

REGULAR MEETING of the ROSS TOWN COUNCIL  
THURSDAY, AUGUST 14, 2025  
*Held In-Person and Teleconference via Zoom*

**1. 6:02 p.m. Commencement.**

Mayor Julie McMillan; Mayor Pro Tem Elizabeth Robbins; Council Members Teri Dowling; Bill Kircher, Jr., Mathew Salter; Town Manager Christa Johnson; Town Attorney Ben Stock.

**2. Posting of agenda/changes to agenda.**

Town Manager Johnson confirmed the agenda was posted according to government requirements, and she requested postponing Item 4 to September 11, 2025.

**3. Open Time for Public Expression.**

None.

**4. Welcome Elena Kurakina, Senior Accountant.**

This item was postponed.

**5. Mayor's Report.**

Last month, the Town published FAQs about the closure of the fire station and the rebuilding of the Ross Civic Center, reflecting input from our emergency services providers: Marin County Fire Chief and Ross Valley Paramedic Authority Executive Officer Jason Weber, Ross Valley Fire Chief Dan Mahoney, and Marin Wildfire Executive Officer Mark Brown. I encourage you to review the FAQs for detailed information about these nuanced and complicated issues. Emergency services in Ross continue to be top notch, provided by the Ross Valley Fire Department, the Ross Valley Paramedic Authority with its ambulance staying in Ross, and the Ross Police Department.

I am thrilled that the Organic Farm Stand has returned to Town on Thursdays, 11 am – 7:30 pm, on the Ross Common at the corner of Lagunitas Road. Produce, eggs, baked goods, meat and seafood are available from local and regional organic farmers, ranchers and artisan producers. The Organic Farm Stand will continue in Ross through October.

Last week I attended Marin Wildfire's public meeting in Pt. Reyes Station on the Draft Marin County Forest Health and Fire Resilience Public Works Plan. This is a 10-year planning framework, streamlining projects to make Marin's coastal zone safer from wildfires like the 1995 Mt. Vision and 2020 Woodward Fires. It covers more than 44,000 acres from Muir Beach to Dillon Beach. The Marin Wildfire Board will likely consider the plan at our September meeting.

I hope to see you at the Town Dinner Friday, September 5 from 5-8 pm at the lovely Marin Art and Garden Center. Please sign up in advance.

Then the next day, I strongly encourage you to participate in the evacuation drill for Ross residents, organized by the Ross Valley Fire Department and Marin County's Office of Emergency

Management. Grab your go bag, evacuate your family, drive to the Marin County Fairgrounds and check in at Ember Stomp on Saturday, September 6 from 10 am – 4 pm.

Ember Stomp is a free annual wildfire prevention festival where Marin Wildfire, Fire Safe Marin, and many other organizations and providers will help residents prepare for wildfires. There will be demonstrations, including burns, every ½ hour, along with displays of noncombustible fencing, gates, decks, home hardening and more. Firefighters will be on hand, along with a timeline showing fires in Marin County. Fun and educational family entertainment will include goats, skits, children's art projects, face painting, and a fire obstacle course. Please stop by the Marin Master Gardeners' booth to learn more about Fire-Smart Landscaping, where I will be staffing the mulch display.

Finally, it's hard to believe the end of summer is just around the corner, with schools starting soon. Please drive carefully and slowly in Town and watch out for returning students.

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

Council Member Dowling reported on: The TAM meeting, noting Hwy 101 narrowing will finish by September with new HOV lane hours, the end of the Federal EV tax credit on September 30, and upcoming transit improvements. She also toured PG&E's Hazard Awareness and Wildfire Command Center.

#### **7. Staff & Community Reports.**

##### **a. Town Manager**

The reimagined Ross Town Dinner will be held on Friday, September 5th, from 5:00–8:00 p.m. at the Marin Art and Garden Center—This free event for Ross residents promises an unforgettable evening with:

- Long community tables under the lights
- Upbeat jazz vibes to set the mood
- A full bar + tasty on-site food options for purchase
- Lawn games and spaces to chill, chat, and connect
- A super fun [silent] disco in the garden hosted by Joy Lab!
- Guests are encouraged to either bring food or purchase onsite at the event. Spots are free but limited, so please register in advance at [rossrecreation.org](https://rossrecreation.org) or call (415) 453-6020.

New and returning Ross Recreation programming favorites for the Fall Session 1: August 19th - October 17<sup>th</sup> are now open for registration.

Another opportunity for wildfire education event will be held on Monday, September 29 from 530-7pm in the Livermore Pavillion at MAGC.

The event is titled: Zone 0: Science, Resources & Inspiration. The Preliminary Program has several guest speakers that will discuss and answer questions about the benefits of defensible space around our homes.

*Representatives from Ross Valley Fire, Ross Police, the Town of Ross, Age Friendly Ross and Fire Safe Marin will be in attendance*

There will be Wine – Refreshments – Food. Please RSVP – [barberwinship@gmail.com](mailto:barberwinship@gmail.com)

The completion of the Shady Lane pathway and installation of bicycle "sharrows" is scheduled for later this year. More information will be provided as the project schedule is finalized.

The Town is currently working thorough a 5-year cycle visit with FEMA's flood risk management consultants to ensure that the Town's public outreach programs, Permit reviews, inspections, and municipal code meet the requirements of the National Flood Insurance Program. This "5-year cycle" refers to the frequency of an intensified annual verification process, where Community Rating System or "CRS" Specialists review a community's floodplain management activities to ensure they are still meeting the requirements for their current Community Rating System or "CRS" class.

Police Chief Pata reports that since QR codes were put on Ross patrol cars at the end of April, 30 people have scanned the code to sign up for Alert Marin. We are the first agency to do this in Marin County.

You may have noticed that the new radar trailer is being deployed around town. To get a good assessment of traffic speed the Police Dept will be deploying the trailer 5 days in a row, on streets that have space to park the trailer. The trailer can record the number of trips past the unit and can record speed. This will be a good tool to give our officers and community real numbers as we continue our efforts to slow traffic and provide a safer roadway for all.

Ross PD is ready for the school year. a joint agency walkthrough of Branson and the Ross School was conducted. This is done each year to familiarize officers who may have to respond to these campuses. This year, Marin Sheriff, College of Marin Police and Fairfax Police participated.

**b. Ross Property Owners Association**

Marcia Scall, RPOA, reported that hands-on emergency first aid training will be held on Saturday, September 27<sup>th</sup> on the Ross Common between 10-2. RPOA discussed how the Ross Common grass is not looking great and RPOA can contribute towards rejuvenation efforts. Discussion was held about supplying and enforcing dog poop bags and she asked if the Council ever considered enforcement. Regarding upcoming events: Live on the Common will be held on September 12<sup>th</sup> with a bluegrass band; October 10<sup>th</sup> will be the next event.

**8. Consent Agenda**

The following items will be considered in a single motion, unless removed from the Consent Agenda. Items removed were: Item 8c (Robbins), and Items 8e and 8f (Salter). There were no additional requests to remove an item or public comments.

**Mayor Pro Tem Robbins moved and Council Member Dowling seconded, to approve Consent Agenda Items a, b, d. Motion carried unanimously (5-0).**

- a. Minutes:
  - Special Meeting, July 10, 2025
  - Regular Meeting, July 10, 2025
- b. Demands for July 2025
- d. Town Council consideration to adopt Resolution No. 2534 amending the Town of Ross Conflict of Interest Code and rescinding Resolution No. 2266. (Johnson)

**Items Removed from Consent Agenda:**

- c. Town Council consideration of the second reading of Ordinance 730 and read by title only, an Ordinance of the Town of Ross amending the Town of Ross Municipal Code (RMC) Section 1.12.015 to change the Town of Ross general municipal election from being held on the date of the statewide primary election to the statewide general election date in November. This item was introduced at the July 10, 2025 meeting. (Martel)

Mayor Pro Tem Robbins said she did not feel a need to change the Ross Election for Council Members, and she will be voting "no."

Council Member Salter asked for an explanation, and Mayor Pro Tem Robbins said Ross has had this system for decades and has worked well. She likes the idea that the Town elects a Council in the Spring. The Council chooses a Mayor and the Mayor is in the 4<sup>th</sup> of July Parade as a tradition.

Mayor McMillan pointed out that all other jurisdictions hold their elections in November and the training in Sacramento for new Council Members is in January. All new members are on-boarded to various JPAs and liaison positions in December.

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

**Council Member Dowling moved and Council Member Kircher seconded, to approve Item c. Motion carried (4-1; Robbins opposed).**

- e. Town Council consideration to award the construction contract for the Morrison Road Paving Rehabilitation Project and authorize the Town Manager to enter into a construction contract with QA Constructors Inc. in the amount of \$174,845; and authorize a 10% ministerial contingency of up to \$17,000 for potential contract change orders to address unforeseen conditions. (Simonitch)**

Council Member Salter asked if this project is combined with the Sir Francis Drake project.

Public Works Rich Simonitch confirmed and when staff presented this at the previous Council meeting, it was combined with Sir Francis Drake Boulevard. They received a formal bid protest and staff withdrew the bid. They re-advertised the project with just Morrison Road because of the tight school schedule window and did not have time to do the Sir Francis Drake Boulevard project before school started in August. Staff is planning to re-bid Sir Francis Drake in the late spring so they can start in 2026 when school lets out.

Council Member Salter asked if the bid was better just for the Morrison Road project, and Mr. Simonitch said seven bids were received, and they came in below the Engineer's Estimate.

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

**Council Member Kircher moved and Council Member Dowling seconded, to approve Item e. Motion carried unanimously (5-0).**

- f. Town Council consideration to accept the investment report for the twelve-month period ended June 30, 2025. (Johnson)**

Council Member Salter said he pulled this item because the Town has hired the investment advisor and before the Council is also a Treasurer position. He asked for thoughts on moving forward with the investment advisor.

Town Manager Johnson said a custodial bank account with U.S. Bank has been established and staff has worked internally on a recommendation for the amount of funds to invest while still maintaining liquidity. Assuming the Council appoints the new Treasurer, she will be sending him that information for review, and then the Town will move forward with investing.

Council Member Salter said it looks like the federal reserve will be cutting interest rates finally in September. The LAIF and all vehicles short-term in nature will immediately hit those accounts and the Town will lose interest on those short-term deposits.

Mayor McMillan opened the public comment period.

Mr. Rosenbaum advised the Council that the value of a basis point on \$1 million over one year is a \$100. If the Town of Ross has \$1 million with an investment advisor and you drop 25 basis points, this is \$2,500 lost so it is not a dramatic or impactful loss of income.

**Council Member Dowling moved and Council Member Kircher seconded, to approve Item f. Motion carried unanimously (5-0).**

**End of Consent Agenda.**

- a. **30 Sir Francis Drake Blvd., Master Sign Program and Town Council consideration of adoption of Resolution No. 2533 approving the project, subject to conditions. (Lopez-Vega)**

Marin Art and Garden Center, 30 Sir Francis Drake Blvd, A.P. No. 073-231-23, Zoning: C-C (Community Cultural), General Plan: RC (Limited Specialized Recreational/Cultural), Flood Zone: AE (Special Flood Hazard Area) and X (Moderate to Low Risk)

**Project Summary:** The applicant requests approval from the Town Council for a Master Sign Program at the Marin Art and Garden Center. The proposed program includes a coordinated system of signage throughout the site, including primary identification signs, directional signs, and wayfinding signs per the Project Plans in Attachment 2.

Assistant Planner Lopez-Vega gave the staff report and overview of the request for approval of a Master Sign Program and Town Council consideration of adoption of a Resolution No. 2533 approving the program, subject to conditions at the Marin Art and Garden Center, 30 Sir Francis Drake Boulevard.

Mayor McMillan asked if there is any other sign in town that is 8' tall.

Planning Director Feliciano said on the Master Sign Program provided by the applicant, there are some pole signs, the Town Hall directional sign which is about 8' but it is not a monument sign, and St. John's Church is as well.

Mayor Pro Tem Robbins said she believes the current sign higher than 8' when driving down Sir Francis Drake which was erected a few years ago. It is a different style and does not start at ground height, and she believes it goes higher than 8'. Ms. Feliciano deferred clarification to the applicant.

Jessica Fairchild, Architect for the Art & Garden Center, said the sign program was put together by Studio Scott who is the graphic designer, but she is here representing them. She did not have a full presentation but the existing sign is about 12' high or higher and at least 12' long so they are actually reducing the size of the sign.

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

**Mayor Pro Tem Robbins moved, and Council Member Kircher seconded, to approve 30 Sir Francis Drake Boulevard Master Sign Program and adopt Resolution No. 2533 approving the project, subject to conditions. Motion carried unanimously (5-0).**

**End of Public Hearing on Planning Project Part 1.**

**Administrative Agenda.**

- 10. The Finance Subcommittee recommends that the Town Council adopt Resolution No. 2535 confirming the appointment of Jeffrey Kuhn to the position of Treasurer for the Town of Ross. (Johnson)**

Mayor McMillan stated they had four excellent applicants for this position and she and Council Member Salter interviewed some of them and agreed Mr. Kuhn is the best candidate. She thanked all applicants for spending time on their application. She then provided an overview of Mr. Kuhn.

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

**Mayor Pro Tem Robbins moved, and Council Member Kircher seconded, to appoint Jeffrey Kuhn as Town Treasurer and adopt Resolution No. 2535. Motion carried unanimously (5-0).**

Mayor McMillan and Council Members welcomed Mr. Kuhn as the Town's new Treasurer. Town Clerk Martel administered the Oath of Office to Mr. Kuhn, and a round of applause followed.

- 11. Town Council consideration to introduce for the first reading an Ordinance prohibiting Class 2 e-bike riders under the age of 16 and requiring every Class 2 rider to wear a helmet, as set forth in 2025 State of California Assembly Bill 1778.**

Police Chief Pata introduced Talia Smith from the County of Marin, an expert on the E-bike ordinance. He outlined the rise of electric vehicles, their classifications, and the Police Department's efforts with families, Ross School, and parents regarding Class 2 bikes. Ms. Smith is working to align all towns on a consistent approach.

Talia Smith Marin County Director of Legislative Affairs/Interim Deputy County Executive gave a PowerPoint presentation regarding the proposed ordinance to prohibit Class 2 e-bike riders under 16, which requires helmets for all Class 2 riders (per AB 1778), reported a 110% increase in 911 calls for bike accidents involving ages 10–15, and data from former Public Health Officer Dr. Matt Willis and paramedics shows conventional bike accidents are slightly higher for ages 10–15 since 2023, but e-bike accidents are 5x higher, posing greater safety risks.

She then described the three legal e-bikes in California—Class 1 and Class 2 e-bikes have a motor that assists up to 20 mph. Class 1 e-bikes must be peddled to have the motor assist, and Class 2 can be powered by the throttle alone. Class 3 bikes are restricted for riders 16 and up in California which are pedal assist but can go up to 28 mph and are required to have a speedometer.

Regarding advocacy, they worked with the Consumer Product Safety Commission that regulates e-bikes as a consumer product, referred to the Civil Grand Jury report last year regarding dangers of e-bikes, and convened a special committee on youth e-bike safety this year. She then described introduction and passage of AB 1778 which allowed Marin and San Diego jurisdictions to pass local ordinances that would put the same age restrictions on throttle e-bikes that were already on Class 3 e-bikes.

Lastly, they will look at whether the accident rate will go down and messaging of the public safety campaign.

Mayor McMillan opened the public comment period.

Bob Mittelstaedt voiced support of the ordinance and enforcement, cited deadly accidents, noted their non-profit called E-Bike Access, and spoke of their mission and work done on the matter.

John Ma, Governor of the American College of Surgeons, said they champion AB 778, looks forward to uniting the intent of this legislation across Marin County, and the area is witnessing an epidemic of e-bike injuries with 10 tragic deaths in the state in 2025 involving e-bikes which have resulted in local action in their communities. There have been proactive changes and education in Marin resulting in a reduction in the severity of injuries at their trauma center and urged the Council to adopt this ordinance.

Doug Ryan said he is generally against government intervention but in this case when parents choose to abdicate their responsibility and allow their children to do unsafe things, he approves of the government stepping in. He thanked the Police Chief for enforcing e-bikes and supported the ordinance.

Jonathan Frieman, via Zoom, said he has worked closely with Bob Mittelstaedt on the project for a couple of years, is glad the Council is considering adopting the ordinance, and urged the Council to present the correct information be presented to law enforcement officers so they can stop kids on e-bikes because it is for their safety and lives. The pushback from parents ought not matter and enforcing this will enable people not to be killed.

Council Members voiced support, thanked all representatives for working on the item, stressed the need to educate parents and schools, and emphasized the need for enforcement and how to work together to make this effective.



**Mayor Pro Tem Robbins moved, and Council Member Dowling seconded, to introduce first reading of Ordinance 731 prohibiting Class 2 E-bike riders (AB 1778). Motion carried unanimously (5-0).**

- 12. Town Council to receive a presentation by the Marin County Flood Control and Water Conservation District (the District) staff regarding the District's submittal of a Conditional Letter of Map Revision (CLOMR) application for the San Anselmo Flood Risk Reduction (SAFRR) project to the Federal Emergency Management Agency (FEMA). (Simonitch)**

Mayor McMillan reminded Council that this is a no action item and the project is the Flood District's project, not the Town's. Council's role is to receive the presentation, ask questions and express any concerns. Council is not providing direction to the District's staff.

Public Works Director Simonitch gave a background and overview regarding an update from the Marin County Flood Control and Water Conservation District on the Building Bridge 2 project being proposed in San Anselmo and provided an overview of the District's CLOMR application submitted on July 30, 2025. There is no action being requested of the Town Council this evening; just to receive this presentation.

Christopher Blunk, Interim Director of Marin County Public Works, introduced Judd Goodman of the Water Resources and Flood Control District to present on a complex, long-standing project. Blunk acknowledged past shortcomings in communication with residents and pledged to improve transparency moving forward. He noted the project offers significant flood risk reduction benefits for Ross Valley but also may raise base flood elevations for some properties, making clear and open communication essential.

Judd Goodman, Senior Civil Engineer, Marin County Water Resources and Flood Control District, gave a PowerPoint presentation on the project, focusing on the CLOMR and rise in elevation of creek flows.

Mr. Blunk acknowledged challenges with the project such as mitigation for removal of structures with property owners, additional mitigations and information from CLOMR, and said they are looking forward to getting the review back from FEMA. Grant funding is available within Flood Zone 9 to support removal of the project which has been extended but is at risk of not being extended again. They are working with a communications team to help simplify this in terms the general public can understand better. He echoed his previous comments that this is a challenging project with significant flood risk reduction benefits as well as impacts to properties downstream.

Mayor Pro Tem Robbins asked whether wet flood-proofing would be sufficient or if some homes might need to be elevated, and if funding existed for that. Mr. Blunk explained that current analysis indicates wet flood-proofing will adequately mitigate impacts. However, if FEMA requires additional measures due to higher base flood elevations, structures may need to be raised. At present, no budget exists for elevation.

Council Member Salter suggested the County hold a workshop for people versus going town to town. He asked if the Council approves this CLOMR or not. Town Attorney Ben Stock said the Town does not approve the CLOMR or project. Early on, they asked the Town to concur in their CLOMR application and the Town requested more information, which was provided.

Council Member Salter asked and confirmed that everything in the CLOMR is based on 1D models but there are 2D models that exist. He asked if they show a higher rise in flood.

Mr. Blunk said the 1D model is what FEMA used to generate the current flood maps. This is the model used for the project so there is an apples-to-apples comparison through the federal process. As a part of the EIR, a 1D/2D model was used to look at the rise for preparation of the EIR and mitigations proposed. The two different models show that the existing water elevations during a flood event are a little different. The 2D model shows the water elevations higher in the creek and lower on the street. The 1D model shows the water elevation is higher on the street and lower in the creek. When looking at the before and after for both models they generally show a similar change but are not identical but both generally show a similar outcome with removal of the structure. He thinks additional graphics and slides should be prepared to explain this.

Council Member Salter asked what this does to the affected structures. He finds it difficult to believe that only 10 structures in the Town are affected by this and he suggested a process where residents could submit that their home might be affected and the County respond. Lastly, he asked if the exhibits could be provided of flooding in Ross, in particular Sylvan Lane and that row of homes.

Council Member Dowling asked who pays for the mitigation. Mr. Blunk said the project is funded through the Flood Zone 9 fund which is funded by a mix of property taxes collected that support the zone as well as the flood fee. They answered questions on July 15<sup>th</sup> as to where tax dollars go with the Board of Supervisors and this can be made available.

Council Member Dowling asked and confirmed mitigation for the 10 houses would have to be done first before removal of the bridge. Regarding timing, Mr. Blunk said there are long lead times with review and if additional information needs to be provided, the review process would be restarted. They anticipate by the end of the calendar year to get FEMA comments back and if substantive, they may need to be built into the amendment to the EIR. Ultimately, if things move forward, if they end up having better communications with property owners, likely construction would happen in 2027 and mitigations would occur first.

Council Member Dowling said there have been no comments about Poplar Avenue and all houses have flooded in the past. She asked about homes on this side of Sir Francis Drake that have flooded in the past. Mr. Blunk said this is more technical in terms of the mapping and where the anticipated flood flows are. Mr. Goodman said it depends on the location, but it is specific to the location and where it is in the flood plain. Mr. Blunk added that review of zoomed in property locations might help answer that question and it is something they can prepare.

Mayor McMillan asked if the homeowner does the mitigation would they get reimbursed. Mr. Blunk said he thinks they are open to finding mutually agreeable situations with the property owners. Ultimately the mitigations need to be in place before the structure is removed. So, this is open for discussion.

Mayor McMillan asked and confirmed the flood fee tax runs out in July of 2026, and she asked how mitigation gets paid for. Mr. Blunk said there is a fund balance available for the project which is not just the property taxes and flood fee but grant funding. The balance has enough funding to complete this project and then still have a small contingency reserve. The costs widely vary depending on what needs to be done for a certain property and he believes it would be something like \$10,000 to \$15,000 on average per property, but it depends.

Council Member Kircher referred to some doubt that State grants would be extended beyond the current termination date. He asked if the project must be completed in the grant term or that it just start. Mr. Blunk said the Department of Water Resources has indicated that they want to see forward progress on the CLOMR application and FEMA's review by the end of this calendar year in order to consider extending the grant again.

Council Member Salter asked if San Anselmo does not provide a building permit. Mr. Blunk said the project exists within San Anselmo and this is a requirement. They have a building permit process, a review and appeal process. There is a risk that the project cannot proceed, but they are trying to move forward because of the benefit they see to the public in flood risk reduction but are also discussing internally about what they can do if they cannot end up removing the structure. Obviously, there is a large concrete slab in the middle of downtown San Anselmo with a fence around it so they need to identify opportunities in having the structure there if it cannot be removed as a part of the project.

Council Member Salter asked for a timeline as part of the project so everyone can understand the goals, timeline, and expectations.

Town Manager Johnson said she has received a few inquiries about the status of the fish ladder project, and asked if there will still be remaining funding for it. Mr. Blunk said the project is 2-3 years out and there are some flood wall elevation changes as the last phase of the Corte Madera Creek project. The lower channel project that is removing the concrete line channel and restoring a lot of the banks will start on September 1<sup>st</sup>. It is likely to be constructed the following year.

Mayor McMillan opened the public comment period.

Garril Page thanked the Historical Society and Carla Flood for renovating the building and recounted past flood control projects near the site. She emphasized that the natural creek meeting the concrete channel creates hydraulic turbulence, worsening with added upstream water. Ms. Page warned that this area is a natural floodplain and will continue to flood, urging the Council to ensure FEMA considers how upstream projects impact civic buildings, residents, and the community.

Doug Ryan said anything past Sir Francis Drake Boulevard past the bridge is not included because per the EIR, the project ended at 74 Sir Francis Drake. So, by design, the EIR did not address any impacts. There would be no mitigations for homes where he lives unless and until they remove the Winship Bridge at which point they would stick it all in the Town of Ross to pay for all mitigation for all homes. He asked what happens to the project if a homeowner declines mitigation. As a point of reference, a 2" rise of water at the corner of his house was "not significant" and did not require mitigation, so he asked what changed. He is reluctant to meet with anybody when he has been lied to by the Supervisor of his District.

Jennifer Mota, owner and resident of 82 Sir Francis Drake Boulevard, said her home has the water base flood elevations at her actual structure and is proposed for recommended mitigation. She is highly impacted by the removal of BB2. She has followed this project since the EIR was finalized in that it was stated she was going to receive mitigation for her property. She was told she would not be receiving mitigation for almost 6 years. She was told there was going to be no mitigation. Now she is being told there is mitigation required for her property, but it is simply wet proofing, and she described her home before and after the bridge is removed. What is being proposed is to raise some outlets and put more flood vents in her home which does not decrease the risk of flooding. She has also asked what the margin of error is for all models, and she has been told that this does not exist, which is not the case. So, she asked whose fault it is when they remove BB2 because her home has never flooded. She received an email that the county would like to meet with her about her property and mitigation and she invites everybody to attend.

Ann Pulitzer, San Anselmo, said the permit will come up in San Anselmo and the Council will have to decide whether to approve the permit or not to remove BB2. The only upside for the Town of Ross is an increase in surface water elevation. There are a proportionate number of homes that are negatively impacted by downstream water rise with the removal of BB2, and she hopes the Council considers what it is getting—liability. San Anselmo also does not get a lot out of the SAFRR project. The County has been putting out unsupported benefit cost claims of \$11 million to do the project and \$23 million in benefit for the BB2 removal. Since the County has already spent \$47 million on the SAFRR, if you add the current \$11 million cost to the BB2 removal to that, the actual cost to complete the project is \$59 million. She questioned what is the \$23 million

benefit claim. Nothing has been substantiated on benefit from this at all—these are just numbers and talk and it is not an adequate way to present this project. Also, these numbers for benefit are only present in a 10-year flood. Those do not affect the 25- or 100-year flood. As pointed out to Mr. Goodman at the San Anselmo Town Hall, they do not have 10-year floods in the Ross Valley. They have 25-year floods and they are always calibrated at a 100-year flood level so she asked the Council to think about her comments.

Ross Asselstine, San Anselmo, voiced appreciation in that he has not wanted to run for Council because it is an incredible amount of material to get through as generalists. What you see are specialists—the people whose properties have been threatened for 6 to 7 years, people like Garril and himself who have been on this for 15 years or more who are deep in this technically. They are committed in standing up and telling the other side of the story. The representatives are wonderful, but they are new. If you turn the clock back to 2011, the District said they will build basins high and will increase the capacity from the bottom. The reason everyone is here tonight and the reason these residents have been tortured for 7 years is because they are starting in the middle and increasing flow downstream. In the 140 pages he submitted to Marin County Grand Jury, the fundamental problem is they act as advocates and not fiduciaries.

He has drafted something for today and provided the Clerk with 5 copies. This is an opportunity to ask questions and receive answers. The problem with advocacy as opposed to fiduciary is not answering questions. They have come on board new and said after he stood up 12 times at Supervisor's meetings in the last 7 months, he asked for answers and they said they will hold meetings, do this and that, and then they shut the door. They submitted 500 pages of documents to the Town Administrators and Flood Plain Administrators on this CLOMR and did not give it to the public even though they asked for it repeatedly. As a specialist, if you do not appreciate the full depth of the technical aspects of this, the Council can say there are 6 to 7 questions in this document from him. There are comments from speakers, and he asked to take those questions and get answers. Lastly, he will submit a letter next Tuesday that says they are going to run out of money. Independent of what they say today, they do not have money for what was built in the 60's or 70's and they do not have the money to maintain that or what they built so far. This project will fall over and he asked the Council to take time and ask questions.

Mr. Green asked to go to slide 20 of the PowerPoint.

Mayor McMillan apologized and said they cannot bring up the PowerPoint now.

Ford Greene said slide 20 showed the adverse impact to houses in Ross. He asked to note that on the southern end of the project just north of the Sir Francis Drake Bridge is where the lion's share of maximum adversely impacted houses are located. This is important because among the questions Council Members asked is, what is the impact on people downstream, specifically with respect to Sylvan Lane. This is outside of the scope of the project and what the County says is base level rise stops at the Sir Francis Drake bridge. His point is that if it does stop here, he asked

how the square with the houses being maximally adversely impacted all being located just north of the bridge. This does not make any sense, so the County is not taking into consideration the people on Sylvan, particularly Charlie Goodman. He is stuck and there is no way for him to do anything except to have his house entirely elevated.

Lastly, there is a question about mitigation and how it works. The Flood District must get the ascent and buy-in of the property owner for the proposed mitigation. That is not a given. A property owner can affect the entire process by saying they do not agree with the mitigation proposed. Then, what happens next is the Flood District must use eminent domain authority to condemn the property and bring it within the scope of the project and comply with the project requisites. To think that would happen in Ross is frankly laughable. While the presentation is smooth, there are real questions that have not been answered, and Slide 20 highlights them.

Charlie Goodman said he hopes the Council is impressed with all speakers who provided comments about the many issues and their problems and understand concerns. They have done a great job of telling the Council about their lives. He has a home in the confluence of Ross Creek and Corte Madera Creek and has been there for over 60 years. He remembers when the creek used to run between Ross School and Ross Common and go into Murphy Creek. He has probably spent more time and knows more about the flows and movement of the water in Corte Madera Creek than the last 50 people who have been with the County or the Army Corps of Engineers.

The Flood Control District would lead you to believe that over 400 homes will see improvement by this project but what they do not say is that the water does not stop at the Winship Bridge which is where SAFRR ends. That water continues into Ross down and into Kentfield and those homes will suffer increased flooding. He was there in 1955, 1982, 1983, and 2005 when it was flooding. He knows where the water flows and where it goes, and he has two high water marks from those floods on this property. One comes from Ross Creek, and one comes from Corte Madera Creek.

The final design project submitted by the Army Corps of Engineers was a bypass channel from San Anselmo, down Sir Francis Drake Boulevard, and re-entering Corte Madera Creek below the fish ladder in Ross. That was their preferred plan. He asked why is it that the underground channel completely bypasses Sylvan Lane. This is because they could not come up with a plan to handle the water that was coming down Corte Madera Creek and Ross Creek effectively. It is pure and simple—with all of the years and all of the money, he asked how it is that the best the Corps would come up with Alternative J; the bypass channel. Now, the County and staff along with tens of millions of dollars in consultant fees have come up with a better plan than the Army Corps of Engineers that has years and years of experience. He asked the Council to think twice about what is being presented and hopes the Council will in the future.

Council Member Salter said residents brought up very important questions and this will be a political debate and the County will need to get the support of the Town of San Anselmo to issue this permit. What Ross has heard is there will be more water and more impacted residents, so the County needs to explain and give this community the answers they are seeking. If they do not, it will fail, and he hopes in the next iteration, many concerns will have been addressed.

Mayor McMillan agreed and reiterated that this is not a Town of Ross project. This is a Flood Control District project. She also said as someone who has lived under a cloud from issues with her own property that her heart goes out to Jenny and others because she knows what it is like, and it is very hard and very stressful. Hopefully, everyone will do the right thing and they will move on.

#### **BREAK**

Mayor McMillan called for a brief recess at 8:36 p.m. so staff can display the PowerPoint on the last two items on the agenda and, thereafter, the Council reconvened the regular meeting at 8:50 p.m.

#### **13. Town Council consideration to:**

- a. Receive a presentation.**
- b. Provide direction to staff on the scope and priorities for the General Plan Update.**
- c. Authorize staff to initiate a Request for Proposals (RFP) for consultant services to assist with the General Plan Update. (Feliciano)**

Planning Director Feliciano gave a presentation on the General Plan update, the request to authorize staff to initiate an RFP for consultant services to assist with the update. The options include:

1. Preparing a technical update and refresh the General Plan to align it with State law. The numbers are based from the Housing Element and Safety Element consultants;
2. During the Housing Element community outreach, there was a desire for carving out historic resources which does not need to be part of the update, but can be part of a zoning amendment;
3. Staff has heard a lot of interest to analyze and update some of the land use or development standards for the non-conforming lots and structures on smaller lots along Bolinas and Poplar Avenue;
4. There is an option for having a comprehensive update that would include a Sustainability Element or other elements. Some communities have an Environmental Justice Element. Also, the Town may re-write the current General Plan so the table of contents or the sections are by elements. Right now, it is done in a narrative, with the Safety Element located in different sections; and

5. The Town does not need to update the General Plan. There is no penalty of having an expired General Plan other than reviewing planning projects. The Council must make sure the land use and planning entitlements are rooted in General Plan policies and the zoning code which the Town does.

Her recommendation at this time would be for Option 1; preparing a technical update which seems reasonable to align what the Town has to meet State laws. One benefit of having an updated General Plan is eligibility for grant funding, but it is up to the Council.

Town Manager Johnson added that staff has a lot on their plate with a small staff and there is a lot going on especially with the Civic Center project, which is the largest project Ross has ever contemplated. It will be an all-hands-on-deck situation. She is concerned about their Planning Director's time. She is an important part of their team that will be working on that project, and they have an Assistant Planner to address daily planning work on projects.

She noted San Anselmo is undertaking a comprehensive General Plan update underway and she asked the Town Manager about the horizon of theirs which ended in 1975. So, she believes Ross will not be that behind if they wait a couple of years to start on this process.

Mayor Pro Team Robbins asked how often has the Town received grants that required an updated General Plan. Town Manager Johnson stated the Town received grants to help fund the Housing Element update process. She was unsure as to whether those grants required an updated General Plan.

Ms. Feliciano said those were housing grants and so Ross's Housing Element has been certified and adopted, and the Town is compliant. If it is a grant related to housing which are most grants from the State, the Town would be eligible.

Town Manager Johnson noted that the Town received a Prop 68 grant towards the planning process related to the first couple of phases of improvements for Ross Common and she does not believe this required an updated General Plan, which are often multi-year processes.

Mayor Pro Tem Robbins referred to hiring a consultant to perform the technical work and asked how important this is. Ms. Feliciano said this work is to align the General Plan with state laws. The cost would still be approximately \$300,000 and would take staff time working with consultants. Each revision or update would require her review and meetings.

Council Member Dowling asked why 2027 would be better, and Ms. Feliciano said she would have more time. She needs to work on the Housing Element implementation. The annual report to the state includes progress on each one of their action items, which is an extensive list so she would have more time in 2027.



Council Member Salter asked about the list of updates as projects have come through and asked if those would not be implemented if the Town did not do a General Plan update, and Ms. Feliciano said some of those just need zoning code updates.

Mayor McMillan said the last General Plan in 2007 seemed to be a 2- to 3-year work effort with workshops and outreach to the public, meetings and a dedicated committee with two Council Members and it was a ton of work. She asked and confirmed it would be a similar process.

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

Mayor McMillan said she is inclined to wait and check in 2026 around this time and suggested checking in on an annual basis.

Discussion ensued by Council Members regarding the Town's limited staff, the need to eventually update the General Plan, suggestion to hire a consultant to update it, potentially start with a technical update and break the work up in parts, address certain parts sooner than later, the fact there are more code issues, and the fact the Safety Element adopted in May has addressed fire safety issues. The Town Council decided to direct staff to not start the General Plan update now and instead to return to the Town Council in August 2026 to review the situation and consider next steps.

#### **End of Administrative Agenda.**

**14. 12 Canyon Road, Design Review, a Hillside Lot Permit, a Variance and Town Council adoption of Resolution No. 2532 approving the project, subject to conditions. (Lopez-Vega)**

Renaud Laplanche, 12 Canyon Road, A.P. No. 072-031-52, Zoning: R-1: B-5A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate to Low)

**Project Summary:** The applicant requests approval from the Town Council for Design Review and a Hillside Lot Permit. The project proposes the construction of a 60-ft x 42-ft (2,520 square-foot) sports court on a raised wooden platform adjacent to the existing pool deck. The court will feature a 7-foot-high concrete rebound/backstop wall on the south side of the court and a 4-foot glass railing on the west side of the court. A Variance is required since the proposed sports court traverses a natural watercourse or drainage swale.

Town Manager Johnson commented that those on Zoom cannot see the presentation but can hear the audio.

Council Member Dowling disclosed she had a conversation with Zara Muren who contacted her and she spoke this past weekend. She shared concerns she and her neighbors have about the proposed sports court at 12 Canyon Road. She also shared that she and neighbors brought in

consultants to conduct a noise impact analysis and to assess wildlife in the area. She encouraged Ms. Muren to share this information with the full Council and the information was sent to the Council on Wednesday.

Mayor McMillan disclosed that she also spoke with Zara Muren about similar issues, Tom Allen about pickleball, sound and tennis noise, and Mark Fritts who is a member of the ADR.

Mayor Pro Tem Robbins and Council Member Salter said they also spoke with Zara Muren and comments are represented in the public record.

Assistant Planner Lopez-Vega gave the staff report and overview of the request for Design Review, a Hillside Lot Permit, a Variance and Town County adoption of Resolution No. 2532 approving the project at 12 Canyon Road, subject to conditions.

Staff recommends the Council consider the requests and staff has prepared findings for these requests and the Town Council has the option to approve the project. Alternative actions include direct the applicant to revise the project to meet the Hillside Lot regulations and guidelines, to ask staff to obtain additional information or request further revisions to the project, and direct staff to return with a resolution containing findings to deny the project.

Council Member Salter asked and confirmed staff would add CEQA Section 15303 which is for the new construction of accessory structures or small structures. Based on the biological resource report, staff would recommend it is exempt from CEQA and staff prepared findings. With those findings, the Council has the option to agree with them or otherwise revise them. There are provisions in the Hillside Lot ordinance that allow for an accessory structure to be built without necessarily disrupting the canyon.

Mayor McMillan said she was unsure if the Council could make findings to grant a variance given the Hillside Lot ordinance discusses that structures shall not traverse a natural water course or drainage swale. She does not understand what the hardship is, given this is not their house. It is an optional sport court that not everyone has.

Ms. Feliciano said in the variance findings, again, staff is providing an option where the Council could find that due to the steepness of the lot and the built out oak tree woodland that there could be findings made that would support the variance. The Council could also request it go elsewhere or deny it. If the Council wanted to consider approval, the findings staff prepared would support that approval.

Council Member Kircher said the staff report states that sports courts and associated landscape improvements are commonly enjoyed by owners of residential properties in the immediate vicinity. The Council approved a sports court on Bellagio but this was not an elevated sports court. Ms. Feliciano confirmed and while on a hill, it is on grade. She confirmed there is a sports court at 99 Chestnut approved in March of 1979. Mayor McMillan said this was approved because the

applicant's children were going to be required to either play on Chestnut on the road or on a steep cement driveway and they had nowhere to play. It seemed the Council agreed at that time to approve an elevated paddleball court at 99 Chestnut.

Mayor Pro Tem Robbins asked if it is common to approve variances over a water course. Ms. Feliciano said within the past three years there have been none approved.

Council Member Dowling asked how many sport courts exist in that canyon area now. Mr. Lopez-Vega said the one at 2 Bellagio is being constructed now and he believes the property at 10 Canyon has a sports court which is not being used but on the property, and neither of those are elevated.

Brad Eigsti, Architect, said he has Ben Piper, the sound acoustic engineer available on Zoom from Salter and Associates and their biological resource person, Scott Yarger from WRA. He thanked staff and the Council, stating they have worked on this project for about 11 months and have gone through many iterations and a detailed design process. This began in the spring of 2024 and they started with a detailed topographic survey. Part of the early goals of the project was that they maintain all existing redwood trees, respect setbacks, do not interfere with the existing drainage swale in any way such that the water course would appear naturally from below the court, which will be planted with ferns and native plants. He worked on a project 10 years ago in San Anselmo with an elevated sport court similar to this and the court was constructed using steel posts with large spans and steel structure and a concrete surface poured over top of it so the impact on the ground plane was very minimal. They were able to space posts about 18 feet apart and there was virtually no off haul, very little excavation and disturbance of the ground plane. When it was approved, the fire department was happy to have this concrete fire abatement structure that would stop a wildland fire from coming up and canyon like this.

At the time they also hired Salter and Associates to do a sound study because they were concerned about the potential noise, and Mr. Piper will talk about that. They came up with a plan which he is excited about and they presented it on October 15<sup>th</sup> and the ADR Group had some great recommendations. They were able to lower the court 3 feet, reduce the bulk and mass, changed the wood fence to a glass rail, lowered the story poles, and he thinks it was a vastly improved project. They came back in January 2025, presented, and received a recommendation for approval from 3 of the ADR Group members.

A week later, they were informed by Town staff that they needed to do a biological assessment and hired WRA Associates, and Scott Yarger is also available to talk about these and how they are able to conform to Ross code, California Fish and Wildlife code, and all code requirements of the biological assessment.

Regarding the variance findings, they are traversing the swale, are removing a bridge that exists over the swale now and putting the structure over part of the swale. He clarified that this drainage swale runs from a culvert at least 200 feet and it spills out in a catch basin that is about

midway up through the court. This is not a natural drainage swale, but from a culvert that runs under the swimming pool and spa of the yard, goes up the canyon, meets the driveway up at the top of the property, goes into a large holding area to slow the water down, and spills into two catch basins and then spills down through the culvert and comes out of a turning structure and free-flows a bit, then runs into a fence, runs in to the neighbor's walkway that impedes the flow of the swale and the walkway traverses or impedes the flow of the drainage swale. What is very surprising is that this walkway leads to the sport court that exists at 10 Canyon, which by no means meets the setback requirements. It is 10-15 feet from the property and knows it is abandoned and not maintained, but they do not do these planning hearings for projects in the immediate timeframe but for the foreseeable future. If this property ever does sell, it will be an asset that will be advertised as part of a real estate sale. He asked Mr. Piper to talk about the noise study, and then Scott Yarger to speak from WRA about the biological assessment.

Ben Piper, Salter and Associates, said they were brought on board to provide a noise assessment for the sport court and ensure it is in line with standards of the Ross codes. He described what they look at, which is the numerical criteria in the standard, or the General Plan which has an LDN (Day-Night Average Sound Level) of 55 dB threshold for property line noise so they implemented design features, setback distances, and perimeter barriers to achieve this. They also look at subjective or qualitative standards. The Municipal Code has language that discusses noise generated that may be annoying or cause discomfort to people of ordinary sensitiveness. That type of language is very subjective so there is probably many different interpretations.

Their understanding is that for a neighborly dispute, this language is purposefully written in such a way so it allows for a police officer or similar peace officer to be on site, observe the noise that is occurring and make a determination of its appropriateness or inappropriateness based on factors like time of day, duration of noise, and overall noise levels. Their intention is for daytime use exclusively. If an officer were called at 10 or 11 a.m. on a Saturday to observe pickleball, this likely would not be a nuisance to shut down. Nonetheless, he thinks the private nature of the sports court allows for some additional mitigation strategies to be implemented which he described as hours of use, quiet equipment, and the owner at 12 Canyon has agreed to implement these to reduce the noise transfer to adjacent properties.

Scott Yarger, Associate Biologist, WRA Environmental Consultants, said they were contracted by the applicant to conduct biological evaluation per the Town's requirement. Their evaluation focused primarily on concerns raised by the Town pertaining to an ephemeral stream course and the threatened Northern Spotted Owl known to occur in the neighborhood. He acknowledged that they received an opposition letter from the Canyon neighbors yesterday and reviewed that. Despite the opposition letter and supporting biological evaluation, WRA's findings remain that the project as designed, with avoidance measures incorporated, is unlikely to significantly impact sensitive species or habitats. No unusual circumstances are present that could reasonably trigger an exception to the previously granted categorical exemption.

The ephemeral drainage swale is one of several in the neighborhood according to the Marin Map Viewer. This feature emerges from a culvert which runs underneath the existing resident's backyard and pool deck. The feature in its current state is a highly altered ephemeral drainage swale within a developed suburban setting that does not provide habitat for special status wildlife species. Nonetheless, the project will avoid direct impacts to the drainage as the sports court will be constructed on piers situated outside of the drainage swale with standard construction best management practices to prevent incidental impact to the drainage and also include a seasonal work window for ground disturbance work that avoids the rainy season.

The project will also avoid impacts to special status wildlife species, notably the Northern Spotted Owl as the pier construction that is expected to generate noise greater than 90 decibels will be conducted outside of the Northern Spotted Owl nesting season. It is also understood that the hours of use will be between 8 a.m. and 8 p.m. and that noise dampening paddles will be solely used for pickleball.

The project activities limit tree removal to one native Horse Chestnut tree. The project will not alter the overall characteristics and biological functionality of the property. As such, these areas will remain suitable for utilization by Northern Spotted Owl which is well known by Canyon neighbors. Based upon the opposition's letter in the short time they had to review it, it contains various quantitative analysis and associated speculation that are immaterial to the project. The application is based on the project being categorically exempt and, again, WRA's findings support that based on the biological resources checklist items under CEQA, and the project should be deemed categorically exempt.

Mayor McMillan opened the public comment period.

Zara Muren introduced herself and husband, Dennis Muren, and voiced opposition to this pickleball court proposal. It is a severe impact on their property which is directly down Canyon 55 feet. They share reasons of opposition with their neighbors here for peace and wildlife of the canyon. They are also represented this evening by their attorney, Mark Wolfe, who will speak at the end. In their 30 years living here, they have known a spirit of mutual respect for each other's place in this richness of nature, tranquility of the neighborhood. This proposal rides rough shot over. First, it is a huge violation of the Town noise ordinance. The acute noise of pickleball play following construction noise which is appropriately cautioned, but pickleball should be considered because it will pierce what the acoustical engineer has metered at 30 decibels in their quiet neighborhood. The acoustical consultant went onto model the noise and it measures 8 times or 60 decibels throughout Canyon and above 50 decibels or 4 times that loudness at their residence and others' residences. These sound levels are also documented by their biologist as adversely affecting wildlife.

Secondly, the deadening shade of the platform sport court would take out the mature chestnut tree, stop the regeneration of redwoods underneath, and obliterate the habitat of special species, Pallid Bat, amongst others, of the 167 vertebrates that their biologist identifies as using

the site. He further notes the sensitivity to noise of the endangered Northern Spotted Owl of which there are numerous documented nest sites within 400 meters of the site. In this, the proposal ignores U.S. Fish and Wildlife's recommended 400-meter noise buffer for these sites.

Lastly, the raised platform with adjacent west deck is massive, but made yet bigger by the 12-foot-high dark void that extends fully across the canyon beneath. This violates the Ross General Plan and Hillside Lot ordinance in that it is traversing a waterway. It is altogether failing to minimize the appearance of bulk and desecrates a feature of the natural environment. She asked the Council to deny this proposal and guard the peace and wildlife of the canyon for those who live here and the creatures who rely on it.

Rob Ludlow introduced himself and his wife, Sandra, from 18 Canyon. They are one of the neighbors contiguous to the property who oppose it. It is very clear there are numerous sections of the Hillside ordinance that are contravened by this project, specifically, it does not preserve open space. It traverses a water course which cannot be characterized as being a culvert. In fact, it is a culvert because there was a house, a large lawn and swimming pool built over what was the original natural water course which the proposed court, which is now the size of a single-family residence of about 2400 square feet, would cover the remaining section of that water course on the property. They are concerned about this project as a possible pre-cursor of other similar projects that would contradict the hillside ordinance. Given it does not meet the hillside ordinance, they are now applying for a variance. In his practice as an architect in California for over 35 years, he has done variance applications in scores of cities, and the grounds for a variance is that there is something very unusual about a property which would preclude what would otherwise be a reasonable use. In the case of this property, what precludes the project is that it is a hillside property and not a ground for a variance. So, he respectfully asked the Council to deny this project and not to allow it to sneak through, even though he sympathizes with the owner.

Tom Allen introduced himself and his wife, Jane. They live at 23 Canyon Road. He is adamantly opposed to this application and the allowance of pickleball at any residential zone in the Town of Ross. He strongly urged the Council to deny this application. Whoever tells you that pickleball is similar to tennis because they both use a ball and a racket is misinformed. It is like equating a mountain bike with a Harley Davidson motorcycle without a muffler. It is not the game, but the noise, which is the concern here. He likes the game but hates the noise.

He did some research online and came up with some incredible evidence. First, there is a recent report published last year from the National Institute of Health that shows that the rhythmic sounds of the game of tennis contribute to the relief of anxiety, feelings of apprehension, fear, tension and distress. On the other hand, this last June a physician-led study published by the Acoustics Society of America explored the link between long-term exposure to pickleball noise and self-reported adverse health effects. The results are frightful. Responders describe the noise as causing severe distress using terms like traumatized and torture. They also report trauma with

PTSD-like symptoms and highly activated physiological stress responses like high anxiety, mental anguish, nightmares, and depression.

The sound of tennis is the polar opposite of the sound of the game of pickleball. This last study characterizes the complex acoustical sound of pickleball noise and its health effects to be considered when making decisions about pickleball court placement. Their formal recommendation is that "In order to avoid years of costly litigation, it may be advisable to delay locating new courts within 1,000 feet of other homes until further research is available." They also recommend that courts not be placed within 100 feet of a home unless it is completely enclosed. This is the noise we are talking about in their quiet, peaceful canyon. He found hundreds of websites describing the tortuous annoyance encountered by homeowners living close to a pickleball court. The difference between tennis and pickleball are more compelling than he originally thought. He learned that annoyance cannot be measured with a sound pressure gauge or a tape measure. If you hear the sound, it is annoying, even if it is quiet. Reducing it will not have any effect.

Complaints by people living next to pickleball courts use words like "machine-gun-like, unrelenting, unnerving." There are websites describing the loss of property values and detailed lawsuits filed against municipalities and HOAs. He has not found a website that states the noise of pickleball is pleasing or comforting. It is all negative.

Matt Nash said he recently moved to the cottage at 10 Canyon Road and the reason he moved there is because of the peace, quiet and tranquility of the environment. It is a beautiful, quiet, and peaceful place. While he loves pickleball, it is not peaceful, tranquil or quiet. It is fun though. He reiterated what speakers have said and said pickleball does not comply with the Town noise ordinance. It is loud. The structure as proposed clearly is over a waterway and does not comply with the Town ordinance either. The consultants hired by the neighborhood have demonstrated there are 167 vertebrates, 26 are categorized as being protected species, and they will be severely impacted by the construction of this project. The noise alone does not comply with the U.S. Fish and Wildlife guidelines. The level of decibels will impact a number of species. It is a problem on a number of fronts, so as many of the others who are speaking in opposition, he would recommend the Town deny the application.

Nancy Montague said she lives with her husband and three boys at 7 Bellagio very near the proposed sports court. She would like to voice very strong opposition to the proposed construction of the sports court with the intended use as a pickleball court primarily because of the noise impact. The canyon is extremely quiet and hearing the pop of pickleball will be stressful and undoubtedly carry through the canyon and will constitute unnecessary noises. The canyon is a treasure of the Town of Ross. There is remarkable wildlife they are lucky to witness there, including the Northern Spotted Owl which they often see in their garden, and a 400-meter noise buffer is recommended for this species.

The biological study for this project ignored the reality of the on-going intermittent piercing noise of a pickleball game and only made reference to the construction noise and the "average" noise. The wildlife and peace of the neighbors does not depend on the averaging of noise. The sharp noise from pickleball is not appropriate and does constitute unnecessary noises that cause discomfort to residents and they are prohibited by Ross Municipal Code section 9.20.010. This variance, if granted, would be detrimental to the public welfare. A pickleball court is not necessary for the preservation and enjoyment of substantial property rights, and would come at great cost to the surrounding neighbors and wildlife in the canyon.

David Nasaw said he is a 42-year resident at 120 Winding Way above the site. In those 42 years they have heard a lot of noise from time to time whether it is dogs or music, parties, etc. He is out of town but has listened to the entire presentation by both sides which is evidence that you can get two biologists and two sound experts together and get different readings. So, it will be up to the Council's judgment as to what is done. It is very clear that the neighborhood is opposed to this. He did not hear any neighbors voicing support. He is subject to the Hillside ordinance because he is at the top of Winding Way on a promontory with a steep slope all around their property. They built their house before the Hillside ordinance was enacted. Now they know they are subject to it. It will be very interesting to see how the Council manages the Hillside Lot ordinance. He appreciates the Council's service, thinks it is a tough job, and some people have, over the years, been very helpful to them, so they will live with whatever the Council decides. However, he would like the Council to look at the sound ordinance more closely in the future. Taking a sound and averaging it out over an hour does not make a lot of sense, and he was not sure if the ordinance was written that way, but he asked to determine whether it is realistic.

Mark Wolfe said he is a land use/CEQA attorney and is here on behalf of the Neighbors for the Peace and Wildlife of the Canyon. He wanted to focus on the evidence because this is what his job is. They had sent a letter to the Council that attached the three studies from two noise experts and a wildlife biologist, as well as a cheat sheet earlier today that just hits the highlights. Basically, on the noise issue, if the Council finds the evidence shows that this pickleball court is going to violate either of the Town's subjective or qualitative annoyance-based standard, they would submit what Mr. Allen has submitted to the Council and has testified tonight which amply supports that. Pickleball is annoying. He does not think there is any reasonable dispute about that. The Council can deny the permit because they cannot make the findings necessary to grant the variance or to grant Design Review because both of those require full compliance with the Town code as well as protection of public health, safety, and welfare.

With respect to the quantitative side of things, when the gentleman from Salter and Associates was speaking, he did not hear him actually describe what assessment was done. He heard him say they did an assessment and concluded that if a police officer was summoned to the site, he would not shut the pickleball court down. What the neighbors did is they retained a firm with decades of experience that actually set up noise monitors at the property about 50-55 feet away from the pickleball court as well as further in close to the 10 Canyon Court residence, and they



measured it over a period of two days. They found that this is an extremely quiet canyon. It is so quiet that it is below the American National Standards as to standards for a quiet rural area, which is quieter than a library. What that means is introduction of any noise is that much more annoying to the extent that the American National Standards Institute says when you have a quiet rural area, you are supposed to lower your otherwise applicable standards by 10 or 12 decibels. So, if the standard is 45 you should reduce it to 35 when dealing with such a quiet area.

He does not need to go further into the mechanics of pickleball noise. It is loud, percussive, unsteady, and just generally annoying, and for that reason he thinks it violates the code. Regarding wildlife, again, they understand WRA came and did two quick surveys. They acknowledge there is suitable habitat for the Northern Spotted Owl but they did not set up the same type of monitoring equipment, which Dr. Smallwood did. He was there for two days, set up sonar to measure bats, came with a camera that had a telescopic lens and documented the presence of these species and concluded that a) the noise from the playing of the pickleball will impact the Northern Spotted Owl which is documented to be present and which WRA acknowledges has suitable habitat there, while at the same time covering the drainage with the court deprives the special status Pallid Bat of foraging habitat. If the Council is inclined to think this might actually qualify for a variance, he would submit that this biological information they have submitted shows this project does not qualify for a CEQA exemption. There are abundant unusual circumstances at this site in terms of the quietness of the canyon, the presence of species, the fact there is no other elevated pickleball court like this that has ever been approved in Ross since 1979, and there is substantial evidence showing this will have significant impacts on biological resources. So, if the Council is inclined to approve it on a finding there is no problem with the noise, he asked to find it is not exempt and order a CEQA Initial Study as required by the statute.

Beach Kuhl said he lives across the street from a tennis court which has been updated so they can play pickleball. He also lives a couple of hundred yards from the Chestnut platform tennis court that was mentioned earlier. He can hear when the play goes on for either of them. It is just silly to gather all of these fancy scientific studies to say something like pickleball or platform tennis is a noise that annoys people who live near it. They can hear when they start playing, and he registers, "Oh, they are playing pickleball across the street." But to say it is disturbing in any way is not true. He pointed out that he is the only person who has testified on this issue who actually has encountered it.

Brad Eigsti, Architect, said it seems like there is a lot of discussion about the noise, about the biological assessment, and he would be happy if Mr. Piper and Mr. Yarger would speak on this. They have really gone out of their way and worked very hard to conform to all of Ross's codes and requirements. They have met setback requirements in addition to 10 feet. They have done the sound study that meets the Ross codes, the biological assessment that meets the Ross codes, and they have bent over backwards to appease the neighbors and to control noise and make this an asset to the property, and there is no other place for this sports court on the property. All of

the talk about the canyon and the peace, he has been to this site at least 20 times and he was there on Monday for 2 hours and Tuesday for 2 hours and it was non-stop sound of construction, saws, and there was an amazing amount of noise if you are opposed to construction. So, to treat this like some peaceful canyon 24/7 is flatly absurd. He would like to not be negative and go on the merits of the project, how well it is designed, and how wonderful it will be for this family, and will leave it there.

Ben Piper said he wanted to quickly address the idea that noise is averaged over time. The reason for that is because it is an accounting for the duration of an activity. If you focus a noise level threshold too finely, too small an interval of time, you will catch likely a number of activities that you do not intend to like social gatherings in a backyard, pool parties, or someone bouncing a basketball or something. So, that is why the Ross General Plan which is modeled on the California model General Plan characterizes noise over a timed average.

