

REGULAR MEETING of the ROSS TOWN COUNCIL  
THURSDAY, MAY 12, 2022  
*Held In-Person and Teleconference*

**1. 5:30 p.m. Commencement.**

Mayor Elizabeth Robbins; Mayor Pro Tem Beach Kuhl; Council Member Bill Kircher, Jr., and Council Member Julie McMillan; (Council Member Brekhus absent) Town Attorney Benjamin Stock (joined at 6:00 pm)

**2. Posting of agenda.**

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

**3. Open time for matters pertaining to the Closed Session items in Agenda Item 4 – None.**

**4. Closed Session.**

**Public Employee Performance Evaluation (Pursuant to Government Code section 54957)**

**Title: Town Manager**

**5. 6:00 p.m. Open Session. Council will return to open session and announce actions taken, if any.**

Mayor Robbins reported there was no reportable action.

**6. Swearing in Ceremony for new Police Sergeant Danny Moy.**

Town Clerk Linda Lopez performed the Oath of Office for new Police Sergeant Danny Moy.

Police Chief Pata introduced 17 year veteran Police Officer Danny Moy, provided a background of Sergeant Moy's service since 2005, welcomed his family members present, and stated on May 1, 2022 he was appointed as Sergeant for the Ross Police Department. Sergeant Moy was then pinned by his wife, Gina.

A round of applause followed and Mayor Robbins and Council Members congratulated Sergeant Moy.

**7. Introduction and welcome to new employee Rebecca Markwick, Planning and Building Director.**

Town Manager Johnson introduced the Town's new Planning and Building Director Rebecca Markwick who began her employment with the Town on May 2, 2022. She spoke about the Town's recruitment process, Ms. Markwick's strong connection to Marin County, described her educational background, experience, and she and Council Members welcomed her to the Town of Ross.

Rebecca Markwick, Planning and Building Director, thanked the Town Manager, said she is excited to be working with the Town and looks forward to working with the Town Council, staff and residents of Ross.

**8. Open Time for Public Expression.**

Barbara Call, Redwood Drive, read an excerpt from the Ross Municipal Code Section 9.28.160 regarding vehicles prohibited on Ross Common, Section 9.28.190; Enforcement of Rules, and she said E-scooters did not exist when the code was adopted but they are here now. She said these scooters are very dangerous, are very quiet, go upwards of 25 to 30 mph and are driven by children. She asked the Town to enforce the scooters by installing signage that clearly states “motorized vehicles are not allowed on the Common”. She also suggested reaching out to parents who are purchasing the scooters and asked to replace the small sign at Ross Common and Redwood which talks about cleats on the Common with a sign about scooters.

David Moller, Ross resident, spoke on behalf of the 50 members of the Marin-Sonoma Electrification Squad. They are concerned about worsening climate crisis and asked that Ross take actions to help reduce GHG emissions through reductions in the use of natural gas. He spoke about Marin County’s plans to address two building categories in these efforts and requested to ensure Ross staff actively participates with other Marin jurisdictions in developing the updated Green Building Code.

**9. Mayor’s Report.**

Paramedics are the critical first responders to 911 calls. Measure I, on the June 7 ballot, is a renewal of the 4-year parcel tax to continue paramedic services for residents in Ross. The current tax is \$91.50 per parcel per year; the amount increases by \$3.00 each year. A 2/3 majority is required to renew the tax.

Paramedic services are separate from the Town of Ross’ police and fire services. Small towns don’t usually have their own paramedic department. In Ross, 911 calls are answered by the Ross Valley Paramedic Authority (RVPA), a regional group formed in 1982 to oversee paramedic services for Ross, Kentfield, San Anselmo, Larkspur, Corte Madera, Fairfax, Sleepy Hollow and some unincorporated areas. The paramedics are based here in Ross. For the past 40 years, paramedic services have been largely funded by an annual parcel tax. All of the towns served by the paramedic authority will also be voting on the parcel tax renewal in either June or November.

Paramedics are trained and equipped to provide advanced life-saving care wherever it’s needed, 24/7/365. In essence, they bring the hospital emergency room to the patient. Patients are transported to the emergency room in state-of-the-art ambulance transport units. Patients are not billed for the ambulance transfer: 2/3 of the cost is covered by the Ross Valley Paramedic Authority, and the other 1/3 by private insurance. If a patient doesn’t have insurance, or if the insurance reimbursement fails to cover the 1/3 share, the RVPA does not bill patients for the balance.

