and fourth in 2009. Firearm-related suicides accounted for 16.2 percent of the suicide deaths in San Francisco in Fiscal Year 2009-2010.

f. San Francisco General Hospital, as the only trauma center in San Francisco, treats approximately 98 percent of the city's shooting victims annually. Approximately 80 percent of the individuals treated for violent injuries at San Francisco General Hospital are uninsured.

2. Having a loaded or unlocked gun in the home is associated with an increased risk of gun-related injury and death.

a. A firearm stored loaded or unlocked increases the risk of an accidental shooting.

b. All U.S. case control studies (12 to date) have found that people who die by suicide are more likely to have lived in a home with a gun than similar people who did not die by suicide. Studies have also shown that the risk of suicide increases in homes where guns are kept loaded or unlocked.

c. A 2007 study compared the 40 million people who live in the states with the lowest firearm prevalence (Hawaii, Massachusetts, Rhode Island, New Hampshire, Connecticut, and New York) to about the same number living in the states with the highest firearm prevalence (Wyoming, South Dakota, Alaska, West Virginia, Montana, Arkansas, Mississippi, Iowa, North Dakota, Alabama, Kentucky, Wisconsin, Louisiana, Tennessee, and Utah). Although non-firearm suicides were about equal in the two groups, total suicides were almost twice as high in the high-gun states.

d. Keeping unsecured guns in the home increases the flow of illegal guns into the community. More than half a million firearms are stolen each year in the United States and many are subsequently sold illegally.

3. Children are particularly at risk of injury and death, or causing injury and death, when they can access guns in their own homes or homes that they visit.

a. The authors of a 2005 study found that an estimated 1.69 million children age 18 and under are living in households with loaded and unlocked firearms. Many young children, including children as young as three years old, are strong enough to fire handguns.

b. A significant majority of the guns used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend. Of youths under who died by firearm suicide, the vast majority used a family member's gun, usually a parent's. And more than two thirds of school shooters obtained their gun(s) from their own home or that of a relative.

c. Quick access to loaded firearms heightens the risk that a young person's impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the impulsive attempt will be fatal. One third of youths who died by suicide had faced a crisis within the previous

24 hours. Among people who nearly died in a suicide attempt, almost a quarter indicated that fewer than five minutes had passed between deciding on suicide and making the attempt. While fewer than 10 percent of suicide attempts by other means are fatal, at least 85 percent of firearm suicide attempts end in death.

4. Guns kept in the home are most often used in suicides and against family and friends rather than in self-defense.

a. Guns kept in a home are more likely to be involved in an unintentional shooting, criminal assault, or suicide attempt than to kill or injure in self-defense.

b. Only one in ten firearm homicides in the shooter's home is considered justifiable, meaning the shooter was not the assailant. Of every ten firearm homicide victims killed at the shooter's residence, six were intimate partners or family members of the shooter, three were friends or acquaintances of the shooter, and only one was a stranger to the shooter.

5. Applying trigger locks or using lock boxes when storing firearms in the home reduces the risk of firearm injury and death.

a. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owner's knowledge or permission. This simple measure significantly decreases the risk that the gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally.

b. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored.

6. There is a wide consensus among medical professionals, police chiefs, gun control advocates and gun rights groups that applying trigger locks or using lock boxes to store unsupervised guns in the home promotes health and safety.

a. The International Association of Chiefs of Police recommends that state and local governments mandate safe storage of firearms.

b. The American Academy of Pediatrics recommends that if families must have firearms in their homes, the firearms should be stored locked, unloaded, and separate from locked ammunition.

c. Both gun control and gun rights advocates endorse the use of locking devices when storing guns to ensure that unauthorized or untrained persons cannot use the gun to inflict injury or death. For example, the National Rifle Association's Home Firearm Safety Handbook, developed and used as part of the National Rifle Association (NRA) Basic Firearm Training Program, emphasizes that "there is one general rule that must be applied under all conditions: Store guns so they are not accessible to untrained or unauthorized persons." The NRA Guide To The Basics Of Personal Protection In The Home further explains that "all storage methods designed to prevent unauthorized access utilize some sort locking method."

7. Requiring unsupervised firearms stored to be secured with trigger locks or in a locked container does not substantially burden the right or ability to use firearms for self-defense in the home.

a. The locking requirements apply only to handguns that are not being carried. Gun owners and

adults over 18 may carry loaded and unlocked handguns in the home at any time. The safe storage requirements also permit owners who wish to do so to store their handguns fully loaded.

b. Gun security does not preclude quick access. For example, affordable lockboxes using Simplex-type locks, which pop open immediately when several keys or pushbuttons are touched in a preset sequence, are widely available. Users report that they can retrieve a loaded weapon in just two to three seconds, and that the locks are also easy to open in the dark. The NRA describes this type lockbox as providing "a good combination of security and quick access." Some lockboxes also feature biometric locks, which provide immediate access when they scan the owner's fingerprint.

c. Portable lockboxes can store loaded weapons such that they are always within easy reach on counters, tables or nightstands. Such safely stored weapons are more quickly and easily retrieved for use in self-defense than unlocked guns that have been hidden away in seldom-used locations.

(Added by Ord. [206-11](#), File No. 110901, App. 10/11/2011, Eff. 11/10/2011)

SEC. 4512. HANDGUNS LOCATED IN A RESIDENCE TO BE KEPT IN A LOCKED CONTAINER OR DISABLED WITH A TRIGGER LOCK.

(a) **Prohibition.** No person shall keep a handgun within a residence owned or controlled by that person unless the handgun is stored in a locked container or disabled with a trigger lock that has been approved by the California Department of Justice.

(b) **Definitions.**

(1) "Residence." As used in this Section, "residence" is any structure intended or used for human habitation including but not limited to houses, condominiums, rooms, in law units, motels, hotels, SRO's, time-shares, recreational and other vehicles where human habitation occurs.

(2) "Locked container." As used in this Section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock or similar locking device.

(3) "Handgun." As used in this Section, "handgun" means any pistol, revolver, or other firearm that is capable of being concealed upon the person, designed to be used as a weapon, capable of expelling a projectile by the force of any explosion or other form of combustion, and has a barrel less than 16 inches in length.

(4) "Trigger lock." As used in this Section, a "trigger lock" means a trigger lock that is listed in the California Department of Justice's list of approved firearms safety devices and that is identified as appropriate for that handgun by reference to either the manufacturer and model of the handgun or to the physical characteristics of the handgun that match those listed on the roster for use with the device under Penal Code Section 12088(d).

(c) **Exceptions.** This Section shall not apply in the following circumstances:

(1) The handgun is carried on the person of an individual over the age of 18.

(2) The handgun is under the control of a person who is a peace officer under Penal Code

Section 830.

(d) **Lost or Stolen Handguns.** In order to encourage reports to law enforcement agencies of lost or stolen handguns pursuant to San Francisco Police Code Section 616, a person who files a report with a law enforcement agency notifying the agency that a handgun has been lost or stolen shall not be subject to prosecution for violation of Section 4512(a) above.

(e) **Penalty.** Every violation of this Section shall constitute a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00 or by imprisonment in the county jail not to exceed six months, or by both.

(f) **Severability.** If any provision, clause or word of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision, clause, word or application of this Section which can be given effect without the invalid provision, clause or word, and to this end the provisions of this Section are declared to be severable.

(Added by Ord. 193-07, File No. 070683, App. 8/1/2007)

THE SAFETY FOR ALL ACT OF 2016

SECTION 1. Title.

This measure shall be known and may be cited as "The Safety for All Act of 2016."

SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Gun violence destroys lives, families and communities. From 2002 to 2013, California lost 38,576 individuals to gun violence. That is more than seven times the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Over this same period, 2,258 children were killed by gunshot injuries in California. The same number of children murdered in the Sandy Hook elementary school massacre are killed by gunfire in this State every 39 days.
2. In 2013, guns were used to kill 2,900 Californians, including 251 children and teens. That year, at least 6,035 others were hospitalized or treated in emergency rooms for non-fatal gunshot wounds, including 1,275 children and teens.
3. Guns are commonly used by criminals. According to the California Department of Justice, in 2014 there were 1,169 firearm murders in California, 13,546 armed robberies involving a firearm, and 15,801 aggravated assaults involving a firearm.
4. This tragic violence imposes significant economic burdens on our society. Researchers conservatively estimate that gun violence costs the economy at least \$229 billion every year, or more than \$700 per American per year. In 2013 alone, California gun deaths and injuries imposed \$83 million in medical costs and \$4.24 billion in lost productivity.
5. California can do better. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking. Although California has led the nation in gun safety laws, those laws still have loopholes that leave communities throughout the state vulnerable to gun violence and mass shootings. We can close these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.
6. We know background checks work. Federal background checks have already prevented more than 2.4 million gun sales to convicted criminals and other illegal purchasers in America. In 2012 alone, background checks blocked 192,043 sales of firearms to illegal purchasers including 82,000 attempted purchases by felons. That means background checks stopped roughly 225 felons from buying firearms every day. Yet California law only requires background checks for people who purchase firearms, not for people who purchase ammunition. We should close that loophole.

7. Right now, any violent felon or dangerously mentally ill person can walk into a sporting goods store or gun shop in California and buy ammunition, no questions asked. That should change. We should require background checks for ammunition sales just like gun sales, and stop both from getting into the hands of dangerous individuals.
8. Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals.
9. Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, break-up gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement.
10. Under current law, people who commit felonies and other serious crimes are prohibited from possessing firearms. Yet existing law provides no clear process for those people to relinquish their guns when they become prohibited at the time of conviction. As a result, in 2014, the Department of Justice identified more than 17,000 people who possess more than 34,000 guns illegally, including more than 1,400 assault weapons. We need to close this dangerous loophole by not only requiring prohibited people to turn in their guns, but also ensuring that it happens.
11. Military-style large-capacity ammunition magazines – some capable of holding more than 100 rounds of ammunition – significantly increase a shooter’s ability to kill a lot of people in a short amount of time. That is why these large capacity ammunition magazines are common in many of America’s most horrific mass shootings, from the killings at 101 California Street in San Francisco in 1993 to Columbine High School in 1999 to the massacre at Sandy Hook Elementary School in Newtown, Connecticut in 2012.
12. Today, California law prohibits the manufacture, importation and sale of military-style, large capacity ammunition magazines, but does not prohibit the general public from possessing them. We should close that loophole. No one except trained law enforcement should be able to possess these dangerous ammunition magazines.
13. Although the State of California conducts background checks on gun buyers who live in California, we have to rely on other states and the FBI to conduct background checks on gun buyers who live elsewhere. We should make background checks outside of California more effective by consistently requiring the State to report who is prohibited from possessing firearms to the federal background check system.
14. The theft of a gun is a serious and potentially violent crime. We should clarify that such crimes can be charged as felonies, and prevent people who are convicted of such crimes from possessing firearms.

SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting “The Safety For All Act of 2016” (the “Act”) to be as follows:

1. To implement reasonable and common-sense reforms to make California’s gun safety laws the toughest in the nation while still safeguarding the Second Amendment rights of all law-abiding, responsible Californians.
2. To keep guns and ammunition out of the hands of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and ammunition.
3. To ensure that those who buy ammunition in California – just like those who buy firearms – are subject to background checks.
4. To require all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing.
5. To ensure that California shares crucial information with federal law enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the federal background check system.
6. To require the reporting of lost or stolen firearms to law enforcement.
7. To better enforce the laws that require people to relinquish their firearms once they are convicted of a crime that makes them ineligible to possess firearms.
8. To make it illegal in California to possess the kinds of military-style ammunition magazines that enable mass killings like those at Sandy Hook Elementary School; a movie theater in Aurora, Colorado; Columbine High School; and an office building at 101 California Street in San Francisco, California.
9. To prevent people who are convicted of the theft of a firearm from possessing firearms, and to effectuate the intent of Proposition 47 that the theft of a firearm is felony grand theft, regardless of the value of the firearm, in alignment with sections 25400 and 1192.7 of the Penal Code.

SEC. 4. Lost or Stolen Firearms.

Division 4.5 (commencing with Section 25250) is hereby added to Title 4 of Part 6 of the Penal Code, and Section 26835 of the Penal Code is hereby amended.

Division 4.5 (commencing with Section 25250) is added to Title 4 of Part 6 of the Penal Code, to read:

DIVISION 4.5. LOST OR STOLEN FIREARMS

25250. (a) Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.

(b) Every person who has reported a firearm lost or stolen under subdivision (a) shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days if the firearm is subsequently recovered by the person.

(c) Notwithstanding subdivision (a), a person shall not be required to report the loss or theft of a firearm that is an antique firearm within the meaning of subdivision (c) of Section 16170.

25255. Section 25250 shall not apply to the following:

(a) Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

(b) Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

(c) Any person who is licensed, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and who reports the theft or loss in accordance with Section 923(g)(6) of Title 18 of the United States Code, or the successor provision thereto, and applicable regulations issued thereto.

(d) Any person whose firearm was lost or stolen prior to July 1, 2017.

25260. Pursuant to Section 11108, every sheriff or police chief shall submit a description of each firearm that has been reported lost or stolen directly into the Department of Justice Automated Firearms System.

25265. (a) Every person who violates Section 25250 is, for a first violation, guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100).

(b) Every person who violates Section 25250 is, for a second violation, guilty of an infraction, punishable by a fine not to exceed one thousand dollars (\$1,000).

(c) Every person who violates Section 25250 is, for a third or subsequent violation, guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

25270. Every person reporting a lost or stolen firearm pursuant to Section 25250 shall report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

25275. (a) No person shall report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. A violation of this section is an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250) for a first offense, and by a fine not exceeding one thousand dollars (\$1,000) for a second or subsequent offense.

(b) This section shall not preclude prosecution under any other law.

Section 26835 of the Penal Code is amended to read:

26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(c) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(d) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000),

UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(e) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(f) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(g) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(h) “IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN.”

SEC. 5. Strengthening The National Instant Criminal Background Check System.

Section 28220 of the Penal Code is amended to read:

(a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) ~~To the extent that funding is available, t~~The Department of Justice ~~may~~ shall participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, ~~if that participation is implemented,~~ shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(f)(1)(A) The department shall immediately notify the dealer to delay the transfer of the firearm to the purchaser if the records of the department, or the records available to the department in the National Instant Criminal Background Check System, indicate one of the following:

(i) The purchaser has been taken into custody and placed in a facility for mental health treatment or evaluation and may be a person described in Section 8100 or 8103 of the Welfare and Institutions Code and the department is unable to ascertain whether the purchaser is a person who is prohibited from possessing, receiving, owning, or purchasing a firearm, pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(ii) The purchaser has been arrested for, or charged with, a crime that would make him or her, if convicted, a person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, and the department is unable to ascertain whether the purchaser was convicted of that offense prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(iii) The purchaser may be a person described in subdivision (a) of Section 27535, and the department is unable to ascertain whether the purchaser, in fact, is a person described in subdivision (a) of Section 27535, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(B) The dealer shall provide the purchaser with information about the manner in which he or she may contact the department regarding the delay described in subparagraph (A).

(2) The department shall notify the purchaser by mail regarding the delay and explain the process by which the purchaser may obtain a copy of the criminal or mental health record the department has on file for the purchaser. Upon receipt of that criminal or mental health record, the purchaser shall report any inaccuracies or incompleteness to the department on an approved form.

(3) If the department ascertains the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), after the waiting period described in Sections 26815 and 27540, but within 30 days of the dealer's original submission of the purchaser information to the department pursuant to this section, the department shall do the following:

(A) If the purchaser is not a person described in subdivision (a) of Section 27535, and is not prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer of that fact and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(B) If the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer and the chief of the police department in the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact in compliance with subdivision (c) of Section 28220.

(4) If the department is unable to ascertain the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), within 30 days of the dealer's original submission of purchaser information to the department pursuant to this section, the department shall immediately notify the dealer and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or

record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(g) Commencing July 1, 2017, upon receipt of information demonstrating that a person is prohibited from possessing a firearm pursuant to federal or state law, the Department of Justice shall submit the name, date of birth, and physical description of the person to the National Instant Criminal Background Check System Index, Denied Persons Files. The information provided shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state firearms laws.

SEC. 6. Possession of Large-Capacity Magazines.

Section 32406 is hereby added to the Penal Code; Sections 32310, 32400, 32405, 32410, 32425, 32435, and 32450 of the Penal Code are hereby amended, and Section 32420 of the Penal Code is hereby repealed.

Section 32310 of the Penal Code is amended to read:

(a) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, ~~commencing January 1, 2000,~~ any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.

(b) For purposes of this section, “manufacturing” includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine.

(c) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing July 1, 2017, any person in this state who possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, or is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(d) Any person who may not lawfully possess a large-capacity magazine commencing July 1, 2017 shall, prior to July 1, 2017:

(1) Remove the large-capacity magazine from the state;

(2) Sell the large-capacity magazine to a licensed firearms dealer; or

(3) Surrender the large-capacity magazine to a law enforcement agency for destruction.

Section 32400 of the Penal Code is amended to read:

32400. Section 32310 does not apply to the sale of, giving of, lending of, possession of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

Section 32405 of the Penal Code is amended to read:

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, possession of, or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of that officer's duties.

Section 32406 of the Penal Code is added to the Penal Code, to read:

32406. Section 32310(c) does not apply to an honorably retired sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or honorably retired sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. "Honorably retired" shall have the same meaning as provided in Section 16690.

Section 32410 of the Penal Code is amended to read:

32410. Section 32310 does not apply to the sale, ~~or purchase,~~ or possession of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

Section 32420 of the Penal Code is repealed:

~~32420. Section 32310 does not apply to the importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000; lawfully took it out of the state, and is returning to the state with the same large-capacity magazine.~~

Section 32425 of the Penal Code is amended to read:

32425. Section 32310 does not apply to any of the following:

(a) The lending or giving of any large-capacity magazine to a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) The possession of any large-capacity magazine by a person specified in subdivision (a) for the purposes specified in subdivision (a).

~~(b)~~(c) The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

Section 32435 of the Penal Code is amended to read:

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, possession of, importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) The possession of any large-capacity magazines by the employees of an entity specified in subdivision (a) for purposes that pertain to the entity's armored vehicle business.

~~(e)~~(d) The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in subdivision (b).

Section 32450 of the Penal Code is amended to read:

32450. Section 32310 does not apply to the purchase or possession of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division, for any of the following purposes:

(a) For use solely as a prop for a motion picture, television, or video production.

(b) For export pursuant to federal regulations.

(c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

SEC. 7. Firearms Dealers.

Sections 26885 and 26915 of the Penal Code are hereby amended.

Section 26885 of the Penal Code is amended to read:

26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all firearms that are in the inventory of a licensee shall be kept within the licensed location.

(b) Within 48 hours of discovery, a licensee shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located:

(1) Any firearm or ammunition that is merchandise of the licensee.

(2) Any firearm or ammunition that the licensee takes possession of pursuant to Chapter 5 (commencing with Section 28050), or pursuant to Section 30312.

(3) Any firearm or ammunition kept at the licensee's place of business.

Section 26915 of the Penal Code is amended to read:

26915. (a) Commencing January 1, 2018, a A-firearms dealer ~~may~~ shall require any agent or employee who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the Department of Justice pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and California firearms dealer number of the firearms dealer with whom the person is employed.

(b) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).

(d)(1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

(2) Nothing in this section shall be construed to preclude a local jurisdiction from prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility.

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

(f) Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents or employees.

(g) For purposes of this article, "secured" means a firearm that is made inoperable in one or more of the following ways:

- (1) The firearm is inoperable because it is secured by a firearm safety device listed on the department's roster of approved firearm safety devices pursuant to subdivision (d) of Section 23655.
- (2) The firearm is stored in a locked gun safe or long-gun safe that meets the standards for department-approved gun safes set forth in Section 23650.
- (3) The firearm is stored in a distinct locked room or area in the building that is used to store firearms, which can only be unlocked by a key, a combination, or similar means.
- (4) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

SEC. 8. Sales of Ammunition.

Article 4 (commencing with section 30370) and Article 5 (commencing with section 30385) are hereby added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code; Sections 16151, 30314, 30342, 30348, 30363, and 30371 are hereby added to the Penal Code; the heading of Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of Part 6, and Sections 16150, 17315, 30306, 30312, 30347, 30350, and 30352 of the Penal Code are hereby amended, and Section 16662 of the Penal Code is hereby repealed.

Section 16150 of the Penal Code is amended to read:

16150. (a) ~~As used in Section 30300, "ammunition" means handgun ammunition as defined in Section 16650. As used in this part, except in subdivision (a) of Section 30305 and in Section 30306, "ammunition" means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. "Ammunition" does not include blanks.~~

(b) As used in subdivision (a) of Section 30305 and in Section 30306, "ammunition" includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks.

Section 16151 is added to the Penal Code, to read:

16151. (a) As used in this part, commencing January 1, 2018, "ammunition vendor" means any person, firm, corporation, or other business enterprise that holds a current ammunition vendor license issued pursuant to Section 30385.

(b) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the

dealer complies with the requirements of Articles 2 (commencing with Section 30300) and 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of this part.

Section 16662 of the Penal Code is repealed.

~~16662. As used in this part, "handgun ammunition vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any handgun ammunition, or that holds itself out as engaged in the business of selling any handgun ammunition.~~

Section 17315 of the Penal Code is amended to read:

17315. As used in ~~Article 3 (commencing with Section 30345)~~ Articles 2 through 5 of Chapter 1 of Division 10 of Title 4, "vendor" means an handgun ammunition vendor.

Section 30306 of the Penal Code is amended to read:

30306. (a) Any person, corporation, ~~or firm,~~ or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who he or she knows or using reasonable care should know is prohibited from owning, possessing, or having under custody or control, any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person whom the person, corporation, firm, or other business enterprise knows or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

~~(b)~~(c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.

Section 30312 of the Penal Code is amended to read:

30312. (a) ~~Commencing February 1, 2011, the~~ (1) Commencing January 1, 2018, the sale of ammunition by any party shall be conducted by or processed through a licensed ammunition vendor.

(2) When neither party to an ammunition sale is a licensed ammunition vendor, the seller shall deliver the ammunition to a vendor to process the transaction. The ammunition vendor shall then promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise. If the ammunition vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. The ammunition vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.

(b) Commencing January 1, 2018, the sale, delivery or transfer of ownership of handgun ammunition by any party may only occur in a face-to-face transaction with the seller, deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee, provided, however, that ammunition may be purchased or acquired over the Internet or through other means of remote ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction in compliance with this section and Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of this part.

~~(b)~~(c) Subdivisions (a) and (b) shall not apply to or affect the sale, delivery, or transfer of handgun ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the handgun ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of handgun ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto,

whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(7) ~~A handgun~~ An ammunition vendor.

(8) A consultant-evaluator.

(9) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

(10) A person who purchases or receives ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

~~(e)~~(d) A violation of this section is a misdemeanor.

Section 30314 is added to the Penal Code, to read:

30314. (a) Commencing January 1, 2018, a resident of this state shall not bring or transport into this state any ammunition that he or she purchased or otherwise obtained from outside of this state unless he or she first has that ammunition delivered to a licensed ammunition vendor for delivery to that resident pursuant to the procedures set forth in Section 30312.

(b) Subdivision (a) does not apply to any of the following:

(1) An ammunition vendor.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(6) A person who acquired the ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(c) A violation of this section is an infraction for any first time offense, and either an infraction or a misdemeanor for any subsequent offense.

The heading of Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code is amended to read:

ARTICLE 3. ~~Handgun~~-Ammunition Vendors [~~30342~~ - 30365]

Section 30342 is added to the Penal Code, to read:

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) A violation of this section is a misdemeanor.

Section 30347 of the Penal Code is amended to read:

30347. (a) An ammunition vendor shall require any agent or employee who handles, sells, delivers, or has under his or her custody or control any ammunition, to obtain and provide to the vendor a certificate of eligibility from the Department of Justice issued pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and address of the ammunition vendor with whom the person is employed, or the name and California firearms dealer number of the ammunition vendor if applicable.

(b) The Department shall notify the ammunition vendor in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing ammunition under Section 30305(a) or federal law.

(c) An ammunition vendor shall not permit any agent or employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver, or have under his or her custody or control, any handgun ammunition in the course and scope of employment.

Section 30348 is added to the Penal Code, to read:

30348. (a) Except as provided in subdivision (b), the sale of ammunition by a licensed vendor shall be conducted at the location specified in the license.

(b) A vendor may sell ammunition at a gun show or event if the gun show or event is not conducted from any motorized or towed vehicle.

(c) For purposes of this section, "gun show or event" means a function sponsored by any national, state, or local organization, devoted to the collection, competitive use, or other sporting

use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(d) Sales of ammunition at a gun show or event shall comply with all applicable laws including Sections 30347, 30350, 30352, and 30360.

Section 30350 of the Penal Code is amended to read:

30350. An ammunition vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any ~~handgun~~ ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

Section 30352 of the Penal Code is amended to read:

30352. (a) Commencing ~~February 1, 2011, a~~ July 1, 2019, an ammunition vendor shall not sell or otherwise transfer ownership of any ~~handgun~~ ammunition without, at the time of delivery, legibly recording the following information on a form to be prescribed by the Department of Justice:

- (1) The date of the sale or other ~~transaction~~ transfer.
- (2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.
- (3) The brand, type, and amount of ammunition sold or otherwise transferred.
- (4) The purchaser's or transferee's full name and signature.
- (5) The name of the salesperson who processed the sale or other transaction.
- ~~(6) The right thumbprint of the purchaser or transferee on the above form.~~
- ~~(67) The purchaser's or transferee's full residential address and telephone number.~~
- ~~(78) The purchaser's or transferee's date of birth.~~

(b) Commencing July 1, 2019, an ammunition vendor shall electronically submit to the Department the information required by subdivision (a) for all sales and transfers of ownership of ammunition. The Department shall retain this information in a database to be known as the Ammunition Purchase Records File. This information shall remain confidential and may be used by the Department and those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, only for law enforcement purposes. The ammunition vendor shall not use, sell, disclose, or share such information for any other purpose other than the submission required by this subdivision without the express written consent of the purchaser or transferee.

(c) Commencing on July 1, 2019, only those persons listed in this subdivision, or those persons or entities listed in subdivision (e), shall be authorized to purchase ammunition. Prior to delivering any ammunition, an ammunition vendor shall require bona fide evidence of identity to verify that the person who is receiving delivery of the ammunition is a person or entity listed in subdivision (e) or one of the following:

(1) A person authorized to purchase ammunition pursuant to Section 30370.

(2) A person who was approved by the Department to receive a firearm from the ammunition vendor, pursuant to Section 28220, if that vendor is a licensed firearms dealer, and the ammunition is delivered to the person in the same transaction as the firearm.

(d) Commencing July 1, 2019, the ammunition vendor shall verify with the Department, in a manner prescribed by the Department, that the person is authorized to purchase ammunition by comparing the person's ammunition purchase authorization number to the centralized list of authorized ammunition purchasers. If the person is not listed as an authorized ammunition purchaser, the vendor shall deny the sale or transfer.

~~(b)(e)~~ Subdivisions (a) and (d) shall not apply to ~~or affect~~ sales or other transfers of ownership of ~~handgun~~ ammunition by ~~handgun~~ ammunition vendors to any of the following, if properly identified:

~~(1) A person licensed pursuant to Sections 26700 to 26915, inclusive.~~

~~(2)(1) A ~~handgun~~ An~~ ammunition vendor.

~~(3)(2) A person who is on the centralized list of exempted federal firearms licensees maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.~~

~~(4)(3) A target facility that holds a business or regulatory license, or person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.~~

~~(5)(4) A gunsmith.~~

~~(6)(5) A wholesaler.~~

~~(7)(6) A manufacturer or importer of firearms or ammunition licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.~~

~~(8)(7) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ~~handgun~~ ammunition,~~

written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed.

(8)(a) A properly identified sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or properly identified sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(b)(1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of the officer's duties.

(2) The certification shall be delivered to the vendor at the time of purchase or transfer and the purchaser or transferee shall provide bona fide evidence of identity to verify that he or she is the person authorized in the certification.

(3) The vendor shall keep the certification with the record of sale and submit the certification to the Department.

(f) The Department of Justice is authorized to adopt regulations to implement the provisions of this section.

Section 30363 is added to the Penal Code, to read:

30363. Within 48 hours of discovery, an ammunition vendor shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the vendor's business premises are located:

(1) Any ammunition that is merchandise of the vendor.

(2) Any ammunition that the vendor takes possession of pursuant to Section 30312.

(3) Any ammunition kept at the vendor's place of business.

Article 4 (commencing with Section 30370) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

Article 4. Ammunition Purchase Authorizations

30370. (a)(1) Commencing on January 1, 2019, any person who is 18 years of age or older may apply to the Department for an ammunition purchase authorization.

(2) The ammunition purchase authorization may be used by the authorized person to purchase or otherwise seek the transfer of ownership of ammunition from an ammunition vendor, as that term is defined in Section 16151, and shall have no other force or effect.

(3) The ammunition purchase authorization shall be valid for four years from July 1, 2019 or the date of issuance, whichever is later, unless it is revoked by the Department pursuant to subdivision (b).

(b) The ammunition purchase authorization shall be promptly revoked by the Department upon the occurrence of any event which would have disqualified the holder from being issued the ammunition purchase authorization pursuant to this section. If an authorization is revoked, the Department shall upon the written request of the holder state the reasons for doing so and provide the holder an appeal process to challenge that revocation.

(c) The Department shall create and maintain an internal centralized list of all persons who are authorized to purchase ammunition and shall promptly remove from the list any persons whose authorization was revoked by the Department pursuant to this section. The Department shall provide access to the list by ammunition vendors for purposes of conducting ammunition sales or other transfers, and shall provide access to the list by law enforcement agencies for law enforcement purposes.

(d) The Department shall issue an ammunition purchase authorization to the applicant if all of the following conditions are met:

(1) The applicant is 18 years of age or older.

(2) The applicant is not prohibited from acquiring or possessing ammunition under Section 30305(a) or federal law.

(3) The applicant pays the fees set forth in subdivision (g).

(e)(1) Upon receipt of an initial or renewal application, the Department shall examine its records, and the records it is authorized to request from the State Department of State Hospitals, pursuant to Section 8104 of the Welfare and Institutions Code, and if authorized, the National Instant Criminal Background Check System, as described in Section 922(t) of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring ammunition under Section 30305(a) or federal law.

(2) The applicant shall be approved or denied within 30 days of the date of the submission of the application to the Department. If the application is denied, the Department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

(3) If the Department is unable to ascertain the final disposition of the application within 30 days of the applicant's submission, the Department shall grant authorization to the applicant.

(4) The ammunition purchase authorization number shall be the same as the number on the document presented by the person as bona fide evidence of identity.

(f) The Department shall renew a person's ammunition purchase authorization before its expiration, provided that the Department determines that the person is not prohibited from acquiring or possessing ammunition under Section 30305(a) or federal law, and provided the applicant timely pays the renewal fee set forth in subdivision (g).

(g) The Department may charge a reasonable fee not to exceed \$50 per person for the issuance of an ammunition purchase authorization or the issuance of a renewal authorization, however, the Department shall not set these fees any higher than necessary to recover the reasonable, estimated costs to fund the ammunition authorization program provided for in this section and Section 30352, including the enforcement of this program and maintenance of any data systems associated with this program.

(h) A fund to be known as the "Ammunition Safety and Enforcement Special Fund" is hereby created within the State Treasury. All fees received pursuant to this section shall be deposited into the Ammunition Safety and Enforcement Special Fund of the General Fund, and, notwithstanding Section 13340 of the Government Code, are continuously appropriated for purposes of implementing, operating and enforcing the ammunition authorization program provided for in this section and Section 30352, and for repaying the start-up loan provided for in Section 30371.

(i) The Department shall annually review and may adjust all fees specified in subdivision (g) for inflation.

(j) The Department of Justice is authorized to adopt regulations to implement the provisions of this section.

Section 30371 is added to the Penal Code, to read:

30371. (a) There is hereby appropriated twenty-five million dollars (\$25,000,000) from the General Fund as a loan for the start-up costs of implementing, operating and enforcing the provisions of the ammunition authorization program provided for in Sections 30352 and 30370.

(b) For purposes of repaying the loan, the Controller shall, after disbursing moneys necessary to implement, operate and enforce the ammunition authorization program provided for in Sections 30352 and 30370, transfer all proceeds from fees received by the Ammunition Safety and Enforcement Special Fund up to the amount of the loan provided by this Section, including interest at the pooled money investment account rate, to the General Fund.

Article 5 (commencing with Section 30385) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

Article 5. Ammunition Vendor Licenses

30385. (a) The Department of Justice is authorized to issue ammunition vendor licenses pursuant to this article. The Department shall, commencing July 1, 2017, commence accepting applications for ammunition vendor licenses. If an application is denied, the Department shall inform the applicant of the reason for denial in writing.

(b) The ammunition vendor license shall be issued in a form prescribed by the Department of Justice and shall be valid for a period of one year. The Department may adopt regulations to administer the application and enforcement provisions of this article. The license shall allow the licensee to sell ammunition at the location specified in the license or at a gun show or event as set forth in Section 30348.

(c)(1) In the case of an entity other than a natural person, the Department shall issue the license to the entity, but shall require a responsible person to pass the background check pursuant to Section 30395.

(2) A “responsible person” for purposes of this article, means a person having the power to direct the management, policies and practices of the entity as it pertains to ammunition.

(d) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Article 2 (commencing with Section 30300) and Article 3 (commencing with Section 30342) of this chapter.

30390. (a) The Department may charge ammunition vendor license applicants a reasonable fee sufficient to reimburse the Department for the reasonable, estimated costs of administering the license program, including the enforcement of this program and maintenance of the registry of ammunition vendors.

(b) The fees received by the Department pursuant to this article shall be deposited in the Ammunition Vendor’s Special Account, which is hereby created. Notwithstanding Section 13340 of the Government Code, the revenue in the fund is continuously appropriated for use by the Department of Justice for the purpose of implementing, administering and enforcing the provisions of this article, and for collecting and maintaining information submitted pursuant to Section 30352.

(c) The revenue in the Firearms Safety and Enforcement Special Fund shall also be available upon appropriation to the Department of Justice for the purpose of implementing and enforcing the provisions of this article.

30395. (a) The Department is authorized to issue ammunition vendor licenses to applicants who the Department has determined, either as an individual or a responsible person, are not prohibited

from possessing, receiving, owning, or purchasing ammunition under Section 30305(a) or federal law, and who provide a copy of any regulatory or business license required by local government, a valid seller's permit issued by the State Board of Equalization, a federal firearms license if the person is federally licensed, and a certificate of eligibility issued by the Department.

(b) The Department shall keep a registry of all licensed ammunition vendors. Law enforcement agencies shall be provided access to the registry for law enforcement purposes.

(c) An ammunition vendor license is subject to forfeiture for a breach of any of the prohibitions and requirements of Article 2 (commencing with Section 30300) or Article 3 (commencing with Section 30342) of this chapter.

SEC. 9. Nothing in this Act shall preclude or preempt a local ordinance that imposes additional penalties or requirements in regard to the sale or transfer of ammunition.

SEC. 10. Securing Firearms From Prohibited Persons.

Sections 1524, 27930 and 29810 of the Penal Code are hereby amended, and a new Section 29810 is hereby added to the Penal Code.

Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

- (1) When the property was stolen or embezzled.
- (2) When the property or things were used as the means of committing a felony.
- (3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.
- (4) When the property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.
- (5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.
- (6) When there is a warrant to arrest a person.
- (7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or

embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or any evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(9) When the property or things to be seized include a firearm or any other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.

(10) When the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

(11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Sections 29800 or 29805 of the Penal Code, and the court has made a finding pursuant to Section 29810(c)(3) that the person has failed to relinquish the firearm as required by law.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2)(A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make any motions or present any evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the

seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, any item that appears to be privileged as provided by law.

(d)(1) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Any information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that

the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney's ability to request an in camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute any evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(k) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

Section 27930 of the Penal Code is amended to read:

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (a) Sections 18000 and 18005.
- (b) Division 4 (commencing with Section 18250) of Title 2.
- (c) Chapter 2 (commencing with Section 33850) of Division 11.
- (d) Sections 34005 and 34010.
- (e) Section 29810.

Section 29810 of the Penal Code is amended to read:

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing, or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. If the prohibition on owning or possessing a firearm will expire on a date specified in the court order, the form shall inform the defendant that he or she may elect to have his or her firearm transferred to a firearms dealer licensed pursuant to Section 29830.

(b) Failure to provide the notice described in subdivision (a) is not a defense to a violation of this chapter.

(c) This section shall be repealed effective January 1, 2018.

Section 29810 is added to the Penal Code, to read:

29810. (a)(1) Upon conviction of any offense that renders a person subject to Section 29800 or Section 29805, the person shall relinquish all firearms he or she owns, possesses, or has under his or her custody or control in the manner provided in this section.

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and that he or she shall relinquish all firearms through a designee within the time periods set forth in subdivisions (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that he or she owned, possessed, or had under his or her custody or control at the time of his or her conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that he or she owned, possessed, or had under his or her custody or control any firearms at the time of his or her conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate his or her consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that he or she is not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c)(1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under his or her custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the Department of Justice whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation officer's report indicates that the defendant has relinquished all firearms as required, and whether the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in subdivision (d)(1) or (e)(1). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within fourteen days of sentencing.

(4) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of subdivision (a)(1) who does not remain in custody at any time within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within five days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with the receipts described in subdivision (d)(1) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within five days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of subdivision (a)(1) who is in custody at any point within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within fourteen days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within fourteen days following conviction, along with the receipts described in subdivision (e)(1) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within fourteen days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(4) If the defendant is released from custody during the fourteen days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following his or her release, relinquish each firearm required to be relinquished pursuant to subdivision (d)(1).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in subdivision (c)(3), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, sale or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

(k) This section shall become operative on January 1, 2018.

SEC. 11. Theft of Firearms.**Sections 490.2 and 29805 of the Penal Code are hereby amended.**

Section 490.2 of the Penal Code is amended to read:

(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) This section shall not apply to theft of a firearm.

Section 29805 of the Penal Code is amended to read:

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, paragraph (1) of subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, Section 490.2 if the property taken was a firearm, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 12. Interim Standards.

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety For All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier

superseded by regulations adopted pursuant to the APA. “Interim standards” mean temporary standards that perform the same function as “emergency regulations” under the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 3.5, Sections 11340 et seq.), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

SEC. 13. Amending the Measure.

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale and/or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 15. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, and on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.



STAFF REPORT

To: Mayor and Members of the Town Council
From: Community Development Department
Subject: 145 Rancho Drive; File No. PDPA2015004
Request to Amend the Cypress Hollow Precise Development Plan (PD #45) to Create a Secondary Building Envelope; Rapport Investment Group, LLC, Owner/Applicant; Assessor's Parcel No. 034-392-10
Reviewed By: *[Signature]*

PROJECT DATA

Address: 145 Rancho Drive (Lot 9, Cypress Hollow Subdivision)
Assessor's Parcel Number: 034-392-10
File Number: PDPA2015004
Lot Size: 17,942 square feet
Zoning: RPD (Residential Planned Development)
Precise Plan: Cypress Hollow Precise Development Plan (PD #45)
General Plan: M (Medium Density Residential)
Current Use: Single-Family Residential
Owners/Applicant: Rapport Investment Group, LLC
Flood Zone: X (Outside 500-year storm event)

BACKGROUND

This application is proposing an amendment to the Cypress Hollow Precise Development Plan for property located at 145 Rancho Drive (Lot 9). The property owner proposes to create a secondary building envelope on the property for the purposes of installing a lawn area surrounded by new walls. No changes are proposed to the existing building envelope. On December 14 2015, the Planning Commission adopted Resolution No. 2015-11 (**Exhibit 2**) recommending to the Town Council that the Precise Development Plan amendment be approved.

PROJECT DESCRIPTION

The property owner proposes to establish a 940 square foot secondary building envelope on the south side of the property to allow construction of the proposed improvements, including walls varying in height from 4 feet, 2 inches to 5 feet, 5 inches and 36 inch wooden guardrails. Walls of this height located outside a building envelope are not permitted; hence the request for an envelope-related amendment. This area is currently landscaped with trees, shrubs, and other vegetation.

HISTORY

The Cypress Hollow Precise Development Plan was originally approved in 1988 by the Marin County Board of Supervisors. The Precise Development Plan established building envelopes for each lot and set other zoning parameters. Multiple precise plan amendments have been approved for various lots in the Cypress Hollow subdivision since this subdivision was annexed into Tiburon in 1999, but most of the approvals were to expand the existing dwellings over the 30 percent floor area limit. A precise plan amendment was approved for the property at 55 Monterey Drive in 2014 to create a new secondary building envelope for an in-ground swimming pool.

ANALYSIS

The subject site is located on Rancho Drive near the intersection of Rancho Drive and Cecilia Way. The property slopes upward from the street, with a small portion of flat area near the north side of the property. The majority of the flat area is within the original building envelope, which is substantially occupied by the existing residence.

The lot is triangular in shape and the secondary building envelope would be located in the narrowing southern portion of the property, adjacent to an existing deck. The majority of the property is screened by heavy vegetation, especially along the perimeter.

REVIEW BY THE PLANNING COMMISSION

The Planning Commission held a public hearing on this application at its December 14, 2015 meeting. There was one public comment from an uphill neighbor, whom expressed concerns of a visual impact of the lawn area from a studio building on the adjacent neighbor's' property at the meeting. The property owner stated at the meeting he was open to working with the neighbor to come up with a solution for additional screening between the two properties. The Planning Commission supported the proposed request and found it was in conformance with the overall intent of Cypress Hollow Precise Development Plan and the Tiburon General Plan. The Commission voted 4-0 to recommend the application for approval. Meeting minutes of the December 14, 2015 meeting are attached as **Exhibit 4**.

ENVIRONMENTAL REVIEW

Staff has preliminarily determined that the subject application is categorically exempt from the requirements of CEQA per Section 15301 of the CEQA Guidelines.

RECOMMENDATION

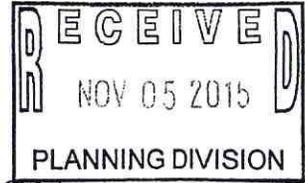
Staff recommends that the Town Council:

1. Hold a public hearing on this item
2. Adopt the draft Resolution (**Exhibit 5**) finding the project exempt from CEQA and conditionally approving the application.

EXHIBITS

1. Application form and supplemental materials
2. Planning Commission Resolution No. 2015-11
3. Planning Commission Staff Report dated December 14, 2015
4. Minutes of the December 14, 2015 Planning Commission Meeting
5. Draft Resolution
6. Submitted Plans

Prepared By: Kyra O'Malley, Associate Planner



TOWN OF TIBURON
LAND DEVELOPMENT APPLICATION

TYPE OF APPLICATION

- Conditional Use Permit
- Precise Development Plan Amend.
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit
- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) _____ #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit
- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other _____

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 145 Rancho Dr., Tiburon PROPERTY SIZE: 4239 # of home
 PARCEL NUMBER: 034-392-10 ZONING: RPD #45
Cypress hollow

PROPERTY OWNER: Rappaport Investment Group
 MAILING ADDRESS: 637 Lindero St., ste 201
San Rafael, CA 94901

PHONE/FAX NUMBER: (415) 317-2345 E-MAIL: homehelpforyou@gmail.com
 * Garrett Burdick: 415-602-2282

APPLICANT (Other than Property Owner): _____
 MAILING ADDRESS: _____

PHONE/FAX NUMBER: _____ E-MAIL: _____

ARCHITECT/DESIGNER/ENGINEER Chuck Utzman
 MAILING ADDRESS: 169 Rose Ave, Mill Valley 94941

PHONE/FAX NUMBER: (415) 381-6850 E-MAIL: chuckutzman@gmail.com

* Steve McArthur - 219 Shoreline Hwy MV 94941 415-309-3133
Please indicate with an asterisk () persons to whom Town correspondence should be sent.*

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):
We would like to amend the precise plan & building envelope.
Adding 2 retaining walls with fencing & 9 yard of artificial
(no water) grass. We want to create a family play space outside
the kitchen where children can play. This is the only available
land where the youngsters can play and be monitored.

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

Signature:* *[Signature]*, Manager Date: 11/4/15

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature:* *[Signature]*, Manager Date: 11/4/15

**If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

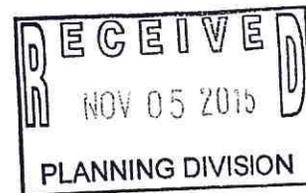
NOTICE TO APPLICANTS

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

Town of Tiburon
Community Development Department
Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
(415) 435-7390 (Tel) (415) 435-2438(Fax)
www.townoftiburon.org



DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION

Application No.: PDPA2015-004	GP Designation:	Fee Deposit: \$1540
Date Received: 11/5/15	Received By: LS	Receipt #: R253
Date Deemed Complete: 11/18/15	Action:	By: [Signature]
Acting Body:		Date:
Conditions of Approval or Comments:	Resolution or Ordinance #	EXHIBIT NO.

RESOLUTION NO. 2015-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
RECOMMENDING TO THE TOWN COUNCIL APPROVAL OF
AN AMENDMENT TO THE CYPRESS HOLLOW PRECISE DEVELOPMENT PLAN (#45)
TO CREATE A SECONDARY BUILDING ENVELOPE
FOR PROPERTY LOCATED AT 145 RANCHO DRIVE (LOT 9)

ASSESSOR PARCEL NO. 034-392-10

WHEREAS, the Planning Commission of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. The Town has received and considered an application filed by Rapport Investment Group, LLC for an amendment to the Cypress Hollow Precise Development Plan (PD #45) to create a new secondary building envelope at 145 Rancho Drive (Lot 9). The application consists of the following:
1. Application form and supplemental materials, dated November 5, 2015
 2. Site Plan and Building Envelope Plans, dated December 1, 2015
- B. The Planning Commission held a duly-noticed public hearing on December 14, 2015, and heard and considered testimony from interested persons.
- C. The Planning Commission has found that the project is exempt from the requirements of the California Environmental Quality Act per Section 15301 of the CEQA Guidelines.
- D. The Planning Commission finds, based upon application materials and analysis presented in the December 14, 2015 Staff Report, as well as visits to the site and testimony received from the applicant, that the project is generally consistent with the overall intentions of the Cypress Hollow Precise Development Plan. The secondary building envelope would improve the ability to utilize the outdoor living areas of the subject property without resulting in any impacts on nearby homes, and in a manner consistent with neighboring properties, and is limited in scope.
- E. The proposed project has been reviewed for consistency with the Tiburon General Plan and with the requirements of the Tiburon Zoning Ordinance regarding precise plan amendments. Land use Element Policy LU-12 states that "Neighborhood character, which is defined by the predominant architectural styles, type of buildings, building heights, mass, setbacks, landscaping, and natural characteristics, shall be of material consideration and preserved in all construction projects including remodels and additions, to the maximum extent feasible." Creation of a secondary building envelope along the southern edge of the residence would not appear to negatively impact the surrounding properties.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends approval of a secondary building envelope for 145 Rancho Drive (Lot 9) of the Cypress Hollow Subdivision (PD #45) to the Town Council, subject to the following conditions:

1. The secondary building envelope for the property at 145 Rancho Drive shall be as shown and as amended by annotations on the Site Plan, prepared by Steve McArthur dated December 1, 2015, attached as Exhibit "A."
2. The secondary building envelope shall be utilized only for construction of walls with a maximum height of six feet as shown in the plans on file with this application. Other additions or structures shall be prohibited within the secondary building envelope area.
3. This Precise Development Plan Amendment approval shall be valid for 36 months following its effective date, and shall expire unless vested. A time extension may be granted if such request is filed prior to the expiration date.
4. This approval shall in no way alter other provisions of the Cypress Hollow Precise Development Plan not specifically described herein.

PASSED AND ADOPTED at a regular meeting of the Tiburon Planning Commission on December 14, 2015 by the following vote:

AYES: COMMISSIONERS: Kulik, Corcoran, Weller, Welner
NAYS: COMMISSIONERS: None
ABSENT: COMMISSIONERS: Williams

DAVID KULIK, CHAIR
Tiburon Planning Commission

ATTEST:

KYRA O'MALLEY, SECRETARY

Attachment: Exhibit A: Site Plan dated December 1, 2015



STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: 145 Rancho Drive; File No. PDPA2015004
Request to Amend the Cypress Hollow Precise Development Plan (PD #45) to Create a Secondary Building Envelope; Rapport Investment Group, LLC, Owner; Chuck Utzman, Applicant; Assessor's Parcel No. 034-392-10

PROJECT DATA

Address: 145 Rancho Drive (Lot 9, Cypress Hollow Subdivision)
Assessor's Parcel Number: 034-392-10
File Number: PDPA2015004
Lot Size: 17,942 square feet
Zoning: RPD (Residential Planned Development)
Precise Plan: Cypress Hollow Precise Development Plan (PD #45)
General Plan: M (Medium Density Residential)
Current Use: Single-Family Residential
Owners: Rapport Investment Group, LLC
Applicant: Chuck Utzman
Flood Zone: X (Outside 500-year storm event)

PROJECT DESCRIPTION

The project is the proposed amendment to a precise development plan (the Cypress Hollow Precise Development Plan) for property located at 145 Rancho Drive. The property owner proposes to establish a secondary building envelope on the property for the purposes of installing a lawn area surrounded by new walls. No changes are proposed to the existing building envelope. The property is currently developed with a single-family dwelling and is bordered by single-family dwellings and heavy vegetation.

The property owner proposes to establish a 940 square foot secondary building envelope on the south side of the property to allow construction of the proposed improvements, including walls varying in height from 4 feet, 2 inches to 5 feet, 5 inches and 36 inch wooden guardrails. Walls of this height located outside a building envelope are not permitted; hence the request for an envelope-related amendment. This area is currently landscaped with trees, shrubs, and other vegetation. The lot is triangular in shape and the secondary building envelope would be located in the narrowing portion of the lot (see plans attached as **Exhibit 5**).

BACKGROUND

The Cypress Hollow Precise Development Plan was originally approved in 1988 by the Marin County Board of Supervisors. County resolution No. 88-252 (**Exhibit 3**), which currently governs this precise plan, established building envelopes for each lot (**Exhibit 4**). Multiple precise plan amendments have been approved for various lots in the Cypress Hollow subdivision since this subdivision was annexed into Tiburon in 1999, but most of the approvals were to expand the existing dwellings over the 30 percent floor area limit. A precise plan amendment was approved for the property at 55 Monterey Drive in 2014 to create a new secondary building envelope for an in-ground swimming pool.

ANALYSIS

Project Design

The subject site is located on Rancho Drive near the intersection of Rancho Drive and Cecilia Way. The property slopes upward from the street, with a small portion of flat area near the north side of the property. The majority of the flat area is within the original building envelope, which is substantially occupied by the existing residence.

The proposed secondary building envelope for this parcel would be on the southern portion of the property, adjacent to an existing deck. The majority of the property is screened by heavy vegetation, especially along the perimeter.

Compliance with the Cypress Hollow Precise Development Plan

The building envelopes established by the Cypress Hollow Precise Development Plan were designed to allow adequate space for the development of each parcel, while providing a buffer between the building envelopes and nearby residences and open space areas. The requested amendment would allow the property owner to install a wall for a lawn area on the side of the existing dwelling, but would not compromise the integrity of the adjacent properties. However, to ensure that other structures are not later proposed within the secondary building envelope, Staff recommends that improvements within the secondary building envelope be limited to those shown on the plans submitted as part of this application.

General Plan Consistency

The proposed project has been reviewed for consistency with the Tiburon General Plan and with the requirements of the Tiburon Zoning Ordinance regarding precise plan amendments. Land use Element Policy LU-12 states that *“Neighborhood character, which is defined by the predominant architectural styles, type of buildings, building heights, mass, setbacks, landscaping, and natural characteristics, shall be of material consideration and preserved in all construction projects including remodels and additions, to the maximum extent feasible.”* As noted previously, establishing a secondary building envelope along the southern portion of the property would not appear to negatively impact the surrounding properties. Other homes in the vicinity appear to have lawn areas on their lots and in various locations on the lots due to the sloping topography in the neighborhood.

ENVIRONMENTAL REVIEW

Staff has preliminarily determined that the subject application is categorically exempt from the requirements of CEQA per Section 15301 of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, no correspondence has been received regarding the subject application.

FUTURE ACTIONS REQUIRED

The Planning Commission's action on this project would be in the form of a recommendation of approval to the Town Council or denial by the Commission. A Commission denial could be appealed to the Town Council, while a recommendation for approval would be automatically forwarded to the Town Council. If the precise development plan amendment is approved by the Town Council, the proposed walls would require Site Plan and Architectural Review approval and the necessary building permits.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing on this application:
2. Consider the draft resolution (**Exhibit 1**) recommending approval of the amendment to the Cypress Hollow Precise Development Plan to the Town Council.

Exhibits:

1. Draft Resolution
2. Application and Supplemental Materials
3. County of Marin Resolution No. 88-252
4. Cypress Hollow Subdivision Original Building Envelope
5. Submitted Plan

Prepared By: Kyra O'Malley, Associate Planner

ACTION: It was M/S (Weller/Corcoran) to adopt the resolution for a Conditional Use Permit to install a canopy on a portion of an exterior deck for an existing restaurant (Sam's Anchor Cafe), as amended to amend Condition No. 9 to be reviewed at the first meeting in November; adding two conditions: 1) that a solid wall be constructed along the eastern side of the deck between the outdoor bar and the existing restaurant or other similar noise mitigation that is agreed upon by both the applicant and Water's Edge Hotel; 2) that the Eisenglass panels be lowered at 9:30 p.m. Motion carried: 4-0.

BREAK

Chair Kulik called for a break at 9:10 p.m. and thereafter reconvened the meeting at 9:15 p.m.

PUBLIC HEARINGS

2. 145 RANCHO DRIVE: File No. PDPA2015004; Request to amend the Cypress Hollow Precise Development Plan (PD #45) to create a secondary building envelope on Lot 9 of the Cypress Hollow Subdivision; Rapport Investment Group, LLC, Owner; Chuck Utzman, Applicant; Assessor's Parcel No. 034-392-10

Associate Planner O'Malley gave the staff report and said the project is a proposed amendment to a precise development plan (the Cypress Hollow Precise Development Plan) for property located at 145 Rancho Drive. The property owner proposes to establish a secondary building envelope for the purposes of installing a lawn area surrounded by new walls. No changes are proposed to the existing building envelope. The property is currently developed with a single-family dwelling and is bordered by single-family dwellings and heavy vegetation.

The property owner proposes to establish a 940 square foot secondary building envelope on the south side of the property to allow construction of the proposed improvements, including walls varying in height from 4 feet, 2 inches to 5 feet, 5 inches and 36 inch wooden guardrails. Walls of this height located outside a building envelope are not permitted; hence the request for an envelope-related amendment.

Staff believes it is in compliance with the Cypress Hollow Precise plan and the Tiburon General Plan , but recommended a condition that the secondary building envelope would be just for the walls, lawn area and no other structures allowed. Staff recommended that the Planning Commission recommend approval of the amendment of the Cypress Hollow Precise Development Plan to the Town Council.

Garrett Burdick, co-owner, introduced Brian Pensack, co-owner and said that they were available for questions.

Commissioner Weller asked about the height limits for the proposed fence and walls. Mr. Watrous said that a 6 foot height limit is typical and the applicant wishes to build a 5 foot, 5 inch wall. Mr. Burdick confirmed this and said that they also would put a railing on top of the wall. Mr. Watrous stated that the railing would not count toward the maximum height.

The public hearing was opened.

Ian Altman said that his home is directly uphill from the project. He asked about the height of the retaining wall and for information about its engineering. He said that there was no evidence of any screening landscaping and said that he would prefer more privacy from his detached studio building.

Ms. O'Malley noted that the plans call for a wall height of 4 feet, 2 inches. Mr. Watrous added that since Mr. Altman is uphill from the site, he would just see the top of the wall.

Mr. Altman said that he would see some of the lawn area. Commissioner Weller asked if it was possible for Mr. Altman to install his own landscape screening. Mr. Altman said yes, potentially.

Mr. Burdick stated that they will be working on engineering for the retaining wall. He offered to provide further screening such as a small fence or wall that would go on top of the retaining wall or a couple of bushes and said that he was open to working with his neighbor.

Commissioner Weller asked why artificial grass was proposed as opposed to natural turf. Mr. Burdick said that he was excited about the use of artificial grass because it does not require water, given the drought and that over time artificial grass has improved in its quality.

The public hearing was closed.

Commissioner Welner supported the project, stating that the Planning Commission's role is to ensure the project is consistent with the intent of the precise development plan and General Plan, which it is.

Commissioner Corcoran concurred with Commissioner Welner and said that the project would not have a significant impact on surrounding properties and appeared to be one of the few spots on the lot where a flat outdoor space could be created.

Commissioner Weller and Chair Kulik both concurred. Chair Kulik added that the applicant is amenable to adding vegetation for blockage and said that he could find the project consistent with the precise development plan and the General Plan.

ACTION: It was M/S (Welner/Corcoran) to adopt the resolution recommending approval of the amendment to the Cypress Hollow Precise Development Plan to the Town Council. Motion carried: 4-0.

3. 35, 37 & 39 LYFORD DRIVE: File #s PDPA2015003 & CUP2015005; Request to amend the 35, 37 & 39 Lyford Drive Precise Plan (PD #35) and approve a Condominium Use Permit for the division of the single parcel into separate lots for each of the three detached dwelling units on the property; Richardson Bay Land Company, Owner/Applicant; Assessor's Parcel No. 058-301-49

RECORDING REQUESTED, RETURN TO:
TIBURON TOWN CLERK
1505 TIBURON BOULEVARD
TIBURON, CA 94920

Record without fee per G.C. 27383

RESOLUTION NO. DRAFT-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
APPROVING AN AMENDMENT TO THE CYPRESS HOLLOW PRECISE
DEVELOPMENT PLAN (PD #45) TO CREATE A SECONDARY BUILDING
ENVELOPE ON PROPERTY AT 145 RANCHO DRIVE (LOT 9)

ASSESSOR PARCEL NO. 034-392-10

WHEREAS, on December 14, 2015, the Planning Commission held a public hearing to consider the approval of an amendment to the Cypress Hollow Precise Development Plan (PD #45) to create a secondary building envelope at 145 Rancho Drive (Lot 9); and

WHEREAS, after receiving public testimony and considering the application (File # PDPA2015004) at that hearing, the Planning Commission adopted Resolution No. 2015-11 recommending to the Town Council that the precise development plan amendment be approved; and

WHEREAS, on January 20, 2016, the Town Council held a public hearing on this application and after hearing all testimony and reviewing all documents on the record, the Town Council concurred with the findings made by the Planning Commission and found that the proposed precise plan amendment to create a secondary building envelope for the property at 145 Rancho Drive (Lot 9) would be consistent with the overall intention of the Cypress Hollow Precise Development Plan and the policies contained within the Tiburon General Plan; and

WHEREAS, the Town Council finds that the project is exempt from the requirements of the California Environmental Quality Act per Section 15301 of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Tiburon does hereby approve a secondary building envelope for 145 Rancho Drive (Lot 9) of Cypress Hollow Subdivision (PD#45), subject to the following conditions:

1. The secondary building envelope for the property at 145 Rancho Drive shall be as shown and as amended by annotations on the Site Plan, prepared by Steve McArthur dated December 17, 2015, attached as

Exhibit "A."

2. The secondary building envelope shall be utilized only for construction of walls with a maximum height of six feet as shown in the plans on file with this application. Other additions or structures shall be prohibited within the secondary building envelope area.
3. This Precise Development Plan Amendment approval shall be valid for 36 months following its effective date, and shall expire unless vested. A time extension may be granted if such request is filed prior to the expiration date.
4. This approval shall in no way alter other provisions of the Cypress Hollow Precise Development Plan not specifically described herein.

PASSED AND ADOPTED at a regular meeting of the Town Council on January 20, 2016, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ERIN TOLLINI, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK



TOWN OF TIBURON
 1505 Tiburon Boulevard
 Tiburon, CA 94920

Town Council Meeting
 January 20, 2016

Agenda Item: PH-2

STAFF REPORT	
To:	Mayor and Members of the Town Council
From:	Community Development Department
Subject:	35-37-39 Lyford Drive; File #PDPA2015003; Request to Amend the 35-37-39 Lyford Drive Precise Plan (PD #35); Richardson Bay Land Company, Owner/Applicant; Assessor's Parcel No. 058-301-49
Reviewed By:	<i>L.C.</i>

PROJECT DATA

Address:	35-37-39 Lyford Drive
Assessor's Parcel Number:	058-301-49
File Number:	PDPA2015003 & CUP2015005
Lot Size:	1.7 acres
Zoning:	RPD (Residential Planned Development)
Precise Plan:	35-37-39 Lyford Drive Precise Plan (PD #35) - 1974
General Plan:	M (Medium Density Residential)
Current Use:	Clustered Single-Family Residential
Owner/Applicant:	Richardson Bay Land Company
Flood Zone:	X (Outside 500 year flood area)

BACKGROUND

The project is the proposed amendment to a precise plan (the 35-37-39 Lyford Drive Precise Plan) for property located at 35-37-39 Lyford Drive. The applicant proposes to create three (3) separate condominium parcels to allow separate ownership of each of the existing single-family dwellings. On December 14, 2015, the Planning Commission adopted Resolution No. 2015-12 (**Exhibit 3**) recommending to the Town Council that the precise plan amendment be approved.

HISTORY

The 35-37-39 Lyford Drive Precise Plan was originally approved in 1974. The precise plan approved the development of a 1.7 acre parcel with three detached single-family dwellings. The homes were clustered in the southern end of the site. Each dwelling contains an attached one-car garage and a separate detached 4-car garage is shared by the three residences. An open space easement deeded to the Town of Tiburon covers the northern portion of the site.

In contrast to more recent planned development projects, the site was not subdivided into individual lots. The three homes for this project were all located on the sole parcel and held under the same ownership. This form of cluster development soon fell out of fashion in development circles and has not been repeated elsewhere in Tiburon since the approval of this early precise plan.

ANALYSIS

The subject property is situated at the southwest corner of the intersection of Lyford Drive and Round Hill Road. A driveway leading to Lyford Drive provides the sole vehicular access to the site. Trees and other mature vegetation along the perimeter of the property screen the homes on the site from views from the adjacent streets.

The proposed project would create individual lots for each of the three homes on the site. The shared driveway, detached garage structure and the area covered by the open space easement would be situated on a remainder parcel and owned in common by the owners of the three proposed lots.

No physical changes are proposed as part of this project. The existing homes and detached garage would remain in their current condition. The only requested change from the proposed condominium conversion is a change in the form of ownership of the property.

REVIEW BY THE PLANNING COMMISSION

The Planning Commission held a public hearing on this application at its December 14, 2015 meeting. At that meeting, the Planning Commission supported the proposed request and found that it was in conformance with the overall intent of the 35-37-39 Lyford Drive Precise Plan and the Tiburon General Plan. The Commission voted 4-0 to recommend the application for approval. The Commission also approved a condominium use permit for the project. Draft minutes of the December 14, 2015 meeting are attached as **Exhibit 4**.

