

**TOWN COUNCIL
SPECIAL AND REGULAR MEETING
MINUTES**

CALL TO ORDER – Special Meeting (7 p.m.)

Mayor Tollini called the Council to order at 7 p.m. on Wednesday, May 18, 2016, for a special meeting in the Town Hall Conference Room, located at 1505 Tiburon Boulevard, Tiburon California.

ROLL CALL

Councilmembers Doyle, Fraser Fredericks and Tollini were present. Councilmember O'Donnell was absent.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation

Significant exposure to litigation pursuant to paragraph (2) of Subdivision (d) of Section 54956.9: One potential case

ADJOURNMENT – to regular meeting

CALL TO ORDER – Regular Meeting (7:30 p.m.)

Mayor Tollini called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, May 18 , 2016, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

ROLL CALL

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

PRESENT: EX OFFICIO: Town Manager Chanis, Town Attorney Stock,
Director of Community Development Anderson,
Director of Administrative Services Bigall, Chief of
Police Cronin, Town Clerk Crane Iacopi

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION , IF ANY

Mayor Tollini said there was nothing to report from closed session.

ORAL COMMUNICATIONS

Angela McNerney of Round Hill Road said she was working on improving safety for bicyclists and pedestrians on Round Hill Road. She said an immediate goal was to cut back vegetation to improve sight lines; another goal was to reduce the speed limit, and have it painted onto the road after the upcoming slurry seal project. Ms. McNerney asked the Council to consider these recommendations, on behalf of her and her neighbors. She also said that having a sidewalk would be the ultimate goal (and perhaps to install “Botts’ dots”) but she understood that sidewalks were an expensive undertaking.

PRESENTATION OF ANNUAL ART EDUCATOR AWARD

(Presentation of award by Heritage & Arts Commission Chair Fran Hall)

- Chyah Weitzman, Arts Educator, Saint Hilary School

Chair Hall said the award recognized excellent in the arts and education. She presented a plaque to Chyah Weitzman of Saint Hilary School and described her achievements. Hall said Chyah Weitzman had joined the faculty of Saint Hilary’s in 1998. She noted that in addition to teaching art, Ms. Weitzman has spearheaded two global programs – Pencils for Africa, and another, a quilting project that connected the students to children in orphanages in South America and India. Ms. Weitzman accepted the award and said her work combined the study of art with global leadership and education. She thanked her Saint Hilary family for allowing her to undertake these projects. Mayor Tollini commended Ms. Weitzman for her inspiring work.

CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of May 4, 2016 regular meeting (Town Clerk Crane Iacopi)
2. **Town Investment Summary** – Accept report for month ending April 2016 (Director of Administrative Services Bigall)

MOTION: To adopt Consent Calendar Items 1 and 2, as written.

Moved: Doyle, seconded by Fredericks

Vote: AYES: Unanimous

ACTION ITEMS

Mayor Tollini asked to take the Farmer’s Market Item first.

3. **Farmer’s Market on Main** – Consider approval of Main Street closure for a weekly farmer’s market during the summer and fall months (Office of the Town Manager/ Mayor Tollini)

Tollini said that the idea of a Farmer's Market had come about during the planning for this year's Summertime on Main. She said last year's events had improved merchant exposure in the downtown area. However, when the question arose this year of how to improve the event overall, she said a different format was proposed, in the form of a farmer's market.

Mayor Tollini said the market would enhance the experience of coming to downtown Tiburon, and she proposed the idea to the Council.

The Mayor said the farmer's market would be organized and operated by Kelly Smith, who runs 12 other farmer's markets through an organization called Agricultural Community Events Farmers' Markets (ACEFM). She said the idea was to close Main Street on Thursday afternoons for 20 weeks, from approximately 1 until 7 p.m. [tentative], beginning June 16. She asked the Council to authorize the Town to enter into an agreement with ACEFM, as well as authorize the street closure.

Councilmember O'Donnell raised the question of whether the duration of the market was too long. He said that Friday Nights on Main had originally been every Friday during the summer and into Fall. He said that although it proved to be very popular, it had been scaled back to a four to five monthly events, and was tailored to school calendars and the like. He said that sometimes "less is more".

Mayor Tollini noted that the Summertime on Main events had taken place every other week. But she said more continuity was needed for the overall effectiveness of the farmer's market.

Councilmember Fredericks wondered whether a farmer's market would undermine our local grocery stores which also sell local and organic produce.

Mayor Tollini said the farmer's market would offer a wider array of items and might serve different people, or serve people who liked to shop in both kinds of venues. Fredericks asked if the markets had been consulted because it would have been nice to have their feedback. Mayor Tollini said that we could still do that.

Vice Mayor Fraser said that the idea deserved vetting; that there was lots of energy from the merchants and it would be a positive experience for the community and visitors. He said the farmer's market fit within the framework of the ongoing efforts to help define our downtown, and to bring people downtown to utilize our local businesses.

Mayor Tollini opened the hearing to public comment.

Steve Sears said he had spoken with the General Manager of Woodlands Market who was all in favor of the Farmer's Market. Sears said his comments mirrored the comments of the downtown merchants; that "anything we can do to bring people downtown" would be a good idea.

Sears said that Ms. Kelly's markets have a good reputation in the community, and he said he thought 100% of the merchants would be in favor of the proposal. He also said there would be food trucks, as well, as part of the weekly event.

There being no additional speakers, Mayor Tollini closed the matter to public comment.

Councilmember O'Donnell asked about the proposal for vendors on the plaza areas (Fountain and Ferry Plaza). Mayor Tollini said the purpose was to have vendors and food "upfront" to bring interest and bring people in.

Councilmember Fredericks said she was happy to hear that our grocery stores had been part of the conversation because the Council would not want to create competition with local merchants. She said that citizens had asked for farmer's markets to be considered in the past. But she also said it was important to keep an eye on possible effects on other local businesses.

Councilmember O'Donnell suggested that Woodlands Market might want to have their own booth at the farmer's market. He said that he, too, was in favor of making our downtown more lively. But he acknowledged the realities of shopping – that people buy goods on the internet now more than ever. He also expressed concern about the viability of a 20-week program during the "dog days of summer".

Vice Mayor Fraser said that he, too, had met with Woodlands market representatives – owner Don Santa, as well as the general manager, when they first came to Tiburon and opened their store. He said he hoped Steve Sears' meeting tomorrow with the downtown merchants would be as successful.

Councilmember Doyle said that a farmer's market would have a different kind of variety and not impact the local markets. He said it would be great to see this take place.

MOTION: To approve the street closure of Main Street for the duration of the Farmer's Market and to authorize Mayor Tollini to sign the agreement for its operation, as submitted.

Moved: Fredericks, seconded by Doyle

Vote: AYES: Unanimous

1. **Tiburon Taps Beer Festival** – Consideration of a special event permit application to stage Tiburon Taps festival on Shoreline Park (Town Manager Chanis) – *continued from April 20, 2016*

Town Manager Chanis noted Councils' request for information about possible alternative locations for the festival at the last meeting. He said Ranch Director, Cathleen Andreucci, would provide the report.

Ms. Andreucci said that since the last Council meeting, she had explored alternate locations for the festival at Council's request. She said that closing either Main Street or Ark Row would be problematic, as it would require separating casual pedestrians and shoppers from the festival attendees. The net result, after installing fencing, and setting up tents and booths, would be 12-15 feet of usable space on the street on Ark Row, without room for tables and chairs. She said Mrs. Zelinsky, one of the major downtown properties owners, said Mrs. Zelinsky said she would not be in favor of having the festival on Ark Row or Main Street because of the loss of parking on the street and other negative impacts to the local businesses.

Ms. Andreucci offered, instead, to reduce the size of the beer festival along Shoreline Park to about half of the previously requested area of use. She said instead of stretching from the turnaround to the Donahue Building, the organizers could use about half of that length by tenting on both sides of the street. She said the band would also be moved from in front of the closest residences, and nearer to Main Street. Andreucci said the portable restrooms would be moved out of the Donahue Parking lot and brought closer in, as well but that they would be delivered and removed in the same day.

