

**REGULAR MEETING of the ROSS TOWN COUNCIL**  
**THURSDAY, JULY 13, 2023**

*Held In-Person and Teleconference via Zoom*

**1. 5:00 p.m. Commencement.**

Mayor Elizabeth Brekhus; Mayor Pro Tem Bill Kircher, Jr.; Council Member Beach Kuhl.; Council Member Julie McMillan, Elizabeth Robbins; Town Manager Christa Johnson; Town Attorney Benjamin Stock (via Zoom)

**2. Posting of agenda.**

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

**3. Closed Session.**

**CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code Section 54956.9(d)(4): (one potential case)

**4. 6:10 p.m. Open Session. Council will return to open session and announce actions taken, if any.**

Mayor Brekhus announced no reportable action was taken in Closed Session.

**5. Open Time for Public Expression.**

There were no speakers.

**6. Town Council Recognition of Beach Kuhl for his service as Mayor**

Mayor Brekhus thanked former Mayor Beach Kuhl for his service as Mayor and spoke about the workings of the Vice Mayor and Mayor on coordination of the Council's agenda and events, said it has been a great pleasure working with him, and she presented him with a Town gift.

Council Member Kuhl stated he enjoyed serving as Mayor for the last year, spoke about the challenges the Council has faced, and thanked Town staff, his colleagues, and the residents of Ross.

**7. Mayor's Report**

As some of you may know the Council elects a new mayor in June and I was honored to be nominated and selected by the Council. This will be my 12<sup>th</sup> year on Town Council and my third term as mayor. It is largely a ceremonial role whereby the Mayor organizes the agenda in consultation with staff, runs the meeting and acts as a primary point of contact for the Council. The real decision-making continues to be via the five members of the Council.

The Council does a lot of work behind the scenes that many people do not know about. For example, the Council serves on committees and other agencies throughout Marin, we adopt annual budgets that have to deal with pensions, liabilities, and plans for capital improvements and upgrades, often years out, and we have to pass an insane amount of laws to be in compliance with state law that requires we adopt various rules and regulations. It never ceases to amaze me how much work is required to run a small town.

In the next year, a number of very important decisions will have to be made. First, the Town is part of Ross Valley Fire Department ("RVFD"), which will be considering a potential merger or shared services with Central Marin Fire Department. Second, the Town will have to decide the path forward with Ross Valley Fire Department given some recent conflict between RVFD Board Members. Other members of the RVFD Board have demanded that Ross pay for improvements to the Town of San Anselmo and Town of Fairfax fire stations, notwithstanding a contractual agreement that requires each Town to pay for the improvement of their own fire station. The request is unprecedented and it is contrary to the contract that the Towns of Ross, Fairfax and San Anselmo signed. As elected officials, it is our job to use taxpayer money wisely and not to give away public funds.

Finally, I want to express my appreciation to the Ross Rec staff for once again putting on a fun 4<sup>th</sup> of July event for the Town. The Ross Police Officers' Association's food stand was a big hit and the dog contest was a fun new addition. It was great to see so many residents on the 4<sup>th</sup> and I know I speak for the entire Council when I say riding in the parade and throwing candy to the children is my absolute favorite Council duty.

I look forward to working with the Council and staff in the coming months, and if you happen to have any questions or concerns regarding the Town, please let me know.

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

Council Member Kircher reported on his attendance to the Association of Bay Area Governments event, said Ross' fees have gone up which was expected, said ABAG is having financial issues regarding its pension obligations and is considering options to pay them down, and the Brookings Institute held a presentation about housing issues, re-imagining the Bay Area housing and business landscape, taking into account transportation.

Mayor Brekhus reported the RVFD met last month and they have another upcoming meeting. As referred to in her Mayor's report, it was requested that reserves be drawn down and those monies used to repair three stations owned by San Anselmo and Fairfax. This is not what the contract states, and Ross has objected to that. The agenda at the next July 19<sup>th</sup> meeting at San Anselmo Town Hall is to take up that decision again. Because there was not unanimity to do this, with Ross objecting solely on the basis its funds should not be used for repair of other fire stations, they have proposed to work around that contractual provision and vote to approve just less than 3% which is the threshold in the agreement to get the money which requires unanimous consent.

## **10. Staff & Community Reports.**

### **a. Town Manager**

Town Manager Johnson gave the following report:

- The Laurel Grove Pedestrian Pathway project began construction this week. The work consists of installing 1200 feet of new asphalt pathway and concrete barrier from Magic up to the private driveway known as “Monte Allegra.” The next segment is scheduled for Spring 2024 and this will continue the pathway and roadway reconstruction up to the Canyon Road intersection. There will be some inconvenience, but greater pedestrian mobility in town as a result.
- She asked everybody to place the Town Dinner on their calendar for Friday, September 22<sup>nd</sup> on the Ross Common from 5:30 p.m. to 9:00 p.m. It is one week earlier this year so as not to conflict with the Jewish holiday on the following Friday. It is a potluck style dinner under lights with neighbors on the Ross Common. The Town will provide live music to complement the evening. People should bring their own picnic and beverage to enjoy. The Town provides tables, linens, chairs, live music, décor, and a special post-dinner activity. After dinner is done there will be a local dancing instructor, Jasmine Worrell, on the stage from 7:30 to 8:30 p.m. teaching those interested to swing dance. Register on the Ross Recreation website at [www.rossrecreation.org](http://www.rossrecreation.org).
- Another exciting event is being coordinated by Police Chief Pata and his team who will conduct their second annual National Night Out on Tuesday, August 1<sup>st</sup> held at the grassy area by the Post Office from 4:30 to 7:00 p.m. This 40-year old event held around the country has been going on since the 1970’s and 38 million people have participated in over 16,000 communities, and Ross is one of those communities. The event is designed to bring law enforcement and the community together. The Fire Department will also be invited to attend this year. Last year’s event resulted in a block party with neighbors and kids riding by on bicycles and skateboards. This year, police will have gun safety handouts and trigger locks, as well as other public safety information.

Council Member McMillan referred to the Laurel Grove construction and commented that the workers told her they were shocked at how fast people are driving on Laurel Grove, even though it is one lane.

### **b. Ross Property Owners Association**

There was no RPOA report.

## **10. Consent Agenda**

The following items will be considered in a single motion, unless removed from the consent agenda. Mayor Brekhus asked and confirmed there were no requests for removal of items and no public speakers.

### **a. Minutes: Regular Meeting 6/15/23; Special Meeting 6/15/23**

- b. **Demands.**
- c. **Town Council consideration to authorize the Town Manager to execute a funding agreement (number A-FY23-03) with the Transportation Authority of Marin (TAM) and all Cities and Towns in Marin County establishing a long-term fee structure to support the essential functions of TAM.**
- d. **Town Council consideration and approval of the requested extension of time limits of construction at 2 Bellagio Road by 75 days.**

**Council Member McMillan moved and Council Member Kuhl seconded, to approve Consent Calendar Items a, b, c, and d. Motion carried unanimously (5-0).**

**End of Consent Agenda.**

**11. Public Hearings on Planning Projects – Part 1.**

- a. **18 Canyon Road, Design Review, Hillside Lot Permit and Nonconformity Permit, and Town Council consideration of Resolution 2326**

Debra Pell, 18 Canyon Road, A.P. No. 072-031-55, Zoning R-1: B-5A, General Plan: VL (Very Low Density), Flood Zone: X unshaded (Minimal Risk)

**Project Summary:** The applicant requests approval for Design Review, Hillside Lot Permit, and a Nonconformity Permit. The project proposes to remodel and renovate the existing nonconforming single-family home. The project includes conversion of a portion of the existing single-family home (434 square foot) into a new 731 square foot Accessory Dwelling Unit (ADU). The ADU meets all the requirements for ministerial approval and is not part of the Design Review process. The project proposes to transfer the 434 square-foot of the existing single-family home utilizing Section 18.42.065 (b). The 434 square-foot addition is proposed on the lower level of the home. A portion of the lower-level addition encroaches into the side yard setback; therefore, the nonconformity permit is required.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for approval of Design Review, a Hillside Lot Permit, and a Nonconformity Permit at 18 Canyon Road, and consideration of associated Resolution 2326, prepared for consideration of those entitlements. He clarified that the project information table on page 2 of the plans needs to be corrected..

Daniel Castor, Castor Architecture, apologized for the mistakes on the project information table. He referred to Sheet A-0.0; the Zoning Parameters Table and said the second set of floor area numbers are correct. On the lower level, it is 784 square feet and they are adding 434 square feet for a total of 1,218 square feet.

For the main level which is 1,544 square feet, they are adding 297 square feet which is part of the ADU for a total of 1,841 square feet. The upper level does not change at 771 square feet. The total floor area is actually correct which is 3,830 square feet. Because 731 square feet of that is the new ADU, the house itself is unchanged at 3,099 square feet which is without the ADU.

Mayor Brekhus said beneath the total gross square foot area there is a calculation which she questioned. Mr. Castor said Mr. Lopez-Vega calculated it and provided the number, noting it is a tricky formula but is accurate in determining the 30% hillside slope calculation.

Mr. Lopez-Vega added that staff uses an Excel spreadsheet which calculates the lot size plus the percentage of the slope which provides a number.

Mayor Brekhus asked and confirmed with Mr. Lopez-Vega that the calculation result for the FAR is below the maximum square footage and allowable FAR. Mr. Castor noted they are adding some mass to the back but it is not in a visible location. Mr. Castor concluded his comments by requesting the Town Council approve Resolution 2326 and the related requests for approval of Design Review, a Hillside Lot Permit, and a Nonconforming Permit.

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

**Councilmember Robbins moved and Council Member Kuhl seconded, to adopt Resolution 2326 approving 18 Canyon Road Design Review, Hillside Lot Permit and Nonconformity Permit. Motion carried unanimously (5-0).**

**b. 4 Chestnut Avenue, Design Review, Hillside Lot Permit and a Variance and Town Council consideration of Resolution 2327.**

Craig and Haley Greveling, 4 Chestnut Avenue, A.P. No. 073-301-18, Zoning R-1: B-10, General Plan: ML (Medium Low Density), Flood Zone: X unshaded (Minimal Risk)

**Project Summary:** The applicant requests approval for Design Review, Hillside Lot Permit, and a Variance. The project is requesting to remove and replace the existing failing rock retaining walls with new concrete retaining walls and to replace the concrete patio at the pool with artificial turf. The project also plans to relocate the pool equipment to the existing shed. The project is also requesting a new outdoor kitchen in the side yard setback. A Variance is requested to allow for the construction of a new outdoor kitchen and construction of a new concrete wall over 48" within the side yard setbacks. The lot is a narrow rectangular shape lot and includes nonconforming setbacks, which makes it difficult to construct new improvements compliant with the minimum required yard setback.

**Recused:** Councilmember Kuhl was recused due to the proximity of his residence.

Haley Greveling, owner at 4 Chestnut, introduced herself and said Council Member Kuhl is her neighbor. She indicated that Brad Eigsti, their landscape architect, is available to speak to the project if needed.

Assistant Planner Alex Lopez-Vega then gave the staff report and overview of the request for approval of Design Review, a Hillside Lot Permit, and a Variance and associated Resolution 2327, prepared for consideration of those entitlements.

Council Member McMillan referred to the plans and pointed to a notation regarding the outside BBQ area and asked for the scope of the outdoor kitchen.

Mr. Eigsti replied the outdoor kitchen will be simple and they plan to purchase a Danver pre-fabricated BBQ which is a grill with a couple of cabinet drawers and small counter space which they would set up against the existing wall. Much of the scope of the project is to replace the rock wall along the pool that is falling apart. During the winter season, water, mud and dirt come through and over that wall and it get into the pool and patio. The bulk of the project is to remove the wall along the uphill side of the pool, replace it with a concrete wall, relocate the excavated material and expand the turf. The relocation of in excess of 40 cubic yards of soil and requires the applicant to go through the planning approval process.

Council Member Robbins asked and confirmed with staff that the variance is required because the outdoor kitchen and new wall over 48" are proposed in the setback.

Mayor Brekhus also confirmed the variance is because of the walls being taller than 4 feet which she described.

