

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, SEPTEMBER 10, 2020

Held by Teleconference

1. 6:00 p.m. Commencement.

Mayor Julie McMillan, Mayor Pro Tempore Elizabeth Robbins, Council Member Elizabeth Brekhus, Council Member Bill Kircher, Council Member Beach Kuhl; and Town Attorney Benjamin Stock

2. Posting of agenda.

Town Clerk Lopez reported that the agenda was posted according to government requirements.

3. Minutes – August 6, 2020 and August 13, 2020

Town Clerk Lopez announced the following minor correction to the August 6, 2020 minutes:

- Page 2, 6th paragraph, “She urged the Council to ~~for~~ vote for incumbents.”

Mayor McMillan opened the public comment period, and there were no speakers.

Council Member Brekhus moved and Council Member Kuhl seconded, to approve the August 6, 2020 Special Meeting Minutes, as amended. Motion carried unanimously (5-0).

Town Clerk Lopez provided the following minor corrections to the August 13, 2020 minutes:

- Page 3, last paragraph, “Dr. Michael McDowell, Ross School, Superintendent, spoke about the strong advocacy ~~avocation~~ by the....”
- Page 5, added “Mayor McMillan closed the public comment period.”

Mayor McMillan opened the public comment period, and there were no speakers.

Council Member Kuhl and Council Member Brekhus seconded, to approve the August 13, 2020 Meeting Minutes, as amended. Motion carried unanimously (5-0).

4. Demands.

The demands were met.

5. Town Council recognition of Advisory Design Review (ADR) Group Member Dan Winey for his 12 years of service on ADR.

Town Manager Chinn introduced ADR Member Dan Winey and recognized him for his 12 years of service on the ADR. He highlighted Mr. Winey’s dedication and how his architectural contributions have led to Ross’s exquisite characteristics.

Dan Winey thanked the Town Council and the Town Manager and recognized the work of the ADR in balancing the needs of individuals with those of the community through a design standpoint. He has truly enjoyed his participation on the ADR and thanked the Council for their parting gift.

Mayor McMillan and Council Members gave parting comments and thanked Mr. Winey for his 12 years of service while on the ADR to the Town.

6. Town Council recognition of Recreation Administrative Assistant Sue Talmage upon her retirement.

Town Manager Chinn recognized Recreation Administrative Assistant Sue Talmage for her years of service, cited her instrumental involvement with Ross Recreation, service as the Interim Recreation Manager in the transition period to a Town department, and wished her the best in her retirement.

Former Recreation Manager Mike Armstrong thanked Sue her for her efforts and support in transitioning the Ross Recreation program to a Town department. Sue's knowledge, personality, and ability to deal with people have been invaluable to him and he thanked her for being the "glue of the department". He wished her well in retirement and hoped to celebrate her retirement once the pandemic is over.

Mayor McMillan and Councilmembers recognized Ms. Talmage's efforts in the transition from Ross Recreation and voiced appreciation of her professionalism and assistance with the process, cited her dedication, thanked her for being the face of Ross Recreation and for her supervision and leadership efforts.

Sue Talmage said it has been a lot of fun with meeting and working with all of the families and children in Town, and she thanked the Town for their parting gifts. She said it has been a wonderful experience and she hopes that with Gretchen Castets's leadership moving forward and getting through the pandemic, the department and its programs will continue to be successful.

7. Introduction of employee Gretchen Castets, Interim Recreation Manager.

Town Manager Chinn introduced the Town's new Interim Recreation Manager, Gretchen Castets who began in 2016 with the Town and has been critical in the operations of the Recreation Department. Ross Recreation has been severely impacted by the COVID pandemic and Ms. Castets and her team were extremely creative and instrumental in helping it be the special program it is. Ms. Castets' background as a school teacher for 10 years and Head Teacher fits greatly with the team and he welcomed her.

Gretchen Castets spoke of receiving her MBA from Dominican University while working as a pre-school teacher and said it has been a nice transition in bringing things to full circle, with the business side and working with families and children. She cited the challenging times with COVID and fires and thanked Sue Talmage and Manager Armstrong for their mentorship.

Former Recreation Manager Armstrong and Ms. Talmage both thanked Ms. Castets, wished her luck with the position and offered their resources in the future, as needed.

Mayor McMillan and Councilmembers welcomed Ms. Castets to the Town.

8. Open Time for Public Expression - None

9. Mayor's Report

Smoke from a record number of California wildfires continues to blanket our skies. We thank firefighters for quickly controlling the West Marin Woodward fire -- a reminder to be better prepared (learn more at www.firesafemarin.org/preparedness).

Along similar lines, in March Marin voters approved the Marin Wildfire Prevention Authority (MWPA); Ross voters approved this by 73.8%! The MWPA will implement comprehensive wildfire prevention and emergency preparedness throughout almost all of Marin County for the next ten years with:

- Vegetation Management: Reduce fuels and implement cost-effective practices for fuel reduction
- Wildfire Detection and Evacuation: Improve early wildfire detection, warnings, alerts and evacuation routes
- Grants: Provide a local grant program; seek grants and leverage local investments
- Public Education: Provide information to reduce risk, prevent wildfires and prepare for disasters; support FireSafe Marin
- Defensible Space: Expand and enhance defensible space home evaluations
- Local Funding: Provide funding for local wildfire mitigation to its 17 members. Ross will receive approximately \$106,000 this year to be used for defensible space inspections and roadside and parcel vegetation removal.

Since May I have served as Ross' representative on the MWPA Board. The Board has held six startup meetings (along with many other subcommittee meetings), approved a work plan and budget, and next week will announce MWPA's first Executive Officer, who will start October 1.

The MWPA is currently recruiting citizens to serve on the Citizens' Oversight Committee (COC) to ensure that

- MWPA's work plan and funding are accurate and coordinated
- Activities have been appropriately overseen by an independent auditor
- An annual report on the Board's actions is prepared

If you are interested in serving on the COC, please visit marinwildfire.org and apply by the September 23 deadline.

Finally, the MWPA and FireSafe Marin will hold another chipper day in Ross on September 24. To pre-register (required), please visit www.chipperday.com/marin

Please be prepared, stay safe and wear your mask!

10. Council Committee & Liaison Reports

Council Member Brekhus reported that last night at the Ross Valley Fire Board she raised the point that there are yellow and green debris brushing up on Stinson's water coast which was not fire retardant. She also asked and found there was no reduction in support from the federal

government in firefighting efforts, and also requested a future agenda item be considered to review fire insurance.

Mayor McMillan reported on the Sir Francis Drake Boulevard renaming, stating they held a community listening session on June 26th, had a learning session on August 17th which is available on the Marin County Library website and since June, the County has received close to 500 email comments with issues ranging from cost, limited time and resources, and conflicting historical accounts of Sir Francis Drake. The listening session drew over 300 viewers and participants, and the learning session drew about 200 participants on Zoom.

Regarding next steps, the managers from Larkspur, Ross, San Anselmo and Fairfax have formed a working group that is being led by the Larkspur City Manager to research process and other considerations for each of the towns, as well as key questions for business and property owners along Sir Francis Drake. Another working group meeting will be held on October 16th where updates from the managers will be heard.

11. Staff & Community Reports

a. Town Manager

Town Manager Joe Chinn added to the Mayor's comments, stating the Marin Wildfire Prevention Authority's towns and cities are taking many steps to help better prepare the communities for wildfires and make communities safer. One question is how one knows when it is time to evacuate. He spoke of his goal to get 100% of Ross's population to sign up for Alert Marin and the use of the Town's siren during times when communication systems could be down. He stated all police and fire vehicles are installed with high/low sirens and fire and law enforcement are involved in evacuating people. If there is an advanced warning, staff will also use its Townwide email system to alert residents. He asked that everyone be prepared to evacuate and stated FireSafe Marin has great resources which he briefly described.

Regarding public works projects, Bolinas Avenue repaving is almost completed and the Allen Park Tennis Courts resurfacing will start later this month. On the business front, Crown and Crummet opened last week which has a nice back patio and garden area. He recommended everyone patronize downtown businesses and said the Health Orders were amended to allow indoor hair salons and restaurants with outside dining and pickup.

b. Ross Property Owners Association

John Kieckhefer stated the RPOA met on Tuesday, September 8th and set a fundraising record this year thanks to generous members. On the project front, they are excited to be helping with funding the new drinking fountain at Natalie Coffin Greene Park, are actively looking for additional projects, and they spent time at the meeting hearing from members regarding concerns about the creek project. Lastly, they have agreed to incorporate the Ross Auxiliary into the RPOA to help them continue with fundraising efforts and to work side by side in giving back to the Town of Ross.

12. Consent Agenda.

The following items will be considered in a single motion, unless removed from the Consent Agenda:

- a. **Town Council acceptance of FY20 Q4 Investment Report.**
- b. **Town Council acceptance of FY20 Q4 Financial Summary Report.**
- c. **Town Council consideration of adoption of Resolution No. 2178 updating and amending Town of Ross conflict of interest code and rescinding Resolution No. 1964.**
- d. **Town Council consideration of approving a Memorandum of Understanding for the Marin County Pollution Control Infrastructure Project.**
- e. **Town Council authorization of contract change order to L.A. Stevens & Associates, Inc. related to the Laurel Grove Safe Routes to School Pedestrian Pathway Project.**

Mayor McMillan asked for a motion.

Council Member Kuhl moved and Council Member Brekhus seconded, to adopt Consent Agenda Items a, b, c, d and e. Motion carried unanimously (5-0).

End of Consent Agenda.

Administrative Agenda.

- 13. Town Council discussion and consideration of draft comment letter regarding the August 27, 2020 Corte Madera Creek Flood Risk Management Project Environmental Impact Report scoping meeting.**

Public Works Director Rich Simonitch said tonight they are reviewing the Town's response to the Project EIR scoping meeting letter for the upcoming EIR for the Corte Madera Creek Flood Risk Management project Phase I. He spoke about the CEQA process, how the scoping process fits in and reviewed how CEQA defines the project alternatives within the Public Resources Code, which is the main subject of the scoping letter.

He then reviewed the scoping letter and described revisions and possible additions to the letter, as follows:

- The EIR must analyze an alternative that proposes removal of the fish ladder with a nominal transition back to the existing concrete channel, called the "Fish Ladder Only Alternative".
- The EIR should identify all potential CEQA impacts related to replacing the existing park with the proposed flood plain park and several items are listed in the letter they want reviewed such as a grading plan, a landscape plan, a plan showing the walls and pedestrian walkways.

September 10, 2020 Minutes

- Staff wants to see a high level of detail for trees and other landscaping and alignment of the creek before they can make these types of decisions moving forward.
- Part of the analysis should be the 25-year flood risk reduction benefits, comparing existing conditions with proposed conditions for all alternatives in the EIR.
- The EIR should recognize the Town of Ross, staff and Council as both an integrated regulatory agency in the review process for design and construction activities and as a land owner of Frederick Allen Park and other parts of the project area.
- The Planning, Building, Public Works departments should be included in appropriate sections having regulatory jurisdiction within the Town limits and rights-of-way.

Director Simonitch stated staff reviewed CEQA and decided to add another bullet point to cover the introduction of any alternatives, including the “Fish Ladder Only Alternative”. They added:

- The EIR project description, goals and objectives should be written such that that they do not preclude approval of the Fish Ladder Only Alternative for the portions of the project within the Town of Ross.

Regarding next steps, the end of the scoping period which ends on September 21st, the Flood Control District will produce a scoping report listing and responding to all comments received. The District then prepares and publishes a Draft EIR for public comment which will be between now and April 2021 per the District’s schedule.

The District will then hold a public hearing(s) to address public comments on the Draft EIR and the Board of Supervisors acting as the District will vote on certification of a FEIR and approval of the proposed project or alternative, with mitigation and monitoring measures attached, which is scheduled for July 2021. Following certification of the EIR, the approved project will be developed to a level of detail suitable for discretionary design review by the Ross Town Council.

Mayor McMillan asked if the design review includes ADR review, as well.

Patrick Streeter, Planning & Building Director, replied that one of the steps is that it goes before the ADR before the Town Council for action.

Council Member Brekhus said given the removal of trees and implications for shade around the area for people and fish, she asked and confirmed with Director Simonitch to request information be included on the immediate impact of living without shade and then what will be the situation in 5 or 10 years.

Mayor Pro Tempore Robbins asked and confirmed with Director Simonitch that the Town Council will be able to have a specific “Yes” or “No” vote at the discretionary design review process which is proposed to occur sometime during the winter of 2021. The District would need to return with a revised project if the Council voted “No”.

Mayor McMillan asked for a specific timeline of the design review process from a member of the District.

Joanna Dixon, Marin County Flood Control District, stated because they have an expedited construction window for all construction to occur and be completed by the end of the year 2022 they would greatly appreciate the design review process to occur quickly as they have something to submit to the Town of Ross, or hopefully by the end of 2021, if possible. She believes their earliest date for construction to begin on portions of the overall project, and not necessarily the portion in Ross, is expected to occur in early March or April of 2022.

Mayor McMillan opened the public comment period.

Samantha Hobart stated that the District points out concerns for shade with removal of mature trees, however, the root systems of these mature trees are an integral part of flood prevention and protection and removal of them will cause significant damage and increased risk to flooding which she believes is the priority. Therefore, she questioned if the focus should be lack of shade or on the risk of flooding.

Secondly, she cited continual errors in flooding modeling of her home, said the District has removed the homes impacted from originally promised mitigation with the San Anselmo flood project, and also cited errors in the District's presentations to the Board of Supervisors where numbers are off by over \$1 million. While the District has agreed to support her as one of the property owners, they are only mitigating risk for her detached office space and not her small home. Therefore, during a flood event she would need to leave her home and walk through her flooding home to access a space in her detached office.

Lastly, most recently the District hired Harris and Associates to come to her home. During the visit, Carl Walker asked her how she financed the purchase of her property. As a single woman, this is highly unethical and she was personally offended. This type of behavior should not be tolerated from residents and she asked for support from the Town to support its residents.

Garril Page, San Anselmo resident, said the County EIR selected plan is using the Core's EIR Alternative J without the Sir Francis Drake bypass which conveniently removes the most problematic and relevant portions of Ross's Unit 4 from study and comment.

From Station 390, Alternative J collected creek flow and carried it under Sir Francis Drake downstream to Station 368 adjacent to 15 Sir Francis Drake where the bypass culvert re-entered the concrete channel. Alternative J assumed diverted flow for Unit 4 from the end of Sylvan Lane and Sir Francis Drake past the fish ladder for 130 feet into the concrete channel. If the bypass is removed, flood flows remain in the creek and the channel, so she asked why the County consultant is basing this current EIR on a substantially modified project that is irrelevant to the actual conditions in Ross.

Panorama's County agreement states under technical studies, "Contractor will use existing studies and reports to the extent feasible to maximize efficiency." What is not addressed in the review to identify potential gaps in data is increased liability. The EIR/EIS repeatedly states Alternative J increases flooding downstream of Ross. Also missing is function—hydraulics,

hydrology and flood protection. The County wants environmental studies to capture grant money but Ross wants flood control. She asked that Ross ask for an alternative project and not an irrelevant, second-hand EIR, and a new process for a path that gets them there.

John Crane said the Town of Ross will receive very limited benefit from this project and other projects in the County will increase flood waters. His concern is now that Alternative J bypass tunnel has been removed, this project has been piecemealed into smaller sections, which he described. There is a huge gap between Sir Francis Drake Bridge, Lagunitas Bridge, the Post Office and the Fish Ladder. He questioned what would happen to those homes as they are in a repetitive loss situation and thinks the question is whether or not the Town of Ross residents should be expected to fund County projects outside of Ross while taking on maintenance costs and liabilities with no indemnification from the County.

From the fish ladder downstream is a small portion of Ross, so much of Ross is being left out of this, and he personally feels this is an opportunity for the Town Council to be a voice of reason and protect residents from the County's flawed flood plans. In reviewing the minutes from December 14, 2017 where the County says the stakeholder (Ross) has considerable power over the design review, he asked the Council to exercise this. He also asked for full disclosure from the County and to have the time to process that information to make an informed decision.

Leslie O'Connell brought up the issue of the Ross water outside the creek that was a source of flooding in some areas of the town which is not addressed in this project. The Army Corps acknowledged it was a problem a couple of years ago in the EIR, but they did not arrive at details on how to address it. She mentioned it at one of the recent public workshops that were hosted by the consultant and County, and there was no response. It is a problem now, and if they construct flood walls they will trap that water behind the walls creating worse flooding or overflow water if this design is incorrect which will also be trapped behind the walls.

Charlie Goodman echoed comments of Ms. Page and Mr. Crane and said where he lives at the confluence of Sylvan Lane and Corte Madera Creek he is completely left out of the project. In fact, when he commented on it, Liz Lewis indicated they were only taking comments about this portion of the project which was the fish ladder and downstream of the concrete channel.

