



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

TIBURON TOWN COUNCIL

Special Meeting - 7:00 p.m.
Regular Meeting - 7:30 p.m

Special Meeting Agenda

Call to Order and Roll Call
Oral Communications
CLOSED SESSION - Public Employee Review
Government Code Section 54957
Title: Town Manager
Adjourn to Regular Meeting

REGULAR MEETING AGENDA

CALL TO ORDER AND ROLL CALL

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

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

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. Grand Jury Report

Authorize Town response to Grand Jury Report on Citizen Complaints (Town Manager Chanis)

Documents:

[CC-1 GRAND JURY RESPONSE.PDF](#)

CC-2. OPEB Investment Strategy

Authorize proposed investment strategy for Other Post Employee Benefits (OPEB) (Town Manager Chanis/Director of Administrative Services Bigall)

Documents:

[CC-2 PARS INVESTMENT STRATEGY.PDF](#)

CC-3. Route 8 Bus Service

Authorize letter in support of continuation of Route 8 bus service to Tiburon Peninsula (Town Manager Chanis)

Documents:

[CC-3 ROUTE 8 BUS CONTINUATION.PDF](#)

ACTION ITEMS

AI-1. Trestle Trail Project

Update on Trestle Trail Project; consider request by proponents to install temporary signage and track at Blackie's Pasture for fundraising purposes (Town Manager Chanis)

Documents:

[AI-1 TRESTLE TRAIL PROJECT UPDATE.PDF](#)

AI-2. Appeal Of Encroachment Permit

Consider appeal of a denial of an Encroachment Permit for the installation of a security gate in Town right-of-way at 1860 Mountain View Drive (Public Works Department)

AP No. 059-042 -11

Applicant: John Merten, Studio Green

Owner: MV 1860 LLC

Documents:

[AI-2 ENCROACHMENT PERMIT APPEAL.PDF](#)

AI-3. Well Permits

Review of Tiburon's Water Well regulations (Chapter 13F of Town Code) for possible amendment (Community Development Department)

Documents:

AI-4. Bicycle Education And Safety

Direct Parks, Open Space & Trails Commission to formulate a Bicycle Safety Training Program (Community Development Department/ Department of Public Works)

Documents:

[AI-4 BICYCLE AND PEDESTRIAN SAFETY TRAINING.PDF](#)

TOWN COUNCIL REPORTS

TOWN MANAGER REPORT

WEEKLY DIGESTS

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



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
August 17, 2016
Agenda Item: CC-1

STAFF REPORT

To: Mayor and Members of Town Council
From: Town Manager Chanis
Subject: Consideration to Approve the Town's Response to the Marin County Grand Jury's Report, Law Enforcement Citizen Complaint Procedures: The Grand Jury Has A Few Complaints
Reviewed By: [Signature]

BACKGROUND

On June 16, 2016, the Marin County Grand Jury issued a report called *Law Enforcement Citizen Complaint Procedures: The Grand Jury Has A Few Complaints*. The report reviews the citizen complaint procedures used by Marin's law enforcement agencies. The Grand Jury focused its investigation on the ease of filing a citizen complaint and the procedure for reviewing any outcome. The report seeks the Town to respond to seven (7) Findings, and fourteen (14) Recommendations. The response must conform to the format required by Penal Code section 933.05.

The Town drafted a written response to the Grand Jury Report which is attached hereto for the Town Council's review.

RECOMMENDATION

Staff recommends that the Town Council review and approve the attached response to the Marin County Civil Grand Jury Report, *Law Enforcement Citizen Complaint Procedures: The Grand Jury Has A Few Complaints*.

EXHIBITS

- Draft Response to Grand Jury
- Grand Jury Report

Prepared By: Benjamin Stock, Town Attorney

RESPONSE TO GRAND JURY REPORT FORM
Town of Tiburon

Report Title: Law Enforcement Citizen Complaint Procedures

Report Date: June 16, 2016

Public Release: June 25, 2016

Response By: Greg Chanis

FINDINGS

- We agree with the findings numbered: F1
- We disagree wholly or partially with the findings numbered: F2, F3, F4, F5, F6,
F7

RECOMMENDATIONS

- Recommendations numbered R3, R4, R5, R6, R8, R9, R10, R11, R12, R13 have been implemented.
- Recommendations numbered R1, R2, R7, R14 have not yet been implemented, but will be implemented in the future.

Date: _____

Signed: _____
GREG CHANIS, TOWN MANAGER

Number of Pages Attached: 5

August 18, 2016

The Honorable Kelly V. Simmons
Judge of the Marin County Superior Court
Post Office Box 4988
San Rafael, CA 94913-4988

Mr. John Mann, Foreperson
Marin County Grand Jury
3501 Civic Center Drive, Room 275
San Rafael, CA 94903

**Re: Response to Grand Jury Report
*Law Enforcement Citizen Complaint Procedures***

Dear Honorable Judge Simmons and Mr. Mann:

This letter explains in detail the Town of Tiburon, including the Tiburon Police Department's, response to the Grand Jury Report dated June 16, 2016. The Report directs the Town to respond to Findings Nos. 1-7 and Recommendations Nos. 1-14. The Findings involve conclusions of fact that the Town has little or no independent basis to evaluate. In responding to these Findings, the Town assumes that the information in the Report is correct and relies on that information.

FINDINGS

Finding 1: *Marin County law enforcement agencies have procedures for Citizen Complaints that could act as deterrents to participation in the complaint process.*

Town's Response to Finding 1:

The Town agrees with this finding.

Finding 2: *Some Marin County law enforcement agencies employ procedures and admonitions that have been held to be unconstitutional.*

Town's Response to Finding 2:

The Town disagrees partially with this finding. The Town has no personal knowledge of the practices of other law enforcement agencies within the County, however, the Town is not aware of its procedures to be held as unconstitutional.

Finding 3: *Some Marin County law enforcement agencies' complaint procedures require face-to-face contact with law enforcement officers, which may deter citizens from using the Citizen Complaint process.*

Town's Response to Finding 3:

The Town disagrees partially with this finding. The Town has no personal knowledge of the practices of other law enforcement agencies within the County, however, the Town does not require face-to-face contact in order to proceed with submitting a Citizen Complaint.

Finding 4: *Not all Marin County law enforcement agencies provide written policies, procedures and Citizen Complaint forms in English and Spanish.*

Town's Response to Finding 4:

The Town disagrees partially with this finding. The Town has no personal knowledge of the practices of other law enforcement agencies within the County, however, the Town does provide Citizen Complaint forms in both English and Spanish.

Finding 5: *Not all Marin County law enforcement agencies accept and investigate anonymous Citizen Complaints.*

Town's Response to Finding 5:

The Town disagrees partially with this finding. The Town has no personal knowledge of the practices of other law enforcement agencies within the County, however, the Town accepts and will investigate anonymous Citizen Complaints.

Finding 6: *Information about and access to the Citizen Complaint procedure is difficult to find on Marin County law enforcement agency websites.*

Town's Response to Finding 6:

The Town disagrees partially with this finding. The Town has no personal knowledge of the practices of other law enforcement agencies within the County, however, the Town understands that it may be difficult to obtain a Citizen Complaint form on the Town's website, and will be making the necessary improvements to ease submittals.

Finding 7: *Marin County law enforcement agencies do not publish the number, the nature or the disposition of Citizen Complaints.*

Town's Response to Finding 7:

The Town disagrees partially with this finding. The Town has no personal knowledge of the practices of other law enforcement agencies within the County, however, the Town does not publish the nature or the disposition of the Citizen Complaint.

RECOMMENDATIONS

Recommendation 1: *Every Marin County law enforcement agency should have a clear and full description of the law enforcement agency's policy and procedures for handling Citizen Complaints on its website that is accessible by a direct link from the law enforcement agency's home page to a clearly identified "Citizen Complaints" folder.*

Recommendation 2: *All Marin County law enforcement agencies should accept the filing of Citizen Complaints online.*

Recommendation 3: *A clear and full description of the law enforcement agency's policy and procedures along with forms for filing Citizen Complaints should be available to the public in the lobby of each law enforcement agency.*

Recommendation 4: *Written policies and procedures, as well as Citizen Complaint forms, should be available to the public in English, Spanish and other languages appropriate to the community.*

Recommendation 5: *Marin County law enforcement agency personnel should be trained in the agency's Citizen Complaint policy and procedures in order to fully describe them to members of the public.*

Recommendation 6: *All public-facing law enforcement personnel should present an open and welcoming attitude to any inquiry about the Citizen Complaint process.*

Recommendation 7: *No policy, procedure or form for handling Citizen Complaints should have any language based in whole or in part on California Penal Code Section 148.6 and/or California Civil Code of Civil Procedure Section 47.5, nor should a complainant be required to acknowledge that they have read and understood such language.*

Recommendation 8: *A person who initiates a Citizen Complaint should not be required to verify or certify the contents of the complaint form.*

Recommendation 9: *The identification of the complainant should not be required on the form.*

Recommendation 10: *The signature of the complainant should not be required on the form.*

Recommendation 11: *Anonymous Citizen Complaints, and complaints initiated by minors, should be accepted and investigated in accordance with the agency's procedures.*

Recommendation 12: *Members of the public who desire information regarding a law enforcement agency's policy, procedures and Citizen Complaint forms should not be required to discuss their involvement, identity or situation before the materials are provided.*

Recommendation 13: *All Marin County law enforcement agencies should incorporate within their policies and procedures an appeal process that allows the complainant to appeal the disposition to an entity outside of the law enforcement agency.*

Recommendation 14: *Marin County law enforcement agencies should publish on their websites and annually update the number, nature and disposition of Citizen Complaints.*

Town's Response to Recommendations:

Recommendation 1: This recommendation has not yet been implemented, but will be implemented by November 1, 2016.

Recommendation 2: This recommendation has not yet been implemented, but will be implemented by November 1, 2016.

Recommendation 3: This recommendation has already been implemented.

Recommendation 4: This recommendation has already been implemented.

Recommendation 5: This recommendation has already been implemented.

Recommendation 6: This recommendation has already been implemented.

Recommendation 7: This recommendation has not yet been implemented, but will be implemented by November 1, 2016.

Recommendation 8: This recommendation has already been implemented.

Recommendation 9: This recommendation has already been implemented.

Recommendation 10: This recommendation has already been implemented.

Recommendation 11: This recommendation has already been implemented. Anonymous complaints are always investigated assuming there is sufficient detail to conduct a meaningful investigation.

Recommendation 12: This recommendation has already been implemented.

Recommendation 13: This recommendation has already been implemented. Any decision is appealable directly to the Town Manager.

Recommendation 14: This recommendation has not yet been implemented, but will be implemented by November 1, 2016.

The Tiburon Town Council reviewed and approved this response on August 17, 2016, at a duly noticed and agendized public meeting. If you have further questions on this matter, please do not hesitate to call.

Very truly yours,

GREG CHANIS
Town Manager

cc: Town Council
Town Attorney

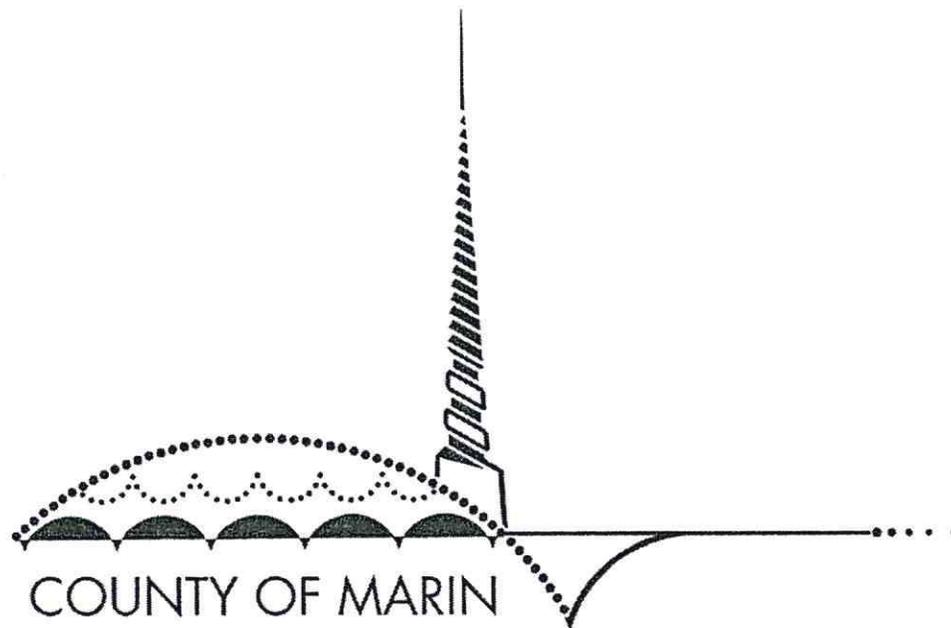
2015/2016 MARIN COUNTY CIVIL GRAND JURY

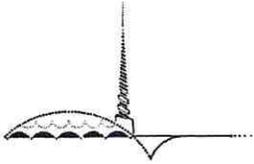
Law Enforcement Citizen Complaint Procedures

The Grand Jury Has A Few Complaints

Report Date: June 16, 2016

Public Release Date: June 23, 2016





Law Enforcement Citizen Complaint Procedures

The Grand Jury Has A Few Complaints

SUMMARY

Marin County's Civil Grand Jury undertook an investigation into the Citizen¹ Complaint procedures that are currently used by Marin's law enforcement agencies. The Grand Jury focused on procedure accessibility, comprehensiveness and clarity.

Questioning authority and its representatives can be intimidating and is made more so by opaque and inaccessible policies and procedures. The Grand Jury learned that lodging a complaint with any of Marin County's ten law enforcement entities can be confusing, time consuming and discouraging.

The California statute (CPC §832.5) that was enacted over forty years ago requires that Citizen Complaint procedures be established by law enforcement agencies. The Grand Jury discovered that Marin County's law enforcement agencies interpret and apply this statute in various and inconsistent ways.

To maintain full public trust, an effective law enforcement complaint process depends on fair and transparent procedures. Through its investigation, the Grand Jury learned that the courts, law enforcement organizations, civil rights advocates and educational institutions all concur that open communication between law enforcement agencies and citizens is essential.

An improved and uniform complaint process would provide greater credibility and effectiveness to the Citizen Complaint process. While demonstrating law enforcement's commitment to protect and respect the community it serves, a clear and consistent set of procedures would build a better foundation for interactions between law enforcement and the public.

The Grand Jury recommends that every law enforcement agency in Marin County have a clear and complete description on its website and in its lobby, in both English and Spanish, of the department's policy, procedures and forms for filing a citizen complaint. Law enforcement personnel should be trained in and be able to fully describe the process and forms to any inquiring person and direct that person to the appropriate location of the information. Preserving confidentiality and anonymity when requested should be an option (via website and in person) for all complainants.

¹ The term "Citizen Complaint" has been questioned insofar as the term implies that non-citizens, e.g. undocumented immigrants, non-residents or visitors, cannot avail themselves of statutory protections against law enforcement misconduct. See for example, 2012-2013 Santa Clara County Civil Grand Jury Report: "Law Enforcement Public Complaint Procedures." It has been suggested that the term "Public Complaint" is more appropriate; however, "Citizen Complaint" has taken on a more common use and meaning in this context and that term will be used throughout this Report.

BACKGROUND

Marin County's Police and Sheriff Departments ensure the safety and security of their citizens and the dedication of these law enforcement agencies and the devotion of their officers cannot be overstated. Yet, there are times when questions arise regarding interactions between law enforcement and the public. While police misconduct in Marin may be infrequent, policies and procedures are necessary and legally required for citizens to be able to raise concerns regarding peace officer conduct.

When law enforcement and citizens interact, they are not in positions of equality. Because of a peace officer's authority, there is a power differential from the moment he or she comes into contact with citizens. While this power difference may be necessary for officers to do their jobs, a citizen should have a way to complain about those instances where, whether intentionally or unintentionally, a peace officer is viewed or is thought to overstep their authority, role, or behaves inappropriately.

Incidents between a peace officer and the public may not rise to the level of illegal conduct, but situations involving hostility, rudeness, intimidation, unfairness, threats and unnecessary verbal or physical force reduce the effectiveness and reputation of law enforcement. A fair and consistent complaint process holds peace officers accountable to legal, ethical and community standards and expectations.

According to David J. Brent, "... the search for a system that will at once be responsive to both the public's need for accountability and the responsibility of the police to regulate themselves is basic to the efficient functioning of the police department as a necessary component within society."²

In the same journal article, Brent's analyses of interactions between law enforcement personnel reveal that: "...citizens feel that the police do not interact with them in a manner that is responsive to the realities of their daily lives, while the police are unwilling to open the process by which their actions are ultimately examined and regulated to the scrutiny and participation of the citizen."³

² David J. Brent, *Redress of Alleged Police Misconduct: A New Approach to Citizen Complaints and Police Disciplinary Procedures*, 11 *University of San Francisco Law Review* 587 (1977)

³ *Ibid.*

METHODOLOGY

The Grand Jury used the following sources of information for its report:

California Law

The Grand Jury reviewed statutes pertaining to the Citizen Complaint process under California law. It also reviewed the legislative history of the enactment of those laws.

Literature Review

The Grand Jury performed extensive research into investigations conducted by other California grand juries, as well as other organizations and groups on the topic of Citizen Complaints. The Grand Jury also reviewed the operations of the San Francisco Office of Citizen Complaints.

Law Enforcement Websites

The Grand Jury conducted a review and analysis of the websites of all ten Marin County law enforcement agencies.

Policies and Procedures

The Grand Jury reviewed all Marin County law enforcement agency policy and procedure manuals.⁴ All law enforcement agencies in Marin are required by law to have policies and procedures. Although access is available to citizens, policy and procedures manuals are not generally easy for citizens to find.

Police and Sheriff Department Site Visits

Members of the Grand Jury undertook, as private citizens, multiple in-person visits to each Marin County law enforcement agency to seek out and obtain information regarding that agency's Citizen Complaint procedures. The following law enforcement agencies were visited:

- Belvedere Police Department
- Central Marin Police Authority
- Fairfax Police Department
- Marin County Sheriff's Department
- Mill Valley Police Department
- Novato Police Department
- Ross Police Department
- San Rafael Police Department
- Sausalito Police Department
- Tiburon Police Department

Police Chief and Sheriff Interviews

The Grand Jury interviewed each of the Marin County Police Chiefs⁵ as well as the County Sheriff. During these interviews, no information was requested or obtained regarding the identity of any peace officer who was the subject of a Citizen Complaint.⁶

⁴ Many law enforcement agencies utilize some version of the standard for policies and procedures prepared by Lexipol Law Enforcement that provides customizable, state-specific law enforcement policy content and integrated policy training

⁵ The Acting Chief of the Novato Police Department was interviewed.

⁶ On February 19, 2016, California State Senator Mark Leno introduced SB 1286 amending Section 832.5 to provide for open public inspection of a peace officer's personnel files relating to the full investigation of a Citizen Complaint, findings, discipline or corrective action taken pursuant to the Public Records Act.

DISCUSSION

Legal Requirements regarding Citizen Complaints: California Penal Code §832.5

The California legislature addressed the Citizen Complaint process when, in 1974, it enacted California Penal Code §832.5. This statute requires all law enforcement agencies in the state to develop procedures for dealing with Citizen Complaints about the conduct of peace officers.

Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.

The legislature did not provide detailed procedures for law enforcement agencies. The intent of the legislation was to provide the public with a mechanism by which the behavior of peace officers could be reviewed, evaluated and, when appropriate, corrected. This is to ensure that officers, while acting under the authority of law, do not engage in conduct that would violate the individual rights of the citizenry.

Website Reviews

The Grand Jury reviewed each law enforcement agency's website to determine what information it contained on the topic of Citizen's Complaints. The statutory mandate that each law enforcement agency make available to the public a written description of the procedure it employs is straightforward. This mandate can easily be satisfied by making the explanation of the procedure clear, simple and easily located on the website. To assure the availability of the Citizen Complaint information, an explanation of the complaint procedure should be provided on the law enforcement agency's website. There should be no need to physically come to the law enforcement offices to obtain information on the process or any necessary forms. The website should provide for online initiation of a Citizen Complaint, a complete description of how the complaint will be investigated and a final determination of its disposition.

The Grand Jury reviewed each website for the following:

- Ease in finding the topic of Citizen Complaints
- Availability of the written complaint procedure
- Availability of the Complaint Form
- Versions of both documents in English and Spanish languages
- Ability to file the Complaint Form electronically
- A description of the disposition process
- A description of the appeal process
- A statistical record of past complaints

Although all Marin County law enforcement agencies have a website available to the public, there is wide variance among law enforcement agencies in ease of use, availability of forms, multilingual versions, etc. Some websites are difficult to navigate resulting in time-consuming

frustration. Such websites are not always intuitive or the information is buried and difficult to find. Some websites have no information at all about Citizen Complaint procedures.

The Fairfax Police Department's website, for example, has a general description of the Citizen Complaint procedure, however, the actual complaint form must be obtained by a personal visit to the police station. San Rafael initially had no information on the website regarding a complaint process or how to file a complaint. (Since the Grand Jury's inquiry, the San Rafael Police Department has amended its website.) Some law enforcement websites do have a Citizen Complaint form available, but a full and simple explanation of the complaint investigation process may not be in the same location.

On-Site Visits

Grand Jury members visited all Marin County law enforcement agencies as private citizens to find out how to file a complaint. It became clear during those visits that CPC §832.5 is interpreted by Marin law enforcement agencies in many different ways. There was wide variance not only among law enforcement agencies, but also as to how different Grand Jury members were received by the same law enforcement agencies on different days.

In some cases, staff had to search a file cabinet to find written procedures or forms. Other agencies had a description of the complaint process and complaint forms in both English and Spanish displayed and available in their lobby. A few law enforcement agencies did not know whether or not the information was available on their agency's website. Some law enforcement personnel (officers and staff) were quite knowledgeable and professional regarding Citizen Complaint procedures. In other instances, members of law enforcement were unaware of the details of their own agency's Citizen Complaint process and in some cases inaccurate information was provided.

The Grand Jury believes that statutes such as California Penal Code §823.5 requiring adherence to Citizen Complaint procedures were enacted to reduce those instances where fear and intimidation may result in the underreporting of legitimate criticisms of law enforcement personnel.

For example, in addition to the complexity of the filing procedures, it can be intimidating and a distinct disincentive when a potential complainant is asked by law enforcement officers or staff (actual questions encountered by Grand Jurors during site visits):

- "What's the officer's name?"
- "Do you want to speak to the officer's supervisor?"
- "Only the chief handles complaints."
- "Are you a resident of this community? Only residents can file complaints."
- "Do you want to leave your name and number and someone will get back to you?"
- "What is your name and address?"
- "What's the nature of your complaint?"

Such responses to inquiries as noted above on the part of law enforcement might be understood as an effort to resolve a problem before a complaint is brought. They could also, however, have a

discouraging effect on a member of the public who seeks to know what his or her rights are and what to expect if they bring a complaint. Questions such as those above can result in underreporting of complaints. Fear of reprisal, lack of confidence in the complaint process and difficulty finding out how to complain can also contribute to underreporting.

Interviews with Police Chiefs

During in-person interviews with each police chief, acting chief and the County Sheriff, the Grand Jury members inquired about each law enforcement agency's complaint procedures and about how that information was shared with the public.

The Chiefs were asked the following:

- Are policies, procedures and complaint forms in multilingual versions available on their agency's website? Is the complaint information available in the police department's lobby (or elsewhere accessible to the public) without the individual having to request it?
- Does a Citizen Complaint have to be made in person?
- Does a complainant have to identify himself, place of residence or citizenship?
- Can the complaint be made anonymously? By minors? By third persons? By non-citizens?
- What are complainants advised regarding making false claims?
- When and how do you inform the complainant of the resolution of the complaint?
- Do you keep records of complaints and their resolution? If so, where? How long are they retained?
- Are records of Citizen Complaints available to the public?

The Grand Jury found that there was considerable inconsistency between the chiefs' and Sheriff's understanding of how their own agency deals with the public and what the Grand Jury members actually experienced upon visiting each agency. During interviews, it became evident that chiefs and the Sheriff were often unaware of how Citizen Complaint inquiries were dealt with by the officers and staff in their respective law enforcement agencies. Significant discrepancies between policy and actual practice were commonly found during the Grand Jury's research.

Policies and Procedures

The Grand Jury reviewed each law enforcement agency's policies and procedures manual and found that all ten have information pertaining to Citizen Complaints. With the exception of the Sheriff, all Marin County law enforcement agencies utilize some version of the Lexipol-prepared Policies and Procedures, which provides customized state-specific policy content and integrated training.

Filing a Complaint

All Marin County law enforcement agencies comply with California Penal Code §832.5 in that they have a written Citizen Complaint policy. There is, however, inconsistency in the way in which the procedures are presented to the public. While a law enforcement agency may acknowledge its legal responsibility to have a prompt and unbiased procedure for filing and investigating Citizen Complaints, there is not always a clear explanation of how those procedures actually work. Requiring the potential complainant to journey through a maze of law enforcement officials and management staff may be a deterrent to an individual pursuing a legitimate complaint.

Some examples of inconsistent and confusing policy and procedure instructions are:

The **Mill Valley** Police Department describes its investigation this way:

“The Department member taking your complaint or inquiry will put you in contact with the on-duty Watch Supervisor as soon as possible. If, after talking with the Watch Supervisor, you still feel you have a valid complaint and some action should be taken by the Department, the Watch Supervisor will notify the Division Commander who will then direct an investigation into your complaint and advise findings to the Chief of Police.” The Mill Valley Police Department’s policy also indicates: “If you feel your inquiry is not handled satisfactorily by the Watch Commander, you are encouraged to talk to the Division Commander.”

The **Sausalito** Police Department explains that “Generally, your complaint will be investigated by a command level officer, assigned by the Police Chief” or “assigned to a special investigator”.

The **Tiburon** Police department indicates that the Officer’s supervisor or a special investigator will investigate the complaint.

The **San Rafael** Police Department states that a “Citizen Complaint will be reviewed by the Chief of Police. It will then be assigned to an investigator.”

The **Marin County Sheriff’s** Department states that “Minor complaints may be referred to the officer’s supervisor, however, major complaints will be referred to the on-duty watch commander or bureau commander.”

The **Central Marin** Police Department states its policy as follows:

“Officer complaints require that you sign a statement acknowledging that it is a crime to make a false complaint against an officer. If the inquiry appears to be based on a misunderstanding or a lack of knowledge of acceptable or desired conduct, procedure or practices, the department member taking your complaint may offer an explanation, or he/she will put you in immediate contact with the On-duty Watch Commander. After an explanation is offered, and you believe the Police Authority should still take some action, you will be referred to the supervisor of that unit or employee. If the supervisor is off duty, you will be referred to the On-Duty Watch Commander, who will assist you with your complaint. The supervisor will forward your complaint to his/her Division Commander who will review the complaint and forward it to the Chief of Police for his review and direction to ensure a thorough and objective investigation is done.”

These complaint procedures appear to the Grand Jury to create a number of serious hurdles for a citizen to overcome. In some cases, repeated law enforcement interactions and recounting of the same complaint seem to be required before an investigation is undertaken. Climbing a ladder of authority, such as described above before an investigation is initiated, can be a discouraging process making it less likely that a resident will pursue the filing of a complaint. When information is relayed from one level of authority to another, the effect could be the same as the “telephone game” in which the final account of the complaint could be diluted or altered with each successive description. This process is more complicated when foreign language difficulties, concerns regarding citizenship status and apprehensiveness in dealing with law enforcement are present.

Communication Between the Public and Law Enforcement

Communication between law enforcement and the public regarding Citizen Complaint procedures is an essential step in the effectiveness of any Citizen Complaint program. The unfortunate reality is that many individuals in the community are apprehensive about interacting with law enforcement. News reports, electronic media, casual discussions and past experiences may create founded or unfounded suspicion of the police or Sheriff. This may be the case when the member of the public is an undocumented immigrant or does not use English as his or her primary language. Fear of miscommunication, being misunderstood, or being reported to the Immigration and Naturalization Service (INS) can inhibit a person from complaining about the conduct of law enforcement even if their rights have been compromised. While most citizens understand and believe that law enforcement is dedicated to protecting and serving the community, there is, in some instances, an inescapable public uneasiness with law enforcement and this is as real as life.

The Grand Jury concludes that a written description of the complaint procedure should, at minimum, contain the following elements:

- Where the complaint form can be found
- How the complaint will be investigated
- How the final determination of the complaint will be disseminated
- What appeal process, if any, exists if the complainant is not satisfied with the determination

During their interviews, every Chief and the Sheriff stressed that law enforcement wants to keep lines of communication open with the public and the Grand Jury supports that objective. Therefore, a citizen’s request for information about Citizen Complaints should be responded to by providing the necessary forms and descriptions of the procedures in a clear, informed and respectful way without any defensiveness or attempt to deflect, intimidate or otherwise discourage the potential filing of a Citizen Complaint.

California Penal Code §148.6 and the Complaint Form

California Penal Code §148.6 previously stated that potential complainants acknowledge that they could be criminally prosecuted for bringing a false complaint against a peace officer. CPC §148.6,

however, was determined to be unconstitutional when the United States Supreme Court declined to overturn a United States Court of Appeal (9th Circuit) ruling to that effect. Unfortunately, the Grand Jury found that such warnings remain in some complaint forms and policy information concerning Citizen Complaints used by Marin County law enforcement agencies.

The requirement that a person who brings a Citizen Complaint against a peace officer must acknowledge and sign the information advisory is no longer valid. There should be no language in the complaint form or anywhere else that implies potential penalties for making false claims. Advisories that threaten prosecution or other penalties can be a deterrent to filing a Citizen Complaint. During the legislative session in which discussions for and against the passage of AB 1732 (Section 148.6) were held, the argument in opposition to its passage made this clear:

"...this legislation will have a chilling impact on the filing of police misconduct complaints by members of the public. Many persons are now afraid to speak up and are intimidated from filing legitimate complaints of police abuse, by among other things, threats by the officer to sue the victim for libel. If this bill becomes law, the first thing that will happen to victims of police abuse when they go to a police station to file a citizen complaint is an admonishment that they can be jailed if their allegations are not true. We should encourage the filing of police abuse reports, not impose additional roadblocks to chill the process."⁷

As of this writing, the Citizen Complaint form provided by the **Central Marin** Police Authority still includes the language of Section 148.6 and carries its warning even further by asking the citizen to read, understand and sign off on California Civil Code §47.5. This language alerts the citizen that filing a Citizen Complaint may have civil as well as criminal consequences. To access the Citizen Complaint procedure from the **Sausalito** Police Department website, one is first directed to a screen containing the entire boldface information advisory from Section 148.6, including the threat of prosecution. The Citizen Complaint form itself contains an admonishment, albeit without the sentence threatening prosecution.

The **Mill Valley** Police Department's Citizen Complaint form, for instance, requires that the complainant sign a verification of the complaint's contents. Sworn statements are not required to initiate the Citizen Complaint process. Requiring an oath may discourage honest people who may be reticent regarding how their complaint will be handled by the system as it potentially raises a fear that the citizen could be prosecuted for bringing the complaint, particularly in cases in which a complaint is not sustained.

The Grand Jury concludes that requiring a complainant to sign their name in acknowledgement that they "read and understand" any Penal Code language in connection with their Citizen Complaint may, in itself, create fear about entering into the entire complaint process.

⁷ Assem. Com. on Public Safety, analysis of Assem. Bill No. 1732 (1995-1996 Reg. Sess.)

Anonymity

Anonymity is not the same as being unwilling to participate in the investigation. One can be interviewed and participate in the investigation without revealing his or her name, address or other identifying information. Requiring a complainant to produce or state his or her identification and sign their name to a complaint form in order to file a Citizen Complaint can be intimidating. This requirement could raise the fear that the complainant's identity and residence may be targeted for retaliation because a complaint is brought against a specific peace officer. A complainant may believe that their name and address could subject them to other kinds of law enforcement contact, such as nuisance traffic stops, other ticketing activities or even reluctance on the part of peace officers to respond to a complainant's calls for assistance. An even greater fear for an undocumented complainant might be a concern about their immigration status, which might outweigh their willingness to file a complaint. Those for whom English is not their first language may also be reluctant to file a complaint since their difficulty in communicating the facts may exacerbate their fear and reluctance to report.

In one instance, upon visiting a police station, a Grand Jury member found that Citizen Complaint information was not provided to him because he was not a resident of that law enforcement agency's jurisdiction. Asking a person where they live can be intimidating, may imply that residency is required in order to file a complaint and might be perceived as a loss of anonymity. Another law enforcement agency required that the person asking about the Citizen Complaint process sign into the police log or meet personally with an officer.

To counter these roadblocks to filing a Citizen Complaint, the Grand Jury believes that a citizen should be able to file a Citizen Complaint anonymously, thus helping to reduce any possible reticence in following through. Some Marin County law enforcement agencies acknowledge that they welcome anonymous complaints. They state, however, that such complaints would be very difficult to investigate and make law enforcement's response to the complainant impossible. Personal identification, verifications and signatures thwart anonymity.

The Grand Jury concludes that there is no justifiable reason to require the signature, name and address of the complainant on the Citizen Complaint form. These forms should clearly indicate that the name, address, telephone number and signature of the complainant are "OPTIONAL". Citizens who may be reluctant to complain of a violation of their rights should be able to avail themselves of the Citizen Complaint procedure to focus attention on alleged improper law enforcement conduct. This objective also holds true for third parties who observe police misconduct yet do not want to become embroiled in a process to address another person's rights.

Law enforcement's interaction with minors is somewhat more problematic. While many law enforcement agencies in Marin County indicate that they will accept and investigate complaints from minors, some require that the minor's parent or guardian sign the complaint form or appear in person with the minor to file the complaint.

The Investigation, Disposition and Appeal Process

The Grand Jury reviewed the policy and procedure manuals for every Marin County law enforcement agency regarding the Citizen Complaint investigation, disposition and appeal process.

Investigation

Most law enforcement agencies state in their policy and procedures that the complaint will be assigned to an investigator, but no description is provided as to how an investigation will be conducted. Will the investigator speak to the complainant? Will the investigator interview any witnesses or discuss the matter with the officer involved? If it comes down to a “he said, she said” scenario, will the complainant ever be believed over the officer?

Further review of the policy and procedure manuals indicates that the investigation into a Citizen Complaint should be completed within one year. If that is not possible, the assigned investigator or supervisor must ensure that the delay is warranted and communicate that to the complainant. Finally, the complainant should be provided with written notification of the disposition within 30 days after a determination has been made.

An explanation to the public of what an investigator will investigate, the time frame involved and other potentially complicating issues should be provided to the complainant.

Disposition

There are four potential classifications:

- **Unfounded:** the investigation finds that the alleged act did not occur or involve law enforcement agency officers and/or staff
- **Exonerated:** the investigation finds that the alleged act did occur, but was justified, lawful and/or proper
- **Not sustained:** the investigation finds there is insufficient evidence to sustain the complaint or fully exonerate the member
- **Sustained:** the investigation discloses sufficient evidence that the act occurred and that it constituted misconduct

Once again, the Grand jury found information for the public regarding the disposition of a Citizen Complaint to be lacking in both content and consistency among the various law enforcement agencies.

Appeals

The Grand Jury also concluded that Citizen Complaint procedures should provide some mechanism for the citizen to appeal the results of an investigation. As noted above, a citizen must be notified in writing within 30 days of the disposition of his/her complaint. An appeal process as part of a law enforcement agency’s Citizen Complaint procedure could be helpful in short-

circuiting the need for further legal action. Consequently, the Grand Jury concludes that Citizen Complaint procedures should include some mechanism for the citizen to appeal the result of the investigation if the citizen disagrees with the disposition. Ideally, the appeal should include a review by a body outside of the law enforcement agency. For example, the Novato Police Department allows a complainant to appeal the results to the City Manager. The City Manager, after reviewing the complaint, may forward the complaint to the Police Advisory and Review Board for further review or investigation.⁸

Training, Compliance and Awareness

As noted above, all Marin County law enforcement agencies comply with the requirements of California Penal Code Section 832.5, yet there is inconsistency in how policies and procedures are presented to the public. As a result of the Grand Jury's site visits, website reviews, interviews with police chiefs and Sheriff and reviews of the policy and procedure manuals, it became clear to the Grand Jury that an important component missing in the Citizen Complaint process was consistent training of all law enforcement officers and other personnel. The lack of uniformity in training may explain the inconsistencies. This difference in knowledge of the process may account for some inconsistencies in communicating the policies and procedures to the public.

The Grand Jury believes that law enforcement personnel, staff and volunteers should receive regular training on the Citizen Complaint process. Personnel should know how to quickly locate and access written complaint procedure instructions and be able to provide a citizen with whatever forms are needed at the time of inquiry. In addition, all personnel should be welcoming and open to accepting complaints. Law enforcement agency employees should also be familiar with where such materials are located on the law enforcement agency website. Clear and accessible communication with the public, whether in person, by phone or via website regarding anonymity, investigative procedures, disposition and the appeal process should all be part of law enforcement personnel training programs.

Transparency and Reporting

Complete transparency regarding the number of complaints and their disposition is also essential to maintaining a climate of trust between law enforcement and the public. Even though the number of complaints received by many Marin County law enforcement agencies tends to be few, they should regularly report to their governing bodies the number of complaints received, the general nature and their disposition. At a minimum, this reporting should be on an annual basis and should also be available online.

⁸ Novato City Resolution 43-00

CONCLUSION

In a report entitled *Building Trust Between the Police and the Citizens They Serve*,⁹ The United States Department of Justice, Office of Community Oriented Policing Services wrote:

“It is imperative to not only have procedures in place for fairly and impartially accepting, processing, and investigating complaints concerning allegations of employee misconduct but also to inform all police employees and the public of that process. ... ‘An accessible, fair, and transparent complaint process is the hallmark of police responsiveness to the community’ ... It is incumbent on the police department to make its citizens aware that a complaint process exists, how to file a complaint, and how the agency processes and investigates complaints.”

The Grand Jury believes that the majority of Marin County law enforcement members operate within the rules of their profession, and recognize and respect the rights of citizens. However, the need for a well-defined procedure for addressing those instances when that is not the case has been affirmed by the results of the Grand Jury’s investigation into the Citizen Complaint process. Clear communication between Marin County law enforcement agencies and the citizenry regarding the Citizen Complaint process is essential for it to be successful, beneficial to law enforcement and not intimidating to the public.

FINDINGS

- F1. Marin County law enforcement agencies have procedures for Citizen Complaints that could act as deterrents to participation in the complaint process.
- F2. Some Marin County law enforcement agencies employ procedures and admonitions that have been held to be unconstitutional.
- F3. Some Marin County law enforcement agencies’ complaint procedures require face-to-face contact with law enforcement officers, which may deter citizens from using the Citizen Complaint process.
- F4. Not all Marin County law enforcement agencies provide written policies, procedures and Citizen Complaint forms in English and Spanish.
- F5. Not all Marin County law enforcement agencies accept and investigate anonymous Citizen Complaints.
- F6. Information about and access to the Citizen Complaint procedure is difficult to find on Marin County law enforcement agency websites.
- F7. Marin County law enforcement agencies do not publish the number, the nature or the disposition of Citizen Complaints.

⁹ U.S. Department of Justice Office of Community Oriented Policing Services, Standards and Guidelines for Internal Affairs (2009)

RECOMMENDATIONS

- R1. Every Marin County law enforcement agency should have a clear and full description of the law enforcement agency's policy and procedures for handling Citizen Complaints on its website that is accessible by a direct link from the law enforcement agency's home page to a clearly identified "Citizen Complaints" folder.
- R2. All Marin County law enforcement agencies should accept the filing of Citizen Complaints online.
- R3. A clear and full description of the law enforcement agency's policy and procedures along with forms for filing Citizen Complaints should be available to the public in the lobby of each law enforcement agency.
- R4. Written policies and procedures, as well as Citizen Complaint forms, should be available to the public in English, Spanish and other languages appropriate to the community.
- R5. Marin County law enforcement agency personnel should be trained in the agency's Citizen Complaint policy and procedures in order to fully describe them to members of the public.
- R6. All public-facing law enforcement personnel should present an open and welcoming attitude to any inquiry about the Citizen Complaint process.
- R7. No policy, procedure or form for handling Citizen Complaints should have any language based in whole or in part on California Penal Code Section 148.6 and/or California Civil Code of Civil Procedure Section 47.5, nor should a complainant be required to acknowledge that they have read and understood such language.
- R8. A person who initiates a Citizen Complaint should not be required to verify or certify the contents of the complaint form.
- R9. The identification of the complainant on the Citizen Complaint form should be optional.
- R10. The signature of the complainant should not be required on the form.
- R11. Anonymous Citizen Complaints, and complaints initiated by minors, should be accepted and investigated in accordance with the agency's procedures.
- R12. Members of the public who desire information regarding a law enforcement agency's policy, procedures and Citizen Complaint forms should not be required to discuss their involvement, identity or situation before the materials are provided.
- R13. All Marin County law enforcement agencies should incorporate within their policies and procedures an appeal process that allows the complainant to appeal the disposition to an entity outside of the law enforcement agency.
- R14. Marin County law enforcement agencies should publish on their websites and annually update the number, nature and disposition of Citizen Complaints.

REQUEST FOR RESPONSES

Pursuant to California Penal Code §933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- The Cities and Towns of **Belvedere, Corte Madera, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, Sausalito** and **Tiburon**: F1 – F7 and R1 – R14

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with California Penal Code §933(c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

From the following individual:

- The **Marin County Sheriff**: F1 – F7 and R1 – R14

The Grand Jury invites the following individuals to respond:

- The Police Chiefs of **Belvedere, Fairfax, Mill Valley, Novato, Ross, San Rafael, Sausalito, Tiburon** and **Central Marin** Police Authority: F1 – F7 and R1 – R14

At the time of publication of this report all website information was accurate as published.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
August 17, 2016
Agenda Item: CC-2

STAFF REPORT

To: Mayor and Members of the Town Council

From: Administrative Services Department

Subject: Recommendation to Approve the Investment Policy Guidelines for Public Agency Retirement Services (PARS) Post-Employment Benefits Trust Program, and the PARS Post-Retirement Health Care Trust Program

Reviewed By: J.C.

BACKGROUND

At the regular meeting of May 4, 2016, the Town Council unanimously authorized participation in both the Public Agency Retirement Services (PARS) Post-Employment Benefits Trust Program, and the PARS Post-Retirement Health Care Trust Program. This action created two separate mechanisms by which the Town could pre-fund a portion of unfunded OPEB actuarial liabilities or pension liabilities. The Staff Report from the May 4 meeting is attached as Exhibit 1, which provides detailed information on this action.

Over the years, the Town has set aside funds in the General Fund OPEB GASB 45 reserve to offset its OPEB unfunded actuarial accrued liability. As of June 30, 2016, the Town has accumulated \$1,252,018.92 in this reserve, while the OPEB unfunded liability is estimated at approximately \$3.63 million.

ANALYSIS

Part of the recommendation from the May 4 meeting was that the Council Budget Committee and Staff would work with PARS to develop an investment policy for the trust funds for the full Council's consideration. In late May, the Town Manager and Director of Administrative Services had an initial meeting with Andrew Brown, Investment Executive with HighMark Capital Management. On August 3, the Budget Committee and Staff met with Andrew Brown to review investment strategies. HighMark Capital Management offers five investment strategies that range in asset allocation and risk tolerance. Each investment strategy also has an option of being actively or passively managed. Active management comes with higher fees (approximately 60 basis points), with no assurance this approach will outperform passively managed accounts in the long run. The Budget Committee evaluated the investment strategies and determined that a passively managed "Balanced" Strategic Asset Allocation is the most appropriate to meet the Town's investment objectives. This strategy provides potential for growth in principal and income on the long-term horizon. Based on this decision, the attached Investment Guidelines Document (Exhibit 2) was developed for Town Council's consideration.

The following table summarizes the recommended Strategic Asset Allocation Ranges, which are detailed in the Investment Policy:

Strategic Asset Allocation Ranges		
Cash	Fixed Income	Equity
0-20%	30-50%	50-70%
Policy: 5%	Policy: 35%	Policy: 60%

The purpose of the investment policy guidelines is to facilitate communication and confirm the Town's investment objectives for the Trust. It also helps maintain a long-term perspective when market volatility is caused by short-term market movements. The policy also details the Program Trustee, the Investment Manager and the Budget Committee's roles and responsibilities.

During the August 3 meeting, it was also discussed whether the Town should invest the full amount of funds available in the General Fund OPEB GASB 45 Reserve all at once or over a period of time. The Budget Committee ultimately decided that 25% of the fund holdings should be remitted to U.S. Bank on September 1, October 1, November 1 and December 1.

FINANCIAL IMPACT

There is no fiscal impact for approving the Investment Policy Guidelines. Once funds are transferred to the trust they cannot be diverted to other purposes other than expenses related to Other Post-Employment Benefits.

RECOMMENDATION

Staff recommends that the Town Council:

1. Move to approved the Exhibit 2, Investment Policy Guidelines for the Town's 115 Irrevocable Exclusive Benefit Trust, and
2. Authorize the transfer of \$313,004.73 on or about September 1, October 1, November 1 and December 1, for a total of \$1,252,08.92, as recommended by the Council Budget Committee

Exhibits:

1. May 4, 2016 Staff Report
2. Investment Guidelines for Town of Tiburon Irrevocable Trust
3. Summary of PARS Investment Strategies

Prepared By: Heidi Bigall, Director of Administrative Services



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
May 4, 2016
Agenda Item:

STAFF REPORT	
To:	Mayor and Members of the Town Council
From:	Department of Administrative Services
Subject:	Recommendation to Authorize Participation in the Public Agency Retirement Services (PARS) Post-Employment Benefits Trust Program for Prefunding OPEB and Pension Liabilities
Reviewed By:	_____

BACKGROUND

The Town of Tiburon provides post-employment benefits to retirees who meet plan eligibility requirements. Under the Town’s contract with CalPERS, employees who retire from the Town at age 50 or later with at least 5 years of service are eligible for a CalPERS pension.

All eligible retirees, irrespective of their date of hire, are entitled to the minimum CalPERS medical benefits, which is \$125 in 2016. This amount increases annually and the benefit continues for the life of the retiree and for the life of a surviving spouse.

In addition to the above, retirees with 15 or more years of Town service are eligible to receive a monthly medical allowance based on the premium charged by CalPERS for the Kaiser single person coverage. This benefit does not apply to Management/Mid-management employees hired after July 1, 2009, Police employees hired after July 1, 2010, or SEIU employees hired after July 1, 2011 (the pool for this benefit has been closed). The benefit amount that is earned at retirement is based on the schedule below, and does not increase as medical premiums increase and does not pass on to an employee’s surviving spouse.

15-19 years of service:	50% of Kaiser Single Rate
20-24 years of service	75% of Kaiser Single Rate
25+ of service	100% of Kaiser Single Rate

The Town currently has 14 employees receiving this benefit at an annual cost of \$88,581.12, and 12 employees left who are eligible for this benefit upon retirement.

ANALYSIS

In 2004, the Government Accounting Standards Board (GASB), the organization that sets generally accepted accounting principles (GAAP) for public sector entities, issued a statement (GASB 45) that requires public employers to produce actuarial valuations for their OPEB, and to report these liabilities in their financial statements. Under GASB regulations, how to handle OPEB funding is at the agency’s discretion.

Up to this point, the Town has paid the amount required for retiree medical benefits in a given year on the pay-as-you-go basis. In addition, the Town has set aside funds in the OPEB GASB 45 General Fund Reserve. The funds held in this reserve do not earn interest, and are not eligible to be considered in reducing the Town's OPEB unfunded liability because they are not held in an irrevocable trust. There is currently \$1,246,159 in the OPEB GASB 45 reserve, and based on the most recent analysis, the Town's unfunded liability for OPEB benefits will be approximately \$3.63 million based on a 4% discount rate. The 4% discount rate is the scenario used for agencies that only contribute OPEB costs in the amount of the actual payments on behalf of retirees (pay-as-you-go), which the Town currently employs.

It is a financial management best practice, and consistent with the Town's financial goals to reduce long term liabilities and GFOA considers it "best practice" to prefund OPEB benefits (2012). Staff believes that entering into a trust agreement to prefund OPEB liabilities will lower long term liabilities and produce savings in the long run. Prefunding OPEB costs in an irrevocable trust will also allow the Town to use a higher discount rate when performing its next actuarial valuation in 2017. It is estimated that a 1% increase in the discount rate could lower the Town's OPEB unfunded liability by 10-12%, or \$360,000 to \$435,000, based on a \$3.63 million liability. A 6.0% discount rate would still be considered moderately conservative when performing the next actuarial, and could reduce the Town's current unfunded liability from \$3.63 million to approximately \$2.75 - \$2.9 million.

While not a requirement of GASB 45, prefunding the Town's OPEB obligation and placing it in an irrevocable trust provides certain benefits:

- Once placed into a trust, the funds cannot be diverted to other purposes, nor is it subject to claims by creditors or State takeaways.
- Trust assets can be managed for investment purposes to achieve a higher rate of return, thus lowering the Town's future liability. There is investment flexibility with Section 115 Trust compared to restrictions on general fund investments.
- It is fiscally prudent to prefund retiree obligations while accrued during active service, preventing the increase of the Town's unfunded obligation and pay-as-you-go costs.
- Prefunding is less expensive for the Town over the long run since more of the unfunded liability will be paid for by investment dollars.

There are surprisingly few choices when it comes to companies that provide trust services for OPEB pre-funding. Staff reached out to the California Employers' Retirement Benefit Trust (CERBT) and Public Agency Retirement Services (PARS) for proposals to provide trust services. After reviewing the information provided, the main difference between the two companies comes down to fees charged, number of investment strategies provided, requirement on timing of OPEB Actuarial, and additional services provided.

CERBT is overseen and administered by the CalPERS Board of Administration and currently charges an annual fee of 10 basis points on the assets under its management. This fee can be increased at any time. CERBT has three asset allocation strategies with the most conservative allocation averaging 24% in equities and the most aggressive with 57% in equities. CERBT requires an actuarial valuation be performed every two years, at an approximate cost of \$5,000 per valuation.

PARS is a private for-profit company that contracts with US Bank for trustee services and HighMark Capital Management for Investment Management services. PARS charges 25 basis points for their trust administration/consulting fees with additional fees ranging between 24 – 32 basis points for contracted trust/investment management fees, for a total maximum fee of 57 basis points. The fee that would be charged is fixed for the next two years. PARS has actually reduced fees over the past six years due to economies of scale of their multi-employer trust. PARS provides more flexibility with 5 asset allocation strategies (active or passive) and the ability to customize the portfolio. The most conservative portfolio has a minimum of 5% invested in equities, with the most aggressive at 75% equities. PARS allows for tri-annual actuarial valuation reports. PARS also provides an option, at no additional cost, to make OPEB payments directly to retirees, therefore relieving the administrative duty from Town staff. This option is not available with CERBT. PARS also provides an option for establishing an account within the same trust for prefunding unfunded pension liabilities. There are currently no other options for prefunding our CalPERS pension unfunded liability except lump-sum payments to CalPERS. This pension prefunding option with PARS gives us the ability to set aside reserves in the same trust (sub accounted for separately from OPEB) and lower Net Pension Liabilities (NPL) for GASB 68 reporting.

There are no costs to establish a trust fund with either administrator. Fees are only charged once funds are placed with the administrator to manage.

The pros of contracting with CERBT are lower management fees (ten basis points versus 49-57 basis points). However, CERBT has under-performed PARS in their three investment options over the past three years, net of all fees. Of course, this past performance does not guarantee future results. Two of CERBT's investment options do not have a five year history at this point to compare results.

The pros in contracting with PARS would be diversification of investments as CalPERS would not also be managing these funds (PERS currently manages approximately \$27 million in Town pension assets). Only this PARS Trust has a Private Letter Ruling (PLR) from the IRS which allows for prefunding of OPEB or Pension or Both liabilities. PARS will directly make payment to retirees who are eligible for monthly medical allowance payments (currently 14 employees). For an agency our size, PARS only requires an actuarial valuation be performed every three years as opposed to CERBT every two years. PARS does provide more investment options than CERBT and does allow for customization of investment options. PARS has a full service approach including a local dedicated Portfolio Manager who will make a recommendation on our investment strategy, take on the fiduciary responsibility to manage our assets, assist with our investment policy, conduct annual reviews and has cell phone access for questions.

This agenda item is recommending, through the Council Budget Committee, that the Town Council authorize participation in the Public Agency Retirement Services (PARS) Post-Employment Benefits Trust. Though staff was looking only at establishing an OPEB Irrevocable Trust only, there is no cost to open either Trust Fund and the Town could consider pre-funding pension liabilities through this trust as opposed to directing additional payments to CalPERS in the future. Once this combination trust is established, PARS will work with the Town, through the Budget Committee, to determine the best strategic asset allocation policy for the investment of the OPEB GASB 45 Reserve funds.

FINANCIAL IMPACT

Establishing the Pension Trust Fund has no direct cash impact. Funding the Trust Fund will have a cash impact as funds will be withdrawn from the OPEB GASB 45 General Fund Reserve and transferred to the irrevocable trust.

ENVIRONMENTAL DETERMINATION

This item does not meet the definition of a project under the California Environmental Quality Act (CEQA).

RECOMMENDATION

Staff recommends that the Town Council:

Move to adopt the following resolution:

1. Resolution authorizing participation the in PARS Post-Employment Benefits Trust Program, to be administered by Public Agency Retirement Services (PARS) and U.S. Bank, as Trustee, appointment the Town Manager as the Town's Plan Administrator, and authorizing the Town Manager to execute the documents to implement the Program

Staff will meet with the Budget Committee and PARS representatives to determine the best strategy for our OPEB GASB 45 Reserves based on needs and objectives, and bring the recommendation back to the full Council for approval. If we invest these funds prior to June 30, 2016, we can receive credit for the investment against our Net OPEB Obligation in the FY 2015-16 annual audit.

Exhibits:

1. Resolution authorizing participation the in PARS Post-Employment Benefits Trust Program, to be administered by Public Agency Retirement Services (PARS) and U.S. Bank, as Trustee, appointment the Town Manager as the Town's Plan Administrator, and authorizing the Town Manager to execute the documents to implement the Program
2. Administrative Services Agreement

Prepared By: Heidi Bigall, Director of Administrative Services



Investment Guidelines Document

Town of Tiburon

115 Irrevocable Exclusive Benefit Trust

August 2016

Investment Guidelines Document

Scope and Purpose

The purpose of this Investment Guidelines Document is to:

- Facilitate the process of ongoing communication between the Plan Sponsor and its plan fiduciaries;
- Confirm the Plan's investment goals and objectives and management policies applicable to the investment portfolio identified below and obtained from the Plan Sponsor;
- Provide a framework to construct a well-diversified asset mix that can potentially be expected to meet the account's short- and long-term needs that is consistent with the account's investment objectives, liquidity considerations and risk tolerance;
- Identify any unique considerations that may restrict or limit the investment discretion of its designated investment managers;
- Help maintain a long-term perspective when market volatility is caused by short-term market movements.

Key Plan Sponsor Account Information as of June 2016

Plan Sponsor:	Town of Tiburon
Governance:	Town Council for the Town of Tiburon
Plan Name ("Plan")	<i>Town of Tiburon Post-Employment Retirement Healthcare Plan</i>
Account Value:	\$1.2 million est. August 2016
Trustee:	US Bank Contact: Sue Hughes, 949-224-7209 Susan.Hughes@usbank.com
Type of Account:	GASB 45/Other Post-Employment Benefits Trust
ERISA Status:	Not subject to ERISA
Investment Manager:	US Bank, as discretionary trustee, has delegated investment management responsibilities to HighMark Capital Management, Inc. ("Investment Manager"), an SEC-registered investment adviser Contact: Andrew Brown, CFA, 415-705-7605 Andrew.brown@highmarkcapital.com

Investment Authority: Except as otherwise noted, the Trustee, US Bank, has delegated investment authority to HighMark Capital Management, an SEC-registered investment adviser. Investment Manager has full investment discretion over the managed assets in the account. Investment Manager is authorized to purchase, sell, exchange, invest, reinvest and manage the designated assets held in the account, all in accordance with account's investment objectives, without prior approval or subsequent approval of any other party(ies).

Investment Objectives and Constraints

The goal of the Plan's investment program is to generate adequate long-term returns that, when combined with contributions, will result in sufficient assets to pay the present and future obligations of the Plan. The following objectives are intended to assist in achieving this goal:

- The Plan should earn, on a long-term average basis, a rate of return equal to or in excess of the target rate of return of 6.0%.
- The Plan should seek to earn a return in excess of its policy benchmark over the long-term.
- The Plan's assets will be managed on a total return basis which takes into consideration both investment income and capital appreciation. While the Plan Sponsor recognizes the importance of preservation of capital, it also adheres to the principle that varying degrees of investment risk are generally rewarded with compensating returns. To achieve these objectives, the Plan Sponsor allocates its assets (asset allocation) with a strategic, long-term perspective of the capital markets.

Investment Time Horizon: Long-term

Anticipated Cash Flows: Distributions are expected to be modest in the early years of the Plan.

Target Rate of Return: 6.0% annual target

Investment Objective: The primary objective is to maximize total Plan return, subject to the risk and quality constraints set forth herein. The investment objective the Plan Sponsor has selected is the Balanced Index Objective, which has a dual goal to seek moderate growth of income and principal.

Risk Tolerance: *Balanced*

The account's risk tolerance has been rated moderate, which demonstrates that the account can accept average, or moderate, price fluctuations to pursue its investment objectives.

Strategic Asset Allocation: The asset allocation ranges for this objective are listed below:

<i>Strategic Asset Allocation Ranges</i>		
Cash	Fixed Income	Equity
0-20%	30%-50%	50%-70%
Policy: 5%	Policy: 35%	Policy: 60%

Market conditions may cause the account's asset allocation to vary from the stated range from time to time. The Investment Manager will rebalance the portfolio no less than quarterly and/or when the actual weighting differs substantially from the strategic range, if appropriate and consistent with your objectives.

Security Guidelines:

Equities

With the exception of limitations and constraints described above, Investment Manager may allocate assets of the equity portion of the account among various market capitalizations (large, mid, small) and investment styles (value, growth). Further, Investment Manager may allocate assets among domestic, international developed and emerging market equity securities.

Total Equities	50%-70%
<i>Equity Style</i>	<i>Range</i>
Domestic Large Cap Equity	20%-50%
Domestic Mid Cap Equity	0%-15%
Domestic Small Cap Equity	0%-20%
International Equity (incl. Emerging Markets)	0%-20%
Real Estate Investment Trust (REIT)	0%-10%

Fixed Income

In the fixed income portion of the account, Investment Manager may allocate assets among various sectors and industries, as well as varying maturities and credit quality that are consistent with the overall goals and objectives of the portfolio.

Total Fixed Income	30%-50%
<i>Fixed Income Style</i>	<i>Range</i>
Long-term bonds (maturities >7 years)	0%-20%
Intermediate-term bonds (maturities 3-7 years)	15%-50%
Short-Term bonds (maturities <3 years)	0%-15%
High Yield bonds	0%-8%

Performance Benchmarks:

The performance of the total Plan shall be measured over a three and five-year periods. These periods are considered sufficient to accommodate the market cycles experienced with investments. The performance shall be compared to the return of the total portfolio blended benchmark shown below.

Total Portfolio Blended Benchmark

32.00%	S&P500 Index
6.00%	Russell Mid Cap Index
9.00%	Russell 2000 Index
4.00%	MSCI Emerging Market Index
7.00%	MSCI EAFE Index
2.00%	Wilshire REIT
27.00%	BC US Aggregate Index
6.75%	ML 1-3 Year US Corp/Gov't
1.25%	US High Yield Master II
5.00%	Citi 1Mth T-Bill

Asset Class/Style Benchmarks

Over a market cycle, the long-term objective for each investment strategy is to add value to a market benchmark. The following are the benchmarks used to monitor each investment strategy:

Large Cap Equity	S&P 500 Index
Growth	S&P 500 Growth Index
Value	S&P 500 Value Index
Mid Cap Equity	Russell Mid Cap Index
Growth	Russell Mid Cap Growth
Value	Russell Mid Cap Value
Small Cap Equity	Russell 2000 Index
Growth	Russell 2000 Growth
Value	Russell 2000 Value
REITs	Wilshire REIT
International Equity	MSCI EAFE Index
Investment Grade Bonds	BC US Aggregate Bond
High Yield	US High Yield Master II

Security Selection

Investment Manager may utilize a full range of investment vehicles when constructing the investment portfolio, including but not limited to individual securities, mutual funds, and exchange-traded funds. In addition, to the extent permissible, Investment Manager is authorized to invest in shares of mutual funds in which the Investment Manager serves as advisor or sub-adviser.

Investment Limitations:

The following investment transactions are prohibited:

- Direct investments in precious metals (precious metals mutual funds and exchange-traded funds are permissible).
- Venture Capital
- Short sales*
- Purchases of Letter Stock, Private Placements, or direct payments
- Leveraged Transactions*
- Commodities Transactions Puts, calls, straddles, or other option strategies*
- Purchases of real estate, with the exception of REITs
- Derivatives, with exception of ETFs*

**Permissible in diversified mutual funds and exchange-traded funds*

Duties and Responsibilities

Responsibilities of Plan Sponsor

The Budget Committee of the Town of Tiburon is responsible for:

- Confirming the accuracy of this Investment Guidelines Document, in writing.
- Advising Trustee and Investment Manager of any change in the plan/account's financial situation, funding status, or cash flows, which could possibly necessitate a change to the account's overall risk tolerance, time horizon or liquidity requirements; and thus would dictate a change to the overall investment objective and goals for the account.
- Monitoring and supervising all service vendors and investment options, including investment managers.
- Avoiding prohibited transactions and conflicts of interest.

Responsibilities of Trustee

The plan Trustee is responsible for:

- Valuing the holdings.
- Collecting all income and dividends owed to the Plan.
- Settling all transactions (buy-sell orders).

Responsibilities of Investment Manager

The Investment Manager is responsible for:

- Assisting the Budget Committee with the development and maintenance of this Investment Policy Guideline document.
- Meeting with Budget Committee at least annually to review portfolio structure, holdings, and performance.
- Designing, recommending and implementing an appropriate asset allocation consistent with the investment objectives, time horizon, risk profile, guidelines and constraints outlined in this statement.
- Researching and monitoring investment advisers and investment vehicles.
- Purchasing, selling, and reinvesting in securities held in the account.
- Monitoring the performance of all selected assets.
- Voting proxies, if applicable.
- Recommending changes to any of the above.

- Periodically reviewing the suitability of the investments, being available to meet with the committee at least once each year, and being available at such other times within reason at your request.
- Preparing and presenting appropriate reports.
- Informing the committee if changes occur in personnel that are responsible for portfolio management or research.

Acknowledgement and Acceptance

I/We being the Plan Sponsor with responsibility for the account(s) held on behalf of the Plan Sponsor specified below, designate Investment Manager as having the investment discretion and management responsibility indicated in relation to all assets of the Plan or specified Account. If such designation is set forth in the Plan/trust, I/We hereby confirm such designation as Investment Manager.

I have read the Investment Guidelines Document, and confirm the accuracy of it, including the terms and conditions under which the assets in this account are to be held, managed, and disposed of by Investment Manager. This Investment Guidelines Document supersedes all previous versions of an Investment Guidelines Document or investment objective instructions that may have been executed for this account.

_____ Date: _____
 Plan Sponsor: Town of Tiburon

_____ Date: _____
 Investment Manager: Andrew Brown, CFA, Senior Portfolio Manager, (415) 705-7605

PARS INVESTMENT OBJECTIVES



	Conservative	Moderately Conservative	Moderate	Balanced	Capital Appreciation
Equity	15.00%	30.00%	50.00%	60.00%	75.00%
Large Cap Core	7.50%	15.50%	26.50%	32.00%	39.50%
Mid Cap Core	1.50%	3.00%	5.00%	6.00%	7.50%
Small Cap Core	2.50%	4.50%	7.50%	9.00%	10.50%
Real Estate	0.50%	1.00%	1.75%	2.00%	2.00%
International	2.00%	4.00%	6.00%	7.00%	10.25%
Emerging Markets	1.00%	2.00%	3.25%	4.00%	5.25%
Fixed Income	80.00%	65.00%	45.00%	35.00%	20.00%
Short Term Bond	25.75%	14.00%	10.00%	6.75%	3.00%
Intermediate Term Bond	52.25%	49.25%	33.50%	27.00%	16.00%
High Yield	2.00%	1.75%	1.50%	1.25%	1.00%
Cash	5.00%	5.00%	5.00%	5.00%	5.00%
Expected Return	4.95%	5.68%	6.48%	6.85%	7.39%
Expected Standard Deviation	4.13%	5.26%	7.54%	8.84%	10.90%

The above information is for illustrative purposes only, and is not intended to provide investment recommendations as to which securities to buy or sell, or when to buy or sell securities. The Sample Portfolio is a hypothetical portfolio only and does not reflect actual investment decisions or recommendations, and does not represent actual trading or actual portfolio performance. An actual client's portfolio construction and performance may vary depending on the client's investment needs, objectives, restrictions, and market conditions. Asset allocation ranges and performance for each investment objective may also vary depending on the prevailing market conditions. Past performance is no indication of future results. Data as of June 2015.

Expected Returns are based on 30 year returns for various asset classes. Please see disclosure page for additional details on Expected Return and Standard Deviation.

DISCLOSURES

Each strategy represented as a Sample Portfolio is a hypothetical portfolio only and does not reflect actual investment decisions or recommendations. It is solely for illustrative purposes and is subject to change at any time. It is not intended to represent a specific investment. It does not reflect the liquidity constraints of actual investing or the impact that material economic and market factors may have on an investment adviser's decision-making. Investors cannot invest in the Sample Portfolio and actual investment results may differ materially. An account could incur losses as well as gains. The Sample Portfolio does not reflect the deduction of advisory fees, brokerage, commissions, or any other actual client expenses, which would reduce investor returns. Advisory fees are described in Form ADV, Part 2A and are available upon request.

A Sample Portfolio's expected return (comprised of capital appreciation and income/dividends) is calculated the following way:

1. The expected return of each asset class in a given Sample Portfolio is determined through a combination of historical rates of returns, valuation projections, and economic expectations. Expected rates of return are provided by Wilshire Associates Incorporated and HighMark proprietary research. Expected rates of return are developed and annually reviewed by HighMark's Asset Allocation Committee.
2. With thirty year forecasts for U.S. Treasuries, Wilshire's ten year forecast for U.S. Treasuries is used as the assumed return for the first ten years of the thirty year period. Over the following twenty years (years 11-thirty) U.S. Treasuries are assumed to return a historical long run (1926-2014) risk premium over inflation. The resulting combination of the assumed return on U.S. Government bonds over the two periods becomes HighMark's thirty year forecast. All other taxable fixed income asset classes are derived from the expected return on U.S. Treasuries plus a credit or term premium consistent with those of the ten year forecasts.
3. With thirty year forecasts for global equity, Wilshire's ten year forecast for global equity is used as the assumed return for the first ten years of the thirty year period. Over the following twenty years (years 11-30) global equities are assumed to return historical long run (1926-2014) risk premiums over cash. The return on cash over this period is derived from the ten and thirty year cash assumptions. The resulting combination of the assumed global equity returns over the two periods becomes HighMark's thirty year forecast.
4. Returns reflect the reinvestment of dividends, interests, and other distributions.
5. An expected return for the Sample Portfolio is then calculated by weighting the returns for each asset class according to the exposure as determined by HighMark's current strategic allocation.

Expected returns generated are before taxes and any fees. The standard deviation for an asset class represents its possible divergence of the actual return for an asset class from its expected return. It is statistical measures of the potential magnitude of volatility of an asset class from its expected return. The range of returns may be higher or lower than those predicted by standard deviation.

In certain sub asset classes where Wilshire does not provide a discrete 10 year return forecast, HighMark supplements Wilshire's 10 year expected returns with its proprietary methodology which is based on various market and economic factors some of which are described below. To obtain a full copy of the methodology please contact hcasalesupport@unionbank.com.

- US Equities – Expected returns at sub asset class level are determined by starting with Wilshire Broad Market 10 year forecast and interpolating into sub asset class returns by referencing Russell Global Index data.
- Municipal Bonds – HighMark determines expected returns by assuming there will be historical return discounts for municipal bonds relative to U.S. Treasuries.
- Alternative Investments - Expected total return forecasts for alternative investments begin with the forecast for the return on cash over the respective time-horizon and adjusting for estimating the Sharpe ratio (excess return / standard deviation) of each alternative strategy based on the observed long-term performance of a representative strategy specific hedge fund peer group index.
- Diversified Commodities – The total expected return for commodities is based on return estimates cash and spot price appreciation.

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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: G.C.

BACKGROUND

Earlier this year, on January 20, 2016, the Council heard a presentation by the Golden Gate Bridge, Highway and Transportation District (District) on the District's proposal to eliminate its Route 8 bus service to San Francisco. Route 8 serves residents of Belvedere, Tiburon and Mill Valley, carrying them to the San Francisco Financial District (and home) during commute hours. According to the District, Route 8 has had low ridership for many years.

At the December 2, 2015 and January 20, 2016 Town Council meetings, some residents and Route 8 riders spoke 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. A petition from riders of Route 8 was submitted to the Council. After hearing the report and public testimony, the Council said it would be useful if the District continued to study the feasibility of keeping the current route based on testimony of current ridership, and encouraged further study.

Councilmember Fredericks, who is also a Director of the Bridge District, reported at the June 1, 2016 Town Council meeting that the study revealed the outbound ridership to be improved and consistent with the testimony received by the Council. She noted, however, that the numbers counted on the return trip were not as robust.

The District's Transportation Committee will now consider a final recommendation on the future of Route 8 at its August 25, 2016 meeting. The City of Belvedere has sent a letter to the Committee Chair recommending the preservation of Route 8. A copy of the letter is attached to this staff report.

RECOMMENDATION

Staff recommends that Council direct staff to send a letter in support of the continuation of Bus Route 8.

- Exhibits: 1. Letter from Belvedere Mayor Claire McAuliffe to General Manager Dennis Mulligan,
dated December 14, 2015;
2. Letter from Belvedere Mayor James Campbell to Committee Chair Brian Sobel, dated August 10, 2016;
 3. Draft Letter from Tiburon Mayor Tollini to GGBHTD.

Prepared By: Diane Crane Iacopi, Town Clerk

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,

Claire McAuliffe
Mayor

Exhibit 1

James Campbell, Mayor

August 10, 2016

BRIAN M. SOBEL
TRANSPORTATION COMMITTEE CHAIR
GOLDEN GATE BRIDGE HIGHWAY
& TRANSPORTATION DISTRICT
PO BOX 9000, PRESIDIO STATION
SAN FRANCISCO CA 94129

RE: City of Belvedere's ongoing support for continuation of GGBHTD Bus Route 8

Dear Chair Sobel,

The City of Belvedere has previously expressed our support for the continuation of the GGBHTD's Bus Route 8. We understand that on August 25, 2016, the District's Transportation Committee will be voting on whether to terminate Route 8 or continue its operation. We would like to take this opportunity to respectfully request your committee vote for the route's continued operation.

Last December, our City Council heard public comment from many of our residents who use Bus Route 8 and rely on it as their primary mode of transportation for their commute to work. At that time, the City Council affirmed their support of the bus route as an essential component of the affordable and varied commuter transportation options between the Tiburon Peninsula and San Francisco, as well as a transit option that eases congestion on local streets and roads at a time when the City is also actively involved in expanding and improving school bus service on the Tiburon Peninsula to encourage ridership and reduce peak hour traffic congestion on Tiburon Boulevard.

We believe that the ridership numbers of Bus Route 8 substantially meet the criteria of the Transportation Committee's requirements for continued operation of the line and demonstrate the importance of the route in many of our and our neighboring communities residents' daily commute. The continued operation of Route 8 is especially important given the recent curtailment of several feeder buses formerly operated by Marin Transit which were once a possible alternative to limited access to Highway 101 during commute hours.

The City of Belvedere appreciates the public support of our two local Marin representative on the Committee, Supervisor Kate Sears and Tiburon Council Member Alice Fredericks, and requests the support of the remaining Committee members in maintaining this vital bus route serving our community,

Sincerely,

James Campbell
Mayor

Exhibit 2

DRAFT

Erin Tollini, Mayor

August 17, 2016

BRIAN M. SOBEL
TRANSPORTATION COMMITTEE CHAIR
GOLDEN GATE BRIDGE HIGHWAY
& TRANSPORTATION DISTRICT
PO BOX 9000, PRESIDIO STATION
SAN FRANCISCO CA 94129

RE: Town of Tiburon support for continuation of GGBHTD Bus Route 8

Dear Chair Sobel,

We understand that on August 25, 2016, the District's Transportation Committee will be voting on whether to terminate Route 8 or continue its operation. We would like to take this opportunity to respectfully request your committee vote for the route's continued operation.

Last December, our Town Council heard public comment from many of our residents who use Bus Route 8 and rely on it as their primary mode of transportation for their commute to work. In January of this year, the Town Council encouraged the District to further study the ridership numbers and explore opportunities to incentivize increased ridership.

Based on the ridership numbers provided by the District for June and July 2016, we believe the ridership numbers of Bus Route 8 substantially meet the criteria of the Transportation Committee's requirements for continued operation of the line and demonstrate the importance of the route in many of our residents' daily commute. The route is also important to the District's mission to reduce congestion on Highway 101 access to the Golden Gate Bridge and the Bridge itself.

The Town of Tiburon is committed to seeking ways to reduce traffic congestion on the Tiburon peninsula, as evidenced by its involvement in, and significant financial contribution to the school bus service known as the Yellow Bus Challenge. We request the support of the District's Transportation Committee in maintaining this vital bus route serving our community.

Sincerely,

Erin Tollini
Mayor

Exhibit 3



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
August 17, 2016
Agenda Item: *AI-1*

STAFF REPORT

To: Mayor and Members of the Town Council
From: Town Manager Chanis
Subject: Update on the Trestle Trail Project and request to install temporary exhibit at Blackie's Pasture to assist in fundraising for the project
Reviewed By: *[Signature]*

BACKGROUND

On April 20, 2016, Town Council considered a proposal from the Tiburon Peninsula Foundation to construct a 600 ft. accessible pedestrian walking trail on top of the berm which leads to the former site of the railroad trestle that was once located there (the Project). Primary components of the Project as proposed in April included the following:

- Installation of an approximately 600-foot long accessible, paved, colored concrete pathway along the top of all but the final 20 feet of the railroad berm, defined by header boards that look like rails and surrounded on both sides by gravel ballast simulating Northwestern Pacific Railroad track appearance from the late 1800's and early 1900's. This new pathway would connect with the existing paved pathway at the same elevation as the top of the berm.
- The final 20 feet of the berm nearest the timbers would be fitted with actual historic railroad track and be designed with ties and surrounded by gravel ballast to appear as genuine useable track
- Installation of benches and "then and now" informational plaques near the end of the trestle mound nearest the remaining historic timbers from the wooden trestle. No sculpture or artwork displays are proposed at this time.

After hearing public comment, and discussing this item on April 20, Council voted unanimously to approve the project and authorized an appropriation in the amount \$40,000 as the Town's contribution towards funding the project.

Since April, project proponents have continued to refine the details of the design and are here this evening to provide Council an update on the proposed design, which includes several modifications from the schematic design presented on April 20. The most significant modifications include:

- Changing the proposed surface of the trail from poured concrete to decomposed granite;
- Lengthening the proposed section of actual railroad track at the terminus of the trail from 20 feet to 40 feet.

Project proponents are in the process of raising the funds necessary to complete the project. One source of funding for the project is from the sale of in-ground “donor ties”. These donor ties are proposed to be milled, 8-foot long, 3-inch tall by 8-inch wide wooden timbers replicating historic railroad ties and spaced at ten foot intervals along the concrete walkway. Each tie would include an inlaid 5” x 12” bronze plaque engraved with a message chosen by the individual donors. The spikes holding down the final 20 feet of actual railroad track proposed at the end of the berm might also be offered for purchase to help fund the project.

In an effort to raise awareness of the project, and to assist in the fundraising, project proponents are asking for Council authorization to temporarily install an exhibit regarding the project at the entrance of the Old Rail Trail at Blackie’s Pasture. The exhibit would consist of a mockup of an actual 20-foot section of rail, complete with ballast stones and railroad ties, and would include signage describing the project and associated fundraising campaign. Attached to this Staff Report is a Google Earth image showing the approximate location of the proposed temporary exhibit as well as a schematic rendering of the exhibit provided by the project proponents. As proposed, the exhibit would be installed the week of September 12 and would remain in place no longer than 6 months.

ANALYSIS

Staff has worked closely with the project proponents as the design has developed and supports the current version. Staff has also consulted with the project proponents on the proposal to install a temporary exhibit at Blackie’s Pasture and supports this proposal as well.

FINANCIAL IMPACT

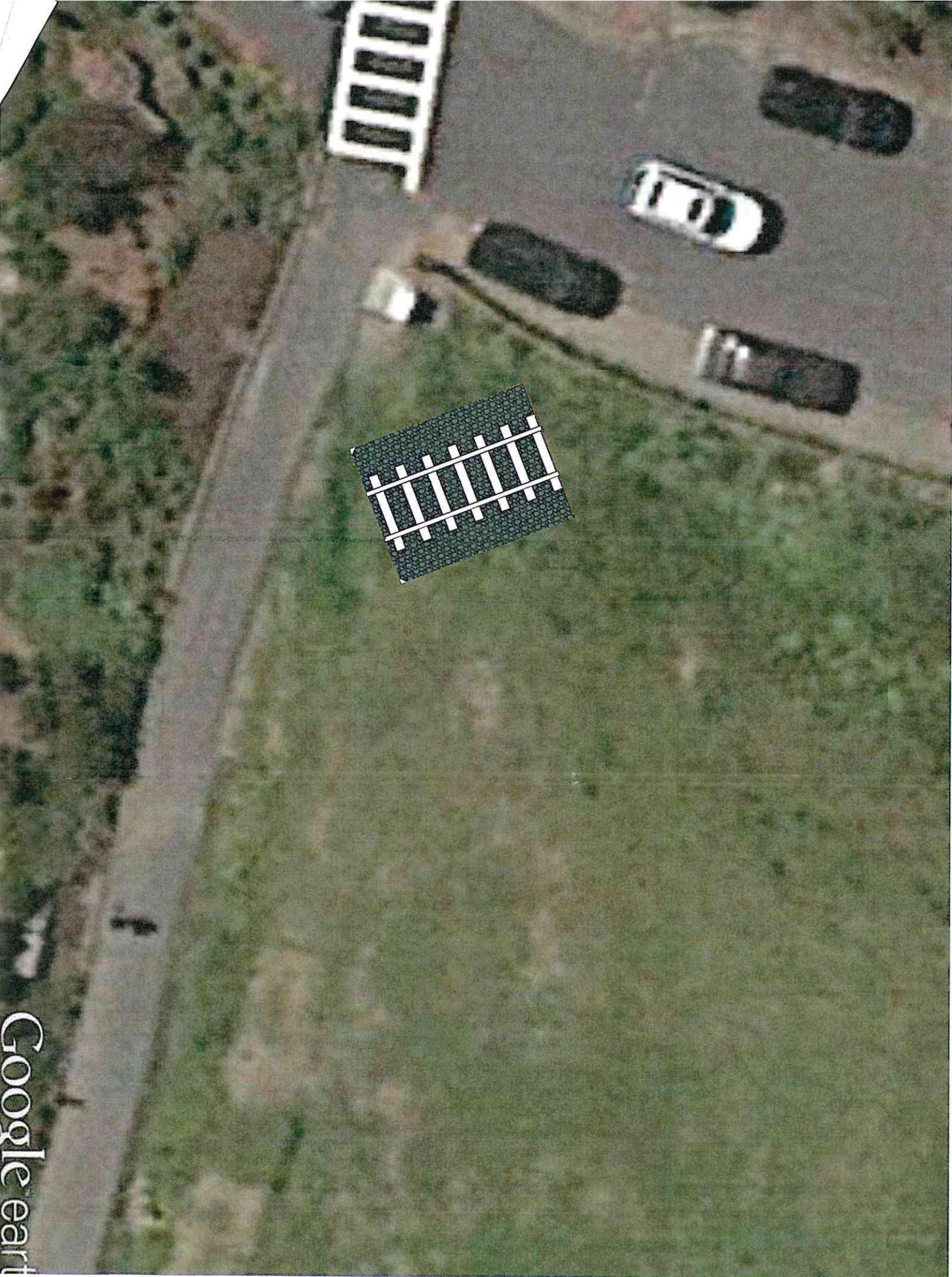
Staff anticipates no financial to the Town as a result of the recommendations included in this Staff Report.

RECOMMENDATION

Staff recommends the Town Council:

1. Receive and update on the Trestle Trail Project;
2. Consider authorization of the installation of temporary exhibit at Blackie’s pasture to assist in fundraising for the project.

Prepared by: Greg Chanis, Town Manager





TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
August 17, 2016
Agenda Item: *AI-*

STAFF REPORT

To: Mayor and Members of the Town Council

From: Department of Public Works

Subject: 1860 Mountain View Drive: Appeal of the Public Works Director's Denial of an Encroachment Permit for a Driveway Security Gate and a Freestanding Concrete Wall Proposed Within the Public Street Right-of-Way of Mountain View Drive; Jan Brandt, owner; John Merten, applicant and appellant; Assessor Parcel No. 059-042-11

Reviewed By: *J.C.*

BACKGROUND

On June 27, 2016, John Merten of Studio Green Architects submitted an Encroachment Permit Application on behalf of Jan Brandt, the property owner of 1860 Mountain View Drive in Tiburon. The applicant was seeking permission to place a portion of a vehicular access gate and a concrete freestanding wall within the public right of way, through a driveway servicing the subject property. Staff reviewed the proposal and determined it was inconsistent with the Town's policy for encroachments into public streets, as set forth in Town Council Resolution No. 45-2014.

A response letter went out to the applicant on June 29, 2016 stating that the proposed encroachment permit was disapproved and providing information for filing an appeal. A timely appeal was filed on June 30, 2016.

ANALYSIS

Town Regulations and Encroachment Policy

Chapter 19 of the Municipal Code establishes Tiburon's encroachment permit requirement, process, and procedure, but actual policy concerning encroachment permits is set forth in Town Council Resolution No. 45-2014, attached as **Exhibit 1**. The Town Council first adopted the encroachment policy in 2010 to provide clarity and consistency concerning the purposes and processing of encroachment permits; a minor amendment to the policy was adopted in 2014. The policy sets forth lists of "allowable" and "impermissible" purposes for encroachment permits and has proven to be a highly useful tool for Town staff by providing specific guidance in an area previously lacking clear criteria, with resulting inconsistent application and enforcement.

The Resolution states, "Encroachment permits for work within, upon, or beneath Town streets, street right of ways, and other Town interests in real property (including easements) should not be

issued” in the following instance: “Encroachments for the purpose of, or having the practical effect of, privatizing the affected area for the exclusive use or benefit of one or a limited number of individual owners in lieu of the general public, except as may be authorized under Section C.5”.

Section C.5 of the Resolution reads as follows:

To accommodate parking that would be required by the Municipal Code for a newly constructed use of the type associated with the encroachment permit, where the Town finds that (a) the applicant cannot feasibly locate such parking on private property; (b) the public safety or welfare is better served by allowing such parking to encroach; (c) a substantial and material public safety benefit will result in that a substandard safety related public street condition (such as inadequate width or sight distance) in the project's public street frontage will be made standard or significantly improved; and d) the physical extent of the encroachment is minimized to the extent feasible.

The Appeal

The Notice of Appeal (**Exhibit 2**) includes:

1. A summary of the applicant’s grounds for appeal,
2. A letter of support from Mr. John Sexton, President of Sexton Executive Security, who provides security services for the property owner,
3. An e-mail of support from Cheryl Woodford, President of the Hill Haven Home Owners Association and
4. A compilation of photographs showing similar security gates in the neighborhood.

The applicant argues that Section D.1 allows for an encroachment under Section C.5 if certain criteria are met. The summary argues that the subject encroachments are allowable under Section C.5 of the Resolution, specifically that “the encroachment would serve the public safety or welfare.”

Photographs of neighboring properties that have similar gates were attached to the Notice of Appeal in an effort to demonstrate that it is common for properties in the neighborhood to have such gates and therefore that the applicant is not seeking privileged treatment, and to show that the proposed gate would be located well back from the paved travel way.

Staff Opinion

Staff reviewed the appeal and concluded the proposal failed to satisfy the criteria set forth in Town Council Resolution No. 45-2014 for approval. Staff believes it lacks the discretion to approve or recommend approval of the proposal absent Town Council direction to the contrary.

Since the purpose of the gate is to block the entrance to the public, it privatizes the affected area for the exclusive use or benefit of one or a limited number of individual owners in lieu of the general public. The only time this is allowed in the resolution is in the exception provided in Section C.5.

Section C.5 does not seem to be applicable in this case. Section C.5 specifically applies to accommodating parking areas when the parking would be required by the Municipal Code for similar new construction. It does not apply to gates or fences. Absent the gate and concrete wall, the parking for the project will still easily meet Municipal Code requirements; therefore, the exception in C.5. does not apply.

Regarding the applicant's statement that the encroachment would serve the public safety or welfare, staff notes that this is one of four findings needed to approve parking. As there is not a parking issue at stake, this finding would be moot. Moreover, staff notes that the statements put forth in support of the project for public safety and welfare purposes generally refer to the private security of the individual homeowner rather than public safety. While staff sees no clear detriment to public safety from installation of the gate and wall, staff sees no particular public benefit either. The proposal appears to be neutral with respect to public safety.

The appellant indicates that other properties in the vicinity have gates and provides photographs of these gates as part of the appeal package. All of these gates were originally constructed prior to the establishment of the Town's current policy. One of the gates is located on a non-dedicated roadway and would not require an encroachment permit. The other three gates may encroach into the right of way and may constitute legal non-conforming structures in the event that either the Town of Tiburon or County of Marin issued appropriate permits in prior decades.

For these reasons, staff believes that the appeal does not meet the criteria set forth in the Town's encroachment policy for permanent structures, and concludes that staff does not have the discretion to approve or recommend approval of the encroachments as proposed. Further, staff notes that since the adoption of the Town's encroachment policy in 2010, Town staff has disallowed similar encroachments with the understanding that enclosing portions of the public right of way for the exclusive use and benefit of a single property owner is impermissible under the Council adopted policy.

RECOMMENDATION

Staff recommends that the Town Council:

- 1) Hear the appeal pursuant to the Town's adopted procedures (**Exhibit 4**).
- 2) Indicate its intention to deny the appeal and direct staff to prepare a resolution to that effect for adoption at the next regular meeting.

EXHIBITS

1. Town Council Resolution No. 45-2014
2. Notice of Appeal and supplemental materials
3. Project Drawings
4. Appeal procedures

Prepared By: Dmitriy Lashkevich, Associate Engineer

RESOLUTION NO. 45-2014

**A RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF TIBURON AMENDING THE TOWN'S POLICY
REGARDING THE ISSUANCE OF ENCROACHMENT
PERMITS PURSUANT TO TITLE V, CHAPTER 19 OF THE
TIBURON MUNICIPAL CODE**

WHEREAS, the Town's Municipal Code contains regulations regarding encroachment permits for work proposed in Town streets, street right-of-ways and other Town interests in real property (including easements) Title V, Chapter 19; and

WHEREAS, said Chapter 19 establishes definitions and procedures for the review, issuance, conditioning and revocation of encroachment permits but does not set forth policy direction for the benefit of Town decision-makers as to the appropriateness of various requests for encroachment into said areas; and

WHEREAS, in 2010, the Town Council adopted Resolution No. 16-2010, to restrict the granting of encroachment permits and to prohibit permanent encroachments that would effectively convert Town property to private use and private benefit, rather than for the use and benefit of the Town and the general public; and

WHEREAS, the Town Council has found that in a very few cases, a permanent encroachment may abate or ameliorate an existing public health and safety risk and therefore wishes to establish an exception for such cases; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Tiburon does hereby amend the policy adopted in Resolution No. 16-2010 by adopting the following amended policy with respect to encroachment permits issued pursuant to Title V, Chapter 19 of the Tiburon Municipal Code, to read as follows.

Encroachment Permit Policy

A. Definitions

For the purposes of this Resolution, the meaning of words and phrases, including without limitation, Town streets, street right-of-ways, Town-owned land and other Town interests in real property (including easements), shall be as set forth or used in Title V, Chapter 19, of the Tiburon Municipal Code.

B. General Provisions

The Town shall have discretion to revoke any encroachment permit at any time. No encroachment permit shall grant any private property owner a permanent right to perform work in or use the area subject to the encroachment permit. The Town may, in its discretion, grant an

encroachment permit allowing access from private property to the public right-of-way, provided that the Town shall condition any such encroachment permit as it deems appropriate to manage or enhance the public right-of-way. The Town is not responsible for the cost of altering, modifying, or removing any such encroachment if it deems such alteration, modification, or removal is warranted.

