

To Mayor and Ross Town Council
From: Pat Thompson, Interim Town Manager
Re: Easements with Ross School on Ross Common
Date: December 1, 2011

I. Project Summary

Town Council discussion of easements, including reciprocal indemnifications, with Ross School over portions of Town Property on Ross Common for pedestrian access and structures which were signed in 2009 by both parties.

II. Discussion

As part of the Ross School upgrades /renovations, the District required easements from the Town for purposes of a pedestrian access walkway when school was in session and also for the construction, use and maintenance of structures such as a stage, ramps, landscaped planter etc. The Town will also be utilizing some of the structures in the easement at certain times when events or programs are sponsored by the Town or Ross Recreation. Included as attachments to this Staff Report are: a) the Agreement with the District; and b) the Grant of Easements "Exhibit A" with respective Exhibits A-1 and A-2 which delineate two areas, one for pedestrian travel and one for structures.

Included in the Grant of Easements, there is language which spells out the Rights and Responsibilities of both parties for future use and maintenance. More importantly, the language also provides indemnification provisions for the two easement areas. In the case of the pedestrian easement, the District will indemnify the Town when the School has a planned activity authorized by the District and also when school is open to the public, all other times the Town will retain liability. In the stage or structures easement, the District will indemnify and hold the Town harmless at all times except when the Town or Ross Recreation is using the Stage/structure easement.

Because the pedestrian easement and sidewalk abut the structures easement, there is a possible concern with unauthorized access to the stage and ramps when the school is not open to the public. If activity such as biking or skateboarding is taking place it could result in injuries that might result in claims against both parties. The Town staff will be working with the School and District to place signage prohibiting such activities and also to limit access to the structures when school is not in session. This will need the cooperation of both entities.

III. Recommendation

Council discussion on easement provisions to determine if any further actions are deemed necessary.

Attachments:

Agreement for the Acquisition of Easements
Exhibit A Grant of Easements
Exhibits A-1 and A-2 Easement Grant Deeds