He also wants to note that there is a lot of reference in the neighbors' documentation to an ANSI S12.9 Part 4. They did not review noise against that standard because they are not directed to do so in any of the documentation from the local jurisdiction. So, they see the idea that instead of looking at what is listed in the Town documentation, they should add this other standard and consider the Town's standards to be inadequate; they need to weigh it against this other standard which seems like a shifting of the goal post. So, they work with what is within the Town's standards.

Scott Yarger said he just wants to make a few points in the attorney's assertions. The application was made on the assumption of a categorical exemption. Therefore, some of the more detailed CEQA specific and intense multi-day studies that their biologist did were not included. They were deemed unnecessary. That biologist report, which they just received yesterday, is viewed as an intent to create chaos in submitting such a late study to the record. But, it vastly overstates the potential impacts to wildlife. He calls out some species as special status species to include all raptors, such as turkey vultures, a pallid bat which is a true special status species but the claim that putting a raised sports court over an ephemeral drainage is going to significantly negatively impact a pallid bat is just not true. It is not taking away that resource. The stream will still be flowing unimpeded underneath the sports court. If he had more time he could provide more counter arguments from claims.

Mayor McMillan closed the public hearing and returned to deliberation by the Council.

Mayor McMillan said she agrees with Rob Ludlow's comments, thinks that this project falls way outside what is allowed under the Hillside Lot ordinance and she is sorry that the applicant has had to do many studies, sorry that the neighbors also had to hire an attorney and do many studies. She has looked at the General Plan with this project in mind and the General Plan states the Council is supposed to protect environmental resources such as hillsides and drainage areas. We are supposed to respect existing natural topographic contours, supposed to design things

that relate to the current land forms with the goal of integrating the building with the site or step the structure with the slope. And, in the Hillside Lot ordinance, its purpose is to preserve significant features of the natural environment, including canyons and water courses. We are supposed to protect steep slopes, creeks, and wildlife. Our architecture is supposed to be designed to complement the form of the natural landscape. Design should be well-articulated to minimize the appearance of bulk. Decks, particularly elevated decks, should enhance the appearance of a house and be of a scale and style which are compatible with the house, adjacent development and the surroundings. We can limit deck and patio area based on considerations of aesthetics, noise, bulk, and mass, and even include a guideline of decks over 18" limited to 25% of the maximum permitted floor area for the site. There is nowhere in here that says you can have an elevated sport court.

Finally, as staff pointed out under hydrology, residences and accessory structures shall not traverse, encroach or impede a natural water course or drainage swale. So, she thinks staff has found one point in the Hillside Lot ordinance that would allow the Council to reject this application. To her there are many, many others that, taken together, just based on the Hillside Lot ordinance alone and not resorting to any type of analysis of the wildlife or the noise, the Council can reject this project. So, her view is to deny this project based on the Hillside Lot ordinance requirements.

Mayor Pro Tem Robbins agreed, is sorry so much time and effort has been put into this. The fact it is 2,400 square feet elevated on pillars in a canyon that is steeply sloping with a water course under it, it does not matter if it is a deck for lawn furniture or a sport court. The size, bulk and siting does not seem to fit or follow the General Plan or the Hillside Lot ordinance. She does not think there are findings for a variance. She could make findings for a foot bridge over the water course, but not something of this size and scale. She thinks in looking at it, this is not what is intended to be built in Ross on a hillside.

Council Member Dowling acknowledged the fact that the homeowner went out of his way to accommodate the recommendations that came up in Design Review, but agrees with both the Mayor and Mayor Pro Tem that this project is outside the Hillside Lot ordinance.

Council Member Kircher agreed and said he could not make the findings that would support a variance in this situation. But, he would echo what has been said in that he appreciates the owner's flexibility. It is unfortunate it got to this point. The Council appreciates it when owners react positively to suggestions from the ADR and make revisions which happened here, but again, he does not think an elevated sports court is appropriate here and frankly it would not be a good precedent. The Council tries to treat people equally and if the Council allows it here, he was not sure where they would not allow it. He does not think they want a lot of elevated sports courts. This is entirely apart from the issue of pickleball and noise. They have discussed this at length in the past, so he is simply talking about the Hillside Lot ordinance and this type of a structure in this steeply sloping canyon. So, he cannot support this.

Council Member Salter said he does not like how this whole process has unfolded. Having numerous studies done and lawyers hired, it is over the top and a waste of time, money, and he agrees that the Hillside Lot ordinance is there to prevent and keep the natural surroundings fitting with the hillside. The ADR gave them comments back and they got a 3-1 approval from them. Staff's findings are also for approval, so he wondered how this happened that this gets this far to the Council.

This goes back to the earlier discussion about the General Plan updates, variances, the Municipal Code, and how the vision is implemented which is so important—how we tell people what projects will fit a natural landscape and making that crystal clear before someone comes and spends lots of money on consultants and neighbors spend lots of money. They should start with maintaining the landscape, the habitat, the environment, and if those are the goals and everybody agrees on them, they should put it down in writing. He does not think this sort of process and waste of time, energy and resources should continue. Being on the Council for a year, project after project, watching them come through, it is a lot of money, time and energy spent that is wasted. Lastly, the applicants also spend so much money on these projects as well.

Mayor McMillan noted the items she read were right out of the General Plan from 2007 and the Hillside Lot ordinance that has been adopted for decades. This is nothing new or anything that needs to be changed. The Council needs to follow, and ADR is not the place where people are supposed to be opining about the Hillside Lot ordinance. ADR is supposed to be about design. They were working under their purview and she thinks maybe stronger gatekeeping is needed at the very onset. This is the General Plan, the Hillside Lot ordinance, and something on stilts that is 12 feet high looming over a canyon over a water course, this does not meet the General Plan or Hillside Lot ordinance. So, she thinks there is consensus and she asked for a motion.

**Council Member Kircher moved, and Council Member Dowling seconded, to direct staff to bring back a resolution denying Design Review, Hillside Lot Permit, and a Variance for 12 Canyon Road at the next Council meeting on the Consent Agenda. Motion carried unanimously (5-0).**

**End of Public Hearing on Planning Projects Park II.**

**15. No Action Items: (Mayor)**

- a. **Council correspondence** – None.
- b. **Future Council items** – Council Member Salter said he was approached by the school and 5<sup>th</sup> graders had done a water testing project behind the creek and wanted to present their findings to the Council. He will work with the Town Manager on the date, and Mayor McMillan agreed. Council Member Salter will reply to them and ask for a brief presentation.

Mayor Pro Tem Robbins wanted to discuss whether the Council should discuss something in the procedure manual on what goes on the Town's website (specifically referring to the FAQs for the fire station). Council Member Salter seconded.

Council Member Dowling proposed an agenda item for the December Town Council meeting on a first quarter data on response time to Ross locations by the Ross Valley Paramedic Authority and the Ross Valley Fire Department. Mayor McMillan seconded and commented that it probably should not just be restricted to Ross Valley Fire Department because there may be engines coming from Kentfield, as well.

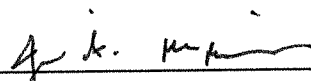
- c. **Council Member participation at the communication table at the Ross Post Office on the next Council meeting day** – Mayor Pro Tem Robbins volunteered for September, and Mayor McMillan and Council Member Dowling volunteered for October.

**12. Meeting Evaluation.**

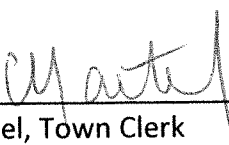
- Mayor McMillan spoke about the point of the meeting evaluation item for constructive feedback, recommended Council Members not use cell phones during presentations, and asked Council Members to request a brief break and not just get up and leave the meeting.
- Mayor Pro Tem Robbins thinks the meeting was long but went well.
- Council Members Dowling and Kircher both thought the flood district item and the sports court items were very hot topics, but people were reasonable. Council Member Dowling thanked the Town Attorney for reminding her about the need to make disclosures, as well as other Council Members, and Town Attorney Stock said he will work with staff to add Disclosures on the agenda moving forward.
- Council Member Salter asked to better manage the length of presentation times and also ask that the outside parties provide their materials ahead of time. Town Manager Johnson spoke about her active work with presenters and the difficulties in getting people to abide by time restrictions.

**13. Adjournment.**

The meeting adjourned at 10:44 p.m.

  
\_\_\_\_\_  
Julie McMillan, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Cyndie Martel, Town Clerk

