

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, NOVEMBER 8, 2018

1. 6:00 p.m. Commencement.

Mayor Beach Kuhl; Mayor Pro Tempore Elizabeth Brekhus; Council Member Julie McMillan; Council Member Elizabeth Robbins; Council Member Rupert Russell; and Town Attorney Benjamin Stock.

2. Posting of agenda.

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

3. Minutes – October

Mayor Pro Tempore Brekhus moved and Council Member McMillan seconded, to approve the Meeting Minutes of October 11, 2018 as amended. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression - None

6. Introduction and welcome to Benjamin Stock, Town Attorney.

Mayor Kuhl introduced and welcomed Benjamin Stock, the new Town Attorney for the Town of Ross. Ben is a member of the statewide law firm Burke Williams & Sorenson and practices in the San Rafael office. He has a bachelor's degree from Berkeley in environmental science and a law degree from UC Hastings. He is currently Tiburon's Town Attorney, the Assistant City Attorney for Healdsburg and serves on various other public entities in the Bay Area. He has 18 years of experience in land use and environmental law. He lives in San Anselmo and has two children. The Town is very happy to have Ben on board.

7. Mayor's Report.

Mayor Kuhl reported that their continuing warm and dry Fall weather makes it difficult to conjure up a flood in Ross and the unavoidable off-and-on way in which flood relief planning occurs, makes it difficult to keep track of where they are in the process. After a series of public meetings and site visits last winter, they are currently completing a review of the draft joint federal Environmental Impact Statement and the California Environmental Impact Report for the Corte Madera Flood Risk Management Project. This document does not provide many of the details they, and especially those with property in the flood plain, would like to see addressed. The Town Council will be submitting extensive comments, including requests for more detail on many aspects of the draft document; members of the public can likewise submit comments through November 27 either in writing, by email or at a hearing in front of the County Board of Supervisors on November 13. Details and addresses are available at the Corte Madera Creek Flood Risk Management Project webpage at: <https://bit.ly/2uCie3j>.

November 8, 2018 Minutes

After the comment process is complete, the Army Corps of Engineers and the County Flood Control District will assess the comments, prepare responses, and prepare a final EIS/EIR which is expected to be ready by September 2019. After certification of the final EIS/EIR, the permitting of the design and construction can proceed. As with any environmental review, there is always the possibility of legal challenges, which could possibly delay its implementation for several years. Phase one of the project, financed by state grants and local funding, including the flood tax they have all been paying, would involve removal of the fish ladder, channel improvements and extensive changes to Frederick Allen Park. The Town, as owner of some of the property involved, would have to approve the project and the nature of the construction activities involved. The proposed second phase includes an underground bypass culvert under Sir Francis Drake Boulevard which would divert water from the natural channel 1,400 feet upstream of the Lagunitas Road Bridge to below the present fish ladder and would be financed with Federal funds and Marin County Flood Control District funds. The bottom line here is that they have a long way to go before any work begins and indeed even before planning is completed. The Town will remain very actively involved in this process and they will keep everyone updated as the process continues.

8. Council Committee & Liaison Reports.

Council Member Robbins discussed the status of pensions in the county and what can be done to make their bottom line balance such as increasing taxes, decreasing services and benefits. Also, Marin Telecommunication Agency (MTA) is very interested in limiting the FCC regulations and MTA sent out draft letters about opposing more FCC actions. The goal is to maintain local control over the cable companies.

Mayor Pro Tempore Brekhus stated that the finance committee met and reviewed the FY19 Q1 investment report.

9. Staff & Community Reports.

a. Town Manager

Town Manager Joe Chinn reported on Natalie Coffin Greene Park and 3 Bear Hut. Staff received a construction bid close to the construction budget and staff is excited. They will start construction and rehabilitating the 3 Bear Hut structure once approved by the Council. Then go out for bid for the remainder of the park improvements in regard to design such as picnic table area, seating areas and parking lot. Several people in the community are interested in the upgrades.

Town Manager Chinn welcomed everyone to come out on December 2nd at 4pm to kick off the holiday season with this festive small town tradition sponsored by the Ross Auxiliary at Ross Common, "*Winter Sing.*" Singing performances will be by Branson School Choir and Ross Preschool. Lighting of the tree followed by an appearance by Santa at 5pm!

b. Ross Property Owners Association

Mike Gilfillan, RPOA representative, reported that RPOA met on November 5th to discuss disaster preparedness. They need more volunteers and block captains. He reminded everyone to sign up for "*Alert Marin.*" Also, several residents have been turned down for fire insurance in Ross.

10. Consent Agenda.

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

- a. Town Council acceptance of Town of Ross Fiscal Year 2017-2018 Independent Audit Report.
- b. Town Council acceptance of FY19 Q1 Investment Report.
- c. Town Council acceptance of FY19 Q1 Financial Summary Report.
- d. Town Council consideration of adoption of Resolution No. 2081, Award of Construction Contract for the Rehabilitation of 3 Bear Hut Project – Town Project No. 9062-95.

Mayor Kuhl asked for a motion.

Council Member Robbins moved and Council Member McMillan seconded, to adopt Consent Agenda as submitted. Motion carried unanimously.

End of Consent Agenda.

Mayor Kuhl recused himself from Agenda Item 11a. to avoid a conflict of interest.

11. Public Hearings on Planning Projects.

Public hearings are required for the following planning applications. Staff anticipates that these items may be acted upon quickly with no oral staff report, Council discussion, or public comment. If discussion or public comment is requested, the Council may consider the item later in the agenda.

a. 47 Willow Avenue, Exceptions to Basements and Attics Permit No. 2018-025 BAE, and Town Council consideration of adoption of Resolution No. 2082.

John and Paulette Moe, 47 Willow Avenue, A.P. No. 073-261-25, R-1:B-7.5 (Single Family Residence, 7,500 square foot min. lot size), Medium Low Density (3-6 Units/Acre), Zone AE (1-percent annual chance floodplain). The applicant is requesting an Exception to Basements and Attics to allow the conversion of 209 square feet of unfinished existing basement into improved habitable floor area. No modifications to the exterior are proposed.

Project Summary Data

Lot Area	10,850 square feet
Existing Floor Area/Ratio	2,556 sq. ft. 23.5% (20% Permitted)
Proposed Floor Area/Ratio	2,765 sq. ft. 25.5%

*****No changes are proposed to Lot Coverage or Impervious Surfaces as the project would only entail adding floor area within the footprint of the existing residence.**

November 8, 2018 Minutes

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution 2082 to allow the conversion of up to 209 square feet of uninhabitable basement floor area into improved habitable floor area at 47 Willow Avenue.

Joe Moe, owner/applicant, hoped the Council sees the merits and approves his project.

Mayor Pro Tempore Brekhus opened the public hearing on this item, and seeing no one wishing to speak, the Mayor Pro Tempore closed the public portion and brought the matter back to the Council for action.

Mayor Pro Tempore Brekhus asked for a motion.

Council Member Robbins moved and Council Member McMillian seconded, to approve 47 Willow Avenue, Exceptions to Basements and Attics Permit No. 2018-025 BAE, and adopt Resolution No. 2082. Motion carried 4-0. (Kuhl recused)

Mayor Kuhl resumed his seat at dais. Council Member Robbins was recused. However, after the meeting, the recusal was determined to have been unnecessary.

b. 39 Fernhill Avenue, Use Permit Amendment No. 2018-031, and Town Council consideration of adoption of Resolution No. 2083.

