

**Staff Report**

**Date:** July 9, 2020

**To:** Mayor McMillan and Ross Town Council

**From:** Joe Chinn, Town Manager  
Mike Armstrong, Recreation Manager

**Subject:** Town Council consideration of adoption of Resolution No. 2170 regarding a temporary prohibition of dogs upon the Ross Common to facilitate social distancing

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**Recommendation**

Town Council approve Resolution No. 2170 temporarily prohibiting dogs on the Ross Common to assist with COVID-19 social distancing regarding use of Ross Common by the Ross School, the Ross Recreation Department, and members of the public.

**Background and discussion**

The Ross School has requested that the Town consider authorizing the School to utilize additional areas of Ross Common in order to facilitate social distancing. Similarly, The Ross Recreation Department seeks to utilize certain areas of Ross Common in order to facilitate and support socially distanced recreational activities. In order to facilitate these uses, staff requests that the Town Council approve Resolution No. 2170 regarding expanding the areas of Ross Common in which dogs are prohibited. This topic is discussed in further detail below.

Use of Ross Common During COVID-19 Pandemic

On March 16, 2020, seven Bay Area counties, including Marin County, issued a Shelter in Place Order effective beginning March 17, directing residents to remain at their place of residence except as necessary to perform essential activities, such as food shopping and medical visits. On March 19, 2020, the Town Council of the Town of Ross declared a Local Emergency relating to the existence and anticipated spread of COVID-19, as defined in California Government Code Section 8630. Also, on March 19, 2020, California Governor Newsom issued Executive Order N-33-20, a similar Shelter in Place Order, directing all Californians to remain at their place of residence except as necessary for essential activities. In May, the Governor of California and the California Department of Public Health published guidance regarding the reopening of certain businesses, subject to stages established by the State.

The Shelter in Place Order required the closure of all in-person learning at schools and in-person recreation programs. Recent changes to Health Orders now permit schools and recreation programs to operate in-person but under stringent social distancing requirements due to the risk of COVID-19 spread. For example, recreation programs are limited to only twelve participants who need to stay with the same group each day. There are social distancing and safety protocols to assist in the safety of the participants and instructors. In addition, there is an overall emphasis from public health officials and resources that outdoor spaces are safer to utilize than indoor spaces. As such, Ross Recreation classes will be more spread out on the Common in groups of twelve participants over the summer. Similarly, when Ross School opens in August, the School has a strong desire to utilize outdoor areas to a greater extent this coming fall due to COVID-19 including the Common (see attached letter). Due to the School's proximity to the Common, use of the Common for social distancing would greatly aid in enabling the School to operate while ensuring greater public health and safety. However, the School District, which pays to utilize the Common, are unable to utilize the portion of the Common used by dogs for classroom based instruction, recess, or lunch because of the dogs and the remnants that remain from dog usage.

Likewise, facilitating social distancing in Ross Recreation classes would require greater utilization of the Ross Common. Ross Recreation shares the same sanitary issue as the School of using a portion of the Common since the dogs frequently defecate and urinate in this area. In light of this, it is beneficial to the School, Ross Recreation, and the public at large to temporarily prohibit dogs on all portions of the Common in order to enable the School and Ross Recreation to utilize a greater portion of the Common.

#### Ross Municipal Code Regulations of Dogs at Ross Commons

Section 8.04.161 of the Ross Municipal Code prohibits dogs on portions of Ross Common. This section provides in part:

"It is unlawful for the owner or person having control of any dog to allow or permit such dog, under any circumstances and at any time, whether leashed or unleashed, to be upon or within the publicly maintained park area commonly referred to as "The Commons, (playing field)" and more particularly described as that improved lawn area lying completely within the asphalt pathway running the entirety of its southerly and easterly borders, the Ross school's playground on its westerly border, (and the asphalt pathway between the Ross School Multipurpose Room Stage and the area of the crosswalk across from the Post Office on its northerly border); provided, that this prohibition shall not apply to a person with disabilities requiring the use of a guide dog, signal dog or service dog to obtain equal access to such publicly maintained property."

Pursuant to RMC section 8.04.161, there is a limited area of Ross Common in which dogs are not expressly prohibited. This area includes that portion of Ross Common between the Ross Recreation office and Lagunitas Road. Because dogs are not expressly prohibited in this portion of Ross Common, these areas are heavily used by dogs and dog owners.

For the reasons explained more fully above, this area is well suited for use by the Ross School and the Ross Recreation Department during a period in which social distancing is required so as to allow greater usage of the Common by the Ross School and Ross Recreation without interference from dogs.

At the June 18 Town Council meeting, the Council provided direction for the Town Director of Emergency Services (the Mayor) and the Assistant Director of Emergency Services (the Town Manager) to issue an Emergency Order to temporarily prohibit dogs on the Ross Common during the COVID emergency and to bring the item back to the July 9 Town Council meeting to ratify the temporary prohibition. On June 24, the Director and Assistant Director of Emergency Services signed Emergency Services Order No. 3-2020 temporarily prohibiting dogs upon the Ross Common in order to facilitate social distancing.

The attached Resolution No. 2170 temporarily prohibits dogs upon the Ross Common in order to facilitate social distancing until repealed by the Town Council or upon the termination of the state of emergency regarding COVID-19. The prohibition does not apply to a person with disabilities requiring the use of a guide dog, signal dog, or service dog to obtain equal access to the Ross Common.

**Fiscal, resource and timeline impacts**

Staff time to prepare this report.

**Alternative actions**

None recommended.

**Attachments**

1. Resolution No. 2170
2. Order No. 3-2020
3. Letter from Ross School Superintendent Dr. Michael McDowell dated July 2, 2020
4. Letter from Ross School Superintendent Dr. Michael McDowell received June 4, 2020
5. Correspondence Received

# ATTACHMENT 1

## **TOWN OF ROSS**

### **RESOLUTION NO. 2170**

#### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ROSS REGARDING A TEMPORARY PROHIBITION OF DOGS UPON THE ROSS COMMON**

WHEREAS, California Government Code Section 8630 empowers the Town Council of the Town of Ross to proclaim the existence or threatened existence of a Local Emergency when the Town is affected or likely to be affected by a public calamity; and,

WHEREAS, Government Code Section 8634 empowers the Town to promulgate orders and regulations to provide for the protection of life and property; and,

WHEREAS, pursuant to Ross Municipal Code section 2.28.060(a)(6)(A)), the Director of Emergency Services has declared the existence of a Local Emergency, which Local Emergency has been ratified by the Town Council on March 19, 2020; and,

WHEREAS, the Director of Emergency Services does hereby find that conditions of extreme peril and a crippling disaster, which severely impairs the safety of persons or property, have arisen within the Town caused by the virus COVID-19 and its rapid transmission as reported by various local, state and national health organizations; and,

WHEREAS, the aforesaid conditions of extreme peril warranted and necessitated the proclamation of the existence of a Local Emergency; and,

WHEREAS, on March 16, 2020, the Marin County Health Official issued a County-wide shelter-in-place order that requires individuals to isolate in their places of residence, except as needed for the performance of essential activities; and,

WHEREAS, on March 19, 2020, the Governor of the State of California ("Governor") issued Executive Order N-33-20, which provides that individuals living in the State of California are required to stay at home except as needed to maintain continuity of operations of the critical infrastructure sectors; and,

WHEREAS, in mid-May 2020, the Governor of the State of California and the California Department of Public Health published guidance regarding the opening of certain businesses subject to stages established by the State; and,

WHEREAS, the Center for Disease Control (CDC) recommends that when congregating in public spaces, people maintain a social distance of at least six feet in order to slow the spread of COVID-19; and,

WHEREAS, the County of Marin Health and Human Services Department has mandated that when congregating in public spaces, people (with the exception of families and "social

bubbles”) shall maintain a social distance of at least six feet in order to slow the spread of COVID-19; and,

WHEREAS, on June 24, 2020, the Director of Emergency Services of the Town of Ross signed an emergency order temporarily prohibiting dogs upon the Ross Common in order to facilitate social distancing;

WHEREAS, the Town has an important governmental interest in protecting the health, safety, and welfare of its citizens and businesses; and,

WHEREAS, in order to protect the health and safety of the Town, the Town wishes to assist people in social distancing in public spaces, including the Ross Common, a public park within the Town of Ross; and,

WHEREAS, in order to accomplish this goal, the Town wishes to assist the Ross School, Ross Recreation, and members of the public, in utilizing a greater portion of the Ross Common so as to allow for social distancing, and to this end, the Town wishes to temporarily prohibit dogs on all areas of Ross Common in order to facilitate social distancing; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue and implement said Resolution to protect health, safety, and civil order; and

NOW, THEREFORE, TOWN COUNCIL OF THE TOWN OF ROSS DOES HEREBY ORDER AS FOLLOWS:

SECTION 1. Dogs Prohibited Upon the Ross Commons in Order to Facilitate Social Distancing. Notwithstanding Ross Municipal Code section 8.04.161(a), it shall be unlawful for the owner or person having control of any dog to allow or permit such dog, under any circumstances and at any time, whether leashed or unleashed, to be upon or within any portion of Ross Commons. This prohibition shall apply, but not be limited to, all areas of the Commons, including those areas within which dogs were previously not prohibited pursuant Ross Municipal Code section 8.04.161(a).

SECTION 2. Use of Service Dogs. This prohibition shall not apply to a person with disabilities requiring the use of a guide dog, signal dog, or service dog to obtain equal access to the Ross Commons.

SECTION 3. Violations of Resolution. Any violation of this Resolution shall constitute an imminent threat to the public health and shall be subject to enforcement pursuant the procedures and provisions set forth in the Ross Municipal Code, including, but not limited to, section 8.04.161(b).

SECTION 4. Effective Date of Resolution. This Resolution shall become effective on the date adopted by the Town Council of the Town of Ross and shall expire when repealed by the Town Council or upon a declared termination of the state of emergency regarding COVID-19 by the Ross Town Council.

SECTION 5. The Town Clerk shall certify the adoption of this Resolution and shall cause a certified Resolution to be filed in the Office of the Town Clerk.

The foregoing Resolution was adopted at the regular meeting of the Ross Town Council held on July 9, 2020, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Julie McMillan, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk

## ATTACHMENT 2

DIRECTOR OF EMERGENCY SERVICES ORDER NO. 3-2020

AN ORDER OF THE DIRECTOR OF EMERGENCY SERVICES  
OF THE TOWN OF ROSS REGARDING A TEMPORARY  
PROHIBITION OF DOGS UPON THE ROSS COMMON

WHEREAS, California Government Code Section 8630 empowers the Town Council of the Town of Ross to proclaim the existence or threatened existence of a Local Emergency when the Town is affected or likely to be affected by a public calamity; and,

WHEREAS, Government Code Section 8634 empowers the Town to promulgate orders and regulations to provide for the protection of life and property; and,

WHEREAS, pursuant to Ross Municipal Code section 2.28.060(a)(6)(A)), the Director of Emergency Services has declared the existence of a Local Emergency, which Local Emergency has been ratified by the Town Council on March 19, 2020; and,

WHEREAS, the Director of Emergency Services does hereby find that conditions of extreme peril and a crippling disaster, which severely impairs the safety of persons or property, have arisen within the Town caused by the virus COVID-19 and its rapid transmission as reported by various local, state and national health organizations; and,

WHEREAS, the aforesaid conditions of extreme peril warranted and necessitated the proclamation of the existence of a Local Emergency; and,

WHEREAS, on March 16, 2020, the Marin County Health Official issued a County-wide shelter-in-place order that requires individuals to isolate in their places of residence, except as needed for the performance of essential activities; and,

WHEREAS, on March 19, 2020, the Governor of the State of California ("Governor") issued Executive Order N-33-20, which provides that individuals living in the State of California are required to stay at home except as needed to maintain continuity of operations of the critical infrastructure sectors; and,

WHEREAS, in mid-May 2020, the Governor of the State of California and the California Department of Public Health published guidance regarding the opening of certain businesses subject to stages established by the State; and,

WHEREAS, the Center for Disease Control (CDC) recommends that when congregating in public spaces, people maintain a social distance of at least six feet in order to slow the spread of COVID-19; and,

WHEREAS, the County of Marin Health and Human Services Department has mandated that when congregating in public spaces, people (with the exception of families and "social bubbles") shall maintain a social distance of at least six feet in order to slow the spread of COVID-19; and,

WHEREAS, the Town has an important governmental interest in protecting the health, safety, and welfare of its citizens and businesses; and,

WHEREAS, in order to protect the health and safety of the Town, the Town wishes to assist people in social distancing in public spaces, including the Ross Common, a public park within the Town of Ross; and,

WHEREAS, in order to accomplish this goal, the Town wishes to assist the Ross School, Ross Recreation, and members of the public, in utilizing a greater portion of the Ross Common so as to allow for social distancing, and to this end, the Town wishes to temporarily prohibit dogs on all areas of Ross Common in order to facilitate said social distancing; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue and implement said Order to protect health, safety, and civil order; and

NOW, THEREFORE, THE DIRECTOR OF EMERGENCY SERVICES OF THE TOWN OF ROSS DOES HEREBY ORDER AS FOLLOWS:

SECTION 1. Dogs Prohibited Upon the Ross Commons in Order to Facilitate Social Distancing. Notwithstanding Ross Municipal Code section 8.04.161(a), it shall be unlawful for the owner or person having control of any dog to allow or permit such dog, under any circumstances and at any time, whether leashed or unleashed, to be upon or within any portion of Ross Commons. This prohibition shall apply, but not be limited to, all areas of the Commons, including those areas within which dogs were previously not prohibited pursuant Ross Municipal Code section 8.04.161(a).

SECTION 2. Use of Service Dogs. This prohibition shall not apply to a person with disabilities requiring the use of a guide dog, signal dog, or service dog to obtain equal access to the Ross Commons.

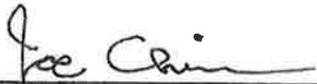
SECTION 3. Violations of Order. Any violation of this Order shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such.

SECTION 4. Effective Date of Order. This Order shall become effective on the date signed by the Director of Emergency Services of the Town of Ross and shall expire when repealed by the Town Council or upon a declared termination of the state of emergency regarding COVID-19 by the Ross Town Council.

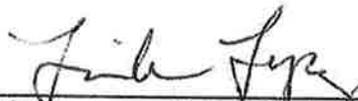
SECTION 5. The Town Clerk shall certify the adoption of this Order and shall cause a certified Order to be filed in the Office of the Town Clerk.

PASSED and ADOPTED this 24th day of June 2020.

  
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Julie McMillan  
Director of Emergency Services, Town of Ross

  
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Joe Chinn  
Assistant Director of Emergency Services, Town of Ross

ATTEST:

  
\_\_\_\_\_  
Linda Lopez, Town Clerk

# ATTACHMENT 3



## ROSS School District

*A California  
Distinguished  
School*

*We are an  
exceptional learning  
community that  
connects children  
to the world by  
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at the center  
of all we do.*

#### BOARD OF TRUSTEES

*Jeff Bergholt*

*Chris Ericksen*

*Josh Fisher*

*John Longley*

*Stephanie Robinson*

July 2, 2020

Esteemed Council Members,

As the Ross School District prepares to launch the 2020-2021 school year, we are planning research-based approaches to maximize student and staff safety and ensure high levels of learning for every child. A key component of our plan is to maximize student learning via outdoor spaces within the boundaries of the Ross School District and the Ross Common areas in which we pay a portion of the landscaping and general upkeep of the grounds.

The American Association of Pediatricians argues in their latest report *COVID-19 Planning Considerations: Guidance for School Re-entry* that "Outdoor transmission of the virus is known to be much lower than indoor transmission." As such, the Ross School District has adopted a resolution for installing two large shade structures on the blacktop and the district has purchased enough tents for twelve portable classrooms to be used outdoors. As such, we have invested our financial resources in maximizing outdoor instruction.

For years, the Ross School District has paid for the use of the Ross Common area that is largely shaded. Unfortunately, due to the primary function of this space as a dog park, the Ross School District has been unable to safely utilize this space for outdoor activities, including classroom learning. At the present time, we would argue that it is essential that the space is sanitized from dog remnants and is not utilized by animals for the duration of time the school and the community are facing COVID-19.

This next year will undoubtedly be the most challenging school year yet. I appreciate the partnership we as a school have had with the Town Council, local government officials, and the broader community. I ask for the safety of our children, staff, and faculty that this area be designated for school and community use as a place of learning.

Kind regards,  
Michael McDowell, Ed.D.

P.O. Box 1058  
9 Lagunitas Rd.  
Ross, CA 94957  
(415) 457-2705  
fax (415) 457-8923  
[www.rossbears.org](http://www.rossbears.org)

# ATTACHMENT 4



**ROSS  
School  
District**

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**BOARD OF TRUSTEES**

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*John Longley*

*Stephanie Robinson*

Greetings Mayor and Town Council Members,

This is the first letter I have written to the Town of Ross regarding a perspective and endorsement of an agenda item. As such, I do not take the submission of this letter lightly and understand that it may be unpopular to some of our community and council members. My intent is to find a solution to ensuring community access to space for their pets and that our students are safe and are able to access the Ross Common before, during and after to school to the greatest extent possible.

My core charge as the Superintendent of Ross School is to ensure student safety and student learning. As an elementary school district, we have many young children traversing the park and sidewalks to and from school. There are numerous dogs that are unleashed that come in close proximity to children. We often have children express their fears and anxiety of coming into school because of their interactions with dogs. Such circumstances are not conducive to preparing children for learning at high levels.

The Ross School administration and staff have always found the dog owners to be cordial and respectful. Yet, the primary function of a dog park and the nature of young children walking to school creates a dynamic that inevitably causes a degree of stress and anxiety for students and potential child injury creating a liability for the Town and potentially Ross School.

P.O. Box 1058  
9 Lagunitas Rd.  
Ross, CA 94957  
(415) 457-2705  
fax (415) 457-8923  
[www.rossbears.org](http://www.rossbears.org)

As a school district, we pay to use the Ross Common during school and are often unable to utilize the space because of dogs and the remnants that remain from dog usage in the park for classroom-based instruction, recess, or lunch. Moreover, given our current situation with COVID-19, this space is even more critical for school use next year.

Thank you for your consideration of relocating the dog park in the Town of Ross. While I'm supportive of having a space for community members to bring their dogs and socialize with neighbors, I continue to be concerned about the location of the current dog park relative to Ross School. I hope that the Town Council finds an amiable solution that enables community members to enjoy their pastime with their dogs while at the same time provide our students the opportunity to enter and exit the school without fear and access the Ross Common as a learning space and a place for respite.

Kind regards,

A handwritten signature in black ink, appearing to read 'M McDowell', written in a cursive style.

Dr. Michael McDowell

# ATTACHMENT 5

## Linda Lopez

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**From:** Leah Knight <homrig@aol.com>  
**Sent:** Tuesday, June 30, 2020 3:48 PM  
**To:** Linda Lopez  
**Subject:** Fwd: Dogs prohibited from Ross Common

Sent from AOL Mobile Mail  
Get the new AOL app: [mail.mobile.aol.com](mailto:mail.mobile.aol.com)

On Tuesday, June 30, 2020, emasterson@townofross.org <emasterson@townofross.org> wrote:

Chief Masterson, Ms. Lopez,

I read your email today about dogs being banned from the Commons as to allow for Ross Rec and Ross school to use a greater portion of the Common. I would really like to know why you're banning a few dog people (at any one time there are maybe 5 people with dogs) who are maintaining social distancing while there are **numerous** picnickers and others not maintaining social distancing at all. Why are you singling us out? Why not single out all the other people out there? I have been exercising my dogs at the Commons for 15 years, and others longer. You, in my opinion, are unjustly singling out one portion of the community. During all the stress related to COVID, it's the one highlight of my day, getting to socialize (and distance) with a friend or two in the afternoon. Please don't take this away also. And Ross Recreation summer camps are from 9:00-1:00 pm from what I see. Perhaps you could make hours that people with dogs could come? I'm never there until 4:30 or 5:00 anyway. Please consider a schedule to accommodate everyone. And school isn't even in session during the summer so Mr. McDowell (who I understand is the instigator of this) shouldn't have a problem.

Sincerely,

Leah Knight  
415-990-4158

## Linda Lopez

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**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, July 2, 2020 2:47 PM  
**To:** Linda Lopez  
**Subject:** FW: Commons

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**From:** River Cohen <river@datainsure.com>  
**Sent:** Wednesday, July 01, 2020 2:04 PM  
**To:** Richard Simonitch <rsimonitch@townofross.org>  
**Cc:** Joe Chinn - Town Manager <jchinn@townofross.org>; Eric Robbe <erobbe@townofross.org>; Heidi Scoble <hscoble@townofross.org>; Erik Masterson <emasterson@townofross.org>  
**Subject:** Commons

Hi all  
Just saw all the new signs at the commons regarding dogs and heard your giving tickets? What changed?  
We moved to Ross 10 years ago and have had our dogs at the commons for years even the refuse bags are provided by RVPOA  
Please advise as this is a major quality of life issue for our family and many families in Ross.  
If this is short term long term and how do we impact and create changing this.  
Contact me any time

With Gratitude

**Linda Lopez**

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**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, July 2, 2020 3:16 PM  
**To:** Linda Lopez  
**Subject:** FW: Understanding rationale for dog restrictions on Ross Common

**From:** Robyn Luhning <[rluhning@gmail.com](mailto:rluhning@gmail.com)>  
**Date:** July 1, 2020 at 10:19:41 AM PDT  
**To:** "[emasterson@townofross.org](mailto:emasterson@townofross.org)" <[emasterson@townofross.org](mailto:emasterson@townofross.org)>, [towncouncil@townofross.org](mailto:towncouncil@townofross.org)  
**Cc:** [wluhning@gmail.com](mailto:wluhning@gmail.com)  
**Subject: Re: Understanding rationale for dog restrictions on Ross Common**

Meant to include a photo of the sign with no author, end date, contact information, or hours of



restriction listed.

Sent from my iPhone

On Jul 1, 2020, at 10:15 AM, Robyn Luhning <[rluhning@gmail.com](mailto:rluhning@gmail.com)> wrote:

Dear Town Council and Chief Masterson,

Our family has lived at 24 Allen Avenue in Ross since 2011. We selected this home location because of its proximity to the Ross Common, a place for families to gather with other community members "in our own backyard."

Every morning when we are home, my 13-year-old son or I walk our well-behaved, voice-controlled labradoodle around the Ross Common between 6 and 7:30 am. Rarely do we see anyone.

Today I learned of a sign stating that I am only allowed to walk my dog on the street-side sidewalk of the Common. The sign had no stated end date for this restriction and it is unclear who authored/posted the sign. In addition, I read an

email that the Ross Police will be issuing warnings to those who do not abide by new dog restrictions on the Common.

I totally understand restricting off-leash dog access to the Common when it is in use by Ross Rec patrons or other organized groups permitted to use the space. It is important for the permitted groups to be able to be socially distanced during organized activities.

However, I am having trouble understanding the logic of how my son or I walking my dog around the Ross Common when no other humans are present could spread COVID. Furthermore, how would an on-leash dog (at any time) impact the spread of COVID among our community? Frankly, the stated rationale behind the new restrictions is not logical. A skeptic could wonder if the restrictions are politically motivated, because the restrictions do not seem to be based in science or any other fact set.

(The picknickers from multiple families who flock the Common are much more likely to spread COVID in our community!)

In addition, please let me know the governance forums where decisions around dog access to the Ross Common are made, so that other dog owners or concerned stakeholders can be part of the democratic decision-making process.

Thanks,  
Robyn Luhnig