

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Mayor Fraser called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, January 18, 2012, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

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

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, Town Clerk Crane Iacopi

Prior to the regular meeting, at 7 p.m., the Council conducted an interview for an opening on the Planning Commission.

INTERVIEWS FOR TOWN BOARDS, COMMISSIONS & COMMITTEES

One Vacancy – Tiburon Planning Commission

- Jon Wellner, 24 Juno Road

TIBURON REDEVELOPMENT AGENCY

CALL TO ORDER AND ROLL CALL

Boardmember Collins, Boardmember Doyle, Boardmember Fredericks, Vice Chair O'Donnell, Chair Fraser

ORAL COMMUNICATIONS

None.

BUSINESS MEETING

1. **Redevelopment Agency Minutes** – Adopt minutes of April 6, 2011 meeting (Board Clerk Crane Iacopi)

MOTION: To adopt minutes, as written.
Moved: Fredericks, seconded by Collins
Vote: AYES: Unanimous

2. **Audit of Financial Statements** – Accept the audited Annual Financial Report for the Tiburon Redevelopment Agency for FY 2010-11 (Director of Administrative Services Bigall)

MOTION: To adopt the report, as written.
Moved: Fredericks, seconded by Collins
Vote: AYES: Unanimous

3. **Implementation of Proposition 26** – Adopt resolution creating Enforceable Obligation Payment Schedule pursuant to Proposition 26 (Town Attorney Danforth)

Councilmember Collins asked about the transfer of redevelopment agency funds to the Marin Housing Authority in 2011. Town Manager Curran said there were two “pots” of money in question – the money that was transferred to the Marin Housing Authority (which had agreed to be the repository of the funds) for the purpose of developing low income housing in future pursuant to an agreement between the Town and MHA, and a second “pot” of funds of around \$200,000 that had been used for the design and planning activities of the Lyford Drive Multi-Modal Parking Lot (which is within the Town’s Redevelopment Agency project area).

Collins asked what effect the recent California Supreme Court case regarding redevelopment agencies would have on these funds.

Town Attorney Danforth said that the court’s ruling would result in the dissolution of all redevelopment agencies statewide, and that the Town had entered into the agreement with MHA in anticipation of this outcome. She said there would be no change to the status of the funds transferred to MHA.

Councilmember Collins asked if the Town would become the successor agency in any event. Town Attorney Danforth said that it would.

Vice Chair O’Donnell raised the question of the necessity of continuing to carry on [the responsibilities] of a soon-to-be-defunct governmental agency.

Town Attorney Danforth noted that the Town’s affordable housing obligation would continue on into the future even if the RDA was dissolved. She reiterated that the Town had transferred the funds to the Housing Authority in 2011 in order to maintain some control over the use of those funds in the event that the courts upheld AB 26’s dissolution of California RDAs. She said if the Town did not retain the RDA’s housing function, the transferred funds would remain the Housing Authority’s, but without the restrictions of the Town’s 2011 agreement.

Town Manager Curran further explained that by taking this action, the Town had taken care to maintain some sort of control of the funds so that it would have a say in how this obligation was realized in future. For instance, she said that the Town might be able to weigh in on where and how the affordable housing would be built, rather than abdicating this responsibility or leaving it solely up to the Housing Authority.

Vice Mayor O'Donnell said that the last paragraph of the proposed resolution said that the Town was electing to retain the housing assets and would have to take some sort of action with regard to these assets. Town Attorney Danforth agreed and said that even though there would technically no Tiburon Redevelopment Agency after February 1, 2012, the Town would be able to provide guidance to the MHA's use of the housing funds. The Town will also likely take occasional actions as successor agency.

Councilmember O'Donnell suggested that the Town might simply turn the funds over to MHA and "move on".

Town Manager Curran said that it was a question of whether the Town wanted to have any say in how the housing funds would be used. She noted that staff thought it was prudent to leave the Town Council in some measure of control.

MOTION: To adopt resolution, as written.
Moved: O'Donnell, seconded by Fredericks
Vote: AYES: Unanimous

ADJOURNMENT

Mayor Fraser adjourned the meeting at 7:40 p.m.

TIBURON TOWN COUNCIL

CALL TO ORDER AND ROLL CALL

Councilmember Collins, Councilmember Doyle, Councilmember Fredericks, Vice Mayor O'Donnell, Mayor Fraser

CLOSED SESSION ANNOUNCEMENT, IF ANY

There was no closed session.

ORAL COMMUNICATIONS

Pamela McConnell-Douglass spoke in favor of erecting a plaque across from the Hilarita in honor of the men and women who worked and lived there and had contributed to the war effort (WWII), some of whom had lost their lives in the conflict. She said that people to this day come to look for where their relatives had lived and it would be helpful to mark the area.

Mayor Fraser directed her to work with Town staff on this idea. She turned over some photographs to the staff at the table.

CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of December 7, 2011 meeting (Town Clerk Crane Iacopi)
2. **Town Investment Summary** – Accept report for December 2011 (Director of Administrative Services Bigall)
3. **Vacancies on Town Boards and Commissions** – Announce pending vacancies on Town Boards and Commissions in 2012 (Town Clerk Crane Iacopi)
4. **Audit of Town Financial Statements** – Accept report and authorize filing of FY 2010/11 Town Financial Statements and Independent Auditor's Report (Director of Administrative Services Bigall)
5. **Annual Development Fee Report** – Adopt annual report on the status of the Town's Development Impact Fees pursuant to the California Government Code (Director of Community Development Anderson)
6. **Traffic Mitigation Fee Report** – Adopt annual report and resolution (Director of Community Development Anderson)
7. **Zero Waste Campaign** – Adopt resolution supporting "Zero Waste" targets for cities (Associate Planner Tyler)
8. **Implementation of Proposition 26** – Adopt resolution a) confirming the Town's role as successor agency to the Tiburon Redevelopment Agency (RDA); and b) assuming the RDA's affordable housing function (Town Attorney Danforth)

Councilmember O'Donnell asked to remove Item No. 4 from the Consent Calendar.

MOTION: To adopt the consent calendar Item Nos. 1, 2, 3, 5, 6, 7, 8, as written.
Moved: Collins, seconded by Fredericks
Vote: AYES: Unanimous

4. **Audit of Town Financial Statements** – Accept report and authorize filing of FY 2010/11 Town Financial Statements and Independent Auditor's Report (Director of Administrative Services Bigall)

Vice Mayor O'Donnell asked staff whether the Town had employed a new auditor. Director Bigall said that the audit had been performed by the same company for approximately seven years.

O'Donnell asked how the (\$52 million of) capital assets of the Town were calculated. Bigall said that a formal audit had been performed in 2003 by Harris & Associates which listed and affixed a value to the Town's assets including streets, drainage, open space, as well as building and roadway improvements. She said that when street improvements were performed, they were added to the schedule.

O'Donnell asked whether the Town's depreciation schedule was the same used in the private sector. Ms. Bigall said that she was not sure but thought that it was consistent. She said that buildings were depreciated over 50 years, 40 years for streets, and the like.

O'Donnell noted for the record that the audit was effective as of June 30, 2011, and that the Town had eliminated some of its unfunded liabilities (PERS liabilities) since that time.

Councilmember Collins asked about the "accounts payables" (under fiduciary assets and liabilities) in the amount \$17,000 for Del Mar, \$170,000 for Lyford Cove, and \$124,000 for the Library. Ms. Bigall said that since the town used accrual basis accounting, these were payments made to these entities or projects after the close of the fiscal year. She said that the Town did not receive property taxes for the library until after July 1, and that the other payables were for engineering services incurred in June but paid in July.

MOTION: To adopt Consent Calendar Item No. 4, as written.
Moved: Collins, seconded by O'Donnell
Vote: AYES: Unanimous

Mayor Fraser asked to take Public Hearing Item No. 2 out of order. Council concurred.

2. **Library Streamlining Ordinance** – Introduction and first reading of an ordinance establishing a streamlined review procedure and exemption from the Zoning Ordinance for the Belvedere-Tiburon Public Library Expansion Project located at 1501 and 1505 Tiburon Boulevard; AP Nos. 058-171-92, 93, 94 and 058-171-62 (Director of Community Development Anderson)

Director Anderson gave the report. He said that the Town's General Plan called for the streamlining procedure and process. He recommended that the Mayor conduct a public hearing and conduct first reading of the ordinance.

Councilmember Collins asked whether it was a good idea given the amount of public interest in the project to eliminate the normal process of the Planning Commission and Design Review. Director Anderson said that there were two permits being reviewed – the conditional use permit (Planning Commission) and Site Plan and Architectural Review (Design Review Board). He said

that the ordinance under consideration would give the Town Council the discretion to refer any part of the permits process to any Town board or commission prior to making its final decision.

Mayor Fraser opened the public hearing.

Beverlee Johnson, President of the Library Board of Trustees, spoke on behalf of the Board in asking that the Council adopt the streamlining process. She said the Board felt that it would not only be more efficient but that it would be more cost effective for the Library, as well.

Mayor Fraser closed the public hearing.

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

Mayor Fraser read, "An ordinance of the Town Council of the Town of Tiburon establishing review and decision-making procedures for the Belvedere-Tiburon Public Library Expansion Revised Project and exempting said project from all provisions of the Tiburon Zoning Ordinance as set forth in Title IV, Chapter 16 of the Tiburon Municipal Code."

MOTION: To pass first reading of the ordinance.
Moved: Fredericks, seconded by Collins
Vote: AYES: Collins, Doyle, Fraser, Fredericks, O'Donnell

ACTION ITEMS

1. **Appointments to Boards, Commissions & Committees** – Consider appointment to fill vacancy on Planning Commission (Town Clerk Crane Iacopi)

Town Clerk Crane Iacopi noted that the vacancy had occurred as a result of the appointment of Frank Doyle to the Town Council. She said the Council had interviewed four candidates—Rick Waterman, Patrick McNerney, Kam Shadan, and Jon Welner.

Councilmember O'Donnell said that all four candidates should be commended for their excellent qualifications and if not appointed, should be considered for other, future openings.

MOTION: To appoint Jon Welner to the Planning Commission.
Moved: O'Donnell, seconded by Fredericks.
Vote: AYES: Unanimous

2. **Town Council Committee Appointments** – Update Council Committee Appointments list to reflect revisions or new committee assignments in 2012 (Town Clerk Crane Iacopi)

Town Manager Curran said that the Council filled appointments on regional boards and commissions, as well as on Town committees, in January of each year. She referenced a matrix of current openings that had been distributed to the Council. She noted that some of the ad hoc committees were being removed from the list because their mission had been completed.

Mayor Fraser reviewed the list and the following appointments were made:

Regional Committees

ABAG – Mayor Fraser, Delegate, Vice Mayor O'Donnell, alternate

MEA – Dick Collins, Delegate, Emmett O'Donnell, alternate

Community Development Block Grant Priority-Setting Committee (CDBG) – Frank Doyle, Delegate, Mayor Fraser, alternate

Marin Emergency Radio Authority – Councilmember Collins, alternate [Delegate, Chief Cronin]

Marin Telecommunications Agency – Mayor Fraser, Delegate, Frank Doyle, alternate

Regional Airport Planning Committee – Councilmember Fredericks stepping down [replacement will be appointed by Board of Supervisors]

Richardson Bay Regional Agency – Vice Mayor O'Donnell, Delegate, Vice Mayor Fraser, alternate

Town ad hoc committees

Financial (2012-13 Budget) – Mayor Fraser and Councilmember Fredericks will continue to serve

CART – Frank Doyle joining to replace Jeff Slavitz

Litigation Committee – Collins and Fredericks to continue

Legislative Action – Fredericks (Chair of MCCMC Legislative Committee); Collins

MCCMC committees

JPA Oversight Committee – Mayor Fraser to continue as delegate; no alternate selected.

