

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Mayor Fredericks called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, July 1, 2009, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

PRESENT: COUNCILMEMBERS: Berger, Collins, Fredericks, Slavitz, Gram

PRESENT: EX OFFICIO: Town Manager Curran, Town Attorney Danforth,
Director of Administrative Services Bigall, IT
Coordinator Monterichard, Town Clerk Crane
Iacopi

Prior to the regular meeting, the Council met in closed session, beginning at 6:00 p.m., to discuss the following:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Section 54956.9(a))

Bonander, et al. v. Town of Tiburon
Town of Tiburon v. All Persons Interested, etc.
Mostyn v. Town of Tiburon et al.
Sylvia v. Town of Tiburon; Town of Tiburon v. Sylvia
Esposito/Malasky v. Town of Tiburon

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

(Section 54956.9(b))

Martha Company

LIABILITY CLAIMS

(Section 54956.95)

Name of Claimant: Bob Schoenfeld
Agency claimed against: Town of Tiburon

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

Mayor Fredericks said that there was no action taken in closed session to report.

ORAL COMMUNICATIONS

None.

PRESENTATION

Update on Marin Energy Authority - (Dawn Weisz)

Ms. Weisz gave a powerpoint presentation and oral report to the Council to bring them up to date on actions taken by the Marin Emergency Authority (MEA) and related news.

She said that an RFP had been issued by the authority in May to interested power suppliers. Responses to the RFP were due in the Fall, according to Weisz, at which time MEA would begin developing contracts. The earliest date for provision of service by the authority would be Spring 2010. She said that it was still to be determined if the Community Choice Aggregation (CCA) portion of the project would move forward.

Vice Mayor Berger asked whether PG&E would respond to the RFP. Ms. Weisz said that they had told MEA that they were not interested in responding.

In other news, Ms. Weisz said that MEA was well positioned to develop grant proposals through the Federal Recovery Act (stimulus package) which encouraged renewable energy. She said examples of the grants being sought by the authority were for solar panel installations on carports and other structures.

She said that ABAG was developing a (solar energy) program for private homeowners, to use property taxes to fund solar installations, and that there was also a model called SEED (Solar Energy Efficiency District) that had been successful in Palm Desert. These districts provide private funding for solar installations, according to Weisz. She said that three local banks in Marin were interested in this type of investment.

Ms. Weisz described the governance of MEA through its nine-member board, and said that recruitment of an Executive Director would move forward later in the year if the CCA program moved forward.

Weisz reported that the cities of Novato, Larkspur, and Corte Madera had not joined the Marin Energy Authority Joint Powers Agency. When asked why by the Council, she replied that she thought it was a result of confusion and misinformation about certain issues. She said that one area of misinformation had to do with the perceived liability that might be borne by the cities if they joined.

Mayor Fredericks asked Ms. Weisz to comment on the liability issue.

Ms. Weisz said that the joint powers authority had been developed with a “firewall” protection between the energy service providers and the cities. She said that legal counsel had written this into the agreement, but that it was also State law, that the debts and liabilities of the JPA were not those of the cities. She said that the indemnification language was clear. She also noted that one test (court) case had upheld this opinion.

Weisz said that the rate payers were ultimately responsible for the debts and liabilities of the MEA. She said one example of this was the bankruptcy of PG&E and the passing on of the costs of reorganizing to the rate payers.

Councilmember Collins asked about the risk of long-term contracts, for instance, if 100,000 rate payers out of an initial 200,000 “opted out” of CCA to go back to PG&E. He asked how these contracts would be paid if there were not enough rate payers to absorb the costs.

Ms. Weisz said that the energy service provider (ESP) would wait until the “opt out” period was over before buying up all its sources of energy.

Collins asked what would happen if this occurred after the lock-in period. Weisz said that the CPUC was exploring all aspects of this question. She said that what was clear is that PG&E is the provider of last resort, and must take back customers, but said that a bond would need to be set aside for contingencies at the beginning of the CCA operation for its protection.

Councilmember Slavitz asked about the failure of a CCA in the East Bay.

Ms. Weisz said that it was not a failure; rather, she said the authority determined that the start-up costs for the CCA were too high and chose not to move forward. She said this was a result of a different customer base than MEA’s, a different business plan, etc. She said that it was not due to the liability issue.

Councilmember Slavitz noted that the San Joaquin power authority was also pulling out of the CCA. Ms. Weisz acknowledged that this was so and said that this was a result of the inability to reach agreement on the liability language in the contract with PG&E. She said that PG&E had required “joint and several” liability in its contract which was a deal breaker.

She said that the San Joaquin authority only had one supplier and that the supplier could not guarantee a rate of return (5%) that was acceptable to the authority. Weisz said that the MEA was seeking at “at or below” [PG&E] rate of return from its suppliers. She added that the Board would determine the final rates of return based upon the bids received.

Ms. Weisz said the Board had two committees—an Executive and Technical Committee. She said the Technical Committee was comprised of people with great depth of experience in the technical, legal and finance areas of energy.

Councilmember Collins asked whether PG&E had entered into some sort of agreement with the City of Larkspur. Ms. Weisz said that PG&E was offering a "partnership" with the city; she said that a similar proposal had been circulated to the County of Marin last year. She said this agreement offered to help pay for certain staff positions, and that there had been discussion of "green tariffs" at a 10-15% premium rate for 100% participation.

Mayor Fredericks asked how this would work, and whether a customer could buy energy solely from renewable sources. Ms. Weisz said that it would not be a direct purchase, but would be similar to buying a carbon offset, or credit, to fund new, renewable sources of energy.

Council asked about the "off-ramps" to participation in Community Choice Aggregation (CCA).

Ms. Weisz said that theoretically the CCA program would not move forward if there was a lack of bids or contracts for energy suppliers. She said that before the year end, each participating Council would vote whether or not to sign the CCA contract(s).

Councilmember Slavitz asked if that meant a city would opt out of all the MEA programs, not just CCA. Ms. Weisz said that was correct, that the JPA was set up this way in order to preserve the integrity of the decision-making body. However, she said that alternatives were being explored, along the lines of a Joint Exercise of Powers Agreement like the Marin Map, in which the JEPA charged a fee for service which would remain in effect even if the agency (city) pulled out.

Councilmember (and Tiburon MEA Boardmember) Collins pointed out another off-ramp: He said that ratepayers could pull out even if an agency did or did not pull out.

Slavitz asked whether the CCA program was still being funded by the County of Marin. Ms. Weisz said that of the initial \$500,000 promised by the County, \$330,000 had been allocated. She said that MEA would ask for more funding in August to continue exploring CCA.

Vice Mayor Berger asked whether the state budget crisis affected the programs in any way.

Ms. Weisz said that County funds were not general fund expenditures and that most of the grant funding received was federal.

Slavitz commented about a newspaper article concerning home windmills for energy production. Ms. Weisz said that they were not as efficient as the "big" windmills (that can produce up to two megawatts of power) but said that they were now available to homeowners, and were popular in places like Germany. She said that SEED programs could be used to underwrite windmills, as well as solar panels, and that the County was looking at its codes to accommodate this kind of installation.

The Council thanked Ms. Weisz for her report.

CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of June 17, 2009 meeting (Town Clerk Crane Iacopi)
2. **Paradise Drive Rezoning Project** – Adoption of Ordinance Rezoning Unincorporated Territory in the Paradise Drive Area of the Tiburon Planning Area near the Southeastern end of the Tiburon Peninsula (Director of Community Development Anderson)
3. **Heritage & Arts Commission Annual Report** – Accept report (Town Manager Curran)
4. **Town Investment Summary** – Accept May 2009 report (Director of Administrative Services Bigall)

MOTION: To adopt Consent Calendar Item Nos. 1 through 4, above.

Moved: Slavitz, seconded by Berger

Vote: AYES: Unanimous

ABSTAIN: Gram (June 17 minutes)

TOWN COUNCIL REPORTS

Mayor Fredericks noted the upcoming League of California Cities “summit” on governance and reform which will take place in Sacramento on July 16 & 17. She said that she was planning to attend and could represent the Town; however, she asked if anyone else was interested in serving as a delegate to the meeting. There were no volunteers.

TOWN MANAGER’S REPORT

Town Manager Curran reported receipt of a \$314,000 grant from TAM for the improvements to the Lyford Drive parking area. She said that the project would be coming to Council for approval in the future.

In addition, Curran said that a \$35,000 grant for vegetation management (Prop. 84 funds) had been received. Both this and the previous grant resulted from applications submitted by Director of Public Works/Town Engineer Nguyen on behalf of the Town.

The Town Manager also said Director Bigall had applied for and received a \$5,000 California Waste Management grant for recycling and related programs for the Town.

Ms. Curran said that as a result of a recent mailer, there had been a 73% increase in the subscribership to the Town’s electronic newsletter, *Tiburon Talk*. She said that many of the respondents had also sent in requests for a paper copy of the newsletter, as well as supplying the town with their emergency contact information.


Mayor Fredericks asked if this information would interface with the MEANS emergency notification system. Town Manager Curran said that the information provided was being entered into the MEANS database; she also said that the TENS system was still in place, that is, the system that automatically dials numbers in a specific geographic area when there is an emergency.

WEEKLY DIGESTS

- Town Council Weekly Digest – June 19, 2009
- Town Council Weekly Digest – June 26, 2009

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Fredericks adjourned the meeting at 8:33p.m.


ALICE FREDERICKS, MAYOR

ATTEST:


DIANE CRANE IACOPI, TOWN CLERK