

**REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, OCTOBER 9, 2014**

1. 5:30 p.m. Commencement

Present: Mayor Elizabeth Brekhus; Mayor Pro Tempore Katie Hoertkorn; Council Member P. Beach Kuhl; Council Member Elizabeth Robbins; Council Member Carla Small; and Attorney Trisha Ortiz attended for Town Attorney Greg Stephanicich.

2. Posting of agenda.

Town Manager Rob Braulik reported that the agenda was posted according to government requirements.

3. Open time for matters pertaining to the closed session items in agenda item 4 - None

4. Closed session.

Conference with Legal Counsel—Existing Litigation

Government Code Section 54956.9(d)(1)

White v. Town of Ross, et al., Marin County Superior Court Case No. CV 1400803

5. 6:12 p.m. Open Session. Council will return to open session and announce actions taken, if any. No reportable action.

6. Minutes - September

Mayor Brekhus asked for a motion.

Council Member Small moved and Mayor Pro Tempore Hoertkorn seconded, to adopt the Regular Town Council Meeting Minutes of September 11, 2014 as amended. Motion carried unanimously.

7. Demands.

The demands were met.

8. Open Time for Public Expression - None

9. Council Committee and Liaison Reports.

a. Mayor.

Mayor Brekhus reported that the 2014 Ross Town Dinner at the Marin Art & Garden Center (MAGC) was an outstanding success, thanks to the efforts of Janey Kuhl and Betty Zampa. The weather cooperated, the band played, many residents attended and the children behaved. Sunflowers donated by Molly Gamble colored the tables and lights twinkled overhead as the community gathered to eat, drink and visit. Thank you Janey and Betty for carrying on this awesome tradition. MAGC again volunteered space for the event, and what a magical setting it was. Thank you Diane Doodha and the MAGC Board for lending the space and being such a good neighbor. See story on this page for others who volunteered and played a key role in the success of the Town dinner. Thank you all for volunteering your time.

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This year, the Octagon House was open to residents during the dinner, in celebration of its 150th year anniversary. Many of the residents who toured the building for the first time expressed admiration. We are fortunate to have the efforts of the Ross Historical Society, who serve as conscientious stewards of this local, historical site.

Mayor Brekhus also reported that the Council will hold a workshop, as the Council does every year, on October 30th at the Branson School from 9:00 a.m. to 3:00 p.m. While the agenda is still being finalized, items planned to be discussed include: long term planning, capital facility repairs and upgrades, and other issues that take more time than we can devote at the regular Council meetings. This year we will consider the civic center facilities and seismic safety, the condition of the 3 Bear Hut at Phoenix Lake, fire department landscape plan requirements, rules and regulations impacting remodels, replacement or repair of the Ross Common turf and related Common areas (i.e., arbor replacement and ivy fence), and future recreation preschool facilities, among other items. Residents are invited and welcome to attend.

b. Council Committees. (Finance, General Government, Public Works, Community Protection)

Finance – No report.

General Government – No report.

Public Works – In November changes will occur to the tree ordinance and the stormwater ordinance in order to update the runoff ordinance, so the Town is in compliance by spring of next year. Also, there are some major changes proposed to Lagunitas Road that are significant and deserve full Council discussion, so that matter will be discussed at the October Town Council workshop.

Community Protection – No report.

c. Town Manager.

Town Manager Rob Braulik announced Item No. 13 has been removed from the agenda. Also, October 20-25th is California Flood Preparedness Week.

d. Marin Art & Garden Center.

Diane Doodha, MAGC representative, reported that the University of California Marin master gardeners held a workshop for third and fourth graders and the goal of the program is to increase student awareness. MAGC sponsored two very well attended Mill Valley film festival events. Also, Pixie Park will hold their annual Halloween parade on October 26. Tomorrow night, Ross Auxiliary will hold their second annual farm to table dinner.

e. Ross Property Owners Association.

Anne Hickey, RPOA representative, expressed concern about the Ross bear. The bear has become very insignificant due to all the changes. The bear would be more exposed if some of the landscaping could be trimmed back in order to view the bear.

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Council Member Small added that staff has scheduled a professional to review the Bufano bear and also staff is looking at the landscaping in front of Town Hall, which will be coordinated once the other landscaping is installed.

f. Ross School.

Chi Kim, Ross School Superintendent, reported that the School is in the process of setting up for the rummage sale. Next week on 10/16 at 10:16 a.m., they will participate in the great shake out, which is an earthquake drill. Also, the first middle school dance is coming up on Friday, October 24th. Students requested a half hour extension, so it will be from 7 to 9 p.m.

10. Informational presentation on the Ross School Parcel Tax Measure in the November 2014 election presented by Lesley Reidy, on behalf of the Committee to Renew Our School Support (R.O.S.S.) Bears.

Lesley Reidy, representing R.O.S.S Bear, provided the Council with a presentation on the Ross School parcel tax measures and explained that voters living in the Ross School District will see Measure E on their November ballots. Measure E is a renewal of the Ross School District parcel tax, because the existing parcel tax is due to expire in June 2015. Since 1989, Ross School has received funding from a parcel tax and Ross voters have renewed it every time it has been on the ballot. This particular tax calls for a one-time increase of \$184.00 per parcel to partially offset a 40% decrease in revenue from the state since the last parcel tax was passed 8 years ago. The current parcel tax rate for 2014-15 is \$771.00. The renewed parcel tax rate would be \$955.00 for 2015-16. The parcel tax results in no change in senior exemption (and existing senior exemptions would continue), no change in the 8-year term, and no change in the 3% escalator. Parcel tax revenue provides critical funding for maintaining excellence at Ross School. 100% of the revenues go to Ross School, stay under local control and cannot be taken by the state or diverted to other school districts. She further noted for additional information email: rossbearsrenew@gmail.com.

Mayor Pro Tempore Hoertkorn appreciated the presentation and asked how Ross compares to Reed School. Ms. Reidy explained Reed School draws from a much larger population, so they have more taxpayers within their district.

The Council thanked Ms. Reidy for her presentation.

11. Consent Agenda.

The two consent agenda items were considered after a public hearing:

b. 26 Ross Common, Local Service Commercial District Use Permit No. 1974

Theresa Ryan, Magnolia Gallery, Applicant, and John Levinsohn, Property Owner, 26 Ross Common, A.P. No. 73-272-10, Local Service Commercial District (C-L), Local Service Commercial "Downtown Special Planning Area", 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). A Local Service Commercial District use permit application for a custom framing/art gallery business in the approximately 450 square foot space previously occupied by an antique furniture restoration business. The business would also sell home accessories. The business would have one employee (the owner/applicant),

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occasional part time help, and 1-3 customer visits per day. Proposed office hours are Tuesday through Saturday 10 a.m. to 5:30 p.m. and by appointment.

Mayor Brekhus opened the public hearing. No one wished to comment. Mayor Brekhus closed the public hearing and asked for a motion.

Council Member Small moved and Mayor Pro Tempore Hoertkorn seconded, to approve Consent Calendar Item "b" as submitted by staff. Motion carried unanimously.

26 Ross Common Conditions:

1. This approval shall allow the establishment and operation of an approximately 450-square-foot custom framing business, with retail sales of home accessories, within an existing commercial building subject to compliance with all of the following conditions of approval. Hours of operation shall fall within Monday through Sunday from 8 a.m. to 8 p.m. (proposed hours are 10 a.m. to 5:30 p.m. Tuesday through Saturday and by appointment). The business will have up to two employees and estimated customer traffic of 1-3 people per day.

2. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

3. These conditions shall be binding on the applicant and all successors in interest. In case of transfer of ownership, the new owner of the establishment shall provide the Town with written acknowledgement of these conditions of approval. Failure to comply with this requirement may result in revocation of this Conditional Use Permit.

4. The applicant is notified that the site and ground floor office space is in a FEMA flood hazard area and the area periodically floods.

5. Minor modifications to the Conditional Use Permit consistent with the Town of Ross Municipal Code may be made subject to review and approval of the Planning Department if the modifications are in keeping with the intent of the original approval.

6. The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.

7. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, seating, or lighting, requires prior approval of a revocable encroachment permit from the town manager or their designee.

8. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.

9. If the Planning Department finds evidence that any of the conditions of approval have not been fulfilled, or that the use has resulted in a substantial adverse effect on public health, safety, and/or general welfare or on public facilities or services, the Planning Department may elect to refer the Conditional Use Permit to the Town Council for review. If upon such review the Town Council finds that project has resulted in a substantial adverse

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impact on public health, safety, and/or general welfare or on public facilities or services, the Town Council shall reserve the right to modify or revoke the approval of the use.

10. Signage is not a part of this review. The applicant shall apply to the Planning Department for a separate sign permit prior to the installation of any permanent signage at the site.

11. The business owner shall remain in compliance, at all times, with the Town's regulations and with other applicable laws.

12. The business owner shall notify the Town of any intention to rename, change management, or convey the business to another person.

13. The business shall maintain an address number that complies with the building code (contact Building Department for more information).

11a. Sir Francis Drake Boulevard/Lagunitas Road Bus Stop Shelters, Design Review No. 1973

Sir Francis Drake Boulevard/Lagunitas Road Bus Shelters, A.P. Nos. 073-242-17, 072-231-23, Design review of plans for new Marin Transit bus shelters for the Sir Francis Drake Boulevard and Lagunitas Road intersection. The project includes replacing the existing bus shelter on the west side of Sir Francis Drake Boulevard (APN 073-242-17) with a new, smaller, shelter and installing a new shelter at the bus stop on the east side of Sir Francis Drake Boulevard, in the right-of-way adjacent to the Marin Art & Garden Center (APN 072-231-23). The shelters will match others Marin Transit is installing in other locations in the County under their Local Bus Stop Revitalization program. The shelters are dark green metal with a bowed roof and metal screen walls.

Senior Planner Elise Semonian summarized the staff report and indicated that staff supported the request since the Advisory Design Review group voted in favor of the new shelter design and color, which had a "European" look and the color was consistent with their other shelters and could be maintained. However, correspondence has been received from the public with concerns the proposed shelter design is not in keeping with the character of the community. Staff welcomed the Council's comments on the issue. Staff indicated the Marin Transit agency would not fund a custom structure.

Council Member Kuhl noted that there was concern about the bus stop location being in the right-of-way. Senior Planner Semonian explained that they had not surveyed the existing bus stop locations. They need a survey to confirm they are in the right of way or receive permission from MAGC. Also, staff will need to confirm that deed restrictions would not preclude the bus stop location on the Town lot. Council Member Kuhl asked staff what occurs if this design is not approved and if the Town requests a custom structure. Senior Planner Semonian indicated that Marin Transit is present to answer questions.

Anna Penoyar, Marin Transit representative, explained they are making improvements on 12 stops throughout the County of Marin in regard to accessibility and upgrades to amenities. They received a request from Ross to update the existing shelter and they thought it would be nice to include a shelter due to the number of users. They only have funding for basic improvements. Even if the Town does not like the shelter, she suggested putting it in for the meantime because there are a lot of people that use this stop and it is important that users have protection from the elements. If Ross decides they would like to go in a different direction they may put in a different shelter later. Council Member Kuhl noted that one benefit to the

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proposed mesh siding materials is that it discourages vandalism. Ms. Penoyar responded in the affirmative.

Council Member Small pointed out that Advisory Design Review (*ADR*) group reviewed and approved the design of the bus shelter. She has watched postal workers and school janitors sit in the open bench when it is raining waiting for a bus, so she is thrilled with the new shelter and would not want to wait years for it to be put in. Looking at this design and how the existing bus stop has looked and the wood and how it has been carved, she had no objection to this clean and sleek design that provides shelter and can be maintained.

Mayor Brekhus asked if Marin Transit has had instances when a community says they would like a different look and if they can be provided different options and price points. Ms. Penoyar indicated that they have not had that happen yet. They are providing the basic shelter and if the community would like something different, then they have to fund it. In west Marin the Lions Club is funding and building a custom wood structure, Marin Transit paid for the permit fee. She did not know the cost. Marin Transit would be willing to look at different ideas with the Town, but that would not be included in the current funding project, since it was already put out to bid and they are on a tight deadline. The Council can take time to look at other options and can install the proposed shelters now and remove them fairly easily later, since they are just screwed in to the ground.

Town Manager Rob Braulik clarified that the bus stops are not projected to be installed until January, or the first quarter, and the cost is around \$58,000.

Mayor Brekhus clarified the installation would be conditioned on Marin Transit surveying the location. Ms. Penoyar said the shelter can be withdrawn from their project later, but it cannot be put back in. Ms. Small indicated the cost of any new shelter would have to be put into the next budget and that would delay the installation. She would rather have them put in while the Town considers something else.

Mayor Brekhus opened the public hearing on this item.

Peter Nelson, Circle Drive resident, indicated he had looked in to the issue and all of the intersection work was not based on surveying the property lines or right-of-way lines. The Council approved a concrete sidewalk in the same location, so the bus stop should not be delayed for a survey. He suggested requesting action by MAGC to permit an easement in order to install the bus stop and sidewalks without a survey.

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

Mayor Brekhus asked for a motion.

Council Member Robbins moved and Council Member Kuhl seconded, to approve Sir Francis Drake Boulevard/Lagunitas Road Bus Stop Shelters, Design Review No. 1973 subject to the findings and conditions outlined in the staff report. Motion carried unanimously.

Design Review of Bus Shelters, Sir Francis Drake Boulevard and Ross Common Intersections

Conditions:

1. This approval shall allow the construction of two new bus shelters at the intersection of Sir Francis Drake Boulevard and Lagunitas Road consistent with the plans approved by the Town Council on October 9, 2014, except as otherwise provided in these conditions.

2. The shelters shall be located entirely within the public right-of-way and the applicants shall retain a surveyor to confirm the right of way boundary prior to erection of the proposed bus shelters unless the applicants can demonstrate they have written permission to locate the structures on the adjacent sites owned by the Town of Ross and Marin Art & Garden Center.

3. The applicants are responsible for removal of the existing shelter. The existing shelter shall not be removed until the new shelter is available to be installed to replace it.

4. The applicants shall pay any costs associated with town attorney review of deeds to ensure the shelter structure may be located on Town property, unless otherwise agreed to by the Town.

5. Prior to demolition of the existing shelter, the applicants shall provide the Town with written evidence the Golden Gate Transit District has approved removal of the existing shelter.

6. The applicant shall ensure the property lines and survey flags and markers near the southbound site are maintained and not disturbed. All trash and debris shall be promptly removed from the construction site.

7. An encroachment permit is required. The town manager is authorized to include conditions of approval in the encroachment permit to ensure the shelter area is maintained free of debris and graffiti, in addition to any other terms specified.

8. These conditions shall be binding on the applicant and all successors in interest. In case of transfer of ownership, the new owner of the establishment shall provide the Town with written acknowledgement of these conditions of approval.

9. The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.

10. No advertising shall be permitted at the shelters.

11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

12. Town Council consideration/action to appoint applicant from Castro Valley to the Ross Recreation Advisory Committee.

Town Manager Rob Braulik summarized the staff report and recommended that the Council consider appointing the applicant from Castro Valley to the Ross Recreation Advisory Committee.

Council Member Small clarified for the record that this applicant has absolutely no financial advantage by serving on this committee. Town Manager Braulik responded in the affirmative.

Mayor Brekhus 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 Brekhus asked for a motion.

Council Member Small moved and Council Member Robbins seconded, to appoint the applicant from Castro Valley to the Ross Recreation Advisory Committee. Motion carried unanimously.

- 13. Town Council consideration of adoption of Resolution No. 1875 finding that the conditions at 11 Circle Drive (A.P. No. 073-082-02), abated on May 16, 2014 constituted an emergency public nuisance, confirming the reasonableness of the Town's abatements costs, assessing the costs of the abatement upon the property, and authorizing the filing of a lien on the property in the amount of the assessment.**

This item was removed from the agenda.

- 14. Town Council will conduct a study session on the update of the Housing Element of the Ross General Plan (2015-2022). Council will receive public input on policies and programs and will provide policy direction to staff and direct staff to submit the draft Housing Element update to the California Department of Housing and Community Development for review and comment.**

Senior Planner Elise Semonian summarized the staff report and recommended that the Council review the housing element programs and policies and authorize staff to refer the draft housing element to the State for preliminary review and to outside agencies for the required 45-day comment period. Also, the Novato Community Development Director, Bob Brown, proposed an idea of junior accessory second units or junior second units. The idea would allow residents to convert a room in their house to a second unit, so 150 sf to 500 sf developed within an existing house hoping to help those struggling financially to receive rental income. It would be an opportunity to provide much lower income housing in Town. No additional parking would be provided, since the unit would not be expected to create additional parking demand over existing conditions.

Council Member Small noted that Governor Brown signed AB 1537, which reclassified Marin as a suburban community rather than metropolitan community and asked staff if that impacts the Town. Senior Planner Semonian noted that the Town is still considered suburban and under the 20-unit an acre density.

Council Member Robbins discussed the corporation yard and the housing element. Senior Planner Semonian explained that it could be developed for housing or look for someone else to develop affordable housing. Single family housing could conflict with what is included in the current plan. Council Member Small desired some flexibility.

Mayor Brekhus opened the public hearing on this item.

Peter Nelson, Circle Drive resident, noted confusion from the staff report in regard to the dates specified on page 91. He asked if there are any dates the Council has in mind for potentially developing the site as described in the staff report. Also, the existing site owned by the Town is adjacent to several single-family dwellings that could be rezoned and could present a site attractive for senior housing.

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.

Under State law, local governments are required to adopt a Housing Element as part of its General Plan that shows how the community plans to meet the projected housing needs. As part of this process, the State identifies the total housing need for the San Francisco Bay Area for an eight-year period. The State has determined that the Bay Area must plan for 187,990 new housing units for this cycle, from 2014 to 2022. The Town has been assigned a share of the Bay Area's regional housing need. At a minimum, the Town must provide adequate sites to develop 18 units for various income levels: 6 very low, 4 low, 4 moderate and 4 above moderate.

The Town's current plan provides adequate sites to develop these units and staff proposed maintaining the current policies, which include development of vacant lots, housing mixed with commercial uses in the down-town area, and second units. The Council is scheduled to hold a public hearing on the draft-housing element in December.

Senior Planner Semonian noted that no action is required tonight. In regard to the policy for the Town site, staff will provide more flexibility for the draft. The Council will consider the entire housing element in the future. In the meantime, staff will send off to other agencies for review and to the State for preliminary review.

15. Town Council will consider an amendment to the Ross General Plan 2007-2025 to add reference to the Town Complete Streets Policy in the Circulation Element of the General Plan.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council review the proposed Complete Streets General Plan amendment and direct staff to refer the amendment to outside agencies for the required 45-day comment period.

Mayor Brekhus clarified with staff that there is no change. Senior Planner Semonian explained that a reference to the Town complete streets policy would be added to the Town's circulation element.

Mayor Brekhus 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.

Senior Planner Semonian noted that no action is required tonight. Staff will bring back a resolution at a later date.

16. Town Council discussion of request from Marin Art & Garden Center for fee waiver/reduction associated with Design Review and Variance for Shed, 30 Sir Francis Drake Boulevard.

Town Manager Rob Braulik summarized the staff report and recommended Council deny waiving or reducing the fees for the MAGC design review and variance for shed, 30 Sir Francis Drake Boulevard.

Mayor Brekhus believed they should consider reducing the fee. She felt this is similar to construction penalties where the Council should make the decision, not staff. It should be left to the Council's discretion. They just had the Town Dinner at MAGC and the Council's workshop will be held at MAGC as well. The Council only pays the hard cost associated with using that space, and nothing more. This request from MAGC should be reduced. In regard to non-profits, of course they will not give many of these groups fee waivers, but it is appropriate to look at different organizations and make a decision in regard to reduced fees. It should be done on a case-by-case basis. She further added that the community benefits from a healthy MAGC.

Council Member Kuhl is not clear why staff desires a policy. Town Manager Braulik responded staff desired some policy or parameters by which the Council evaluates these requests for reduction so it does not become arbitrary and there are standards the Council looks to when deciding on whether or not to grant a reduction/waiver.

Council Member Robbins believed some sort of policy should be in place. She is not in favor of waiving the fees because it is basically donating Town money.

Council Member Kuhl asked staff to draft a policy for the Council to consider. Town Manager Braulik must do additional research before drafting a policy. Other towns or cities probably have some established standards staff can review. Staff clarified fees for PTA were around \$500 and the Council adopted a flat fee of \$125 for events on the Common. Requests for waivers have been requested, but never granted.

Mayor Pro Tempore Hoertkorn felt this might be a slippery slope, but MAGC is important to the community.

Mayor Brekhus opened the public hearing on this item.

Diane Doodha, MAGC representative, explained that the edible garden was completely built from volunteer labor and money raised by Ross Rec donations as will the shed. The cost for the shed will be between \$39,000 and \$43,000. The cost for the fees, variance and permits will be around \$4,000 to \$4,500. Every cent raised counts. This program only exists due to the efforts of volunteers and they want to request reduction of fees. She further thanked the Council for their consideration.

Mayor Pro Tempore Hoertkorn clarified when these fees were set through the Finance Committee they are just recovering their cost. Town Manager Braulik responded in the affirmative.

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Mayor Brekhus felt certain projects are different than others and proposed the Town Attorney come back with discretionary guidelines. When there was a request for design review, there was a right to seek consideration of the fees, so that should be built back in so it is just one hearing, rather than two hearings.

Council Member Small stated they must be careful that this is not done below cost. Her concern is not so much of this particular small project, but down the road if MAGC decides to put in a restaurant or some major project. There will be an overall strategic plan for MAGC. They are a municipality, so it is the Town's money and taxpayers money.

Mayor Brekhus believed discretion should be built in. Council Member Small suggested drafting language to be used as a guideline so they start off being consistent. Mayor Pro Tempore Hoertkorn supported reducing fees. She loves the edible garden and the Town Dinner, but the Town has been in terrible financial situation until just this last year. There is a lot sitting in front of them. She can support some reduction in fee, but could never support an 80% reduction.

Council Member Robbins stated the fees are the fees and it has nothing to do with the value MAGC has. It is not appropriate for the Town to give away money to some and not others.

Council Member Kuhl stated on the issue tonight, a reduction is appropriate, but not 80%. Council Member Hoertkorn suggested a 25% reduction.

Peter Nelson, Circle Drive resident, discretion is a tremendous liability to the Town. These are allocated and estimated cost.

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.

Council Member Robbins asked if they could draft a policy and then apply it to MAGC retroactively. Mayor Brekhus suggested the General Government Committee review and draft a policy for the Council to review. Council Member Small added they are just covering their building and planning costs.

The Council continued the matter to allow an opportunity for the General Government Committee to review.

17. Town Council discussion regarding potential reconsideration of withdrawal from the Marin County Major Crimes Task Force (MCTF).

Town Manager Rob Braulik summarized the staff report and recommended the Council continue to support the action it took in April 10th, 2014 withdrawing from the Marin County Major Crimes Task Force (MCTF).

Mayor Brekhus opened the public hearing on this item.

Jordan Shlain, Ross resident, noted Marin County has a huge drug problem in regard to prescription drugs. There are several "Farm Parties" where everyone takes pills because they are so commonly prescribed. Drugs are everywhere. Children become addicted at a young age.

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Ross must get behind supporting a joint effort to prevent drugs from coming to the Town of Ross and all of Marin County.

Mayor Pro Tempore Hoertkorn stated the question is not a drug issue. What does this taskforce do that is different from what is currently in place. There are a lot of entities that have pulled out. The Town's Police Chief felt this taskforce did not add anything to the solution.

Mark Dale, San Rafael resident, supported the Major Crimes Task Force since his child became addicted to drugs and after several years of rehab, his child is now in a better place. They need all partners supporting this cause. He further encouraged the Council to consider supporting Major Crimes Task Force.

Lt. Don Wick, Sheriff's Office, Major Crimes Task Force, explained the Major Crimes Task Force is a highly trained narcotics unit. They work from the ground level up. They are an entire County resource. The County contributes half of the dollars needed to run the task force and the other half is through cities and towns.

Mayor Pro Tempore Hoertkorn indicated the County receives a higher percentage of tax dollars than Ross. This is a countywide program and should be funded by the County. Lt. Wick is trying to form a partnership. It is unfair to ask the County to fund the Marin County task force solely, so partners are needed.

Mayor Brekhus pointed out there is mutual assistance between police forces and the fact that they do not have the drug task force is not preventing Ross from getting assistance.

Council Member Small stated when the county is not able to pay for it, then it is passed down to the towns and cities. They understand the situation, but would feel better to see what the task force does to manage their cost. She is looking at the benefits she expects from the county. The Town can only control their cost and asked the county what are they doing to control their cost in order to provide services. Lt. Wick noted it was formed by a group of officers and the U.S. Drug Enforcement Administration (DEA). They are above the local level and have the resources to follow up on cases that the local jurisdictions do not.

Mayor Brekhus asked the annual budget of the task force. Lt. Wick responded just under a million dollars. His benefits cost the county a lot of money, but they are trying to cut cost where they can. They seize assets and use them to offset cost in regard to rent, equipment and specific items, but it cannot be used for salaries since the law prohibits this use. Current reserves of the task force are roughly over \$200,000. 40% of their cases lead them back to San Rafael since that area is targeted by Mexican drug cartels. Currently the cost is \$14,000 per year to the Town. San Rafael is committed to come back in, which would reduce the cost. He hoped the Council realizes what is going on throughout the community and reconsiders the task force. The Council appreciated Lt. Wick's efforts and explaining the services of the task force.

Ed Dong, Sir Francis Drake Blvd., knows three families that suffered tragic deaths from drugs and asked the Council to reconsider their position on the task force.

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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.

Police Chief Erik Masterson wanted everyone to understand the work of the task force, however there is a piece that is missing, which is an educational component. To assume that the task force is going to stop recreational drug use is simplistic. His major consideration in suggesting the Town withdraw was of course San Rafael was not a member. It is important if it is going to be a County task force then the biggest player which is San Rafael, should contribute its share in the cost and experience in order to truly make it a countywide task force. Ross should not pick up the tab for San Rafael's problem. If San Rafael comes back in, then the Town can revisit. It is important for the County to be consolidated in this effort and attack the problem. An educational component is necessary.

Council Member Kuhl suggested holding off on their decision to see what happens with San Rafael. Town Manager Braulik agreed to monitor San Rafael as well as Sausalito and the matter can be added to the budget discussion.

Council Member Small agreed with the educational component.

Council Member Robbins supported the staff report and believed this is a county program and should be funded by the County.

Mayor Brekhus agreed with staff's recommendation, but if San Rafael rejoined the task force then the Town should revisit this matter. Mayor Pro Tempore Hoertkorn agreed to revisit the matter if San Rafael joins.

Mayor Brekhus asked for a motion.

Mayor Brekhus moved and Council Member Kuhl seconded, to revisit this matter if the City of San Rafael rejoins the Major Crimes Task Force JPA. Motion carried 4-1. Robbins opposed.

Attorney Trisha Ortiz left the Town Council meeting at 8:45 p.m.

Public Hearings on Planning Applications.

18. 14 Upper Ames Avenue, Variance and Design Review No. 1972

Ariel and Rebecca Nessel, 14 Upper Ames Avenue, A.P. No. 73-181-28, R-1:B-20 (Single Family Residence, 20,000 sq. ft. minimum lot size), Low Density (1-3 units per acre). Design review, exceptions and lot coverage variance for new 500 square foot second unit, including 60 square feet of storage. The applicants propose a new second unit above the existing garage, within required yard setbacks. The project also includes a request for setback variances to build a new pool deck south of the pool, over existing pool equipment.

Lot Area	17,367 square feet
Existing Floor Area Ratio	4,071 sq. ft. 23.4%
Proposed Floor Area Ratio	4,571 sq. ft. 26.3% (15% permitted*)
Existing Lot Coverage	3,278 sq. ft. 18.9%

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Proposed Lot Coverage	3,387 sq. ft.	19.5% (15% permitted)
Existing Impervious Surfaces	8,705 sq. ft.	50.1%
Proposed Impervious Surfaces	8,705 sq. ft.	50.1%

*The Council may grant 500 square feet of additional floor area for new second units that are rent-restricted for a very low income households (Ross Municipal Code Section 18.42.065).

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project subject to the findings and conditions outlined in the staff report.

Mark Bruce, project designer, explained that they had the option to reclassify the paving surface as pervious, which would bring down the total impervious surfaces on the property to 40%.

Council Member Small stated that ordinarily they would never allow decking in the setback, but because it is over the pool equipment, staff allowed. The balcony over the garage is 5 ft. and she understands they are doing the second unit, but they are increasing the floor area of that home, and she would rather see a more ornamental balcony that is large enough for the doors to be open and air flow, but not for actual use. Project Designer Bruce indicated that it is roughly 4 ft. and just made to step outside and enjoy the wonderful weather and views, it is not meant for any type of gathering.

Senior Planner Semonian stated that there are design guidelines that recommend consideration of privacy impacts because second story balconies provide opportunity to look into neighbors yards, but this particular balcony does not, but it does add to the mass.

The majority of the Council had no issue with the size of the balcony.

Mayor Brekhus opened the public hearing on this item.

Peter Nelson, Circle Drive resident, noted that ADR briefly reviewed, but the difference between 4 ft. and 5 ft. is not much. It is all a matter of noise.

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

Mayor Brekhus asked for a motion.

Council Member Robbins moved and Council Member Kuhl seconded, to approve 14 Upper Ames Avenue, Variance and Design Review No. 1972 subject to the findings and conditions outlined in the staff report. Motion carried unanimously.

14 Upper Ames Avenue Conditions:

The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit.

1. Except as otherwise provided in these conditions, the project shall

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comply with the plans approved by the Town Council on October 9, 2014. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.

2. Impervious surfaces shall be limited to existing conditions. Pervious surfaces shall not be converted to impervious surfaces, even after project final, without prior Town Council approval.

3. The second unit shall be known as 14A Upper Ames.

4. The owner shall submit a signed Declaration of Rent Restrictions in compliance with Ross Municipal Code Chapter 18.42, to be recorded before or concurrently with, and as a condition of, issuance of the rent-restricted second unit permit, reflecting the rent restriction. The Town shall provide the form of such Declaration.

5. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.

6. Applicants shall comply with all requirements of PG&E prior to project final. Letter or email confirming compliance shall be submitted to the building department prior to project final.

7. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance shall be submitted to the building department prior to project final.

8. Applicants shall comply with the requirements of the Ross Valley Sanitary District No. 1 prior to project final: the Ross Valley Sanitary District (415) 259-2949 Sanitary District No. 1 will place a hold on the property once the building permit is issued. This hold prevents the building from being released for occupancy until the District's permit and sewer requirements are fulfilled. It is the owner's responsibility to obtain any necessary sewer connection permit and meet all District requirements pertaining to the private side sewer/lateral prior to project final. Letter or email confirming compliance shall be submitted to the building department prior to project final.

9. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department (RVFD).

10. The project shall comply with the following conditions of the Town of Ross Building Department and Public Works Department:

a. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any roof projections that are not identified on the plans submitted for Town Council review. Where a roof area is visible from off site, roof

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projections shall be located to minimize their appearance. Exposed galvanized material is discouraged. All vents and flue pipes shall utilize a finish to blend into adjacent surfaces. If possible, vents may be concealed from view in forms compatible with the structure. Vents for cooking appliances should be located or directed to avoid noise and odor impacts to adjacent sites and shall be located out of required setback areas.

b. The plans submitted for the building permit shall detail the gutter and downspout design and location for review and approval by the Town. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any gutters or downspouts that are not identified on the plans submitted for Town Council review. A specification sheet shall be provided and the proposed color and finish material shall be specified. Downspouts should be located to minimize their appearance from off site locations. Gutters and downspouts should have a finish to blend into adjacent surfaces or underlying trim. Exposed galvanized material is not permitted.

c. Exterior plumbing shall be removed and replaced with plumbing within the walls of the structure.

d. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Applicant shall provide the names of the owner, architects, engineers and any other people providing project services within the Town, including names, addresses, e-mail, and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.

e. A registered Architect or Engineer's stamp and signature must be placed on all plan pages.

f. The building department may require the applicant to submit a deposit prior to building permit issuance to cover the anticipated cost for any Town consultants, such as the town hydrologist, review of the project. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.

g. Any modifications to drainage shall be designed by an engineer in conformance with the Town's stormwater ordinance (Ross Municipal Code Chapter 15.54).

h. The plans submitted for a building permit shall include a detailed construction and traffic management plan for review and approval of the town manager or designee, in consultation with the town planner and police chief. The plan shall include as a minimum: tree protection, management of worker vehicle parking, location of portable toilets, areas for material storage, traffic control, method of hauling and haul routes, size of vehicles, and washout areas. The plan shall specifically provide details on how deliveries and large vehicles will access the site without closing the road or provisions for adequate neighbor notification.

i. The applicant shall submit a schedule that outlines the scheduling of the site development to the building official. The schedule should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).

j. A preconstruction meeting with the property owner, project contractor, project architect, project arborist, representatives of the Town Planning, Building/Public Works and Ross Valley Fire Department and the Town building inspector is required prior to issuance of the building permit to review conditions of approval for the project and the construction management plan.

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- k. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.
- l. The Building Official and other Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.
- m. Inspections shall not be provided unless the Town-approved building permit plans are available on site.
- n. Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).
- o. Failure to comply in any respect with the conditions or approved plans constitutes grounds for Town staff to immediately stop work related to the noncompliance until the matter is resolved. (Ross Municipal Code Section 18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law. If a stop work order is issued, the Town may retain an independent site monitor at the expense of the property owner prior to allowing any further grading and/or construction activities at the site.
- p. Materials shall not be stored in the public right-of-way. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris.
- q. Carbon monoxide alarms shall be provided outside of each dwelling unit sleeping area in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit.
- r. Address numbers at least 4" tall shall be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. The address numbers shall be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched only by a breaker so the numbers will remain illuminated all night.
- s. The applicant shall work with the Public Works Department to repair any road damage caused by the construction. Applicant is advised that, absent clear video evidence to the contrary, road damage must be repaired to the satisfaction of the Town prior to project final. Damage assessment will be at the sole discretion of the Town, and neighborhood input will be considered in making that assessment.
- t. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance (copies available at www.townofross.org). If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in the Town of Ross Municipal Code Section 15.50.040, construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and

written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.

u. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way.

11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding (“action”) against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

Mayor Pro Tempore Hoertkorn recused herself from the next agenda item in order to avoid the appearance of a conflict.

19. 179 Lagunitas Road, Landscape Plan Review No. 1920

Gardenia, L.P., 179 Lagunitas Road, A.P. No. 073-231-17, R-1:B-A (Single Family Residence, 1 acre min lot size), Very Low Density (.1-1 units per acre). Continued public hearing to consider landscape plan. The plan includes removal of 12 cypress trees along the east property line and 14 cypress trees along the west property line to comply with California Public Resources Code 4291 fire clearance requirements. Forty new English Laurel and three Southern Magnolia trees are proposed to replace screening in three areas of the site.

Lot Area	45,886 square feet	(1.05 acres)
Existing Floor Area Ratio	6,979 sq. ft.	15.2%
Approved Floor Area Ratio	6,510 sq. ft.	14.2% (15% permitted)
Existing Lot Coverage	3,706 sq. ft.	8.1%
Approved Lot Coverage	3,891 sq. ft.	8.5% (15% permitted)
Existing Impervious Surfaces	7,810 sq. ft.	17.0%
Approved Impervious Surfaces	7,636 sq. ft.	16.6%

Existing residence is nonconforming in setbacks, number of stories, height and covered parking.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the landscape plan subject to the findings and conditions outlined in the staff report.

Ira Johnson, landscape architect, presented several detailed architectural drawings for the Council’s consideration.

Mayor Brekhuis opened the public hearing on this item.

Katie Hoertkorn, Lagunitas Road resident, appreciated the landscape plan and desired to know the size of the magnolia. Landscape Architect Johnson noted that they are looking for 36-in box trees. Once the trees are established, they will grow 1-foot per year.

Tim Kelly, Woodside Way resident, expressed concern for the proposed bay tree hanging over his property dropping debris. They asked that the bay tree be removed as part of the approved plan. He had no concern for the magnolia trees as long as they do not hang over onto his property, and with that modification, he would support the project.

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

Mayor Brekhus asked for a motion.

Council Member Kuhl moved and Council Member Robbins seconded, to approve 179 Lagunitas Road, Landscape Plan Review No. 1920 subject to the findings and conditions outlined in the staff report, and to remove the 8-inch bay tree that borders the Kelly's property, and to move the magnolia trees further in to provide further distance from the back fence, but not from the side fence. Motion carried 4-0-1. Hoertkorn recused.

179 Lagunitas Road Conditions:

The Town Council approves the landscape subject to the conditions of the September 11, 2014, town council approval and the following additional conditions, which shall be reproduced on the cover sheet of the plans submitted for a building permit. The property owner shall certify on the building permit plans that they have read and agree to the all conditions.

1. Except as otherwise provided, the landscape plan shall comply with the plans approved by the Town Council on October 9, 2014. Plans submitted for the building permit shall reflect any modifications required by council and these conditions.
2. All of the cypress trees within 100 feet of the residence shall be removed for fire safety prior to start of construction. The bay tree at the rear of the site may be removed.
3. Landscaping proposed for the southwest corner of the site shall be installed within 30 days and shall be irrigated until established. Acknowledging that landscaping is likely to be damaged during construction or not irrigated property during construction, all other new landscaping shall be installed in substantial conformance with the approved landscape plan as soon as reasonably feasible and prior to project final.
4. The applicant shall trim branches from the magnolia proposed 8' from the rear property line adjacent to 10 Woodside Way so that they do not overhang that property if requested by the owner of that site in the future.
5. As shown on the plans, the property owner shall maintain the existing level of hedge/tree screening between 177 and 179 Lagunitas Road to screen the garage structure and shall plant new screening where cypress trees must be removed for fire safety.
6. No gates are permitted to provide access to the adjacent private driveway to the west unless the applicant has legal access to use the driveway.
7. Impervious surfaces shall be limited to existing conditions. Pervious surfaces shall not be

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converted to impervious surfaces, even after project final, without prior Town Council approval.

8. The Town staff reserves the right to require modifications to the landscape to protect mature trees and to comply with MMWD water conserving landscape requirements or fire code clearance requirements. Neighbors shall be notified prior to approval of any modifications that would involve a reduction of the perimeter screening.
9. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
10. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.
11. Any exterior lighting shall be included on plans submitted for the building permit and is subject to the review and approval of the town planner. Lighting shall be shielded (no bare bulb light fixtures or down lights that may be visible from down-slope sites). Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.
12. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance shall be submitted to the building department prior to project final.
13. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department (RVFD) in the memo dated August 30, 2013.
14. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants

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and/or owners or the Town may defend the action with its attorneys with all attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

Mayor Pro Tempore Hoertkorn resumed her position on the Town Council.

End of Public Hearings on Planning Applications.

20. No Action Items:

a. Council correspondence

- A telephone call from a member of the Branson Board of Trustees in regard to doing a better job becoming part of the community. A meeting should be scheduled to explore the issue.
- Email from Ross resident asking about the three-year landscaping review process.

b. Future Council items

- October Workshop

21. Adjournment.

Mayor Brekhus moved to adjourn the meeting at 9:28 p.m.

Elizabeth Brekhus, Mayor

ATTEST:

Linda Lopez, Town Clerk