

REGULAR MEETING of the ROSS TOWN COUNCIL on the SPECIAL DATE OF THURSDAY, JANUARY 15, 2009

1. 6:30 P.M. Commencement.

Present: Mayor Cahill; Mayor Pro Tempore Strauss; Council Member Hunter; Council Member Martin; Council Member Skall; and Town Attorney Hadden Roth.

2. Posting of Agenda.

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

3. Minutes – November/December

Mayor Cahill asked for a motion.

Council Member Martin moved and Council Member Hunter seconded, to approve Item 24 of the November Town Council Minutes as amended. Motion carried unanimously.

Council Member Hunter moved and Mayor Pro Tempore Strauss seconded, to approve the December 11, 2008 Town Council minutes as amended. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression.

Jeff Babcock, Redwood Drive resident, discussed a letter he submitted in regard to traffic related to the school project. The main problem is that the street has become a parking lot of town employees, clients of the dentist office, occupants of the commercial space, and parents who retrieve and drop off their children. He contacted Chief Jim Reis who arranged signage, which had no impact. Now, U-turns are being made in his driveway and the street is loaded with school pick-ups. It has become a dangerous situation for children. He asked the Council to consider ways in which rules can be enforced and that only resident parking is allowed. He further believed a supervisor is needed to police the parent activity to understand the rules.

Dan Bernhard, School Board President, agreed it is an issue that the School Board has discussed. They have made efforts in communications with parents to remind them to abide by all rules, laws and good neighborly behavior. Mayor Cahill suggested agendaizing the matter for the next meeting in order to discuss in more detail. Mayor Pro Tempore Strauss noted that the downtown enhancement group is working on that matter and February 26th is a tentative date for a scheduled meeting to discuss the traffic issues around Ross Common. The Public Safety Subcommittee agreed to discuss the matter before the February 26th meeting. Mayor Cahill felt it would be helpful to discuss the matter in conjunction with the School Board to address this problem more effectively. President Bernhard agreed.

Dick Bobo, Redwood Drive resident, concurred with Mr. Babcock's statements and reiterated the traffic impacts on Redwood and the unsafe maneuvers made by parents.

6. Report from Mayor Cahill.

Mayor Cahill reported that he serves on the MCCMC Legislative Committee, which analyzes pending State legislation that affects local governments and anyone who desired further information on any particular piece of legislation they are welcome to contact the Mayor. Also, the Town's website is currently being updated by Kristen McDonnell. Part of this upgrade will include a number of new, beautiful and professionally taken photographs of the community.

Mayor Cahill announced that Centennial DVDs are available for purchase. "The Ross Movie" and highlights of "The Town of Ross Centennial" cost \$25 each and \$40 for both DVDs. Anyone interested can purchase the DVDs from the Town Administrative office by contacting Linda Lopez.

7. Report from Committee Heads.

Public Works - Council member Strauss

- Lagunitas Bridge report

Mayor Pro Tempore Strauss will report on the Lagunitas Bridge under Item 10.

Finance Committee - Council member Martin

- Mid-year budget report

Council Member Martin reported that the numbers are very healthy. Tax revenues are higher than 5% budgeted. In addition, \$300,000 in building permit revenue has been received. Expenses are as projected. He will have a full report after the Finance Committee meets and reviews. Also, the State must reimburse the Town for fire services provided.

Public Safety Committee - Council member Hunter

- Fire Consolidation Update

Council Member Hunter asked Fire Chief Vallee to investigate other ways to improve fire protection within the existing organization. Fire Chief Vallee met with Ross Valley Fire Department about a possible agreement to contract for Battalion Chief coverage for all incidents on all three of their shifts. After their meeting, there is a good possibility of putting together a system that is viable and inexpensive. Battalion Chief coverage was one of the biggest benefits of fire consolidation. They will be talking to with the Ross Valley Fire Department Board to flush out possibilities and cost and then he will report back findings to the Council.

8. Report from Ross Property Owners Association.

Lesley Reidy, RPOA representative, indicated that RPOA plans to continue working with emergency preparedness this year and they hope, in 2009, to continue keeping that as a priority. They are meeting with the Chief next Thursday and then follow up with Council Member Skall to discuss step-by-step processes. On a sad note, the wreath was stolen from the bear this year a few days before Christmas. Also, they suggest recognition for Jane at the post office. She is a terrific asset to the community who always looks out for the elderly. She is a very involved individual and suggested some sort of recognition the Council feels is appropriate. In regard to school parking, they received phone calls about staff parking at the post office. Congestion has been increased and asked the school to consider parking issues at the post office as well. Mayor Cahill suggested formally communicating that matter to the School Board. Ms. Reidy agreed.

9. Report from Ross School.

President Dan Bernhard did not have a formal report this evening. They are engaged in a large construction project. They are living in “*unprecedented economic times*” along with Sacramento. The State Allocation Board has frozen assets and appropriations that affect the school, including \$6.8 million promised. The school expected funds from the State to complete the construction project and it is unclear when the funds will be received, which is a real issue they are dealing with currently. He reported that demolition has been completed and the school is preparing to open bidding on the next construction phase. Also, 25 contractors have done a “*walk-through*” of the site in anticipation of bidding on the project to discuss the next phase. He noted that 25 contractors is an exceptionally high number, and that is indicative of tough economic times in the construction industry. It is a challenging time and they are working very hard to navigate through these rough waters. He further noted that construction should begin by the end of April 2009 in order to have the new school open in August 2010 as planned. While the School District has \$30.7 million of the \$37.5 million budget in place, State funding remains an important component of the project budget.

Council Member Martin asked if they are scheduled to meet with the State Allocation Board later this month. President Bernhard responded that they had a date for January 28th, but does not expect the Board to make any allocations of funding at that meeting. He further noted that nothing would occur until the State budget is passed.

10. Flood Control Report.

Council Member Martin reported that the County has suspended all flood control work pending a decision by the Appeals Court to the lawsuit filed by Ford Greene. This includes awarding the contract to perform a detailed study of the feasibility of utilizing large detention basins to reduce or eliminate flood flows; to make suggestions on improving critical reaches where flood waters leave their banks; and suggest a sustainable dredging volume for the lower end of Corte Madera Creek. Town Manager Broad, Mayor Pro Tempore Strauss and he met with Assemblyman Jared Huffman to ask for assistance with securing Caltrans permits in a timely manner, particularly in light of the State budget crisis.

Council Member Martin stated that the Town would like the Lagunitas Bridge replacement to be completed during the summer of 2009. There are many challenges to accomplish this timely completion. Caltrans, along with several other agencies will have to review and approve the plans and provide required permits. Sometime in February the draft EIR will be presented to the public for review and comment.

Mayor Pro Tempore Strauss stated that if they could get the project done this fiscal year it would be very beneficial. He noted that Consultant Dave Anderson will talk about the schedule and then the Council can make a decision to expedite the permit process, if at all possible.

Dave Anderson, URS Consultant, reported that they were pushed into optimistic schedule and they are about three weeks late submitting permits to the Regional Water Quality Control Board, Army Corps of Engineers and Department of Fish & Game. He learned yesterday that the biological assessments prepared for the two endangered species was sent to Caltrans, but they have not reviewed or forwarded the report to the federal agencies. They

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will not review before February 1st, so the optimistic schedule has become extremely optimistic. They are entering into an unrealistic realm. If federal agencies reviewed the biological assessment they must give opinions that would trigger a permit. 135 days is the limit and that would have to be reduced in almost half. It does not look good. 85% of the work is done in terms of design. The schedule issue is hanging over their heads. He reviewed various scenarios, but that biological opinion must be received to trigger the permit in order to start working on the creek this year. There is a window of opportunity starting June 15th to October 15th. With agencies reviewing in the normal timeframe, they are not working in the creek until September and they risk high waters and shutting the bridge down.

The Council asked how they lost three weeks in terms of the application. Consultant Anderson noted that it just happened. They had some shift in focus to other projects. The Council suggested contacting Assemblyman Jared Huffman to try to expedite the matter over the next few weeks. Mayor Cahill suggested that all details be emailed to Council Member Martin and Mayor pro Tempore Strauss in terms of where it was submitted and who it was submitted to in order to expedite the matter. Consultant Anderson agreed to provide the necessary information. Consultant Anderson noted that the biological assessment was submitted to Caltrans on November 12th and November 18th. He further noted that once the biological assessment is in the federal agencies hands, it could be turned around rather quickly.

Mayor Pro Tempore Strauss, Council Member Martin, and Consultant Anderson agreed to work on the matter together.

Mayor Pro Strauss noted that the Lagunitas Road intersection at Sir Francis Drake Boulevard and Ross Common must be addressed during the bridge construction, so concepts will be coming forward to the Council for discussion.

Town Manager Broad pointed out that substantively there is no issue with the red-legged frog and salmonoids in terms of the biological assessment. Consultant Anderson agreed that the reports did not present an issue in terms of the bridge project.

Superintendent Robert Maccario suggested sending the plan to NOA in order to talk with someone on a personal level to expedite the matter. Also, if they immediately put in the headwalls, they are no longer in the creek, but above the creek so that should be known and work can move forward. Mayor Pro Tempore Strauss believed once the foundation is in, the rest will fall into place later.

Council Member Martin desired any and all details to expedite this matter because they must advise Assemblyman Jared Huffman. He further believed the more direction provided, the more effective they can be.

Mayor Cahill opened the public hearing on this item.

Neal King, Sylvan Lane resident, agreed the intersections must be reviewed in regard to the bridge, but Sylvan Lane is directly impacted. People travel at excessive speeds on Sir Francis Drake down to Lagunitas. They must review line of site from all directions, Lagunitas approaching Sir Francis, downtown Ross and into the Town of Ross. They must manage the traffic that flows through. Mayor Pro Tempore Strauss welcomed any member of the public

interested to attend the February meeting. Council Member Martin noted that a draft EIR hearing on the bridge project would occur on February 10th, 2009. Town Manager Broad agreed to send out notices of the meeting dates.

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.

Mayor Cahill appreciated the report and thanked Mayor Pro Tempore Strauss, Council Member Martin and Consultant Anderson.

II. Employee Appreciation Program and presentation of awards to Town employees Gianfranco Campa, Tim Grasser, Paul Stromoski and Tom Vallee.

Town Manager Broad presented employee appreciation awards to Gianfranco Campa, Tim Grasser, Paul Stromoski and Chief Tom Vallee for their dedicated work to the Town.

Jessica Hart, Ross resident, thanked the officers for their professionalism, which has been wonderful and noted her appreciation.

12. Council consideration of Resolution No. 1662 granting Marin Sanitary Service a 6.42% rate increase for 2009, effective January 1, 2009.

Town Manager Broad recommended that the Council consider Resolution No. 1662, granting Marin Sanitary Service a 6.42% rate increase for 2009, effective January 1, 2009.

Mayor Cahill stated that fuel prices have decreased, and asked if the overall cost of operation comes down below the increase being asked for, would it be credited back the following year. Ray Holmes, Marin Sanitary representative, explained that the fuel in this case is related to last year's fuel. They use diesel and the price was as high as \$4.90 and averaged at \$3.80, which is the reason for the \$1.42 per month increase to make up for that shortfall experienced in 2008. Fuel in 2009 is set at roughly \$300 per gallon. If it continues to drop, there will be a significant benefit to the ratepayers next year. Other cost factors may overcome that benefit, but if fuel stays where it is there will be large benefits going back to ratepayers.

Mayor Pro Tempore Strauss questioned the agreed upon profit. Town Manager Broad noted that it is a franchise agreement. Mayor Pro Tempore Strauss asked if that could be re-negotiated. He then suggested reviewing the current 20-year franchise agreement to ensure contract terms are in the residents' best interest.

Council Member Hunter asked about yard waste collection going to Woodland. Representative Holmes stated that it is a third party hauling operation. Their trucks collect waste and bring it to their facility and then it is loaded into a much bigger truck to be transported to a composting facility in Woodland.

Joe Garbarino, Marin Sanitary Chairman of the Board, stated that they cannot legally take yard waste to the landfill anymore. It is against the law since it causes gases. He explained that there are reasons for long-term contracts. They recycle 65 to 70% of waste collected. He invited the Council to visit their facility in San Rafael to better understand what they are

doing. He is currently negotiating with the sewer plant to generate power. They continue to reinvest money, including tremendous solar systems and Marin recycling programs.

Council Member Martin suggested an incentive program, so there is an option for residents. Town Manager Broad explained that 32, 62 and 92-gallon containers are the same cost per gallon. The 20-gallon is not proportionally less. Mr. Garbarino pointed out to the Council that the cost is not picking up the container; it is getting the truck to that block. Town Manager Broad added that residents are not being rewarded for generating a lot of garbage.

Mayor Cahill 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 questioned the necessity of the rate increase, especially in the midst of a recession, but determined the increase was acceptable given higher operating costs and Marin Sanitary's exemplary record in recycling and pursuing eco-friendly waste disposal strategies.

Mayor Pro Tempore Strauss wanted to become more knowledgeable on the franchise agreement due to the economic times. Town Manager Broad agreed to send the Council the franchise agreement, which could be reviewed by the subcommittee as a separate action. The Council agreed.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Skall seconded, to adopt Resolution No. 1662, granting Marin Sanitary Service a 6.42% rate increase fro 2009, effective January 1, 2009. Motion carried unanimously.

13. Council member appointment to the Marin Energy Authority Board.

The Council appointed Council Member Martin to serve on the Marin Energy Authority (MEA), a joint powers agency created to explore Marin Clean Energy and other greenhouse gas reduction programs. Mayor Cahill will serve as an alternative board director. The MEA Board will meet on the first Thursday of each month beginning February 5th.

Mayor Pro Tempore Strauss moved and Council Member Skall seconded, to appoint Council Member Martin to serve on the Marin Energy Authority Board and Mayor Cahill will serve as an alternative. Motion carried unanimously.

- 14. Follow-up discussion of the five Town Council goals for 2008-2009 and the implementation of these goals.**
- a. Staff job description updates and performance reviews
 - b. On-going emergency preparedness, with a focus on seniors
 - c. Town and Ross Valley flood control
 - d. Downtown plan
 - e. Police and Fire Department reorganization

The Council reported progress on their five Council goals as follows:

Goal A - Staff job description updates and performance reviews

Mayor Cahill reported that Patti Divella of PDF Consulting is conducting the performance reviews and exploring the organization of government functions. Consultant Divella has interviewed town staff and the Council. He along with Town Manager Broad and Mayor Pro Tempore Strauss will review findings at the next meeting and schedule a closed session with the full Town Council.

Goal B - On-going emergency preparedness, with a focus on seniors

Council Member Skall announced that CERT classes are scheduled for February 19th, 21st and 28th. He welcomed all to sign up. Also, work continues on flood alert policies, which will be completed soon and reviewed by staff and the Council.

Goal C - Town and Ross Valley flood control

Council Member Martin had nothing further to report.

Goal D - Downtown plan

Mayor Pro Tempore Strauss met with the consultant along with Town Manager Broad and Council Member Hunter. They hope to bring the plan forward at the February 26th workshop. Town Manager Broad wanted a joint Town Council and Advisory Design Review meeting, so staff will confirm dates will all parties involved.

Goal E - Police and Fire Department reorganization

Council Member Hunter announced that he would receive a status report from both chiefs on the goals and objectives that were developed shortly.

15. Planning Consent Agenda.

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

a. 27 Ross Common, Commercial Use Permit No. 1728

Vito and Sonja Badalamenti (Owner) and Morgan Lane Marin, Inc. (Applicant), 27 Ross Common, A. P. No. 73-273-09, Local Service Commercial District (C-L). A Local Service Commercial District use permit application for a real estate office to be located on the second floor. The office will operate in 800 square feet of space with 3-4 employees and be open Monday through Friday from 8 a.m. to 5 p.m.

Council Member Hunter asked if parking is part of this application. The applicant indicated that there are 12 parking spaces in back. They are not pre-determined spaces to any suite, but available for the benefit of the tenants.

Mayor Cahill asked for a motion.

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

Conditions:

1. The use permitted under this use permit shall be established and conducted in conformity with the description in the use permit application.

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.
5. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, or seating, requires prior approval of an encroachment permit from the Director of Public Works.
6. **NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.**
7. 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.
8. 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. **70 Ivy Drive and 102 Ivy Drive, Merger and Resubdivision Nos. 1718 and 1719** Ward and Melinda Ching, 102 Ivy Drive, A.P. No. 73-143-18, R-1:B-10 (Single Family Residential, 10,000 sq. ft. minimum lot size), and James and Brett Collins, 70 Ivy Drive, A. P. No. 73-143-12, R-1:B-10 (Single Family Residential, 10,000 sq. ft. minimum lot size). A merger and resubdivision to equally divide an existing 3,382 square foot undeveloped parcel A.P.N. 73-143-19 between the adjacent properties to the east and west on Ivy Drive. One half of the parcel will be added to 102 Ivy Drive and one half will be added to 70 Ivy Drive. This project will result in the elimination of an existing substandard lot.

Council Member Skall noted for the record that he is related to one of the applicants, but there is no financial benefit in regard to this application.

Mayor Cahill asked for a motion.

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

Conditions:

1. The Town approves this merger and resubdivision tentative map as submitted except as otherwise provided in these conditions.

2. The final map document shall be submitted to the Planning Department for review for consistency with this approval prior to recordation.
3. Failure to record the tentative map by January 15, 2011 shall cause the approval to lapse without further notice.
4. 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 Bridge Road, Amendment to Variance and Design Review No. 1683**
Jay and Katie Kern, 59 Bridge Road, A.P. No. 73-261-37, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum lot size). Amendment to variance and design review application, approved by the Town Council on May 8, 2008, to allow modifications to the existing residence and landscape improvements. The approved project included modifications to each elevation of the residence and demolition of an existing, detached, garage and remodel of the basement/garage area to create parking for three vehicles. The amendment would permit a 34.5 square foot expansion of a second floor bathroom to cover new floor joists necessary to support the room. The addition would extend the bathroom approximately three feet to the south.

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|---------------------------|-----------------------|
| Lot area | 32,405 square feet |
| Existing Floor Area Ratio | 38.2% |
| Approved Floor Area Ratio | 38.0% |
| Proposed Floor Area Ratio | 38.1% (20% permitted) |
| Existing Lot Coverage | 15.8% |
| Proposed Lot Coverage | 19.0% (20% permitted) |

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

Mayor Cahill asked for a motion.

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

Conditions:

The following conditions shall be reproduced on the first page(s) of the project plans:

1. The project shall be subject to all the all project conditions imposed by the Town Council on May 8, 2008.
2. 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.

End of Planning consent agenda.

16. Correspondence – Ross Common Tent/Ross School Foundation Bear

Town Council and Supervisor Robert Maccario had no objection to the tent for Ross Common.

Town Manager Broad stated that there is a request from the Ross School Foundation to place the Foundation Bear on the Ross Common near the fencing and facing into the Common. The Council had no objection.

17. Other Business.

Town Manager Broad announced that Senior Planner Semonian would return on February 1st, 2009 on a part-time basis.

18. Adjournment.

By order of Mayor Cahill, the meeting adjourned at 7:55 pm.

William R. Cahill, Mayor

ATTEST:

Gary Broad, Town Manager