C. Allowable Purposes

For the following purposes, and only if the Town finds that the encroachment will serve public safety or welfare, the Town may issue encroachment permits for work within, upon, or beneath Town streets, street right-of-ways, and other Town interests in real property (including easements). Said permits shall contain conditions that shall include, without limitation, revocation at the Town's discretion.

1. To allow access to private property for entry/egress purposes.
2. To allow applicants to install, build or replace sidewalks, curbs and gutters and curb cuts.
3. To allow applicants to install, maintain, or replace landscaping, within the parameters of this policy.
4. To allow applicants to maintain, repair or replace previously lawfully-installed encroachments.
5. To accommodate parking that would be required by the Municipal Code for a newly-constructed use of the type associated with the encroachment permit, where the Town finds that (a) the applicant cannot feasibly locate such parking on private property; (b) the public safety or welfare is better served by allowing such parking to encroach; (c) a substantial and material public safety benefit will result in that a substandard safety-related public street condition (such as inadequate width or sight distance) in the project's public street frontage will be made standard or significantly improved; and d) the physical extent of the encroachment is minimized to the extent feasible.
6. To allow applicants the opportunity to secure approval for existing encroachments that the applicant cannot prove were lawfully installed and that are consistent with this policy and Title V, Chapter 19 of the Tiburon Municipal Code.
7. To allow applicants to drain their properties of storm water in a controlled fashion acceptable to the Town Engineer.
8. To allow utility companies to perform necessary work.
9. To allow Town contractors and/or service providers to perform authorized work.
10. To allow community groups to perform authorized work, either using volunteers or contractors.
11. To allow applicants to position a debris box or portable moving box for temporary construction, storage or moving purposes, where such placement will not unreasonably impede traffic circulation and pedestrian safety or otherwise be detrimental to public safety or welfare.
12. To allow a limited and controlled amount of equipment and material associated with permitted building construction activity.
13. To allow permitted special events with civic purpose and benefit.

14. To allow applicants temporary relief from unusually severe topographic or other physical circumstances that result in practical hardships to the creation of proper access to or improvement of private property in the absence of the encroachment.
15. To allow control of invasive or fire-prone plants, for fire prevention or other purposes of public benefit.

D. Impermissible Purposes

Encroachment permits for work within, upon, or beneath Town streets, street right-of-ways, and other Town interests in real property (including easements) should not be issued in the following instances:

1. Encroachments for the purpose of, or having the practical effect of, privatizing the affected area for the exclusive use or benefit of one or a limited number of individual owners in lieu of the general public, except as may be authorized under Section C.5 above.
2. Encroachments that would block, impede, or discourage public use or access over an area determined by the Town Engineer to be appropriate and suitable for public use or access either at present or in the foreseeable future.
3. Encroachments that in the judgment of the Town Engineer are not necessary or appropriate to serve one of the allowable purposes listed in Section C above.

E. Duration.

Encroachment permits shall contain conditions of approval to restrict the duration of the encroachment to a reasonable time necessary to accomplish the purpose thereof.

1. Except where the Town grants the permit pursuant to Sections C.1, C.2, C.3, C.4, C.5, C.6 or C.7, above, or as provided in E.2, the Town will allow only temporary encroachments.
2. Notwithstanding Section E.1, the Town shall have discretion to issue a permit for a long-term encroachment if it finds that the encroachment is necessary for public safety reasons or that the encroaching improvement will have a long-term public benefit commensurate with the private benefit to the permit holder.
3. The conditions of approval for any permit for a long-term encroachment shall include, without limitation, the following conditions of approval:
 - a. By acceptance of the permit and construction of the improvements or performance of the work, the permittee agrees to indemnify, defend and hold the Town harmless from any claims, losses, litigation or other liabilities that may arise from the permittee's performance of the work, construction and maintenance of said improvements and removal of the improvements.
 - b. The permittee shall execute a Memorandum of Encroachment Permit Conditions, using the form attached hereto as Exhibit 1 and incorporated herein by reference, which the Town shall record in the County of Marin's Recorder's Office. If the subject project requires a building permit, the Town must record the Memorandum of

Encroachment Permit Conditions before the Town issues said building permit. For all other projects, the Town must record the Memorandum of Encroachment Permit Conditions before the permittee enters onto the Town's property to perform work pursuant to the encroachment permit.

F. Encroachment Permit Application Requirements

1. All applications for an encroachment permit shall include the following:
 - a. Detailed drawings and narrative describing the work that will be performed on Town property.
 - b. Any reports or analyses that the Town Engineer determines are necessary to evaluate the proposed encroachment.
 - c. If the application is for a permanent encroachment, the Town Engineer shall also have discretion to require reports or analyses establishing that the encroachments can be removed without damage to adjoining properties or structures.
2. The Town Engineer shall have discretion to determine that the application drawings and/or materials require independent review by an outside consultant or consultants, either before accepting the application or during the processing thereof. The Town Engineer may charge and collect the estimated cost of any special reports or consultant fees that he determines are required to process the application. Any actual cost that is more than the estimated cost collected shall be paid by the applicant prior to the issuance of the permit, and any collected estimated costs that exceed the actual costs shall be returned to the applicant at the time of issuance of the permit, or within sixty days of permit issuance.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on November 5, 2014, by the following vote:

AYES:	COUNCILMEMBERS:	Doyle, Fraser, Fredericks, O'Donnell, Tollini
NAYS:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None

ALICE FREDERICKS, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

Attachment: Exhibit 1 (Memorandum of Encroachment Permit Conditions)

EXHIBIT 1

TOWN OF TIBURON
MEMORANDUM OF
ENCROACHMENT PERMIT CONDITIONS

This MEMORANDUM OF ENCROACHMENT PERMIT CONDITIONS is made and executed at _____, California, this _____ day of _____ 20____, by _____ (“Owner”).

RECITALS

1. Owner is the owner (or owners) of that real property located at _____

Tiburon, California.

2. On _____, Owner filed with the Town of Tiburon, a municipal corporation (“Town”), an application for encroachment permit for the construction or installation of the improvements described in **Exhibit A**, which is attached hereto and incorporated herein by reference.

3. Owner proposed to construct or install said improvements on the public right-of-way or other Town-owned land at *[describe area where encroachment is approved with street name, address, assessor parcel number, or appropriate adjacency]*

4. On _____, Town granted a revocable encroachment permit (No. _____) (“Permit”) to Owner allowing the construction or installation of said improvements subject to conditions of approval. The Permit and its conditions of approval (“Permit Conditions”) are attached hereto as **Exhibit B** and incorporated herein by reference. The Permit Conditions require, among other things, that Owner maintain the improvements as safe, clean and serviceable and that Owner remove said improvements at Owner’s sole expense if the Town requests such removal.

NOW, THEREFORE, IN CONSIDERATION OF THE TOWN’S GRANT OF THE PERMIT, OWNERS ACKNOWLEDGE AND AGREE TO THE FOLLOWING:

1. The Permit does not grant the Owner any permanent rights to the encroachment.
2. The Town may revoke the Permit without cause, and all improvements are installed at the Owner’s risk. Upon receipt by Owner of a written notice from the Town requesting Owner to remove said improvements, Owner will, exclusively at Owner’s cost and expense and within one hundred twenty (120) days from receipt of said notice, remove or cause to be removed said improvements. Owner shall indemnify, defend and hold harmless the Town and its officials, employees, agents and contractors, from any claims,

losses, damages or other liabilities that may arise from the removal from said improvements. The obligation to defend is separate and distinct from the obligation to indemnify and hold harmless and shall apply even if neither the Town nor Owner is found liable for the aforesaid claims, losses, damages or other liabilities.

3. Any improvements installed on Town property must be designed and constructed so as to be removable without damage or undermining of land or structures on the Owner's property and on adjacent or nearby property.
4. Owner shall be responsible for the stability of the project site along the length of, and adjacent to, the encroachment.
5. Owner shall be responsible for any drainage conditions affected by the encroachment.
6. Upon the failure of Owner to comply with any of the Permit Conditions, the Town may declare said improvements to be a public nuisance and may take such action as may be authorized by law to abate said nuisance. In addition, the Town may use any and all other remedies authorized by the Town's Municipal Code or state law.
7. The Permit Conditions are covenants and servitudes running with the land and shall be binding upon Owner and successors, assignees, executors, administrators and personal representatives thereto.

OWNER(S):

Signature*:

Print Name: _____

Signature*:

Print Name: _____

*Notarization of signature required

[This document to be recorded at the County of Marin Recorder's Office]

EXHIBIT A
Drawing of Approved Improvements

[ATTACH APPROVED DRAWING IF SUITABLE FOR RECORDATION]

or insert the following text:

Exhibit A, the drawing dated _____, 20____, depicting the work approved in Town of Tiburon Encroachment Permit No. _____, is of a size or nature that is not amenable to recordation. Exhibit A is available for public review in the Public Works Department of the Town of Tiburon, located at 1505 Tiburon Boulevard, Tiburon, California, during business hours.

EXHIBIT B
Permit and Permit Conditions

[documents must be of suitable quality and clarity for recordation]

ENCROACHMENT PERMIT APPLICATION

Town of Tiburon • 1505 Tiburon Boulevard • Tiburon, CA 94920 • (415) 435-7354



FOR OFFICE USE ONLY

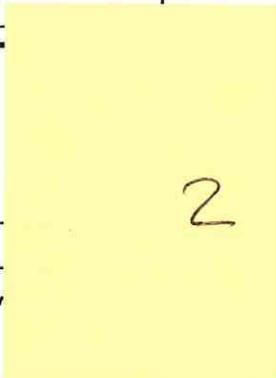
Payment Amt: 290 - Encroachment Permit No: EP16-122
 Check No: 7302 Date Received: 6/27/16
 Cash Plan Attached: Yes No
Notes: _____

- Inspection Required. Contact Public Works at 435-7399 two days before starting work.
- Performance Bond / Security deposit required
- Additional Conditions Apply – See Attached List.

CONDITIONS OF APPROVAL: _____

Approved by Public Works Approval Date _____ Planning Dept. Rev. (if apply)

The permit is valid for 6 month from approval date, unless otherwise stated.



APPLICATION INFORMATION

Basic applications (e.g., driveway resurfacing or routine utility connections) are reviewed by the Public Works and usually granted within 5 to 7 business days. The basic Encroachment Application fee is \$110 with a \$180 Inspection Fee (for 1 inspection). Applications for more involved projects are reviewed by the Town Engineer and there may be an additional fee charged. After the encroachment application has been reviewed and granted, the applicant will be notified to pick up a copy of the approved application which serves as the permit. When the project is completed, a final inspection will be performed. If related to a building project, occupancy permit will be withheld until final Public Works approval.

1860 Mountain View Dr. / Ridge Rd. Jan Brandt
Location of Work & Nearest Cross Street Name of Property Owner

Description of Proposed Work – Attach any drawings, documents, schematics, and written description to illustrate your scope. For driveways, specify type of surfacing and size of culvert, if applicable.

A Portion of a Vehicle access gate on a sole use, private driveway
to control access to a single family residence

Estimated Start Date: _____ Estimated Completion Date: _____

John Merten / Studio Green Philip Thomas
Name of Applicant Name of Contractor
(915) 721-0905 553925
(Area Code) Phone Number License No.
John@studiogreen.com (707) 894-4923
(Area Code) Phone Number

The undersigned hereby applies for permission to perform the above described work and/or otherwise encroach on Town of Tiburon right-of-way or property pursuant to any required building permits. Applicant agrees that all work shall be performed in accordance with the rules, regulations and standards of the Town of Tiburon, in addition to the General Provisions or Special Conditions as applicable. All work shall be subject to inspection and approval by the Public Works Department. Applicant agrees to indemnify, defend and hold the Town of Tiburon, and its employees, agents, and officials, harmless from any claims, losses or damages that may arise from Applicant's exercise of this encroachment permit and any other permit granted by the Town. Proof of insurance is required upon request.

Applicant's Signature: [Signature] Date: 6.17.16

Description of Work:

A portion of a vehicle access gate on a sole use, private driveway to control access to a single family residence.

Supporting Description of the Work and Documentation:

The application is generally consistent with the Town's current policies regarding the issuance of encroachment permits as stated in Town Resolution No. 45-2014 Section C in that the Town could reasonably find, given all of the facts and circumstances described in the application or in the documentations submitted with the application, that the encroachment would serve the public safety or welfare. The applicant will accept and comply with all of the standard encroachment permit conditions, items 1 through 7, as stated on the Memorandum of Encroachment Permit conditions described on Exhibit 1 to Town resolution No. 45-2014.

The project includes the installation of a portion of a vehicle access gate within the limits of a private driveway serving a single family residence and a portion due to unique circumstances encroaching into the Town right of way.

As a result of the hillside slopes, preservation of a heritage tree and an existing garage within the setback the existing driveway serving this residence has a large percentage within the Town right of way. This driveway serves this single family home and is the only home benefiting from this use of Town lands.

The private use of this land is already established and consistent with most homes in Tiburon that have private use driveways and parking within the right of way. This driveway, like all other single property serving means of egress, has no practical value to the other neighbors, the community or the Town. Single property access uses will continue to be the sole required need of this land.

Mountain View Drive in Tiburon is a well established street. This street exhibits adequate width for normal vehicle and pedestrian uses, it accommodates the utilities needed to serve the homes and is in what appears to be in good, functioning condition.

The sole use driveway parallels the right of way due to the geography of its location and the proposed gate is 15'-7" at the closest point to the street. The gate control, call box and one motor are entirely located on the private property of 1860 Mountain View drive.

The owner recently purchased this home with the expectation that her needs for personal safety could be met. Currently the first point of contact with anyone is the front door and this is an unacceptable situation for a high profile individual. Ms. Brandt's security consultant, John sexton has indicated that the perimeter fencing and an electronic security gate is the norm and an essential security tool for his clients. Further he says it would be very unusual for such a client to contemplate exposing their own personal security by not having such safeguards in place.

Many homes throughout Tiburon have vehicle access control gates for a variety of reasons; personal security; theft prevention; limited access for deer; to contain family pets; and for a

sense of entry or stature. Vehicle gates are not a special privilege or unique use they are common place and routine. This gate is not an unusual request or a need most residence in Tiburon enjoy or require. Due to the unusual physical conditions containing this gate entirely within the property is not reasonable. This hardship must be factored into the approval of this encroachment permit application.

Additional Supporting Documentation

1. Letter from John Sexton, Executive Security specialist. Mr. Sexton is concerned about security measures and expresses that the gate control is "very much the norm and an essential security tool for high profile clients such as Ms. Brandt."
2. Letter from Cheryl Woodford, President, Hill Haven Home Owners Association. She is in support of the inclusion of a vehicle gate on the Brandt property with a portion in the right of way for a variety of reasons and enjoys the benefits of this measure of security on her own property.
3. Image board of homes with similar gate conditions in the neighborhood.

SEXTON

EXECUTIVE SECURITY

To whom it may concern,

My name is John Sexton, I am the President of Sexton Executive Security, Inc., based in the Washington D.C. Metro Area. We specialize in providing various aspects of private security, both Nationally and Internationally.

Ms. Jan Brandt has been one of our clients since 2015. We provide armed security officers at her residence in Northern Virginia on a 365 night a year basis. Ms. Brandt has perimeter fencing and an electronic security gate (which we closely monitor) at her residence. As a security professional with more than 30 years of high level security experience (Police, Military, NGOs, Private Sector/Public Sector), I can attest to the fact that this type of protection is very much the norm and an essential security tool for high profile clients such as Ms. Brandt. In addition, I would add that it would be very unusual for such a client to contemplate exposing their own personal security by not having such safeguards in place.

I have consulted and worked directly on the ground for many entities over the years, such as the World Bank in Bosnia during the Siege of Sarajevo, Prince Bandar, the former Ambassador to the U.S. from Saudi Arabia (present when high level dignitaries such as President Clinton and President Nelson Mandela were in attendance), the former CEO of Worldcom, Mr. John Sidgemore, etc. All of the people and agencies availed of the highest security methodologies, which always included perimeter fencing and electronic gates.

Respectfully Submitted,



John Sexton, CST, SII
President
Sexton Executive Security, Inc.,
www.sextonsecurity.com

www.sextonsolutions.com

www.sextonsecurity.com

10332 Main St., #181 Fairfax, VA 22030

Phone 703-293-6262 Fax 703-383-0078 Toll Free 866-290-0007

Virginia License # 11-3694

District of Columbia License #2022

Maryland License #106-3444

From: Cheryl Woodford <cherylwoodford@gmail.com>
To: Jan Brandt <janbrandt@aol.com>
Sent: Fri, Jun 17, 2016 11:17 am
Subject: Gate in Hill Haven neighborhood

Jan,

Welcome to the neighborhood! We're happy to have you in Hill Haven and glad to hear that you want to join our neighborhood association!

I'm sorry to hear that you are having an issue with your application to install a gate. I understand that the Town has denied your application to install one on your property, claiming that it would sit in the designated Town of Tiburon right of way and could be an obstruction. I fully support your appeal of this denial and am more than happy to help in any way that I can.

As you walk throughout Hill Haven (Ridge Road, Straits View, Lagoon View Drive as well as Mountain View), you'll notice many of our neighbors have gates which serve to provide security and also to prevent the overpopulation of deer from entering our properties and destroying our landscape. These two points have obviously been appreciated by the Town previously since there are many gates throughout the neighborhood (including my own) and in the 10 years that I have lived in Tiburon have not come across this issue before. I would think that the public needs are met with the existing roadway and would be hard pressed to think of a reason that the town would need additional land on your street such that they would ask you to remove your gate. If they did ask you to remove your gate, it would certainly be a much bigger issue, for example major utility work, and would be a collaborative conversation with all the neighbors on the street.

Unfortunately, with respect to crime in our small neighborhood, we have had at least 3 break-ins (or attempted break-ins) that I know of in the past couple of years (including right next door to me) - all in houses without a gate to deter a would-be criminal. I know that when I am away for extended periods of time (which I know that you will be), I feel more confident having a gate and feel that it gives my property an extra layer of security.

As you've probably seen in the Ark, one of the hot topics in Belvedere and Tiburon currently is the overpopulation of deer. I'm sure you've run across them multiple times on the roads leading up to Mountain View - they seem to be everywhere. Unfortunately, the overpopulation means that they are all competing for food and looking for new sources all the time. I have personally experienced the destruction of expensive landscaping from deer that made their way into my property; there was a short period when my gate was broken and I came home to 3 deer eating their way through my front garden.

In addition to keeping deer out, many of the gates in the neighborhood also serve to keep dogs inside the property. I know that my gate gives me a sense of security when there are contractors or workers at my house and they are not as diligent about closing the front door behind them as I am. I have had multiple times in the past 10 years that I've come across a stray dog walking around the neighborhood without it's owner and nine times out of ten it is because the house doesn't have a gate around it; it's not a guarantee, but it certainly helps to mitigate the possibility of a lost dog.

Please let me know what I can do to help you with this issue - more than happy to assist in any way I can.

Cheryl Woodford
President, Hill Haven Home Owners Association

From: Cheryl Woodford <cherylwoodford@gmail.com>
To: Jan Brandt <janbrandt@aol.com>
Sent: Fri, Jun 17, 2016 11:17 am
Subject: Gate in Hill Haven neighborhood

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Please let me know what I can do to help you with this issue - more than happy to assist in any way I can.

Cheryl Woodford
President, Hill Haven Home Owners Association

TOWN OF TIBURON
PUBLIC WORKS PERMIT CONDITIONS – Permit No. _____

Note: The following standard and checked (✓) conditions apply to this permit.

1. **APPENDING LIST OF CONDITIONS:** In the event that these following conditions conflict with the conditional notes and language found in the Permit Application, the following conditions and special conditions will supersede and prevail.
2. **ACCEPTANCE OF THE PROVISIONS:** It is understood and agreed by the Permittee that all conditions have been read, and understood. The Permittee agrees to comply with all conditions.
3. **KEEP PERMIT ON WORK SITE:** This permit, or a complete copy, shall be kept at the site of the work and upon request must be shown to any representative of the Town or any law enforcement officer.
4. **PERMITS FROM OTHER AGENCIES:** Permittee must obtain all other permits required by other public or private agencies or individuals necessary in order to perform the intended work.
5. **INSPECTION NOTIFICATION:** A preconstruction meeting or discussion will occur. The Permittee shall notify the Maintenance Division at (415) 435-7399 a minimum of two (2) working days prior to the performance of any work. Permittee will provide construction schedule, initially and periodically, and contact information. All work must be inspected prior, during and after backfill or re-excavation will be required at Permittee's expense.
6. **CONSTRUCTION METHODS:** Any work performed without inspection or contrary to discussions with the Town's inspector, the Marin County Public Works Uniform Construction Standards (latest edition), Caltrans Standard Plans (latest edition) or approved plans shall be deemed non-complying and will not be accepted by the Town. Attention is called to the following special provisions:
 - (a) Underground line (e.g. conduits, mains, services) installation will be neat open cut.
 - (b) Cement slurry backfill for trenches is required unless proper compaction can be demonstrated as per attached standards or greater.
 - (c) A minimum of six (6) inch saw-cut and removal of pavement beyond trench edge lines will be required. T-Cut shall be 1 1/2" grind and minimum 48" wide.
 - (d) If trench is within four (4) feet of edge of curb/gutter, saw-cut and removal will continue to the edge of gutter. Refer to Marin County Unified Construction Manual drawings 330, 340 & 350
 - (e) All PCC concrete replacement will be full panel, score line to score line, or as directed by the Inspector.
 - (f) Plating of trenches will be allowed for up to five (5) calendar days. Ramping of plates is required.
 - (g) All cement slurry backfill and paving will be completed within ten (or) calendar days of excavation for each 100-foot section of pipe installation.
 - (h) Backfill, required compaction, final AC paving and/or PCC replacement will be conducted within ten (or) calendar days of excavation.
 - (i) Temporary repairs to existing grades, backfilling, and making the work site safe are required.
 - (j) All USA markings must be steam cleaned from all sidewalks and roads before close of project.

- (f) Where directed by the Inspector, the Permittee shall provide and station, at Permittee's expense, competent flag-persons whose sole duties shall consist of directing the movement of public traffic through or around the work.
 - (g) Pedestrian access shall be maintained and provisions for ADA accessibility shall be required. (Any blockage of public right of way must comply with the Public Works policy regarding disabled access; see handout)
13. **EROSION AND SEDIMENT CONTROL MEASURES:** The Permittee is obligated to insure compliance with all applicable stormwater regulations at all times. The BMPs (Best Management Practices) according to the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) and Stormwater Best Management Practice Handbook Construction BMP Fact Sheets shall be implemented and maintained to effectively prevent the potentially negative impacts on this project's construction activities on stormwater quality.

Stockpiles of soil, material, and wastes shall be properly contained and covered to minimize sediment transport from the site to streets, drainage facilities or adjacent properties via runoff, vehicle tracking, or wind.

14. **CLEAN UP:** Upon completion of daily work the Permittee shall clean the right-of-way of all rubbish, construction debris, trees, brush, excess materials, temporary structures and equipment.
15. **SAFETY:**
- (a) The Permittee shall be completely responsible for the conditions of the job site, including safety, and shall not be limited to normal working hours. Work and Safety provisions shall conform to all applicable Federal, State, and local laws, ordinances, and codes, and to the rules and regulations established by the California Division of Industrial Safety applicable to the work.
 - (b) The services of the Inspector in conducting construction review of the Permittee's performance is not intended to include review of the adequacy of the Permittee's work methods or safety measures, in, on, or near the construction site, and shall not be construed as supervision of the actual construction nor make the Inspector or the Town responsible for providing a safe place for the performance of work by the Permittee, or subcontractors; or for access, visits, use work, travel or occupancy by any person.
 - (c) The Permittee shall carefully instruct all personnel working in potentially hazardous work areas as to potential dangers and shall provide such necessary safety equipment and instruction as is necessary to prevent injury to personnel and damage to property.
 - (d) Shoring and Trench Safety Plan - Attention is directed to the Civil Code of the State of California, the State Labor Code, and the State of California Division of Industrial Safety.
16. **PROTECTION OF PERSON AND PROPERTY:** The Permittee shall take whatever precautions are necessary to prevent damage to all existing improvements, including above ground and underground utilities. If such improvements or property are damaged by reason of the Permittee's operations, they shall be replaced or restored to a condition equal to or greater than what existed prior, at the Permittee's expense, without delay.
17. **RESPONSIBILITY FOR REPAIR OF FACILITIES:** All public or private facilities and improvements to remain, including but not limited to structures, telephone cables, roadways, curbs, gutters, parking lots, private drives, and storm drains disturbed during construction of the work shall be repaired and/or replaced by the Permittee to match facilities existing prior to construction. In addition, the Permittee shall be responsible for any settlement damage to such facilities or adjoining areas for a period mentioned in Item 11 - "Guarantee" after acceptance of such required facilities. In the event the Permittee refuses or neglects to make good any loss or damage for which he is responsible under this Permit, the Town may itself, or by the employment of others, make good any such loss or damage, and all cost and expense of doing so shall be charged to the Permittee.
18. **CONTRACTOR'S LICENSE NOTICE:** Contractors are required by law to be licensed and regulated by the Contractor's State License Board.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

MEMORANDUM

Date: April 18, 2016
To: Planning
From: Public Works; Dmitry Lashkevich
Subject: 1860 Mountain View Dr

Encroachments

The property boundary appears to be incorrectly shown on the plans. It is advised that the applicant consult with a licensed surveyor to specify the location of the property line and revise their plans accordingly. The Department of Public Works objects to fence, gate or structural encroachments because such encroachments may privatize portions of the public right of way.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

MEMORANDUM

Date: May 4, 2016
To: Planning
From: Public Works; Dmitriy Lashkevich
Subject: 1860 Mountain View Dr

Incompleteness Items

As stated in the initial transmittal; the Department of Public Works objects to the proposed fence, gate and structural encroachments. The proposed encroachments are in conflict with the Town's policy, Resolution No. 45-2014, which specifies impermissible purposes for encroachment permit work include constructing encroachments for the purpose of, or having the practical effect of, privatizing the affected area for the exclusive use or benefit of the property owners. Revise plans to remove the subject encroachments from the public right of way and resubmit.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

MEMORANDUM

Date: May 19, 2016
To: Planning
From: Public Works; Dmitriy Lashkevich
Subject: 1860 Mountain View Dr

Prior to Building Permit Issuance

- 1) An encroachment permit shall be required if any work is proposed within the public right of way.
- 2) The new deer fence and its foundations shall be located entirely within the boundaries of the subject property and shall not encroach into the public right of way.

Prior to Start of Construction or Building Permit Final

- 3) Documentation shall be provided to the Town Building Official to document and demonstrate that the fence and its foundations are located entirely within the property and do not encroach into the public right of way. Acceptable documentation is a stamped survey record or a certification letter from a licensed surveyor describing how the property line was located and location of fence relative to the right of way. The certification letter is required to be stamped and signed by the surveyor.



1816 MOUNTAIN VIEW DRIVE, TIBURON CA



1882 MOUNTAIN VIEW DRIVE, TIBURON CA



200 DIVISO STREET TOWN TIBURON, TIBURON CA

BRANDT RESIDENCE
GATE EXAMPLES

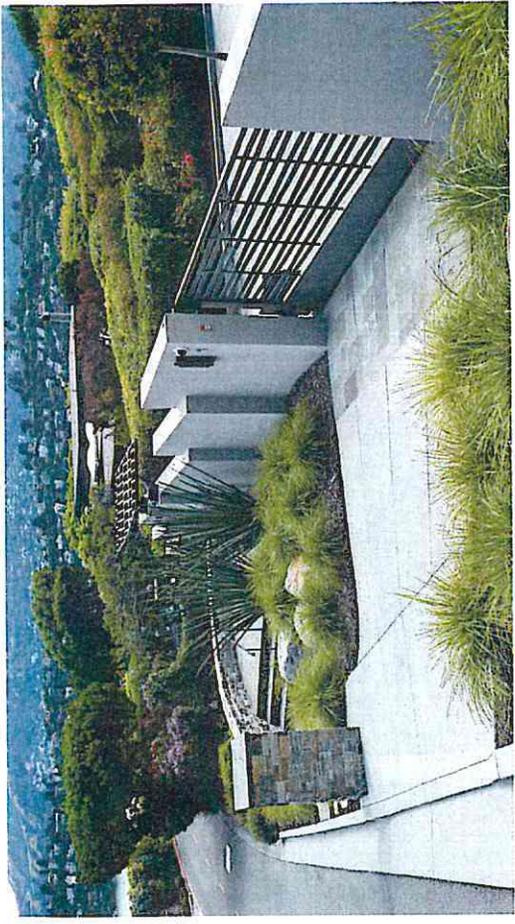


1936 CENTRO W ST, TIBURON CA

EXISTING NEIGHBORHOOD
GATES IN THE RIGHT OF WAY



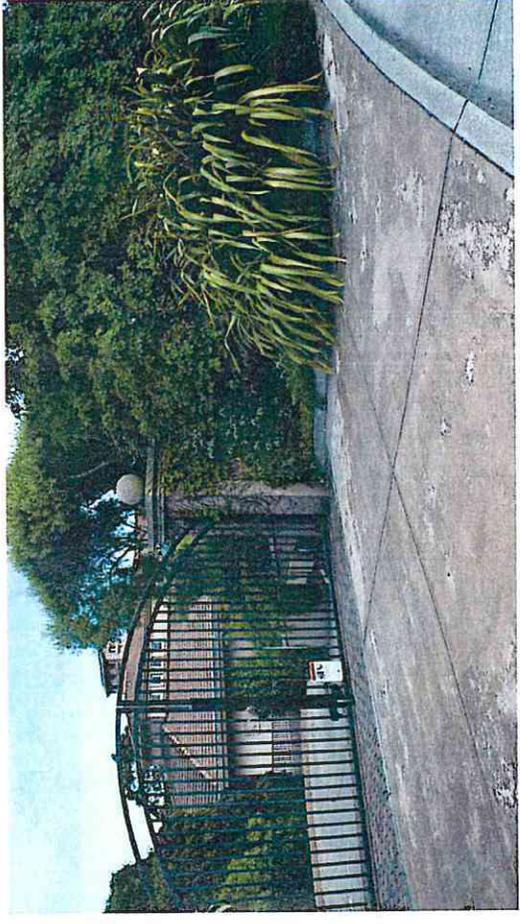
1992 CENTRO WEST STREET, TIBURON CA



465 RIDGE DRIVE TIBURON CA



1825 LAGOON VIEW DR, BELVEDERE TIBURON, CA



1960 STRAITS VIEW DRIVE, TIBURON CA

BRANDT RESIDENCE
GATE EXAMPLES

EXISTING NEIGHBORHOOD
GATES IN THE RIGHT OF WAY





805 LAGOON VIEW DRIVE, TIBURON CA



1818 LAGOON VIEW DRIVE, TIBURON CA

EXISTING NEIGHBORHOOD
GATES IN THE RIGHT OF WAY





STUDIO GREEN
Landscape Architecture
232 St Francis Drive
Tuburon, CA 94920
Tel: (415) 721-5000
www.studiogreen.com

BRANDT-MOUNTAIN VIEW GATE
1860 MOUNTAIN VIEW DRIVE
TUBURON, CA 94920
APN #: 059-042-11

PROJECT INFORMATION

OWNER: Jane Brandt
1860 Mountain View Drive, Tuburon, CA 94920
Parcel: 059-042-11

LANDSCAPE ARCHITECT: Studio Green
232 St Francis Drive, Tuburon, CA 94920
Tel: (415) 721-5000

ZONING DISTRICT: R0-2 (Single-Family Residential)

PARCEL SQ. FT.: 22,442 SQ. FT.

TYPE OF CONSTRUCTION: LANDSCAPE RENOVATION

GENERAL PLAN: Medium Density Residential

W.U.I. (WILDLAND URBAN INTERFACE ZONE): Not in W.U.I. zone, based on 2008 Tuburon Fire District Wildland Urban Interface Map

FLOOD ZONE: X

DESCRIPTION OF WORK:
Proposed to add landscape improvements on an existing residential dwelling. A portion of a vehicle gate (gate stone, conc. wing walls, and in ground motor) are located in the right of way.

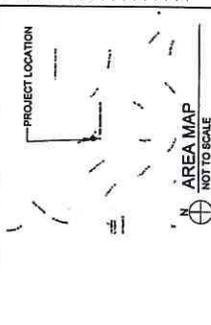
PROJECT TEAM

Owner: Jane Brandt
1860 Mountain View Drive
Tuburon, CA 94920
723-541-4523
dshahvini@aol.com, brandt@soi.com

Landscape Architect: John Moran
Studio Green
232 St Francis Drive
Tuburon, CA 94920
415-721-5000
john@studiogreen.com

SHEET INDEX

L1.0 Site Plan, Materials, Callout, Lighting, & Layout Plan
L2.0 Details



SITE PLAN, MATERIALS, CALLOUT, LIGHTING, & LAYOUT PLAN

Drawn by: RP
Checked by: JM

L1.0



LEGEND

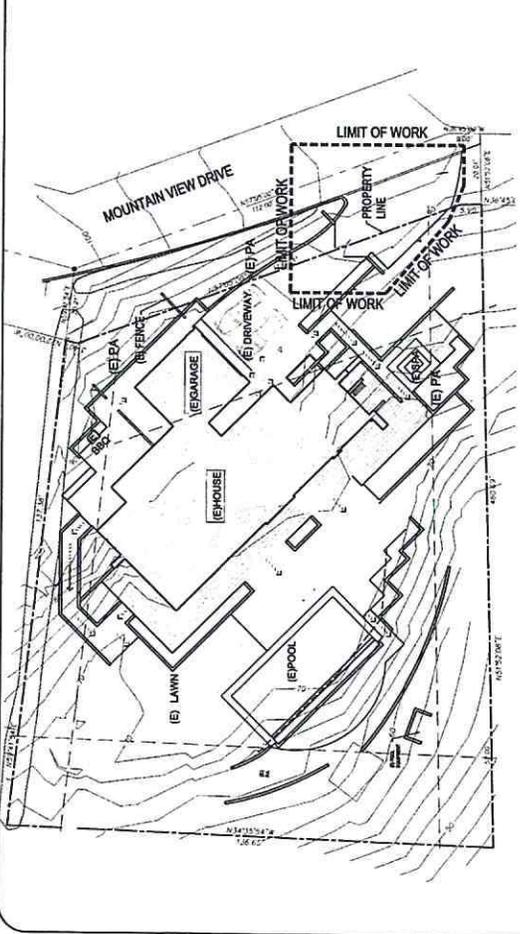
-E- 120 VOLT ELECTRICAL LINE IN CONDUIT

MATERIAL SCHEDULE

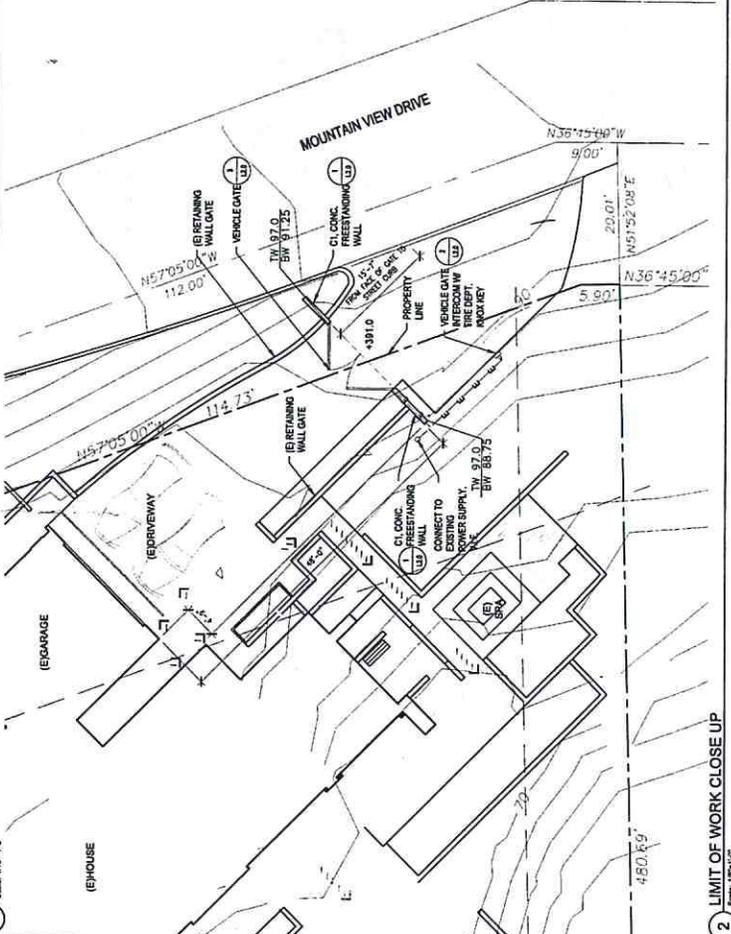
C1 FREE STANDING WALLS
Poured in place concrete wall, board form finish with color. Miami Surf, Darka Cobalt, to match existing walls.

ABBREVIATIONS

⊕ DETAIL CALL-OUT
⊖ DETAIL SHEET
⚡ STEPS W/ DIRECTION DOWN SHOWN
(N) NEW
(E) EXISTING
PA PLANTING AREA
TYP TYPICAL



1 SITE PLAN
Scale: 1/8" = 1'-0"



2 LIMIT OF WORK CLOSE UP
Scale: 1/8" = 1'-0"



RESOLUTION NO. 17-2010

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURO
ADOPTING AN AMENDED POLICY FOR THE PROCESSING, SCHEDULING,
RECONSIDERATION, AND STORY POLE REPRESENTATION OF APPEALS
SUPERSEDING EXISTING POLICIES**

WHEREAS, the Town receives and hears appeals from decisions of various commissions, boards and administrative officials from time to time, and

WHEREAS, the Town Council has adopted various policies over the years with respect to appeal procedures, scheduling, and reconsideration, including Resolutions Nos. 2878 and 3218 and Town Council Policy Nos. 95-01 and 2002-01; and

WHEREAS, the Town Council has determined that it is timely and appropriate to update and consolidate these policies regarding appeals; and

WHEREAS, the Town Council has held a public meeting on this matter on March 17, 2010 and has heard and considered any public testimony and correspondence; and

NOW, THEREFORE, BE IT RESOLVED that Town Council Resolution No. 2878, Town Council Resolution No. 3218, Town Council Policy 95-01, and Town Council Policy 2002-01 are hereby superseded by this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Council of the Town of Tiburon does hereby adopt the following general policy with respect to processing, scheduling, and reconsideration of appeals and for story pole installation for appeals.

APPEAL PROCEDURE

1. The Municipal Code sets forth instances when persons may appeal a decision by a review authority (e.g. Town official, Design Review Board or Planning Commission) to the Town Council. Any person making such an appeal must file a completed Town of Tiburon Notice of Appeal form, available on the Town's web site and at Town Hall, with the Town Clerk not more than ten (10) calendar days following the date of the decision being appealed. Shorter time frames for filing an appeal apply to certain types of permits. If the final day to appeal occurs on a day when Town Hall is closed for public business, the final day to appeal shall be extended to the next day at which Town Hall is open for public business. Appeals may not be revised or amended in writing after the appeal period filing date has passed.
2. The appellant must submit filing fees with the Notice of Appeal form. Filing fees are set forth in the Town's current adopted Fee Schedule.
 - (a) If the applicant is the appellant, the remainder of the filing fee (if any) will be refunded following completion of the appeal process. Additional staff time or costs to process an applicant's appeal is the financial responsibility of the applicant and will be billed per the Town's current hourly rate schedule and/or at actual cost if outside consulting is required.

- (b) If the appellant is not the applicant, then a fixed amount filing fee is required with no refund or additional billing required.
3. In the appeal form, the appellant shall state specifically either of the following:
- (a) The reasons why the decision is inconsistent with the Tiburon Municipal Code or other applicable regulations; or
 - (b) The appellant's other basis for claiming that the decision was an error or abuse of discretion, including, without limitation, the claim that the decision is not supported by evidence in the record or is otherwise improper.

If the appellant is not the applicant, the Town Council need only consider on appeal issues that that the appellant or other interested party raised prior to the time that the review authority whose decision is being appealed made its decision.

4. The appellant must state all grounds on which the appeal is based in the Notice of Appeal form filed with the Town Clerk. Neither Town staff nor the Town Council need address grounds introduced at a later time that were not raised in the Notice of Appeal form.
5. The procedure for presentation of the appeal at the Town Council meeting is as described below. In cases where the applicant is the appellant, paragraphs (c) and (f) below would not apply.
- (a) Town Staff may make a brief (approximately 10 minute) presentation of the matter and then respond to Town Council questions.
 - (b) Appellant and/or appellant's representative(s) may make a presentation of no more than twenty (20) minutes and then respond to Town Council questions. Appellant may divide up the twenty (20) minutes between various speakers or have only one speaker, provided that the time limit is observed. Time devoted to responding to Town Council questions shall not be included as part of the twenty (20) minute time limit.
 - (c) Applicant and/or applicant's representative(s) may make a presentation of no more than twenty (20) minutes and then respond to Town Council questions. Applicant may divide up the twenty (20) minutes between various speakers or have only one speaker, provided that the time limit is observed. Time devoted to responding to Town Council questions shall not be included as part of the twenty (20) minute time limit.
 - (d) Any interested member of the public may speak on the item for no more than three (3) minutes. A speaker representing multiple persons (e.g., homeowner's association, advocacy group or official organization, etc.) may speak on the item for no more than five (5) minutes, at the discretion of the Mayor.
 - (e) Appellant is entitled to an up to three (3) minute rebuttal, if desired, of any comments previously made at the hearing.
 - (f) Applicant is entitled to an up to three (3) minute rebuttal, if desired, of any comments previously made at the hearing.

7. The testimony portion of the appeal hearing is closed and the Town Council will begin deliberations on the appeal. There will be no more applicant, appellant, or public testimony accepted unless requested by the Town Council.
8. If, following deliberation, the Town Council is prepared to make a decision on the appeal, it will direct Town staff to return with a draft resolution setting forth the decision, and the findings upon which it is based, for consideration at a future Town Council meeting. The

decision of the Town Council is not final until the resolution is adopted. Alternatively, if the Town Council is not prepared to make a decision on the appeal, it may:

- (a) Continue the appeal to a future date;
 - (b) Remand the item to the review authority from which it was appealed for further hearing, review and action, with a specific description of the outstanding and unresolved issues and appropriate direction thereon; or
 - (c) Refer the item to another review authority for its review and recommendations prior to further Town Council consideration.
9. Following a final decision by the Town Council, Town staff will promptly mail a Notice of Decision to the applicant and appellant.

RECONSIDERATION

If, after the Town Council has voted to direct staff to prepare a resolution of decision, significant new information comes to light, which information was previously unknown or could not have been presented at the appeal hearing due to circumstances beyond the parties' control and not due to a lack of diligence, the Town Council may entertain a motion to reconsider its direction to prepare a resolution of decision. Any such motion to reconsider must be made prior to adoption of the resolution of decision, and the motion must be made by a Councilmember who voted on the prevailing side in the vote sought to be reconsidered. Any Councilmember may second the motion. The Town Council may consider and vote on the motion to reconsider at that time, and if the motion carries, the matter shall be placed on a future agenda for further notice and hearing.

SCHEDULING OF APPEALS

1. The Town's policy is to schedule and hear appeals in an expeditious manner. Appeals will generally be heard at the first regular Town Council meeting that is at least fifteen (15) days after close of the appeal period. At the sole discretion of the Town Manager, the Town may schedule the appeal for a subsequent Town Council meeting based on the complexity of the matter, availability of key Town staff members and Councilmembers, agenda availability, or unusual circumstances. Town staff will make reasonable efforts to establish the hearing date for the appeal within three (3) working days of the close of the appeal period. The Town Clerk, in coordination with appropriate Town staff, will promptly advise all parties to the appeal of the selected hearing date.
2. The Town Manager will grant requests for continuances from the date established above in the event that all parties to the appeal agree in writing to a date specific for the continuance and that date is deemed acceptable by the Town Manager.
3. Attendance of parties to an appeal at the hearing is desired, but not required. The Town Council will consider written comments or representation by others in lieu of personal appearance.

STORY POLES

For appeals where story poles were erected for review of the original decision being appealed, a story pole representation shall be required for the Town Council's appeal review process, as follows:

1. A story pole plan showing the poles to be connected, including location and elevations of poles and connections, shall be submitted, reviewed, and accepted as adequate by Planning Division Staff prior to installation of the poles and connections.
2. Critical story poles, as determined by Staff, must be connected by means of ribbons, caution tape, rope or other similar and highly visible materials clearly discernable from a distance of at least three-hundred (300) feet in clear weather, to illustrate the dimensions and configurations of the proposed construction.
3. Story poles and connecting materials must be installed at least ten (10) days prior to the date of the appeal hearing before the Town Council.
4. Failure to install the poles and materials in a timely manner may result in continuance of the public hearing date.
5. Story poles must be removed no later than fourteen (14) days after the date of final decision by the Town Council.

APPLICABILITY

This policy, while primarily written for use by the Town Council, is intended to apply to the extent practicable to Town decision-making bodies, other than the Town Council, which may hear appeals from time to time. Be advised that certain types of appeals, such as appeals of staff-level design review application decisions to the Design Review Board, may have different deadlines for filing of the appeal than the ten (10) calendar days specified above.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on March 17, 2010, by the following vote:

AYES: COUNCILMEMBERS: Collins, Fraser, Fredericks & O'Donnell

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Slavitz

RICHARD COLLINS, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
August 17, 2016
Agenda Item: **AI-3**

STAFF REPORT

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

From: **Community Development Department**

Subject: **Review of Water Well Regulations; Title IV, Chapter 13F of the Tiburon Municipal Code**

Reviewed by: *GC*

BACKGROUND

At its meeting of June 3, 2015, members of the Town Council approved an irrigation water well application on property located at 4545 Paradise Drive on the slopes of Ring Mountain. The application was opposed by neighboring property owners. The Council approved the permit but requested that the Town revisit the water well regulations at a future meeting. Minutes of the June 3, 2015 meeting are attached as **Exhibit 1**.

The Town first adopted water well regulations in 1991, codified as Chapter 13F of the Tiburon Municipal Code (Water Well Regulation and Use). Chapter 13F was repealed and replaced in 1993 during a period of prolonged drought and a public water agency moratorium, when the possibility of owners relying on a well for domestic drinking water purposes seemed quite real. That fear proved unfounded, and staff is not aware of any homes in Tiburon that are not connected to the public water system and rely on a water well for potable water. No applications for potable water well have been filed since the ordinance rewrite in 1993. The current Town ordinance and application form for water wells are attached as **Exhibits 2 and 3**, respectively.

ANALYSIS

Geologic Setting

The primary issues raised at the June 2015 meeting concerned fears by neighboring property owners that the requested irrigation well could result in off-site impacts such as subsidence, diversion of ground water flows, draining of an aquifer, impacts on wildlife, and so forth.

The geology of the Tiburon Peninsula (including the Ring Mountain area) is primarily that of the Franciscan Assemblage (or mélangé), which is a chaotic mixture of various types of rock. Franciscan mélangé and mélangé matrix, a zone of weak, intensely sheared rock that is a mixture of serpentinite, greenstone, sandstone, chert and other forms of rock, form the primary underlayment of bedrock on the Tiburon Peninsula. This type of geology does not support the traditional "aquifers" commonly associated with areas such as the California Central Valley or

American Midwest. Typically, the steep slopes and shallow soils dominating the Tiburon Peninsula minimize opportunities for rainfall infiltration and groundwater recharge. During the rainy season, perched water tables can be created in colluvial wedges and landslide materials common with mélange geology. Pockets of groundwater can also collect in hollows and ravines where the fractured rock formations allow. Springs or seeps are the traditional result of this type of geology, as opposed to perennial streams or watercourses. In short, the Tiburon Peninsula is far from an ideal geologic environment in which to drill for water. Staff believes that many an approved well permit has resulted in a “dry hole”, as was the case with the proposed well at 4545 Paradise Drive, and with the Town’s own attempt to drill a well near Blackie’s Pasture in 2004. Occurrences of subsidence or diversion of ground water flows from water well drilling and operation seem especially remote given the lack of traditional aquifers and the Peninsula’s geologic makeup.

The jumbled, highly-fractured and complex nature of the Peninsula’s geology also inhibits even the most skilled hydrologists and geologists from confident predictions as to the likelihood of tapping into a reliable water source of sufficient volume to be useful, let alone the potential effects on groundwater, springs or seeps. The Town has issued 20 water well permits since local regulation began in 1991. No report from a hydrologist or geologist submitted as part of a Tiburon well permit application has indicated that off-site impacts would result from drilling and operation of the water well. Nor have there been any reports made to the Town of such impacts after wells have been drilled. Given the Town’s prevailing geology, it appears that work performed closer to the surface (such as excavation related to home foundations, retaining walls and similar improvements) is more likely to affect nearby water resources such as perched water deposits, springs and seeps than water wells that are typically drilled from 100 to 300 feet deep.

Staff notes that the relevant finding for approval of a well permit is that:

The granting of the permit will not be detrimental to the health, safety or welfare, nor injurious to other properties in the vicinity.

This type of finding is associated with regulations imposed pursuant to the “police power” vested in California municipalities, and every municipal water well ordinance in Marin County contains a similar finding. Absent indications to the contrary, there typically needs to be substantial evidence presented in support of arguments that detrimental effects to health, safety or property would result from adoption of a regulation of general applicability. Mere speculation or unsubstantiated claims lacking factual support of that claim are ordinarily insufficient to demonstrate detriment or injury. There is a great deal of deference afforded to the Town when determining whether any well permit will not be detrimental to the health, safety or welfare.

Regulations of Other Marin Municipalities

Staff reviewed the well permit ordinances of the other Marin municipalities. Results of the review are summarized below:

San Rafael---Administrative permit issued by Marin County Public Health in consultation with the San Rafael Public Works Department. Contains standard “health, safety and welfare”

finding. No documentation required in ordinance regarding external effects of well on water resources or nearby properties. Appeal to Council is possible for permit denials only.

San Anselmo---Administrative permit issued by Director of Public Works. Contains standard “health, safety and welfare” finding. No documentation required in ordinance regarding external effects of well on water resources or nearby properties. Appeal of decision by any person to Council is possible. Special setback provisions apply to locations near San Anselmo Creek and Sleepy Hollow Creek.

Fairfax---Administrative permit issued by Town Manager. Ordinance requires a report by a hydrologist or other recognized professional to assess impacts on surface water and groundwater. Contains standard “health, safety and welfare” finding for all wells. Appeal to Council is possible for permit denials only. Special setbacks apply to locations near Fairfax Creek and San Anselmo Creek.

Mill Valley---Administrative permit issued by Director of Planning and Building. Contains standard “health, safety and welfare” finding. No documentation required in ordinance regarding external effects of well on water resources or nearby properties. No appeal provisions specified.

Ross--- Administrative permit issued by Public Works Director. Contains standard “health, safety and welfare” finding. No documentation required in ordinance regarding external effects of well on water resources or nearby properties. Appeal of decision to Council is possible.

Belvedere---Administrative permit issued by City Engineer. Contains standard “health, safety and welfare” finding. No documentation required in ordinance regarding external effects of well on water resources or nearby properties. Special setback required for Belvedere Lagoon and low elevation areas to reduce risk of salt water intrusion. Appeal of decision to Council is possible.

Larkspur---Essentially similar to the City of San Rafael regulations.

Sausalito--- Administrative permit issued by the City Engineer. Contains standard “health, safety and welfare” finding. No documentation required in ordinance regarding external effects of well on water resources or nearby properties. Appeal to Council is possible for permit denials only.

Primary Findings

- Tiburon appears to be the only municipality that requires Town Council approval for water wells; all other municipalities utilize an administrative approval process.
- Tiburon and Fairfax appear to be the only municipalities that require a hydrologist or geologist report to assess potential impacts on surrounding properties.
- Most communities seldom receive applications for water wells; some do not even have a formal application form for such permits.
- Several of the municipal well ordinances appear to be based on a “model” ordinance of unknown origin, based on the striking similarities common to them. Among them is the ordinance for the City of Belvedere, a copy of which is attached as **Exhibit 4**.

Conclusion

Staff concludes that the Town's water well regulations require more processing and professional review of potential impacts than is typical of other municipalities in the County. Town Council approval for water wells is unique for this County. Subsequent to the 4545 Paradise Drive application, staff has revised the Town's water well application form to require the hydrologist or geologist report to specifically address possible adverse effects on water resources such as springs, seeps and watercourses in addition to potential adverse impacts on adjoining properties. Any such expert opinion offered may be heavily qualified; nevertheless, the requirement represents a good faith effort of the part of the Town to disclose any such potential impacts. Additionally, staff has clarified an applicant's duty to indemnify the Town and also requires the applicant to indemnify the Town with counsel approved by the Town.

RECOMMENDATION

Staff recommends the Town Council:

1. Hear any public comment on this item.
2. Review and discuss the regulations and provide direction to staff.

Any suggested amendments to the Municipal Code regulations would require a separate public hearing before the Town Council at a future date.

EXHIBITS

1. Excerpt of Town Council minutes of June 3, 2015.
2. Municipal Code Chapter 13F (Water Well Regulation and Use).
3. Current application form for Water Wells.
4. Copy of City of Belvedere water well ordinance.

Prepared by: Scott Anderson, Director of Community Development 

attention. She said that in practice, if the ordinance unleashed antagonism in the community, she would seek Council's further direction.

Interim Attorney Epstein said that this type of ordinance is customary in municipalities and said that the definitions, in his opinion, were not overbroad. He said that staff will take complaints and exercise discretion as to what to pursue, and what to prioritize.

Councilmember Fraser said that he felt staff was professional and made good decisions. He said that he agreed with the degree of discretion allowed by the ordinance, and that there was no need to define anything more specifically.

MOTION: To adopt Consent Calendar Item No. 2, as written.
Moved: Fredericks, seconded by Fraser
Vote: AYES: Unanimous
ABSENT: O'Donnell



Council Discussion: CC-3: 4545 Paradise Drive Well Permit – Adopt resolution approving application to install and operate a non-potable (irrigation) well for an existing single-family dwelling (Assistant Planner O'Malley)

Property Owners: Matthew LeMerle and Allison Davis;
Applicant: Pederson Associates Landscape Architects
AP No. 038-141-16

Councilmember Fredericks said that the staff reported indicated that the Town had made the findings necessary to approve the application; however, she said that there may be additional considerations that should be part of the review process, namely the following: a) the drought and what impacts a well would have; b) some residents have the necessary resources to drill while others do not; c) we have no map of groundwater and its source; d) if it is appropriate to take water from the Town's open space and possibly degradation of habitat. She gave an example of the latter where an area (swale) of above-ground water that fed wildlife was developed and the water dried up; also, examples of cisterns in neighborhoods that took away the amount of run-off into local creeks.

Fredericks also asked about the visibility of the water tank and whether there was a risk to downhill neighbors, in the event of an earthquake. She said that the Town's well ordinance did not address these questions but perhaps it should if there is going to be a prolonged drought.

Vice Mayor Tollini agreed; she said the current application fit squarely under the Chapter 13F guidelines, however, she said the question was how is 13F affected by the drought, and how does it affect surrounding neighbors.

Councilmember Fraser concurred and asked if the matter should be continued. Planning Manager Watrous noted that there were two issues in front of the Council – this particular application, and any future amendments to the Town Code. Councilmember Fredericks asked if the issues could be bifurcated. Attorney Epstein said they could be.

Council proceeded to hear the application for a well permit. Mayor Doyle opened the hearing to public comment.

Matthew LeMerle, applicant, said that some of the questions raised by the Council had been addressed in his application and additional materials he had submitted. He said that he had worked closely with Town staff and had done all the engineering work requested by the Town. He noted that there was already a well on the property which had been capped in prior years that had been used to irrigate their five acres. He described his history with MMWD and water usage on his property. He said they currently use a drip irrigation system on two and a half acres, and they are in the process of changing their landscaping to California native plants. He said their goal was to reduce their [potable] water usage and re-install the irrigation well. He said that the well would not be seen by anyone else and that they would be installing trellises to cover the tank. He noted that a reduction in their usage would help the Town meet its water reduction goals, and help him and his wife preserve one of the nicest properties in Tiburon. Mr. LeMerle said that some of the letters sent to the Town by Cushing, Kim and Weiner, were inaccurate and hurtful.

Larry Cushing distributed a photograph of the Council. Councilmember Fredericks asked what it showed. Mr. Cushing said it showed the well site which was contrary to the applicant's statement that it could be seen by any of the neighbors.

Mr. Cushing went on to say that the geotechnical engineer's report ignored the basic question of whether a private individual should be able to tap the water affecting the open space. He said the well will pull water off Ring Mountain and had the potential to affect the water supply of the whole area. He asked why a professional would waive liability [in the report] and what the basis for his statements on page 23-26 was.

Cushing asked why a storage tank was necessary for an irrigation well; he said he grew up on a farm and that farms did not bother with tanks. He also said that there was no limit to the number of trees the applicant could plant.

Robert Settgast, engineer, said he was asked to evaluate the geologic effects of the well and that he had never seen any geological damage [from an irrigation well] in 25 years. He said that further hydrological studies would be more involved and more expensive. He said that Mr. Cushing's statements on his expertise were neither wise nor proper.

Councilmember Fraser said the discussion reminded him of the issues raised in the Town's view ordinance. He said this issue needed more dialogue and possibly more specific direction to staff.

But he said it should not turn into a wild goose chase or witch hunt. He said the question in his mind is whether the Town has enough information to approve the permit application.

Councilmember Fredericks said that she was prepared to approve the application. She said that the Town cannot consider these comments under its current ordinance, which could be amended to make it more specific.

Vice Mayor Tollini said that there might be research available that addresses whether wells affect water tables and other properties, without the need for expensive hydrological studies and the like.

Mayor Doyle commented that some improvements made to his uphill neighbor's property had resulted in a disrupted water path on his property, leading to a die-off of oak trees on his property.

Mr. Cushing said that this proved there were viable concerns about what was being done at 4545 Paradise Drive.

Interim Attorney Epstein said that the Town's Finding D [in the application] stated that it should not be "...injurious to other properties in the vicinity". So he said the geotechnical report that relates to the issue of subsidence addresses that. He said what Mr. Cushing is asking is whether it is possible to calculate other possible affects; he said the Council can either accept the report, as submitted, or ask for additional findings. He also commented whether it is possible for the Town to reasonably find out more, noting that it might be very expensive.

Mayor Doyle said that no report can tell us what will happen if the drought worsens.

Epstein reported that Town Manager Curran had asked him whether the Town might place a condition on approval of this permit. Epstein said that such language might be included which states that the permit could be revoked by the Town if information was presented to the Town which demonstrates a serious adverse impact has occurred.

Mayor Doyle asked whether the condition might limit usage. Councilmember Fredericks said that it might include adverse impacts to habitat, not just subsidence. Councilmember Fraser noted that the burden of proof would be on the surrounding properties.

Planning Manager Watrous proposed adding some language to the permit that would address effects on water quality or quantity, geological conditions, and habitat. Councilmember Fraser said that it seemed too open-ended and asked if the burden should be placed on the applicant to prove otherwise.

Watrous said his statement presupposed that the allegations would have to be proven by the complainant. Attorney Epstein said that under general nuisance law, it was probably appropriate to put the burden on the complainant.

Town Manager Curran said that if the permit was approved without conditions, it could be difficult for the Town to revoke the permit regardless of what occurred. A condition would provide recourse to the neighbors if, regrettably, there was an adverse impact as a result of the well and give the Town the clear ability to revoke the permit if appropriate.

Councilmember Fredericks asked if adding such a condition would give weight to a civil action. Attorney Epstein said it would not.

Mr. Watrous re-read the proposed language [adding Condition No. 8 to the resolution]:

8. "This permit is subject to revocation by the Town Council if there is demonstrated evidence of substantial adverse impacts on properties in the vicinity, including impacts on water quality or quantity, geological conditions and/or biological habitat."

MOTION: To adopt an amended resolution approving the well permit application with the added condition, as stated, and to revisit the Town's ordinance at a future date.

Moved: Tollini, seconded by Fredericks

Vote: AYES: Doyle, Fredericks, Tollini

ABSTAIN: Fraser

ABSENT: O'Donnell

Mayor Doyle stated that his "yes" vote was due, in part, to the fact that there had been an existing well (and water storage tank) in that location.

ACTION ITEMS

1. **Appointments to Boards, Commissions & Committees** – Consider appointment to fill pending vacancy on Library Agency Board of Trustees (Town Clerk Crane Iacopi)

Town Clerk Crane Iacopi said that Library Trustee Tom Gram, one of the Town's appointees to the Library Board, had served one term and sought reappointment to another term, beginning July 1, 2015. She also informed the Council of existing vacancies on the Heritage & Arts Commission and applications received to date.

MOTION: To reappoint Tom Gram for another term on the Library Agency Board of Directors; to direct staff to advertise and continue to accept applications, and schedule interviews, for the vacancies on the Heritage & Arts Commission.

Moved: Fraser, seconded by Fredericks

Vote: AYES: Unanimous

ABSENT: O'Donnell

ORDINANCE NO. 392 N.S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF TIBURON REPEALING CHAPTER 13F
OF THE TIBURON TOWN CODE AND ADOPTING A
NEW CHAPTER 13F OF THE TIBURON TOWN CODE
(WATER WELL CONSTRUCTION AND USE)**

The Town Council of the Town of Tiburon does ordain as follows:

SECTION 1. CHAPTER 13F REPEALED.

Chapter 13F of the Tiburon Municipal Code, as adopted by Ordinance No. 367 N.S., is hereby repealed.

SECTION 2. CHAPTER 13F ADDED.

A new Chapter 13F is hereby added to the Tiburon Municipal Code to read as follows:

CHAPTER 13F

WATER WELL CONSTRUCTION AND USE

Sections:

13F-1	Purpose
13F-2	Definitions
13F-3	Permit Required
13F-4	Application for Permit
13F-5	Findings for Approval
13F-6	Conditions of Approval
13F-7	Well Permit Certificate
13F-8	Suspension or Revocation of Permit
13F-9	Variances
13F-10	Inspection and Right of Entry
13F-11	Completion Reports
13F-12	Penalty for Violations

Section 13F-1. Purpose.

It is the purpose of this chapter to provide for the construction, maintenance, use, repair, modification and destruction of wells in such a manner that the groundwater of the Town will not be contaminated or polluted, and that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety or welfare of the users of the well or the other residents of the Town.

It is further the purpose of this chapter, in the case of potable water wells, to offer a temporary, alternative method of water supply to serve properties unable to be served by the public Water District.

Section 13F-2. Definitions.

The terms used in this ordinance shall have the same meaning as that in Chapter 10 of Division 7 of the California Water Code and the Department of Water Resources Bulletin 74-81 and any subsequent supplements or revisions. In addition, the following definitions shall be applicable for purposes of this chapter:

- (a) "Cathodic protection well" shall mean any artificial excavation constructed by any method for the purpose of installing equipment or facilities for the protection electrically of metallic equipment in contact with the ground.
- (b) "Council" shall mean the Town Council of the Town of Tiburon.
- (c) "Enforcement Agency" shall mean the Marin County Environmental Health Services.
- (d) "Monitoring well" shall mean a well used exclusively for monitoring or sampling the conditions of a water-bearing aquifer, such as water pressure, depth, movement or quality.
- (e) "Person" shall mean any individual, person, firm, corporation or other legal entity.
- (f) "Planning Director" shall mean the Planning Director of the Town of Tiburon or his designee.
- (g) "Potable water" shall mean water complying with physical, bacteriological and chemical standards established by the California Department of Public Health and United States Environmental Protection Agency.
- (h) "Water District" shall mean the Marin Municipal Water District.
- (i) "Water Well" shall mean any artificial excavation constructed by any method for the purpose of extracting water from or injecting water into the underground.

- (j) "Well Permit Certificate" shall mean a document signed by the Planning Director certifying that certain specific requirements for issuance of a well permit have been fulfilled.
- (k) "Well Standards" shall mean the standards for the construction, repair, reconstruction or abandonment of wells as set forth in California Department of Water Resources Bulletin 74-81 and any supplements or revisions thereto.

Section 13F-3. Permit Required.

No person shall dig, bore, drill, deepen, modify, repair or destroy a water well, cathodic protection well, monitoring well or any other excavation that may intersect ground water without first applying for and receiving a permit as provided in this chapter. The only exception is if emergency work is necessary to restore or maintain potable water supplied by a well. In such case, the person responsible for the emergency work shall apply for a permit within three (3) working days after commencing the emergency work.

Section 13F-4. Application for Permit.

- (a) Applications for well permit shall be submitted to the Planning Director on a form or forms prescribed by the Town. Application forms are available at the Planning Department, and shall list information and material required to file the application. A filing fee will be assessed as established by resolution of the Council.
- (b) Once a completed application is submitted, the Planning Director shall place the matter on the agenda for Town Council review and action. The Town Council may approve, deny, or modify the application, or may continue the application for further consideration.

Section 13F-5. Findings for Approval.

- (a) In order to approve an application for well permit, the Council shall make the following findings:
 - (1) The owner is currently prevented from connecting to the Water District's system due to a moratorium (NOTE: This finding applies to potable water wells only).
 - (2) The owner has provided a written opinion from a geologist, hydrologist, or other qualified person that the water supply of the well will remain reasonably intact during drought periods (NOTE: This finding applies to potable water wells only).

- (3) The granting of the permit will not be detrimental to the public health, safety or welfare, nor injurious to other properties in the vicinity.

Section 13F-6. Conditions of Approval.

- (a) In approving a well permit application, the Council shall impose the following conditions:
 - (1) No well-related work shall be commenced until such time as the Planning Director has issued a Well Permit Certificate, as set forth in Section 13F-7 of this chapter.
 - (2) The well shall meet all applicable well standards adopted by this chapter and Chapter 7.28 (or its successor) of the Marin County Code and any regulations adopted by the County pursuant thereto.
 - (3) The well shall meet all requirements of the Water District.
 - (4) Owner shall be required to obtain all zoning and building permit approvals required by the Town's ordinances which are necessary for the well or any of its appurtenances, such as water storage containers.
 - (5) An unexercised well permit shall expire six months after its approval unless extended for good cause. One such extension for up to six months may be granted by the Town Manager.
- (b) In approving a permit for a potable water well, the Council shall impose the following conditions in addition to those specified in subsection (a) above:
 - (1) Owner agrees to connect to the Water District as soon as possible.
 - (2) The well shall serve no more than two adjoining dwellings.
 - (3) Owner shall provide for regular water testing on a recurring basis as may be required by the enforcement agency.
- (c) The Council may impose additional conditions of approval which will ensure compliance with the objectives of this chapter.

Section 13F-7. Well Permit Certificate.

Prior to issuance of a well permit certificate by the Planning Director, owner shall provide the following:

(a) In the case of applications for non-potable water wells:

- (1) The name, address, and telephone number of the person who will perform the work, as well as proof of a valid license held by that person to perform the work.
- (2) A certificate satisfying the requirements of Section 3800 of the Labor Code (Workers Compensation).

(b) In the case of potable water wells, the following items shall be required in addition to those listed in subsection (a) above:

- (1) Owner shall provide a written certification from the Fire Marshal of the appropriate fire district that the well and water system will have sufficient storage capacity and water pressure to satisfy on-site fire containment needs, including sprinklers.
- (2) An agreement, on behalf of himself and all successors in interest, indemnifying, defending, and holding harmless the Town in the event of any future inadequate supply of potable water resulting from any cause. Such agreement shall be approved by the Town Attorney and recorded by the Town.
- (3) Evidence that a statement, written to the satisfaction of the Town Attorney, has been recorded on the title of the affected property, which statement shall contain the following disclosure:

As of this recording date, this property is served by a private water well and is not connected to the public water system. In the event the well fails, there is no assurance that the property will be able to connect to the public water system. Information concerning the current status of this property relative to the public water system is available from the Marin Municipal Water District.

Section 13F-8. Suspension or Revocation of Permit.

- (a) The enforcement agency may suspend or revoke any permit issued pursuant to this chapter, whenever it finds that the permittee has violated any of the provisions of this chapter or conditions of the permit, or has misrepresented any material fact in the application and supporting documents. Prior to ordering any suspension or revocation, the head of the enforcement agency or his designated representative shall give the permittee an opportunity for a hearing.
- (b) A person whose permit has been revoked or suspended and who appeared at a hearing before the head of the enforcement agency, may appeal that decision to the Council. Any such appeal must be filed in writing with the Town Clerk within ten days after such suspension or revocation. The

appeal shall be set for hearing by the Council at the earliest practicable time. The Council may affirm, reverse or modify the decision of the enforcement agency.

Section 13F-9. Variances.

The enforcement agency may grant a variance from any provision of the well standards if a strict interpretation of the standards would lead to unnecessary hardship. Any variance granted shall be consistent with the purpose and intent of the well standards.

Section 13F-10. Inspection and Right of Entry.

- (a) The enforcement agency may make inspections of each proposed drilling site prior to commencement of work, prior to sealing of the annular seal at completion of the work and at any other time deemed appropriate.
- (b) Representatives of the enforcement agency shall have the right to enter upon the premises where a well is located at all reasonable times to make inspections and tests for the purpose of enforcing this chapter. The representative shall first make a reasonable effort to seek permission to enter from the person in possession or control of the premises. If entry is refused, the representative shall have recourse to any legal course of action to secure entry.

Section 13F-11. Completion Reports.

The contractor shall provide the enforcement agency a completion report within thirty days of the completion of any well construction, reconstruction or destruction job.

Section 13F-12. Penalty for Violations.

- (a) Any person who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to punishment not to exceed that set forth in Government Code Section 36901.
- (b) Violations of this chapter may also be redressed through appropriate civil action including, but not limited to, injunctive relief, cost recovery or nuisance abatement.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such section, subsection, sentence, clause or phrase shall be deemed severable and shall not affect the validity of the remaining portions of the Ordinance. The Town Council of the Town of Tiburon hereby declares that it would have passed this Ordinance, any section, subsection, sentence, clause or phrase thereof, irrespective of the

fact that any one or more other sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This Ordinance is to take effect and be in force at the expiration of thirty (30) days from and after its passage, and before the expiration of fifteen (15) days after its passage, the same, or its legally required equivalent, shall be published with the names of the members voting for and against the same at least once in a newspaper of general circulation published in the Town of Tiburon.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on March 3, 1993, by the following vote:

AYES:	COUNCILMEMBERS: Friedman, Nygren, Thayer, Thompson, Kuhn
NOES:	COUNCILMEMBERS: None
ABSENT:	COUNCILMEMBERS: None



ALVIN R. KUHN, MAYOR
Town of Tiburon

ATTEST:



THERESE M. HENNESSY, TOWN CLERK



Planning Division (415) 435-7390
www.townoftiburon.org

APPLICATION REQUIREMENTS FOR WATER WELL

As regulated by Title IV, Chapter 13F of the Tiburon Municipal Code

The following materials shall be submitted with an application for Water Well:

Non-Potable (irrigation) Water Well

- A. Forms/Fees. A Land Development Application form and filing fee deposit (\$880* for a non-potable water well and \$1,490* for a potable water well).
- B. Site Plan. Two (2) full-size sets and eight (8) reduced (11" x 17") sets of a Site Plan of the property on which the well is proposed to be located, showing the location of the proposed well and including the following items: property lines, structures, trees, sewage disposal systems, all intermittent or perennial natural or artificial water bodies or water courses, the general drainage pattern, and any existing wells.
- C. Hydrologist or Geologist's Report. A report prepared by hydrologist, geologist or other qualified person describing possible adverse effects, if any, of the proposed well installation and operation on nearby water resources (springs, seeps, watercourses) and on adjoining properties.
- D. Project Narrative. A narrative describing in detail the proposed well (including proposed depth and whether use of the well will be potable or non-potable) and any facilities appurtenant to the well that are proposed at this time, including storage tanks, mechanical pumps, etc., that might generate noise or be visible from off-site. In the narrative and on the Site Plan, describe the proposed method of access to drill the well, and identify point(s) of entry and exit for any drilling rigs or other heavy equipment proposed to install the well. Describe any unusual circumstances associated with the installation or operation of the well on this property that could have adverse effects on properties in the vicinity.
- E. MMWD letter. A letter of conditional approval from the Marin Municipal Water District.
- F. Contractor's License and Certificate. A copy of the contractor's license from the well-driller who will be performing the work, plus verification of their Workers Compensation Certificate.

**Fees subject to periodic amendment. Fees listed are as of the date of this form.*

Potable (Drinking) Water Well

In addition to all of the above-listed items, the following must be submitted with an application for potable water well (see **Exhibit A** below for additional information):

- G. Fire Protection District approval letter.
- H. Indemnification Agreement.
- I. Disclosure Statement.

Once accepted as complete, and following mailed notice to adjoining parcel owners, the water well application will be scheduled for consideration at a Town Council meeting.

FINDINGS REQUIRED FOR APPROVAL

In order to approve a permit for a water well to be used for non-potable purposes, the Town Council shall make the following findings:

- The granting of the permit will neither be detrimental to the public health, safety or welfare, nor injurious to other properties in the vicinity.

In order to approve a permit for a water well to be used for potable (drinking) purposes, the Town Council shall make the following additional findings:

- The owner is currently prevented from connecting to the public water system due to a moratorium.
- The owner has provided a written opinion from a geologist, hydrologist, or other qualified person stating that the water supply of the well will remain reasonably intact during drought periods.

CONDITIONS OF APPROVAL

In approving a permit application for a water well to be used for non-potable purposes, the Town Council shall impose (at a minimum) the following conditions:

- No well-related site work shall commence until such time as the Director of Community Development has issued a Well Permit Certificate pursuant to Title IV, Chapter 13F, Section 13F-7, of the Tiburon Municipal Code.
- The well shall meet all applicable well standards adopted by this Chapter and Chapter 7.28 (or any successor sections) of the Marin County Code and any regulations adopted by the County of Marin pursuant thereto.
- The well shall meet all requirements of the Marin Municipal Water District.

- Owner shall be required to obtain all zoning and building permit approvals required by the Tiburon Municipal Code for installation of the well and any related components (such as water storage tanks and pumps).
- An unexercised well permit shall expire six (6) months after its approval unless extended for good cause. One such extension for up to six (6) months may be granted by the Town Manager.

In approving a permit application for a water well to be used for potable purposes, the Town Council shall impose the following conditions in addition to those specified above:

- Owner agrees to connect to the public water system as soon as possible.
- The well shall serve no more than two adjoining dwellings.
- Owner shall provide for regular water testing on a recurring basis as may be required by the enforcement agency or agencies.

The Town Council may impose additional conditions of approval that will ensure compliance with the objectives of Title IV, Chapter 13F of the Tiburon Municipal Code.

EXHIBIT A

(Additional Information on Required Items for Potable Water Wells)

1. Fire District Letter. The applicant shall provide a letter from the Fire Marshal of the appropriate fire protection district certifying that the well and water system will have sufficient storage capacity and water pressure to satisfy on-site fire containment needs, including sprinklers.
2. Indemnification Agreement. The property owner shall submit a fully-executed agreement, on behalf of himself and all successors in interest, indemnifying, defending, and holding harmless the Town of Tiburon and its officers and employees, in the event of any future inadequate supply of potable water resulting from any cause. Such agreement shall be approved by the Town Attorney and recorded by the Director of Community Development for the benefit of the Town of Tiburon following approval of the Well Permit.
3. Disclosure Statement. Evidence that a fully-executed statement, written to the satisfaction of the Town Attorney, has been prepared and submitted to the Town in recordable format for recordation by the Town on the title of the affected property following approval of the Well Permit, which statement shall contain the following disclosure:

“As of this recording date, this property is served by private water well and is not connected to the public water system. In the event the well fails, there is no assurance that the property will be able to connect to the public water system. Information concerning the current status of this property relative to the public water system is available from the Marin Municipal Water District.”

WATER WELL APPLICATION CHECKLIST

NON-POTABLE (IRRIGATION) WELL

- | | |
|---|--|
| <input type="checkbox"/> Application Form & Fee | <input type="checkbox"/> Letter from MMWD |
| <input type="checkbox"/> Project Narrative | <input type="checkbox"/> Copy of Contractor's License |
| <input type="checkbox"/> Drawings (2 full; 8 reduced) | <input type="checkbox"/> Copy of Workers Comp. Certificate |
| <input type="checkbox"/> Geologist/Hydrologist Report | |

POTABLE (DRINKING) WELL

All of the above, plus:

- Fire Protection District Approval Letter
- Indemnification Agreement
- Disclosure Statement

STAFF NOTES:

S:\Planning\Forms\Current Forms\water well submittal requirements.doc

City of Belvedere

Chapter 8.32

WATER WELLS

Sections:

- 8.32.010 Purpose of provisions.
- 8.32.020 Policy.
- 8.32.030 Definitions.
- 8.32.035 Design standards.
- 8.32.040 Permit—Required for construction or remodeling.
- 8.32.050 Permit—Application requirements—Fees.
- 8.32.060 Permit—Issuance conditions.
- 8.32.070 Permit—Processing—Filing and recordation.
- 8.32.075 Common water supply restriction.
- 8.32.080 Inspection—Building inspector authority.
- 8.32.090 Building permit issuance prohibited when.
- 8.32.100 Enforcement—Notice of violation—City Engineer authority.
- 8.32.110 Appeal procedures—City Council authority.
- 8.32.120 Violation.
- 8.32.130 Abatement of nuisance.

8.32.010 Purpose of provisions. The purpose of this Chapter is to protect groundwater and surface water by regulating the construction, placement, reconstruction and remodeling of water wells, water supply sources and test holes within the City. (Ord. 90-2 § 1 (part), 1990; Ord. 77-4 § 1 (part), 1977; prior code § 23A.010.)

8.32.020 Policy. A. The council finds that improperly constructed, operated or maintained water wells and water supply sources can affect the public health adversely.

B. Consistent with the duty to safeguard the public health and welfare of the City, it is declared to be a policy of the City to require the location, construction and repair of water wells and other water systems to conform to California State Department of Water Resources Standards as noted in DWR Bulletin Numbers 74-81 and 74-90 and as required in California Water Code Section 13801. Additionally, all rules and regulations established by Marin County Code #2598 and contained in Section I, Chapter 7.28 (except Sections 7.28.020, 7.28.022, 7.28.026, 7.28.027, and 7.28.045) shall apply, copies of which will be on file in the building department. (Ord. 90-2 § 1 (part), 1990; Ord. 77-4 § 1 (part), 1977; prior code § 23A.020.)

8.32.030 Definitions. A. "Approved water system" means a water system for human consumption which has been inspected, approved, and has a permit issued by the City, meeting the standards of Department of Water Resources Bulletin No. 74 and which meets the permit requirements by the City and complies with the physical, bacteriological and chemical standards established by the State Department of Public Health and the United States Environmental Protection Agency.

B. "Construction of water wells" means all acts necessary to obtain groundwater by wells, including the location and excavation of the well, and including the installation of pumps and pumping equipment.

C. "Groundwater" means that part of the subsurface water which is in the zone of saturation.

D. "Health hazards" means any conditions, devices or practices in the water supply system and its operation which create, or may create, a danger to the health and well-being of any person.

E. "Surface water" means water that is derived either from natural or manmade stream flow or impoundment above zone of saturation.

F. "Water system" means any water source, treatment facility, storage facility, or distribution system.

G. "Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, extraction, or artificial recharge of groundwater.

H. "Adequate water" means the minimum amount of water supplied from a source or sources for domestic purposes for a proposed use or uses as established in the current "Rules and Regulations for Establishing Minimum Domestic Water Supply Requirements Pursuant to City of Belvedere Ordinance No. 90-2 adopted by the City Council.

I. All definitions contained in California Department of Water Resources Bulletin Numbers 74-81 and 74-90 and Chapter 7.28 of Section I of the Marin County Code apply. (Ord. 90-3 § 1 (part), 1990; Ord. 90-2 § 1 (part), 1990; Ord. 77-4 § 1 (part), 1977; prior code § 23A.030.)

8.32.035 Design standards. The design and construction of domestic water systems shall be in accordance with the current "Rules and Regulations for Establishing Minimum Domestic Water Supply Requirements" pursuant to the Belvedere Municipal Code; State Department of Water Resources Regulations contained in DWR Bulletin 74-81 and 74-90; and applicable regulations contained in County Code Section I Chapter 7.28 or subsequent revisions. (Ord. 90-2 § 1 (part), 1990.)

8.32.040 Permit—Required for construction or remodeling. No person shall construct or remodel a well without first submitting an application to, and receiving a permit from the City Engineer. (Ord. 90-2 § 1 (part), 1990; Ord. 76-3 § 1 (part), 1976; Ord. 77-4 § 1 (part), 1977; prior code § 23A.040.)

8.32.050 Permit—Application requirements—Fees. All applications for approval shall be on a form prescribed by the City Engineer. (Ord. 90-2 § 1 (part), 1990; Ord. 76-3 § 1 (part), 1976; Ord. 77-4 § 1 (part), 1977; prior code § 23A.070.)

8.32.060 Permit—Issuance conditions. A. If, after investigation, the City Engineer, after consultation with the building inspector, planning staff and county health officer, determines that the proposed work is in accordance with the purpose of this Chapter, is an approved water system and will not be injurious to the public health, safety or welfare, and after the applicant agrees to all conditions contained in the City's waiver

and indemnity agreement by signing said agreement, he shall approve the application and issue a permit upon payment in the amount of three hundred fifty dollars.

B. If an application should require more than an allowed time of three hours to review by City staff members, or unusual conditions develop requiring more than three inspections of a well site, the permit applicant/ permit holder shall be liable for additional fees to be determined by the City.

All lab testing for bacteriological, general mineral, inorganic chemicals, and general physical analysis shall be paid by the permit holder. (Ord. 91-3 § 1, 1991; Ord. 90-2 § 1 (part), 1990; Ord. 76-3 § 1 (part), 1976; Ord. 77-4 § 1 (part), 1977; prior code § 23A.050.)

8.32.070 Permit—Processing—Filing and recordation. A copy of each permit issued hereunder shall be filed with the Marin Municipal Water District, and a copy shall be recorded with the Marin County recorder. Such copies shall describe the property on which the well is located. (Ord. 90-3 § 1 (part), 1990; Ord. 90-2 § 1 (part), 1990; Ord. 77-4 § 1 (part), 1977; prior code § 23A.080.)

8.32.075 Common water supply restriction. All lots to be served by a common water supply shall be contiguous and the source shall be on one of them. (Ord. 90-2 § 1 (part), 1990.)

8.32.080 Inspection—Building inspector authority. A. The building inspector or his designee is authorized to inspect any water well, abandoned water well, water system or pump installation, and may, at reasonable times, enter upon and shall be given access to any premises for the purpose of such inspection.

B. Upon the basis of such inspection, if the building inspector or his designee finds that any laws have not been complied with, or that a health hazard exists, he shall disapprove the well, water system or pump installation. If disapproved, no such well, water system or pump installation shall thereafter be used until brought into compliance and any health hazard is eliminated. (Ord. 90-2 § 1 (part), 1990; Ord. 76-3 § 1 (part), 1976; Ord. 77-4 § 1 (part), 1977; prior code § 23A.090.)

8.32.090 Building permit issuance prohibited when. A. Nothing herein shall be construed to allow the issuance of a building permit without full compliance with the provisions of Chapters 13.16 and 16.04 of this Code.

B. No permit shall be issued for any well within fifty feet of the Belvedere Lagoon, or at an elevation of ten feet mean sea level or less at the surface, unless the depth of the well is sufficient, or other provisions have been made, in the opinion of the City Engineer, to prevent salt-water intrusion into the local groundwater table. (Ord. 90-3 § 1 (part), 1990; Ord. 90-2 § 1 (part), 1990; Ord. 77-4 § 1 (part), 1977; prior code § 23A.060.)

8.32.100 Enforcement—Notice of violation—City Engineer authority. A. Whenever the City Engineer has reasonable grounds for believing that there has been a violation of this Chapter, applicable state laws or any other relevant law or code, he shall give written notice to the person or persons alleged to be in violation. Such notice shall

identify the provisions of law alleged to be violated and the facts alleged to constitute such violation.

B. Such notice shall be served by firmly affixing a copy of such notice in a prominent place on the premises and mailing a copy thereof, attested to by a written and signed proof of service, to the owner at the address shown on the last County assessment roll as provided to the City on an annual basis by the County Assessor/Recorder, or to such mailing address as is provided to the City in writing by the property owner, or to the lessee, agent or representative, or other person in charge of the premises. The notice may be accompanied by an order of the City Engineer requiring described remedial action, which, if taken within the time specified in such order, is not to exceed thirty days. Such order shall become final unless a request for hearing, as provided in Section 8.32.110, is made within ten days from the date of service of such order. (Ord. 2006-9 § 3, 2006; Ord. 90-2 § 1 (part), 1990; Ord. 76-3 § 1 (part), 1976; Ord. 77-4 § 1 (part), 1977; prior code § 23A.100.)

8.32.110 Appeal procedures—City Council authority. A. Person Entitled to Hearing. Any applicant or person aggrieved by any determination, decision, permit denial or issuance or similar action taken by the City Engineer under the provisions of this Chapter may appeal the action to the City Council.

B. Form, Time for Filing. Appeals shall be addressed to the City Council in writing, and shall state the basis of the appeal. Appeals shall be filed in the office of the City Clerk within ten days after notification of the action or decision from which an appeal is taken.

C. Upon receipt of the appeal, the City Council shall set a hearing time and date, and the appellant shall be given notice thereof at the address shown on the application. The action appealed may be affirmed, reversed or modified by the City Council, whose action shall be final. (Ord. 90-2 § 1 (part), 1990; Ord. 76-3 § 1 (part), 1976; Ord. 77-4 § 1 (part), 1977; prior code § 23A.120.)

8.32.120 Violation. Violations of this Chapter may be punished as provided in Title One of this Code. (Ord. 2013-2 § 13, 2013; Ord. 90-2 § 1 (part), 1990; Ord. 77-4 § 1 (part), 1977; prior code § 23A.120.)

8.32.130 Abatement of nuisance. In addition to the penalties provided in Section 8.32.120, any domestic water system or supply operated, or used in violation of any of the provisions of this Section, or of the City municipal code or in accordance with any other provisions of applicable law is a public nuisance and may be abated in accordance with any other provision of applicable law. (Ord. 90-2 § 1 (part), 1990.)



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
August 17, 2016
Agenda Item: **AI-4**

STAFF REPORT

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

From: **Community Development Department
Department of Public Works**

Subject: **Direction to Parks, Open Space & Trails Commission to Formulate an
Educational Program for Bicycle and Pedestrian Safety Training**

Reviewed by: *[Signature]*

BACKGROUND

At its meeting of July 20, 2016 the Town Council adopted an updated Tiburon Bicycle and Pedestrian Plan. In adopting the Plan, the Council requested strengthening of the section on “education programs”. Subsequent to the July 20 meeting, Vice Mayor Fraser suggested that the appropriate venue for development of education programs related to bicycle/pedestrian safety issues would be the Town’s Parks, Open Space & Trails Commission (POST). Adoption of the recommendation included in this Staff Report would direct POST to begin that effort.

ANALYSIS

In prior decades, the Town’s Bicycle-Pedestrian Advisory Committee (BPAC) engaged in efforts to promote bicycle and pedestrian safety that included working with the Police Department and the Marin County Bicycle Coalition to provide training events, including “Share the Road” training programs. Through a Resolution adopted by Council in 2008, the BPAC was combined with several other existing committees to form the current day POST. This Resolution also established the duties and responsibilities of POST, including the following specific to bicycle and pedestrian matters:

Serve as the official Bicycle-Pedestrian Advisory Committee of the Town of Tiburon, pursuant to State Transportation Control Measure No. 9 and Metropolitan Transportation Commission Resolution No. 2178, or successors thereto. In that capacity the POST Commission shall advise and make recommendations to the Town Council, Town Staff and other Town boards and commissions on bicycle and pedestrian matters affecting the greater Tiburon Peninsula (including the City of Belvedere, Strawberry, and any unincorporated portion of the greater Tiburon Peninsula). The scope of “bicycle and pedestrian matters” is intentionally broad as used herein.

Given this directive, staff concurs with the suggestion by Vice Mayor Fraser that the POST Commission would be the appropriate Town body to lead this initiative. If authorized by Council, the direction to POST would be to:

- Re-engage with their partners in the training programs and to develop an ongoing, sustainable training program for bicycle and pedestrian safety.
- Work with interested parties in researching options and best practices for the development of community education campaigns focused on bicycle and pedestrian safety.
- Report back to Council periodically on progress of program development

If endorsed by Town Council, the item would be placed on the next POST agenda for action.

RECOMMENDATION

Staff recommends the Town Council:

1. Direct POST accordingly and place the item on the next POST agenda for action. Adoption of this item as part of the Consent Calendar will set the process in motion.

Prepared by: Scott Anderson, Director of Community Development