

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Mayor Slavitz called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, January 5, 2011, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

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

PRESENT: EX OFFICIO: Town Manager Curran, Town Attorney Danforth, Director of Administrative Services Bigall, Director of Community Development Anderson, Building Official Lustenberger, Chief of Police Cronin, Town Clerk Crane Iacopi

CLOSED SESSION ANNOUNCEMENT, IF ANY

Mayor Slavitz said that an item had been brought to his attention for consideration by the Council after the agenda was published. Town Attorney Danforth said that the Council could place this item on the closed session agenda if the determination was made by a two-thirds vote of the Council to add it on an urgency basis.

MOTION: To adjourn to closed session at the end of the regular meeting to determine whether to undertake the items on an urgency basis.

Moved: Fredericks, seconded by Collins

Vote: AYES: Unanimous

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of November 17, 2010 regular meeting (Town Clerk Crane Iacopi)
2. **Town Council Minutes** – Adopt minutes of December 1, 2010 regular meeting (Town Clerk Crane Iacopi)

3. **Vacancies on Town Boards and Commissions** – Announce pending vacancies on Town Boards and Commissions in 2011 (Town Clerk Crane Iacopi)
4. **Annual Development Fee Report** – Adopt annual report on the status of the Town’s Development Impact Fees pursuant to the California Government Code (Director of Community Development Anderson)
5. **Storm Runoff Impact Fees** – Adopt five-year report and findings (resolution) (Director of Community Development Anderson)
6. **Housing In-Lieu Impact Fees** – Adopt five-year report and findings (resolution) (Director of Community Development Anderson)

MOTION: To approve Consent Calendar Item Nos. 1 through 6, as written.

Moved: Fredericks, seconded by Fraser

Vote: AYES: Unanimous

ABSTAIN: Fredericks [November 17, 2010 Minutes – Item No. 1]

ACTION ITEMS

1. **Town Council Committee Appointments** – Update Council Committee Appointments list to reflect revisions or new committee assignments in 2011 (Town Clerk Crane Iacopi)

Town Clerk Crane Iacopi said that that it was customary for the Council to review its appointments list after reorganization in December, and make revisions.

Council made the following changes:

- Vice Mayor Fraser replaced Mayor Slavitz on the 2011-12 ad hoc Budget Committee;
- The ad hoc committee, Del Mar Litigation, was terminated and a new committee called “Del Mar Claims” was formed, with the same membership (Councilmembers Collins and O’Donnell);
- Mayor Slavitz was appointed to replace Emmett O’Donnell on the Community Development Block Grant Program Priority-Setting Committee at the County of Marin.

Town Clerk Crane Iacopi said that a new list would be created and circulated in the Town Council Digest reflecting these changes.

PUBLIC HEARINGS

1. **Amendments to Building Code** – Consider amendments to Title IV, Chapter 13 (Building Regulations) of the Tiburon Municipal Code – First Reading of Ordinance (Director of Community Development Anderson)

Building Official Lustenberger and Community Development Anderson gave the report.

The Building Official said that from time to time the State of California adopts updated construction codes and allows local governments a 180-day window to adopt those codes with modifications. He said the new state codes went into effect on January 1, 2011 and the Town has until June 30, 2011 to make any local modifications, provided that the state-adopted codes continue to represent minimum requirements.

Lustenberger said that local governments are allowed to make modifications to the standardized codes under limited circumstances, and noted that Tiburon and most other municipalities regularly do so. He said the ordinance before the Town Council tonight contains the Town's adoption of the construction codes, with modifications for local conditions, and incorporates by reference and ratifies the two local Fire Districts' modifications to the Fire Code.

Lustenberger described two significant changes to the construction codes adopted by the State of California during the past three-year adoption cycle: 1) the introduction of the *2010 California Residential Code* (CRC); and 2) the *2010 Green Building Standards Code* (CGBSC or "CalGreen").

Lustenberger said the CRC applies to the construction or alteration of one- and two-family dwellings and associated accessory structures, and contains standards and requirements more closely tailored to residential construction. He said there were numerous organizational changes, section changes, and appendix changes associated with this new code.

Lustenberger also said that because the new code applies to the vast majority of construction projects within the Town, it would be carefully evaluated over the coming months by Town staff and, if warranted, amendments for local modifications would be recommended to the Town Council for consideration. Of particular concern, he said, were the structural provisions, which deviate substantially from those found in previous codes.

The Building Official said that "CalGreen" is the nation's first state-wide green building code and applies to newly-constructed residential and commercial buildings and, by adoption of the proposed ordinance, additions to existing dwelling units that constitute at least 500 hundred square feet of conditioned floor area, additions to existing nonresidential buildings that equal or exceed 3,000 square feet, and all Town-sponsored projects.

At this point in time, Lustenberger said Town staff recommended adoption of "CalGreen" in its basic form, without the more rigorous Tier 1 or Tier 2 green provisions that are optional for adoption under the state code. Over the next several months, he said that Town staff would evaluate these options, as well as the locally-created Green BERST option being adopted by a few cities in Marin, and would return with recommendations for which program seems best suited to the Town's goals and processes.

Lustenberger said that the Town's current Green Regulations, set forth in the Zoning Ordinance, would be repealed following adoption of "CalGreen" because they are in conflict with the new state code.

In response to a question from Council, the Building Official said that the Town cannot have standards that were less restrictive than the state code, and that to apply more restrictive standards would require the making of certain findings.

Mayor Slavitz asked if a red-lined version could be made available in order for the Council to compare the new ordinance with the older version. Lustenberger responded that the incorporation of the new state code represented primarily numerical and renumbering changes to the Town's Code, with very little substantive change to the text.

Vice Mayor Fraser said that the process of reviewing the new Zoning Ordinance while he served on the Planning Commission had proved to be very helpful and gave the Commission a chance to "vet" the changes.

The Building Official said that unlike the adoption of a Zoning Ordinance, the Town, by default, had to start enforcing the new state code on January 1, 2011. He said that it was customary for municipalities to simply incorporate the state building codes into their existing codes.

Councilmember Fredericks said that it would be useful to see any changes [in the Town Code] that did not conform to the state code.

Councilmember O'Donnell said the biggest change was the deletion of the green point rating system.

Director of Community Development Anderson said that he would be happy to go through the new ordinance, page by page, and review the changes. He proceeded to do so, and covered all changes to section re-numbering and the like, with one or two more substantive changes that were discussed by the Council at some length.

Councilmember O'Donnell asked about Section 13-2 (f) and asked what constituted a "repair" of a pool, spa, etc. that would trigger the requirement for a permit. For instance, he asked whether routine maintenance or replacement of a part would require a permit.

Building Official Lustenberger said that the new codes were adopted to protect children from being sucked into or entrapped in pools or spa equipment. He said the state law also complied with federal law with regard to "anti-entrapment" or "anti-vortex" safety standards. However, Lustenberger said that replacement of a pool or spa pump, for instance, would not trigger the need for a permit.

Lustenberger proposed the addition of language to this section to help clarify that “repairs other than those of routine maintenance” would be subject to the permitting process. Council concurred with this recommendation.

Councilmember Fredericks asked whether this language should be document-wide to apply to the sections pertaining to plumbing and electrical work. Lustenberger indicated that all similar sections would be changed in the document.

During the discussion of the plumbing code section, the Building Official noted that commercial buildings were not subject to regulations promulgated by the Department of Housing and Community Development which limit plastic waste piping in residential occupancies to two stories.

Councilmember O’Donnell asked whether there could be instances of residential buildings approved in Tiburon that would be higher than two stories. Director of Community Development Anderson said that examples of structures stepped into a hill would probably not meet the definition of a three-story structure nor would they meet the height limitations of the Town’s Hillside Design Guidelines.

In the discussion of the “Cal Green” provisions, Director Anderson said that while the state code would apply only to new buildings, the Town had carried over its provisions to apply to residential additions of 500 square feet and to commercial additions of 3,000 square feet or more.

Councilmember O’Donnell asked whether Town-owned buildings would be exempt. Director Anderson said that the Town could not exempt its own buildings from the state code but that it could set higher standards than those required by the state.

Councilmember O’Donnell asked where the adjustment factor for large homes came from in Exhibit A of the Supplemental Staff Report. Building Official Lustenberger said the sources of these standards were Build it Green and Marin BERST.

Director Anderson said that the Town’s Green program set higher energy efficiency standards for larger homes. He noted that staff proposed to leave these standards in the new ordinance, and make the necessary findings to support them.

Councilmember O’Donnell said that it would be useful to know whether the Town was in ‘lock step’ with other cities in this area.

Lustenberger said that the Town was in the “middle range” of cities in the region. Director Anderson noted that several Marin cities had adopted the BERST standards before CalGreen went into effect and that some had grafted a hastily revised BERST program onto CalGreen, but that the timing of CalGreen’s roll-out had at least temporarily fractured the formerly unified approach that was being taken by Marin cities.

Vice Mayor Fraser commented that it would be helpful for contractors to have standardized criteria.

The Vice Mayor also asked staff to double-check with the other cities, especially in Southern Marin, and report back to Council, on what criteria was being used. Councilmember O'Donnell agreed that this information would be useful to have prior to adoption of the ordinance.

Building Official Lustenberger noted that one reason for the California Green Code was to create uniformity in state-wide standards. He said that the Town of Tiburon was probably less stringent than other communities, in some areas. The Building Official went on to say that some standards in the new code were more difficult to assess, and more subjective in nature. He said it would be useful to have more practice and experience in the field in order to assess them; for now, Lustenberger said the Town was required to enforce the state code as it is written.

Director Anderson said that there were only two areas in which the Town was more restrictive: 1) applying the green standards to additions over 500 square feet, as well as to new buildings; and 2) requiring enhanced energy efficiency to non-residential buildings over 3,000 square feet.

Councilmember O'Donnell and Vice Mayor Fraser said they would like to know if other communities were taking a similar approach. Director Anderson said that Staff would provide the Council with answers to this and the other questions.

Councilmember O'Donnell also asked about the process to ensure that landscaping plans, once approved by the Town, were enforced.

Director Anderson said that landscape plans were part of Zoning or Design Review Board approval process, rather than a Building Department function. He said that Town staff did go out and inspect and sign off on the plans on the day the project receives its final [building] permit. He said it was no longer the norm to require a bond or anything of that nature. However, Anderson said that once the landscape plans had been signed off as final, there was nothing in the code to require owners to "keep up" the landscaping, or for new owners to replace it.

O'Donnell asked how differences between the landscaping requirements of the Marin Municipal Water District (MMWD) and local fire districts were resolved. Anderson said that MMWD standards were primarily for water efficiency, and that an owner would not have any trouble meeting MMWD standards if they complied with the Fire Codes. He noted that the Town had "come a long way" in coordinating this process and providing a logical process for applicants.

Mayor Slavitz opened the hearing to the public.

Chuck Orr, Tiburon Hill Estates, asked about the purpose of banning the use of PVC in buildings over two stories. Building Official Lustenberger said it was an issue of fire safety in buildings with PVC piping that could act as a chimney stack and also off-gas noxious fumes in a fire.

Mayor Slavitz closed the public hearing.

MOTION: To read the ordinance by title only.
Moved: Collins, seconded by Fredericks
Vote: AYES: Unanimous

Mayor Slavitz read, "An Ordinance of the Town Council of the Town of Tiburon amending provisions of Title IV, Chapter 13 of the Tiburon Municipal Code (Building Regulations)."

MOTION: To pass first reading of the ordinance, with amended language in Section 13-2 and as set forth in the staff report.
Moved: Fredericks, seconded by Fraser
Roll Call Vote: AYES: Collins, Fraser, Fredericks, O'Donnell, Slavitz
NAYES: None

TOWN COUNCIL REPORTS

None.

TOWN MANAGER'S REPORT


Town Manager Curran said that February 8 had been selected as the date of the Town Council/Staff retreat.

WEEKLY DIGESTS


- Town Council Weekly Digest – December 3, 2010
- Town Council Weekly Digest – December 10, 2010
- Town Council Weekly Digest – December 17, 2010

ADJOURNMENT – to closed session, at 8:30 p.m.

Mayor Slavitz adjourned the regular meeting in memory of Allan Littman, Tiburon Town Council, 1972-1976, Belvedere-Tiburon Library founding member and supporter, and a person with a great spirit of community.



JEFF SLAVITZ, MAYOR

ATTEST: 

DIANE CRANE IACOPI, TOWN CLERK

CLOSED SESSION AGENDA

CALL TO ORDER

ORAL COMMUNICATIONS

The Council voted unanimously to add an item to the agenda, finding that it had come to the Town's attention after the Town had published the agenda and that it could not reasonably wait until the next regularly-scheduled Council meeting.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)

Case No. TIB0900003

ADJOURN TO OPEN SESSION

CLOSED SESSION ANNOUNCEMENT, IF ANY

No action was taken in closed session.

ADJOURNMENT – to next regular meeting scheduled for January 19, 2011