

**TOWN COUNCIL  
MINUTES**

**CALL TO ORDER**

Mayor Slavitz called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, November 2, 2011, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

**ROLL CALL**

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

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

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

**CLOSED SESSION**

PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Section 54957)

Title: Town Manager

**ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY**

Mayor Slavitz said that Council had received a threat of litigation from the Save the Plastic Bag Coalition and had voted unanimously to place the threat on the closed session agenda as an urgency item. He said that no further action was taken in closed session.

**ORAL COMMUNICATIONS**

None.

## **PRESENTATIONS**

- Police Officer Jerry Wachowiak – Recognition for 25 years of distinguished service to the Town of Tiburon
- Police Sgt. Mike Mourgos – Recognition for 25 years of distinguished service to the Town of Tiburon upon the occasion of his retirement

Chief Cronin gave the opening remarks about both officers and noted that they had both spent their entire career in public service. He commended them for their distinguished service to the Town of Tiburon and listed the many ways they had contributed to the community during their 25 years.

Mayor Slavitz read Officer Wachowiak's resolution and presented it to him. Town Manager Curran read Sergeant Mourgos' resolution and, along with her personal thanks, she commended him for his dedication to the department and to the Town.

## **CONSENT CALENDAR**

1. **Town Council Minutes** – Adopt minutes of October 19, 2011 Regular Meeting (Town Clerk Crane Iacopi)
2. **Town Investment Summary** – Accept report for September 2011 (Director of Administrative Services Bigall)
3. **Citizen of the Year** – Adopt resolution commending Georgia Kirchmaier upon her selection as the Tiburon Peninsula Chamber of Commerce 2011 Citizen of the Year (Town Clerk Crane Iacopi)
4. **Employee 25<sup>th</sup> Year Anniversary** – Adopt resolution recognizing Police Officer Jerry Wachowiak on his 25<sup>th</sup> anniversary of service to the Town of Tiburon (Police Chief Cronin)
5. **Employee Retirement** – Adopt resolution recognizing Sergeant Mike Mourgos for 25 years of distinguished service to the Town of Tiburon (Police Chief Cronin)
6. **Bay Trail Gap Closure** – Authorize selection of Alta Planning & Design and approve service agreement for preparation of Bay Trail Gap Closure Study (Planning Manager Watrous)
7. **Sign Policy Amendments** – Adopt resolution rescinding and adopting a policy regarding signs on Town-owned property (Director of Community Development Anderson)

Councilmembers Collins, Fraser and O'Donnell submitted revisions to the October 19 minutes (Item No. 1).

MOTION: To adopt Consent Calendar Item Nos. 1 through 7, as amended.  
Moved: Collins, seconded by Fraser  
Vote: AYES: Unanimous

### **ACTION ITEMS**

1. **Belvedere-Tiburon Public Library Expansion Project** – 1501 and 1505 Tiburon Boulevard; Consider Applications for General Plan Amendment, Rezoning, and Amendments to the Point Tiburon Master Plan and Point Tiburon Precise Plan and Take Related Actions Associated with a Proposed 17,000 Square Foot Addition to the Existing Library Facility (Director of Community Development Anderson) - *Public Hearing Closed: Consider Adoption of Three Resolutions and Three ordinances related to the Project*

Director of Community Development Anderson gave the report which summarized the direction of the Council at the last meeting. He said that a majority of the Councilmembers had expressed a preference for the proposed plan (Civic Connection Concept with Refined Alternate D site layout) to the other options analyzed.

In addition, the Director said that the Council had unanimously determined that, at this point in time, the most prudent course of action was to declare the visual impact of the project on views of the Tiburon Ridge from Tiburon Boulevard to be a remaining significant impact. He noted that staff was directed to find the impact to be “significant and unavoidable” and to include it in the CEQA findings of fact, and to prepare a statement of overriding considerations for Council adoption.

With regard to concerns about impact on wetlands, Anderson said that the Town Council agreed with the Planning Commission’s recommendation that a text amendment to Policy OSC-20 was unnecessary, and directed staff to draft the General Plan amendment resolution accordingly.

With regard to the scale of the expansion and consistency with Town policies, Director Anderson said that the Council had provided a range of opinions regarding potential design and architectural changes to the building. He said that a majority of the Council appeared to favor, at a minimum, reduction in the visual impression of “excessive mass, bulk and scale” of the building as viewed from Tiburon Boulevard. He said that such a reduction would not necessarily require, but would not preclude, square footage reductions prior to approval of detailed site plan and architectural drawings by the Council, and that a majority of the Council indicated its desire that these changes also ameliorate the impact of view loss of the Tiburon Ridge from Tiburon Boulevard. He said that a new Condition No. 1 of Exhibit 2 (General Plan Amendment resolution) had been added to address this issue.

Finally, the Director said that in its discussion of parking and circulation issues, a majority of the Council indicated that two issues -- 1) adequacy (or convenience) of parking and 2) circulation

issues involving Tiburon Boulevard/Mar West intersection -- both needed attention. He noted that an additional condition of approval regarding parking had been prepared subsequent to the distribution of the staff report. He said the condition called for the creation or funding of additional parking for Town Hall and Library visitors prior to issuance of a building permit for the Library expansion.

Director Anderson recommended that the Council continue its discussion and consider adoption of the resolutions and ordinances at this meeting, or, if necessary, continue the item to a date certain.

Anderson said that in anticipation of the approvals, staff had initiated processing of the streamlining and exemption ordinance for any future Town of Tiburon land use entitlements associated with the Library expansion project. He said that the Planning Commission was scheduled to hold a public hearing on the draft streamlining ordinance on November 9, 2011 and that the ordinance could appear before the Town Council as early as December 7. He said that if the ordinance is adopted, the Council would begin its deliberations as a design review board sometime after the New Year.

Vice Mayor Fraser stated that at the prior meeting the Council's remarks had lacked specificity, and that he did not think consensus had been reached on the issues as a result. Fraser said the two biggest outstanding issues—view impacts and mass and bulk—still needed to be addressed. He said that he recalled the direction of the Council was for staff to prepare a revised summary of overriding considerations for Council's review, rather than adoption, at this meeting. He also said that the statement that bulk and mass "might not preclude square footage reductions" did not entirely capture the direction of the Council. The Vice Mayor noted that Councilmember O'Donnell had suggested a percentage square foot reduction, and that the Vice Mayor had referenced the Planning Commission discussion of a 10-15% square footage reduction.

Councilmember Collins likewise stated that he did not have the impression that a majority opinion had been formed by the Council on how to address these issues. He said that even if a majority of the Council favored the mitigation of view loss and a reduction of mass and bulk, he said the Library needed more specific direction as a matter of fairness.

Councilmember Fredericks agreed that closure had not been reached at the October 19 meeting. For instance, she said that the Council did not reach consensus on the matter of possible square footage reduction of the project and more importantly, had not agreed to place any specific requirements on the Library. She said it now had an opportunity to discuss these issues further.

Mayor Slavitz said that the Council would review the issues, one by one. He first asked about the parking issue.

Director Anderson said that at the prior meeting, four Councilmember had expressed concerns about visitor parking and the proximity of parking spaces to Town Hall; he said the mitigation

measures in the EIR addressed staff parking adequately, and concluded that parking would not be an adverse impact with mitigation, but the Council had expressed continued concern about convenient visitor parking. In response, staff developed a specific condition of approval aimed at establishing additional Town Hall and Library visitor parking in some nearby, convenient location. He said this parking would be based on a ratio set at half of the parking ratio for typical Library use. He said that the reduced ratio excluded the need for Library employee parking, which was adequate, and that the ratio was lower than that which would be applied to an entirely new Library building, in that while some increased use was anticipated, it was less than if the Library itself were an entirely new use. He said the ratio used in the condition of approval equated to 17 spaces for a 17,000 square foot addition, to 15 spaces for a 15,000 square foot addition, and so forth, based on having one parking space per each 1,000 square feet of library space added.

Glenn Isaacson, volunteer Project Manager for the Library, referenced a letter from the Library Agency dated October 19 to the Town Council. He said this letter had asked that the Council not concentrate on specific details of the project which would be reviewed later during the design review portion of the process. He said that the Council had honored this request and that the Chair said the Council's general direction was well received and would be utilized in the design of the Library project as it moves forward.

With regard to parking, Mr. Isaacson said that the Library had received the latest proposed condition and said that if the Library was to partner with the Town in a bilateral fashion to achieve the result, the Library Agency would be amendable to this proposed condition.

Mayor Slavitz pointed out that the condition was not bilateral, as written. Director Anderson said that this would not preclude the Town from working together with the Library Agency on this issue.

Mayor Slavitz asked Mr. Isaacson if he meant the Town would participate financially. Mr. Isaacson replied "in all ways," and said that the Library controls only its parcel and could not solve the issue alone. Following discussion, the Town Council acknowledged that the Town would work cooperatively with the Library to meet the parking condition, especially for the creation of on-street parking spaces.

Councilmember Collins asked whether the timing of construction of the queue (left-turn lane) improvements needed to be specified in a condition of approval. Director Anderson responded that the mitigation measure already required this improvement to be completed prior to occupancy of the new addition.

Councilmember Collins moved on to a discussion of view loss. He said that while it was difficult to arrive at a percentage number for acceptable view loss, his opinion was that it should be "none or almost none." He said that as a result, square footage reduction might play a greater role in achieving an acceptable expansion project. He said that he did not agree with the 60% loss figure generated by staff, and that the view begins farther up the Boulevard and is broader than 120

feet. He suggested that the Library be directed to not exceed a certain percentage of view loss in its design process.

With regard to open space policies, Collins said that the Town had very clear open space goals and policies to follow.

Collins said that with regard to parking, he was troubled by the fact that there was no study to correlate the number of parking spaces with square footage. He said that some sort of study would help everyone concerned understand the issue and arrive at a solution. He said the conditions as written were too vague.

Councilmember Fredericks agreed that it was difficult, if not virtually impossible, to quantify the view loss of the Tiburon Ridge. She said that the 60% figure reflected a view from a specific vantage point; she said that the best view of the open space was actually seen from across the street from the project. She also said that the view of Old St. Hilary's Church and the ridge are more spectacular as you walk toward downtown, and she commented on the challenges of balancing loss of ridgeline views given the General Plan's call for 2-3 story buildings in this portion of Downtown along Tiburon Boulevard.

Fredericks said that the corridor between the buildings was 48 feet at its narrowest point and was not a tunnel, as described in a previous meeting. She said that some of the things that diminished the view were trellises and trees and that direction to be given might be to minimize the landscaping as a trade-off to view preservation. However, she said this would come at the expense of landscaping a common public space. Nonetheless, Fredericks said that the most expansive view would be from the rear of the project, and one that would be more expansive than the view that currently exists, if the Civic Center [Civic Connection] project is developed.

Councilmember Fredericks said that the Town's Open Space Guidelines set priorities concerning building on ridgelines; she noted that the Library was not a private developer attempting to build on a ridge, and that its mission was to meet the needs of an entire community. She reiterated that the Library will offer enhanced views from other locations on the property, and she noted that the Town already has a policy of balancing competing interests with regard to views and view loss.

Fredericks said that nothing in the General Plan indicated that every aspect of every view of the ridge from Tiburon Boulevard is to be preserved in the exact state that exists at a point in time. She stated that the notion of balancing interests to decide whether a view can be changed or enhanced for public benefit has some policy support.

With regard to square footage, Fredericks said the Council should take care in providing specific direction and instead allow the Library to figure out the square footage based on what the Council stated were the priorities of the Town.

Councilmember O'Donnell agreed with Councilmember Fredericks. He said that the Council could not approve the Civic Center [Civic Connection] design without causing some view blockage. O'Donnell suggested that the corridor between the buildings be widened as much as possible.

With regard to parking, O'Donnell said that the Town should look at acquiring the parking lot (or a portion thereof) adjacent to Town Hall. He also said that the Council had adopted a General Plan that called for keeping parking behind the buildings in the downtown. O'Donnell said he would favor a bilateral approach to acquire additional parking, and that if the parking lot were acquired it too could help protect the view of the open space (by keeping the parcel open).

In general, Councilmember O'Donnell said that the location of the expansion was appropriate and what remained was to figure out how to reduce the mass and scale of the new building. He said his idea was to give direction to the Library to reduce the size of the building by 5% in order to create a compromise. He said that when the Council talked about mass and bulk it had to address square footage and set parameters because there was no other way to do it. O'Donnell agreed that the staff report was somewhat confusing on this issue. He said it would be better to be more specific and not just leave the mass and bulk issues to be resolved at the design review hearings.

Councilmember Fredericks asked if Joint Recreation Department staff parking was included in the application. She noted that this parking might not be needed once the Ned's Way facility was constructed. Director Anderson said that the potential relocation of Joint Recreation was discussed in an earlier staff report, and agreed that if Joint Recreation parking was relocated to Ned's Way, that would free up additional parking for the Town Hall and Library.

Vice Mayor Fraser said that compromise and balance were needed from both the Library Agency and the Town. He agreed that more specificity was needed. He reiterated that the view in question was of one of the five most important landmarks in the Town and that it was a significant view and a significant ridgeline. He said that people coming to the Library would see it, as mentioned earlier, but that other people (drivers, hikers and pedestrians on Tiburon Boulevard) should not be discounted. He said that the question was one of how much of the view to protect; the Town had come up with the 60% figure for view loss, and Councilmember Collins had come up with a larger number for view loss. He said that specificity should be based on compromise and balance, as well as the Town's "constitution," namely, its General Plan.

Vice Mayor Fraser added that he was uncomfortable leaving the traffic improvements on Tiburon Boulevard up to CalTrans and suggested that the Council build it in to its conditions of approval. He said that everyone agreed that it was a dangerous intersection and that improvements were needed. Fraser said that he was part of a task force that was studying traffic improvements on the Boulevard and that this was a key intersection, also mentioned in the Safe Routes to School study.

Vice Mayor Fraser said he agreed with Councilmember Collins and that he was not yet prepared to adopt the findings as set forth in the staff report.

Mayor Slavitz said this was a “tough project” albeit one that everyone supported in concept and realized the importance of building.

Slavitz said that he was not bothered as much by the open space view loss as by the mass and bulk of the building and the frontage being so close to Tiburon Boulevard. He said he had asked for a design change to reduce the intensity of the design, but that in reality he thought it would not be possible without a reduction in square footage. However, Slavitz said that he did not know what that reduction would be. The Mayor wondered whether language might be added stating that any reduction in mass and bulk will require a reduction in square footage.

Mayor Slavitz said that if this were a design review application for a home, the Town would ask the applicant to come back with a revised design to see if it met the expectations of the Council; hence his suggestion that a new drawing showing a revised design might be helpful to the process.

With regard to open space view preservation, Slavitz reiterated that while the view was important, it was not as important as, say, a view loss from Founder’s Rock. He acknowledged that 15 years ago during the development of the Library, view was an issue and it was now, but that he would not go along with the idea of “no” intrusion as a condition of approval. That being said, Slavitz said that it also difficult to come up with a number or percentage.

Mayor Slavitz said that the traffic improvements were important and that he hoped the conversations with CalTrans were successful. With regard to parking, the Mayor said that buying the [Abrams] parking lot was a good idea, but that at the very least the Town could require the Library to lease a certain number of spaces so that people coming to Town Hall for business would be able to find parking.

Councilmember Fredericks asked whether the Council might come to a consensus with regard to view loss and square footage reduction by giving direction that the view should be improved from a specific location. However, she conceded that under this scenario, there might still be disagreement over the specific location and view. Fredericks said that the original founders of the Library could not have predicted its success; she said that she feared the ignominy of approving a project that once again did not fully meet the needs of the community.

Councilmember Collins addressed the issue of bilateral cooperation with regard to parking. He said he was opposed to the concept if it meant a cost to the Town because the Library expansion had been promoted as having no cost to the taxpayer. He said he did not want to put the Town in a position of having to budget taxpayer dollars to provide parking for the Library. Also, Collins said that if he were on the Library Board, he would want a parking study to be able to have a way to quantify and plan for parking.

Likewise, Collins said there was a way to quantify view loss and that was to limit the height of the building. He said that mass and bulk might be addressed by moving the building farther away from Town Hall and increasing the corridor between the buildings. Collins said that the Town's open space goals were to preserve and protect views and did not talk about "balance".

Mayor Slavitz asked if he had specific language in mind to address the view impact. Councilmember O'Donnell suggested that a percentage might be used, for instance, to require expansion of the view corridor by 5 or 10% and to similarly ask for a percentage reduction in square footage.

Mayor Slavitz said he had a hard time visualizing what percentages would look like.

Vice Mayor Fraser asked how many square feet were in the proposed second-story addition and was told it was 7,000 to 8,000 square feet. Fraser said that it was important to have "must haves" and "nice to haves" and to realize that some of these things might not "make the cut" and fit into the space. He said that in design review approvals, floor area ratios were set and that maybe this expansion was just too big.

Councilmember Collins asked about the size of the ground floor square footage addition associated with Alternative D, which was located in front of the existing structure. He suggested that perhaps some additional ground floor square footage could be added to that portion of the project as an alternative to the second story portion of the remainder of the proposed addition. Mr. Isaacson said that if the Library were to make that a two-story section, it would have to install fire stairs and an elevator which were cost prohibitive.

Mayor Slavitz once again broached the idea of asking the Library to provide a revised design drawing to "give them a crack at meeting our expectations". He said that they need not be fully "fleshed out" plans, but more of a sketch in response to the concerns expressed by Council.

Library Board Chair Beverlee Johnson said that the idea of balance and compromise is "where we are" and that the Library representatives had listened carefully to the Council's deliberations at the last meeting. She said they had already started working on the suggestions, and that their staff had been generous in its approach to compromise. Ms. Johnson said that the Board had talked with the Library's consultants and architects; she noted that they were working with "world class architects" and that the Council would not be disappointed in the results.

Mayor Slavitz asked Ms. Johnson what she thought of his idea of returning with a new drawing. Ms. Johnson responded "that's the direction we're heading". She added that she understood the difficulty of sorting out the issues and also appreciated the Council not being too specific in its design requirements at this juncture.

Mayor Slavitz asked staff what the impact would be of delaying further action on the application. Director of Community Development Anderson said it would not be prudent for the Council to adopt the resolutions until they were comfortable doing so.

Councilmember O'Donnell asked if there were time limits on the adoption of the resolutions; Anderson said there were none, as they were legislative actions.

Vice Mayor Fraser said that everyone was well intended but that too many unknowns remained; he said it might be prudent to pause and come back with a new sketch to review prior to taking action, in order to make a better decision on the matter.

Councilmember Fredericks said that she did not favor the idea of setting percentages and that revisions must correlate with the needs of the Library. She said she was glad to hear that at least two other members of the Council seemed willing to allow the Library to continue to work on the design.

Councilmember O'Donnell said that any percentages recommended by the Council at this stage would be approximate numbers and could be stated in terms of "roughly this or that amount" in order to avoid being too specific but to give some guidance.

Mr. Isaacson said that interim drawings would be acceptable to the Library but not as a "pause" in the approval process. He said that the Library Agency wanted action to approve the applications in order to move forward with its plans.

Mayor Slavitz said that "we are unequivocally on board with the [Library] expansion but not how big or how much." Mr. Isaacson replied that "we are at the CEQA stage, rather than the design stage," and that indecision was adversely affecting the fundraising efforts, as well.

Town Attorney Danforth informed the Council that it still would have the ability to modify the design once the CEQA approvals and findings were made. She said that she heard the willingness of the Library to do an interim design, but that if the Council could not agree on the [CEQA] findings, it could not move forward at this time.

Mayor Slavitz concurred with this point; he also said it was important to make findings in order to start the clock ticking on any CEQA challenges. Town Attorney Danforth added that the Council could add the requirement to come back with a proposed design revision as part of the approvals.

Councilmember Collins asked whether the Council could structure the findings to state that the view impact would be reduced to less than significant when it comes back to Council for design approval. Town Attorney Danforth responded that specific mitigation measures are not in place at this time to reduce that impact to a less than significant level, and the impact should be called significant and unavoidable at this juncture. Vice-Mayor Fraser stated that it would be "putting the cart before the horse" to adopt the findings regarding view blockage before reviewing the sketch. It was noted that the Town Council had already voted to make this finding at the prior meeting. Mayor Slavitz said that the safer course of action was to find that the view impact was "significant and unavoidable".

Mayor Slavitz recommended going through the resolutions and ordinances one by one to see if the language was acceptable to the Council.

Vice Mayor Fraser expressed concern that Condition No. 1 of Exhibit 2 (the general plan amendment resolution) misrepresented the intent of the Council at the prior meeting. He stated his belief that the intent was to reduce the significant and unavoidable view impact. Town Attorney Danforth responded that the condition of approval was intended to address the issue of the mass and bulk of the building as raised by Mayor Slavitz at the prior hearing, and not to address the view blockage impact, which is a CEQA issue. Vice Mayor Fraser respectfully disagreed with this interpretation and reiterated his desire to see the word “impact” used, rather than the word “impression”. Vice Mayor Fraser suggested the following wording: “The building design and architecture shown on said drawings shall be revised to reduce the visual impact (rather than impression) of excessive mass, bulk and scale as viewed from Tiburon Boulevard. These revisions will likely require a reduction in square footage prior to approval of detailed site plans and architectural drawings by the Town Council. The Town Council intends that these design and architectural revisions submitted reduce the significant view blockage of Tiburon ridge and the open space from Tiburon Boulevard.”

Councilmember Fredericks respectfully disagreed, stating that impact is not the same as impression, as impact has a particular meaning under CEQA as a legal term. She found the proposed wording of the condition in the staff report acceptable.

Councilmember O’Donnell once again suggested using an approximate number of square footage reduction. Vice Mayor Fraser said he had “moved away” from his earlier suggestion that more specificity was needed in this way.

Councilmember Collins suggested revised language to strengthen the idea that in order to reduce the visual impact of mass and bulk from Tiburon Boulevard, a square footage reduction was likely needed.

Councilmember Collins said he supported Vice Mayor Fraser’s earlier comments that a reduction in mass and bulk still did not address the issue of views. He asked for a definition of “mass”. Director Anderson said that as used by Town staff, it is an appearance of massiveness and that the term “bulk” was used synonymously. Councilmember Collins said the terms “mass, bulk and scale” are not helpful to his understanding of needed project revisions.

Town Attorney Danforth said that view blockage had been identified as an impact of the project under CEQA, but that mass, bulk and scale is not treated as an “impact” under CEQA. She suggested separating the view impact issue from that of mass and bulk. She said that “an impact is not an impression” under CEQA.

Town Attorney Danforth clarified that the word “impact” should not be substituted for “impression” because it had a different meaning under CEQA. She said she thought the wording

was acceptable as the Library had indicated it would work in good faith “to reduce the visual impression of excessive mass, bulk and scaled as viewed from Tiburon Boulevard” by reducing the square footage and still meet the needs of the community.

Town Attorney Danforth suggested that if the word “impression” was unacceptable, that the Council use some other word than “impact”, suggesting “effect” or “consequence”.

Director Anderson suggested eliminating the words “visual impression of” altogether from the sentence, and to have it simply state that “...said drawings shall be revised to reduce the excessive mass, bulk and scale as viewed from Tiburon Boulevard.” He also incorporated the suggestions to strengthen the language in the following sentences in the same paragraph to read, “These revisions will likely require square footage reductions prior to approval of detailed site plan and architectural drawings by the Town Council” and that “The Town Council intends that these design and architectural revisions will reduce the significant view blockage impact of the Tiburon Ridge from Tiburon Boulevard.”

There was a discussion of what constituted a reasonable monetary contribution to intersection improvements; staff responded that it was normally based on a pro-rata share of trips generated.

With these changes, the Council concluded its review and revisions to Exhibit 2, after also agreeing to incorporate the new condition number 9 dealing with parking, as prepared by staff.

The Council turned to a review of Exhibit 1, the CEQA findings resolution. Councilmember Collins suggested strengthening the language in Exhibit 1, at page 11, dealing with parking. Director Anderson said a sentence could be added to state, “In addition, the Town Council has added a condition of approval that requires additional parking be provided.” Collins also suggested the addition of language concerning the queue (left-turn lane) if it was not already included in the findings. The Council concurred.

Regarding Exhibit 1, Section 4, Councilmember Collins asked whether the finding of a significant and unavoidable visual impact also meant the project was inconsistent with land use plans, as listed on P. 15 of Exhibit 1 under Impact LU-2. Director Anderson said that CEQA review of land use plan consistency did not look at conformance with individual policies, but rather whether a proposed project met the basic land use type and density or intensity criteria set forth in land use plans. On that basis, the environmental impact was not significant.

Councilmember Collins requested that the words “may provide” be replaced with “provide” in the first paragraph under Impact AES-1 on p. 16. He also recommended striking the phrase “approximately 60%” from the Finding paragraph on page 16, Impact AES-1, as well as the phrase “...from the vantage point used in the EIR photo simulations.” The Finding would read, “Based upon the EIR and the entire record, the Town Council hereby finds that the view to the Tiburon Ridgeline would be blocked by the project. This visual impact would be significant and unavoidable if the project is to be approved.” The Council concurred.

Councilmember Collins had questions of staff about the findings regarding the project alternatives on pages 18, 19, 20, and 22. Council concluded that these findings could be made and that no revisions were necessary. The mayor asked if there were any other revisions. Vice-Mayor Fraser suggested that the word “partially” in the first full paragraph on p. 16 was misleading. The Council determined that the word “partially” should be eliminated.

The Council concluded its review of Exhibit 1 without further changes.

In response to a question from the Mayor, Director Anderson explained that Exhibits 3 and 4 amended the zoning map; that Exhibit 5 amended the Point Tiburon Master Plan map; and that Exhibit 6 amended the Point Tiburon Precise Plan map. There were no Council questions or revisions concerning these other exhibits.

MOTION: To adopt resolution Exhibit 1 (CEQA findings), as amended  
Moved: Fredericks, seconded by O’Donnell  
Vote: AYES: Unanimous

MOTION: To adopt resolution Exhibit 2 (General Plan Amendments, Mitigation Measures), as amended  
Moved: O’Donnell, seconded by Fredericks  
Vote: AYES: Unanimous

MOTION: To read Exhibit 3 (Ordinance Rezoning Property) by Title only  
Moved: O’Donnell, seconded by Collins  
Vote: AYES: Unanimous

Mayor Slavitz read, “An Ordinance of the Town Council of the Town of Tiburon rezoning certain property from OS (Open Space) to P (Public/Quasi-Public) Zone to accommodate an expansion of the Belvedere-Tiburon Public Library.”

MOTION: To adopt ordinance, as written  
Moved: Fredericks, seconded by O’Donnell  
Vote: AYES: Collins, Fraser, Fredericks, O’Donnell, Slavitz

MOTION: To read Exhibit 4 (Ordinance Rezoning Property) by Title only  
Moved: Fredericks, seconded by Collins  
Vote: AYES: Unanimous

Mayor Slavitz read, “An Ordinance of the Town Council of the Town of Tiburon rezoning certain property from NC (Neighborhood Commercial Space) to P (Public/Quasi-Public) Zone to correct a prior mapping error.”

MOTION: To adopt ordinance, as written  
Moved: Fredericks, seconded by O'Donnell  
Vote: AYES: Collins, Fraser, Fredericks, O'Donnell, Slavitz

MOTION: To read Exhibit 5 (Ordinance amending the Point Tiburon Master Plan) by Title only  
Moved: O'Donnell, seconded by Collins  
Vote: AYES: Unanimous

Mayor Slavitz read, "An Ordinance of the Town Council of the Town of Tiburon amending the Point Tiburon (Northwestern Pacific Railroad) Master Plan (PD#42) to accommodate an expansion of the Belvedere-Tiburon Public Library located at 1501 Tiburon Boulevard."

MOTION: To adopt ordinance, as written  
Moved: Fredericks, seconded by O'Donnell  
Vote: AYES: Collins, Fraser, Fredericks, O'Donnell, Slavitz

MOTION: To adopt resolution Exhibit 6 (Amending the Point Tiburon Precise Plan), as written  
Moved: Fredericks, seconded by O'Donnell  
Vote: AYES: Unanimous

For clarification, Town Attorney Danforth asked whether the Library would be required to erect story poles when it returned to Council with the sketch drawings to be prepared, as a prelude to submittal of detailed design drawings. The Council confirmed that story poles should be erected for the sketch plan review.

As its next step, Town Manager Curran noted that staff would return to the Council with a streamlining ordinance for the Library project at a meeting in the near future.

2. **Alta Robles Precise Development Plan** – Consider actions related to the Alta Robles Precise Development Plan and rezoning applications for the eventual subdivision of 52.2 acres of land, currently developed with one single-family dwelling into 14 single-family residential lots – *Public Hearing closed on August 3, 2011: Item continued without discussion to November 16, 2011*

### **PUBLIC HEARING ITEM**

1. **Plastic Bag ordinance** – Consider adoption of an ordinance to add amend Title III of the Tiburon Municipal Code to add a new Chapter 10A (Single-Use Carry-out Bags) regulating retail establishments provision of single-use carry-out bags (Planning Manager Watrous) – *Introduction and first reading of ordinance*

In his report, Planning Manager Watrous said that Town staff recommended Council consideration of an ordinance that would amend Title III of the Tiburon Municipal Code to add a new Chapter 10A (Single-Use Carry-Out Bags). He said the ordinance would prohibit certain retail establishments from providing plastic single-use carry-out bags to their customers and would require these establishments to charge a fee for providing paper single-use carry-out bags. He said that currently, two Marin jurisdictions (Fairfax and Marin County) have adopted regulations banning single-use carry-out bags.

Planning Manager Watrous said that the “Save the Plastic Bag Coalition” had sued the County of Marin over adoption of its ordinance. He said that among other things, the coalition argued that paper bags should not be favored because they created more of an adverse environmental impact in their manufacture than plastic bags. Watrous said that the County had prevailed in the litigation, however, there was still time running on a possible appeal.

The Planning Manager said that in early 2011, a Single-Use Plastics Advisory Committee (SUPAC) was formed to facilitate a process involving interested public agencies, community groups and merchants in evaluating options for reducing single-use plastics. He said the Committee included representatives from the cities of Novato, Mill Valley, San Anselmo, San Rafael, Sausalito and Tiburon, and was chaired by Bob Brown of San Rafael who was in the audience to answer any questions. Watrous said the intent of the committee was to recommend a common approach to reducing single-use plastics in the form of plastic bags and take-out food containers that could be adopted by all or most of Marin’s jurisdictions.

Mr. Watrous said that in Tiburon, the ordinance would apply only to grocery stores, pharmacies and convenience stores. He said that Woodlands Market already did not provide plastic bags to its customers. He said the proposed ban would not apply to plastic meat containers and the like. Watrous said that the proposed ban would apply to CVS Pharmacy, when it came on-line. He also said that Shark’s Deli was not a convenience store but more of a delicatessen, under staff’s interpretation.

Councilmember O’Donnell took issue with a paragraph in the staff report that referenced the methods used in the manufacture of recycled plastics in China. He said it was not appropriate for the Town to “bash” other countries; he said the plastic business was a multi-billion dollar business world-wide.

Bob Brown, former Community Development Director of San Rafael, said that the information concerning China had been presented to the committee by a clean water advocacy group, and also had appeared in a 60 Minutes television segment. O’Donnell said he had seen the 60 Minutes segment on recycled electronics but not plastics; he asked Mr. Brown to provide him with a link to this information.

Brown said that the proposed ban on plastic bags had wide support, from the California Grocers Association, the California Restaurant Association, and other community groups. He said the

committee had considered the information provided by Mr. Joseph (Save the Plastic Bag Coalition) and the discussion about paper versus plastic bags. He said the intent of the ordinance was not to substitute one for the other, but rather to lower the number of carry-out bags. He said that in Marin County alone, it was estimated that people used 600 carry-out bags per person per year.

Mr. Brown said that the retailers did not object to the ordinance because they saw it as a way to save money and to recoup costs. He said that the City of San Rafael had done a survey of 250 retailers who either favored or did not object to the ban.

With regard to enforcement, Mr. Brown said that the County of Marin had offered to do the inspections at the same time it performed annual Weights & Measures inspections, as well as using community volunteers.

In response to a question from the Mayor concerning what action other cities were taking, Mr. Brown said that San Rafael ordinance in the preparation stage; Mill Valley was scheduling a study session, as was Novato.

Mayor Slavitz opened the public hearing. There was no public comment on the item. Mayor Slavitz closed the public hearing.

Council discussed its options and decided it would be prudent to wait until the threat of litigation was removed before undertaking any further action.

Mayor Slavitz said that he had asked for the proposed ordinance to come forward because it was the goal of late Supervisor McGlashan to have the ordinance adopted county-wide, and that it was a laudable goal.

Councilmember Fredericks agreed that it would be prudent to wait but stated her support of the ordinance, as did Vice Mayor Fraser. He said the ban on plastic bags was a goal worthy of this Council.

Councilmembers O'Donnell and Collins indicated their preference for a voluntary ban over the adoption of an ordinance. O'Donnell said it was better to incentivize than penalize a business. Both expressed opposition to the idea of charging five cents for a paper bag.

A discussion ensued of how to do outreach to the business community, through the Chamber or the local newspaper, on the idea of voluntary compliance. The rest of the Council was amendable to this direction.

Item tabled.

## **TOWN COUNCIL REPORTS**

Councilmember Collins announced that the Town of Corte Madera had voted last night to join Marin Clean Energy, which brings a total of 11 cities participating in the entity. He also said that the City of Richmond had expressed an interest in joining.

## **TOWN MANAGER'S REPORT**

None.

## **WEEKLY DIGESTS**

- Town Council Weekly Digest – October 21, 2011
- Town Council Weekly Digest – October 28, 2011

## **ADJOURNMENT**

There being no further business before the Town Council of the Town of Tiburon, Mayor Slavitz adjourned the meeting at 9:55 p.m., in memory of Anne Louise Ellinwood. She said that Ms. Ellinwood was instrumental in the incorporation of the Town and had been elected to the first Council in 1964. He said that she had donated the Council dais to the Town in 1996 and all her life had remained active in civic affairs.

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JEFF SLAVITZ, MAYOR

ATTEST:

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DIANE CRANE IACOPI, TOWN CLERK