

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, FEBRUARY 11, 2016

1. 5:00 p.m. Commencement.

Present: Mayor Katie Hoertkorn; Mayor Pro Tempore Carla Small; Council Member Elizabeth Brekhus; Council Member P. Beach Kuhl; Council Member Elizabeth Robbins; and Town Attorney Greg Stepanicich (*arrived at 6:04 p.m.*)

2. Posting of agenda.

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

3. Closed Session.

Public Employee Performance Evaluation

Title: Town Manager

4. 6:00 p.m. Open Session. Council will return to open session and announce actions taken, if any. No reportable action.

5. Minutes-January

The Regular Meeting Minutes of January 14, 2016 were continued to the next Town Council meeting for further clarification as requested by Council Member Brekhus.

6. Demands.

The demands were met.

7. Open Time for Public Expression – None.

8. Mayor's Report.

Mayor Hoertkorn reported that tonight the Council will discuss some of the proposed solutions to our recent thefts, which, for now, may have abated. The Council will consider the implementation of two new measures to begin as soon as possible. Also, with the reduction in burglaries, it appears that the vigilance of the residents and police identifying several suspects may have produced real results. When some of the potential solutions are implemented and with your continued vigilance, our goal of keeping Ross much safer may be at hand. On the issue of safety, periodically a streetlight will burn out. Our streetlights are maintained and lights are replaced by PG&E. If you see a light burned out, report the outage to Public Works at 415-453-1453 ext. 106, or you may email PG&E directly at streetlighttrouble@pge.com. They will need to know the K-number listed on the street pole and the location of the pole. PG&E will try to replace the bulb within a week.

Another issue to be discussed is the replacement of the charming 1909 Winship Bridge. The possible replacement is due to several factors: the obsolescence of the bridge itself and structural issues, and its possible impediment to the flow of water. The Town is at the beginning of a three-year process to do a study, environmental review, and bridge design. If

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they proceed with the bridge, construction itself would be six months. The first public meeting this past Tuesday, February 9th, was for input; additional meetings will be held. Please direct any concerns or issues regarding the bridge to John Moe at publicworks@townofross.org.

The Council's annual strategic workshop is this Friday, February 12th from 9 a.m. to 3 p.m. at Marin Art & Garden Center. We encourage and welcome your participation. Mayor Hoertkorn will be in front of the Ross Post Office, March 9th from 1:15-2:15 p.m., just before next month's Council meeting. Mayor Hoertkorn looks forward to hearing any of your concerns or questions, or simply having the opportunity to meet you.

And finally, don't forget the Winter Dinner, one of our Ross traditions, on March 5th. Have a lovely dinner in a pleasant home environment, while reconnecting with some of your neighbors!

9. Council Committee & Liaison Reports.

Council Member Kuhl reported that continued pressure has been placed on Caltrans to get the third lane open on the Richmond/San Rafael Bridge. TAM is moving ahead with developing plans to enhance the flow of traffic on eastbound Sir Francis Drake. Also, he received an invitation to a breakfast hosted by Lt. Governor Gavin Newsom regarding a firearm proposal.

Mayor Pro Tempore Small announced that she would update the Council on MCE next month.

Council Member Robbins reported that they are working on a strategic plan in regard to the Marin Telecommunication Agency.

Council Member Brekhus discussed smart trains and noted that safety training will occur at Ross School.

10. Staff & Community Reports.

a. Town Manager.

Town Manager Joe Chinn discussed utility upgrades occurring in Ross and they continue to fix drainage ways around Town aggressively. Allen Avenue was completed today. Drainage on Sir Francis Drake near Bolinas was recently improved. The water district will be replacing over 100 year old pipes in Ross starting with projects on Norwood Avenue, Bridge Road, Redwood Drive, and Brookwood lane beginning in the next two weeks and construction will occur until the end of June. Lagunitas water pipe replacement will be occurring beginning in March. Staff has been analyzing Natalie Coffin Greene Park and 3 Bear hut for future improvements. This week a bridge that crosses the creek that was closed off at Natalie Coffin Greene Park was repaired and is now open to the public. In terms of recreation, we are looking at more robust programs for middle school ages, one such program is a weekend ski trip occurring in the coming weeks.

b. Marin Art & Garden Center – No report.

c. Ross Property Owners Association.

Diane Hammer, RPOA representative, discussed the dark sidewalk near the post office and parking area. There is no light, there are uneven sidewalks and there is a continued issue of lights at Town Hall. Also, landscaping is desired between the bridge and bus stop. RPOA is

planning to replace both kiosks and Advisory Design Review (ADR) Group has offered to help with the design. RPOA greatly appreciates the help from Town Manager Joe Chinn.

d. **Ross School** – No report.

11. Consent Agenda.

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

a. **Town Council consideration of adoption 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.**

b. **Town Council acceptance of FY16 Q2 Investment Report.**

c. **Town Council acceptance of FY16 Q2 Financial Summary Report.**

d. **Town Council approval of letter to CalPERS modifying the Town's CalPERS amortization schedule.**

e. **Sir Francis Drake Boulevard/Bolinas Avenue Bus Shelter, Design Review No. 2016-008 and Town Council consideration of adoption of Resolution No. 1934.**

f. **Town Council re-appointment of two members to serve two-year terms on the Ross Advisory Design Review Group.**

Mayor Hoertkorn asked for a motion.

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

End of Consent Agenda.

12. Public Hearings on Planning Projects – Part I.

Public hearings are required for the following planning applications. Staff anticipates that these items may be acted upon quickly with no oral staff report, Council discussion, or public comment. If discussion or public comment is requested for any item, the Council may consider the item later in the agenda. The Council will act on each item separately.

a. **77 Bolinas Avenue, Demolition Permit, Design Review, and Nonconformity Permit No. 2016-004, and Town Council consideration of adoption of Resolution No. 1935**

Matthew and Pamela Morton, 77 Bolinas Avenue, APN 073-041-20, R-1 (Single Family Residence, Medium Density (6-10 units/acre). Town Council consideration of a Demolition Permit, Design Review, and Nonconformity Permit to allow the remodel of

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an existing legal nonconforming single-family residence and a 23 square foot addition. The Demolition Permit is to allow the demolition of more than 25% of the existing residence. The Design Review is to allow the demolition, remodel, and addition to the existing residence. The Nonconformity Permit is to allow the remodel of the residence within the exterior dimensions of the existing residence.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 1935 conditionally approving a demolition permit, a design review and a nonconformity permit to allow the partial demolition, remodel and a 23-square-foot addition to an existing single family residence at 77 Bolinas Avenue.

Planner Manager Scoble then noted a few modifications, the first page of the Resolution should state, "77 Bolinas" and Condition No. 6 should be deleted as it referenced a different item.

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.

Mayor Pro Tempore Small stated that it is rare to have such a small home compliant with all Town regulations and thanked the applicant for making the Council's job so easy.

It is Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Council Member Robbins seconded, to approve 77 Bolinas Avenue, Demolition Permit, Design Review, and Nonconformity Permit No. 2016-004, and adopt Resolution No. 1935 as amended by staff. Motion carried unanimously.

b. 38 Fernhill Avenue, Amendment to Design Review No. 2016-005, and Town Council consideration of adoption of Resolution No. 1936.

Cypress Trust, 38 Fernhill Avenue, APN 073-041-37, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1-3 units per acre). Town Council Consideration of a Design Review Amendment to allow a change of roofing materials from a metal standing seam roof to Class "A" cedar shingles and design modifications to Design Review and Demolition Permit No. 1991 that was approved by the Town Council on May 14, 2015. Design Review is required because the change of roofing material cannot be administratively approved as the material is not in substantial conformity with the previously approved residence.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 1936 to allow architectural design modifications, including the use of a cedar roofing material, for the new construction of a single family residence at 38 Fernhill Avenue.

Mayor Pro Tempore Small noted that a lot of these changes could have been approved at staff level if the roof was not involved, but appreciated the applicant talking to all neighbors and making them aware of the changes. She further added that she is comfortable approving tonight.

Council Member Brekhus stated that while the house is still quite large, she liked the changes and is actually in support of the modifications, and for that reason, agreed to vote in favor.

Mayor Hoertkorn appreciated the applicant working with the neighbors as well, but it should have been done ahead of time. She expressed concerned for the 1,000 square feet being approved administratively, and wanted to know how they could prevent this from occurring again in the future. Mayor Pro Tempore Small pointed out that staff approval for the basement was done by a contract planner, so it probably would have been handled in a different manner.

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 action.

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Small seconded, to approve 38 Fernhill Avenue, Amendment to Design Review No. 2016-005, and adopt Resolution No. 1936. Motion carried unanimously.

End of Public Hearings on Planning Applications – Part I.

Public Hearings on Planning Projects – Part II

14. 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, APN 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 deck and 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.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 1932 conditionally approving design review, a variance and a minor exception to allow construction of a deck, a 7.5-foot tall retaining wall with guardrail within a side yard setback and 40-square-foot detached accessory structure to be utilized for a refuse shed structure at 198 Lagunitas Road.

John Clarke, architect, explained that the project is composed of a parking apron and trash enclosure. Clarke stated that they are proposing three side-by-side spaces, which would be a great improvement over the having the current tandem configuration and that the project would make it much easier and safer exiting the site. The trash enclosure is located on the eastern side of the garage. They looked at a variety of locations and the design criteria proposed is close enough to the house for convenience and satisfied all design criteria. The shed configuration is roughly 10 ft. long, 4 ft. deep and it is designed to blend into the house.

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The screening proposed is between the guardrail and staircase, which is 7 to 8 ft. tall English laurel. The project is reasonable and in keeping within the scale of the existing structures and creates a function while aesthetically pleasing. He further hoped the Council can make the findings to approve.

Council Member Robbins stated as drawn the new driveway extends to the front of the garage and includes an elevated deck on the side setback and requires a new stairway also in the setback. Robbins did not believe that the Minor Exception applies to shed enclosures constructed on elevated structures. Robbins further stated that the shed requires an elevated deck and staircase along with a wall and believes it creates a huge neighbor impact and that the project would never be well screened. She would approve the parking pad and the retaining wall the parking pad requires, but not approve a deck, shed or new stairs. She proposed a parking pad that stops short of the garage or the applicant could come back showing the parking pad ending at the garage and new stairs located flush at the side of the garage with no elevated shed.

Council Member Kuhl did not see any particular problem with what is being proposed. He is inclined to move forward as proposed by the applicant.

Mayor Pro Tempore Small appreciated the new design. She liked the garbage cans being enclosed. It is a deck, but it is level with the driveway and the house. If down to ground level an elevator would be required, which is not feasible. The neighbor wants less screening in order to have more sun. As positioned, it will be a much cleaner and tighter environment and fully supported the design with the changes proposed by the applicant.

Council Member Brekhus understands there is no neighbor opposition, but did not support the variance for the elevated deck. Brekhus stated that the topography of the site does not warrant what is proposed. Brekhus stated the project is a nice design and agreed the goal is to blend it all in, but stated that the project should not be located within the setback.

Planning Manager Scoble explained that in reviewing criteria for the minor exceptions, it could be approved administratively. Because there is some ambiguity in the language and because it is not clear, this is the forum for the Council to determine if a shed in this location located on an elevated deck is appropriate. A shed is typically a stand-alone accessory structure. Staff felt these elements of the project as being mutually exclusive of each other. They utilized the minor exception as the provision to allow for that structure to be located in that area.

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 action.

Mayor Hoertkorn asked for a motion.

Mayor Pro Tempore Small moved and Council Member Kuhl seconded, to approve 198 Lagunitas Road, Design Review and Variance No. 2015, and adopt Resolution No. 1932. Motion carried 3-2. Brekhus/Robbins opposed.

15. 39 Fernhill Avenue, Use Permit No. 2016-002, and Town Council consideration of adoption of Resolution No. 1937.

The Branson School, 39 Fernhill Avenue, APNs. 73-072-04, 73-082-01, 73-082-12, 73-141-03 and 73-151-05, R-1:B-A (Single Family Residence, 10,000 Square Feet Minimum Lot Size)/R-1:B-7.5 (Single Family Residence, One Acre Minimum Lot Size), Limited Quasi-Public/Private Service. Town Council consideration of a Use Permit Amendment to allow retroactive authorization of an internally illuminated scoreboard for the Branson School.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 1937 conditionally approving a use permit amendment and retroactive approval to allow the installation and use of an internally illuminated scoreboard for use of the Branson School's sports related activities associated with the athletic field located at 39 Fernhill Avenue.

Ellen Mocerri, Branson School, thanked the Council for allowing them to build this field, which has transformed their school. They now can play official games on their campus. Today, many young kids average nine hours per day on social media and team sports is very important to change that average. This field was built in two months. They did not use Fernhill and they were very mindful of bringing material on campus. When they finished the field, boulders were brought in and they used Hillgirt. They have the most advanced turf field in all of Marin County. They did not remove one tree. They were as ecologically understanding as they could be and built the field very quickly. They did not ask for a permit for a scoreboard because a scoreboard goes with the field and it is not considered an add-on. She apologized for not asking for a permit, but she did not know a permit was needed for the scoreboard. The two people that live above the school had no objection. The scoreboard serves three different football and lacrosse teams. They have tried to be a neighborly group and be helpful. Also, they are working with the Recreation Department, and this summer their director of athletics will partner with Mike Armstrong, and they will have teams from Ross playing on their turf field. She hoped the Council would approve their permit.

Anthony Thomas, Branson Athletic Director, explained that this is his fifth year at Branson and his 16th year as athletic administrator and he has been a project manager for two field and athletic field renovations. It is his responsibility to inform his administrators of any red flags to be aware of during the project. Facility improvements, such as a scoreboard, he did not know it required a permit. Branson is a Bay Area school, but their home is Marin. The main reason was to become more involved in the County schools. All schools have scoreboards and several schools have three or four scoreboards on their campus for the individual fields of sport, they have one field and it is precious field and serves the need of three sport programs. It is very important to have the proper scoreboard. The scoreboard provides real-time information and honors Tom Ryan, hall of fame member, who has been serving this community for many years. They have a home field advantage for the first time. Branson wants to be good neighbors and the athletics represent Branson and the Town of Ross.

Mayor Hoertkorn opened the public hearing on this item.

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Tony Curtiss, Hillgirt resident, had no objection to the sign as long as it is located in the correct place. They must talk about the need for the sign, placement and size of the sign. This should have gone to the Advisory Design Review (ADR) Group, but it was never on the agenda. This large sign will impact the character of the neighborhood. The Council must protect the small town feel of this Town, and this scoreboard will certainly affect their street. It can be placed in a different location with less of an impact to the street. He asked the Council to review changing the location, have ADR review, and consider screening the scoreboard to soften the appearance.

111 Upper Road resident pointed out that this field is state-of-the-art, very unique and safe. As a Ross resident, this field will provide Ross Rec several opportunities. He further hoped the Council supports the field and finds a resolution for the scoreboard.

Peter Nelson, Circle Drive resident, hopes they can find a solution that is quite attractive. Branson is seeking to be good neighbors. One issue that was discussed is that the sign was not communicated to the neighbors. There are reasons the sign should have a permit. They must have transparency, which will be good for all.

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 Brekhus stated that the scoreboard was a large sign and believes that it would not have been approved. Brekhus stated that if the scoreboard was part of the original application for the field, the Council would have had a discussion about sign placement, size and location. She would not have approved the scoreboard then and is unable to approve it now. She objected to the location and size of the scoreboard. Brekhus suggested continuing the item in order for Branson to address and install the screening, but then, her feeling at this time is to not approve the scoreboard. Brekhus stated that signs are not allowed in their zoning code.

Council Member Kuhl expressed concern about some of the history as discussed by Mr. Curtiss with respect to construction and it is difficult to sort out the seriousness of the items. From a practical standpoint, he walked down to Mr. Curtiss's house and the sign is visible from his driveway. He wanted to know the name of the contractor as to why a permit was not needed to install this large sign. The Council might want to take action against this contractor. His reluctant view is that they should not take any action and let things be as they are.

Mayor Pro Tempore Small stated that there is history of Branson doing things without permits and they have been red tagged. Small stated that the Council never likes to commit to an after-the-fact approval. Small further stated that the Council would have discussed modifying the scoreboard if the scoreboard was part of the project related to the field. Anyone who does construction in Marin should know that anything that is illuminated would definitely require a permit. She wanted trees to screen the scoreboard. Landscaping associated with recent tree removal will occur at Branson, so she is inclined to move forward with the scoreboard as long as screening is planted. Small concluded by stating that she does not want to see this happen again or have Branson before the Council for red tagged items.

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Council Member Robbins stated that it is very large and blue. Due to the size and location, she would not have approved and would have asked for modifications. She understands the need for the scoreboard. Some sort of shrubbery or trees must be planted to screen the scoreboard. This is a beautiful field, neighborhood and school and expressed concern for the huge piece of wood with all the lettering and suggested blacking that part out and have just a basic sign, which she felt would be more appropriate.

Mayor Hoertkorn did not accept the fact that they did not know a permit was required and it is a failure on their part. It can be seen from the road. She can support the scoreboard with trees being planted. She then asked staff if any fines can be imposed in this regard. Town Attorney Greg Stepanicich added that there is a Council provision under the building code, so as part of the building permit a penalty could be associated. Mayor Hoertkorn agreed to impose a penalty. Town Attorney Stepanicich suggested requiring a landscape plan with a timeframe set for review and approval by staff. Ned Pinger, Branson, agreed to provide staff with a landscape plan.

Council Member Brekhus wanted to require a landscaping plan and future maintenance of such landscaping. Planning Manager Scoble recommended a timeframe for landscaping to be installed such as 90-days from the time the landscape plan is approved.

Town Attorney Stepanicich recommended that the landscape plan must be submitted to the Town Planner within 30 days after this approval and shall be installed within 90 days after approval by Town Planner and the landscaping shall be maintained at all times in accordance with the approved landscape plan. Penalties will be handled pursuant to the code requirements. Mayor Hoertkorn noted that triple penalties would apply.

Mayor Hoertkorn asked for a motion.

Mayor Pro Tempore Small moved and Council Member Kuhl seconded, to approve 39 Fernhill Avenue, Use Permit No. 2016-002, and adopt Resolution No. 1937 with the amendments as indicated by Town Attorney Stepanicich. Motion carried 4-1. Brekhus opposed.

End of Public Hearings on Planning Projects – Part II.

Administrative Agenda

13. Town Council discussion/action on crime prevention strategies.

Police Chief Erik Masterson discussed the recent crime activity and the Police Department looked into crime reduction strategies. The Police Department is implementing two new programs to help address investigation of crime and reducing the opportunity for criminal activity. The Police Department is continuing research into video surveillance systems as a potential strategy. These new programs are:

- Home Security Video System Registration
- Neighborhood Watch Program

Home Security Video System Registration

Another deterrent in addressing crime is to register your home security video system with the Ross Police Department. Many residents have home security video systems already installed. As

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crimes occur nearby, a home video system may capture information that can help solve a crime. Knowing which homes have security video can help speed up police investigations. If your home security system is registered with the Police Department and a crime occurs in your neighborhood, the police may contact you and request footage from your system. In doing so, the police will have a helpful tool readily available to aid in the arrest and prosecution of the criminals involved. If anyone would like to register their security system, please complete the registration form on the Town's website. Any questions, please contact Chief Masterson at emasterson@townofross.org.

Neighborhood Watch Program

Neighborhood Watch is a crime prevention program that enlists the active participation of residents in cooperation with law enforcement to reduce crime, solve problems, and improve the quality of life in your area. You will get to know your neighbors and learn how to:

- Recognize and report crimes and suspicious activities;
- Protect yourself, your family, and your property;
- Protect your neighbor's family and property; and
- Identify crime and disorder problems in your area and work with police personnel to solve them.

Talk to your neighbors and see if there's an interest in forming a group in your area. If there is, contact Chief Masterson at emasterson@townofross.org, and the Police Department will help provide you with direction in organizing your group.

Mayor Hoertkorn opened the public hearing on this item.

Peter Nelson, Circle Drive resident, expressed concern for privacy. Police Chief Masterson responded that video surveillance systems are not allowed on a roof or pointed down on a neighbor.

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

The Council directed staff to implement the two new measures.

16. No Action Items:

a. Council correspondence

- Address post office parking lot leaves
- Making Fire House & Town Hall historical landmarks
- Repeal Hillside Lot Ordinance (HLO)
- Establish community flood control group

b. Future Council items

- Consider firearm proposal
- Ordinance changes, cleanup codes, communication and monitoring projects

17. Adjournment.

Mayor Hoertkorn moved to adjourn the meeting at 8:01 p.m.

Kathleen Hoertkorn, Mayor

ATTEST:

Linda Lopez, Town Clerk