Mr. Eigsti stated they have worked to keep the walls less than 6 feet in height. The construction access is challenging and they are trying to balance the cut and fill where they do not remove any soil from the site. The variance is required because this lot is extremely narrow substantially limiting the buildable area of the lot. The oval shaped pool exists and is not changing, and they are removing concrete paving to reduce the impermeable surface. Currently, there is an old pathway that goes up to the pool from the lower yard which is overgrown and falling apart. The yard is small and they wanted to reclaim that area and make it a usable turf space and, in the process, balance the soil on the property so they do not need to haul any away.

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

**Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution 2327 approving 4 Chestnut Avenue Design Review, Hillside Lot Permit and Variance. Motion carried unanimously (4-0, Kuhl recused).**

**End of Public Hearings on Planning Projects – Part 1.**

**Noted as Present:**

Council Member Kuhl returned to the dais and was noted as present.

**Administrative Agenda.**

**12. Town Council consideration and adoption of Resolution 2325 approving the Town of Ross Storm Drain Condition Assessment and Capital Improvement Master Plan.**

Public Works Director Rich Simonitch gave the staff report and overview of the Storm Drain Condition Assessment and Capital Improvement Master Plan. He spoke of corrections to the staff report and resolution which include the following:

- Under the staff report under the Fiscal Resource and Timeline Impacts, the first sentence should be revised to read, "The Master Plan recommends a total of ~~\$438,000~~ \$300,000.... He clarified the \$438,000 includes some improvements to the privately maintained storm drain systems which they took into account just for assessment purposes, but this Master Plan is going to concentrate on the Town-maintained portion which is about \$300,000.
- The 4<sup>th</sup> "Whereas" clause on Resolution 2325, the estimated construction costs are not \$13.7 million but \$300,000.

He then provided a background of the Capital Improvement Program and CIP Study and process of developing annual storm drain projects, described staff's identification of large storm drain projects, the ordinance that created the drainage impact fee, the need to hire consulting civil engineers Schaaf & Wheeler to prepare a condition assessment to prepare and update the GIS system to have an accurate asset management system for the Town's storm drains, and said there was no reason for the Town to spend money to determine the storm drain system in the valley.

The condition assessment was completed which is a tool staff will use over the next 5 to 10 years to continue spending on the drainage fund, which is funded by drainage impact fees collected from building permits. Schaaf & Wheeler provided costs, analysis, and the condition of the Town's storm drains which is in good shape even though the Town has not kept up with new maintenance programs, replacement of storm drains, and clearing of lines. The knowledge that they need to spend \$300,000 over the next 5 to 10 years is doable with the current drainage fund balance which is close to \$1 million.

Council Member McMillan said she was not sure if a road is private if the Town maintains the storm drains or if land owners who maintain the road are also supposed to maintain the storm drains connected to the private road.

Mr. Simonitch said this is something he wants to start mapping. All driveway culverts are private whether they are on Town-maintained roadway or not. In the non-Town maintained roadways, all storm drain crossings are to be maintained by those property owners. The Town does not have

jurisdiction to maintain them. There are instances where private runoff comes down the hill and enters the Town's storm drain system and instances where it enters a private system. Some monies allocated to the private system would be to install turning structures at the point where the Town-maintained system enters a private system.

Council Member McMillan commented it would be helpful for everyone to understand the Town does not maintain storm drains on private roads and asked that this be communicated to people. Mr. Simonitch stated staff can include this in the monthly newsletter under winter preparedness.

Mayor Brekhus referred to the resolution and the 4<sup>th</sup> "Whereas" clause states, "...and maintenance cost of approximately \$450,000." Mr. Simonitch stated this was changed. The \$450,000 includes the estimated cost for someone to maintain the private sector. If they take that out, the Town is left with \$300,000.

Mayor Brekhus said she thinks the resolution might need to be clearer to say maintenance costs of approximately \$300,000 from the Town with an additional maintenance needed of approximately \$150,000 of private residence expenditures.

Mr. Simonitch said he can add that to clarify the sentence given this is a draft. It can state \$300,000 for the public storm drain and an additional \$150,000 for the private expenditures. He does not want to say the Town is going to be funding the private storm drain system and will clarify this in the sentence.

Mayor Brekhus asked how soon the high priority storm drain 130 feet on Poplar can be done. Mr. Simonitch confirmed it is the condition of the pipe versus the ability of the pipe to transport the water and he thinks this is not a replacement but it is clearing out the debris. This will be addressed in the next couple of years where they jet and clear all of the high priority ones.

Mayor Brekhus asked if there is concern of a localized flooding problem, and Mr. Simonitch said yes, there is that concern. He has money set aside for the trucks to jet out the high priority ones this year.

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

**Council Member Robbins moved and Mayor Pro Tem Kircher seconded, to adopt Resolution 2325 approving the Town of Ross Storm Drain Condition Assessment and Capital Improvement Master Plan, with amendments by staff. Motion carried unanimously (5-0).**

- 13. Town Council to receive the Public Works Director's presentation of the 2023 Town of Ross Tree Inventory and Management Plan (Tree Management Plan) and approve the Tree Management Plan.**



Public Works Director Rich Simonitch gave the staff report, PowerPoint presentation, and overview of the 2023 Town of Ross Tree Inventory and Management Plan, project locations, summary of the tree inventory and condition assessment process, a summary of mitigation techniques recommended by the report, an overview of the Arbor-scope web-based tree management system, the cost of the program, and additional monies to begin implementation of this plan. It is recommended the Town Council approve the 2023 Town of Ross Tree Inventory and Management Plan.

Council Member McMillan said she understands the report is not addressing fire issues, but given there is a lot of pruning recommended she would strongly encourage the Town to work with RVFD about pruning, limbing up trees, having adequate space between crowns, and to coordinate with them before the pruning starts.

Mr. Simonitch said they do not necessarily want to spend public funds keeping high fire risk trees alive and in good health but to evaluate them for removal. The tree ordinance allows removal if they are hazardous and improve the health of the trees around them. He thinks there is room to implement the Firewise strategy moving forward with the program.

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

**Council Member Robbins moved and Council Member McMillan seconded, to approve the Tree Management Plan. Motion carried unanimously (5-0).**

Town Manager Johnson recognized Director Simonitch for exemplary work relating to these last two agenda items. She said the items include a large master plan and trees which are recognized best practices, good governance, and Director Simonitch has been able to move those through over this past year and get them in place. She also thanked the Council for approving consultant expenses in the budget process and staff resources.

Mayor Brekhus and Council Members thanked Director Simonitch for the excellent work.

**14. Town Council approval of appointment of members to Town Council Committees for FY 2023-24.**

Mayor Brekhus said every year the Council reviews its Committees and decides if there should be any change. Since this was issued, there have been three possible modifications proposed:

1. Consider Council Member Kuhl stepping down on the Fire Board so someone can take it on and overlap this with the Mayor in the future. Council Member Kuhl stated neither Mayor Brekhus or he will be Council Members in the Spring of 2024 and representation on the Fire District requires experience in understanding the issues and personalities. He thinks it might be good to have a running start to have a member educated now and replace him.

Mayor Brekhus proposed that Council Member Robbins who is the current Alternate become the new Fire Board member and she asked if Mayor Pro Tem Kircher could serve as the Alternate. Council Member Robbins and Mayor Pro Tem Kircher both agreed.

2. They have been lucky to not have non-Council appointments to the Paramedic Group and Brian Salmen and Sally Secor have been in these positions which meet 5 times a year. Because there will be further discussion regarding these facilities, she wondered if a Council Member should serve and an Alternate. If this passes and Mr. Salmen and Ms. Secor agree to reconsider stepping up, they can discuss this. She nominated Council Member Robbins for this position. Council Member Kuhl said he has spoken with Mr. Salmen about this position but never about getting out. He thinks as a matter of courtesy to him, the Council should approach him before making a decision. Council Members concurred.

Mayor Brekhus said once they approach Mr. Salmen, if there is a desire to have an Alternate, she is happy to serve in that capacity. She recommended having that conversation and then agendize this on the Consent Agenda.

3. Mayor Brekhus suggested adopting a new position for the Mayor and Mayor Pro Tem to serve as liaison to Ross Recreation. This might be a nice way as they ramp up with the 4<sup>th</sup> of July or the Town Dinner because there is a protocol for the Mayor and Mayor Pro Tem, to indicate when they are advertising, how they are doing things, etc. She did not think it is a big change but it puts it on their radar, noting she did not know the Town Dinner date had changed and cannot attend.

Council Member Kuhl said he did not oppose this, wants to do it the right way, and asked if there are liaisons for departments for the Town. Mayor Brekhus said possibly it might be Town special events function of it.

Council Member McMillan said it seems a little redundant given the Town Manager oversees Ross Rec and the Mayor and Mayor Pro Tem are already working hand-in-hand with the Town Manager.

Mayor Brekhus stated she spoke with the Town Manager and given the turnover of staff and those on the Council, it is an opportunity for continuity and consistency such as ensuring signs for the 4<sup>th</sup> of July are out, and other things where they would need to make sure things are done. She understands why the Town Dinner was moved, but again did not know it was going to be moved.

Town Manager Johnson said she thinks it might be a good idea for it to be limited to special events and not all of their operations.

Council and staff discussion ensued regarding the liaison position, consideration of having a check-in with the Town Manager and Ross Rec Manager or an agenda item for the Council every quarter, enacting a tickler system for the Council, labeling the liaison position as a Council subcommittee of the Mayor and Mayor Pro Tem on special events only, future protocols with Council and staff turnover, bringing items to the Council if they involve additional costs or staff resources, and events run by the RPOA.

At conclusion of the discussion, Mayor Brekhus asked for a poll of Council Members who think it is advisable to have a standing subcommittee of the Mayor and Mayor Pro Tem for special events, specifically the 4<sup>th</sup> of July and Town Dinner, and those Council Members who think it is not advisable. Responses were mixed, and Mayor Brekhus suggested and Council agreed to try the subcommittee on a one-year trial basis and next year to reconsider it.

4. Council Member McMillan asked and confirmed with Council Member Kuhl he can resume his role on the Homelessness Committee, and she can serve as Alternate.
5. Town Manager Johnson said she noticed there is not an Alternate for the Marin Wildfire Prevention Authority JPA, and asked if this is needed. Council Member McMillan said she will serve as President beginning in August and she did not anticipate needing an Alternate, as she must be present for all meetings.

Mayor Brekhus said she believes there should be an Alternate just in case Council Member McMillan cannot attend a meeting, and she agreed to serve as Alternate.

6. Council Member McMillan asked and confirmed the Economic Recovery Committee was inactive.
7. Regarding Flood Zone 9, Council Member McMillan asked if this should be a Council Member or not, but she feels Rich Simonitch does a great job keeping the Council apprised of what is going on.

Mayor Brekhus said they do not meet often, have no power, and she and Council Members agreed they have been content with the current arrangement, and Council Member Robbins recommended that non-Council appointees report back to the Council regularly. Council Members agreed for Mr. Simonitch to report back to the Council.

Town Manager Johnson asked and confirmed the Mayor will consult with Mr. Salmen for the Paramedic Authority and then she will discuss this with the Town Manager regarding agendizing it on the Consent Agenda in the future.

8. Council Member McMillan stated on the standing committees like Community Protection, she was the Chair last year and she will be the Chair this year. She asked what are the duties for that position.

Mayor Brekhus said in the past when there was an issue the Council wanted to address like fire alarms, that committee has met, reviewed the ordinance with the Police Chief and so it has been an as-needed basis.

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

**Council Member Robbins moved and Council Member Kuhl seconded, to approve Town Council Committees for FY 2023-24, as amended. Motion carried unanimously (5-0).**

**End of Administrative Agenda.**

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

15. There are no planning projects for public hearing Part II.

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

16. **No Action Items: (Mayor)**
  - a. Council correspondence – None.
  - b. Future Council items – None.

17. **Adjournment.**

Mayor Brekhus adjourned the meeting at 7:50 p.m.

**ATTEST:**

  
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Cyndie Martel, Town Clerk

  
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Elizabeth Brekhus, Mayor