Ms. Andreucci said she had heard the concerns of the residents of Point Tiburon and had attempted to address them. She said the sidewalk would remain open along Shoreline Park for use by residents and other visitors. She said she hoped the Council would support this compromise plan for the festival which was devised to lessen the impact on the surrounding neighbors.

Director Andreucci added that Blackie's Pasture had also been considered. And even though there is currently an event scheduled to take place there that day, the location would not bring people to the downtown area which would be highlighted by the festival, and hopefully create an impression for visitors who would return. Andreucci said that visitor access to the festival via ferry was important, as well, and the location adjacent to the ferry was ideal.

The Director also noted that most of The Ranch events state they are "open to the public" while charging some sort of fee. She said Tiburon Taps was no different. She said the event would bring 800-1,000 people to Tiburon.

Councilmember O'Donnell asked how much money was made on the event. Ms. Andreucci said it was The Ranch's largest fundraiser of the year and brought in \$13,000. She said this paid for the utilities at Dairy Knoll, plus scholarships to some of its programs.

Mayor Tollini opened the matter to public comment.

The following people spoke:

1. Hank McWhinney, President of Point Tiburon Bayside homeowners, said the issue of the contractual agreement between the Town and their homeowners specified the types of uses to be made of the park; said that after consulting two attorneys, both concluded that the event would be improper and in violation of the agreement and dedication documents; said that no

- action had been taken by the homeowners at this juncture but that it remained a concern. He also said the festival had not been invited back to the commercial area of Point Tiburon because it was not adequately cleaned up; said if it was problematic there, what would happen at Shoreline Park.
2. EC Grayson, Bayside resident, said we reside in the umbrella of a “sanctuary city” and the event would attract gangs from San Francisco; said that car shows and fine wine tastings are okay but beer is different, noting that college fraternities are in danger of being thrown off campuses because of beer events.
 3. Betty Beale, former and current resident, said she loved Tiburon dearly and that a beer festival did not typify the community; said it was not something to be proud of; said that residents should come first.
 4. Jay Key, 29-year resident of Point Tiburon, said the neighbors had never objected to other special events at Shoreline Park such as the Car Show, the Chili Festival, and Town Anniversary party, among others; and noted the Chili Festival had been held in the parking lot at Town Hall. He wondered about the park behind Town Hall as a possible location for the festival. Also noted there were many other non-sponsored events, such as Fleet Week and the 4th of July fireworks also brought many people to Shoreline Park, but he said a beer festival goes against the covenant governing use of the area.
 5. Steve Sears, resident and business owner, said the festival was being cast in a bad light; said this was inaccurate based on his experience from the previous two festivals where he said he had not seen gangs or drugs or out-of-hand behavior. Sears said beer is the “in thing” and although they had not served tap beer in his restaurant for the past 38 years, they were now installing it based on demand. He said the festival would draw a sophisticated crowd and most would come by ferry. Sears said Mrs. Chong (owner of Point Tiburon Plaza) had called him after last year’s event, and he went to inspect the area and found it to be clean. He said that there was [a lingering] odor of beer and he understood that some people find it objectionable. He said he didn’t think this odor would affect the residents of Point Tiburon, and wondered whether people might be overthinking a festival that lasted only four hours. He asked that people give it a chance in the new location, and if it did not work out, to revisit the matter.
 6. Ed Lederer, resident and voter, pointed out that the festival had not been invited back to Point Tiburon for a reason; also said that relocating it to in front of the Point Tiburon residences was in violation of the agreement.
 7. Jerry Riessen, resident and volunteer at the last two festivals, said he was part of last year’s clean-up crew and could certify that the area had been cleaned up. He did say that some beer had been spilled on the pavement; he said this should not be an issue in the park. He said that the previous Council discussion had centered on bringing people downtown; he said this was a way to do it, and to use mass transit (the ferry system), as well. He said beer was as “elite” as wine nowadays, and beer festivals were not like fraternity parties.
 8. Julie Jacobs, Bayside resident, spoke about appreciating and respecting the beauty of this area; said the use of the area should be appropriate to this beauty and noted a “bottomless” beer festival did sound like a fraternity party. She asked the Council to please allow the area to be used and shared with others who appreciate and respect it, as well.

