

## REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, JUNE 10, 2010

1. **6:30 P.M. Commencement.**

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

2. **Open time for matters pertaining to the closed session in agenda items 3 - None**

3. **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.**

4. **Open Session. Council will return to open session and announce action taken, if any. Mayor Strauss reported that there was no reportable action.**

5. **Posting of Agenda.**

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

6. **Minutes – May 13<sup>th</sup> / June 1<sup>st</sup>**

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to approve the minutes of May 13<sup>th</sup> as amended. Motion carried unanimously.

Council Member Martin moved and Council Member Skall seconded, to approve the minutes of the special June 1<sup>st</sup>, 2010 meeting as submitted. Motion carried unanimously.

7. **Demands.**

The demands were met.

8. **Open Time for Public Expression.**

Seth Kaufman, Bolinas Avenue resident, discussed the Smeltzer study and wanted to make sure there is coordination with the other studies occurring and funding available in next year's budget.

9. **Report from Mayor Strauss.**

Mayor Strauss congratulated the two newly elected Town Council members, Carla Small and Rupert Russell. They will be sworn in after the county certifies the election, which must be done by July 6, but may occur as soon as June 25. The Town will schedule a swearing-in ceremony as soon as possible to ensure these new members will be seated for the July 8 Council meeting.

Also, the Town has very good news from the California Supreme Court, which upheld the Ross Valley flood fee election. After the flood the Council agreed to pursue new funding for flood control projects, and the Council worked very long to make this happen. In addition to

the flood fee, the Council agreed to implement short and long-term flood control actions, which include installing floodgates, raising buildings above the 100-year flood level, reconstructing the Lagunitas Road Bridge, and completing the Unit 4 project to increase the capacity of the Corte Madera Creek channel and rebuild the fish ladder.

On a sad note, Julie Osterloh, a past member of the Ross Town Council, recently passed away. Julie served on the Council for ten years between 1970-1980.

10. Report from Committee Heads.

Public Works - Council member Martin

- Public Works Committee Update

Council Member Martin reported that the Public Works Committee met on June 1<sup>st</sup> and again on June 8<sup>th</sup> in a special meeting. He along with Council Member Cahill sat on that Committee. In terms of the Lagunitas Bridge project, at a special Council meeting two weeks ago, the low bidder for Lagunitas Bridge project, R.H. Harris was awarded the contract. Their bid, in the amount of \$1,211,088 was almost \$500,000 less than the Town's Engineer calculated. The demolition of the bridge is due to start on July 6<sup>th</sup>.

Public Works Director Mel Jarjoura noted that logistic work will start on June 21<sup>st</sup> and the bridge will be open as long as it is safe. Council Member Martin suggested that the posted signs be revised to be consistent with the actual date to avoid any confusion. Also, they must figure out where people will park for Council meetings. Public Works Director Jarjoura noted that staff must see how much space is needed. The area in front of Town Hall might be left or parking could be available at the Marin Art & Garden Center.

Council Member Martin discussed bid documents for the Sir Francis Drake Boulevard pedestrian path that were released on Monday, June 7<sup>th</sup>. Construction on that project is expected to start mid-July. Also, the Town is waiting for the E-76 authorization to proceed with the Sir Francis Drake Boulevard overlay project. Staff received an email that it has gone to the Highway Administration and hopefully the Town will receive the E-76 before the end of August.

Council Member Martin noted that the Southwood Avenue drainage and overlay project is underway. Last week, the ADA ramp modification work began on the Locust Bridge on Shady Lane, rails will be installed next week to better separate pedestrians near the bridge from the oncoming Shady Lane traffic. MMWD is starting to deliver equipment and piping related to its Phoenix Lake project prior to the closure of Lagunitas Bridge.

The Committee also made suggestions to the Bicycle and Pedestrian Plan document and met with the newly formed Tree Committee, which is a separate agenda item later tonight.

On June 8<sup>th</sup>, the Public Works Committee held a special meeting to consider the appeal of the construction completion penalty involving 23 Baywood Avenue. With the applicant's concurrence, the Committee referred that item to the Council's July meeting without recommendation. The Committee advised the appellant to comply with the requirements of the appeal process and provide documentation and other evidence to establish design decisions, construction contracts, permit applications, and other conditions undertaken in a diligent and timely manner, so that the Council could make a determination on the imposed penalties, which are significant.

Finance -Council member Scot Hunter

- Finance Committee Report

Mayor Pro Tempore Hunter announced that the draft FY 2010-11 budget will be ready for the Council to review at its July meeting. As of April 30, FY 2009-10, revenue was above the forecasted amount and operating expenses were barely over budget, producing a surplus of \$37,000. May financials are not completed, but that trend seems to be continuing.

Mayor Pro Tempore Hunter responded to an earlier public comment and noted that funds will be included to cover the Smeltzer studies.

- Marin Telecommunications Agency

Council Member Martin stated that there has been some discussion recently at Council meetings about live web streaming the Council meetings, which besides providing the public greater understanding and access to Town government this might effectively treat insomnia and probably a handful of other ailments. The Town recently investigated costs for installing wall-mounted monitors so the public, as well as the Council can review tables, charts and presentations. The Community Media Center of Marin just published this guide, *"Video and the Town Hall, a guide for wiring Marin Council Chambers."* The Community Media Center of Marin is a non-profit organization that received initial capital and operating funds from the local video franchise agreement between the Marin Telecommunications Agency (MTC) and Comcast Cable. It went on air one year ago and operates on Channel 26, a community access station and Channel 27, the local government channel. This guide reviews several affordable ways to broadcast government meetings and functions from this room using live or recorded cable casting, web streaming and online video studio. Once a council chamber is wired for video, it becomes, in effect a local television studio. In addition to broadcasting Council or Committee hearings, the room can play a key role in emergency situations enabling emergency personnel to make live addresses to residents via cable and web. Several other towns, including San Anselmo and Mill Valley are interested in reviewing options. If several towns join the effort, there may be savings for equipment. He asked the Council to consider this opportunity and to reserve up to \$25,000 in the fiscal year 2010-2011 budget, for a robotic camera, camera controller, monitors, web streaming computer, miscellaneous cabling, camera and monitor mounts, and installation costs.

The Community Media Center of Marin's purpose is to encourage and support the use of public, educational and government access cable channels and resources among broad range of individuals, organizations and institutions within Marin County and to facilitate the use of the PEG access channels as a public forum to promote a free exchange of ideas, information, and creative expression. Community Media Center of Marin will fulfill this role by establishing, operating and maintaining media production facilities and equipment at a Community Media Center and by providing the necessary services and resources needed to produce programming and content.

Mayor Strauss recommended that the Council discuss at their August retreat. The Council agreed and staff agreed.

## II. Report from Ross Property Owners Association.

Charlotte Levin, RPOA representative, requested volunteers for the Fourth of July celebration and those interested can respond to [rossevents@gmail.com](mailto:rossevents@gmail.com). RPOA also thanked

Council Member Skall and noted their appreciation for all his hard work and attending their meetings.

**12. Flood Control Report.**

Council Member Martin noted the California Supreme Court, with a vote of 7-0, that State Proposition 218 and the Ross Valley Flood Fee are valid and discussed two possible scenarios. The County is completing an engineering study recommending a series of water detention ponds, as well as creek bank and creek base modification to increase channel capacity in Corte Madera Creek. The project will take five years for pre-development work to process working drawings and environmental review. The \$40 million generated by the flood fee will leverage matching Federal and State grants to achieve the estimated \$100 million required to address this problem. This regional solution will require the towns within the Ross Valley drainage system to take part in the solution.

Yesterday, Council Member Martin spoke with the new Project Manager, Facundo Funes, for the Army Corps Engineers Unit 4 project, which includes removal of the fish ladder and other channel and bank improvements within the Town of Ross. The Corps is completing the baseline analysis for EIS/EIR. The corps is preparing the take on environmental study of nine alternative approaches to the project and various combinations of those approaches. He asked the Corps to attend the August Council meeting to provide an update on the project. The resolution of the Ross Valley flood fee litigation should provide legs to the Army Corps Unit 4 project. Hopefully, the Town will finally see some progress and realizations of improvements within the next 5 to 10 years.

Town Hydrologist Matt Smeltzer is asking Ross Valley towns to donate \$1,000 each to establish a "Summer Graduate Study Watershed Internship Program" to provide low cost environmental data collection and ancillary GIS development as needed to propel watershed management planning, a flood reduction program. Town Hydrologist Smeltzer is donating his services to advise the intern. Thus far Fairfax has committed \$1,000. San Anselmo and the County are considering donating the same. He asked the Town to consider spending \$1,000. He further noted that Town Manager Gary Broad concurs that this would be a good use of Town funds and there is money within the Public Works budget for "outside services and hires."

Mayor Strauss asked if they are moving forward or just retracing their steps. Council Member Martin indicated that they are moving forward. They must locate funds to conduct the studies for nine alternatives. Mayor Strauss is very surprised because the Council already outlined three alternatives and decided on a preferred alternative, which goes back to when Charlie Goodman was present. He worries that history will be lost if not documented. Council Member Martin stated for the purpose of environmental evaluation, they must look at every alternative. He further noted that it will take the California Department of Fish & Game one-year to conduct analysis as well.

Mayor Strauss announced that there will be a Flood Zone 9 meeting on June 16<sup>th</sup> at 7 p.m.

**13. Introduction of new Apprentice Firefighters Justin Hanson and Chris Friscia.** Fire Chief Tom Vallee introduced two new apprentice firefighters. Justin Hanson, who has been with the Ross Fire Department since January, most recently volunteered with the Ross Valley Fire Department. Chris Friscia volunteered with both the Ross Fire Department and

the Southern Marin Fire Protection District. Both were selected from large pools of very good applicants, and Ross is fortunate to have them. Both live in Marin County.

**14. Report from the Ross School.**

Bob Dickensen, School Board Member, reported on the future of Ross School, including administration structure and the grand opening of the new Ross School. Tammy Murphy announced resignation on April 28<sup>th</sup> 2010 and her last day is July 5<sup>th</sup> 2010, and the Board wished Tammy well. The Board will maintain and continue to streamline administration with a single leader with Patti Dullea who has agreed to remain with the Ross School and that she will serve in a combined role of Superintendent/Principal beginning July 1<sup>st</sup>. Superintendent/Principal Dullea has demonstrated great leadership as principal this last year and will work collaboratively with the community. It is the first time in five years that Ross School will have the same principal in consecutive years. He asked everyone to welcome Superintendent/Principal Dullea in leading the Ross School District forward.

On Monday, August 23<sup>rd</sup> at 3 p.m. Ross School will celebrate its grand opening with a ribbon cutting ceremony and extends an invitation to Ross Town Council, staff and all Ross community members. Formal invitations will follow. Without the support of Town Council and generosity of the community, as reflected in two bond measures, none of this would have been possible.

School Board Member Dickensen noted that Chief of Protocol Molly Gamble discussed safety in terms of this event and the School Board is willing to engage Town thoughts on how to best keep everyone safe. Consideration is to close Lagunitas Bridge between Ross Common and Allen Avenue as well as have an increased presence of patrol officers. With Lagunitas Bridge out of commission, and the need to maintain traffic flow, they understand the constraints on possible options. The School Board looks forward to hearing what makes sense and will follow the Town's guidance on how to make this a successful and safe event.

The School Board thanked Council Members Cahill and Skall for collaborating with the school and helping to remain an important part of the larger community.

**15. 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. 1709 enacting a temporary closure of the Ross Common for the annual Town Dinner from 4 p.m. to 10 p.m. on September 24, 2010.

Mayor Strauss asked for a motion.

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

- b. Town Council consideration of adoption of Resolution No. 1710 amending former Resolution No. 1702 approving the authorization to receive background information on employee hirings.

Mayor Strauss asked for a motion.

Mayor Strauss moved and Council Member Martin seconded, to approve Consent Calendar Item “b” as submitted by staff. Motion carried unanimously.

c. Town Council consideration of adoption of Ordinance No. 619 adding Chapter 15.54 to Title 15, Buildings and Construction, to establish requirements for drainage plans and stormwater runoff, and modifications and additions to Title 18, Chapter 18.41, Design Review, to add new purpose and design review criteria related to low impact development and management of stormwater runoff.

Mayor Strauss asked for a motion.

Mayor Strauss moved and Council Member Martin seconded, to adopt consent item (c), Ordinance No. 619. Motion carried unanimously.

d. Town Council consideration of adoption of Resolution No. 1708 Making Certain Findings and Determinations in Compliance with Section XIII B of the California Constitution (GANN Initiative) and Setting the Appropriation Limit for the Fiscal Year Ending June 30, 2010.

Mayor Strauss asked for a motion.

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

e. 29 Poplar Avenue, Use Permit No. 1783  
Allison and Scott Sutherland, 29 Poplar Avenue, A.P. No. 73-273-23, R-1: B-7.5 (Single Family Residence, 7,500 Sq. Ft. Min. Lot Size), Medium Low Density (3-6 Units/Acre), Zone A (area of 100-year flood). Use permit to allow the accessory structure to be used as a guesthouse, including the addition of a shower to the existing half bathroom.

Lot area	7,750 square feet
Existing Floor Area Ratio	30.0%
Proposed Floor Area Ratio	30.0% (20% permitted)
Existing Lot Coverage	25.0%
Proposed Lot Coverage	25.0% (20% permitted)

*The existing accessory structure is nonconforming in setbacks.*

Mayor Strauss asked for a motion.

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

**29 Poplar Shower Addition in Guest House Conditions**

The project shall be subject to the following conditions:

1. The project shall comply with all requirements of the Building Department.
2. The cottage shall not be used as a second unit without approval of a second unit permit.
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 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 Consent agenda.

**16. Resolution No. 1711 Commending the Outstanding Service of Council Member William Cahill.**

Mayor Strauss commended the outstanding service of Council Member Bill Cahill who served on the Council for four years and as Mayor between June 2008 and July 2009. He served on several committees and boards, and completed his Council goals of developing staff job descriptions and performance standards and studying renovation and reconstruction of Town facilities.

**17. Resolution No. 1712 Commending the Outstanding Service of Council Member Michael Skall.**

Mayor Strauss commended the outstanding service of Council Member Michael Skall who also served on the Council for four years and represented the Town on numerous board and commissions, including the Transportation Authority of Marin and the Association of Bay Area Governments. He successfully fulfilled his Council goals of developing emergency preparedness programs and procedures and reviewing and updating the hillside lot ordinance.

**18. Discussion of Formation of New Ross Street Tree Committee.**

B.J. Martin, Street Tree Committee Member, introduced the 2010 Street Tree Committee and its goal *"to restore the original beauty of the tree canopy that has been the signature look of Ross."* The Committee will build on the work of the former street tree-working group, which recommended elms and native oak species for street tree planting. It intends to reestablish the previous arching canopy by planting single species of disease-resistant trees, while creating an understory of younger trees that will be ready to supplant older trees as they die. The Committee will help create policies for planting and maintaining trees in the right-of-way, and plans to work with the utility companies to establish more aesthetic pruning standards under utility lines. Committee Members include the following: Jennifer Leathers, Dennis Untermann, Steven McKinney, Ann Brenner, B.J. Martin, Council Member Chris Martin, and Public Works Superintendent Robert Maccario.

Mayor Strauss wanted to understand how the Public Works Department can implement information collected in order to move forward. He suggested that the Council discuss at their retreat. He added that the previous Tree Committee structured guidelines. Tree Committee Member Martin noted that they took what was previously written, and revised the document to be more proactive. They are looking at replanting and the Street Tree Committee is proactive and will work with the Town, property owners and utility companies in order to accomplish their goals. Mayor Strauss agreed that working with utility companies is a good idea.

Council Member Cahill suggested some sort of appropriate reporting program to report to the Council periodically. Street Tree Committee Member Martin agreed.

Mayor Strauss recommended that the Street Tree Committee work with the Public Works Committee. The Council also agreed to discuss at their August retreat.

19. **Further consideration of Council member Bill Cahill's FY09-10 Council goal to study public facilities. Presentation and Town Council discussion of a conceptual schematic for construction of a new public safety building for Fire and Police Departments, including office space for Town Hall staff and preliminary project cost estimates. The Council will also discuss potential financing alternatives and creating a citizens' advisory committee to develop the program for new public facilities over six months.**

Council Member Cahill reported that his FY 2009-2010 goal was to study the Town's existing public facilities and to consider remodeling and reconstruction options. Action 9A of the Town's General Plan of 2007 calls for the study of Town facilities within three years or by 2010. The public safety building was constructed 83 years ago in 1927 and has been remodeled extensively over the years. The building needs major repairs. As Fire Chief Tom Valley likes to say, "*the building is held up by termites.*" The building does not meet the standards required for modern public safety organizations. The first floor of the building is also below the 100-year floodplain. Currently, the administrative offices are inadequate and disjointed, and are separated from public safety operations. Putting these functions in the same building would improve productivity, collaboration and supervision. At the very least, a significant remodel is necessary. Mack5, who is providing the Town with preliminary cost information, has estimated that a property remodel will cost more than a new facility. Accordingly, they have focused efforts on a new building to accommodate fire, police and administrative functions. He along with Project Planner Christine O'Rourke prepared a staff report that has been distributed to each Council member and is available to the public on the Town's website.

Over the past year, he along with Architect Kathy Strauss worked closely with Town Manager Gary Broad, Public Works Director Mel Jarjoura, Fire Chief Tom Vallee, Police Chief Jim Reis and other staff to identify and evaluate space needs for new fire, police and administrative offices. Based on this input, and the expressed desire of residents to maintain the historic feel of the existing building, Architect Kathy Strauss has sketched a conceptual design. It is important to note that Architect Kathy Strauss's design is intended to be a "*placeholder.*" It is likely that the final plan will look substantially different. After Architect Kathy Strauss presents the design, Mark Kelley, of Mack5, will present an "*order of magnitude*"

project estimate, based on Architect Kathy Strauss's design. Mack5 is a construction management firm that has extensive experience with the construction of public buildings, including their recent work on the Kentfield fire station. Both Architect Kathy Strauss and Mark Kelley, and his team at Mack5, provided all services to the Town on a pro-bono basis.

Project Planner O'Rourke investigated how the Town might finance the project. Her findings are located in the staff report. He will summarize the financing options, and discuss timing and the proposed Citizens Committee after Mr. Kelley presents.

Kathy Strauss, architect, presented a conceptual schematic for a new public safety building that would also provide office space for Town Hall staff. The schematic retains the historic character of the existing building, but is meant to be a placeholder while the design and programmatic requirements are further developed. The conceptual design provide approximately 1,500 square feet for Town Hall staff, 1,400 square feet for the police department, 1,500 square feet for the Ross Valley paramedics, and 8,900 square feet for the fire department. The fire department driveway would be changed to directly enter the Laurel Grove Avenue intersection.

Mark Kelley, Mack5 principal, presented preliminary cost estimates for the new building through an extensive exercise based on other projects to build up various items needed such as, entitlement cost; design planning and management; construction and construction related cost; data and security systems; furnishings; fixtures and equipment; owner cost; and project contingency, which total approximately \$10.2 million. Direct construction costs total \$6.2 million at \$471 per square-foot. Soft costs, at \$300 per square-foot, total \$4 million. He noted that costs were projected out 12-months and could increase dramatically. He further believed the construction budget is realistic, reasonable and manageable.

Council Member Cahill presented the financing options and noted that Project Planner O'Rourke interviewed John Knox, an attorney at the Orrick Law firm, who specializes in municipal finance. Based on these interviews, Project Planner O'Rourke identified three options for financing this project: 1) a General Obligation Bond; 2) a Lease Revenue Bond; and 3) a Lease Purchase Agreement. The General Obligation Bond requires two-thirds voter approval, provides a new source of revenue and has the lowest interest rate. The Lease Revenue Bond and the Lease Purchase Agreement do not require voter approval, but do not provide a new source of revenue and therefore must be paid out of the Town's General Fund. More details about the three options are listed in the staff report. In addition to the bond or bank financing, the Town should consider pursuing private fundraising similar to the successful campaigns in the past for the school and the post office.

Several months ago Mayor Strauss proposed establishing a "Citizens' Committee" to advance the public facilities project. He suggested that a Council Member volunteer, as his or her goal for the next fiscal year, to Chair the Citizens' Committee. The Citizens' Committee would define the scope of the program, host public workshops and return to the Council with a recommendation. His best estimate of the timing moving forward is as follows:

- Citizen Committee Review & Council Preliminary Approval  
- July-December, 2010
- Choose Design Team & Schematic Design Preparation  
- January-June, 2011
- Community Review & Council Final Approval

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- July-September, 2011
- Construction Documents & Select Contractor
  - October, 2011-June, 2012
- Start Construction
  - July, 2012
- Complete Construction
  - October, 2013

Also, Architect Kathy Strauss's plan for the new building contains facilities for the fire department. There has been discussion of contracting or consolidating fire service with other neighboring jurisdictions. If such a combination eliminates the need for a fire station in Ross, the new building would be substantially smaller and much less costly. They have not prepared an estimate for a building without the fire department and suggested that the new Council address the policy issue of whether to keep a fire station in Ross at the July Council meeting. He then emphasized that this is just the beginning of the planning process. There will be numerous public meetings on this subject and many opportunities for public input going forward. He further thanked Architect Kathy Strauss and Mark Kelley, and his team at Mack5, who have put in countless hours on a pro-bono basis to provide the Town with design and cost information.

Mayor Strauss opened the public hearing on this item.

Jon d'Alessio, Crest Road resident, using current cost, he wanted to know the cost two or three years before the market fell apart. Mack5 Principal Kelley noted about 20% higher than the estimate.

Charlotte Levin, Ross resident, asked where the meeting hall is located. Architect Kathy Strauss pointed out the location of the Town Hall using the architectural drawings and explained that the current Council Chambers will remain.

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 Strauss thanked Council Member Cahill and appreciated his work. Mayor Pro Tempore Hunter asked, in terms of purpose, the Council Chambers would remain as a hearing room, but asked if there was any thought about the rest. Council Member Cahill talked about using the administrative facilities as conference rooms or different organizations in Town could use the existing offices. Deep discussions have not occurred, but more space would allow the Town to accommodate more functions.

Council Member Martin pointed out that this is a complicated proposal and they must consider response time for fire department, assess how citizens might feel about a revenue bond and must project realistically the funds raised for a capital project. He agreed with Council Member Cahill's approach of a blue ribbon committee to get community involvement. He felt the timetable is ambitious and time is of the essence due to competitive rates and the condition of the facilities. They must get a reality check of the community about what priorities they desired. Do they feel as strongly about new administrative facilities as new emergency facilities? Raising facilities out of the floodplain is critical. He wondered if federal dollars are available for that, possibly FEMA recovery. There may be

some public monies available. He further commended Council Member Cahill, Architect Kathy Strauss and Mack5.

Council Member Skall believed this would be a great project to move forward and noted his appreciation. Mayor Pro Tempore Hunter also thanked Council Member Cahill, Architect Kathy Strauss and Mack5. Mayor Strauss recommended discussing this matter at the Council's August retreat as well.

20. Town Council consideration of issuing a special permit to Edward Dong/Ross School PTA fund raising campaign to allow an overnight "Campout on the Commons" event from up to 50 participants in the northwest portion of the Ross Common on Friday evening September 10 till Saturday morning September 11.

Public Works Director Mel Jarjoura summarized the staff report and recommended that the Council consider issuing a special permit to Edward Dong/Ross School PTA fund raising campaign to allow an overnight "*Campout on the Commons*" event from up to 50 participants in the northwest portion of the Ross Common on Friday evening September 10 till Saturday morning September 11.

Edward Dong, Ross School PTA representative, believed around 75 to 100 participants would attend the event at the Common. The event will take place after dinner on Friday night. He is working with Don Santa, so any and all snacks will be catered. He further noted that this request is for a special permit for around 100 participants for overnight camping.

Police Chief Jim Reis indicated that the police can handle the increase in participants and believed it will be a good time for the kids.

Mayor Strauss 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 Cahill suggested revising the condition from "50 participants" to "120 participants." The Council and staff agreed.

The Town Council agreed to issue a special permit to Edward Dong from the Ross School PTA fund raising campaign to allow an overnight "*Campout on the Commons*" event for up to 120 participants in the northwest portion of the Ross Common on Friday evening September 10 till Saturday morning September 11. The permit prohibits open fires and requires the event organizers to provide liability insurance and supervision.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to approve issuance of a special permit to Mr. Edward Dong from the Ross School PTA fund raising campaign to allow an overnight, "*Campout on the Commons*" including the one modification that the maximum number of participants be changed from "50" to "120." Motion carried unanimously.

21. **Town Council approval of continued placement of temporary signs and locations for the Street Smarts Pilot Program, a traffic education campaign, from May through September.**

Police Chief Jim Reis summarized the staff report and recommended that the Council approve the continued placement of temporary signs and locations for the Street Smarts Pilot Program from May through September.

Mayor Strauss 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 Skall appreciated the program, but is interested in reducing accidents, and was impressed by the fact that temporary stop signs were installed at Shady Lane Bridge. He noted disappointed that they were removed and wished they had the ability to keep the signs up through construction of the Lagunitas Bridge project.

Mayor Strauss asked Police Chief Reis to develop a solution. Council Member Cahill recommended adding temporary signage during construction of the bridge. Mayor Strauss asked Police Chief Reis to review overall circulation and come back at the July meeting as to what might help the Town get through this tough time with the bridge closure. Police Chief Reis believed it might be possible to redo traffic signals during the closure of the bridge. Logistically, it will be difficult, but agreed to review.

Mayor Pro Tempore Hunter was surprised that the signs placed on the Common lasted all those months and desired to know if there were any statistics as to effectiveness. Police Chief Reis responded that there were no numbers. They received both positive and negative responses. Accidents seem to be reducing slightly. Lately, as far as accidents involving juveniles, he would recommend that this approach cannot do any harm and would only make those more aware of traffic conditions in Town.

Mayor Strauss asked staff to be careful in terms of locating signs and worried about too many signs. Police Chief Reis agreed.

Council Member Martin noted that red cones are still on the roadway at Locust so it forces vehicles to go over the double line, so there is a hazard that must be addressed. Either the cones should be removed or signage should go back until the project is completed. Mayor Strauss agreed the cones should be removed, at least over the weekend or place the signs back. The Council desired the stop signs to go back up until further notice due to bridge construction.

Mayor Strauss wanted to provide Police Chief Reis time to review and then come back with a recommendation during the bridge construction, so he recommended continuing the matter until July.

Council Member Cahill suggested allowing the temporary signage until the July meeting and then at the July meeting Police Chief Reis can make a recommendation as to remove or maintain the signage during bridge construction. Police Chief Reis agreed to make a recommendation at the next meeting regarding signage on the bridge.

Mayor Strauss agreed to develop an overall plan and to table the discussion of signage until next month.

The Council agreed to continue placement of temporary Street Smarts signs from mid-June through mid-September. Ten educational signs and five banners will be placed in strategic locations throughout Ross, including Ross School and the Common.

Street Smarts is a traffic education campaign designed to change driver, cyclist and pedestrian behavior and reduce accidents. The program targets five problematic behaviors: speeding, stopping, right-of-way violations, distracted driving, and bicyclist violations and safety. Educational brochures are available at the Ross Police Department and will be distributed to Ross School students at the beginning of the school year.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve implementation of the Street Smart Program for 2010. Motion carried unanimously.

*The Council took a short recess at 8:33 p.m. and then reconvened at 8:40 p.m.*

22. Consideration of the appeal of Richard Hannum, 23 Baywood Avenue. The Council will consider the recommendation from the Public Works Committee on the applicant's appeal of construction completion penalties.

Item continued to the July Town Council meeting.

Mayor Pro Tempore Hunter noted that there was an inquiry about a conflict of interest in regard to the next agenda item and Town Attorney Hadden Roth researched the matter and provided the following findings:

*"There is a "public generally" exception to disqualification of a public official participating in a governmental decision which will have a material financial effect on the public official's economic interest. First, the decision must affect a "significant segment" of the public within the Town. Second, the decision must affect the official's economic interest in "substantially the same manner" as it will affect that significant segment. In this case, a council member owning a single-family home within the area covered by Town's hillside regulations, who votes on area wide amendments to those regulations would be affected in substantially the same manner as the other homeowners and thus, the exception applies."*

*Town Attorney Hadden Roth left the Town Council meeting at 8:42 p.m.*

23. Town Council consideration of introduction of Ordinance No. 620, amending the Town's hillside development regulations. 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 consider introducing Ordinance No. 620, amending the Town's hillside development regulations.

Council Member Cahill clarified with staff that the Council should follow Julie McMillan's suggestion and make "setbacks" mandatory. Senior Planner Semonian responded in the affirmative. Also, the language Ms. McMillan provided in regard to requiring an irrigation system for new hillside landscaping should be added as well. The Council discussed making certain provisions mandatory.

Mayor Pro Tempore Hunter discussed the contour method being more precise and the ordinance is based on the most important calculation, which is the slope. While it is more accurate, it is more expensive, but staff can estimate what the contour method would have shown and provide that information to the Council on future applications. Senior Planner Semonian noted that the County of Marin has topographic data and estimates slope using the contour method on their GIS program. The computer measures the topo lines for the formula. It is not as accurate as based on the parcel map, but it is a good informational tool. If an applicant felt the calculation is inaccurate, then they can produce an actual topo map to rebut.

Mayor Pro Tempore Hunter is confused about what is changing from "should" to "shall" and "shall" to "should." Council Member Cahill explained that starting with Item C, it remains as shown in the staff report with the exception of Item E - Landscape No. 4 states, "An irrigation system shall be required for new hillside landscaping." Otherwise all the rest of the "shall" and "should" remain as outlined in the staff report. Senior Planner Semonian concurred.

Mayor Strauss modified page 7 under Item D to state "Architectural Design" rather than "Style." Also, placement of driveways in terms of a parking deck, he did not know how that should be addressed. There may be a site that makes sense for a parking deck. Senior Planner

Semonian agreed, noting that driveways that conform to contours may not conform to fire department requirements and that section should remain “*should.*”

Mayor Pro Tempore Hunter asked staff about cut and fill and believed the goal is to have balanced cut and fill. Senior Planner Semonian did not have the standard design review chapter guideline on hand, but she agreed it was important to have this as a guideline in the hillside regulations. Council Member Cahill suggested adding it to Item C - Grading and Retaining Walls. Senior Planner Semonian agreed to include the following language: “*Applicants should strive to balance cut and fill on site.*”

Mayor Strauss opened the public hearing on this item.

Rupert Russell, Shady Lane resident, noted that Ms. McMillan desired some modification to decks and desired to know the outcome. Senior Planner Semonian responded that the new guidelines address the issue. If a percentage could work for decks that would be good, but at this point staff did not have any idea of what that percentage should be. Plus, it adds burden on staff to calculate deck area for each project. They could ask applicants to call out their deck area on applications and determine a realistic percentage. As worded, Council has discretion to reduce the deck size if it seems inappropriate or out of balance.

Phil Paisley, Baywood resident, asked staff if ADR reached a consensus on having a percentage on decks. He believed 50% is a reasonable place to start. Senior Planner Semonian noted it was not placed in the recommendations to the Council. ADR could not conclude the percentage and felt more certainty would be great. Also, ADR did not want people to design to the maximum.

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 Cahill believed it makes a difference if decks are extended out from the building or part of the roof structure in terms of bulk and mass. Mayor Strauss stated that is why the Council has the discretion. Council Member Martin asked staff if they are concerned about ceiling heights. Senior Planner Semonian noted that it is a trend to have taller ceiling heights. It should be looked at through design review, and if it makes sense and does not have major impacts, it would be appropriate. Staff further noted that there would be discretion through design review.

Council Member Skall believed it is pretty close to what is desired and felt staff did a good job.

Mayor Pro Tempore Hunter discussed the contour calculation where numerous examples were provided of the same property with four different measurements. Almost everyone considering building on hillside lot has to do a topo, so it is part of the planning package anyway, which is the real expense of the contour method. Mayor Strauss did not believe it has to be that extensive. Senior Planner Semonian agreed that the majority of cost is for the topo. Mayor Pro Tempore Hunter recommended using the measurement that truly measures slope rather than an approximation. Council Member Cahill agreed, unless it is too costly. Certain opponents are homeowners that by using it the slope would go up and liked the current method for that reason. For a number of lots, this will be a down zoning similar to

the incremental method. They must decide on the incremental method in this draft or go back to 5% threshold method. He is not sure which is better since there are arguments for both sides. The advantage of the incremental method is that if someone is right at the bubble, there will not be as much controversy about how to calculate slope. He favored the incremental approach. He respects the comments about decks that must be taken seriously when reviewing projects to see if decks are excessive, but due to all the variations there would be unintended consequences if they specify a percentage as discussed. He agreed with the proposed ordinance as it is currently with the minor changes suggested by staff.

Council Member Martin is concerned about going to the contour method because it is a change. If someone wants to challenge the ordinance as, “a taking” of the property they would have more of a case. They are tightening up the ordinance to be more restrictive which was the mission to be clear. He feels comfortable with the standards used in the past for calculating slope and apply slope with the incremental method. He is very pleased with the changes as presented tonight.

Mayor Strauss concurred with Council Members Cahill and Martin’s comments.

The Council agreed to use the incremental slope calculation as revised. Senior Planner Semonian noted that the ordinance would apply to all projects up until the date of adoption as well as projects received and deemed complete. Any project staff received that is complete the current ordinance would be applied.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Martin seconded, to waive the reading and introduce Ordinance No. 620, amending the Town’s hillside development regulations with the following changes as discussed: Section 18.39.090B, change “*Should*” to “*Shall*,” Section 18.39.090C – add, “*Applicants should strive to balance cut and fill on the site;*” Section 18.39.090D change, “*Architectural Style*” to “*Architectural Design;*” Section 18.39.090E – Subsection 4, modifying the wording to state, “*an irrigation system shall be established to require new hillside landscaping;*” and 18.39.090E, delete the following sentence: “*reduce yard requirements.*” Motion carried unanimously.

24. Town Council discussion of its five Town Council goals for 2009-2010. The Council identified the following five potential goals at its August 2009 Town Council workshop.

a. Downtown plan

Mayor Strauss reported that the Council agreed to postpone construction of the Post Office parking lot until the Town’s other public works projects were completed. He suggested discussing specific implementation at their retreat as well as go through ADR for their input along with the public.

b. Public facilities

Council Member Cahill had nothing further to report.

c. Flood control

Council Member Martin had nothing further to report.

**d. Hillside lot ordinance review**

Council Member Skall had nothing further to report.

**e. Unfunded mandates/pensions**

Mayor Pro Tempore Hunter stated that they have a handle on what is unfunded in terms of pension obligations and strongly recommended that they consider paying off the unfunded liability once the Council has a better idea what the funding needs will be for the Town's new public building. In the meantime, the unfunded mandate will be listed as a liability on the Town's financial statements.

**25. 90 Laurel Grove Avenue, Variance and Design Review No. 1778**

Steve and Kirsten Polsky, 90 Laurel Grove Avenue, A.P. No. 72-201-12, R-1:B-A (Single Family Residential, 1-acre min. lot size), Very Low Density (.1-1 Unit/Acre). Design review and variances associated with converting the existing basement area to a family room, which would add 635 square feet of floor area to the residence. The project would involve 56 cubic yards of cut to lower the floor of the basement area. Total floor area of 4,026 square feet is proposed.

Lot area	16,546 sq. ft.	
Existing Floor Area	20.5%	
Proposed Floor Area	24.3%	(15% permitted)
Existing Lot Coverage	19.1%	
Proposed Lot Coverage	19.2%	(15% permitted)

*The existing residence is nonconforming in setbacks (34 foot rear setback existing and proposed, 40 feet required) and covered parking (one covered space existing and proposed, two required).*

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

Steve Polsky, applicant, thanked the Council for consideration and desired more room so they could remain in Ross for many years.

Mayor Strauss 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 Cahill noted that it is below grade and found it acceptable. The Council concurred.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve the project at 90 Laurel Grove subject to the findings and conditions outlined in the staff report. Motion carried unanimously.

90 Laurel Grove Conditions

The project shall be subject to the following conditions of approval:

1. The applicants shall comply with any requirements of the Marin Municipal Water District, Ross Valley Sanitary District, PG&E and Ross Public Safety Department. Evidence that all requirements of MMWD have been complied with shall be presented to staff prior to building permit final.
2. A certified arborist shall review the plans submitted for a building permit, prior to issuance of the building permit, and make appropriate recommendations to protect any major tree roots that are anticipated to be encountered. Evidence of this review shall be submitted to the planning department. An arborist shall be present to monitor the excavation and make appropriate recommendations to protect any major tree roots encountered.
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 ANY CHANGE.
4. Except as otherwise provided in these conditions, the project shall comply with the approved plans. Plans submitted for the building permit shall reflect any modifications required by the Town Council.
5. All costs for town consultant, such as the town engineer, review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.
6. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review, including the following: a) sprinklers are required; b) a 24-hour monitored alarm system is required; c) all dead or dying flammable material shall be cleared and removed per Ross Municipal Code Chapter 12.12 from the subject property; d) the street number must be posted (minimum 4 inches on contrasting background), e.) the access roadway must have a vertical clearance of 14 feet; f.) all brush impinging on the access roadway must be cleared as determined feasible by Public Safety; and g.) a Knox Lock box is required.
7. Any portable toilets shall be placed off of the street and out of public view.
8. 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 shall be subject to automatic penalties with no further notice. The construction shall not be deemed complete until final sign off is received from representatives of the building/public works, planning and public safety departments.
9. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
10. Failure to secure required building permits and/or begin construction by June 10, 2011 will cause the approval to lapse without further notice.
11. 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.

26. **7 Woodside Way, Variance, Design Review and Demolition Permit No. 1774**  
 Stephanie and Lee Notowich, 7 Woodside Way, A.P. No. 73-232-03, R-1:B-10 (Single Family Residence, 10,000 Sq. Ft. Min. Lot Size), Medium Low Density (3-6 Units/Acre). Design review, demolition permit and variances associated with a remodel and addition to the existing residence and accessory structures. The project includes: 1.) elevating the main floor of the house by 1.1 feet, increasing the maximum ridge height of the structure; 2.) new exterior finishes including stained cedar shingles, new wood windows and composite slate roofing; 3.) removal of the carport and construction of a new 444 square foot garage, attached to the house with a covered, unenclosed, walkway; 4.) removal of the existing deck to the east of the residence; 5.) modification of pool within rear yard setback (40 feet required, 12 feet existing and proposed); 6.) remodel of the existing pool house within the rear yard setback (40 feet required, 7.5 inches existing and proposed per applicants' survey, no second unit permit is requested); 7.) addition of a family room in the basement level of the residence (3 stories proposed, 2 stories permitted); 8.) 40 square foot balcony on the south side of the upper level; 9.) 60 cubic yards of cut and 60 cubic yards of fill; and 10.) relocation of the stone entry pillars to widen the driveway entrance to 18 feet. The applicants request approval of a tree permit to remove one 55-inch diameter *Liquidambar styraciflua* tree. The total floor area proposed is 5,016 square feet, 579 square feet over the maximum permitted floor area for the site.

Lot area	22,183 square feet
Existing Floor Area Ratio	19.1%
Proposed Floor Area Ratio	22.6% (20% permitted)
Existing Lot Coverage	13.8%
Proposed Lot Coverage	15.6% (20% permitted)
Existing Impervious Areas	34.5%
Proposed Impervious Areas	30.8%

*The existing residence and cabaña are nonconforming in setbacks.*

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the application subject to the findings and conditions outlined in the staff report. Staff also suggested an onsite meeting prior to issuance of the building permit to emphasize the importance of the protection of the trees. Conditions were included for the Council's consideration in regard to requiring a bond to be submitted for the value of the trees as follows:

- *Bond for value of trees* – A performance bond shall be required prior to issuance of the building permit to assure protection of trees on the site. The amount of any bond shall be the value of affected trees, as defined in the most recent edition of the Council of Tree and Landscape Appraisers A Guide for Plant Appraisal. If, in the opinion of

the Town Arborist or Planning Staff, no violation or damage has occurred during the construction, the bond shall be returned upon final building inspection. However, if damage has occurred or actions inconsistent with the project tree protection measures likely damaged the tree, the bond for such affected tree(s) shall be held for three (3) years and may be forfeited at the end of this period, if it is the opinion of the Town Arborist or Planning Staff that permanent damage has occurred. Such forfeited bond monies shall be used for replacement of such damaged tree(s), or for related uses with the Town, as the Town may elect.

- *Alternative Conditions* – Prior to issuance of a building permit, the applicants shall deposit funds to cover the cost of a town-retained arborist, working at the applicant's expense, retained to periodically monitor the project and prepare follow up reports. Any unused deposit shall be refunded to the applicants at the completion of the project.

Council Member Cahill noticed last month that the percentage shown in the staff report is different than what is shown now with substantial changes to existing impervious areas and asked staff for an explanation. Senior Planner Semonian responded that floor area changed due to reducing the floor area. In terms of impervious surface, the applicant had not counted the structure itself, which added a significant amount. It was corrected to reflect the actual amount.

Greg Johnson, architect, appreciated the feedback from the meeting last month and hopes all concerns and comments have been addressed. They changed the enclosed walkway from the garage to the house from an enclosed walkway to a roof open to the air breezeway, which reduced the propose floor area. They also lowered the ridge height of the garage by 18 inches; revised the new stair tower by pulling it into the building by 2.5 ft. reducing the proposed floor area by 25.6 sq. ff.; and modified the window layout and reduced the total glazing on the north elevation by approximately 32 ft., including elimination of new windows proposed on the north elevation for the new lower level family room. They worked with a civil engineer and developed a drainage plan that the Town Engineer found acceptable that mitigates all issues of water running off the property. In terms of shadows, he provided a shadow study in June and December that shows the shadows created. There were no shadows in June and in December there was very little impact due to the adjacent trees. In terms of the stone columns, they would like an opportunity to widen the driveway and make it safer. The issue is not only the narrowest of the driveway, but with vehicles parked it makes it difficult to maneuver. They love the character of the stone columns, but safety must be considered as well.

Mayor Pro Tempore Hunter discussed the shed roof and asked if the shed is an extension in terms of the rendering provided. Architect Johnson approached the Council and pointed out the area of concern.

Mayor Strauss desired to know the current width of the driveway. Council Member Martin indicated that it is 11 ft. At a recent Public Works meeting, they heard from the residents at 10 Woodside requesting painting the curb red to avoid parked vehicles. The Council turned the request down because it may set a precedent in Town, but from his perspective tonight,

given the choice of taking down the columns or painting a red curb across the street, he preferred painting the curb, which would eliminate that tight pivot. He then asked about the tree protection additions in terms of the two alternatives discussed by staff. Architect Johnson believed retaining an arborist would be appropriate during groundwork to observe during excavation, which would be more beneficial than a bond. In terms of the garage work, it would be hand excavated in terms of roots.

Mayor Strauss opened the public hearing on this item.

Leslie Mueller, Woodside Way resident, thanked the architect and owners for the changes. Her concern now is with the trees. She had a situation where a section of a tree fell back in December of 2005, so safety is the concern. She provided a report from her arborist that expressed concern for construction work near those redwoods. She wanted the neighborhood protected. Hand digging to determine the root system is a mistake as indicated by her arborist. She is pleased with the changes made to the north elevation, but asked for consideration in regard to having a lattice fence on the north side with ivy that could screen the garage from her perspective.

Janell Hobart, landscape arborist, met with Town Arborist Becky Duckles who indicated that redwoods are tolerate and agreed to provide tree protection input. Also, she did not believe the proposed project would significantly damage the trees. As long as there is supervision, hand digging is appropriate. Also, in terms of a bond, redwood trees can grow from three to seven feet per year and only \$5,000 could be spent, so the bond number seems out of range. In terms of the Town Arborist's opinion, all will be fine.

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.

Mayor Pro Tempore Hunter found the project acceptable. The columns enhance the streetscape and a red curb across the street would make it safer. He is not sure how to best protect the trees, but either one of the alternatives along with the suggestions from staff could work. He recommended that an arborist periodically check the site to make sure the trees are protected.

Council Member Skall had no objection to the project. In terms of tree protection, he preferred the alternative of having Town Arborist Duckles overseeing construction. In regard to the columns, he could go either way, and would be open to input from the Council. He further noted that the columns were built differently.

Council Member Cahill found the project to be great and appreciated the response to their comments. The alternative of having tree protection with Town Arborist Duckles periodically reviewing is appropriate. In terms of the columns, the benefit to the applicant far outweighs any interest the Town has, so he would be in favor of removing the columns as long as it is moved and the same shape and materials are retained when rebuilt.

Council Member Martin agreed the modifications were responsive to the Council and neighbor concerns. The redwood tree protection is a major concern. He recommended considering alternative approaches to any foundation approach depending on the location of the root system. It would be tragic to undermine their structural integrity since the

redwoods are an asset to that street. He favored having an arborist involved to oversee that project. As far as the columns, the residents at 10 Woodside have an issue across the street and the best solution is to paint the curb red. He further preferred to see the retention of existing columns.

Mayor Strauss concurred with Council Member Martin's comments that the columns should be preserved. He felt it would be easier to paint the curb. They must look at widths of some driveways because character is lost and a smaller scale driveway is much better. He appreciated the modifications made to address the concerns of the Council and neighbor.

Architect Johnson asked if it would be more beneficial to add a "no parking sign" rather than painting the curb red. Mayor Strauss objected to another parking sign and recommended painting the curb.

Council Member Cahill suggested that this matter be reviewed at Public Works. The majority of the Council preferred that the columns be maintained in their current state.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Martin seconded, to approve the project at 7 Woodside Way subject to the findings and conditions outlined in the staff report, plus the addition of the "Alternative Condition" for the tree protection program. Motion carried unanimously.

### 7 Woodside Way Conditions

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

1. Except as otherwise provided in these conditions, the project shall comply with the approved plans, including the demolition plans. Plans submitted for the building permit shall reflect any modifications required by the Town Council.
2. Prior to issuance of a building permit, the applicants shall deposit funds to cover the cost of a Town-retained arborist, working at the applicants' expense, retained to periodically monitor the project and prepare follow up reports. Any unused deposit shall be refunded to the applicants at the completion of the project.
3. The removal and relocation of the round entry columns is not approved unless the applicant can demonstrate they were constructed in the past 75 years.
4. A building permit is required for the project, including improvements to the pool house. The project shall comply with the requirements of the building code in effect at the time the building permit application is submitted.
5. The pool house shall only be used in association with the pool and occupants of the main residence and shall not be used as an independent living unit at the site without prior Town Council approval of setback variances associated with a second unit permit.
6. Prior to issuance of the building permit, the applicants shall submit written evidence that an arborist has review the construction level drawings (including drainage plan, foundation plans, any proposed trenching for utilities, landscape plan, etc.) to prepare the tree protection plan. The applicants shall comply with the recommendations of the project arborist, including and any amendments to the recommendations made after review of the construction level drawings. The

- applicants shall retain an arborist to periodically inspect the site during construction to ensure that that all tree protection measures are implemented and remain in place.
7. No brightly colored temporary fencing is permitted where it may be seen by neighbors or the public.
  8. The landscaping shall be installed in accordance with the approve landscape plan prior to project final.
  9. The pool equipment shall be insulated to reduce noise.
  10. The project shall comply with all requirements of the Marin Municipal Water District, including payment of connection fees. Evidence that the landscape complies with the MMWD water conservation ordinance shall be submitted prior to planning department sign off on the project.
  11. **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 ANY CHANGE.**
  12. Unless evidence is provided that the two underlying lots have been merged, the lots shall be merged prior to final inspection on the project.
  13. The preliminary drainage plan is approved in concept. An arborist shall review the plan and shall make recommendations as necessary to preserve protected trees. A drainage plan shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. The plan shall be designed, at a minimum, to produce no net increase in the volume, rate or pattern of peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions.
  14. All costs for town consultant, such as the town arborist or engineer, review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.
  15. The applicant shall take the precautions for accidental discovery of archaeological resources during all phases of construction: a.) If archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds. Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g. slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g. wells, privy pits, dumps). b) If human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the Marin County Coroner shall be contacted at (415) 499-6043.
  16. Plans submitted for the building permit shall provide elevations for the roof ridges and floor levels. The applicant shall provide written evidence, prepared by a licensed land surveyor, confirming the floor elevations of the structures comply with approved plans. The applicant shall provide written evidence, prepared by a licensed land surveyor, that the ridge heights comply with the approved plans.

17. A detailed construction and traffic management plan shall be submitted for the review and approval of the building official/director of public works prior to the issuance of a building permit. The plans shall include details on parking; material, equipment and waste storage; vehicle and equipment maintenance areas; portable restrooms; washout areas; delivery and truck parking; construction scheduling; and other information as required by the town. The applicant shall discuss appropriate routes for vehicle traffic, particularly if the project is proposed to be constructed when the Lagunitas Bridge is closed.
18. To minimize noise impacts on neighbors, construction hours shall be limited to 8 am to 5 pm Monday through Friday. No work is permitted on weekends or holidays. Noise prohibited prior to the authorized start time includes noise associated with activities such as, but not limited to, noise attributed to workers arriving on the job; vehicular noise; radios; assembling, moving or stacking construction materials; and deliveries.
19. Any exterior lighting shall be submitted for the review and approval of planning department staff. Lighting shall be shielded and directed downward. Exterior lighting of landscaping by any means shall not be permitted if it creates glare or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited.
20. 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.
21. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review, including the following: a) sprinklers are required; b) a 24-hour monitored alarm system is required; c) all dead or dying flammable material shall be cleared and removed per Ross Municipal Code Chapter 12.12 from the subject property; d) the street number must be posted (minimum 4 inches on contrasting background), e.) all brush impinging on the access roadway must be cleared as determined feasible by Public Safety; and f.) a Knox Lock box is required.
22. Any portable toilets shall be placed off of the street and out of public view.
23. Project development shall comply with the requirements of the Ross Valley Sanitary District.
24. 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 shall be subject to automatic penalties with no further notice. The construction shall not be deemed complete until final sign off is received from representatives of the building/public works, planning and public safety departments.
25. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
26. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.

