

From: PHILIP MARCUS [REDACTED]

Sent: Monday, June 15, 2020 11:13 AM

To: Lindsay Lara <Lindsay.Lara@cityofsanrafael.org>

Subject: Baypoint Lagoons Landscaping and Lighting Assessment District

I live at at [REDACTED] San Rafael, CA 94901 and I wish for this assessment to remain in place.

Philip Marcus

From: [David Olson](#)
To: [Lindsay Lara](#); [Gary Phillips](#); [Kate Colin](#)
Cc: [Dennis Rodoni](#); [TaxCollector](#)
Subject: Fwd: Baypoint Lagoons Assessment District
Date: Monday, June 15, 2020 10:30:32 AM
Attachments: [1990-07-16 L&L Formation Report.pdf](#)

San Rafael City Council

The City Council should remove the Baypoint Lagoons Assessment District consent item from today's meeting agenda (06/15/2020) as the District was formed with a duration of three year and thus expired in 1993.

In 1994 Dave Bernardi Intentionally and willfully misled (lied to) the City Council, stating that the assessment district was permanent "as far as he was concerned". The City Council then proceeded to extend the assessments for another year besides the written protest of the extension by the developer who still owned more than 60% of the parcels and several homeowners who verbally told the City Council that the Assessment District had a three year term.

Last week Bill Guerin claims below that the above lie made by City Staff and mistakenly accepted by the City Council was proof that the assessment district was permanent.

The City Council only needs to look at page 5 of the formation Engineer's report to see that duration was three years, as disclosed to new homeowners.

David Olson
[REDACTED]
San Rafael CA 94901

Begin forwarded message:

From: David Olson [REDACTED]
Date: June 11, 2020 at 2:27:07 PM PDT
To: Bill Guerin <Bill.Guerin@cityofsanrafael.org>
Cc: Lisa Goldfien <Lisa.Goldfien@cityofsanrafael.org>, "Jim Schutz" <Jim.Schutz@cityofsanrafael.org>; Talia Smith ; Al Cornwell [REDACTED] <Talia.Smith@cityofsanrafael.org>, Anya Bakerink <ABakerink@marincounty.org>, TaxCollector <TaxCollector@marincounty.org>, Dennis Rodoni <DRodoni@marincounty.org>
Subject: Baypoint Lagoons Assessment District

To Bill and everyone else,

Below is the most important document pertaining to the Baypoint Lagoons Assessment District. It is the formation document (Engineer's Report) as required by the Landscaping and Lighting Act of 1972 which means that it is the contract

or agreement between the Developer and the City of San Rafael to fund specific amounts for a specific duration and for specific scope.

Page 5 of the contract defines the funds, *the three year duration*, as well as the Phase I scope.

Page 3 of the Engineer's report briefly describes the improvements or scope as Phase I of the Water Management Plan. The Water Management Plan was prepared by the Developer as a requirement of developing the property and provides the recommended provisions for flood control use of the lagoon, water quality management and monitoring, and habitat enhancement and maintenance. It also offers possible solutions to fund these items from other than the City's funds. It, by itself, does not hold anyone other than the City itself accountable for performing the scope or for funding the scope within the plan. It includes a plan for ongoing maintenance, but does not require anyone besides the City to fund it.

I did not find any problems with either of these documents.

In response to your email, I have no problems with items 1 to 4 per se..

Item 5 is the problem - Staff's, meaning Dave Bernardi the Director of Public Works, claim that as far as he was concerned the assessment was permanent, was false, and he had to have known this since his name is on the front page of the Engineer's Report, which clearly shows the three year duration. *Dave Bernardi misled the City Council, and therefore assessments illegally continued.*

Continued assessments are fraud.

Please call me if you need clarification on any of the above,

David Olson

[REDACTED]

San Rafael CA 94901

[REDACTED]

From: Bill Guerin

Sent: Wednesday, June 10, 2020 11:49 AM

To: 'David Olson' [REDACTED]

Cc: Lisa Goldfien (Lisa.Goldfien@cityofsanrafael.org)

<Lisa.Goldfien@cityofsanrafael.org>; Jim Schutz

<Jim.Schutz@cityofsanrafael.org>; Talia Smith

<Talia.Smith@cityofsanrafael.org>; Al Cornwell [REDACTED]
[REDACTED]

Subject: FW: Email to David Olson

Mr. Olson:

City staff have done extensive research on the history of formation and implementation of the Baypoint Lagoon Assessment District. Attached for your review are some file documents related to this matter.

1. Interdepartmental Memorandum dated October 29, 2012 from Community Development Director Paul Jensen. This memorandum was focused on the history of the diked salt marsh next to the Lagoon, but contains a useful chronology about the Baypoint Lagoon Subdivision. Four of the five attachments referred to in the memorandum are also attached. Attachment 3 is Ordinance PD-1562, adopted April 17, 1989, which includes development standard (d) with pertinent conditions pertaining to water quality including (d)(2) as follows:

A detailed water management plan for the lagoon and wetland shall be submitted at the time of the first Design Review application or at the time of Tentative Map review. The plan shall take into consideration the following goals:

- a) Continual flood control;*
- b) Maintenance of water quality;*
- c) Regulation of water levels;*
- d) Control of siltation;*
- e) Management of the protective habitat area for wildlife; and*
- f) Enforcement of mosquito abatement measures.*

The plan shall include detailed calculations and information on the timing for cleaning and flushing the lagoon and wetland areas, schedule for monitoring water levels and water quality, the amount of water necessary to offset evaporation, and water necessary to maintain a relatively fresh water lagoon. Ongoing management of the program shall be conducted by a professional firm or agency experienced with biological and water quality management, with the City governing management for flood control.

An advisory committee consisting of members representing wildlife interests, City Public Works Department staff, Mosquito Abatement and homeowners' association representatives who are members of a special maintenance district shall be appointed by the City to oversee the goals and objectives of the ongoing

management plan. The plan shall also determine a mechanism for private funding of maintenance such as through homeowners' association dues or preferably formation of a special district.

2. Water Management Plan dated December 7, 1989. This is the "detailed water management plan" prepared by the developer to comply with the development condition set forth above. A thorough reading of this plan makes clear that it is a plan for ongoing maintenance of the Lagoon, for the reasons stated in the plan. It also includes a reference to use of an assessment district for financing this ongoing maintenance.
3. Staff report for July 16, 1990 City Council agenda item re formation of the Assessment District, explaining the district was being formed for "maintenance of the Lagoon".
4. City Council Resolution 8224 adopted August 20, 1990 ordering formation of the Baypoint Lagoon Assessment District. The reference to formation of the district in 1999 in the 2019 staff report for the Assessment District was a typographical error. Resolution 8224 confirms that the required vote of the property owners was given for formation of the district.
5. City Council minutes from meeting of August 1, 1994. These minutes show a discussion staff's response to a claim made by a property owner at the prior meeting that the disclosure he received when he bought his property stated that the Assessment District was supposed to last only 3 years. These minutes show that staff had concluded that there was no evidence to show this mistaken disclosure was made to property owners, and staff confirmed that the district was not intended to end after three years.

Please review the attached documents carefully. These may not be all the records that show that the Baypoint Lagoon Assessment District was properly created for the purpose of ongoing Lagoon maintenance, but we believe they are sufficient to illustrate the history that shows that this was the case.

Bill Guerin
Director of Public Works
City of San Rafael
(415) 485-3110

From: [Joel Lurie](#)
To: [Lindsay Lara](#)
Subject: Baypoint Lagoons Landscape and Lighting Assessment District Vote
Date: Monday, June 15, 2020 10:08:56 AM

I am a homeowner in Baypoint Lagoons at [REDACTED] While my home is not on the lagoon itself, we talk a morning walk around the lagoon every day. I do not want to change the current funding scheme. Let me repeat – I am not in favor of the homeowner who is fighting to abolish this assessment. I do not want any change made.

Thank you.

Joel Lurie
[REDACTED]
San Rafael, CA 94901

From: [Nancy Ellenbogen](#)
To: [Lindsay Lara](#)
Subject: Baypoint Lagoons Landscaping and Lighting Assessment District
Date: Monday, June 15, 2020 10:01:19 AM

Hello: my name is Nancy Ellenbogen and I live in Baypoint Lagoons. My address is [REDACTED] [REDACTED] and I live across the street from the beautiful lagoons that define our neighborhood. The homeowner (s) who has asked for these assessment fees to be removed from our tax bill DOES NOT SPEAK FOR ME. I emphatically want our HOA to remain directly involved in the use of these funds and for this assessment to REMAIN IN PLACE. Please convey my feedback to our Town Council. Thank you. Nancy Ellenbogen

From: [Roberta Hoffman](#)
To: [Lindsay Lara](#)
Subject: baypoint lagoons
Date: Monday, June 15, 2020 10:20:44 AM

Dear Ms. Lara,

I am a resident of Baypoint Lagoons, I live on the Baypoint Lagoon at [REDACTED] San Rafael, CA. I am aware that on the City Council agenda of 6/15 is the item of an approval vote to continue the Baypoint Lagoons Landscaping and Lighting Assessment District, assessing home owners approximately \$11.00 per month to oversee the maintenance of the Baypoint lagoon. I fully support the continuation/approval vote to continue this assessment. The committee of Baypoint residents who work with the City of San Rafael has worked very well to improve and maintain the health of the lagoon.

I sent you a statement last evening. In addition, I want to say, that the lagoon paths are enjoyed by the entire community, not just residents who live on the lagoon. This has been fully demonstrated during this pandemic. The paths around the lagoon have been busier than ever. I see neighbors from all over Baypoint walking on the paths with friends and children. Further justification for keeping the assessment for all residents of Baypoint Lagoons.

Thank you, Roberta Hoffman