

**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, May 18, 2005, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

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

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

Prior to the regular meeting, at 6:30 p.m., the Council met in closed session concerning the following matters:

CLOSED SESSION

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

Fenster v. Town Council, Planning Commission & Library Agency

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Section 54956(b)(3)(C))

One Case

The Council also conducted an interview for a vacancy on the Planning Commission.

INTERVIEWS

- Planning Commission (7:15 p.m.) – Al Aguirre, 60 Mt. Tiburon Road

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

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

ORAL COMMUNICATIONS

Brook Halsey, member of the Audubon Center Leadership Council, talked about the salmon release at Blackie's Pasture on Saturday, May 21, 2005.

PRESENTATION

- 10th Annual Heritage Preservation Award – Jim Mitchell, Recipient

Mayor Berger introduced Dave Gotz, Chair of the Heritage & Arts Commission. Mr. Berger also noted that Mr. Mitchell was a managing partner at the firm where he was first hired as an architect, and had given him sage advice which he said consisted of the following—"Miles, be quiet!"

Mr. Gotz introduced Mr. Mitchell and presented him with the 10th annual award. He listed his contribution as one of the founders of Blackie's Brigade and Blackie's Student Brigade; he also said that the Historic Trail along the multi-use path was the brainchild of Mr. Mitchell.

Mr. Mitchell accepted the award and said that he was both humbled and honored to receive it. He said that historical preservation was of importance to everyone and he cited some of his life experiences which led him to this conclusion.

He commended the Town of Tiburon for its "ecumenicism" in recognizing him, a Belvedere resident, and also commended the Heritage & Arts Commission for its good work and for creating such an award.

Immediately following the presentation, Police Chief Matthew Odetto announced that Police Officer Cindy Baxman was being promoted to Detective Baxman. He said that she would be the first female police detective on the Tiburon peninsula.

CONSENT CALENDAR

1. **Approval of Town Council Minutes** – May 4, 2005
2. **Recommendation by Director of Administrative Services** – Accept Monthly Investment Summary for April 2005

3. **Recommendation by Town Engineer/Director of Public Works – Adopt Final Plans and Specifications for Lyford Cove Utility Undergrounding Assessment District**

MOTION: To adopt Consent Calendar as written.
Moved: Gram, seconded by Smith
Vote: AYES: Unanimous
ABSENT: Fredericks
ABSTAIN: Berger, May 4, 2005 Minutes

PUBLIC HEARING

4. **Recommendation by Director of Public Works/Town Engineer – Formation of Del Mar Valley Utility Undergrounding Assessment District**

Those homeowners who have not yet submitted a ballot, or those who wish to change their vote on the ballot already submitted, may do so at any time up to the close of the Public Hearing.

- a) Project Summary. There will be a brief summary of the project and proposed financing by representatives of the proposed District and Staff.
- b) Public Hearing. Speakers will have three (3) minutes and will be asked to state their name, address and identify the property they own or represent within the proposed Assessment District.
- c) Submittal of Ballots. The Mayor will ask for the final submittal of ballots to the Town Clerk.
- d) Tabulation of Ballots. The Public Hearing will be closed and the Council will take a short recess to allow the Town Clerk time to open and tabulate the ballots.
- e) Results. Based upon the results of the balloting, the Town Council will then discuss the matter and determine how to proceed. If the Council decides to proceed with the formation of the Assessment District, it will adopt the following resolution:
 - (i) A Resolution of the Town Council of the Town of Tiburon Adopting the Engineer’s Report, Confirming the Assessment, Ordering the Work and Acquisitions and Directing Actions with Respect thereto – Town of Tiburon, Del Mar Valley Utility Undergrounding Assessment District

Mayor Berger reviewed the procedure listed above and asked for a Staff report.

Director of Public Works/Town Engineer Echols gave a brief background and timeline of the project. He said that if the district were to be approved tonight by the Council, notices of assessment would be mailed out to all residents in the district notifying them of a cash pay-off period and how to receive assistance for lateral connection financing. He estimated that, if approved, the project would go to bid in the Fall with construction starting in Spring 2006.

Mr. Echols noted that no changes had been made to the Engineer's report after the Council had adopted it in its preliminary form at the March 16, 2005 Town Council meeting.

In response to a question from Council concerning the adoption of the final Engineer's report and formation of the district, Mr. Echols said that the Town Council could change or remove properties before adopting the final Engineer's Report as long as it did not increase the assessments or alter the benefits for anyone in the district.

Vice Mayor Smith asked about a reference to a rule precluding the exclusion of properties [from a district] on one side of a street. The Town Engineer said that this was a Rule 20 [PUC] requirement.

Mr. Smith asked whether it was a PG&E policy or a rule. Mr. Echols affirmed that it was a requirement (rule).

Ms. June Strunk, one of the district organizers, described the process whereby interested residents in the Del Mar area had, over the last two years, raised \$113,000 to produce an engineering study and had sought the consensus of their neighbors in order to underground utilities in that neighborhood.

She described the benefits of undergrounding utilities—increased beauty of the area; increased safety (citing an example of fire trucks not being able to access certain areas during the Oakland hills fire due to downed power lines; and increased reliability of service.

Ms. Strunk acknowledged that there had been opposition to the formation of district but said that it was a fact of life in a democracy; she further noted that if the district formation were to be delayed at this point in time, it ran the risk of costing much more. She said that their goal was to have the assessments recorded by the fiscal year's property tax deadline or it would cost an additional \$400,000 to finance the bonds if the deadline was missed.

Mayor Berger commented that regardless of the outcome, it was the hard work of public-spirited people like Ms. Strunk that resulted in progress being made by a community. He reiterated the long-standing support of the Town Council for undergrounding of utilities.

Mayor Berger opened the public hearing.

John Frick, Business Manager of the Reed Union School District, read a letter from the Board seeking exclusion from the district and describing the reasons for abstaining from the vote. He said that the trustees felt that the \$125,000 assessment would be better spent on the mission of the district--“to nurture, teach and inspire”--rather than on utilities being placed underground; he also stated the trustees’ position that it was the responsibility of the Town to undertake public works projects.

Colleen Mahoney, Hawthorne Drive, said that she would be in favor of the district but that it was inappropriate to “cut a street in half” and throw it into a much larger district. She asked why the Council had not included the whole of Hawthorne Drive.

Kathleen Bailey, 675 Hawthorne Drive, district proponent, replied that the boundaries “had to start and stop somewhere” and that ultimately all of Hawthorne Drive would be undergrounded through the Hawthorne Terrace/Pilgrims Heights [proposed] district.

Russ Wischow, 6 Wilkins Court, asked whether the assessment cost was fixed and what would happen if, during the course of construction, the price went up.

Steve Casaleggio, Jones Hall, bond counsel for the district, said that the assessment being voted on tonight was fixed; that if the cost indeed were to increase, the Council would have to go through the whole process again. For this reason, he said the proponents and the Town had endeavored to ensure that there would be no cost overruns.

Town Engineer Echols added that a 12% contingency had been built into the cost of the district for this purpose.

Mr. Casaleggio said that the Town could borrow against any of the line items [in the Engineer’s report] that contained contingencies in order to complete the project.

Joan McFetridge asked why Tanfield Drive was not included in the district.

Mike Cooper, Harris & Associates, District Engineer, said that the proponents had not included Tanfield Drive in the original district boundaries nor did it take power from Hacienda Drive.

Mayor Berger asked for clarification.

Ms. Strunk said that in the beginning, when the proponents surveyed the area for interest, the residents of that street had not indicated their interest in joining the district.

Mayor Berger commented that the exclusion of that street was a political rather than a technical decision.

Sam Kami, 655 Hilary Drive, said that his property already had its utilities underground and yet his assessment was the same as his neighbor's who did not have undergrounded utilities.

The Town Engineer addressed his question by stating that the assessment being voted on was for the joint trench work in the public right of way; that the work on private property [to underground the utilities to the house] was a separate cost, to the individual property owner, and one that Mr. Kami would not have to incur as a result of this project.

Vice Mayor Smith said that he thought Mr. Kami was also asking for clarification about why he was in the in the district and his next door neighbor was not.

District Engineer Cooper said that Mr. Kami's property was at the very boundary of the district, and that even though the parcel was already undergrounded, the Kami's took their service [power] from a street that was included within the district.

Mayor Berger made the final call for ballots to be submitted. Several people presented ballots to the Town Clerk.

Mayor Berger closed the public hearing and called for a brief recess to allow for ballot tabulation.

Mayor Berger then moved on to the next items on the agenda, while the ballots were being counted.

REGULAR AGENDA

5. **Recommendation by Town Engineer/Director of Public Works – Award of Contract for Installation of Solar Panels at Town Hall – *continued from May 4, 2005***

Director of Public Works/Town Engineer Echols gave an update as requested by Council.

Vice Mayor Smith said that the cost overruns seemed to be related to excessive insurance requirements but now seemed to be a result of prevailing wages and the size of the contractor. He asked for clarification.

The Town Engineer said that they had heard from one bidder (who was not the low bidder) that the Town's insurance requirements were indeed a factor in the bid amount. However, at Council's direction, he contacted the low bidder who told him that insurance was not an added element but that the other factors (stated in the report) were.

The Town Engineer added that the Town had experienced issues with its insurance requirements in the past; that sometimes the low bidder who won the contract would in fact find out later, when attempting to purchase insurance, that the cost was substantially higher than they had anticipated.

Mayor Berger opened the public hearing.

William Cox, address unknown, said that he had installed solar panels on his home on April 15 and that his electricity costs had dropped from over \$200 a month to about \$2.00, to date. He said that his insurance had not changed.

Mayor Berger commented that the liability insurance requirements for public buildings were different from private projects.

Mayor Berger closed the public hearing.

Councilmember Gram said that he would definitely vote for the project but that he had not been happy with the process from the beginning.

Vice Mayor Smith agreed and said that the ameliorating circumstance was that it was a good project that would have a positive effect. He noted that if the cost had gone up 30% and had added two years to the amortization schedule.

Councilmember Slavitz said that installing solar panels on Town Hall was the “right thing to do” which would reduce the cost of electricity to the Town.

Mayor Berger concurred with the above remarks.

MOTION: To award contract for installation of solar panels and budget amendment, as recommended.

Moved: Gram, seconded by Smith

Vote: AYES: Unanimous

ABSENT: Fredericks

APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

- Planning Commission – One Vacancy

Mayor Berger said that the vacancy had been advertised for over a month.

Vice Mayor Smith said that the Council had interviewed a well qualified candidate who he thought would get along well with the other commissioners and the public. He said that the Planning Commission was the primary body for reviewing large development applications within the Town.

Councilmember Gram said that the candidate, Al Aguirre, had taken the time to attend several commission meetings and had reviewed the new general plan.

Mayor Berger said that he had also served on the board of the Belvedere Tennis Club during their expansion process and was an experienced, “world class” administrator for a “world class” town.

MOTION: To appoint Al Aguirre to the Planning Commission.
Moved: Gram, seconded by Smith
Vote: AYES: Unanimous
ABSENT: Fredericks

Councilmember Slavitz also noted for the public that there was still a vacancy to be filled on the Design Review Board.

4) Continued from recess - Recommendation by Director of Public Works/Town Engineer – Formation of Del Mar Valley Utility Undergrounding Assessment District

Town Clerk Crane Iacopi announced the results of the ballot tabulation: 71% in favor of the district and 29% opposed. She also read the results stated as dollars assessed: Total assessment amount was \$4,113,890; “yes” votes equaled \$2, 914,256; “no” votes equaled \$1,199,634.

(A complete ballot tabulation is attached to these minutes as Exhibit A.)

Councilmember Slavitz congratulated the organizers on their efforts while acknowledging opponents. He said that it would be a benefit for the entire community and a great improvement for the neighborhood. He encouraged the people for whom the assessment was a hardship to talk with the organizers and see what could be done to help with financing.

Councilmember Gram said that 71% was a substantial victory and that he looked forward to driving through the neighborhood after the project was completed to view the “substantial improvement.”

Vice Mayor Smith concurred with Councilmember Slavitz’ and Gram’s remarks.

Mayor Berger agreed. He said that although the calendar “conspired” to make some uneasy during the process, but that the Council had learned some things from the project to add to its institutional memory and that the end result was well worth waiting for.

MOTION: To adopt resolution approving the final Engineer’s report and related actions to form the Del Mar Valley Utility Undergrounding Assessment District
Moved: Gram, seconded by Smith
Vote: AYES: Unanimous
ABSENT: Fredericks

COUNCIL AND COMMITTEE REPORTS

None.

WRITTEN COMMUNICATIONS

Town Council Weekly Digest – May 6, 2005

Town Council Weekly Digest – May 13, 2005

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Berger adjourned the regular meeting at 8:55 p.m., to the next regular meeting scheduled for June 1, 2005.

MILES BERGER, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK