

**TOWN COUNCIL  
MINUTES**

**CALL TO ORDER**

Mayor Slavitz called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, June 18, 2003 , in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

**ROLL CALL**

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

PRESENT: EX OFFICIO: Town Manager McIntyre, Town Attorney Danforth, Planning Manager Watrous, Director of Public Works/Town Engineer Echols, Chief of Police Odetto, Police Lieutenant Hutton, Director of Administrative Services McVeigh, Administrative & Financial Analyst Stott, Town Clerk Crane Iacopi

**CLOSED SESSION**

**CONFERENCE WITH LEGAL COUNSEL**

(Section 54956.9(a))

*Howard Zack, Diane Zack v. MERA*

*MERA v. Town of Tiburon and Dean Bloomquist*

*Citizens for Open Process in Antenna Siting (COPAS) v. MERA*

*Dugar v. Jorgensen Properties, Ronald Jorgensen and City of Tiburon.*

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

(Section 54956.9(b))

Significant exposure to litigation: one case

**ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY**

Mayor Slavitz said that direction was given to Staff but no action was taken in Closed Session.

**ORAL COMMUNICATIONS**

None.

## PRESENTATION

- Annual Report from Marin Commission on Aging – Tiburon representative Allan Bortel

Commissioner Bortel brought the Council up to date on the activities of the Commission on Aging during the past year and plans for future meetings and activities.

Councilmember Thompson asked whether there was a resource desk at the Belvedere-Tiburon Library that would have the same information available to the public. Mr. Bortel said that there was no specific location but noted that the reference librarian could answer questions relating to where to find the resources. Mr. Bortel also said that he would look into Councilmember Thompson's specific suggestion.

## CONSENT CALENDAR

1. **Approval of Town Council Minutes** – June 4, 2003
2. **Recommendation by Town Clerk** – Appointment to Fill One Vacancy on the Belvedere-Tiburon Library Agency Board of Trustees  
  
Applicant: Allan Bortel
3. **Recommendation by Director of Administrative Services** – Retention of Business License Auditor
4. **Recommendation by Director of Administrative Services** – Authorization of Fund Transfer for Completion of Tiburon Ferry Plaza Project
5. **Recommendation by Town Manager** – Approval of Mill Valley Refuse Service Rate Adjustment – Seventeenth Amendment to Franchise Agreement (Revised)
6. **Recommendation by Director of Administrative Services** – Point Tiburon Community Facilities District 1985-1 Special Tax Levy for Fiscal Year 2003-2004
  - a) A Resolution of the Town Council of the Town of Tiburon Levying a Special Tax Rate for the Property Tax Year 2003-2004 – Community Facilities District No. 1985-1 Point Tiburon Development
7. **Recommendation by Director of Community Development** – Ned's Way Garden Homes Subdivision (Chandlers Gate): Acceptance of Subdivision Improvements as Complete and Authorization to Release Maintenance Bond

- a) A Resolution of the Town Council of the Town of Tiburon  
Accepting the Ned's Way Garden Homes (Chandlers Gate)  
Subdivision Improvements

8. **Recommendation by the Director of Administrative Services** – Adoption of  
Investment Policy for Fiscal Year 2003-2004

- a) A Resolution of the Town Council of the Town of Tiburon  
Adopting a Statement of Investment Policy for Fiscal  
Year 2003-2004

MOTION: To adopt Consent Calendar Items 1 through 8.  
Moved: Thompson, seconded by Fredericks  
Vote: AYES: Unanimous

REGULAR AGENDA

9. **Recommendation by Chief of Police** – Proposed Modification of Alarm Permit Fees

- a) A Resolution of the Town Council of the Town of Tiburon  
Repealing Resolution No. 3135 and Adopting a New Alarm  
Fee Schedule for the Town of Tiburon

Mayor Slavitz said that the item would be continued to a future date.

10. **Recommendation by Chief of Police** – Approval of Special Event Permit Application  
for 5<sup>th</sup> Annual RCP Tiburon Mile Open Water Swim – September 14, 2003

In his Staff report, Lt. Dave Hutton said that the logistical plan had been submitted and reviewed by the Tiburon Police and Fire Departments and had been found to be acceptable for this annual event. He added that Paradise Drive would remain open throughout the course of the event, and that RCP Tiburon Mile Event Staff would set up tents and tables in the Shoreline Park area between the hours of 5:00 and 8:00 p.m. the evening prior to the race.

Hutton also noted that the Pt. Tiburon Lagoon/Bayside Homeowner's Association had endorsed the staging of the event in the proposed location, and that the Chamber of Commerce and Landmarks Society had also expressed their support.

The only outstanding issue, according to Hutton, was the question of the film permit, required by the Town for commercial filming within the Town limits. He said that Fox Sports Net was donating air time to broadcast the event, which was a benefit for Special Olympics, and that the RCP Staff had sub-contracted with a private film company to conduct the actual filming.

Lt. Hutton said that the Town normally charged \$1,000 for a film permit and that the special event permit applicants had requested a waiver of this fee. He asked for Council's direction to Staff on this matter.

Mayor Slavitz asked what percentage of the race proceeds went to charity and/or to other costs, such as race prizes.

Bob Placak, 10 Tower Point Lane, event sponsor, said that \$40,000- \$50,000 in revenue collected from the athlete's entry fees did not cover the cost of the event overall. He listed \$30,000 for cash prizes; \$40,000 for full-time staff support; \$2,000 in insurance; \$8-10,000 for tee shirts, sweatshirts and the like, \$6,000 in labor and equipment rental, among other costs. Mr. Placak also told that Council that he paid \$15,000 to the film company for its services.

Mr. Placak said that the swimmers themselves raised pledges, and that those proceeds went to Special Olympics. He said that if they raised more than \$5,000 for this cause, their entry fee was waived.

Councilmember Gram asked how the shortfall between revenues and expenses was covered. Mr. Placak said that he personally covered these costs because he "believed in" the event and thought it was for a worthy cause.

Vice Mayor Fredericks asked whether the applicant or the film company was responsible for paying the film permit fee, and whether there were any costs incurred by the Town with regard to this permit.

The Chief of Police said that the costs to the Town were minimal and that the Police Department was reimbursed for any costs it incurred, such as police overtime.

Councilmember Thompson said that the Town's film permit fee requirements were directed toward commercial filming or movie filming and that Mr. Placak was merely documenting the event rather than filming it for commercial purposes.

Town Attorney Danforth said that the Town might need to develop a policy to address these questions.

Director of Administrative Services McVeigh said that the Town's business license ordinance already exempted non-profit organizations from paying the film permit fee.

Vice Mayor Fredericks asked whether it was the general policy of the Town to exempt non-profits from [business licensing and film permit] fees or whether the Town might actually find itself in a position of covering some of a non-profit's costs.

After a brief discussion, the Council voted to unanimously approve the special permit application and waiver of the film permit fee, in this instance.

PUBLIC HEARING

11. **Recommendation by Town Manager** – Adoption of FY 2003-04 Municipal Budget and Enabling Resolutions

Financial Analyst Stott said that the Council had reviewed the details of the proposed budget at its June 4, 2003 meeting and was now required to adopt certain resolutions to memorialize its adoption.

Mayor Slavitz opened and closed the public hearing. There was no public comment.

- a) A Resolution of the Town Council of the Town of Tiburon Adopting a Municipal Budget Plan for the Town of Tiburon and the Tiburon Redevelopment Agency for the Fiscal Year Ending June 30, 2004

MOTION: To adopt the above resolution  
Moved: Thompson, seconded by Fredericks  
Vote: AYES: Unanimous

- b) A Resolution of the Town Council of the Town of Tiburon Repealing Resolution No. 30-2002 and Adopting an Amended Management Recognition and Incentive Compensation Program

MOTION: To adopt the above resolution  
Moved: Gram, seconded by Thompson  
Vote: AYES: Unanimous

- c) A Resolution of the Town Council of the Town of Tiburon Repealing Resolution No. 39-2002 and Adopting an Amended Mid-Management, Professional & Confidential Employees Recognition and Incentive Compensation Program

MOTION: To adopt the above resolution  
Moved: Berger, seconded by Fredericks  
Vote: AYES: Unanimous

- d) A Resolution of the Town Council of the Town of Tiburon Memorializing a Loan from the General Fund to the Long Range Planning Fund

