

**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, April 6, 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, Administrative & Financial Analyst Stott, Advance Planner Bryant, Assistant Planner Krasnove, IT Coordinator Monterichard, Chief of Police Odetto, Police Captain Hutton, Director of Public Works/Town Engineer Echols, Town Clerk Crane Iacopi

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL

(Section 54956.9(c))

Initiation of Litigation – (Two Cases)

INTERVIEWS

- 7:00 p.m. – Chris Morrison, 112 Main Street (Heritage & Arts Commission)
- 7:10 p.m. – Elizabeth Schmidt, 32 Sutter Court (Heritage & Arts Commission)
- 7:20 p.m. – Matthew Richter, 23 Apollo Road (Design Review Board)

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

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

ORAL COMMUNICATIONS

Frank Mulberg, representing the owners of 56, 66, 76 and 88 Hacienda Drive, said that they had filed a petition and were asking the Town Council to reconsider inclusion of the above properties in the Del Mar Valley Utility Undergrounding Assessment District.

Mr. Mulberg said that the Council should reconsider its action of March 16, 2005, in which it approved the preliminary engineer's report and boundary map for the district on its merits; that the Council had based its decision on "erroneous information" provided at that hearing, specifically, that there would be an additional \$400,000 cost associated with the bond sale if the project did not move forward as proposed.

Mr. Mulberg said that the Hacienda properties he represented constituted a "different neighborhood" and that its inclusion would constitute a "taking" under Proposition 218 which prohibits assessments where no benefit is received. He said that they had been told by PG&E that "100 per cent of our services" were derived from the Trestle Glen area rather than Del Mar Valley.

Mr. Mulberg said that the exclusion of the four properties on "lower" Hacienda would not adversely affect the project nor raise the assessments. He stated that there was already an engineering plan in place to accomplish this goal. He asked that Council allow these homeowners an opportunity to put on a presentation which would demonstrate these points and show how their inclusion in the project was "illegal."

Dave Fried, 88 Hacienda, said he had attended an advisory meeting a year and a half ago in which he came away with the understanding that the undergrounding of utilities would go extend the way to Trestle Glen. He seconded Mr. Mulberg's request for a hearing to reconsider the inclusion of these four properties and a discussion of the merits.

Mayor Berger said that the Council needed to take the request under advisement at this time. He also stated that they needed to hear from the rest of the undergrounding group who might have some solutions, as well.

APPOINTMENTS TO BOARDS, COMMISSIONS & COMMITTEES

- Heritage & Arts Commission – (Two Vacancies)
- Design Review Board – (One Vacancy)

MOTION: To appoint Chris Morrison & Elizabeth Schmidt to the Heritage & Arts Commission

Moved: Slavitz, seconded by Smith

Vote: AYES: Unanimous

No action was taken on appointments to the Design Review Board.

PRESENTATION

Presentation by Captain Dave Hutton of the Tiburon Police Department Annual Report

Captain Hutton gave a power point presentation that included an overview of the department's personnel, programs and history. Council congratulated Captain Hutton and the department on a job well done.

CONSENT CALENDAR

1. **Approval of Town Council Minutes** – March 16, 2005
2. **Approval of Town Council Minutes** – March 30, 2005
3. **Recommendation by Director of Administrative Services** – Adopt Information Technology Strategic Plan
4. **Recommendation by Town Manager** – Funding for Law Enforcement for “Friday Nights on Main”

In response to a question from Council, Chief Odetto said that one way to keep police overtime costs down while providing security for “Friday Nights on Main” was to utilize Tiburon reserve police officers, as well as command level officers. This would be in addition to the “mutual aid” request from the City of Belvedere (Consent Calendar Item No. 4).

5. **Request by Marin Telecommunications Agency** – Direct Comcast to Restore FM Radio Service to Cable TV subscribers
 - a) A Resolution of the Town Council of the Town of Tiburon Urging Comcast Cable to Restore FM Service to its Subscribers in Marin County
6. **Recommendation by Chief of Police** – Accept Annual Report of Tiburon Police Department

MOTION: To adopt Consent Calendar Item Nos. 1 through 6, above.
Moved: Smith, seconded by Fredericks
Vote: AYES: Unanimous

REGULAR AGENDA

7. Recommendation by Town Manager – Adoption of Merit Pay Program

Town Manager McIntyre introduced the program which he said had been developed, under his direction, by a committee comprised of mid-managers Kevin Bryant, Kris Krasnove, Dave Hutton, Dave Davenport and Diane Crane Iacopi. He said that program had been presented at the annual Staff retreat in October and further reviewed and revised by the Department Heads in December of 2004.

McIntyre said that the committee had done an outstanding job developing the program. McIntyre which he said was developed as a way to enhance the Town's existing incentive and compensation program by memorializing a way to reward meritorious performance.

The Town Manager said that he had contacted San Rafael City Manager Rod Gould for feedback concerning their program. He reported that that city's program had been very successful.

Advance Planner Bryant, on behalf of the Merit Pay Committee, presented the highlights of the program. He said that the committee had reviewed numerous programs in use by other public agencies, as well as the policies and practices of the Town over a number of years.

He said that that each management and mid-management employee would be evaluated based on organizational values and job performance standards, as well as specific goals and job objectives; that this review would take place before, during and after the evaluation period; that an additional benefit of the system was the communication that would be required between employee and supervisor, along with a "self" evaluation by the employee.

Council asked a number of questions about the scoring criteria and system; Advance Planner Bryant said that the scoring system attempted to take a subjective process and make it more objective. He also said that it was "job specific" and not hierarchical.

In commenting on the cost of the program, Mayor Berger noted that the 5 percent of compensation that would be budgeted for the program in each fiscal year was similar to what was currently in the Town's budget.

Town Manager McIntyre clarified that this did not mean that everyone would received a 5 percent raise under the proposed program; he also said that he anticipated that the program would be reviewed annually and that Staff would keep Council apprised on its progress.

MOTION: To adopt the merit compensation program, as recommended.

Moved: Fredericks, seconded by Smith

Vote: AYES: Unanimous

8. **Recommendation by Director of Administrative Services – Adoption of Personnel Rules and Regulations**

- a) A Resolution of the Town Council of the Town of Tiburon Repealing Existing and Adopting New Procedures for the Administration of Employer-Employee Relations

Analyst Stott gave a brief report and offered to answer any questions. He said that the Town's Personnel rules and regulations had not been formally updated since 1984.

Vice Mayor Smith said that the late mail item appeared to state a "double negative" pertaining to the exclusion of the Town Manager and Town Attorney from Rule 9. Town Attorney Danforth offered to re-write the section for clarification purposes.

MOTION: To adopt the updated rules and regulations, pending clarification of the "exceptions" clause on page 2

Moved: Fredericks, seconded by Smith

Vote: AYES: Unanimous

MOTION: To adopted an updated resolution governing Employer-Employee Relations

Moved: Slavitz, seconded by Smith

Vote: AYES: Unanimous

PUBLIC HEARING

9. **Recommendation by Town Engineer/Director of Public Works – Consider Adoption of New and Increased Street Impact Fees**

- a) Resolution of the Town Council of the Town of Tiburon Adopting a Refuse Vehicle Impact Fee to provide for Residential Street Repairs related to Damages caused By Residential Refuse Vehicles
- b) Resolution of the Town Council of the Town of Tiburon Updating the Construction Vehicle Street Impact Fee

Director of Public Works/Town Engineer Echols gave the report. He stated that the "pavement engineering community" widely agreed that refuse and heavy construction vehicles caused the most deleterious effects on roadways, effectively shortening the service life of the pavement.

Pursuant to the Council's direction, Echols said that Staff had explored the creation of a refuse vehicle impact fee and had reviewed the existing construction vehicle impact fee. He said that based upon the data presented in the Hilton, Farnkopf & Hobson (HF&H) analysis, it was

appropriate to raise the Town's construction vehicle impact fee from .7% to 1%; also that the analysis had concluded that refuse vehicles accounted for approximately 11% of the total impact of residential streets. He said this equated to \$70,000 per year for the proportionate cost of maintaining the Town's residential streets at the target PCI.

The Town Engineer recommended raising the street impact fee to 1% for construction vehicles and to assess Mill Valley Refuse Service an impact fee of \$70,000 per year to recover its costs.

Councilmember Fredericks asked if there was a legally compelling reason to base the street impact fee on the cost of a project versus a straight percentage being proposed as an assessment to the garbage franchise.

The Town Engineer said that the percentage charged to holders of building permits was a proportional way to account for the impacts of a particular project; he said that the garbage franchise charge would also be a way to apportion the cost, this time as a "pass through" to the payers.

Vice Mayor Smith commented that these fees would be a source of revenue to keep our streets in shape without a parcel tax. The Town Engineer commented that it would not cover all the costs but that it would be a "step in the right direction."

Mayor Berger said that the fees and increase were appropriate because they were, in fact, a "road related tax."

Mayor Berger opened the public hearing.

John Kern, Stewart Drive, suggested that the Council institute a regulation whereby the franchise companies would be required to place a piece of plywood (or other material) on the ground before placing debris boxes in the public street. He said that this would save wear and tear on the streets.

Town Attorney Danforth said that such a regulation could be explored by Council at a future meeting and could become part of the Town's Building Ordinance.

Mayor Berger closed the public hearing.

MOTION: To adopt resolution adopting a refuse vehicle impact fee
Moved: Slavitz, seconded by Smith
Vote: AYES: Unanimous

MOTION: To adopt resolution updating construction vehicle street impact fees
Moved: Fredericks, seconded by Gram
Vote: AYES: Unanimous

COUNCIL AND COMMITTEE REPORTS

Councilmember Fredericks said that a new group had been formed called “Communities United,” whose purpose was to lobby for the preservation of Proposition 98 funds for schools.

Councilmember Slavitz said that he proposed in the coming year an evaluation of the description and duties of the Town’s Commissions for the purpose of making them more efficient and effective. Council concurred with his recommendation.

WRITTEN COMMUNICATIONS

Town Council Weekly Digest – March 18, 2005

Town Council Weekly Digest – March 25, 2005

Town Council Weekly Digest – April 1, 2005

Town Attorney Danforth asked for Council comment on a letter proposing changes to the Town’s view preservation ordinance. After some discussion, Council directed the Town Attorney to take no further action on any recommended changes.

Town Manager McIntyre asked for comment on a letter from Pamela Ashkenazi, whose son Daniel had died in the past year. Council concurred with his recommendation to contact the school district (as well as the community library) in order to pursue other funding opportunities in which to memorialize her son.

Vice Mayor Smith commented that he would like to see more public recognition of citizens through proclamations or resolutions.

ADJOURNMENT

There being no further business before the Tiburon Town Council, Mayor Berger adjourned the meeting at 8:45 p.m., *in memory of Martin Mackey, former Executive Director, Ecumenical Association for Housing*, to the next regular meeting scheduled for April 20, 2005.

MILES BERGER, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK