

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, JUNE 12, 2008

1. 6:30 P.M. Commencement.

Present: Mayor Hunter; Mayor Pro Tempore Cahill; Council Member Durst; Council Member Skall; Council Member Strauss

2. Posting of Agenda.

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

3. Minutes – May 8th, 2008

Mayor Hunter asked for a motion.

Council Member Strauss moved and Mayor Pro Tempore Cahill seconded, to approve the May 8th, 2008 minutes as amended. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression-None

6. Report from Mayor Hunter.

Mayor Hunter reported that because the centennial celebration on September 20 will feature a large parade and other festivities, the Fourth of July event this year will be celebrated with a picnic only in the Grove area of the Common. There will be music by the Red Garters. Tables, umbrellas, and tablecloths will be provided. The Mayor also noted that individuals can order a box lunch from Eddie's.

On May 28th, Sergeant Robert Tucker of Ross Police Department was awarded a Master of Science in Emergency Services Administration from Long Beach State University and on behalf of the Town, he congratulated Sergeant Tucker on his achievement.

Mayor Hunter reminded everyone that the farmers market will debut in the parking lot next to the post office next Thursday, June 19th between 4 and 8pm.

By popular demand, the Town is investigating and will be installing porta-potties somewhere in the Common area in the near future. This should alleviate the constant public demand for the use of Ross's downtown business restrooms.

Recently, there has been a spate of anonymous letters and flyers sent to Town Hall or left for distribution around Town. While, no one would argue that an individual has the right to express their opinion, but believed that most everyone would agree that anonymous missives are to be discounted because the author was either too cowardly or did not care enough about their opinion to sign their name. Accordingly, he would like to recommend that staff be instructed to discard any and all anonymous letters and flyers upon receipt. They value everyone's opinion, but they need to be able to have dialog, which they cannot do with unsigned correspondence. The Council agreed with the Mayor's recommendation.

Mayor Hunter then personally thanked Council Member Durst for her tireless attention to detail and her service to the citizens of Ross. It has been a pleasure to serve with her. He also thanked staff and the Council for their help and support this past year. He admitted that he enjoyed being Mayor and it is with both relief and reluctance that he pass the gavel to his successor to whom he wished great success in the coming year.

7. Election of Mayor.

Council Member Durst moved and Council Member Skall seconded, to nominate Mayor Pro Tempore Cahill as Mayor of the Ross Town Council. Motion carried unanimously.

In recognition of former Mayor Hunter, Mayor Cahill presented former Mayor Hunter with a plaque with a gavel on it in appreciation for his work as Mayor over the past year.

8. Election of Mayor Pro Tempore.

Council Member Hunter moved and Council Member Skall seconded, to nominate Council Member Strauss as Mayor Pro Tempore of the Ross Town Council. Motion carried unanimously.

9. Report from Committee Heads.

Public Works - Council member Strauss

- Update on projects

Mayor Pro Tempore Strauss hoped to have the Shady Lane project completed by the centennial celebration. Also, they were approved by Caltrans to proceed with the preliminary engineering on Sir Francis Drake and they are looking at cutting back the ivy as well.

General Government - Council member Durst

- Street Tree Working Group

Council Member Durst reported that the Street Tree Working Group had two projects of significance completed recently. First the parking lot at St. Anselms Church on the corner of Fernhill has been planted with three large red oaks. Special thanks to Robert and Buzz for finding and planting these fabulous trees. Secondly, she wanted to publicly thank Janet and Clyde Ostler for their cooperation in working with the Street Tree Group in planting a line of truly majestic red oaks in the right-of-way. Ross is all the more beautiful. She urged everyone who would like to plant street trees to contact the Public Works Department prior to planting to be referred to STWG. Also, in cooperation with the Marin Art & Garden Center, STWG will have a booth at the centennial celebration. Janelle Hobart and Cynthia Zak are working on it.

In regard to MTA, on Monday, June 9th they approved the DAP agreement with the non-profit CMCM as well as a CMCM General Capital Plan. These approvals signal the completion of implementation of the PEG services from the Comcast Franchise Agreement.

10. Report from Ross Property Owners Association.

Leslie Reidy, RPOA representative, stated that it has been a great pleasure working with Chief Heying on emergency preparedness. RPOA has printed 500 disaster plan worksheets and the goal is to get one in every household in Ross. With the help of Chief Heying the "Get Ready" Ross bulletin board went up last week, which provides seasonal information in regard

to fire prevention, flood prevention and flood information. She then thanked Chief Heying again as well as the Postmaster. RPOA is planning on distributing the worksheets in the new resident packet and trying to include the worksheet in the back to school packets in the fall. They are very pleased that the new Ross Rec phone book included a yellow tab for emergency information, so now all disaster information is consistent and streamlined. RPOA is considering creating a committee, so they will review the municipal code and come back to the Council in the fall with revisions. They hope to include one representative from the Town Council along with residents and School Board members in order to have a committee that meets several times per year to make sure all information continues to be updated. In terms of the apple moth spraying, RPOA requested that the matter be added to the July Town Council meeting in order for the Town Council to pass a resolution banning the spraying. RPOA is very excited about the farmers market along with many residents of Ross. There is a lot of excitement and questions, so RPOA encouraged communication and signage at the post office.

Mayor Cahill directed staff to add an item on the agenda in July in regard to the apple moth spraying. Town Manager Broad responded in the affirmative. Staff also noted that a banner would be installed in front of the post office in regard to the farmers market and information will be included in *"The Morning After."*

II. Flood Control Report.

Mayor Pro Tempore Strauss reported that a meeting would occur next week with URS and Matt Smeltzer. They have a certain height criteria that they must meet and they must reach a consensus and then make recommendations on that design criteria. He believed it is best to hear the reports and present to Supervisor Hal Brown, the County and all communities affected in Flood Zone 9, so they all understand what criteria they are establishing for the bridge. Also, there are seismic concerns that must be addressed. They must first establish criteria in order to move forward, so the next meeting is very important in terms of developing criteria, which was identified as a top issue.

On the fish ladder, Matt Smeltzer has several proposals that will be presented next week as well and from that they will develop criteria for the bridge. Decisions must be made in order to keep moving forward. He added that criteria must be established next week or as soon as possible. He further added that they are striving for a delicate balance in regard to the slope of the bank, and the ability to move the water as well as allowing fish to move up stream.

Council Member Durst clarified that the fundamental design criteria set forth does not stand any more. Mayor Pro Tempore Strauss believed it still stands and it is justified, but all Flood zone 9 representatives need to all be on the same page rather than working independently.

Town Manager Broad indicated that the final determination would go through final approval from Caltrans since they are receiving outside funding. Mayor Pro Tempore Strauss noted that there is some sequence involved. He wanted to move forward, but sequentially.

12. Resolution No. 1650 Commending the Outstanding Service of Council Member Diane Durst.

The Town Council passed a resolution commending the outstanding service of Council Member Durst and recognizing her many achievements over the past three years, including serving on the Street Tree Working Group and implementing Advisory Design Review.

Council Member Durst stated that it has been a pleasure serving on the Town Council and working with Town staff. The RPOA presented Council Member Durst with an RPOA pin and a gift certification for all her help through the years with the RPOA.

13. Town Council consideration of adoption of Resolution No. 1651 authorizing renewal of Community Development Block Grant Cooperation Agreements with the County of Marin.

Town Manager Broad summarized the staff report and recommended that the Council consider adopting Resolution No. 1651, authorizing renewal of community development block grant cooperation agreements with the County of Marin.

Council Member Hunter asked staff if there is a possibility that they will be able to secure funds to develop Sir Francis Drake. Town Manager Broad indicated that there is always a possibility, but in doing this it allows them to try to apply for any CDBG money.

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

Mayor Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to adopt Resolution No. 1651, authorizing renewal of Community Development Block Grant Cooperation Agreements with the County of Marin.

14. Town Council consideration of adoption of Resolution No. 1652 enacting temporary closure of streets for the Town's Centennial Saturday, September 19 and 20, 2008.

Chief Heying summarized the staff report and recommended that the Council consider adopting Resolution No. 1652, enacting temporary closure of streets for the Town's centennial Saturday, September 19 and 20, 2008. Staff noted that email notification of road closures would be sent out before the event, and the Public Safety Department will post signs warning residents of the impending street closures.

Mayor Cahill asked staff to explain how residents will be able to access their homes. Chief Heying responded that residents will be able to access their homes simply by talking to a security guard or police officer and then they will be directed out slowly and on their return the residents would be advised to park elsewhere.

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

Mayor Cahill asked for a motion.

Council Member Hunter moved and Mayor Pro Tempore Strauss seconded, to adopt Resolution No. 1652, enacting temporary closure of streets for the Town's Centennial Saturday, September 19 and 20, 2008. Motion carried 4-1. Skall abstained.

Town Attorney Hadden Roth excused himself from the Town Council meeting at 7:09pm.

15. Presentations by the County of Marin and Pacific Gas & Electric on Community Choice Aggregation/Marin Clean Energy.

Dawn Weisz, Marin County Principal Planner, provided the Council with a powerpoint presentation on Marin Clean Energy, an alternative power authority being proposed by Marin that included the following information for the Council's consideration:

- Community Choice Aggregation (CCA) is a public-private mix
 - IOU-investor-owned utility/PG&E
 - CCA
 - Public Utility-municipal utility like SMUD
- Marin Clean Energy Basics:
 - Local Government purchase power for their communities
 - JPA created – 2009 at earliest
 - Energy Service Provider selected to provide all services
 - Power purchased from outside Marin initially
 - Customers chose between MCE and PG&E for power source
 - PG&E continues to deliver electricity, maintain transmission lines and provide customer service
- Why explore MCE?
 - Personal Choice: Customers can choose between MCE & PG&E
 - Financial Advantages:
 - Rate stability and local control for businesses and residents
 - More dollars stay in the local economy
 - Renewable-based businesses fostered
 - Environmental Advantages:
 - Reduce dependence on fossil fuels
 - Increase use of renewable resources (solar, wind, small hydro)
 - Reduce greenhouse gas emissions
- Other California communities considering MCE-type programs:
 - San Joaquin Valley CCA formed; contract finalized
 - San Francisco CCA business plan complete
 - Oakland, Berkeley, Emeryville, Chula Vista drafting CCA business plan
 - West Hollywood, Beverly Hills, Pleasanton, San Luis Obispo, Davis actively considering
- What has been accomplished? 2003 to 2005
 - Phase I completed tasks:
 - Feasibility study

- Peer review of feasibility study
 - Bond counsel/legal review
 - Risk analysis
- What has been accomplished? 2005 to 2008
 - Phase II completed tasks:
 - Formation of local Government taskforce
 - Local renewables analysis
 - Business plan
 - Peer review of business plan
- Marin Clean Energy: Customers Choose:
 - Light Green – Initially 25% renewable; same cost as PG&E
 - Dark Green – 100% renewable; cost initially 8-10% higher than PG&E, decreasing
- MCE rates over time: Year 1 -\$80; Year 15-\$125
 - Assumed 3.4% rate increase for PG&E, their average rate increase over the last 10 years
- Business Plan Detail
- Local Renewables
- GHG Reduction Plan: Sample measures
- Energy Efficiency: Cheapest way to reduce impacts
 - Goal-double energy savings beyond status quo to achieve 5 MW reduction initially
 - Ex. Director responsible for developing EE program +4 full-time EE staff
 - Conduce related analysis to develop and support programs
 - Offer rebates, energy lien, and other insensitive that grow local EE businesses
- Energy Efficient Market Potential:
 - Existing Residential – 53.5%
 - Existing Commercial – 18.0%
 - Existing Industrial – 14.0%
 - Residential New Construction – 1.0%
 - Commercial New Construction – 6.0%
 - Industrial New Construction – 1.0%
 - Emerging Technologies – 7.0%
- Why did energy fluctuations in 200 impact IOU costs?
 - In 1996, utilities were prevented from entering into long-term power purchase contracts
 - Costs on the spot market skyrocketed and were manipulated
 - CPUC regulations have changed to avoid this recurrence
- How can MCE light green rates stay at or below PG&E costs?
 - Low overhead & not-for-profit structure reduces costs:
 - Few MCE staff – competitively solicit services
 - Lower regulatory costs
 - Low overhead/facility costs and no shareholder profits
 - MCE will have low borrowing costs:
 - Tax-exempt financing of assets
 - Discounts for prepayment of energy

- PG&E Rate Projections:
 - Since 1998, PG&E generation rates have increased an average of 3.4% per year and on June 10, 2008 PG&E requested a 10% increase in generate rates from CPUC
- Who would be the administrator of MCE?
 - Two options:
 - Create new organization to administer (*like TAM*)
 - Use existing organization with experience or interest in public utilities
- Who are Energy Service Providers?
 - Sell power to Public Utilities and IOU's
 - Some offer green portfolios
 - Some own more generation assets and trade more power each day than SCE and PG&E combined
- Are there economic benefits beyond local renewables?
 - Green image marketing for local businesses
 - Likely to have more stable rates for local businesses and residents
 - Ability to offer economic development or low income rates
- Can local governments provide power competitively?
 - Rates in 2005 per kWh:
 - City of Palo Alto - \$.07
 - LA Department Water & Power - \$0.9
 - SMUD - \$0.9
 - Alameda City - \$.12
 - PG&E - \$.12
 - Southern CA Edison - \$.12
- What is the availability & cost of renewables?
 - 1,400MW of renewable power offered to San Joaquin's CCA in recent bidding process for 400 MW
 - PG&E's recent renewable solicitations attracted strong response from market
 - Cost of all energy sources increased 30% in the last 3-5 years; but the renewable premium has remained constant
- CPUC reports unprecedented response to 2007 renewable solicitations
- Partnership with PG&E?
 - Proposed 100% green tariff
 - Would use renewable energy credits to green power
 - Requires CPUC approval (*3mos-2yrs*)
 - Does not offer local benefit of ownership or stability of rates
 - Proposed buying energy from local governments
 - Proposed "wheeling" idea currently in legislation
- PG&E analysis of Business Plan:
 - Used a gas forecast that assumes gas will be 14% cheaper in 12 years than it is now
 - Shortened term of wind financing from 30 to 20 years

- Reduced capacity factor of wind from 35% to 23%
- Assumed above market purchase of natural gas generation capacity
- Assumed below inflation increase in their rates
- Next Steps:
 - Phase III
 - April - November 2008: Cities and County vote on participation
 - Study sessions
 - Ordinances: 1st reading
 - Ordinance: Merit hearing
 - December 2008: JPA formed
 - Phase IV
 - Early 2009: Request for proposal issued; Energy Service Provider selected
 - 2009: implementation plan submitted to CA Public Utilities Commission
 - Mid 2009: Final go/no-go decision by JPA
- Off-Ramps
 - County/City off-ramps:
 - April-November 2008: Cities and County vote on participation in JPA
 - Mid 2009: If vendor selected, JPA votes before signing contract
 - Customer choice off-ramps:
 - 60 days before launch: Customers receive 1st opt-out notice
 - 30 days before launch: Customers receive 2nd opt-out notice
 - Final bill before launch: Customers receive 3rd opt-out notice
 - First MCE bill: Customers receive 4th opt-out notice
 - After MCE enrollment: Customers can still return to PG&E
- What are the exit fees:
 - To cover cost of energy purchased on behalf of a customer if cost of power is lower when they depart
 - If energy costs continue to rise no exit fee needed
 - Expensive investments by utilities can increase exit fees

Jennifer Webber and Dennis Sullivan, representing PG&E, noted that they are in support of the intent and objective of Green Energy, but believed the MCE business plan seriously underestimates current renewable energy costs and project MCE capital investment and operating costs, which she explained in more detail by providing the Council with a powerpoint presentation that included the following information for their consideration:

- PG&E is an industry leader on environmental issues & combating climate change

- On average, more than half of the electricity PG&E provides its customers is carbon free
- PG&E believes climate change is real and the time for action is now
- PG&E works to reduce the carbon footprint of their operations and works in partnership with communities for a broader impact
- Concerns about “MCE” Business Plan:
 - High energy costs for both renewable and conventional supplies not reflected
 - Opt-out provisions in the context of unsupported information
 - Risk to customer if CCA fails
- PG&E’s 2008 Projected Portfolio Mix:
 - On average, more than 50% of PG&E’s portfolio is carbon-free
- Benchmarking Greenhouse Gas Emissions
- California’s Greenhouse Gas Footprint
- “Marin Clean Energy” Business Plan Background:
 - MCE business plan proposes two renewable power offerings:
 - A deep green offering 100% renewable
 - A light green option that would grow from 25% to 51% renewable
 - Almost all customers would be automatically enrolled in the deep green tariff.
 - Business plan states that *“cost and revenues presented...are illustrative and subject to change based on response to the County’s and Cities’ request for information and proposals from third party electric suppliers.”*
- Energy and Capital Cost Assumptions:
 - Costs presented in the business plan are unrealistically low
 - Participation rate assumptions are overly optimistic
 - Power purchase agreement (*including conventional and renewable supplies*)
 - \$475 million in new bond debt
- Recent News Reports on Renewable Costs and Availability:
 - USA Today – Clean energy can’t meet growing demand
 - Bloomberg.com –Higher cost of power may cause backlash
 - The Wall Street Journal – Cost to build power plants pressure rates; and U.S. News: power-price rise hits Texas-- officials fear surge could hurt market; another California?
- Comparison of “MCE” and PG&E Gen Rates
- Comparison of MCE and PG&E Energy Charges- 2011 projections
- Additional Factors
 - Energy Efficiency/Demand Response
 - Energy efficiency programs and partnerships already exist
 - Distributed Generation/Solar
 - Happening under current programs
 - Impact on Greenhouse Gas Emissions
 - Business plan assumptions unrealistic

- Renewable Portfolio Standards
- International Competition for Renewables
- Projects Face Hurdles to Development
 - Barriers facing projects needed to meet 2010 goal
 - Transmission
 - Developer
 - Financing
 - Site Control
 - Permitting
 - Price Re-opener
 - Radar
 - Technology
 - Fuel Supply
 - Equipment Procurement
- Cost of Renewable Contracts are Rising:
 - Average cost of executed RPS contracts
- Comparison of 2007 Renewable Procurement PG&E vs. other Energy Service Providers
- Renewable availability for public power agencies
- Are the underlying costs for “MCE” really lower than for PG&E?
 - Administrative costs appear to be higher
 - Tax-exempt financing is less expensive than table financing, all other things being equal. But all other things are not equal. A less-than-stable customer base, and uncertain recovery mechanism, would likely increase the borrowing costs
- Is a long-term contract with a 3rd party provider really a solution?
 - Example: KRCD-Citigroup Electricity Supply Agreement
 - Rate illustrative; no resources identified
 - Rates do not cover all costs
 - Rates only apply within a narrow band; usage above or below will be at market
 - Numerous re-opener provisions favorability to Citigroup
 - Force majeure provision favorable to Citigroup
 - Recent energy crisis in Texas electricity markets indicates suppliers will raise prices immediately to passthrough higher wholesale electricity costs
- Are the Business Plan’s Estimates of Customer Sign-ups Reasonable?
- Why is this plan risky for customers and for local governments?
 - Opt-out nature of CCA means that customers are automatically enrolled
 - Business plan contention that costs will generally be at or below those PG&E means that customers may not opt-out during the “free period.” Therefore, customers may owe an exit fee to the CCA
 - If the CCA fails and customers are returned to bundled service, these customers would be required to cover the costs to their return to PG&E

- JPA structure, combined with CCA, may pose challenges for power contracting and bond issuance.
- Comments of CPUS President Peevey, April 22, 2008:
 - *“However, in looking at this issue we should also be mindful of the existing switches rules. These rules hold CCA customers largely, if not exclusively accountable for any increase in cost to utility incurs on their behalf. Thus, under these rules the risk and cost associated with CCA failure are largely borne by CCA customers, not utility bundled customers...it is also incumbent on CCA to make sure that customers that elect to switch from utility bundled service fully understand the implications should they be forced back to the utility service for whatever their reason.”*
- Bottom line:
 - Navigatn’s business plan fails to make a convincing case that the Marin CCA would be successful in delivering on its promises
 - PG&E believes that the risks of the CCA have not been adequately addressed
 - PG&E would prefer to continue to work with communities to pursue alternative means of achieving their environmental and energy objectives

Mayor Pro Tempore Strauss found the MCE business plan to be very optimistic. He liked the idea that both PG&E and MCE are getting greener, but had some issues with the “opt-out” program. He preferred each resident being able to make their own choice.

Principal Planner Weisz noted that there would be an exit fee. It is to protect the rest of the ratepayers from absorbing the cost. If PG&E costs decrease and their cost increased and several wanted to depart that would be a way to allow them to be whole in their commitments. PG&E representative stated that an exit fee is most desirable if prices were decreasing, but a bonding might be required for that. He added that customers leave when the market is in a crisis, as experienced in 2000. The law that always for CCA indicates that cost shifting is not allowed. When someone comes back, it would be the worst time and they would pay that incremental cost. PG&E’s concern is that they will be the entity sending the bills that are higher since they chose to go to the CCA.

Council Member Hunter asked why PG&E is not offering a 50% option and a 100% option. Ms. Webber responded that they are looking at an opportunity called, “Green Tariff,” which is in development. They want a product that their customers will opt into. They are balancing out the price point and renewable supply. It is in development and they look forward to finalizing and filing with CPUS and offer it to customers. They have a program called “Climate Smart” that one can opt into and neutralize carbon footprint for both electricity and gas and those funds are invested in the Santa Cruz County forest to offset the carbon footprint. PG&E Representative noted that they are buying whatever they can get their hands on. He further noted that Green Tariff would be an accounting proposition.

Mayor Cahill appreciated both speakers providing powerpoint presentations to Council for their consideration.

Mayor Cahill opened the public hearing on this item.

Robert Dickenson, Ross resident, found key assumptions, which is in part future rates that will influence participation levels. PG&E assumes future rates will increase 1.5% over the next 15 years and he asked how that would be reconciled. PG&E representative updated their numbers and the plan reflected in the graphs shown included recent increases due to high natural gases. The early analysis was updated, so the County used old numbers and the updated numbers were reflected in their presentation.

Jeanne Boheart, El Camino resident, wanted an explanation on the terms used in regard to green because she is not familiar with their terms and wondered if the nuclear slice is based on projected new or existing plans. Ms. Webber stated that all different states define renewable energy differently. The State law allows large hydro to be called renewable. Also, PG&E has no plans to construct nuclear plants.

Laura Conrow, Ross resident, believed Marin County and Ross should be proud to be on the forefront of environmental decisions and urged Town Council to adopt MCE to provide residents an option. They are fortunate that they are in an affluent community to pay more and support renewable energy. She felt the Town Council should take a position that residents should be able to opt to whatever energy plans they chose to adopt.

Forest Roth, Ross resident, stated that green energy request goes to green energy provider and it may not be exact electrons and the offset by that green energy provider is real. Also, CCA can provide information on customer data to provide cost effective and PG&E does not release that information. An advantage is to approach highest consumers of energy and reduce their demand. The cheapest energy is megawatts. They have a huge risk, by 2050 80% reduction in greenhouse gas, so they must reduce demand to meet that criteria. They cannot continue to burn fossil fuels. Studies show that offshore windmills can provide a substantial portion of renewable energy that is not in consideration. Governments must start getting together on this matter.

Barbara George, Women's Energy Matters representative, has seen the background of what PG&E is doing in the market. PG&E is talking about being green and very recently they owned the dirtiest coal plants in New England. The company wanted to protect those coal assets, so PG&E corporate holding company let the utility company go bankrupt in 2001 and in 2002 subsidiary also went bankrupt. In the last procurement proceeding PG&E's plan was to build gas powered plants, not renewable. Their CEO has been on record as taunting nuclear investments. They also know that they want to invest in a gas pipeline to buy liquid natural gas they hope will come in on Coos Bay. They do not want to go to even 33% renewable energy. They are missing energy efficiency programs. Partnerships all over the State had a terrible time working with PG&E, so the reality of PG&E is not pretty.

Volunteer activist with the Sierra Club gathered handwritten letters for Sierra Club community choice energy campaign and the response has been overly positive and asked that the Town Council make implementing community choice energy their top priority.

Photovoltaic installer provided photographs of the installation for the Council's consideration and realizes that it is a limited resource on a larger scale, but it is getting bigger and he constantly receives inquires on photovoltaic systems. He cares about the earth

and came to California because several are passionate about this matter. He wanted to know where renewable energy would be built and where solar would be built. PG&E representative stated that Marin County photovoltaic will be seen and it is wonderful for those that can afford it. They signed several contracts in Southern California and multiple technologies on thermal and photovoltaic energy, so they are respecting the money of their customers.

Principal Planner Weisz created a solar map about two years ago that identified the best solar potential in Marin County and sent out letters to the commercial customers and hoping some large rooftops and parking lots might be locations to develop local solar. She agreed that photovoltaic is expensive, but very important. Once they get more revenue they want to channel extra revenue stream toward local solar projects and buying solar in Marin to stimulate the local economy.

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 Pro Tempore Strauss recommended scheduling a special meeting in order to provide an opportunity for anyone interested in the ability to participate and to have the opportunity to comment on the proposal.

Council Member Durst stated that the issue is a lot more complicated. She has incredible experience with JPA and every entity in Marin is a part of it, except for Novato and they do not move as quickly as desired. There are some issues where as a public entity money cannot be returned to a community such as Ross as PG&E did with the Ross School. Her main question is the form that MCE has decided to raise and whether or not it is a wise choice at this point to approve without knowing the end result.

Mayor Cahill thanked everyone for making very thoughtful comments. The Town Council must decide whether or not to participate in the JPA that will enable MCE. Given the complexity of the subject, the Council decided to schedule a special meeting to further discuss the MCE plan. Council Member Durst recommended that the JPAOC be in attendance to give everyone a hint as to what JPA's are all about in regard to the special meeting. The Town Council and staff agreed.

16. Town Council adoption of five Town Council goals for 2008-2009 and the implementation of these goals.

Town Manager Broad summarized the staff report and recommended that the Council schedule a public retreat to provide the Council more time to organize the following 2008-2009 goals and the implementation of these goals and then bring the matter back for formal adoption:

1. Ongoing Emergency Preparedness
2. Flood Control
3. Downtown Plan
4. Safe Routes
5. Completion of Fire Consolidation

Mayor Pro Tempore Strauss asked the Council to keep an open mind in regard to the different goals during the retreat.

Mayor Cahill opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and announced that the matter would be continued to a future meeting after the Council retreat.

17. Town Council consideration and response to the Grand Jury report dated April 7, 2008 entitled “Tails of Marin” Marin County Animal Control Services and The Marin Humane Society.

Town Manager Broad summarized the staff report and recommended that the Council consider and respond to the Grand Jury report dated April 7, 2008 entitled “Tails of Marin” Marin County Animal Control Services and The Marin Humane Society.

Council Member Hunter discussed page 3 in regard to Finding No. 9 and recommended that the third line down under the response be modified. Town Manager Broad agreed to state, “*except in the Grove.*”

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

Mayor Cahill asked for a motion.

Council Member Durst moved and Council Member Skull seconded, to respond to the Grand Jury report as outlined in the staff report with the changes as discussed. Motion carried unanimously.

18. Planning Application Consent Agenda.

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

a. 20 Winding Way, Extension of Time No. 1599

Robert and Kim Kristoff, 20 Winding Way, A.P. Nos. 72-112-07 & 72-112-16, R-1:B-A (Single Family Residence, One Acre Minimum). A second one-year time extension to July 13, 2009, for a variance and design review application approved on July 13, 2006, to allow renovation of and additions to an existing two-story residence, demolition of a carport, construction of a 454 square foot attached two-car garage within the front yard setback (25 feet required, 4.5 feet proposed) and 34 linear feet of new retaining walls with a maximum height of 7 feet.

Lot area	28,042	square feet
Existing Floor Area Ratio	12.5%	
Approved Floor Area Ratio	15.0%	(15% permitted)
Existing Lot Coverage	9.3%	
Approved Lot Coverage	10.3%	(15% permitted)

The existing carport is nonconforming in setbacks.

Mayor Cahill asked for a motion.

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

20 Winding Way, Kristoff, 2nd Extension of Time Application, File 1599

The Town Council approved the requested time extension subject to the conditions in the original approval dated July 13, 2006, as amended June 14, 2007.

b. 27 Ross Common, Commercial District Use Permit No. 1687

Wendel Nicolaus (applicant) & Vito & Sonia Badalamenti (owners), 27 Ross Common, A.P. Nos. 73-273-09, C-L (Local Service Commercial). A professional office for Nicolaus & Company, a business that involves investments, management, real estate brokerage and fee appraisal use. The use is proposed in the 470 square foot, ground floor, space formerly occupied by a dress boutique. Proposed days and hours of operation would vary, but the applicant estimates the office would be open 8 am to 5 pm three to five days per week, including occasional weekend use. The applicant would be the sole on site employee and client visits would be minimal.

Mayor Pro Tempore Strauss asked the owner how long the lease is anticipated. The owner responded that the lease is for one year. He added that everyone is on a month-to-month. Town Manager Broad discussed the email staff received from Mr. Kenny, and staff explained that Mr. Kenny was confused as to the location of the use and thought it was at the street storefront location at 3 Ross Common. Mayor Pro Tempore Strauss appreciated the clarification.

Mayor Cahill asked for a motion.

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

27 Ross Common, CL Use Permit, Conditions of Approval

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 disabled access regulations, regardless of whether a building permit is required for the work.
4. A sign permit is required from the Town prior to installation of any new signage. Any exterior modifications, including repainting, shall require approval by the Planning Department staff.
5. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, or seating, requires prior approval of a revocable encroachment permit from the Director of Public Works.
6. NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.

7. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.
8. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

c. 30 Sir Francis Drake Blvd, Variance and Design Review No. 1688

Marin Art & Garden Center, 30 Sir Francis Drake Boulevard, A.P. Nos. 72-231-01, 02 and 23 (Community Cultural District, one acre minimum lot area). Design review for 475 square foot addition to the west side of the barn/theater building for bathrooms that are compliant with the Americans with Disabilities Act (ADA). The project includes an interior remodel of the lobby area, which would remove an office, and conversion of the existing bathrooms to office and storage space. A variance is necessary to add the new floor area without providing additional parking at the site (5 additional spaces required). A tree removal permit is requested to remove the 30-inch diameter eucalyptus tree in the area of the proposed addition.

Lot area	439,858	square feet
Existing Floor Area Ratio	6.2%	
Proposed Floor Area Ratio	6.3%	(20% permitted)
Existing Lot Coverage	6.2%	
Approved Lot Coverage	6.3%	(25% permitted)

The existing site is nonconforming in required parking spaces.

Mayor Cahill asked for a motion.

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

30 Sir Francis Drake Boulevard, Marin Art and Garden Center, Conditions of Approval

1. This project shall comply with the following recommendations from the Ross Public Safety Department: a.) all brush impinging on the access roadway shall be cleared; b.) the accessway shall have a minimum vertical clearance of 14 feet; c.) all dead or dying flammable materials shall be cleared and removed per Ross Municipal Code Chapter 12.12; d.) a street number must be posted (minimum 4 inches on contrasting background); e.) sprinklers must be installed and attached to existing system; and f.) a 24 hour monitored alarm system is required.
2. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.

3. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance the owner will be subject to automatic penalties with no further notice.
4. 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.
5. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
6. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense, however, nothing contained in this contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

d. 36 Glenwood Avenue, Design Review No. 1662

Ross Valley Sanitary District No. 1 (applicant), 36 Glenwood Road, A.P. Nos. 73-131-25 and 73-131-26, R-1:B-A (Single Family Residence, 1 acre minimum lot size). Design review to allow replacement of a sewer and its support structures within the banks of Ross Creek (25 foot setback required). The project includes construction of approximately 30 linear feet of retaining walls that are over 4 feet tall and work within the creek to remove temporary support structures.

Senior Planner Elise Semonian recommended that the Council add a condition that the Ross Valley Sanitary District be subject to the same job conditions as imposed on the house construction project. Staff provided the draft condition to the Council.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Skall seconded, to approve Consent Calendar Item "d" as amended by staff. Motion carried unanimously. 36 Glenwood Avenue Sewer Replacement Conditions (as amended by Council to add the job site rules)

1. The applicant (which includes, but is not limited to, the applicant, their contractors, subcontractors, suppliers and consultants) shall follow the job site rules imposed for the Demolition Permit, Variance, Design Review and Tree Removal No. 1662, approved by the Town Council on March 13, 2008:

- a. A copy of the building permit shall be posted at both entrances to the site and the emergency contact information shall be up to date at all times.
- b. Working Hours shall adhere to Ross Municipal Code sections 9.20.035 and 9.20.060.
 1. Except as otherwise provided in the municipal code, arrival to the job site and working hours will be limited to Monday through Friday between 8:00 am and 5:00 pm.
 2. No work of any kind will be allowed on Saturdays and Sundays.
 3. Work shall not be performed on holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day.
- c. Construction Traffic
 1. All construction parking shall be on site and not on public streets. The applicant shall strongly encourage carpooling to the site.
 2. The applicant shall not block driveways or crosswalks. Driving over plantings on other private property shall not be permitted.
 3. An on-site Traffic Management Coordinator is required.
 4. Large trucks (all trucks larger than a standard pickup or delivery truck) may only enter and leave the site between 9 am and 3:30 pm.
 5. No vehicles will be allowed to idle or park for any period of time on Glenwood or the neighboring streets. Vehicles shall time their arrival in Town so that they will arrive at the site during permitted working hours and do not disturb other neighborhoods.
 6. Traffic management coordinator will assist with the arrival or departure of large trucks.
 7. The entrance gates shall remain open during working hours, whenever feasible, to allow for the free entry and exit of construction vehicles.
 8. The North entrance to 36 Glenwood shall be the primary entrance and exit for trucks related to heavy construction on the main house (excluding steel), such as those involved in demolition, hauling away debris and materials to be recycled, cut and fill, and foundation work and pouring, whenever feasible.
 9. Prior to significant on-site work being performed, the South entrance gates shall be moved further back from Glenwood Avenue so that large vehicles may pull off of Glenwood Avenue, and the entrance shall be widened to accommodate the construction traffic.

10. The Traffic Management Coordinator will split the traffic, wherever possible, between Bolinas Avenue for the entrance and exit of vehicles using the North driveway and Lagunitas Avenue for the entrance and exit of vehicles using the South driveway.

d. Landscaping and Privacy Protection

1. Pruning/trimming along Glenwood Avenue first requires review by an arborist, planning department staff, and the concerned neighbors. If the neighbors have concerns over any pruning/trimming proposal, planning department staff may have the Town arborist review the proposal and make a recommendation on the issue, taking into consideration neighbor concerns.

2. The existing privacy screen provided by the trees along Glenwood Avenue shall be maintained during construction as a sound and sight barrier, and maintained or improved as its current height and density over the long-term.

3. Any tree removal, reduction, cutting and thinning along Glenwood Avenue that has been approved by the Town shall be posted with the publicly available construction schedule.

e. Neighbor Relations

1. The applicant shall provide a 24-hour pager or cell telephone contact number to the Town, Glenwood Avenue neighbors and other concerned individuals.

2. Subcontractors shall provide applicant with a phone number that will be answered by a subcontractor employee during working hours and a 24 hour pager or cell phone service shall be available during non-working hours.

3. The applicant shall meet with the neighbors on a regular basis to proactively identify and address any concerns that arise.

4. The applicant shall notify neighbors of the site's delivery schedule on a regular basis.

f. Public Works Coordination

1. The applicant shall coordinate with the Town Public Works Department regarding any planned infrastructure improvements (e.g., upgrading Glenwood Avenue).

2. The applicant shall document existing Glenwood Avenue road conditions and shall submit them to the Public Works department prior to issuance of a building permit and shall work with the Public Works Department to repair any damage caused by 36 Glenwood's construction vehicles.

g. Emergencies

1. Clear access to the site shall be maintained at all times, sufficient for emergency vehicles to maneuver and access the construction site
 2. In case of an emergency, direct flagmen will be posted to direct the emergency vehicles to the construction site.
- h. Fire Control. Flammable liquids will be stored in appropriate containers and never left out of a locked storage area after hours.
- i. Hazardous Waste Control
1. A designated clean-up area shall be posted for cleaning of cement forms or equipment, painting and plastering tools and the like.
 2. Run off controls shall be as approved in the stormwater pollution prevention plan.
- j. General Job Site Conditions
1. 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.
 2. Job site and entrances shall be maintained in a neat and orderly manner.
 3. Smoking shall only be permitted in designated areas where it will not create an annoyance to residents or occupants of nearby sites.
 4. No alcoholic beverages on-site
 5. No firearms
 6. No radios
 7. No pets
- k. Temporary Facilities and Storage On Site
1. Storage is not permitted in the public right of ways.
 2. The applicant shall provide toilet facilities to be housed where they are not noticeable (by sight or smell) from Glenwood Avenue and a sufficient distance from all creeks and watercourses on the site so that their maintenance does not cause water pollution.
- l. Creek Protection
1. Grading work necessary for completing potential creek restoration work will be completed during the period May 15 to October 15 to reduce potential impacts on aquatic habitat

2. The disturbance or removal of sediment and vegetation shall not exceed the minimum necessary to complete the project, and all disturbed areas will be restored to a stabilized and vegetated condition
 3. Existing mature native riparian trees and shrubs shall be protected from damage according to a separate Tree Protection Plan
 4. Erosion control measures shall be used throughout all phases of operation in accordance with the approved stormwater pollution prevention plan. Silt-laden waters shall not be allowed to enter any stream or watercourse.
 5. Equipment shall not be operated within wetted areas (including but not limited to ponded, flowing, or wetland areas) within the watercourses and drainages below the level of top-of-bank, except as may be necessary for completing potential creek restoration work, the temporary impacts of which would then be limited according to specific conditions of necessary environmental permits
 6. Refueling of mobile and/or portable equipment shall not occur within 100 feet of a watercourse or drainage, unless circumstances do not permit this, and then refueling of sedentary equipment will use catch basins and absorbent pads while refueling within 100 feet of a watercourse or drainage.
2. Work shall only take place when the creek is dry. Best management practices shall be followed to avoid negative impacts to the creek.
 3. The applicant is responsible for obtaining all appropriate Federal, State and local permits prior to issuance of a building permit, including a Streambed Alteration Agreement from the Department of Fish & Game, permit from the U.S. Army Corps of Engineers and the Regional Water Quality Control Board. The applicant shall comply with any additional requirements of the agencies.
 4. The applicant is responsible for obtaining any necessary permission from property owners for the work.
 5. 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.
 6. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
 7. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
 8. Failure to secure required building permits and/or begin construction by June 12, 2009 will cause the approval to lapse without further notice.

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. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
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.

End of Planning Consent agenda.

The Council took a short recess at 8:51pm.

19. **51 Wellington, Variance, Design Review and Demolition Permit No. 1685**
Craig and Melissa Slayen, 51 Wellington Avenue, A.P. No. 72-071-15, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Demolition permit to allow modifications to each elevation of the residence, including replacement of the existing horizontal siding and windows with new painted wood shingles and windows. Variance and design review to allow a remodel and addition to the existing residence and landscape improvements that include: 1.) removal of the 2-car carport and its roof deck within the front yard setback; 2.) enclosure of the existing entry porch area, partially within the front yard setback (25 feet required, 20 feet proposed); 3.) addition of an attached, 312 square foot, one-car, garage partially within the front yard setback (25 feet required, 20 feet proposed) and rear yard setback (40 feet required, 32 feet proposed); 4.) reconstruction of the northwest corner of the residence, increasing the roof ridge over the area, within the rear yard setback (40 feet required, 0 feet proposed); 5.) landscape grading involving 64 cubic yards of cut and 123 cubic yards of fill; 6.) construction of fenced trash enclosure; 7.) 130 linear feet of new retaining walls up to 5 feet in height; and 8.) new terrace within the front yard setback (25 feet required, 20 feet proposed) and rear yard setback (40 feet required, 10 feet proposed).

Lot area	11,275 square feet	
Existing Floor Area Ratio	29.6%	
Proposed Floor Area Ratio	31.2%	(20% permitted)
Existing Lot Coverage	26.6%	
Proposed Lot Coverage	24.6%	(20% permitted)

The existing residence is nonconforming in setbacks.

Senior Planner Semonian summarized the staff report and recommended that the Council provide input and approve the project subject to the conditions outlined in the staff report,

which included the requirement for widening the garage and an additional off street parking space.

Wendy Posard, architect, presented a sketch for the Council's review and submitted the sketch as an addendum to their proposal. They would increase to a full 12-foot interior garage as discussed by staff. Also, they understand, based on this particular street with the tree that there are concerns for access and trucks, and they will modify the design and push the entrance retaining wall back slightly in order to achieve a full 18 feet as required by the Town, which they offered as an additional aspect of their design as well as provided three full off street parking spaces. The project was designed to Ross standards which require one covered and one uncovered space, but to get an agreement they would agree to add the additional space. They are very excited about this project and sensitive to the fact that it is a corner lot that really needs to be a parking garden for her client and neighbors. They are trying to make the home more attractive and give it a cottage feeling and give it that kind of fenestration with low stonewalls, all elements to exterior elevations to add richness and character. The front elevation has a 9-foot setback due to the structure that they are scraping away, so even though Town standards is 25 feet they are pulling it back an additional 11 feet to minimize the bulk and mass of the building.

Council Member Hunter commended the architect on a job well done, but expressed concern for giving up two covered parking spaces for one covered car space. He believed it is possible to fit two cars if the garage is widened. Architect Posard responded that they have small children and the proposal fits her client's needs.

Mayor Pro Tempore Strauss also suggested a two car garage be added, and it would be very easy to get two cars inside if done as he sketched out for the architect's consideration. It maintains the bedroom and provides two covered parking spaces. He liked how the two-story height was broken up with the shingles.

Mayor Cahill asked if the garage widening is within the footprint of the design. Architect Posard responded in the affirmative.

Mayor Cahill discussed the site plan and was trying to figure out the location of various stucco-covered retaining walls. Architect Posard approached the Council and pointed out that whatever is drawn is a wall and there are no additional walls proposed. Also, Architect Posard explained that the existing walls would be resurfaced. The stucco walls proposed will have perforated drain and all appropriate drainage necessary to maintain that hillside. Aspects of that hill are sagging and healthy adjustments are needed to make that a proper site. The stucco will be a soft natural color with a boxed wood hedge or Boston ivy. The historic stonewalls located at the base of the street will be maintained. Those walls will be at grade every place it indicates a flat surface. No wall exceeds more than 30-inches unless it is the one stonewall that is part of the façade of the garage. Also, Boston ivy will soften the nature of that wall.

Mayor Cahill opened the public hearing on this item.

A neighbor Margie, representing Sarah and Ken Petrilla, indicated that they are pleased with the project, but are very concerned about the tree house structure. Mayor Cahill noted that it is a condition of approval to remove that structure.

Melissa Salyen, owner/applicant, explained that one reason they purchased the house was for the tree house. They wanted to bring the kids in the neighborhood together. She suggests that it remain until the Petrilla's return to Ross. Also, she suggested designating certain hours of the day the children are allowed to play in the tree house and they will abide by those rules. She further hoped the tree house could remain.

Neighbor Margie noted that Mr. Petrilla is concerned about the tree house in regard to teenagers and privacy issues and added that dialog must occur. She then suggested possibly moving the tree house. She believed the three-year term might be acceptable, but a conversation with Mr. Petrilla would be beneficial.

Craig Slayen, owner/applicant, appreciated the Council visiting the site. He explained it has been his dream to find a location in Ross and when they first started this project they thought about moving both on an economic and financial sense, but there is no other place they would rather reside than 51 Wellington. They love the area. They believed Architect Posard has done a wonderful job fitting this home into the neighborhood. Their goal is to have a remolded house that appears as if it has existed since the 1920's. In regard to the outside of the house, the architect had only one set of drawings. Making changes it is a great concept in terms of the mudroom, but having small kids a mudroom is necessary. He noted that they are deeply committed to the community and neighbors. In regard to the tree house, it is part of the community, but wanted to be a good neighbor and desired communication with Mr. Petrilla in order to respect their neighbors.

A neighbor, Janice, added that the Petrilla's have always hated that tree house. It is very close to their property. They do not want to come home and deal with another issue. They are very generous to the neighborhood and hoped the tree house could be removed. She also suggested relocating the tree house. Mr. Slayen pointed out that the only other location is higher on the hillside, which would be visible. The new entryway created is a formal entry. It could be moved onto the front yard, but desired guidance from the Council on a different location. Also, it was not disclosed by the Town that it needed to be removed when he purchased the property.

Neighbor Margie noted that the Petrilla's would be back in June and recommended that the Slayen's discuss the matter with the Petrilla's at that time. Senior Planner Semonian noted that the structure must comply with setbacks, so they cannot permit it to remain without approval of a setback variance. Staff suggested taking out the timeline of requiring it to be removed prior to project final so that staff may use discretion in the timing of its removal, in case the neighbors can agree to leave it for a while. Any other location will be in the setback and require Town Council review.

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 Durst liked the design and found the increase in FAR acceptable in order to have a real comfortable size garage. Also, she would like to see two parking spaces in the driveway. In regard to the house, she thinks the hallway could come out as suggested by staff. She would be in favor of approving with staff findings and conditions with the increase in garage space.

Council Member Hunter loves the design. He found the suggestion by staff on how to handle the tree house acceptable. Also, they are increasing FAR on a house that is already over. They have two covered parking spaces and Mayor Pro Tempore Strauss's sketch is a good idea in order to have two cars in the garage, which is a fair trade for the increased FAR. Council Member Skall concurred.

Mayor Pro Tempore Strauss liked the design. The garage façade can be stepped to retain a cottage look. It is a fair trade for the increased FAR and a benefit to the community. If the neighbors can work out the tree house that would be great, but at any point the Petrilla's wanted it removed then it is agreed it should be removed, but felt the matter could be handled at staff level.

Mayor Cahill stated that the one danger of adding a second interior garage space is that they are taking away a use that the owner highly valued, which is a mudroom. Mayor Pro Tempore Strauss noted that it could be redesigned so they can have the mudroom as well. Mayor Cahill agreed with the solution for the tree house as suggested by staff. Also, he agreed that the architect did a marvelous job. He commended the applicants on taking great care with this project.

Architect Posard pointed out that the way it is designed the garage door is submerged into the stone landscaped wall as discussed earlier tonight. To achieve the legal interior dimension of a second garage, the building mass is a two-story mass and there is a setback and the proposal to create two legal spaces historically would not be done in terms of the original saltbox and add-ons. Mayor Pro Tempore Strauss believed there is a solution by retaining the fifth bedroom.

Mayor Cahill suggested continuing the matter to provide the architect an opportunity to study the design since they are adding FAR above an already nonconforming use, so there must be a compelling benefit to the design and the compelling benefit could be providing that additional parking space. Architect Posard indicated that their coverage has been decreased significantly. The largest part that is being increased is in an already covered porch. They have really played the bulk and mass down and are willing to work with staff. They further felt there was a big give and take.

Council Member Durst agreed to a continuance. She agreed with the proportions that a single garage door is better, but they might be missing an opportunity. Visually it might look off enough that if the applicant were to show the two elevations in the front, the second garage might not be worth it. At this point, continuance is appropriate in order to give the architect an opportunity to develop a second garage space.

Mayor Pro Tempore Strauss provided guidance and noted that the Council wants the two covered parking spaces and would like to see a proposed solution. Maybe placing the garages on the opposite ends. This will be a benefit to the community to park four or five cars off street. The benefit is that homeowners will have a huge nice green landscaped area in front and felt it is very little to ask for two covered spaces and two off street parking spaces. Mayor Cahill stated that if they can find a solution with two garage spaces it could come back on the consent agenda because they all agree that the design is excellent. This is an

opportunity for the applicant to provide that extra parking space and get that extra FAR requested.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Skall seconded, to continue the matter to next month to allow the applicant to add a second covered parking space. Motion carried unanimously.

20. **42 Fernhill Avenue, After-the-Fact Variance and Design Review No. 1608**
Tim Wood, 42 Fernhill Avenue, A.P. No. 73-041-26, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum Lot Size). An after-the-fact amendment to an October 12, 2006, Town Council design review approval, which included two 6-foot tall, 50% transparent, wood gates between brick columns at the front property line. The applicant has constructed gates with a second row of slats, resulting in gates that are not 50% transparent when viewed from certain angles, and has changed the post material from brick to stone.

An after-the-fact variance is requested in order to maintain an arbor constructed within the west side yard setback (20 feet required, 0 feet proposed). The arbor replaced an arbor in the same location, but is approximately 6" taller than the prior structure.

Also under consideration is a plan to landscape the right-of-way area between the front property line and the paved portion of Fernhill Avenue.

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

Senior Planner Semonian summarized the staff report and recommended that the Council provide feedback or follow the Town Council resolution and require the areas in front of the trees to be undeveloped.

Mayor Pro Tempore Strauss asked staff about the stone being a liability. Public Works Director Jarjoura responded that any physical element in the right-of-way is a liability on the Town and the homeowner's responsibility to maintain. The Public Works Department rather not have physical improvements or obstructions in the right-of-way. Also, the Town is not in a position to allow improvements for one and not the other. Usually staff is dealing with a driveway approach in regard to asphalt vs. blue stone or concrete in order to be consistent. For this activity, the Council might like to see unimproved or a landscaped area, but it is up to the Council to make that decision as to what is desired.

Mayor Cahill asked staff if they have any experience of requiring a condition associated with this improvement. Senior Planner Semonian indicated that Mill Valley has a form that can be signed that would waive liability, so that could be reviewed by the Town Attorney.

Tim Wood, applicant, stated that the reason is to prevent perpendicular parking due to proximity to the school. His architect developed a great plan to meet the requirement and add value to the overall aesthetic appeal of the neighborhood. He respects the idea that they do not want to create more liability, but he thought the curb was pronounced enough to

notice and not be a hazard. He felt aesthetically it is an enhancement for the neighborhood. He then provided a diagram that shows a rough scale of the asphalt road width and the area where the curb has been built. He then demonstrated to the Council that there is enough room to meet the requirements of the Fire Department and emergency access. The bigger issues would be if cars were parked on both sides. He is happy to indemnify the Town as done in Mill Valley. When crowded, people park anywhere possible, and if the curb is not provided they would continue to do so.

Janell Hobart, architect, explained that native plantings go all the way to the edge and align with the existing vegetation. They would rather not have vehicles run over their native plants, so the curb protects their investment. Also, people park their cars on the street and use their garages for other activities, and the Woods are being responsible and providing parking and they questioned why others are allowed to park all along their house.

Mr. Wood noted that this was not done without forethought. There was communication with planning and there was a misunderstanding with respect to an encroachment permit.

Mayor Cahill opened the public hearing on this item.

Andy Sheehan, Fernhill resident, wanted to be clear that neighbors are completely supportive of the fence issue and found it to be beautiful. The arbor is also acceptable. Regarding the issue of the right-of-way, it brings up another topic that is important, the issue of having streets in Ross turning into parking lots. There are many streets in Ross that have "no parking" signs as well as all of Fernhill, except for the area in front of their two houses. They comply and do not park outside, but in their garage and lot, so this brings up another issue that must be addressed, which is nonresidential street parking that takes place in front of their houses. It creates congestion. The street narrows as it gets closure to the western part of the driveway. Cars park on both sides of the street and it is difficult for cars to pass as they travel in different directions. If they did a rough examination of traffic patterns over the last seven years more and more parking and traffic has taken place. Student parking has increased. Branson does not have the area to house a number of students that want to drive. In the past, efforts were focused on providing parking at College of Marin with a shuttle service. The younger generation of people talk about being green, but drive everywhere rather than riding their bikes. They do not believe that off street nonresidential parking in their neighborhood is a good idea. Their shrubs and trees are continually damaged by nonresident drivers. Also, it is a hazard as they load up that street when people are exiting driveways and for that reason the Council should consider restricting parking to one side of Fernhill in the area near Branson, specifically in front of these houses.

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 Strauss found the trellis and gate acceptable. Regarding the curb, it does not fit the character of the Town, so it does not feel right. He appreciated the problem and wondered if there is another solution. He desired a more natural edge to maintain the character. Mr. Wood noted that there is a swale between the asphalt and curb and requested backfilling that area so the curb disappears. By Backfilling it is flush with the existing topography, so there is a comfortable grade for both bicyclist and pedestrians.

Council Member Durst indicated that in reading the resolution there is some contradiction with the fact of having all cars parked, which is a violation of the radius protection zone around those trees. If they allowed the improvement to protect the trunk of the trees, they can justify the improvement and discouragement of parking. The students from Branson should not be parking in that area. Those that know the rules must park in an appropriate location. If they think of this as a way to discourage people from parking, she could find it an acceptable improvement in the right-of-way. Or restrict parking at the Wilson corner and extend “no parking” signs down past the Hudson’s and stop parents and students from using that area as overflow parking would be a benefit in her view.

Mayor Cahill asked staff if they were to provide “no parking” signs along Fernhill would that have to be separately noticed. Town Manager Broad indicated that the Council must adopt a resolution.

Council Member Durst stated that the issues on the right-of-way is somewhat difficult. They have a responsibility to make sure the street has shade and so forth and if people park on the trees then the trees will not thrive and continue to be damaged. Also, they must think of Fernhill as serving a major school, and it is a fire road. It narrows the entrance from Bolinas out to upper and she is worried about adequate fire access.

Council Member Hunter stated that there is a lot of room in the area and it seems there is a problem with parking on both sides of the road. He suggested that they come back and revisit parking on Fernhill with the thought of prohibiting parking on one side and allow parking on the Branson side of the street. He agreed with Council Member Durst that he did not find this curb objectionable. It is lined up with the Sheehan’s hedge. Down toward the Hudson’s is a similar situation with plantings out to the street. He wanted to review the parking situation in more detail. He recommended permitting the proposal from the applicant with a revocable permit, and if the parking does not pass, then they revoke the permit.

Council Member Skall found the trellis and gate acceptable. The curb looked appropriate and the landscaping will hide the curb. Architect Hobart noted that groundcover will creep right over the curb and it will look like plants and be evergreen.

Mayor Pro Tempore Strauss asked if there is 28 feet to the stone curb. Mr. Wood responded in the affirmative. Also, he would maintain the groundcover and agreed to add that as a condition of approval.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Skall seconded, to approve the gate, stone columns and landscape trellis; that they approve the landscaping in the right-of-way with a revocable permit; and the Town must receive an indemnification from the applicant subject to the conditions as outlined in the staff report. Motion carried unanimously.

Town Manager Broad announced that the parking restriction discussion on Fernhill would be agendized for a future Town Council meeting. Mayor Pro Tempore Strauss desired consensus in the neighborhood as well.

42 Fernhill, Wood, Design review and Variance

1. The applicant shall apply for an after-the-fact building permit for the trellis and pay all required inspection fees.
2. The applicant shall install climbing vines on either side of the new trellis to soften the appearance of the trellis.
3. The applicant shall install evergreen shrubs to screen the low brick wall at the front of the site.
4. A revocable encroachment permit is required for the landscape work proposed within the right-of-way. The applicant shall submit and record documents as required by the Town Engineer for the encroachment permit.
5. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

21. **662 Goodhill Road, After-the-Fact Hillside Lot, Slope Stability Hazard Zone 3 and 4 Use Permit, and Design Review No. 92**
Donald Santa, 662 Goodhill Road, A.P. No. 73-211-45, R-1:B-5A (Single Family Residence, 5 acre minimum lot size). Amendments to plans approved by the Town Council on July 9, 1998, and amended on July 8, 1999, September 14, 2000, February 8, 2001, March 8, 2001, and April 12, 2001, for a hillside lot, slope stability hazard zone 3 and 4 use permit, and design review for a new residence, pool house and garage/guest unit. After-the-fact design review approval is requested to allow over 1,800 linear feet of retaining walls constructed without planning approval and without building permits. After-the-fact design review approval is also requested for over 380 cubic yards of cut and 380 cubic yards of fill for creation of terraced areas and paths not shown on the approved plans and also constructed without planning or building approval.

These walls, paths and terraced areas violate project conditions of approval prohibiting construction, including retaining walls, grading and filling within designated "hillside protection zones" on the property without prior Town approval. An amendment to the prior conditions of approval is requested to allow after-the-fact approval for work done within "hillside protection zones" without prior Town approval. This amendment would require amending Resolution No. 1409 approved on July 8, 1999 and Resolution No. 1462 approved on April 12, 2001.

The application has been modified since the last public hearing to include design review for three terraced retaining walls, up to 8 feet tall, which would reduce the height of the terraced area that is currently retained by a wall up to 19+ feet tall.

This item was continued.

22. Open time for matters pertaining to the closed session in agenda item 24.

Leslie Reidy, RPOA, asked the Council when fire consolidation is completed that the Town provide RPOA with a full disclosure on the financial impact. Council Member Hunter responded that they would not do it without financial disclosure. This notion has begun that fire consolidation is bad and will cost 15 times the local fire costs. They will explore the matter publicly with great clarity and transparency so all will understand. Ms. Reidy agreed to communicate the intention of the Council back to the RPOA.

23. Council will adjourn to closed session for the following two items:

a. Labor Relations —Government Code Section 54957.6 related to negotiations between the Town of Ross (Gary Broad, Town Manager as Town Representatives) and the Ross Professional Firefighters Association, Local 1775.

b. Personnel Matters, Government Code Section 54957, annual evaluation of Town Manager, Administrative Assistant, Public Works Director/Building Official, Building Department Secretary and Street Superintendent.

24. OPEN SESSION. Council will return to open session and announce action taken, if any. No reportable action was taken.

25. Correspondence-None

26. Other Business-None

27. Adjournment.

By order of Mayor Cahill, the meeting adjourned at 10:30 pm.

William Cahill, Mayor

ATTEST:

Gary Broad, Town Manager