

MINUTES NO. 190
PARKS & OPEN SPACE COMMISSION
JANUARY 8, 2002
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER

Chair Lindqvist called the regular meeting of the Parks & Open Space Commission to order at 7:35 P.M., Tuesday, January 8, 2002, in the Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

A. ROLL CALL

PRESENT: COMMISSIONERS: Burgin, Canter, Fraser, Lindqvist and Zender

ABSENT: COMMISSIONERS: None

EX-OFFICIO: Town Engineer Echols

B. PUBLIC QUESTIONS AND COMMENTS

There were none.

C. STAFF AND COMMISSION BRIEFING

There was none.

D. CONSENT CALENDAR

1. **Minutes of November 13, 2001 (No. 189). M/S Zender/Fraser (5-0) to approve as submitted.**

E. BUSINESS ITEMS

1. **Staff Referral to Parks & Open Space Commission: Encroachment Permit Request by Bruce Abbott, 458 Greenwood Beach Road, for after-the-fact permission to install fifteen (15) myoperum shrubs in Blackie's Pasture Park.**

Chair Lindqvist offered Bruce Abbott to open discussion. Abbott explained that four homeowners along Greenwood Beach Road had hired an engineer to design drainage improvements. He described dense vegetation in excess of twenty (20) feet tall east of the Greenwood Beach Drainage Project was removed as part of the process of improvements. This growth had served as a buffer between the

public use of Blackie's Pasture and the private homes on Greenwood Drive. Echols showed on a plan where a berm had been laid between Abbott's home and Blackie's Pasture. Abbott claims that the objective was to restore the vegetation after the project was complete and that Kleinert had reportedly agreed with that plan. Abbott described the berm as an afterthought and not part of the original plans, but that a reason for the berm was to use some of the remaining dirt from the new ditch. Abbott planted the myoperum shrubs on the berm to restore the previously existing screen. He appealed to the Commission to consider approving this encroachment or modifying it to accommodate other plantings. Abbott offered to maintain the plants. Open to questions.

Abbott was asked why he did not plant the shrubs on his own property.

Abbott responded that the shrubs would have to grow twice or three times as high since Abbott's property is lower than the pasture. He stated that the height of the myoperums he planted would only be about ten to twelve feet tall, based on the same plants he has in his own yard.

Echols was asked if he had any plans to plant any type of vegetation screen in that area.

Echols responded that there were no plans to plant in that area and there is no landscaping of that area specifically shown on the project plans. He further explained that it is his understanding that the berm was a field decision made by then Town Engineer, Irving Schwartz, in a meeting with the DPW Superintendent and the Richardson Bay Sanitation District. According to an April letter written by Schwartz there were some decisions at that time regarding the disposition of the dirt and excess material, stating "...any excavated material may be placed in the hollow between the new channel and the existing service road." This accurately describes the current placement of the berm. The only intent that the DPW had and has since completed is to hydro-seed the area which is now green from the planting. While the above mentioned letter makes clear a decision had been made to place excess material from the excavation at that location, there is no berm drawn on the plans.

Abbott interjected that the dirt that was taken from the new channel was first to be used to fill the old channel, but for some reason unknown to Abbott, Schwartz had determined the excess material was not to be used there and the excess material was then used to create the berm instead. In fact, the homeowners had to find another source of dirt to fill the old channel although there is quite a lot of dirt on Blackie's Pasture that is excess material.

Lindqvist asked Abbott why the excess dirt wasn't used to fill in the old channel and Abbott responded that he did not know why, but that Schwartz had made that decision.

Echols asked Abbott why more soil was imported into the Pasture when there was already enough excess soil to use and where did they get the dirt that they finally did use to fill in the old channel.

Abbott responded that Maggiori & Ghilotti had claimed that they completed the project according to the Town's specifications and that they wanted an additional \$8,000 to \$10,000 to raze the berm and fill the old ditch. Subsequently there was another project where they had an excess of dirt which they were trying to get rid of and they finally used that for the fill.

Abbott was asked and answered that the myoperum shrubs were planted in the summer.

A discussion ensued regarding the mature height of shrubs and the views of Blackie's Pasture and the bay from various locations. Abbott described the landscaping in past years as being more dense and lush with various plants.

Sidse Moller, also of 458 Greenwood Beach Road, claimed that in her conversations with Kleinert that she was adamant about the need for a shield between the Greenwood Road properties and Blackie's Pasture. She stated that Kleinert told her it was not a problem and not to worry about it. She is very upset that today the discussion is based around removing the shrubs which are the only shield.

Abbott added that he did not know the berm was going to be there until it was there. He said maybe there had been a discussion, but that he was not a part of it. Abbott added that Schwartz was not receptive to any requests or suggestions regarding the plans and that the homeowners had asked that the Town fill the ditch, but the ditch did not get filled.

Commissioner Canter stated that Maggiora & Ghilotti are infamous for this type of behavior and that they have used Blackie's Pasture historically as a dumping ground for their construction work, claiming that they had permission from Tony Iacopi who had denied knowledge of the activities.

Fraser reiterated the current business item as the encroachment of the myoperum planting on public property. He spoke with understanding the needs of the Greenwood Beach Road homeowners to have privacy and shelter from the public area of Blackie's Pasture; however, he expressed concern that a precedent might be set by allowing this encroachment to be permitted. He believes that the homeowners should have gone through the proper channels instead of taking the matter into their own hands. He offered that one solution would be to have the myoperums replanted on private property.

Abbott responded that as previously noted that there was a verbal agreement between the Town and the homeowners that a screen would be reinstalled.

Zender asked if that agreement is in any minutes from any previous meetings or any written documentation from the ten years that the project had been underway.

Echols responded by stating that he had found nothing in the files. He further stated that he had posed the same question to Schwartz and that Schwartz also had nothing written on file. Echols believes if there had been any discussion or decision made regarding a change to the landscaping plans that it would have been made on the plans as well as verbally. He acknowledged that he was not actually present and that without Kleinert's statement that there is nothing further to infer from the existing files.

Abbott was asked who had attended the meeting when a replacement screening was promised and he responded with the following names: Pamela Snellgrove, Susan Miglioli, Nancy Petersen, Bob Kleinert, Ann Danforth, Sia Barmand. He added that Irving Schwartz had also come in at some point during this meeting.

Zender inquired about any Town precedent with regards to replacing landscape screening after construction projects. She remembers a project along Tiburon Boulevard where there was a similar issue regarding the removal and replacement of certain trees.

Echols explained that in the example of the Belvedere Drainage Project where screening was eliminated due to the construction of that project – and as a result of mitigation – the Town agreed to put a berm in and to landscape that berm with trees to restore a buffer between the homes on Belvedere Lagoon and Tiburon Boulevard. In fact, he said, there is a second phase under way where they will complete and extend that berm to the Police Station. Echols gave another more recent example of some Eucalyptus trees at Reed School that were removed and there was a huge public outcry about it. The Town Council ultimately decided that the landscaping buffer would be replaced, so the Council has set some precedent about restoring previously existing screening removed due to a construction project. Since there was some pre-existing dense vegetation in that area of Blackie's Pasture near Greenwood Beach Road, he sees it as a reasonable consideration to restore something that was already there.

Abbott said the plans had been submitted strictly for committee purposes and there had been no intention to show a complete landscaping plan. Furthermore, they had no idea how much of the landscaping would be moved due to the construction. Abbott concluded by thanking the commission for their consideration.

Canter asked why the marsh plants shown on the Greenwood Beach Road drainage project plan have not yet been planted.

Echols answered that the intent was to plant during the winter and also that there is a proposed substitution for the Brass Buttons. Nancy Petersen is to make a recommendation regarding the substitution or expand the other proposed planting in place of the Brass Buttons. Echols assured the Commission that the remainder of the landscaping will be completed in the next few months.

Burgin stated that she would like to have Bob Kleinert and Ann Danforth contacted to find if the agreement was actually made and if the Town has had a precedent of some sort. She believes that keeping something there as some type of screen is fair and that Abbott should not be exposed to the public open space since he had not been before. She also agrees that planting on Town property should not be tolerated. Her conclusion is that the myoperums should be taken out, but then replaced with another screening.

Echols asked if the Commission would consider some modification to the Blackie's Grove plan to incorporate the myoperums.

Canter rebuffed this suggestion and added that the berm should be removed as well.

M/S Canter/Zender (5-0) to deny encroachment permit applied for by Abbott, to require the removal of myoperum shrubs and Pine tree, and to further research and revisit the privacy screening issue between Blackie's Pasture and the homes on Greenwood Beach Road.

F. CORRESPONDENCE

- **Acknowledgement of letter dated 11/28/01 from Superintendent of Richardson Bay Sanitary District regarding paving near Brunini Way**
- **Acknowledgement of memorandum dated 12/10/01 from Planning Director Scott Anderson containing consolidated list of priority projects for each commissioner**

G. SUBCOMMITTEE ASSIGNMENTS

The commission considered reassignment of subcommittee representatives on its various subcommittees.

Tiburon Ridge Trail: Lindqvist; Fraser

Belveron Mini-Park: Canter; Zender

Coastal Clean-up: Burgin; Fraser

Multi-use Path: Canter; Lindqvist

South of Knoll Park: Burgin; Zender

Bicycle-Pedestrian Advisory Committee: Fraser

Lanes & Paths Committee: Lindqvist; Fraser

Blackie's Pasture Committee: Canter; Lindqvist

H. ADJOURNMENT

The meeting was adjourned at 9:07 PM.

HELEN LINDQVIST, CHAIR
Parks & Open Space Commission

ATTEST:

PAT ECHOLS, SECRETARY

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