

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, JANUARY 14, 2016

1. 6:00 p.m. Commencement.

Present: Mayor Katie Hoertkorn; Mayor Pro Tempore Carla Small; Council Member P. Beach Kuhl (*Arrived at 6:13 p.m.*); Council Member Elizabeth Brekhus; Council Member Elizabeth Robbins; and Town Attorney Greg Stepanicich.

2. Posting of agenda.

Town Manager Joe Chinn reported that the agenda was posted according to government requirements.

3. Minutes - December

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Small seconded, to adopt the Regular Meeting Minutes of December 10, 2015 as submitted. Motion carried 4-1. Kuhl absent.

4. Demands.

The demands were met.

5. Open Time for Public Expression - None

**6. Employee Appreciation Program and presentation of awards to Town employees
Town Clerk & Administrative Manager Linda Lopez, Police Officer Kevin McKendry,
Police Officer Danny Moy, and Police Officer Joshua Schulman.**

The Town recognized four employees with an appreciation gift for their years of dedicated service to the Town: Linda Lopez (10 years), Kevin McKendry (10 years), Danny Moy (10 years), and Joshua Schulman (5 years).

Linda Lopez began in 2005 and serves as the Town Clerk and Administrative Manager. Her past work experience in the private sector, non-profit and academia has prepared her well for her duties in Ross. Aside from her Town Clerk duties, she oversees payroll, accounts payables/receivables, the website, Town communications, and The Morning After newsletter, just to name a few.

Kevin McKendry has been with the Ross Police Department for 10 years. He and his wife Jenny, have 5 children: Madison 11, Ryan 9, Brooklyn 4, Carlyne 2 and the newborn Jaclynn. Kevin is involved as a coach for several of his children's sports teams, so he stays very active. He is assigned to nightshift patrol and is in charge of our vehicle equipment. He is in the Army reserves attached to a CID (Criminal Investigations Division) unit.

Danny Moy has been with the Ross Police Department for 10 years. His and his wife Gina, have two children: Mia 12 and Maggie 8. Danny handles the travel arrangements for his daughter

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Mia's gymnastics competitions. Danny is a firearms instructor and department range master, and has recently trained our department in active shooter scenarios.

Joshua Schulman has been with the Ross Police Department for 5 years. He has two children: Andrew 13 and Bella age 7. Josh is learning the "new math" so he can help his kids with their homework. He is the office "techie" and assists in computer troubleshooting, records management system version updates, and any other technical issues that arise. Josh is in charge of vehicle maintenance as well. He has been the case officer on two complex financial elder abuse cases.

7. Mayor's Report.

Two of the key issues facing Ross this month are crime and the risk of flooding. In the past month the Town has experienced a rash of auto thefts, as well as some burglaries. According to Police Chief Erik Masterson, these thefts are not only confined to Ross, but, as can be expected, also in neighboring communities. A significant amount of tonight's meeting is devoted to this issue. The Police Department has stepped up patrols, but your vigilance is a key factor in keeping our Town safe. Do not hesitate to call the police and report any anomaly. Also, residents need to make sure they keep their vehicles and doors locked.

As El Nino bears down on the Bay Area it reminds everyone of their need to focus on the potential flood issues that our region faces. The solution is complex, regional, and involves difficult choices. They have excellent representation through former Council member and Mayor Chris Martin and Supervisor Katie Rice, but it behooves all of us to understand the problem, potential solutions, and trade-offs. The U.S. Army Corp of Engineers and County Flood Control are having a meeting to discuss flood prevention measures at Marin Art and Garden Center on January 28th at 6 p.m. The focus area of this project includes Ross and Kentfield. The goal of the project is to reduce the likelihood and consequences of flooding while balancing the creek's natural state with greater flow capacity in containing and conveying water to the Bay.

As part of our plan to address the issue of aging bridges and water flow capacity, Ross is having a special meeting to discuss the replacement of Winship Bridge on February 9th at 7 p.m. Finally, during the previous storms, they have had a number of trees fall, some damaging property, some causing electrical wires to go down, etc. Please address trees you have that should be trimmed now, and keep debris out of drainage ways and culverts as well.

They expect to have the study of fees for building, planning, and other Town departments completed by March. It has taken longer than first anticipated because of the complexity of the analysis and the input needed from many resources. They want to make sure the fees are fair and justified, and based on the best information available.

Town Hall will be closed for Martin Luther King Day on January 18th. Mayor Hoertkorn will be in front of the Ross Post Office, February 10th from 1:15-2:40 p.m., just before next month's Council meeting. She looks forward to hearing any of your concerns or questions, or simply having the opportunity to meet you.

8. Council Committee Reports.

Council Member Kuhl reported that a Community Protection meeting is scheduled for January 25th to explore the issue of the Wildland Urban Interface (*WUI*) regulations and invited all to attend.

9. Liaison Reports.

a. Town Manager.

Town Manager Joe Chinn reported that a number of trees have fallen, and staff has asked for all residents to clear the drainage ways and look at their hillsides. A few trees will be removed from Town on Saturday and Sunday, and since located on private property, the Town allowed such trees to be removed this weekend due to the emergency situation.

He then congratulated Audrey Hildebrand in her new position as Recreation Specialist. Audrey has previously served as a Recreation Instructor for the Department during the past three years. She created the very popular Kids Club after school program at Ross School. Audrey also served as lead instructor for the Kinder Camp summer program. As Recreation Specialist, Audrey will oversee our special interest classes and camps. Audrey brings a high degree of professionalism and enthusiasm to the Department. We look forward to her continuing to work in providing the Ross community with quality programs.

The play area at the Ross Recreation preschool has added some new natural elements for play in recent months, which encourages children to use their imagination in collaborative discovery of environmental elements.

b. Marin Art & Garden Center.

Diane Doodha, MAGC representative, announced that MAGC's retreat will occur on the 6th of February.

Antonia Adezio, MAGC Executive Director, indicated that Marin Society of Artists moved away from MAGC and went to San Rafael. MAGC will use that space for art and garden programs and welcomes the public to their dedication event. They commissioned a study on their historic landscape. They will reach out to the community to gather the history so they can provide a sound baseline before they move forward with new activities.

c. Ross Property Owners Association.

Charlotte Levin, RPOA representative, desired to have communication between the Board and neighbors in regard to the Post Office to discuss the issues that concern everyone.

d. Ross School.

Michael McDowell, Ross School Superintendent, reported that on February 24th at 8:30 to 9:30 a.m. a Stanford professor will be talking to parents. On the 14th of March, at 6:30 p.m. they will have an event with David Foster.

Olivia Brekhus-Lavinsky, 8th Grade Co-President, announced that the 8th grade boys and 7th grade girls basketball teams both won their games against Marin Primary. Ross School connected with the Khan Academy, which is a math website who joined with Google and they are having a competition for Grades 3rd-8th. They are competing with schools in the Bay Area.

Students were featured in the January edition of Fast Forward. The kindergarten round up is February 2nd at 9 a.m. at Ross School.

10. Consent Agenda.

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

a. Town Council consideration of adoption of Ordinance No. 668, an Ordinance of the Town of Ross amending Title 15 of the Ross Municipal Code, Chapter 15.50 "Time Limits for Completion of Construction" by adding Two Limited Time Extensions and Reducing the Maximum Fine.

b. Town Council consideration of adoption of Resolution No. 1931 requesting Election Services of the County Elections Department.

c. Town Council consideration/action to appoint applicant from Ross to the Recreation Advisory Committee.

Mayor Hoertkorn asked for a motion.

Mayor Pro Tempore Small moved and Council Member Brekhus seconded, to approve the Consent Agenda as submitted by staff. Motion carried unanimously.

End of Consent Agenda.

Public Hearings on Planning Projects

11. 198 Lagunitas Road, Design Review and Variance No. 2015, and Town Council consideration of adoption of Resolution No. 1932.

Jamie O'Hara and Cynthia Weldon, 198 Lagunitas Road, A.P. No. 073-131-01, R-1:B-A (Single Family Residence, 1 acre min lot size), Very Low Density (0.1-1 Units/Acre). Public hearing for the Town Council to consider Design Review, a Variance, and minor exception to allow the construction of a retaining wall and 40 square foot detached accessory structure to be utilized for a garbage enclosure. The Design Review is to allow the construction of a retaining wall that exceeds 48 inches in height. The Variance is to allow a portion of the retaining wall to exceed six feet in height, and the minor exception is to allow the detached accessory structure to be located within the easternmost side yard setback.

This item was continued to the February Town Council meeting.

End of Public Hearings on Planning Projects.

Administrative Agenda

12. Town Council consideration of adoption of Resolution No. 1933 establishing Marin Sanitary Service rates for 2016.

Town Manager Joe Chinn summarized the staff report and recommended that the Council conduct a public hearing and adopt Resolution No. 1933 establishing maximum rates collected

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by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective retroactive to January 1, 2016.

Mayor Pro Tempore Small asked about having one truck that picks up both regular trash and recycling in order to limit the number of trucks on the roads. Also, in Novato, they have a new option for billing in 2016 in regard to paying a full year in advance, the residents receive one free month. Patti Garbarino, MSS President, received several questions as President being compared to Novato Recycle and it is a garbage company that has a bad track record on recycling and much of their PR is difficult to believe. She assured the Town that they are operating as efficiently as they can. They looked into a dual collection truck, but each of every moment of each of every day they are looking to lower their carbon footprint, which is not the case in Novato, so it is a difficult comparison.

Ron Piombo, MSS Vice President/General Manager of Operations, explained that the main problem with the dual compartment trucks, is once one of the sides is full, they must dump, so the loads are not maximized. The main reason to maximize the loads is to reduce trips.

Mayor Pro Tempore Hoertkorn finds this analysis very difficult to deal with. Their increase in wage benefits are significantly above the CPI levels. She wanted to see the last three years to justify this increase. It is not easy for anyone to understand. Without the price of gas dropping they would be looking at a 10% increase. Because they are paid a fixed percentage, there is no incentive for MSS to be more efficient. Technology should show there is some pay off in efficiency. In essence, if they are more efficient, they are penalized. She desired to view some kind of revenue incentives for efficiencies.

President Garbarino supported the differential request being made tonight. It represents a snapshot in time. Numbers and various costs change. This was a rate model developed many years ago, and maybe this is the time to look at something different. They are making room for new programs and maintaining the lower than average rate. Their efficiencies and keeping cost low allowed them to open up to programs for their commercial center. Four pieces of legislation went into effect this year. 14% to 19% of all generation greenhouse gas is due to rotten organics in the landfill. They divert 40 tons of food waste from landfills each week. Commercial composting services are also available. With their assistance, the 4th of July parade and community picnic are zero waste events. MSS's clean up programs help to increase diversion, which is part of their application. They propose to add two new curbside programs for 2016, doubling the Town's option for diversion. Also, they are looking at another waste to energy type of technology. They fully endorse a yearly review.

Council Member Brekhus noted that some people take their garbage out to the curb and others have garbage enclosures, and asked how access is determined by MSS. Vice President/General Manager Piombo responded that they take the garbage from the curb and from garbage enclosures. He further noted that there is a \$3.90 distance charge.

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

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The Town participates in a franchisor's group comprised of San Rafael, Larkspur, portions of Marin County and the Las Gallinas Valley Sanitary District. This group in turn retains an independent consulting firm to review the rate package submitted annually by MSS. This year, HF&H Consultants, LLC has determined a 5.61% rate increase is appropriate for the Town to compensate MSS for its costs to provide refuse and related services.

Mayor Hoertkorn asked for a motion.

Mayor Pro Tempore Small moved and Council Member Brekhus seconded, to adopt Resolution No. 1933 establishing Marin Sanitary Service rates for 2016. Motion carried unanimously.

13. Town Council discussion on recent burglaries and security measures.

Police Chief Erik Masterson reported that since late November Ross has experienced an increase in crimes related to residential burglaries, thefts from cars and stolen cars. The Police Department has stepped up patrols in Town and has disseminated information about the crime activity to residents, asking for increased vigilance in securing property and reporting suspicious activity. The Department has responded to several reports of suspicious individuals and cars and has investigated each incident. The Police have attempted to gather any evidence and process it for leads, track property that was taken, and coordinate with neighboring agencies for potential suspects and trends. The information gathered by the Police Department is that we are not alone in experiencing crime increases. Our neighboring agencies are working several series of similar crimes, as is San Francisco, Sonoma County and the East Bay. It should be noted that the top two cities in the nation for auto theft are Richmond and Oakland with three other cities in the Bay Area in the top 10. The Police Department has been looking into various programs and tools to prevent incidence of crime, or to assist in investigation of these types of crimes. These include; neighborhood watch programs, ALPR (*automated license plate reader*) systems, video surveillance systems, crime sting type operations. With this type of crime occurring in Town, the police department asks that residents continue to exercise care in securing their property and in reporting suspicious activity. One of the best ways to reduce crime is to reduce the opportunity for the criminal. Let's help make our Town a low priority target by making it tough of the criminal by working together through vigilance.

Council Member Kuhl asked staff if there are any theories about this sudden increase in crime. Police Chief Masterson can only speculate, but indicated that prisons are over crowded and several crimes are being reduced from felony crimes to misdemeanor crimes. In the East Bay and San Francisco, often a stolen car is treated as a misdemeanor.

Council Member Robbins believed the Council should consider using the ALPR as Tiburon.

Mayor Hoertkorn opened the public hearing on this item.

Fred Kreitzberg, Spring Road resident, suggested that the Town bring back the K9 Unit.

Peter Nelson, Circle Drive resident, thought each and every resident was required to have security cameras. Planning Manager Heidi Scoble explained that the zoning regulations

currently do not address that as a requirement, but it could be imposed as a special condition of approval for any discretionary application before the Council.

Ross resident representing Sabrina, a Ross business owner, wanted to prevent crimes from happening in Town in terms of the merchants and business owners.

Peter Allen, Ross resident, wanted to know the effectiveness of still cameras. Police Chief Masterson responded that still cameras are not terribly useful, video would be better. Staff is looking into such security systems.

Julie McMillan, Ross resident, encouraged the Town to look into camera options, which serves as a deterrent in Tiburon, so it is worth pursuing. She suggested exploring cameras, as a pilot program, in Winship Park. She also encouraged the Town to send out more information to residents in order for everyone to be better informed about the increased crimes occurring in Ross.

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

Mayor Pro Tempore Small noted that the police dog (mentioned previously) was generously donated. She is very interested in reviewing the options. Possibly the ALPR might be more effective, but wanted to hear all options. They should publicize in the IJ that Ross is looking into such security systems. She further added that anyone interested in volunteering for a neighborhood watch should partner with the block captains.

Council Member Robbins stated that the idea of publicizing that a neighborhood watch is being formed and that the Town is considering options in regard to security systems would be appropriate.

Council Member Brekhus added that Belvedere is catching good feed from their cameras, especially with night vision. She wanted to look into waiving permit fees if security systems are installed.

Mayor Hoertkorn agreed with continued communication with the residents. Also, communication to the IJ about what Ross is considering to prevent crime would be beneficial.

- 14. a. Town Council consideration of adoption of Ordinance No. 669 an Urgency Ordinance of the Town of Ross amending Municipal Code Sections 18.12.223 (Medical Marijuana Dispensary) and 18.40.210 (Medical Marijuana Dispensaries Prohibited), to Expressly Prohibit Cultivation of Medical Marijuana, including Cultivation by Qualified Patients, Primary Caregivers, and Persons with Identification Cards, Prohibiting Commercial Medical Marijuana Activity in all Zones in the Town and Prohibiting the Delivery of Medical Marijuana and Mobile Marijuana Dispensaries.**

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve adopt Urgency Ordinance No. 669 to adopt an interim ordinance amending Ross Municipal Code Sections 18.12.223 (Medical Marijuana Dispensary) and 18.40.210 (Medical

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Marijuana Dispensaries Prohibited) to prohibit cultivation of medical marijuana, including cultivation by qualified patients, primary caregivers, and persons with identification cards, to prohibit commercial medical marijuana activity, and to prohibit the delivery of medical marijuana and mobile marijuana dispensaries in all zones in the Town.

Town Attorney Greg Stepanicich added that by adopting prohibitions now on cultivation and deliveries, this does not prevent the Council from revising those regulations in the future.

Mayor Pro Tempore Small asked if a caregiver can go to a dispensary and buy medical marijuana for their patient. Town Attorney Stepanicich responded in the affirmative. It is permitted under State law to allow a caregiver to purchase medical marijuana for their patient.

Council Member Kuhl has doubts about the validity and whether it is a good idea to ban delivery. They want to maintain control rather than give control to the State. Town Attorney Stepanicich noted that there is a deadline, so it would make most sense to adopt both regulations now. If the Council wanted to revise the prohibition that can occur in the future.

Mayor Pro Tempore Small felt banning deliveries has unintended consequences, and thinks more about an individual's health and does not want to be big brother. Council Member Brekhus agreed that deliveries are a good idea. In terms of cultivation, she is willing to discuss, but is concerned about outdoor growth even on larger lots. Town Attorney Stepanicich noted that the Council can specify the number of plants allowed indoor and outdoor. Cultivation is treated as a zoning regulation, so there would be spacing requirements with schools and parks.

Mayor Hoertkorn and Council Member Robbins had no objection to what is proposed by staff. Council Member Brekhus wanted to review this in the future. Council Member Kuhl noted that a lot of study is needed to determine what they want to do permanently, but in order to make such revisions in the future, they must adopt this ordinance now.

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

In preparation of a trio of new state laws regulating medical marijuana that took effect on January 1st, the Council agreed to adopt an Urgency Ordinance to prohibit the dispensing of, cultivation, and delivery of medical marijuana in all zoning districts within Town.

Mayor Hoertkorn asked for a motion.

Mayor Hoertkorn moved and Council Member Kuhl seconded, to waive further reading and adopt Ordinance No. 669 an Urgency Ordinance of the Town of Ross amending Municipal Code Sections 18.12.223 (Medical Marijuana Dispensary) and 18.40.210 Medical Marijuana Dispensaries Prohibited), to Expressly Prohibit Cultivation of Medical Marijuana, including Cultivation by Qualified Patients, Primary Caregivers, and Persons with Identification Cards, Prohibiting Commercial Medical Marijuana Activity in all Zones in the Town and Prohibiting the Delivery of Medical Marijuana and Mobile Marijuana Dispensaries. Motion carried unanimously.

b. Town Council consideration of introduction of Ordinance No. 670 an Ordinance of the Town of Ross amending Municipal Code Sections 18.12.223 (Medical Marijuana Dispensary) and 18.40.210 (Medical Marijuana Dispensaries Prohibited), to Expressly Prohibit Cultivation of Medical Marijuana, including Cultivation by Qualified Patients, Primary Caregivers, and Persons with Identification Cards, Prohibiting Commercial Medical Marijuana Activity in all Zones in the Town and Prohibiting the Delivery of Medical Marijuana and Mobile Marijuana Dispensaries.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Council consider introduction and first reading of Ordinance No. 670 to amend Ross Municipal Code Sections 78.22.223 (Medical Marijuana Dispensary) and 18.40.210 (Medical Marijuana Dispensaries Prohibited) to prohibit cultivation of medical marijuana, including cultivation by qualified patients, primary caregivers, and persons with identification cards, to prohibit commercial medical marijuana activity, and to prohibit the delivery of medical marijuana and mobile marijuana dispensaries in all zones in the Town.

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

The Council conducted a public hearing regarding the introduction and first reading of an Ordinance to permanently amend the Ross Municipal Code to prohibit cultivation of medical marijuana, including cultivation by qualified patients, primary caregivers, and persons with identification cards, to prohibit commercial medical marijuana activity, and to prohibit the delivery of medical marijuana and mobile marijuana dispensaries in all zones in the Town. Although the ordinances ban “deliveries”, primary caregivers would still be able to deliver medical marijuana to their qualified patients because of the noncommercial nature of the primary caregiver deliveries. Since the State passing of the Medical Marijuana Regulation and Safety Act, cities and towns across the state have been scrambling to prepare for three new laws that created a statewide licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery and testing of medical cannabis. The new legislation states that if California municipalities do not have local laws in place to regulate or prohibit cultivation by March 1, 2016, then the California State Department of Food and Agriculture would be the licensing to authorize cultivation of medical marijuana with the Town. The passage of Urgency Ordinance No. 663 and Ordinance No. 664 puts the Town’s regulations in place prior to the March 1, 2016 deadline so that the Town will be able to maintain control regarding all land uses related to medical marijuana.

Mayor Hoertkorn asked for a motion.

Mayor Hoertkorn moved and Council Member Kuhl seconded, to waive further reading and introduce Ordinance No. 670 an Ordinance of the Town of Ross amending Municipal Code Sections 18.12.223 (Medical Marijuana Dispensary) and 18.40.210 (Medical Marijuana Dispensaries Prohibited), to Expressly Prohibit Cultivation of Medical Marijuana, including Cultivation by Qualified Patients, Primary Caregivers, and Persons with Identification Cards, Prohibiting Commercial Medical Marijuana Activity in all Zones in the Town and Prohibiting

the Delivery of Medical Marijuana and Mobile Marijuana Dispensaries. Motion carried unanimously.

End of Administrative Agenda.

15. No Action Items:

a. Council correspondence

- Burglaries

b. Future Council items

- Consider adding Ross School artwork in *"The Morning After"*
- Add Liaison Reports to Council Committee Reports on future agendas
- Recreation update

16. Adjournment.

Mayor Hoertkorn moved to adjourn the meeting at 8:10 p.m.

Kathleen Hoertkorn, Mayor

ATTEST:

Linda Lopez, Town Clerk