



**STAFF REPORT**

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

From: **Administrative Services Department**

Subject: **Investment Summary – July 2011**

Reviewed By: \_\_\_\_\_

**BACKGROUND**

Pursuant to Government Code Section 53601, staff is required to provide the Town Council with a report regarding the Town’s investment activities for the period ended July 30, 2011.

**ANALYSIS**

Agency	Investment	Amount	Interest Rate	Maturity
Town of Tiburon	Local Agency Fund (LAIF)	\$19,264,167.68	0.381%	Liquid
	CDARS (Bank of Marin)	\$ 2,025,794.88	0.46%	October 21, 2011
	Housing note to Town Manager	\$ 800,000.00	0.513%	Based on Contract
	Money Market (Bank of Marin)	\$ 250,000.00	0.50%	Liquid
	Note to Former Town Employee	\$ 31,195.41	5.55%	June 1, 2017
<b>Total</b>		<b>\$22,371,157.97</b>		

**FINANCIAL IMPACT**

No financial impact occurs by adopting the report. The Town continues to meet the priority principles of investing – safety, liquidity and yield in this respective order.

**RECOMMENDATION**

Staff recommends that the Town Council:  
 Move to accept the July 2011 investment summary

Prepared By: Heidi Bigall, Director of Administrative Services



**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Town Council Meeting  
September 7, 2011  
Agenda Item: *CC 2*

## STAFF REPORT

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

From: **Michael J. Cronin, Chief of Police**

Subject: **Citizen's Options for Public Safety (COPS)**

Reviewed By: *[Signature]*

### BACKGROUND

Assembly Bill 3229, signed into law as Chapter 134, Statutes of 1996, established the Citizen's Option for Public Safety Program (COPS). The law allocates funds for "front line law enforcement" on a population based formula with a minimum award of \$100,000 per fiscal year.

On June 30, 2011 the Governor signed the state budget providing communities with the annual baseline funding in the amount of \$100,000. Funds are being distributed over the fiscal year in four increments of \$25,000.00 each through the county.

On June 7, 2011 the Council adopted the Police Department Budget that included authorization of a COPS-funded position of Investigator. To receive the funding the Town Council must adopt a resolution at a public hearing to approve the spending plan for the expenditure of COPS funds.

### FINANCIAL IMPACT

The Town can expect to receive \$100,000 this fiscal year.

### RECOMMENDATION

It is recommended that the Town Council:

- 1) Adopt the resolution approving an expenditure plan for the COPS funding received in fiscal year 2011-12;
- 2) Direct staff to submit the spending plan and resolution to the County Supplemental Law Enforcement Oversight Committee and accept the funding.

Prepared By: **Michael J. Cronin,**  
Chief of Police

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF TIBURON  
APPROVING AN EXPENDITURE PLAN FOR THE UTILIZATION OF  
SUPPLEMENTAL LAW ENFORCEMENT FUNDS  
("COPS") MONIES RECEIVED FISCAL YEAR 2011-2012**

WHEREAS, Assembly Bill 3229, signed into law as Chapter 134, Statutes of 1996, established the Citizen's Option for Public Safety Program (COPS); and

WHEREAS, on June 30, 2011, the Governor signed the state budget that provides local government law enforcement jurisdictions with an annual baseline funding in the amount of \$100,000, for frontline law enforcement personnel and other related equipment; and

WHEREAS, the Town Council, at a public hearing held annually, must approve of a spending plan for the expenditure of COPS; and

WHEREAS, the Town Council of the Town of Tiburon, at its regular meeting held on June 7, 2011, adopted the recommended Police Department Budget that included authorization of a COPS-funded frontline position of Investigator.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Tiburon approves the proposed and recommended use of the COPS funds, and further, that the action to employ additional frontline personnel shall be contingent upon receipt and continuation of baseline funding in the amounts referred to above. This Resolution, which approves the recommended plan for the expenditure of COPS monies, is to be submitted to the County Supplemental Law Enforcement Oversight Committee.

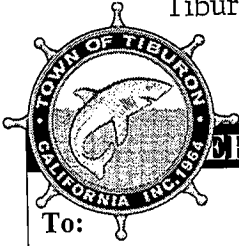
PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on \_\_\_\_\_, by the following vote:

AYES:           COUNCILMEMBERS:  
NOES:           COUNCILMEMBERS:  
ABSENT:        COUNCILMEMBERS:

\_\_\_\_\_  
JEFF SLAVITZ, MAYOR  
TOWN OF TIBURON

ATTEST:

\_\_\_\_\_  
DIANE CRANE IACOPI, TOWN CLERK




## REPORT

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

**From:** Office of the Town Manager

**Subject:** Request of Mayor Slavitz to Endorse Appointment of Councilmember Alice Fredericks by the Marin County Council of Mayors and Councilmembers to the Golden Gate Bridge, Highway and Transportation District Board of Directors

**Reviewed By:** 

### BACKGROUND AND ANALYSIS

The Marin County Council of Mayors and Councilmembers (MCCMC) appoints one seat on the Board of Directors of the Golden Gate Bridge, Highway and Transportation District (GGBHTD). This position has been filled for many years by San Rafael Mayor Al Boro, but it will be vacant shortly due to his pending retirement from public office.

Councilmember Alice Fredericks has expressed interest in receiving this MCCMC appointment. Mayor Slavitz asked staff to place the question of Town Council endorsement of the appointment on a Town Council agenda for consideration.

While there is no direct impact on Tiburon from this type of appointment, it can often be of benefit for Councilmembers to serve on regional boards, particularly those, like GGBHTD, that operate significant public services in the County. Having local representatives on these boards tends to expand Council's and staff's interagency communication as well as our understanding of the agency's operations, finances and services, including occasional grant opportunities. It also increases the likelihood that the interests of Tiburon will be reflected in agency decisions.

### FINANCIAL IMPACT

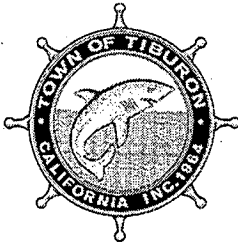
There is no financial impact associated with this possible appointment.

### RECOMMENDATION

Staff recommends that the Town Council:

1. Consider endorsement of Councilmember Alice Fredericks for appointment by MCCMC to the GGBHTD Board of Directors.
2. If Council opts to endorse, direct staff to prepare a letter for the Mayor's signature forwarding this information to MCCMC.

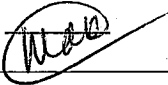
Prepared By: Peggy Curran, Town Manager



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Town Council Meeting  
September 7, 2011  
Agenda Item: CC #4

## STAFF REPORT

**To:** Mayor and Members of the Town Council  
**From:** Office of the Town Engineer  
**Subject:** Recommendation To Award The Del Mar Valley Utility Undergrounding Project to Bay Pacific Pipelines, Inc.  
**Reviewed By:** 

### BACKGROUND

Residents of Del Mar Valley have sought to underground the utilities in their neighborhood since 2003. As the Council is very familiar with the protracted story of those efforts, this report will focus only on the facts relevant to the current attempt to finance the undergrounding project.

In early 2010, the Town settled the litigation challenging the 2005 original Del Mar Assessment District ("Original District"). The Settlement Agreement deleted portions of the Original District, but allowed the Town to proceed to seek financing to underground the utilities for the remaining 164 parcels. In the subsequent months of 2010, the Town took the multi-step process of re-forming the district. In July 2010, a public hearing was held and ballots were cast in favor of forming the district. No protest was heard during the allotted period and the district was officially formed in August.

The work with engineering consultants and the three utility companies to re-scope and re-engineer the project was extensive and took longer than we had hoped. On May 18, 2011, the Council preliminarily approved the plans and specifications and authorized staff to advertise and seek bids for the construction of the project. The project was posted and advertised as required by the State of California's Public Contract Code. In addition to the required advertising notice, the Town sent notices inviting bids to construction trade publication plan rooms, and bids were opened on August 25, 2011.

The Town received eight bids:

- Ranger Pipeline in the total base bid amount of \$2,227,494.50 with no bid for the alternate work,
- Maggiora & Ghilotti in the total base bid amount of \$2,787,787 with a bid alternate of \$785,500,
- St. Francis Electric in the total base bid amount of \$2,834,864.75 with no bid for the alternate work,
- Team Ghilotti in the total base bid amount of \$2,689,412.80 with a bid alternate of \$2,989,275.

- Roadway Engineering in the total base bid amount of \$2,957,953.93 with a bid alternate of \$2,236,520,
- Michael Paul Company in the total base bid amount of \$2,526,239 with a bid alternate of \$924,000,
- Tennyson Electric in the total base bid amount of \$2,601,212.75 with a bid alternate of \$3,119,275, and
- Bay Pacific Pipelines in the total base bid amount of \$1,986,899.70 with no bid for the alternate work.

The Engineer's Estimate for the base bid was \$2,983,087. The planned improvements include main joint trench construction, new facilities to replace overhead utility lines, service connection box installation within the right-of-way, pavement re-striping, and appurtenant work.

Staff has reviewed the bid proposals and found them to be consistent. The low bidder, Bay Pacific Pipelines, Inc. is a qualified contractor with a valid Contractor's License, and is responsive to the contract specifications with satisfactory references.

If the project is approved by Council, the following general timeline can be established:

- Contract documents could be executed by end of September.
- A preconstruction meeting could be scheduled by early October.
- Construction could start by mid October.
- Complete construction of joint trench by March 2012
- Utility companies' conversion period begins March 2012
- Complete utility companies' conversions and remove overhead lines by October 2012.

### **FISCAL IMPACT**

The project is budgeted for this fiscal year under Capital Improvement Projects through the assessment district bond proceeds and General Fund Streets and Drainage Reserves with a total of \$4.82 millions allocated. These funds are earmarked for not only construction, but engineering, construction management, contingencies, and other administrative district expenses.

### **RECOMMENDATION**

Staff recommends that the Town Council:

Move to approve the award of a construction contract for the Del Mar Valley Utility Undergrounding Project to Bay Pacific Pipelines, Inc in the amount not-to-exceed \$1,986,899.70, plus 15 percent for contingencies.


Prepared By: Nicholas T. Nguyen, Director of Public Works/Town Engineer



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Town Council Meeting  
September 7, 2011  
Agenda Item: **AI-1**

## STAFF REPORT

**To:** Mayor and Members of the Town Council  
**From:** Office of the Town Clerk  
**Subject:** Consider appointment to Design Review Board  
**Reviewed By:** 

### BACKGROUND

The Council appointed board member Lou Weller to the Planning Commission on June 15, 2011, thereby creating a vacancy on the Design Review Board. The Town Clerk posted a Notice of Vacancy at Town Hall and the Library, pursuant to Town policy (Resolution No. 16-2007), and also published the notice in *The Ark* in June and July.

Architect Greg Johnson has applied for the position and was interviewed by the Council on August 23, 2011. No other applications have been received.

### RECOMMENDATION

Staff recommends that the Town Council:

1. Consider appointment of Greg Johnson to the Design Review Board, or
2. Direct the Town Clerk to continue to advertise for the position.

Exhibits: 1) Notice of Vacancy on the Design Review Board  
2) Letter and application of Greg Johnson

Prepared By: Diane Crane Iacopi, Town Clerk



## SPECIAL VACANCY NOTICE

On Town of Tiburon Boards, Commissions & Committees  
July 2011

### DESIGN REVIEW BOARD -

Statutory Authority: Section 3.02 of Tiburon Zoning Ordinance  
Term: Four years

**Purpose:** The Design Review Board reviews and acts on applications for Site Plan and Architectural Review, which can include plans for new residential and commercial building, remodels, additions, accessory buildings, swimming pools, fences, decks, and other structures. This review includes both the site layout and architectural design characteristics of a proposal. Decisions of the Board are final, unless appealed to the Town Council.

**Qualifications:** A licensed architect is preferred to this vacancy, although not required. Applicants should be residents of the Town of Tiburon and have an interest and time available to help promote the general welfare and aesthetics of the community through proper regulation of site planning and architectural design. Formal training, experience and familiarity with architecture, design, and/or landscape architecture are preferred but not required.

The unscheduled vacancy on the Design Review Board has occurred as follows:

	<u>Appointees</u>	<u>Date Appointed</u>	<u>Date Resigned</u>	<u>Term Expires</u>
1)	Lou Weller	March 2010	June 2011*	2/28/13

\*appointed to Tiburon Planning Commission

\*\*\*\*\*

Interested residents can contact Tiburon Town Clerk Diane Crane at 435-7377 for more information, or pick up an application at Tiburon Town Hall, 1505 Tiburon Boulevard. Applications are also available on-line at [www.ci.tiburon.ca.us](http://www.ci.tiburon.ca.us) (click on "Useful Forms"). Position is open until filled.

# DIGEST

RECEIVED  
AUG - 8 2011

TOWN CLERK  
TOWN OF TIBURON

## Instructions and Application to Serve on a Town Board, Commission or Committee

The Town Council considers appointments to various Town boards, commissions and committees throughout the year due to term expirations and unforeseen vacancies. In an effort to broaden participation by local residents in Tiburon's governmental process and activities, the Council needs to know your interest in serving the Town in some capacity.

Please indicate your specific areas of interest and special skills or experience which would be beneficial to the Town, by completing both pages of this form and returning it to Town Hall, 1505 Tiburon Blvd, Tiburon CA 94920, or fax it to (415)435-2438.

Copies of the application will be forwarded to the Town Council and an informal interview will be scheduled when a vacancy occurs. Your application will remain on file at Town Hall for a period of one (1) year.

Thank you for your willingness to serve the Tiburon community.

Diane Crane Iacopi  
Town Clerk

\*\*\*\*\*

AREAS OF INTEREST

Please Indicate Your Area(s) of Interest in Numerical Order  
(#1 Being the Greatest Interest)

- |    |                                       |   |                           |
|----|---------------------------------------|---|---------------------------|
| #  | PLANNING                              | # | PARKS & OPEN SPACE        |
| #1 | DESIGN REVIEW                         | # | RECREATION                |
| #  | HERITAGE & ARTS                       | # | DISASTER PREPAREDNESS     |
| #  | LIBRARY                               | # | MARIN COMMISSION ON AGING |
| #  | BICYCLE/PEDESTRIAN ADVISORY COMMITTEE |   |                           |

PERSONAL DATA

Only computer-generated or typewritten copy will be accepted;  
Attach separate pages, including resumes and cover letters, if necessary.

**NAME:** Greg Johnson

**MAILING ADDRESS:** 541 Comstock Drive, Tiburon, CA 94920

**TELEPHONE: Home:** 789-5548 **Work:** 357-4190 **Fax No.** \_\_\_\_\_

**PROPERTY OWNERS' ASSOC.** (If applicable) <Enter Here>

**TIBURON RESIDENT:** (Years) 6 **DATE SUBMITTED:** 8.5.11

REASONS FOR SELECTING  
YOUR AREAS OF INTEREST

Long term interest in serving on the Tiburon DRB and interest by Planning Staff to have me serve on the DRB. Serving on the DRB will provide an opportunity to help serve the community in which I reside.

APPLICABLE QUALIFICATIONS  
AND EXPERIENCE

Licensed Architect in California and very familiar w/ the Tiburon Planning Process through my own work here in Town. I have completed a number of projects in Town working over the past (10) years.

**R E C E I V E D**  
AUG - 8 2011

TOWN CLERK  
TOWN OF TIBURON

-----Town Hall Use-----

**Date Application Received:** \_\_\_\_\_ **Interview Date:** 8-23-11

**Appointed to:** \_\_\_\_\_  
(Commission, Board or Committee) (Date)

**Date Term Expires:** \_\_\_\_\_ **Length of Term:** \_\_\_\_\_

Interview 8-23-11  
7:15 P.M.

**Diane Crane Iacopi**

**From:** Greg Johnson [gjarctct@earthlink.net]  
**Sent:** Friday, August 05, 2011 3:52 PM  
**To:** Diane Crane Iacopi  
**Cc:** Dan Watrous  
**Subject:** DRB Application  
**Attachments:** DRB App 8.5.11.pdf

R E C E I V E D  
AUG - 8 2011

TOWN CLERK  
TOWN OF TIBURON

Hello Diane.

I am writing to you today after speaking w/ Dan & Laurie in the Planning Department about the open position on the DRB. I've been interested in this for a long time however my own architectural practice has kept me from submitting an application to you. With the focus of my practice shifting from private homes, the timing seems to make sense and thus I am submitting this to you for the Town's consideration.

I would welcome the opportunity to speak further about this position and to be considered for this role. Having designed a number of homes in town over the past decade, I am pretty familiar w/ the process and I have enjoyed working w/ Dan and his staff. It would be an honor to help and give back to the community.

Please let me know if I can provide any further information and what the next steps would be.

Greg

**Greg Johnson Architect, Inc**

Tel. 415-435-3965  
Cell. 415-987-7141  
gjarctct@earthlink.net



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

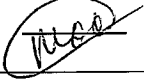
Town Council Meeting  
September 7, 2011  
Agenda Item: PH 1

## STAFF REPORT

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

**From:** Community Development Department

**Subject:** Introduce and Consider First Reading of an Ordinance Amending Sections of Chapter 16 (Zoning) of the Tiburon Municipal Code to Create an Additional Exemption from the Conditional Use Permit Requirement for Wireless Communication Facilities (WCF's); Town-Initiated application; File No. MCA 2011-06

**Reviewed By:** 

## BACKGROUND

The Town began regulating wireless communication facilities (WCF's) in 1997 and has amended its regulations several times over the years to remain consistent with state and federal requirements in this ever-changing field of communications. The Town's regulations are currently codified in the Municipal Code Chapter 16 (Zoning Ordinance), in Section 16-42, and require among other things a conditional use permit to install or operate a WCF in Tiburon. However, subsection 16-42.030 contains a list of WCF's that are exempt from the provisions of Section 16.42 and do not require a conditional use permit. Exemptions include FCC-licensed amateur (ham) radio installations, certain types of satellite antennas under a certain diameter, and television antennas subject to certain criteria.

The Tiburon Fire Protection District ("District") has proposed to install an antenna to enhance in inter-agency communications during an emergency. The antenna would be low-wattage and located on an existing wooden pole on the MMWD water tank site on Sugarloaf Drive. The City of Belvedere staff and Town staff both support this proposal. Staff believes that the antenna would have no impact on the surrounding neighborhood and should not require a conditional use permit as do most new wireless communications facilities. Accordingly, Town staff proposes adding a new exemption to subsection 16.42 of the Zoning Ordinance that would apply to a low-wattage antenna owned and operated by a public agency and used exclusively for public safety purposes, provided that a lengthy list of criteria are met.

## ANALYSIS

The current section 16-42 of the zoning ordinance is attached as **Exhibit 3**. Very briefly, the added text would create one narrowly-crafted additional exemption (**Exhibit 4**) from the conditional use permit requirement for WCF's and add it to the list found in Section 16-42.030. In order to qualify for the exemption, a facility would need to meet the following criteria as described below:

- a) The antenna must be located in the Public-Quasi-Public (P/QP) zone.

*Discussion:* This criterion requires any antennas qualifying for the exemption to be located in a zone primarily intended for public uses, and keeps them off properties zoned for residential uses.

- b) Owned and operated by a public agency and used exclusively for public safety purposes.

*Discussion:* There are a limited number of public safety agencies that would have reason to broadcast on the Tiburon peninsula. The Marin Emergency Radio Authority (MERA) system, already having a backbone facility in Tiburon, accommodates many of these agencies.

- c) The wattage does not exceed 200 watts at full power.

*Discussion:* By way of comparison, the full power wattage level for the Mount Tiburon MERA installation in Tiburon is 1,800 watts, or nine times stronger.

- d) The antenna is located on a pre-existing structure.

*Discussion:* This criterion is intended to limit the installation of any antenna to the whip antenna itself and not allow any new support structures to be erected. This would act to minimize potential new view impacts to those caused by a whip-style antenna which has, by definition, a small diameter.

- e) The antenna (not including its pre-existing support structure) shall be a whip-style antenna and shall not exceed 25 feet in height.

*Discussion:* This is another criterion aimed at visual minimization. Whip antennas are slender in diameter and a substantive portion of the length would likely be affixed to its support structure, reducing the length of antenna rising above that support structure.

- f) The proposed wireless communication facility has a valid FCC license on file with the Town.

*Discussion:* No discussion required.

- g) An electrical permit for the installation shall be secured from the Tiburon Building Division.

*Discussion:* The Tiburon Building Division will review the electrical connections to ensure compliance with the California Electrical Code.

- h) The structural attachment/anchoring method for the antenna shall be approved to the written satisfaction of the Tiburon Building Division.

*Discussion:* The Tiburon Building Division will review the structural attachment method to ensure public safety of the physical installation.

- i) Compliance with OET Bulletin 65, or any successor document thereto, shall be demonstrated by a qualified radio frequency engineer.

*Discussion:* Federal EMF emission limits must be demonstrated and complied with.

Staff believes that these specific criteria create a very narrow exemption that would have negligible potential for impact on any surrounding uses or residents.

Neighborhood residents have raised concerns that the installation of the new antenna would potentially give rise to an "antenna farm" by creating an entitlement for commercial entities to install wireless communications antenna on the tower. The Town Attorney has concluded that this would not occur for several reasons. First, the status of the site would not change because it already supports a tower for wireless communications antennas. More importantly, state law only affords co-location entitlements under narrow circumstances that would not be satisfied by a commercial proposal. Section 65850.6 of the California Government Code creates such an entitlement only where the collocation complies with the local jurisdiction's requirements. The Town's Zoning Ordinance only allows co-location on commercial properties.

## **PLANNING COMMISSION REVIEW**

The Planning Commission held a public hearing on the zoning ordinance text amendment on August 24, 2011. At that meeting, several residents voiced their support for the proposed Fire District antenna, but also raised concerns about the potential for this antenna to "open the door" to future commercial WCFs on the site. The Town Attorney reassured the Commission that the presence of the Fire District's antenna would not compel the Town to approve any commercial wireless facilities on the site and that all such facilities would still need an approved conditional use permit from the Town and permission from the Fire District.

At the August 24 meeting, the Planning Commission unanimously adopted Resolution No. 2011-12 (**Exhibit 2**) recommending approval of the proposed zoning ordinance text amendment.

## RECOMMENDATION

Staff recommends that the Town Council:

1. Hold a public hearing and consider any testimony; and
2. Move to read by title only, waiving any additional readings, and introduce the ordinance (**Exhibit 1**) amending Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code to amend the wireless communications facilities regulations of the zoning ordinance. If first reading is passed without substantive changes, the item will return on the Consent Calendar for adoption at the next regular meeting on July 6, 2011, and if adopted at that meeting will become effective on August 5, 2011.

## EXHIBITS

1. Ordinance No. 524 N. S. (Draft)
2. Planning Commission Resolution No. 2011-12
3. Title IV, Chapter 16, Section 16-42 of the Tiburon Municipal Code
4. Proposed added exemption
5. Draft Minutes of the August 24, 2011 Planning Commission meeting
6. Letter from Brian Lantier, dated August 23, 2011
7. Letter from Carolyn Friedman, dated August 24, 2011
8. Letter from Town Attorney Danforth, dated August 24, 2011

Prepared By: Daniel M. Watrous, Planning Manager

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**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920


Town Council Meeting  
September 7, 2011  
Agenda Item: **PH-2**

## STAFF REPORT

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

From: **Community Development Department**

Subject: **Amend Title IV, Chapter 13E (Water Efficient Landscape) of the Tiburon Municipal Code to Adopt by Reference the Current Marin Municipal Water District Regulations (Ordinance, Second Reading and Adoption); File MCA 2011-05**

Reviewed by: 

## BACKGROUND

The Town Council held first reading of this ordinance at its meeting on August 3, 2011. There was no public comment. Pursuant to state law, when adopting another agency's regulations by reference, a second public hearing is required as well as a second reading prior to adoption. The item now comes to the Town Council for a second reading and adoption.

## RECOMMENDATION

Staff recommends that the Town Council:

1. Hold a public hearing and consider any testimony.
2. Move to read by title only and pass the motion.
3. Mayor reads by title only and calls for a roll call vote.

## EXHIBITS

1. Draft Ordinance No. 532 N. S.

Prepared by: Scott Anderson, Director of Community Development 

**ORDINANCE NO. 532 N. S. DRAFT**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON  
AMENDING TITLE IV, CHAPTER 13E (WATER EFFICIENT LANDSCAPE)  
OF THE MUNICIPAL CODE AND ADOPTING BY REFERENCE MARIN  
MUNICIPAL WATER DISTRICT (MMWD) ORDINANCE NO. 421  
REGARDING WATER CONSERVATION**

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

**Section 1. Findings.**

- A. The Town Council has held public hearings on August 3, 2011 and September 7, 2011 and has heard and considered any public testimony on this matter.
- B. The Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed.
- C. The Town Council finds that the amendment actions made by this Ordinance are necessary for the protection of the public health, safety, and welfare, and are necessary to comply with state law.
- D. The Town Council has found that the amendment actions made by this Ordinance are consistent with the goals and policies of the Tiburon General Plan and other adopted ordinances and regulations of the Town of Tiburon.
- E. The Town Council finds that this project is categorically exempt from the requirements of the California Environmental Quality Act per Section 15308 of the CEQA Guidelines because these regulations constitute an action by a regulatory agency to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The Town Council further finds that this project qualifies for an exemption under the General Rule section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

**Section 2. Amendment.**

Title IV, Chapter 13E of the Tiburon Municipal Code is amended as follows:

- A. Section 13E-1 is amended to read as follows:

**Section 13E-1. Purpose and Authority.**

As mandated under State Government Code Section 65595(c), certain new construction and rehabilitation projects that include landscape and irrigation improvements are required to comply with water-efficient landscape requirements and monitoring of water usage for irrigation. The purpose of this chapter is to comply with this state mandate regarding water-efficient landscaping. For the purpose of administering this State mandate, the Town of Tiburon will herein adopt by reference Marin Municipal Water District (MMWD) Ordinance No. 421 (Water Conservation), and any amendments or successors thereto, and designate MMWD, the local water provider, to implement, enforce, and monitor its requirements. The MMWD ordinance contains provisions that include but are not limited to, the following:

- (1) The application and monitoring of a “maximum applied water allowance” that is established for applicable projects.
- (2) The review of required landscape and irrigation plans, specifications and supportive documents prepared for applicable projects for compliance with water-efficient landscape restrictions, including limitations on the type and amount of landscape materials and plant species.
- (3) The review, inspection and approval of landscape and irrigation that is installed for applicable projects to ensure compliance with the approved landscape and irrigation plans and specifications.
- (4) The post-installation monitoring of water usage for irrigation by applicable projects.

B. Section 13E-2 is amended to read as follows:

**Section 13E-2. Adoption by Reference of Marin Municipal Water District Ordinance No. 421.**

(a) Pursuant to Government Code Section 50022.2, Marin Municipal Water District Ordinance No. 421, including amendments and successors thereto, is hereby adopted by reference and shall be in full force and effect within the Town of Tiburon. Said Ordinance No. 421 shall be applicable to projects that are subject to the water efficient landscape requirements set forth therein, which projects include, without limitation:

- (1) New construction and rehabilitated landscapes for public agency projects and private development projects with a landscape area equal to

or greater than 1,000 square feet requiring a building or landscaping permit, plan check or design review; and

(2) New construction and rehabilitated landscapes that are developer or contractor-installed in single family, two-family and multi-family residential projects with a landscape area equal to or greater than 1,000 square feet requiring a building or landscape permit, plan check or design review; and

(3) New construction and rehabilitated landscapes that are homeowner-provided in single family, two-family, and multi-family residential projects with a total project landscape area equal to or greater than 2,500 square feet requiring a building or landscaping permit, plan check or design review.

(b) For the purpose of administering these regulations, the Town of Tiburon hereby designates MMWD, the local water provider, to implement, enforce, and monitor the requirements therein.

(c) Town review of applicable projects shall be processed as follows:

(1) Projects requiring approval of a Site Plan and Architectural Review (a.k.a. Design Review) permit. When an applicable project is subject to Site Plan & Architectural Review approval pursuant to Title IV, Chapter 16 of the Tiburon Municipal Code, the landscape and irrigation plans required by and submitted with this permit application shall be designed and prepared to comply with the provisions and requirements of the applicable MMWD regulations adopted by reference herein. The process for application review of applicable projects and compliance with applicable MMWD regulations shall be as follows:

a. The application and plans submitted to the Town shall be designed in accordance with MMWD Ordinance 421 and any amendments or successor ordinances thereto;

b. The permit approval shall include a condition or conditions that include the following:

1. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD.

2. The construction plans submitted to the Town for the issuance of a building permit/grading permit must be

pre-approved by MMWD with the submitted plans stamped as approved by MMWD.

3. The building permit application must be accompanied by a letter from MMWD approving the landscape and irrigation plans.

4. If the MMWD-approved plans substantially differ from the Town-approved plans, these differences may require additional review through the Town's design review permit process and/or a revision to the Town's permit.

5. The applicant is responsible for contacting MMWD for all inspections, approval and sign-off on landscape and irrigation installation. Upon approval, MMWD shall issue a Certificate of Completion, which must be submitted to the Planning Division before building permit final sign-off or a Certificate of Occupancy is issued by the Tiburon Community Development Department.

2) Projects requiring a Building Permit and/or Grading Permit only. When an applicable project is not subject to a Site Plan and Architectural Review permit but is required to secure a Building Permit and/or Grading Permit pursuant to Title IV, Chapter 13 of the Tiburon Municipal Code, such permit(s) shall not be issued until the applicant has secured, in writing, MMWD approval of the landscape and irrigation plans confirming compliance with MMWD Ordinance No. 421 and any amendments or successors thereto.

(d) Inspections and Post-Installation Monitoring and Enforcement. MMWD shall be responsible for:

(1) Inspecting and approving all landscape and irrigation installed for applicable projects prior to project permit final and/or occupancy; and

(2) Monitoring water usage for installed landscapes to ensure compliance with MMWD Ordinance No. 421 and any amendments or successors thereto. All enforcement actions for ordinance non-compliance or violations shall be administered by MMWD.

C. Section 13E-3 is amended to read as follows:

**13E-3. Designation of Marin Municipal Water District for Enforcement.**

The Marin Municipal Water District, as the Town's local water provider, is

hereby designated as the implementing and enforcement agency for provisions of Ordinance No. 421 and any amendments or successors thereto.

D. Section 13E-4 is amended to read as follows:

**13E-4. Availability of Copies.**

Three (3) copies of Marin Municipal Water District Ordinance No. 421, and any amendments or successors thereto, shall be kept on file for public review in the office of the Tiburon Town Clerk.

**Section 3. Severability.**

Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof except that part or provision so declared invalid or unconstitutional.

**Section 4. Effective Date.**

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

This Ordinance was first read and introduced at a regular meeting of the Town Council of the Town of Tiburon on August 3, 2011, and was adopted at a regular meeting of the Town Council of the Town of Tiburon on September 7, 2011, which was noticed pursuant to Government Code Sections 6066 and 50022.3, by the following vote:

AYES: COUNCILMEMBERS:

NAYS: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

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JEFF SLAVITZ, MAYOR  
TOWN OF TIBURON

ATTEST:

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DIANE CRANE IACOPI, TOWN CLERK

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