Mayor Tollini closed the hearing and opened the discussion to Council deliberation.

In response to a question from the Council, Town Attorney Stock said that Town staff had looked at the documents mentioned by the speakers and had concluded that the proposed use fit within the confines of the dedication documents. He said that the final [subdivision] map was what governed; and that it says we can use Shoreline Park for recreational and other uses. He said the latter was within the Town's discretion. He said these dedication documents are incorporated into the Town's [Shoreline Park] policy and staff thinks the policy encompasses the activities proposed in the permit application.

Attorney Stock also noted that just because an event is fenced and charges an admission fee, did not mean that it was not a "public" event.

Councilmember O'Donnell asked when the Shoreline Park policy was last revised – before or after the Town's 50th Anniversary party at Shoreline Park. Attorney Stock said it was revised last summer, after the aforementioned event. He said the policy incorporates various restrictions on public use for recreational purposes; he said the Town is guided by this policy.

Councilmember Fredericks asked what type of event would not qualify under the policy, for instance would a for-profit, non-recreational, and closed to the public event qualify. It was noted that an entrance fee does not make it a non-public event. The lack of permanent structures and the temporary duration of the use were also noted.

Town Attorney Stock said the Town's [Shoreline Park] policy restricts uses more so than the dedication documents.

Vice Mayor Fraser complimented The Ranch for doing a great job in bringing programs and events to the community. However, he said the Council's has the responsibility to approve or disapprove a permit under its policy. He said the beer festival had created angst in the community; he said he thought Point Tiburon Plaza was a perfect location and the property owner had been a supporter until last year. He said he had attended the first year but not last year. He said he still thought Main Street might work, and perhaps expanding it to the Ferry and Fountain Plaza area. But he acknowledged that this would not be ideal.

Vice Mayor Fraser said he had asked one of his colleagues on the Belvedere City Council whether they would support the festival taking place in the Belvedere Community Park. He said the response was that it would be a "non-starter" because it's in a residential area. So the Vice Mayor concluded it was all about the location. He commented that he was not sure the wine festival would work in Shoreline Park, either.

Councilmember Fredericks agreed with the Vice Mayor's conclusions. She said that independent of the arguments about legality, she thought the event seemed incompatible with the location.

Fredericks also expressed distaste for “branding” Tiburon as a place for alcohol festivals. She said this is the Town’s stellar park, with views of San Francisco and the Golden Gate Bridge, with a large, accessible area. So she said her reservation centered around location, and a desire for our “brand” to be other than alcohol-related events. Fredericks said she understood that alcohol made money but she would like the festival to have a lower profile (and location).

Councilmember O’Donnell commented that this was more of a “craft beer” festival. He said special attention should be paid to allay the fears regarding how it was run and managed, as well as clean-up. He said he thought this location would provide the best opportunity for the festival’s success, as well as the success of downtown Tiburon. He said The Ranch had just entered its first year of being self-funding and that money was an important consideration. He agreed that The Ranch does wonderful things and events for the community; he also said there were “good people” on both sides of the issue. He said that moving the logistics 200 yards was not too much of a burden; he also said that there was no legal issue, in his opinion.

Councilmember Doyle noting that he did not drink, or drink much, said he had been to both the beer and wine festivals and observed that some people “overused”. However, he said that being part of a community meant not always getting your way. He said that four hours out of 8,600 in a year did not seem too much to ask, especially noting how much The Ranch does for seniors, kids, and other members of the community.

Doyle said he would allow The Ranch to stage the festival in his front yard. He jokingly said perhaps there was another way to raise the same amount of money, e.g. everyone at Point Tiburon could contribute \$100 and not have to stage the festival. On the other hand, he said he might consider leaving town for the day if it bothered him.

The Councilmember said the Tiburon “brand” was a community that shares itself with people who appreciate it. He said if the festival could reasonably be held elsewhere, he might still consider it. But Doyle also noted the compromises made by The Ranch to cut the usage area way back, and he said he would support the event going forward.

Mayor Tollini also said she heard the concerns of the neighbors who had a truly beautiful “front yard”. She said that part of having such a beautiful front yard is that people want to congregate there. She said the Town had met with the Bayside neighbors in formulating its Shoreline Park Policy and had set parameters on use based on these meetings. She said the beer festival fits within these parameters, and would have the added benefit of doing good things for the community by bringing people downtown. In her mind, Tollini said that four hours of inconvenience is outweighed by the benefit to the community overall.

Councilmember Fredericks said she would not vote against the event, but rather, the location.

Councilmember O’Donnell said that the Town should be vigilant but see how it works out this year.

Councilmember Doyle said that all the Town's events are vetted and we feel responsible for them.

Vice Mayor Fraser said he agreed with Councilmember Fredericks' comments about location. He also said that the Council had discussed the possibility of reducing the hours of the event.

Councilmember Doyle said he was oaky with this suggestion, while Councilmember O'Donnell thought it better to let the organizers (Director) run the event the way they it had been projected, that is, from 1 until 5 p.m. He said they should make sure it's run properly, respectfully, and cleaned up afterwards.

Vice Mayor Fraser suggested that they try three hours versus four, on a trial basis.

MOTION: To approve the permit for Tiburon Taps, as amended and presented by Director Andreucci in her report.

Vice Mayor Fraser asked to amend the motion to reduce the hours of operation from four to three hours (either 1 – 4 p.m. or 2 – 5 p.m.).

Moved, as amended: O'Donnell, seconded by Doyle

Vote: AYES: Doyle, O'Donnell, Tollini

NAYES: Fraser, Fredericks

2. **Town Refuse Contract Extension** – Discussion of Mill Valley Refuse Service contract renewal terms; provide direction to staff (Director of Administrative Services Bigall)

In her report, Director of Administrative Services Bigall said that an extension of the Town's contract with Mill Valley Refuse Service (MVRS) would occur automatically under the terms of the franchise agreement, unless Council took action to cancel it by June 30, 2016.

Director Bigall said the Town has had an exclusive franchise agreement for solid waste collection with Mill Valley Refuse Service (MVRS) since 1965. She said the current franchise agreement was approved by Council in 2011 (with an effective date of July 1, 2011). She said the initial term of the agreement was for 10 years, with two optional five-year extension periods. She said these two extensions will occur automatically, unless the Town Council chooses not to extend the agreement.

Bigall said if the Council determines it **does not** wish to exercise its option for the first five-year extension period it must provide written notice to MVRS by June 30, 2016. This would result in the agreement terminating on June 30, 2021. Should the Council determine it **does** wish to exercise its option for first five year extension period, Bigall said it will have an opportunity to consider the second five-year extension by June 30, 2021.

Director Bigall said the Town has enjoyed a good relationship with MVRs, with the latter providing competitive rates and a willingness to adapt to the Town's evolving needs and resident preferences. She said MVRs is responsive to requests of individual citizens and Town staff relating to all aspects of its refuse collection services. She said the current agreement is the result of significant hours of staff, contract attorney, and Council time to negotiate. Other than concerns with annual rate increase requests, she said the agreement appears to be working well in providing this vital service to Town residents and businesses.

Bigall said the purpose of bringing the item to the Council is to provide the Council with an opportunity to exercise its rights under the agreement in a timely manner should it have significant concerns with any portion of the current agreement with MVRs.

She said no formal action is required if the Council is satisfied with the current agreement and wishes to allow the first five-year extension period to proceed; however, she said Council may choose to acknowledge this decision through a motion.

Finally, Bigall said that if the Council determines it does not wish the first five-year extension period to proceed, it should direct staff to deliver a Notice of Non-Extension as required by the agreement.

Vice Mayor Fraser asked if the contract would be voided as of the "drop dead" date.

Town Attorney Stock said it would be terminated at the end of five years, if the non-extension notice was delivered. He said the Council would not be able to re-enter an agreement on new terms if that action was taken; rather, it would have to go out to bid on new service.

Fraser asked whether the notice period might be changed to three years, or the like. Town Attorney Stock said the Town did not have unilateral ability to change the terms of the contract.

Councilmember Fredericks said her understanding of "evergreen contracts" was they were necessary so that businesses could have long-term guarantees in order to not put the viability of the business at risk. Director Bigall concurred with this understanding.

Jim Iavarone, MVRs principal, said this was true. He said, for instance, that the company had just purchased new trucks and would like 10 years to amortize the cost. However, he also said that alone was not a reason to keep a contract intact; rather, he said the reason is what had been previously stated; that MVRs provides good service to the Town's residents and is responsive to their changing needs. He said there seemed to be a level of satisfaction with the contract as evidenced by the lack of public speaking in favor of termination. He said that if there is something that is not working, he would be willing to talk with the Town about it at any time, without having the company's "feet held to the fire".

Mayor Tollini opened the public hearing. There being no public comment, Tollini closed the public hearing.

Councilmember Doyle responded to Mr. Iavarone's comments by saying there is simply a "feeling" sometimes of "nickel and diming" of services. He used the example of Marin Municipal Water District raising its rates even though its ratepayers had cut back on water usage. He said it seems, sometimes, that rates continue to go up, while services go down. But Doyle agreed that MVRS provides great service; he said the challenge is rates and how to manage them. He suggested an improvement might be to better explain to the ratepayers what they are paying for.

Councilmember O'Donnell said the nature of the problem with evergreen contracts was that they lead to a monopoly provider, and that this leads to a "cost plus" mentality when it comes to setting rates. As a businessman, O'Donnell agreed that costs such as health care, fuel, and the like, do go up, which can drive rate increases. He said if there were five or six providers out there for garbage service, it would be different.

O'Donnell said the fiduciary responsibility of the Council is to the taxpayer and the ratepayer. He noted there were not a lot of options for providers in Southern Marin. He said MVRS provides great service and it would be destructive to residents to lose this service. So, he said the process was to find a balance.

Councilmember O'Donnell said he helped write the current agreement, along with former Councilmember Collins. He said he was satisfied with the contract extension based on the excellent service provided by MVRS, as well as extra benefits in the contract, such as porta potties and dumpsters provided free of charge for Town events.

No action was taken by the Council, thereby allowing the extension of the MVRS franchise agreement, as written.

3. **Farmer's Market on Main** – Consider approval of Main Street closure for a weekly farmer's market during the summer and fall months (Office of the Town Manager/ Mayor Tollini) - *Heard first on agenda.*
4. **Appointments to Boards, Commissions & Committees** – Consider appointment to fill pending vacancy on Belvedere-Tiburon Library Agency Board of Trustees (Town Clerk Crane Iacopi)

Town Clerk Crane Iacopi gave the report. She said that Tiburon appointee Jeff Foran was interested in, and eligible for, a second term on the Board. She also said there were no other applicants.

There were no Council questions or public comments.

MOTION: To reappoint Jeff Foran to the Library Agency Board for a second term, effective July 1, 2016.
Moved: Fredericks, seconded by Doyle
Vote: AYES: Unanimous

TOWN COUNCIL REPORTS

Councilmember O'Donnell reported that Marin Clean Energy had expanded to all the cities and towns in Napa County, as well as to the City of Lafayette. He said MCE was also poised to reduce rates to its customers, which had been achieved through cost savings of various types. He said the rates would not be much cheaper than PG&E, however, due to the PCIA fee [a customer departure fee it is allowed to assess]. He said MCE is "carrying the torch" to eliminate these fees. He said the state legislature is also interested in the elimination of the fee.

O'Donnell also reported on a meeting of the Town's budget subcommittee. He said one idea that had been floated by Town Manager Chanis was to control costs through the use of seasonal hires in the parks and recreation areas. He said this would be discussed in more detail going forward.

TOWN MANAGER REPORT

Town Manager Chanis said that this issue and a full presentation of the Town's FY 2016-17 budget would come to the Council at the June 1 and June 15, 2016 regular meetings.

WEEKLY DIGESTS

- Town Council Weekly Digests – May 6 & 13, 2016

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Tollini adjourned the meeting at 9:05 p.m.


ERIN TOLLINI, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK