

TOWN COUNCIL MINUTES

CALL TO ORDER

Mayor Berger called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, March 2, 2005, 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 Administrative Services Bigall,
Chief of Police Odetto, Director of Public
Works/Town Engineer Echols, Planning Manager
Watrous, Town Clerk Crane Iacopi

ORAL COMMUNICATIONS

Eric Artman, 10 year resident, spoke against the imposition of a ban on wood-burning stoves, which he characterized as “unnecessary” and “overly intrusive regulation that will divide the citizenry.” He suggested that a “burn ban” might be a better and more direct solution if there was a “real problem” with wood smoke on the Tiburon Peninsula.

Councilmember Gram commented that nothing specific had been discussed by the Town Council and asked that Artman not “jump to conclusions.”

CONSENT CALENDAR

1. **Approval of Town Council Minutes** – February 16, 2005
2. **Recommendation by Assistant Planner** – Application for Irrigation Well Permit
Address: 121 Barn Road
Applicant: Altman
Assessor Parcel No. 038-012-38, 40, 54 & 60
3. **Recommendation by Police Chief** – Results of Police Management Study
 - a) Reclassification of Police Lieutenant to Police Captain
 - b) Staffing of the Investigator from a Police Sergeant to Police Officer
 - c) Affirmation of Update of Police Policies and Procedures Manual

4. **Recommendation by Town Engineer/Director of Public Works** – Adopt Final Plans and Specifications for South Knoll Restroom Facility

Vice Mayor Smith and Councilmember Fredericks made changes to the February 16 minutes concerning Paradise Drive.

MOTION: To adopt Consent Calendar Item Nos. 1 through 4, as amended.
Moved: Slavitz, seconded by Gram
Vote: AYES: Unanimous

REGULAR AGENDA

5. **Recommendation by Town Clerk** – Vacancies on Town Boards and Commissions
 - a) Re-Appointment of Planning Commissioner Kunzweiler and Library Boardmember Falk
 - b) Temporary (Interim) Re-Appointment of Retiring Design Review Boardmember Figour
 - c) Update on other Vacancies on Town Boards and Commissions

The Town Clerk gave a brief report.

MOTION: To reappoint Planning Commission Kunzweiler and Library Boardmember Falk to another term
Moved: Smith, seconded by Fredericks
Vote: AYES: Unanimous

MOTION: To reappoint Design Review Boardmember Figour on a temporary, interim basis
Moved: Fredericks, seconded by Smith
Vote: AYES: Unanimous

Mayor Berger suggested that architect Maurice Lombardo be contacted by Town Staff to determine his interest in serving on the Design Review Board.

6. **Recommendation by Planning Manager** – Partial Upholding of 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 – *continued from November 17, 2004*

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

- a) A Resolution of the Town Council of the Town of Tiburon

Partially Upholding Appeal Charles and Dale Sofnas
and Granting Conditions Thereto

Planning Manager Watrous said that the matter had been continued from the November 17, 2004 Council meeting. He said that applicants had been directed by Council to create a “window view” for the property located at 75 Round Hill Road (owned by appellants, Mr. and Mrs. Sofnas) and that since the November hearing, applicants had worked with Staff and an arborist to come up with a suitable tree removal and/or trimming plan. Mr. Watrous said that just prior to the Council meeting, applicants had submitted a new plan that was “similar but different” to the proposal previously reviewed by Staff.

Before receiving a presentation of the new plan, the Council posed some questions of Staff:

- Would the conditions of approval run with the land? Staff replied affirmatively.
- Would the neighbors need to use the View Ordinance to maintain the newly created views? Staff replied affirmatively.
- Does the tree cutting take place on a different lot (than 79 Round Hill Road) than where the new house would be constructed? Staff replied affirmatively.
- Would the requirement create a view easement, possibly constituting an unconstitutional “taking”?

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The Town Attorney addressed the last question. Ms. Danforth said that the Council’s action of imposing conditions of approval upon a project was not the same as conveying an easement; that it would create a view protectable under the Town’s view [protection] ordinance, but that the court of appeals had ruled that this was not the same as an easement and did not constitute a “taking.”

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Mayor Berger asked whether the proposed tree cutting have an impact on the future development of a home on that property. Planning Manager said that based upon his discussions of the future location of the house with the owner, it would not.

Mayor Berger opened the public hearing.

Applicant Carl Weissensee handed out the new report by arborist Ray Moritz. He stated that the owner’s position was to “lose the trees” rather than lose the Design Review approval but that he (Carl) had “struggled with” whether the oak grove might die as a result of the cutting. He concluded that he would accept any solution, short of that.

Mr. Weissensee said that two other arborists had recommended against cutting but that Mr. Moritz said that the trees could sustain “quite a bit of trimming” without damage; also he recommended trimming over taking out the very large trees so as not to lose the balance of the oak grove.

Mr. Weissensee said that it would be helpful to clarify at what stage in the process the trimming would be required. He said that the owner had suggested that it be at the time the building permit was issued for the following reason: If he (the owner) sold the lot, a different design might follow which would render the cutting unnecessary. He also said that they would like the arborist to be the designated person to determine the exact location and trees that would be cut at that time.

Councilmember Slavitz asked about the removal of a tree in the revised plan. Mr. Weissensee replied that the arborist said that this particular tree had been so badly trimmed in the past that it would likely die anyway.

Mr. Weissensee pointed out various trees and locations on the arborist's photograph as well as on a larger picture board he had brought with him to the meeting. He said that the revised plan would retain a "slot view" of the water for the property owners at 75 Round Hill Road (Sofnas') but that it would be "enhanced" by being "wider and more open" at the top.

The Mayor asked Mr. and Mrs. Sofnas what they thought of the revised proposal. Mrs. Sofnas said that even if the tree in the report was removed, it would be replaced by [a view of] a roofline on the proposed house.

Mayor Berger asked Mr. and Mrs. Sofnas whether they preferred to look at a tree or a house.

Vice Mayor Smith pointed out that one of the reasons for the revised plan was that arborist Moritz had noticed that there was a row of existing trees behind the trees initially recommended to be trimmed or removed, and that cutting would not in actuality "help" the view in that location.

Mrs. Sofnas said that they would still see a deck at the end of the property if the actions in the revised plan were taken; Mayor Berger said that [the view of] the deck was not part of the appeal hearing.

Mayor Berger stated that he was satisfied that the revised arborist's plan was consistent with what the Council had previously suggested.

Mayor Berger closed the public hearing.

Councilmember Slavitz expressed frustration that "the view we are trying to protect" was one that was created through illegal tree trimming (by the Sofnas'). However, he said that he would accept the recommendations in arborist Moritz' report.

Councilmember Gram agreed.

Councilmember Fredericks said that this would "not be the last time" the Council would see this type of request for protection of a view across a level lot; and that said it would be a problem

even if there was not an “illegal, stolen view.”

Councilmember Fredericks addressed Mr. and Mrs. Sofnas and said she hoped that they were satisfied because “we have done our best” to protect the view.

Vice Mayor Smith continued to maintain that the Design Review Board had “gotten it right” [the first time] and that the Council had spent “more time than was warranted” on the matter. He also said that he appreciated the applicants’ perseverance in the matter.

Mayor Berger said that the revised proposal, although received late in the day, was substantially what the Council had asked for and what the Sofnas’ had requested. He said that his personal preference would be to look at a tree rather than a house.

Planning Manager Watrous said that Staff would revise Condition No. 15 in the draft resolution to be “consistent with the [arborist’s] report” which and would be executed “within 30 days of the issuance of a building permit.”

MOTION: To adopt the resolution, as amended.
Moved: Gram, seconded by Fredericks
Vote: AYES: Unanimous

WRITTEN COMMUNICATIONS

Town Council Weekly Digest – February 18, 2005

Town Council Weekly Digest – February 25, 2005

Town Manager McIntyre said that the classic car show permit had been approved by Staff, with unanimous support of the Pt. Tiburon homeowner’s board.

The Town Manager asked the Council to calendar a March 30 meeting for review of the Tiburon General Plan, at 7:00 p.m. Planning Manger Watrous said that there would be a 30-minute presentation by Staff, followed by a public comment period.

ADJOURNMENT

Mayor Berger said that the Town’s first employee, former Public Works Superintendent Lou Brunini, had passed away on February 26. He said that the Council would adjourn in his memory, and would send its condolences to his widow, Virginia Brunini.

The Council added their comments and fond memories of Mr. Brunini.

Councilmember Slavitz said that he used to see Lou on the job at Goodman’s lumber; that he concurred with Deputy Director of Public Works Tony Iacopi’s characterization of Lou as “Mr.

Tiburon,” who was known for his gentle demeanor, and suggested that Lou’s manner might be something worth emulating by townspeople today.

Councilmember Gram said that he remembered Lou for his prodigious memory and knowledge of the Town’s infrastructure and history.

Mayor Berger recalled Lou’s friendly manner on the street and how he always used to greet him with a friendly “hello,” even though he [Miles] was not well known to him.

There being no further business before the Town Council of the Town of Tiburon, Mayor Berger adjourned the regular meeting at 8:23 p.m., in memory of Lou Brunini, to the next regular meeting scheduled for March 16, 2005.

MILES BERGER, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK