

TOWN COUNCIL MINUTES

CALL TO ORDER

Mayor Gram called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, July 18, 2007, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

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

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

CLOSED SESSION – (7:00 p.m.)

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

Bonander v. Town of Tiburon; Tiburon v. All Persons Interested in the Validity of the Del Mar Valley Utility Undergrounding Assessment District

CLOSED SESSION ANNOUNCEMENT

Mayor Gram said that no final action was taken on the matters discussed in closed session.

ORAL COMMUNICATIONS

Bob Austrian, Southridge West, asked the Council to consider and formal and detailed review of the tree and view ordinance. He submitted a letter detailing his request.

Rick Waterman also asked for Council's consideration on the issue, especially the portion of the ordinance that requires the complainant to submit to binding arbitration while not requiring the tree owner to do the same. He said that the Belvedere City ordinance was preferable in this regard.

Mayor Gram informed both speakers that while the matter could not be undertaken for discussion at the present, it was one of the subjects on the Town Council/Staff retreat agenda the following day.

PRESENTATIONS

- Annual Report from Heritage & Arts Commission

Outgoing Chair Dave Gotz introduced the new Chair, Peggy Bremer, and other members of the commission who were present.

Gotz gave the annual report and powerpoint presentation which listed the Commission's accomplishments in the followings areas: art shows at Town Hall; Heritage Preservation award; slide shows; special events such as the dedication of the fountain; a new Heritage & Arts webpage; the redesign of the Walking Guide by Chair Bremer; old St. Hilary concerts, and other ongoing projects.

Gotz said that the commission's fund-raising efforts of the had netted over \$10,000 from the art shows and sales of the new books, History of Tiburon and History of Angel Island.

Mayor Gram asked when the video of the fountain construction and dedication would be available. Commissioner Gotz said that he had many hours of footage and hoped to have a finished product by the Spring.

The Mayor thanked Gotz and the commission for a job well done and wonderful art exhibits at Town Hall.

CONSENT CALENDAR

1. **Town Council Minutes** -- June 20, 2007
2. **Town Investment Summary** -- Adopt May and June 2007 Reports (Director of Administrative Services Bigall)
3. **Agreement re: Annexation of 3344 Paradise Drive** -- Recommendation to Approve and Authorize Town Manager to Execute an Agreement regarding Annexation of Real Property (Director of Community Development)

Property Address: 3344 Paradise Drive
Property Owner: Alan & Nancy McMillen
Assessor Parcel No. 058-151-13

4. **280 Roundhill Road Denial of Appeal** -- Resolution to Deny Appeal by Alexander and Yami Anolik of the Denial of an Encroachment Permit Requesting the Installation of a Solar Panel Array on Town-held Open Space Easement (Director of Community Development Anderson/Director of Public Works Nguyen/Town Attorney Danforth)

5. **Reed Ranch Road Acceleration Lane** – Approve Plans and Specifications and Authorize Bids for Construction of Acceleration Lane on Tiburon Boulevard in the vicinity of Reed Ranch Road (Director of Public Works Nguyen)
6. **Failed Streets Projects** – Approve Plans and Specifications and Authorize Bids for Failed Streets (Director of Public Works Nguyen)
7. **Year-End Budget Amendments** – Approve FY 2006-2007 Year-end Budget Amendments (Director of Administrative Services Bigall)
8. **Tiburon Police Officers Association Contract** – Authorize adoption of 3-year Memorandum of Understanding (Director of Administrative Services Bigall)
9. **Management/Mid-Management Incentive Program** – Adopt Resolutions for FY 2007-2008 (Director of Administrative Services Bigall)
10. **Official Designation of Street** – Approve Designation of Unnamed Roadway off Tiburon Boulevard between Owlswood Road and Ned’s Way as “Egret Court” (Director of Community Development Anderson)
11. **Pt. Tiburon Community Facilities District** – Establish Special Tax Levy for Fiscal Year 2007-08 (Director of Administrative Services Bigall)
12. **Commendation** – Adopt Resolution commending Tony Iacopi for 18 Years of Distinguished Service to the Town of Tiburon upon his Retirement (Town Manager Curran)

MOTION: To approve Consent Calendar Item Nos. 1 through 12, as written.

Moved: Slavitz, seconded by Berger

Vote: AYES: Unanimous

ABSTAIN: Fredericks and Smith, Item Nos. 1 and 4

Mayor Gram commended Administrative Services Director Bigall on obtaining a wonderful result with the renegotiation of the Police Association MOU. He said that it was his third police MOU he had considered while serving on the Council and he noted that everyone came out of the negotiations “happy.”

Mayor Gram read and presented Item No. 12 (resolution) to Tony Iacopi.

Town Manager Curran noted that Mr. Iacopi’s farewell party was scheduled for August 3, at Servino’s.

ACTION ITEMS

1. **League of California Cities Annual Conference** – Appoint Delegate and Alternate(s) to represent Town at Annual Business Meeting on September 8, 2007 (Town Clerk Crane Iacopi)

MOTION: To appoint Councilmember Fredericks as delegate.
Moved: Slavitz, seconded by Berger
Vote: AYES: Unanimous

PUBLIC HEARINGS

1. **Tiburon Tourism Business Improvement District** – Public Information Meeting (Town Manager Curran and Town Attorney Danforth)

Town Manager Curran said that due to a postal change regarding envelope size, not all of the business owners had received the notice of the June 20 hearing. She said that a second notice had been mailed notifying the owners of a second (July 18) opportunity for an information meeting on the proposed district.

Mayor Gram opened and closed the public hearing. There was no public comment.

TOWN COUNCIL REPORTS

TOWN MANAGER'S REPORT

Town Manager Curran discussed the possibility of cancelling the August 1 regular meeting. She also noted the proposed date of the annual town holiday party (on December 19). Council concurred with both recommendations.

The Town Manager also said that she and the Chief of Police are interested in exploring possible placement of security cameras at various intersections coming in and out of town to be used as an aide to law enforcement for the apprehension of suspects of serious crimes.

Town Manager Curran said that extensive public input would needed, as well as policies formulated, concerning the use of such technology. She asked for Council's direction in order to pursue the development of information on this subject.

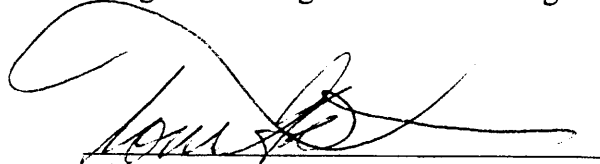
Council concurred that it was interested in hearing more on the subject, and that guidelines would be necessary. Mayor Gram stated and the Council concurred that it would be very important to hear what the public had to say on the subject. Councilmember Fredericks noted that some residents might be opposed to the perception of an "electronically gated community."

WEEKLY DIGESTS

- Town Council Weekly Digest – June 22, 2007
- Town Council Weekly Digest – June 29, 2007
- Town Council Weekly Digest – July 6, 2007
- Town Council Weekly Digest – July 13, 2007

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Gram adjourned the meeting at 8:17 p.m., to the next regular meeting scheduled for August 15, 2007.


TOM GRAM, MAYOR

ATTEST:


DIANE CRANE LACOPI, TOWN CLERK

TOWN COUNCIL MINUTES

CALL TO ORDER

Mayor Fredericks called the regular meeting of the Tiburon Town Council to order at 7:37 p.m. on Wednesday, March 4, 2009, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

PRESENT: COUNCILMEMBERS: Berger, Collins, Fredericks, Gram, Slavitz

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

Prior to the regular meeting, beginning at 6:15 p.m., the Council met in closed session, followed by interviews of three applicants for the Design Review Board at 7:00 p.m.

CLOSED SESSION

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

Town of Tiburon v. Sylvia; Sylvia v. Town of Tiburon

Wayne et al. v. Town of Tiburon

INTERVIEWS FOR VACANCIES ON BOARDS & COMMISSIONS – (7:00 p.m.) (Design Review Board Vacancy)

7:00 p.m. – Jim Tobin, 17 Reed Ranch Road

7:10 p.m. – John Kricensky, 27 Old Landing Road

7:20 p.m. – Brian McCullough, 1897 Mar West

CLOSED SESSION ANNOUNCEMENT

Mayor Fredericks said that there was no action to report from the closed session.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

Mayor Fredericks asked if anyone would like to remove any item from the Consent Calendar.

Michael Heckmann asked to remove Item No. 4 from the Consent Calendar for further discussion. Council agreed.

1. **Town Council Minutes** – Adopt minutes of February 18, 2009 meeting (Town Clerk Crane Iacopi)
2. **Town Investment Summary** – Accept January 2009 Report (Director of Administrative Services Bigall)
3. **Fair Housing Month** – Adopt Proclamation celebrating Fair Housing Month in April 2009 (Town Clerk Crane Iacopi)
4. **Design Review Appeal** – Adopt resolution of findings partially upholding appeal of Design Review Board decision to approve a Site Plan and Architectural Review to construct a new single-family dwelling at 5035 Paradise Drive (Assistant Planner Phillips)

Project Site:	5035 Paradise Drive	
Assessor Parcel No.:	038-031-01	
Owner/Applicant:	Helene Marsh	
Appellants:	Greg Borton and Grace Wei	
Appellants' Address:	5045 Paradise Drive	

5. **Federal Transportation Bill Renewal** – Adopt resolution in endorsement of California Consensus Principles on Federal Transportation Authorization 2009 (Town Clerk Crane Iacopi)

MOTION: To adopt Consent Calendar Item Nos. 1, 2, 3 & 5.
Moved: Berger, seconded by Gram
Vote: AYES: Unanimous
ABSTAIN: Slavitz (Item No. 1, February 18 minutes)

4. **Design Review Appeal** – Adopt resolution of findings partially upholding appeal of Design Review Board decision to approve a Site Plan and Architectural Review to construct a new single-family dwelling at 5035 Paradise Drive (Assistant Planner Phillips)

Project Site:	5035 Paradise Drive	
Assessor Parcel No.:	038-031-01	
Owner/Applicant:	Helene Marsh	
Appellants:	Greg Borton and Grace Wei	
Appellants' Address:	5045 Paradise Drive	

Town Manager Curran distributed a copy of the resolution, marked “revised,” and asked the Council to substitute this resolution for the one in the packet. She said that the revised version contained minor changes in language that were intended to clarify the instructions given to staff by Council. She noted that Paragraph 22 of the revised resolution, final sentence, was amended to read “...including one or more of the following: reduction in window size, reduction in light transmission, additional landscaping or architectural screening.”

Mayor Fredericks opened the item to public comment.

Architect Michael Heckmann, representing the appellants, asked for clarification of two items: 1) in Paragraph 21, he asked if it would be possible to know the exact location of the bedroom window to be eliminated, and 2) in Paragraph 22, he asked that additional landscaping not be used as an option to screen the stairwell window. He said he thought there was a comment at the appeal hearing that landscaping was not an adequate mitigation measure for light pollution.

Councilmember Gram asked Mr. Heckmann if he had discussed these issues with Town staff. Mr. Heckmann said that he had not.

Vice Mayor Berger noted that the stairwell area was “pretty far over” and was currently located behind some fairly dense landscaping now. He asked Mr. Heckmann why landscaping should be precluded as a screening tool.

Mr. Heckmann replied that landscaping was temporary, and owner dependent for its maintenance. He reiterated the statement that landscaping did not provide an adequate screen to lighted windows.

Ms. Helene Marsh, applicant and owner of 5045 Paradise Drive, questioned how it was possible that the outcome of the hearing was still in question. She said that the Council had reached a very clear set of resolutions and decisions at the appeal hearing which were to be adhered to.

Ms. Marsh said that after four hearings, she felt that the whole process was unreasonable and had been biased against her. She said that the appellant had exerted a lot of influence on both the Design Review Board and the Town Council, and the appellant and their representatives had met numerous times with the Council and the Board, but not with her.

Ms. Marsh said that she had been willing to work with staff per the Council's direction after the [February 18] Council hearing but now she found it objectionable that the language was still under review [at the behest of the appellant.]

Vice Mayor Berger said that he was the one responsible for the additional language in the resolution because he thought it would provide a wider range of options to be considered by staff to "solve the problem." He said that the resolution was not just coming back to Council to simply add things "out of the blue."

Mayor Fredericks said she wanted to address the feelings of unfairness that had been expressed by Ms. Marsh. She said that the Council visited both the applicant's and appellant's properties, as well as reading all the materials provided by staff. She said that applicants often made themselves available to the Council, as well as appellants, and Council members would have been glad to talk with Ms. Marsh if they had known she wanted to meet. She said she was sorry that Ms. Marsh felt the way she did about the process.

Councilmember Gram said that the point of visiting the appellant's home was not to hold a "mini hearing," but rather to be able to look at and evaluate the view from that location. He said that he did not listen to "their side of the story," but was simply there to observe. He said he did the same thing when he visited an applicant's home.

Ms. Marsh said it was clear at the appeal hearing from conversations between Mr. Heckmann and Vice Mayor Berger that they were agreeing on what Mr. Heckmann wanted to do. She said that she did not have a similar opportunity for input. She said that she had written a letter to Council inviting them to her property.

Vice Mayor Berger said that he had not discussed the appeal with Mr. Heckmann prior to the appeal hearing. He added that he did not even know that Mr. Heckmann was involved in the matter prior to learning of it through the appeal process.

With regard to the language of the resolution, Mayor Fredericks said that her recollection was that Council had left it to staff's discretion to determine which window should be eliminated that would have the greatest benefit to address the issue of glare. However, the mayor said she was amenable to leaving out the language concerning landscaping in the revised version.

Vice Mayor Berger said that he thought the language simply clarified the Council's direction but said that he was also amenable to dropping the language, "additional landscaping," from paragraph 22 of the resolution.

Councilmember Collins commented that the details of the project approval would be at staff's discretion, not at the discretion of either applicant or appellant.

Vice Mayor Berger agreed; he said that the applicant's architect would return to the town with revised plans which would be interpreted by staff as to compliance with Council's direction.

MOTION: To adopt Item No. 4, revised resolution, as amended by Mayor Fredericks
[remove the language "additional landscaping" from paragraph 22].
Moved: Gram, seconded by Berger
Vote: AYES: Unanimous
ABSTAIN: Slavitz

ACTION ITEMS

1. **Appointments to Boards, Commissions & Committees** – Consider reappointment of commissioners whose terms expired at the end of February 2009 (Town Clerk Crane Iacopi)

Town Clerk Crane Iacopi said that Council had interviewed three potential candidates for a vacancy on the Design Review Board at their meeting tonight and that there was one additional applicant to be interviewed.

Town Clerk Crane Iacopi also said that three commissioners' terms had expired at the end of February and that they had all expressed an interest in serving another term. She recommended that the Council consider reappointment of these commissioners.

MOTION: To reappoint John Kunzweiler to the Planning Commission.
Moved: Berger, seconded by Slavitz
Vote: AYES: Unanimous

MOTION: To reappoint Frank Doyle to the Design Review Board.
Moved: Slavitz, seconded by Collins
Vote: AYES: Unanimous

MOTION: To reappoint Anne Thull to the Heritage & Arts Commission.
Moved: Slavitz, seconded by Gram
Vote: AYES: Unanimous

The Council continued the item of an appointment to the DRB until after the interview of a remaining candidate at the next regular meeting.

2. **Security Cameras**– Consideration of security camera system on Tiburon Boulevard and Paradise Drive for post-crime investigation (Chief of Police Cronin)

In his report, Chief Cronin covered the potential benefits of a security camera system that would capture license plate numbers as cars entered and departed the Tiburon Peninsula.

Cronin said that the most common property crime on the peninsula was theft, either of vehicles or from vehicles and residences. These losses totaled just over \$500,000 in 2007, according to the chief. In addition, he said there had been a sharp increase in thefts in February 2008, and a

review of the facts determined that most of the crimes were committed between midnight and dawn; the perpetrators were not residents of the peninsula; and the perpetrators all had extensive criminal histories. Cronin said that they had concluded that additional arrests could have been made if the police had a reliable method of determining what vehicles came and went on the peninsula immediately preceding the occurrence of crimes. He also said that the cameras would be helpful in "Amber Alerts."

Chief Cronin distributed some color exhibits illustrating the views from the cameras and what they might look like when mounted. He said that the camera system under consideration would only focus on the rear of cars, going away, to show the back license plate. He said the cameras were not set to look into a vehicle or at people in the vehicle. He said this would address privacy concerns that might be raised. He said the software could notify dispatch or the call an officer on his/her cell phone. The chief noted how stationing officers in vehicles along the boulevard was not nearly as cost effective or successful in solving crimes as obtaining information through a security camera system.

The Chief of Police said that in surveying other police departments and municipalities, he had discovered that over the past five years, use of security camera systems was increasing and that the systems had assisted in the recovery of innumerable stolen cars and many felon arrests. He said the systems were widely used at borders and in large cities but often were used in small towns.

Chief Cronin said that a number of agencies had been identified as potential partners with the town in the purchase of a security camera system: ABAG, through grant funding, the Marin County Sheriff's Department, and the City of Belvedere. He said that tonight staff was seeking direction from Council on whether to further develop information towards the purchase of a system, and critical policy issues such as how long the data would be kept and who would have access to it.

Councilmember Gram asked about the resolution of the image from the cameras if there were no lights on a car, on a dark night. Chief Cronin said that the cameras had infrared illuminators which could identify color of vehicle and the plate.

In response to another question from Gram, if the car did not have or covered its plates, the chief said that the camera could identify the make and model of vehicle.

Councilmember Slavitz asked about the proposed locations of the cameras. Chief Cronin said that it was envisioned that cameras would be located facing both directions on Tiburon Boulevard (near Blackfield Drive), as well as at a specified location on Paradise Drive (near the border of Corte Madera).

In response to a question from Councilmember Collins, Chief Cronin said that the data would be held for 30 days, or shorter, initially.

Mayor Fredericks asked if staff could come back to Council with a proposed policy on data retention. Chief Cronin said that staff had planned to do so.

The Mayor also asked whether the data would be available to subpoena. Chief Cronin said that he thought the data would be covered under the public records act but he deferred to the Town Attorney for further explanation.

Town Attorney Danforth said that if the records were pertinent to an on-going criminal investigation, they would not be subject to disclosure.

Mayor Fredericks asked that this be addressed in the policy, as well.

Councilmember Gram asked about civil lawsuits. Town Attorney Danforth said that the records might possibly be subject to disclosure, if the town still had possession of them. She noted that this might not be an issue if the request came more than 30 days, a very short time in civil lawsuits.

Mayor Fredericks asked how the town's policy might be affected by the policies of the security company which held the data.

Chief Cronin noted that the options were to employ a company to host the software and maintain the data, or the town could host the system on its own server. He said that the town's IT Coordinator thought it was preferable to have an outside company host the programs and data.

Councilmember Gram asked if that meant the town would rent the cameras and pay fees to maintain them. Chief Cronin said that the town would own the hardware.

Mayor Fredericks asked that the policy also address under which circumstances the data would be viewed, how, and by whom, and that any changes to the policy come to Council for approval.

Mayor Fredericks noted that the Chief's written report mentioned "real time viewing."

The Chief said that in cases such as child abduction from a school, if someone was available to view the data in real time, "we might get lucky" and be able to get the child back. He said that in these kinds of cases, the first 24 hours were critical to the return of a child.

The mayor asked whether the cameras were stationery and whether it was possible to change the scope of view. Chief Cronin said they were fixed; that there was no "joy stick" that could manipulate the view. Mayor Fredericks asked if the view could be manipulated by the software. Chief Cronin said that it could not.

Councilmember Slavitz asked about the camera's usefulness in property crimes. Chief Cronin said that most of the property crimes in town were committed by outsiders, and were often done by the same person or persons. He said they "come in late, steal it, and leave between 12 and 6

a.m.” Since there are fewer vehicles during that window of time, the chief said it would be relatively simple to check the databases for vehicles related to other crimes, for instance, to develop leads.

Councilmember Collins asked about the system cost. He noted the staff report asked for an appropriation of \$20,000 but thought the figure was closer to \$30,000 based on the other information in the report.

Chief Cronin said that \$20,000 was in the current fiscal year’s budget and that \$25,000 was available from ABAG.

Town Manager Curran said that she had discussed the issue with Belvedere’s city manager who had indicated interest in the “traditional” cost-sharing arrangement of 75/25 with the town. However, she said that he would go to his Council to seek final approval. She said that this arrangement would include on-going system maintenance costs, as well.

Councilmember Gram said that the total system cost was not clearly stated in the report. He asked whether it was \$50,000 or \$100,000 and what the shortfall, or cost to the town would be, minus the grants and other agency participation.

Town Manager Curran said the total project might cost between \$50,000 and \$100,000, but that figure was uncertain at this time because there were various systems under consideration. She said that the staff report identified the possible general fund contribution needed to implement the project, with the balance coming from funding partners; \$20,000 was appropriated in the current general fund to develop the system, but she noted that this appropriation could prove inadequate and that \$30,000 might be necessary. She said that through the public bidding process, and public agency partnerships, staff believed it could piece together a reasonable budget for Council consideration.

Ms. Curran noted that staff sought general guidance from Council whether to move forward to develop the information; staff would then return to Council with specific system costs and a policy.

Councilmember Slavitz asked if the other public agency parties would seek to have input into the type of system, etc. Ms. Curran said that her impression was that they wanted to “piggyback” onto the town’s system and were not interested in the development process or system selection process.

Councilmember Gram asked staff to consider what would happen if Belvedere or the County dropped out of the program as partners.

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

Mayor Fredericks closed the public hearing.

Councilmember Gram recommended that the Council police subcommittee be involved in every step of the development and bidding process. Gram suggested that they visit other municipalities and get demonstrations of their systems and how they work.

Chief Cronin said that vendors might also place test cameras in police vehicles. Councilmember Gram recommended both; also, to find out from other communities whether the cameras were reliable and what the maintenance costs were, etc.

Councilmember Berger said that he liked the technology and that the “one way in and out” topography of the peninsula was well suited for it.

Councilmember Slavitz agreed; he said that there were very good reasons to have the cameras for Amber Alerts, and to apprehend felons and recover stolen vehicles.

Councilmember Collins said that he, too, favored such a system that would prevent and reduce crime.

Mayor Fredericks said that when she first heard about the system she was “appalled” at the idea of an “electronic, gated community.” She said that after hearing the details of the proposal, she was now comfortable that there would be no invasion of privacy.

Councilmember Gram recommended that the town obtain and use policies already in place in other cities in order to not have to “reinvent the wheel.”

Chief Cronin said that staff had already obtained policies from two attorneys in Southern California; he said that staff town envisioned an even stricter policy.

Mayor Fredericks noted that there was Council consensus for staff to move forward to develop the cost and placement of a security camera system and to return with a policy for general use of the system.

TOWN COUNCIL REPORTS

Mayor Fredericks said that she had attended a League of California Cities Board of Directors meeting and that she had learned that even though the state had adopted a budget, it still might borrow against Proposition 1A funds.

TOWN MANAGER'S REPORT

Town Manager Curran showed Council a proposed sign that might be installed to direct people to Ark Row. She said that Ark Row was often missed by visitors and residents alike. She said that there was an existing sign on Main Street now but that it was small and not well positioned.

The sign demonstrated by the Town Manager would be larger, more like a shop size sign, according to Curran. She said it would be a "blade sign," mounted perpendicular to the buildings on a post next to the Art Bar.

Curran said the Chamber of Commerce liked the idea of installing the sign and that she intended to move forward with its installation.

Councilmember Gram suggested that the Corinthian Yacht Club side of the street also be considered as a location, for better visibility. Town Manager Curran said that this location would be reviewed to see if it was an appropriate location for a second sign.

WEEKLY DIGESTS

- Town Council Weekly Digest – February 20, 2009
- Town Council Weekly Digest – February 27, 2009

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Slavitz adjourned the meeting at 8:37 p.m.

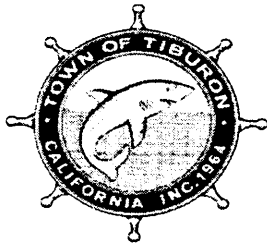


ALICE FREDERICKS, MAYOR

ATTEST:



DIANE CRANE IACOPI, TOWN CLERK



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

MEMORANDUM

Date: April 2, 2009
To: Mayor and Town Council
From: Peggy Curran, Town Manager
Subject: Summary of March 26, 2009 Council-Staff Retreat

On the afternoon of March 26, 2009, the Town Council and ten members of Staff met for a retreat at The Lodge in Tiburon to review progress on current objectives, discuss the state of the Town's budget and provide direction for the upcoming fiscal year. A summary of the retreat follows.

Introduction

Mayor Fredericks kicked off the afternoon with introductory remarks and a review of the agenda. The Town Council voted unanimously to add an urgent closed session to the end of the agenda to discuss the *Wayne v Tiburon* case.

Status Reports

Town Manager Curran and Staff went through a brief update of current objectives (summary sheet attached). The Town Manager pointed out that the majority of projects and programs either had been completed or were expected to be completed this year with previously approved funding. Exceptions to this were continued projects such as the Administrative Services Department review and an overhaul of administrative policies as well as multi-year efforts including renovation or reconstruction of the Public Works Corporation Yard, improving the parking area along Tiburon Blvd at Lyford Drive (addressed in more detail later in this summary) and ferry service stabilization.

Administrative Services Director Heidi Bigall took the group through a presentation of budget trends. Her analysis indicated that the Town budget was tracking well relative to projections for this fiscal year, but that next year revenues were expected to decline. In particular, sales and hotel tax receipts are dropping, and property tax is flattening. Bigall and Curran spoke about steps they intend to take to cut future expenses, including asking each department to identify 3% cuts and for managers and mid-managers (non-represented Staff) to forgo raises in the next fiscal year.

Information Technology Coordinator Chad Monterichard provided an update of the Town's technology infrastructure, including some upgrades that occurred this year.

Councilmembers gave brief updates regarding the boards on which they represent the Town. Councilmember Collins briefed the group on the Marin Energy Authority, Marin Telecommunications Authority and Richardson's Bay Regional Agency. Mayor Fredericks reported on the Transportation Authority of Marin and the Joint Disaster Committee, and Councilmember Slavitz reported on his participation on the Local Agency Formation Commission and the Joint Powers Authority Oversight Committee of MCCMC.

Councilmember Collins pointed out the challenge of representing the Town on agencies that may be making fiscal decisions that affect the Town without a good mechanism for first reviewing those decisions with the rest of the Town Council. It was noted that there is a problem common to many of the regional agencies where their boards could not function if each member had to return for authorization for every decision, but not doing so means that decisions which may ultimately bind the participating city or town are made by one Councilmember. One possible solution raised was to consider whether a cap or dollar limit should be put on individual Councilmembers' authority to enable them to make minor decisions without consultation, but require them to return for more significant actions. This might be coupled with an agreement with the agencies that member agencies such as Tiburon be able to withdraw from participation in any one program if they do not wish to support it financially. Town Attorney Ann Danforth said she would look into MEA in particular, as a nascent and active entity, to see if such an arrangement was possible.

Projects and Issues

Public Works Director Nick Nguyen provided a presentation on the engineering analysis of parking near Lyford Drive. He showed illustrations of two scenarios – one with a double-loaded parking corridor and another with one row of parking. Manager Curran noted that funding of the approximately \$370,000 needed for the smaller option could be provided through the \$275,000 already budgeted in this fiscal year for this project when combined with funds remaining in the Redevelopment Agency. After discussion, Council concluded that it would like to continue with the process of developing the single parking row, but do so in a way that would not preclude the addition of a second row in the future if conditions so warrant and funding is available. Staff was directed to continue its work, seek approval for use of the right-of-way from Caltrans and return to the Town Council regarding CEQA and further authorization for the project. Councilmember Berger suggested Staff look into a design-build approach to the project.

Town Manager Curran discussed the current situation whereby new secondary units in single family homes trigger a requirement that the entire home be retrofitted with fire sprinklers. She pointed out that while the public safety aspect of sprinklers was clear, there was a countermanding public policy interest in encouraging more secondary units to meet the Town's

housing goals. Staff was asked to return to the Town Council with options for eliminating the sprinkler requirement for the entire home.

The Council considered whether police vehicles should have a base color of silver or white. Silver prevailed.

Town Manager Curran explained that the Town had received a letter from the County Department of Health and Human Services regarding strengthening our ordinance restricting smoking. After some discussion, Council directed Staff to return with options to strengthen the ordinance as it applies to multi-family housing.

Community Development Director Scott Anderson asked the Council if they were interested in considering adopting the Mills Act for the Town, which would extend tax breaks to qualifying historic properties. Council directed Staff to return with possible legislation to this effect.

IT Coordinator Monterichard described the improvements Staff was seeking through a federal stimulus grant to upgrade the technology in the Council Chambers. Council expressed interest in seeing the facility upgraded but did not wish to pursue web-casting its meetings at this time.

Staff described efforts to seek federal stimulus funding for a wide variety of projects, and noted that Planner Laurie Tyler would be acting as the Town's coordinator for these activities. Public Works Director Nguyen said that the Town had already secured a \$170,000 grant for street work, and other possible projects were identified.

Manager Curran gave a report on downtown businesses and activities of the Chamber of Commerce to bolster commerce in Town. While there clearly is less business activity, reflected in reduced sales tax receipts and vacant storefronts, there was also some good news about new stores coming in and creative promotional activities that are underway to stimulate interest in shopping locally.

Manager Curran asked the Town Council if they were willing to support a compressed work schedule for Town Hall Staff. The scenario she described was one where Town Hall would be closed to the public every Friday, although Staff would be present and working on the "on" Friday, and building inspections scheduled. Staff would be off on alternate Fridays. Town Hall would be open longer hours Monday through Thursday, with no reduction in total hours or time open to the public. Council was open to the revised schedule but wanted to see it proceed on a trial basis and asked Staff to be sure to notify the public through Tiburon Talk and solicit their feedback.

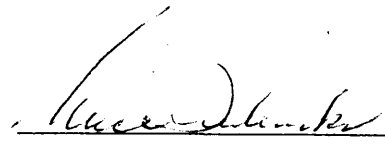
Other comments, suggestions and questions that occurred during the retreat included:

- Staff will return with a recommendation regarding solar panels on the Police Station if cost-effective financing or a grant is identified
- Provide information on the pay-back of the current solar system on Town Hall
- Check out stimulus funding for a ferry boat for Tiburon service
- Determine whether MEA will be playing a role in relation to RHNA housing requirements
- Add Marin Energy Authority as a link to Town website
- Consider adding a "Build it Green" link to Town website
- Consider adding a Channel 26 (public access) schedule to Town website
- Consider prohibiting wood-burning fireplaces in newly constructed homes
- Consider ways to speed-up building permit turn-around

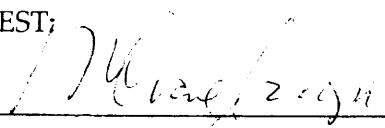
Adjournment

In concluding the meeting, Council generously expressed its support for the Staff and the level of service they provide to the community. In particular, Council thanked Staff for its conservative budgeting approach, its personalized counter service, excellent outreach to the public and said "it gets better each year". Staff thanked the Council for their support.

A brief closed session was then held, with no action taken. The meeting adjourned at 5:15 p.m. to permit dinner to be served.


ALICE FREDERICKS, MAYOR

ATTEST:


DIANE CRANE IACOPI, TOWN CLERK

Summary of Projects Fiscal Year 2008-2009

March 26, 2009

PROJECTS COMPLETED <i>(completion expected within fiscal year)</i>	PROJECTS NEARING COMPLETION <i>(within calendar year with no additional funding)</i>	PROJECTS CONTINUED <i>(crossing into next fiscal year or beyond)</i>
	Mar West St Overlay – Phase 2	
	Annual PMS Street List Improvements	
	Failed Street Improvements	
	Del Mar School Safe Routes to School Improvements	
Guardrail Replacements		
	Drainage Improvements	
Beach Rd/Tib Blvd Drainage Engineering Analysis		
Pine Terrace ADA Path Improvements		
	Paths, Lanes and Steps Projects – Improvements to Cayford, Lower Raccoon and Jefferson to Reed Ranch	
	Paradise Dr. Foundation Repair	
		PW Corporation Yard – bring architectural analysis, alternative approaches and funding options to Town Council for review and direction
		Parking at Lyford Drive & Tiburon Blvd – site analysis complete, determine direction and proceed to detail design, Caltrans approval and construction
	Open Space Management Plan – underway	
	Paradise Dr. Maintenance Agreement with County – discussions underway	
Cypress Hollow Park Minor Renovation		
Zelinsky Playground Renovation		
	Townwide Office and Cell Telephone System Review	
		Admin. Services Organizational & Operational Review
Online Backup		

Performance evaluation program for Police Dept		
Emergency Operations training		
		Develop Animal Plan for disaster management in coordination with County
"Silver Sentinel" EOC Exercise		
	Video Cameras on Tiburon Blvd & Paradise Drive – return to Town Council with contract and policy for consideration	
Upgrade EOC equipment and supplies		
Review and replace Police Dept policies		
Develop & implement Police Dept training program		
		Solar panels on Police Station – evaluate financing options to determine feasibility
Permit Tracking System for Planning and Building Divisions		
Green Building Standards for construction		
Bicycle/Pedestrian Master Plan		
		Ferry Service Stabilization – discussions ongoing with GGBHTD
		Policy Overhaul – drop or rewrite old policies, standardize policies and readopt continuing or terminate policies at Council level
Saturday Construction Noise		
Marin Clean Energy Joint Powers Authority		
	Mill Valley Refuse Contract – contract developed; negotiations to commence	
	Housing Element Update	
	Zoning Ordinance Update	
Sign Ordinance Overhaul		
	Recreation Master Plan – RFP to be developed, consultant engaged	

CC - 1

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Mayor Fredericks called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, November 4, 2009, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

PRESENT: COUNCILMEMBERS: Berger, Collins, Fredericks, Gram, Slavitz

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

ORAL COMMUNICATIONS

Vice Mayor Berger congratulated Alice Fredericks, Jim Fraser and Emmett O'Donnell, on their successful Council race. He commended all the candidates for conducting campaigns which were dignified and allowed for airing of the issues. Councilmember Gram seconded his remarks.

Laurie Green, 40-year resident, spoke against the proposed use of "surveillance" cameras along Tiburon Boulevard. She said that while these kinds of cameras were appropriate in airports, shopping malls, and toll booths, they seemed out of place in a small, upscale community. She said she understood the need for greater security since "9/11" but said that most of the crimes committed here were thefts from automobiles, rather than more serious crimes.

Ms. Green said that the cost of the cameras should be weighed against the following issues:

- Invasion of privacy
- Potential for abuse (of privacy)
- The feeling they would impart that this is an "elite" community
- Creating a chilling negative effect on local merchants
- Persons committing crimes driving stolen vehicles (to avoid identification)
- Costs that far exceed the written estimates for maintenance, training of personnel and monitoring of the equipment
- The soundness of making such expenditures during a time of economic downturn.

Ms. Green said that these social and fiscal aspects should be considered when the Council hears the item on November 18, a meeting she said she would be unable to attend.

Al Anolik, Round Hill Road, disagreed. He said that in his job as a security consultant to the travel industry, he advised clients that the best protection is sophisticated surveillance.

Mr. Anolik said that the equipment specified for the proposed use along Tiburon Boulevard did not violate the First, Fourth, or Fifth Amendments, in his opinion as a civil rights attorney. He added that as a concerned resident, he had to ask himself if things would have been different if these cameras had been in place prior to the recent murder in Tiburon. He urged the Council to help protect its citizens by endorsing the cameras and giving the police "the additional help we need" with the installation of security cameras on Tiburon Boulevard.

PRESENTATIONS

1. Marin Commission on Aging (Allan Bortel)

Mr. Bortel also added his congratulations to the newly elected members of the Council. He thanked the Council for allowing him to continue to serve as the Tiburon representative to the Marin Commission on Aging.

Mr. Bortel, Chair of the Commission on Aging, brought the Council up to date on its programs and services for the people of Marin Council, whom he said were comprised of 1 out of 4 residents over the age of 60. Mr. Bortel said that this number was expected to increase to 1 out of 3 by the year 2030. He said in Tiburon alone, the statistic would reach 60% by next year.

At the conclusion of his report, Mr. Bortel directed the Council and the public to various publications and websites containing information on aging.

2. BERST – the Marin Green Building Energy Retrofit and Solar Transformation Collaborative (John Kunzweiler)

Mr. Kunzweiler added his voice of congratulations to Mayor Fredericks for her "landslide victory," and congratulated his colleagues, Fraser and O'Donnell, upon their election.

Planning Commissioner Kunzweiler said that he had been appointed to represent the Town on the BERST task force whose mission was to study energy efficiency and water conservation. He said the group was trying to coordinate best practices between the different agencies and municipalities that were all engaged in solving the significant challenges posed by AB 32, primarily, the reduction of green house gas emissions by 25% by the year 2020.

In his power point presentation, Mr. Kunzweiler analyzed various programs and regulations studied by BERST:

- AB 811 programs (he said the loans for energy efficient installations were not yet available in Tiburon)
- Title 24 energy efficiency standards (he said in 2010 they would be even more strict)
- CEQA (he said there was talk of making Climate Action Plans part of the General Plan)
- Climate Action Plans (he said they had been the driving force behind the introduction of new Green Building standards in Tiburon and other Marin cities).

Mr. Kunzweiler said BERST was comprised of 20 people, not all of them bureaucrats, some of whom were practitioners in the construction and related trades. He said they were working on checklists and standards with the goal of consistent implementation of new regulations across Marin. He said the group's goal was to continue its collaboration and review and update the checklists annually. He said the group also sought feedback from the Council and the public so that the recommendations would make economic sense. He said the next step was to create a model ordinance and move the regulations out of the zoning ordinances and into the building codes. He said that the group would seek local endorsement and adoption, and they would also submit their recommendations to the California Energy Commission for approval.

During his discussion of "Green Point" systems, Mr. Kunzweiler said that BERST recommended 75 up to 200 points for new construction, including additions and remodels, while Tiburon's ordinance called for 60 points.

Vice Mayor Berger asked how the recommendations would dovetail with existing LEED programs. Kunzweiler said that AB 811 was not program specific.

The Vice Mayor cautioned against the growth of a "Green Industrial Complex" that might itself become a self-sustaining bureaucracy. However, he said that it sounded like the BERST group was doing a good job of keeping its recommendations in scale with the size of projects.

Kunzweiler added that the Marin Builder's Exchange was working with the group, and that the recommendations would undergo a technical audit by two groups. He added, however, that the "clock was ticking" on AB 32 implementation.

Berger said that Green Points are ahead of the industry curve; he setting targets that would allow people to easily achieve the first goals, and to "go light, not heavy."

Mayor Fredericks agreed. She said that Green Point remodels would improve the overall efficiency of a structure but she suggested that the task force "not take too big a bite" in setting its targets.

Kunzweiler said that local jurisdictions should review the proposed point systems in light of community standards, but noted that standardization was key.

Councilmember Collins raised the issue of greater Green Point targets for larger homes.

Kunzweiler said that there was a belief that large houses are larger consumers of energy and should be held to a higher target.

Mayor Fredericks asked if this was based on per capita usage or square footage.

Vice Mayor Berger commented that it was more difficult to bring the numbers down on bigger homes.

Mayor Fredericks asked for public comment.

David Barker said that all the economic studies he had seen suggested that the cheapest way to meeting greenhouse gas emission reductions were through conservation measures. He said that it was a “hell of a lot” cheaper than installing wind, solar, or other forms of energy transmission.

Vice Mayor Berger commented that both would be needed in order to meet the 25% reduction goal by 2020.

Mayor Fredericks closed the public comment discussion and thanked Mr. Kunzweiler, on behalf of the Council, for his report.

CONSENT CALENDAR

1. **Steps, Lanes & Paths (NTPP) and Safe Routes to School (Del Mar School) Projects** – Authorize awards of contract for projects (Director of Public Works/Town Engineer Nguyen)

MOTION: To adopt Consent Calendar No. 1, as written.

Moved: Collins, seconded by Berger

Vote: AYES: Unanimous

PUBLIC HEARING

1. **Amendment to Agins Precise Plan (193 Gilmartin Drive)** – Consider approval of precise plan amendment to create a new 2,200 square foot secondary envelope along the eastern side of the property in exchange for an equal amount of primary building envelope area from the northern side of the property – (Community Development Department/ Associate Planner Tyler)

Applicants: Jeffrey and Lori Runnfeldt
Address: 193 Gilmartin Drive
Assessor Parcel No. 039-161-29

Director Anderson gave the report. He said that the application consisted of a “swap” of locations within the building envelope and that the Planning Commission had approved the requested amendment, stating that it made sense and was a better location to place the pool on the property. Anderson said that there were no material impacts on adjacent open space.

Vice Mayor Berger asked if approving the building envelope amendment would result in tacit approval of the subsequent design for the area. Anderson said no, that the improvements would require design review approval and the only issue before the Council was that of envelope location.

Mayor Fredericks opened the public hearing. She asked the applicants’ or their representatives if they wished to speak. They declined. There was no other public comment.

Mayor Fredericks closed the public hearing.

MOTION: To adopt resolution amending the Precise Plan.
Moved: Berger, seconded by Collins
Vote: AYES: Unanimous

ACTION ITEMS

1. **Lyford Drive Parking Area** – Consideration of project and direction to staff regarding design (Director of Public Works/Town Engineer Nguyen)

Director Nguyen gave the report. He said that in 1997, an effort between Cal/Trans and the Town to improve the Lyford Drive parking area had failed because consensus could not be reached on the scope of the plan, to pave both sides of the road in that location.

The Director said the area would benefit from thorough and thoughtful development and noted that the current plans for consideration by the Council contemplated developing the southeast corner only.

Director Nguyen presented three design concepts in his report, with costs that ranged from \$11,000 per parking space to the “gold standard” of \$26,000 per space. The latter plan would allow room for a bus shelter and information kiosk, according to Nguyen.

The Director said that staff had met with the Public Works subcommittee to discuss the proposed plans. After review of the three plans, the committee recommended a modified version of Plan

No.2, but with a widened sidewalk area which would allow the sequential installation of certain design features. Nguyen said that this plan would cost \$800,000, or \$13,800 per parking space.

The Director said that \$370,000 had been placed in the current year budget for the project, and he anticipated receipt of \$314,000 in money from a Clean Air grant. Nguyen added that any shortfalls would be made up in next year's budget.

Nguyen recommended that the Council review the design options and give staff direction as to its preferred concept.

Town Manager Curran said that there had also been some discussion with the City of Belvedere about a cost-sharing arrangement.

Mayor Fredericks noted that the Transportation Authority of Marin (TAM) had approved a study of transit corridors in Southern Marin; she said the study suggested improvements, such as a bus stop and shelter across the street, which were contemplated by the "gold standard" option. She asked the Director if the Town would need TAM approval to move forward with the planning phase of this project.

Director Nguyen said that he had already met with members of TAM, who said that the plans for the Lyford Drive parking area could be integrated into the master plan referenced by Mayor Fredericks. He said that the Town would not be precluded from receiving any TAM funding if it moved forward with the project at this time. Nguyen added, however, that in order to receive grant funding, the project would have to meet "multi-modal" requirements and be pedestrian friendly.

Councilmember Gram asked whether Option No. 2 met the criteria. Nguyen said that it did not. Gram asked for clarification of what the project would cost, minus the grant funding. He said it appeared to him that it would cost the Town \$665,000 out of pocket, unless the Town enhanced the project with a bike rack and other features, in the amount of \$135,000.

Town Manager Curran said that the drawings had been developed prior to the Town knowing that it was eligible for grant funding.

Councilmember Collins said that he preferred Option No. 2 because it could be built for a certain price initially, and could be expanded in the future.

Vice Mayor Berger said that Option No. 2 was good due to the greater number of parking spaces but he said the project was also important because it beautified the Town. He said the area now was unsafe, inefficient, and an eyesore. He said that it would also allow the Town to pave the area across the street at its own pace.

Berger said that he had seen photographs of the old Hilarita train stop in that location (across the street). He said that he would be willing to design, pro bono, a bus shelter to match that historic design.

Councilmember Slavitz asked the Chief of Police how the design would enhance the safety of cars trying to exit the parking lot in that location. Chief of Police Cronin said that the sight lines in the design appeared to be long enough, but that the design specifications were actually up to Cal/Trans and the Town Engineer to determine.

Town Manager Curran said that staff had talked with Cal/Trans about this issue. She said that the proposed designs would allow safer turning movements than the ones used now by people parking in the area.

Mayor Fredericks opened the public hearing. There was no public comment. Mayor Fredericks closed the public hearing.

Councilmember Gram said the revised Option No. 2 appeared to be the best financial deal for the Town, with qualified grant funding, and was aesthetically preferable.

Councilmember Slavitz concurred, adding that the idea of the bus shelter across the street sounded great.

Councilmember Collins asked whether Option No. 3 would require building a retaining wall. Director Nguyen said yes, but that Option No. 2 would also require a retaining wall, just not as large. He said that it was a good idea to keep the design of the retaining wall in the plans if the Town wanted to tie into the road at the Lyford Drive intersection in the future.

Mayor Fredericks asked if the Council's approval was still subject to final negotiations with Cal/Trans.

Town Manager Curran said that staff contemplated completion of a design, with Council's direction, go to bid, and work with Cal/Trans to achieve the necessary approvals.

Councilmember Gram asked what kind of contract was contemplated by staff. Director Nguyen said that staff would send out an RFP to bid on the design.

Mayor Fredericks said that the Town should safeguard its investment in the process. Nguyen said that all the planning, bidding and negotiating would be done concurrently.

Vice Mayor Berger said that staff should seek a substantial contribution from the City of Belvedere, whose contractors regularly used the lot for parking.

MOTION: To move forward with modified Option No. 2, as described in the staff report.
Moved: Slavitz, seconded by Berger
Vote: AYES: Unanimous

TOWN COUNCIL REPORTS

None.

TOWN MANAGER'S REPORT

Town Manager Curran said that the Marin Energy Authority would vote on the proposed ESP contract at its meeting on November 5. She said that a series of public workshops were being scheduled, one on December 1 in Mill Valley for Southern Marin, and that the matter would come before Council again on January 20, 2010. At this meeting, the Council would make its final decision to stay in the MEA, or opt out.

Vice Mayor Berger asked if the independent analyst would give a presentation on the contract. Town Manager Curran said that MEA was working now on the details and that a written report should be available on December 1. She said the consultant would attend the January meeting of the council, as well.

Councilmember Collins said that it would be a good idea for the new members of the Council to hear the presentations about Marin Clean Energy more than once, as it was a very complex issue.

WEEKLY DIGESTS

- Town Council Weekly Digest – October 15 & October 23, 2009
- Town Council Weekly Digest – October 30, 2009

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Fredericks adjourned the meeting at 9:10 p.m.

ALICE FREDERICKS, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK



TOWN OF TIBURON
Tiburon Town Hall
1505 Tiburon Boulevard
Tiburon, CA 94920

Regular Meeting
Tiburon Town Council
November 18, 2009
Regular Meeting – 7:30 p.m.
Closed Session – 6:00 p.m.

AGENDA

TIBURON TOWN COUNCIL

CLOSED SESSION – (6:00 p.m.)

PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS (Section 54957)

Title: Town Manager
Title: Town Attorney

CALL TO ORDER AND ROLL CALL

Councilmember Collins, Councilmember Gram, Councilmember Slavitz, Vice Mayor Berger,
Mayor Fredericks

ORAL COMMUNICATIONS

Persons wishing to address the Town Council on subjects not on the agenda may do so at this time. Please note however, that the Town Council is not able to undertake extended discussion or action on items not on the agenda. Matters requiring action will be referred to the appropriate Commission, Board, Committee or staff for consideration or placed on a future Town Council meeting agenda. Please limit your comments to three (3) minutes.

CONSENT CALENDAR

All items on the Consent Calendar may be approved by one motion of the Town Council unless a request is made by a member of the Town Council, public or staff to remove an item for separate discussion and consideration. If you wish to speak on a Consent Calendar item, please seek recognition by the Mayor and do so at this time.

1. Town Council Minutes – Approve minutes of October 21, 2009 regular meeting (Town Clerk Crane Iacopi)
2. Town Council Minutes – Approve minutes of October 26, 2009 special meeting (Town Clerk Crane Iacopi)

3. **2008-09 Street Improvement Program** – Adopt Resolution accepting project and authorize filing of Notice of Completion (Director of Public Works/Town Engineer Nguyen)
4. **1655 Mar West Street/175 Esperanza Street** – Adopt Resolution approving a Parcel Map and taking related actions for the subdivision into two lots of a 0.51-acre parcel; Diane Ho, owner and applicant; Assessor Parcel No. 059-051-18; Town File #60402 (Director of Community Development Anderson)

ACTION ITEMS

1. **Lyford Cove Undergrounding Assessment District** – Recommendation to adopt a Resolution Declaring a Surplus in the Improvement Fund and Direct that the surplus be used to Redeem a portion of Outstanding Bonds (Town Manager Curran/Director of Administrative Services Bigall)
2. **Security Cameras** – Review and consideration of proposal to install security cameras on Tiburon Boulevard and Paradise Drive (Chief of Police Cronin, Director of Public Works/Town Engineer Nguyen)

TOWN COUNCIL REPORTS

TOWN MANAGER'S REPORT

WEEKLY DIGESTS

- Town Council Weekly Digest – November 6, 2009
- Town Council Weekly Digest – November 13, 2009

ADJOURNMENT

GENERAL PUBLIC INFORMATION

ASSISTANCE FOR PEOPLE WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Clerk at (415) 435-7377. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

AVAILABILITY OF INFORMATION

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Belvedere-Tiburon Library located adjacent to Town Hall. Agendas and minutes are posted on the Town's website, www.ci.tiburon.ca.us.

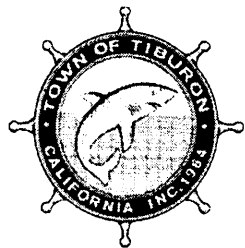
Upon request, the Town will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service at least 5 days before the meeting. Requests should be sent to the Office of the Town Clerk at the above address.

PUBLIC HEARINGS

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing(s) described later in this agenda, or in written correspondence delivered to the Town Council at, or prior to, the Public Hearing(s).

TIMING OF ITEMS ON AGENDA

While the Town Council attempts to hear all items in order as stated on the agenda, it reserves the right to take items out of order. No set times are assigned to items appearing on the Town Council agenda.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Meeting
November 18, 2009
Agenda Item:

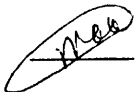
AI-2

STAFF REPORT

To: **Mayor and Members of the Town Council**

From: **Police Department
Public Works Department
Office of the Town Manager**

Subject: **Recommendation to Provide Direction on Proposal to Install License Plate Reader Cameras on Tiburon Boulevard and Paradise Drive and Consideration of Use Policy for Camera Operation**

Reviewed By: 

BACKGROUND

At its March 4, 2009 meeting, the Town Council heard a proposal from staff for the installation of security cameras on Tiburon Boulevard and Paradise Drive. The cameras would photograph the rear of vehicles entering and departing the peninsula using character recognition software that captures and records license plate numbers. This information would aid the Police Department in post-crime investigative efforts and in a real-time manner if a particular vehicle was wanted in connection with a crime. (For more information on the system itself a fact sheet, which is also on the Town's website, is attached.)

At that meeting, the Town Council directed staff to:

1. Develop a program that specifies camera type, software, location and mounting options, and technical capabilities
2. Negotiate with the participating agencies regarding cost sharing arrangements, including annual cost of maintenance
3. Bid the project, including a maintenance contract for the system
4. Refine and return with a policy on system use for Town Council review and approval
5. Return to Town Council for award of bid and final direction on implementation of the project.

This report will address each of the above tasks separately.

Task 1: Develop Program

Camera Location

At the outset, staff anticipated being able to place four cameras on Tiburon Blvd. on Caltrans lights or signal standards using Caltrans power, along with two cameras on Paradise Drive on existing PG&E poles. The most efficacious location for the cameras on Tiburon Blvd. is on the center median on existing light standards. Caltrans has electrical power in the median and the location optimizes the operating parameters (viewing angles and distances) of the cameras.

Caltrans advised staff to submit a right-of-way encroachment permit application. Following submission, Caltrans informed staff that it had no policy governing the installation of cameras for criminal investigations by local jurisdictions and, therefore, it could not approve the application until such a policy was adopted. Caltrans subsequently adopted a policy but noted that co-location of electrical equipment on its standards was not permitted by its policy and that the Town would not be allowed to access to its electrical power.

These Caltrans actions forced staff to consider locating the cameras along the sides of the roadway without the use of Caltrans poles. This increased the technical complexity of the project in terms of camera specifications and provision of electrical service, so staff, in consultation with an ad-hoc committee of the Town Council, determined that a consultant specializing in this technology was necessary. In May, Kimley-Horn, an engineering consulting firm, was retained to work on the project.

In the same month, Town Engineer Nicholas Nguyen and Chief of Police Michael Cronin met with an engineer from Caltrans to seek an exception to their policy. This effort was unsuccessful. The engineer strongly discouraged the Town from seeking permission to use the center median, suggesting that any such application would not be approved regardless of what steps the Town was willing to take to mitigate any perceived risks to traffic.

The most cost-effective alternative to the use of Caltrans infrastructure is to locate the cameras on existing PG&E poles on Tiburon Blvd., two of which are reasonably located for this purpose. In pursuing this option, staff found PG&E officials were receptive to the idea but had no policy in place on the issue. After some time, they agreed to consider the idea provided that any installation be done subject to their normal engineering and safety parameters.

A site meeting with PG&E officials indicated a twelve to sixteen foot arm on one pole on either side of Tiburon Blvd. would be necessary to permit installation of the cameras. The less-than-optimal location of the only pole on the eastbound lanes would also necessitate the addition of another camera to capture license plates in the left turn pocket lane. However, despite having developed what appeared to be a workable plan, PG&E then determined this approach did not meet their safety standards for physical separation between devices on the pole.

Staff then began pursuing the remaining option: installation of new poles and electrical power on the shoulder of Tiburon Blvd. in a manner acceptable to Caltrans (although staff continued to probe the possibility that Caltrans and PG&E might reconsider their rejection of the more cost-effective approaches). The approach of installing poles is entirely viable and can be

accomplished consistent with existing Caltrans right-of-way policy, but it is the most costly of the three approaches.

The continued outreach with Caltrans and PG&E appears to have been fruitful, as staff has now received indications from both entities that they may be willing to accommodate the Town's project after all. PG&E has suggested that they may be able to make necessary modifications to their poles that would permit our use, and, even more favorably, Caltrans has now put forward the idea of either turning over the two light standards in the median, the ones the Town wanted to use in the first place, to the Town or entering into a maintenance agreement wherein the Town would become responsible for the maintenance of the single street light on each pole.

System Performance

Council asked staff to investigate and report on anticipated system reliability or performance. Reliability is expressed as a percentage of "reads" on license plates passing through the "capture zone". A "read" occurs when the system is able to decipher the exact numbers, letters and symbols of a license plate in the order they actually appear on the plate. Systems under consideration range in reliability from 85 to 95% depending on the system and its set up, including camera location. The data is based largely on mobile as opposed to fixed cameras. Reliability is expected to be somewhat higher in the fixed installation we are considering. It also assumes the camera's view of the "capture zone" is not obstructed by another vehicle, something that could occur with the passage of a very large vehicle. The closer the cameras are located to the center of the traffic lanes, the less likely this is to occur. Thus, use of the center medians is not only the most cost effective option, but also the best from the perspective of viewing angle and system performance.

Task 2: Cost and Cost Sharing

Of the costs discussed below, the Marin County Sheriff's Office has agreed to pay 10% of the initial costs and the ongoing maintenance and operating costs. The Belvedere City Manager has indicated the city is willing to pay its customary 25% share of all Town costs, including operation and maintenance, subject to approval of the City Council. Two Association of Bay Area Governments (ABAG) grants totaling \$48,000 are available for the project.

Project costs vary widely depending on the location of the cameras. Costs for the three different approaches are discussed below. All of these estimates contain a 15% contingency, and all include the cost of Paradise Drive cameras using an existing PG&E pole.

Option A: Cameras on existing Caltrans light poles in the center median of Tiburon Boulevard

Option A would cost approximately \$137,000.00, funded as follows:

Town contribution:	\$44,500
Belvedere contribution:	\$30,800
Sheriff contribution:	\$13,700
ABAG grants	\$48,000

Option B: Cameras on existing PG&E utility poles on the shoulder of Tiburon Boulevard

Option B would cost approximately \$166,000, funded as follows:

Town contribution:	\$64,000
Belvedere contribution:	\$37,400
Sheriff contribution:	\$16,600
ABAG grants	\$48,000

Option C: Cameras on new poles erected by the Town on the Caltrans right of way

Option C would cost approximately \$197,000. Over \$70,000 would be attributable to electrical, construction, infrastructure and possible environmental costs associated with erecting poles and supply them with electrical power. The funding breakdown would be as follows:

Town contribution:	\$85,000
Belvedere contribution:	\$44,300
Sheriff contribution:	\$19,700
ABAG grants	\$48,000

Task 3: Bid Project and Maintenance Agreement

The project does not require a formal competitive bid process. If so directed by the Town Council, staff will informally bid the project and proceed with the lowest responsible bidder for both the acquisition of the camera system and the installation of the poles (if necessary). Kimley-Horn will assist the staff in determining qualified vendors for the camera system.

Maintenance agreements range up to \$11,000 per year for an "all inclusive" warranty/maintenance agreement subject to negotiation. Annual costs for electricity and data transmission are estimated at \$1,200 to \$4,200 per year depending on the location of the cameras. The system hardware consists of proven technology that is fairly robust. All costs of maintenance and operation will be shared by the City of Belvedere and the County.

The purchase of a long-term maintenance or warranty agreement will depend on the cost. Staff recommends that the first year of operation be completely covered under warranty, which staff will insist be included in the purchase price. The decision to extend an agreement beyond that period would be an outgrowth of experience with the system. System components typically have about a ten year service life.

Task 4: Policy

A use policy has been drafted and is attached. Key elements include:

- Cameras will be “fixed” to record only the back of vehicles and do not have “pan, tilt & zoom” capability.
- Cameras will be directed only to capture the rear of vehicles and not into any place where a “reasonable expectation of privacy” might exist.
- Access to recorded images will be password protected and access limited to the Police Chief, the Police Captain, Watch Commanders, the Police Detective and the Town’s Information Services Manager.
- Images not retained in connection with a specific offense will be purged after one hundred days (or as soon as the law allows).
- Images will only be released in compliance with a search warrant, subpoena, court order or statute or to allied agencies as evidence in a criminal investigation. Allied agencies would only receive images released to them by Tiburon Police Department for a specific investigation.
- An annual audit of compliance with the policy will be conducted by the Town Manager.

It was staff’s intention to retain the images (records) for only sixty days. However, based on a review of the California Public Records Act, the Town Attorney advises that the Town must maintain these records for a minimum period of one hundred days. The Act also exempts the images from public disclosure under section 6254.

Task 5: Return to Council for approval (see Recommendation section below)

PUBLIC COMMENT

There has been no shortage of commentary from the public on this project. At Town Council’s direction, staff sought public comment through several different articles in both the print and electronic versions of the Town’s newsletters. Staff has made a substantial effort to be responsive to questions and concerns, particularly from people who expressed reservations about the project.

Generally, objections fall into three areas. The first is privacy. Although it is settled law that the proposed use of the cameras is not a violation of individual privacy rights, there are many people who oppose them on these grounds and believe the cameras will be intrusive. Another, smaller, group are those who believe the use of the cameras is harmful to local business and the Town’s reputation. The third group objects on fiscal grounds or because of perceived system deficiencies that will render the system ineffective (criminals will switch or conceal license plates, use stolen cars or find other ways to enter the peninsula). A number of people who supported the system stressed the need for a comprehensive policy governing its use.

In tracking public comment about the cameras, it is clear that a flurry of comment followed any mention in the media. When staff first published the idea in the Town’s newsletter and later in

Tiburon Talk, the response numbered about thirty calls and emails, a very substantial majority of which supported the idea.

In July of this year the San Francisco Chronicle wrote an article on the cameras which, in staff's view, left the reader with the inaccurate notion that the cameras would photograph vehicle occupants, not simply capture their license plate number. It prompted many negative e-mails and phone calls. That story was followed by an Associated Press article which received wide distribution and triggered another spate of communication. Most who contacted the Town as a result of the articles opposed the idea, although the majority of commentators were from outside the peninsula and some from other states.

Following the murder of Mrs. Rosenthal, the camera issue once again received regional coverage by television, radio stations and local newspapers. Public response was muted. The Police Department received only a handful of calls or emails, all in support of the project. On balance, the majority of communication staff has received indicates that the idea of security cameras is widely, although certainly not unanimously, supported by peninsula residents; the results are similarly lop-sided for those who do not reside here and disapprove of the concept.

ENVIRONMENTAL DETERMINATION

Staff has made a preliminary determination that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (Class 3, new Construction) of the CEQA Guidelines. If the Town Council chooses to approve the project, it should finalize this finding and direct staff to prepare and file a Notice of Exemption.

NEXT STEPS

Neither Caltrans nor PG&E has yet given us permission to use their poles and staff cannot be certain of when, whether or under what conditions permission may be forthcoming, but the fiscal impact is substantial and therefore worth some additional time spent in negotiation. Staff will continue to negotiate for both options until there is agreement or until it becomes clear no further progress is likely or the solutions proposed by either PG&E or Caltrans would degrade system efficiency or result in higher future costs or unacceptable operating constraints.

FISCAL IMPACT

The project is projected to cost between \$137,000, if the most cost-effective path is available, to \$197,000 at the other end of the cost spectrum; the Town's share of the cost would range from \$44,500 to \$85,000, along with the ABAG grant funding of \$48,000.

The Town appropriated \$50,000 for this project under the Capital Outlay section of the 2009-2010 budget. In order to build the project, the Town needs to budget funds for the entire project expense, as the funding partners shares would come through reimbursements to the Town (this is

the standard manner of budgeting projects that use outside sources of funding such as grants or assessments). Staff proposes to move this project to the Capital Improvement Project section of the budget as follows using the most conservative assumptions about cost:

Currently budgeted Town funds (Capital Outlay)	\$50,000
Additional appropriation of Town funds	\$35,000
ABAG grant funds	\$48,000
Belvedere contribution	\$44,300
Marin County Sheriff contribution	\$19,700
 TOTAL CIP FUNDING	 \$197,000

It is important to stress that these are the maximum contributions to the project. If either of the two less-costly options becomes available, all parties' contributions would be reduced accordingly, with the exception of the ABAG grant which would remain the same.

RECOMMENDATION

Staff recommends that the Town Council:

1. Hear a staff report on this issue
2. Open the meeting for public input
3. Determine if it wishes to proceed with the project, and, if so,
4. Approve, or approve as amended, the draft policy
5. Authorize the Town Manager to implement the project with the direction to continue negotiation with PG&E and Caltrans in an effort to reach a more economical solution or, failing that, to proceed with the construction of Town-owned poles and related infrastructure
6. Approve a budget amendment increasing the funding for this project from \$50,000 to \$197,000 to make funds available as necessary to complete the project
7. Direct staff to prepare and file a Notice of Exemption under CEQA

Prepared By: Michael J. Cronin, Chief of Police

Exhibits: Fact Sheet
Use Policy
Photo renderings of camera location options

TOWN COUNCIL MINUTES

CALL TO ORDER

Mayor Fredericks called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, November 18, 2009, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

PRESENT: COUNCILMEMBERS: Collins, Fredericks, Gram, Slavitz

ABSENT: COUNCILMEMBERS: Berger

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

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

CLOSED SESSION

PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS

(Section 54957)

Title: Town Manager

Title: Town Attorney

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

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

ORAL COMMUNICATIONS

William Rothman, resident of Belvedere, said he had read a letter to the editor in the Ark newspaper concerning the costs of undergrounding utilities in Tiburon. He said that retired persons especially had felt the downturn of the economy on their savings, and he cautioned the Council against imposing these types of expenses on people without considering all the complications, such as the ongoing legal costs associated with the Del Mar undergrounding.

CONSENT CALENDAR

1. **Town Council Minutes** – Approve minutes of October 21, 2009 regular meeting (Town Clerk Crane Iacopi)
2. **Town Council Minutes** – Approve minutes of October 26, 2009 special meeting (Town Clerk Crane Iacopi)
3. **2008-09 Street Improvement Program** – Adopt Resolution accepting project and authorize filing of Notice of Completion (Director of Public Works/Town Engineer Nguyen)
4. **1655 Mar West Street/175 Esperanza Street** – Adopt Resolution approving a Parcel Map and taking related actions for the subdivision into two lots of a 0.51-acre parcel; Diane Ho, owner and applicant; Assessor Parcel No. 059-051-18; Town File #60402 (Director of Community Development Anderson)

Mayor Fredericks asked if the Council or anyone from the public would like to remove an item from the Consent Calendar.

Helen Lindqvist, Cazadero Lane, posed several questions concerning Item No. 4: a) would the subdivided property remain accessible so that existing trails could continue to cross over it; b) would fencing be allowed on existing easements or could language be added to preclude it; c) were trees going to be felled during development.

Town Manager Curran said that Director of Community Anderson was unable to attend the meeting due to illness. Mayor Fredericks suggested a continuation of the item in order to address Ms. Lindqvist's concerns.

MOTION: To adopt Consent Calendar Nos. 1 through 3, as written; Item No. 4 continued.
Moved: Slavitz, seconded by Collins
Vote: AYES: Unanimous
ABSENT: Berger

ACTION ITEMS

Item No. 2 was heard first.

1. **Lyford Cove Undergrounding Assessment District** – Recommendation to adopt a Resolution Declaring a Surplus in the Improvement Fund and Direct that the surplus be used to Redeem a portion of Outstanding Bonds (Town Manager Curran/Director of Administrative Services Bigall)

2. **Security Cameras** – Review and consideration of proposal to install security cameras on Tiburon Boulevard and Paradise Drive (Chief of Police Cronin, Director of Public Works/Town Engineer Nguyen)

Chief of Police Cronin said that in 2007 and 2008, there were 100 to 125 thefts from vehicles and burglaries in Tiburon, and that the Department was tracking the same number of similar crimes in 2009. Cronin said that most of the perpetrators are from outside the peninsula and that most crimes are committed late at night.

The Chief said that this pattern, coupled with the unique geography of the peninsula, offered an opportunity to increase the number of arrests, recover more property and ultimately reduce the number of offenses. He proposed to do so by installing an ALPRS (Automated License Plate Reader System) on Tiburon Boulevard and on Paradise Drive.

Cronin said that the system takes a digital photograph of the trunk and license plate of every car that passes its location, transmits the image to a server, and stores it for a prescribed time. The system can be programmed to alert the police when a particular license plate, such as one on a stolen or wanted car, passes.

While this is useful, Cronin said his primary interest was to use the system as an investigative tool following the report of an offense in Tiburon.

In most cases, the Chief said the police are able to establish a time frame during which a crime is committed. In the case of the most common crime, thefts from vehicles and burglary, this is usually late at night when traffic counts are very low. Cronin said this would make it relatively simple to find those few license plates that came and went and check them for connection with any prior offenses or persons who have criminal records, establishing potentially valuable leads in cases where the police now have nothing to go on.

He said the system would be especially useful in those cases where the police know exactly when a crime occurred or those where they have a partial license plate or vehicle description. In those cases, he said it would be possible to estimate the elapsed time between the crime and travel time to the camera and look at the relatively small number of vehicles that pass, for ones that match.

Cronin said the system is only useful in identifying vehicles that drive through the roughly 8' by 8' window called the "capture zone," which the camera is focused on in a traffic lane. He added the following points:

- It does not capture images of occupants, only the rear of the car and the license plate;
- It does not record any information about the vehicle's owner--that requires a separate transaction by an authorized user accessing DMV records;

- It has no ability to pan, tilt or zoom;
- The cameras do not lend themselves to traffic or drunk driving enforcement--they are single images, not video, so little can be determined about the operation of the subject vehicle

He said the proposed cameras would be located on Tiburon Boulevard between Blackfield Drive and Bay Vista Way, and in the 5000 block of Paradise Drive.

Chief Cronin said that he recognized there is a way around this system (by avoiding the cameras), but noted that it would require some local knowledge or at least some pre-planning to avoid the cameras. He said that the criminals who commit the kinds of crimes being targeted are generally “unsophisticated opportunists and drug addicts” who were unlikely to have either the local knowledge or the inclination to pre-plan.

The Chief presented three alternatives for mounting the cameras:

- Option A involves using the Caltrans light standards in the center median of Tiburon Blvd and a PG&E pole on Paradise Drive.
- Option B involves using PG&E poles at both sites.
- Option C involves using new poles erected by the Town.

He summarized the project costs, stated below:

Option A: Cameras on existing Caltrans light poles in the center median of Tiburon Boulevard

Option A would cost approximately \$137,000.00, funded as follows:

Town contribution:	\$44,500
Belvedere contribution:	\$30,800
Sheriff contribution:	\$13,700
ABAG grants	\$48,000

Option B: Cameras on existing PG&E utility poles on the shoulder of Tiburon Boulevard

Option B would cost approximately \$166,000, funded as follows:

Town contribution:	\$64,000
Belvedere contribution:	\$37,400
Sheriff contribution:	\$16,600
ABAG grants	\$48,000

Option C: Cameras on new poles erected by the Town on the Caltrans right of way

Option C would cost approximately \$197,000. Over \$70,000 would be attributable to electrical, construction, infrastructure and possible environmental costs associated with erecting poles and supply them with electrical power. The funding breakdown would be as follows:

Town contribution:	\$85,000
Belvedere contribution:	\$44,300
Sheriff contribution:	\$19,700
ABAG grants	\$48,000

With regard to maintaining the system, Chief Cronin said that maintenance agreements range up to \$11,000 per year for an “all inclusive” warranty/maintenance agreement subject to negotiation. Annual costs for electricity and data transmission are estimated at \$1,200 to \$4,200 per year, depending on the location of the cameras.

He also said that a policy governing use of the cameras, as requested by the Council, was attached to the staff report. Key elements include:

- Cameras will be “fixed” to record only the back of vehicles and do not have “pan, tilt & zoom” capability.
- Cameras will be directed only to capture the rear of vehicles and not into any place where a “reasonable expectation of privacy” might exist.
- Access to recorded images will be password protected and access limited to the Police Chief, the Police Captain, Watch Commanders, the Police Detective and the Town’s Information Services Manager.
- Images not retained in connection with a specific offense will be purged after one hundred days (as soon as the law allows).
- Images will only be released in compliance with a search warrant, criminal subpoena, court order or statute or to allied agencies as evidence in a criminal investigation. Allied agencies would only receive images released to them by Tiburon Police Department for a specific investigation.
- An annual audit of compliance with the policy will be conducted by the Town Manager.

Any attempt to secure an image by subpoena in relation to a civil case would be resisted by the Town and a judge would ultimately decide the issue.

Requests by the public to review images would be declined by the Police Department. The California Public Records Act exempts the images from public disclosure under section 6254(f).

The Chief said that it had been determined through subsequent discussions with the Town Attorney that the Town could limit retention of the records to 30 days. He suggested that the

Council direct staff to modify the draft policy section 378.4 Data Storage "...retained for period of thirty days."

He also recommended that section 378.5 be changed to read "criminal subpoena," instead of "subpoena".

He recommended that the Council take public input and then determine if it wished to proceed with the project. If so, he recommended that the Council:

- Approve the draft policy with recommended changes;
- Authorize the manager to spend up to \$197,000.00 to complete the project;
- Approve a budget amendment increasing project funding from \$50,000 to 197,000.

The Chief asked if Council would like to ask any questions of staff.

Councilmember Gram asked if there had been any more progress in the negotiations with Caltrans and PG&E for placement of the cameras on their rights-of-way and utility poles. Chief Cronin said that he had positive responses, on both fronts. He said he hoped to hear more this week.

Councilmember Slavitz asked whether the 30-day retention period was legally defensible. Town Attorney Danforth said that most of the images are formal records, subject to the Town's existing records retention policies. She said that those pertaining to investigations are kept anyway [longer than 30 days].

Councilmember Slavitz asked about the usefulness of these records. Chief Cronin said that in cases where there are known specific timeframes, it would be invaluable to assist the police in determining when a perpetrator may have left town.

Councilmember Slavitz asked whether the annual policy review could also include an annual review of the efficacy of the program. Chief Cronin answered affirmatively, and said that the department would be able to point to specific cases in its report.

Councilmember Slavitz asked if the program would help supplement the police force. Chief Cronin said that in the larger picture of staffing the department, the program would eliminate the need to post an officer on the street watching cars coming and going into town after the report of a crime. He said that in this year's budget cycle, two officer positions had been eliminated and this program would allow for more efficient use of the remaining officers' time.

Councilmember Collins asked if the program would aid in crime prevention and deterrence. Chief Cronin said that it would, and addressed the concern expressed by some that criminals would know the cameras had been installed and would figure out a way to avoid them. Cronin said that in his experience, criminals did not read the newspapers and what they learned, they

learned in jail from talking to other inmates. He said that the cameras represented a potential significant deterrent factor.

Mayor Fredericks asked about implications of scanning license plates to obtain other kinds of information. She asked if the data could be used as a “hot list” to look for stolen vehicles, for instance. Chief Cronin said that the system could be programmed to provide data on vehicles that pass a point at a particular time. Mayor Fredericks asked if this could be used in the absence of the report of a crime. Chief Cronin said that it could, but that this would be a policy decision.

Mayor Fredericks asked if he was asking to add scanning for stolen vehicles to the policy since the current draft policy said that only the report of a felony would trigger obtaining the plate information. Chief Cronin pointed out that stealing cars was a felony.

But in response to Mayor Fredericks’ inquiry, Chief Cronin suggested that further modifications be made to the policy that reports of felonies would trigger use of the data obtained by the cameras, rather than lesser crimes.

Councilmember Slavitz said that he understood the program, as presented, would allow the police to use information obtained by the system primarily to locate stolen vehicles and in Amber Alerts [both felonies].

The Council had some additional questions concerning maintenance costs. Chief Cronin said that the \$15,000 (annual maintenance fee plus electricity and data costs) was the highest cost and was negotiable. However, he noted that this cost included a full replacement guarantee.

Councilmember Gram asked if the data obtained by the cameras could be retained less than 30 days. Town Attorney Danforth said that it was more of a logistical question and that as a practical matter, 30 days was the preferred time. Chief Cronin added that many crimes are committed in “series,” and that keeping data for 30 days seemed sufficient to deal with patterns of crimes.

Mayor Fredericks opened the matter to public comment.

- Terry Graham, 15-year resident, said she was “horrified” by the idea of surveillance cameras and said the 4th Amendment’s prohibited illegal search and seizure; she quoted from her “pocket Constitution” that said that laws that infringe upon the rights of citizens are “null and void.” She asked why the Council would surveil citizens who are presumed to be innocent.
- Wes Poole, Tiburon Boulevard, said it seemed to him to be an incremental erosion of rights and that once the cameras were installed, they would not be taken away.
- Andrew Thompson, former mayor, thanked Chief Cronin for bringing the idea forward and said that he actually thought of a similar plan in 1995 to ensure children’s safety when walking to school; he said it would help the police in kidnappings, such as the Polly Klass case, to obtain immediate data; he said there had been two robberies on his street

that might have been deterred if the cameras were in place. Thompson said that surveillance cameras were everywhere and that it was silly to think otherwise; he said it was time to take a bold step that would make a difference.

- William Rothman said that it was a well-intentioned, ill-conceived, and ill-fated plan, for instance, that it would not prevent crimes committed by Tiburon residents, like some of the crimes that had taken place in Belvedere; he said that cameras were everywhere but that he could chose not to go to some of those places (such as Walgreen's); he said that Tiburon would be seen as an elitist and racist community if it installed the cameras; he also said that they would contribute to the death of children if criminals chose, for instance, to speed through intersections to avoid the cameras. Rothman held up a drawing of a new logo Tiburon, showing an eye and the words, "Tiburon—we see you."
- Barry Toronto, cab driver, Terra Linda, said the message being sent was the "we don't want outsiders;" he said that he was worried that he would be recognized as living outside of town and would be stopped by the police; he said Tiburon had a vibrant music scene and that black musicians would be harassed; he asked the Council not to waste the money that could be used for something else;
- Mark Boyajian, Rancho Road, said he completely supported the cameras and that anyone who had been the victim of a crime would be in favor of them; he said they were a tool to assist law enforcement personnel and would be managed very carefully; he said he would support the cameras even if they were no public funds available;
- Carolyn Logan, student, Felipa Court, asked what if it was "your" child who was kidnapped;
- John Pearson, former member of the Belvedere City Council, said that most people he knew were in favor of the cameras; said it was not a matter of elitism but rather security;
- Wes Poole said he did not want to be "categorized" and that there was nothing to stop this from happening; he asked that the Council not give away any more rights];
- Camille Bosworth, Corinthian Island resident, said the cameras were a bad decision and that they should not be installed without a vote of the people; said that she would be photographed every single day when she travelled down Tiburon Boulevard;
- Arnie Freeman said that the cameras at Walgreens could not identify him but that these cameras could; said that they violated the same principles of an open society as monitoring telephone calls and other movements of citizens;
- Kenneth Nemzer, Hilary Drive, said that the concept of privacy was being misused in this argument because we did not live in a place where "our enemies are in charge;" said that he would like the police to know "everything" about him;
- Al Anolik, Round Hill Road, said he had submitted a letter in support, adding that nothing is more important to a tourist area than the safety and security of its people; added that the area was also vulnerable because of its wealth; he said that a recent 9th Circuit Court of Appeals ruling stated that a government had the right to take your PDA, cell phone, and computer at the border and download the data; said he wanted his civil rights protected but that nothing was more important than the protection of his family and community and that the most effective way is to have a plate recognition system; he encouraged the Council to give the police the tools that are available;

- Joe Reich, Barbaree Way, said he was opposed to the cameras and would be photographed every time he crossed the street; he said that an annual review of the program would be irrelevant because “the cow has already left the barn;” he asked what percentage of crimes would be resolved because most of them were committed by kids in town; stated that liberties and privacy were being taken away in tiny increments; that we don’t “trust” government and that the safeguards written into the policy would be changed the day after the cameras were installed.

Mayor Fredericks closed the public hearing.

Councilmember Collins said that he “absolutely believes in the right of privacy” but that the Council must do what it can to protect the community. He addressed the issues raised by some of the speakers concerning the Fourth Amendment and cited case law dating back to 1967 that addressed the issues of privacy and reasonable expectation of privacy. He said that many cities already had the cameras in place and more would be following suit. Collins said that to him, it was a cost effective program and that furthermore, even if one perpetrator was caught, it would be worth the price.

Councilmember Slavitz said that while he sympathizes with some of the sentiments and concerns expressed by the speakers, the installation was really not a privacy issue but a safety tool. He said that there was no data base being created, no tracking or categorizing of data, and that the data “dies” every 30 days. He said it would help the police department during budget cuts and that it was available to the community because of its unique geography. He said it was not an infringement of rights.

Slavitz said that he concurred with the recommended changes to the policy and that the program’s usefulness should be reviewed annually, and that the cameras could be removed. Slavitz said that he would vote to authorize the purchase up to the budget limit stated in the staff report.

Councilmember Gram said that he understood both sides of the argument. He said that the key to the program’s success was the controls placed on the mechanism and that he had faith in this and the ability of future Councils to monitor the program appropriately. Gram said that Tiburon was not the first city to install cameras, and that hundreds of cities had done so since the mid-to-late 90’s when the technology became available.

Gram said that the program would protect the community against burglaries and other crimes, but stated that he was more concerned about kidnapping and violent crimes. He said that it might help ensure the safety of children walking to school. He said that the cameras would not mean stopping people, except if the data triggered the presence of a stolen vehicle or felony. He said that as a member of the Finance Committee for eight years, the cameras were a “bonus” if they would help save money by not replacing two positions on the police force. He said that he had asked for a data retention period of less than 30 days but that it did not seem feasible.

Mayor Fredericks said she understood the “cultural repugnance” against the cameras but said that it was an exaggeration of what the cameras actually were programmed to do. She said that there was no legal expectation of privacy of one’s car license plate, whether the vehicle is on the public street or parked in a private driveway.

Fredericks said the database was of numbers, not people. She agreed that the challenge was to create a good policy over the use of the data.

Mayor Fredericks acknowledged that there was a distrust of government. She said that the Council was the [local] government and that “we answer to you.” She added that “your weapon is your vote.”

The Mayor said that the comments about “low crime rates” in Tiburon might be expressed differently. For instance, based on current statistics and population, there was one burglary per every 435 people in Tiburon. She said that burglaries often took place at night and that more than one occupant might be home and affected when the burglars entered the house.

MOTION: To approve the recommendations as stated in the staff report, with the amendments to the policy pertaining to data retention [Section 378.4] and criminal subpoenas [Section 378.5], as well as use of the cameras in response to reports of felonies (versus other crimes); [as amended by Gram] to proceed no further with the program until agreements have been reached with Cal/Trans and PG&E regarding use of their facilities, and until agreements have been reached with the City of Belvedere and the Marin County Sheriff’s Department concerning their contributions to join the program; [as amended by Collins] to add language to the policy that if the equipment is located elsewhere, or if there are any changes to the program, they will be brought back to the Council for approval.

Moved: Slavitz, seconded by Gram

Vote: AYES: Unanimous
ABSENT: Berger

1. **Lyford Cove Undergrounding Assessment District** – Recommendation to adopt a Resolution Declaring a Surplus in the Improvement Fund and Direct that the surplus be used to Redeem a portion of Outstanding Bonds (Town Manager Curran/Director of Administrative Services Bigall)

Director Bigall gave the report. She said the final reconciliation of the Lyford Cove Utility Undergrounding Assessment District (“District”) had determined that a surplus existed in the District Improvement Fund in the amount of \$918,000. She said the Town Council had four options for disposition of those funds pursuant to the Municipal Improvement Fund Act of 1913, Division 12 of the Streets and Highways Code of California.

Ms. Bigall outlined the options:

- a) Transfer of \$1,000 to General Fund. An amount equal to \$1,000 may be transferred to the General Fund and used for any legal purpose.
- b) Credit Against the Assessments without calling bonds. The surplus may be applied as a credit upon the assessment and any supplemental assessments. In this option the surplus would be used to pay debt service on the bonds for a limited period.
- c) Use for Maintenance. The surplus may be transferred to a special fund and used for the maintenance of the public improvements that were financed by the assessment district bonds.
- d) Redeem bonds and reduce assessments. The surplus may be transferred to the bond trustee for deposit in the redemption fund and used to call bonds for redemption at the next available redemption date. This will require a corresponding reduction in the outstanding assessment and subsequent assessment installments levied to the property in the assessment district.

Director said that staff originally recommended Option (d) as the option that would have the most benefit to current and future property owners. However, Ms. Bigall said that District organizers, Liz Bird and Joan Lombardo, had stated that the property owners were in favor of an "assessment holiday." Ms. Bigall said that staff had prepared a substitute resolution for Council's consideration in which the Town would issue a credit against the assessments without calling bonds. In addition, Director Bigall said it was also an appropriate time for the Town to make its agreed upon contribution to the District in the amount of \$50,799, which would be transferred from the General Fun Infrastructure and Facility Reserve to the Lyford Cove UUAD Bond Redemption fund. Ms. Bigall recommended Council approval of both actions.

Mayor Fredericks asked what the difference would be between calling bonds earlier and the assessment "holiday." Ms. Bigall said that calling the bonds would be like pre-paying principal on a loan which would result in a lower payment but not a shorter term.

Bigall said that under the scenario recommended by the District organizers, the "holiday" translated into a savings of about \$1,000 per year [for approximately two years], depending on whether the property owner had prepaid or financed the transaction, and what the actual amount of their assessment was. At the end of the "holiday," they property owners would resume their same assessment payments, as before, according to Bigall.

Councilmember Slavitz asked whether owners of properties who had prepaid the bonds and had subsequently sold their properties would benefit. Ms. Bigall said that the assessment runs with the property and therefore, people who had prepaid and no longer lived there would not benefit. She said the "holiday" only affected the current property owners who were paying the assessments.

Councilmember Slavitz asked why the assessment "holiday" was preferable. He noted that calling the bonds would lower the assessment payments by approximately \$240 per year for the remainder of the term.

Town Manager Curran said that it could be seen as “relief” during difficult economic times. She said it also depended on how long a property owner planned to stay in their home, and was seen as a benefit to some of the current owners.

Councilmember Collins asked if there was a cost to the Town to adopt the proposed “holiday.” Ms. Bigall said there was none.

Council asked bond underwriter Mark Pressman for his comments.

Mr. Pressman said that typically, he sees bonds called in order to spread the benefit over time, however, he said that the “holiday” would be a popular and welcome approach.

In response to a question as to whether other districts had employed this method, Mr. Pressman said that it was uncommon to have a surplus and more common to be “over” budget. He said that one of the districts in Belvedere had a surplus but he could not recall exactly how they had disposed of it.

Mr. Pressman said that home buyers in the district would have full disclosure of the situation and would accept the higher payment and the lien.

Mayor Fredericks asked if there was additional public comment. There was none.

Councilmember Slavitz said that while he sympathized with the organizers, it seemed more equitable to redeem the bonds so that everyone could share the benefit in the future, and to lower everyone’s assessment for the next 25 years (versus an approximate two-year “holiday” on paying the assessment).

Mayor Fredericks said that Ms. Bird and Ms. Lombardo played a key role in developing the District and therefore, their word carried some weight. She agreed that during difficult economic times, the “holiday” could be seen as giving something back to those who lived through the laborious [district formation] process and subsequent construction.

Councilmember Collins concurred with the Mayor’s analysis.

Councilmember Gram said that he could go either way on the recommendations. He said that personally, he would chose option (a) which would result in a lower payment and greater savings over time, however, he understood the other recommendation, as well.

MOTION: To adopt the amended resolution to establish an assessment “holiday,” as recommended by the district organizers, and approving the Town’s payment into the Lyford Cove Utility Undergrounding District Bond Redemption Fund.

Moved: Collins, seconded by Slavitz

Vote: AYES: Unanimous

ABSENT: Berger

TOWN COUNCIL REPORTS

There were none.

TOWN MANAGER'S REPORT

Town Manager Curran thanked Director of Public Works Nguyen who was instrumental in obtaining the nearly \$1million surplus in the Lyford Cove Utility Undergrounding Assessment District. Councilmember Gram commented that the bond issue for the supplemental district was \$2 million, so that \$900,000 represented a savings of nearly half of that amount.

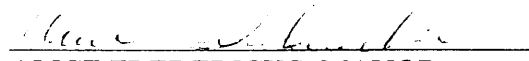
Councilmember Collins thanked Chief Cronin for bringing forward the difficult topic of the security cameras and weathering the criticism. Chief Cronin thanked the Town Manager and members of the Town staff for their help in bringing the topic forward.

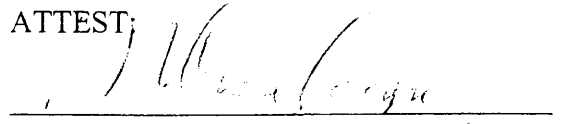
WEEKLY DIGESTS

- Town Council Weekly Digest – November 6, 2009
- Town Council Weekly Digest – November 13, 2009

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Fredericks adjourned the meeting at 9:15 p.m.


ALICE FREDERICKS, MAYOR

ATTEST;

DIANE CRANE IACOPI, TOWN CLERK

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, January 6, 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, Director of Public Works/Town Engineer Nguyen, Chief of Police Cronin, Town Clerk Crane Iacopi

Prior to the regular meeting, the Council met in closed session, beginning at 6:00 p.m., to discuss the following:

CLOSED SESSION – (6:00 p.m.)

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

Bonander v. Town of Tiburon

Town of Tiburon v. All Persons Interested (Del Mar Valley Undergrounding)

Mostyn v. Town of Tiburon et al.

CLOSED SESSION ANNOUNCEMENT, IF ANY

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

ORAL COMMUNICATIONS

Miles Berger, Raccoon Lane, talked about particulate pollution resulting from wood-burning stoves and fireplaces. He said that the Spare the Air Days instituted by the Bay Area Air Quality Management Board were an attempt to address the health problems and reduce particulate pollution. He asked the Council to adopt an ordinance to require low particulate-count wood-burning stoves and fireplaces, or gas stoves, in all new construction and remodel projects in

Tiburon. He said the County of Marin had adopted such an ordinance, along with other cities, such as Mill Valley.

William Rothman, Belvedere resident, said that the structure of the Council meetings did not allow the public to comment on information presented after the public hearings were closed. He said that the public should be allowed to have all the facts so that they could comment on them.

Mr. Rothman said that the security cameras being contemplated for installation by the Town were not the same kind of cameras in place in other cities; he said that there were only three other communities in California that had this type of camera, rather than “hundreds.” He said the cameras in these cities were not on all the time, nor were they located in thoroughfares adjacent to schools. He said that he would be handing out information at the schools to warn people of the dangers of placing the cameras near schools.

Rothman’s second point was that the public did not understand how the cameras would be used. He said the public thought the cameras would be used to apprehend suspects in burglaries, or to look for suspects in “Amber Alerts.” However, he said that his discussions with the Chief of Police led him to believe that they would be used to apprehend felons wanted anywhere in the state. He said that the proposed policy was not clear.

CONSENT CALENDAR

Mayor Collins asked if any member of the Council or the public would like to remove any item from the Consent Calendar for further discussion.

William Rothman asked to pull Item No. 1 for discussion; David Barker asked to pull Item No. 10 for discussion.

1. **Town Council Minutes** – Adopt minutes of November 18, 2009 regular meeting (Town Clerk Crane Iacopi)
2. **Town Council Minutes** – Adopt minutes of December 2, 2009 regular meeting (Town Clerk Crane Iacopi)
3. **Town Council Minutes** – Adopt minutes of December 7, 2009 special meeting (Town Clerk Crane Iacopi)
4. **Vacancies on Town Boards and Commissions** – Announcement of current and pending vacancies on Town Boards and Commissions in 2010 (Town Clerk Crane Iacopi)
5. **Town Check Signature Authority** – Update resolution to give newly elected officials Town check-signing authority (Director of Administrative Services Bigall)

6. **Town Manager Employment Agreement** – Adopt and authorize the Mayor to execute the Third Amendment to Town Manager’s Employment Agreement (Town Attorney Danforth)
7. **Annual Development Fee Report** – Receive annual report on the status of the Town’s Development Impact Fees pursuant to the California Government Code (Director of Community Development Anderson)
8. **Street Impact Fees** – Receive required five-year report of the Town’s Street Impact Fees and adopt resolution making the required findings pursuant to California Government Code (Director of Community Development Anderson)
9. **22 Mercury Avenue Appeal** – Adopt resolution waiving fees for reapplication with respect to an Appeal of the Design Review Board’s decision to approve a site plan and architectural review application for the construction of a new Single-Family dwelling (Director of Community Development Anderson)
10. **Marin Energy Authority Participation** – Review of Marin Energy Authority contract for renewable electric power (Marin Clean Energy Community Choice Aggregation) and affirmation of December 7, 2009 decision to remain in the Marin Energy Authority to permit participation in the program (Town Manager Curran/Town Attorney Danforth)
11. **Marin Emergency Radio Authority Bond** – Adopt resolution approving and directing the execution of a Restated Operating Agreement, approve an Official Statement, and direct related actions in connection with the refinancing of the County-wide public safety radio system (MERA) – (Director of Administrative Services Bigall)
12. **Irrigation Water Well at 1600 Mar West Street** – Approve water well application to install and operate a non-potable (irrigation) well at the Tiburon Peninsula Club (Director of Community Development Anderson)

MOTION: To adopt Consent Calendar Item Nos. 1 through 12 (with the exception of Item Nos. 1 and 10), as written.

Moved: Fredericks, seconded by Slavitz

Vote: AYES: Unanimous

DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of November 18, 2009 regular meeting (Town Clerk Crane Iacopi)

William Rothman said the motion approving the security cameras was not clear; he questioned the wording of the motion, specifically how it was amended by Councilmember Gram.

Mayor Slavitz attempted to clarify the wording by pointing out where a semi-colon was placed in the motion.

Councilmember Fredericks also attempted to clarify his question by reading from another section of the minutes in which the Chief of Police commented on how the cameras would be used, and how the policy would be modified.

MOTION: To adopt Consent Calendar Item No. 1, as written.

Moved: Fredericks, seconded by Slavitz

Vote: AYES: Collins, Fredericks, Slavitz

ABSTAIN: Fraser and O'Donnell

10. Marin Energy Authority Participation – Review of Marin Energy Authority contract for renewable electric power (Marin Clean Energy Community Choice Aggregation) and affirmation of December 7, 2009 decision to remain in the Marin Energy Authority to permit participation in the program (Town Manager Curran/Town Attorney Danforth)

Town Manager Curran gave a brief report. She said that the Council had conducted a public hearing on December 7, 2009, in which the contract had been reviewed and the question of whether to continue participation in MEA had been discussed. She said that during the three-hour hearing, 12 members of the public and numerous experts from various points of view had testified. She said that the Council had deliberated and at the conclusion of their deliberations, the Mayor had asked if anyone wanted to make a motion to withdraw from MEA. No motion was made. Curran said that the Council then directed staff to bring the item back to the Council in January for affirmation on the Consent Calendar. She said that a motion for reconsideration of the item would need three votes of the Council.

Mayor Collins asked for public comment.

David Barker, Lagoon View Drive, said that he would not “rehearse” his previous comments on MEA; however, he said that the promises made by MEA were “overestimated and illusory”, and that the risks associated with the venture were greater than those stated by MEA.

Barker said that claims by the Council that participation in MEA was simply to give the Town’s citizens a choice would be true if there was actually a grassroots demand for an alternative energy provider. He said that he had heard only one public speaker so far in support of the initiative and many more had spoken against it.

Barker also disputed the claim by MEA that having an alternative energy provider would create a demand for renewable energy. He said that the contract being contemplated by MEA did not bring forth any new sources of renewables. He suggested that MEA issue an RFP for the provision of renewable energy sources.

Barker recommended that the Council vote for reconsideration of the matter and move to withdraw from MEA.

Miles Berger, Raccoon Lane, said that he would “double the number” of citizens in favor of MEA and said that he supported the Council’s action to participate.

Bill Lindquist, Cazadero Lane, said he read the Grand Jury Report. He claimed the Grand Jury had done more work than any Council on the issue and suggested that the Council “drop the whole idea” as commercially unviable. He suggested that the Council answer the question of whether they would be willing to invest their own money in the initiative, and to go ahead and do so, but not to use the public’s money.

Bob McDermott, Ridge Road, said he supported David Barker’s analysis of MEA and regretted that the Grand Jury report had come out so late. He asked whether the Council was planning to respond to the Grand Jury Report.

Town Attorney Danforth said that the Town’s response would be on the next Council agenda.

Mr. McDermott also asked what the role of the Town Council would be, going forward, especially pertaining to the issues raised by the Grand Jury in its report.

Mayor Collins said that the Marin Energy Authority meetings were open to the public and that the public could follow the issues in that venue.

Councilmember Fredericks said that this was the correct protocol, consistent with the Town’s participation in other regional agencies, such as the Transportation Authority of Marin, and was the usual course and practice of disseminating information to residents.

Town Manager Curran also said that the Town had provided information many times in articles written for the electronic newsletter, *Tiburon Talk*, and would continue to do so, particularly when it came time for residents to have the choice to stay in MEA or to “opt out.”

Councilmember O’Donnell acknowledged that this was a difficult issue for people. He said that it was also one on which “smart people can disagree.”

O’Donnell said that he disagreed with the recommendation of the Grand Jury and that he believed the venture would be successful in both creating competition and in “pushing the ball forward” to achieve a reduction in greenhouse gas emissions. He said that MEA presented the greatest opportunity to obtain renewable power, and in that he disagreed with Mr. Barker’s conclusion. He said that private enterprises would follow and join the “renewables” market.

Councilmember O’Donnell said that MEA presented a greater choice for the consumer; he noted that PG&E had just yesterday announced that they would reduce their rates by 5%.

Mayor Collins concurred. He said that a simple analogy was that supply did follow demand; he said that he believed the MEA could provide more renewable energy as time went on, and that ultimately, it would own its own facilities. He said that he agreed with the goals of the initiative and that it was worth going forward with MEA.

He asked the Council if anyone wanted to make a motion to withdraw from the Marin Energy Authority. There was no motion to withdraw.

MOTION: To adopt Consent Calendar Item No. 10, as written.
Moved: Fredericks, seconded by Slavitz
Vote: AYES: Unanimous

ACTION ITEMS

1. **Town Council Committee Appointments** – Recommendation to update Council Committee Appointments list to reflect new committee assignments (Mayor Collins/ Town Manager Curran)

Mayor Collins said that Action Item No. A-1 would be heard at the end of the meeting.

2. **Ritter Center Art House** – Request of Chamber of Commerce to co-sponsor and locate an “Art House” on the Fountain Plaza (Town Manager Curran)

Town Manager Curran gave the report. She said that the Town had recently received a request from the Chamber of Commerce to place a privately-sponsored and uniquely decorated “Art House” on public property on a temporary basis. She said that at the end of seven weeks, the Art House would be auctioned off and the proceeds would go to Ritter House, a community-based nonprofit located in San Rafael that assists Marin’s low income and homeless population.

Curran said that the Chamber thought it was a worthwhile endeavor and that it would also serve to draw visitors to downtown Tiburon. She said that they requested that the Art House be placed in Fountain Plaza, as the most visible entry to the downtown area. She also said that local builder and Chamber member Larry Hadley had agreed to pay the \$5,000 sponsorship fee in exchange for a plaque bearing his company’s name.

She said that the Chamber was a frequent partner with the Town in events in the downtown area and that this could be viewed as a similar partnership. She said that a drawback might be the setting of a precedent which would open the door for similar requests for use of public space that the Town might not be able to sustain. One way to address this issue, Curran said, was for the Town to co-sponsor the event with the Chamber. She said that the Town could issue an encroachment permit and that the Art House might be located in the plaza in the exact location where the Chamber’s holiday tree was currently situated.

Vice Mayor Slavitz asked if other locations had been evaluated. Curran said that other locations, such as Ferry Plaza, or Blackie's Pasture, had been considered but that the Chamber thought the Fountain Plaza was optimal and the most prominent location. She also noted that the cities of San Rafael, San Anselmo, and Ross had also voted to allow placement of the Art Houses on public property.

Diane Linn, Executive Director of Ritter Center, said that the issues raised by the Council had been explored by other communities and would be addressed.

Ms. Linn said that the goal of the project was to bring a difficult issue, homelessness, to the forefront, through a collaborative effort with the cities and towns. She said that there were six Art Houses in San Rafael, some on public and some on private property. She said that the organization sought a long-term partnership with the cities and towns.

Linn said that the artists selected to do the work would be appropriate to the communities, and she distributed the profiles of two such artists to the Council.

Councilmember Fredericks asked if this project was the same project that had been presented to the Mayor a year ago. Ms. Linn said that it was, although she said the project had evolved and "changed course" to its current format.

Councilmember Fredericks asked Ms. Linn if what she meant by creating a long-term relationship with the cities and towns was that the organization would request more permits in the future. Ms. Linn clarified that she meant a "temporary, but long-term relationship." She said the houses would "appear" on March 1st in their locations, and would be removed seven weeks later.

In response to a question from Vice Mayor Slavitz, Ms. Linn said that the houses would be bolted down, or otherwise secured on a steel platform. She said that some artists encouraged interaction with their pieces ("touching") but that she felt most people were respectful of public art and would not vandalize the pieces.

Vice Mayor Slavitz asked if the Ritter House would indemnify the Town for damage and liability. He also expressed concern about damage to the bricks in Fountain Plaza.

Ms. Linn said that the License Agreement they made available stated that the Ritter House would restore the site to their original condition. She also said that the Ritter house would provide insurance, per the Vice Mayor's question.

Mayor Collins asked if there would be any type of signage. Ms. Linn said that the sponsor plaque would be affixed to the house. She also said that some sort of plexiglass holder containing information on the house and the project would be made available.

Larry Hadley, Vice President of the Chamber of Commerce, said that main goal in the Chamber's view was that this would be a tool to bring business to downtown Tiburon. He said that the secondary goal for him was personal, that of being a sponsor. He said that he had first looked into donating his company's time to build the houses but had been told there was already a builder in place.

Mayor Collins asked if anyone else from the public wished to comment. Being none, he closed the public hearing portion of the item.

Councilmember Fredericks said that historically the Council had been unwilling to approve the placement of art on a temporary basis in the downtown or other publicly prominent areas, such as Shoreline Park or Ferry Plaza. She expressed concern about the scope of the project, and the placement of a large (four by four foot) structure in a relatively small public area, especially given the reluctance of the Council to endorse artwork on public property in the past.

Fredericks expressed concern that other non-profits would want to undertake similar projects or the same project repeatedly. She said that the Chamber's request to draw attention to the downtown area could be satisfied with the distribution of a map showing the locations of all the Art Houses, as stated in one description of the project, and that an alternate location might still be found.

Councilmember O'Donnell said that he liked the concept of public art. He said that this seemed like a worthwhile cause, and that the Fountain Plaza was preferable to the Ferry Plaza, in his estimation.

Vice Mayor Slavitz said that he shared some of the concerns expressed by Councilmember Fredericks, and that he was also concerned about liability to the Town. He said he wished there was another location but that in the end, he would vote to approve the request, at least for this go round. He suggested giving it a try and seeing what happens, and to learn from the experience.

Councilmember Fraser agreed; he said that it was the right cause for the community and was also consistent with the goals of the community to revitalize the downtown area. He said that Councilmember Fredericks' comments deserved further thought and consideration, but that sometimes it was worthwhile to experiment with a new idea.

Fraser said that the location had merit in that so many people would see the Art House when they came off the ferry, or drove or walked into downtown.

As to the liability issue, Councilmember Fraser said that the placement of the Chamber's holiday tree did not appear to cause a problem, and any concerns regarding damage could be addressed through the insurance indemnification.

Mayor Collins asked if the Art Houses would be in place for 60 days. Ms. Linn said that the placement of the houses was for seven weeks.

The Mayor agreed that the Town should be indemnified through the agreement and insurance. He said that he, too, favored public art in downtown and that this may not be the best location but rather, the only location. He asked if it could be moved if for some reason it did not work out, for example, for safety reasons.

The Town Manager said that this language could be incorporated into the agreement.

MOTION: To direct staff to work with the Chamber of Commerce and the Ritter Center to locate an Art House on the Fountain Plaza and authorize the Town Manager to enter into any agreements necessary to facilitate the project and indemnify the Town during this temporary installation.

Moved: Fredericks, seconded by Slavitz

Vote: AYES: Unanimous

PUBLIC HEARINGS

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

Director Anderson said the Town's Building Code was last amended in February of 2009, and incorporated the newest California Building Code provisions. Anderson said that certain sections of the state code had been identified as areas the Town desired to amend, specifically, an amendment to re-establish the Town's long-standing swimming pool barrier requirement that was weakened in the 2007 California Building code when it was adopted by the State. He said that Town requirement consisted of erecting a barrier at least 48 inches in height above grade to create a passive prevention method around swimming pools.

Anderson said the Building Official also recommended the following amendments: 1) eliminating a provision in the state code that exempts certain types of building awnings from a building permit; and 2) correcting a formatting error in the Town Code that was could lead to confusion.

Councilmember Fredericks asked about the change to the state code pertaining to swimming pools. Director Anderson clarified that the Town could adopt amendments to make the state code more restrictive, not less, than the current code. He said that this was the proposal before the Council.

Mayor Collins asked if a four-foot swimming pool barrier was high enough. Director Anderson said that it was adequate in the Town's experience.

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

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

MOTION: To pass first reading of ordinance by roll call vote, and to waive second reading of the ordinance in favor of adoption on Consent Calendar at the next regular meeting.
Moved: Fredericks, seconded by Slavitz
Vote: AYES: Collins, Fraser, Fredericks, O'Donnell, Slavitz

2. Amendments to Leaf Blower Ordinance – Repeal of Title VI, Chapter 30 (Leaf Blowers and Hedge Trimmers) of the Tiburon Municipal Code, and adoption of a new Title VI, Chapter 30 (Leaf Blowers and Hedge Trimmers) – First Reading of Ordinance (Director of Community Development Anderson)

Director Anderson said that the Town had regulated leaf blowers since 1995, when it adopted restrictions on the days and hours of operation of gas-powered leaf blowers in residential areas. These regulations were substantially amended in 2002 when the town voted to ban the use of gas-powered leaf blowers in residential areas and to limit the hours and days of leaf blower use in non-residential areas.

Anderson said that in recent months, Town staff had received complaints regarding vacuum-type devices that gather, rather than blow around, leaves and other debris. He said that these mechanical devices created the same noise problems as leaf blowers, but could not be regulated under current ordinances. Therefore, Anderson said the Police Department could not enforce the Leaf Blower Ordinance restrictions on such devices.

When reviewing the current ordinance to implement this change, Anderson said that staff also tried to improve the consistency and clarity of the regulations as a whole and make them easier to use and enforce. He pointed out a chart of days and times of operation for all equipment covered under the current ordinance, with the addition of leaf vacuums. He also recommended that the Council consider amending the ordinance to make the days and hours of operation for electric leaf blowers mirror the days and hours of operation of gas-powered leaf blowers, for further ease of use and enforcement, including the prohibition of use of electric leaf blowers on holidays.

Anderson said that staff had received little public comment on the recommended changes.

Councilmember O'Donnell said that in general, he did not favor "paper policy" and that this ordinance was not really being enforced. He said that professional landscapers preferred the gas-powered equipment because it was more durable, and that there had been updates to the equipment to make it less noisy. He questioned the need to continue having the ordinance on the books at all.

Councilmember Fredericks agreed that electric blowers were only a little less noisy, but she said that there had been compliance with the ordinance by homeowners and gardeners in her neighborhood.

Vice Mayor Slavitz said that the ordinance provides a mechanism to ban the equipment if there is a problem and that it was beneficial for that reason.

Councilmember Fraser said that the problems of enforcement could be solved through communication. He said it was the homeowner's responsibility to inform their gardeners and landscapers of the Town's rules, but he asked how the homeowner's would be informed of these proposed changes to the ordinance.

Town Manager Curran said that one idea was to post an easily printable page on the Town's website that could be downloaded by homeowners and given to their gardeners. She also said that the Town had a lot of people "in the field" that could distribute information.

Curran said that it was the practice of the Police Department to warn offenders rather than cite them; she said that the Town sought compliance with the code.

Chief Cronin agreed that enforcement of the ordinance came on a complaint-made basis. He said that police officers did not cite on the first call but noted that they could issue citations to homeowners if they did not comply. He said that the department sends a letter first.

Mayor Collins asked what the fine was for non-compliance of the ordinance. Chief Cronin said that it was \$146 in the first instance.

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

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

MOTION: To pass first reading of ordinance by roll call vote, including the amendment to Section 30-4 [no use of any devices on holidays], and to waive second reading of the ordinance in favor of adoption on Consent Calendar at the next regular meeting.

Moved: Fredericks, seconded by Slavitz
Vote: AYES: Collins, Fraser, Fredericks, O'Donnell, Slavitz

3. Introduction of Zoning Ordinance Amendments – Introduction and Overview of Comprehensive Reformatting and Text Amendments to the Tiburon Zoning Ordinance (Director of Community Development Anderson)

Director Anderson said that the Tiburon Zoning Ordinance was last updated in its entirety 20 years ago. He said that Planning Manager Watrous and Lisa Wise Consulting began work on a comprehensive update in 2008.

The Director said that while most of the standards and requirements contained in the ordinance had stood the test of time and seemed to work well for the Town's residents and property owners, the ordinance could nevertheless be refined and updated. In addition, Anderson said that the entire ordinance needed to be reorganized and reformatted into a more user-friendly document.

Anderson said that the Planning Commission held a total of eight public hearings on the revised draft Zoning Ordinance during 2009. Depending on the level of detail desired, and the volume of questions and comments from the Town Council, Anderson said that one or more hearings may be needed to complete the review and adoption of the ordinance.

Councilmember O'Donnell concurred that the Planning Commission had done an extensive, word by word review of the proposed ordinance.

Councilmember Fraser said that he might want to make only some "tweaks" to the language at this juncture.

Councilmember Fredericks said that she would like the opportunity to read the document thoroughly before commenting.

The Council agreed to continue the hearing on the Zoning Ordinance amendments until the March 3, 2010 regular meeting.

ACTION ITEMS

1. **Town Council Committee Appointments** – Recommendation to update Council Committee Appointments list to reflect new committee assignments (Mayor Collins/Town Manager Curran)

Mayor Collins made his recommendations for new assignments, as follows:

Regional Committees:

- ABAG – Jim Fraser, Delegate; Emmett O'Donnell, Alternate
- CDBG – Emmett O'Donnell, Delegate; Jim Fraser, Alternate
- MTA – Jim Fraser to replace Tom Gram as Delegate
- RBRA – Emmett O'Donnell to replace Dick Collins as Delegate
- WTA – Emmett O'Donnell to replace Miles Berger as Delegate

Local committees:

- Jt. Disaster Advisory Council – Jim Fraser, Town Council representative
- Jt. Recreation Committee – Jim Fraser, Town Council representative

Town Ad Hoc Committees:

- Litigation Committee – Emmett O'Donnell to replace Tom Gram; Mayor Collins
- Budget & Administration – Councilmember Fredericks; Vice Mayor Slavitz
- Corporation Yard Redevelopment – Emmett O'Donnell; Mayor Collins
- Lyford Drive Parking – Emmett O'Donnell; Mayor Collins
- Downtown issues – Jim Fraser; Mayor Collins
- Smoking Ordinance – Councilmembers Fredericks and Fraser

Other appointments:

- JPA Oversight Committee

Vice Mayor Slavitz said he would like to step down as the delegate to the Joint Powers Authority Oversight Committee but that he would still agree to be the alternate.

Councilmember Fredericks said that serving on this committee was a good way to get to know all the regional joint powers authorities and their missions.

Councilmember Fraser said that he would accept the delegate position, if appointed.

- Marin BERST – Emmett O'Donnell, alternate (to replace Miles Berger)

MOTION: To accept the new Committee assignments, as listed above.

Moved: Slavitz, seconded by Fredericks

Vote: AYES: Unanimous

TOWN COUNCIL REPORTS

Councilmember Slavitz said that he had attended a hearing in San Anselmo on proposed legislation to ban plastic bags, or both plastic and paper bags. He said that a group had asked to make a presentation at an upcoming Council meeting which would coincide with the 40th anniversary of Earth Day.

A suggestion was made to add this item to the Council retreat agenda, along with the wood-burning ban, and a request by Councilmember O'Donnell to develop a policy on voting at board meetings where there was a lack of a quorum when a boardmember or commissioner had to recuse themselves on an issue.

TOWN MANAGER'S REPORT

Town Manager Curran said that she had received a request from the Tiburon Peninsula Foundation for Town support of additional historical plaques along the multi-use path. She said the TPF had requested \$2,000. Curran recommended a Town contribution of \$1,000 which could come out of the Town Manager's discretionary fund.

The Council concurred with the recommendation. Vice Mayor Slavitz suggested that the POST commission review the placement of the plaques prior to approval.

WEEKLY DIGESTS

- Town Council Weekly Digest – December 11, 2009
- Town Council Weekly Digest – December 18, 2009
- Town Council Weekly Digest – December 25, 2009

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Collins adjourned the regular meeting at 9:30 p.m., and continued the closed session to Friday, January 8, at 4:00 p.m.


RICHARD COLLINS, MAYOR

ATTEST:


DIANE CRANE IACOPI, TOWN CLERK