- 27. FAILURE TO COMPLY IN ANY RESPECT WITH THE CONDITIONS OR APPROVED PLANS CONSTITUTES GROUNDS FOR THE TOWN TO IMMEDIATELY STOP WORK RELATED TO THE NONCOMPLIANCE UNTIL THE MATTER IS RESOLVED. (RMC §18.39.100). THE VIOLATIONS MAY BE SUBJECT TO ADDITIONAL PENALTIES AS PROVIDED IN THE ROSS MUNICIPAL CODE AND STATE LAW.
- 28. Failure to secure required building permits and/or begin construction by June 10, 2011 will cause the approval to lapse without further notice.
- 29. 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.

27. **59 Winship Avenue, 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). Variances associated with new landscaping at the site. The applicants propose to expand a patio area within the rear yard setback (40 feet required, 25 feet proposed) and install a barbecue within the north side yard setback (15 feet required, 3 feet proposed). A tree removal permit is requested to allow the removal of a 10" Big Leaf Maple. The landscape plan also includes removal of two 6" birch trees to the south of the residence.

Lot area	9,583 square feet
Approved Floor Area	33.9%
Proposed Floor Area	33.9% (20% permitted)
Existing Lot Coverage	29.3%
Proposed Lot Coverage	29.3% (20% permitted)
Existing Impervious Areas	47.0%
Proposed Impervious Areas	35.0%

*The garage is nonconforming in setbacks.*

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

Council Member Martin asked staff about the barbeque within the side setback up against the fence. Senior Planner Semonian indicated that she did not believe the barbecue area would impact the neighbor because the area is adjacent to the neighbor's garage wall and the patio is at a lower elevation, and a different elevation from the neighbors house. It would not be visible to the neighbor. They must comply with code in terms of fire safety. Council Member Cahill noted that if it is within 5 ft., there must be a fire rated barrier.

Mayor Strauss asked staff about the outflow to the street and if consideration was explored in regard to onsite retention. Senior Planner Semonian responded that the drainage plan must be reviewed by the Town.

Ken Hertel, architect, stated this is a rehabilitation of an existing hardscape and garden. They are essentially replicating with one change to the existing rear yard. It slopes and it is an unusable terrace and yard. The existing hardscape and terrace already exists. Wall heights are similar, less than 30-inches in height. Overall, on the barbecue side, dash lines indicate that the barbeque is encroaching no closer than the one that existed. The barbeque has nestled itself right against the existing wall line. The adjacent home is elevated above the property. There is a wood fence and the barbeque would be non-combustible, except for the trellis and they may redesign the trellis and remove it out of the 5-foot zone. They are causing a net reduction in impervious surfaces. They are removing a brick driveway and replacing with gravel. They want to expand parking area due to the difficulty. They desired more availability for onsite parking that necessitates removal of birch trees and one maple. It will improve the health of a significant maple tree on the property line and accommodate their driveway. They have discussed with adjacent neighbor on the driveway side, and they are thrilled to improve the health of the tree. In terms of drainage and discharge, they have a basement on the low side. There is a very limited opportunity to discharge anywhere other than the driveway side. They are happy to work with the Public Works Department and staff to develop holding basins, but to percolate into the soil will run into their basement. There is some opportunity on the upper part of the lawn area to discharge to be able to handle some of the uphill side drainage.

Jeff Thompson, general contractor, noted that water would not be pumped out onto the roadway. There will be a French drain and a pump, and where that pump discharges is the question.

Mayor Strauss 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 Martin wanted the maple tree preserved. It is a healthy tree and a beautiful tree. It is the main tree on the property. The proposal is to remove the two birch trees and to eliminate the maple to accommodate more parking is not justified. As far as the drainage plan, he wanted to postpone a decision until the Council receives a drainage plan and approach after working with staff for how it will be handled. He reiterated that the Council should postpone a decision until they review a plan.

Council Member Cahill found all elements of the landscape plan to be acceptable including the barbeque area, except for the tree. The neighborhood has single car driveways. The plan is to open it up so they would have two vehicles parked out in their driveway, one adjacent to the other so it allows for vehicles to get in and out with one vehicle remaining parked, which is inconsistent with the design of the rest of the neighborhood. Also, it is a healthy tree and agreed with the staff report that the maple tree should not be removed.

Mayor Pro Tempore Hunter agreed with Council Member Martin and Cahill's comments. The tree should be saved and a fence should be placed around it during construction.

Delaying a decision is appropriate to review a drainage plan. They must understand how drainage will be handled. Council Member Skall concurred.

Mayor Strauss agreed the tree must be saved and drainage must be addressed. He is concerned about approving this amount on the side yard setback. He further recommended considering the materials used.

Mayor Strauss asked for a motion.

**Council Member Martin moved and Council Member Cahill seconded, to continue the project at 59 Winship Avenue to a later date. Motion carried unanimously.**

**28. 23 Ross Common, Commercial Use Permit No. 1782**

Peter Maguire, Owner, Melanie Colavito and Christy Stutsman, MC23 Salon, Applicant, 23 Ross Common, A.P. No. 73-273-10, Local Service Commercial District (C-L), Zone A (area of 100 year flood). A Local Service Commercial District use permit application for a hair salon using approximately 1,200 square feet of space formerly occupied by an architecture/interior design office. The salon would have 4 to 6 employees and estimated client traffic of 30-40 customers per day. The proposed days and hours of operation are Tuesday through Saturday from 9:00 a.m. to 8:00 p.m.

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

Steve Crane, Real Estate Broker, indicated that the two applicants have an excess of 30 years in the business with a loyal clientele. They want to come into the community and provide great service and contribute to the business community.

Mayor Strauss opened the public hearing on this item.

Carla Small, Duff Lane resident, asked if onsite parking will be provided. Mayor Strauss noted that there is street parking. It is located next to the park. She expressed concern with the increased demand for longer term parking for customers and staff.

Senior Planner Semonian pointed out that this use is expected to bring additional people downtown, which would hopefully generate pedestrian traffic for existing downtown merchants. Mayor Strauss noted that parking was reviewed during the downtown plan. Staff was aware the Town looked at the number of parking spaces, but was not aware of any study that considered the various existing and proposed uses and how they generate demand for parking.

Ms. Duff wanted the Council to consider 20 or 40-minute zones or one-hour parking. Also, consider shorter parking periods on one side of the street.

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 Skall disclosed that he used the applicant's services in the past.

Mayor Pro Tempore Hunter asked how this business is different from the other salon in Town. The applicant noted that they do not provide spa types of services such as skin care an waxing, only hair services. They also sell different products than the other hair salons. They do not rely on walk-in clients and have an established clientele. Real Estate Broker Crane stated that their business is a benefit to the other salon because they could send their clients to the other salon for additional services. The applicants believed they would compliment the other salons in the area.

Mayor Pro Tempore Hunter stated that they are trying to revitalize their downtown and this would be great to provide more pedestrian traffic. Similar businesses are of concern.

Council Member Martin liked the idea of not having another real estate office. He shares the concern about short-term parking and that should be considered at their retreat as well. There will be a need for more 5 or 20-minute parking zones. They must establish options and enforce, but he would accept the proposal as presented. Council Member Cahill concurred.

Mayor Strauss desired a different type of use since it is a prime space, so he noted his disappointment.

Council Member Skall pointed out that their clientele are individuals that like to spend money. They need more vibrancy in Town and there will be more traffic, which is the double-edged sword.

Mayor Strauss asked for a motion.

**Council Member Cahill moved and Council Member Skall seconded, to approve the application for 23 Ross Common with the findings and conditions outlined in the staff report. Motion carried unanimously.**

#### **23 Ross Common Hair Salon Use Permit Conditions**

1. The use permitted under this use permit shall be established and conducted in conformity with the description 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 any 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. NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.
6. A street number must be posted (minimum 4 inches on contrasting background) and a local alarm provided, subject to Public Safety Department 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.

29. **33 Sir Francis Drake Boulevard, Commercial Use Permit No. 1764**

Town of Ross, Property Owner, Clearwire US, LLC, Applicant, 33 Sir Francis Drake Boulevard, A.P. No. 73-191-16, C-D (Civic District), Public Service, Zone A (1-percent annual chance floodplain). Use permit to allow modifications to an existing unmanned wireless communication facility consisting of a 40-foot monopole and equipment. Clearwire proposes to utilize the existing monopole to add three panel antennas at 38 feet and two microwave dishes at 34 feet above ground level. Three remote radio units would be located on the pole at 5 and 7 feet above ground level. The applicants would paint all antennas, dishes and connecting equipment to match the existing pole. The equipment cabinet will be located within an existing structure and screened from public view. The proposed facility would be unmanned and operate 24 hours a day seven days a week. The applicant proposes occasional maintenance of the facility, not to exceed one visit per month.

Senior Planner Elise Semonian summarized the staff report believed the Council can make the findings to approve the use permit, since the equipment, which would be located on an existing pole with equipment, is not readily visible and does not create aesthetic impacts to the community. Staff added that under the Federal Telecommunication Act, if a carrier demonstrates that it meets radio frequency standards established by the Federal government, the City may not deny the project based on concerns with radio frequency.

Tom Spaulding, Clearwire Zoning Manager, thanked staff for supporting the project and the Council for their consideration. The facility is in a great location. The surrounded trees screen the facility. Clearwire is willing to paint the antennas and cables a dark color to recede. In terms of testing, they are in compliance with the emission set by the FCC. Clearwire is a new service providing high-speed Internet access to residential and business customers in Ross. They have around 30 sites in process in Marin County. He further noted that another option that will be provided is mobile high-speed Internet access as well.

Council Member Martin asked the height of the monopole. Zoning Manager Spaulding responded that they propose to utilize the existing 40-foot monopole and add three antennas at 38 ft. and two microwave dishes at 34 ft. above ground level.

Council Member Martin discussed radio waves and radiation. Zoning Manager Spaulding responded that the antennas are directed toward the horizon. At a greater distance, the antennas produce less RF emissions. All antennas run in line of site technology in order to communicate, so the higher the better, but they are comfortable at 38 ft.

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William Hammett, Hammett & Edison Consulting Engineers, took measurements this afternoon and the highest reading at any location was 0.0068 mW/cm. The limit for Clearwire, AT&T and Sprint is one. Nextel has a tighter limit and compared to the Nextel limit they are .12%. 100% would be equal to federal standard and this is .12%, which is 800 times below. It is comparable power levels as Sprint.

Mayor Pro Tempore Hunter asked about a wall unit for a constant reading. Consultant Hammett stated there is high-end equipment that will monitor on an on going basis. Most jurisdictions require periodic monitoring.

Mayor Pro Tempore Hunter asked what harm can over exposure cause. Consultant Hammett stated that hundreds of studies were conducted of all different types and they find a threshold condition. They placed a 50 times safety factor. The most sensitive measure found in the study was a behavior change. There is a perception issue. There are no adverse health effects, just perception. A worker or member of the public will not be able to even approach the standard. Anywhere on the property, it will be 10,000 times or more below the standard. For a worker on the pole, painting the pole, they would still be less than the occupational limit.

Mayor Pro Tempore Hunter asked about a cumulative effect. Consultant Hammett noted that there are no cumulative effects. He took readings at the following locations: front walk; porch; driveway; fire bay driveway; brown building driveway near Public Works; 25 ft. south of the building; the corner of the building; in front of DPW door; at the gate; at the centerline of the two bays of firehouse; at the centerline of the mobile unit; the center of the patio; the landing of the second floor, center of the three bays toward the police parking lot; in the TV room in the firehouse; the dorm rooms; weight room; and bedrooms.

Mayor Strauss asked that the readings be provided to the Public Works Department. Consultant Hammett agreed. They will take measurements in 30 days and then every two years. He uses a hand held device along with an assistant and flashlight that takes about 45 minutes. It takes longer to write up the report than take measurements. He further noted that two years it about as short as most cities go.

Mayor Strauss opened the public hearing on this item.

Sterling Sam, Ross resident, has concerns over this tower. Kentfield approved a telecommunication shed at 17 Wolf Canyon Road, which is less than one mile from here. In terms of research, there is an increase incident of heart attacks and certain cancers. He discussed another study that found a correlation to microwave exposure to dizziness, nausea, children with ADD and lower sperm count in men and so forth. In the worse case, are the negative and adverse health issues. Also, burns have been seen in worse cases. It is recommended that no one live within 1,500 ft. of such a tower, especially from schools. He quoted from the study stating, *"anyone living near wireless towers should move"* and for that reason, he requested that the Council deny the request and have Clearwire go elsewhere. He would be happy with a slower Internet and cell phone connection.

Consultant Hammett noted that the laundry list of alleged effects is pretty common on the Internet, but one item could not cause all the different effects. No one is ill, and the

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allegation that one will get very sick very quickly is inaccurate. The suggestion of using cable or fiber optic is not feasible, it must be wireless.

Mr. Sam noted that Portland Oregon have seen higher incidences of uterine cancer and the City Planning Commission denied the permit this year for the wireless facility. All the facilities are cumulative.

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 Martin is concerned. He knows the fireman do not use the bunkroom due to this antenna. He reviewed a letter of concern from Superintendent Robert Maccario on this matter as well. The Council is being asked to make a decision that this permit will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood, and he has a reasonable doubt about the safety. Assemblyman Leno requested a process to evaluate radio waves and the impact on health. He further recognizes that the City can generate revenue, but struggles with whether it is worth it.

Mayor Strauss wanted the issue with the fireman resolved. Town Manager Gary Broad explained that there are other issues, other than the antennas. Staff further agreed to investigate.

Mayor Strauss concurred with Council Member Martin's comments.

Council Member Cahill trusts the science of the presenter. The science supports that these emissions are not harmful to individuals. There is a lot of fear. This came in at the last minute with no time to investigate or evaluate. Revenue to the Town is important, but that is not the prime motivation. It is a service to the Town. Those that have cell phones and desire such services, so favored the application as presented.

Council Member Skall believed it is a 50/50 issue. Either one believes the science or one does not. If this has a wide range to effect individuals then maybe it requires additional review. It sound like this is a very serious issue with the fire department, so possibly inform citizens and receive additional input along with input from the fireman.

Mayor Pro Tempore Hunter agreed with Council Member Cahill that the science is established. There is no particular rush. If continued for one month, then the Council can ask staff to conduct research and ask Clearwire to come back. Staff is not an expert, so he suggested an expert peer review. Delaying one month could address the concerns. Senior Planner Semonian noted that Clearwire met the FCC standards and the Town cannot deny a use permit on that basis. The Council may not wish to have the facility on the Town-owned site, but that may conflict with Town contracts. Staff stated that they were not qualified to study the health effects of RF.

Mayor Strauss wanted to resolve this matter once and for all for the police and fire department. Town Manager Broad asked Mr. Sam to submit copies of his material in order for staff and the Council to review. Mr. Sam agreed.

Council Member Martin desired input from Assemblyman Leno as well since he is authorizing legislation to get better findings on this issue. He desired clarity since employees are raising concerns and they must evaluate and continue to receive the necessary data. The Council agreed.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Martin seconded, to continue the matter to the July Town Council meeting, asking Mr. Sterling to submit data, and for staff to do whatever possible to receive data on both sides of the issue. Motion carried unanimously.

30. 7 Ross Common, Commercial Use Permit No. 1785  
(*This item has been withdrawn.*)

John Lord, Owner, Todd Pratum, Applicant, 7 Ross Common, A.P. No. 73-273-13, Local Service Commercial District (C-L), Zone A (area of 100 year flood). A Local Service Commercial District use permit application for a bookstore and library using approximately 1,600 square feet of space currently occupied by a bike shop. The bookstore would have 2 employees and estimated client traffic of 20-30 customers per day. The proposed days and hours of operation are Monday through Friday from 10:00 a.m. to 7:00 p.m. and Saturday from 10:00 a.m. to 9:00 p.m.

31. Correspondence - None

32. Other Business - None

33. Adjournment.

By order of Mayor Strauss, the meeting adjourned at 10:59 p.m.

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Richard Strauss, Mayor

ATTEST:

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Gary Broad, Town Manager