

**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, November 3, 2004, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

**ROLL CALL**

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

PRESENT: EX OFFICIO: Town Manager McIntyre, Town Attorney Danforth,  
Director of Community Development Anderson,  
Director of Administrative Services Bigall,  
Planning Manager Watrous, Town Clerk Crane  
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Prior to the regular session, the Council met in closed session, beginning at 6:00 p.m., to discuss the following items:

**CLOSED SESSION**

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**  
(Section 54956.(a))

Bloch v. Ginalski, v. 17 Raccoon Lane Homeowner's Association, Coldwell Banker, Town of Tiburon, et al.  
Case No. CV042089, Marin County Superior Court

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
(Section 54956.9(c))

Initiation of Litigation – Case name withheld because disclosure would jeopardize existing settlement negotiations

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
(Section 54956.(b))

Potential litigation arising under Section 9.2 of the MERA Joint Powers Agreement because of delays to MERA Project

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

Mayor Fredericks said that direction was given to Counsel but no action was taken.

ORAL COMMUNICATIONS

None.

ADDITION OF ITEM TO AGENDA

Mayor Fredericks announced that after the publication of the agenda, a matter had arisen that could not wait until the next regular session for the Council to address. Specifically, the Mayor said that the Council needed to appoint a replacement to the Joint Powers Authority Oversight Committee to attend a meeting on November 4 which the regular appointee [Councilmember Slavitz] could not attend. To add the item, the Council must find that (1) the matter had arisen after the Town had posted the agenda for tonight's meeting and (2) the matter could not wait until the Council's next regularly scheduled meeting.

MOTION: To make the two findings described above and add the item to the agenda on an urgency basis.

Moved: Berger, seconded by Smith

Vote: AYES: Unanimous

Mayor Fredericks said that the Council would consider the appointment at the end of the meeting.

CONSENT CALENDAR

1. **Approval of Town Council Minutes** – October 20, 2004
2. **Recommendation by Director of Administrative Services** – Accept Monthly Town Investment Summary for September 2004
3. **Recommendation by Town Manager** – Recognition of the Allen Family as Tiburon Peninsula Chamber of Commerce “Business of the Year”
  - a) A Resolution of the Town Council of the Town of Tiburon Recognizing the Allen Family for its Contributions to the Tiburon Community as “Business of the Year”
4. **Recommendation by Director of Administrative Services** – Approve 1<sup>st</sup> Quarter FY 2004-05 Budget Report

MOTION: To adopt Consent Calendar Item Nos. 1 through 4, above  
Moved: Berger, seconded by Smith  
Vote: AYES: Unanimous

PUBLIC HEARING

5. **Recommendation by Planning Manager** – Approval of Precise Plan Amendment for Expansion of Building Envelope at 4 Indian Rock Court
  - a) A Resolution of the Town Council of the Town of Tiburon Approving an Amendment to the Preserve Precise Plan (PD#16) For Property located at 4 Indian Rock Court, AP No. 38-400-02

Planning Manager Watrous gave a brief report. He stated that the application was similar to an application to install fencing at 6 Indian Rock Court, which was partially denied by the Council. Mr. Watrous pointed out noted that the difference between the applications was that there was no scenic easement restricting the property at 4 Indian Rock Court.

Mr. Watrous said that the applicants had worked out an arrangement with their neighbors to stop the fence four (4) feet from the property line at 2 Indian Rock Court. He also stated that no other objections had been received from neighbors, including those in Belveron.

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

Vice Mayor Berger said that the architectural firm retained by the applicants performed “superb” work. He also noted how the applicants had worked with the neighbors to accommodate their concerns.

MOTION: To adopt Precise Plan Amendment (PD#16) at 4 Indian Rock Court  
Moved: Smith, seconded by Gram  
Vote: AYES: Unanimous

6. **Report by Planning Manager** – Appeal of Design Review Board Decision to Approve a Site Plan and Architectural Review Application for Construction of a new Single Family Dwelling at 79 Round Hill Road

Appellants: Charles and Dale Sofnas, 75 Round Hill Road  
Applicants: Ron Oznowicz & Carl Weissensee  
Assessor Parcel Nos.: 58-301-17 & -35

Planning Manager Watrous gave a background summary of the Design Review Board hearings leading up to the filing of the appeal. He said that the Board heard testimony from the owners of 75 Round Hill Road, Charles and Dale Sofnas, but had deemed their request to move the proposed new dwelling at 79 Round Hill Road uphill as “unreasonable” and said that it would result in adverse impacts to the views of other neighboring properties, especially 85 Round Hill Road.

According to Watrous, one Boardmember concluded that the views from the Sofnas’ residence across the undeveloped lot at 77 Round Hill Road, were “borrowed views,” which were not protected by the Town’s Hillside Design Guidelines.

Mr. Watrous said that the subsequent appeal, filed by Charles and Dale Sofnas, consisted of two main points:

- The house design would be contrary to direction given by the Town in its approval of a lot line adjustment for this property in 2002;
- The house would be inconsistent with the Hillside Design Guidelines and Guidelines for Site Plan and Architectural Review.

With regard to the first point, Mr. Watrous said that the direction in question was the language contained in a letter from Director of Community Development Anderson which stated that any applications filed for development of the lots located at 79 and 81 Round Hill Road “would be expected to ‘reasonably minimize’ view blockage from existing residences at 85 Round Hill Road and 75 Round Hill Road.”

Mr. Watrous said that the Board had reviewed this language. However, the Board believed that the owners of 75 Round Hill Road should not have expected to retain their view across the vacant lot at 77 Round Hill Road; No. 75 is relatively level with No. 79, thus the eventual development of the property at No. 79 Round Hill Road was always likely to compromise that view. The Board further concluded that it would be unreasonable to restrict the applicant from developing the lot by moving the house any further uphill, thereby eliminating almost half of the lot size for development.

In addition, Mr. Watrous said that State law precluded specific conditions of approval on lot line adjustments.

With regard to the second point, Mr. Watrous said that the Board utilized Goal 3, Principle 1; Goal 3, Principle 3; and Goal 3, Principle 7 (A through E) in its deliberations, which he more fully described in the Staff report.

Councilmember Slavitz asked Staff whether the language contained in the lot line letter was a “guarantee.”

Director Anderson said that he added the language for future developers in order to increase their understanding of the issues involved in developing the last few lots in this area; however, he stated that the lot line adjustment process was not the appropriate place to review view issues; these issues would need to be addressed at the Design Review level.

Mayor Fredericks opened the public hearing.

Charles Sofnas, owner of 79 Round Hill Road, said he had built his home in 1979 in order to take advantage of views from the living room, dining room and master bedroom. He said that the story poles now showed that these views would be totally blocked.

Mr. Sofnas said that he met with Director Anderson in 2002 at the time of the lot line adjustment; he stated that he came away from that meeting with the understanding that the Town would do “everything possible” to protect his views. He also stated that he agreed not to object to the lot line adjustment (and reduction the lot size from one acre to ½ acre at 77 Round Hill Road) in exchange for this protection.

He said if the Town wanted to “renege” on its promise, the lot should be turned back into a one-acre parcel.

Mr. Sofnas said that his “slot view” was protected by the Hillside Design Guidelines and that it was “just as important” as the “panoramic view” from the Doyle property [at 85 Round Hill Road]. He said that moving the approved house [at 79 Round Hill Road] up and redesigning it would have a “minimum impact on the Doyle property.”

He contested an assertion in the Staff report that the four [new] houses would be “all in a row” and visible as a “block of houses” from the Doyle property.

Mr. Sofnas proposed a “compromise” solution of moving the “spec house” at 79 Round Hill Road up the hill and “to the right” of a particular oak tree on the property. In so doing, he said he would agree to give up part of his view.

Mr. Sofnas said that he and his wife had contributed “considerable expense” over the years to road improvements, a new concrete culvert, and planting of bushes along [Round Hill] road.

Mr. Sofnas also stated that he had cut a “fire protection parameter” on the lot adjacent to his home (77 Round Hill Road). He said that he followed Fire Department Guidelines to a) remove all branches within 10 feet of the ground; and b) to cut brush without 30 feet of the house.

He said that if he had not done so, a fire that started in June 1988 behind Reed School would have certainly endangered his home.

Mr. Sofnas said that he was unaware of who the owner of the property was after Norwood Brady sold the remaining Round Hill lots [sometime in 1982].

With regard to the Board's approval of the single-family dwelling at 79 Round Hill Road, Mr. Sofnas said that the members "seemed confused" by his issues and that one member said that "some other body" would have the final say.

Councilmember Smith asked Mr. Sofnas if the house he built in 1979 was oriented the same way [as it is now] and whether the view was the same [in 1979] as it is now.

Mr. Sofnas replied that the view was "enhanced" after the [1988] fire.

Mr. Smith asked if it looked like the view demonstrated in a photograph provided by Mr. Sofnas.

Mr. Sofnas said that "some branches were eliminated and shortened," but that the view (in 2000) "is the same as it is now."

Councilmember Smith asked Mr. Sofnas why branches he had cut from a particular tree were left on the ground.

Mr. Sofnas replied that he was 68 years old and could "only do so much." He added that Mr. Oznowicz owned the property and it was "his responsibility" [to clear brush from the property].

The Mayor asked Mr. Sofnas if the owners had told him he had done a good job. Mr. Sofnas said that he didn't know the owners at the time.

Vice Mayor Berger asked if the living room and windows were oriented the same as [they were] in 1979. He was told that they were.

Peter Brekhus, attorney for Charles and Dale Sofnas, questioned the concept of "borrowed views." He asked whether it was referenced in the Town's Code and whether it referred to "up and down" views, as well.

Brekhus said that it seemed to him that "outward" views were protected by the Town's Code and that there was no reference to "borrowed" or "created" views in the Code.

In addition, Brekhus said that the standard set by the Town (in its 2002 letter) was to "reasonably minimize" the impacts to the views at 75 Round Hill Road, but that no compromise had been reached at all. He also noted that the Doyle's [85 Round Hill Road] got to keep their panoramic view and that the Town's Code discussed resolving the issue of "competing views."

Mayor Fredericks asked Mr. Brekhus if he thought a view should be protected if it was “acquired by the unauthorized cutting of trees on someone else’s property.”

Mr. Brekhus said that there was “no evidence of unauthorized cutting,” nor was there any reference in the Code as to how a view was created.

He noted that Belvedere’s view ordinance protected views that existed when a property was created and said that Tiburon’s [ordinance] needed clarification.

Carl Weissensee, Applicant, said that he was never involved with the Norwood Brady application to develop the properties in 1982; however, he said he became a partial owner, along with Ron Oznowicz, in 1984. He said that these dates seemed to coincide with the time the trees (3 through 8) were cut.

Councilmember Gram asked whether he was the owner of the trees; Mr. Weissensee answered affirmatively, adding that the cutting was done “100% in the [Sofnas’] view area.”

Councilmember Gram asked whether there were other trees that could be cut that would open up another view. Mr. Weissensee said that he was not sure; the cutting farther down the hill might reveal another hill “rising up.”

Mr. Weissensee gave a brief background on the application process. He said that when the property was purchased from Norwood Brady in 1984, the lower two lots were deeded to the Town as Open Space; previously, all six lots had received Town approval for development but there was a problem recording the map due to a (unmet) requirement by the Town for the Sofnas’ to realign a driveway. He said that the Town ended up winning a court judgment against the Sofnas’ on this point but in the meantime, the time to record the map had expired.

In 2001, Mr. Weissensee said that the development process started all over again; on the advice of the Community Development Director [Anderson], he (and his partner) proceeded to work on “infrastructure issues” over all the lots, rather than one at a time.

Mr. Weissensee said that he met with the Sofnas’ but that they denied any knowledge of the tree cutting [at 77 Round Hill] at that time.

After the lot line adjustment was approved, Mr. Weissensee said that he did some preliminary home designs for 79 Round Hill and made some concessions to the Sofnas’ to address their concerns. However, he said that he did not agree to “protect” the view from the Sofnas’ living and dining room, nor did he agree to relocate the other homes closer to the road.

After the lot line adjustment was approved, the tree cutting at 77 Round Hill “got bolder,” but

Mr. Weissensee said that he had no proof of who was doing it until Frank Doyle captured Mr. Sofnas in the act of cutting on videotape.

Afterwards, Mr. Weissensee said that he heard that the Sofnas' had placed their home on the market and were representing it as a "view property."

Architect Kyle Thayer described the design of the proposed home at 79 Round Hill Road. He said that it was the "most exposed of the lots" and that they wanted to avoid putting a house in the most prominent "nose of the hill."

Mr. Thayer said that the fire department's turnaround and other issues precluded placement of the home farther uphill, as recommended by the Sofnas'. In addition, he said that the current design of the home would have only one visible story; that it "utilized the land" and blended well with the neighborhood.

However, Mr. Thayer pointed out that the view across the lot from the Sofnas' home would be disrupted even by the placement of kid's toys or lawn furniture.

Mr. Weissensee said that he had honored the conditions he voluntarily agreed to during the lot line adjustment process, and that he had "substantially compromised" all the way along. He reiterated that he had never agreed to move the house uphill.

In contrast, Mr. Weissensee said that the Doyle family was impacted but had agreed to compromise, even to the point of offering to move the lot line 15 feet in the direction of their home. He said that it was largely due to the Doyles' that a "reasonable solution" for development of the lots had been reached.

Mr. Weissensee also referred to a 1984 map on which design lines, or "view roses," had been shot from the Sofnas' home and other locations on the surrounding lots. He said that he had continued to "honor" the view corridors on this map.

Vice Mayor Berger said that it seemed to him that the proposed house [at 79 Round Hill] shown on the 1984 map was lower than shown on the current application. He said that he had concluded this after visiting the site, as well as the Sofnas' home.

Mr. Weissensee said that the graphic representation [shown on the 1984 map] was "almost exactly the same site," and that the "theory was to honor what was approved before."

Mr. Weissensee concluded his remarks by stating that the compromise proposed by the Sofnas' was "not real" because it was based on a "stolen view," which was a result of "trespassing and illegal [tree] cutting." He said that the trees represented a natural screen and that the proposed home [at 79 Round Hill] would not be visible at all from the Sofnas' home with this screen.

Mr. Weissensee also said that the Sofnas' home was built in order to take advantage of the east [opposite] side of their property in which they had a yard and outdoor living area.

He asked Council to deny the appeal.

Frank Doyle, 85 Round Hill Road, said that he and his family "gave up something to get something." He rebutted Mr. Sofnas' argument about cutting the trees for fire protection and said that the tree cutting was "selective trimming." He pointed out where trees had been trimmed and where they had not and said that the pattern of Mr. Sofnas' trimming seemed wholly focused on improving his view.

In response to a question from Councilmember Smith, Mr. Doyle described how he had come to videotape Mr. Sofnas one day cutting the trees; he said that his children were playing outdoors and thought they saw a "buck" in the trees. Once the filming began, it became evident that it was their neighbor and not a buck, according to Doyle, and the result of "45 minutes of branches coming down." A week later, Mr. Doyle stated, a gardener showed up and hauled the debris away; that was approximately two years ago.

Councilmember Smith asked Kirk Beales, Design Review Board member, to review the Board's reasoning on its decision to approve the application at 79 Round Hill Road.

Mr. Beales said that the Board heard the testimony about tree cutting but considered it a "civil matter."

Beales said that Boardmember Figour had raised the issue of "borrowed views," and that the Board generally thought that the Hillside Design Guidelines were directed toward "downhill" versus "side" views. He said that he was not sure that there was a "legal definition" of the concept of the "borrowed views."

Mr. Beales said that the Board was reluctant to push the house [at 79 Roundhill] uphill to an "awkward place on the lot" which would, in turn, have a negative impact on the Doyle's views.

Mr. Beales said that the item was continued to allow the applicant to make certain revisions based upon testimony received and subsequent Board direction. He said that the applicants lowered the roofline, and put the house farther into the ground. While this was a "better design," in the Board's opinion, he noted that it would not have much of an effect on the Sofnas' property.

Mayor Fredericks posed the question of whether *any* view across an undeveloped property might be considered a "borrowed view."

Mr. Beales said the issue was one of downhill versus lateral; that protection of lateral views would result in "no one ever being able to build next to anyone else." He agreed that any object on the ground over three feet could block a lateral view, in this instance.

Mr. Beales said that the Board's decision was based on Town policy and an attempt to "balance out" the competing interests and property rights of the parties. He reiterated that pushing that house uphill would have resulted in a "more serious violation" of the Hillside Design Guidelines.

In the Appellant's rebuttal, attorney Brekhus posited that all views were essentially borrowed and therefore protected by the Town's Guidelines. He said nothing in the Town's Code said that sideways views were not protected; rather, the guidelines spoke of "outward" views.

Mr. Brekhus said that the developer was "accusing his neighbor of being underhanded," but that it was neither a reason to "penalize nor ignore the claim."

Mr. Brekhus said that there was no real compromise in the approval of the 79 Round Hill application because the house was not visible [to the Doyles'] and that there was "no adherence to what's in the [2002] letter." He said that the design, approved by the Board, did not "reasonably minimize" the impacts on his clients, the Sofnas', and that the house could be moved uphill without detriment to the Doyles'.

One Councilmember pointed out that the story poles for the approved project were visible from the Doyles' living room; Mr. Brekhus replied that the burden was on the Town and on the developer to find a compromise.

In response to the testimony concerning the videotape, Mr. Sofnas said that it was "not true" that he had been "chopping down trees," and that these were "vicious statements." He said that the proof of his views were contained in a real estate ad that had appeared in the Ark newspaper; he said that Mr. Weissensee told him that he would "do his best to protect it."

Mayor Fredericks pointed out that in his earlier testimony, Mr. Sofnas said that he did cut trees for the purpose of fire protection.

Councilmember Gram asked Mr. Sofnas if the grove of trees shown in his photograph had at one time "extended up the hill." Mr. Sofnas said no. Mr. Gram asked whether he had this same view all along; Mr. Sofnas said that there were maybe some "branches here or branches there" but that the view was "similar."

Mr. Sofnas commented that the owners thought they were "above the law" by not adhering to fire protection guidelines [concerning the clearing of brush] and that he would have contacted the owners if he had known who they were.

Mayor Fredericks said that the Council understood what Mr. Sofnas was saying as to why the trees had been cut.

Mayor Fredericks closed the public hearing.

Vice Mayor Berger began the deliberations by introducing the concept of “shared views,” a concept that he said was applied by the Design Review Board during the analysis of the application to develop the Agins’ property. He said that the Board at the time had said that if there could be an accommodation for the new house being built, “so be it.”

With regard to the Sofnas’ concerns, Berger also stated that “no architect would design” a living room and windows (as existed in the Sofnas’ home) “unless there was something to see.”

The Vice Mayor acknowledged that the 1988 fire “probably helped” the Sofnas’ view but he said that he was inclined to agree with the Sofnas that a view existed. He said that it might have been a “smaller, slot view,” and that it might not end up being “as big,” but that “views from adjacent properties must be protected.”

Vice Mayor Berger said that the current design of the house at 79 Round Hill did not meet the standard to “reasonably minimize” the impacts on the Sofnas’ views because the blockage was so complete. However, he said that a redesign should not be at the expense of 85 Round Hill either.

Berger said that a redesign might result in larger retaining walls or a smaller house but that based upon his own rough drawings, it could be done.

Mayor Fredericks said that the Design Review Board had taken into consideration the “totality of all four lots,” and that a “great compromise” had been reached in its decision-making process.

The Vice Mayor disagreed, stating that the house could be pulled up, put down, or cut back into the hill; all these solutions would not negatively impact the Doyle property at 85 Roundhill Road.

Boardmember Beales clarified that the Board in fact consider only the impacts (of development of 79 Round Hill Road) on 75 and 85 Round Hill Road.

The Mayor also wondered whether moving the house uphill would have an impact on 77 Round Hill Road.

Councilmember Gram asked the Vice Mayor how far he would move the house uphill. Berger replied that it was more like “clipping” [the house] versus moving it.

Councilmember Gram posed the question of how far to go with this line of reasoning.

Councilmember Smith said that he would vote to deny the appeal and said that the Board did nothing wrong nor was there anything “wrong” with the 2002 lot line adjustment letter.

Smith said that there had been a “balancing of interests” in the process, and that the house at 79 Round Hill Road had indeed been moved “away” in order to accommodate the Sofnas’. HE said that the Board had applied the Hillside Design Guidelines properly and that he would not try to “second guess” the Board by redesigning the house.

Smith also said that it seemed to him that there was a lack of credibility in the “creation of views” in this instance and questioned whether fire protection was actually the goal (if material had been left behind).

Councilmember Smith said that the 3,700 square foot design was not a “huge house,” and that the DRB did a good job in weighing the impacts on the Doyles’ and the Sofnas’ as well as the property rights of the Applicants.

Councilmember Slavitz said that he too agreed with the Board’s decision in this matter and that it was consistent with the Town’s Hillside Design Guidelines.

Slavitz said that the concept of a “shared view” in this case did not easily translate since the Sofnas’ view was “minimal” and not easily shared because the two lots were level with each other. He reiterated that the 2002 letter was “not a guarantee” to keep that view; that the Sofnas’ view was “two lots away;” that the Board had explored the options and approved a design that “worked well with the site.”

Councilmember Gram agreed that the Board did nothing wrong; however, he suggested that if more of the trees to the left (of the current slot view) were cut back, the Appellants might get a “replacement view” (if the Applicants were willing).

Mr. Weissensee said that he was not an arborist and could not fully address the question.

Mayor Fredericks suggested that the Town might be able to grant a tree removal permit; Planning Manager Watrous said that if it was part of the condition of approval of the project, no permit would be needed.

Councilmember Gram said he would deny the appeal but find a way to “enhance the view” from the Sofnas’ home “in some fashion.”

The Mayor pointed out that the result might not be a water view.

Mayor Fredericks said that she had visited the Sofnas’ home and understood what their views meant to them. However, she said that it would not be easy to maintain the views unless no development was allowed at all.

The Mayor said that the idea of “minimizing” the impacts was just a “general principle” and that the Board did a rational analysis of application before it.

Mayor Fredericks said that she too would vote to deny the appeal, while attempting to include Councilmember Gram’s suggestion to try to trim or remove trees in some fashion to open up another view for the Sofnas’.

Planning Manager Watrous attempted to clarify Council’s direction to Staff by describing the process as one of “creating a window.” He pointed out that trees might actually have to be removed; he said that goal would be to “maintain the integrity of the area.” He agreed to visit the site and see if the Council’s suggestion was feasible.

Mr. Thayer asked that any proposal to remove or cut trees be “subject to review by an approved arborist.” Council agreed to this request.

Councilmember Slavitz pointed out that if there was already an approved landscape plan (for the lot at 79 Round Hill Road) that the Sofnas’ view might be “closed up anyway.” He asked whether the creation of an alternate view would have to be “preserved in posterity.”

Councilmember Gram suggested that Staff perform an evaluation of these issues and return to Council. Councilmember Smith said that he would go along with the suggestion as long as it didn’t “create some unknown ripple effects.”

Councilmember Slavitz asked if fencing would be allowed on the subject property. Planning Manager Watrous replied that a solid, three and a half foot fence would be allowed without approval; but that a six-foot fence, for example, would require Design Review Board approval.

MOTION: To partially uphold the appeal by directing Staff to investigate the possibility of creating a “window” view (from the property at 75 Round Hill Road) and, if a replacement view were possible, to return to Council with a resolution reiterating the views expressed by a majority of the Council and memorializing the Council’s decision.

Moved: Fredericks, seconded by Smith

Vote: AYES: Fredericks, Gram, Smith, Slavitz

NOES: Berger

## REGULAR AGENDA

### 7. **Recommendation by Town Manager** – Authorize Execution of MERA Cooperation Agreement

Town Manager McIntyre suggested that the Council address only a portion of the agreement at this meeting.

Town Attorney Danforth said that there were actually four parts of the agreement to be considered by Council:

- (1) The [funding of the] feasibility study;
- (2) The letter agreement with the Mt. Tiburon neighbors;
- (3) The [actual] cooperation agreement with MERA;
- (4) The ancillary agreement with the neighbors.

With regard to the first point, the Mayor asked if there was Council consensus to pay MERA and Motorola first, then the engineers retained by the neighbors, if there was money left over [from the \$25,000 previously approved by Council]. Council concurred.

Ms. Danforth said it would be useful to have a Council subcommittee review the technical aspects of the [cooperation] agreement before it was presented to the Council as a whole.

Mayor Fredericks said that the Council had already appointed a “negotiating team” subcommittee; she suggested that the Council’s land use attorneys form the other subcommittee.

MOTION: To appoint Tom Gram and Paul Smith as a second MERA subcommittee  
Moved: Berger, seconded by Slavitz  
Vote: AYES: Unanimous

#### COUNCIL, COMMITTEE AND COMMISSION REPORTS

None.

#### WRITTEN COMMUNICATIONS

**Town Council Weekly Digest – October 22, 2004**

**Town Council Weekly Digest – October 29, 2004**

#### URGENCY ITEM

MOTION: To appoint Alice Fredericks as the alternate Council representative on the Joint Powers Authority Oversight Committee.  
Moved: Smith, seconded by Slavitz  
Vote: AYES: Unanimous

**ADJOURNMENT**

There being no further business before the Town Council of the Town of Tiburon, Mayor Fredericks adjourned the regular meeting at 9:50 p.m., to the next regular meeting scheduled for November 17, 2004.

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ALICE FREDERICKS, MAYOR

ATTEST:

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DIANE CRANE IACOPI, TOWN CLERK