

RESPONSE TO GRAND JURY REPORT FORM

Report Title:  *Holding the Bag*

Report Date: May 1, 2013

Public Release Date: May 7, 2013

*TOWN of TIBURON*

Response by: August 7, 2013

FINDINGS

- I (we) agree with the findings numbered:  F 1, 2, 3 + 4
- I (we) disagree wholly or partially with the findings numbered: \_\_\_\_\_

(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  R 1, 2 + 3  will not be implemented because they are not warranted or are not reasonable.

(Attach an explanation.)  *see letter attached dated July 18, 2013*

Date:  7-18-13  Signed:  *Margaret O'Connell*

Number of pages attached  4



Office of the Town Attorney  
(415) 435-7370

July 18, 2013

The Honorable Judge James  
Ritchie  
Marin County Superior Court  
Post Office Box 4988  
San Rafael, CA 94913-4988

Mr. Rich Treadgold, Foreperson  
Marin County Grand Jury,  
2012/2013  
3501 Civic Center Drive, Room 275  
San Rafael, CA 94903

**Re: Response to Grand Jury Report May 1 2013**  
***Holding the Bag***

Dear Honorable Judge Ritchie and Mr. Treadgold:

This letter explains in detail the Town of Tiburon's response to the Grand Jury Report dated May 8, 2013. The Report asks the Town to respond to all findings and Recommendations. Please note that the Report contains assertions of fact that the Town has little or no independent basis to evaluate. In responding to the Report, the Town generally assumes that the information in the Report is correct and relies on that information.

These findings and recommendations also involve a number of agencies other than the Town. The Town does not have sufficient information to evaluate the Report's accuracy with respect to these other jurisdictions. Moreover, the Recommendations require action by agencies and individuals that are outside the Town's control. Accordingly, this letter is intended only to apply to the Report's recommendations insofar as they pertain to the Town.

**Findings:**

The Town agrees with all findings of fact in the Report.

**Recommendations:**

The State Penal Code provides the Town with only four options in responding to a Grand Jury recommendation, as follows:

1. A statement that the recommendation has been implemented, with a summary of the implementing actions.
2. A statement that the recommendation will be implemented, with a timeframe for the implementation.

Emmett O'Donnell  
Mayor

Alice Fredericks  
Vice Mayor

Frank Doyle  
Councilmember

Jim Fraser  
Councilmember

Jeff Slavitz  
Councilmember

Margaret A. Curran  
Town Manager

3. A statement that the recommendation requires further analysis, with an explanation of the scope of the analysis and a timeframe for the Town Council to consider said analysis, not to exceed six months from the date of the Report (i.e., by November 1, 2013).
4. A statement that the recommendation will not be implemented because it is not warranted or unreasonable, with an explanation.

The Town generally agrees with the Report's recommendations. However, these recommendations all require action by the Joint Powers Authority ("JPA"). The Town cannot compel those actions, and each will require environmental review and one or more public meetings. This process will take several months or more. The practical reality is that the additional analysis will not be ready for Town Council for review by the deadline of November 1<sup>st</sup>. Please note that the JPA does not expect to certify its EIR until December.

The Town hopes that it will be in a position to implement Recommendations 2 and 3 (and the spirit of Recommendation 1) within the foreseeable future. However, the Council cannot commit to this in advance of the required environmental review and public input. Accordingly, because of the six-month limit on further analysis, the Town must reject the recommendations at this time, as explained in detail below.

**Recommendation No. 1** recommends the following:

The Marin Hazardous and Solid Waste Joint Powers Authority (JPA) prepare the Model Single-Use Bag Ordinance to implement the strictest rules possible and encourage all agencies to adopt the Ordinance with minimal changes. A ban on single-use plastic carry-out bags should be imposed in all grocery stores, convenience stores, pharmacies and restaurants within the County and apply to all establishments, no matter how large or small.

The Town does not have sufficient authority over the JPA to implement this recommendation, therefore rejects this recommendation as not reasonable.

**Recommendation No. 2** recommends the following:

"Marin County and The Marin Hazardous and Solid Waste Joint Powers Authority (JPA) Members educate the public on the benefits of reusable bags. Marin County and Marin County and The Marin Hazardous and Solid Waste Joint Powers Authority (JPA) Members develop

standardized educational guides for all public schools showing the environmental harm done by plastic single-use carry-out bags. Marin County and The Marin Hazardous and Solid Waste Joint Powers Authority (JPA) Members develop educational materials and distribute them at public events such as farmers' markets and street fairs.”

The Town plans to coordinate and cooperate as much as possible with the JPA and other Cities and Towns to participate in a well-designed, comprehensive education campaign to schools, stores, famers markets and other public events to inform the public about a single use bag ordinance and the benefits of reusable bags. However, the JPA must take the lead in this campaign; the Town does not have the resources to develop and implement such a program. The Town does not know when the JPA’s program will be ready, as it will require CEQA analysis and action by the JPA Board. According, given the Penal Code’s constraints on responses to Grand Jury recommendations, the Town must reject the recommendation as not reasonable.

**Recommendation No. 3** recommends the following:

Marin Towns and Cities adopt an ordinance to ban all single-use plastic carry-out bags using the Model Single-Use Bag Ordinance with minimal, or no, changes, in order to create a true County-wide ordinance.

The Town generally agrees with this recommendation insofar as it pertains to the Town. However, the Town cannot implement the recommendation because the model ordinance is still in draft form and requires further study by the JPA and member cities and towns. As noted above, this additional study will not be complete by November 1, 2013. At this time, the Town does not know when the JPA’s model will be ready for adoption, what it will say or what the environmental consequences will be. Absent more information, the Town must reject this recommendation as unreasonable.

\* \* \* \* \*

Response to Grand Jury  
July 18, 2013  
Page 4 of 4

The Tiburon Town Council reviewed and approved this response on July 17, 2013 at a duly noticed and agendaized 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: Town Council  
Town Attorney