It was noted that all other committees not listed above will continue with the same Council representation as 2011.

MOTION: To confirm the new appointments, as noted in the Council discussion.
Moved: Collins, seconded by Fredericks
Vote: AYES: Unanimous

PUBLIC HEARINGS

1. **2012 Fee Schedules** – Consider adoption of revised fee schedules for the Community Development Department & Administrative Services Department (Director of Community Development Anderson)

Director Anderson gave the report. He said the revisions were a mixture of fee increases, fee reductions, and new service fees.

Vice Mayor O'Donnell asked some questions about the fees related to business licenses. Director Anderson explained how fees for licenses pertaining to building permits were calculated [by project] and how the valuations were determined.

O'Donnell asked whether business license fees were tied to state income tax returns or the like. Director Bigall and Town Manager Curran explained that they were based on a percentage (.0012) of reported annual gross revenues. Councilmember Collins said that this was similar to calculating a sales tax. Staff concurred.

O'Donnell asked if there was a cap on the fees and commented that there might be some disincentive to report earnings if there were not. For instance, he said it would be a disincentive if a business had to pay \$25,000 or more in fees just to do business in Tiburon.

Director Bigall said that the highest fee paid by a business licensee last year in Tiburon was \$10,000. She said that there were a couple of restaurants that paid between \$5,000 and \$6,000 but then the majority of fees collected dropped down to \$1,000 or less, with many businesses paying only the minimum of \$15.

Town Manager Curran pointed out that this fee was quite modest and recommended that thought should be given before any changes were made to the program.

Town Attorney Danforth agreed that the Council should weigh these ideas carefully because the business license "fee" is indeed a tax (i.e., not a cost-recovery fee) and if lowered, State law would require a vote before raising it again.

Councilmember Collins asked how the Town knew whether someone was doing business out of their home. Town Manager Curran said that staff was in the process of raising awareness in order to bring other home businesses into compliance.

Councilmember O'Donnell said that he had asked for further discussion of the matter to come back to Council after the Council approved a contract with the State to obtain business license

information. He said that the way business was done was changing, along with demographics, and that some of the Town's fees were "old school" and had not kept up with the times.

Town Manager Curran suggested that this subject be placed on the Town Council retreat agenda for more discussion. Mayor Fraser said that a comparison of the Town's business license fees with other municipalities would be helpful, as well.

Councilmember Fredericks noted that the State had really limited the ways that cities could raise revenues and that this reality, combined with a political climate of taking funds away from cities, could seriously limit a city's revenues.

Council had several more questions about fees pertaining to signs, tree permits, and the keeping of chickens and bees.

Councilmember O'Donnell asked whether the \$250 charge for a tree removal permit might also be a disincentive, on top of the costs incurred by residents to remove trees.

Director Anderson said that the fee was not charged for small tree removal but he also noted that the \$250 did not begin to cover the staff's time in reviewing and issuing tree permits. Anderson also noted that staff did follow-up inspections to many tree removals as part of the permit process.

Mayor Fraser asked about condominium conversion fees. Director Anderson said that this fee increase was due to staff oversight and had to be changed to be consistent with the fees charged for conditional use permits that had previously been adopted.

Councilmember Doyle asked whether the line item for the keeping of chickens and bees was related to discussion of the amendments to the zoning ordinance that the Planning Commission had recently reviewed. Director Anderson said that they were and that they were proposed for adoption in anticipation of this matter coming before the Council in future.

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

MOTION: To adopt the 2012 fee schedule resolution, as written.
Moved: Fredericks, seconded by Doyle
Vote: AYES: Unanimous

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Heard out of order (see above).

TOWN COUNCIL REPORTS

None.

TOWN MANAGER'S REPORT

None.

WEEKLY DIGESTS

- Town Council Weekly Digests – December 9, 16 & 23, 2011
- Town Council Weekly Digests – January 6 & 13, 2012


ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Fraser adjourned the meeting at 8:40 p.m.



JIM FRASER, MAYOR

ATTEST:



DIANE CRANE IACOPI, TOWN CLERK