MOTION: To adopt the above resolution  
Moved: Fredericks, seconded by Berger  
Vote: AYES: Unanimous

- e) A Resolution of the Town Council of the Town of Tiburon  
Establishing an Appropriations Limit for the Fiscal Year  
2003-2004 Pursuant to Article XIII B of the Constitution  
of the State of California

MOTION: To adopt the above resolution  
Moved: Berger, seconded by Fredericks  
Vote: AYES: Unanimous

## 12. **Presentation by Skate Park Task Force** – Task Force Report on Needs Assessment

Mayor Slavitz introduced the item, stating that the Council would hear testimony solely focusing on the “need” issue tonight.

Councilmember Berger, Council representative to and Chairman of the Task Force, said that the Task Force, formed in November 2002, had conducted a number of meetings during which written criteria had been developed to study this issue. He said the meetings were also a public forum to address the issue of needs and potential usage. He listed the other Task Force members as Planning Commissioner Paul Smith, Design Review Boardmember Mike Figour, Parks & Open Space Commissioner Jim Fraser, and Jt. Recreation Director Barbara Creamer.

Berger said that the Task Force had heard from the proponents (the Committee for a Skatepark in Tiburon), young skaters, members of other communities that had already established skate parks, and other interested parties. He stated that the Task Force had set no criteria for location and, in fact, no location had been determined. Berger stated that the design of a park, funding and legal issues had not been part of the discussion. He also stated that everyone on the Task Force felt that there might in fact be a need for a skatepark but no place to put it within the Town limits.

Councilmember Berger acknowledged the Committee for its work, along with Town Staffmembers Pat Echols and Suzanne Creekmore for their work in support of the Task Force.

Mr. Berger turned the floor over to Task Force member Paul Smith, who covered the statistics and conclusions detailed in the report. Mr. Smith said that the Task Force’s investigation had concluded that there was a need for such an activity and sufficient number of interested users to justify pursuing the idea of a skatepark in Tiburon.

Mayor Slavitz opened the public hearing.

The following members of the public spoke:

- Nicky Wolf, 426 Greenwood Beach Road, questioned the statistics, the conclusions derived, and methodology; she stated that the study was “not about need, it’s about want.”
- Jill Barnett, 50 Peninsula Road, also questioned the efficacy of the statistics stated in the report, and said that “need” could not be separated from other important criteria in studying this issue.
- Harry Heath, 440 Greenwood Beach Road, said that the report contained no negative aspects and did not touch on the sentiments of the neighbors adjoining some of the logical sites.
- Mark Schafer for Virginia Brunini (submitted letter) urging Council’s support of a skatepark.
- Debbie Jurasek, Gametime representative, offered her services free of charge to assist the Town in going through the needs assessment and design process.
- Bill Tiedje, 30 Pine Terrace, said that he was “in favor of anything to help kids” but said that other venues, such as gymnasiums, would get more usage. He also stated his opposition to a park near his neighborhood and said that these concerns had to be addressed.
- Joan Foster, 11 Sierra Court, expressed concerns about the lack of supervision, wide range of ages targeted, liability, and noise issues.
- Donna Turnauer, 3 Reed Ranch Road, said she supported the creation of a park;
- Andrew Turnauer, 3 Reed Ranch Road, said he was a skater and that the older skaters “looked out” for younger skaters. He said that the Mill Valley park was “a joke,” and urged the Town to “make a good one.”

Vice Mayor Fredericks asked Mr. Turnauer whether a 7,000 square foot park would present a problem, in his estimation. Mr. Turnauer said that the park should be a little bigger because skaters “needed room” to do their maneuvers.

- Ben Harrison, 24 Greenwood Bay Drive, 15 years old, said that there was a strong camaraderie between the younger and older skaters, and that the older ones liked to help the younger ones learn.

Councilmember Gram asked Mr. Harrison whether he and his friends would use a beginner or intermediate skatepark, as discussed in the Task Force report. Mr. Harrison replied that a 14,000 square foot park would contain room enough for both levels and that people would skate there.

- Gordon Jacobs, 67 Harriet Way, said that he did not want the cops “cracking down” on kids if they skated downtown; he said that the Mill Valley park was “upsetting”; that the ramps were “scary”; and that concrete “bowls” were better than plastic ramps. He said most skaters in parks were medium to advanced levels, rather than beginners.

- Bruce Abbott, 458 Greenwood Beach Road, said he had not heard one good need expressed in all of the meetings and that by endorsing the report, the Council was showing a predisposition to approval of a skate park. He said that a “need” was a “requirement,” not a want, wish or desire; he said that members of the Task Force had stated that they wanted a park at Blackie’s Pasture and that there was opposition to this location which could not be expressed at the meetings by opponents.
- Bob Walley, 6 Greenwood Court, submitted a letter in support but left prior to speaking.
- Bernie Curley, 8 Sonora Court, said that assuming there was a need, was it worth the trade-offs of (giving up public space); that all sports were fads and that this one would also pass.
- Anne Goggio, 150 Rock Hill Road, acknowledged that need is different than demand; said that the park would support youth development and resiliency in an over-supervised, overprogrammed world; that not all kids succeed in group sports and that this would offer them a place to learn to be by themselves and use their time constructively.
- Karin Hern, 2338 Mar East Street, said that the Task Fore had done a comprehensive review and that these sports were not fads; that parks were a safer place to skate than the street.
- Andrew Barnett, 50 Peninsula Road, cautioned against bowing to “special interests,” and said that limited public funds should be used to focus instead on the “bigger picture” of recreational activities, both structured and unstructured, that would serve this age group, as well.
- Sidsel Moller, 458 Greenwood Beach Road, said she felt that the Task Force was biased and had come to a self-serving conclusion; that the need for unsupervised play could be fulfilled in to the Town’s open spaces, as well.

Mayor Slavitz closed the public hearing and opened the Council discussion.

Councilmember Thompson acknowledged the Task Force for “doing its homework,” and said the report was a good step in addressing the needs of some of the Town’s children. However, he said that there was a problem of “limited geography” which was impossible to separate from the issue of need.

Thompson said that many of the points made by the speakers were well taken but he said that residents of the Town had fought hard to preserve its open spaces which should not be

forgotten. He said that when he was growing up, children were able to develop their personal and creative skills “out of doors” and through other means.

Thompson said that the skatepark was a “subset” of a broader need. He said that the Council should exert its leadership and direct the focus onto the “bigger picture;” that what was needed was a larger “home” for the Jt. Recreation department and a gymnasium. He said that maybe a skate park could be developed in conjunction with such a facility or along with other facilities at (some of the) school campuses.

Thompson also said he thought that a skatepark would serve a “narrow sliver” of population and gender; that geography could not be ignored; and that some of the parks, such as Mill Valley and Corte Madera, had already been deemed “failures” by some of the users. He acknowledged that the Novato park was a success and suggested that a park might be developed somewhere in Southern Marin with the cooperation of several agencies or municipalities.

Councilmember Thompson recommended that the Task Force be disbanded and that the Council focus on the “bigger picture” and consider such long-range ideas as a multi-use gymnasium and larger facility for Jt. Recreation.

Vice Mayor Fredericks said that the Task Force had shown a good understanding of the targeted age group and an understanding of individual activity expressed in the social context of a skatepark. She said, however, that there might be a “broader way to address these issues.”

Ms. Fredericks said that the issue of use could also have been addressed in a better way in the report. She said that the census statistics which showed an increase in the targeted age group in the community did not prove that there would be an increase in usage over time. She said that this was not a persuasive argument of need and that the statistics themselves barely showed [adequate] use. Fredericks said that the age group which statistically showed a more rapid increase was that of the “over 75”.

The Vice Mayor said that the concepts of “less density” and “low use” were also valuable to the community and were demonstrated through the existence of the multi-use path and Blackie’s Pasture. Ms. Fredericks said that the Town “clearly” did not have the resources for a skatepark, and that the “overriding need” in Tiburon was for facilities that were “multi-use” in nature.

Ms. Fredericks also pointed out that skateparks are “noisy” and needed “space around them.” She said that the 15,000-20,000 square foot park in Novato was built on a 60-acre parcel of open space, and 20,000 square feet of concrete has a very limited use rather than a multi-use possibility.

Councilmember Berger said that “need” was a tricky word and the results of the report might be characterized as “a desired use with positive benefits to the Town.” He said that the Task

Force did not try to evaluate any other needs because that was not its mandate; and that the Council had given the Task Force specific direction to study the issue of “use.”

Mr. Berger said that “bigger gyms” were on-line at the Del Mar and St. Hilary schools. He said that he thought that kids in Tiburon would enjoy a skatepark. Berger said that he had observed “about 20 kids” skating behind Bell Market. This and other problems with skaters downtown signaled to him that “we are asking for trouble without [having] a park.”

Councilmember Berger pointed out that the City of Belvedere had a 12,000 square foot park used by dog owners on the multi-use path and he asked why the Town could not have something similar for skateboarders.

Mr. Berger said that the Task Force felt that it had identified the needs of an “underserved group” which would use the skatepark; however, he said that it would be up to the Committee [for a Skatepark in Tiburon] to pursue the idea and possible location. He said that “maybe our community is too small” for such a park but said that the Task Force had been successful in identifying a need and a high degree of support for the concept.

Councilmember Gram said that he didn’t think the what was identified was a “need” but rather something that rose to a lesser standard. He acknowledged, however, that one of the problems he encountered while serving on the Jt. Recreation Committee was that “we could not serve” this particular age group.

Gram said that he would vote to move forward with the concept of a skatepark but said he had serious doubts that a suitable location could be found. He said that there was also a need for more soccer fields and baseball fields within the Town but that there was no where to build them.

Councilmember Gram said that he had heard from the public testimony that “the kids won’t go” to a park that was of a beginning or intermediate level; that the Novato park was great but that no location existed for a such a park in Tiburon. He said that he had also heard from the testimony that a skatepark would not solve the problem of skating downtown which he thought was unfortunate.

Councilmember Gram said that while defining the need was a “worthy cause,” that next step would be harder to define.

Mayor Slavitz said that “we don’t need a skatepark in Tiburon but it would be nice to have.” He reflected that the study of usage was too small within the context of the many other issues surrounding the development of a skatepark and that the next step would need to be bigger.

The Mayor said that his two sons, eight and ten years of age, had skated at the Mill Valley park and liked it but had found the Novato park “intimidating.”

Mayor Slavitz pondered the question of whether there was an adequate population in Tiburon to support a skatepark and said that there were “not a lot of places” in Tiburon that could be considered for a location.

Slavitz agreed that there was a “need” for something for kids in Town to do. He said he liked the idea of a Mill Valley-type Community Center and that “moving forward” with the skatepark idea did not exclude other needs and uses of the community.

The Mayor said that the “challenge” would be to find a good spot for the park; that there were also issues of funding and because the Town did not have the funds, it would have to be a community effort. He suggested that the skate park proponents move forward and present a design to the Parks and Open Space Commission because “we owe it to our kids to try.”

Councilmember Thompson said that the issue of location should be addressed “right away,” and asked about school yards and Judge Field. He said that the Council should consider “taking over” the field from the Tiburon Peninsula Club in order to provide a space for recreational uses to the community at large.

Councilmember Berger suggested that the proponents go forward with an application through the Town’s planning process or be given other direction by Council. He suggested that the proponents be told directly whether or not the Council would help them or not.

Vice Mayor Fredericks said that the Town had limited “flat and open” space, and suggested that the proponents start with a matrix of locations to see if a park would be physically feasible. She suggested the matrix show whether the park was accessible to skaters and police but not easily accessible to downtown, and off-limits or close to passive recreation areas.

Councilmember Gram concurred that the “next step” would be to determine whether there was a location that could accommodate a skatepark. He said that other design criteria, such as size and whether it was “in ground,” fenced in, or an intermedidate or beginner’s park, would also have to be addressed secondarily.

Councilmember Berger said that the skatepark should not be highly visible and should maintain a low decibel level. Vice Mayor Fredericks added that it should be accessible to the police, as well.

Councilmember Thompson said that he was concerned about encouraging anyone to move forward if there were going to face failure at the end of the day. He asked how the park would be paid for and where, in reality, was the best location? He asked if anyone on the Council thought that it would work.

Councilmember Berger said that one location might be next to Richardson Bay on the other side of South Knoll (along the multi-use path). He also said there was a possible space adjacent to the sewer plant (Richardson Bay Sanitary District).

Councilmember Gram asked Committee Chair Anne Goggio-Cohn whether she believed she could raise the funds necessary to build a skatepark. He mentioned a range of \$250,000 - \$350,000. Ms. Cohn said that she thought she could raise the money.

Vice Mayor Fredericks pointed out that there would also be costs associated with ongoing maintenance and an Environmental Impact Report (EIR) which could drive the total up to \$600,000 as it had in Novato.

Council discussed the process for taking the next step. Both Councilmember Berger and Thompson concurred that the task force process was “very cumbersome” and recommended letting the private party (Committee for a Skatepark in Tiburon) make a proposal.

Mayor Slavitz said that it was important to involve the public in the process.

Planning Manager Watrous said that the public would certainly have an opportunity to comment during the planning process at hearings before the Parks and Open Space Commission and Planning Commission, once a location had been proposed and an application filed.

After discussing whether to direct the Task Force or the proponents to work on the next step of determining a possible location for a skatepark, Council unanimously agreed to make it the mandate of the Committee to do the work and return to Council with a list of possible locations before further action was taken in the Town’s planning process.

13. **Recommendation by Director of Community Development** – Town-initiated Text Amendments to the Tiburon Zoning Ordinance – Modifications to Secondary Dwelling Unit Permit Process as set forth in Section 16-4.5 of the Tiburon Municipal Code (Section 4.05 of the Tiburon Zoning Ordinance), and related consistency amendments; the Addition of Regulations Requiring Site Plan and Architectural Review for Driveways and Open Parking Spaces

*2nd Reading and Adoption of Ordinances/Read by Titles Only*

- a) An Ordinance of the Town Council of the Town of Tiburon Amending Chapter 16 (Zoning) of the Tiburon Municipal Code With Respect to Secondary Dwelling Unit Regulations, Including Associated Amendments to Definitions

- b) An Ordinance of the Town Council of the Town of Tiburon Amending Chapter 16 (Zoning) of the Tiburon Municipal Code Requiring Design Review for Driveways and Open Parking Spaces

Council waived the Staff report.

Mayor Slavitz opened and closed the public hearing. There was no public comment.

MOTION: To read the ordinance (a) by title only.  
Moved: Gram, seconded by Fredericks  
Vote: AYES: Unanimous

Mayor Slavitz read, “An Ordinance of the Town Council of the Town of Tiburon Amending Chapter 16 (Zoning) of the Tiburon Municipal Code with respect to Secondary Dwelling Unit Regulations, including associated amendments to Definitions.”

MOTION: To adopt ordinance (a) above.  
Moved: Gram, seconded by Fredericks  
Vote: AYES: Berger, Fredericks, Gram, Slavitz, Thompson

MOTION: To read ordinance (b) by title only.  
Moved: Berger, seconded by Fredericks  
Vote: AYES: Unanimous

Mayor Slavitz read, “An Ordinance of the Town Council of the Town of Tiburon amending Chapter 16 (Zoning) of the Tiburon Municipal Code requiring Design Review for Driveways and Open Parking Spaces.”

MOTION: To adopt ordinance (b) above.  
Moved: Thomspen, seconded by Gram  
Vote: AYES: Berger, Fredericks, Gram, Slavitz, Thompson

#### COUNCIL COMMITTEE AND COMMISSION REPORTS

- 14. **Request by Vice Mayor** – Funding for Property Tax Insert to 2003-2004 Marin County Property Tax Statements

Councilmember Gram suggested that the list be “personalized” to include information about what each city had lost in property tax revenues since the passage of Proposition 13; Vice Mayor Fredericks said that she would go back to the MCCMC committee to see if it could be revised.

Council agreed to the Town’s share of the funding (\$400) to pay for the cost of the insert.

WRITTEN COMMUNICATIONS

**Town Council Weekly Digest – June 6, 2003**

**Town Council Weekly Digest – June 13, 2003**

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Gram adjourned the meeting at 10:35 p.m., sine die.

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JEFF SLAVITZ, MAYOR

ATTEST:

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DIANE CRANE IACOPI, TOWN CLERK