



TOWN OF FAIRFAX

STAFF REPORT

September 7, 2022

TO: Mayor and Town Council

FROM: Heather Abrams, Town Manager

SUBJECT: Approve Responses to the 2021-2022 Marin County Civil Grand Jury Report entitled *Affordable Housing: Time for Collaboration*

RECOMMENDATION

Approve responses to the Marin County Civil Grand Jury Report entitled *Affordable Housing: Time for Collaboration*.

BACKGROUND

In California, civil grand juries are authorized to “investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit” ([Cal. Penal Code section 925a](#)). Within 90 days after the grand jury submits a report regarding the operations of any public agency, the “governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body...” ([Cal. Penal Code section 933\(c\)](#)). The Town’s written response must be submitted to Judge James Chou by September 22, 2022.

On June 24, 2022, the Marin County Civil Grand Jury released a report entitled *Affordable Housing: Time for Collaboration* (Attachment A). The Grand Jury has requested the Town to respond to Findings F1-F10 and Recommendation R1.

DISCUSSION

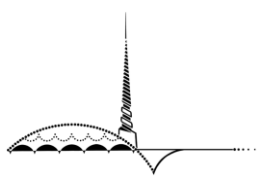
Staff has reviewed the Grand Jury Report and drafted responses (Attachment B). The responses show that the Town agrees with all findings except for F8 . Recommendation R1 has not been implemented, will not be implemented in the future because it is not warranted or reasonable.

FISCAL IMPACT

None.

ATTACHMENTS

- A. Grand Jury Report: *Affordable Housing: Time for Collaboration*
- B. Responses to Grand Jury Report



2021–2022 MARIN COUNTY CIVIL GRAND JURY

AFFORDABLE HOUSING: TIME FOR COLLABORATION IN MARIN

June 24, 2022

SUMMARY

Lack of affordable housing is a problem throughout Marin County. The housing shortfall, characterized by the county as a “crisis,” was addressed in a 2016-2017 Marin County Civil Grand Jury report that called on the county, cities, and towns of Marin to work collaboratively on affordable housing issues. The recommendation was rejected, and the county has continued to fail to create sufficient affordable and workforce housing for Marin’s low to median income earners.

Since that report was issued, the State of California has passed significant legislation intended to increase the affordable housing stock in the state. Simultaneously, the state has drastically increased the amount of housing that counties, cities, and towns are required to build. Failure to meet these housing allotments will trigger mechanisms of this new state legislation that will limit local control over housing and allow for construction that would otherwise not comply with local development laws.

Increasing the stock of affordable housing is a goal widely supported by elected officials throughout Marin County but losing local control over development is not. The task ahead for the county and municipalities of Marin is to build more affordable housing while retaining local control. Achieving these goals will require increased countywide cooperation at the highest levels of government.

Since at least 1973, the county and its cities and towns have acknowledged the benefits of a countywide approach to affordable and workforce housing issues with several different agreements for collaboration. Currently, however, the approach to housing policy in Marin is fragmented. No single agency is tasked with the coordination and implementation of solutions to affordable housing issues that affect the entire county. It is time to renew a collaborative, countywide approach for affordable and workforce housing in Marin.

The 2021-2022 Marin County Civil Grand Jury recommends that the County of Marin and its cities and towns jointly create a regional organization, or empower an existing authority, to coordinate and facilitate affordable and workforce housing policy on a countywide basis.

APPROACH

In its investigation into affordable housing issues, the Marin County Civil Grand Jury conducted interviews with elected officials and staff members from Marin County, local cities and towns, and neighboring counties. The Grand Jury consulted experts on affordable housing issues, executives of both nonprofit and for profit housing developers, and individuals from local housing advocacy groups. The Grand Jury also reviewed past civil grand jury reports, past Marin County planning documents and proposals, academic studies, government reports and

documents, and news articles on a broad range of affordable housing issues. Finally, the Grand Jury inspected potential affordable housing building sites located in the county.

BACKGROUND

Marin's lack of affordable housing is a countywide problem. The Marin County Civil Grand Jury 2017 report *Overcoming Barriers to Housing Affordability* identified key issues that must be addressed if Marin County's housing crisis is to be solved.¹ Among these issues was the fact that the county and each of the 11 municipalities have their own approaches for managing growth and housing development. The jury expressly stated: "The County should create and fund the position of Regional Housing Coordinator. The Coordinator's responsibilities should include: working with funding sources and developers, identifying underutilized properties, working with jurisdictions to create specific plans, and creating a countywide civic mediation program for all civic project community dialogues."² The 2017 Grand Jury concluded that Marin County needed regional coordination in order to facilitate the development of more affordable housing.

Although the 2017 Grand Jury's recommendation for the creation of a Regional Housing Coordinator position was rejected, the need for greater countywide cooperation remains relevant and more necessary today than ever. Marin County needs more affordable and workforce housing. Countywide cooperation is a critical element in making that happen. While the county, cities, and towns do not build housing themselves, they must work together to address state requirements and remove barriers to getting affordable and workforce housing built. In the five years since the last grand jury report, insufficient progress has been made to address the affordable and workforce housing needs of Marin County.

DISCUSSION

Marin's Need For More Affordable and Workforce Housing

Affordable housing, often subsidized, is housing made available for residents with incomes at or below 80 percent of the area's median income. Workforce housing, also known as middle-income or moderate-income housing, is housing for residents typically earning less than 120 percent of the area's median income. This category often includes first responders, teachers, and government employees, as well as healthcare, construction, and retail workers.

The community benefits when people are able to live where they work. Affordable and workforce housing reduces traffic congestion and improves air quality by cutting commute times. In some cases, it even shifts commuters out of their cars and into other transit options. Currently, only about 45 percent of Marin County government employees live in the county, and of even greater concern, less than 25 percent of new county government hires live in the county. According to the most recent, pre-pandemic statistics available, approximately 68,000 workers commute into Marin County from other counties, and an estimated 16,000 of them travel more than 100 miles daily.³

¹ Marin Civil Grand Jury, *2016-2017 Overcoming Barriers to Housing Affordability*, April 12, 2017.

<https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2016/overcoming-barriers-to-housing-affordability.pdf?la=en>

² Marin Civil Grand Jury, *2016-2017 Overcoming Barriers to Housing Affordability*, p.20.

³ Marin Environmental Housing Collaborative (MEHC). "Focus: Where does Marin's workforce live?"

<https://marinmehc.org/focus-where-does-marins-workforce-live/#:~:text=Roughly%2035%2C000%20in%2Dcommuters%20travel,from%20their%20jobs%20in%20Marin.>

Local governments are struggling to fill positions required to provide necessary public services. Businesses are also finding it difficult to attract workers in many sectors, ranging from retail to hospitality to building trades. If these workers become residents, they would purchase goods and services locally. This would increase local sales and property taxes and other revenue for local governments.

Regional Housing Needs Allocation

California's affordable housing requirements have their roots in the Housing Element Act of 1969.⁴ The act mandated that all California counties, cities, and towns must plan for future housing needs. Using the mandated Housing Element and Regional Housing Needs Allocation (RHNA), the California Department of Housing and Community Development determines the number of homes to be built across the state. These mandated housing requirements are then allocated to each region and local jurisdiction throughout the state.

For the San Francisco Bay region, the Association of Bay Area Governments (ABAG) operates as the "regional planning agency."⁵ ABAG assigns a share of the Bay Area's new housing to be built in each county, city, and town in the region, including Marin and each of its municipalities.⁶ These mandates, however, have failed to provide sufficient housing in Marin County and in nearly all areas of California.

Currently, Marin County and its municipalities are planning for RHNA cycle 6, an eight-year period that begins in January 2023 and runs through 2031. By January 2023, Marin County and all its cities and towns must adopt their Housing Elements and identify potential building sites to satisfy their RHNA allocations for cycle 6. Compared to the current cycle 5, which ends in 2022, the new allocations have greatly increased. The cycle 5 allotment for unincorporated Marin is 185 units but increases to 3,569 for cycle 6. The aggregate numbers for the county and all municipalities are 2,298 for cycle 5 but increase to 14,405 for cycle 6. Few of Marin's jurisdictions expect to achieve their cycle 6 allotments. Indeed, even the significantly smaller allotments for cycle 5 may prove beyond the reach of most jurisdictions.

New Statewide Housing Legislation

SB 35 will retain local control for those cities that are producing their share of housing, but create a more streamlined path for housing creation in those cities that are blocking housing or ignoring their responsibility to build. -State Senator Scott Weiner, author of Senate Bill 35⁷

Since the 2017 Grand Jury report, the state has become more assertive in its efforts to address the statewide housing shortage by adopting legislation intended to expand housing construction. The most consequential component of this legislation is Senate Bill 35 (SB 35).⁸ Under its provisions, eligible development projects can take advantage of a streamlined, ministerial approval process.

⁴ Cal. Gov. C. §65583,

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65583

⁵ Association of Bay Area Governments, History, 2022, <https://abag.ca.gov/about-abag/what-we-do/history>

⁶ Association of Bay Area Governments, RHNA - Regional Housing Needs Allocation, 2022,

<https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation>

⁷ California State Senator Wiener, Press Release, January 23, 2017. <https://sd11.senate.ca.gov/news/20170123-senator-wiener-releases-details-sb-35-%E2%80%93-housing-accountability-and-affordability-act>

⁸ Senate Bill No.35, September 29, 2017.

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB35

While SB 35 construction projects would remain subject to certain objective zoning standards, they would not be subject to the California Environmental Quality Act and may not be subject to local parking requirements. Proposed developments that qualify for streamlining will be able to move through the local project approval process far more quickly and local governments will be restricted in their ability to reject or control such projects.

The provisions of SB 35 are triggered by either of two things: first, failure to complete annual housing element progress reports; or second, failure to issue enough building permits to satisfy a jurisdiction's allocations by income category. For example, unincorporated Marin County has not issued the required number of building permits during the current cycle and is therefore subject to SB 35. The Marin County Board of Supervisors recently adopted a county ordinance to implement the provisions of SB 35 on an interim basis until permanent regulations are adopted as part of the county's Housing Element to be updated early next year. To date, at least one project has been approved under SB 35's streamlined procedures – a five-story, 74-unit apartment complex in Marin City approved in December 2020. Other projects are on the drawing board.⁹

While increasing the stock of affordable housing is a laudable goal supported by most, SB 35 is controversial and opposed by many mainly because it threatens local control. The task is to build more affordable housing while retaining local control. The Grand Jury suggests a countywide, cooperative approach as the most effective means of meeting Marin's need for more affordable housing.

Benefits of a Countywide Approach

The current approach to housing in Marin is fragmented among the county and its municipalities. No single agency is tasked with the coordination and facilitation of solutions to housing related issues that affect the entire county. In order to realize the long sought-after benefits of increased affordable housing stock, local governments should re-examine the potential benefits of countywide collaboration.

Because the county and all of its municipalities face similar housing challenges, they can benefit from collaboration. Benefits from a countywide approach include:

- Cooperation and planning on a countywide basis
- Consideration of environmental issues that may cross jurisdictions
- Collaboration on housing element updates
- Collaboration with nonprofits and housing experts
- Coordination with state and regional agencies
- Delivery of more cost-effective services through consolidation
- Retention of local control over housing development
- Sharing expertise and resources needed to access funds for affordable housing development.

For example, some of the larger jurisdictions have staff with expertise in organizing community outreach programs to secure local support for achieving statutorily mandated affordable housing

⁹ Halstead, Richard, "Marin City housing complex gets fast-track approval", *Marin Independent Journal*, December 5, 2020. <https://www.marinij.com/2020/12/05/marin-city-housing-complex-gets-fast-track-approval/>

goals. Smaller jurisdictions may lack these resources. Those functions could be consolidated in a countywide authority, with resultant cost sharing and increased efficiency.

Funding of Affordable Housing

Perhaps the most important benefit of a countywide approach to affordable housing is the ability to pool the expertise and resources needed to access funding. With the high costs of land and construction in Marin, it is nearly impossible to build affordable housing without subsidies. A countywide approach would help jurisdictions navigate the complex landscape of accessing these subsidies.

Cities and counties do not build housing, developers do. Most developers typically build market-rate housing because it is more profitable. The risk of losing money is greater with lower cost units where the profit margin is smaller. As a result, almost all of the new affordable housing is built by specialized nonprofit organizations such as Eden Housing, EAH Housing, Homeward Bound, and Marin Community Housing – each of which have built housing projects in Marin. These organizations use grants and tax benefits to augment project funding, and often collaborate in these projects with other nonprofits. A good example of such a partnership is between Eden Housing and Vivalon to build affordable senior housing in San Rafael.

Under current requirements in most jurisdictions, larger housing developments must reserve a percentage of their units for low- and moderate-income housing.¹⁰ This requirement often makes the developments relatively unprofitable, and many developers seek to avoid this requirement through payment of an “in lieu” fee. In theory, the funds from this fee can be used to subsidize other low-income housing, but in practice this does not always occur. There is no countywide policy with respect to in lieu fees and this is an area where countywide coordination could be beneficial.

Another area where countywide cooperation would be beneficial relates to subsidies for affordable housing. Currently, there is no central repository of information on affordable housing subsidies in the county. Such a resource could help developers find subsidies for affordable housing. Financial support for affordable housing in Marin may include:

- The State Permanent Local Housing Allocation
- The County Affordable Housing Fund
- Local banks meeting Community Investment Act requirements
- Community Development Block Grants
- The Marin Community Foundation
- Low income housing tax benefits for joint venture partners
- Government land donations for affordable housing.

The state recently allocated \$7 billion for housing-related programs. There are other sources of funds for affordable housing, such as low-cost loans from financial institutions that are pass-throughs from the Federal Home Loan Bank of San Francisco’s Community Investment Fund. These low-cost loans are not widely known or used in Marin. Other funding sources such as special taxes or bonds could also provide the subsidies necessary to support affordable housing.

¹⁰ Cal. Gov. C. §65915(b)(1), https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&lawCode=GOV

Approaches to Countywide Coordination

Once the advantages of a countywide approach to Marin’s housing issues are recognized, the question becomes what is the best vehicle or mechanism to implement that approach. Several options are available.

Joint Powers Authorities (JPAs)

A widely used mechanism for intergovernmental cooperation is a joint powers authority, or JPA. The statutory authority for such a power sharing relationship is the Joint Exercise of Powers Act.¹¹ The scope of such shared powers can be extremely broad: “two or more public agencies by agreement may jointly exercise any power common to the contracting parties” to achieve a shared goal.¹² A countywide affordable housing JPA could perform a number of functions and exercise powers delegated to it by its various members, including site selection for satisfying RHNA allotments, land use planning, coordination of development for affordable housing, issuing bonds, and applying for funding grants, to name just a few.

Two of the most important advantages of JPAs are ease of formation and flexibility. JPAs are the only type of government entity formed by mutual agreement. JPAs have a proven track record. ABAG itself is a 107 member JPA for the nine-county San Francisco Bay Area. Over 1800 JPAs have been formed in California, including 19 in Marin County. Among these is the Marin General Services Authority, a JPA consisting of Marin County and each of the county’s municipalities. JPAs promote intergovernmental cooperation without requiring member agencies to surrender their local autonomy.

Subregions

The Association of Bay Area Governments allows for the creation of subregions, which are ad hoc joint powers authorities formed by two or more local jurisdictions to locally administer ABAG’s regional allocation of housing process. While Marin did not form a subregion for the current RHNA cycle, the concept was discussed at meetings of elected officials and county and municipal planners. This option will not be available again until planning begins for 2031-2039.

Other Successful Approaches

Other counties in the Bay Area have adopted programs of cooperation to deal with the housing needs of their various communities. Marin could draw from the experiences of these other counties.

Most prominently, San Mateo County contends with housing issues through a program called 21 Elements.¹³ The 21 Elements program has gained national recognition for the level of cooperation among the County of San Mateo and all twenty cities in the county. Significant benefits of this program include collaboration on housing element updates, shared research, joint work on best practices, collaboration with nonprofits and housing experts, and coordination with agencies like ABAG and the California Housing and Community Development Department. Utilizing the services of one central consultancy, San Mateo has been able to focus attention on

¹¹ Cal. Gov. C. §6500,

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=6500.

¹² Cal. Gov. C. §6502,

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=6502.

¹³ 21 Elements (San Mateo County), <http://www.21elements.com>

the important factors that will give the participants the best chances for successfully navigating the mandates of new housing legislation. These include establishing enough land zoned for housing to meet requirements, accessing funding with non-profits and others, respecting local control, and understanding the importance and availability of the subsidies necessary for affordable housing.

Solano County has addressed its housing challenges through a countywide organization known as the Solano City County Coordinating Council or CCCC.¹⁴ This group consists of the county board of supervisors and representatives from each municipality. This council was created to deal with, among other issues, the housing needs of the entire county and coordinate all matters related to ABAG requirements. Importantly, it has enabled planners from the county and each municipality to share data and resources. This allows Solano County to link land use with infrastructure and integrate affordable housing throughout the community.

A Model for Marin - History and Future of a Countywide Approach

Regardless of the specific mechanism utilized, Marin must establish a strong culture of inter-jurisdictional collaboration to address housing needs beyond basic planning issues. Today there is no effective way for the county, cities, and towns to come together to address housing issues of countywide significance, or for the public to add their voices. Such collaboration would allow agencies to work together to find solutions that each jurisdiction could not find alone.

The county and municipalities acknowledge the value of cooperation and are coordinating at a staff level to discuss policy and best practices related to affordable housing. This is a positive step but falls short of the cooperation necessary to address the current housing crisis. Marin needs to collaborate at the highest elected and staff levels to leverage its ability to secure funding and other benefits for affordable housing.

During this investigation, the Grand Jury heard that the county, cities, and towns of Marin have resisted working together on housing policy. However, this investigation also revealed that there is new and increasing support for countywide collaboration on housing issues. Moreover, there are notable examples of successful collaboration from the past.

Joint powers authorities have previously been used for countywide housing planning in Marin. The Marin Countywide Plan of 1973 was created by a JPA consisting of the county and its municipalities. In 1993, the Countywide Planning Agency, another JPA consisting of the county and its municipalities, was formed. Its duties included implementing countywide performance standards for housing.

The 1993 Countywide Planning Agency was also charged with congestion management and transportation planning. These functions were subsequently assumed by the Transportation Authority of Marin (TAM) in 2004. TAM's focus remains on transportation and not housing. In 2004, the county also considered a plan to expand the Countywide Planning Agency's functions to include developing standards for housing, coordinating with local jurisdictions, and reviewing and commenting on major housing projects. That plan was not implemented and the Countywide Planning Agency expired in 2011. Housing has continued to be without an effective mechanism for countywide coordination.

¹⁴ CCCC (Solano County), https://www.solanocounty.com/depts/bos/city_county_coordinating_council/default.asp

Proposal to Revive A Missed Opportunity

The effort to implement a countywide approach to housing in Marin continued in 2006. The late Marin County Supervisor Charles McGlashan headed a special committee of TAM to reevaluate the mission, goals, and priorities of the Countywide Planning Agency. The committee concluded that it was important to maintain countywide planning for housing: “The committee supports the functional continuation of the CWPA and preliminarily recommends the creation of a committee of TAM to assume the CWPA’s role, to be called the City County Planning Committee (CCPC),”¹⁵

The statement of purpose for the new City County Planning Committee was to provide a public forum to collaborate on housing, transportation, land use, and sustainability issues. The committee would evaluate and monitor the cumulative impacts of planned developments as well as share ideas, resources, and best practices. It would also be able to pursue grants and other funding opportunities for affordable housing.

The City County Planning Committee was intended to be a committee of TAM and governed by the Brown Act, which requires open public meetings.¹⁶ This committee would have consisted of elected leaders of the county, cities, and towns. The priorities of the proposed CCPC included the following:

- Pursue grants and other funding opportunities for eligible projects and other planning efforts
- Coordinate housing element updates to maximize efficient use of affordable housing efforts
- Negotiate with the Association of Bay Area Governments to achieve affordable housing goals
- Identify and assist in the planning of affordable housing in mixed use sites with the city-centered corridor
- Collaborate with Sonoma County on transportation and land use issues
- Improve coordination among the county, towns, and cities general plans
- Evaluate and monitor the cumulative impact of planning and development
- Share ideas, information, resources, and best practices.

At the May 26, 2006 TAM board meeting where this proposal was considered, a wide range of stakeholders weighed in, including representatives of the county, cities, and towns, housing advocates and environmental groups, as well as the general public. There was consensus that cooperation would be beneficial and the issues were of utmost importance. Nonetheless, the proposal was ultimately shelved because of concerns that it would divert staff and resources from TAM’s main objectives and because of a lack of the necessary resolve to make it happen. This was a critical missed opportunity.

Since 2006, Marin has not made any significant effort to address the housing crisis on a countywide basis, nor has it moved to take advantage of the natural link between housing and

¹⁵ See Appendix A, Marin County Supervisor McGlashan memo to the executive committee of the Transportation Authority of Marin, May 10, 2006.

¹⁶ Cal. Gov. C. §§54950 - 54963 (1961), https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=2.can&title=5.&part=1.&chapter=9.&article=

transportation. Marin has failed to explore the significant benefits of regional cooperation on housing accomplished by other counties. The resulting fragmented approach has contributed to Marin's current housing crisis.

Despite the numerous missed opportunities cited above, Marin-wide cooperation is still achievable and the vehicles used and proposed in the past are still viable. As stated in the proposal to establish the City County Planning Committee in 2006:

“The CCPC provides an opportunity for elected officials, planning staff, and members of the public to assemble under one venue to not only develop and find solutions to issues of concern, but to engage in creating a place that fulfills Marin residents' vision for the region as a whole.”¹⁷

Marin could realize this vision by creating a regional authority to coordinate and facilitate affordable housing policy on a countywide basis, or by tasking an existing authority, such as the Transportation Authority of Marin, with these duties. This can be accomplished by reviving the City County Planning Committee proposal or by the creation of a regional authority by the county and the city and town councils.

The new housing landscape described in this report should galvanize Marin's leaders to pursue effective countywide housing cooperation. Marin cannot afford to miss this opportunity again.

FINDINGS

- F1. Marin County lacks sufficient affordable and workforce housing.
- F2. Increasingly, individuals who work in Marin County cannot afford to live in the county, many of whom must commute from outside the county.
- F3. Recent California laws provide new incentives for local governments to collaborate in developing affordable housing.
- F4. The Regional Housing Needs Allocation allotments are widely viewed as unachievable for the county and many Marin municipalities.
- F5. Failure to achieve Regional Housing Needs Allocation allotments will trigger loss of local control over housing development.
- F6. There is new and increasing support and willingness to cooperate among elected officials for building affordable housing in Marin.
- F7. A countywide approach to housing development would enhance Marin's ability to meet affordable and workforce housing needs.
- F8. Large affordable housing developments in Marin require subsidies to be financially feasible.
- F9. Organizations with expertise and access to subsidies and other funding sources are successfully building new affordable and workforce housing developments in Marin.
- F10. A countywide approach to housing development would enhance Marin's ability to secure funding for affordable and workforce housing.

¹⁷ See Appendix A, p.4.

RECOMMENDATIONS

- R1. No later than December 31, 2022, the Marin County Board of Supervisors and Marin’s city and town councils should jointly create a regional authority, or empower an existing authority such as the Transportation Authority of Marin, to coordinate affordable and workforce housing policy on a countywide basis.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- City of Belvedere (F1-F10, R1)
- City of Larkspur (F1-F10, R1)
- City of Mill Valley (F1-F10, R1)
- City of Novato (F1-F10, R1)
- City of San Rafael (F1-F10, R1)
- City of Sausalito (F1-F10, R1)
- Marin County Board of Supervisors (F1-F10, R1)
- Town of Corte Madera (F1-F10, R1)
- Town of Fairfax (F1-F10, R1)
- Town of Ross (F1-F10, R1)
- Town of San Anselmo (F1-F10, R1)
- Town of Tiburon (F1-F10, R1)

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

INVITATION FOR RESPONSES

The grand jury invites responses from the following governing body:

- Transportation Authority of Marin (F1-F10, R1)

Note: At the time this report was prepared information was available at the websites listed.

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.

APPENDIX A: Supervisor Charles McGlashan Memo to the Executive Committee of The Transportation Authority of Marin, May 10th, 2006



May 10, 2006

TO: Executive Committee

FROM: Charles McGlashan, Supervisor

RE: Discussion of the TAM Countywide Planning Agency Special Committee, Agenda Item 5

Dear Commissioners:

Executive Summary

In November 2005 the Special Committee of the Transportation Authority of Marin (Committee) was established to reevaluate the mission, goals, and priorities of the Countywide Planning Agency (CWPA). The CWPA has not functioned as an agency since the Congestion Management Agency functions were designated to TAM in 2004. The Committee supports the functional continuation of the CWPA and preliminarily recommends the creation of a committee of TAM to assume the CWPA's role, to be called the City County Planning Committee (CCPC).

Draft Statement of Purpose:

The purpose of the CCPC is to provide a public forum on mutually agreed upon issues among elected representatives from the cities, towns, and the County to:

- Collaborate on housing, transportation, land use, and sustainability issues.
- Evaluate and monitor the cumulative impacts of planning and development.
- Provide a forum for sharing ideas, information, resources, and best approaches.
- Pursue funding opportunities for planning efforts on topics of mutual interest

Key Recommendations

In terms of the form and function, the Committee recommends that the CCPC should:

- Convene as a committee of TAM
- Consist of membership by elected leaders of all towns, cities, and the County
- Initially meet up to three times a year
- Encourage formal membership from the TAM representative
- Follow Brown Act protocol
- Staff by Marin County Community Development Agency
- Provide an annual progress report
- Bring action items to a TAM regular meeting

Executive Committee Item 5 Page 2 of 6 May 10, 2006

Background

Multi-jurisdictional planning in Marin has traditionally been handled on a joint basis among its towns, cities and the County. One example was the City County Planning Council—established in the late 1960's to oversee the development of Marin's first Countywide Plan. This was followed by the Residential Development Review Board (RDRB), which was established in 1976 to consider development proposals within the Richardson Bay area, including Belvedere, Mill Valley, Sausalito, Tiburon, and portions of unincorporated Marin. The RDRB reviewed development proposals within this planning area by rating projects in categories such as Open Space, Environmental Impacts, Utilities and Public Services, and Project Facilities and Design. The RDRB was followed by the Countywide Plan Review Committee in 1983, which was formed to update the 1974 Countywide Plan.

The CWPA was created on October 16, 1990 when eleven cities and the Board of Supervisors adopted the Joint Powers Agreement to implement countywide performance standards for traffic, housing, water and sewer facilities, and environmental protection to ensure that residential growth did not exceed local water, sewer, and transportation capacities. Another reason was to support a countywide effort to adopt a transportation sales tax. In 1993 the JPA was amended to designate the CWPA as the agency responsible for developing, adopting, and annually updating the countywide Congestion Management Program required by the passage of Proposition 111 in June 1990.

Because attempts at passing a proposed transportation sales tax measure failed, funding for the CWPA never materialized. Nonetheless, for several years the CWPA served as the Congestion Management Agency (CMA) with limited staffing from the Community Development Agency. The CWPA continued to review general plans, general plan amendments, and other planning issues of interest to all jurisdictions. However, the primary function of the CWPA remained that of the CMA. When TAM was established in 2004, the congestion management duties were assigned to TAM, leaving the functions of the CWPA in flux. The CWPA has not been staffed the past two years.

Special Committee of the Transportation Authority of Marin

A Special Committee of the Transportation Authority of Marin (Committee) was formed in November 2005 to discuss the mission, goals, priorities, and form and function of the CWPA. The Committee, which has met semi-monthly through March 2006, consists of members from TAM, city and town council members and senior staff, along with representatives from a wide range of local and community organizations including:

- Chair, Charles McGlashan, Marin County Board of Supervisors
- Susan Adams, Marin County Board of Supervisors
- Amy Belser, City of Sausalito
- Sue Beittel, League of Women Voters
- Dave Coury, Housing Council
- Don Dickenson, Marin County Planning Commission
- Carole Dillon-Knutson, City of Novato
- Kristin Drumm, Planner, County of Marin
- John Eells, League of Women Voters
- Pat Eklund, City of Novato
- Alice Fredericks, Town of Tiburon
- Alex Hinds, Marin County Community Development Director

Executive Committee Item 5 Page 3 of 6 May 10, 2006

- Linda Jackson, Principal Planner, City of San Rafael
- Margaret Jones, League of Women Voters
- Joan Lundstrom, City of Larkspur
- Marjorie Macris, Environmental Housing Collaborative
- Ed Mainland, Sustainable Novato and Sustainable Marin
- Karen Nygren, Sierra Club Marin Group
- Roger Roberts, Marin Conservation League
- Michele Rodriguez, Principal Planner, County of Marin Voters
- Annette Rose, Environmental Housing Collaborative
- Bob and Sue Spofford, Sustainable San Rafael
- Lew Tremaine, Town of Fairfax
- Patsy White, Marin Economic Commission

The Committee agreed early in the process that it was important to provide a forum among elected leaders and the community to foster dialogue and learning, but not create local mandates, wrest planning control from local jurisdictions, or create another layer of review. The recommended City County Planning Committee (CCPC) would provide recommendations only.

The Committee determined it was important to learn about the history of the CWPA in order to better understand its successes and challenges. Mark Reisenfeld, former Marin County Administrator and Planning Director, Carol Williams, former Marin County Assistant Planning Director, and Bob Pendoley, Corte Madera Assistant Town Manager and former San Rafael Planning Director, were invited to a Committee meeting to provide background information on the CWPA and insight on its successes and challenges. The Committee also reviewed and discussed the activities provided by Marin's various JPAs in order to ensure that the CCPC avoids providing duplicate services.

A key concern for the Committee was to seek input and buy in from city and town elected officials and senior planning staff. CDA staff attended a monthly meeting of the Marin Planning Directors in February 2006 while Charles McGlashan, Committee Chair, attended the April 2006 Marin County Council of Mayors and Councilmembers (MCCMC) meeting to provide status reports on the Committee's work and obtain feedback. The Committee members have also been providing regular updates to the TAM Executive Committee and Board throughout the process. The feedback from these meetings have been discussed and reviewed by the Committee and incorporated into the final recommendations.

Throughout the process, the Committee conducted several brainstorming sessions to identify possible value-added outcomes and potential responsibilities for the CCPC. A thorough list of possible program outcomes was initially created, resulting in the City County Planning Committee Prioritization Table. This table was further refined and condensed, from which four outcomes arose as a top priority and are expressed in the statement of purpose, including:

- Collaborate on housing, transportation, land use, and sustainability issues Evaluate and monitor the cumulative impacts of planning and development
- Provide a forum for the sharing of ideas, information, resources, and best approaches for Marin, and
- Pursue funding opportunities for planning efforts on topics of mutual interest.

Executive Committee Item 5 Page 4 of 6 May 10, 2006

While a number of important outcomes were discussed, the Committee decided the CCPC should initially focus on the outcomes defined in the statement of purpose. With limited funding and staffing resources, the consensus was for the CCPC to start small, build trust and teamwork, and grow as successes are achieved. Moreover, the Committee acknowledges that other issues may arise that the CCPC may desire to address. The attached Prioritization Table could be a useful reference to guide decision-makers, but by no means is intended to limit the priorities of the CCPC.

Why Establish the City County Planning Committee?

Historically there has been a strong culture of inter-jurisdictional collaboration and communication at both elected and staff levels that focused on a broad spectrum of topics beyond typical planning issues. Today there is not a similar venue for the cities, towns, and the County to come together to discuss planning issues of mutual inter-city and countywide significance, or for the public to address representatives of all the jurisdictions on these issues. While there are several JPAs that convene staff and elected leaders, there is no current venue at which elected leaders can discuss land use, cumulative impacts from our individual decisions, nor the nexus between land use and transportation policy. Meanwhile, transportation, housing, and traffic congestion issues continue to challenge Marin's local jurisdictions.

A forum like the CCPC could enable all of Marin's jurisdictions to find solutions on issues affecting them. A recent, successful past example of countywide collaboration on planning related issues was the Housing Workbook and Housing Element process. The Workbook is a "kit of parts" collaboratively developed and available to each jurisdiction to use as appropriate to prepare their individual Housing Element based on their own needs, size, and resources.

The CCPC provides an opportunity for elected officials, planning staff, and members of the public to assemble under one venue to not only develop and find solutions to issues of concern, but to engage in creating a place that fulfills Marin residents' vision for the region as a whole.

Draft Statement of Purpose

The Committee developed a draft statement of purpose for the CCPC that includes key recommendations on the proposed committee's form and function and four priority areas it should focus on in the short term. The purpose of the CCPC is to provide a public forum on mutually agreed upon issues among elected representatives from the cities, towns, and the County to:

- Collaborate on housing, transportation, land use, and sustainability issues,
- Evaluate and monitor the cumulative impacts of planning and development
- Provide a forum for the sharing of ideas, information, resources, and best approaches for Marin, and
- Pursue funding opportunities for planning efforts on topics of mutual interest.

Key Recommendations

The Committee preliminarily recommends that, based on the highest priorities and funding limitations, the City County Planning Committee (CCPC) initially meet three times a year as a committee of TAM. It is further recommended that an annual progress report be presented at a meeting of the full TAM Board and forwarded to the city and town managers and planning

Executive Committee Item 5 Page 5 of 6 May 10, 2006

directors of participating cities and towns. The CCPC Chair at each TAM Board meeting will also offer regular monthly committee reports. In terms of the form and function, the Committee recommends that the CCPC should:

- Convene as a committee of TAM and be known as the "City County Planning Committee (CCPC)
- Solicit active membership and participation by the elected leaders of all the towns, cities, and the County
- Encourage formal membership from the TAM member, their alternate, or another designee appointed by the town or city council (or senior planning staff).
- Initially meet up to three times a year. Additional meetings may be considered only if supplementary funding or grants are provided
- Be open to all interested members of the public
- Follow Brown Act protocol so all TAM members or their alternates can attend.
- Initially be funded through in-kind staff support for meeting preparation, content development, data collection and research, and presentations for up to three meetings per year, along with the preparation and presentation of an annual progress report to the TAM Board.
- Pursue grants for applicable projects.
- Provide minutes to all TAM members, city and town managers, planning directors, and designated members of the CCPC.
- Provide an annual progress report to TAM, city and town managers and planning directors, along with periodic updates, and
- Bring action items to a TAM regular meeting if a vote or formal recommendation is needed,

Initially, the Marin County Community Development Agency (CDA) will provide in-kind staff support for meeting preparation, content development, data collection, research, and presentations for up to three committee meetings per year, along with the preparation and presentation of an annual progress report to the TAM Board. The progress reports will also be distributed to the city and town managers and planning directors of each local jurisdiction and agency.

Priorities of the CCPC

Priorities of the CCPC include the following:

1. Collaborative Planning: Housing, Transportation, Land Use, and Sustainability.

Coordinate housing element updates in order to maximize efficient use of affordable housing resources.

- Negotiate with the Association of Bay Area Governments to achieve affordable housing goals.
- Identify and assist in the planning of affordable housing in mixed use sites within the City Centered Corridor.
- Pursue grant funding for eligible projects.
- Collaborate with Sonoma County on transportation and land use issues, and discuss impacts on Highway 101, and
- Improve coordination among the 12 city, town, and County general plans.

2. Evaluate and Monitor the Cumulative Impacts of Planning and Development.

- Evaluate and monitor the countywide cumulative impacts of planning and development on:

Executive Committee Item 5 Page 6 of 6 May 10, 2006

- Housing needs
 - Economic vitality
 - Social equity
 - Traffic congestion
 - The environment
-
- Conduct an analysis of the countywide cumulative impacts of commercial buildout on housing, transportation, and the public infrastructure.
 - Identify indicators and benchmarks to track cumulative land use decisions, and
 - Evaluate carrying capacity and ultimate buildout to achieve a reduced ecological footprint in Marin.

3. Sharing of Ideas, Information, Resources, and Best Approaches for Marin

- Review model ordinances and programs.
- Encourage consistent standards and regulations where feasible and desired.
- Promote more efficient resource use to reduce Marin's ecological footprint, and
- Establish a system for the prioritization and ranking of issues.

4. Pursue funding opportunities for planning efforts on topics of mutual interest

Next Steps

The draft statement of purpose will be revised based on comments received at the Executive Committee meetings and will be taken to the May 25, 2006 TAM Board for comments and input.

Staff is in the process of reviewing the existing CWPA JPA to determine its status. Pending this outcome and input received from the TAM Board, the Committee Chair and CDA staff may need to either modify or potentially dissolve the JPA document to reflect the new form and function of the CCPC. This outcome will be brought to TAM for consideration at the September 2006 TAM Board meeting. The first meeting of the CCPC is preliminarily scheduled for fall 2006.

Recommendation:

Staff recommends:

1. Review and discuss establishing the proposed City County Planning Committee

Response to Grand Jury Report

Report Title: **Affordable Housing: Time for a Collaborative Approach**

Report Date: June 24, 2022

Respondent/Agency Name: **Town of Fairfax**

FINDINGS

- We agree with the findings numbered: **F1, F2, F3, F4, F5, F6, F7, F9, and F10**
- I (we) disagree *partially* with the findings numbered: N/A
- I (we) disagree *wholly* with the findings numbered: **F8**

RECOMMENDATIONS

- Recommendation **R1** will not be implemented because it is not warranted or reasonable.

(Please see attached explanation.)

Date: _____

Signed: _____
Stephanie Hellman, Mayor, Town of Fairfax

Number of pages attached: **5**

AFFORDABLE HOUSING: TIME FOR COLLABORATION IN MARIN

FINDINGS AND RESPONSES

F1. Marin County lacks sufficient affordable and workforce housing.

Response: Agree.

F2. Increasingly, individuals who work in Marin County cannot afford to live in the county, many of whom must commute from outside the county.

Response: Agree.

F3. Recent California laws provide new incentives for local governments to collaborate in developing affordable housing.

Response: Agree.

F4. The Regional Housing Needs Allocation allotments are widely viewed as unachievable for the county and many Marin municipalities.

Response: Agree.

The current allocation of 490 units for the 2023-2031 planning period represents an increase of approximately 800% above the 61 units that were allocated for the most recent planning period (2015-2023), and approximately 350% of the Town's combined 80 units of carryover from the 2007-2014 RHNA period and the 61 units from the 2015-2023 period. Whether this amount of housing can be built within the eight-year timeframe will depend on many factors that are outside the Town's control, such as owner interest, availability of land, financing, and other market forces.

F5. Failure to achieve Regional Housing Needs Allocation allotments will trigger loss of local control over housing development.

Response: Agree.

F6. There is new and increasing support and willingness to cooperate among elected officials for building affordable housing in Marin.

Response: Agree.

F7. A countywide approach to housing development would enhance Marin's ability to meet affordable and workforce housing needs.

Response: Agree.

Fairfax participates with Marin County, the other towns, and cities to collaborate and coordinate housing programs within Marin County in a number of areas, as discussed further in the response to Recommendation R1 below.

F8. Large affordable housing developments in Marin require subsidies to be financially feasible.

Response: Partially disagree.

Regardless of size, all affordable housing developments require subsidies. In fact smaller developments are more expensive, more difficult to fund, and cost more per unit than larger developments.

F9. Organizations with expertise and access to subsidies and other funding sources are successfully building new affordable and workforce housing developments in Marin.

Response: Agree.

Fairfax and Marin County cooperated to help make Victory Village possible. Victory Village is a senior affordable housing complex completed in 2020. Another example of successful countywide partnership is Vivalon Healthy Aging Campus and Senior Housing currently under construction in San Rafael.

F10. A countywide approach to housing development would enhance Marin's ability to secure funding for affordable and workforce housing.

Response: Agree.

Fairfax participates as Marin County collaborates and coordinates housing programs with the towns and cities in a number of areas, as discussed further in the response to Recommendation R1 below.

RECOMMENDATION AND RESPONSE

R1. No later than December 31, 2022, the Marin County Board of Supervisors and Marin's city and town councils should jointly create a regional authority, or empower an existing authority such as the Transportation Authority of Marin, to coordinate affordable and workforce housing policy on a countywide basis.

Response: This recommendation will not be implemented because it is not warranted or reasonable.

The Town agrees that more collaboration on housing policy and funding would be beneficial and will likely result in more affordable housing in our communities. In fact, much work has been done to date, as described below, and additional opportunities are being developed. The County remains open to additional collaboration and/or more formal arrangements in the future.

However, forming a Joint Powers Agreement (JPA) with 12 jurisdictions would take a significant investment of time, funding and energy that would likely impair current housing efforts, and of course requires willing partners. Doing so by December 31, 2022 is not a realistic timeline, particularly given that each Marin jurisdiction is currently striving to meet statutory deadlines to submit their housing element by January 31, 2023.

Below is a brief summary of existing and recommended new pursuits for strengthening interjurisdictional coordination and planning around affordable and workforce housing:

Existing collaboration

Fairfax participated in the Countywide housing collaboration, beginning in 2008 with the County's development of the countywide Housing Element Workbook, which provided a shared template, background information and model programs and policies for development of the 2009 Housing Element. This effort resulted in all Marin municipalities receiving certified housing elements, which in turn made more housing funds available.

In 2019, Fairfax began participation in a countywide working group of Planning Directors and planning staff to encourage interjurisdictional collaboration on housing issues and solutions, with a specific focus on responding to new state legislation to streamline housing developments. The working group established common goals and coordinated on housing legislation, planning, production, and preservation of existing affordability. The working group meets once monthly and has evolved from briefings and discussions regarding state housing legislation into collaboration on projects to facilitate the development of more housing in Marin County. The working group applied jointly for SB2 planning grants in the summer and fall of 2019 and has started to collaborate on these grant projects, including Objective Design and Development Standards, an ADU Workbook and Website, and inclusionary housing program updates. The group received funds from ABAG to work collaboratively on shared Housing Element deliverables including translation dollars, Affirmatively Furthering Fair Housing products, visualizations, and a countywide website.

Future collaboration

Expanded collaboration between the County and cities and towns is planned in the following ways:

1. **Commit to collaboration:** In the County's draft 2023-2031 Housing Element, a proposed new program would "*Collaborate with Marin County, cities and towns to address regional planning and housing issues*"
 - This would require the County, and each city and town, to commit resources to collaboration and hold a public hearing annually to

report on progress to the respective decision-making body and report to the State through the Annual Progress Report (APR).

2. ***Implementation of Housing Element programs:*** During implementation of the 2023-2031 Housing Element, the County, cities and towns will collaborate on program implementation, especially those related to Affirmatively Furthering Fair Housing and tenant protections. Indeed, this collaboration has already begun and will include:
 - *Model ordinances:* developing model ordinances to be considered by the Board of Supervisors and City Councils.
 - *Outreach and community engagement:* Conducting shared outreach and community engagement.

3. ***Housing Element Collaboration:*** The County is planning to develop a deeper and more formalized collaboration on the Housing Element in the future. This could include:
 - *One Housing Element:* Develop one document with shared background, outreach, programs and policies. This would provide consistency, save funds and improve accessibility for stakeholders and housing developers.
 - *Consider a Subregional approach:* The County and cities and towns will consider developing a subregional approach to meeting the Regional Housing Need Allocation in the next housing element cycle.
 - *Shared consultants* to conserve resources and develop more consistent policies and programs, the County, cities and towns will seek to hire the same consultants to prepare parts of the housing element, conduct regional outreach and conduct any needed environmental review.

4. ***Funding collaboration:*** explore ways to more effectively collaborate on shared funding for affordable housing. This could include:
 - *Inclusionary policies:* Developing more consistent policies and fees to encourage and facilitate more affordable housing as part of new market rate developments and increase funding for affordable housing.
 - *Regional housing trust fund:* Consider the establishment of a regional housing trust fund which would make state applications more competitive and lower the administrative burden for cities and towns.
 - *Community Development Block Funds:* Continue to collaborate as an entitlement community on using CDBG funds to fund affordable housing and leverage other State and Federal Sources.
 - *Permanent Local Housing Allocation (PLHA):* Continue to collaborate as an entitlement community to use PLHA funds on housing-related projects and programs that assist in addressing the unmet housing

needs of our local communities.

- *The Bay Area Housing Finance Authority (BAHFA):* Actively participate and support the efforts of BAHFA to raise funds to help address affordable housing and housing stability.

5. **Shared staffing:** With the exceptions noted above, the County, and cities and towns address most housing issues individually because they value local control, often with limited staff and financial resources. Programs and policies in the Housing Element require concrete goals and deliverables which will be difficult for smaller jurisdictions to achieve with all of the other obligations associated with their work. Shared staffing initiatives could encourage coordination and working together to tackle the housing crisis on a larger scale through shared housing staff to provide expertise and local knowledge to support affordable housing developers. This could also result in consistency throughout the county and adoption of best practices. Over the past 50 years, Fairfax residents have been very actively engaged in planning and housing topics within the Town.