The Branson School, Owner, and The Cedars Anniversary Ball, Applicant, 39 Fernhill Avenue, A.P. Nos. 73-072-04, 73-082-01, 73-082-12, 73-141-03 and 73-151-05, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size), Limited Quasi-Public/Private Service, Zone X (outside the 1-percent annual chance floodplain. The applicant is requesting a Use Permit Amendment to the Branson School Use Permit to allow "The Cedars Anniversary Ball" on Saturday, June 15, 2019 from 7:00PM to 10:00PM. The event would allow for a prom-style dance event for the individual program participants of the Cedars in celebration of the Cedar's 100 Year anniversary. All parking related to this event would occur on the campus during non-school hours.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution 2083 authorizing a Use Permit to allow "The Cedars Anniversary Ball" on June 15, 2019 from 7:00pm to 10:00pm at 39 Fernhill Avenue. Due to a letter received from a neighbor, staff recommended included a condition of approval prohibiting the use of Hillgirt Drive during such event.

Mayor Kuhl opened the public hearing on this item

Director of Human Resources at Cedars hoped the Council supports Cedars and their 100^{-year} anniversary. They are very excited about their partnership with Branson School.

Ned Pinger, Branson School supported this request. They have had an incredible relationship with Cedars over the last several years. This is another indication of their partnership with Cedars. Several kids work at Cedars on an ongoing basis. The partnership is growing and they are very happy to be hosting this event and hoped the Council will approve this event.

November 8, 2018 Minutes

Peter Nelson, Circle Drive resident, supported this event. He noted that Branson School does a tremendous job with parking during events.

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

Mayor Kuhl asked for a motion.

Mayor Pro Tempore Brekhus moved and Council Member Russell seconded, to approve 39 Fernhill Avenue, Use Permit Amendment No. 2018-031, and adopt, as amended by staff, Resolution No. 2083. Motion carried 4-0. (Robbins recused)

Council Member Robbins resumed her seat at dais.

End of Public Hearings on Planning Projects.

Administrative Agenda.

- 12. Town Council discussion/approval of Town's Comment Letter Response to the Corte Madera Creek Flood Risk Management Project Joint Draft Environmental Impact Statement/Environmental Impact Report, and authorizing the Town Manager to sign the letter.**

Public Works Director Rich Simonitch summarized the staff report and recommended that the Council authorize the Town Manager to sign the attached draft comment letter regarding the Corte Madera Creek Flood Risk Management Project Joint Draft Environmental Impact Statement/Environmental Impact Report comment letter.

Council Member McMillan discussed the timeline and asked when the final EIR/EIS document will be released. Public Works Director Simonitch stated at least 30 days prior to the September 219 public hearing. They are trying to address those comments prior to that public hearing and vet those comments ahead of time. Public Works Director Simonitch noted that the CEQA portion of the meeting will be at the Civic Center and the federal portion will be in San Francisco. The draft EIR/EIS Board of Supervisors meeting on November 13th is at 5:30pm.

Mayor Pro Tempore Brekhus asked staff if the amended letter is now a total of 13 pages. Town Manager Joe Chinn responded in the affirmative. The deadline is November 27th for the letter. Ideally, staff wanted it completed by the 19th or 20th at the latest, before Thanksgiving. The goal is to have direction from the Council. Public Works Director Simonitch added that the addendum would be incorporated into the letter.

Mayor Kuhl opened the public hearing on this item.

Garril Page, San Anselmo resident, discussed the vegetation removal and wanted it to be more environmentally friendly. In regard to the fish passage at Lagunitas Bridge that is extremely important. The proposed bed and bank changes are proceeding without adequate knowledge of the conditions. Also, the school should be mentioned as being negatively affected should there be a need for buffering.

Bradley O'Connell, Sir Francis Drake resident, stated that the bypass, which is a significant part of the project, was not part of the discussion. The Draft EIR says next to nothing about the extent of community disruption that will be caused by this bypass. His property is immediately downstream from the staging areas in regard to noise, dust and disruption of their lives. The loss of existing trees and habitat is not just over Frederick Allen Park but also along several properties on the north side of Sir Francis Drake, which has significant privacy impacts.

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

Council Member McMillan commended staff on a well-written letter and felt the letter is really effective and commended staff on drafting the letter in such a short amount of time. Council Member Russell concurred.

Council Member Robbins discussed flood control agreements and pointed out that it is really important that these agreements in regard to access and liability are drafted ahead of time to make sure those agreements are in place. In terms of the Town of Ross being described as a partner, they are not partners at this point, they want flood control, but they are not partners and felt that should be called out.

Mayor Pro Tempore Brekhus echoed that staff did a great job. She was very impressed. She continues to feel that the biggest problem that is not being discussed in this report were maps that clearly show the parcels. In order to analyze the benefits and burdens of this project they need accurate analysis of the conditions. They need better maps outlining the parcels. To embark in a tremendously expensive project impacting the entire Ross Valley she wanted to know what they are achieving and what are the benefits. It is not fair to be asked to approve the project when information is missing. The flood district should be doing more to address the Town's concerns. She does not understand how water will be diverted. She questioned the amount of excavation for the bypass and the long-term impact. She worries about ground settlement and long-term damage to those homes, not to mention short-term nightmares embarking on this project. There is a significant impact to Ross and they need a coordinated effort and questioned this process.

Council Member Robbins commented on page 6 of the Draft EIR regarding flood impacts and desired more specifics. The bypass seems almost not feasible. She is not at all sure that the bypass is possible. More specific questions if only part of the Army Corps project is done, which is Phase One, where would that leave the Town in regard to floodwall heights. She wanted to know what happens if Alternate J is not completed. It is not clear if there is adequate funding. She stated that Frederick Allen Park is a huge landscape project. There needs to be more details.

Council Member McMillan received a letter from the Cadden's in regard to just removing the fish ladder, excluding the riparian corridor element, and whether that is a viable possibility. The Town's document, because it is so well done, should be posted on the Town's website so residents can go directly to this letter. General comments at the end pages 12-13 should be moved up to the front, so they can go directly to the essence of their most significant comments.

November 8, 2018 Minutes

Council Member Russell asked the Army Corps to examine whether they correctly calculated the benefit, which seems to be a relatively low number in his view. Given values of real estate in Ross, this seems to be potentially unrealistic. The Army Corps needs to make sure they applied a methodology that makes sense in Ross.

Council Member McMillan liked the timeline and asked that be added to the Town's website as well. She also desired a hard copy for her review.

Mayor Kuhl wanted to see the process continue to move along. He is concerned that it has an overall tone of being nitpicky. He wanted to recognize the amount of work the county staff has put into getting this as far as they are now. They have appeared at several meetings outside their ordinary work hours, conducted tours, talked to individual property owners, and they should recognize their efforts. He wanted to up the public understanding by spelling the word "*rationale*" correctly in this report.

Town Manager Chinn will take the letter and blend in the addendum. It helps to be specific. Staff is seeking direction from the Council. Mayor Kuhl stated that staff heard the comments and suggested that the Council authorize staff to incorporate the comments from tonight into the letter.

Council Member McMillan noted that individuals should still submit their comment letter. Town Manager Chinn agreed. Mayor Kuhl added that if members of the public attend the Board of Supervisors meeting, those comments would be part of the record submitted to the reviewing entities.

Mayor Pro Tempore Brekhus recommended attaching all individual letters received and make them part of their request for response. Town Manager Chinn agreed and also suggested that individuals still send their letters to the Army Corps of Engineers.

Mayor Kuhl asked for a motion.

Mayor Pro Tempore Brekhus moved and Council Member McMillian seconded, to approve the letter and authorizing the Town Manager to sign the letter. Motion carried unanimously.
End of Administrative Agenda.

13. No Action Items:

a. Council correspondence - None

b. Future Council items

- Presentation by Disaster Council coordinator Gil Fleitas
- Zoning Regulations

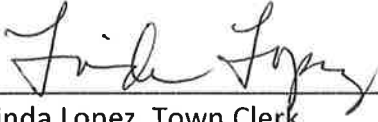
14. Adjournment.

Mayor Kuhl moved to adjourn the meeting at 7:24 p.m.



P. Beach Kuhl, Mayor

ATTEST:



Linda Lopez, Town Clerk