

FLOOD ZONE 6 ADVISORY BOARD MEETING
SEPTEMBER 13, 2016

STAFF REPORT

Item 1. Welcome New Advisory Board Members

Wayne Rayburn & Marianne Nannestad

Item 2. Refresher on Brown Act Requirements

Authored by Ralph M. Brown, state assembly member from Turlock, and enacted in 1953 by the California State Legislature in an effort to safeguard the public's right to access and participate in government meetings within the State.

- Specifies advance notice for open public meetings.
- Dictates to County staff specific administrative requirements for meetings.
- Sets provisions on how board members can communicate information with one another.
- Board members are asked to view attached chapter on Brown Act from advisory board and committee member handbook.

Item 3. Approval of Meeting Minutes: March 3, 2015

Recommended Action: Approve minutes.

Item 4. Open Time for Items Not on the Agenda

Comments will be heard for items not on the agenda (**limited to three minutes per speaker**).

Item 5. Elect Zone 6 Advisory Board Chairperson and Vice-chairperson

Article VI of the Advisory Board's bylaws stipulate that officers of the Advisory Board be elected to a one-year term by a majority vote of the Advisory Board. There are two officers – chairperson and vice-chairperson.

Recommended Action: Elect chairperson and elect vice-chairperson.

Item 6. Rain Gauge Share Cost with Flood Control Zone 7

Flood Control Zone 7 expressed potential interest in the District taking ownership of and upgrading the rain gauge at the Marin Civic Center (not currently District-owned nor in use) to ALERT2. This rain gauge would benefit Zone 6 and Zone 7 by making real-time rain data in the vicinity of the zones available to the District, other agencies, and residents on the website *marin.onerain.com*, thus improving situational awareness during rain storms in both zones, and potentially supporting future studies and designs. Although the upgrade itself would be grant-funded, both zones would need to agree to share the cost of ongoing maintenance, currently expected to be approximately \$1,500 per zone annually.

Marin County Flood Control and Water Conservation District

Item 7. Current Activities Update

a. Yard Waste

Last fall 300 informational flyers concerning proper leaf disposal were distributed within Zone 6. Staff will seek input from AB regarding this program.

b. Maintenance Contract with San Rafael

The fourth year for the program between the District and the City of San Rafael for Conservation Corps North Bay (CCNB) critical creek and ditch maintenance work was conducted (cost to the Zone 6 not to exceed \$8,000 per year). Maintenance work was completed from the confluence of the Gallinas Creek tributary along the SMART Right-of-Way and the lower drainage reach that parallels Merrydale Road to approximately 400 feet up stream of the Mirada Avenue crossing. The amount spent on the maintenance and reimbursed was \$4,847.25 last year to City of San Rafael.

c. SMART On-Site Mitigation

In coordination with the District, Gallinas Watershed Council, and City of San Rafael, Point Blue Conservation Science and Prunuske Chatham, INC. prepared the attached plan for on-site mitigation of environmental impacts in the Gallinas Watershed of the Sonoma Marin Area Rail Transit construction. If the restoration group (STRAW) and SMART can finalize a contract in the next few months, implementation will likely take place this winter.

d. Gallinas Watershed Program (information items)

Flood Control Zone 6 is a partner in the Gallinas Watershed Program (GWP), along with the County of Marin, Flood Control Zone 7, County Service Area 6, the Las Gallinas Sanitary District, and the City of San Rafael. GWP aims to work with public and private partners to identify opportunities to synergize projects in a manner that integrates multiple benefits, including flood management, navigation, recreation and habitat restoration. A collaborative, watershed approach is more attractive to regulatory and funding agencies and preferable to single purpose projects and this type of planning better generally positions projects for regulatory approval. Work on this phase of the Gallinas Watershed Program is wrapping up this summer.

Polling for Potential Revenue Measure

In order to gauge community support for a ballot measure to fund potential watershed projects, GWP contracted with Godbe Research to poll the entire Gallinas Watershed in March 2016. Because the results showed that support for a revenue measure was "tepid", a watershed-wide measure is not being pursued at this time. Flood Control Zone 7 may pursue a more targeted ballot measure for its needs but no timeframe has been set. A summary of poll results is available on the Gallinas Watershed web page at

http://www.marinwatersheds.org/gallinas_creek_flood_protection.html

April 2016 Community Meeting

The Gallinas Watershed Program held a community meeting on April 5, 2016 to present all program products and deliverables. The meeting featured two presentations: one an update of the entire program, and the second focusing on the

Marin County Flood Control and Water Conservation District

Upper Gallinas Restoration Opportunities study. Following the presentations, we held an open house with stations for each of the six program studies. Attendees were encouraged to visit the stations and learn more about the studies and findings.

Watershed Products

GWP produced six targeted products, including the Las Gallinas Levee Evaluation, the Santa Venetia Interior Drainage Study, the Lower Gallinas Creek Sea Level Rise Vulnerability Study, and the Gallinas Creek Geomorphic Dredge Assessment technical memorandum, all of which are final. Marin County Parks is working to complete and release the final McInnis Marsh Restoration Feasibility Study, and GWP released a draft Upper Gallinas Creek Restoration Opportunities Assessment for public review in May and will release a final version soon.

The last major product is the Gallinas Watershed Program Final Report that summarizes the six studies and describes the watershed characteristics. It will be released for public review on November 1, 2016.

All Gallinas Watershed Program studies are available via the Gallinas Watershed web page at http://www.marinwatersheds.org/gallinas_creek_flood_protection.html.

Item 8. Zone 6 Budget FY 16-17

Staff and AB will review the proposed Zone 6 FY 16-17 budget.

Recommended Action: recommend that the Board of Supervisors approve the budget.

Item 9. Schedule Next Meeting

Per zone by-laws, next regular meeting date is the first Tuesday of the month of March (3/7/2017).

**FY 2016 - 2017 Budget Report
 FCZ #6 San Rafael Meadows
 Fund 23760**

Budget Summary

Account Description	FY 2015-16 Budget	FY 2015-16 Actuals	FY 2016-17 Budget
Fund Beginning Balance	\$434,584	\$438,714	\$458,429
Expenses			
Salaries, Benefits, Overhead (mailing, printing)	\$8,460	\$9,742	\$12,460
Service and Supplies	\$17,300	\$4,847	\$16,500
Total Expenditures	\$25,760	\$14,589	\$28,960
Revenue			
Taxes	\$28,263	\$33,679	\$33,000
Revenues From Use of Money and Property	\$400	\$462	\$450
Intergovernmental Revenues	\$166	\$164	\$160
Total Revenue	\$28,829	\$34,305	\$33,610
Fund Ending Balance	\$437,653	\$458,429	\$463,079

Major "Services & Supplies" Expenditures

Professional Services			
Miscellaneous Studies	\$5,000	\$0	\$5,000
Total	\$5,000	\$0	\$5,000
Maintenance & Repair Services - Land & Buildings			
Conservation Corps North Bay	\$2,400	\$0	\$2,400
Agreement with City for Vegetation Mgmt	\$8,000	\$4,847	\$8,000
Miscellaneous	\$800	\$0	\$0
Total	\$11,200	\$4,847	\$10,400
Miscellaneous Services and Supplies	\$1,100	\$0	\$1,100

COUNTY OF MARIN

3. BROWN ACT

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards, and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”

THE RALPH M. BROWN ACT (Government Code Section 54950, et seq.)

General

The Brown Act embodies the philosophy that public agencies exist for the purpose of conducting public business, and the public has the right to know how its “collaborative decisions” are being made. It represents the determination of the balance that should be struck between access on the one hand, and the need for confidential candor on the other. There is a presumption in favor of access, with exceptions for confidentiality where there has been a demonstrated need. The exceptions are construed narrowly.

The Brown Act may be divided into six topics: to whom does the Act apply, what is a meeting, the agenda requirements, the public’s rights, closed sessions, and consequences for violation.

1. Bodies covered by the Brown Act
 - A. Legislative bodies of local agencies, e.g., boards, commissions, councils and committees. Also applies to person who is elected as part of body who has not yet taken office.
 - B. Does not apply to individual decision makers, e.g., department heads, legislative bodies acting in judicial capacity, bodies created by single

decision maker.

- C. “Local agencies” include cities, counties, school districts, special districts, municipal corporations, etc. (There is a separate law for state agencies.) Factors used in assessing “localness” include geographical coverage, duties of the agency, existence of oversight, provisions concerning membership, and appointment.
- D. “Legislative bodies” include governing bodies and their subsidiary bodies, e.g., boards, commissions, committees or other bodies of a local agency that are created by charter, ordinance, resolution or ‘normal action’ of a legislative body. This applies regardless of “temporary v. permanent,” and “advisory v. decision making.”
- E. Standing committees are those which have continuing jurisdiction over a particular subject matter (e.g. budget, finance, legislation) or whose meeting schedule is fixed by resolution or action of the body that created the committee. Even if comprised of less than a quorum of the governing body, a standing committee is subject to the Brown Act.

- F. There is a specific exception for “non-standing” (or ad hoc) advisory committees that are composed of less than a quorum of the legislative body that serves a limited or single purpose, is not perpetual, and will be dissolved once its specific task is completed.
- G. If a legislative body designates less than a quorum of its members to meet with representatives from another body to exchange information, a separate body is not formed. However, if less than a quorum meets with another agency to perform a task, e.g., make a recommendation, a separate legislative body is formed.

2. What is a meeting?

- A. Any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss or deliberate on any matter within its jurisdiction. Can include lunches, social gatherings, board retreats.
- B. Serial meetings fall under the provisions of the Brown Act if they are for the purpose of developing a concurrence as to action to be taken.
 - 1. A serial meeting is a series of communications (whether in person or by phone or other media), each of which individually involves less than a quorum, *but* which, taken as a whole, involve a majority of the commission’s members. Examples include meetings of commission members’ intermediaries, chain communications (a@b@c), and hub communications (a@b, a@c).
 - 2. ‘Concurrence as to action to be taken’ includes substantive matters that are or are likely to be on a commission’s agenda, but does not include purely housekeeping matters (e.g., times, dates and locations of upcoming meetings.)
- C. Exemptions for: 1) individual contacts between members of the public and commission members; 2) *conferences open to the general public which involve issues of interest to the body; 3) *community meetings; 4) meetings of other bodies under same local agency; or 5) social or ceremonial occasions, as long as a majority of the members do not discuss application of specific issues to the legislative body.

(*as long as majority does not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction.)

3. Notice and Agenda Requirements

- A. Every regular meeting of a legislative body of a local agency must be preceded by a posted agenda.

An agenda must be posted at least 72 hours prior to meeting in a location accessible to the public 24 hours a day, 7 days a week. The agenda should contain a brief general description (generally no longer than 20 words are required) of each action or discussion item to be considered, including items to be considered in closed session.

The purpose is to notify members of public of items in which they may wish to participate.

The agenda must contain opportunity for public testimony. The legislative body may impose reasonable time limitations. The legislative body cannot take action on a matter raised for the first time during "public comment" if the item is not on the agenda.

- B. Exceptions:

1. Special meeting – requires 24 hours notice, no business may be considered except that for which meeting was called.
2. Emergency meeting - (crippling disasters, strikes, public health and/or safety threats) may be called on one-hour notice and requires majority vote of the body. No closed session permitted.
3. Urgency item – if there is a need to add an item to an existing agenda for immediate action and the need to take action came to the attention of the local agency subsequent to the agenda being posted (requires vote of 2/3 of entire body, or if fewer than 2/3 are present, 100% of all remaining members). This exception requires a degree of urgency. A "new" need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline.
4. Adjournments and continuances - need not be separately posted if subsequent meeting is continued for no more than five days. However, a copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.

- C. Public Testimony - agenda must contain opportunity for public testimony. May impose reasonable time limitations. Cannot take action on matter raised for first time in "public comment" if item not on agenda.

- D. Location of meetings - must generally be within geographic boundaries of the body's jurisdiction, except for compliance with law or court order, to inspect real property, meetings of multi-agency significance, nearest available facility if body has none available, meeting with state or federal officials to discuss regulatory issues, nearby facility to discuss facility itself, visit to legal counsel to reduce fees.

4. Rights of the Public.

- A. Access generally means the right to be notified of items to be considered (agenda), to attend meetings of legislative bodies without identifying oneself, to record the meeting, to have access to documents distributed to members of the legislative body¹, not to pay for the agency's costs in complying with the Brown Act, to be free from discrimination, and to provide public comment. No meeting can be held in a facility that is inaccessible to the disabled.
- B. Legislative bodies may provide greater public access than required by the Brown Act.

5. Permissible Closed Sessions.

The Brown Act begins with a strong statement in favor of open meetings; private discussions among a majority of a legislative body are prohibited, unless expressly authorized under the Brown Act. It is not enough that a subject is sensitive, embarrassing, or controversial. Without specific authority in the Brown Act for a closed session, a matter must be discussed in public.

***In general, most advisory commissions do not hear matters which would qualify for a closed session. However, since there are some exceptions such as the Personnel Commission and Retirement Board, a brief discussion of the subject follows.**

In general, the most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the agency or compromise the privacy interests of employees.

¹ Recent legislation (SB343) amends Section 54957.5 of the Government Code. The new law requires that a writing that relates to an agenda item for an open session of a regular meeting shall be made available for public inspection at the time the writing is distributed to all, or a majority of all, the members of the legislative body. In order to comply with the requirement to make writing that is distributed after the 72-hour posting "available" for public inspection, the local legislative body must make the writing available at a public office location that the agency shall designate for this purpose. Therefore, each local agency is required to list the address of that office or location on the agenda for all meetings of the body. Staff should also be prepared to provide additional copies of the supplemental material to the public at the meeting.

Closed sessions require three types of notice— agenda, pre-closed session announcement, and post-closed session report of action taken. The agenda must state the specific statutory exemption that applies.

A. Litigation and attorney-client privilege.

1. Existing litigation – includes any adjudicatory proceedings before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. The legislative body may meet to receive updates on the case from attorneys, participate in developing strategy as the case develops, or to consider alternatives for resolution of the case. Generally an agreement to settle litigation may be approved in closed session. However, an agreement to settle litigation that requires actions that are subject to public hearings cannot be approved in closed session.
2. Potential litigation – closed sessions are authorized for legal counsel to inform the legislative body of facts and circumstances that suggest that the local agency has significant exposure to potential litigation. The Brown Act lists six separate categories of such facts and circumstances (Government Code section 54956.9(b))
3. Initiation of litigation – a closed session may be held when the legislative body seeks legal advice on whether to protect the agency's rights and interests by initiating litigation.

B. Personnel exception.

1. Applies to appointment, employment, evaluation of performance, discipline or dismissal of public employee.
2. Employee may request hearing be conducted in public only if purpose is to discuss specific instances of misconduct. Employee has right to 24 hours notice of any closed session to hear specific complaints or changes. However, an employee is not entitled to notice and a hearing where the purpose of the closed session is to consider a performance evaluation.
3. Employee does not include elected officials, independent contractors, member of legislative body.
4. Must pertain to particular employee, not employees in general. No abstract discussions regarding creation of new positions, unless workload discussion involves performance of a specific employee. May not be used for discussion or action on proposed compensation, except for a disciplinary reduction in pay.

C. Real Estate Negotiations

1. A legislative body may meet in closed session with its negotiator to discuss the purchase, sale, exchange, or lease of real property by or for the local agency.
2. After real estate negotiations are concluded, approval of the agreement and the substance of the agreement must be reported.

D. Labor Negotiations

A legislative body may meet in closed session to instruct its bargaining representatives on employee salaries and fringe benefits. Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

E. Grand Jury Testimony

A legislative body may testify in private before a grand jury, either individually or as a group.

F. License Applicants with Criminal Records

G. Public Security

Legislative bodies may meet in closed session to discuss matters posing a threat to the security of public buildings, essential public services, or to the public's right of access to public services or facilities.

H. Multijurisdictional Drug Law Enforcement Agency

6. Consequences of Violation.

A. Criminal penalties. Misdemeanor where action taken in violation of the act.

B. Civil remedies:

1. Injunction, mandamus, declaratory relief
2. Action may be voided following notice to correct, which must be received within 90 days, and acted on within 30 days, lawsuit filed within 15 days.

C. Attorney fees

1. Awarded against agency, not individual.

7. Further information/full text

If you would like additional information regarding the Brown Act or you would like the full text, please visit the California Attorney General's website at www.ag.ca.gov/index.htm and/or the California State Code website at www.leginfo.ca.gov/calaw.html and search for Government Code 54950.

Marin Independent Journal
Tuesday, July 10, 2001

Charter board in violation of meeting act

Judge sends directors back to school

By Con Garretson *IJ* reporter

The Novato Charter School Board of Directors broke the state's open meetings law several times last year and board members could face fines or jail time *if* future violations occur, a judge has ruled.

Also, board members and the school's director must attend a seminar on the Ralph M. Brown Act in the next six months under the terms of a final judgment and permanent injunction signed last week by Marin County Superior Court Judge Lynn Duryee.

Officials said they weren't certain, but it might be the first such judgment against a public agency in Marin County. An expert on the Ralph M. Brown Act said it is the first time that such a legal ruling has been made against a California charter school under the 48-year-old law. Novato Charter School officials, without admitting wrongdoing, settled a civil complaint filed by the Marin County District Attorney's Office resulting from a December letter signed by a group of school parents, said Deputy District Attorney Robert Nichols, who investigated the case.

At issue are seven instances in which the board failed to meet the requirements of the state public meetings law in the second half of 2000, including failure to properly notify the public of meetings, the agendas of closed sessions and decisions made during such sessions.

The judgment notes that the charter school, established in 1996, "has limited resources and experience regarding compliance with the Ralph M. Brown Act."

The act, established by the state Legislature, is designed "to ensure the accountability of government officers and to enable citizens' oversight of government agencies by keeping official decision-making processes as open as possible to public knowledge and participation," according to the California First Amendment Coalition.

The act sets out regulations governing public information on meetings and open and closed sessions. Nichols said there was no evidence that the board or the director *intended* to break the Brown Act, which could have led to an even rarer criminal prosecution.

"Our belief was that the violations in this case were more erroneous than intentional," he said. The judgment does not specifically identify the board members — Philip Hallstein, Curt Kruger, Jeanette Longtin, Janine Perra and Mary Williams, but applies to them and school Director Rachel Bishop, who also was not named.

Nichols said the Brown Act typically applies only to elected officials, but in this case Bishop was included because of the role she plays in setting and conducting public meetings. Bishop did not return a call left at the school yesterday.

“All I can really say in response to any question you may ask is that we have been advised by our attorneys to make no comment other than to say that the issue has been resolved,” Longtin said yesterday.

Nichols said the judgment, which included an order to pay \$2,500 in DA investigative costs, also will apply to all future board members and directors. Each future violation could mean a maximum \$1,000 fine, six months in jail or both, he said. Fines could apply to individuals and the school, he said.

“This is probably something that other charter schools would want to be aware of”

–Terry Francke~ general counsel. California First Amendment Coalition

The same penalties would apply to public officials or agencies convicted of a criminal violation of the Brown Act, however, no one has ever been found guilty of the misdemeanor, said Terry Francke, general counsel for the California First Amendment Coalition.

“Wow,” Francke said. “It’s the first time I’m aware of that a court has ever dealt with a Brown Act issue against the board of a charter school. This is probably something that other charter schools would want to be aware of.”

Francke said Novato Charter School officials could have argued that the school did not fall under the auspices of the Brown Act, although it is a public school with teachers paid by the Novato Unified School District. Because the issues will not be heard by a state appeals court, the decision will not become a state legal precedent, he said.

The violations came to light after some parents became frustrated by the way former eighth-grade teacher Chris Topham was fired by the board behind closed doors. The board failed to disclose what items were discussed on closed session agendas and what actions were taken during them, the parents wrote, both violations of the state open meetings law. Other meetings were not publicized in the manner required by the Brown Act, they wrote.

Topham, who could not be reached yesterday, was not advised of his option under the law to have his termination hearing in an open session; said Ann Falletta of Petaluma, who pulled her two children out of the school. Topham later financially settled with the school for legal costs and other expenses from his unsuccessful fight for reinstatement, she said.

Seven of the 24 children in Falletta’s daughter’s eighth-grade class left for other schools after Topham was fired. Her daughter, Ashlan, followed Topham to Summerfield Waldorf School in Santa Rosa, where he still teaches.

Falletta brought the violations to the attention of the First Amendment Project of Oakland and was advised to write a letter to the school board and the district attorney’s office to “correct” the wrongdoing. Once the letter was received, Falletta said the violations ceased for the most part.

“The board is required to notice any public meetings in an accessible way 72 hours in advance,” Falletta said. “There was one time (earlier this year) that the only notice was posted in a courtyard of the school at 3 p.m. on Friday for a special meeting on Sunday, and it was closed all weekend. That’s not following the spirit of the law.”

Falletta said she did not know much about the Brown Act until she began doing research on public access laws. “The more I looked into it the more I realized this is a tool for newspaper people,” Falletta said. “Everything I read said, ‘Call your editor. Well I don’t have an editor. It’s really a journalist’s bailiwick.’”

Marin Independent Journal
Friday, March 1, 2002

Sanitary District settles complaint

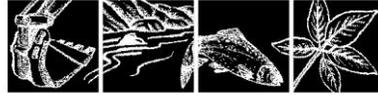
Las Gallinas Valley board accused of violating meeting law

By Con Garretson
IJ reporter

The Las Gallinas Valley Sanitary District yesterday settled a civil complaint that accused board members of violating the state's open meetings law by deliberating in private. It was only the second judgment against Marin elected officials in connection with violations of the Ralph M. Brown Act, according to Marin Deputy District Attorney Bob Nichols, who led an investigation by his agency.

The settlement approved by Judge Lynn Duryee and filed yesterday, indicates the violations were made up of district matters being deliberated and decided upon by a majority of directors outside of a meeting setting, which is two separate violations. The illegal meetings did not have an agenda, nor were they publicized by a public notice, which made up the two other alleged violations in this case, according to the court documents.

In settling the lawsuit without admitting wrongdoing, the district agreed to pay \$7,500 in district attorney investigative expenses and have board members attend a seminar on the Brown Act, a term that was met in January.



PRUNUSKE CHATHAM, INC.

Las Gallinas Creek Watershed Riparian Enhancement Plan

DATE – 17 SEP 15

Prepared for:

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Las Gallinas Creek Watershed Riparian Enhancement Plan

Version I

20 OCT 15

Point Blue Conservation Science and Prunuske Chatham, Inc.

Authors

Point Blue Conservation Science – Point Blue’s 140 staff and seasonal scientists conserve birds, other wildlife and their ecosystems through scientific research and outreach. At the core of our work is ecosystem science, studying birds and other indicators of nature’s health. Visit Point Blue on the web www.pointblue.org.

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INTRODUCTION

This Riparian Enhancement Plan provides an approach and specifications for implementing riparian enhancement along two channels that are tributary to Las Gallinas Creek in San Rafael, California. Successful implementation of this plan will provide compensatory mitigation for riparian habitat impacts incurred by Sonoma-Marín Area Rail Transit District (SMART) projects. Point Blue Conservation Science's Students and Teachers Restoring A Watershed Program (STRAW) will implement and maintain the mitigation project as per STRAW's standard revegetation procedures.

MITIGATION SITE LOCATION AND SUMMARY

The following are observations and recommendations for riparian mitigation plantings along the Gallinas Creek channel and the adjacent connecting drainage channel located near 380 Merrydale Road, San Rafael, GPS midpoint location: 37.999595° - 122.538019° (Attachment A, Figure 1). The mitigation site was chosen for its proximity to SMART project work and mitigates for impacts to the Gallinas Watershed. This site is a priority location for the Gallinas Watershed Council, a local environmental organization, as mitigation efforts will restore degraded wetland/riparian areas. Furthermore, the site has been verbally approved by the San Francisco Bay Regional Water Quality Control Board (Water Board), the City of San Rafael, and the Marin County Flood Control Division. It is located within County Flood Control easements and is within the City of San Rafael's right of way. STRAW is currently working with the City of San Rafael to finalize plans for assessing impacts to hydraulic function within the channels as well as ensure that the channels are protected in perpetuity.

CURRENT CONDITIONS AND ENHANCEMENT OPPORTUNITY

The banks along the channels consist of mostly non-native vegetation that provides minimal shade to the waterways. Additional site descriptions are included below. The ecological functions to be enhanced include providing improved water quality (shading and erosion control), wildlife habitat (native plant species diversity), air quality (carbon sequestration and net oxygen production), as well as aesthetics. The planting area has been divided into two zones. Zone A is the drainage channel along Merrydale Rd and Zone B is Gallinas Creek channel from Merrydale to 101 (Figure 1). Together these sites will provide at least 0.12 acre and 565 linear feet of riparian enhancement.

Zone A: Merrydale Road Drainage Channel (Left Bank)

This portion of the proposed mitigation area is along the left (east) bank of the channel only (see Figure 1, Zone A). The area is approximately 233 feet long and 10 feet wide from the edge of the dirt road to the toe or break of the slope for a total of approximately 0.05 acres. Soils are of mixed quality and are composed of fill, disturbed, or side-cast soil. Current vegetation is mostly exotic annual grasses (Italian rye grass and others), English ivy, and Himalayan blackberry with occasional native Coast Live Oak and Valley Oak seedlings (Attachment B, Figure 2). On the opposite side of the channel, a patch of invasive bamboo exists and is beginning to send runners across the channel in one area. The mitigation project will be responsible for controlling the Tier 1 invasive plant species on the left bank only.

Underground utilities exist in the area. The Underground Service Alert system (USA) must be contacted to delineate such utilities before any planting or earth-moving proceeds. In addition, the overhead power lines will limit the planting palette to low-growing species (i.e., grasses and shrubs).

Other issues that are of concern to the long-term establishment and perpetuation of native vegetation include potential vandalism and the interface with construction and channel maintenance. Outreach to individual landowners and businesses adjacent to the mitigation site is necessary. All mitigation and revegetation efforts will need to be approved by and coordinated with the appropriate Marin County and City of San Rafael departments and agents.

Revegetation procedure outline:

1. Delineate exact work area with appropriate authorities, stake-holders, landowners, creek maintenance crews, and contact USA.
2. Mark existing native plants to be protected prior to site preparation with pink flagging or tee-posts.
3. Mow all non-native vegetation from top of bank down to channel edge and remove thatch.
4. Incorporate (rototill) one to two inches of clean, screened, certified compost into the top-of-bank area to within +/- two feet of the channel bottom or as demarcated by erosion control specialist.
5. Broadcast seed the area with a native grass seed mix (see Table 1) and roll in seed with a hand-pushed (half - empty) lawn roller
6. Lightly sprinkle ½ inch of compost on top.

7. Install 110 native woody plants (see Table 1). Exact locations will be color-coded pin-flagged by the revegetation specialist prior to planting. For direct seed planting, see Attachment C, Figure 3.
8. Install mulch around plantings, protection as needed, and drip irrigation (see Attachment D, Figure 4).
9. Immediately after installing woody plants, over-seed the area with ½ the original seed mix and lightly sprinkle ½ inch compost cover on top.
10. Weed and water plantings for the duration of the establishment period (typically 3 to 5 years) as needed.
11. A split-rail fence along the length of the project or similar low-impact aesthetic barrier or demarcation will be necessary to reduce accidental trespass and trampling.
12. Install educational signage explaining the project.

Table 1. Plant Palette for the Merrydale Road Drainage Channel, Gallinas Creek Zone A

Common Name	Scientific Name	Plant Size	Protector	Number
Woody Plants				
Blackberry (CA)	<i>Rubus ursinus</i>	Dee+	small	15
Blue elderberry	<i>Sambucus nigra ssp. Cerulea</i>	Tree+	large	10
Buckeye(CA)	<i>Aesculus californica</i>	Direct seed	large	10
Coffeeberry	<i>Frangula californica</i>	Dee+	small	15
Coyote Brush	<i>Baccharis pilularis</i>	Dee+	small	15
Rose (CA)	<i>Rosa californica</i>	Dee+	small	15
Sagebrush (CA)	<i>Artemisia californica</i>	Dee+	small	15
Toyon	<i>Heteromeles arbutifolia</i>	Dee+	small	15
			Total to be planted	110
Seed				
Creeping wildrye	<i>Leymus triticoides</i>			2 lbs.
Molate Red Fescue	<i>Festuca rubra (Molate)</i>			2 lbs.
Purple Needle Grass	<i>Stipa pulchra</i>			2 lbs.
			Total seeds to be sowed	6 lbs.

Dee+ = Deepot size or larger

Tree+ = Treepot size or larger

Protector (small) = chicken wire (1" mesh, 20 gauge)

supported with 3 bamboo posts

Protector (large) = welded wire (1 ¼" mesh, 16 gauge)

supported with 2 U-posts

Zone B: Gallinas Creek Channel from Merrydale Rd to 101 (Left Bank)

The proposed mitigation area is along the left (north) bank only (see Figure 1, Zone B). The area is approximately 330 feet long and 10 feet wide from the edge of the fence to the toe of the slope for a total of 0.07 acres. At the toe of the slope, vegetation is dominated by salt grass which grades into exotic annuals and shrubs immediately upslope (see Figure 2). A number of Coast Live Oak, Valley Oak, and Black Walnut seedlings can be found in the area, many of which have been broken or girdled by channel maintenance activities (notably weed-whips). The mitigation project will be responsible for controlling the Tier 1 invasive plant species on the left bank only.

Underground utilities exist in the area. The Underground Service Alert system (USA) must be contacted to delineate such utilities before any planting or earth-moving proceeds.

Revegetation procedure outline:

1. Delineate exact work area with appropriate authorities, stake-holders, landowners, creek maintenance crews, and contact USA.
2. With pink flagging or tee-posts, mark existing native plants to be protected prior to site preparation
3. Remove broom and exotic landscape shrubs (check with adjacent landowners – currently some of the exotics function as a visual screen. It may be necessary to phase shrub removal over time or just hedge/prune some.)
4. Install 30 salt-tolerant native forbs on the lower bank (see Table 2); and
5. 107 native trees and shrubs on the upper bank (see Table 2). Exact locations will be color-coded pin-flagged by the revegetation specialist the morning of planting. For direct seed planting, see 'Typical Specification: Acorn Planting Detail' attached.
6. Install mulch, protection and drip irrigation around the 107 plantings on the upper banks only (see Typical Specification: Cage and Mulch).
7. Immediately after installing woody plants, seed areas of bare soil on the upper bank with the seed mix (see Table 2), rake in on contour, and broadcast a light (1/2-inch) screened compost cover.
8. Weed and water plantings for the duration of the establishment period (typically 3 to 5 years) as needed.
9. Install educational signage explaining the project.

Table 2. Plant Palette for Main Channel, Gallinas Creek Zone B

Common Name	Scientific Name	Plant Size	Protector	Number
Upper Bank				
Blue Elderberry	<i>Sambucus nigra ssp. Cerulea</i>	Tree+	large	10
Buckeye(CA)	<i>Aesculus californica</i>	Direct seed	large	2
Coast Live Oak	<i>Quercus agrifolia</i>	Direct seed	large	10
Coffeeberry	<i>Frangula californica</i>	Dee+	small	15
Coyote Brush	<i>Baccharis pilularis</i>	Dee+	small	15
Rose (CA)	<i>Rosa californica</i>	Dee+	small	15
Sagebrush (CA)	<i>Artemisia californica</i>	Dee+	none	15
Toyon	<i>Heteromeles arbutifolia</i>	Dee+	small	15
Valley Oak	<i>Quercus lobata</i>	Direct seed	large	10
Lower Bank				
Marsh Baccharis	<i>Baccharis glutinosa</i>	Dee+	none	15
Mugwort	<i>Artemisia douglasiana</i>	Dee+	none	15
			Total to be planted	137
Seed				
Creeping Wildrye	<i>Leymus triticoides</i>			1 lb.
Molate Red Fescue	<i>Festuca rubra (Molate)</i>			1 lb.
Purple Needle Grass	<i>Stipa pulchra</i>			1 lb.
			Total seeds to be sowed	3 lbs.

Dee+ = Deepot size or larger

Tree+ = Treepot size or larger

Protector (small) = chicken wire (1" mesh, 20 gauge);
supported with 3 bamboo posts

Protector (large) = welded wire (1 ¼" mesh, 16 gauge);
supported with 2 U-posts

SCHEDULING

Proper timing is essential for the success of native plant establishment – both direct seeding and for container planting. This is especially critical given the stringent success criteria required by the project regulators. Should circumstances beyond the control of STRAW require a change in scheduling, STRAW should reserve the right to delay the performance requirements by at least one year. The following is the general schedule required for success:

Year 1 - the year of installation

- Upon approval of mitigation plan, review mitigation plan with Marin County Flood Control agents in regards to creek easement, maintenance and road development plans.
- July – November 2015 – inform neighboring landowners and businesses of the upcoming activity related to the implementation of the mitigation plan.
- November 2015 – January 2016 – site preparation
- December 2015 – first grass seed application
- February 2016 – 4 restoration days with students. Plant installation and second grass seed application. Some supplemental watering may be needed if drought conditions persist.
- February 28th to April 1st, 2016 – install irrigation system
- April 1st 2016 – begin watering and weeding, depending on conditions
- October 1st 2016 (or as weather dictates) – terminate irrigation for the year and secure drip hose and infrastructure for the winter
- October – November 2016 – perform canopy cover measurements, replant as needed

Year 2 and 3 – one and two years after installation

- October-November – perform canopy cover measurements, replant as needed
- December – submit monitoring report to agencies
- Restart plant maintenance and irrigation (see above, Year 1) in April

Years 4, 5, 7 and 10

- October – November – perform canopy cover measurements, adjust project as needed
- December – submit monitoring report to agencies

MONITORING METHODS AND PERFORMANCE CRITERIA

In the fall of each monitoring year, STRAW will measure plant cover based on the line intercept methods described by Harris, et al 2005.¹ Measurements will be taken along two parallel lines within the 10-foot wide planting strips, running parallel to the creek. The first tape-measure line will be placed 3 feet in from the upper bank edge of the project. The second tape-measure line will be placed 7 feet in from the upper bank edge of the project for the length of the project. Native grass, shrub, and tree species will be recorded as well as non-native Tier One invasive species as they intercept with the sampling lines. The length of the lines will be determined to provide representative samples of the vegetation in the mitigation project area.

Should the following targets not be met, adjustments (more planting, more weeding, etc.) will be made. If activities are required beyond the approved scope of work to achieve mitigation goals, Point Blue will require additional funding from SMART. STRAW shall not be held responsible for adjustments required due to vandalism, fire, or other circumstances beyond its reasonable control. No in-stream structures are present therefore hydraulic functioning will not be measured.

Cover targets are as follows:

- Year 1: at least 20% native riparian cover, no more than 5% cover of Tier 1 invasive species
- Year 2: at least 40% native riparian cover, no more than 5% cover of Tier 1 invasive species
- Year 3: at least 50% native riparian cover, no more than 5% cover of Tier 1 invasive species
- Year 4: at least 60% native riparian cover, no more than 10% cover of Tier 1 invasive species
- Year 5: at least 70% native riparian cover, no more than 10% cover of Tier 1 invasive species
- Year 7: at least 75% native riparian cover, no more than 15% cover of Tier 1 invasive species
- Year 10: at least 80% native riparian cover, no more than 15% cover of Tier 1 invasive species

¹ Harris, R.R., S.D. Kocher, J.M. Gerstein and C. Olson. 2005. Monitoring the Effectiveness of Riparian Vegetation Restoration. University of California, Center for Forestry, Berkeley, CA. 33 pp.

ATTACHMENTS:

- A – Figure 1. Location Map
- B – Figure 2. Tier 1 Invasive Species
- C – Figure 3. Typical Specification: Acorn Planting Detail
- D – Figure 4. Typical Specification: Cage and Mulch



Figure 1. Location of Las Gallinas Creek mitigation sites. Planting areas are indicated by Zones A and B.



Figure 2. Tier 1 Invasive Species identified and mapped.

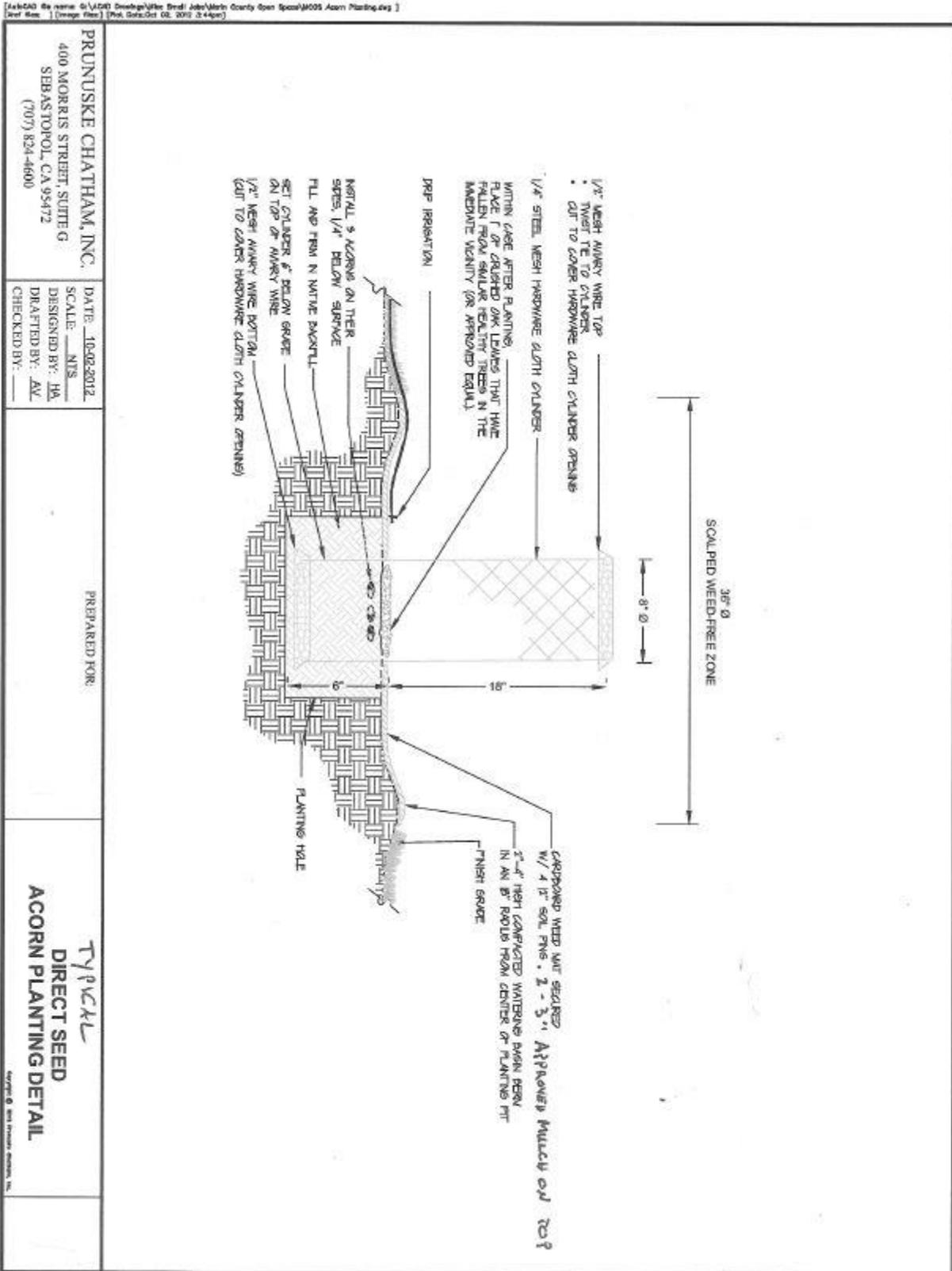


Figure 3. Typical Specification: Acorn Planting Detail.

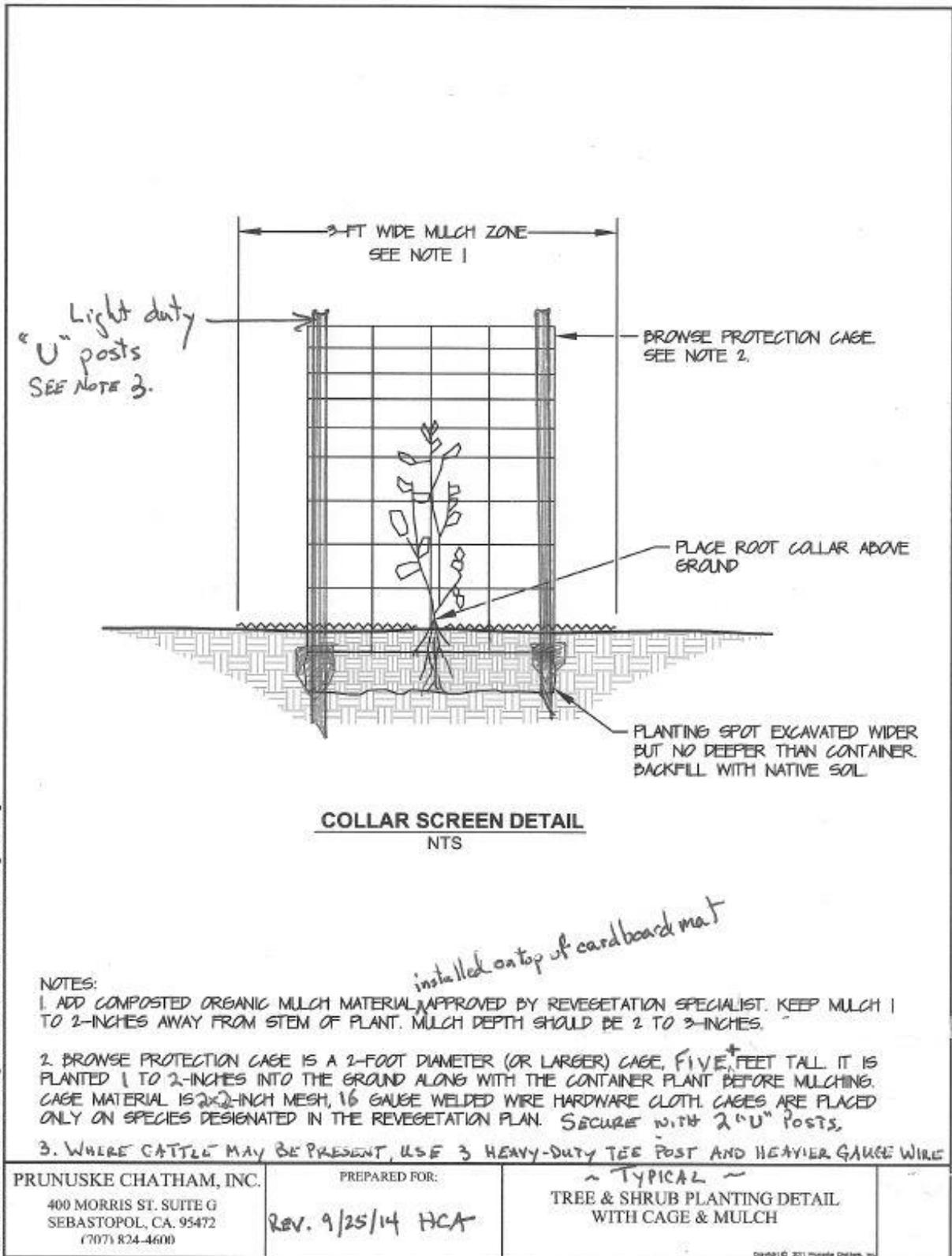


Figure 4. Typical Specification: Cage and Mulch.