

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, MAY 14, 2009

1. 6:30 P.M. Commencement.

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

2. Posting of Agenda.

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

3. Minutes.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Skall seconded, to approve the April 16, 2009 Town Council Minutes as amended. Motion carried unanimously.

4. Demands.

The demands were met

5. Open Time for Public Expression.

Mike, East Road resident, expressed concern for the Bufano bear being wrongly used. He felt the Town has corrupted the artwork and it can no longer be seen through Bufano's eyes. The actual message is lost and the practice of adding hats must stop to preserve the integrity of the Town of Ross. He further appreciated the Town's consideration and asked that the Bufano bear be protected. Council Member Martin agreed to discuss the matter with the Public Works Subcommittee.

6. Report from Mayor Cahill.

Mayor Cahill noted that the theme of this month's Mayor's report is how thankful he is for all the fantastic contributions of community members to the Town. For its size, he does not know of another town or city that has as much community involvement as Ross. It is one of the reasons he likes living here so much and why he is very proud to be part of this community.

Last Thursday the independent survey committee presented its summary of the survey results to the community. Special thanks should go to the committee members: Wendy Battey, Anne Brush, Ken Fineman, Carla Small and Stan and Karen Stern. They have put in countless hours on this project with no involvement by the Town Council or Town staff. The information provided by the survey will be invaluable to the Town Council when it sets its priorities for the next fiscal year that starts in July. The Council meets annually in the summer to set goals for the next fiscal year. The survey results will be a significant part of that process.

As many residents recognize, Town staff is not always able to discover every maintenance problem around Town. It is very helpful when members of the community provide information about maintenance needs. Special thanks this month goes to Erika Rosenbaum and Michael Baum. Erika informed the Town that trees had fallen over the footpath to Phoenix Lake. Michael informed the Town about graffiti at various locations in Town. This

information allowed the Public Works Department to promptly fix the problems. Please continue to provide the Town with this kind of information so the Town may serve residents most effectively.

Lastly on a sad note, Daniel Oberti died earlier this month. As many residents know, Daniel a sculptor by profession, maintained the Town's Bufano bear for years and was hoping to reproduce the electroliers for the Lagunitas Bridge. Mayor Cahill then asked everyone to join him in a moment of silence in memory of Daniel.

Report from Committee Heads.

Public Works - Council member Strauss

- Public Works Committee report

Mayor Pro Tempore Strauss reported to the Council that the curb between the Post Office and downtown brick path is deteriorating and becoming a hazard. He asked the Council to direct the Public Works Director to get a quote to move the sidewalk out and place parking behind the Post Office lot to have double row parking. They must fix what is out there to avoid hazards before the farmers market. It would go along with fixing the intersection that will dovetail with the Sir Francis Drake pathway. He agreed to provide the Council with a drawing. He believed it would be great to fix the curb and gutter this summer while school is out and cost for work seems to be lower. He further noted that they should implement it as soon as possible.

Public Works Director Mel Jarjoura announced that there is money leftover in the budget to fix the curb and gutter for Winship. If Council agrees, part of that money could be used to fix the curb and gutter located at the Post Office and downtown. The Council agreed to use the available funds to properly fix the curb and gutter.

Council Member Martin reported that on May 2, the Town hosted a workshop inviting residents to walk the proposed Sir Francis Drake Boulevard pathway with the Town's consultants from Questa Engineering. The discussion focused on loss of parking, hedges, trees, pathway materials and specifics of the path in relation to their property. Questa is revising the plan to respond to concerns, and an additional public workshop will be scheduled. Also, money for Sir Francis Drake must be spent this year for the pathway. Public Works Director Jarjoura met with Questa and most items and concerns were addressed. Questa will come back with revised plans to address concerns from residents. Council Member Martin stated that the initial drawing had inaccurate measurements. They showed removal of two perfectly healthy elm trees, so the matter must be vetted. In the initial contract with Questa, they agreed to hold six public workshops. He felt the more public input with property owners the better and recommended noticing a public workshop.

Mayor Cahill pointed out that they would vote again on the work itself. The Council approved the concept subject to the fine-tuning. Town Manager Broad agreed to have another workshop and staff will contact directly those that had concerns. Mayor Cahill noted that timing is of the essence and the final plan would be approved through the Public Works Subcommittee.

Mayor Cahill opened the public hearing on this item.

Joan Holmes, Ross resident, agreed the next workshop should address concerns of the residents. They must discuss the proposed material. In December, when first discussed, they talked about using the Shady Lane material, but now asphalt is being considered. All issues must be resolved at the next workshop.

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

Mayor Cahill asked if surfacing is an issue. Council Member Martin responded that if it cannot be determined in the workshop, then it could be brought back to the Council. One alternative given was a different surface used on Shady Lane, but he is not sure of the cost difference. Public Works Director Jarjoura noted that crushed granite would not address ADA requirements. The other is colored asphalt to provide a different appearance. There was no final decision on material or parking. No one was in a position to make a final determination on how to deal with the parking issue. It is illegal to park over a sidewalk or pathway. They must come back and discuss those two matters and give a final blessing of the project. Mayor Cahill agreed to have the matter come back in June. Mayor Pro Tempore Strauss suggested pricing the alternative and further discussion in June.

7. Presentation of new Town of Ross website.

Administrative Assistant Linda Lopez and Website Designer Kristen McDonnell presented the Town's new website, which went live last week. The website features beautiful new photography, lots of well-organized information and many new features. On the homepage, website visitors can check the community calendar, view frequently requested documents in the resource center, provide customer service feedback, and subscribe to the Town's email list. A site map and search function is provided as well to make it easier to locate information. Much of the website information has been expanded. The police and fire department pages now contain personnel pictures and bios. Frequently Asked Questions are located in the public works, planning building and police drop-down menus. The website also contains agendas, staff reports and minutes for the Town Council and ADR group. The new website makes it easy to email staff, council members and ADR members. Residents are welcome to provide ideas and comments about the new website to Administrative Assistant Lopez. Also, community organizations are encouraged to submit event dates for the community calendar.

The Council thanked Administrative Assistant Lopez and Website Designer McDonnell on a wonderful job at an amazing cost.

8. Report from Ross Property Owners Association.

Diane Rudden, RPOA representative, announced that RPOA's website is almost finished and a newsletter will be sent out through the Town's mailing list. Also, RPOA will be working with Roseanna Lourdeaux on the Fourth of July celebration.

9. Flood Control Report.

Mayor Pro Tempore Strauss indicated the Town received water quality certification from the California Regional Water Control Board. The biological document was sent to the National Marine Fishery Service and US Fish and Wildlife on April 13th 2009 and notice of determination was filed on April 21st with the County Clerk. He further noted that the Public Works Director submitted all applications for dredging the creek.

10. Report from the Ross School.

Ken Fineman, School Board member, requested a joint session between the School Board and Town Council. He added that there is a lot of misinformation. They made great progress at the last joint meeting. He explained that unlike a housing project, if this school project is delayed by one month they potentially miss the entire year. He feels a joint session is appropriate and necessary. They agreed to setup another "Save the Date" for a joint session. Their architect submitted a timeline on November 12th with key dates. The March 12th agenda discussed approval of an agreement of the gym and easement. They are very frustrated and are trying to have a joint meeting. There was a Public Works Subcommittee meeting on April 6th with a number of requests and believed they complied with all. Then a new set of requests were made on May 5th and information needed to be submitted by May 18th. The architect could not comply until the School Board discussed the matter, which occurred last night. They will submit six of the eight requests. He further noted that a joint meeting is very important because there is a deadline and further discussion must occur on the ball field.

Dan Bernhard, School Board President, appreciated the Council reaching a decision on the trees and is present tonight to set a date for a joint session.

Town Manager Broad noted for the record that the email sent out to the District was from the Public Works Committee, but staff drafted it on behalf of the Committee.

Mayor Pro Tempore Strauss agreed to work with the school. They met after the last Council meeting to address the trees. He along with Council Member Martin met with the School Superintendent to discuss materials in an attempt to let the School Board know what the Town needs in order to move forward. The lot line and easement are generally done. They asked for renderings so the community could understand what they are acting on. They want to hold everyone in the community up to the same standard. With regards to the easement, they have a responsibility to inform the community. For the record, he along with staff had input and on April 30th received a second set of plans and on May 5th he met with staff and an email was generated by the Town Manager at the request of the Public Works Committee.

Board Member Fineman expressed concern for the perimeter trees. Council Member Martin noted that perimeter trees is a common program that can be worked out together and did not have to be submitted now. Board Member Fineman noted that another is the detailed grading plan. They will provide dirt displacement for both options for the ball field. Once the location is decided, a detailed grading plan will occur.

Mayor Pro Tempore Strauss did not want to piecemeal this matter. They want to review the information in its totality. They cannot act as a committee. Council Member Martin agreed they do not want to piecemeal this matter. Most, if not all items are ready for review, so that is great. He assumed the material being submitted is responsive to what they have requested, and if so, he is comfortable scheduling a future date. If there are loose ends Public Works can address. Mayor Pro Tempore Strauss noted that when they met with Superintendent Murphy they discussed the same issue.

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Board Member Fineman noted that the formal request came in nine days ago and their architect could not act on that request without a School Board meeting that occurred last night. Most all requests have been completed. Council Member Martin indicated that honest information is needed to make an informed decision.

Mayor Cahill suggested giving the authority to the committee to respond to the requests. School Board President Bernhard believed this is a done deal. There are a lot of small details and the School Board agreed that they do not want to piecemeal this matter. They must sit down in one room and get this done in order to be efficient. He is present tonight to get a date and asked when the Town is available to have a joint meeting.

Board Member Fineman agreed there is no reason why the architect does not have authority to work on items. They will comply with the deadline. In fairness, one request was redraw of the stage. Their recollection is that they understand the stage to be 18-inches smaller and the discussion was, if it does not affect the usability of the stage they can redraw. The stage is already small for the school size and 18-inches will not impact the field.

Mayor Pro Tempore Strauss believed there is a misconception around the stage that originally were only barn doors on a single stage, not a thrusting stage and it is very important the community understands what they are getting. If the Town is giving an easement it must be added to the agenda before they are willing to give up Town property.

Council Member Hunter noted that Town Council must rule on the School Board request, apply for what is needed and prepare a staff report and then the Town Council can make a determination. School Board President Bernhard agreed that it could not be done at staff level. Council Member Hunter is willing, when information is submitted, to have a special meeting to address that matter only. He did not see the value in a joint meeting.

Board Member Elizabeth Robbins is responsible for the whole community and wants all the decisions made publicly as they are spending money. They may need to go back and forth and compromise and it requires a formal joint meeting. Council Member Martin and Council Member Skall agreed to a joint meeting. School Board President Bernhard objected to any more private meetings.

Mayor Pro Tempore Strauss felt before the Town can act, they must know where the ball field is being located and it must be a Town Council action. He heard that traffic, parking and noise were concerns. They have not seen a solution to the stage.

Mayor Cahill asked if it is the position of the School Board to have the ball field in a location other than the location the Council agreed upon. School Board President Bernhard stated the school is obligated to redo that ball field. Also, that ball field will not be reconstructed for 2.5 years. The ball field is on Ross Common, which is Town property. Where the Town decides to put that ball field is up to the Town. Mayor Cahill stated that it is important to design the stage with the ball field. If there is a conflict it must be resolved, so it is important in that respect. He then asked if it is the position of the School Board that the ball field should be in a location other than the location that Council agreed too. School Board President Bernhard is unable to take a position on that matter. The School Board's concern is to maximize its utility of all its structures. Placing the ball field in the same location will minimize or devalue the use of the building, but there seems to be a number of remedies for that issue. Mayor

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Cahill noted that the Town Council must know the location of the ball field. It is important to get this resolved first. School Board President Bernhard stated that they are going to DSA in July, the school is designed and they cannot redesign the gym.

Board Member Fineman noted that they would submit drawings, not an interpretation. They worked in good faith with the Town for most of two years. It was suggested of some Council Member or Town Manager to have a stage and ball field. They designed the stage with an assumption that the ball field would be moved. With respect to the design of the gym, they had close to 70 public meetings, so a lot of public input. There are compelling reasons why the ball field should be moved. If it remains as is, they will sit on dirt while looking at the stage and foul balls will hit the stage. He further desired a joint meeting.

Council Member Hunter did not feel the last meeting was particularly productive. He does not understand the lack of communication between the Council and School Board. He did not believe a joint meeting is effective. Deliver the goods in the last email, and agendaize as an item on the Town Council for review and discussion. In terms of placement of the ball field, he never understood that it was to be moved, and to now indicate that from day one the ball field was to be moved is contrary to the record.

Mayor Cahill opened the public hearing on this item.

Susanne Lyons, Citizen Oversight Committee, felt the Council and School Board have a responsibility to get their acts together. They must get the school built in a timely fashion to avoid additional construction for the next three years. She suggested having as many meetings as needed to get this job done.

Carla Small, Duff Lane resident, stated as a resident, she wants the bond money spent in an appropriate manner and on a timely basis. She wants the Council and School Board to come together in a public session in order for the public to listen and understand the decisions being made. This is a big project and more issues will develop, so regular meetings must be scheduled to make decisions and get this done. She is tired of it and wants the Council to be responsible for the majority of residents of this community.

Mayor Cahill agreed that there has been a lot of blame and it is completely unproductive. If they have a joint meeting, they need a commitment from the School Board and Town that they will not blame anyone, but move forward in a productive manner.

Council Member Martin agreed to a joint meeting in June. There is urgency due to the constraints the School District has with the State.

Council Member Skall agreed a meeting is needed even if some information is not provided because of the timeframe. Mayor Cahill also agreed to have a joint meeting publicly noticed.

Diane Rudden, Willow Avenue resident, asked for an architectural rendering of the proposed stage design, which has been repeatedly asked for, but yet to be provided. The Council agreed to post a rendering on the Town website once received from the school as well as the Post Office.

Ross resident believed a Council Member should sit on the School Board in order to relay information back to the full Council. Mayor Cahill noted that the School Board is publicly elected. The bylaws do not allow for a member from Town Council on its Board. They do have a member of Council who is a liaison to the School Board. School Board President Bernhard explained that the School Board is not part of the Town. It is a separate legal entity.

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.

The Council agreed to schedule a joint meeting the week of June 8th, but asked the School Board to first comply with an earlier request for additional information, including a detailed grading and drainage plan for the stage and seating area. Also, the final location of the ball field needs to be resolved for the school to finalize its architectural plans.

11. Town Council consideration of adoption of Ordinance No. 614 to amend Municipal Code Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use.

Town Manager Broad summarized the staff report and recommended that the Council consider adopting Ordinance No. 614, amending Municipal Code Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use.

Mayor Cahill opened the public hearing on this item.

Diane Rudden, Willow Avenue resident, noted that they have places in Town with guest cottages and asked the Council if any thought was given to somehow review again to see if these can be added to the housing stock. Mayor Cahill explained that there is an agenda item on the housing element and that matter will be discussed at that time.

There being no further public testimony on this item, 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 Ordinance No. 641, amending Municipal Code Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use. Motion carried unanimously.

12. Town Council consideration of introduction of Ordinance No. 615 to amend Municipal Code Chapter 2.28.030, Disaster Council Membership, and Chapter 2.28.040 Disaster Council Powers and Duties.

Fire Chief Tom Vallee summarized the staff report and recommended that the Council consider introducing Ordinance No. 615, amending Municipal Code Chapter 2.28.030, Disaster Council Membership, and Chapter 2.28.040 Disaster Council Powers and Duties.

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Council Member Hunter suggested stating, *“in the absence of the chairperson”* and remove the word, *“his”* under Chapter 2.28.040 Disaster Council Powers and Duties to read, *“Meet quarterly upon the call of the chairperson or in the chairpersons absence from the town or inability to call such meeting, upon call of the vice-chairperson.”* The Council and staff agreed.

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 Skall seconded, to waive the first reading and introduce Ordinance No. 615, amending Municipal Code Chapter 2.28.030, Disaster Council Membership, and Chapter 2.28.040 Disaster Council Powers and Duties, including the additional amendment made by Council Member Hunter. Motion carried unanimously.

13. Town Council consideration of introduction of Ordinance No. 616 to exempt bicycles from left turn restrictions from Bolinas Avenue onto Shady Lane, prohibiting U-turns at 6 Redwood Drive and deleting restrictions prohibiting left turns from Bolinas Avenue onto San Anselmo Avenue.

Police Chief Jim Reis summarized the staff report and recommended that the Council considering introducing Ordinance No. 616, exempting bicycles from left turn restrictions from Bolinas Avenue onto Shady Lane, prohibiting U-turns at 6 Redwood Drive and deleting restrictions prohibiting left turns from Bolinas Avenue onto San Anselmo Avenue.

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 Martin moved and Council Member Skall seconded, to waive the first reading and introduce Ordinance No. 616, exempting bicycles from left turn restrictions from Bolinas Avenue onto Shady Lane, prohibiting U-turns at 6 Redwood Drive and deleting restrictions prohibiting left turns from Bolinas Avenue onto San Anselmo Avenue. Motion carried unanimously.

14. Presentation by Deborah Cole from Parisi Associates on Street Smarts Pilot Program.

Deborah Cole, Parisi Associates, provided a brief overview as well as provided visual aids for the Council’s consideration on Street Smarts, a new traffic education campaign supported by TAM and local jurisdictions in Marin County. The program uses outdoor advertising and community outreach to change driver, cyclist and pedestrian behavior to reduce accidents. She noted that the Smart Streets program was piloted in Marin in Mill Valley, Larkspur and Corte Madera in 2008 to tremendous success. It targets five problematic behaviors:

1. Speeding
2. Stopping

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3. Right-of-way violations
4. Distracted driving
5. Bicyclist violations and safety

Ms. Cole explained, if enacted in Ross, program organizers would work with the police department, Town staff, the Council and SR2S representatives to identify “*hot spots*” where the five behaviors occur most frequently. Signs would be placed at the hot spots, which typically include areas around schools and streets where speeding is a problem. In Ross, signs might include 2’ x 1 ½’ color signs and streetlight banners in the downtown area. Signs would be put up for six weeks at the beginning of the school year and again in the spring. She is currently working on the following new communities: Ross, San Anselmo, Fairfax, Tiburon and Belvedere. Those interested in more information can visit:

www.streetsmartsmarin.org

Ms. Cole further noted that “*hot spots*” would be determined. She explained that this is an educational outreach campaign and engineering is left to the Public Works Department in terms of recommendations.

Public Works Director Jarjoura noted that they must receive approval from the Town of Ross to install such signs. The signs would be put up for six weeks at the beginning of the school year and again in the spring. Banners could be permanent, if the Town approved. Ms. Cole noted that Mill Valley has limited signage and there have been no complaints.

Mayor Cahill opened the public hearing on this item.

Ross resident expressed concern for the cost. Ms. Cole responded that TAM would pay for the signage and implementation program. The Town may have to use their resources to install the signs. The materials are printed out of non-motorized transportation pilot program funds. \$100,000 was set aside for such materials.

Diane Rudden, Willow Avenue resident, believed it is an excellent idea and noted her support.

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.

Public Works Director Jarjoura noted for the record that staff received a letter from a Ross resident strongly opposing the signage.

Mayor Cahill believed this is fantastic and loved the signs, but this was not agendaized as an action item, so the matter must come back to the Council with more specifics as to what signs are appropriate for Ross, their location as well as figure out the “*hot spots*.”

The Council asked Ms. Cole to work with staff to identify proposed sign types and locations for Council’s consideration at a future meeting.

15. Town Council discussion of draft job descriptions and performance review process for Town Hall positions and consideration of adoption of the Town Manager job description and performance review process.

Mayor Cahill strongly believed developing clear job descriptions under which Town employees will be measured would improve communication between the Council, Town Manager and staff. It will also improve negative perception and improve employee performance. He further hoped the Council adopts the job description for the Town Manager and performance review process.

Patti Divella, consultant, presented the Council with draft job descriptions, performance criteria and evaluation process. She explained that the evaluation process provides a clear and objective way to measure performance against specific success criteria. The criteria include the Town Manager's ability to: respond to community needs; provide stewardship of community assets; educate, inform and communicate to Town residents; provide excellent and uniform customer service; provide sound financial oversight; support and inform the Council in their elected role; set clear goals and direction for staff and measure their performance; align systems and practices with the strategies, goals and values of the Town; and attract and retain quality staff. Also, new job descriptions were prepared for all Town Hall staff, but fire and police were not included in this document. It is recommended that the Council should conduct a performance evaluation review every year at the same time, at the end of the fiscal year. In the first year, a mid-term review will be held at the end of the calendar year and the Council will determine the frequency for subsequent years with a minimum of once yearly. The Council will discuss the evaluation in closed session before the Mayor and the Mayor Pro Tempore deliver the evaluation on behalf of the Council. The following steps outline the process for evaluation:

- Council members individually fill out the evaluation form in preparation for their closed session discussion together.
- Town Manager fills out the form doing a self-assessment and sends to the Mayor for the discussion with the other Council members
- The Council meets in closed session and discusses the evaluation criteria, goals and job duties.
- The Mayor writes up the evaluation and delivers to the Town Manager. The discussion should include a comprehensive perspective taking into account the Town Manager's progress, areas of improvement, setting of new goals and ensuring previous conversations and reviews are incorporated.

Council Member Hunter asked the next step as Council. Consultant Divella explained that the next step is for Council to agree on the process and go through the process. Mayor Cahill stated that closed session would occur before the June Council meeting.

Council Member Martin desired an explanation of past practices. Mayor Cahill responded that he along with Mayor Pro Tempore Strauss sat down with the Town Manager and reviewed performance without any structure. It was not in a professional manner and very informal. Council Member Hunter believed what is before the Council tonight will provide consistency.

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Council Member Martin received a citizen survey last week and asked the status of that information. Mayor Cahill believed that committee is intending to discuss the information with each Council member.

Mayor Cahill opened the public hearing on this item.

Jon D'Alessio, Crest Road resident, appreciated the value of transparency and pointed out to the Council that the public is missing several pages. Consultant Divella responded that all information was provided on the Town website, and only key pages were provided tonight. The entire packet is on the website for public review and it has been since last Friday.

Beth Minick, Wellington Avenue resident, discussed the plan for success and pointed out that two of the eight items have to do with interacting with the public and wanted to know the procedure for getting public comment to the Mayor during the evaluation process. Mayor Cahill requested that if anyone with public comment about any employee to please send comments to the Council. Evaluation will occur with the Council in a closed session. He further noted that public input is very important to the process and will be very helpful during review. Comments positive or negative are important and the Council welcomes all comments.

Phil Paisley, Baywood Avenue resident, discussed skill sets for management and asked how is that approached when looking at management and what is expected. Consultant Divella explained that there is documented roles on what is expected and the Council has expectations on what in fact they want the Town Manager to do and skill sets are based on criteria.

Carla Small, Duff Lane resident, did not realize this information was on the website. She requested that the item number be placed on the staff reports to make it easier for members of the public to be better prepared. Whenever there is a report that goes with a particular agenda item to include the agenda item number on the report on the website. Town Manager Broad agreed.

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

Public Works Director Jarjoura asked the Council if a particular employee would be able to know about the positive or negative comments. Mayor Cahill responded in the affirmative. Employees will have an opportunity to respond to comments.

Town Manger Broad noted that hard copies of all staff reports are provided in the back for public review.

Mayor Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to adopt the Town Manager job description and performance review process. Motion carried unanimously.

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

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

Goal A - Staff job description updates and performance reviews

No further report.

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

Council Member Skall asked all to join the Town's email list to ensure communication. In addition, links are provided to "CERT" training from that website. The next sessions are scheduled for July 16th, July 18th and July 25th at the College of Marin. He further encouraged all to attend CERT training.

Goal C - Town and Ross Valley flood control

Council Member Martin reported on the status of Army Corps Project Unit 4. Discussion with Jim Miller who has been reassigned and not working on Environmental and scoping of the Unit 4 project. The Corps have only received 1/3 of the required \$750,000 worth of funding. Last year, on July 23rd the Corps and County jointly held a public meeting to receive public comments and brief the public on the project. At that time, they estimated that their environmental work would take at least a year. Clearly it has fallen off that schedule. He asked Mr. Miller, since a year has passed, can they have another public meeting to discuss the current status of the project. He agreed to ask the Corps about the possibility of making a presentation at the July Ross Council meeting. If the Mayor and Council would like to proceed with such a presentation, he can ask the Corps and the County to prepare for it. The Council agreed.

In terms of the Streamside Management Plan for property owners, as earlier reported, the County has funded the Urban Creeks Council to meet with homeowners along Corte Madera Creek and other feeder creeks to assist them with creek bank erosion and vegetation maintenance. Urban Creeks staff met with homeowners in Fairfax and San Anselmo. To date approximately 11 property owners in Ross have signed up for the project. Jack Curley, the County's flood control person advised that prior to meeting with homeowners, the Urban Creeks Council would like to survey the creeks located in Ross with Town Hydrologist Matt Smeltzer. He suggested that the Town arrange for Town Hydrologist Smeltzer, at Town expense, to meet with the Urban Creeks Council to help identify approaches to improving conditions, as well as identifying property owners that should be included in their assistance program. The objective is to have management of the creek banks in the private sector.

Also, the Ross Valley parcel assessment for flood control is stuck in courts. The Town and neighboring communities continue to be at risk for flooding each and every year. According to Town Hydrologist Smeltzer, there is a one in five chance of a flood. The stormwater system is the Corte Madera Creek. Water that gushes off properties during

winter storms inevitably end up in the creek. How much water the creek can handle is finite. There are no valves or gates that can open to handle greater capacity during flood conditions. They are at the mercy of nature. Until the Army Corps of Engineers and the County Flood Control District actually accomplishes their improvements, the potential for flooding the Ross Valley communities is unabated. It is a time bomb. Rather than sit idle, there is action they can take. The Town's Municipal Code, thorough as it is, lacks stormwater and drainage management plan or ordinance. This is an essential element to address the flooding issues by accomplishing better management of stormwater. Tonight, with the Mayor's blessing, he would like to present a draft ordinance for review by the Town Attorney and the Public Works Subcommittee. This ordinance is similar to legislation that other towns, impacted by floods, have implemented. It is an ordinance that he hopes neighboring jurisdictions, San Anselmo and Fairfax will also adopt in the future. He further noted that the ordinance is straightforward as follows:

- It will establish minimum requirements and procedures to control the adverse impacts associated with stormwater runoff to protect, maintain and enhance the public health, safety and general welfare of the citizens of the Town of Ross.
- It will require stormwater management practices that maintain pre-development hydrology through site design, site development, building design and landscape design techniques that infiltrate, filter, store, evaporate and detain stormwater close to its source.
- It will prohibit development and regarding on any land with a slope greater than 35%.
- It will protect other properties from damage that could be caused by stormwater and sediment during construction activities and post-construction conditions.
- It will minimize prolonged business and traffic interruptions, which hampers commerce and emergency services.
- It will minimize damage to public and private facilities.

Council Member Martin indicated that there are many other benefits to the ordinance including protection of natural resources, including creeks, wetlands, floodplains and San Francisco Bay, from potentially polluted runoff. This is good legislation. It is a common sense approach to an issue that in a recent citizen driven survey was identified as this community's No. 1 concern. He urged that this proposed ordinance be considered and adopted in a timely manner. He then distributed the ordinance to the Council for their review.

Mayor Cahill believed it is great to have Town Hydrologist Smeltzer present and agreed it is high on the priority list to address flood control.

Goal D - Downtown plan

Mayor Pro Tempore Strauss met with SWA Group and hoped to get on the June agenda. Prior to the next workshop, plans will be posted at Town Hall and the Post Office for the public to review and provide comments to better facilitate the meeting in order to make decisions.

Goal E - Police and Fire Department reorganization

Council Member Hunter announced that the RVFD Board met and approved the agreement for a 24/7 battalion chief, which will start on May 15th.

17. Town Council discussion of Town of Ross draft housing element 2009-2014, to include potential programs and sites to meet the Town's regional housing needs allocation.

Project Planner Christine O'Rourke summarized the staff report and recommended that the Council discuss programs proposed in the Town's draft Housing Element 2009-2014 to meet the Town's regional housing need allocation. The Town has been allocated a total of 27 new housing units for the 2007-2012 planning period with the following affordability breakdown: 8 units for very low income households; 6 for low income; 5 for moderate income; and 8 for above moderate income.

Council Member Martin asked staff if action is being taken tonight. Project Planner O'Rourke desired feedback and authorization to submit to HCD, but it could be continued and discussed at a later date. They have a June 30th deadline for adoption, which will not occur, but they are ahead of most cities and towns.

Council Member Martin discussed three-story buildings in the downtown district that tends to change downtown and places pressure on existing businesses and uses. The recommendation is for two parking spaces and no more than two screened off street parking spaces on units between 700 and 1200 sq. ft. and he preferred one. The objective is to place housing near transit. There are several technical issues and he wanted to see the downtown sector discuss this issue. Should they vet now with more public comment or do it later. The public has not had an opportunity to digest the information. Mayor Cahill suggested providing comments tonight and bring the matter back in June. He further believed it is a great idea to receive input from downtown merchants and property owners.

Mayor Pro Tempore Strauss discussed how Boulder Colorado set their three-story buildings back to preserve portions of the street and he wanted language included to that effect to preserve the street. Also, they must discuss going from 700 to 1200 sq. ft. and how that is figured on hillsides. He further agreed they need more time to digest the information.

Mayor Cahill questioned H3B on pages 90 and 91 in regard to financing from Town's housing trust fund. Project Planner O'Rourke explained that is a program from the last housing element. It has been reviewed, but no legally defensible nexus has been found to use in Ross. The County has developed affordable impact fees. More and more communities are beginning to look at this and it might be appropriate to be used, if feasible. It could be brought back and discussed further. Mayor Cahill suggested adding the following language "*consider providing financing.*" The devil is in the details. Given the cost of building a house, it will take a long time to develop a trust fund to have any impact on new housing. Town Manager Broad noted that the intent is not to fund solely from that, the intent if able to get funding it could be some of the financial support for this housing development and not wait to have enough money to totally fund the project. Staff agreed to work on the language. Mayor Cahill did not want to add too many fees, if not necessary.

Mayor Pro Tempore Strauss wanted to discuss 6 Redwood at the June meeting and allow public input. Project Planner O'Rourke identified 6 Redwood as a homeless shelter.

The Council discussed proposed programs to increase second unit production, including creating new development standards that would allow the Council to review and permit second units up to 1200 sq. ft. A second proposal was to offer a living area bonus of up to 500 sq. ft. to property owners who voluntarily deed-restrict their second units to be affordable to very low-income households.

Mayor Cahill opened the public hearing on this item.

Richard Hannum, Baywood Avenue resident, stated that funding sources from HUD programs in 6 units or 4 unit clusters are readily available and if that funding is available then why chose to waive fees the Town needs to administer when those programs pay for all the fees as part of the program. Make sure they do not arbitrarily give that up when making land and development opportunity available as part of the program. Council Member Hunter believed that was for second units in terms of waiving the fee. Mayor Cahill asked staff if this precludes the Town from enacting such a fund. Project Planner O'Rourke indicated that it does not. The general direction is being provided in terms of options to consider in the future to implement a program.

Mayor Cahill and Council Member Martin recused themselves from discussion on Program H3K (St. Anselm's parking lot) to avoid the appearance of a conflict.

Project Planner O'Rourke discussed rezoning the St. Anselm's parking lot to allow multi-family housing on the site. A number of incentives were considered to facilitate development of very low-income units, including a floor area bonus, an exception to the restriction for two-story development, and dedicate a portion of the adjacent town-owned land.

Council Member Hunter clarified with staff that there is no obligation whatsoever to do this. Project Planner O'Rourke noted that there is no obligation. They could submit to HCD and indicate their satisfaction. Council Member Hunter noted that they could pull for now and submit, and if HCD did not require more, then it did not need to be added.

Peter Barry, former Council Member/Wellington Avenue resident, clarified that this is being done to satisfy the State. Council Member Hunter responded in the affirmative.

Mayor Pro Tempore Strauss noted that the danger is having a document that does not mean anything and he is not a big proponent of doing that. He would like to hammer it out.

Douglas Abrams, Canyon Road resident, very curious as to why rezone unless they are interested in developing it themselves or selling it. Project Planner O'Rourke noted that they have considered developing it in the past. Mr. Abrams asked staff the breakdown of the 27 units. Project Planner O'Rourke noted the following: The Town has been allocated a total of 27 new housing units for the 2007-2012 planning period with the following affordability breakdown: 8 units for very low income households; 6 for low income; 5 for moderate income; and 8 for above moderate income.

BJ Martin, Shady Lane resident, hoped the Council will take into consideration with construction of the Shady Lane pathway, elimination of all parking on the east side of Shady Lane, construction of Sir Francis Drake pathway and elimination of all parking on the west

side. Also, consider weddings and funerals and impacts on the community when church has holiday events. Mayor Pro Tempore Strauss agreed parking must be reviewed with any development.

Charles Goodman, former Council Member/Sylvan Lane resident, cautioned the Council to have any mention of any Town-owned property selling or giving away. Historically, the Town Council has never wanted to sell any Town property and cautioned including such information in the report.

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.

The Council agreed to continue discussion of the housing element to the June meeting. Also, community members are encouraged to review the draft housing element on the Town's website.

Mayor Cahill and Council Member Martin reconvened their positions on the Town Council Meeting at 9:42pm.

Item 18a was pulled from the consent agenda.

18. Planning Consent Agenda.

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

b. 10 Lagunitas Road, Variance No. 1740

Linda and Jon Gruber, 10 Lagunitas Road, A.P. No. 73-191-23, R-1: B-A (Single Family Residence, 1 Acre Minimum Lot Size), Very Low Density (.1-1 Units/Acre). Variance to allow new photovoltaic panels on the south-facing roof of the barn/garage structure, which is located within the east side yard setback (25 feet required, 0 feet proposed).

The existing barn structure is nonconforming in setbacks.

Mayor Cahill asked for a motion.

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

10 Lagunitas

1. A building permit is required. The solar energy system shall comply with any requirements imposed by the building department. There will be no building permit fees associated with the solar panel installation.
2. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Redlined plans showing any proposed changes shall be submitted to the Town Planner prior to any revisions.
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. This approval does not extend any construction completion dates for any other permits for this site.

4. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 14, 2010 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
5. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

c. 6 Fernhill Avenue, Variance No. 1741

Doreen and Frank Malin, 6 Fernhill Avenue, A.P. No. 73-051-16, R-1: B-10 (Single Family Residence, 10,000 Sq. Ft. Minimum Lot Size), Medium Low Density (3-6 Units/Acre). Variance to allow the installation of an air conditioning unit within the east side yard setback (25 feet required, 7 feet proposed).

The existing residence is nonconforming in setbacks.

Mayor Cahill asked for a motion.

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

6 Fernhill

1. The air conditioner may be installed within the east side yard setback as shown on the plans. The air conditioner shall be elevated at least 2 feet above the grade to minimize damage from flooding.
2. Operation of the air conditioner shall comply with the Town noise ordinance (Ross Municipal Code Chapter 19.20).
3. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.
4. 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 changes.
5. Failure to secure required building permits and/or begin construction by May 14, 2010, will cause the approval to lapse without further notice.
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 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. 191 Lagunitas Road, Variance, Design Review, Hillside Lot/Hazard Zone Use Permit, and Demolition Permit No. 1725

Paris and Martha Royo, 191 Lagunitas Road, A.P. No. 73-211-06, R-1: B-5A (Single Family Residence, 5 Acre Minimum Lot Size), Very Low Density (.1-1 Unit/Acre). Demolition permit to remove existing single-family residence, guesthouse, pool and cabana (5,471 square feet of floor area). Design review and hillside lot/hazard zone 3 use permit to allow construction of a new 2-story residence and basement level garage, swimming pool, and 1,116 square foot, detached, guesthouse/workout room. 1,603 cubic yards of cut and 1,671 cubic yards of fill are proposed. A variance is requested to build a driveway structure and trellis within the west yard setback (25 feet required, 3 feet proposed). A tree removal permit is requested to allow the removal of 5 trees less than 18" in diameter.

Based on an initial study, staff has concluded that the project will not have a significant effect on the environment and recommends that the Town Council adopt a Mitigated Negative Declaration of Environmental Impact for the project.

Lot area	136,289 square feet
Existing Floor Area Ratio	6,245 square feet (4.6%)
Proposed Floor Area Ratio	9.097 square feet (6.7%)*
Existing Lot Coverage	2.8%
Proposed Lot Coverage	4.0% (15% permitted)

**The slope of the lot is 33%. The Town Hillside Lot ordinance recommends a maximum floor area of 9,148 square feet.*

Council Member Hunter clarified with the Council that if approved, it is without the existing garage. Mayor Cahill noted that a condition of approval is included in that regard, which is Condition No. 3 that states, *"The existing garage structure shall be demolished prior to final inspection on the project."*

Mayor Cahill asked for a motion.

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

191 Lagunitas Road

The project shall comply with the following conditions of approval, which shall be reproduced on the first pages of the building permit plans:

1. Except as otherwise provided in these conditions, the project construction shall comply with the approved plans. A licensed land surveyor shall string the location of the foundation. The applicant shall provide written evidence, prepared by a licensed land surveyor, that the floor elevations of the garage, residence and second unit comply with the approved plans after they are constructed. The applicant shall

- provide written evidence, prepared by a licensed land surveyor, that the roof heights comply with the approved plans after framing.
2. Variances have only been approved for the driveway and arbor structures. All other improvements shall comply with the zoning regulations.
 3. The existing garage structure shall be demolished prior to final inspection on the project.
 4. Prior to issuance of a building permit, the Town Engineer shall confirm that the plans submitted for the building permit will result in cut and fill insubstantial conformance with the approved project.
 5. All costs for town consultant 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. The applicant shall improve the driveway culvert as required by the Department of Public Works. Any work within the public right-of-way requires prior approval of a revocable encroachment permit by the Department of Public Works.
 7. The applicants shall submit a detailed arborist report that details the health of all tree proposed for retention near the proposed improvements as well as any other tree protected by Ross regulations (such as trees on adjacent sites that may be impacted by construction). The report shall identify measures that must be taken before, during and after construction to protect and preserve the trees, which shall be incorporated into the project plans. The applicant shall provide staff with a letter or report from the arborist that confirms that the arborist review the construction level drawings (including foundation plans, any proposed trenching for utilities, landscape plan, etc.) to prepare the tree protection plan.
 8. No brightly colored temporary fencing is permitted where it may be seen by neighbors or the public.
 9. EXCEPT AS OTHERWISE STATED IN THESE CONDITIONS, NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes, including changes to materials or colors, shall be submitted to the Town Planner for review and approval prior to making any modifications.
 10. A construction management plan shall be submitted prior to issuance of a building permit showing the work schedule, storage, travel routes, washout areas, parking and any other relevant information required by Town staff. The construction management plan shall be incorporated into the job set of plans.
 11. Grading is prohibited between October 15 and April 15.
 12. Prior to issuance of a building permit, the applicant shall submit a drainage plan that, at a minimum, includes sufficient measures so that there is no net increase in peak stormwater runoff from the site compared to existing conditions. The 100-year 1-hour storm shall be used for hydrologic design. The plan shall be reviewed and approved by the Town Hydrologist.
 13. A grading and drainage plan shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. Off site runoff shall be limited to existing conditions. The drainage plan shall comply with all recommendations of the Town Hydrologist.
 14. Prior to project final, the applicants shall submit a final, detailed, landscape plan for the review and approval of the Planning Department. The submitted plan shall focus on screening the residence and associated development from off-site vantage points and the plan shall include additional native California plants for the understory of

- the redwoods that have been severely pruned, uphill from the proposed development. Landscaping shall be installed in conformance with the approved landscape plan prior to project final.
15. Prior to project final, the applicants shall submit written evidence to planning department staff that confirms the landscaping complies with Marin Municipal Water District Ordinance 385, or is exempt from their requirements.
 16. Any exterior lighting not shown on the approved plans 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. No tree uplighting is permitted.
 17. This project shall comply with the following requirements to the satisfaction of the Department of Public Safety:
 - a. A street number must be posted {minimum 4 inches on contrasting background}
 - b. All dead or dying flammable material must be removed as per RMC Chapter 12.12
 - c. A new hydrant shall be installed at the foot of the driveway, per the Fire Marshal
 - d. Sprinklers are required – a 13R System.
 - e. The applicant shall clear all brush impinging on the access roadway.
 - f. The Roadway shall have a vertical clearance of 14 feet.
 - g. A 24 hour monitored alarm system is required.
 - h. Water supply system shall be in place prior to the placement of any combustible materials on the site.
 18. To control air pollutant emissions from construction activities the following controls shall be implemented:
 - a. Use dust-proof chutes for loading construction debris onto trucks.
 - b. Water to control dust generation during demolition of structure.
 - c. Water all active construction areas at least twice daily.
 - d. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, or other materials that can be blown by the wind).
 - e. Cover all trucks hauling demolition debris, soil, sand, or loose materials, or required trucks to maintain at least two feet of freeboard.
 - f. Sweep daily paved driveway, parking areas, and staging areas at construction sites.
 - g. Sweep street daily if visible soil material is carried onto Lagunitas Avenue.
 - h. Replant vegetation in disturbed areas as quickly as possible.
 19. The existing building, constructed prior to 1980, may contain asbestos. Airborne asbestos fibers pose a serious health threat. The demolition and removal of asbestos-containing building materials is subject to the limitations of BAAQMD District Regulation 11, Rule 2: Hazardous Materials; Asbestos Demolition, Renovation and Manufacturing. The BAAQMD's Enforcement Division should be consulted prior to commencing any demolition of the building if it contains asbestos building materials. The applicants shall submit appropriate air quality permits to the building department prior to demolition of the existing structure.

20. To prevent incidental take of the Northern Spotted Owl, construction activities that create outdoor noise shall be prohibited between February 1 and July 31, and to September 15 (or later) if juveniles are present. Construction activities that create outdoor noise may only be permitted within the nesting season of northern spotted owl (or when juveniles are present) if a qualified wildlife biologist, consulting with the NPS and Planning Department Staff, conducts a pre-construction survey and determines that no spotted owl are nesting within 0.25 miles of the project site, and determines that the proposed work will not impair essential behavior patterns of the owl.
21. The applicant shall provide secure facilities for household waste/garbage outside of required setback areas.
22. There is the possibility that buried archaeological deposits could be present, and accidental discovery could occur. In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds (CEQA Guidelines §15064.5 (f)). If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work may continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.
23. Archaeological excavation should focus on selective recovery of important remains. Emphasis should be placed on retrieval of human skeletal remains, items that are or could have been associated with graves, and artifacts. If features (e.g. hearths, house floors) are encountered they should be investigated according to standard archaeological practices. The abundant shellfish remains should be sampled by taking column samples, and not collected in their entirety.
24. Pursuant to CEQA Guidelines Section 15064.5(d), if human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines that remains are Native American, the coroner will contact the Native American Heritage Commission. The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. If requested by the most likely descendents, human remains and associated grave goods discovered during ground disturbing activities shall be reburied on site in an area which will be protected from future earthmoving activities after the placement of concrete for the foundation, but before any additional structure is put into place.
25. The following measures shall be taken to prevent fire hazards at the site:
 - a. Smoking shall be prohibited except in designated areas away from combustible materials.
 - b. An active water line shall be maintained throughout construction and portable fire extinguishers shall be available at the site at all times.
 - c. Provisions shall be provided at the construction site for emergency notification of the fire department via telephone.

- d. Combustible liquids shall be stored in appropriate containers and away from combustible material.
 - e. Combustible construction materials shall be stored a minimum of 20 feet from buildings under construction.
 - f. Wood, cardboard, packing material, form lumber, and similar combustible debris shall not be accumulated within buildings. Such debris, rubbish, and waste material shall be removed from buildings on a daily basis.
 - g. Oily rags and similar material shall be stored in metal or other approved containers equipped with tight-fitting covers.
 - h. Motorized equipment shall not be refueled while in operation.
 - i. Equipment shall be located so that exhausts do not discharge against combustible materials.
 - j. Temporary heaters shall be listed and shall be installed, used, and maintained in accordance with the manufacturer's instructions. Heating devices shall be secured properly and kept clear from combustible materials.
26. 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.
27. 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. As provided in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
28. Failure to secure required building permits and/or begin construction by April 16, 2010 will cause the approval to lapse without further notice.
29. 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.
30. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
31. 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.

a. 29 Poplar Avenue, Variance No. 1739

Robert and Rebecca Kerstetter, 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). After-the-fact request to permit 160 square feet of the attic area of the accessory structure to be finished with sheetrock and lighting.

Lot area	7,750 square feet
Existing Floor Area Ratio	28.0%
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.

Council Member Hunter pulled the item in order to discuss the letter dated May 9th submitted by Ann Morrissey. Senior Planner Semonian indicated that she had exchanged emails with Ms. Morrissey and it was her understanding that Ms. Morrissey did not have a concern with this project but wanted equal treatment of after-the-fact requests.

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 approve agenda Item 18a as submitted by staff with findings and conditions. Motion carried unanimously.

29 Poplar

The project shall be subject to the following conditions:

1. The 160 square foot finished cottage attic area in approved as constructed. The area may only be used for storage and the access ladder shall be removed to discourage its use as habitable space. The area of this finished attic may not be traded off to allow additional square footage.
2. This project shall comply with all requirements of the Building Department.
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.

The Town Council took a short recess at 9:46pm. The Council returned at 9:56pm.

19. **54 Baywood Avenue, Variance, Design Review, Hillside Lot/Hazard Zone 3 Use Permit No. 1669**

Ross and Ligia Parmenter, 54 Baywood Avenue, A.P. No. 72-072-29 and 72-072-30, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre). Design review and hillside lot/hazard zone 3 use permit to allow the construction of a new residence with 839 square feet of living space and a car deck an pedestrian bridge on an undeveloped lot. 49 cubic yards of cut and 51 cubic yards of fill are proposed. A variance is requested to locate a car and pedestrian bridge within the front yard setback (25 feet required, 0 feet proposed). The applicant proposes to provide the one required covered parking space under the car deck with a car lift. The covered parking and storage area create an additional 388 square feet of floor area. Two uncovered parking spaces would be available on site on the car bridge and deck. One extra parking space would be created within the right-of-way and front yard setback. A tree removal permit is requested to allow the removal of two 14" diameter bay trees and a 14" diameter oak tree. A total of 1,227 square feet of floor area is proposed.

Lot area	20,967 square feet	
Present Floor Area Ratio	0%	
Proposed Floor Area Ratio	1,227 sq. ft.	5.9%*
Present Lot Coverage	0%	
Proposed Lot Coverage	10.9%	(15% permitted)

(*The slope of the lot is 53%. The Town Hillside Lot Ordinance guidelines recommend a maximum floor area of 839 square feet.)

Senior Planner Elise Semonian summarized the ADR Group's comments on the project. The applicant has reduced the deck area and has provided material for the Council to review on the green wall and proposed materials. Staff has recommended modified findings and conditions that were provided to the Council. The hydrology conditions incorporate recommendations by the Town Hydrologist in response to Wendy Coon's correspondence. Also, the construction management conditions have been revised to incorporate suggestions by Jon D'Alessio regarding flaggers and 48-hour notice of road closures, if Council is inclined to approve the project. Staff explained that the major issue for the Council to consider is the proposed floor area and whether Council will approve the floor area above the hillside lot ordinance guideline. Staff believes there are arguments for and against approving the project and that it is a policy issue for the Council to consider and there is no staff recommendation regarding the project.

Senior Planner Semonian reviewed the suggested modifications to the findings and conditions. Since the roof eave is shown over the setback line, she suggested the following additional condition, "The project, including all projections and eaves, shall comply with the

setback requirement.” She suggested proposed condition No. 29 be revised to read, “The garage, mechanical areas and storage space shall be used only for garage, mechanical and storage uses and not living space. No electrical outlets or plumbing is permitted in the areas except a single light fixture and outlets dedicated to necessary mechanical equipment. The ceiling height shall be 6.5 feet or less, measured from the ordinary floor joist of the floor above to the ordinary floor of the area (ceiling may not be lowered and floor may not be raised). The areas shall not be accessible from the living spaces.” Since the application includes sufficient parking for a residence and second unit, she recommended that the Council require the site to have two independently accessible parking spaces, so that a second unit may not be added to the site without discretionary review, “Due to the tandem parking situation, and based on the privately maintained road condition, narrow roadway and lack of street parking, two parking spaces shall always be independently accessible (not tandem).”

Council Member Martin has not absorbed all the information provided and believed it is appropriate to hear public testimony, but before voting on the matter he must first review all the material.

Council Member Hunter received a spreadsheet from staff showing the history of HLO approvals above and below the guideline and asked staff to summarize. Senior Planner Semonian distributed the spreadsheet material for the Council’s consideration. Staff explained that there have been a number of applications approved over the hillside guidelines. Many are projects approved over the hillside lot ordinance guideline floor area were for remodels to existing homes. Staff pointed out that the public has correctly pointed out that most new homes have been required to comply with the hillside lot ordinance guideline floor area. There is nothing in the code that indicates that new homes are treated differently than remodels. Staff noted that the spreadsheet indicates Council has used the guideline floor area as a guideline and not a strict number.

Richard Hannum, architect, stated that everyone is well aware of the location of the home in the findings and statements from staff. They have categorized this in a CEQA fashion from all comments received. In terms of technical issues, staff feels have been mitigated. Town Hydrologist Smeltzer provided comments on all hydrology and design. There has been a lot of communication back and forth between Engineer Charles Logie and Town Hydrologist Smeltzer. The house is being designed at the LEED Gold standard for sustainability and that has a lot of implications. They must detain and sustain water on the property. With a living roof, the entire top of the roof is plantings. The surface captures, retains and filters water and then delays distribution. Surface drainage satisfies those requirements. The overall drainage is improved and reduced from the current situation. In regard to calculations to make this a sustainable project, they must match or reduce the existing condition, and they have met those criteria. Issues around adequate drainage have been addressed. In terms of parking, they provide four parking spaces. The covered parking space is located inside the front portion of the house. The front façade is landscaped, which makes it less obtrusive and more part of the landscape. The front of the house is in fact created to be planted. A courtyard is created as with Eichlers to create an entry space first. There is 100 feet of visibility and they were asked to expand the width of the roadway for fire transit and that entire area is wider than what would be required. The entire parking space is outside of the expanded street area. The retaining wall is within HLO guidelines. Rather than create a driveway, they elected to create a bridge within a 25-foot setback, which eliminates the need to disrupt the

land. At the request of a neighbor, they did away with the fifth parking area that was proposed. The area where cars are located is not visible from any walking areas. It is hidden by a return wall that shields the car. Due to height of the handrail, most cars are not visible. They eliminated the storage deck and now have a tree well. At the ADR meeting, the decks were appreciated in the first go around, but felt to be larger during the second meeting. At 839 sq. ft. of living area plus garage, he asked that the garage be allowed as part of the project. It is very important to have separation within the dining space. The deck area was reduced and pushed further away from the property line as requested by ADR. The garage area itself satisfies the lift and transition to get in and around the car. It is very important that the whole floor be contiguous at that level to link together. The deck was reduced to follow the rules. The backbone structure is the concrete wall and there is a concrete toe to the edge of the foundation wall that creates the key that links the entire house back into the hillside. They must understand the firewall concept. That area must be enclosed and non-ignition materials must be used. Renderings were provided of exterior showing height of story poles and height of front façade. The entire house is very low profile. Renderings were providing showing story poles in place with hills behind it, and showing house setback at full 25 feet from the road. The paving texture is permeable surface. The transition from the street to that building goes through the trees. Site elevations were provided showing the bridge and top of car. The lift mechanism or second car is not visible. By function of house placement, if they were granted to not provide an extra parking space and not build an extra garage area, the siding would remain for fire enclosure. By reducing the decks, the retaining wall was reduced. ADR suggested using the same planting materials used on the primary façade, so the base of the building is also clad and not light building material. Pulling decks back and reducing scale of project has reduced the whole structure. The entry roof is kept below to avoid visual impacts from the street. They feel they have carefully considered RPOA's concerns, staff findings and approvals. The HLO has been a guideline for a long time. He asked the Council for approval on this project of 839 sq. ft. living space plus parking. If variance is allowed without the covered space, that would eliminate the need for that additional square footage. His client has gone through a great deal to protect the value of the project, minimize impacts and satisfy all technical requirements the site has. He further reserved comments at the end of public testimony.

Council Member Hunter clarified with staff that storage has been eliminated. 1,229 sq. ft. in the staff report is inoperative and they are at 1,116 sq. ft. Senior Planner Semonian responded that the storage area on the current plan has not been eliminated. The gross number does not change. It is 839 sq. ft. plus 388 sq. ft. of garage and storage area.

Mayor Pro Tempore Strauss asked how much of the living roof deck can one stand on. Architect Hannum pointed out the area of use for the Council's consideration.

Mayor Cahill discussed materials or landscaping being used on the vertical wall facing Baywood and asked what materials are proposed to be used. Architect Hannum provided several renderings showing the proposed materials and the coloration is the color of the deepest of the trees. He believed it works best with darker green colors. Ivy would not be used since it is not natural looking in the area. The front wall has a green wire structure that will allow plantings between with drip irrigation. The whole system is runoff rain capture coming from the living roof. It allows the roof and wall to be irrigated. Within the first year this structure will be green. He further desired plants that would provide some small flowers throughout the year.

Council Member Martin asked about retention for the green roof and water and what happens when rainwater dries out. Architect Hannum plans on two 630-gallon containers underneath the crawlspace, which is all the replenishment needed for summer time. The plants do not have a huge loss of moisture. Also, due to function, as irrigated, the same irrigation water goes back into collection. There are several plants on the green roof. There is a butterfly garden and a series of plants that generate flowers butterflies are attracted too. They are evergreen. The roof is on the drip irrigation system as well.

Council Member Hunter asked if cars are driving on the same materials. Architect Hannum noted that there is a waterproof membrane, a protected barrier. Then gravel drainage rock that is 4 to 6-inches of soil that holds most of the water and then that is planted. In terms of the drive strips for the tires, they have bison clips that hold the driving tiles that are an inch and a quarter thick concrete tiles. The water catchment is contiguous throughout the entire membrane of the surface.

Mayor Cahill opened the public hearing on this item.

Linda Brown, Baywood Avenue resident, noted that she is being deprived of her right to present any comment. The plans have changed and they continue to change. She has a right to at least be able to review the changes to better understand what is included. Also, she has not viewed the story poles. She indicated that she had submitted a letter outlining her comments and concerns, which was not included in the file.

Jon D'Alessio, Crest Road resident, expressed concern for the size and is not sure of the amount of deck space. He is very disappointed in the process. The passage of HLO and floor area guidelines must be followed. The requirements for the Town's General Plan express language of the HLO and the Town's analysis. It requires the Council to apply the HLO, which has been done in the past. It must be in substantial compliance with all standards. The Town Attorney indicated that the guidelines are defined as recommended practice to allow some discretion by the Council, and he believed 46% is not a little. Excellence in design means outstanding, not just good, but the best. This project fails the test. There are massive amounts of deck. ADR did not make any finding as design excellence. This is not a green wall, but a wall. The wall is 14 feet above the deck level, which is far more than necessary. The design blocks views and views must be protected. He asked the Council to reject the project since it does not comply with the HLO. It is too big and bulky and grants a special privilege to an individual landowner.

Shawn Edwards, Baywood Avenue resident, agreed there have been a lot of changes and requested more time to review and digest the information before moving forward.

Carla Small, Duff Lane resident, is very concerned that they have a house with 100 to 200% decking compared to the actual square footage of the house. A policy to create a lovely entrance went way beyond the scope any Council dreamed would happen. They must create a percentage and that should not be more than a percentage of the square-foot of the home.

Peter Barry, former Council Member/Wellington Avenue resident, stated that the Town Council is the protectors of Ross to fight off forces that try to destroy it. The Council should continue their duty and protect the Town. This neighborhood is a canyon and noise is an

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issue. Devices such as a car lift is a bad idea, it will block views and be an unfortunate effect on what is a pristine area. He asked the Council to continue to protect Ross. He further noted that the project is clearly in violation of the HLO.

Jacqueline Ryan, Baywood Avenue resident, very concerned about noise and would greatly appreciate it if the Council provided a variance to the applicant in order to eliminate the covered parking and car lift. The car parked on the roof must be hidden otherwise her view will be impacted when she builds her home.

Kelly Reid, former Council member/Wellington Avenue resident, thanked former Council members for attending this meeting. This project will bastardize all that former Council tried to accomplish. Procedurally, due to all the additional correspondence, he forewarned the Council that if voted in favor of this project tonight, "*all hell will break loose.*" In terms of the HLO, if this project is granted it will establish the worst possible precedent in Town on these kinds of lots. This is waiting to open Pandora's box. If the Council votes tonight, he urged all to vote against the project.

Mary Delanty Brown, former Council member/Laurel Grove resident, urged the Council to carefully consider this matter before voting.

Eric Mahoney, Baywood Avenue resident, pointed out that this building does not comply with the HLO. It is 46% over with 1700 sq. ft. of deck with a motorized lift that none have seen or heard operate. He noted that Parmenter sued the Town once and lost. He further noted Council's has the discretion to not approve this project.

Sue Schwartz, Baywood Avenue resident, noted that several have spent a lot of time and energy discussing this project and it does not make sense as to why this project continues to come back. Mayor Cahill indicated that a homeowner has the right to come back with a new application after being denied. He further explained that is the democracy and the rules of the Town.

Julie McMillan, Crest Road resident, did not review the new staff report and has not had time to digest the information and requested that the Council continue the matter for further discussion. The purpose of the HLO was to protect what had already gone wrong. She has done research since 2003 for this project. Her project appears on staff's chart because it included a small amount of deck area as floor area at the time. She pointed out that not one of the new construction projects on vacant land was on a site with a slope over 40%. The allowed 17% over on a site with a slope 35% or below. The other five projects were on slopes 35 to 40% and not one-foot was allowed over the hillside lot ordinance. There is one project on that earlier chart above 50% at 7 Crest Road. The applicant claimed it was a 58% slope and no where as steep as 54 Baywood. Assuming it is 58%, that project simply enclosed an existing space and it did not disrupt the entirety of the slope or lot and there was no neighborhood opposition, so it was allowed. Past history on existing projects is not relevant on new construction on vacant land. She further asked that the Council carefully review Jon d'Alessio's points.

Wendy Coon, Madera Avenue resident, is totally confused by the staff report. She has drainage issues and did not understand how they can have a discussion when all have not digested important information.

Beth Minick, Wellington Avenue resident, submitted the most recent opposition list of 164 Ross and San Anselmo residents as well as former Council members opposing the 54 Baywood application and requesting that the Town Council rigorously follow its General Plan and the intent of the HLO.

Scott Minick, Wellington Avenue resident, is baffled as to why this discussion is occurring again and again. How can this process occur when all information is distributed in the last second, which has everyone shaking their heads. He has not had an opportunity to read the entire staff report, but he pointed out that the information on the limits of the floor area was known when this property was purchased. It was well established that this construction could not be done, and yet the project continues to be considered. He gave Architect Hannum tremendous creativity trying to work around the points, but either the Council changes the HLO or honors the HLO, in which case it puts this project to rest.

Architect Hannum stated that story poles have been erected for months. They have not been moved, just adjusted and lowered. In terms of percentage, the HLO and the Council have not reviewed a house of this scale. The minimum size of an auto garage is substantially larger percentage of 840 sq. ft. then for 7000 sq. ft. residence Those approved at full FAR plus garage, the garage scales are out of percentage due to a bigger house. Staff indicated that the project is in substantial compliance with the HLO as written. Also, bulk is function of view. The decks on the downhill side are not seen as additional area or mass. There is not a mass issue associated with those particular components. In terms of blocking views, they have a half-acre site and left all untouched, but this tiny portion. Adjacent, they have oleanders planted and setting back 25 feet severely mitigates that concern of blocking views.

Diane Rudden, Willow Avenue resident, commented on the size and decks and indicated that it was never the intent for the deck and front porch to be larger than the size of the building. The decks are excessive. Architect Hannum was responding to comments from the HLO guidelines, not the deck comment.

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 suggested denying this project immediately. They have spent far too much time and they continue to come to the same conclusion as 20 years ago. The community opposes this project and he believed they should deny the project and move on.

Council Member Hunter stated he had not digested all materials submitted in preparation for this hearing and the matter must be continued.

Council Member Martin stated that two-thirds of the public that spoke have not reviewed the information and he desired the benefit of reading the material and walking the sites noted in the charts to better understand the project. He agreed the matter should be continued.

Mayor Pro Tempore Strauss agreed that the item should be continued. He explained that people have a personal right to develop their property. He felt it was a benefit to have garage, but there is a tremendous amount of information on that matter, so it must be reviewed

again. He asked the applicant to reduce the height of the green wall to allow more view toward the mountain. They must judge the application on merits of the current zoning ordinance and guidelines and they must review the HLO guidelines as well. He stated that the top of the deck should be reduced to not have the ability to use the deck area. The parking solution is creative, but he could go either way on that item.

Mayor Cahill also agreed to a continuance. He wished they did not have to come back, but it is inappropriate to decide on the application without the Council and the community having the opportunity to fully review the information.. One of the staff charts provides very instructive and excellent information about other properties that have exceeded the limits. There is also information such as the letter from James Reilly from Stetson Engineers dated May 14th that must be reviewed. He further requested that all information on this project come in well in advance of the next hearing in order to allow for a proper review.

Council Member Martin desired clarification in terms of timelines and asked if there is a hard policy for staff reports. Mayor Cahill responded that staff reports are distributed the Friday prior to the Town Council meeting. Council Member Martin suggested that in general, if that staff report is not prepared that Friday then the project should be delayed.

Mayor Cahill stated that it is incumbent on neighbors to provide information as early as possible. In terms of the HLO, one problem for the Council is that it has guidelines and it is not clearly defined. A lot of discretion is used and he wanted to develop rules that apply to these lots. He wanted a complete reworking of the HLO to limit the amount of discretion. They already have a great amount of information on lots in Town subject to the HLO and recommended that, at some point, have staff develop an inventory of lots effected by the HLO and determine slope and then develop rules that are reasonable for owners of those properties, but also comply with the general intent that the HLO was originally enacted. The goal is to eliminate this discretion and guideline that they have been struggling with.

Architect Hannum noted that CEQA requires a 45-day comment period and asked for a deadline date to submit information before the next meeting and after that deadline those correspondence will not be included in order to avoid last minute letters, changes in conditions and to avoid a continuance. They must all understand the information and evidence being presented. Town Attorney Hadden Roth recommended that the Council request that to occur, but not demand it. Mayor Cahill agreed with the Town Attorney to not make that a requirement, but staff reports should be done and finalized before the hearing. Mayor Pro Tempore Strauss stated that new information must be addressed in a public setting rather than letters.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Martin seconded, to continue 54 Baywood to the June Town Council meeting. Motion carried 4-1. Skall opposed.

Town Attorney Hadden Roth excused himself from the Town Council meeting at 11:36pm.

20. 18 Canyon Road, Variance and Design Review No. 1692

Douglas Abrams, 18 Canyon Road, A.P. No. 72-031-27, R-1:B-5A (Single Family Residence, 5 Acre Minimum Lot Size), Very Low Density (.1-1 Units/Acre). Design review and variances to allow: 1.) conversion of 216 square feet of garage storage space to living space within side yard setback (25 feet required, 8 feet proposed); 2.) expansion of master bedroom at main level and addition of two new bedrooms at upper level within front yard setback (25 feet required, 5 feet proposed).

Lot area (less road easement)	23,598 square feet	
Existing Floor Area Ratio	13.2%	
Proposed Floor Area Ratio	14.8%	(15% permitted)
Existing Lot Coverage	10.7%	
Proposed Lot Coverage	11.2%	(15% permitted)

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

Senior Planner Semonian summarized the staff report and recommended that the Council approve the application subject to findings and conditions outlined in the staff report and subject to the revision of the finding distributed by staff to the Council.

Doug Abrams, applicant, indicated that he met with several Council members this week and explained that this is a very straightforward as far as design. It was suggested by the Mayor to not increase the coverage of the lot. They are asking for 95 sq. ft., which could be zero without the deck that allows circulation from the front of the house to the back of the house. He agreed to make that modification as requested by Mayor Cahill. As far as the downstairs, no construction is occurring. They are just formalizing an existing space. He noted that the Public Works Director suggested placing the door outside rather than from the garage. Someone could be enticed to use the garage space, not as a garage with adjacency to the office space. The Public Works Director suggested eliminating the door from the space to the garage with a one-hour fire rated wall. The garage space will be separate from this office space. Two doors would be removed and that would mitigate the fear of someone combining the spaces. He further noted that the addition is not seen from other properties and is quite beautiful.

Mayor Cahill opened the public hearing on this item.

Zara Muren, Canyon Road resident, worked with Mr. Abrams on the detention ponds to abate flooding problems on the hillside. They occupy the outside space and want to remain protected. In terms of outside use areas swelling, conditions in the staff report will protect the repair and maintenance, so they feel well protected in context of that. On the question of parking, they still are very worried. These roads are very narrow, and if cars are parked carelessly there is not enough space to maneuver. They must maintain passage. If this moves forward, a wider neck must be considered to enable entry parking for the four cars desired in that area and ensure parking spaces can be used in an area that needs parking. She wanted a wider entrance into the parking area where the garage is located. She further noted that the point of entry is quite narrow. Mr. Abrams pointed out that the parking issue is not encroaching on the existing lawn.

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 project acceptable as staff proposed and appreciated the suggestion from Mayor Cahill in regard to not increasing the coverage of the lot and removing the deck, which should be added as an additional condition. Council Member Martin concurred.

Council Member Hunter noticed during his site visit that maneuvering is difficult, but agreed to approve the project as conditioned. Council Member Skall concurred.

Mayor Cahill asked for a motion.

Council Member Martin moved and Mayor Pro Tempore Strauss seconded, to approve 18 Canyon Road project with the findings and conditions outlined in the staff report, with the condition that the new walkway area uphill from the proposed addition be deleted from the plans and that access doors into the little room off the garage be moved to the exterior. The motion carried unanimously.

18 Canyon

1. The building permit plans shall reflect the deletion of the new deck area upslope of the proposed master bedroom addition and an exterior door shall be provided to the proposed living space at the garage level.
2. A building permit is required for the project. No work is permitted at the site until a building permit has been issued.
3. Sprinklers shall be extended to the new construction.
4. All exterior lighting shall be low wattage, shielded and downcast. No lighting of exterior walls or fences is permitted.
5. Under Ross Municipal Code Section 18.41.020, design review is required for any construction, improvements, grading/filling or any other site work within twenty-five feet of the top bank of the watercourse that runs through the site (including areas running in the culvert) and the high water mark of the detention ponds, whether or not a building permit is required.
6. The following conditions relate to maintenance of the drainage facilities at the site:
 - a. The applicant shall record CC&R's regarding the maintenance of the drainage facilities for 18 Canyon Road (APN 072-031-27) and 10 Canyon Road (APN 072-025-01). The C.C. & R's shall provide notice to all present and future property owners of the existence of the drainage facilities and the maintenance and repair obligations. They shall provide notice to all property owners that the detention basins, stormwater piping, drainage inlets and drainage channels that were approved by the Town shall not be modified or removed without prior approval of the Town of Ross Public Works Department.
 - b. The owner of the site is responsible for ongoing inspection, cleaning, maintenance and repair as necessary, but at least once a year, of all drainage facilities including detention basins, stormwater piping, drainage inlets and drainage channels, installed at the site.
 - c. The Town of Ross, in its sole discretion, may enter the property and make such repairs or undertake such maintenance work as is necessary in the event that the property owners fail to maintain or repair the drainage facilities. The Town of

Ross will be reimbursed by the property owner for all costs in repairing or maintaining the structures. The failure to maintain or repair shall be deemed a public nuisance and the Town shall have the right to abate the nuisance, assess the cost thereof, and cause collection of said assessments to be made on the tax roll and as a personal obligation of the owner(s) in the manner provided for by the Ross Town Code and state law.

7. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
8. All site drainage shall be dissipated in a manner that prevents erosion and conforms to current storm water discharge practices in Marin County. The applicant is responsible for ensuring storm water runoff is maintained in its natural path.
9. 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.
10. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
11. 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.
12. 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 and prior to any modifications.
13. 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.
14. 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. Correspondence.

- Recreation Director letter about dog park at St. Johns

Mayor Cahill suggested sending the matter back to St. Johns and the Public Works Department to discuss with Recreation Director Riley. The Council and staff agreed.

- Letter from Al Boro, Mayor of San Rafael and Ken Nordhoff, City Manager, requesting Town of Ross participate in Marin Green BERST Program

Council Member Martin noted that it is similar to a program in Berkeley where they provide financing for solar amortized over a 15-year period. Improvements are held by a lender, and the town/city arranges financing, which is paid through property tax. San Rafael wants the County to be involved and he expects interest in Town.

Mayor Cahill noted that the request is to appoint a Council member and an alternate to attend meetings. Mayor Cahill sensed that the Council is interested in the BERST program, but they are not available to attend meetings.

Council Member Martin agreed to discuss with MEA Interim Director Dawn Weisz to possibly incorporate the BERST program into the MEA as a subcommittee.

22. **Other Business-** None

23. **Adjournment.**

By order of Mayor Cahill, the meeting adjourned at 12:03am.

William R. Cahill, Mayor

ATTEST:

Gary Broad, Town Manager