

**REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, DECEMBER 14, 2017**

- 1. 5:45 p.m. Commencement.**
Mayor Elizabeth Robbins; Mayor Pro Tempore Beach Kuhl; Council Member Elizabeth Brekhus; Council Member Rupert Russell; and Attorney Trisha Ortiz for Town Attorney Greg Stepanicich.
- 2. Posting of agenda.**
Town Manager Joe Chinn 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.**
 - a. Conference with Legal Counsel—Existing Litigation
Government Code Section 54956.9(d)(1)
Weisel v. Town of Ross, et al., Marin County Superior Court Case No. CIV 1701002**
- 5. 6:00 p.m. Open Session. Council will return to open session and announce actions taken, if any. No reportable action.**
- 6. Swearing-in ceremony for Julie McMillan as a Ross Town Council Member.**
Town Clerk Linda Lopez officially sworn in Julie McMillan as a Ross Town Council Member.

Council Member Julie McMillan joined the Council on the dais.
- 7. Minutes – October/November/December**
Mayor Pro Tempore Kuhl moved and Council Member Brekhus seconded, to approve the Special Meeting Minutes of October 10, 2017 as amended. Motion carried 3-0. (Hoertkorn/McMillan abstained)

Mayor Pro Tempore Kuhl moved and Council Member Russell seconded, to approve the Regular Meeting Minutes of November 9, 2017 as submitted. Motion carried 3-0. (Brekhus & Hoertkorn absent/McMillan abstained)

Mayor Pro Tempore Kuhl moved and Council Member Brekhus seconded, to approve the Special Meeting Minutes of December 6, 2017 as submitted. Motion carried 4-0. (McMillan abstained)
- 8. Demands.**
The demands were met.
- 9. Open Time for Public Expression - None**

10. Mayor's Report.

Mayor Robbins reported that Santa Claus came to Ross! This year's Winter Sing, organized by the Ross Auxiliary, was held last Sunday on the Ross Common. Residents were treated to a delightful performance by the very accomplished singers of the Ross Middle School Chorus. Following this, Ross Preschool children sang traditional songs, including "Jingle Bells" and "We Wish You a Merry Christmas." While waiting for Santa's sleigh (a fire engine), children and adults enjoyed hot chocolate, cookies, and candy canes, donated and served by Ross Barclay from Café Ross. Santa arrived just as the Town's tree was lit for the first time this season. Thank you to Ross Auxiliary members Julie McGuire, Diana Werner, and Emily Abbott for organizing this lovely event. The Council held a special meeting on December 6 to select a new council member to replace Katie Hoertkorn, who stepped down last month for health reasons. Eight residents submitted applications; all were extremely well qualified. After reviewing applications prior to the meeting and interviewing candidates during the meeting, council members selected Julie McMillan to fill the vacant seat. Julie is well known for her work on numerous boards and committees in Ross and in the larger community, and served on the Ross School Board from 2003-2007. Councilmember McMillan's appointment runs from December 2017 through June 2018. In June 2018 there will be three council seats up for election: a two-year seat, currently held by Julie MacMillan, and two four-year seats, currently held by Rupert Russell and Elizabeth Robbins. In 2020 the usual four-year terms for all seats will resume: there will be three four-year council seats up for election. The Ross Town Council and Town staff members wish all residents a happy and safe holiday season. Please note that Town offices will be closed during the following days of the holiday season: December 25-January 1. Town Hall will reopen on Tuesday January 2. Happy Holidays!

11. Council Committee & Liaison Reports.

Council Member Russell discussed Marin Clean Energy (*MCE*) and the 17 communities this year that decided to go dark green and receive energy from renewable sources. The Board of MCE awarded the Town for their efforts with a green plaque.

Mayor Robbins reported that the Marin Telecommunication Agency (*MTA*) is in the process of going from an agency represented by elected officials to an agency that has Town staff in place of elected officials, which is a reasonable transition due to the changing duties of MTA.

12. Staff & Community Reports.

a. Town Manager

Town Manager Joe Chinn discussed at the recent Marin County Council of Mayors and Councilmembers (MCCMC) and Marin Managers Association (MMA) meetings there were presentations related to the fires occurring in Sonoma and Napa and some of the lessons learned from the fires. The lessons learned should help to better prepare in Marin County. December 2nd Get Ready class occurred with approximately 25 in attendance and urged all residents to get prepared for an emergency and properly maintain their properties to assist with fire and water drainage issues.

b. Marin Art & Garden Center – No report.

c. Ross Property Owners Association.

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Anne Hickey, RPOA representative, thanked Robert Maccario for hanging all the Christmas decorations. The banners along Ross Common were designed by students of Ross School. RPOA received communications from residents in regard to the darkness along the street at Ross Common near the grocery store. The lights are almost useless due to all the overgrown vegetation. They continue working on the rehabilitation of the Natalie Coffin Greene Park and 3 Bear Hut. Also, cleaning the lot across the street from Town Hall directly behind the bus stop.

d. Ross School.

Debbie Wolf and Lisa Pyron, Ross School representatives, reported that they are in the top-performing district in Marin County for math two years running and three years running for English language arts. The District is leading in innovation as they purchased virtual reality systems. Also, they are blending entrepreneurship and graphic design and helping children develop ways to measure their own learning.

13. Consent Agenda.

The following four items will be considered in a single motion, unless removed from the consent agenda: *Item c was pulled from the consent agenda.*

a. Town Council consideration of adoption of Resolution No. 2029 requesting the Marin County Board of Supervisors to consolidate with the Statewide Primary Election and Municipal Election conducted on June 5, 2018, and requesting Election Services of the County Elections Department.

b. Town Council consideration of reaffirming the Town of Ross Investment Policy.

d. Town Council consideration of adoption of Resolution No. 2031 authorizing execution of the pooled liability assurance network plan (PLAN) joint exercise of powers agreement.

Mayor Robbins asked for a motion.

Mayor Pro Tempore Kuhl moved and Council Member Brekhus seconded, to adopt the Consent Agenda Items a, b, & d as submitted. Motion carried unanimously.

End of Consent Agenda.

13c. Town Council consideration of adoption of Resolution No. 2030 Appeal of Construction Delay Penalties by Brian and Erica Hunt for 73 Winship Avenue.

(Council Member Brekhus recused herself from item 13c due to living within 500 ft. of property)

Mayor Robbins asked for a motion.

Council Member Russell moved and Mayor Pro Tempore Kuhl seconded, to adopt Agenda Item 13c as submitted. Motion carried 4-0. (Brekhus recused)

Council Member Brekhus resumed her seat at dais.

Administrative Agenda.

14. Town Council consideration of adoption of Resolution No. 2037 recognizing the potential flood risk reduction benefits of the Corte Madera Creek Flood Risk Management Project – Phase 1, and supporting the Marin County Flood Control District in proceeding with further project development through the completion of the joint Environmental Impact Statement/Environmental Impact Report.

Public Works Director Richard Simonitch summarized the staff report and recommended that the Council adopt Resolution No. 2037 recognizing the potential flood risk reduction benefits of the Corte Madera Creek Flood Risk Management Project Phase 1. ("*Ross Project*"), and support the Marin County Flood Control District (*MCFC*) in proceeding with further development of the Ross Project through the completion of the joint Environmental Impact Statement/Environmental Impact Report. He noted that there is nothing in this resolution about Council or staff committing to the approval of anything. The project is currently in the conceptual design phase and there is a long way to go to get even to a point when final plans and agreements can be considered or reviewed. He also noted that staff is in complete agreement that there is no downside to adopting this resolution. He stated that the final EIR/EIS is planned to be released for adoption by the Board of Supervisors in December 2018 and that Council and staff can attend the Board of Supervisors meeting to offer comments. Later, at the point of the final design, the Council will hold a hearing for final consideration of the project and approval of agreements about maintenance, easements, liability, and indemnity.

Matt Smeltzer, hydrologist consultant for Marin County Flood Control, provided the Council with a powerpoint presentation outlining Phase 1 of the Corte Madera Creek flood risk management project and the primary goal is to reduce the frequency and severity of the flooding in the communities of Ross and unincorporated Kentfield. The proposed project would include:

- Removing the wooden fish ladder in Ross that constricts flow;
- Widening the channel to hold more water by removing portions of the concrete channel to create flood plains and riparian corridors; and
- Installing floodwalls adjacent to the banks and stabilizing creek slopes to protect properties adjacent to the creek.

The proposed project goals and benefits are:

- Managing flood risk in a manner that is fully implementable and supportable by the local community by reducing the risk of flood damages, preserving or restoring human life and safety, and reducing the risk of flood damages, preserving or restoring the natural creek bed and associated riparian habitat, and improving fish passage;
- Preserving or improving, to the extent practicable, the recreational experience and aesthetic quality of Corte Madera Creek;
- Minimizing future erosion of unprotected creek banks and improving bank stability along the earthen channel in Ross; and
- Minimizing long-term maintenance requirements of the project.

Hydrologist Smeltzer stated that the slopes would be vegetated and that how much of the walls will be exposed depends on the final design. He stated that there is time before they arrive at the final design to collaborate on a design that addresses concerns.

Council Member Russell noted that everyone must understand the ramifications of removing the fish ladder. Hydrologist Smeltzer responded that a project that removes the fish ladder must consider the increase of flow and downstream effects.

Councilmember Russell asked Hydrologist Smeltzer to confirm that there would be no adverse effects on downstream communities. Hydrologist Smeltzer confirmed this as the project is part of a larger Army Corp project and the do no harm principle is in effect. The project is part of a larger rescale comprehensive analysis.

Hydrologist Smeltzer summarized his presentation and indicated that the main points is that the concrete channel would be removed; there would be flood walls on both sides; the park would be made wider with more uses; and the vegetation type would be a park-like woodland setting.

Hydrologist Smeltzer stated that there are areas of flexibility in the design. The example shows a 5' high exposed wall. The slope can be continued up to cover that wall. He stated that the plans show the strictest Army Corps regulations for vegetation but that in practice, they were going to be able to arrive at something that's a little less stark. He also stated that the bike path, which right now is near the top of the channel, is shown moved over towards the south side of the park. He stated that it doesn't have to move that far over and that the elevation of the path can be raised some to keep it from being inundated. There's a lot of flexibility depending on what people would like to achieve.

James Reilly, Stetson Engineers, consultant for Marin County Flood Control, discussed the flood risk reduction that would be achieved using animated modeling depicting different size flood events from an aerial view to better understand how flood waters move into the floodplain in regard to a 10-year flood, 25-year flood and 100-year flood. He also presented static maps to the Council showing how the flooding water surface is lower throughout the Town of Ross and Kentfield for these different size events and how the various properties are affected by a lower water surface.

Tonya Redfield, County Flood Control District, announced that all information is available on their website including all maps and the presentation provided tonight. Should the Council support this resolution moving forward they can move forward with formerly migrating the grant through finalizing their amendment with the Department of Water Resources with the support of the Town. From there they would move forward with hiring a consultant to immediately start getting through the rest of the preliminary design to help support the EIR/EIS process. That consultant will also help with the final design. Then they would put together a community workshop with the Army Corps of Engineers to discuss the alternatives. The draft EIR will be scheduled to be released in the spring.

Town Manager Joe Chinn discussed the cost of the Town for the project is staff time and outside of that the cost is zero. The project is 100% covered by Flood Zone 9 and the Department of Water Resources grant. Related to maintenance cost, they will be looking at County Flood Control to maintain the flood park portion of this project. The Town will still maintain the portion by the tennis courts and trees around that area, but the floodplain park will be the responsibility of County Flood Control. Related to insurance, the Town's insurance representative believes this project will reduce their exposure. In addition, the Town Hall parcel will have 5 to 8 inches lower of water when it rains, which reduces the building risk of flooding and helps the Town

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operationally. Tied to the insurance component, after the 2005 flood, the Town of Ross and other communities were sued for not doing enough. There was a settlement, which cost the Town \$2.5 million. The Town insurance also covered a \$250,000 loss of Town buildings on the Town owned parcel, so this proposal helps protect the Town now and into the future. This project is about maintaining a safe community. By keeping more water in the channel they will reduce flooding and help protect the residents and properties in this community. He then read a statement into the record from Police Chief Erik Masterson supporting the flood control project since it reduces water leaving the channel and helps prevent flooding making the community safer.

Roger Meagor, Ross Valley Fire Chief, discussed life safety for the public and for first responders. People underestimate the risk even in low water. Floodwaters are very powerful. This project is an incremental improvement and keeps Sir Francis Drake open, which is very important. Anything that can be done to improve the ability to keep the flood waters within the channel and out of the street and yards is a big improvement for public safety.

Town Manager Chinn added that staff believes this project would significantly improve the safety in the community and help to maintain and improve a safer community. The project provides and helps sustain financial responsibility and stability. This project improves their infrastructure and provides a public park space with access to the public. It also provides environmental benefits. Staff received several emails and letters related to the project and of those 20 were in support, seven opposed and one recommended removing the fish ladder only. Staff recommends approval of Resolution 2037 as follows:

“Resolution No. 2037, a Resolution of the Town of Ross recognizing the potential flood risk reduction benefits provided by the Marin County Flood Control District 9 “Corte Madera Creek Flood Risk Management Project Phase 1” and supports the District in proceeding with further project development and completion of a joint environmental impact statement/environmental impact report. Now, therefore, be it resolved, the approval of this resolution shall not be construed as an agreement, promise, commitment, or warranty by the Town to approve any easements or other agreements necessary for the construction, operation or maintenance of the proposed project. The future approval of any agreements or other actions require to be taken by the Town for the construction operation or maintenance of the proposed project shall be at the sole and absolute discretion of the Town.”

Council Member Brekhus asked whether there would be flexibility to modify elements of the flood design if the Town did not like certain elements, such as the relocation of the creek closer to SFD. She wanted to understand if that happens then what happens to the funding source. County Flood Control District representative Redfield responded that as mentioned before the Phase 1 project the concept is as presented. There are several design features that have a lot of flexibility. They are still exploring and trying to understand since the engineering is not complete. For example, if the Town wanted to remove the riparian park, in terms of the grant, they would have to go back to the granting agency to determine if the proposed changes are allowable. If they are not meeting the terms of the grant agreement they could potentially lose the grant funding to complete the project. Not knowing what the proposed changes could be, it is hard to say, but there are main basic features critical to the flood benefit.

Council Member Brekhus stated there are elements of the plan that cause her concern. County Flood Control District representative Redfield stated over the next year they will work very closely

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with Town staff, the Council along with the Advisory Board through the entire design process. She hopes to work collaboratively with everyone. She said that there's a lot of flexibility in the design based on what the town wants.

Russ Eberwein, County Flood Control District Senior Engineer, has been working very closely with DWR on the transfer of the grant from Phoenix Lake project down to this project and so far they have shown a lot of flexibility on how these benefits are achieved. He believed that would continue and allow them to be pretty flexible in how this project is implemented.

Mayor Pro Tempore Kuhl pointed out that what is before the Council is a concept that involves removing the fish ladder and the other is increase the capacity of the area of the creek by the park. That means the area will hold more water so less water will come out no matter what else is done with the project. County Flood Control District representative Redfield responded in the affirmative. Mayor Pro Tempore Kuhl hopes as many people as possible have viewed the staff report because in that staff report there are three diagrams that show the extent of the improvements expected based on the computer modeling. That flooding will be reduced in all the various areas in the downtown areas. County Flood Control District representative Redfield responded in the affirmative.

Council Member McMillan procedurally wanted to know when the Council would review, not in 2019, but in an interim basis. Also, she saw that there is a Board of Supervisor approval and wondered if they approve and then it comes back to the Council what type of backlash will the Council receive if the Council does not approve. County Flood Control District representative Redfield responded that the Town holds authority and final approval of the project. Tony Williams, County Flood Control, stated that they would not present to the Flood District Board of Supervisors before coming to the Council. The Council will have the first blessing. Typically when they have a stakeholder, it is taken to the stakeholder first and then the Board. County Flood Control representative Williams added that the Town passed a resolution several years ago indicating that the Town has final approval of design. Procedurally they typically always go to the stakeholder first and then take it to the Board. The Board is the last piece. There are a series of steps. They must go to the Board prior to construction. There are several procedural steps such as public hearings. Also, the certification of the EIR, it is not a full design, they are analyzing a series of alternatives in a conceptual way. There are still several details that must be worked out.

Mayor Robbins pointed out that the staff report indicated that the Council will have opportunities to comment on the EIR, but that regardless of Ross's comments, the project can still move forward if the Board of Supervisors accepts the document, which sounds as if the Town does not have the ability to re-evaluate the project. She wanted the resolution to state that the Town Council has the right to reconsider and cancel the project at any time up to design review or whenever the appropriate time would be. As she reads the resolution the Town does not have that leeway. She said that the council had been told that it would have that leeway, that the council was just approving a concept to the EIR stage. She doesn't think that what the council was told fits with what it's seeing. County Flood control district representative Redfield noted that the Town must approve the easements and maintenance agreements, which will be the ultimate backstop. Mayor Robbins stated that that will be so far down the line, that it's sort of a take it or leave it situation. She stated that, as we understand what the Army Corps is proposing, learn more about it, we may say fine, that all the elements provide enough benefit, but we're

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being told this has to be rushed through right now because the county doesn't want to lose its grant money, but we were also told that it's okay because we're just approving a concept and that in the spring, when the EIR comes out, we'll have another chance to say yes or no. That should be in the resolution because that's what she thinks we went into this meeting thinking. She was expecting we would have a chance to look at it again, not in this rushed environment, to say yes or no. But the resolution doesn't say that. Town staff explained that the council can make comments at the Board of Supervisors meeting but that it can't stop the Board of Supervisors from approving the EIR, but that when the Town receives the final engineering documents and design review, the council has an opportunity to not approve the project at the end. Mayor Robbins pointed out that an opportunity to not continue the project at the point of easements is too far down the line. Mayor Pro Tempore Kuhl stated that they own a large part of the land involved in doing this project. If the Council does not grant an easement on their land, then they are not allowed to move forward with the project. County Flood Control district representative Williams concurred.

County Flood Control District representative Redfield clarified that by providing support now it allows them to continue to develop this concept and show the Department of Water Resources and the Army Corps that the Town is a willing partner. If the Town decides not to support this they will lose the grant funding and it sends a single to the Army Corps that they do not get this opportunity or it may be a diminished evaluation in their scope of alternatives, so they will not have this opportunity to be able to include that. Today shows that the Town is supportive of them to move forward and execute the grant and see that the environmental review is happening in tandem. Unless they are able to move forward to integrate into this process they run the risk of losing this opportunity.

Mayor Robbins wanted the Council to have the ability to reconsider in the spring and wanted such language included in the resolution. She stated that this is more than approving the concept. Unless there's something in the resolution that says that the Council can reconsider in the spring, this is a final approval, and that's not what we were told. County Flood Control District representative Williams added that this is the Town's land. The Board of Supervisors has the ultimate authority to approve the EIR, but if the Council does not approve the use of their land, then County Flood Control is out all that cost. They are assuming the risk and they would lose all that effort, which is an important point.

Council Member Brekhus understands assuming the risk, but if they only want to remove the fish ladder and not willing to do anything more, at that point in time having authorized the concept tonight they will have gone further in exploring the benefits and plans, there is some benefit even if they ultimately decide they do not agree with the full proposal. County Flood Control District representative Williams added that it is a tremendous risk to change at this stage. County Flood Control District representative Redfield stated they have already put in a lot of science and engineering into this concept to provide reassurance to the District and be able to answer questions and provide a level of confidence to the Town. They feel strongly that this project provides significant flood benefits. Her hope is that the Council will support this resolution and move forward as a partner in the design phase and work through concerns and obstacles. For the Council at the final design phase to not approve and indicate they are out, that would be difficult and the project would go back to the Army Corps of Engineers. The District would have to repay the grant funds to DWR, which would have a huge implication. Council member Brekhus wanted

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to know that dollar figure. County Flood Control District representative Redfield did not have an exact dollar figure, but believed it would be around one million dollars.

Council Member McMillian felt if they had interim steps with the Council to check in periodically, possibly quarterly to resolve this matter. County Flood Control District representative Redfield responded in the affirmative. She believed that is part of their engagement plan to have regular checkpoints and develop a subcommittee to work together closely. Council Member McMillian desired a schedule to be put in place. County Flood Control District representative Redfield is open to develop that outreach schedule with the Council.

Mayor Robbins indicated if checking in every three months helps that should be part of the resolution that the Council and County will be checking in every three months and up to six months that the Council has the right to not continue with the project.

Council Member Russell suggested allowing members of the public the ability to speak and then the Council can ask questions. Mayor Robbins indicated that she had a few more questions. She felt an indemnification agreement should be in place now, since there is certainly more leverage now than later on. Attorney Trisha Ortiz explained that it would be difficult to negotiate an indemnification not having the details and the scope of the project. The concept is that there will be indemnification, but they need to have all specifics in place. Mayor Robbins inquired what is the County leaning towards in regard to indemnification. Attorney Trisha Ortiz responded that there have been discussions that indemnification is going to be a real key as the project moves forward. Mayor Robbins asked if the town isn't satisfied with the indemnification agreement, can the town say it doesn't want to follow through with the project. Staff attorney replied yes, in that case the town wouldn't enter into the indemnification, easement, or other agreements. The indemnification agreement would be part of the maintenance and easement agreements or operation agreement.

Mayor Robbins asked if there was enough data to show that making the park part of the project adds enough additional benefit to just removing the fish ladder, especially given how much money is going to be spent on the park. The documents that go parcel-by-parcel show the difference between the flood ladder alone and the flood ladder plus the park element, and she didn't think they showed much additional benefit if you add in the park element. She was concerned that no one was able to review the data because the county wouldn't let her share the documents, and asked if there could be more data evaluation before moving forward. County staff explained that the data being discussed is represented in their chart in regard to the benefits and existing conditions. What you are seeing is the incremental benefit with the Allen Park corridor compared to the minimum of just removing the fish ladder. The majority of the benefit from both projects really comes from removing the fish ladder. That's the meat of it. Flood District Board representative Redfield stated that the data couldn't be shared because it doesn't represent any project that's currently being evaluated.

Council Member Brekhus stated if they just wanted to do the fish ladder then some portion of the concrete channel would need to be removed as well as walls would need to be added. County Flood Control District representative Redfield noted that the concrete channel is at the end of its useful life. The concrete channel will have to be dealt with. There is a concept that has just removal of the fish ladder with floodwalls and in order to contain the floodwater the floodwalls

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would need to be 8 to 10 feet high.

Mayor Robbins stated that the Council had been told that it would be able to see the Army Corps of Engineer plans in the spring and wanted to know, if the council preferred one of the Corps plans, would it would be able to use the Corps plan instead of the project being proposed. County Flood Control District representative Redfield stated that she didn't want to take time getting into the Corps process. She said that the Corps has been studying four alternatives that were presented over a year ago and that there will be a public workshop before the draft EIR is released where the plans will be presented to the public.

Mayor Robbins asked if ADA access would be required all the way to the waters edge and is that a grant requirement. County Flood Control District representative Redfield stated it depends if the Town desired access to the waters edge. If the Town decided they wanted no public access to the creek bed then that could be designed. The bike path would be maintained and that of course would be ADA accessible. The pedestrian path is to be determined.

Mayor Robbins expressed concern for the relocation of the sewer line. Public Works Director Richard Simonitch responded that there is about 850 ft. of sewer line that must be relocated. Mayor Robbins believed that is a \$2 million expense to relocate the sewer line.

Mayor Robbins is not comfortable with what is being approved since a revised resolution was just presented to the Council an hour before the meeting. She wanted the Town's interest to be put first. She then asked if there is a conflict of interest in regard to the hydrology data and should there be an independent hydrologist since the County and the Town share the same hydrologist. County Flood Control District representative Redfield stated that the Army Corps of Engineers is undergoing a peer review process and in her opinion she did not feel there is a conflict in regard to the data they share.

The Council took a short recess and then reconvened with public comment.

Mayor Robbins opened the public hearing on this item.

Christina Toms, San Francisco Water Resource Engineer, will be permitting all work done in Ross Valley. They are grateful that both the Town of Ross and Flood Zone are taking a multi approach to flood prevention. It is disappointing to hear that there is some reluctance on the part of floodplain restoration. It will be unlikely that simply removal of the fish ladder will be adequate mitigation for the flood protection project being proposed. They have been pushing for floodplain mitigation and hopes it is approved, as it is a critical component of the project mitigation.

Peter Barry, Ross resident/former Councilmember, stated that Ross should control this project and investigate the plans and not rush this process.

Kentfield resident expressed concern for the improvements proposed to Fred Allen Park since it is the last park that maintains a natural appearance. She opposed artificial improvements.

Frank Malin, Fernhill resident, stated that this project is an integral part of the overall plan. This project will improve hundreds of lives throughout Ross Valley. He asked the Council to vote to

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make their lives better.

Eric Young, Shady Lane resident, thanked staff for all their hard work in regard to the resolution and appreciated the information being delivered electronically and by mail. He strongly supports the resolution before Council.

Brad O'Connell, Sir Francis Drake resident, emphasized there will be a serious adverse effect on the property along Sir Francis Drake in regard to livability, privacy and aesthetics. His property has a substantial amount of land between his property and the creek. This project will move the creek substantially closer toward his home. In its current form they look at grown trees and vegetation, as proposed they would look at a concrete wall. He urged the Council to consider the adverse effects before approving this project.

Gary Scales, Berry Lane resident, expressed his views on this subject and has serious doubts about some of the issues raised. He admits to bias removing Fred Allen Park, as Fred was his mentor. They are destroying the only section of the culvert that ever worked. He asked if the Town would be married to the current proposed plan, and wanted to make sure the Town can modify the plan.

Beth Foster, Sir Francis Drake resident, appreciated the efforts of the Town to engage the neighbors asking for input. Addressing flooding is critical and is glad this project is being considered. She expressed concern about the concrete wall and the loss of landscaping and privacy. She is very concerned about the noise from construction. She hoped these concerns would be addressed through the process.

Garil Page, San Anselmo resident, stated that Ross is being given a use it or lose it option. The process is such that if they ultimately say, "no" they want out, then they are demonstrating to the Corps that there is no support that is needed to receive the federal funding, so the Council is not given a choice. She urged the Council to vote more carefully.

Leslie O'Connell, Sir Francis Drake resident, discussed the cross-section diagram and during a 100-year flood that water will build up behind the wall and safety will be in question. She appreciated the County making efforts to speak to residents, but their safety is not guaranteed.

Chris Martin, Shady Lane resident/former Councilmember, for the past eight years he served as the representative for the Town of Ross on the Advisory Board for the Flood Zone 9 District. The Advisory Board recommended ongoing consideration and further development of the proposed flood control alternative being considered tonight. The resolution being voted on furthers refinement and analysis on the flood control measure and preserves the \$7.6 million grant and lack of funding is one of the reasons flood control improvements have not been accomplished in Ross for nearly 50 years. The proposed alternative has engaged a competent team of hydrologic engineers and respects their expertise, findings and recommendations and hoped the Town does as well. If approved tonight, more efforts will continue with further community engagement. If this does not pass tonight, flood control measures become more limited. This is one of the most important decisions the Council will make. The proposed alternative meets several of the general plan and Town goals including making a safer Town and addressing flood control. He asked the Council to take leadership and make the responsible decision for the long-term future of the

Conner Kidd, Sir Francis Drake resident, have been engaged with the County and are optimistic they can work with them. They have concerns and hope they are properly documented.

BJ Martin, Shady Lane resident, appreciated the transparency in regard to this project. Her land flooded in 2005, so every inch matters. Trees can be replaced in regard to landscaping the park, but water entering the home is devastating.

Daniel Fredrich, Shady Lane resident, echoed all comments from his neighbors. It is nice to be able to walk down to the creek and enjoy it. There is no access upstream from Lagunitas Bridge. It is a wonderful feature of the plan to be able to walk down to the creek.

Craig McCarty, Poplar resident, submitted a petition of 18 signatures supporting this project. His home has flooded several times. Any reduction in water would be appreciated. This plan makes a lot of sense and recommended that the Council approve. Going back to flood mitigation, six inches of fast moving water can sweep an adult off their feet, so this reduction is significant in regard to public safety. They must help the residents in the Town of Ross as well as the residents downstream.

Katie Rice, Marin County Board of Supervisors, stated if this resolution were passed to further develop this concept, they would only be successful in this collaboration if they work together honestly. They can develop something they can all be proud of and will be a huge benefit to the community. Let's flush out this project and make it happen along with compromise and sacrifice. They need to be in this together around public safety and reducing flood risk and this will be the Town's legacy. There is incredible value in this project and hopes they can all work together on this project.

John Child, Poplar resident, stated that they all want to reduce flood control and have better flood protection. He recommended moving forward since the Council still has the tools in place in regard to easements and maintenance agreements to reconsider.

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 Russell stated that they are trying to balance several considerations, but pointed out that there is a substantial benefit to homeowners along Sir Francis Drake as shown on the maps. Mayor Robbins pointed out that it is hard when the data varies. She added that it is hard to receive good hydrology data. Town Manager Chinn added that everyone along Sir Francis Drake south of Lagunitas would have 100-year flood protection as shown on the diagrams.

Council Member McMillian thanked everyone for their input and passion about this issue. She appreciated all comments. They must address flooding. It has occurred for way too long and they must take steps. This is a unique opportunity for the Town. Momentum must continue moving forward on flood control. Supporting the project now provides the Council and the expert's time to refine the data and design, address neighbors concerns and figure out the landscaping and review Army Corps projects that come out in spring. Also, increase community outreach and

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improve communications to make sure all residents are informed about the benefits. Encourage Ross citizens to attend meetings. She desired more check in points on the process. A system must be in place to receive updates such as quarterly reports. They have a lot of leverage at the end when that time comes in regard to easements, maintenance and indemnification agreements. She favored moving forward with periodic check-ins.

Council Member Russell believed they have a majority to approve this project and supported moving forward. They have all done a huge amount of work on this project and this is not a decision any of them will take lightly.

Mayor Pro Tempore Kuhl is very much in favor of moving forward. It would be a huge mistake to not take advantage of what is in front of them. This will provide significant opportunities to make things better for people. It is a terrible mistake to assume that the scientific evidence is not correct. He assumes that the information is correct and will in fact improve their situation. There will be some prices to pay, no project of this size will happen without some downside, but that is the price they pay to help mitigate flooding. He is very much in favor of the resolution. They will have a better looking downtown. The concrete walls and chain link fences will be removed along with flood improvements.

Council Member Brekhus supported the resolution as well. She appreciated the various staff members answering all her questions and concerns. There is no perfect plan, but they need to have a little faith moving forward.

Mayor Robbins stated that the Council should approve a project that is in the best interest of the town, and that this project may well be in the best interest of the town, but that we've only had a few months to learn about it and discuss it, and that we keep learning more things about it every week. She would support this resolution if it had the ability of the Town to reconsider the project up until the EIR, which is a fairly early stage and will not be too far along in the decision and building process. Since they do not know that much about this project, and this has been rushed in order to try to preserve the County's grant money, she did not feel the Town should approve this carte blanche, but approve with provisions that the Town can reconsider its approval in the next many months.

Mayor Robbins asked for a motion.

Mayor Pro Tempore Kuhl moved and Council Member Brekhus seconded, to approve the redlined version of Resolution No. 2037 as presented by staff. Motion carried 4-1. (Robbins opposed)

Council Member Russell left the Council meeting at 9:00pm. The agenda order changed moving Item 18 next.

18. Town Council discussion of recruitment of the Ross Valley Fire Chief.

Town Manager Joe Chinn summarized the choices of filling the Fire Chief vacancy position either through a recruitment or a shared service agreement for Fire Chief services with Marin County Fire. He noted that the Fire Board supported moving forward with a dual track of both starting the recruitment and starting a request for proposal (RFP) to review parameters for a possible

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contract with Marin County Fire.

Council Member Brekhus stated that they discussed an opportunity for shared services with County Fire Chief Jason Weber. She noted that there is no cost savings and there are several obstacles. One issue was that Chief Mills was not very present in Ross. She voted to support looking at shared services and recruit a chief. She wanted to bring this important decision to the Council for their input.

Mayor Pro Tempore Kuhl agreed to continue down the dual track to receive information on what is the quality and caliber of the candidates out there before making a decision on shared services. He was very impressed with some of the ideas that Chief Weber presented and there might be some real benefits gained with shared services. Shared services would include Ross Valley and the County of Marin.

Roger Meagor, Ross Valley Fire Chief, noted that July is an ideal time to be completed with the process. They are looking to fill that fire chief position. They are going down the road to provide a better picture of what is the best option. The RFP for the shared services is determining what services will be provided and how they will be provided.

Mayor Robbins opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and moved onto the next agenda item.

15. Town Council consideration of introduction of Ordinance No. 685, an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 6.18 "Smoking Regulations", to address new and existing multi-unit residences, regulating the sale of tobacco products, updating definitions, and prohibiting smoking on active construction sites.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council waive the first reading and introduce Ordinance No. 685 amending Ross Municipal Code chapter 6.18. Staff recommended that the definition for "*minor*" be changed from "18" to "21."

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

The Council directed staff to amend the current Smoking Regulations to address new and existing multi-unit residences, regulating the sale of tobacco products, adding new definitions such as bar, child care facilities, electronic smoking device, recreational area, etc., and prohibiting smoking on active construction sites. The smoking regulations have not been updated since 2007.

Mayor Robbins asked for a motion.

Mayor Pro Tempore Kuhl moved and Council Member Brekhus seconded, to waive further reading and introduce Ordinance No. 685, an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 6.18 "Smoking Regulations," to address new and existing multi-unit residences, regulating the sale of tobacco products, updating definitions, and prohibiting smoking on active construction sites. Motion carried unanimously. (Russell absent)

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16. **Town Council consideration of introduction of Ordinance No. 686, an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 12.24 "Planting, Alteration, Removal, or Maintenance of Trees", to clarify what constitutes a hazardous condition, and providing additional options for expenditure of in-lieu impact fees by the Town; and Town Council consideration of adoption of Resolution No. 2036 amending the comprehensive schedule of fees and charges for the in-lieu tree replacement fees.**

Public Works Director Richard Simonitch summarized the staff report and recommended that the Council waive first reading and introduce Ordinance No. 686 amending Ross Municipal Code Chapter 12.24 of the Ross Municipal Code as amended herein, and adopt Resolution No. 2036 reducing the in-Lieu fee for trees in poor or hazardous condition.

Mayor Robbins discussed economic enjoyment of the property and thought they were discussing a broader interpretation. Public Works Director Simonitch stated that the choice of the Council was to leave the broad interpretation of economic enjoyment of the property. The discussion involved around whether a structure is a habitable structure or a swimming pool or fence.

