



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Community Development

Prepared by: Alicia Giudice  
Community Development Director  
Alexis Captanian, Housing Analyst

City Manager Approval: \_\_\_\_\_

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**TOPIC: GRAND JURY REPORT – AFFORDABLE HOUSING: TIME FOR COLLABORATION IN MARIN**

**SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE RESPONSE TO THE MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED – AFFORDABLE HOUSING: TIME FOR COLLABORATION IN MARIN**

**EXECUTIVE SUMMARY:**

The Marin County Civil Grand Jury has published a report entitled *Affordable Housing: Time for Collaboration in Marin*. The Grand Jury Report lists ten findings and one suggested recommendation to address the housing affordability challenge in Marin County. The Grand Jury has requested that the City of San Rafael review and respond to the findings and suggested recommendation, which focuses on a coordinated regional approach to affordable and workforce housing policy. A response to the findings and suggested recommendation has also been requested of the County of Marin, the other Marin cities and towns, and the Transportation Authority of Marin. The City’s written response must be submitted to the Grand Jury by September 22, 2022.

Staff has reviewed the Grand Jury Report, met with staff from the County and other cities and towns to discuss a coordinated response, and prepared a response to the findings and suggested recommendation that aligns substantially with other Marin jurisdictions. It is requested that the City Council authorize the Mayor to execute the City’s response to the Grand Jury Report.

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution (Attachment 1).

**BACKGROUND:**

On June 24, 2022, the 2021-2022 Marin County Civil Grand Jury released a report entitled *Affordable Housing: Time for Collaboration in Marin* (Grand Jury Report). This Grand Jury Report addresses the lack of affordable housing in Marin and offers a suggested solution to facilitate the development of more affordable housing through regional coordination. This Grand Jury Report can be accessed at the following link:

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

<https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2021-22/affordable-housing--time-for-collaboration-in-marin.pdf?la=en>

The methodology used for preparing this report included:

- conducting interviews with elected officials and staff members from Marin County, local cities and towns, and neighboring counties;
- consulting experts on affordable housing issues, executives of both nonprofit and for-profit housing developers, and individuals from local housing advocacy groups;
- reviewing 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; and
- inspecting potential affordable housing building sites located in the county.

The “Discussion” section of the Grand Jury Report outlines the need for more affordable and workforce housing in Marin, Marin municipalities’ performance in meeting Regional Housing Needs Allocations (RHNA), and the implications of new statewide housing legislation SB35 for local control. The Grand Jury then presents the benefits of a countywide approach, including increased access to funding, and offers several approaches to countywide coordination, such as formation of a Joint Powers Authority (JPA) or a subregion for the Housing Element process. The Grand Jury suggests creating a regional authority or tasking an existing authority such as the Transportation Authority of Marin to facilitate affordable housing policy countywide, and references the City County Planning Committee (CCPC), previously proposed in 2006, as a potential model.

The Grand Jury Report presents the following 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.*

The Grand Jury Report presents the following recommendation:

*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.*

The Grand Jury Report dated June 24, 2022 was distributed to the County of Marin and all cities and towns in Marin County. In addition, the report was distributed to the Transportation Authority of Marin. The City of San Rafael has been requested to respond to the findings and recommendation R1.

The City is required to respond to the Grand Jury Report. Penal Code section 933(c) states in part:

“No later than 90 days after the Grand Jury submits a final report...the governing body of the public agency shall comment to the presiding Judge of the Superior Court on the findings and recommendations...[contained in the report].”

To comply with this statute, the City's response to the Grand Jury report must be approved by Resolution of the City Council and submitted to the Presiding Judge of the Marin County Superior Court and the Foreperson of the Grand Jury on or before September 22, 2022. A proposed Resolution is attached that would approve the City's response.

#### **ANALYSIS:**

Overall, the Grand Jury Report does not present any previously unknown findings or information. The suggested solution to deepen collaboration countywide to achieve more affordable housing makes sense, and San Rafael currently engages with the County and other jurisdictions in several ways. While the report briefly acknowledges some of these efforts, Staff has taken the opportunity in its response to the Grand Jury Report to further describe current collaboration on housing with other jurisdictions, and to outline future possibilities and intentions.

#### **Response to Report Findings**

The Civil Grand Jury has requested that the City of San Rafael respond to the ten report findings listed above. Staff has reviewed these findings and agrees with the findings numbered F1, F2, F3, F4, F5, F6, F7, F9, and F10. Staff partially disagrees with the finding numbered F8. Staff has provided direct comments in response to F8 and four of the other findings:

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

Response: Agree.

The City supports using the Regional Housing Needs Allocation (RHNA) as a means of identifying sites for housing and is on track to meet its increased market-rate allocation for the 2023-2031 planning

period. In August 2021, the City Council adopted General Plan 2040. General Plan 2040 maintained almost all existing land use designations, which have existed since at least 2000. Most of these designations already allow residential development. The City is also actively seeking ways to support affordable and workforce/moderate housing projects. That said, whether the amount of housing allocated through RHNA can be built within the eight-year timeframe will depend on many factors that are outside the City's control, such as owner interest, availability of land, financing, and other market forces.

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

Response: Agree.

San Rafael collaborates and coordinates housing programs with Marin County and other towns and cities 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.

The Vivalon Healthy Aging Campus and Senior Housing currently under construction in San Rafael is an example of successful countywide partnership. Eden Housing and Vivalon are collaborating on a mixed-use project with studios and 1-bedroom apartments on the upper floors, which will be available to low-income seniors. The City of San Rafael and County of Marin provided funding, and the Marin Housing Authority provided project-based vouchers.

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

Response: Agree.

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

**Response to Report Recommendation**

The Civil Grand Jury has requested that the City of San Rafael respond to report recommendation R1:

**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.

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

The City 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 City 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**

The City has long participated in housing collaboration with the County and other cities and towns, beginning in 2008 with the 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, City staff joined 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 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. In some instances where the City already had begun certain policies and projects ahead of other jurisdictions, the City shared its conclusions and remained open to alignment when in service to increasing housing supply.

**Future collaboration**

The City intends to expand collaboration with the County and other cities and towns in the following ways:

1. ***Commit to collaboration:*** In the City’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 City, along with Marin County and other cities and towns, 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 City will collaborate with the County and other cities and towns on program implementation, especially those related to Affirmatively Furthering Fair Housing and tenant protections. This will include:
  - *Model ordinances:* helping to inform model ordinances developed by the County, 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:** Develop a deeper and more formalized collaboration on the Housing Element in the future. This could include:
  - *Shared Housing Element components and policy toolkit:* Develop shared background and outreach sections, and a toolkit of 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 could 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 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 part of the Marin County 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.

## **Conclusions**

The Grand Jury Report focuses on enhanced regional collaboration to build more affordable housing while retaining local control, stating: “Regardless of the specific mechanism utilized, Marin must establish a strong culture of inter-jurisdictional collaboration to address housing needs beyond basic planning issues.” While the City will not implement the report’s recommendation for a regional authority, Staff agrees that a culture of inter-jurisdictional collaboration is critical, and will continue to build relationships, leverage existing collaborations, and pursue additional opportunities to coordinate approaches with other jurisdictions, when in alignment with San Rafael’s commitment to creating more affordable and workforce housing.

**FISCAL IMPACT:**

City review and comment on this Civil Grand Jury Report has no fiscal impact on the City of San Rafael.

**OPTIONS:**

The City is required to respond, however, the City Council has the following options to consider on this matter:

1. Adopt resolution as presented, approving the proposed response.
2. Adopt resolution with modifications to the proposed response.
3. Direct staff to return with more information.

**RECOMMENDED ACTION:**

Adopt resolution approving and authorizing the Mayor to execute the proposed response to the Marin County Civil Grand Jury Report.

**ATTACHMENTS:**

1. Resolution, with attached City response to Grand Jury report

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL  
APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE  
RESPONSE TO THE MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED  
- AFFORDABLE HOUSING: TIME FOR COLLABORATION IN MARIN**

**WHEREAS**, pursuant to Penal Code section 933(c), a public agency which receives a Grand Jury Report with findings and recommendations pertaining to matters under the control of the public agency must, within ninety (90) days, provide a written response to the Presiding Judge of the Superior Court with a copy to the Foreperson of the Grand Jury, responding to the Report's findings and recommendations; and

**WHEREAS**, Penal Code section 933(c) specifically requires that the "governing body" of the public agency provide said response and, in order to lawfully comply, the governing body must consider and adopt the response at a noticed public meeting pursuant to the Brown Act; and

**WHEREAS**, the City Council of the City of San Rafael has received and reviewed the Marin County Grand Jury Report, dated June 24, 2022, entitled "Affordable Housing: Time for Collaboration in Marin;" and

**WHEREAS**, at a regular City Council meeting held on September 6, 2022, the Grand Jury Report was presented, public testimony was accepted, and the City Council discussed the report findings and recommendations.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of San Rafael hereby:

1. Approves and authorizes the Mayor to execute the City's response to the Marin County Grand Jury's June 24, 2022 report, entitled "Affordable Housing: Time for Collaboration in Marin," a copy of which response is attached hereto and incorporated herein by reference.
2. Directs the City Clerk to forward the City's response forthwith to the Presiding Judge of the Marin County Superior Court and to the Foreperson of the Marin County Grand Jury.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on the 6<sup>th</sup> day of September 2022, by the following vote to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

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LINDSAY LARA, City Clerk





## RESPONSE TO GRAND JURY REPORT FINDINGS AND RECOMMENDATIONS

**REPORT TITLE:** "AFFORDABLE HOUSING: TIME FOR COLLABORATION IN MARIN"  
**REPORT DATE:** June 24, 2022  
**RESPONSE BY:** San Rafael City Council

### GRAND JURY FINDINGS

- We agree with the findings numbered: **F1, F2, F3, F4, F5, F6, F7, F9, and F10**
- We disagree wholly or partially with the finding numbered: **F8**

### GRAND JURY RECOMMENDATIONS

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

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
Mayor Kate Colin



City of San Rafael Response to Grand Jury Report Findings and Recommendations  
“Affordable Housing: Time for Collaboration in Marin”  
(June 24, 2022)

**RESPONSE TO GRAND JURY FINDINGS**

**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 City supports using the Regional Housing Needs Allocation (RHNA) as a means of identifying sites for housing and is on track to meet its increased market-rate allocation for the 2023-2031 planning period. In August 2021, the City Council adopted General Plan 2040. General Plan 2040 maintained almost all existing land use designations, which have existed since at least 2000. Most of these designations already allow residential development. The City is also actively seeking ways to support affordable and workforce/moderate housing projects. That said, whether the amount of housing allocated through RHNA can be built within the eight-year timeframe will depend on many factors that are outside the City’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.



City of San Rafael Response to Grand Jury Report Findings and Recommendations  
“Affordable Housing: Time for Collaboration in Marin”  
(June 24, 2022)

Response: Agree.

San Rafael collaborates and coordinates housing programs with Marin County and other towns and cities 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.

The Vivalon Healthy Aging Campus and Senior Housing currently under construction in San Rafael is an example of successful countywide partnership. Eden Housing and Vivalon are collaborating on a mixed-use project with studios and 1-bedroom apartments on the upper floors, which will be available to low-income seniors. The City of San Rafael and County of Marin provided funding, and the Marin Housing Authority provided project-based vouchers.

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

Response: Agree.

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

## **RESPONSE TO GRAND JURY RECOMMENDATIONS**

The Marin County Civil Grand Jury recommends the following:

**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.

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

The City 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



City of San Rafael Response to Grand Jury Report Findings and Recommendations  
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(June 24, 2022)

done to date, as described below, and additional opportunities are being developed. The City 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.

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Future collaboration

The City intends to expand collaboration with the County and other cities and towns in the following ways:

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2. **Implementation of Housing Element programs:** During implementation of the 2023-2031 Housing Element, the City will collaborate with the County and other cities and



City of San Rafael Response to Grand Jury Report Findings and Recommendations  
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towns on program implementation, especially those related to Affirmatively Furthering Fair Housing and tenant protections. This will include:

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  - *Consider a Subregional approach:* The County and cities and towns could 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 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 part of the Marin County 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.