

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

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

ROLL CALL

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

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

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

CLOSED SESSION

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

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

Wayne et al. v. Town of Tiburon

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

7:00 p.m. – Jim Tobin, 17 Reed Ranch Road
7:10 p.m. – John Kricensky, 27 Old Landing Road
7:20 p.m. – Brian McCullough, 1897 Mar West

CLOSED SESSION ANNOUNCEMENT

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

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

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

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

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

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

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

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

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

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

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

Mayor Fredericks opened the item to public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTION ITEMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Fredericks closed the public hearing.

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

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

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

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

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

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

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

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

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

TOWN COUNCIL REPORTS

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

TOWN MANAGER'S REPORT

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

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

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


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

WEEKLY DIGESTS

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

ADJOURNMENT

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



ALICE FREDERICKS, MAYOR

ATTEST:



DIANE CRANE IACOPI, TOWN CLERK