ENVIRONMENTAL REVIEW

Staff has preliminarily determined that the subject application is Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15301(k) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends that the Town Council:

1. Hold a public hearing on this item
2. Adopt the draft resolution (**Exhibit 1**) approving the application

EXHIBITS

1. Draft Resolution
2. Application form and supplemental materials
3. Planning Commission Resolution No. 2015-12
4. Draft minutes of the December 14, 2015 Planning Commission meeting
5. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

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RESOLUTION NO. (Draft)-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
APPROVING AN AMENDMENT TO THE
35-37-39 LYFORD DRIVE PRECISE PLAN (PD #35)
ON PROPERTY AT 35-37-39 LYFORD DRIVE

ASSESSOR PARCEL NO. 058-301-49

WHEREAS, on December 14, 2015, the Planning Commission held a public hearing to consider the approval of an amendment to the 35-37-39 Lyford Drive Precise Plan (PD #35) to create three (3) separate condominium parcels to allow separate ownership of each of the existing single-family dwellings at 35-37-39 Lyford Drive; and

WHEREAS, after receiving public testimony and considering the application (File # PDPA2015003) at that hearing, the Planning Commission adopted Resolution No. 2015-12 recommending to the Town Council that the precise plan amendment be approved; and

WHEREAS, on January 20, 2016, the Town Council held a public hearing on this application and after hearing all testimony and reviewing all documents on the record, the Town Council concurred with the findings made by the Planning Commission and found that the proposed precise plan amendment to create three (3) separate condominium parcels to allow separate ownership of each of the existing single-family dwellings at 35-37-39 Lyford Drive would be consistent with the overall intention of the 35-37-39 Lyford Drive Precise Plan and the policies contained within the Tiburon General Plan; and

WHEREAS, the Town Council finds that the project is exempt from the requirements of the California Environmental Quality Act per Section 15301 (k) of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Tiburon does hereby approve the requested amendment to the 35-37-39 Lyford Drive Precise Plan, subject to the following conditions:

1. The property lines for the three residential lots for the property at 35-37-39 Lyford Drive shall be amended as reflected on the drawing labeled Exhibit-2, prepared by Meridian Surveying Engineering, Inc., dated October 26, 2015.
2. This approval shall in no way alter other provisions of the 35-37-39 Lyford Drive Precise Plan not specifically modified herein.

EXHIBIT NO. 1

PASSED AND ADOPTED at a regular meeting of the Town Council on January 20, 2016, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

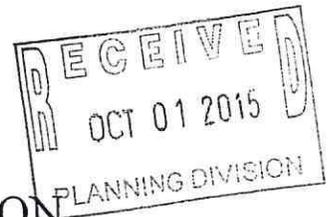
ABSENT: COUNCILMEMBERS:

ERIN TOLLINI, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

EXHIBIT NO. 1



TOWN OF TIBURON LAND DEVELOPMENT APPLICATION

TYPE OF APPLICATION

- Conditional Use Permit
- Precise Development Plan Amend.
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit
- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) _____ #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit
- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other _____

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 35, 37, 39 LYFORD DR. PROPERTY SIZE: 73,879.8 sq ft
 PARCEL NUMBER: 058-301-49 ZONING: KPD

PROPERTY OWNER: RICHARDSON BAY LAND COMPANY
 MAILING ADDRESS: 83 BEACH RD.
BELVEDERE, CA 94920
 PHONE/FAX NUMBER: 415-433-2439 E-MAIL: merlin299@aol.com

APPLICANT (Other than Property Owner): _____
 MAILING ADDRESS: _____
 PHONE/FAX NUMBER: _____ E-MAIL: _____

ARCHITECT/DESIGNER/ENGINEER MICHAEL HECKMANN
 MAILING ADDRESS: 1680 TIBURON BLVD. #7
TIBURON, CA 94920
 PHONE/FAX NUMBER: 415-435-2446, 435-2875 E-MAIL: heckmannarchitects@earthlink.net

Please indicate with an asterisk () persons to whom Town correspondence should be sent.*

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):
CONDOMINIUM USE PERMIT TO CONVERT FOUR DETACHED BUILDINGS ON
ONE PARCEL TO FOUR SEPARATE PARCELS WITH COMMON AREA
ACCESS DRIVE

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

Signature: * [Handwritten Signature]

Date: 10-1-15

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature: * [Handwritten Signature]

Date: 10-1-15

**If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

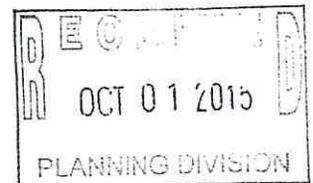
NOTICE TO APPLICANTS

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

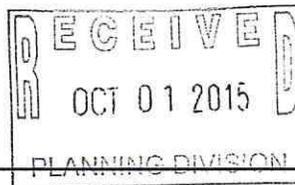
Town of Tiburon
Community Development Department
Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
(415) 435-7390 (Tel) (415) 435-2438(Fax)
www.townoftiburon.org



DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION		
Application No.: <u>PDPA2015 003</u>	GP Designation:	Fee Deposit: <u>\$3080⁰⁰</u>
Date Received: <u>10/1/2015</u>	Received By: <u>Ko</u>	Receipt #: <u>29623</u>
Date Deemed Complete:	Action:	By:
Acting Body:		Date:
Conditions of Approval or Comments: _____		Resolution or Ordinance # _____

Oakcreek Townhomes
(35, 37, 39 Lyford Dr.)



9/24/15

Project Description

The applicant is Richardson Bay Land Co., a California corporation. The property is located on Lyford Dr. directly behind Reed School to the northeast. The property is currently a single parcel of land consisting of approximately 1.7 acres. There are three separate houses with attached garages, as well as a separate two-story garage/storage structure that includes four enclosed parking spaces and storage space. A large portion of the property is dedicated as an Open Space Easement in favor of the Town of Tiburon. The area behind the houses, on the western side of the property, is subject to a Pedestrian Passage Easement.

The original parcel was originally conceived as a planned unit development in 1974 to cluster the buildings to allow a significant portion of the property to be preserved as open space. The buildings were positioned on the lower, southwest section of .9 acres allowing the upper, northeast section of .8 acres to be retained as open, undeveloped land.

Applicant now wishes to amend the precise development plan and obtain a condominium use permit to allow for the subdivision of the property into three separate condominium units and a common area, as shown on the site plan included with this submittal package. Each condominium unit will include the residence and all other improvements and yard areas within the lateral boundaries of the units. The common area includes the garage/storage building, a shared driveway and surrounding landscaped areas. The common area also includes the portion of the property subject to the Open Space Easement, which easement will remain in place and unaffected by the subdivision of the property into condominiums. The Pedestrian Passage Easement also will remain in place and unaffected.

Subdivider's Program

No sales of any of the proposed separate parcels are planned at this time.

EXHIBIT NO. 2
P. 3 of 8

Current Tenant Status

- 35 Lyford - Two adults and one minor. Alfred Russo, Maria Elena Russo, Mari Russo, \$3,200 per month rent, Month-to-month tenancy
37 Lyford - One adult and two minors. Guillerault Manacorda, \$3,100 per month rent, Month-to-month tenancy
39 Lyford One adult and three minors. Nicholes Weiksner, \$4,500 per month rent, Month-to-month tenancy

Tenant Noticing

All tenants were given notice of the intended filing of this application by prepaid U.S. Mail on 4/29/15 and the 60 day period expired on 6/28/15.

Building Inspection

A thorough, professional inspection of all the structures was done on April 16, 2015 by certified inspector Ed Gibson of Homestead Property Inspection Inc. and his report is attached hereto. The structures were also inspected by the Town of Tiburon head building inspector, Clay Salzman, on June 9, 2015.

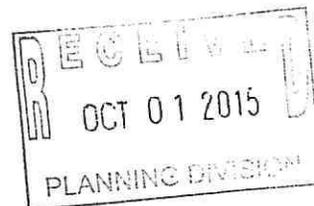


EXHIBIT NO. 2
P. 4078

Oakcreek Townhomes

FLOOR AREA CALCULATIONS

OWNER: RICHARDSON BAY LAND CO.

APN: 058-301-49

35 LYFORD DR

HOUSE: 1,375 SQ. FT.

GARAGE: 405 SQ. FT.

35 LYFORD DR

HOUSE: 1,525 SQ. FT.

GARAGE: 384 SQ. FT.

35 LYFORD DR

HOUSE: 1,984 SQ. FT.

GARAGE: 350 SQ. FT.

GARAGE

GARAGE: 840 SQ. FT.

STORAGE: 560 SQ. FT.



EXHIBIT NO. 2

P. 5 OF 8

Oakcreek Townhomes

LOT COVERAGE CALCULATIONS

OWNER: RICHARDSON BAY LAND CO.
APN: 058-301-49
TOTAL LOT AREA: 73,864 SQ. FT.

A. Buildings (Residences & Garages)

35 Lyford Dr	1,768 SQ. FT.		
37 Lyford Dr	1,243		
39 Lyford Dr	1,400		
4 -Space Parking Structure	<u>852</u>		
TOTAL	5,263 SQ. FT.	=	7.1 %

B. Guest Parking (Concrete Apron)

663 SQ. FT. = 0.9 %

C. Auto Circulation Areas (Driveway)

4,412 SQ. FT. = 5.9 %

D. Open Space

Buildings	5,263		
Guest Parking	663		
Auto Circulation	<u>4,412</u>		
TOTAL	63,526 SQ. FT.	=	86.1 %

E. Number of Parking Spaces

- Covered Parking:	7
- Open Parking:	2

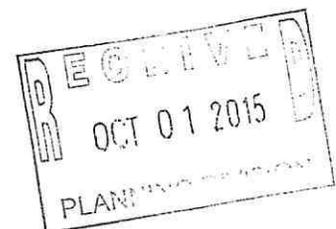


EXHIBIT NO. 2
P. GOFER

RICHARDSON BAY LAND COMPANY

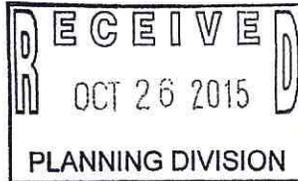
Merlin299@aol.com

P.O. Box 761

Belvedere, CA 94920

Phone (415) 435-2439

Fax (415) 435-3166



October 21, 2015

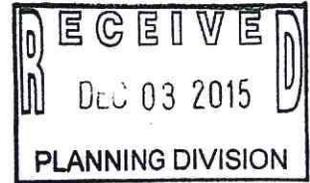
Re: Program to Accommodate Existing Tenants

The subject property has been in the family owned Richardson Bay Land Company since 1962. During that time various family members have lived in the houses. The separation of the houses is part of long-term family estate planning process. There are no plans for the sale of the town houses and it is the intent of the Richardson Bay Land Company to continue to rent or have family occupy the units. The Richardson Bay Land Company will agree not to sell the properties to third parties for 5 years.

In the event of a sale to non-family members which requires possession of the premises, the Richardson Bay Land Company is willing to provide the following:

1. Relocation assistance in the amount of \$2,500,
2. Priority in leasing other housing owned by the Richardson Bay Land Company.
3. A first right of refusal to the existing tenant at the list price of the particular unit occupied by the tenant at the time of sale.

EXHIBIT NO. 2
P. 70F8



I have reviewed the plans of the Richardson Bay Land Company to change the three townhouses at 35, 37 and 39 Lyford Drive into separate ownerships lots per its application of a Use Permit. I support the application.

Greg Ellison at 75 Round Hill Road
LOK LCE at 65 Round Hill Road
Kimberly Schuist at 60 Round Hill Road Terr.
[Signature] at 10 Round Hill Road Terr.
[Signature] at 85 Round Hill Road
_____ at Lyford Drive
[Signature] at 34 Lyford Drive
[Signature] at 26 Lyford Drive
_____ at Lyford Drive
_____ at Lyford Drive
_____ at Lyford Drive

EXHIBIT NO. 3
P. 8 OF 8

RESOLUTION NO. 2015-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
RECOMMENDING TO THE TOWN COUNCIL APPROVAL OF
AN AMENDMENT TO THE 35-37-39 LYFORD DRIVE PRECISE PLAN (PD #35)
ON PROPERTY AT 35-37-39 LYFORD DRIVE

ASSESSOR PARCEL NO. 058-301-49

WHEREAS, the Planning Commission of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. The Town has received and considered an application filed by Richardson Bay Land Company for an amendment to the 35-37-39 Lyford Drive Precise Plan (PD #35) to create three (3) separate condominium parcels to allow separate ownership of each of the existing single-family dwellings at 35-37-39 Lyford Drive. The application consists of the following:
1. Application form and supplemental materials, dated October 1, 2015
 2. Site Plan, Floor Plans and Elevations, dated October 26, 2015
- B. The Planning Commission held a duly-noticed public hearing on December 14, 2015, and heard and considered testimony from interested persons.
- C. The Planning Commission finds that the project is exempt from the requirements of the California Environmental Quality Act per Section 15301 (k) of the CEQA Guidelines.
- D. The Planning Commission finds based upon application materials and analysis presented in the December 14, 2015 Staff Report, as well as visits to the site and testimony received from the applicant, that the project is consistent with the intent of the 35-37-39 Lyford Drive Precise Plan.
- E. The Planning Commission finds the project to be consistent with the goals and policies of the Tiburon General Plan Housing Element Policy H-C2 (Condominium Conversions) states that “except for limited equity cooperatives and other innovative housing proposals which are affordable to lower income households, the Town will prohibit conversion of existing multi-family rental dwellings to market rate condominium units unless the Town’s rental vacancy rate is above 4.5 percent.” This policy is intended to protect the conversion of such apartment buildings into condominiums, rather than preventing conversion of the few clustered single-family residential projects in Tiburon. The proposed project would appear to be consistent with the intent of the 35-37-39 Lyford Drive Precise Plan, as the project would not alter the relationship of the existing homes to other nearby land uses, but would make the proposed individual home ownership more consistent with other individually-owned single-family lots in the vicinity.

Section 2. Recommendation for Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends approval of the precise plan amendment for the property at 35-37-39 Lyford Drive to the Town Council, subject to the following conditions:

1. The property lines for the three residential lots for the property at 35-37-39 Lyford Drive shall be amended as reflected on the drawing labeled Exhibit-2, prepared by Meridian Surveying Engineering, Inc., dated October 26, 2015.
2. This approval shall in no way alter other provisions of the 35-37-39 Lyford Drive Precise Plan not specifically modified herein.

PASSED AND ADOPTED at a regular meeting of the Tiburon Planning Commission on December 14, 2015, by the following vote:

AYES: COMMISSIONERS: KULIK, CORCORAN, WELLER AND WELNER

NAYS: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: WILLIAMS

DAVID KULIK, CHAIRMAN
TIBURON PLANNING COMMISSION

ATTEST:

DANIEL M. WATROUS, SECRETARY

\\shared\Planning\Planning Commission\Resolutions\2015\2015-12; 35-37-39 Lyford Drive PP Amendment

The public hearing was opened.

Ian Altman said that his home is directly uphill from the project. He asked about the height of the retaining wall and for information about its engineering. He said that there was no evidence of any screening landscaping and said that he would prefer more privacy from his detached studio building.

Ms. O'Malley noted that the plans call for a wall height of 4 feet, 2 inches. Mr. Watrous added that since Mr. Altman is uphill from the site, he would just see the top of the wall.

Mr. Altman said that he would see some of the lawn area. Commissioner Weller asked if it was possible for Mr. Altman to install his own landscape screening. Mr. Altman said yes, potentially.

Mr. Burdick stated that they will be working on engineering for the retaining wall. He offered to provide further screening such as a small fence or wall that would go on top of the retaining wall or a couple of bushes and said that he was open to working with his neighbor.

Commissioner Weller asked why artificial grass was proposed as opposed to natural turf. Mr. Burdick said that he was excited about the use of artificial grass because it does not require water, given the drought and that over time artificial grass has improved in its quality.

The public hearing was closed.

Commissioner Welner supported the project, stating that the Planning Commission's role is to ensure the project is consistent with the intent of the precise development plan and General Plan, which it is.

Commissioner Corcoran concurred with Commissioner Welner and said that the project would not have a significant impact on surrounding properties and appeared to be one of the few spots on the lot where a flat outdoor space could be created.

Commissioner Weller and Chair Kulik both concurred. Chair Kulik added that the applicant is amenable to adding vegetation for blockage and said that he could find the project consistent with the precise development plan and the General Plan.

ACTION: It was M/S (Welner/Corcoran) to adopt the resolution recommending approval of the amendment to the Cypress Hollow Precise Development Plan to the Town Council. Motion carried: 4-0.

3. 35, 37 & 39 LYFORD DRIVE: File #s PDPA2015003 & CUP2015005; Request to amend the 35, 37 & 39 Lyford Drive Precise Plan (PD #35) and approve a Condominium Use Permit for the division of the single parcel into separate lots for each of the three detached dwelling units on the property; Richardson Bay Land Company, Owner/Applicant; Assessor's Parcel No. 058-301-49

Planning Manager Watrous gave the staff report, stating that the amendment seeks to create three (3) separate condominium parcels to allow separate ownership of each of the existing single-family dwellings. The Precise Plan was originally approved in 1974 to develop a 1.7 acre parcel with three detached single-family dwellings that are clustered at the southern end of the site. Each dwelling contains an attached one-car garage and a separate detached 4-car garage is shared by the three residences. An open space easement deeded to the Town of Tiburon covers the northern portion of the site.

Mr. Watrous said this is a slightly unusual version of cluster development that did not create separate parcels. This type of development fell out of fashion in development circles and does not exist elsewhere in Tiburon. The proposed project would make it more akin to what is a typical Precise Development Plan with individual lots and individual homeowners, and no physical changes are proposed for the property.

Staff recommended that the Commission hold the public hearing on this item adopt the resolution recommending conditional approval of the Precise Plan amendment and the resolution approving the condominium use permit.

Commissioner Weller asked why the project was for condominiums as opposed to a planned unit development, as condominiums normally have ownership of air space rights and common ownership of structures. Mr. Watrous said that the application was for detached condominiums, as there were no air space issues but a situation where both the open space parcel and of the detached garage would be shared by the different property owners. He added that creating individual lots with individual setbacks is difficult when the homes have been clustered so closely and this would make more sense than to try to create building envelopes where homes are already so close to each other.

Commissioner Corcoran said there was discussion that the applicants have agreed to give existing tenants first right of refusal to purchase the dwellings and provide relocation assistance, but this was not in the resolution. Mr. Watrous said that these items were volunteered and not necessarily something the Town specifically requires. He explained that staff usually asks for information in this process as to what the applicant is proposing to do in terms of future home sales, but the Town has not made this a specific requirement.

Commissioner Weller asked if the Town has a methodology for ensuring that when CC&R's are created there is a mechanism to ensure that sufficient financial responsibility and maintenance responsibility relating to the common areas will be implemented. Mr. Watrous said that he was not sure if the Town would require that level of financial information, but does review the CC&R's to ensure there are provisions for maintenance aspects. Mr. Anderson added that there is a requirement also that the Town has the ability to make the repairs and bill them to the homeowners if for some reason the owners fail to maintain the common area.

Andrew Allen, applicant, stated that he and his wife are the owners of the Richardson Bay Land Company. He thought that the staff report was thorough and they were available to answer any questions. He said that they submitted CC&R's which contain maintenance provisions.

Chair Kulik asked how the 4-space parking building would be divided. Mr. Allen said that each of the 3 houses will get one garage space and the 4th space would be reserved for storage of condominium tools and maintenance equipment.

Chair Kulik opened the public hearing. There were no speakers and he closed the public hearing.

Commissioner Corcoran found that the project was consistent with the intent of the original precise plan and in keeping with the General Plan.

Commissioner Weller agreed and said that the division of this project into 3 single-family ownership interests was a legitimate request, was consistent with the intent of the precise plan and all other requirements of the Town.

Commissioner Welner and Chair Kulik concurred.

ACTION: It was M/S (Welner/Weller) to adopt the draft resolution recommending conditional approval of the Precise Plan amendment to the Town Council. Motion carried: 4-0.

ACTION: It was M/S (Weller/Corcoran) to adopt the draft resolution approving the condominium use permit. Motion carried: 4-0.

4. **CIRCULATION ELEMENT UPDATE:** Consider recommending to the Town Council adoption of an updated Tiburon General Plan Circulation Element; Consideration of a Negative Declaration of Environmental Impact

Director of Community Development Anderson gave the staff report, stating the Town adopted its current Circulation Element in 2005. In 2014, the Town retained the consulting firm of Nelson-Nygaard Consulting Services to assist it with a comprehensive update of this element. Later than year the Town Council adopted limited amendments incorporating “complete streets” concepts in to the element as required by state law.

Mr. Anderson stated Project Manager Brian Canepa is present and has been extremely helpful to staff in all aspects of the update including the traffic model, performing and analyzing traffic counts, and other tasks that staff does not have the expertise to perform. He said that one reason for the element’s update was the worsening peak hour traffic occurring on Tiburon Boulevard over the past several years. It was hoped that this update process would potentially identify some additional methods of easing congestion to augment what the CART (Community Action to Reduce Traffic) Committee had come up with after its two-year long process when they released their summary report in 2013.

As part of the Circulation Element update, the consultant performed extensive traffic counts and intersection analyses, updated the Town’s traffic model and projected future conditions. These tasks were completed prior to the launch of the Yellow School Bus Challenge 2.0. Early evidence suggests there has been a substantial improvement in traffic flow along the boulevard during peak hours since that program went into effect.