

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Mayor Collins called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, May 19, 2010, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

PRESENT: COUNCILMEMBERS: Collins, Fredericks, Fraser, O'Donnell, Slavitz

PRESENT: EX OFFICIO: Town Manager Curran, Town Attorney Danforth, Director of Administrative Services Bigall, Director of Community Development Anderson, Police Captain Hutton, Town Clerk Crane Iacopi

Prior to the regular meeting, the Council met in closed session, beginning at 6:45 p.m., to discuss the following:

CLOSED SESSION

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

Haygooni v. Servino Venture II LLC
Marin County Superior Court Case No. CIV096065

CONFERENCE WITH LABOR NEGOTIATOR
(Section 54957.6)

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

CLOSED SESSION ANNOUNCEMENT, IF ANY

Mayor Collins said there was nothing to report from the closed session.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of April 21, 2010 meeting (Town Clerk Crane Iacopi)
2. **Town Council Minutes** – Adopt minutes of May 5, 2010 meeting (Town Clerk Crane Iacopi)
3. **Christine Carter Retirement** – Adopt resolution commending Christine Carter for 12 years of outstanding service to the Reed Union School District upon her retirement (Town Clerk Crane Iacopi)

MOTION: To adopt Consent Calendar Item Nos. 1 through 3, as written.
Moved: Fredericks, seconded by Slavitz
Vote: AYES: Unanimous

ACTION ITEMS

1. **Marin Energy Authority** – Consider level of Town participation, as a customer, in Marin Clean Energy program (Town Manager Curran)

Town Manager Curran said that the Town Council had joined the joint powers authority (Marin Energy Authority) in November of 2009 in order to provide the residents of Tiburon an opportunity to participate in the Marin Clean Energy program. She said that the conversion date for Phase I customers was May 7, 2010, and that since that date, Phase I customers, including the Town of Tiburon, had started receiving their power from Marin Clean Energy. However, Curran stated that Phase I customers wishing to do so still had 60 days from the May 7 conversion date to opt out of the program without penalty.

Curran recommended that the Council reaffirm its decision to participate in Marin Clean Energy. Additionally, she said that by remaining a member of the joint powers authority (JPA), the Town now had the choice of participating as a customer in Marin Clean Energy at one of three levels—“light green”, “deep green”, or not at all.

The Town Manager said that under the constraints of the current economy and the constraints of the Town’s budget, she would recommend that the Town Council vote to participate at the “light green” level, and to consider participation at the “deep green” level in future. Curran said that participating at the “light green” level would provide an energy mix that was 25% energy from renewable sources and would be equal to or less than current PG&E rates; she said that

participating at the “deep green” level would be at a premium rate, approximately 7 per cent above the PG&E rate, and would cost the Town an additional \$4,000 per year. Town Manager Curran noted that the Town had already taken steps to “go green”, for instance, by installing solar panels on the roof at Town Hall (in 2006).

The Town Manager noted that if the PG&E-sponsored Proposition 16 passed in June, it was unclear if the Town or its residents would have the right to choose Marin Clean Energy in the future. She said that by taking the step now to affirm its participation, the Town would not only be locking its ability to participate in Marin Clean Energy but would be taking a positive step for the environment.

Mayor Collins opened the public hearing.

Tiburon resident David Barker said that his views about MCE were already known to the Council. He recommended that the Town withdraw from the JPA for the following reasons: 1) it is not “local”; he said that 85-90% of the monies received would go to Houston rather than San Francisco, and that 15%, or the remainder, would go to pay lawyers and service suppliers from Sacramento to San Diego; 2) MCE would take energy from sources that are not “green”, such as hydroelectric power, under the Shell Contract; 3) the argument that a “second buyer” of energy would encourage development of renewable energy in future was not founded, based on the cost of “renewables” discussed at the January MEA Board meeting; 4) the staff report said that prices would remain essentially flat under the Shell contract, but he pointed out that there were 2 -6% escalation clauses in the contract, or an average of a 4.5% increase per year over the life of the contract. In summary, Mr. Barker said that the claims by MEA were unsubstantiated based on these facts and figures, and he recommended that the Council vote to opt out of MEA.

Dawn Weisz, Executive Director of the Marin Energy Authority (MEA), gave a brief update and response. She reviewed the structure of energy delivery via the JPA, stating that it consisted of a public and private partnership, including PG&E, and eight Marin cities and towns plus the County of Marin. She said that PG&E would provide the transmission lines and billing for the Marin Clean Energy program, but that customers of Marin Clean Energy would be able to choose the source of their electrical power. Weisz said that MEA intended to move toward local sources of generation, such as solar, and that its goal was to become less reliant on fossil fuel.

Director Weisz said that MCE offered two products to its customers—“light green” and “deep green” energy. She said that the “deep green” rate costs 1 cent more per kilowatt hour; using her own home as an example, she said that using 500 kilowatts per month at the “deep green” level would cost her an additional \$5.00 per month.

Weisz responded to Mr. Barker’s remarks about non-local energy sources by stating that the hydroelectric power sources in MCE were from the South San Joaquin Irrigation District, as well as from Washington and Oregon. She said that the JPA was leasing office space now and would hire local contractors to do its IT and website work, in addition to seeking local energy suppliers.

Ms. Weisz highlighted some new programs forthcoming from MCE: 1) a net energy metering tariff that would allow rollover of solar customers' credits from year to year; 2) a "solar shares" program similar to a program in Sacramento, which would allow customers who could not install solar panels to contribute to a program that would provide incentives for others to install solar panels for community use.

Finally, Ms. Weisz responded to Mr. Barker's comments concerning the price escalation clause in the Shell Energy contract by stating that the wholesale energy price in that context was not the same as the customer's energy price, which had been guaranteed by MCE.

In response to a question from Councilmember O'Donnell concerning solar credits, Ms. Weisz said that existing operations would be credited at the PUC rate and the credits would be shared by both PG&E and MCE. She said that the new "credit and cash-out" program would exceed the current PG&E credits.

Ms. Weisz said that MCE also wanted to launch a "PACE" program in Marin County, whereby customers who installed energy efficient upgrades to their homes could write off the cost of these improvements on their property tax bill.

Councilmember Fredericks asked about the Berkeley PACE program. Weisz said that the City of Berkeley had received a \$1 million grant to launch a PACE program and that it was fully subscribed. She said that there were similar programs in Palm Desert, as well as Sonoma County.

Mayor Collins asked the Director whether PG&E also purchased energy from Shell Energy. Ms. Weisz said yes, that PG&E currently purchased hydroelectric, fossil, and wind power from Shell Energy.

Weisz noted that PG&E reported \$1 billion in profits last year, profits that would go to its shareholders. She said that MCE is a non-profit program, and that its profits and excess revenues would be devoted solely to local energy projects and local production. She said that some new programs being discussed by the JPA were to make MCE more available to low-income residents of the County, as well as seniors.

Mayor Collins asked Ms. Weisz about the Shell Energy contract prices. She said that the MCE contract prices were locked in. She also pointed out that MCE customers could still "opt out" at any time and go back to PG&E if they chose to do so.

Councilmember Fredericks noted that 64 different municipalities were already providing energy through various programs. She asked Ms. Weisz whether their rates were below the investor-owned utilities. Ms. Weisz said that they averaged 20 – 25% below the investor utility rates.

Mr. Barker disputed the above remarks by stating that the municipal utilities are different from MCE-type programs because they own their own wires and pipes. He also distributed a rate sheet showing the annual escalations for the term of the Shell contract.

Mayor Collins closed the public hearing.

Vice Mayor Slavitz said that he had found the Marin Clean Energy program to be a great idea from the start; he said that it was a worthy experiment and that while his heart was “deep green”, his wallet was “light green”.

Councilmember O’Donnell agreed with the Vice Mayor’s sentiments and his recommendation to go with the “light green” option. He said that it would be hypocritical for the Town to opt out at this juncture. O’Donnell said that while he respected Mr. Barker’s opinion, he said that he was “off the mark” in this instance. O’Donnell said he thought MCE had a very good business plan and that investors would welcome the opportunity to compete with the current utility.

Councilmember Fredericks said the Council had carefully analyzed the MCE program and had updated its information throughout the process, including after the release of the Grand Jury’s report. She said that the risks had been evaluated and the problems mitigated, and that the experts thought MCE had a reasonable plan. Fredericks said that she, too, would prefer to buy the “deep green” energy but that it was more prudent at this juncture to go with the “light green” option.

Councilmember Fraser said that he viewed MCE as an evolving entity, but one that had been extremely responsive to input and queries. He said that the Town’s continued participation in the program was in the best interest of the community, the environment, and the citizens of Tiburon, and that history would show that it was a good decision for Tiburon’s residents.

Mayor Collins thanked Ms. Weisz for her hard work throughout the process. He said that MCE was the wave of the future, and that its mission was consistent with the goal of the country to reduce its dependence on foreign sources of fossil fuel. He said that MEA’s goal of owning an independent source of renewable energy was a move in the right direction and could be viewed as a “macro” for the future of our country; he said it and was the start of something big for this state and the county.

MOTION: To remain in Marin Clean Energy as a customer at the “Light Green” level.
Moved: Slavitz, seconded by Fredericks
Vote: AYES: Unanimous

PUBLIC HEARINGS

- 1. 90 Via Los Altos Precise Plan Amendment** – Consider amendment to La Cresta Precise Plan to create a new landscape envelope to accommodate an existing and proposed swimming pool, spa, fencing and walls for property located at 90 Via Los Altos (Planning Manager Watrous)
Address: 90 Via Los Altos
APN: 034-330-43
Applicants: Mitch and Pamela McCullough

Director Anderson gave the report. He said that proposed amendment was for a non-controversial building envelope adjustment in a fully developed area for improvements behind the home. He said that the two affected neighbors supported the proposed amendment, and that the Planning Commission had voted without dissent to recommend approval.

Mayor Collins opened the public hearing.

David Schwartz, landscape architect, introduced himself and said that he would be happy to answer any questions.

Mayor Collins closed the public hearing.

Councilmember O'Donnell said that he had visited the property; he said that he would vote to support the recommendation of the Planning Commission. Vice Mayor Slavitz concurred with his recommendation.

MOTION: To adopt resolution approving the amendment, as written.
Moved: O'Donnell, seconded by Slavitz
Vote: AYES: Unanimous

2. **Del Mar Valley Utility Undergrounding Assessment Districts** – Consider actions related to formation of utility undergrounding districts (Town Attorney Danforth)
 - a) Resolution repealing existing supplemental assessment district
 - b) Resolution amending original district boundaries
 - c) Resolution of intention to form a new supplemental assessment district

Town Attorney Danforth gave the staff report which summarized the history of the two districts, the ensuing lawsuits and settlement, and the recommendation to adopt the resolutions in order to implement the settlement agreement and re-form the district.

Councilmember O'Donnell asked whether the original bonds could be reassigned to the reformed district in order to save the administrative costs of issuing new bonds.

The Town Attorney said that this had been discussed with bond counsel but in fact it was not legal to “swap securities”. Town Manager Curran said that the discussion had proved to be fruitful nonetheless in exploring ways to save money in the process of reforming the district.

Mayor Collins opened the public hearing. There was no public comment.

Mayor Collins closed the public hearing.

MOTION: To adopt the (3) resolutions, as written.
Moved: Slavitz, seconded by Fredericks
Vote: AYES: Unanimous

TOWN COUNCIL REPORTS

Councilmember Fraser reported on the progress of the Downtown Revitalization Committee. He said the committee, himself and Mayor Collins, had been studying possible improvements in the downtown area since January. He said the committee had met with all the stakeholders (property owners, retailers, citizens and tourists) now recommended the next step of holding a public meeting to discuss their findings. He recommended a public forum hosted by the Town that would include all the stakeholders as well as some experienced land use professionals.

Council concurred with the Councilmember's recommendation.

On another matter, Councilmember Fredericks noted that Mayor Collins had been singled out at the Marin Clean Energy "launch" for his significant contribution in reviewing the Shell Energy contracts on behalf of MEA.

TOWN MANAGER'S REPORT

- Update and direction regarding Ned's Way Joint Recreation site evaluation

Town Manager Curran reported on and received direction from the Council to proceed with the site evaluation by ordering a soils report and other preliminary work and proceeding with the permit process streamlining ordinance. She said that the cost of preliminary work would be shared with the City of Belvedere and the Joint Recreation Department, and that the cost to the Town would likely not exceed \$10,000, and she hoped it would be half that number.

Curran said that the project was at a juncture where it would be helpful to have input from a Council ad hoc committee. Council members Fraser and O'Donnell volunteered to serve on the committee.

The Town Manager also suggested that the homeowner's summit be held in September, when more people are in town, rather than June or July as previously discussed. Council agreed.

WEEKLY DIGESTS

- Town Council Weekly Digest – May 7, 2010
- Town Council Weekly Digest – May 14, 2010

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Collins adjourned the meeting at 8:43 p.m.

RICHARD COLLINS, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK