

**REGULAR MEETING of the ROSS TOWN COUNCIL  
on the SPECIAL DATE of TUESDAY, JUNE 14, 2016**

**1. 6:30 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.

**2. Posting of agenda.**

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

**3. Minutes – April/May**

Mayor Hoertkorn asked for a motion.

**Council Member Brekhus moved and Mayor Pro Tempore Small seconded, to approve the Special Meeting Minutes of April 27, 2016 as submitted. Motion carried unanimously.**

**Council Member Brekhus moved and Mayor Pro Tempore Small seconded, to approve the Regular Meeting Minutes of May 12, 2016 as submitted. Motion carried unanimously.**

**4. Demands.**

The demands were met.

**5. Open Time for Public Expression - None**

**6. Mayor's Report.**

Mayor Hoertkorn congratulated twenty-three 8th grade Ross School graduates. They all wish them well as they reach for new academic challenges. The Ross bear even wore a graduation hat in their honor (thanks RPOA!). The June Council meeting will be Carla Small's last meeting after 6 years as a Mayor and Council member. Carla's contributions to Ross are enormous; we will celebrate those accomplishments before the next Council meeting, July 14th, at 5:00 p.m. The whole town is welcome. At the same time they are pleased to welcome back former Council member, Rupert Russell, who has graciously agreed to serve out the remaining 2 years of Carla's term. Rupert's extensive experience with and knowledge of Ross Town challenges means he will be up to speed in short order.

The budget will be presented tonight for adoption, it is both far reaching and realistic, but prudent (as they anticipate a small surplus). Additionally, they are aggressively paying down CALPERS debt to minimize future CALPERS retirement obligation costs. They will also be investing in the community through some needed capital improvements and anticipated maintenance issues. So far, they have applied for, and received, several grants to help defray some of these expenditures. Finally, of note, they continue to have the smallest municipal staff in the County.

The Council will also discuss and vote on the extension of the Safety Tax measure to be placed on the ballot in November. Since their principal source of revenue is a small percentage of the Town's property tax payments (less than 19%), and since they lack any meaningful sales tax and do not have utility users or hotel/motel taxes, they need to continue to depend upon the Safety Tax measure to fund full time police and fire protection.

Last week the Marin IJ ran an article regarding the Town's dispute with Gary Broad, a former Town employee, relating to CALPERS retirement benefits. Mr. Broad contends that the time the Town hired him as a part-time consultant qualifies him for extended retirement benefits. As the article stated, CALPERS ruled in his favor and the Town has appealed that ruling. The appeal is set for September 19th. The ultimate cost to the Town, if any, is unknown at this time.

## **7. Council Committee & Liaison Reports.**

Mayor Pro Tempore Small reported that Marin Clean Energy (*MCE*) is scheduled to reduce its rates by 9% on the average, effective September 1, 2016. Based on these rates, the cost of MCE light green 50% renewable energy service will be slightly less than the cost of PG&E's 30% renewable energy service for typical residential and commercial customers. This is on top of the fact that there were no increases April 1<sup>st</sup> of this year so this is a reduction of 2015 pricing. This is possible due to the recent enrollment of American Canyon, Calistoga, Lafayette, Napa, St. Helena, Walnut Creek, and Yountville joining the current customer base of over 170,000 customers that include Marin, Richmond, Benicia, San Pablo, El Cerrito and unincorporated Napa County.

MCE overall electric bill still runs a little higher than PG&E because of the PCIA charge added by PG&E charges for having originally purchased power for your location. This charge was only supposed to run for 3 to 5 years, but PG&E has convinced the CPUC to allow this charge to continue into 2040. MCE, along with all the other CCA's forming throughout the State are committed to eventually eliminating this charge.

MCE has been joined by two more CCA's, Sonoma Clean Power and Lancaster Choice Energy with six more on the horizon in California. MCE's 10.5 MW Solar One project, will become the largest publicly owned solar project in the Bay Area, being built in Richmond that once completed will power 3,400 homes per year. The recently completed Buck Institute 1 MW Solar Carport structure for MCE customer's will power 300 homes per year and the 1.5 MW Solar farm at Novato Cooley Quarry will soon be up and producing.

MCE was invited to the U.N. Climate Conference in Paris to present on community choice for energy and its benefits. One of the main takeaways from this conference according to Tom Butt, Mayor of Richmond was the measures and initiatives that have profound impacts on our global community.

## **8. Staff & Community Reports.**

### **a. Town Manager.**

Town Manager Joe Chinn announced that the Fourth of July parade is scheduled to start at 11 a.m. After the parade there will be performances along with hot dogs and chicken for lunch. MAGC concert series starts next Thursday through the beginning of August. MMWD water project is near completion. The sewer district has old infrastructure they are looking to replace

old pipes that are along Shady Lane, Popular and Ross Common with the work on Shady Lane beginning this Fall and the remainder of the work in 2017. We are taking bids for Sir Francis Drake and Bolinas Avenue intersection improvements with the bids due next week.

Mayor Pro Tempore Small recommended coordination between projects, since she believes it would be problematic for residents. Town Manager Chinn agreed to coordinate with the district on best sequencing the various projects.

**b. Marin Art & Garden Center.**

Antonia Adezio, Executive Director of MAGC, reported that their edible garden opened last week. Yoga on the lawn this summer will start Wednesday at 5 p.m. The building permit was approved on the studio and they have been working hard to complete for the summer. They are doing a renovation that will include accessibility upgrades.

Also, the free summer concert series begins Thursday, June 23rd, and continues every Thursday through August 11, 2016 from 5:00-7:00 pm. Enjoy all types of music from Bluegrass, Jazz, Swing, Folk, and New Orleans funk. Each concert offers picnic dinners, beer, and wine available for purchase. Beginning this year, MAGC is offering VIP reserved table seating for business sponsors (\$500) and small groups (\$250). The price includes complimentary meals. Visit MAGC's website at <http://magc.org/2016-concert-series/> to reserve a VIP table and for a complete schedule of bands and caterers. All proceeds benefit MAGC.

**c. Ross Property Owners Association.**

Diana Hammer, RPOA representative, thanked design review for designing two new kiosks and bike racks. They were pleased to see the landscaping across the street on Lagunitas and volunteered to help with tree trimming. They will contribute \$500 toward the July Fourth celebration.

**d. The Branson School - None**

**9. Consent Agenda.**

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

**a. Town Council response to Marin County Grand Jury Report *"Police Firearm Security: Keeping Police Guns out of the Hands of Criminals"* dated April 21, 2016.**

**b. Town Council appointment of P. Rupert Russell as Council Member beginning July 1, 2016, to serve remaining two-year term vacated by outgoing Council Member Carla Small. Small abstained.**

**c. Town Council approval amending contract of Richards, Watson and Gershon, Attorneys at Law.**

**d. Town Council approval of draft letter to State opposing the Governor's proposal to preempt local discretionary land use approvals regarding affordable housing development.**

- e. **Town Council authorize the approval of amended Joint Powers Agreement (JPA) for Hazardous Materials Spills Management.**
- f. **Town Council approval of Budget adjustments for Fiscal Year 2015-2016.**
- g. **Town Council consideration of adoption of Resolution No. 1957 approving the Ross Valley Paramedic Authority tax levy for fiscal year 2016-17.**

Mayor Hoertkorn asked for a motion.

**Council Member Robbins moved and Council Member Brekhus seconded, to approve the Consent Agenda as submitted by staff. Motion carried unanimously – Small abstained from Item No 9b.**

**End of Consent Agenda.**

**10. 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. **Town Council consideration of adoption of Resolution No. 1948 to approve a Demolition Permit, Design Review, Nonconformity Permit, and Variance No. 2016-011, to allow the demolition of the existing legal nonconforming residence and new construction of a single family residence within the footprint the existing residence at 47 Poplar Avenue, APN 73-273-01**

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council adopt Resolution No. 1948, approving a Demolition Permit, Design Review, Nonconformity Permit, and Variance No. 2016-011, to allow the demolition of the existing legal nonconforming residence and new construction of a single family residence within the footprint the existing residence at 47 Poplar Avenue.

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 the findings to grant a variance were very weak and inconsistent with other decisions.

Mayor Hoertkorn asked for a motion.

**Council Member Brekhus moved and Council Member Robbins seconded, to adopt Resolution No. 1948, approving a Demolition Permit, Design Review, Nonconformity Permit, and Variance No. 2016-011, to allow the demolition of the existing legal nonconforming residence**

**and new construction of a single family residence within the footprint the existing residence at 47 Poplar Avenue. Motion carried 3-2. Hoertkorn/Small opposed.**

*Council Members Brekhus and Small recused themselves from item 10b. due to living within 500 ft. of the property.*

**b. 87 Shady Lane, Variance No. 2016-019, and Town Council consideration of adoption of Resolution No. 1949**

Erik and Laurie Young, 87 Shady Lane, A.P. No. 073-091-13, R-1:B-10 (Single Family Residence, 10,000 square foot minimum lot size), Medium Low Density (3-6 units per acre), Zone AE (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage). The applicant is requesting a Variance from lot coverage in order to accommodate a new front entrance and rear stairway resulting from a four foot building height increase to address FEMA related base flood building elevation requirements. The existing residence is located in a FEMA designated floodway. The new entrance and rear stairway would add 178 square feet of new lot coverage. The scope of the project review is limited to the lot coverage Variance as Design Review is not required for the building height increase.

<b>Effective Lot Area</b>	<b>10,335 square feet</b>
<b>Existing Floor Area Ratio</b>	<b>3,054 sq. ft. 29.5% (20% permitted)</b>
<b>Proposed Floor Area Ratio</b>	<b>No Change</b>
<b>Existing Lot Coverage</b>	<b>3,054 sq. ft. 29.5% (20% permitted)</b>
<b>Proposed Lot Coverage</b>	<b>3,232 sq. ft. 31.3%</b>
<b>Existing Impervious Areas</b>	<b>3,480 sq. ft. 33.7%</b>
<b>Proposed Impervious Areas</b>	<b>4,875 sq. ft. 47.2%</b>
<b>Existing Height</b>	<b>17.43 feet tall (30 feet permitted)</b>
<b>Proposed Height</b>	<b>21.43 feet tall</b>

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve 87 Shady Lane, Variance No. 2016-019, and adopt Resolution No. 1949, approving a variance from lot coverage to address building code requirements resulting from Federal Emergency Management Agency (*FEMA*) related building height increase. Staff also suggested additional screening, if the Council so desired.

Sean Condry, Engineer of Record, stated that he is hoping this is a straightforward process.

Council Member Robbins asked for a clarification in regard to the trees or additional screening. Erik Young, applicant, had no objection with the suggestion to add more trees. Council Member Kuhl did not believe there is a need for further landscaping.

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 Kuhl moved and Council Member Robbins seconded, to approve 87 Shady Lane, Variance No. 2016-019, and adopt Resolution No. 1949 without the additional condition suggested by staff. Motion carried unanimously. Brekhus/Small recused.**

*Council Members Brekhus and Small resumed their seats at the dais.*

**c. 74 Baywood Avenue, Demolition, Design Review, Hillside Lot and Variance No. 2016-024, and Town Council consideration of adoption of Resolution No. 1950**

Charles and Renee Sheppard, 74 Baywood Avenue, A.P. No. 072-131-10, R-1:B-5-A (Single Family Residence, 5-Acre minimum lot size), Very Low Density (.1 - 1 units per acre). Demolition Permit, Design Review, Hillside Lot Permit, and Variance from setbacks and retaining wall height to allow for remodel and two-story addition to the existing 2,412 square foot residence. The project includes a 1,696 square foot addition resulting in a 4,108 square foot residence. Other project features include landscape and hardscape improvements, in addition to the construction of a swimming pool and retaining walls associated with the pool.

<b>Effective Lot Area</b>	<b>27,843 square feet</b>	
<b>Existing Floor Area and Ratio</b>	<b>2,412 square feet</b>	<b>8.7% (15% permitted)</b>
<b>Proposed Floor Area and Ratio</b>	<b>4,108 square feet</b>	<b>14.8%</b>
<b>Existing Lot Coverage</b>	<b>2,648 square feet</b>	<b>9.5% (15% permitted)</b>
<b>Proposed Lot Coverage</b>	<b>3,529 square feet</b>	<b>12.7%</b>
<b>Existing Impervious Areas</b>	<b>5,281 square feet</b>	<b>18.97%</b>
<b>Proposed Impervious Areas</b>	<b>5,281 square feet</b>	<b>18.97%</b>

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve 74 Baywood Avenue, Demolition, Design Review, Hillside Lot and Variance No. 2016-024, and adopt Resolution No. 1950.

Council Member Kuhl stated that all they are dealing with is a swimming pool and retaining wall and expressed concern about the safety of that swimming pool due to the maximum depth of 5.5 ft. He asked if there are any requirements about swimming pool depth. Planning Manager Scoble noted that there are no requirements for swimming pool depth.

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 74 Baywood Avenue, Demolition, Design Review, Hillside Lot and Variance No. 2016-024, and adopt Resolution No. 1950. Motion carried unanimously.**

**d. 648 Goodhill Road, Design Review No. 2016-021, and Town Council consideration of adoption of Resolution No. 1951**

Ken and Kerry Keefe, 648 Goodhill Road, A.P. No. 074-291-17, R-1:B-5-A (Single Family Residence, 5-Acre minimum lot size), Very Low Density (.1 - 1 units per acre). Design

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Review application to construct a 5'-6" high by 16'-0" wide hinged automobile gate with 6'-0" high columns adjacent to the front property line. The proposed gate and columns would be located approximately one foot from the front property line.

<b>Effective Lot Area</b>	<b>136,349 square feet</b>
<b>Existing Floor Area Ratio</b>	<b>1.84% (15% permitted)</b>
<b>Proposed Floor Area Ratio</b>	<b>No Change</b>
<b>Existing Lot Coverage</b>	<b>2.96% (15% permitted)</b>
<b>Proposed Lot Coverage</b>	<b>No Change</b>
<b>Existing Impervious Areas</b>	<b>No Change</b>
<b>Proposed Impervious Areas</b>	<b>No Change</b>

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve 648 Goodhill Road, Design Review No. 2016-021, and adopt Resolution No. 1951

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 Brekhus seconded, to approve 648 Goodhill Road, Design Review No. 2016-021, and adopt Resolution No. 1951. Motion carried unanimously.**

**End of Public Hearings on Planning Applications – Part I.**

**Administrative Agenda**

- 11. Public hearing: Town Council consideration of adoption of Resolution No. 1952 adopting the Fiscal Year 2017 Budget and setting the Parcel Tax Assessment for FY 2017; and Town Council consideration of adoption of Resolution No. 1953 making certain findings and determinations in compliance with Section XIII(B) of the GANN Initiative and setting the appropriation limit for FY ending June 30, 2017.**

Town Manager Joe Chinn summarized the staff report and recommended that the Council adopt Resolution No. 1952 adopting the Fiscal Year 2017 Budget and setting the Parcel Tax Assessment for FY 2017; and adopt Resolution No. 1953 making certain findings and determinations in compliance with Section XIII(B) of the GANN Initiative and setting the appropriation limit for FY ending June 30, 2017.

Council Member Kuhl noted that at the time of their workshop they did not have a final figure for the Ross Valley Fire Department (RVFD) and asked if more information has been provided. Town Manager Chinn responded that the number included in the budget was approved by RVFD last week. Council Member Kuhl saw an item in the budget about police cameras and asked if they are still moving forward. Police Chief Erik Masterson responded in the affirmative.

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 Council Member Robbins seconded, to adopt Resolution No. 1952, adopting the Fiscal Year 2017 Budget and setting the Parcel Tax Assessment for FY 2017; and adopt Resolution No. 1953 making certain findings and determinations in compliance with Section XIII(B) of the GANN Initiative and setting the appropriation limit for FY ending June 30, 2017. Motion carried unanimously.**

- 12. a. Town Council consideration of adoption of Resolution of Intention No. 1954 giving notice of intention to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the Town of Ross; and Town Council authorizing the Town Clerk to sign the required Certification documents and administer a secret ballot election after the passage of the Resolution of Intention.**

Town Manager Joe Chinn summarized the staff report and recommended that the Council adopt Resolution of Intention No. 1954, approving an amendment to contract between CalPERS and the Council to provide for Section 20516 cost sharing of one percent (1%) by classic local police members in the Unrepresented Police Management Group (*UPMG*).

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 Council Member Robbins seconded, to adopt Resolution of Intention No. 1954, approving an amendment to the contract between CalPERS and the Council to provide for Section 20516 cost sharing of one percent (1%) by classic local police members in UPMG; and the Council authorizing the Town Clerk to sign the required certification documents and administer a secret ballot election after the passage of the Resolution of Intention. Motion carried unanimously.**

- b. Town Council consideration of introduction of Ordinance No. 671 authorizing an amendment to the contract between the Town Council of the Town of Ross and the Board of Administration, California Public Employees' Retirement System.**

Town Manager Joe Chinn summarized the staff report and recommended that the Council waive first reading and introduce Ordinance No. 671 authorizing an amendment to the contract to provide for Section 20516 cost sharing of one percent (1%) for classic local police members in the UPMG.

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 waive further reading and introduce Ordinance No. 671 authorizing an amendment to the contract to provide for Section 20516 cost sharing of one percent (1%) for classic police members in the UPMG. Motion carried unanimously.**

- 13. Town Council consideration of adoption of Resolution No. 1955 calling for a Municipal Election to be held on November 8, 2016; requesting the Marin County Board of Supervisors to consolidate with the General Election conducted on that date, and requesting Election Services of the County Elections Department, and proposing adoption by voters of Ordinance No. 672 authorizing a Public Safety Tax and increase in the Town's appropriation limit.**

Town Manager Joe Chinn summarized the staff report and recommended that the Council adopt Resolution No. 1955 calling for a special municipal election regarding a special tax to be held on November 8, 2016; requesting the Marin County Board of Supervisors to consolidate with the General Election conducted on that date, and requesting election services of the County Elections Department, and proposing adoption by voters of Ordinance No. 672 authorizing a Public Safety Tax and increase in the Town's appropriation limit.

Council Member Robbins asked staff if someone has a second unit will they be charged \$970 for each unit. Town Manager Chinn indicated that the ordinance specifies \$970 for the entire parcel.

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 Public Safety Tax measure is scheduled to be placed on the November 8, 2016 ballot. The tax, which was approved by Ross voters in November 2012, currently raises approximately \$774,000, towards the cost of public safety services. The Town has relied on the tax for many years to support the operations and capital needs of the community. Without it, the Town would have to reduce expenses by \$500,000 to \$800,000 per year, which would cause service level declines. At the April and May Council meetings, the Council discussed the upcoming measure and directed staff to bring back a Resolution and Ordinance related to placing the Public Safety Tax on the November 8, 2016 election for the voters to decide on the measure. At the June meeting, the Council approved the following ballot language for the Public Safety tax:

*Shall the voters of the Town of Ross adopt an ordinance to reauthorize from July 1, 2017 through June 30, 2025, the annual special tax for maintaining public safety services at a rate of \$970 per dwelling unit for single family residences and \$970 per parcel for all other uses, with an annual cost of living adjustment on both, providing about \$810,000 annually, and increasing the Town's appropriation limit by the amount of the special tax proceeds?*

The ballot measure requires two-thirds voter approval in order to pass. If the measure passes in November 2016, there is a requirement that the voters would decide by majority vote every four years whether the "appropriation limit" (Article XIII B) should be approved, as this vote is required by the State Constitution. The vote on the appropriations limit gives the public the

right to weigh in and approve the collection and expenditure of these revenues. If the appropriations limit is not approved by the voters, the tax revenues cannot be spent.

Mayor Hoertkorn asked for a motion.

**Council Member Robbins moved and Mayor Pro Tempore Small seconded, to adopt Resolution No. 1955 calling for a Municipal Election to be held on November 8, 2016; requesting the Marin County Board of Supervisors to consolidate with the General Election conducted on that date. Motion carried unanimously.**

**14. Town Council discussion/action of Town-owned property at 6 Redwood Drive.**

Town Manager Joe Chinn summarized the staff report and recommended that the Council discuss and provide direction regarding preferred future use of the Town-owned building at 6 Redwood that was severely damaged by a fire in 2015. Staff believes it is not viable to do nothing with the property and is therefore exploring four different options related to the property. The options are as follows:

1. Repair the house and continue renting it as a single-family residence
2. Build a Ross Recreation community center
3. Expand the Ross Commons park area with this area
4. Tear down the house and determine use later

Council Member Kuhl asked staff if there is a fifth option of selling this property. Town Manager Chinn explained that the Town was deeded this property in 1911, so selling is not an option under the deed. Obviously, it would have great real estate value for a single-family home.

Council Member Robbins asked staff if the Town has the ability to set the rate for the rental such as market rate or affordable housing. Town Manager Chinn responded in the affirmative. It is a small house. The insurance company is repairing the house and paying for code upgrade requirements such as fire sprinklers and raising the home out of the floodplain.

Council Member Brekhus stating that if they try to rebuild this as a house, and then feel it is necessary for recreation services, they will be stuck. If they built it as a building they would make different choices. She wanted to know their timeframe in regard to continued use of Ross Rec such as more space for a pre-school. She expressed concerns for placing limitations on this property. She further believed it is a very difficult choice at this time.

Mayor Pro Tempore Small added that if down the road they look at needing this for something more permanent, they would end up tearing down the house and starting fresh. The money spent on this house will be gone. She believed any contractor would demolish the house and construct a facility.

Mike Armstrong, Recreation Manager, believed the design and approach should be what is the long-term community benefit. Currently, there is no space that the Town has that is a community space for meetings or community groups and for the population. There is no focal point in the Town of Ross. They need to look at this as an asset community wide. It is more long-term look as to what would benefit the Town of Ross. From that view, they thought a

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small community center might benefit the residents of Ross. Local community groups such as little leagues, youth soccer, and the events at Ross Common that have no access to rooms to meet. It is difficult on the weekends. Also, there are no restroom facilities, except for the portable facilities across the street, so it becomes a logistical problem.

Mayor Hoertkorn asked staff if they do not rebuild a house, how much money would they receive from the insurance company. Town Manager Chinn responded that at this time insurance estimates we would receive \$140,000 for park space without a building and \$170,000 if we rebuild with a building. A public building must be ADA accessible, but ADA compliance is not required for a single-family home.

Mayor Hoertkorn opened the public hearing on this item.

Barbara Call, Redwood Drive resident, pointed out that this is a residential neighborhood. She submitted a letter from her attorney indicating very clearly that if the Town considers this a community center site she would fight such use since there is no new parking. She is prepared to talk about protecting the tree canopy. The trees serve as a sound barrier and privacy barrier for the neighborhood. She believed the Town is trying to destroy the environment they live in rather than use the house as a source of income. To remove all those trees that surround 6 Redwood would be a catastrophe. She has been fighting for over 16 years on how to keep these trees alive and hopes the Town makes the right decision.

Peter Nelson, Circle Drive resident, believed if this were a recreation center then vehicles would park on the congested streets. Circulation is already horrible. It is better to meet at Town Hall or MAGC since the parking is better and not as congested.

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 Robbins felt having workforce housing is important and the best solution. Council Member Brekhus did not believe this site is any more convenient than parking at the Post Office or MAGC. The intensity of the use should not be increased. She felt they would be shifting uses. The impact on Redwood must be considered. She agreed they must review the site since it is part of the Common. This was a gift so they must be good stewards.

Council Member Kuhl was impressed by the number of letters from residents on Redwood related to their concerns in regard to their options. Their duty is to do what they think is right and then decide what is right, and if necessary defend the lawsuit. It will be awhile before they redo their facilities, so he felt they should make a decision now in regard to rebuilding the house. He did not like the idea of the Town being in the rental business, but the best decision may be to rebuild the house and use it as affordable/employee housing.

Mayor Pro Tempore Small added that the Town has always been concerned about the tree canopy in Ross. The trees encased in ivy will at some point die. She felt more comfortable not renovating the house, maybe tearing it down and leaving that space open to the park and taking that \$140,000. Ross Rec adds value to this community and it is a draw to this community, which enriches this community. Down the road, when they have a facilities plan, use the

\$140,000 and look at the space and possibly make that a smaller fenced in park for smaller children. Fiscally, to be the most responsible with the dollars is to not replace it, but return it to parkland. She supported not renovating the building and putting that money into the facilities fund.

The Council considered various options for the Town-owned property at 6 Redwood Drive that was significantly damaged by fire in February 2015. The house is currently part of the 4.36-acre parcel that is described as Ross Common Town Park on the zoning map. The building is approximately 925 sq. ft. and is separated from the rest of the Ross Common with a fence and heavy vegetation. The Town has historically rented the house for many years. The Council had asked staff to provide options to consider for the future use of the Town-owned building, which has remained boarded up since the fire. After much discussion, the Council agreed to direct staff to further explore the option of repairing the house and renting it, and the option of demolishing the house and converting the land to be a part of the Ross Common Park.

**15. Town Council consideration of introduction of Ordinance No. 674, amending Title 18 "Zoning" of the Ross Municipal Code Chapter 18.46, to revise the applicable findings required in order to grant an exception to certain development standards to allow finished basement and attic areas for storage and living space.**

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council introduce Ordinance No. 674, amending Title 18 "Zoning" of the Ross Municipal Code Chapter 18.46, to revise the applicable findings required in order to grant an exception to certain development standards to allow finished basement and attic areas for storage and living space.

Council Member Brekhus asked staff to recap why they are striking the words "*materially*" and "*visible*" and asked for a little history for a better understanding of what is being proposed. Planning Manager Scoble has been reviewing the different zoning ordinance requirements and there is a lot of subjectivity in some of the language and her charge is to provide as much clarity as possible. The intent is to work within the existing footprint of the building and not modify the foundation.

Mayor Hoertkorn opened the public hearing on this item.

Rupert Russell, Ross resident, explained that the reasoning is to allow an additional window for natural light and the intent was never to change the fundamental structure.

Peter Nelson, Circle Drive resident, stated that one reason is to give residents solid advice and have precise guidelines, but striking these words is making the ordinance very defined. The language has been included for over one year and there have been no issues. What staff is proposing is not needed in terms of a practical application.

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 Small stated that perception is her reality. She thanked the general government committee and believed what is proposed makes it easier on staff and fully supported the changes as proposed.

Mayor Hoertkorn asked for a motion.

**Mayor Pro Tempore Small moved and Council Member Brekhus seconded, to waive further reading and introduce Ordinance No. 674, amending Title 18 “Zoning” of the Ross Municipal Code Chapter 18.46, to revise the applicable findings required in order to grant an exception to certain development standards to allow finished basement and attic areas for storage and living space. Motion carried unanimously.**

**End of Administrative Agenda.**

*The Council took a short recess at 8:35 p.m.; resumed at 8:41 p.m. Mayor Hoertkorn recused herself from Item No. 16 due to living within 500 ft. of the property.*

**Public Hearings on Planning Projects – Part II**

**16. 187 Lagunitas Road, Demolition, Design Review, Hillside Lot, Use Permit and Tree Removal Permit No. 2016-018, and Town Council consideration of adoption of Resolution No. 1956**

James and Helen Hobbs, 187 Lagunitas Road, A.P. No. 73-211-39, R-1:B-A (Single Family Residence, 1-acre min. lot size), Very Low Density (.1-1Unit/Acre). The applicant is requesting a Demolition Permit, Design Review, Hillside Lot Permit, Use Permit, and a Tree Removal Permit to allow for the 100% demolition of the existing residence and detached accessory structure and the new construction of a 2,068 square foot single family residence, a 525 square foot detached garage, and a 845 square foot detached accessory structure to be utilized as a guest cottage. The project would include a revised architectural layout and design of the site, in addition to new landscape and hardscape improvements. The Demolition Permit is required for the demolition of the existing structures, Design Review is required for the demolition of the existing buildings and construction of the project, a Hillside Lot Permit is required to allow for development on a parcel that has an average slope of 30% or greater, and a Use Permit is required to allow for the Guest Cottage use. The Tree Removal Permit would allow the removal of 6 redwood trees.

Existing and proposed conditions:

<b>Lot Area</b>	<b>3.01 Acres (131,115 square feet)</b>		
<b>Existing Floor Area/Ratio</b>	<b>2,825 sq. ft.</b>	<b>2%</b>	
<b>Proposed Floor Area/Ratio</b>	<b>3,438 sq. ft.</b>	<b>2.6%</b>	<b>(15% permitted)</b>
<b>Existing Lot Coverage</b>	<b>7,225 sq. ft.</b>	<b>5.5%</b>	
<b>Proposed Lot Coverage</b>	<b>6,899 sq. ft.</b>	<b>5.2%</b>	<b>(15% permitted)</b>
<b>Existing Impervious Surfaces</b>	<b>7,482 sq. ft.</b>	<b>5.7%</b>	
<b>Proposed Impervious Surfaces</b>	<b>4,797 sq. ft.</b>	<b>3.6%</b>	

#### June 14, 2016 Minutes

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council adopt Resolution No. 1956, conditionally approving a demolition permit, design review, a hillside lot permit, a use permit, and tree removal permit for the demolition and new construction of a single family residence, a detached garage, a guest house, and the removal of 6 redwood trees.

Council Member Robbins asked staff if there was connection between the bedroom area and main house. Planning Manager Scoble responded that it is an enclosed hallway with stairs. Council Member Robbins asked staff if it is possible at some point to install a kitchen in the bedroom area or guest house. Planning Manager Scoble explained that as a single-family residence they are only allowed to have one kitchen. Based on zoning, only one kitchen is allowed in a residence, but the guest cottage could have a kitchen. Based on the zoning regulations definition of guesthouse, it could not be rented. The property comes with the residence and guesthouse. Council Member Robbins asked if the Council has discretion to not allow a kitchen in the guesthouse. Planning Manager Scoble responded in the affirmative.

Russ Dotter, Architect, stated that the most important element is that this is a family home. They are designing a house for their growing family. They are trying to do something different than a standard house. The main house will be the large space for family gatherings. They widened the road, added a hammerhead and retaining walls. The main house is within the redwood forest and they want to do minimal grading. There will be a bridge going from the main house to the master bedroom in order to add interest. They are very concerned about the house blending in to its environment and have the feeling that it belongs, so they are sighting the house in such a way that it feels good. Originally, they had two guesthouses and realized the one guesthouse would impact the east neighbors so they eliminated that guesthouse and combined them into one guesthouse with two bedrooms and two bathrooms along with a porch. This guesthouse was never intended to be short-term rental. It has always been a place for their children and grandchildren. The applicants are willing to sign an agreement indicating that they will not rent this house and they are willing to do a deed restriction indicating this is not allowed to be a rental.

Mayor Pro Tempore Small understands they are under the 3,500 sq. ft. to have the less restrictive setbacks, but if they wanted to use more of their square-footage it will kick in the more restrictive, larger setbacks, and then they would have to ask for a nonconformity permit. They are tearing everything down, so this is a fresh slate, and she could see no justification for granting a nonconformity permit. Regardless of the slope and square-footage, she believed the applicants limited themselves to this square-footage. If the family grows, it will be difficult for the Council to come back and have the findings to allow a nonconformity permit and allow the additional structures. Architect Dotter responded that the applicants plan on living in this home for the rest of their lives. If all four children are home with grandchildren, they feel this home would work well.

Scott Yarnell, Landscape Architect, created a series of varying sized gathering spaces for the family to hang out. There is a small patio outside of the guesthouse bedroom. The plantings are all native to Marin. They propose additional screening between neighbors.

Mayor Pro Tempore Small opened the public hearing on this item.

Rich Hoertkorn, Lagunitas Road resident, stated that first impressions are everything. He is more aware of the Airbnb phenomenon. This place would generate \$5,000 to \$7,000 per week. There is an attractive nuisance if the Council does not carefully think this through. Airbnb is in over 30,000 cities. It is a way to leverage prime real estate. The Council must be careful with a 30-day rental agreement. It is not monitored or supervised. Currently, there's 13 Airbnb's in Ross. He preferred to keep their neighborhoods prime residential.

Peter Nelson, Circle Drive resident, added that they are trying to promote second units and this is a case by design and illustration there is a reason not to invite second units. He did hear that the applicants would be willing to sign an agreement outlining the restrictions for short-term rental. He felt it would be very important to get a deed restriction on this property.

Katie Hoertkorn, Lagunitas Road resident, pointed out that it is a family retreat and setup very differently than a traditional residential unit. Currently, they have no regulations and if they do have regulations it would require an individual to monitor. She further added that this is a small camp next door to them.

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

Council Member Robbins asked staff if they could put deed restrictions on this property. Town Attorney Greg Stepanicich responded that what is proposed is a condition by the property owner in regard to deed restricting the property. Typically, deed restrictions run with the land. A long-term residential lease of the property would still be a residential use of the property. The concern is turnover of rentals and whether it is being used as a temporary lodging type of place. There is no magic to the 30-days, but he is concerned about going beyond 60-days. He added that this is a judgment call by the Council. Planning Manager Scoble announced that the owner of the property would be willing to do a 60-day condition as opposed to the 30-day.

Town Attorney Stepanicich noted that the Council could add a condition that no kitchen would be allowed in the guesthouse. This would prevent this guesthouse from turning into a separate rental type unit. Planning Manager Scoble added that most communities have a wet bar area, but they could limit it to small cubic footage for the refrigerator, eliminate a stove, but have a small sink.

Council Member Kuhl felt it would be bad government to use this project as a basis for making a policy for short-term rentals. They must be consistent and fair. At the very least, if they put some sort of restriction on this property in regard to rentals, then it should be done to everyone. He had no problem to prevent the introduction of a kitchen in the guesthouse, but as a matter of good government they should not accept any restrictions proposed by the owner in regard to short-term rentals.

Mayor Pro Tempore Small believed restricting short-terms rentals would be difficult. There is a home on Bolinas going for \$1,200 per night and it has great reviews. Some of the smaller homes will be purchased and rented out short-term. It will start to get really problematic for neighbors and the community, but it is a cash cow.

Council Member Kuhl added that it is bad government to address the issue tonight with respect to this one particular property. Mayor Pro Tempore Small noted that this has a compound feel to it. There are several different entertainment areas. She is concerned for the Council trying to develop a short-term rental policy. This will be very difficult. Council Member Kuhl pointed out that it is not fair to start with this property. Planning Manager Scoble noted that it would take 18 months to construct the residence, so staff suggested adding a condition stating, *“prior to issuance of final sign off on the project, that the project returns back to the Council to vet whether or not the deed restriction or prohibition on short-term rentals is required.”* That would give the Council some time to vet this issue. Council Member Kuhl pointed out that whatever the Council ends up doing it would apply to this property and every property in Town. Planning Manager Scoble noted that the project is designed appropriately and the building meets all their findings. The only issue is the short-term rental.

Council Member Robbins wanted a clear prohibition against kitchen facilities, cooking facilities and counter size as discussed. She is comfortable with the deed restriction for now until they have their policy in place.

Council Member Brekhus expressed concern for the screened in porch. This property does feel like a compound and believed they will need more space at a later date, but the owner indicated that is not the case. To put a condition on the kitchen is appropriate along with a restriction on short-term rentals.

Planning Manager Scoble added that the definition for the kitchen could be as follows: *“limited to a wet bar including a small sink, a refrigerator limited to 3.6 cubic feet and 6 linear feet of counter space.”*

Town Attorney Stepanicich provided the following language for the Council’s consideration:

- New Condition No. 5 – Short-term less than 60-days rental residence, which includes the garage and guesthouse as accessory uses is prohibited. Pursuant to the agreement of the applicant who shall record a deed restriction approved by Town Attorney setting forth this condition.
- No cooking facilities will be allowed and any refrigerator shall be limited to 3.6 cubic feet.

Town Manager Joe Chinn asked if a microwave would be included as a cooking facility. Mayor Pro Tempore did not feel it is realistic to prohibit a microwave.

Council Member Kuhl will vote in favor, but still believes this is bad government.

Mayor Pro Tempore Small asked for a motion.

**Council Member Robbins moved and Council Member Brekhus seconded, to adopt Resolution No. 1956 and approve 187 Lagunitas Road, Demolition, Design Review, Hillside Lot, Use Permit and Tree Removal Permit No. 2016-018, with the following conditions: Short-term, less than 60-days rental residence, which includes the garage and guesthouse as accessory uses is prohibited. Pursuant to the agreement of the applicant who shall record a deed**



restriction approved by the Town Attorney setting forth this condition; and no cooking facilities will be allowed and any refrigerator shall be limited to 3.6 cubic feet. Motion carried unanimously. Hoertkorn recused.

*Mayor Hoertkorn resumed her seat at the dais.*

**End of Public Hearings on Planning Projects – Part II.**

**17. Election of Mayor.**

Council Member Brekhus moved and Council Member Kuhl seconded, to appoint Katie Hoertkorn to a second term as Mayor of the Ross Town Council. Motion carried unanimously.

**18. Election of Mayor Pro Tempore.**

Council Member Brekhus moved and Council Member Kuhl seconded, to appoint Elizabeth Robbins as Mayor Pro Tempore of the Ross Town Council. Motion carried unanimously.

**19. No Action Items:**

**a. Council correspondence**

- Gas leaf blower
- Sir Francis Drake safety concerns - speeding over white lines

**b. Future Council items**

- League of California Cities Annual Conference – October 5<sup>th</sup>-7<sup>th</sup> in Long Beach delegate selection

**20. Adjournment.**

Mayor Hoertkorn moved to adjourn the meeting at 10:16 p.m.

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Kathleen Hoertkorn, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk