

**REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, MAY 14, 2020**

1. 6:00 p.m. Commencement.

Mayor Julie McMillan, Mayor Pro Tempore Elizabeth Robbins, Council Member Elizabeth Brekhus, Council Member Bill Kircher, Jr., 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.

Mayor McMillan announced Agenda Item Nos. 10e and 12 will be continued to the June 18, 2020 Regular Town Council meeting. She asked for any public comments, and there were none.

Mayor Pro Tempore Robbins moved to continue Item Nos. 10e and 12 to the June 18, 2020 Town Council meeting. Motion carried unanimously (5-0).

3. Town Council recognition of Elizabeth Brekhus for her service as Mayor.

Mayor McMillan announced at the April Town Council meeting, Elizabeth Brekhus completed her term as Mayor of the Town of Ross. This marks Elizabeth's second term as Mayor, and we owe her a huge debt of gratitude. In her latest term as our Mayor, Elizabeth presided over 12 Town Council regular and special meetings, along with and countless other informal meetings. She led the Town's Finance Committee. She continues to serve as the President of the Marin County Council of Mayors and Councilmembers and on the Board of the Ross Valley Fire Department.

Beyond the large number of meetings and huge time commitment, Elizabeth has done an excellent job as Mayor, thoughtfully guiding us to protect our Town. We thank her immensely for her dedicated service, and we are truly delighted that in March she was reelected for four more years to the Town Council.

Council Members individually provided remarks on her service as Mayor, and Council Member Brekhus thanked Council Members and said she looks forward to the upcoming four years.

4. Minutes – April 16, 2020 Regular Meeting.

Council Member Kircher requested the following minor corrections:

- On page 11, he referenced he had received email correspondence from a neighbor which should have been stated as correspondence to the Council. In addition, the neighbor is a female and not a male, and he asked that "he" be corrected to "she".

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

Council Member Kuhl moved and Council Member Brekhus seconded, to approve the April 16, 2020 Regular Meeting Minutes, as amended. Motion carried unanimously (5-0).

5. Demands.

The demands were met.

6. Open Time for Public Expression.

There were no speakers.

7. Mayor's Report

We all continue to navigate as best we can the COVID-19 shelter in place order, and try to grapple with the pandemic's other immense implications. A few weeks ago some of the restrictions were modified, and we are glad that construction and landscaping services have resumed. We are grateful that our restaurants continue to provide delicious take out service. We are hopeful that other restrictions may be safely lifted soon and that we can begin to return to what will undoubtedly be 'a new normal.' Thank you Ross citizens for following the shelter in place order and helping our county flatten the curve.

I'd also like to recognize and thank every member of our Town Staff for their creativity, flexibility and dedication in addressing this emergency. Under Town Manager Joe Chinn's leadership and round the clock work, our Town has responded to a very challenging situation in a seamless manner.

At tonight's meeting, we are confirming appointments of many Town residents to serve on various committees. Thank you to our volunteers for your service to our Town: Gil Fleitas (Ross Ready); Chris Martin (Flood Zone 9 Advisory Committee), Teri Dowling (Marin County Commission on Aging), Tom Gaffney (Marin Emergency Radio Authority), Monique Predovich (Mosquito Abatement), and Brian Salmen and Sally Secor (Ross Valley Paramedic Authority). I'd also like to thank Police Chief Masterson and Tallie Fishbourne for coordinating the many Town volunteers who are assisting those residents who need a little help during this emergency. (If you need help please email Chief Masterson at: emasterson@townofross.org. We are very fortunate to have so many who work to support our special community!

I hope you've had a chance to appreciate the beautiful flower baskets around town. These are provided and maintained by the Ross Property Owner's Association, and we thank them for all they do to keep our Town looking good. (If you'd like to help support these and other efforts, please join or renew your RPOA membership by visiting RPOA's newly designed website: www.RossPropertyOwners.com.)

Finally, it's hard to believe that fire season in Marin already began on May 1. Please spend a little time now getting your home, yard and family ready. There are some easy tasks to do in only 3 days that can be found in today's Morning After, thanks to FireSafe Marin. For more information and tips about fire preparation, please visit firesafemarin.org.

8. Council Committee & Liaison Reports.

Council Member Brekhus reported MCCMC convened this month and discussed creating an ad-hoc committee to deal with COVID economic recovery, with representation from each town/city. Mayor Pro Tempore Robbins has been appointed, and work will focus on ways to improve the economy. The next MCCMC meeting will feature Congressman Jared Huffman to speak as well as ABAG items proposed for action.

Mayor Pro Tempore reported the Economic Recovery Committee has met twice with a general focus to find ways for the county and cities/towns to recover, and the County has established www.marinrecovers wherein further information can be obtained.

Council Member Brekhus referred to previous discussion about recovery for businesses and spoke briefly about use of City rights-of-way space and rooftop decks.

9. Staff & Community Reports.

a. Town Manager

Town Manager Joe Chinn reiterated the need for people to continue to support Ross's restaurants' take-out and pick-up services. He reported the Corte Madera Creek Flood Control Project kick-off was held yesterday. The project will be on a fast-track in the hopes of construction being completed by 2022 and a public meeting will be scheduled for June or July. Additionally, wildfire season is approaching and the Marin Wildfire JPA operations committee is hard at work, and has formed five subcommittees. The Board will meet for its first meeting on May 21, 2020, with the Mayor serving as the Town's Board representative.

b. Ross Property Owners Association.

Iris Winey, RPOA representative, reported: 1) RPOA has a new website at www.rosspropertyowners.com and she recognized Marcia Skall who spearheaded this project. Membership can now be paid for on-line as well as by mail; 2) RPOA is in the midst of their member drive and will be sending out reminder emails and postcards; 3) RPOA will be donating to the purchase of drinking fountains in Natalie Coffin Park and on the Common and hopes to have them installed by next year; 4) Spring banners went up and they will have three new Fourth of July banners made for the new light poles. Additional banners will be made for spring, fall and winter by students at Ross School prior to COVID-19 breakout, and hope to be able to continue with this project in the fall; and 5) In addition to flower baskets, two additional flower planter boxes are planned to be added in coming weeks for color in front of the Post Office.

10. Consent Agenda.

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

a. Town Council acceptance of FY20 Q3 Investment Report.

b. Town Council acceptance of FY20 Q3 Financial Summary Report.

c. Town Council consideration of adoption of Ordinance No. 706, an Ordinance of the Town of Ross, repealing Chapter 5.26 "Telecommunications" of the Ross Municipal Code to Terminate the Marin Telecommunications Agency (MTA).

d. Town Council selection of members to Town Council Committees and Town Representatives for FY 2020-21.

- e. (This item was continued to the June 18 2020 Town Council meeting.) Town Council consideration of adoption of Resolution No. 2155 authorizing renewal of a three-year Cooperation Agreement with the County of Marin for the Community Development Block Grant (CDBG) and Home Programs.**

Mayor McMillan asked for a motion.

Mayor Pro Tempore Robbins moved and Council Member Brekhus seconded, to adopt Consent Agenda Items a, b, c, and d, as submitted. Motion carried unanimously (5-0).

End of Consent Agenda.

Administrative Agenda.

- 11. Town Council consideration of adoption of Resolution No. 2159 Ratifying Ross Emergency Order No. 1-2020 Allowing Time Limit Extensions for Projects Delayed by the Marin County COVID-19 Shelter in Place Orders.**

Town Manager Chinn said the item before the Council relates to adoption of a resolution to allow time limit extensions for projects delayed by Marin County COVID-19 shelter in place orders. He spoke about the series of orders relating to building, with the most recent order on May 29th, wherein construction was allowed to continue for all projects. The Emergency Order No. 1-2020 extends the time limits from full-time on March 17th through May 4th which was 48 days, and 30 days is proposed to be added.

Council Member Brekhus explained that she had previously recused herself at the prior meeting but has completed her construction project. She questioned whether 30 days was sufficient.

Mr. Chinn explained the 78 days are automatic, and the Town's Building Official may grant a further extension past the automatic 30-day extension if the Building Official determines the delay caused by the shelter order was greater than the additional automatic extension.

Council Members Brekhus and Mayor Pro Tempore Robbins discussed impacts to those with construction projects, standards to show proof for extensions, the Building Official's authorization, suggestions to propose 45 to 60 days versus 30 days for the extension or language in the resolution to state "The Town can offer further extensions for COVID-related delays beyond 30 days", the Town Attorney's comments regarding the appeal process and goal of the emergency ordinance to give the Building Official tools to provide grounds for extensions under Section 15.50.080, and fees, and potential waiver of fees by the Council.

Mayor Pro Tempore Robbins moved and Council Member Brekhus seconded, to adopt Resolution No. 2159 as amended to 60 days and to add that appeals related to COVID-19 will not be charged by the Town.

Council Member Kuhl opposed the amended proposal because the Building Official is authorized to grant far more than 30 days if deemed necessary as well as concerns relating to waiver of fees.

Mayor McMillan opened the public comment period.

Bob Dickinson, 41 Glenwood Avenue, voiced appreciation of the spirit of the deliberation; however, new construction was stopped by the Governor's Order and he questioned whether the proposed amendment opens up an infinite window for people to extend their projects. He suggested limiting the extension to the amount of time allowed from the time construction was to stop due and to abide by State regulations.

Council Member Brekhus commented on the impact of fines and Council Member Kuhl indicated people will decide the amount to appeal is or is not worth it, and again voiced concerns about waiver of fees and fairness issues.

Mayor McMillan asked for a vote on the amended motion and second.

Mayor Pro Tempore Robbins moved and Council Member Brekhus seconded, to adopt Resolution No. 2159 Ratifying Ross Emergency Order No. 1-2020 Allowing Time Limit Extensions for Projects Delayed by the Marin County COVID-19 Shelter in Place Orders, as amended to 60 days and to add that appeals related to COVID-19 will not be charged by the Town. Motion failed by roll call vote: Ayes: Brekhus, Robbins; Noes: Kircher, Kuhl, McMillan (2-3).

Council Member Kuhl moved and Council Member Kircher seconded, to adopt Resolution No. 2159 Ratifying Ross Emergency Order No. 1-2020 Allowing Time Limit Extensions for Projects Delayed by the Marin County COVID-19 Shelter in Place Orders. Motion carried by roll call vote: Ayes: Kircher, Kuhl, McMillan; Noes: Brekhus, Robbins (3-2).

12. Town Council consideration of adoption of Resolution No. 2156 for the summary vacation of an irrevocable offer of dedication for a 40 foot public road right of way over APN 072-101-026 (100 Winding Way) in the Town of Ross.

This item was continued to the June 18, 2020 Town Council meeting.

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

Mr. Chinn announced the Town is now in the 9th week of the shelter in place order and people and entities are learning to adjust. He gave the following update:

- The curve has flattened in Marin County and there have been 15-25 new cases each week.
- There are currently 3 people in Marin County hospitals and they are grateful for what residents and businesses have been doing to keep Ross safe.
- They continue to monitor the State's orders, are anticipating the orders will gradually open up different activities over time with the goal of opening up while keeping the community safe.
- The most recent order effective May 4th allows all construction projects to proceed and real estate transactions to resume more normally, and certain outdoor businesses such as nurseries, landscapers and gardeners are allowed to continue.
- It is anticipated a new order will come out tomorrow to be effective May 18th and this may allow curbside retail and related manufacturing and warehouse operations to open for business.

- Marin County has added new additional testing sites and locations.
- He reminded Ross residents to patron restaurants for take-out and pick-up.
- While Town offices are closed, all employees are available by phone and email providing for all operations except for recreation, wherein classes are on-line. Staff is working on subgroups and next steps.
- Town Council meetings are held virtually, and ADR will hold their first virtual meeting next Thursday.

Council Member Brekhus asked and confirmed with Planning and Building Director Patrick Streeter that plans will be available on-line for ADR items, similar to Town Council reports.

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

End of Administrative Agenda.

Council Member Kuhl recused himself from participating in Item 14 due to the proximity of his residence (within 500 feet of the project), and he left the teleconference.

Public Hearings on Planning Projects.

14. 4 Willow Hill Road, Permit No. DRP20-0002, Design Review and Nonconformity Permit, and Town Council consideration of adoption of Resolution No. 2157.

Jack Coan & Martha Delgado, 4 Willow Hill Road, A.P. No. 073-252-14, Northern Portion of Lot: Single Family Residence/Special Building Site, 1-Acre Minimum Lot Size (R-1:B-A), Southern Portion of Lot: Single Family Residence/Special Building Site, 5-Acre Minimum Lot Size (R-1:B-5A), Very Low Density – 0.1-1 Unit/Acre (VL), Flood Zone: X (Minimal risk area outside the 1% and 0.2%-annual-chance floodplains).

Project Description: The applicant is requesting approval of a proposed upper-story addition to the existing legal nonconforming residence and the installation of a new entry gate at 4 Willow Hill Road. A Nonconformity Permit is requested in order to allow for the existing residence which is nonconforming with regards to maximum allowed building height and minimum required yard setbacks to be enlarged, extended, and structurally altered, without increasing the square feet of nonconforming floor area. Design Review is requested in order to allow for an addition exceeding 200 square feet of new floor area and a new gate greater than 48 inches in height in a yard adjacent to the street or right-of-way.

Planner Matthew Weintraub gave a comprehensive overview of the project at 4 Willow Hill Road. He described previous variances approved in 2000 and 2003, the request for design review and nonconformity permit and the proposed extension to the home. The ADR Group reviewed the project on February 25th and supported the project with minor recommendations which the applicant has addressed.

The key issue to consider is the nonconforming building height. While the building height would not increase, the project would extend the legal nonconforming third story within the existing

building footprint. It would be stepped back from the second story and would conform to all other aspects of the code including floor area, lot coverage and setback requirements. Regarding design review, the height, mass and bulk are compatible with the neighborhood as well as consistent roof lines, materials and colors. Neighborhood outreach was conducted by the applicant as outlined in Attachment 6 and staff received no comments. Staff recommends adoption of Resolution No. 2157, conditionally approving the nonconformity permit and design review.

Charles Theobald, architect, thanked Mr. Weintraub for his presentation of the project.

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

Mayor Pro Tempore Robbins voiced support, given there were inconsequential nonconformity permit impacts.

Mayor McMillan asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Robbins seconded, to adopt Resolution No. 2157. Motion carried (4-0-1) (Kuhl recused).

Council Member Kuhl resumed participation in the teleconference meeting.

15. 49 Glenwood Avenue, Permit No. NCP19-0007, Design Review and Nonconformity Permit, and Town Council consideration of adoption of Resolution No. 2158.

Miguel & Briana Zelaya, 49 Glenwood Avenue, A.P. No. 073-071-05, Single Family Residence/Special Building Site, 1-Acre Minimum Lot Size (R-1:B-A), Very Low Density – 0.1-1 Unit/Acre (VL), Flood Zone: X (Minimal risk area outside the 1% and 0.2%-annual-chance floodplains).

Project Description: The applicant is requesting approval of a proposed rear addition to the existing legal nonconforming residence, relocation/reconstruction of an existing legal nonconforming accessory structure, and redevelopment of the area around an existing pool including the removal of two existing accessory structures, new pool deck, new fencing and retaining walls, and new partial driveway and uncovered vehicular parking area at 49 Glenwood Avenue. A Nonconformity Permit is requested in order to allow for the existing residence and accessory structure which are nonconforming with regards to maximum allowed floor area and minimum required side and rear yard setbacks to be enlarged, extended, reconstructed and structurally altered, without increasing the square feet of nonconforming floor area. Design Review is requested in order to allow for additions exceeding a total of 200 square feet of new floor area, the relocation/reconstruction of an accessory structure, and grading (excavation) of more than 50 cubic yards.

Planner Matthew Weintraub gave a comprehensive overview of the project at 49 Glenwood Avenue and described the nonconforming floor area and building height and setbacks, previous

variance approvals, and current project description including rear addition, window and door changes, relocating an existing rear yard accessory building, existing pool area renovation, and rehabilitating the entire front of the property. The project includes colors and materials to match the existing structure, reduction of impervious surfaces, and landscape screening for additional privacy. The ADR Group reviewed the project on February 25th and supported the project with minor recommendations which the applicant has addressed. Regarding design review, the height, mass and bulk, rooflines, materials and colors are compatible with the neighborhood and landscape rehabilitation includes front and side screening.

Key considerations include: 1) nonconforming setbacks, as the project would add new floor area within the existing building envelope; and 2) relocation of an accessory building while maintaining the existing minimum north side yard setback on the lot, reducing non-conforming FAR to 17.6% to 16.4% partially through removal of the existing pool buildings and interior spaces at the residence.

Neighborhood outreach was conducted as identified in Attachment 6 as well as additional outreach conducted identified in the updated report. Staff has not received any comments and recommends approval adoption of Resolution No. 2158, conditionally approving the nonconformity permit and design review.

Council Member Kuhl voiced concerns with the insufficient setback of the gate from the road.

Stewart Summers, architect, agreed the existing gate provides very little queuing spaces off of Glenwood Avenue and said it is not proposed as part of this project and is proposed to remain. He added that when the project was initially proposed, the Public Works Director asked if the gate was being changed and when told no, he indicated there was no requirement of the Town to make the applicant move it.

Mayor Pro Tempore Robbins asked and Mr. Weintraub described the review and decision-making process undertaken by the Fire Department and Public Works Director wherein new gates less than 18 feet from the street right-of-way can be reviewed and approved.

Mayor Pro Tempore Robbins voiced support of the existing conditions, noting that the entire front yard fencing would need to be revised, as well.

Mr. Summers thanked the Town Council for holding the meeting in order for projects to move forward. He commended Town staff for their responsiveness and for Council Members for visiting the site and said he was available to answer questions. Miguel Zelaya, applicant, echoed comments of Mr. Summers and said they would like to move things forward on the project.

Mayor McMillan opened the public comment period.

Robert Dickinson, 41 Glenwood Avenue, voiced his complete support of the project and said Mr. Zelaya has been transparent, communicative of their plans, were amenable to suggestions by the

ADR, and the applicant has assured them they will adhere to the guidelines developed by Glenwood neighbors.

Mayor McMillan asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Robbins seconded, to adopt the Resolution No. 2158. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects.

16. No Action Items:

a. Council correspondence:

Mayor McMillan announced her attendance at the inaugural Marin Wildfire Prevention JPA meeting on May 21st; and she and the Town Manager will be meeting on May 27th with Chris Mazola and Board President Claudia Lewis regarding the Branson use permit, and the Council will be updated as to the status.

Council Member Brekhus reported receiving communications about concerns with construction, as relayed earlier in the meeting.

b. Future Council items

Council Member Brekhus referred to the approaching fire season and her desire to ensure adherence to Town regulations prior to her purchase of a generator. She asked that a future item be agendaized for the Council to discuss regulation of generators.

Mr. Chinn stated he will forward the minutes from the Council's discussion and said he recalled there was direction given at the time. Mr. Streeter clarified that the Council's direction at the time was the use of portable generators would be allowed to exceed the Town's noise policies during emergency and PSPS events; that the noise policy should allow the use of portable generators during the day and evening hours; that they be turned off at night between 11PM and 6AM. Mr. Chinn agreed to return the matter to Council for discussion.

Mayor Pro Tempore Robbins also supported revisiting the discussion relating to generators.

Council Member Kircher cited problems during the PSPS events last year with cell communications and the Council's discussion of potential measures the Town and private carriers might take. He requested a future item be agendaized to revisit this issue.

Mayor McMillan agreed and also voiced concerns with people needing electricity when working from home while sheltering in place. Council Member Brekhus also supported agendaizing cell communications during PSPS events.

17. Adjournment.

May 14, 2020 Draft Minutes

Mayor McMillan adjourned the meeting at 7:39 p.m.

Julie McMillan, Mayor

ATTEST:

Linda Lopez, Town Clerk