

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, AUGUST 12, 2010

1. 6:30 P.M. Commencement.

Present: Mayor Martin; Mayor Pro Tempore Small; Council Member Hunter, Council Member Russell; Council Member Strauss; and Town Attorney Hadden Roth

2. Posting of Agenda.

Town Manager Gary Broad reported that the agenda was posted according to government code.

3. Open time for matters pertaining to the closed session in agenda item 4. - None

4. Closed Session.

Labor Relations - Government Code Section 54957.6 related to negotiations between the Town of Ross (Gary Broad, Town Manager, Richard Strauss and Scot Hunter, Ross Town Council, as Town Representatives) and the Ross Professional Firefighters Association, Local 1775.

5. Open Session. Council will return to open session and announce action taken, if any. Mayor Martin announced the Town Council had reached an agreement in closed session with the Ross Professional Firefighters Association to extend the existing firefighters' contract for one year through June 30, 2011. The agreement includes new language confirming the Town's right to consolidate or contract for fire services, something both the Town and the Association wish to explore, subject to meeting and conferring with the Association regarding the impact of that decision.

6. Minutes - July 15th & July 29th

Mayor Martin asked for a motion.

Council Member Strauss moved and Council Member Hunter seconded, to approve the Minutes of the Special Ross Town Council meeting on July 15, 2010 as amended. Motion carried unanimously.

Council Member Strauss moved and Mayor Pro Tempore Small seconded, to approve the Minutes of the Special Ross Town Council meeting on July 29th, 2010 as amended. Motion carried unanimously.

7. Demands.

The demands were met.

8. Open Time for Public Expression - None

9. Town Council consideration of adoption of Resolution No. 1715 commending Police Sergeant Robert Tucker upon his retirement.

Police Chief Jim Reis recommended that the Council consider adoption of Resolution No. 1715, commending Police Sergeant Robert Tucker upon his retirement.

The Council commended Police Sergeant Robert Tucker for his many years of dedicated service to the Town upon his retirement. Sergeant Tucker has been with the Ross Police Department since 1983.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Strauss seconded, to adopt Resolution No. 1715, commending Police Sergeant Robert Tucker upon his retirement. Motion carried unanimously.

10. Town Council consideration of adoption of Resolution No. 1716 commending Fire Captain Bruce Selfridge upon his retirement.

Fire Chief Tom Vallee recommended that the Council consider adoption of Resolution No. 1716, commending Fire Captain Bruce Selfridge upon his retirement.

The Council commended Fire Captain Bruce Selfridge for his many years of dedicated service to the Town upon his retirement. Captain Selfridge has been with the Ross Fire Department since 1973.

Mayor Martin asked for a motion.

Council Member Strauss moved and Council Member Hunter seconded, to adopt Resolution No. 1716, commending Fire Captain Bruce Selfridge upon his retirement. Motion carried unanimously.

11. Recognition of Gianfranco Campa for promotion to Police Sergeant.

The Council and Police Chief Jim Reis recognized Officer Gianfranco Campa on his promotion to Police Sergeant.

12. Recognition of Jim Popken for promotion to Fire Captain

The Council and Fire Chief Tom Vallee also recognized Engineer Jim Popken for his promotion to Fire Captain.

13. Report from Mayor.

Mayor Martin reported that the Lagunitas Bridge closure is having an adverse impact on the Ross merchant district. Ross merchants need support from Town residents. Grab a sandwich at Eddies, a café latte made with Blue Bottle Coffee at Café on the Commons, get a perm or a spa treatment at Tizka Salon, have a memorable dinner at Marche aux Fleurs, or a plate of pasta at Trattoria Fresco. August is the perfect month to stroll or ride a bike to the Town's wonderful merchant district. Please take advantage of convenient shopping and dining in Ross.

Mayor Martin indicated that the Ross Town Council makes decisions and sets direction for promoting public safety, the economic well-being of the Town, administration of local government, protection of the Town's environmental assets and neighborhoods. Good and open governance is accomplished not only via monthly Council meetings, but also through ongoing committee meetings. The assignments for the Town's standing committee during

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fiscal year 2010-11 are as follows: Community Protection Committee, Council Members Scot Hunter (chair) and Rupert Russell; Public Works Committee, Mayor Pro Tempore Carla Small (chair) and Council Member Rick Strauss; General Government, Council Member Rick Strauss (chair) and Mayor Pro Tempore Carla Small; Finance Committee, Council Members Rupert Russell (chair) and Scot Hunter. Please feel free to contact any Council member about any issue of local concern.

Also, under Agenda Item No. 21, the Council will receive input on improvements to Frederick Allen Park. Mayor Martin explained that Proposition 24 provided the Town with about \$226,000 for park improvements. There will be an additional opportunity for public input on how park funds should be spent at the next Town Council meeting on September 16th, 2010. Mayor Martin further announced that the Ross School opens on August 23rd at 3 p.m. and the Town dinner at the Common will be held on Friday, September 24th.

14. Report from Committee Heads.

Public Works - Mayor Pro Tempore Small

- Public Works Committee Update

Mayor Pro Tempore Small reported that a Public Works Committee meeting was held on August 3rd and expressed appreciation to the entire Town staff. There has been and continues to be a significant number of projects and the Committee recognizes their efforts on the Town's behalf. The Sir Francis Drake pedestrian pathway is beginning and the Sir Francis Drake overlay will follow that project the last two weeks in September. The Lagunitas Bridge replacement is on schedule. The Committee has an initial discussion on the Frederick Allen Park improvements that will be discussed later during Agenda Item No. 21. The committee denied the proposed AT&T terminal in the right-of-way of 103 Lagunitas Road. They also recommended right-of-way issues regarding improvements and landscaping as a topic at the Council's upcoming retreat. Public Works Superintendent Robert Maccario located a water trailer that is being purchased to help nurture the Town's young trees. Also, on a side note, during open session an individual discussed concerns about the Sunnyvale Way and that will be reviewed and possibly be placed on next agenda. The Ross School gave a presentation and during the tour, the School highlighted parking spaces on Allen Avenue. They placed white "T" marks to make parking more organized and to have the most effective use of that area for teacher parking. Since that worked so well, there has been some discussion of the same white "T" marks between Shady Lane and Willow Way. At times there are issues with parents blocking driveways, so the "T" zones might be very effective and she enlisted the thoughts from Police Chief Jim Reis and the Council.

15. Report from Ross Property Owners Association – No report.

16. Report from the Ross School.

Bob Dickinson, School Board Member, invited the Town of Ross students, faculty/staff, school parents, alumni, and community members to what will be an historic occasion, the grand opening of the new sustainably-designed Ross School on Monday, August 23rd, at 3 p.m. Their 21st century facility includes K-5 classroom: art, Spanish, music and library facilities, which will be enjoyed by K-5 and middle school students; a conference room district office; and state-of-the-art technologies and amenities. They encourage all to stop by and tour the new facility on August 23rd. The grand opening would not be possible without the help of the Town Council and so many constituents in Town. To the Ross Town Council, thank you for adjusting their lot line and providing Ross School the easement

permits to complete construction of the new school and multi-purpose room. To the Public Works and Public Safety Departments, thank you for coordinating efforts with Ross School architects, construction management, arborist and other staff throughout construction. To the Ross community members, thank you for passing two bond measures and providing the funds to help build the new Ross School. The project to-date is well within the original budget. To the Ross School faculty, staff and school children, thank you for putting up with two years of portables and keeping education as the focus throughout construction. The other day in front of the Ross School, a gentleman pulled up in his vehicle and rolled down his window. It was 84-year old John Miles, Ross School graduate, Class of 1941. He recounted his memories of the last time Ross opened a new school in 1940-41. While it was being built, fourth through eighth grade classes were held in the Queen Anne Victorian home on the corner of Redwood Avenue and Ross Common where the movie "Jack" was filmed in the 1990s. Mr. Miles proudly explained that the eighth graders got to take their classes in the living room, which had the best furniture. He reminded Mr. Miles about the grand opening, and as he drove off, he said, "I'll be there!" Please join Mr. Miles and others as the Ross School celebrates the grand opening on August 23rd, at 3 p.m. Ride or walk, if possible. Those who must drive, 40 spaces will be available on a first come, first served basis behind the School on the blacktop entering Allen Avenue. Additionally, two shuttles will run from 2:30 – 6 p.m. between St. Anselm's parking lot on Bolinas Avenue and Ross School. He further noted that the last shuttle will leave the school at 5:30 p.m.

17. **Flood Control Report** – No report.

18. **Consent Agenda.**

The following five items will be considered in a single motion, unless removed from the consent agenda:

a. **Town Council consideration of adoption of Resolution No. 1717 authorizing the Town Manager to execute grant agreements with the California Emergency Management Agency**

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Russell seconded, to approve Consent Calendar Item "a" as submitted by staff. Motion carried unanimously.

b. **30 Ross Common, Commercial District Use Permit No. 1792**

Marcella Arana, Joseph and Deborah Montero, Property Owners, Tinsley Hutson-Wiley, Applicant, 30 Ross Common, A.P. No. 73-272-11, Local Service Commercial District (C-L), Zone A (area of 100 year flood). A Local Service Commercial District Use Permit application for a retail store for gifts, furniture, and house and garden accessories. The applicant estimates the business would have two employees and customer traffic of 5-10 clients per day. Proposed days and hours of operation are Monday through Saturday, 10 am to 4 pm.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Russell seconded, to approve Consent Calendar Item "b" as submitted by staff. Motion carried unanimously.

30 Ross Common Conditions:

1. This use permit shall allow the operation of a retail store for gifts, furniture, and house and garden accessories and associated office space with the hours and days of operation in the use permit application, and subject to the following conditions of approval.
2. This use permit shall expire within one year from the date of approval if not exercised.
3. The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.
4. A sign permit is required from the Town prior to installation of any new signage. Any exterior modifications, including repainting, shall require approval by the Planning Department staff. Town staff shall review any proposed signage with two members of the ADR Group prior to approval.
5. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, or seating, requires prior approval of a revocable encroachment permit from the Director of Public Works.
6. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A local alarm system is required.
7. NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.
8. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.
9. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

c. 59 Winship Avenue, Amendment to Variance No. 1761

Robert and Carol Momsen, 59 Winship Avenue, A.P. No. 72-162-02, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum lot size), Medium Low Density (3-6 units per acre). Amendment to plans approved by the Town Council on December 10, 2009, and amended on July 15, 2010. The applicants request a lot coverage variance to add a 4 foot by 7 foot covered entry porch at the rear of the residence.

Lot area	9,583 square feet	
Approved Floor Area	33.9%	
Proposed Floor Area	33.9%	(20% permitted)
Approved Lot Coverage	29.3%	
Proposed Lot Coverage	29.5%	(20% permitted)

Approved Impervious Areas	35.0%
Proposed Impervious Areas	35.0%

The garage is nonconforming in setbacks.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Russell seconded, to approve Consent Calendar Item “c” as submitted by staff. Motion carried unanimously.

59 Winship Conditions:

1. The project shall be subject to all conditions previously imposed by the Town Council for the project under construction at the site.
2. Revised plans showing the additional work shall be submitted to the building department for review and approval prior to construction.
3. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to the issuance of any building permits or construction in conflict with the approved plans.
4. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY AUGUST 12, 2011 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
5. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

d. 93 Bolinas Avenue, Extension of Time for Variance and Design Review No. 1747

Paul and Tori Steege, 93 Bolinas Avenue, A.P. No. 73-041-15, R-1 (Single Family Residential), Medium Density (6-10 Units/Acre). A one-year time extension to July 9, 2011, for a variance and design review application approved July 9, 2009, to allow the following modifications to the existing residence: 1.) relocation of existing dormers on the north facing roof and construction of a new gable/shed dormer to increase the ceiling height of existing upper level floor area; 2.) new gable roof for existing carport and extension of the carport 8 feet towards the front yard; 3.) replacement of the existing porch with a new porch and second floor roof deck; and 4.) a new hot tub within the rear yard setback (40 feet required, 3.5 feet proposed) and east side yard setback (15 feet required, 3.5 feet proposed). The hot tub would be located on an existing deck that covers a seasonal stream contained in a concrete channel.

Lot area	6,400 square feet	
Existing Floor Area Ratio	1,943 sq. ft.	30.3%
Proposed Floor Area Ratio	2,037 sq. ft.	31.8% (20% permitted)
Existing Lot Coverage	1,393 sq. ft.	21.8%
Proposed Lot Coverage	1,487 sq. ft.	23.2% (20% permitted)

The existing residence and carport are nonconforming in side and rear setbacks.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Russell seconded, to approve Consent Calendar Item “d” as submitted by staff. Motion carried unanimously.

93 Bolinas Avenue Condition:

Approve the requested time extension based on the findings in the 2009 staff report and the conditions of the July 9, 2009, Town Council approval of the project.

e. 30 Sir Francis Drake Blvd, Variance No. 1791

Marin Art & Garden Center, 30 Sir Francis Drake Boulevard, A.P. Nos. 72-231-01, 02 and 23, C-C (Community Cultural), R-C (Limited Specialized Recreational/Cultural). Variance to add a 192 square foot greenhouse for plant propagation to the southwest corner of the site, within the front yard setback (3 feet proposed, 25 feet required) without providing additional parking at the site (2 additional spaces required).

Lot area	439,858 square feet	
Existing Floor Area Ratio	6.3%	
Proposed Floor Area Ratio	6.3%	(20% permitted)
Existing Lot Coverage	6.3%	
Proposed Lot Coverage	6.3%	(25% permitted)

The existing site is nonconforming in required parking spaces.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Russell seconded, to approve Consent Calendar Item “e” as submitted by staff. Motion carried unanimously.

30 Sir Francis Drake Blvd. Greenhouse Conditions:

1. The application fee for the project shall be \$300.00
2. The greenhouse structure is only approved for plant propagation and related use. The greenhouse may not be converted to another use without prior Town approval.
3. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the

-Final EIS/R September 2011
 -FWS CAR June 2011

- Alternative Analysis:
 - 50% complete cost estimates
 - 60% complete quantity takeoffs
 - Design layouts for each alternative
 - Hydrology & Hydraulics for Units 2 & 3
- Unit 4 Measures:
 - Remove Fish Ladder
 - Transition Structure Unit 4 to Unit 3
 - Channel modifications 100 to 200 ft. long on bank opposite from Post Office
 - Flood walls
 - Lower channel bed
 - Widen channel upstream from Lagunitas Bridge
 - Widen channel opposite and downstream from the Post Office approximately 50 to 100 ft. for improvements.
- Measures
- Work in Units 2 & 3:
 - Floodwalls from Locust Avenue – College
 - Improve fish passage (resting pools)
 - Interior drainage facilities where floodwalls prevent return flows
- Floodwalls Units 2 & 3
- Way Ahead:

<u>Task</u>	<u>Finish</u>
- Environmental Tasks	September 2011
-Alternative Review Conference	May 2011
-Alternative Formulation Briefing	October 2011
-Draft GRR/EIS/EIR	January 2012
-Feasibility Review Conference	March 2012
-Final GRR	July 2012
-Report GRR	October 2012
-Plans & Specs	June 2013
-Construction	2013/2014

The Army Corps is currently completing baseline conditions for the environmental reports and developing cost estimates for 34 measures that will make up nine different plan alternatives for the cost-benefit analysis. Draft environmental reports are expected to be finished in January 2012 and environmental review completed by October 2012.

Project measures include: removal and replacement of the fish ladder; lowering and widening the channel bed and re-grading the bed to obtain a smooth transition from Lagunitas Road Bridge to the beginning of the concrete channel; constructing a natural sediment basin within the existing concrete channel; constructing floodwalls and raising existing floodwalls approximately 1-3 ft. in some locations; and improving fish passage and drainage facilities. Improvements in Unit 4, which is the section that includes the Lagunitas Road Bridge and the fish ladder, will not require any concrete construction. Project construction is tentatively

scheduled for 2013 or 2014.

Two of the nine plan alternatives are designed to increase channel flood capacity from the existing capacity of 3,300 cubic feet per second (cfs) to 5,400 cfs, which is equivalent to the 38-year flood level. The new Lagunitas Road Bridge is designed for a capacity to 5,400 cfs, and the Corps acknowledged the need to design improvements that can accept the increased floodwater flow. The Marin County Flood Control District is working on upstream creek capacity improvements and construction of detention basins that will further reduce floodwater flows, with the goal of delivering no more than 5,400 cfs during a 100-year storm.

Flood District Project Manager Curley supports this process and is responding to Army Corps request for information in a timely fashion as well as making technical support available, specifically Stetson Engineers on the hydraulic model.

Council Member Strauss discussed the natural grade solution through the Town and asked if that work is being integrated into the Army Corps work. Army Corps Project Manager Funes responded that the work of Stetson is being incorporated, which is the foundation of all their plans. With the 5,400 cfs is when walls would be increased and at 5,000 cfs, they do not include floodwall heights.

Council Member Hunter clarified that 3-foot walls are needed passed the Post Office to accept what is coming from the bridge. Army Corps Project Manager Funes responded in the affirmative. They must look at an array of alternatives. Realistically, with 5,400 cfs there will be floodwall heights. If they widen the channel, then they will get into property rights. It was limited to 5,400 cfs due to environmental concerns and if the channel is widened there would need to be vertical walls.

Council Member Strauss wanted to incorporate walls with benches and remove the raised platform for the paddle courts and have it "at grade" to help the flow in terms of Frederick Allen Park. Army Corps Project Manager Funes noted that they might need to build a floodwall off the bike path and benches will tie into the actual use of that path. They are limited and can only build up to 2 ft. structurally. Flood District Project Manager Curley noted that the height varies depending on the hydraulic channel, so it could be as high as 3 ft. and other cases it may not need to be 3 ft. for the same flow. They are advocates of using the bike path. Also, this is the first time he has heard of the walls in Unit 4 as well. They suspected that might be the case, but analysis needs to be done to understand. Council Member Strauss just wanted all parties to work together in order not to lose all the history. Project Manager Curley noted that all parties are integrated. He further agreed to send the presentation to Town Hydrologist Matt Smeltzer.

Council Member Russell believed the difference between the projected 5,400 cfs and the 100-year flood level is anticipated to be made up by the detention basins. Flood District Project Manager Curley expects there will be some recommended floodwalls in San Anselmo and possibly Fairfax along with a combination of detention basins and creek capacities. If they just did the detention basins without improving the creek, they would need to provide 1000-acres of storage in detention basins. They also looked at where they can improve capacity. The goal is to deliver 5,400 cfs to this area and no more. It will be a combination of all of the above to reach that 100-year level. The County is on a similar timeline as the Army

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Corps. Projects take about four to five years to go through the design, environmental review process and regulatory review. He hopes to start some of their projects next year, which will put them on the same track of 2013-14. The State will issue guidance on monies available for the next fiscal year and they are submitting applications for three projects. He further added that planners must watch what is coming up in terms of grants.

Council Member Russell recommended having another discussion in six months in order to have regular updates. Mayor Martin agreed. Flood District Project Manager Curley created a technical work group with representatives from each town and volunteers from different organizations. Extensive background is given to those individuals to provide information to towns and cities and attending Town Council meetings is a supplement to that information as well as providing an overview. Town Hydrologist Matt Smeltzer represents the Town of Ross along with a resident from the Town of Ross who can provide information as well. Their website is being updated and they are looking to provide information updates in many different ways.

Council Member Strauss asked about the shared costs. Flood District Project Manager Curley had no clarification at this time. Army Corps Project Manager Funes added that Unit 4 is not a new project, so there are no changes to the scope. It should retain the same cost sharing, which is 1½ % contribution from the Flood Control District along with acquiring any land.

Mayor Martin discussed the floodwalls in the Ross portion of the channel, not the obnoxious concrete walls, but a natural wall that blends. Army Corps Project Manager Funes stated that some sort of elevation is needed in that area. It could be in the form of an overbank protection or walls that have benches incorporated. It is yet to be seen and they are open to the Council's input. Mayor Martin clarified that they are talking about a natural basin. Army Corps Project Manager Funes stated there would be no concrete in Unit 4. Flood District Project Manager Curley noted that it could be earth and berms if there is space or concrete with an architectural treatment.

Mayor Martin discussed funding to complete engineering and environmental work. Army Corps Project Manager Funes noted that the Army Corps received \$470,000 last year and it is unknown what will be received this year. They will know between November and March. When the Army Corps expresses capability, it is strictly based on the schedule and they would not ask for more funds and show a carryover to the next fiscal year. They can accept funds from communities, but he is not sure how that would affect any cost sharing agreement already in place. He believed a letter from Marin County's State representatives would help, but it is not a guarantee and it is up to the Appropriation Committee. Flood District Project Manager Curley agreed it is important to maintain contact with the State representatives.

Council Member Hunter asked who is the citizen representative. Project Manager Curley indicated that Baywood resident Cindy Lawler is Ross's citizen representative.

The Council thanked Army Corps Project Manager Funes and Flood District Project Manager Curley for their presentation.

Mayor Martin opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and moved onto the next agenda item.

20. Town Council consideration/action on sending a letter to the California Public Utility Commission Requesting Suspension of Deployment of SmartMeters in Ross

Town Manager Gary Broad summarized the staff report and recommended that the Council consider sending a letter to the CPUC requesting suspension of deployment of SmartMeters in Ross.

PG&E spokesman Josh Townsend indicated that this is an overall outreach program. They understand the concerns and questions. Their answer centers are open in Marin as well as in Novato opening next week. They will have large open house forums in Southern Marin and Northern Marin and all communities will be invited along with press to answer all questions to better inform the public. He further believed this is exciting technology that allows monitoring of energy use.

PG&E Senior Director Andy Tang provided the Council with a powerpoint presentation on the SmartMeter Program Overview that included the following:

- What is a SmartMeter?
 - Industry-standard digital electric meters used at PG&E since 1980
 - Same measurement component
 - New communications devices installed to transmit the reading to PG&E and to the customer
 - Hourly or 15 minute interval for electric; daily for gas
 - 10 million upgrades by 2012 (6.3 million as of 8/3)
 - Part of overall national policies to modernize the electric grid. SmartMeters are the primary component that enable customers with the option to proactively view and manage their energy usage and costs.
- SmartMeter Program Benefits: Energy usage feedback can help households reduce electricity consumption by 4 to 12%
 - Customer Service – Provides customers more convenience and better, faster service:
 - Convenient meter reading
 - Faster power restoration
 - Faster startup of service after moving
 - Faster problem resolution
 - Better billing
 - Choice & Control – Provide customers greater choice and more control over their energy bills
 - Complete energy usage information and tools to help reduce costs
 - Proactive Energy Alerts
 - New pricing options including SmartRate
 - Enable the Future – Put in place a platform for innovation:
 - Enhanced options for customers to manage their energy use

- Distributed generation and storage
 - Support demand from electric vehicles
- Today: View Your Energy Use
 - Secure customer access through www.PGE.com
 - Energy use by hour or day
 - View by billing cycle, month, or week
 - For SmartRate customers, colors designate critical peak, peak, and off-peak
 - Temperature overlay
- Today: Energy Alerts -
 - Early warning of high usage with enough time to react
 - When actual usage-to-date crosses Tier 3, 4, or 5
 - When usage is forecasted to cross Tier 3, 4, 5 by end of billing period
 - Delivered via:
 - Email
 - Text message
 - Outbound phone call
- Ross Deployment – 71 SmartMeters; 1782 Conventional Meters
 - Target completion -December
- SmartMeter Network Equipment: Ross
 - Only (1) wireless access point
 - 2 Lagunitas Road – mounted on a PG&E distribution pole
 - Two (2) Gas Meter Data Collection Devices both mounted on PG&E distribution poles
- RF Transmission Safety:
 - SmartMeters have a much lower signal exposure than a cellular phone
 - SmartMeters meet or exceed multiple federal & international guidelines
- Protecting Customer Privacy:
 - Protecting customers information is a top priority
 - PG&E has taken steps to ensure system and data security
- Commitment to Resolving Issues:
 - More than 99% of SmartMeters work properly
 - PG&E is working to resolve the issues found
 - Testing
- Addressing Customer Concerns:
 - There are no risks associated with SmartMeter devices
 - SmartMeters do not monitor what appliances customers are using
 - Customer disconnections will not increase with SmartMeter devices

Council Member Hunter stated that the biggest conundrum PG&E has is their PR. These meters offer a great deal, but they are being jammed down residents' throats, which is not appropriate. He recommended waiting and allow the testing to be conducted, which will provide results in September. PG&E Senior Director Tang explained that PG&E has done

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thorough investigation and have a high degree of confidence in what has happened, accuracy in technology and response. This is a very large-scale deployment project operating on a tight budget. Workforce issues have enabled a workforce of 600 plus moving across the State deploying meters. They must retain and train a skilled workforce. They are not able to demobilize that workforce and then remobilize and hope to find the same individuals.

Mayor Pro Tempore Small discussed the 71 SmartMeters in Ross and asked if those residents were informed. PG&E Senior Director Tang responded that since it was part of a schedule change or retrofit property, residents were not informed of a SmartMeter being installed. Mayor Pro Tempore Small felt when making a change, the homeowner should be notified. The issue she has is privacy. There are several that take question in regard to security. The CPUC is conducting studies and she is uneasy and cautious in that regard. She believed they would see higher pricing for the peak times of the day from 12 p.m. to 6 p.m.

PG&E Senior Director Tang pointed out that the life of the program pays for itself. Since it is a capital project, there is an increase in the short-term, but overtime it pays for itself. Individual customers will not see the increase in their bill; it is in their rate.

Council Member Strauss recommended that the Council be cautious and wait until the study is available in September. He further recommended following the Board of Supervisors, San Francisco, Belvedere and Fairfax, which is to wait.

Mayor Pro Tempore Small believed they should be proud to inform residents of this SmartMeter and it seems that it is being done under the radar. PG&E Senior Director Tang noted that a letter is sent out as well as a welcome kit introducing the customer to the SmartMeter and customers are able to go online to access some of the online features. They are extremely proud of these meters as well as their energy alerts. He further agreed that they did make a mistake and should have notified all customers about the scheduled meter changes.

Mayor Martin asked if customers are able read the meter without connecting to the Internet. PG&E Senior Director Tang explained that there is a display, but peak data reading is online. Mayor Martin would have preferred to see a meter that one can read on the spot and then transmit to a PG&E reader. A customer should be able to go outside of their home and read the meter rather than logging onto the Internet and this meter does not have that capability. He feels like a guinea pig. PG&E Senior Director Tang responded that this has been deployed in other utilities and the entire industry is moving in this direction.

Mayor Martin opened the public hearing on this item.

Phil Cecchettini, Wellington Avenue resident, stated that new wooden poles were placed in his neighborhood, but subcontractors did the work and they left debris in the street and he had to deal with a company in Ohio. He then asked if the deployment force would be PG&E employees. PG&E Senior Director Tang responded that it is a hybrid of PG&E contractors and subcontractors. All matters and business is handled by PG&E. He further noted that there is a SmartMeter call line specific for issues.

Phil Paisley, Baywood resident, stated that there is miscommunication. There are no SmartMeters in Ross. They just installed 71 digital meters. The technology is not actually

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being able to be received. The idea of SmartMeters is adding communication on top of a power grid. There is no analog meter, only digital meters. PG&E Senior Director Tang agreed. Mr. Paisley noted that power companies are installing digital meters. He then asked when Chicago Power & Light went into the smart grid system, they announced by placing a demo on their website, which is spectacular and recommended that PG&E do the same. PG&E Senior Director Tang explained that they did a pilot program and they have not done enough promoting. They are in the process of adding information on their website announcing features and energy alerts, which is a key example.

Public Works Director Jarjoura clarified that anytime a service is upgraded, residents are required to put in a new SmartMeter. PG&E Senior Director Tang stated that analog meters are not available. Manufacturers will no longer make analog meters. With a new service or customer upgrading their home, a new SmartMeter will be installed, which will be a non-transmitting digital meter.

Mayor Pro Tempore Small asked at what point in time do they plan on transmitting. PG&E Senior Director Tang indicated that they go live 60 to 90 days after installing the meters.

Senior Planner Semonian asked the size of the equipment and will cellular antennas need to be placed in Town. PG&E Senior Director Tang noted that the electric device is the size of a shoebox with a cellular antenna on top. It takes data from meters and sends it to the office. Gas meters are roughly 2 ft. by 2 ft. in size and they intend on mounting all on PG&E's distribution poles.

Public Works Director Jarjoura asked if a permit is required. PG&E Senior Director Tang responded that there is no permit required. They are exempt as part of the public utilities code.

Mr. Paisley asked if the signal is being encrypted. PG&E Senior Director Tang responded in the affirmative.

Council Member Russell asked if there is a disadvantage to suspending deployment. PG&E Senior Director Tang responded that they are not delaying deployment in Fairfax. They are just making sure they schedule outreach in time to address the public through the answer centers to provide more education about the program.

Public Works Superintendent Maccario asked with new technology, can power be shut-off from their office. PG&E Senior Director Tang indicated that there is a remote connect feature on the meters. They are able to differentiate around business process and then execution of that command. PG&E increased payment plans by 36% and decreased the number of disconnects for customers by 33%. They preserved the advance security to make sure signal path to that meter is secure. This technology is in line with Internet protocol and they are able to leverage billions of dollars in Internet security and apply that to their service.

Andy Peri, MCBC representative, asked about Internet protocol and mechanisms in place to make sure the data is not misused, abused or compromised. PG&E Senior Director Tang noted that the data is usage data and IP address. There is no other personal identification or credit card information. Data is separate from the billing system. Also, there are safeguards, firewalls and traps. He further noted that over the air is just usage.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Council Member Hunter clarified that the study the CPUC is conducting is focused on the readings as to accuracy. PG&E Senior Director Tang believed the scope was expanded to include a review of the available studies. Council Member Hunter stated after mandating that energy companies and the State should go to SmartMeters, why did they after-the-fact call for a study. PG&E Senior Director Tang stated the CPUC called for the study due to public concern.

Council Member Strauss recommended waiting until information is provided from the study.

Mayor Pro Tempore Small found the County Board of Supervisors language acceptable. They cannot stop the process, but the language is cautious in their approach. Mayor Martin noted that the letter is included in their packet dated July 20th, 2010. Mayor Pro Tempore Small desired similar language as the County that the Town be cautious until the study is conducted in order to educate the public.

Mayor Martin appreciated the presentation from PG&E, but in retrospect it would have been better to have done this presentation and outreach before investing in this equipment.

The Council agreed to submit a letter to the California Public Utilities Commission (CPUC) requesting PG&E to suspend deployment of SmartMeters in Ross until a CPUC-commissioned study on the accuracy and safety of the meters is completed this fall.

SmartMeters are digital meters that can transmit detailed electricity and natural gas usage data to PG&E over a wireless network. Although 71 SmartMeters have been installed in Ross to date, the meters are not currently transmitting data and must still be read manually. PG&E plans to install the remaining 1,782 meters by December. Three wireless transmitters will be installed on PG&E-owned utility poles in Ross.

Opponents of the new technology have raised concerns about accuracy, data privacy, and health safety. PG&E maintains the meters are more than 99% accurate and have radio frequency exposure levels similar to cell phones. SmartMeters will enable customers to monitor their energy usage on a daily and hourly basis and will aid in energy conservation efforts. Customers will be able to sign up for a service to alert them when their energy usage is trending into a higher pricing tier. The new technology will also enable PG&E to detect power outages remotely and restore service more quickly.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Strauss seconded, to submit a letter to the PUC consistent with the actions of the Marin County Board of Supervisors in their letter dated July 20th, 2010. Motion carried unanimously.

The Council thanked and appreciated the presentation from PG&E.

21. **Public input and Town Council discussion of potential improvements to Frederick Allen Park**

Project Planner Christine O'Rourke presented a number of possible improvements for consideration that had been developed with the assistance of Landscape Architect Michael Yandle, including resurfacing the two tennis courts, rehabilitating the paddle court, installing picnic tables and park benches, improving the entrances, and adding foot lighting along the path. New trees could be added to the park, invasive and overgrown vegetation removed, and bushes planted to screen views of Poplar Avenue buildings and the concrete channel. Staff noted that the Town could also use the grant money to repave the Corte Madera Creek multi-use pathway and adjacent parking spaces in the south Post Office parking lot. Funds are limited, so the Council will need to set spending priorities. Grant conditions require all construction to be completed by March 31, 2011. Staff further requested public input and Town Council discussion on potential improvements to Frederick Allen Park.

Town Manager Broad noted that Landscape Architect Yandle will be providing the Town with a proposal for his time. Council Member Hunter noted that Landscape Architect Yandle has donated his services to the Town in the past. Town Manager Broad suggested having a Public Works meeting along with input from the ADR Group at their next meeting, but staff's first thought was to take it first to Council tonight and allow public input and then take it to the ADR Group. Staff will re-notice the neighborhood in regard to the ADR meeting and the Council meeting in September.

Mayor Martin asked that information be included in "*The Morning After*."

Council Member Hunter noted that children regularly use the park as a BMX bike course and residents appreciate the open space to throw balls with dogs. Police Chief Reis noted that they must take into consideration the ability to access the park to make sure youth is not getting malicious. Lighting is expensive, but it may be necessary. Consideration on whether it will be an adult park or geared toward children or both, so possibly make it a multi-use area. He further suggested installing a water fountain for people and dogs.

Council Member Hunter noted there are not a lot of places for kids to recreate, so to integrate that with the other wonderful ideas would be great. Council Member Strauss agreed along with a neighbor who indicated that access for kids would be great along with access for dogs. He also suggested native vegetation around the tennis court in order to clean up the area. He further recommended placing the paddle courts out of the floodplain.

Mayor Pro Tempore Small stated that in this climate the court does not have to be on a platform, just some space for drainage. Given the cost, not sure about the proposed changes. The deck was resurfaced and the snowboards have been repaired. There is a group that uses the paddle courts, so it means a lot to some people in Town. She desired some additional cost on the tennis courts. She also desired a water fountain for adults, children and animals as they are near the hospital. Also, they must keep in mind the Town has a small staff, and they cannot create a significant impact in terms of maintenance. She further noted that they must balance all matters. Town Manager Broad noted that the goal is to stay within budget.

Mayor Martin asked staff about irrigation and a well. Project Planner O'Rourke discussed a well with Landscape Architect Yandle who recommended planting natives and trees with

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regular irrigation lines. A well is \$30,000, so it would not be cost effective. Public Works Superintendent Maccario recommended digging a well for irrigation purposes. Water is needed for at least the first two years. He believed a well is a good bang for the Town's buck. He further recommended a well along with an irrigation system.

Mayor Martin clarified with staff that they must spend this money by March 31st. Project Planner O'Rourke responded in the affirmative. Mayor Martin asked staff if they just received the money from the 2002 proposition. Town Manager Broad noted it was a bond passed in 2002. Project Planner O'Rourke indicated that work must be done and funding must be disbursed by June 30th. After March 31st, a site visit will be conducted to ensure that the money was spent appropriately. The Town can request reimbursement before the project is completed. As the Town pays out, then the Town can go to the State for a reimbursement. The money has been allocated and according to the project officer, funding is available.

Mayor Pro Tempore Small asked staff if it is possible for ADR to provide their thoughts before the next Town Council meeting on possible improvements to the park. Town Manager Broad responded in the affirmative. A town-wide email will be sent out to Ross residents as well.

Council Member Strauss recommended contacting the Army Corps in regard to wall heights and berming.

Mayor Martin opened the public hearing on this item.

Joyce Konigsberg, Wellington Avenue resident, asked if a key is needed for the paddle courts. Mayor Martin responded in the affirmative along with an annual fee.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

Town Manager Broad announced that no action is required of the Council. There was general agreement that the park should remain natural and not be too gentrified. The Advisory Design Review Committee will discuss possible improvements to Frederick Allen Park at its August 24th meeting at 7 p.m., and the Council will further consider the project at its September 16th Council meeting. Residents are encouraged to share their thoughts and provide input on park improvements.

22. Town Council consideration of adoption of Ordinance No. 620, amending the Town's hillside development regulations, including potential ordinance re-introduction with limits on deck area for hillside lots. A summary of the changes proposed: 1.) Hillside lot floor area ratio would become a mandatory development regulation and not a guideline. A variance would be necessary to exceed the maximum permitted floor area for a hillside site; 2.) No change to the method of calculating average lot slope is proposed; 3.) A new hillside lot floor area ratio formula is proposed. The formula levels out the current floor area thresholds and would reduce the maximum permitted floor area for some lots and increase the maximum permitted floor area for other lots; 4.) The hillside lot ordinance would apply to most hillside projects that are currently subject to design review, such as additions that are 200 square feet or greater and certain

retaining wall projects; 5.) New guidelines would permit the Town Council to consider the design and privacy impacts of decks and take into consideration aesthetic impacts of tall building walls; 6.) The ordinance reinstates larger setbacks requirements for hillside lots as a strongly recommended guideline. The Council may allow reduced setbacks to protect creeks, trees, or to allow development on a more level area of a site, and 7.) Published notice of a hillside lot hearing would no longer be required. Public notices would be mailed to all property owners within 500 feet of a site and posted at the site and two other locations. The ordinance would regulate all property within the Town of Ross with an average slope of thirty percent (30%) or greater or that is wholly or partially within Hazard Zones 3 or 4 as identified on the town slope stability map. The draft ordinance, a red-line draft of the changes, and other materials are available at the Town website.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council receive public comment and waive the reading of the full ordinance text and adopt Ordinance No. 620.

Mayor Martin opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

In response to a question by Councilmember Russell, Ms. Semonian explained that the new regulations will apply to planning applications submitted after the effective date of the ordinance in mid-September 2010.

Mayor Martin asked for a motion.

Council Member Strauss moved and Council Member Hunter seconded, to waive the reading and adopt Ordinance No. 620, amending the Town's hillside development regulations. Motion carried unanimously.

The Council commended Senior Planner Elise Semonian and former Council Member Michael Skall for their work on the ordinance over the past year along with members of the public for their input.

23. Town Council authorization of expenditures and awarding of contract for the Sir Francis Drake Boulevard Overlay Project.

Public Works Director Mel Jarjoura summarized the staff report and recommended that the Council approve the bid and authorize expenditures for construction and award the contract to Ghilotti Brothers, Inc. in the amount of \$353,200 for the Sir Francis Drake Boulevard overlay project.

Mayor Martin opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

The Council agreed to award \$353,200 contract to Ghilotti Brothers, Inc. to resurface Sir Francis Drake Boulevard from the Kentfield town limit to the San Anselmo town limit.

Ghilotti Brothers submitted the lowest bid of six construction companies. The bid came in nearly \$50,000 under the engineer's estimate. The Town received a \$250,000 American Recovery and Reinvestment Act (ARRA) grant for the work, which should begin in mid-September.

Mayor Martin asked for a motion.

Council Member Strauss moved and Mayor Pro Tempore Small seconded, to approve the bid and authorize expenditures for construction and award the contract to Ghilotti Brothers, Inc. in the amount of \$353,200 for the Sir Francis Drake Boulevard overlay project. Motion carried unanimously.

24. Town Council consideration of adoption of Resolution No. 1718 (Complete Streets) setting a goal to increase bicycle and pedestrian trips in directing staff to consider and include complete streets transportation elements in capital improvement projects.

Project Planner Christine O'Rourke summarized the staff report and recommended that the Council adopt Resolution No. 1718.

Mayor Martin opened the public hearing on this item.

Andy Peri, MCBC representative, thanked staff for the great staff report. He reiterated that if passed tonight, Ross will be following San Anselmo, Fairfax, Novato and the County of Marin. Also, Office of Assemblyman Mark Leno AB-1358 passed, which is the "Complete Streets Act" that will require policies to be implemented in order to receive certain funding sources to come from the State. MTC also has complete streets language for a number of different funding sources included the vehicle license fee.

Phil Paisley, Baywood resident, noted his support for the resolution before the Council.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Recognizing the environmental, health, and economic benefits of walking and biking, the Council agreed to adopt a resolution that sets a town-wide goal for 20% of local trips to be made by bicycle or on foot by the year 2020. According to a 2007 Marin County survey, an estimated 11.8% of non-recreational, utilitarian trips are currently made by walking and 1.8% by bicycle, for a total of 13.6%. The Town's goal for additional walking and biking trips would represent an approximate 50% increase over the current mode share.

The resolution also directs staff to include "Complete Streets" transportation elements in development and capital improvement projects in Ross. A complete street is one that provides safe and accessible passage for all kinds of transportation, motorized and non-motorized alike. The policy will ensure the Town considers the needs of pedestrians, cyclists, the disabled, transit users, and automobile users whenever a new development or capital improvement project is proposed.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Strauss seconded, to adopt Resolution No. 1718, the Complete Streets Initiative. Motion carried unanimously.

25. Report from Fire and Police on traffic conditions and emergency response in Ross during the Lagunitas Road Bridge closure and consideration/action of implementation of any interim measures.

Fire Chief Tom Vallee and Police Chief Jim Reis reported on traffic conditions and emergency response in Ross during the Lagunitas Road Bridge closure and recommended that the Council consider taking action on implementing interim measures. Staff noted that it has been very quiet. When traffic patterns change for school, the daytime response could be extended. Currently, the Town is pretty quiet. In terms of traffic conditions, it has been fantastically better. Staff further noted that the morning backups are less on Sir Francis Drake.

Public Works Director Jarjoura pointed out that more vehicles make a left turn on Sir Francis Drake toward Bolinas. Mayor Martin believed that might become worse after summer. Police Chief Reis agreed to review and possibly modify.

Mayor Martin opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and moved onto the next agenda item.

26. No Action Items:
a. Council correspondence received – None
b. Future Council items - None

The Council took a short recess at 9:50 p.m. and Mayor Pro Tempore Small recused herself from the next agenda item in order to avoid the appearance of a conflict.

27. **662 Goodhill Road, Amendment to Design Review and Hillside Lot Hazard Zone Use Permit No. 1784**
Donald Santa Family Trust, 662 Goodhill Road, A.P. No. 73-211-45, R-1:B-5A (Single Family Residential, 5-acre min. lot size), Very Low Density (.1-1 Unit/Acre) and Limited Specialized Recreational/Cultural. Applications for design review and hillside lot approval and request to amend conditions of the 2001 Town Council design review, hillside lot hazard zone 3 & 4 use permit approval (Resolution 1462), which permitted construction of the two story residence, detached garage/ guest bedroom, and accessory structures. The applicant requests the Council to: 1.) rescind a condition of approval that precludes construction at the site for five years following the date of project final; 2.) allow floor area over 9,142 square feet; 3.) permit the 395 square foot basement under the residence to be finished; and 4.) permit 400 square feet of attic area over the garage to be finished. The basement and attic project would increase the floor area at the site, but would result in no exterior modifications to the structures. Total development of 9,507 square feet is proposed.

Lot Area	776,675 sq. ft. (17.83 acres)
Existing Floor Area Ratio	1.1%

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Proposed Floor Area Ratio	1.2%	(15% permitted*)
Existing Lot Coverage	0.9%	
Proposed Lot Coverage	0.9%	(15% permitted)

(*The slope of this lot is 41%. The current Hillside Lot Ordinance would recommend a maximum floor area of 6,534 square feet, or 0.8% floor area ratio, for the site.)

Senior Planner Elise Semonian summarized the staff report and recommended that, if the Council's desire is to uphold the condition that the Town issue no building permits to the applicant for five-years from project final, that they make no changes to the prior conditions of approval. If the site is sold before April 2014, a future owner may apply to the Town Council to delete the condition. Staff did receive correspondence from neighbors in regard to upholding the conditions of approval.

Town Attorney Hadden Roth provided a confidential memo on the consequences to the Council in regard to the permit condition.

Mayor Martin opened the public hearing on this item.

Peter Nelson, Circle Drive resident, questioned the general policy in terms of construction of a basement that is already finished. Staff noted the area is unfinished, so it is not considered existing floor area. There have been other floor area variances to approved for basement areas and other applications where applicants were specifically precluded from using the spaces as living space.

Council Member Strauss recommended considering this matter at their workshop in order to provide clarification in terms of the Town's policy. Senior Planner Semonian agreed that they should review the issue broadly and treat applicants equally. Council Member Strauss asked what happens if the Council takes no action. Council Member Hunter pointed out that in 2006 there was a unanimous vote by the Council directing Mr. Santa to completely abandon the illegally constructed 395 sq. ft. basement/media room and return the area to an unfinished understory to the satisfaction of the Town of Ross Planning Director no later than June 30th.

Kira Mathews, Upper Ames Avenue resident, asked about the requirement in terms of habitable space in the basement. Senior Planner Semonian explained that there is more than one requirement for habitable space and this area may not meet the requirements for habitable space, but would still be considered floor area if finished under the Town's current regulations.

Riley Hurd, attorney, representing adjacent neighbor Mr. Baumbaugh, agreed with staff's recommendation that the Council leave the conditions the same to uphold the prior condition of approval and not approve the resolution attached to the staff report. He encouraged the Council to follow that recommendation and not adopt the resolution prepared. The proposed resolution does not follow staff's recommendation, but is before the Council as desired by the Council. A letter was submitted by the applicant's attorney. He agreed that no one would have imagined that this project would be an issue eight years after the condition was placed on it. The delay in triggering the five-year moratorium was not the fault of the Town only the property owner. To complain that it has been extended far

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beyond five years is inappropriate since it was from red tags and non-compliance that a project final was never issued. They believe the condition was warranted, well thought out and deliberated, but the condition is not the corner stone of denial. The reason is from the 2001 and 2006 resolutions where this exact same matter was denied. This addition does not comply with the HLO and sets a terrible precedent. This lot is allowed to have 6534 sq. ft. of development under the current applicable code. It has 9142 sq. ft. If this were a blank slate and a project without this history, it might be right for following the other decisions, but the history in this case is different, so the application should be denied as desired by the former Town Council. He further encouraged the Council to keep the condition in place and deny the project since findings cannot be made to expand this residence.

Craig Baumbaugh, Goodhill Road resident, apologized for not attending the previous meeting and appreciated the opportunity to speak tonight. He then explained that his issue is more about the integrity and fairness of this process. To allow additional construction would be grossly unfair for those that play by the rules when it comes to construction. In addition, it would be disrespectful to the former Town Council. Also, this community has deep pockets that are strong willed and not use to hearing the word, "no." If this construction occurs, the rules will seem ambiguous, arbitrary and unenforceable. He further recommended disallowing any additional construction.

Don Santa, applicant, understands all the comments and is respecting the process. What happened before has been rectified and penalties were paid. He would hope the Council supports the recommendation from staff. He further respects the comments, but he is respecting the proper process in place.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Council Member Hunter is in the same position. It has been a long and winding road with basement walls, trees, and after-the-fact mitigation and resolutions. He reviewed the minutes and it was a 5-0 vote back in May of 2006. They must deny the right in regard to construction, but have the five-year condition end when the home is sold to a new owner, so it in no way effects the value of the property, which he believed is the right direction. He further would accept the resolution as outlined in the staff report.

Mayor Martin asked staff what would happen within the HLO if the Council adopted the modification tonight. Senior Planner Semonian noted that it would be subject to the HLO, which will be the lower floor area number based on the higher lot slope, so a floor area variance would be required to improve the area unless the Council changes the regulations and does not count basements or attic spaces as floor area in the future.

Council Member Russell has not changed his position and would continue to grant this application.

Mayor Martin is willing to make a modification.

Council Member Strauss believed what Council Member Hunter proposed is a fair resolution. He further added that this must be discussed at their workshop and suggested a moratorium on conversions until a discussion occurs.

Council Member Russell did not see the need to have rules that are punitive. He wanted to live in a Town that is civil where residents get along with each other, which should be encouraged along with a reasonable compromise.

Mayor Martin asked for a motion.

Council Member Hunter moved and Mayor Martin seconded, to adopt Resolution No. 1462 as outlined in the staff report. Motion carried 4-0-1. Mayor Pro Tempore Small recused.

Town Attorney Hadden Roth left the Town Council meeting at 10:21 p.m. and Mayor Pro Tempore Small reconvened her position on the Town Council.

28. 14 Walnut Avenue, Variance and Design Review No. 1671

Loretta Gargan & Catherine Wagner, 14 Walnut Avenue, A.P. No. 73-171-55, R-1: B-10 (Single Family Residence, 10,000 SF Minimum Lot Size), Medium Low Density (3-6 units per acre). Design review and variance for a 649 square foot, two-story, addition to the existing 706 square foot residence. The north roof overhang for the addition would encroach into the north side yard setback (13 feet proposed, 15 feet required). Design review and variances are also requested for a new 330 square foot, one car, garage, pool equipment and storage structure within the side yard setback (3 feet proposed, 10 foot setback required) and rear yard setback (5 feet proposed, 10 feet required). The south roof overhang for the garage would encroach into the south side yard setback (1.5 feet proposed, 10 feet required). The project also includes a spa, pool and patio area within the rear yard setback (7 feet proposed, 40 feet required). Total floor area of 1,685 square feet is proposed.

Lot area	7,500 square feet
Existing Floor Area	9.4%
Proposed Floor Area	22.4% (20% permitted)
Existing Lot Coverage	12.2%
Proposed Lot Coverage	20.8% (20% permitted)
Existing Impervious Areas	18.5%
Proposed Impervious Areas	32.8%

The existing residence is nonconforming in setbacks.

Senior Planner Elise Semonian summarized the staff report. The project was considered by the ADR Group and the Group, represented by two members, made recommendation for modifications to the project because of concerns regarding the design and impact on neighbors. Ms. Semonian indicated that Mark Fritts submitted an email reiterating the same concerns after viewing the story poles installed for the Council meeting. Ms. Semonian stated that one neighbor wrote in opposition to the project. The issue is primarily regarding the design of the project, which is subjective and for the Council to consider. Staff felt the variances could be supported and that the Council had facts to make the required findings to approve the project.

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Council Member Russell pointed out that the garage adds to the impervious surface and asked if the Town is seeking the garage. Senior Planner Semonian noted that the Town zoning regulations require one covered parking space at the site. Staff explained that a carport or a garage would both add to the floor area and lot coverage. Staff further noted that the total floor area proposed is within reason based on the small size of the lot and the floor area of other development in the neighborhood.

Bret Moyer, project architect, stated when looking at the “*shack*” its most characteristic feature was its authenticity, which is part of its charm. They are trying to draw inspirations from the existing structure without imitating it and the variance supports that design intent. The buildings without eaves are more contemporary, so by having eaves it ties to the existing. The garage is in a suitable location for the site. It slopes from high to low and they were able to maintain the driveway in its current location as well as hide a vehicle from view of the neighbors by adding a garage.

Loretta Gargan, applicant, is present to answer any questions or concerns of the Council.

Council Member Strauss desired an explanation in regard to the window covering facing Walnut. Architect Moyer explained that it is a slatted screen, which is a way of mitigating solar gain, heat and cutting down light pollution.

Council Member Russell asked if the windows in the bathrooms would be frosted. Ms. Gargan noted that the windows in the bathroom could be frosted, but the bedroom windows would not be frosted. She noted that slates were added to mitigate the light pollution to address the concern of the neighbor.

Mayor Martin asked if skylights were considered to provide natural light rather than the windows on the second level. Ms. Gargan indicated that skylights were added to the hallway to provide more light, but in terms of the window over the desk area, she wanted to maintain the translucent window that looks out to Mount Baldy, which is a special view.

Mayor Pro Tempore Small has concerns for the garage since it is pretty sizeable in that corner. She wanted to know how the house would appear without the garage and how much would be added with the garage. The garage is very close to both neighbors along with sizeable windows and it has the potential to be converted into a pool house. Storage access, which is proposed through the garage, is a concern as well. It is Town code to provide a covered parking space, but without that type of garage, it would be within the appropriate FAR. She further expressed concern for the height. Ms. Gargan was informed by staff that a garage is required and at this point desired a garage. She would rather look at a garage than a vehicle. One vehicle is parked in front of the gate and then one vehicle will be parked inside. This is a nice community and she spoke with all neighbors in advance and discussed the garage and the immediate neighbors had no objection. Due to the small size of the house and the lot, having a garage will be extremely useful to store items in addition to a vehicle. She is trying to live comfortably in this size space and stay true to scale.

Mayor Martin asked the reason for the glazing on the garage. Architect Moyer believed the glazing will help break up the mass. Rather than have a solid blank wall, it appears more residential in character. Mayor Martin believed this is more of an artist studio rather than a garage and when considering FAR on a small parcel it obviously puts up a red flag.

Council Member Hunter appreciated all improvements made to this property, but is struck by the size of the garage. Without the garage and fence along the driveway that allows all vehicles to be pulled in, it seems to appear as an alley, which is not the solution. In terms of coverage in FAR, it seems like there is too much in the garage, so it must be smaller. He is also concerned about the light pollution and believed landscaping would help. He liked the design of the addition and how the two blend together, but noted concern for the overall size of the garage.

Mayor Martin opened the public hearing on this item.

John Lord, Walnut Avenue resident, continues to express concern for light pollution. Also, outside of the window there appears to be a deck, so a window could be converted to access the deck, so he expressed concern for privacy as well.

Architect Moyer explained that the second floor was pushed back slightly for the window in front of the desk and there is no intention for a deck. He further added that the other side of the home has a deck, which is spelled out.

Council Member Russell asked Mr. Lord if frosted glass would address the concerns. Mr. Lord believed it would help, but light intrusion at night is a true concern. He further noted that a skylight would eliminate the problem entirely.

Ms. Gargan noted that the two windows of concern are in the bathroom, so it is not an area where lights would be left on for long periods.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Council Member Strauss feels there is an impact on this property for the FAR and it must be pulled back to the 20% as permitted. He wished the applicant took advantage of the ADR process since the two buildings seem conflicted. The windows are shown as operable windows and expressed concern for the detail. He recommended reviewing the site plan again in regard to the garage. The size of the new master bedroom and family room could be scaled back and be better for the site. He recommended going back to ADR. He likes the project, but it is just over built at this time. He encouraged the applicant to use the ADR process to develop a solution. He further noted that they must be sensitive to the overall floor area and windows as well as reduce the scale to fit within the 20% permitted.

Council Member Russell encouraged the applicant to mitigate the concerns of Mr. Lord. He appreciated the staff report providing a sampling of the FAR throughout the entire neighborhood, so he is not troubled by the FAR. Council Member Strauss noted that it changes the housing stock and appreciated the various sizes.

Council Member Russell did not like the concept that some have what they have and then deny others based on an arbitrary rule. They should review on a neighborhood-by-neighborhood basis. He is very uncomfortable with increasing the impervious surface and this results in a significant increase and desired an alternative to the concrete in the garage.

Council Member Hunter echoed Council Member Strauss's comments. It is the Council's job to maintain the "small town" character of Ross, which is why the Town looks much the same as when he moved to Ross 30 years ago. There is a variety and that variety must be preserved. He liked the direction it is heading and would love it pulled back some. In terms of the light issue with the neighbor, what the applicant is proposing is reasonable.

Mayor Pro Tempore Small expressed concern for the garage, size and style. The ADR Group provides great advice, so more attention to ADR would be appropriate. She further agreed that the garage should be scaled back.

Mayor Martin lived in this neighborhood and it is a special place in Ross. He always enjoyed looking at the "shack" and commended the applicant on restoring and carrying for it. The design presented meshes very well with the shack. He has concerns for the oversized garage. He shares the concern about permeable surface. Glazing is a concern as well. This does not appear as a garage. In terms of the second floor glazing that faces Walnut Avenue, work should be done to either eliminate or reduce the amount of glazing in the restroom to be less obtrusive to the neighbors. He looked forward to reviewing the refinements. The advice from Council Member Strauss in regard to going before ADR is good advice.

Mayor Martin asked for a motion.

Council Member Hunter moved and Council Member Strauss seconded, to continue the project at 14 Walnut Avenue to the next available date. Motion carried unanimously.

29. 17 Upper Ames Avenue, Variance and Design Review No. 1790

Kira Matthews, 17 Upper Ames Avenue, A.P. No. 73-181-14, R-1:B-20 (Single Family Residential, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre). Variance and design review application to allow a remodel and 556 square foot addition to the existing residence. The project includes replacing the carport with a garage, constructing a second floor bedroom addition over the garage, and a 102 square foot second floor addition on the south elevation. The garage and bedroom addition would be partially within the front yard setback (21 feet proposed, 25 feet required).

Lot area	23,323 square feet
Existing Floor Area Ratio	13.7%
Proposed Floor Area Ratio	16.0% (15% permitted)
Existing Lot Coverage	10.2%
Proposed Lot Coverage	10.6% (15% permitted)
Existing Impervious Areas	22.0%
Proposed Impervious Areas	22.0%

The existing carport is nonconforming in setbacks.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project subject to the conditions and findings outlined in the staff report.

Council Member Hunter asked staff why ADR did not review this project. Senior Planner Semonian noted that the applicant preferred to come before the Council.

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Kira Mathews, applicant, explained that there is a small portion of the corner of the garage that could be designed differently and pulled out of the setback if that made a difference. It could also be pulled closure to the front driveway. She is open to suggestions. She further desired an approval in order to provide another bedroom and bathroom.

Council Member Russell thought this property was for sale. Ms. Mathews noted that she has lived there for nine years and it has been on the market, but it is not selling. She has a great relationship with her neighbors and they have no objection to the proposed plan. The likelihood of the home selling is slim, but if the house sells that would be great and a fourth bedroom would be an asset to the property. She has a huge family and needs the space. She further believed new owners would benefit from the fourth bedroom as well.

Council Member Russell expressed concern about the standard form letter signed by the neighbors consenting to the project indicating that the house would be sold and the project built if at all, by the new owners. Ms. Mathews is willing to write a different letter stating the current approach so there is no misunderstanding. If the house does not sell, then they would need to build the fourth bedroom, but if her financial situation changes, she may not be able to build.

Council Member Russell tried to visit the property, but was unable to visit due to the dog.

Mayor Martin opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Council Member Strauss believed for the most part he wanted the FAR to go back to the 15% permitted. Council Member Hunter agreed and wanted to find the overage and get it back to the 15% permitted. Council Member Strauss believed pulling the garage back would help in the elevation. Ms. Mathews suggested pushing it forward toward the driveway. Senior Planner Semonian indicating that pushing the garage forward would improve the setbacks.

Mayor Martin shared the comments that have been presented and recommended going back to the four neighbors and refine the approval letter that correctly reflects the approach. Council Member Russell recommended striking the sentence that states, "*This will not be built by us, but may be by the new owners, if and when our home sells.*"

Mayor Pro Tempore Small suggested that the applicant consider the benefit of the ADR Group. Ms. Mathews preferred to come back before the Council.

Mayor Martin asked for a motion.

Council Member Hunter moved and Mayor Pro Tempore Small seconded, to continue the project at 17 Upper Ames Avenue to the next available meeting. Motion carried unanimously.

30. Adjournment.

By order of Mayor Martin, the meeting adjourned at 11:07 p.m.

Christopher Martin, Mayor

ATTEST:

Gary Broad, Town Manager