

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, MAY 13, 2021
Held by Teleconference

1. 6:00 p.m. Commencement.

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

2. Posting of agenda.

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

3. Town Council recognition of Council Member Julie McMillan for her service as Mayor. (Mayor)

Mayor Robbins and Town Council Members recognized Julie McMillan for her services as Mayor, spoke about her many challenges over the year which they described and thanked her for her exceptional leadership as Mayor and for her work in the community.

Council Member McMillan thanked the Mayor and Council Members and said everyone worked very hard and looks forward to the day they all can be together without a mask. She thanked Town Clerk Lopez for the beautiful orchid and for her commemorative gavel.

Town Manager Joe Chinn echoes remarks and added how appreciative the community and Town staff are for her service.

4. Minutes – April 8, 2021

Council Member Brekhus moved and Council Member McMillan seconded, to approve the April 8, 2021 Meeting Minutes. Motion carried unanimously (5-0).

5. Demands.

The demands were met.

6. Open Time for Public Expression

There were no public comments.

7. Mayor's Report.

Spring brings renewal, and this year, after fourteen months of Covid restrictions, renewal is especially welcome. Venturing out is now possible, particularly with rising vaccination rates and declining numbers of new cases. And starting this week children ages 12-15 can be vaccinated. The risk of becoming ill with Covid has decreased dramatically.

Does this translate into a return of our beloved town events such as the Fourth of July picnic and the September town dinner? Will the Town Council resume meeting in Town Hall? There aren't

answers to these questions yet, but things are moving in the right direction. Last year the answers were all, unequivocally, no. This year looks better.

It's likely that some form of Fourth of July celebration on the Common will be permitted. The Town is waiting until June 15 to hear updated California guidelines about social interactions. Given the low Covid transmission rate outdoors, it seems likely that families will be able to picnic on the Ross Common. A decision about whether the celebration can include food vendors or musicians will be made in mid-June.

Similarly, it's possible that the Town Dinner, held in late September, might be permitted this year. Like the Fourth of July celebration, decisions about whether to hold the dinner and what modifications might be necessary will be made closer to the actual date.

Finally, in-person Town Council meetings in Town Hall will resume when it's deemed safe. The Zoom meetings over the past year have been surprisingly successful: workshops, staff presentations, public input, and council deliberations have all proceeded smoothly. Attendance at these meetings is at an all-time high thanks to the convenience of attending on-line. The Council is looking into ways to continue to have an online meeting option once in-person meetings resume. This would give residents the choice of attending and participating either in person or online.

8. Council Committee & Liaison Reports

Mayor Pro Tempore Kuhl reported on his attendance at the MCCMC Homeless Committee meeting and said each of the towns will be asked to contribute 5% of what it receives from the federal American Rescue Plan proceeds to have counselors available during times homeless people are waiting to get housing vouchers.

Council Member McMillan announced the following events: 1) May 27th, from 5-6 p.m. and in conjunction with MCCMC Climate Action Committee and Bay Area Cool the Earth, a Zoom "Electrify your Ride" call will explain why it is good to drive an electric vehicle; 2) On June 2nd there will be a Fire Prevention Workshop for Ross Valley from 5-7:30 p.m. to talk about hardening your home, defensible space, etc.; and 3) On June 14 Marin Wildfire Prevention Authority, in conjunction with Fire Safe Marin will operate a chipper day for Ross residents through reservation. The chipper will come to your home and pick up debris.

9. Staff & Community Reports

a. Town Manager

Joe Chinn, Town Manager, announced that the wildfire season is here and they are already having red flag warnings. It is everybody's responsibility to remove weeds, debris, dead trees and shrubs around their property and roadways. A future Townwide email will identify some of the programs mentioned earlier by Council Member McMillan, and a presentation will be given tonight by Executive Officer Mark Brown of the Wildfire Prevention Authority and Ross Valley Fire Chief Jason Weber.

The Town is looking forward to Ross Recreation being able to expand outdoor programs this summer and he encouraged residents to look into the recreation guides and sign up.

b. Ross Property Owners Association – No Report.

10. Consent Agenda.

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

a. Town Council acceptance of FYE21 Q3 Investment Report.

b. Town Council acceptance of FYE21 Q3 Financial Summary Report.

c. Town Council consideration/approval of reappointment of Teri Dowling to the Marin County Commission on Aging for a three-year term ending June 30, 2024.

Mayor McMillan asked if any Council Members or public members wish to remove an item from the Consent Agenda or had public comments, and there were none.

Mayor McMillan asked for a motion.

Council Member Kuhl moved and Council Member McMillan seconded, to approve the Consent Agenda. Motion carried unanimously (5-0).

End of Consent Agenda.

Administrative Agenda

11. Presentation by Marin Wildfire Prevention Authority (MWPA) Executive Officer Mark Brown and Ross Valley Fire Chief Jason Weber on MWPA projects for fiscal year 2021-22, and Council discussion of MWPA projects.

Jason Weber, Ross Valley Fire Chief, gave an overview of MWPA's work done thus far, background of Measure R and formation of the 17-member Marin Wildfire Prevention Authority which has strategically and collectively reduced overhead and redundancy of efforts in making the County safer from wildfire. He described the allocation of the measure, stating 60% goes towards the core or overall area and the two other buckets at 20% each go towards 1) the Defensible Space Program and 2) locally controlled by the Council for high priority projects that may not be included in the core.

The intent of the core is to fund projects that have a greater good across the region from wildfire protection. Their focus this year is the "house out" or getting people out alive, evacuation routes and areas right around homes, and shaded or buffer zone fuel breaks which is land owned and managed by MMWD and Marin County Open Space. They also expect to roll out defensible space software, which he described as inspectors being able to create a "to do" list out in the field and

partner agency Fire Safe Marin has funded Chipper Days, the public education piece and grants for seniors and low income individuals.

He then presented and described the Defensible Space Inspection program, said they are participating in a pooled resource with Ross Valley and County Fire for more efficiency, have 25 defensible space inspectors hired with a shared leadership position and last year completed about 10,000 inspections across all agencies. The position of an Emergency Preparedness Coordinator will be added that will help prepare people for a variety of emergencies. Other projects include fuel reduction projects for city-owned properties that may need some work and on uninhabited parcels that are problematic where goats and other means are used to address vegetation removal.

Next steps include identifying local projects, getting compliance work started from the environmental perspective, and working on details of a grant program which ideally would match grant programs available in San Anselmo and other Ross Valley member agencies. Lastly, he recognized Council Member McMillan for her leadership as a valued resource on the Board.

Mark Brown, Executive Officer, Marin Wildfire Prevention Authority, echoed comments made regarding Council Member McMillan and said in reviewing the overall planning, he presented an overview of the dollars and work towards wildfire safety for the entire County:

- \$10.6 million will be dedicated to core projects;
- \$3.9 million each for local de-space evaluations throughout the County;
- Another \$3.9 million for local mitigation projects;
- CalFire fire prevention grant to help fund low income de-space work for \$1.98 million;
- Evacuation route work, noting first is the implementation of Zone Haven and they are 95% completed with approving the local evacuation zones across the County. Once these get approved they will have a “Know Your Zone” campaign. This will also tie into agencies having evacuation drills;
- Work with the Marin County Sheriff’s Office and all law enforcement agencies for evacuation signs to make things more efficient so responders can move onto the next house if residents are already evacuated; and
- Evacuation Route Risk Assessment, a tool for them to evaluate all evacuation routes throughout the County, with the focus on residents’ understanding of the wildfire threat and their responsibilities in doing their part.

Council Member McMillan thanked Executive Officer Brown and Chief Weber for the amazing work. She said there are 17 members of the JPA that have never met in person and it is remarkable how much work has been done to get this agency up and running via Zoom.

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

Mayor Robbins and Council Members thanked Executive Officer Brown and Chief Weber for their presentation.

12. Town Council consideration of providing a preference to the Marin County Flood Control District regarding multiple design options for Frederick Allen Park as part of the District's flood control project.

Rich Simonitch, Public Works Director, gave a PowerPoint presentation regarding the treatment or non-treatment of Frederick Allen Park as the Marin County Flood Control District moves forward with their project on the Corte Madera Creek Flood Risk Management Project.

He presented and described project descriptions for Alternative 1 project site, tree plantings, flood risk reduction comparisons, flood replacement walls, historical flooding, and benefits and significant flood reduction from the proposed project. He displayed the differences between the proposed project and Alternative 1, the case study relating to 47 Poplar Avenue and what happens when the flood plain ordinance compliance is triggered, the grades before and after, and the 100 year storm results.

The contributory culverts are impacted regardless of which alternative or proposed project chosen, and some drainage areas will require more mitigation as they drain into areas where water service will be increased compared to the proposed project. If they go with Alternative 1, they will see lower water service elevations in certain areas, so it is a give and take.

Lastly, he provided an overview of the questionnaire results, stating a fair number of. The Council should consider this as a good sample of the sentiment of the public. He described statistics of those preferring Option A (proposed project) which project equals 29% whereas 62% want to stay with Alternative 1. He described demographics from responses and said most who wanted Option A wanted it because of the ability to access the channel for recreation. Regarding Option B or Alternative 1, 70.7% cited the natural resources of the existing trees and the fact it will take a long time for trees to grow.

Lastly, regarding next steps:

- Final publication of the FEIR – July 2021
- Design review and encroachment permit - Summer of 2021
- Building, grading permits – Fall 2021
- Construction start – April 2022
- Frederick Allen Park construction – June to October 2022
- Construction complete – October 2022

Council Member McMillan referred to the drainage changes that need to happen because of either the proposed project or Alternative 1 and she asked and confirmed that this is part of the Marin County Flood Control District construction budget to either construct the flap gates that close when the floodway goes through and/or relocating that storm drain further downstream to lessen the back water.

Council Member McMillan said she assumes the breakdown was available for 47 Poplar because of a recent remodel. She asked if there was a way to look at other properties affected to determine which properties are affected or whether it is raw land versus the actual structure, the basement or the HVAC.

Mr. Simonitch said the regulatory floodway was created in 2014 and FEMA changed the flood elevations, but there have only been 3 or 4 properties along Ross Common and this is the only one he found in the impact area. By and large, it looks as though most of the finished floor elevations would not be impacted but he does not have the precise number and list.

Mayor Robbins asked if the proposed project landscaping be deferred in the case of a drought, and Mr. Simonitch noted that irrigation at the park is from a well and irrigation is functioning well. The park is not on MMWD water but are dependent on the level of the aquifer and if drought conditions continue they might end up seeing issues with watering.

Mayor Robbins questioned whether the Town would get negative press or not, and Mr. Simonitch was unsure but he meets with other Public Works Directors in the County and noted not many jurisdictions have wells so the Town might be immune from those comments.

Mayor Robbins asked if it is a good enough cost benefit ratio to spend close to \$10 million when there is not that much difference with the Allen Park element.

Mr. Simonitch said the \$10 million is the Flood Control District's budget for the entire Corte Madera Creek Phase 1 project and he described the several different elements of projects included, stating approximately \$3.3 million is going to Ross. The cost benefit is a bit subjective, as people will view it differently.

Mayor Robbins questioned how the project would be funded, and Mr. Simonitch said Flood Zone 9 has this budget programmed. Once they know which option they will use they develop the design. It could be that as they proceed one or two elements might need to be revised or added, given extra funds. He added that the work should be bonded and the District would pull on the insurance policy to finish it, which is common.

Mayor Pro Tempore Kuhl said his understanding is that this project does not cost Ross any money other than absorbing some staff costs, and Mr. Simonitch confirmed.

Council Member Kircher asked how reliable is the modeling from the District and consultants and questioned the margin of error. Mr. Simonitch said there is a margin of error and he described various storm events that could occur. However, the model is based on documented duration and types of storms that hit this part of California. The new creek bank is basically a levy which the County has a lot of experience with. The concrete channel is old and while the concrete is in good shape, there are several cracks in segments in it, and he has seen upwelling of groundwater from the bottom of the channel which is not a good sign.

Mayor Robbins opened the public comment period.

John Crane asked if Mr. Simonitch said Ross is immune from drought because of its well. Mr. Simonitch clarified that they are not immune from drought but do have a couple of years' buffer ahead as compared to those relying on MMWD supplies.

Mr. Crane said he has been working on a water film since 2015 specifically dealing with drought, lack of well and groundwater, and it is a huge problem. His main point is that the proposed project would not be on the table if the Town was looking at using its own money. It is not worth the flood benefit for what will be expended and what people will have to suffer through. He thinks drought is a consideration for re-establishing a park that will plant 80-150 trees which is a lot of water and spoke of his work with Stanford University and Cal Berkeley on this project.

Brad O'Connell said there is public clamor for flood control and consensus they need to remove the fish ladder because this has been the main culprit. He thinks everyone would agree that the proposed project is the more radical project. There are serious adverse impacts to be made if one is considering the proposed project, many unknowns, and thinks the burden should be on the County and the proponents of the proposed project to remove those uncertainties. There is a lot of new analysis today that cannot be vetted or analyzed before the Council takes its vote. He therefore asked that the Council consider the ~~punitive~~ benefits of the proposed project, as a fraction of a foot is far outweighed by the very concrete harms represented by habitat loss, aesthetic loss and privacy loss. He strongly urged the Council to support removal of the fish ladder and to reject the proposed project.

Kristen Swann, Sir Francis Drake homeowner, voiced support of Alternative 1, which is the most financially responsible decision for a similar flood risk reduction benefit, and said it will have the least impact on Ross lands and liability in the long run.

Hugh Cadden said this is an easy decision for the Council in his opinion. Alternative 1 provides the flood control residents are looking for. It avoids impacts, is fiscally responsible, and it is concurrent with what they are getting in feedback from the survey. The cost to Ross on this project is not zero but staggering. It is the value of Frederick Allen Park less the easement the Town is either going to give or sell to the District which is a property right and millions of dollars. It is a direct expense and from it flows significant liabilities for the Town. The Town is no longer an approving entity but a participant in the flood control project.

Regarding cost, the County does not have a budget but they do have a grant budget. The total cost is represented as \$14,060,754 and he would be shocked if it costs more than \$2 million to remove the fish ladder and put in the fish boxes. The County could use its eminent domain power, but Alternative 1 is the choice for the ultimate result of flood risk reduction and fish passage enhancement.

Beth Foster, 19 Sir Francis Drake, said the fish ladder is on the upstream end of their property so they will be experiencing its removal and new retaining walls regardless of the proposed project or Alternative 1. She expressed concern about the new information from the analysis on potential exacerbated flood risk in the channel behind their property, appreciates the additional analysis, and hopes the Town will assist in making sure mitigation truly is undertaken.

Jon Child, 29 Poplar, said he is one of the property owners that has the most to gain by reducing his flood exposure and would be the most affected by the proposed plan. If anyone has lived in

this area they would look at the two and it would be clear that Alternative 1 is what they would all choose because it reduces flooding and they would not go through a massive unknown construction project over a significant amount of time. It seems like an ambitious and difficult task for those living around that portion of town and having flood mitigation at the same level, and asked that the Council take this into its decision.

Garil Page spoke about the 1982 flood event being larger than 2005, the investigative work that ensued and in 1971 the fish ladder was constructed. In these intervening years, the Hydrological Engineering Centers Rivers Analysis System (HECRAS) software has improved and has become standard in planning water management, but not 100% reliable as it still depends on best guess assumptions.

Since the 1980's, County engineers and hired consultants, the Ross Historical Society Engineers, Residents Concerned for Ross Consultants and all but one of Ross's engineers have been unanimous in stating that the upper concrete channel flows at super critical speed while the downstream channel flows subcritical. Supercritical speed works to Ross's advantage by sufficiently transporting sediment at a lower water surface elevation and with less hydraulic instability. This is extremely important to the Town, and Alternative 1 is the only option proposed that preserves these advantages.

Chris Martin said this is the first flood protection project proposed for Ross in 20 years, with exception of the Lagunitas Bridge. The proposed plan provides better flood protection than Alternative 1. The plan delivers more environmental and recreational benefits than Alternative 1, will remove much of the concrete channel and cyclone fencing which is the ugly centerpiece of Frederick Allen Park, and provides a riparian zone for people, fish and wildlife to benefit from. He cited the offer by the Ross Middle School students and faculty to study the creek environment and to strive to improve the health of the watershed provided and said the proposed project and creek access as implemented is extraordinary. More flooding will occur because of climate change and sea level rise that may be more destructive. The channel is pitted and only can provide 50% of the stormwater that it was designed to hold. The proposed plan actually handles stormwater better and he urged the Council to adopt it.

Peter Barry said this is a painful thing every Council seems to endure but the main fact to keep in mind is they are probably entering a drought so the Council should not feel it is necessary to make a rush decision. He thinks they should not mess with Frederick Allen Park, they should get rid of the fish ladder, does not think the safety from wildfires will be improved by building a new building for administration and thinks they should take some of that money and put powerlines underground which has been done by Belvedere.

Lastly, he hopes the Council read the news that even the CDC has now decided it is okay to have meetings if everyone is vaccinated, and he looks forward to seeing the Council in person.

Mayor Robbins said she thinks Alternative 1 is in the Town's best interests and said it is cost effective, provides significant flood control, does not devastate Frederick Allen Park, and the damage from the proposed project is far greater than the damage that might occur in a handful

of properties every 100 years. Frederick Allen Park will never recover from the project, it's tree canopy never as dense, creek banks not as natural, the bike path will flood and have to be closed, and creek access might be regulated at least by a sign because of the bacteria and pesticide residue.

Also, the Town will have increased maintenance and policing costs as well as increased liability. The cost could be many millions of dollars more than the cost of Alternative 1 with only a slight increase in flood protection. She does not think \$10 million should be spent on this project with the minimal flood benefit it produces and that still leaves the Town with a creek that is very much a manmade channel and not a natural creek. Allen Park neighbors have also asked that the Council choose Alternative 1 and she thinks Alternative 1 is in the Town's best interests.

Council Member McMillan said the Council has given this a lot of thought over the last 3 or 4 years, agreed that the flood benefits with the proposed project are similar to Alternative 1 with much larger costs, and thinks Alternative 1 meets the fiscal goals over the proposed project. She disagreed that the proposed project is more naturalized and said lowering the park by 8 feet to create a flood plain park violates the Ross General Plan. People have said they need to open it up for recreational benefits but the water in the creek will not be very clean. The DEIR indicates there will be a number of water quality problems relating to non-point source pollution from urban run-off and kids will not be playing in it.

The proposed plan will also remove 140 well-established trees which is in violation of the General Plan. She voiced concern with the lack of trees being able to be planted 15 feet on either side of the new flood walls and said Mr. Simonitch's diagram was helpful to show some pretty broad swaths of areas where there could be no trees. She also thinks it is highly unlikely the Army Corps will approve a 408 permit variance, as they have never granted one before. The lack of trees will also result in a substantial change in visual quality due to increased exposure of concrete structures within the park setting. She also is not sure how long the aquifer is going to be able to provide water and spoke about areas in the Central Valley that are sinking because they pumped the aquifers.

The proposed project also does not meet the Town's newest goal which is to promote environmental stewardship. The removal of trees and vegetation will create heat islands. Lowering the park by 8 feet will require massive amounts of soil removal and she likened the proposed project to an experiment by the District. Lastly, the community questionnaire and almost every letter sent to the Council supports proceeding with Alternative 1.

Her reasons for supporting Alternative 1 is because it provides significant flood benefits, enhances wildlife by adding the fish pools, is much more cost-effective than the proposed project, does not denude Frederick Allen Park, is much less disruptive, avoids an estimated 7 month construction period, is more environmentally friendly, and is consistent with the feedback received from the community.

Council Member Brekhus echoed her support of Council Members for Alternative 1 and added that if this were a project like someone redesigning their home and landscaping and they could

bring it back a few more times and tinker with it, she could envision getting behind it. At the end of the day, the walls will not last forever and it is concerning the way this comes to the Council without any real ability to tinker with it or even understand some of the decisions made and potential alternatives. She voiced disappointment with the options the Council continues to receive and for the reasons of fellow Council Members, she supports Alternative 1 even though she could envision doing more.

Council Member Kircher said he agrees with Chris Martin in the sense that he thinks the concrete channel is ugly. It reminds him of projects California was engaged in building dams, filling in San Francisco Bay, etc. The Corps of Engineers had planned to continue the concrete channel all the way up to Fairfax and that was blocked in part by community action. They now are proposing to remove the concrete channel and restore it, but this is controversial. He therefore would support going back to a natural channel but the problem is everything is not equal anymore. There has been a change in the status quo as they have a new eco-system.

He walked the park again today and tried to envision it. He thinks it just does not fit here into the space they have. More trees could be planted if there was more room so he just thinks the park proposed would not fit into that space. He agrees with the comments that the whole park will look pretty bare and relayed a story about purchase of a new home and the amount of time it took for trees to grow and make the neighborhood look real and not bare. There will be impacts to residents living next to the creek in this regard as well as with construction noise. He is therefore leaning towards Alternative 1 although he respects Chris Martin a lot and agrees with him on the issue of the concrete channel, which with everything being equal, should be removed.

Mayor Pro Tempore Kuhl pointed out that the Town has a once in a lifetime opportunity to go for park improvements or decide that park improvements are not worth it and will settle for certain flood control benefits they get from merely removing the fish ladder. He is in the small minority and thinks in the long run doing the proposed project would ultimately produce a better park for Ross than they have now.

Their park now consists of a bike and pedestrian path alongside the creek, with a few benches and tables, a chain link fence and a few bushes and trees. When they originally discussed this, they were talking about 10 years but now it has slipped to 20 years or more and he thinks within a relatively short number of years after replanting they would have a pretty nice looking park.

He also knows that most residents who responded and the people who have properties in the immediate area want to leave the park alone. If it was his choice, he would do the park renovation so this leaves him in the position of reluctantly supporting the desires of the residents of this town and going along with Alternative 1.

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Council Member McMillan seconded, to approve Alternative 1. Motion carried unanimously (5-0).

13. Annual Housing Element Progress Report.

Patrick Streeter, Planning & Building Director, gave a status report on the progress of the adopted Housing Element for the year 2020 as required by HCD. The current Housing Element was adopted in 2015 and goes through the year 2023. This document responds to the Regional Housing Needs Assessment (RHNA) and involves each jurisdiction's responsibility for housing to meet the needs of the region.

The Town was tasked in the last cycle of RHNA to provide 18 new units, the majority being very low and low income units. The Town implemented the Housing Element to respond to that allocation and its requirement for very low income has been covered and one low income unit and two above moderate income units necessary to complete that allocation. The Town has 10 units which are in various stages of planning review and by 2023 the Town should have constructed more than its allocation.

The 6th cycle allocation is substantially larger, at 111 units over the next 7 years beginning in 2023. The various jurisdictions in Marin County are pooling their resources to look at performing outreach and drafting documents as they kick off the Housing Element Update cycle which will occur in the coming fiscal year.

Mayor Robbins commented that she was unsure as to how the Town could add 111 units, and she asked and confirmed with Mr. Streeter there is no rollover of numbers from one cycle to the next cycle and the Town is also not indebted if it does not build the 18 units.

Mayor Robbins opened the public comment period.

David Peterson referred to building permits issued and spoke about the possibility for any category for units legalized that had pre-existed such as second units.

Peter Barry congratulated the Council on their great work, citing their sensibility with the re-naming of Sir Francis Drake and in meeting RHNA requirements.

Break

The Council took a short break at 8:28 p.m. and resumed the meeting at 8:35 p.m.

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

Joe Chinn, City Manager, reported the CDC today said facial coverings need not be worn inside by people who have been vaccinated. The California Department of Public Health (CDPH) has not issued this as of yet. Marin County follows the CDPH and there are indications they will be there soon. One of the issues that will come up for indoor employers is guidance from Cal OSHA that will change their restrictions in the coming weeks.

Regarding statistics, Marin has the highest vaccination rate in the state at 86% for those having one dose and 62% for those fully vaccinated. Vaccinations for 12-16 years of age has begun in Marin County, and the Public Health Officer's goal is to get 90% of people ages 12+ vaccinated.

End of Administrative Agenda.

Mayor Robbins recused herself from Item 15 due to residing within 500 feet of the property, turned the meeting over to Mayor Pro Tem Kuhl, and left the videoconference.

Public Hearings on Planning Projects

15. 10 Ames Avenue, Design Review and Variance, and Town Council consideration of adoption of Resolution No. 2200.

Dan and Carly Costello, 10 Ames Avenue, A.P. No. 073-181-08, Zoning: R-1: B-20, General Plan: L (Low Density), Flood Zone: X (Minimal risk area outside the 1% and 0.2%-annual-chance floodplains).

Project Summary: The applicant is requesting approval of Design Review and Variance to construct a new 520-square-foot pool and associated patios and patio structures, decking, and mechanical equipment enclosure at the west side of the existing single-family residence. Variance is required to construct new structures and improvements within the minimum required west side yard setback and rear yard setback.

Matthew Weintraub, Planner, gave the staff report and overview of the request for design review and variance at 10 Ames Avenue. The ADR group recommended approval of the project on April 20, 2021 and afterwards the owner of 11 Southwood requested minor modifications, including additional plantings at the rear property line for screening and not extending the existing decking at the guest house. They also requested painting of the existing guest house to a darker color and the applicant has revised the plan, which he presented.

Key issues to consider are the variance request, privacy and screening, stormwater management, and drought restrictions by MMWD which requires all recreational pools and spas be covered when not in use, and the proposed pool has an automatic cover. MMWD may require additional conditions for filling and/or topping off pools and spas if drought conditions worsen. Staff recommends this is not a restriction on the ability of the Town to approve new pools but it is something owners should be aware of when constructing pools.

Staff recommends the Council adopt Resolution No. 2200, conditionally approving the design review and variance at 10 Ames Avenue. The architect and owner are available to present and/or answer questions.

Council Member Brekhus asked and confirmed with Mr. Weintraub that the resolution has been revised that references the updated plan sheet and changes requested are incorporated but the plans do not include painting the structure as staff is not recommending this as necessary.

Council Member McMillan said asked if staff has heard from the adjacent neighbor as to whether they are satisfied with the additional landscape screening, and Mr. Weintraub said yes.

Mayor Pro Tempore Kuhl called on the applicant to make a presentation.

Brad Eigsti, Imprints Landscape Architecture, thanked Mr. Weintraub for his presentation, said he was available to answer any questions and stated the project is straight-forward and was unanimously approved by the ADR group.

Mayor Pro Tempore Kuhl opened the public comment period, and there were no speakers.

There were no comments from Council Members and Mayor Pro Tempore Kuhl asked for a motion.

Council Member McMillan moved and Council Member Brekhus seconded, to adopt Resolution No. 2200 approving 10 Ames Avenue. Motion carried 4-0 (Robbins recused).

Mayor Robbins resumed her seat and was noted present at the videoconference.

16. 11 Morrison Road, Design Review, Hillside Lot Permit, Nonconformity Permit, Demolition Permit and Accessory Dwelling Unit Permit, and Town Council consideration of adoption of Resolution No. 2201.

11 Morrison Road LLC, 11 Morrison Road, A.P. No. 072-101-08, Zoning: R-1: B-5A; Hillside Area, General Plan: VL (Very Low Density), Flood Zone: X (Minimal risk area outside the 1% and 0.2%-annual-chance floodplains).

Project Summary: The applicant is requesting approval of Design Review, Hillside Lot Permit, Nonconformity Permit, Demolition Permit, and Accessory Dwelling Unit (ADU) Permit to demolish the existing three-story residence and accessory structures totaling 4,920 square feet of as-built floor area; construct a new 4,209-square-foot, two-story-with-basement, single-family residence including attached two-car garage; construct a new 796-square-foot detached ADU; and rehabilitate the existing landscape and hardscape including a new pool and driveway.

Matthew Weintraub, Planner, gave the staff report and overview of the request for design review, hillside lot permit, nonconformity permit, demolition permit and ADU permit at 11 Morrison Road.

The owner of 5 Morrison Road requested repair of Morrison Road following construction, which is required by Condition of Approval 19. Key issues for the Council to consider are the hillside lot standards and guidelines, floor area, stormwater management, and pools and MMWD's requirements and potential restrictions if drought conditions worsen.

Staff recommends the Council adopt Resolution No. 2201, conditionally approving design review, hillside lot permit, nonconformity permit, demolition permit and ADU permit at 11 Morrison Road.

Council Member McMillan said it looks as though the pool is not a rectangle and she asked how they will cover it, and Mr. Weintraub deferred to the architect.

Mayor Robbins asked if the space underneath the dining room counts as FAR or not. Mr. Weintraub said the space is not proposed to be counted as floor area as this is not a porch area but an open area underneath a vaulted structure without an enclosure.

Mayor Robbins asked if in-lieu tree fees are required when owners are removing trees for fire purposes. Mr. Weintraub said yes; they would require tree replacement and/or fees for any reason, but the Public Works Department has some discretion in the replacement ratio or fees.

Council Member Brekhus questioned the coverage in depth and width of the area beneath the dining room. Mr. Weintraub replied that the area is deeper than 10 feet, does not qualify as a covered porch structure but simply as an open area underneath the vaulted structure.

Council Member Brekhus pointed out similarities of this structure to a structure on Winding Way, which counted as floor area. Mr. Weintraub then provided the definition of floor area ratio.

Council Member Brekhus said the Town has applied this to a balcony that had three sides, and she asked if Mr. Weintraub was making the distinction because there are two sides or because of the fact the space is not enclosed, as dining room furniture could be placed in the area.

Mr. Weintraub explained that they look at how the architecture is used and how the site is being developed, including the fact that there are only two sides.

Mayor Robbins asked what material is proposed for the floor, and Mr. Weintraub said it is a level finished floor similar to an outdoor patio space.

Mayor Robbins asked whether it would count as FAR if the owner puts a BBQ in it, and Mr. Weintraub said no.

Council Member Brekhus questioned whether it would be considered a story under the Town's definition. Mr. Weintraub noted there is already a story at that level and it is counted as building coverage because it is included underneath a building.

Council Member Brekhus questioned how this applies to the definition of a mezzanine. Mr. Weintraub clarified a mezzanine is an indoor structure. If one had a two-story vaulted space and then a mezzanine extended across part of the second level, the mezzanine itself would be counted as FAR whereas the two-story vaulted space itself without the mezzanine would only be counted as floor area at the ground floor.

Council Member Brekhus asked and confirmed the area does not qualify under the definition of porch. Mr. Weintraub provided the definition of "porch" which means a roofed structure projecting from the exterior wall of the dwelling for the purpose of providing shelter for an entrance. There may be an entrance but he does not think the specific intention is a porch to provide an architectural transition between the interior of a residence and a yard.

Council Member Brekhus said the Council had made the Hardy's on Winding Way shrink their balconies, as well as for the Pickard's in the Winship Park area and did not see the two sides versus three sides as being that much different. It has the sense of an enclosed mass. She asked if this kind of space is counted. Mr. Weintraub deferred to the architect.

Council Member McMillan referred to construction management and repair of the road. She asked and confirmed this would include the public and private road and that a large off-street parking is proposed for construction worker parking.

Matthias Troitzsch, architect, thanked Mr. Weintraub for providing an overview of the project. In answering questions of the Council, the pool is a natural pond in which people can swim. In order to cover it they will have to have a custom cover made. Regarding the elevated dining room, it was well received by the ADR group and they seemed to like it.

Regarding the tree house feature, it is an unusual design as they want to retain as many trees as possible and it is open to the underside. The lower patio flows underneath it and the one issue that came up was the width and bulk of the building. However, they were able to show overall the width to the west side is about 95 feet whereas other comparable buildings along the hillsides can easily go to 130 to 140 feet in width and are more prominent in the hillside.

Regarding parking and construction staging, he displayed the site plan and said they are proposing more parking lots than are required. The existing site has a flat area on the north with three sheds. They will use this same side to create more parking. There are a variety of vehicles that park along Morrison Road such as landscapers, visitors, servicing companies, and they are creating more than what is required to accommodate the workers and staging.

They are also working from the top down to the site and before the pool is erected they will have an area at the bottom of the hill where staging can occur. An extra path is also proposed in the southern area which will serve as another access. They are stepping the building in sections so it will be within the envelope of the existing building and lower than it. Materials will be natural and the design has softer lines, certain amounts of glass, geometric curves, circles and half circles, and the other reason for detaching the dining room is there is an access from the upper lot through a staircase that goes underneath the bridge to the dining room and ends up on a large patio. In general, the organization of the building is such that the upper floors are the more public ones and lower rooms are the more private corridors.

He displayed some visualizations of the project, stating they have to remove some oak trees, but the objective was to keep as many as possible on site. One oak tree being removed is Tree No. 14 and Tree No. 19 is staying so the building is more concealed. They also will use extensive greening around the site, replacing all 46 trees planned to be removed. A green roof is proposed on the ADU as well as on the building, along with photovoltaics.

The driveway is 18 feet wide where the Fire Department requires 16 feet, and no parking will be allowed along the driveway. Two parking spaces will be in the garage and four parking spaces on the parking lot. Oak Tree No. 1 is currently in the driveway and they want to save it and are

designing paving around it so it will stay. Lastly, he provided an overview of proposed materials for the project.

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

Mr. Weintraub shared his screen showing additional information regarding the Council's determination of the vaulted dining room area and open nature of the area below it, which he described as having space on all three sides for light, air and wind and rain to flow through. It represents more of an outdoor patio space that has a covering over it.

Council Member Brekhus referred to Sheet A9.01 and the top picture. She said one area is between 2 and 14 which is underneath the area where one would eat. There is a second area which is below 7 that states "archways". She asked if this is also a large area as well.

Mr. Weintraub clarified this area is natural earth and turf, is sloped and would not meet the definition of floor area, including entry porches which have the specific architectural intention of providing a main entry in or out of the building as opposed to an access point.

Council Member Brekhus said she likes the architecture and design. It looks like it is tucked in with many nice elements and creative spaces. The picture Mr. Weintraub displayed is helpful and she would love to see the home when done to see if those spaces read as mass and bulk that might otherwise be designated as floor area. She likes the design and voiced support of the project.

Mayor Robbins said she could support the project; however, she might still have some reservations about the elevated dining room. The picture Mr. Weintraub displayed clarified that it meets the guidelines. She also would have liked a more direct path to the ADU but understands it also meets the requirements of an ADU.

Mayor Pro Tempore Kuhl asked if the resolution includes some provision for traffic control up and down Morrison when trucks are moving dirt. Mr. Weintraub confirmed there are standard conditions of approval proposed to address this.

Mayor Pro Tempore Kuhl said this looks like a situation where personnel and radios will be needed, and Mr. Weintraub said this would be part of consideration for developing a final construction management plan at the building permit stage. He noted that a preliminary plan has been submitted which indicates they are thinking about these things and this would be part of the consideration when working with staff.

Council Member McMillan said she thinks the Council needs to defer to the ADR group who are experts in terms of design. They have said this design is beautiful and they love it, so she supports the project.

Council Member Kircher commented that it is a very impressive design and it would be a huge asset to the community and he voiced his support.

Mayor Robbins asked for a motion.

Council Member Kircher moved and Council Member Brekhus seconded, to adopt Resolution No. 2201 and approve 11 Morrison Road. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects

17. No Action Items:

a. Council correspondence: None

b. Future Council items: Mayor Robbins referred to the Council's discussion to have meetings on video once they return to in-person meetings. The proposed law applies only to jurisdictions with 250,000 or more residents. She therefore asked if the Council would like to discuss this further by either having the meetings videotaped, having a computer in the back showing it, or doing nothing. Council Member Kircher voiced support for such a discussion at the next meeting.

18. Adjournment.

Mayor Robbins adjourned the meeting at 9:37 p.m.

Elizabeth Robbins, Mayor

ATTEST:

Linda Lopez, Town Clerk