

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, FEBRUARY 8, 2007

1. 6:00 P.M.

Present: Mayor Strauss, Mayor Pro Tempore Hunter, Council Member Cahill, Council Member Durst; Council Member Skall; Town Attorney Hadden Roth

2. Open time for matters pertaining to the closed session in agenda item 3.

3. Closed Session – Conference with Legal Counsel – Pending litigation, pursuant to Government Code Section 54956.9(b)(1): concerning 34 claims filed regarding the incident of December 31, 2005 and January 1, 2006. The claims are available for public inspection at Ross Town Hall.

4. 6:15 P.M. – OPEN SESSION. Council will return to open session and announce action taken, if any. Mayor Strauss reported that action was taken by Council, 5-0 vote, denying the 34 claims of flooding that occurred last January.

5. Posting of Agenda.

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

6. Minutes – January 9th and 18th

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Skall seconded, to approve both the January 9th and 18th minutes as amended. Motion carried unanimously by Council.

7. Demands.

The demands were met.

8. Open Time for Public Expression - None

9. Report from Mayor Rick Strauss

Mayor Strauss, on behalf of Council, thanked Town Manager Gary Broad for all his hard work and noted their appreciation by presenting the Town Manager with a gift. Town Manager Broad thanked the Council.

10. Report from Committee Heads.

Public Safety -Council member Hunter

- Fire Consolidation Update

Mayor Pro Tempore Hunter announced that a meeting is scheduled for next week and they continue to make progress. He then discussed Chief Heying's report for this month and the fact that the Chief is working with the same folks who set up Tiburon and Belvedere to initiate a citizen-based emergency preparedness program for Ross, which teaches residents how to best behave during an emergency.

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General Government - Council member Hunter

- General Plan Update

Mayor Pro Tempore Hunter reported that the final meeting is scheduled for February 13th to discuss the nearly final draft of the general plan. Comments from the steering committee will be folded into that final draft, which will be presented to Council at their next regularly scheduled meeting on March 8th.

Public Works - Council member Durst

- Marin Telecommunications

Council Member Durst stated that due to large volume of public comment for non-agendized items at MTA meetings, the time for public comment has been moved from the beginning of the MTA meeting to the end of the agenda. MTA has experienced many meetings in which they could not complete agendized discussions within the allotted timeframe for the meeting. At last week's JPAOC meeting, it was noted that MTA appeared to have turned a corner and is better able to complete its agenda. JPAOC has asked MTA to be the lead agency to review wireless broadband service in Marin County. MTA Chair Barbara Thornton was at the February 1st JPAOC meeting and said she will form a committee that will include MTA, MERA and MGSA, which currently provides tech support. All three will meet and make decisions about wireless broadband service. MTA is the only political body that is broadly represented by all entities in the County with exception of Novato. MTA will meet next Wednesday.

- Street Tree Working Group

Council Member Durst met with Chairperson Janelle Hobart three weeks ago. They reviewed the 1997 Tree Committee report. Due to findings in Recommendation No. 3, Ms. Hobart and Molly Gamble are now in conversation about a Town Giving Program directed towards installing larger trees on several major streets in Ross. They will be meeting as a larger group next Wednesday.

- Report on League of California Cities Conference

Council Member Durst attended the League of California Cities Conference with both Council Member Cahill and Council Member Skall in Sacramento along with 440 of their fellow mayors and council members across California. There were several workshops that she found enlightening on "*Your role as a local elected official*," "*Land Use Planning*" and "*Legal Issues*" as well as two sessions discussing the council-staff-manager relationships. There were many good lessons to be learned on what can and cannot be done. Since the council member job does not come with a guidebook she found this conference most illuminating and would recommend its attendance to any new council member. She had a really good time. She saw former MTA Director Marty Nichols, now city manager in Red Bluff and Comcast's Attorney Johnny Giles, now keypointed to the State legislature to work out details for AB2987.

Council Member Cahill concurred and thought it was a terrific meeting. There were a couple other workshops that he and Council Member Skall attended on ethics and financing. They also dined with Jared Huffman and the representatives for the League of California Cities. He further believed it was a very educational and informative workshop.

Finance Committee - Council member Cahill

- Mid-year budget report

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Council Member Cahill reported on finances of the Town through December 31. The Town is on fiscal year that ends June 30, so they are halfway through the year. He reported that the total revenue is within about 1% of the budget at about \$2.4 million. Expenses overall are \$2.2 million, which is within 2% of budget. The net income is \$50,000 below budget due to timing issues, which is already corrected through January. Staff put together a more detailed review of the mid-year condition of the budget review and operating and capital expenditure budgets for Council's review. He then thanked Town Manager Broad for all his efforts this year to keep everything right on track. He noted that the Town Manager understands this very well and is doing a great job for the Town in that regard.

11. Report from Ross Property Owners Association.

Diane Rudden, representing RPOA, reported that their annual meeting occurred and they commended the Town for providing funds for the businesses to help with floodgates and the IJ article was great PR. Also, u-turns in front of the Post Office, especially at the crosswalk, is a serious safety issue that must be addressed. Mayor Strauss indicated that the Town is trying to initiate a master plan for downtown and if narrowed with parking on both sides, it could slow traffic and not allow u-turns. It could add additional parking downtown and slow traffic for safe pedestrian crossing. Ms. Rudden asked the Town if RPOA could place a sign in the area. Mayor Strauss recommended adding information in their newsletter. Mayor Pro Tempore Hunter asked the Chief if they could attach a sign. Chief Heying responded that a sign could impede visibility. Town Manager Broad agreed to have the Traffic Engineer review the situation.

12. Flood Control Report.

- Report on February 1, 2007 Flood Control meeting
- February 10, 2007 Community Workshop at Drake High School

Mayor Strauss reported that on February 1st he along with the Town Manager met with Supervisor Hal Brown for a flood control meeting, which was a very informative meeting. Also, he urged everyone to attend the Drake High School meeting. He noted that all watersheds are mapped. They found out that with little adjustment, a percentage of the flood could be controlled in order to mitigate damage. Attention will be turned to public election coming up. In a scale of bad situations, the fish ladder and Lagunitas Bridge are on the top of the list. Those may be the first two items addressed along with others. They talked about a detention basins, and possibly using White Hill School fields to detain runoff. This is in conjunction with Lefty Gomez Field and Phoenix Lake. Water could be pumped out of the lake so it may be used as a detention basin; it would be a coordinated effort with Marin Municipal Water District. He further reiterated that it was a great meeting and urged all to attend the February 10th, 2007 meeting.

- March 8, 2007 Flood Control presentation

Mayor Strauss announced that on March 8, 2007 there will be a flood control presentation at the Council meeting.

13. Presentation of a \$10,000 grant to the Town of Ross for risk management implementation, from Marcus Beverly, ABAG Plan.

Marcus Beverly, ABAG, awarded the Town of Ross with a certification of appreciation by presenting a \$10,000 grant to the Town of Ross for risk management implementation.

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Town Manager Broad acknowledged ABAG as well for providing not only basic insurance and workers' comp, but also for a great grant program and providing consultants to help with a lot of the work. Ross would not have accomplished this with out Mr. Beverly and ABAG's help.

14. Council consideration of Resolution No. 1619 granting Marin Sanitary Service an 8.1% rate increase for 2007, effective January 1, 2007.

Gary Broad, Town Manager, summarized the staff report and recommended that Council approve Resolution No. 1619, granting Marin Sanitary Service an 8.1% rate increase for 2007, effective January 1, 2007 with the rate schedule.

Marin Sanitary Service representative announced that they are present to answer any questions of Council. MMS representative also noted that it has been a good year. They are proud because they are 5% under the average rate even though the recycling rate is the highest.

Mayor Strauss opened the public hearing on this item.

Diane Rudden, Ross resident, thanked MMS for picking up more than one can and for working with the RPOA.

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

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Durst seconded, to approve Resolution No. 1619, granting Marin Sanitary Service an 8.1% increase for 2007, effective January 1, 2007. Motion carried unanimously by Council.

15. 66 Bridge Road, Landscape Screening Review of Variance No. 1550 Stanley and Karen Stern, A.P. No. 73-302-10, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum) Low Density (1-3 Units per Acre). Consideration of landscape issues associated with March 2005 Council approval of demolition permit, design review and variance approval.

Elise Semonian, Senior Planner, described the landscape screening proposed between the driveway and property line shared with 64 Bridge Road. In regard to the remaining driveway area, the Stern's wanted to add a redwood hedge. Staff provided photographs for Council's consideration in that regard. The Stern's want to maintain that 30-foot hedge to screen the house area of their project and offered to maintain that screening. The Town Arborist believed this is great screening. Redwood trees grow very fast, they are native to Ross and grow well in the area. Also, there is sufficient light. The Young's have concerns with the redwood tree hedge and maintenance is a concern, so an option is cherry laurel trees, proposed at 24-inch box standard form trees to provide screening between the properties. Cherry laurel trees are found at the Post Office. Cherry laurel trees were agreed upon, but the Stern's prefer a redwood tree hedge. Conditions are left open that a fast growing evergreen tree could be selected, but must be reviewed by the Town Arborist. Staff recommended approval of the plan with the modifications proposed.

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Mayor Pro Tempore Hunter asked staff what other options are available in addition to the cherry laurel trees or redwood hedge. Staff explained that pittosporum eugenioides and sweet bay were also considered.

Mayor Pro Tempore Hunter stated the advantage of a cherry laurel is that it grows to a given height and a redwood hedge, if not maintained, would grow to a redwood tree size. Senior Planner Semonian responded in the affirmative, but noted that a redwood hedge could be contained with trimming. A cherry laurel grows to about 35 to 40 feet and a pitosporum is the same. Staff noted that cherry laurel is used as a hedge, but they come in tree form and are very common in other parts of the country and used more frequently in Marin County as a hedge.

Council Member Cahill asked staff how rapid is the growth of a redwood versus a pitosporum.

Council Member Cahill asked staff the approximate height per year the trees would grow. Senior Planner Semonian believed redwoods would grow about 3 to 5 feet per year; birch trees are about 2 to 3 feet per year; and she was unsure of the growth rate for the cherry laurel trees, but believed they were also fast growing. Council Member Durst provided a book called "*Trees and Shrubs for Climate Change*" for Council's review in order to better understand the different shrubs and trees.

Mayor Strauss asked staff if the Town Arborist is comfortable with this plan. Senior Planner Semonian noted that she was and that the Town Arborist was unable to attend the meeting, but is available by phone, if so needed for questions.

Karen Stern, owner, appreciated staff's time and noted her thanks. They tried to create the best screening possible. She further noted that tonight their consultant, gardener and attorney are all present to answer any questions.

Stern's arborist stated that ultimate height of these trees must be considered. Adequate moisture must be provided. If the goal is to provide dense screening, it will take a number of years to achieve that goal. To provide 40 feet of screening could occur with optimum fertilization and space. The root space is limited, which will affect the overall height. They must consider habitat potential that redwoods would provide for native fawn and are friendlier to birds. Maintenance must occur to maintain the hedge. In regard to a very quick impact screening, cherry laurel trees will be a long-range project to achieve that goal. The lifespan of the current Leyland is on the downward side.

Mayor Pro Tempore Hunter asked the arborist if it is possible to plant a redwood hedge behind the Leyland trees and while they die off, the new redwoods in the next five years could come close to the same height. Stern's arborist responded in the affirmative. Giving they are growing next to a seasonal water ditch, they will receive adequate moisture and reach the same height since the Leyland trees have been topped at 20 feet.

Council Member Cahill asked the arborist the estimated timeframe for both species of trees to attain that height. Stern's arborist responded that cherry laurel trees would take about 20 years and redwoods would take 6, 7 or 8 years.

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Mayor Strauss opened the public hearing on this item.

Stanley Stern, owner, desired a screen and requested a redwood hedge next to the redwood fence. They talked to three arborists, two outside contractors and the Town's Arborist and all recommend a redwood hedge, which is native to the environment. The Town's Arborist agreed the fastest hedge is a redwood hedge. At installation, the specie will be 10 to 12 feet in a 24-inch box. Redwood is fast growing, perfect for the environment and they will maintain the redwood hedge as they maintain all of their property. He further asked the Town for permission to plant the redwood hedge in order to move forward with this matter.

Betsy Young, Bridge Road resident, desired a fast screening as well, but one that is attractive and did not require maintenance when 25 to 30 feet tall. A pitosporum will be equally dense and not need to be maintained as a hedge. Birch is not native, but grows very well. They do not want a hedge that must be maintained at 30 to 40 feet that looks like a dense wall. They desired a softer appearance and not needing to be maintained would be more practical in her view. She further noted that they desired resolution on this matter as well.

Mayor Strauss asked the arborist the nature of a cypress hedge in regard to the one located at Shady lane. Stern's arborist pointed out that an Italian cypress would not provide a uniform screening, but a Monterey cypress can be hedged.

Mr. Stern pointed out that the Young's have 5 or 6 Redwoods, so planting more redwoods would tie in seamlessly in his view.

Senior Planner Semonian noted that one reason pittosporum eugenioides was rejected as an option was that it comes in very short sizes initially. They could not find any to fit the space that were taller than 6 feet in height, so no initial screening would be provided. Also, staff noted that English laurel did thrive on the Young's property.

Diane Rudden, Ross resident, believed redwoods grow well, but redwood roots do not allow any other specie to grow around them. Her camellias are dying from the redwood next door because the roots of the redwood do not allow other plantings. Stern's arborist explained that redwood trees are an ideal candidate for rhododendron, camellias and azaleas, but installing landscaping simultaneously would be an ideal situation. Ms. Rudden disagreed.

Mayor Pro Tempore Hunter felt redwoods planted behind the Leyland trees would be the ideal solution. Mr. Young expressed concern for the shading that will occur from the redwood trees. Also, the redwoods planted up toward the Stern's retaining wall are not interfering with the sun, if planted in the proposed location it will compete with the sun.

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

Council Member Durst expressed concern for any drainage pipes in the area due to the redwood roots. Over time redwoods will provide effective screening, but she felt they are a problem. They are meant to be out in the middle of nowhere with a lot of rain. Stern's arborist stated that there is no infrastructure below grade. There is a drainage ditch that redwoods will take advantage of and grow. Council Member Cahill stated that there is a drainage line immediately adjacent to the curb just inside the driveway adjacent to where these redwoods are to be planted. They are 3 feet below grade, and he asked the arborist if

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that would be an issue. Stern's arborist responded that redwood trees are surface rooted. Most trees grow on the top four feet due to oxygen needs, so three feet is typical.

Council Member Cahill wanted to know the intent of Council when this was approved. Mayor Strauss thought the Leyland trees would thrive and that there would be ample screening provided. Mayor Pro Tempore Hunter noted that as with any project approved, often times final landscaping plans are not provided and there is always the caveat that the landscape plan must be submitted to staff and Council reserves the right to come back and ask for additional landscaping within the first three years. The real focus was on the structure and placement on the site.

Council Member Cahill stated that there is no information in the minutes that addresses the landscaping. Mayor Pro Tempore Hunter explained that not much discussion occurred in that regard.

Council Member Durst stated what is proposed is significantly different than the original proposal. She wanted to know what would be attractive and provide screening. She is not sure redwoods would work best as a hedge tree. Mr. Stern stated that birch trees were to be planted all the way up and if that is desired that is acceptable. Mayor Strauss noted that the birch trees are deciduous and there is a pretty big crown, which the photographs depict. He wanted to be specific to satisfy the screening of the house. Mayor Pro Tempore Hunter added that Leyland trees are present and the redwoods can grow while the Leyland trees fade away. Mayor Strauss concurred. He felt by adding redwoods it would mitigate the loss of the Leyland trees and in one year Council could review to make sure the landscaping is adequate.

Mayor Pro Tempore Hunter asked staff if there is any way the Town could compel the trimming of the hedge if the owners did not maintain without coming before Council. In other words, could a condition of approval be included in that regard. Town Manager Broad noted that as part of the landscape plan, consideration included a stipulation, but it still is an enforcement situation. Dependent on a property owner complying with that stipulation, and if not in compliance, it must come back before Council for enforcement action. Mr. Stern is happy to stipulate that they will maintain the redwood hedge at 40 feet or below.

Council Member Cahill stated that with any landscape approval, Council has a three year time period to review. The trees will not be 40 feet in three years, so a condition must be added that requires the Stern's to maintain the redwood hedge 40 feet or below for a longer period of time. Town Manager Broad stated that Council can approve the landscaping with requirements, if so desired, particularly if Mr. Stern indicated that he is accepting of that stipulation. Mayor Pro Tempore Hunter asked staff if the condition could run with the land. Town Manager Broad indicated that it would run with the land. Attorney Hadden Roth and the Stern's Attorney concurred.

Council Member Cahill agreed with the redwood hedge, which goes along with the General Plan in regard to native species. Council Member Skall concurred.

Council Member Durst desired different specie than the redwood hedge. She has issues from her past experience with redwoods. She understands that it is a California native, but wished the environment was such to consider another specie. She suggested an English

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laurel. Senior Planner Semonian noted that initially English laurels are not tall enough and she reiterated that English laurels do not thrive in the area.

Bryant Young, Bridge Road resident, stated that if enforcement is recorded against the property, then they can live with the redwoods, but suggested a bigger box redwood than proposed. Mayor Strauss pointed out that the Leyland trees would remain until they fail and during that time the Redwoods would be planted. Also, due to the space, the proper sized root ball is better as opposed to stuffing a bigger tree in that space. Stern's arborist concurred that the quicker establishment rates are smaller trees. He advised putting in a 24-inch box tree rather than a 36-inch box tree. Also, some irrigation would enhance the growth rates. Mr. Stern pointed out that he has a well and intends to water these trees. Stern's arborist added that an irrigation system is provided in the landscape plan approval.

Town Manager Broad noted that this can be memorialized, so that any chance of sale of the property it will be called out to potential buyers, so a condition could run with the property that plantings be limited to 40 feet or below and maintained as a redwood hedge, not a tree. The Stern's attorney requested that they not be required to record this instrument, which goes far beyond what is necessary. There is a voluntary agreement on the part of the owners. To record this instrument would impose a burden on the property owner, which is not legally necessary.

Council Member Cahill stated that to ensure this survives the sale of the property, it must be recorded in his view. Mayor Strauss pointed out that if the hedge dies what then happens, it becomes very restrictive. Attorney Hadden Roth noted that the enforceable issue is maintaining the hedge at a certain height.

Mayor Pro Tempore Hunter asked the Town Attorney if as a condition of approval for this landscape plan that the current and any future owner must keep the trees at 40 feet or below. Attorney Hadden Roth responded that it may not work legally for a new owner.

Council Member Cahill stated if not recorded, it will not run with the land. Council Member Durst noted that approvals run with the property, so if this must be maintained at 40 feet, then it must run with the property. Attorney Hadden Roth stated it may not run with the property unless recorded. Attorney Hadden Roth stated that if a property owner buys a piece of property and did not know about this condition they do not have to abide by it. Recording is constructive notice. Council Member Durst believed approval of this redwood hedge must be recorded because it is about the property.

Mayor Pro Tempore Hunter asked staff on a resale inspection can language be inserted for this property. Town Manager Broad responded that minutes of this meeting would be provided, but after they have gotten all this information a few years down the road they do not remember seeing such information, there is no enforceable action. Staff pointed out that conditions on design review and various approvals are not recorded and are binding upon future property owners. Attorney Hadden Roth stated that variances and use permits run with the land, but other issues that are not recorded may not be enforceable. Town Manager Broad presumed conditions would be enforced and be in effect after a property transfer.

Council Member Cahill pointed out that the resale report goes to the buyer. Public Works Director Jarjoura indicated that it goes to both the buyer and seller, but the buyer may not read the document, so it may not be enforceable.

Mr. Young stated that he compromised with the redwood hedge, but asked that regardless that the hedge be maintained and to make that happen it must be recorded. Recording will memorialize that the Stern's agreed to do so. Mayor Strauss stated that it is about the property in regard to other owners. He felt there is plenty of protection in a buyer's agreement. Attorney Hadden Roth stated that it may not be enforceable, if not recorded. With recordation, it is assured to be maintained and be enforceable.

The Council took a straw vote on the following:

- *Council agreed on 6-foot fence.*
- *Applicants and affected parties agreed on 6-foot fence.*
- *All agreed on a 24-inch box redwood hedge being installed supervised by a licensed landscape architect, 7-foot on center. (Subsequently changed to 9-foot on center.)*
- *Birch trees located in the front are adequate, but Council reserves the right to review within three years and require additional screening.*
- *Redwood hedge shall be maintained at 23 to 40 feet in height.*

In regard to recording, Council Member Durst is in favor of having something recorded as part of this resolution that the redwood hedge must be maintained between 23 and 40 feet. Council Member Cahill agreed as well because the only way to be assured that this requirement is preserved for a subsequent owner it must be recorded. Mayor Strauss, Mayor Pro Tempore Hunter and Council Member Skall opposed recordation.

Mayor Pro Tempore Hunter stated that any kind of a deed restriction is an unknown to the property over time. The system generally works and this does not rise to the level where putting a restriction on the deed is necessary. The height and screening will be provided. The requirement to maintain these trees between 23 and 40 feet runs with the land and will be provided in the seller's report, which is appropriate.

Mr. Stern indicated that he is comfortable with Council's decision. He further noted that they would make their land beautiful. Mr. Young believed Council is wrong and felt this matter should be recorded.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Skall seconded to approve the proposed screening plan for 66 Bridge subject to the following modifications and conditions:

1. Except as otherwise provided in these conditions of approval, the proposed landscape screening shall be installed as proposed.
2. Additional landscaping shall be provided between the driveway retaining wall and the walls above it as suggested in the 2/1/07 town arborist report.
3. The 6-foot redwood fence must have rot resistant material utilized in the post and base of the fence. The 6 foot height shall be measured from the top of the driveway curb.

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4. 24-inch box redwood trees shall be planted in the planter area from roughly in front of the loggia back to the retaining wall, 7 feet on center.
5. The trees shall be planted under the supervision of an arborist, shall be appropriately irrigated and permitted to grow to a height of 23 to 40 feet.
6. **The owners of the site shall regularly maintain the hedge at not less than 23 feet and not more than 40 feet in height.**
7. Council retains the right to require additional landscaping from three years from project final. The Town should review the plan in spring when the birch trees have leaves to determine if additional screening may be necessary for the pool area.

Motion passed by a 4:1 vote. Council Member Durst opposed.

Mayor Pro Tempore Hunter noted that the Town hired a wonderful new employee and acknowledged Senior Planner Semonian for all her efforts on this project.

16. **Town Council adoption of Ordinance No. 599 amending Municipal Code Section 9.20.010, Unnecessary Noise, adding public roadways, sidewalks, paths and public right-of-way regulations.**

Barry Heying, Police Chief, summarized the staff report and recommended that Council adopt Ordinance No. 599, amending Municipal Code Section 9.20.010, unnecessary noise, adding public roadways, sidewalks, paths and public right-of-way regulations.

Attorney Hadden Roth reviewed Novato, San Rafael, Tiburon and Mill Valley. He noted that Tiburon had no general prohibition against noise, and the language provided by Chief Heying is better than all cities, which protects the right of free speech.

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

Mayor asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter moved seconded, to adopt Resolution No. 599. Motion carried unanimously.

Town Attorney Hadden Roth excused himself from the Town Council meeting at 8:05pm.

17. **Town Council discussion and comment on the Ross Valley Paramedic Authority (RVPA) Five Year Strategic Plan Final Report September 2006.**

Bruce Hart, RVPA, stated RVPA engaged a consultant to come up with a 5-year strategic plan. It took about a year to put the plan together and then 4 or 5 months with discussion

and 3 or 4 months ago it was presented in final form to the Paramedic Authority. They held a public meeting and all council from all represented agencies were invited. It was an attempt to reach out to the public. The Authority received it rather than accept it because it had

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several recommendations based on opinions of the consultant and the trip generation data was not necessarily complete. There are a number of recommendations including low hanging fruit and some that need a lot of discussion. They hired Tom Forester who was head operations of Fire for Lucas Ranch. He did not necessarily agree with the chiefs' and did not agree with the Authority Board and had their first meeting last week. He has a great collaborative style. He noted that low hanging fruit adopted was the boundary. Corte Madera started their own paramedic engine, but they are still represented on RVPA because if they set up their own authority, LAFCO process must have occurred, but they have their own paramedics. Rescue 41 would come into Ross Valley if Rescue 40 was busy, but only in an extreme circumstance. Boundary drop means if a call comes in at Larkspur and Rescue 41 is busy, then Rescue 40 will respond. There will be a 6-month trial basis and hopefully Corte Madera will bring their two medic units back into the fold. The data gathered by the consultant did not represent what is happening in the field, so they are trying to receive better data in the next 6 to 18 months. He wanted to make sure Council has the information for their review. The Authority and the medics being based here is an incredible asset to Ross Valley. They receive nothing but praise. He took the Authority on a tour to General Hospital who has the best door to hospital time. He added that it is a coordinated system that works very well. It is not just two incredibly well trained men and women, but an entire system that provides great service to the entire Ross Valley. He further noted that he is available to answer any questions and is also available to raise issue at the Authority.

Council Member Durst read the recommendations and her main question is about the Authority and one suggestion is eliminating one spot in order to avoid a tie vote. Mr. Hart indicated that it would take a vote from the JPA. It is good to have an outcome rather than a tie, but he did not recall a tie in his three-year experience. One recommendation is that an elected official should serve on the Authority, if that is Council's pleasure. The Council felt Mr. Hart is doing a great job.

Council Member Cahill read through the recommendations and did not see any cost analysis associated and asked if the consultant has reviewed the financial impact or has the authority reviewed the financial impact. Mr. Hart responded that one issue is that accounting is unintelligible and consistently asked for an income statement or balance sheet. They must understand income outflow and what is left over. Their goal is to provide ALSS service.

Council Member Cahill recommended that they request better financial information before this matter is acted upon.

Council Member Durst felt hiring of an Executive Director would be beneficial. Mr. Hart noted that a full time person could be \$100,000 per year, not including benefits. They wanted to figure out the operational matters and at the most cost effective way and then take the next step, but looking at the financial impact.

18. **Planning Application Consent Agenda.**

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

a. **Hillside Lot and Design Review No. 1633**

Scott Bassin, 7 Crest Road, A.P. No. 72-011-02, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum Lot Size). Hillside lot and design review to allow the following modifications to the residence: 1.) 600 square foot upper level deck and

445 square foot lower level deck at the southwest side of the residence; 2.) French doors on southwest elevation to access the upper level deck; 3) new windows and door to enclose one side of the existing breezeway between the house and garage; 4) new windows on the southwest elevation of the garage.

Lot area	38,664 square feet
Existing Floor Area Ratio	9.1%
Proposed Floor Area Ratio	9.1% (15% permitted*)
Existing Lot Coverage	6.0%
Proposed Lot Coverage	6.0% (15% permitted)

** According to the applicant, the property slope is 58%. The Hillside Lot Ordinance guidelines would recommend a maximum floor area ratio of 4.0%.*

Mayor Strauss asked for a motion.

Council Member Durst moved and Mayor Pro Tempore Hunter seconded, to approve Consent Calendar Item “a” as presented. Motion carried unanimously by Council.

7 Crest Road Conditions

1. A plan for new native landscaping below the home shall be submitted for review and approval by staff and shall be installed prior to project final.
2. 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. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
3. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
4. 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.) The property must be cleared of all dead or dying flammable materials; and 3.) A local alarm is required.
5. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
6. 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 prior to the issuance of any building permits.
7. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY FEBRUARY 8, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
8. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
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.

b. Variance No. 1635

Paul and Marcia Ginsburg, 50 Shady Lane, A.P. No. 73-161-02, R-1:B-A (Single Family Residence, One-Acre Minimum Lot Size). Variance to permit the residence to be enlarged by 54 square feet for a closet addition.

Lot area	46,034 square feet	
Existing Floor Area Ratio	11.7%	
Proposed Floor Area Ratio	12.1%	(15% permitted)
Existing Lot Coverage	14.8%	
Proposed Lot Coverage	14.9%	(15% permitted)

The existing residence is nonconforming in side setbacks.

Mayor Strauss asked for a motion.

Council Member Durst moved and Mayor Pro Tempore Hunter seconded, to approve Consent Calendar Item "b" as presented. Motion carried unanimously by Council.

50 Shady Lane Conditions of Approval

1. 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.
2. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
3. 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. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
4. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
5. 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 prior to the issuance of any building permits.
6. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY FEBRUARY 8, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.

7. 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. Commercial District Use Permit No. 1636

Diane Parente, Image Development & Management, Inc. (IDMI), (tenant) & Peter Maguire (owner), 23 Ross Common, A.P. No. 73-273-10, C-L (Local Service Commercial). A professional office use in a 150 square foot, second floor, tenant space. Proposed days and hours of operation are Monday through Friday 8:00 am to 6:00 pm, with one on-site employee and estimated client traffic of 3 people per week.

Council Member Cahill noticed that several awnings are in poor condition. Town Manager Broad responded that the problem with getting into the use permit is that it is a business rather than a building owner.

Diane Parente, Image Development & Management, indicated that they will lease space at Ross Commons and the owner has asked that the awning be repaired. Town Manager Broad could include a condition ranging from staff contacting the owner and drawing these conditions to his attention and asking for necessary repairs, but placing the burden on the tenant is not appropriate. Council Member Cahill directed staff to contact the owner of the building and follow up on these conditions in order to see frontage improvements.

Mayor Strauss asked for a motion.

Council Member Durst moved and Mayor Pro Tempore Hunter seconded, to approve Consent Calendar Item "c" as presented. Motion carried unanimously by Council.

End of Planning Consent Agenda.

Council Member Durst recused herself from the next agenda item in order to avoid the appearance of a conflict.

19. **Amendment to Variance, Design Review and Demolition Permit No. 1431**
The Cedars of Marin, 115 Upper Road, A.P. No. 73-022-09, R-1:B-A (Single Family Residence, One-Acre Minimum Lot Size). An amendment to condition number 2 of the variance, design review and demolition permit approved by the Town Council on May 9, 2002 to allow all three project phases to be completed within three years and six months of the issuance of a building permit for phase 1, rather than three years as provided in the original approval.

Gary Broad, Town Manager, summarized the staff report and recommended that Council grant the additional six-month extension.

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The applicant is comfortable with the conditions of approval and will answer any questions of Council.

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

Mayor asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve the request from Cedars of Marin for an extra 6-month extension making the completion date on the property 3 years 6 months from the building permit date. Motion carried unanimously by Council.

Cedars 115 Upper Road Conditions

1. Project construction may be phased as follows: phase 1.) Williams Hall renovation and parking lot construction; phase 2.) Main House construction; and phase 3.) Collins/Tappendorf construction. All three project phases shall be completed within three years and six months of the issuance of the building permit for phase 1 construction. Prior to the issuance of a building permit for each phase, The Cedars of Marin shall provide the Town of Ross with a letter indicating the cost of the proposed phasing and stipulating that adequate funding is available to complete the phase.
2. All other conditions of Resolution 1498 shall continue to apply to this project.

Council Member Durst reconvened her position on Council.

20. Commercial District Use Permit No. 1638

Lea Ditson/Lea Designs (tenant) & Sonia Badalamente (owner), 27 Ross Common, A.P. No. 73-273-09, C-L (Local Service Commercial). Custom couture clothing design and production in an approximately 490 square foot main level tenant space. Proposed days and hours of operation are Monday through Saturday, 8:30 am to 5:30 pm, with 2 employees and an estimated 5 customers per day. The construction of a glass display case in front of the building, approximately 6 feet high by 4 feet wide, to display a dress is proposed.

Elise Semonian, Senior Planner, summarized the staff report and recommended that staff only consider the use permit for the business, based on the conditions of approval.

Mayor Strauss invited the applicant to make a presentation, but the applicant was not in attendance.

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

Mayor asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Skall seconded, to approve the use permit as proposed by staff. Motion carried unanimously by Council.

27 Ross Common Conditions

1. This project shall comply fully with the approved project description.
2. A local alarm system is required (contact Ross Public Safety Department for additional information).
3. Prior to the commencement of use, a business license shall be obtained from the Town of Ross Building Department. Failure to keep current with Town of Ross business license requirements and business license taxes shall be cause for the revocation of this conditional use permit approval.
4. Any signage associated with this use is subject to the review and approval of the Planning Department prior to its installation.
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 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.

21. **Amendment of Variance and Design Review No. 1585**

Clyde and Janet Ostler, 185 Lagunitas Road, A.P. No. 73-211-20, R-1:B-A (Single Family Residence, One-Acre Minimum Lot Size). Amendment to plans approved by the Town Council on March 9, 2006 for a demolition permit, design review and variances associated with the remodel and expansion of an existing residence. The applicants propose an 88 square foot second floor deck on the east side of the residence over the family room.

Lot area	50,428 square feet	
Approved Floor Area Ratio	14.9%	
Proposed Floor Area Ratio	14.9%	(15% permitted)
Approved Lot Coverage	7.5%	
Proposed Lot Coverage	7.5%	(15% permitted)

The existing residence is nonconforming in setbacks, height and number of stories.

Elise Semonian, Senior Planner, Town Manager, summarized the staff report and recommended that Council approve this modification subject to the conditions in the staff report. Also, staff noted that there is a lot of screening, none of which will instantly screen, but screening will grow to eventually provide adequate screening.

The architect is available to answer questions.

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

Mayor asked for a motion.

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Mayor Pro Tempore Hunter moved and Council Member Skall seconded, to approve the modification as indicated by staff subject to the conditions in the staff report. Motion carried unanimously by Council.

Ostler 185 Lagunitas

Staff recommends approval of this application based on the original findings and conditions and subject to the original conditions of approval, as amended on October 12, 2006, including the original construction time limits.

22. Correspondence – 55 Sir Francis Drake

Public Safety Director Jarjoura wished a contact number was provided because a permit was issued, not subject to design review, but was approved by the Planning and Building Departments.

23. Other Business -None

24. Adjournment

By order of the Mayor, the meeting adjourned at 8:36 P.M.

Richard Strauss, Mayor

ATTEST:

Gary Broad, Town Manager