At the July meeting, Council Member Kuhl asked specifically to Ms. Lewis whether the target is to provide 25-year protection. He played the recording back and her comment was, "Yeah, we're looking at anything from a range from a 10-year event to what they would like to have as a 25-year flow event." He noted that this is way below what the Town has been "sold" on this project. They have super-critical flow through that portion of the concrete channel and he does not understand why the Town would want to accept the liability and harm their residents.

Further, there is not an ability to obtain any information from the County on how they will remove the sediment basin. He spoke in April 2019 about the number of truckloads that would have to be removed based on the calculations. But, when asking the County about it, they do not have any calculations. He recommended the Council stop this process because it is wrong and said the County is not looking properly at this EIR with Alternative J. He asked to tell the

County that Ross wants to see a project that is removing the fish ladder and tying it into the concrete channel. He knows it can be done and said he sent the study done in April 2019 which was done by Mike Love out of Arcadia, California. The study was done for the Friends of Corte Madera Creek.

Mayor McMillan closed the public comment period.

Mayor McMillan asked Director Simonitch to display the bullet point added and the sentence he modified changing the "should" to a "must". She believes the Council must have this in the letter to require the County to review it as an alternative. She hoped to achieve consensus from all Council Members that this statement with "must" should be in the letter and took a straw poll, and said assuming the other points are not as critical as this first point, she suggested not going through each of the other points.

All Council Members concurred they were in agreement with the modified language to change "should" to "must".

Mayor McMillan then asked if there were comments on other bullet points.

Council Member Kuhl said he thinks the Council should request that the draft EIR indicate what the effect will be on those homes particularly on Sylvan Lane. This is a major change from what was being proposed when the Army Corps of Engineers was involved with drafting the EIR/EIS.

A major cause of the flooding was the streambed at Sylvan Lane and down to the Lagunitas Bridge where water got out of the creek because existing conditions were not sufficient to handle the amount of water. He requested the letter ask for exactly what the effect will be, where Sylvan Lane is left if they just remove the fish ladders, and whether there will be any improvement at all if nothing is done other than changing the contour of the park and the fish ladder removal.

Council Member Kuhl also wants to know whether or not the Winship Bridge project and the San Anselmo project will have any effect on what happens in Ross and, if so, what that effect will be so the Town has an overall picture of exactly what they will gain under each of the proposed alternatives. Otherwise, the draft EIR is going to be meaningless and will not help the Council in its decision making.

Finally, he referred to Samantha Hobart's point about the issue of maintenance and indemnity and asked that a statement be in the EIR about who will pay for maintenance and indemnity because this is a potential major expense and exposure to the Town.

Council Member Kircher asked for the following comments:

1. That the letter should also ask for specific information on those trees being removed and their location;
2. Echoing Council Member Kuhl's comments about the impact of projects that are currently underway, he would like to see any comparison between existing conditions and flood reduction alternatives such as removing the fish ladder only and completing the entire

- project as proposed taking into account these upstream projects, which will likely increase the amount of water flowing into Ross.
3. He said that the proposed letter is not that specific in terms of what the town is looking for and said that he would hate to go through this whole process only to receive answers that are not specific enough to be useful in terms of making decisions on the project. He would like to see a detailed and well-supported comparison of the alternatives.
 4. His understanding thus far is that reconfiguring of the creek bed beyond removal of the fish ladder may contribute to flood risk reduction but it is a minor contribution and more detail is needed to perform a cost-benefit analysis.
 5. He referred to the portion of the proposed letter which on page two states that the EIR should illustrate the comparison of the flood risk reduction benefits under both existing and proposed project conditions for all alternatives. He stated that it is not just existing conditions, but those that will exist in a year or two when the Winship Bridge is rebuilt and San Anselmo completes its project that should be included in the comparison. He also suggested that the comparison not be limited to 25-year flood risk reduction benefits, but also ten and perhaps five year benefits, which could all be very different.
 6. In echoing sediment comments of Mr. Goodman, there will be sediments that get deposited in the expanded creek bed area. It remains to be determined and negotiated who is responsible for removing it to the extent it needs to be removed. Therefore, the town needs to know how much sediment will be left there when the waters rise up in the new basin that will be created, as well as organic materials and other things that need to be removed; and
 7. Hydrology is an engineering type science, but his understanding is that it is uncertain and depends on many factors. He would like feedback on how reliable the estimates are, given there is always a margin of error in any prediction.
- Mayor Pro Tempore Robbins said she thinks staff's additions with the word "must" and other comments are very helpful. Since this is an environmental impact she was unsure if the impact on the whole area has been totally addressed if the Allen Park element is done, removing all of the trees. Right now, the park area and channel are lush and if the Allen Park element goes through, they will have a widened creek bed without trees which requires flood walls on both sides so trees cannot be planted within 15 feet. It is also an aesthetic issue if they were to replace Allen Park with this widened creek bed. She also agrees with Council Member Kuhl and Kircher's concerns.

Council Member Brekhus said she thinks Council Member Kuhl and Kircher's comments were excellent and would expand it to not only Sylvan Way but Sir Francis Drake at certain points where it floods, as well, and an explanation should be provided for this. Her only other comment was to get an idea about what the trees will be like at the time of removal and as things progress.

Mayor McMillan said she has nothing else to add to the excellent comments. Process-wise, she is hoping that staff has enough flavor of the comments discussed so the Council can direct them to modify the letter and move forward. She asked and confirmed the deadline for comments was September 21st.

Council Member Kuhl voiced support of authorizing staff to add to the letter to add comments voiced.

Mayor McMillan said she thinks the sentence Council Member Kircher focused on could add to the sentence on page 2.

Mayor McMillan recognized there was consensus to direct staff to modify the letter based upon all comments made tonight and move forward and to move to approve the letter to incorporate comments made tonight at the meeting.

Mayor McMillan asked for a motion.

Council Member Kuhl moved and Mayor Pro Tempore Robbins seconded, to approve the draft comment letter regarding the August 27, 2020 Corte Madera Creek Flood Risk Management Project EIR Scoping Meeting and to incorporate comments made. Motion carried unanimously (5-0).

Mayor Pro Tempore Robbins stated the Council is asking for a lot of information and also to investigate an alternative. She asked when this would be presented.

Director Simonitch stated the Council will receive a scoping report from the County which hopefully will provide a satisfactory response to their letter and requests, and they should receive the official response sometime in October.

Town Attorney Ben Stock said he thinks the other question is when the Council will see the other alternative, and that would be after release of the Draft EIR.

Council Member Kuhl stated the EIR had listed a dozen or so alternatives and he presumed the County's EIR would list the alternatives and provide information on what would occur under each of them.

Director Simonitch said according to the County's schedule, they would expect the Draft EIR by April 2021.

Mayor Pro Tempore Robbins questioned the overall alternative process, and Council Member Kuhl stated tonight they are just drafting a letter, and Councilmembers agreed.

14. Town Manager update and Council discussion on Town activities in response to COVID-19.

Town Manager Chinn reported the State recently changed the system that all counties are under -the Tier System. Marin County was initially placed in the purple which is Tier 1 which has the most restrictions. The new State system will dictate the types of businesses that can open and when. In the past it was more County-driven than the new Tier system. With this system, once the State sees you move into another tier, this dictates the types of businesses that can be open, which he briefly described.

He reported being notified by Ross School that they are looking to bring students back next week in small groups and with the Council's resolution, starting September 15th, the Common will no longer allow dogs so they can support the school in building a learning environment outdoors on the north side of the Common and some section of the sidewalk by the blacktop, dependent upon air quality. Their plan is to start school and bring back everyone on campus by the week of September 29th, which could also change.

Mayor Pro Tempore Robbins said she understands the school's need of keeping from people wandering through and suggested a map of this be posted at the post office. Now that dogs are not allowed on the Common she confirmed they are not prohibited from the grassy area across from the Common by the post office.

Mr. Chinn commented that before the school starts, the School will be putting up messages on sidewalks leading into the School area that the public is prohibited from entering during school hours. They will see how that works.

End of Administrative Agenda.

Public Hearings on Planning Projects.

The Town Council, sitting as the Planning Commission, will consider the following application:

15. 400 Upper Toyon Road, Annexation Rezoning and General Plan Amendment, and Planning Commission consideration of adoption of Resolution No. 2179.

Raphael De Balmann, 400 Upper Toyon Drive

Project Summary: The applicant is requesting that zoning and a General Plan land use designation be applied to Assessor's Parcel Nos. 012-121-28, -22, -05, and -04, which on August 8, 2019, were detached from the City of San Rafael and annexed into the Town of Ross by Marin County Local Agency Formation Commission. Planning staff has recommended that the parcels be rezoned Single Family Residential with a Five Acre Minimum Lot Size (R-1:B-5A) and that the parcels be assigned a Ross General Plan land use designation of Very Low Density (.1 – 1 unit/acre). No new development is being proposed.

Patrick Streeter, Planning and Building Director, presented the staff report and PowerPoint presentation for the item and recommended approval and adoption of Resolution No. 2179.

Mayor McMillan asked and confirmed there were no questions from Council Members.

Mayor McMillan opened the public comment period, and there were no speakers.

Mayor McMillan asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Robbins seconded, to approve the 400 Upper Toyon Road Annexation Rezoning and General Plan Amendment and adopt Resolution No. 2179. Motion carried unanimously (5-0).

The Town Council will return to sitting as the Town Council.

16. 33 Bolinas Avenue, Design Review, Nonconformity Permit and Variance, and Town Council consideration of adoption of Resolution No. 2180.

Libby Tracy, 33 Bolinas Avenue, A.P. No. 073-051-10, R-1, M (Medium Density), AE (Areas subject to inundation by the 1-percent-annual-chance flood event).

Project Summary: The applicant is requesting approval to elevate the existing two-story single-family residence 5 feet above its existing elevation in its current location. The project would involve creating a new enclosed crawlspace under the house; constructing a new covered entry porch and main entrance; replacing and reconfiguring the rear decks; replacing windows and altering fenestration; and installing new front yard fences, gates, and landscaping. The project would increase the building height from 24'-3" to 29'-3". A Variance is required to construct a new entry porch that encroaches into the front yard setback. A Nonconformity Permit is required to increase the existing nonconforming lot coverage and to increase the height of a structure with existing nonconforming setbacks. Design Review is required for a project that increases an existing roof height.

Matthew Weintraub, Planner, presented the staff report and overview of the requests to elevate the two story single-family residence, creating a new enclosed crawlspace under the house, and approval of various building, architectural and landscape improvements to the residence which will require a nonconformity permit to increase lot coverage and height of the existing structure with nonconforming setbacks, and design review for the increased roof height.

The ADR recommended approval subject to design revisions related to architectural elevations, privacy and landscape improvements, which have been implemented by the applicant, and staff recommends the final design is consistent with the ADR's recommendations. No public comments have been received and Attachment 4 includes the neighborhood outreach.

Key issues for the Council to consider include:

1. Approval of encroachment of the front porch steps into the front yard by 2.5 feet;
2. Regarding the rear deck railing design options, staff recommends both design options comply with design review. Options available would be to include adopting both designs with the plans or approve the project with one of the designs;
3. Regarding privacy for adjacent properties, there is currently no additional landscaping proposed at the side or rear. Condition of approval #6 is standard and would allow for additional landscape screening to be implemented within 3 years if determined by Council with recommendation by staff and input by neighbors;
4. Regarding the bomb shelter structure, as a best practice measure staff recommends Condition of approval #11 which is a project-specific condition to prepare a documentation report per National Parks Service standards prior to further altering the

structure. Staff recommends this as the only measure that would be needed in order to properly document the structure before taking action to remove the entrance and seal it over.

Council Member Brekhus asked if the desire was to put the clear decking in the back on the lower level. She also was unsure of what was being requested regarding the bomb shelter.

Mr. Weintraub explained that he believes the architect may have been referring to glass doors on the first story which are proposed, but the rear elevation plans do not contain a glass panel rail at the first story as proposed at the second story.

With respect to the bomb shelter, the condition recommends a historic structures report be prepared. This is not to say the bomb shelter qualifies as a historic structure, but it is a format recommended by the National Parks Service when one has an anachronistic structure that should be documented for posterity before any further changes are made.

Council Member Brekhus asked and confirmed such a report can be prepared for approximately \$2,000 if contracted with an architectural historian and that staff may also have in-house resources to prepare such a report.

Council Member Brekhus pointed to Sheet A-2.2 which shows the railing in the bottom which is depicted as different from the top and she noted she was supportive of this.

Mr. Weintraub referred to Sheets A-2.2 and A-2.5 and said this would represent the side elevations that would show the railing also at the first level, and this does not change staff's recommendation.

Mayor Pro Tempore Robbins asked about the importance of the report for the bomb shelter.

Mr. Weintraub stated the report is an important component to members of the community, particularly those interested in the Town's historical development patterns. He spoke about a Caltrans document that relates to construction of Cold War era bomb shelters and fallout shelters and said there is quite a bit of interest in the subject.

Mayor McMillan asked if there was any other project in town with a similar historic structure and requirement for a report, and Mr. Weintraub said he was unsure.

Council Member Kuhl commented that there was a bomb shelter in Mrs. Buck's house which is now the Pritzker property on Glenwood.

Mr. Weintraub added that when encountered, the bomb shelters are often demolished quickly so there is one chance to provide documentation. Staff is making the recommendation; however, it is not critical to the project itself.

Libby Tracy, applicant, spoke about their time living in the house for 23 years and raised their kids in it. They flooded in the 2005/06 flood with 4 feet of water in the house, spoke of their

experience in finding mold throughout every room of the house. They have been out of the house since February which led to this entire remodel and lifting of the house which will remove all the mold. They love living in Ross and want to stay there but must do the work.

Andy Rodgers, architect, apologized for the misunderstanding about the rear guardrail situation and clarified those on the first floor would only show up in the side elevations and not the rear elevations. They would prefer they be the same as what will be on the second level for a nice visual connection.

He then explained that the original plan for the bomb shelter was to fill it in. When he went down and looked at it there was 4 feet of water in it. Structurally, it was determined there was no need to fill it in. The only need for the current project would be to remove the concrete entry above grade so parking can occur. So, the entire shelter could be left intact should anyone wish to do anything with it in the future.

Regarding documenting what is there now, they would agree to pump out the standing water and do further documentation, including taking measurements and photos about what exists before covering it over.

Mayor McMillan opened the public comment period, and there were no speakers. She returned the matter to the Council for discussion.

Council Member Brekhus said this looks like a nice project that will result in a great, usable home. She supported the glass panel on the back and voiced concerns about the cost of documentation for the bomb shelter.

Mayor Pro Tempore Robbins echoed her reservations about the cost and requiring a report for the bomb shelter. Regarding the variance for the front porch steps, it is already non-conforming and when raising a house out of the flood plain a landing and steps are needed. Therefore, she thinks the variance is justified.

Mayor McMillan clarified the variance is for two steps encroaching into the front yard.

Mayor Pro Tempore Robbins said she also agrees that the report is costly and voiced support of the glass railings.

Council Member Kircher said he was reluctant to require the report for a family that suffered through the 2005 flood, plus mold.

Council Member Kuhl referred to the railing and reminded the Council that he and Council Member Brekhus and Robbins were on the Council when this design feature was approved in connection with prior changes to this house in 2015/16.

Mayor McMillan said she was also opposed to making the applicant have the report done and voiced support of the glass railings.

Mayor McMillan asked for a motion.

Council Member Kuhl moved and Mayor Pro Tempore Robbins seconded, to approve 33 Bolinas Avenue, Design Review, Nonconformity Permit and Variance, and adopt Resolution No. 2180, as amended to allow the glass railings and allowing the applicant to decide whether or not to have a historic report prepared for the bomb shelter. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects.

17. No Action Items:

- a. **Council correspondence:** Mayor McMillan stated she heard from a resident on Ivy, which is a private road, requesting an examination of road impact fees and whether they can be used for private roads and also requesting street cleaning be done on private roads.
- b. **Future Council items:** None.

18. Open time for matters pertaining to the Closed Session item in Agenda item 19 – None.

19. Closed Session.

Public Employee Performance Evaluation (Pursuant to Government Code section 54957)

Title: Town Manager

The Town Council took a recess at 8:33 p.m. and went into Closed Session.

20. Announcement of Closed Session Action.

The Council returned to Open Session at 9:12 p.m. and announced there was no reportable action taken in Closed Session.

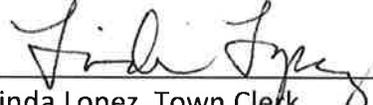
21. Adjournment.

Mayor McMillan adjourned the meeting at 9:12 p.m.



Julie McMillan, Mayor

ATTEST:



Linda Lopez, Town Clerk