

FORM FOR RESPONDING TO GRAND JURY REPORT

Report Title: The Need for Labor Negotiation Transparency

Report Date: June 1, 2015

Public Release Date: June 4, 2015

Response by: September 4, 2015

FINDINGS

- I (we) agree with the findings numbered: 3
- I (we) disagree wholly or partially with the findings numbered: 1+2
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered 1+2 will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.) *Letter attached*

Date: 08.20.15 Signed: Margaret DeLee

Number of pages attached 5

TOWN MANAGER
TOWN of TIBURON

Office of the Tiburon Town Attorney/ 415.435.7370



August 20, 2015

The Honorable Faye D'Opal
Judge of the Marin County Superior Court
Post Office Box 4988
San Rafael, CA 94913-4988

Mr. Jack Nixon, Foreperson
Marin County Grand Jury
3501 Civic Center Drive, Room 275
San Rafael, CA 94903

Re: Response to Grand Jury Report June 1, 2015
The Need for Labor Negotiation Transparency

Dear Honorable Judge D'Opal and Mr. Nixon:

This letter explains in detail the Town of Tiburon's response to the Grand Jury Report dated June 1, 2015. The Report directs the Town to respond to Findings Nos. 1-3 and Recommendations Nos. 1-2. The Findings involve conclusions of fact that the Town has little or no independent basis to evaluate. In responding to these Findings, the Town assumes that the information in the Report is correct and relies on that information.

FINDINGS

Finding 1: *The residents of Marin County pay taxes to support decisions made by the Board of Supervisors and City and Town councils; however these residents have minimal opportunity to provide input into labor negotiations.*

Town's Response to Finding 1:

The Town does not agree that Tiburon residents have minimal opportunity to provide input into labor negotiations.

Tiburon is a small town in Marin with 40.5 FTE employees, with 19.1 FTE belonging to a labor association which bargains collectively. The other employees are unrepresented. Mandatory subjects of bargaining include wages (and other forms of compensation, i.e. fringe benefits), hours and working conditions. Current labor agreements, salary schedules and the Town's budget outlining personnel costs are available for review by the public at Town Hall or on the Town's website. Additionally, labor negotiations in Tiburon always begin by being placed on a Town Council closed session agenda; this serves to notify the public that discussions are commencing; the

Frank X. Doyle
Mayor

Erin Tollini
Vice Mayor

Jim Fraser
Councilmember

Alice Fredericks
Councilmember

Emmett O'Donnell
Councilmember

Margaret A. Curran
Town Manager



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public has always and will always have the option to address the Council at any public meeting about labor negotiations and labor relations. If the public, in anticipation of future labor negotiations, wishes to provide input to the Council on these matters they are welcome to do so during the Oral Communication (public comment) period at any Town Council meeting. Proposed labor agreements are always placed on the Town Council agenda and public comment is always taken prior to Council consideration.

Finding 2: *The COIN process can be implemented without affecting the manner in which tentative agreements are negotiated but which nevertheless will ensure public awareness of the terms and costs of those agreement in advance of their being adopted.*

Town's Response to Finding 2:

The Town does not agree that the COIN process can be implemented without affecting the manner in which tentative agreements are negotiated, nor does the Town find any evidence in the Grand Jury's report to support this assertion. In Tiburon, the negotiation process is not lengthy. The Town Manager and Director of Administrative Services first meet with the Town Council in a noticed closed session. The Director of Administrative Services then conducts meetings with the bargaining unit representatives to seek agreement on terms. Pausing during negotiations to call for an independent audit of a proposal then circulating that proposal for public discussion even if it has already been rejected by one side or the other is a significant change and would affect the timing and tone of labor negotiations.

Finding 3: *The COIN process mandates transparency in government decision-making, allowing residents to be informed and to participate in public discussion of how their tax dollars are spent.*

Town's Response to Finding 3:

The Town agrees that the COIN process does provide for transparency, and with transparency, residents potentially would participate in public discussions on the information presented through that process.

RECOMMENDATIONS

Recommendation 1: *Marin County Board of Supervisors and each City Council and Town Council in Marin County adopt and implement a COIN ordinance prior to June 1, 2016, or prior to the next round of negotiations, whichever comes earlier.*



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Recommendation 2: *Marin County Board of Supervisors and each City Council and Town Council in Marin County adopt and implement a COIN ordinance which includes, but is not limited to the following:*

- 1. Hire an independent, experienced Lead Negotiator to negotiate all labor agreements.*
- 2. Hire an independent auditor to determine the fiscal impact of each provision in the current contract, and make this analysis available for public review.*
- 3. Make public each proposal, after it is accepted or rejected by either Party, and publicly verify the costs of that accepted or rejected proposal by an independent auditor.*
- 4. Make public seven days prior to a Board or Council meeting the negotiated tentative agreement and the fiscal analysis thereof, which are to be independently verified.*
- 5. After seven days, place the final tentative agreement on the following two consecutive Employer's public meeting agendas: the first meeting is for discussion of the tentative agreement; the second meeting is for a vote by the employer to approve or disapprove the tentative agreement.*

Town's Response to Recommendations:

The Grand Jury's recommendation that the Town of Tiburon adopt a COIN ordinance attempts to address a perceived lack of transparency regarding the Town's labor negotiation process and the fiscal impact of the resulting labor agreement. Transparency in government is an ideal and goal shared by the Town's elected officials. While we appreciate and agree with the Grand Jury's position that information regarding the negotiation process and employee compensation should be easily accessible by the public, we believe the Town already provides sufficient notice and an opportunity to comment when tentative agreements have been reached, and makes available detailed cost information regarding current and anticipated labor costs. Therefore we believe the recommendation that Tiburon adopt a COIN ordinance and incur the costs associated with its implementation is not warranted.

Town's Response to COIN Ordinance Provisions

- 1. Hire an independent, experienced Lead Negotiator to negotiate all labor agreements.*



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The Director of Administrative Services represents the Town in negotiations with the Tiburon Police Association and S.E.I.U. Local 1021 and in discussions with other employees about compensation or working conditions. The Director does not benefit from any salary or benefit increases negotiated by the Tiburon Police Association and the S.E.I.U. Local 1021, nor from any increases that may be granted to unrepresented employees. There is no conflict and no need to hire an "independent, experienced Lead Negotiator". The Director, who also serves as the Town's Finance Director, has significant experience in both determining the costs of labor agreements and in their negotiation.

2. Hire an independent auditor to determine the fiscal impact of each provision in the current contract, and make this analysis available for public review.

The fiscal impact of the current labor agreement with the Tiburon Police Association and the S.E.I.U. Local 1021, as well as the cost of salaries and benefits for unrepresented employees, is outlined in detail in the Town's annual operating budget. Department budgets include employees' salaries, as well as line item detail (cost) for each Town paid benefit (health premiums, retirement, specialty pay, uniform allowance, etc.). The Town's budget, labor agreements and salary resolutions are available on the Town's website, as are the comprehensive annual audits and actuarial reports identifying the Town's pension liabilities. The Town does not need to hire an "independent auditor" to determine the fiscal impact of each provision in the current contract and would find that additional cost an unnecessary and undue public expense.

3. Make public each proposal, after it is accepted or rejected by either Party, and publicly verify the costs of that accepted or rejected proposal by an independent auditor.

4. Make public seven days prior to a Board or Council meeting the negotiated tentative agreement and the fiscal analysis thereof, which are to be independently verified.

Labor negotiations are an iterative process in Tiburon where proposals and counter proposals are exchanged and discussed in a fairly informal way until a tentative agreement is reached. This can happen in as little as one or two meetings if both sides have clear authority from those they represent. The tentative agreement is then presented to the Town Council (at a regular Town Council meeting) for their consideration along with a staff report that includes a statement as to the total cost of the proposal. The Finance Officer, who does not benefit from the outcome, prepares this cost analysis and is responsible for its accuracy. The Town does not need to hire an independent auditor to cost out the tentative agreement.



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Pursuant to state law, the tentative agreement, staff report and all other agenda materials are made public at least 72 hours before the council meeting. However, it is often the case that reports are completed before that deadline and when that occurs, it may be possible to provide a longer review period.

5. After seven days, place the final tentative agreement on the following two consecutive Employer's public meeting agendas: the first meeting is for discussion of the tentative agreement; the second meeting is for a vote by the employer to approve or disapprove the tentative agreement.

The Tiburon Town Council holds regular meetings twice a month. At those meetings, discussion of any and all agenda items is welcome. If concerns are raised by the public that suggest additional time is needed to fully analyze the proposal, the Town Council has the discretion to continue the item to the next meeting. To require that a tentative labor agreement be placed on two consecutive agendas would unnecessarily extend the review and approval process and is not warranted.

* * * * *

The Tiburon Town Council reviewed and approved this response on August 19, 2015 at a duly noticed and agendized public meeting. If you have further questions on this matter, please do not hesitate to call.

Very truly yours,

MARGARET A. CURRAN
Town Manager

cc: Mayor and Town Council
Town Attorney