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

This ordinance (*Ross Municipal Code Chapter 12.24*) which was last updated in 2015, has expanded over the years to provide the structure for regulating the removal of trees through the issuance of a "Tree Alteration or Removal Permit" and allow for a tree removal permit applicant to pay an "in-lieu" fee to the Town under certain circumstances, instead of planting a replacement tree. On November 9, 2017 the Town staff received direction from the Council to amend the ordinance to clarify when a tree is being removed due to it being a hazard to a physical structure, and reduce the in-lieu fee for such cases. Other minor ordinance changes include bringing the regulatory responsibility for tree removal back to the Public Works Department and provide some flexibility to the Town on how the in-lieu fee revenue can be spent.

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Kuhl seconded, to waive further reading and introduce Ordinance No 686, amending Ross Municipal Code Chapter 12.24 of the Ross Municipal Code as amended herein. Motion carried unanimously. (Russell absent)

Council Member Brekhus moved and Mayor Pro Tempore Kuhl seconded, to adopt Resolution No. 2036, reducing the in-lieu fee for trees in poor or hazardous condition. Motion carried unanimously. (Russell absent)

17. **Town Council consideration of introduction of Ordinance No. 687, an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 10.28 "Stopping, Standing, Loading and Parking" adding Section 10.28.080, and Chapter 18.40 "General Regulations" amending Section 18.40.120 to regulate the parking of Recreational Vehicles within the Town of Ross.**

Town Manager Joe Chinn summarized the staff report and recommended that the Council waive the first reading and introduce Ordinance No. 687 to amend the Ross Municipal Code to Regulate

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"Parking of Recreational Vehicles on Public Streets and Private Property" and "Trailers and Vehicles Used for Habitation."

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

The Council agreed to prohibit parking of RVs on public streets and right-of-ways within the Town. The ordinance also limits RV parking on private property to the following: 1) must be parked in the driveway; 2) must be set back a minimum of 15 feet from the roadway edge; 3) may not be parked longer than 3 days, unless the owner has erected a fence or screening (*subject to Town approval*) that substantially blocks the view from public view; and 4) no living quarters shall be maintained or business conducted within a parked or stored RV.

Mayor Robbins asked for a motion.

Mayor Pro Tempore Kuhl moved and Council Member McMillan seconded, to waive further reading and introduce Ordinance No 687, an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 10.28 "Stopping, Standing, Loading and Parking" adding Section 10.28.080, and Chapter 18.40 "General Regulations" amending Section 18.40.120 to regulate the parking of Recreational Vehicles within the Town of Ross. Motion carried unanimously. (Russell absent)

End of Administrative Agenda.

Mayor Pro Tempore Kuhl recused from Agenda Item 19 due to living within 500 ft. of property.

Public Hearings on Planning Projects.

19. 200 Hillside Avenue, Extension of Time for Design Review, Hillside Lot Permit, Variance and Tree Removal Permit No. 2017-040, and Town Council consideration of adoption of Resolution No. 2032.

Chris and Sheri Erickson, 200 Hillside Avenue, A.P. No. 73-291-29, R-1:B-5A (Single Family Residence, 5 acre minimum lot size), Very Low Density (.1-1 units per acre), Zone X (outside of High Risk Area). The applicant requests a one-year time extension of a Design Review, Hillside Lot Permit, Variance and tree removal permit to allow for the construction 5,080 square foot single family residence, modification of an existing access driveway, installation of retaining walls and landscape improvements and associated grading and tree removal that was approved by the Town Council on November 12, 2015.

Project Summary:

Lot Area	113,822 square feet (2.6 Acres)		
Existing Floor Area Ratio	0 sq. ft.	0%	(15% permitted)
Proposed Floor Area Ratio	5,080 sq. ft.	4.46%	
Maximum HLO Floor Area	5,115 sq. ft.	4.49%	
Existing Lot Coverage	0 sq. ft.	0%	(15% permitted)
Proposed Lot Coverage	3,502 sq. ft.	3.08%	
Existing Impervious Surfaces	0 sq. ft.	0%	

Proposed Impervious Surfaces 8,693 sq. ft. 7.64%

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution 2032 conditionally approving a one-year time extension of a Design Review, Hillside Lot Permit, Variance and tree removal permit for construction of a new single family residence at 200 Hillside Avenue and ratification of the requisite findings in support of the original project.

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

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Council Member McMillan seconded, to approve 200 Hillside Avenue, Extension of Time for Design Review, Hillside Lot Permit, Variance and Tree Removal Permit No. 2017-040, and adopt Resolution No. 2032. Motion carried unanimously. (Kuhl recused/Russell absent)

20. 205 Lagunitas Road, Use Permit Amendment No. 2017-041, and Town Council consideration of adoption of Resolution No. 2035.

Lagunitas Country Club, 205 Lagunitas Road, A.P. Nos. 73-211-40, 73-221-01, R-1:B-A (Single Family Residence, 1-Acre Minimum Lot Size), RC: Limited Specialized Recreational/Cultural. Public hearing for the Town Council to consider an amendment to the January 2017 Use Permit for the Lagunitas Country Club to allow a reduction of amplified music events from nine (9) events to six (6) events and to require a biannual review of the Use Permit in perpetuity, in addition to conducting an annual review per the February 2017 Use Permit amendment.

This item was continued to the January 11, 2018 Town Council meeting.

Mayor Pro Tempore Kuhl resumed his seat at dais.

21. 40 Madrona Avenue, Design Review and Variance No. 2017-012, and Town Council consideration of adoption of Resolution No. 2033.

Chad and Amy Lewis, 40 Madrona Avenue, A.P. No. 073-232-29, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size), Medium Low Density. The applicant is requesting Design Review and a Variance to allow for the new construction of a swimming pool that would be located 27 feet from the rear property line. Other project features would include new landscape and hardscape features.

Project Summary:

Lot Area	19,979 square feet (0.46 acres)		
Existing Floor Area Ratio	0 sq. ft.	0%	(15% permitted)
Proposed Floor Area Ratio	No Change		
Existing Lot Coverage	0 sq. ft.	0%	(15% permitted)
Proposed Lot Coverage	No Change		
Existing Impervious Surfaces	4,700 sq. ft.	0%	

Proposed Impervious Surfaces 4,697 sq. ft. 7.64%

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution 2033 conditionally approving Design Review and a Variance to allow for the new construction of a swimming pool that would be located 27.5 feet from the rear property line at 40 Madrona Avenue.

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

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Council Member McMillan seconded, to approve 40 Madrona Avenue, Design Review and Variance No. 2017-012, and adopt Resolution No. 2033. Motion carried unanimously. (Russell absent)

22. 18 Sylvan Lane, Demolition Permit, Design Review, and a Nonconformity Permit No. 2017-030, and Town Council consideration of adoption of Resolution No. 2034.

Dan Little and Elena Batalla, 18 Sylvan Lane, A.P. No. 073-161-08, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre), Zone AE (1-percent annual chance floodplain). The applicant is requesting a Demolition Permit, Design Review, and a Nonconformity Permit from FAR to allow the demolition and the new construction of a 4,595 square-foot single-family residence, including a garage, in addition to landscape and hardscape improvements, such as relocating the existing driveway and swimming pool. Driveway and parking access to the project site would be from Sylvan Lane.

Project Summary

Lot Area	20,359 square feet		
Existing Floor Area/Ratio	4,666 sq. ft.	23%	(15% FAR Permitted)
Proposed Floor Area/Ratio	4,595 sq. ft.	22.5%	
Existing Lot Coverage	3,026 sq. ft.	15%	(15% Permitted)
Proposed Lot Coverage	2,805 sq. ft.	14%	
Existing Impervious Surfaces	8,750 sq. ft.	43%	
Proposed Impervious Surfaces	5,930 sq. ft.	29%	

The applicant is requesting a Nonconformity Permit to allow floor area beyond the 15% permitted Floor Area Ratio. A Nonconformity Permit is also being requested to allow an existing legal nonconforming residence that is currently located within the side yard setbacks to be reconstructed within the existing side yard setbacks.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution 2034 conditionally approving a Demolition Permit, Design Review, a Nonconformity Permit, and a Tree Permit to allow the demolition and the new construction of a 4,595 square-foot single-family residence, including a 405 square foot garage, and landscape/hardscape improvements, such as a newly reconfigured swimming pool at 18 Sylvan Lane.

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Council Member Brekhus asked staff the position of the adjacent property owner. Planning Manager Scoble responded that the adjacent property owner at 16 Sylvan Lane supported the property as proposed.

Council Member Brekhus asked if the landscaping height would be specified. Planning Manager Scoble responded that the hedges would grow up to 10 ft. in height.

Barbara Chambers, architect, supplied the Council with a model, color boards and renderings for their consideration and indicated that her associate will explain the project in more detail.

Jason Yee, architect, provided a powerpoint presentation for the Council's consideration outlining the proposed project explaining that the residence is designed with a height of 29.25 feet with a finished floor height of 36.5 feet, which would be 1.5 feet above the base flood elevation. The project includes a revised landscape and hardscape design. The driveway would be relocated from the south side of the property to the north side of the property adjacent to the Sylvan Lane frontage. The existing driveway would revert back to a natural lawn area. Other landscape features include the plantings of new trees, shrubs, bushes, and native groundcover. The proposed hardscape features would include the use of a permeable gravel driveway, permeable stone pavers, and a newly reconfigured swimming pool. Additionally, the project is designed with a 6-foot tall solid entry gate with two 6-foot tall stone columns. The solid gate and proposed laurel shrubs are intended to screen the driveway and parking areas. The laurel shrubs would grow to a maximum height of 12 feet tall at maturity. They are requesting a Tree Removal Permit to allow the removal of 26 trees. The trees to be removed consist of a hazardous Valley Oak, a Box Elder in fair condition, three cherry trees in fair to poor condition, five birch trees in fair to poor condition, a plum tree in fair conditions, a redwood in fair condition, and the remaining trees to be removed are overgrown bay tree clusters in fair condition.

Dan Little, applicant, appreciated the Council for their time and is very excited to be moving into the community. He's had good interaction with his neighbors. He requested flexibility of three to six inches for flood reasons, which would be greatly appreciated.

Mayor Robbins opened the public hearing on this item.

Peter Nelson, Circle Drive resident, discussed the elevation and one concern is that 25 Sir Francis Drake was approved with the same condition in regard to 18 inches above the flood level and it flooded. It was a great presentation tonight by staff and the possibility of flooding and supported the applicant's suggestion of raising the finish floor elevation above the 18 inches specified in the resolution. Given the status over the years in regard to flooding, in terms of new buildings, 25 Sir Francis Drake is a good story to have more height to be safe for many years.

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 Brekhus is concerned about adding 6 inches to the roof height without the adjoining neighbors having knowledge of the request. Architect Chambers noted that she could

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adjust the pitch so the ridge would not change by adding 6 inches in height, but still allow the finished floor to be raised a total of two feet above the base flood elevation.

Planning Manager Scoble expressed support for the increase in height from a design perspective, but concurs with Council Member Brekhus regarding neighbor notification.

Mayor Pro Tempore Kuhl indicated that what is proposed is that the roofline would not change as the architect described. Mr. Little believed it is best to move forward with the architect's option rather than continue the matter.

Council Member Brekhus desired a landscaping condition of approval to maintain the hedge height. Also, when they move the house they are also moving the pool.

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Kuhl seconded, to approve 18 Sylvan Lane, Demolition Permit, Design Review, and a Nonconformity Permit No. 2017-030, and adopt Resolution No. 2034, with the pool area being relocated as shown in the presentation, not within the setbacks; the finished floor can increase by 6 inches higher, but the overall height of the roof will remain as proposed; and the residence may move 5 ft. closer to the street and move the pool 5 ft. forward as well. Motion carried unanimously. (Russell absent)

End of Public Hearings on Planning Projects – Part II.

23. No Action Items:

a. Council correspondence

- Construction vehicle parking

b. Future Council items - None

24. Adjournment.

Mayor Robbins moved to adjourn the meeting at 9:58 p.m.



Elizabeth Robbins, Mayor

ATTEST:



Linda Lopez, Town Clerk