

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Vice Mayor Slavitz called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, June 2, 2010, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

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

ABSENT: COUNCILMEMBERS: Collins

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

ORAL COMMUNICATIONS

None.

PRESENTATION

- Transportation Authority of Marin proposed ballot measure (Dianne Steinhauser, Executive Director)

In her presentation, Ms. Steinhauser described funding shortfalls for local transportation projects resulting from a decrease in Measure A (sales tax) funding, as well as other economic factors. She said the proposed ballot measure would increase the local (Marin County) VLF fee by up to \$10 and would raise up to \$2.29 million. She said that the TAM Board would decide in June whether to place the measure on the November 2010 ballot, and would need a simple majority to pass.

The Director said that the following transportation agencies had been affected by the economic downturn and would benefit from passage of the measure: Marin Transit Agency, SMART, GGHBTD, and TAM.

Steinhauser said that a citizen's advisory committee had been formed and had pinpointed the following types of projects for funding: senior transportation services that are not currently in

existence; local roads; Safe Routes to School and crossing guard programs; and car share and other commuter alternatives.

She asked for questions from the Council.

Councilmember Fraser asked what the response had been from other cities. Ms. Steinhauser said that some of the questions pertained to who would “get the money” if the ballot measure passed. She said that the money for seniors would go to the Marin Transit Agency, to be tailored to programs for seniors; and that the streets funding would go to the cities, if the ballot measure was successful.

Ms. Steinhauser also commented on a question that had arisen regarding possible “competition” with a state-wide VLF ballot measure to fund State Parks. The Director said that surveys had shown that people who supported one measure would likely support both measures; and that the voter demographic was 133,000 voters in Marin compared to 8 – 9 million voters state-wide.

Acting Mayor Slavitz thanked Ms. Steinhauser for her presentation and asked whether she would wait until after the public hearing to show the video she had brought to the meeting.

CONSENT CALENDAR

1. **Wireless Communication Facilities Standards** – Update Town’s Wireless Communications Facilities Standards to reflect changes in state and municipal law and other amendments (Director of Community Development Anderson)
2. **Hacienda Drive Easement** – Adopt resolution accepting Wayne recreation easement over a portion of Hacienda Drive (Director of Community Development Anderson)

MOTION: To adopt Consent Calendar Item Nos. 1 and 2, as written.

Moved: Slavitz, seconded by Fredericks

Vote: AYES: Unanimous

ABSENT: Collins

ACTION ITEMS

1. **Appointments to Boards, Commissions and Committees** – Consider appointment to fill pending vacancy on Belvedere-Tiburon Library Board of Directors (Town Clerk Crane Iacopi)

Town Clerk Crane Iacopi gave the report. She said that Ms. Johnson was finishing her first term and sought reappointment to the Library Board. There were no other applicants, for the position, according to the Town Clerk.

MOTION: To appoint Beverlee Johnson to the Library Board for a second term.
Moved: Slavitz, seconded by Fredericks
Vote: AYES: Unanimous
ABSENT: Collins

2. **Del Mar Valley Utility Undergrounding Assessment District** – Consider actions related to formation of new supplemental utility undergrounding district (Town Attorney Danforth)
 - a) Resolution of Intention to Establish the Del Mar Valley 2010 Supplemental Utility Undergroundng Assessment District
 - b) Resolution Preliminarily Approving Engineer’s Report and Setting the Date, Time and Place for Public Hearing

Town Attorney Danforth gave the report. She said that on May 19, 2010, the Council began the process of creating a new supplemental district to fund the Del Mar undergrounding project by adopting a resolution appointing the district bond counsel, engineer and underwriter.

Danforth said that Town staff held the first property owner advisory meeting on May 25, 2010, and a second meeting on June 2, 2010, just before the Council meeting, to inform interested parties of the pending formation of the new district. She said the attendees raised a number of questions, including the method for calculating benefit spread, the ability to personally purchase the anticipated bonds, the ballot process, and the accounting of the Town’s expenses to date.

The Town Attorney said that the Council’s May 19th resolution set in motion a series of steps that would form the new district and that the Council must now decide whether to take the next step in the formation process by adopting the following resolutions: 1) a Resolution of Intention directing a Supplemental Engineer’s Report to be prepared and filed, to include the additional costs of improvements and incidental expenses required to complete construction of this project, and identifying the additional assessments. She said that Council adoption of the Resolution of Intention did not bind the Town to any further action but was required before the Council could decide to submit the proposed district to the balloting process.

Danforth said that if the Council decided to adopt the Resolution of Intention, the next step would be to preliminarily approve the Supplemental Engineer’s Report, set a date for public hearing of protests, and direct staff to prepare and mail the notices of proposed assessments and the ballots to property owners. The Attorney said that notices and ballots must be mailed to all property owners at least 45 days prior to a public hearing and ballot tabulation. She said that the resolution set the date for this hearing of July 21, 2010.

Acting Mayor Slavitz opened the hearing to public comment. There was no public comment.

Danforth introduced Sam Sperry, of Meyers, Nave, appointed District Bond Counsel, to answer any questions of the Council.

Acting Mayor Slavitz asked Bond Counsel Sperry to address the issue of how any surplus funds could be returned to the Town to cover its costs, as well as any refunds to the district (Section 9 of the first resolution).

Mr. Sperry said that there were two ways to address the issue: 1) that the Council could “cap” the amount of funds advanced by the Town to the district from its General Fund; and 2) that the Town might wish to reimburse the General Fund before declaring a surplus, and thereafter, if a surplus still existed, it could go to pay down the bonds. A third alternative, according to Sperry, would be to leave the issue open and use the surplus funds as the Council sees fit at the time.

With regard to the second resolution, approving the Engineer’s Report and setting the Date, Time and Place for Public Hearing, Sperry said that the notices and ballots would be sent to the property owners in the new supplemental assessment district. He said that he had discussed with Town Staff a possible modified version of the ballot that might be sent to the nine (9) plaintiff parcels within the new district. He said that these parcels had no assessed benefits assigned to them, and they were not entitled to participate in the ballot process under the provisions of the State Constitution. However, Sperry said that by sending ballots to these nine property owners, it would afford the Council an opportunity to hear from the property owners, as well as afford the nine properties an opportunity to participate in the process.

Town Manager Curran confirmed that there was discussion at the recent advisory meeting of this proposal after receiving input from some of the nine property owners. She said that this “advisory” ballot would allow the enfranchisement of the nine properties and would also allow the Council to have more information to use in making its decision on whether to move forward with the district at the July 21 protest hearing.

Town Attorney Danforth said that language describing the advisory ballots could be added to the second resolution.

Acting Mayor Slavitz said that he would like the language in the first resolution to be “tightened up” to allow the Town to recover some of its costs in the event of a surplus, rather than be left open to determine later.

Mr. Sperry proposed language to the effect that the Town could recover 50% of its costs, up to a cap of \$250,000.

Councilmember O’Donnell concurred, but said that he also favored allowing the Council to choose how it would refund any surplus to the District at the time it was determined that there would be a surplus, such as directing a “tax holiday” or calling the bonds, or any other action allowed by law.

O’Donnell agreed with the proposal for an advisory ballot; he commended Bond Counsel Sperry for coming up with the idea.

Councilmember Fredericks commented that she thought the cap on the amount of the surplus to be returned to the Town was fair, and that the idea of keeping the other refunding options open to be determined at the time was a good strategy.

Councilmember Fraser concurred with his colleagues' remarks.

MOTION: To adopt resolution (a), amending Section 9 (refunding methods).

Moved: O'Donnell, seconded by Fraser

Vote: AYES: Unanimous

ABSENT: Collins

MOTION: To adopt resolution (b), with amendments regarding advisory ballots.

Moved: O'Donnell, seconded by Fredericks

Vote: AYES: Unanimous

ABSENT: Collins

3. Tax Revenue Anticipation Note – Determine Town Council's interest in purchasing the Town of Fairfax's FY 2011 Tax Revenue Anticipation Note (Town Manager Curran)

Town Manager Curran gave the report. She said that the Town of Fairfax had approached the Town to determine its interest in purchasing another Tax Revenue Anticipation Note (TRAN).

Ms. Curran noted that the Town's investment income had plummeted in recent years, from roughly \$400,000 to \$40,000. She said that the purchase of the TRAN would provide an opportunity to receive a greater return on investment than the Town's current investment vehicles. She also said that the purchase would be consistent with the diversification principles of the Town's investment policy, as well as meeting the safety and liquidity requirements of the policy.

However, Curran said that because the Council had not been unanimous in its decision to purchase the previous TRAN, Staff now sought Council's direction as a matter of policy.

Town Treasurer Bill Osher gave an overview of the Town's investments. He said that the majority of the Town's reserves were invested in the state fund called LAIF, which he said was superbly managed and that the risks of that fund were low because it was well diversified. He said that the Town also invested in CD's which had FDIC guarantees.

Osher said that if the Town's investment in the purchase of a TRAN was over 5% of its total investments, he would not be as comfortable with moving forward in that direction; however, he said that \$750,000 note was below that amount. He said that while a TRAN was not as secure as a CD or LAIF, the risk was minimal. The Town Treasurer also said that being a "good neighbor" to another public agency was an act that could pay off in unexpected ways.

Additionally, Osher said that property values in Marin County had remained fairly stable which made the repayment of the note through property taxes more reliable.

Town Manager Curran said that the Town would receive repayment (of the property tax revenues) directly from the County of Marin. She said that even if there was a widespread property tax default, the County was still obligated to make the payment to the Town of Tiburon, and would chase the scofflaws and collect the penalties. For this reason, she said, the Town of Fairfax “couldn’t stiff us if they wanted to.”

Councilmember Fredericks asked Osher to define the risk that he had defined as “modest” or minimal. Osher said one aspect was the lack of diversification; another was possible bankruptcy and court challenges, and simply an investment philosophy of “money good.”

Fredericks asked whether interagency loans, such as TRANS, were a common practice. Town Manager Curran said that they were a common “cash leveling” technique used by public agencies.

Councilmember Fraser asked the Town Treasurer to rate the [TRAN] risk on a scale of 1-10, with 10 being the highest risk. Town Treasurer Osher said he would rate the TRAN at “2” and only then because it was a percentage (5%) of the Town’s invested funds.

Councilmember Fraser asked what the Town would do with the funds if it did not invest in the TRAN. Town Manager Curran said that the \$750,000 would be invested in LAIF, which had a current return on investment of 0.58 to 1.10% (as opposed to the 4% TRAN loan rate).

Councilmember O’Donnell said that he continued to oppose the idea of investing Town funds in TRANs. He also said that the previous loans were for shorter terms and that Staff proposed a longer term for the current note.

Town Treasurer Osher said that he had recommended splitting the original \$1 million note into two (six-month) parts to diminish any risk associated with a longer time frame. However, he noted that the Town’s return on investment was lower in the shorter term.

Director of Administrative Services Bigall addressed the length of term of the note. She said that the California pool (where TRANs were normally bought and sold) was funded in July and paid in June.

In response to a question from Councilmember O’Donnell, Bigall said that the Town of Fairfax had enough reserve funds to insulate them in an emergency, but not enough to carry them through the entire budget cycle. She said this was because the largest portion of any local agencies’ budget expenditures, such as JPA fees, insurance, and the like, came due in July before property tax revenues were collected. She said that she was comfortable with Fairfax’s budget position in this context.

O'Donnell asked whether the Town of Fairfax could borrow money from a commercial institution. Ms. Bigall said that they would most certainly pay a higher interest rate and that she had heard the paperwork was cumbersome. Mr. Osher added that timing was an issue for Fairfax, as described above by Ms. Bigall.

Councilmember O'Donnell asked Mr. Osher if he was comfortable with the Town of Fairfax's bond ratings. Osher replied that bond ratings in general had come under fire and were seen by some as having contributed to US economic meltdown. However, he noted that in the "municipal bond world" used a more stringent rating system to which some rating agencies were now returning.

Osher said that historically, municipalities have a low default rate. He said that some geographic areas were harder hit than Marin, especially areas that had sustained a lot of new development which had created an inflated tax base. Osher said that in Marin County, the turnover of older homes acted as kind of a "cushion" when homes were reassessed under the Proposition 13 tax rules.

Director Bigall said that Fairfax had \$2 million in secured property taxes, more than enough to cover the amount they desired to borrow from the Town. Vice Mayor Slavitz commented that even if Fairfax lost half its tax revenues, there would still be enough to cover the TRAN.

Acting Mayor Slavitz opened the matter to public comment. There was none.

Councilmember Fraser said that the proposed purchase easily met the criteria of safety, liquidity, and yield under the Town's investment policy, in addition to meeting the needs of a fellow city. He said that it was about as risk free an investment as was available in today's marketplace. He also said that he had confidence in the leadership of the Town staff in making this recommendation.

Councilmember O'Donnell said that while he agreed with many of the statements made by the Town's Treasurer concerning the safety and security of the investment, he did not like the idea of the Town becoming the "Bank of Tiburon" as a matter of policy. In addition, he said that he did not like the lengthened term of the note and he said he did not think it was wise just to make a few extra dollars on the investment return.

Councilmember Fredericks said she agreed with Councilmember Fraser that the risks were minimal. She said that with regard to policy, she said that this loan was no different than the loans taken by other cities through the TRAN pool, and that it did not preclude the use of the Town of Tiburon taxpayer's dollars for services and projects for their benefit. On the other hand, Fredericks said, the loan would generate more money for the taxpayers in Tiburon.

Vice Mayor Slavitz said that he agreed with these comments and also that he knew first-hand how grateful the Town of Fairfax was for the opportunity to make the loan. He said that the

Town was planning to invest the money anyway and in this way, it also helped a neighbor. He said that the TRAN loans had a good track record but that the Town would continue to monitor the process closely.

There was a brief discussion about the length of the term of the note. The Town Manager said she would recommend optimizing the investment and keep the proposed term, beginning in approximately mid-August 2010 to late April 2011. The note would be secured by the Town of Fairfax’s December 2010 and April 2011 property tax receipt, according to Director Bigall.

Director Bigall said that Staff would bring the paperwork for approval to Council at the next meeting, if there was a motion to proceed.

MOTION: To support the purchase of another TRAN investment, as proposed, and direct Staff to return with the necessary paperwork on Consent Calendar at the next Council meeting.

Moved: Slavitz, seconded by Fredericks

Vote: AYES: Fraser, Fredericks, Slavitz
NOES: O’Donnell
ABSENT: Collins

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Before the public hearing, TAM Director Steinhauser showed an 8-minute video about transportation issues affecting seniors. She took comments from the Council about the earlier presentation, as well.

Councilmember O’Donnell asked whether any other communities in California were contemplating a VLF fee similar to TAM’s proposal.

Ms. Steinhauser said that SB83 allowed transportation agencies to levy such fees for local transportation projects; she said that the County of Santa Clara was contemplating such a fee.

Acting Mayor Slavitz thanked Ms. Steinhauser for her presentation. He noted that in the current economic climate, local agencies might find themselves being more and more “on their own.”

PUBLIC HEARINGS

1. **Mill Valley Refuse Service** – Consider rate increase for recycling services and food waste pick-up (Town Manager Curran/Director of Administrative Services Bigall) – *continued without hearing to June 16, 2010*
2. **FY 2010-11 Municipal Budget** – Introduction of FY 2010-11 municipal budget and capital improvement program (Town Manager Curran/Director of Administrative Services Bigall)

Director Bigall gave the report. She said she was pleased to present a balanced budget. She noted that in January, 2010, a \$350,000 budget deficit was predicted but now Staff projected a \$51 surplus for the fiscal year ending June 30, 2011.

Bigall said the reductions in the budget had come primarily from concessions by Town staff. These concessions included a 5% reduction in department spending, and employees agreeing to pick up the previously paid employer (Town) portion of the staff's PERS pension contribution.

Director Bigall showed in her powerpoint presentation how Town revenues had declined during the widespread economic downturn. She said that property taxes were down 25%, and investment income was down 77%. She said that property taxes represented over 50% of the Town's General Fund revenue.

Bigall said that the proposed budget did not reflect any possible take-aways by the State in the coming fiscal year.

The Director took questions from Council and said that a copy of her powerpoint presentation was available for further study.

Councilmember Fraser asked what level of reserves was mandated by the Town and asked what would happen if the Town's fiscal position fell below that level.

Director Bigall said that the Town's reserves were at \$8 million; that the Town would not want to fall below \$5 million; and that the Council would be presented with options, such as cutting its capital expenditures, if the reserve levels were to drop.

Town Manager Curran noted that the Town had healthy reserves but that it was also important to do long-term planning to maintain them.

Councilmember Fredericks asked if the current level of reserves would address the road repairs in the Del Mar neighborhood. Director Bigall said that Town staff had programmed this in the coming year's capital improvement budget, and had saved up gas tax and streets funding in the amount of \$1 million.

Councilmember O'Donnell commended the Town Manager and Director of Administrative Services for their work in achieving a balanced budget. He also commended Town staff, including members of the Tiburon Police Association, for making the aforementioned concessions. He noted that it was not easy to make or receive pay cuts. He said the practice of paying into one's pension was more comparable to the practices of the private sector.

Town Manager Curran also thanked Town staff, stating that she was proud of the organization's response to the Town's current fiscal situation. She added that she hoped the Town did not have to make any pay cuts in the future.

The Town Manager said that Staff would bring the Capital Improvement budget and all related resolutions for budget adoption to the next meeting.

TOWN COUNCIL REPORTS

None.

TOWN MANAGER'S REPORT

Town Manager Curran said that Councilmember Fraser had continued to express an interest in hearing more from Sanitary District No. 5 about the proposed rate increase. She asked Council's direction on how to proceed.

Councilmember Fraser said that he thought it was important for the Council to be responsive to Tiburon's residents and to thoroughly vet this extraordinary proposal (rate increase).

The Council noted that the district was a separate and autonomous entity, with public meetings that could be attended by interested residents. Curran noted that the next meeting of the San 5 Board was scheduled for June 29.

Council directed Curran to work on a possible presentation by the District to the Council at a later date.

WEEKLY DIGESTS

- Town Council Weekly Digest – June 4, 2010
- Town Council Weekly Digest – June 11, 2010

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Vice Mayor Slavitz adjourned the meeting at 9:35 p.m.

JEFF SLAVITZ, ACTING MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK