

**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, October 21, 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, Director of Public Works/Town Engineer Nguyen, Chief of Police Cronin, Town Clerk Crane Iacopi

**ORAL COMMUNICATIONS**

None.

**CONSENT CALENDAR**

1. **Town Council Minutes** – Approve minutes of October 7, 2009 meeting (Town Clerk Crane Iacopi)
2. **2009 Metal Beam Guardrail Replacement Project** – Adopt Resolution accepting project and authorize filing of Notice of Completion (Director of Public Works/Town Engineer Nguyen)
3. **Supplemental Law Enforcement (COPS) Funding** – Adopt resolution authorizing expenditure of funds for FY 2009-2010 (Chief of Police Cronin)
4. **State and Local Government Reform** – Request for Endorsement of Marin County Leadership Summit (Town Clerk Crane Iacopi)
5. **Proposition 1A Securitization** – Recommendation to authorize sale of the Town of Tiburon’s Proposition 1A Receivable from the State of California (Director of Administrative Services Bigall)

MOTION: To adopt Consent Calendar Item Nos. 1-5, as written  
Moved: Berger, seconded by Slavitz  
Vote: AYES: Unanimous

### **ACTION ITEMS**

1. **Marin Clean Energy** – Hear Presentation by Marin Energy Authority on Energy Service Provider (ESP) contracts; Public and Council comment (Town Manager Curran, Town Attorney Danforth)

The Council heard an extensive presentation on the history and formation of the Marin Energy Authority (MEA), and were brought up to date on current actions before the Board by Dawn Weisz and Supervisor Charles McGlashan.

According to the Town's staff report, the MEA is preparing to initiate a Community Choice Aggregation program that would offer "clean energy" options to local customers of participating agencies in Marin County (Belvedere, Fairfax, Mill Valley, Ross, San Anselmo, San Rafael, Sausalito, Tiburon, and the County of Marin). A contract with one energy provider, Shell Energy North America, will be considered by the MEA Board on November 5, 2009. If the Board approves the contract, its staff will distribute copies to all member agencies, starting a 90-day review period. By the end of this period, the member agencies must either withdraw from MEA or vote to participate in the CCA program.

Both Ms. Weisz and Mr. McGlashan emphasized that the procurement of clean energy (through a CCA) would do more for the reduction of carbon emissions than any single other program currently in place in the County.

Mayor Fredericks said that because there was a large number of people in the audience present for the appeal hearing, and people with families at home, she would continue the public question and comment portion on MEA until after that hearing.

She moved to agenda Public Hearing Item No. 1 and asked for a staff report.

2. **Proposed Memorandum of Understanding (MOU) regarding *The Martha Company v. Town of Tiburon Litigation*** – Consider adoption of Memorandum of Understanding for Reduced density EIR alternative for Martha Company development application currently pending before the County of Marin (Director of Community Development Anderson, Town Attorney Danforth, Town Manager Curran)

*Motion to continue without discussion to a Special Town Council meeting on October 26, 2009, at 6:30 p.m.*

## **PUBLIC HEARINGS**

1. **Design Review Board Appeal** – Consider appeal of Design Review Board approval for Site Plan and Architectural Review to construct a new single family dwelling at 22 Mercury Avenue (Planning Manager Watrous)

Property Address: 22 Mercury Avenue  
Assessor Parcel No.: 034-262-31  
Applicants: Sam & Jennifer Dibble  
Appellants: Jeff & Satoko Boris, Chick & Anne Lettrich, Jim & Moira O’Neal, Rod & Nancy McLeod

Director Anderson summarized the written staff report. He said that several second story homes had been approved in the Belveron East neighborhood and that the Design Review Board had come up with different approaches to minimize the impacts on neighbors, such as limiting decks on second stories and additional landscaping. He noted that new fire regulations would limit the use of landscaping in this application as a mitigating tool; however, he said the Board had eliminated the deck from the second story master bedroom. Anderson said that although the Board had voted to approve the project, it was clearly a “close call” and compatibility with the neighborhood remained at the heart of the appeal, along with the loss of privacy to surrounding neighbors.

Mayor Fredericks opened the hearing to the appellants.

Jim O’Neill and Jeff Boris made the presentation on behalf of the four families who appealed, including the Lettrich’s and the McLeod’s. They presented their grounds of appeal, summarized below, utilizing photographs and slides. (Staff’s responses to these grounds are contained in the written report.)

1) Loss of privacy to homes and yards of surrounding neighbors – Mr. Boris noted in a slide that the height of Town Hall at the weathervane was 22 feet and that the proposed Dibble home was 24 feet at its peak; both gentlemen noted that one-story homes “worked well” in the neighborhood, especially in the inland section they referred to as the “island”; they described in detail the impacts to the privacy of the surrounding homes and one across the street; Mr. O’Neal said that other second story applicants had worked more successfully with neighbors to resolve their differences; he said some of the applications contained only a master suite upstairs and noted that the Dibble home would be the largest second story with a master suite and additional bedrooms.

2) Loss of sunlight – Both speakers complained of light pollution and loss of sunlight; one said that he would have his view of the sunset completely blocked, in addition to the loss of one-two hours of sunlight during the day; O’Neal said that the DRB did not know of the new fire regulations when they approved the landscaping plan, and that not all of the board members came to visit the site, in any event.

3) Inconsistency with neighborhood character – The speakers noted the unique character of the neighborhood, the smaller house sizes from other areas of Tiburon, and that all the residents sought privacy, views and sunlight in their yards; O’Neal reiterated that a majority of the two-story homes were on the perimeter of the neighborhood, not in the middle “island”; of the 142 homes in Belveron East, the appellants showed the location on a map of the 45 homes that supported the appeal and eight homeowners who supported the project, per a petition that had been submitted.

4) Plan discrepancies – The appellants said that there were inconsistencies between the site plan, floor plans, and landscape plans.

5) DRB precedent for overriding – The appellants said that the Board had set a precedent for overriding recommendations of staff and board members not present at the July 2, 2009 meeting.

6) Diversity of housing stock – The appellants said that the approval of the project would lessen the diversity of housing stock by promoting larger and more expensive homes and two-story dwellings instead of one-story homes.

Mayor Fredericks asked the appellants to describe what they were asking, for the record.

Mr. Boris said that the appellants would prefer to have a one-story home in that location, and if that was not possible, to at least reduce the size of the second story to be more in character with the neighborhood, perhaps allowing just a one-bedroom suite.

Mayor Fredericks opened the hearing to the applicants.

Architect Jim Malott, representing Jennifer and Samuel Dibble, acknowledged that change was difficult and that this was a neighborhood in the midst of change. He said that all the homes started out at 990 square feet, and that over 70% of them had been remodeled with some sort of addition.

Malott said that if the Council insisted on a single story for these homes, it would use up the usable space, leaving a 10-foot strip of land around each building. He said that a second story, if designed properly, would result in greater land area for everyone.

Mr. Malott noted that his clients had sought no variances in their application and that other remodels would certainly require variances if they were built today. He said that he had received 47 letters in support of the project.

Malott said that the Fire Code regulations had been adopted since the application was submitted, and he described a new landscaping plan.

Mr. Malott asked the Council to uphold the DRB's unanimous decision and noted their findings that the overall house design was compatible with the neighborhood, had a low slope roof, and other design features that broke up the "massing." He said the Board had properly considered all of the issues described by the neighbors.

Applicant Jennifer Dibble addressed the Council. She said that they had met with all the neighbors and had incorporated every single change required by the Design Review Board. She said that she did not favor a single master suite on the second story because it was important to her, for reasons of safety and personal preference, to sleep on the same level as her children. Mrs. Dibble asked the Council to allow her family to move forward with their project.

Council had some questions of the applicants which were answered by Mr. Mallot.

Councilmember Slavitz asked about square footage of the rooms on the second story (450 square feet and a slightly larger master suite), and the distances from the street of the current house and proposed remodel.

Councilmember Collins asked about wall heights (eight feet); Councilmember Gram asked for measurements from the middle of the room (eight feet to 10 feet, six inches).

Mayor Fredericks opened the appeal to the public. A number of people spoke, including:

- Dana Thor, Juno Road, said that in 20 years she had never seen such discourse and dissension over a project; that she and her husband had remodeled their home with the needs and character of the neighborhood in mind; that the homes all had flat back yards that adjoined each over and that the neighbors all respected the privacy of those yards. She said that while the Dibble's plans were attractive, they would impact the privacy of the surrounding neighbors.
- William Melbostad, 17-year resident, said that the conflict would affect the property values of the neighborhood;
- Karen Halsey, Juno Road, asked the Council to reject this plan and require the applicants to work with the neighbors and respect the privacy of the neighbors;
- Danny Gallagher, Juno Road, said that the Dibbles had listened well and had scaled back their second story which was nine feet lower than what was allowed in the neighborhood; said the project was a good addition to the neighborhood;
- Vincent Pannepacker, Mercury Avenue, 17-year resident, said that the neighborhood was comprised of great people and that he understood the frustration of the parties; he said that he rebuilt his home in 2000 and that some of his neighbors thought his project was on-going; said that this project was causing a disruption and had the contention was having a negative impact; suggested that there was a reason for the Town's guidelines and recommended a single story home; he said that the story poles "told the story" of the impacts on privacy of the surrounding neighbors and that he had built a great one-story home when he remodeled (adding that he never even considered a second story for the reasons stated above); finally, he stated that the scale was disproportionate to the lot and

would “stick out”; he recommended that not only this project, but future projects, be kept to scale to avoid the neighborhood turning into “Strawberry Point.”

- Marty Andrews, Apollo Drive, said that he had done a one-story remodel and still had plenty of yard space left;
- Sharon Sand, Mercury Avenue, found fault with the effective of the proposed landscaping plan which included deciduous trees;
- Rick Bracich, Mercury Avenue, said that he opposed the plan because the applicants did not work with the neighbors or make reasonable compromises; he said that more accommodation should be given to the immediate neighbors and that he had kept his neighbors in mind during his own remodel; that the second story was too big and not in character with the neighborhood; cited a DRB comment that it was top heavy and massive; said that some variances were good compromises, depending on the lot.
- Richard McElreath, 4 Apollo Road, said that he had tried to remain neutral but was concerned about the neighborhood discord; that he planned a 2300 square foot remodel with a sizeable backyard and had received a variance to do so;
- Kate McInerney, Mercury Avenue, 10 year resident and real estate agent, said that she had been on both sides of the issue; noted that property owners did have rights; but that the lot in question was on a curve which made it problematic; said that a second-story in that location would have a greater visual impact, so that the site was really an issue.

Council asked Design Review Boardmember Michael Tollini for his comments. In particular, Councilmember Slavitz asked him to discuss the Board’s discussions regarding the project’s impact on the privacy of the Boris property, and any discussion regarding plantings.

Mr. Tollini said that the Board’s deliberations were in the record. He said that privacy was the primary focus of the Board, and the focal point was placement of the windows. He said that the back (bay) windows did not really have a view of the [Boris’] back yard and the other windows were pushed to the front of the house and the side yard and the [neighbor’s] tomato plants. He said the same thing occurred on the eastern side of the house; and he noted that the roof terrace was also removed.

Mr. Tollini said that while there was extensive use of landscaping in the plans, the Board did not discuss or make any conclusive findings regarding the screening impacts of landscaping. He said that vegetation was transient but a building was not.

Councilmember Gram asked for comment on the impact the McLeods, who lived across the street from the project.

Boardmember Tollini said that the Board had received a letter regarding the appellant’s view of Ring Mountain being blocked. Tollini said that he walked the curb down to that location and found that the view from the appellant’s front yard and garage was affected, but he said that it did not “stick out” in his mind nor was it deliberated at length by the Board.

Mayor Fredericks asked if it was his sense that the appellants could see that view from their livingroom. Mr. Tollini said that he could not recall.

Mayor Fredericks returned the discussion to the public hearing.

- Ed Thor, Juno Road, said that he shared a fence with the appellant's back yard and that they did see Ring Mountain; he said that he had "put money" into his remodel project in order to keep his view of Ring Mountain and that the appellant's view should be taken into consideration.
- Matt Richter, Apollo Road, said that he was an architect and had rebuilt his home to 2300 square feet with four bedrooms and three baths and did not block any views; he added that if second stories could be done sensibly they can be appealing in this neighborhood but that in not the case in this application; he suggested that on the "inner lots," any second stories be limited to 500 square feet; he recommended that the project be sent back for a lower square footage on the second story.

Councilmember Collins asked Mr. Richter the size of his lot; he said it was 7200 square feet.

- Kevin Tinto, Mercury Avenue, said that he too was going through the Design Review process and had received approval of a one-story remodel; he said that the Dibbles were nice people and that he hoped they got the home they want; however, he said that the neighborhood was comprised of "average" people and that they had worked hard to keep it a "happy, friendly place;" he asked the Council to keep the beauty of the neighborhood while at the same time improving it.

During the appellant's rebuttal, Mr. O'Neal said that vegetation could not be relied upon for privacy and that the setbacks were greater in other examples of two-story remodels in the neighborhood. He asked that the Council reduce the size of the home or move it further away from the neighbors for more privacy.

Mr. O'Neal also said he spoke for Rod & Nancy McLeod, who spent a lot of time "hanging out" in their front yard. Mayor Fredericks asked if the McLeod's could see Ring Mountain from their living room. Mr. O'Neal said that they could.

In his rebuttal, Mr. Malott said that Ring Mountain was in the other direction. The Mayor replied that she could see it, or some mountain, from the McLeod's front yard.

Mayor Fredericks closed the public hearing.

Vice Mayor Berger stated that he understood the neighbors' concerns. At the same time, he said that the Design Review Board did a great job in reviewing the application. He said that there was no prohibition of second stories in the Town's guidelines, so the question for him was how well it had been designed.

In this application, the Vice Mayor said that the question of mass and bulk was a "close call". He said the design was heavily articulated and the peak of the roof was handled well.

With regard to the issue of privacy, Berger said that the views from the children's room on the second story did not seem to present a problem, but that the master bedroom was focused and looked down onto the neighbors' yards.

The Vice Mayor said that he had drawn a sketch in which the design was turned and the master bedroom was "flipped around" to give the Dibbles the same square footage but would allow for more light and air. The design included a hip roof at the rear. Berger said that these slight changes would include the same square footage on the second story, as well.

The Vice Mayor said that Design Review Board had adequately adjudicated the issues and he would vote to partially uphold the appeal, with these modest changes, to solve the privacy problems that remained for the neighbors.

Councilmember Slavitz said that it was a great idea to move the closet and bathrooms to the back of the second story, but that in his mind, the house still looked "massive" from the front and would impact privacy on both sides. He suggested removing the second bedroom from the second story and sliding it forward.

Slavitz agreed that the Council could not legislate against second story additions; however, he said that this house was too big for a small lot and too close to the neighbors.

Councilmember Collins concurred with the Vice Mayor's comments and agreed that the Design Review Board had done a good job. He said that Councilmember Slavitz' suggested changes would result in a de facto denial of the application.

Councilmember Gram said that he had seen a number of applications in his 12 years on the Council. He said that there was no policy against second story additions and that it was possible to do them properly. He said that the needs of families had changed over time, and that the Belveron neighborhood was changing and the homes were being upgraded. He said that the job of the Council was to review each application individually.

Gram said that while he liked the second story, the house in general seemed too bulky and that it represented too much of an invasion of privacy for the neighbors. Gram said that the Vice Mayor's ideas would result in a much prettier house. He said that Mrs. Dibble wanted to have her bedroom on the same level with her children and should be allowed to do so, and that Councilmember Slavitz' changes would eliminate two of the bedrooms on the second story.

Mayor Fredericks said that she was a "policy person." She agreed that second stories are often appropriate and could be done appropriately.

The Mayor said that [FAR] maximums were guidelines and that variances could be neutral; she said that trade-offs between variances and setbacks should be evaluated on a lot-by-lot basis.

Mayor Fredericks said she agreed with Councilmember Slavitz that this lot was uniquely situated and higher in elevation than surrounding lots which made the proposed structure seem to loom over the surrounding houses. The Mayor said that this second story affected so many neighbors that it warranted a second look. She said that it would be worth considering bringing the two bedrooms down to the first floor.

Vice Mayor Berger said that there were two ways to go: to rotate the house or move one or both bedrooms downstairs.

He said that he had seen the DRB reject requests for variances to reduce the bulk or mass of a structure but in this instance, the DRB had accepted the bulk but might ask for a hip roof and rotation.

Councilmember Gram suggested giving the Dibble family and their architect a choice of re-design.

Town Attorney Danforth attempted to clarify Council's direction and asked whether the applicants were being asked to reduce the square footage, shift the windows, or other specific requests.

Councilmember Gram said that the application should be redesigned to incorporate the comments and concerns of the neighbors.

Vice Mayor Berger said that foremost of the issues was privacy. Gram agreed, stating that the mass of the structure was not an issue as long as the privacy issues were addressed.

In response to some comments about the Ring Mountain view blockage, Councilmember Slavitz commented that there was nothing in the Town's guidelines that said a view from a garage was a "protected" view. However, Slavitz said it would be desirable to reduce the mass of the structure.

Councilmember Collins said that if the mass could be reduced somewhat, he would be in favor of approval, as long as the other admonitions of the Council regarding privacy were addressed, and that it should be a "simple" redesign.

Mayor Fredericks concurred that the major concern was privacy which might be taken care of by rotating the structure. She said that the concern regarding the square footage of the structure and its mass, especially the second story, might be helped with a roof design or by moving bedrooms downstairs.

MOTION: To remand the application to the Design Review Board for further review based on the Council's comments.

Moved: Berger, seconded by Slavitz

Vote:           AYES:           Unanimous

Councilmember Gram left the meeting at the conclusion of the appeal hearing.

**ACTION ITEMS – continued at 11:15 p.m.**

1. **Marin Clean Energy** – Hear Presentation by Marin Energy Authority on Energy Service Provider (ESP) contracts; Public and Council comment (Town Manager Curran, Town Attorney Danforth)

Mayor Fredericks re-opened the public comment portion.

Joe Nation, State Assemblyman from 2000-2006, co-author of AB 32, said he now taught public policy at Stanford University. Mr. Nation said that he was also representing PG&E.

Mr. Nation said that the Marin Clean Energy initiative “missed the mark” in its efforts and he claimed that the adoption of the Community Choice Aggregation program would actually increase greenhouse gas emissions, not guarantee rate pricing, and represented a long-term risk to participating public agency general funds.

Mr. Nation presented a series of slides to illustrate his points.

Council had a number of questions for Mr. Nation.

Mayor Fredericks asked Mr. Nation what the percentage of renewable energy sources PG&E would have if it took out hydroelectric and nuclear power. Mr. Nation said that in 2010, it would reach 15%.

Vice Mayor Berger asked Mr. Nation whether PG&E promised lower CO2 emissions as part of its program. Mr. Nation said that the focus needed to be on emissions rather than renewable energy sources, and that he would chose nuclear power over natural gas or other sources. He said that he thought the Marin Energy Authority was grossly overstating its estimates of renewable sources it could offer and its estimates of emission reductions.

Councilmember Slavitz said that the data presented showed that PG&E would not “get us” to the state-mandated levels of emission reductions; he said that PG&E would only be able to get a third of the way there. He asked Mr. Nation to comment on this.

Mr. Nation suggested that Marin County get the SMART train up and running because 60% of the emissions were caused by transportations; other sources being dairies that produce methane gas, and other things. He said that PG&E would “do its fair share.”

Slavitz asked Nation who would “lead the charge” in emissions reductions and said that there were not a lot of options other than the opportunities and options being put forth by Marin Clean

Energy.

Nation agreed that there was no single solution. He said that he would move up the cap and trade legislation and attach a cost to emissions. He said that PG&E would make the 2020 target for emission reduction.

Vice Mayor Berger questioned Mr. Nation's assertion that Marin Clean Energy was increasing emissions. Mr. Nation said that since the MCE proposal only had 25% renewables in its portfolio, 75% would have to be "brown" emission-causing sources like coal.

Councilmember Collins addressed the question of price guarantee. He said that the price to be set by MEA on the February 15 contract date would be less than PG&E pricing.

Mr. Nation said that PG&E would beat the MEA price "no matter what."

Town Manager Curran asked Mr. Nation whether underbidding the MEA created a scenario that not only expected MEA to fail but was meant to engineer its failure.

Councilmember Slavitz said that in the worse case, the energy authority would fail and the customers could go back to PG&E.

Chris Warner, Chief Counsel for PG&E, said that PG&E's interest was really in keeping its customers happy, and to inform them and prevent them from incurring harm. He said that he had lived through the 2000-01 energy crisis and knew what could happen.

Dawn Weisz rebutted some of the PG&E representatives' remarks. She said that MEA was confident that it could reach its target of 100% renewable energy sources in six years and that it would eliminate emissions from buildings, as well.

She said that the issue really turned on renewable energy because it would allow Marin County customers to "unhook" from fossil fuel sources, and that currently half of our emissions came from the use of natural gas (which was in the PG&E portfolio).

Ms. Weisz said that there was debate over the classification of nuclear energy as "renewable." She said that it was not certified as a renewable energy source by the PUC.

Finally, Ms. Weisz said that there had been misstatements about the exposure of member agencies' general funds which had caused several jurisdictions not to join the energy authority.

Weisz said that the joint powers authorities were widely used as a mechanism to protect member agency exposure. She said that three or four firewalls had been built into the JPA, the operating agreement, and the bonds themselves. In addition, she said that there would be firewalls written into the Shell Energy contract.

Councilmember Slavitz asked Ms. Weisz to comment on a Supervisor's statement that the member agencies would have to have "skin in the game" to participate.

Councilmember Collins said that this statement pertained to the short-term capital costs to fund the start-up and that the County would have to go back to member agencies for more funding at this juncture. However, Collins noted that any additional costs would have to be approved by the full Council, under the JPA.

Mayor asked whether there might be any further risks beyond the start-up costs. Ms. Weisz said this would be limited to the start-up phase.

Vice Mayor Berger asked about a statement made earlier by a member of the public that Royal Dutch Shell was getting out of the renewable energy market.

Ms. Weisz said that the contract under consideration by the MEA was with Shell Energy North America, a subsidiary of Royal Dutch Shell. She said that she would follow up on this question.

Councilmember Slavitz asked how the MEA contract, which was for a period of five years, would address the question of rate competition with PG&E.

Ms. Weisz said that PG&E had to receive rate approval through the CUP process, however, she posed the question of why they would wait to lower their rates. She said that MEA would lock in rates for one year and that there were various other contract negotiations taking place which she could not disclose.

Supervisor McGlashan said that there were options such as a five-year rate with no escalator, or a one-year rate with an escalator, but agreed that these issues were being negotiated. He said that MEA could use its operating margin to subsidize rates, as another option. He agreed that the worse case scenario would be that the customers would chose to opt out.

Vice Mayor Berger asked whether some renewable energy sources were carbon emitters. McGlashan said that some are, for instance, the methane digesters were not zero carbon emitters.

Councilmember Slavitz asked what would happen if after one year into the contract, the Town wanted to withdraw from the MEA. McGlashan said that while the Town could withdraw, it could not withdraw its resident customers.

McGlashan also said that the statement about hitting the agencies' general funds were erroneous. He said that with the \$90 million in estimated rate revenue, the MEA could indeed finance renewable energy.

Mayor Fredericks asked if there was additional public comment.

Basha Crane, representing Marin United Taxpayers, said that cities and counties have "enough

on their plates” without joining the MEA. She said that her group agreed with an IJ editorial that questioned the wisdom of spending taxpayer money on this initiative during the current economic situation. She said that MEA would become a new public agency that would require funding and suggested that funds could be better spent on affordable housing, the SMART train, etc. She said it would become a “bottomless pit.”

Ms. Crane suggested that the Council ask the San Joaquin Energy Authority, and the cities of Berkeley and Oakland, why they had not voted to form a CCA.

Ms. Crane also raised the specter of windmills on the ridgelines of Marin County.

Ms. Crane said that PG&E would still be the distributor of energy and that MEA would have to use its lines to distribute electricity.

Juliette Anthony, Californians for Renewable Energy, said that the federal government was offering 30% discounts to utilities for the first time to get into the renewable energy market. She said that when MCE first was contemplated, they were way ahead of the curve but that new market conditions created a more competitive environment.

Ms. Anthony said it was the Wall Street Journal that had reported that Royal Dutch Shell was getting out of that market.

David Barker, Lagoon View Drive, said he had been a management consultant in the energy industry (but not for PG&E) for 35 years. He said that this was a very important decision facing the Town Council and that as a concerned resident, he was skeptical about several things. In the interest of time, he handed out a list of questions (attached) that he felt were important to have answers to.

Another member of the public asked about the “opt out” option and asked when the public could further comment on the contract.

Mayor Fredericks said that there would be additional public hearings on the contract itself prior to the February 2010 deadline. She said that the Council was not being asked to take any action tonight on the contract. She also said that the Marin Energy Authority board meetings were open to the public, who are welcome to attend.

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## **ACTION ITEMS**

2. **Proposed Memorandum of Understanding (MOU) regarding *The Martha Company v. Town of Tiburon* Litigation** – Consider adoption of Memorandum of Understanding for Reduced density EIR alternative for Martha Company development application currently pending before the County of Marin (Director of Community Development Anderson, Town Attorney Danforth, Town Manager Curran)

*Motion to continue without discussion to a Special Town Council meeting on October 26, 2009, at 6:30 p.m.*

MOTION: To continue without discussion to the October 26 special meeting.  
Moved: Berger, seconded by Slavitz  
Vote: AYES: Unanimous  
ABSENT: Gram

### **PUBLIC HEARINGS**

2. **Amendments to Title IV, Chapter 13 (Building Regulations)** – Consider amendments to Title IV, Chapter 13 (Building Regulations) of the Tiburon Municipal Code to refine fire sprinkler requirements for secondary dwelling units and make other amendments thereto (Ordinance, first reading); amendment to secondary dwelling unit standards (Resolution)

*Motion required to continue without discussion until November 4, 2009*

MOTION: To continue without discussion until November 4, 2009.  
Moved: Berger, seconded by Slavitz  
Vote: AYES: Unanimous  
ABSENT: Gram

### **TOWN COUNCIL REPORTS**

### **TOWN MANAGER'S REPORT**

### **WEEKLY DIGESTS**

- Town Council Weekly Digest – October 9, 2009
- Town Council Weekly Digest – October 16, 2009

### **ADJOURNMENT**

There being no further business before the Town Council of the Town of Tiburon, Mayor

Fredericks adjourned the meeting at 12:47 a.m. on Thursday, October 22, 2009.

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ALICE FREDERICKS, MAYOR

ATTEST:

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DIANE CRANE IACOPI, TOWN CLERK