More information can be found at: <https://www.marinlafco.org/ross-valley-paramedic-Authority>. For questions, contact the Measure I Campaign Co-chairs: Julie McMillan ([juliemcmillan@comcast.net](mailto:juliemcmillan@comcast.net)) and Elizabeth Robbins, M.D. ([eliz.robbins@gmail.com](mailto:eliz.robbins@gmail.com))

**10. Council Committee & Liaison Reports.**

Mayor Robbins reported on a communication before the City/Government Services Committee regarding a gun buy-back program. Towns are asked to provide funding but it could also be

funded by the County, and Ross is waiting to hear how the Committee would handle this and similar requests.

**11. Staff & Community Reports.**

**a. Town Manager**

Town Manager Johnson reported this week is National Police Week and said 2021 was the deadliest year for law enforcement in the U.S. history. She recognized and thanked members of the Police Department and other law enforcement agencies nearby that are often called upon to assist the Police Department and Ross community.

At the request of Mayor Pro Tem Kuhl, she provided an update on major projects:

1. The Public Works Director hosted a kick-off meeting this past week for the initial design phase of the West Ross Undergrounding District project. The purpose of the meeting was to introduce all key points of contact to each other and discuss and identify potential project challenges and project constraints.

PG&E began preliminary design of underground project earlier this year and has recently begun meeting with residents to discuss preferred service locations and other design related issues. The construction project will go out to bid in the fall of 2023 and the ballot hearing of the property owners will be held in the Spring of 2024. If the ballot passes, construction will begin in Spring 2025 following the Council's authorization to issue bonds of the sale. The Town will host monthly project meetings with the utility companies and the assessment district engineer throughout the project design phases.

She reminded the Council that on May 25<sup>th</sup> Age-Friendly, the Town, RPOA, Ross Ready and the Marin Center for Independent Living are putting on an event at the Marin Art and Garden Center from 9:30 a.m. to 11:30 a.m. The event will focus on disaster and emergency preparedness in the Town of Ross, and all ages are welcome.

May 28<sup>th</sup> is the first annual Wildfire Prevention Festival at the Marin Center Fairgrounds from 11:00 a.m. to 5:00 p.m., and admission is free.

The portable toilet enclosures at Natalie Coffin Greene Park have been constructed and she encouraged everyone to check them out. Construction on the enclosure for the portable toilet at Frederick Allen Park is about to begin any day. She recognized and thanked RPOA for their inspiration and partnership on these projects.

RPOA's first of their three concert series will be held this coming Saturday, May 14<sup>th</sup> from 5:30 p.m. to 8:30 p.m. which is co-sponsored by the Town, and the concert will be held on the Common.

On a sadder note, she regrets to announce that Planner Matthew Weintraub's last day is at the end of the month. She thanked him for his service to the Town, spoke about his contributions in the Planning Department, staff support of the ADR group and Town Council, and she thanked him and wished him well in his future endeavors. A round of applause followed.

Rebecca Markwick, Planning and Building Director, provided a status report of the Housing Element update process, as follows:

- Staff has participated in two stakeholder meetings with consultants, Dyett and Bhatia and local architects where ADUs were discussed. The second meeting was with the RPOA which was very productive. The third meeting will be held next week with the ADR group on May 17<sup>th</sup>.
- A community-wide web-based survey will be coming out in late June to collect public input on potential housing opportunity sites and key strategies for the Housing Element update.
- Staff is also updating the Town's Safety Element of the General Plan. Dyett and Bhatia will be attending a disaster preparedness planning event on May 25<sup>th</sup> at the Marin Art and Garden Center where different stations will be set up to gather feedback from residents.

Council Member McMillan asked and confirmed with Town Manager Johnson that staff mailed out a postcard this past week to residents advertising the May 25<sup>th</sup> disaster preparedness planning event.

**b. Ross Property Owners Association – No report.**

**12. Consent Agenda.**

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

Council Member Kircher requested removal of Item j from the Consent Agenda. Mayor Robbins asked and confirmed there were no public comments or requests from the public to remove an item.

**a. Minutes: 4/14/22, 4/28/22**

**b. Demands.**

**c. Town Council acceptance of the Third Quarter, Nine Month, Financial Summary Report.**

**d. Town Council acceptance of the Investment Report for the Nine Month Period ended March 31, 2022.**

**e. Town Council approval of American Rescue Plan Act (ARPA) Report and related budget adjustment.**

**f. Town Council consideration of adoption of Resolution No. 2245 Assembly Bill 361 Amending Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**

**g. Town Council consideration of a Consultant Services Agreement with Moe Engineering Inc. for Civil Engineering professional services for the 2022 Pavement Rehabilitation, Fernhill Pathway, and Drainage Improvement Projects.**

- h. Town Council consideration of a Consultant Services Agreement with Moe Engineering Inc. for Civil Engineering professional services for the Ross Common Pathway Rehabilitation Project.**
- i. Town Council authorization to execute amendment to lease agreement with Ross School District to enable intermittent use of Ross School outdoor restrooms by the community.**
- k. Town Council consideration of adoption of Resolution No. 2246 appropriating Road Repair and Accountability Act (SB 1) funding to the FY 2022-23 Annual Operating Budget and adopting the Fernhill Avenue roadway pavement project as the project to be funded by SB 1 in FY 2022-23.**

**Mayor Pro Tem Kuhl moved and Council Member McMillan seconded, to approve Consent Calendar Items a, b, c, d, e, f, g, h, I and k. Motion carried (4-0; Brekhus absent).**

Item Removed from the Consent Agenda:

- j. Town Council authorization of Town Manager or her designee to execute a Joint Exercise of Powers Agreement for the processing of Parking Citations.**

Council Member Kircher said he welcomes replacement of the Marin Parking Authority and asked for clarification as to what role the Sheriff's Department will play and to the extent they will hire consultants to administer the agreement. He asked if the agreement is for processing of citations or writing citations for parking violations.

Police Chief Pata explained his understanding is that the original mechanism in place of a JPA was adopted in 1982 which was subject to all regulations under the Brown Act, board meetings and audits and it was a huge amount of work for the Marin Parking Authority. Since 1982, the California Vehicle Code changed the entire processing of parking citations. The company in Newport Beach will still remain the vendor for this JEPA; however, they will be dealing with one point of contact which is a representative from the Sheriff's Department which will make the processing of citations easier.

Council Member Kircher stated his preference would be to have local enforcement issue and process citations given they know the Ross community. However, he recognized officers have many duties and not much time for this.

Police Chief Pata recommended contacting him first with any questions or issues given he will be the contact for the Town under the agreement, and he hopes the process will work better.

Council Member Kircher stated the Council previously held a discussion about the public parking situations in town and the difficulty in finding spaces to park and whether or not to consider limitations on time. He asked and confirmed with Chief Pata it would be local law enforcement assisting in this.

Town Attorney Ben Stock clarified that the purpose of this agreement is just to process and collect citations. The issuance of citations is still done by the Ross Police Department.

**Council Member Kircher moved and Council Member McMillan seconded, to approve Consent Calendar Item j. Motion carried (4-0; Brekhus absent).**

**End of Consent Agenda.**

**Administrative Agenda.**

**13. Update regarding Ross Valley Fire Department's (RVFD) draft Request for Proposals for a Study to Develop Policy Options for the RVFD Board Surrounding Future Leadership/Governance.**

Mayor Pro Tem Kuhl reported the RFP was approved last night by the RVFD Board. It will be sent out shortly and next steps will be to receive responses to the RFP and then evaluate them. He confirmed with Mayor Robbins proposals are expected to be submitted by the middle of June.

Council Member McMillan referred to the schedule and asked and confirmed with Mayor Pro Tem Kuhl that the Town Council will be able to provide input on the decision.

Mayor Robbins announced that the Council will maintain this item on the agenda in case the Fire Board's agenda has something on it that the Council may wish to discuss.

**End of Administrative Agenda.**

**Public Hearings on Planning Projects.**

**14. 1 Ames Avenue, Design Review, Accessory Dwelling Unit Permit, Demolition Permit, and Variance, and Town Council consideration of adoption of Resolution No. 2247.**

Erin and Darius Mozaffarian, 1 Ames Avenue, A.P. No. 073-201-03, Zoning: R-1:B-A, General Plan: VL (Very Low Density), Flood Zone: AE (Area subject to inundation by 1-percent-annual chance flood event).

**Project Summary:** The applicant is requesting approval of Design Review to construct first-story and second-story additions to the existing single-family residence and garage; renovate exterior building façades; construct new front yard fences and gates; and rehabilitate the landscape. Request for Accessory Dwelling Unit (ADU) Permit to construct a new detached accessory dwelling unit is ministerial in nature and subject to administrative approval. Variance is required to construct new pool equipment and associated enclosure with nonconforming side and rear yard setbacks. Demolition Permit is required to alter more than twenty-five percent of the exterior walls or exterior wall coverings of a residence.

Matthew Weintraub, Planner, gave the staff report and overview of the request for design review, Accessory Dwelling Unit (ADU) permit, demolition permit, and variance for 1 Ames Avenue. He described review considerations of the ADR Group, an adjacent application for a lot

line adjustment at 3 upper Ames Avenue, and the neighbor in the rear has submitted a letter of support for this project.

The ADR group reviewed the project on March 15<sup>th</sup> wherein they reviewed an earlier version of this project. They also took extensive public comments and recommended the applicant revise the project to provide additional landscaping for the privacy screening at 3 upper Ames property, provide visual relief at the west side building façade facing 3 upper Ames, and correct the existing non-conforming garage setback adjacent to 3 upper Ames. In other parts of the property they recommended avoiding and minimizing setback encroachments for landscape structures and asked to raise the parapet wall to screen the rooftop solar panels. The applicant has addressed all recommendations in various ways.

Mr. Weintraub said the applicant then resubmitted a final revised project to the ADR Group on April 17<sup>th</sup> for review. The ADR group recommended the revised project be approved as proposed, given it addressed previous comments, meets and/or exceeds the design review standards for screening, privacy and landscaping and supported the setback exception for the relocated pool equipment and enclosure based on the overall project design.

Staff can recommend all three findings for design review and the variance can be met, which he described. He said the owners at 3 upper Ames have submitted verbal and written objections to the project due to concerns about potential visual and privacy impacts, as well as concerns about how ADUs may be used on the property. Staff recommends approval of Resolution No. 2247 to approve design review, demolition permit and variance to construct the project as described and is available to answer questions.

Council Member McMillan asked and confirmed with Mr. Weintraub that the Council received a letter from owner at 3 Ames Avenue via their attorney complaining about the location of the ADU and that the ADU is going to be along the pan handle in the lot line adjustment proceeding owned by 2 Dewitt.

Mayor Robbins said the landscape plan shows 5 Magnolia trees along the southern side. If the lot line adjustment goes through and if the new owners and applicants want to change that, she asked if they could do this on their own or via a permit.

Mr. Weintraub explained that staff would look at this as a minor change that could be done administratively through a design review amendment or through the building permit process, particularly if worked out between property owners.

Jared Polsky, architect, said he knows the Council has been out to the site and have seen the story poles and existing mature landscaping. They have had two ADR meetings, made a number of design changes, removed the variance request and thinks the house will be barely visible to neighbors and is well-designed.

Darius Mozaffarian, applicant, said they had prepared a longer PowerPoint presentation but Mr. Weintraub provided a great report and he would like to save further comment until after public comments.

Mayor Robbins opened the public comment period.

Ive Haugeland, Shades of Green, landscape architect for the Conacher's, stated they are still worried about privacy and screening. She gave a PowerPoint presentation showing the two properties, location of homes, view from the driveway with the main concern being the bedroom windows on the right photo that are large and on the second story, photos from the bedrooms showing no screening in the winter, primary views from the second story windows and deck, views from the south lawn, and proposed 15-gallon Japanese blueberries which will only be 3-5 feet tall so they would propose something larger.

Ms. Haugeland thinks a large evergreen tree, a magnolia tree of 48-inch box size on the corner of the house would do a lot to stop the primary sight lines into the Conacher's bedroom. They would also like to get bigger 36-inch box plants along the property line to help screen. She also pointed to the side of the deck and asked to have a permanent wood screen versus plants.

Lionel Conacher, neighbor, said Ms. Haugeland has covered the main issues but pointed out that there were verbal representations made at the ADR meeting by the applicant's landscape architect regarding items they had agreed with but have not found their way into the plan or minutes of the ADR meeting. All issues they have related to privacy, particularly the second story addition that looks right into his master bedroom. Regarding the panhandle, while there has been a lot line adjustment application made, there is no guarantee that it will go through and therefore is irrelevant and should not be taken into consideration.

Len Rifkind, Attorney, reiterated Mr. Conacher's comments regarding the lot line adjustment. The Conacher's want to support their neighbors and their project. The requested landscape items are minor as well as ensuring the second story deck does not have access for line of sight so new bedrooms are staring at each other. Regarding the ADU proposed in the southeast corner, the purpose of ADUs are to increase the overall housing stock so he requests the Council inquire if the true use of the structure is for housing. It is not located in a place that would be conducive to a tenant renting the ADU if they have to walk across the entire 1 ½ acres to get to the far side.

This structure should not be approved just because the label of "ADU" has been put on it. Prior plans for the project have labeled the ADU a pool cabana and pool pavilion, yet there is another structure called pool house. If it is not to increase the Town's housing stock, it should not receive ministerial approval for what is a 14 foot tall, 800 s.f. building in a required rear yard setback and side yard setback. He then described the numerous structures on the property and did not think pool equipment needed to be put in a required setback on such a flat open lot. He also noted that cost is not a consideration for granting a variance; it is making a finding because of topographical features that require a variance to put improvements in another place.

Mayor Robbins closed the public comment period and brought the matter back to Council.

Mayor Pro Tem Kuhl said he thinks it is unfortunate that the Conacher' are not here in person to help the Council understand this project fully. He visited the site, looked around and said he is not impressed with the two main arguments made. One is that the lot line adjustment is not



complete. The Conacher's are one of the two parties to that lot line adjustment and he assumes that they will be in support of it. He was also not impressed with the argument about the location of the ADU. He believes there is lawn area behind the ADU, then a tennis court and then to the lot line with the Conacher's. He did not think this qualifies as pushing the ADU up against the side yard setback. He is generally not in favor of letting a neighbor play a large role in telling the next door neighbor what they should plant and where. On the other hand, he realizes that it is important to protect privacy. He stood on the property and tried to look at the Conacher house from the back of the applicant's house and it took him a while even to figure out where the Conacher's house was. But, in view of these facts and the decisions of the ADR he supports the application, as presented.

Council Member McMillan asked and confirmed that the Conacher's house is more than 107 feet away from the property line and 130 feet away from the garage being moved out of the setback. Mr. Weintraub also confirmed that the representations made by the ADR in terms of additional screening were not recommended for adoption by the ADR group or agreed upon by the property owner or the architect. There was discussion about different types of screening options by the landscape architect but those were not adopted.

Council Member McMillan asked and confirmed with Mr. Weintraub that the lot line adjustment is ministerial. She commends the applicants for all of the work they did and revisions made through the ADR process. They have gone beyond what is necessary to accommodate the desire of neighbors and she fully supports the application as it stands now. She thinks moving the play structure is unnecessary and questioned the intent.

Mr. Weintraub explained it is a fairly minor structure but all structures are subject to the minimum setbacks. He went back and looked at the permit history and did not see there was a variance or a minor exception granted for the play structure.

Council Member Kircher said he does not view the ADU as being an issue. If there is an objection to ministerial approval there is a different process to challenge that and it is not before the Council. In terms of the privacy issue, he visited the property and it appears there is currently dense foliage. As he understands the position of the applicant, there is not room for anything else there and that there could be objections by the Fire Marshal. If the ADR is satisfied with the screening as it is now he would not be inclined to require anything further.

This leaves one other matter which is the privacy concern expressed by the Conacher's about windows facing south from the new second story. The design plan shows a planter and a Privat hedge type plants that would partially screen the view to the west. The neighbor would prefer additional screening but he thinks what is proposed is adequate. ~~of the view to the west from the second story.~~

Council Member McMillan said she did not think additional screening from the balcony area is necessary and would not support that modification.

Mayor Robbins said she listened to the ADR meeting recording a number of times where the applicants stated they were okay with magnolias and other plantings, but the ADR did not require

it be included in the plan. After speaking with ADR members and listening to the audio of the meeting, they did not feel those verbal representations were anything they had approved. In the future, she suggested the ADR make it very clear that if there is a discussion in a meeting which has changed the plan at all it should be clarified. However, those discussions did not change the plan. She noted that additional screening can be requested at any time up to 3 years and so she would support the project as proposed.

Council Member McMillan commented that there is also nothing preventing the Conacher's from planting additional screening if they feel it is necessary, and Mr. Weintraub confirmed.

**Council Member McMillan moved and Mayor Pro Tem Kuhl seconded, to adopt Resolution No. 2247 and approve 1 Ames Avenue, Design Review, Accessory Dwelling Unit Permit, Demolition Permit, and Variance. Motion carried (4-0; Brekhus absent).**

**End of Public Hearings on Planning Projects.**

**15. No Action Items:**

- a. **Council correspondence** – None.
- b. **Future Council items** - None.

**16. Adjournment.**

Mayor Robbins adjourned the meeting at 7:17 p.m.

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Elizabeth Robbins, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk