

**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 7, 2004, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

PRESENT: COUNCILMEMBERS: Berger, Fredericks, Gram, Smith

ABSENT: COUNCILMEMBERS: Slavitz

PRESENT: EX OFFICIO: Town Manager McIntyre, Town Attorney Danforth, Director of Community Development Anderson, Director of Public Works/Town Engineer Echols, Chief of Police Odetto, Director of Administrative Services Bigall, Town Clerk Crane Iacopi

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Section 54956.9(a))

Siciliano v. Town of Tiburon
Zack, et al. v. MERA et al.

CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
(Section 54956.9(b))

One Case: Workers' Compensation Claim
Name of Claimant: Ed Pigeon

CONFERENCE WITH LABOR NEGOTIATOR
(Section 54957.6)

Bargaining Unit: Tiburon Police Association
Negotiator: Town Manager and Administrative Services Director

INTERVIEWS – Planning Commission Vacancy

- 7:15 p.m. – George Salerno, 25 Andrew Drive, #93

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

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

ORAL COMMUNICATIONS

None.

PRESENTATION

HERITAGE & ARTS COMMISSION ANNUAL REPORT

Chairman Dave Gotz gave a powerpoint presentation which included the highlights and accomplishments of the Commission over the last year:

- Heritage Preservation Award
- Lectures & Slide Shows
- Continuous Art Shows at Town Hall
- Commemorative Books (including the Mayor's Book)
- Special Framed photograph of current Town Councilmembers
- Sign (at Blackie's Pasture and/or the Cove Shopping Center) which announces Upcoming Events
- Donations (from proceeds of Commission activities) to the Town which included a picture rail in the interior of Town Hall and new shades/blinds in the Town Council Chambers
- Special award to the Kashani Family for their Holiday Lights
- Re-framing and Conservation of Town Documents of Incorporation

Of particular interest were the three slide shows/historical lectures, co-sponsored with the Landmark's Society, which Chair Gotz said would be made available on DVD for use by local schools and other groups, such as Rotary, in the future.

Mayor Fredericks and the Council thanked the Commission for their great work.

APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

PLANNING COMMISSION – One Vacancy

Mayor Fredericks said the consensus of the Council was to continue the item until all Councilmembers were present.

CONSENT CALENDAR

1. **Approval of Town Council Minutes** – June 16, 2004
2. **Recommendation by Town Clerk** – Biennial Review of Town’s Conflict of Interest Code
 - a) Resolution of the Town Council of the Town of Tiburon
Repealing Resolution Nos. 1094, 2760, 3275, 3310 and 20-2002
And Amending the Town’s Conflict of Interest Code
3. **Recommendation by Director of Community Development/Advance Planner** –
Approve Services Agreement for Environmental Impact Report for General Plan Update
4. **Recommendation by Associate Planner** – Review of Irrigation Well Permit Application
Address: 22 Old Landing Road
Permit No.: W04-02
Applicant: Walter R. Allen
 - a) A Resolution of the Town Council of the Town of Tiburon
Approving the Drilling of a Well for Irrigation Purposes on
A Property Located at 22 Old Landing Road
Assessor Parcel Number 038-171-53
5. **Recommendation by Associate Planner** – Adoption of Resolution Memorializing
Partial Granting of Appeal of Design Review Board Decision relating to Property located
at 5047 Paradise Drive
 - a) A Resolution of the Town Council of the Town of Tiburon
Partially Granting an Appeal Filed by Douglas and Jeannie Stiles
Of a Design Review Board Decision to Approve a Site Plan and
Architectural Review Application for the Construction of Additions to
The Single-Family Dwelling Located at 5047 Paradise Drive
Assessor Parcel Number 038-021-08
6. **Recommendation by Director of Administrative Services** – Revision of Annual
Appropriations Limit (Gann Act)

Council removed Item No. 5 above for discussion at the conclusion of the regular agenda.

///

///

MOTION: To Adopt Consent Calendar Item Nos. 1, 2, 3, 4 & 6, above.

Moved: Smith, seconded by Gram
Vote: AYES: Unanimous
ABSENT: Slavitz

PUBLIC HEARING

7. **Report by Director of Administrative Services** – Continuation of Cypress Hollow Landscaping & Lighting Special Assessment District
 - a) A Resolution of the Town Council of the Town of Tiburon Continuing Maintenance and Operation of the Landscape And Lighting District in the Cypress Hollow Subdivision in Fiscal/Tax Year 2004-2005

Director of Administrative Services Bigall gave a brief report on the District which she said was created by action of the County while the Cypress Hollow subdivision was being developed. She said that the \$378 per parcel assessment had not changed since Cypress Hollow was annexed into the Town in late 1998.

Mayor Fredericks opened the public hearing.

While there was no public comment, Director Bigall noted that the Town had received one letter of inquiry concerning the assessment, and the Town Clerk had responded. She said that copies of the letters were included in the Staff report.

Mayor Fredericks closed the public hearing.

MOTION: To adopt resolution continuing the Cypress Hollow LLD
Moved: Berger, seconded by Smith
Vote: AYES: Unanimous
ABSENT: Slavitz

- **Consent Calendar Item No. 5:**

Recommendation by Associate Planner – Adoption of Resolution Memorializing Partial Granting of Appeal of Design Review Board Decision relating to Property located at 5047 Paradise Drive

- a) A Resolution of the Town Council of the Town of Tiburon Partially Granting an Appeal Filed by Douglas and Jeannie Stiles Of a Design Review Board Decision to Approve a Site Plan and Architectural Review Application for the Construction of Additions to The Single-Family Dwelling Located at 5047 Paradise Drive

Mayor Fredericks stated her belief that hardship findings had not been made to allow the rail, as currently specified in the draft resolution. She believed that the original findings made by the Design Review Board were the result of its approval of the deck, which had been subsequently overturned by the Council during the appeal hearing.

Vice Mayor Berger said his recollection was somewhat different. He said that during the hearing, the applicant and architect had requested that the rail across the front of the building be left intact in order to maintain a consistent design. He said that in its final deliberations the Council had not specified whether there would be a rail or not; however, he agreed that the goal was to restrict the use of the area while allowing it to be accessible in some fashion.

Mayor Fredericks said that aesthetic considerations were not grounds for a hardship finding.

Councilmember Gram asked the applicant(s) whether or not they wanted the guard rail along the front of the house. Mrs. Schuberth answered affirmatively.

The Vice Mayor recalled that there was also to be a rail at the back of the roof area which would limit its use as a deck.

Mayor Fredericks said she thought that the only rail [approved by the Council] was at the back.

Mrs. Schuberth said that she and her husband were willing to accept the [imposition of a] guard rail around the perimeter as long as they could keep the front rail in their design.

Elizabeth Rogers, attorney representing the Schuberths, cautioned against imposing limitations on “reasonable use” of the area.

Director of Community Development Anderson said that the Design Review Board had made its findings, in part, based on the topography of the site; he said that the [Building Code] requirement that the area be “surrounded by a barrier” was no longer strictly required because the area was no longer readily accessible [as a deck].

Councilmember Smith suggested that a hardship finding could be made because there was an “important privacy screen” [landscaping] that needed to be maintained and that access was needed to the roof area for purposes of maintaining this landscaping; therefore, a rail was needed for safety purposes.

Town Attorney Danforth concurred with this recommendation.

Council continued the item to July 21, 2004, and directed Staff to rewrite the resolution to make the necessary findings for the guard rail and use of the area.

COUNCIL, COMMITTEE AND COMMISSION REPORTS

None.

WRITTEN COMMUNICATIONS

Town Council Weekly Digest – June 18, 2004

Town Council Weekly Digest – June 25, 2004

Town Council Weekly Digest – July 2, 2004

Town Manager McIntyre called attention to a memorandum from the Town Clerk concerning two vacancies on Town Boards and Commissions—one on the Belvedere-Tiburon Jt. Disaster Advisory Council (Tiburon appointee), as well as the Town representative to the Hilarita-Tiburon Ecumenical Association Board of Directors.

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Fredericks adjourned the meeting at 8:07 p.m.

ALICE FREDERICKS, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK