

**REGULAR MEETING of the ROSS TOWN COUNCIL**  
**THURSDAY, APRIL 4, 2024**

*Held In-Person and Teleconference via Zoom*

**1. 6:00 p.m. Commencement.**

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

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

Town Manager Johnson reported that the agenda was posted according to government requirements, and there are no changes to the agenda.

**3. Introduction and swearing in of new police officer, Dominic Puterbaugh.**

Police Chief Pata introduced new Police Officer, Dominic Puterbaugh, and Officer Puterbaugh was then sworn in and given the Oath of Office.

Mayor Brekhus and Council Members welcomed Officer Puterbaugh to the Town of Ross.

**4. Mayor's Report**

I am thrilled to announce some exciting upcoming events in our Town that I encourage you all to attend.

First and foremost, the RPOA will be hosting a musical performance by "Swiftly," featuring Taylor Swift songs. The event will take place on Friday, April 19 at 5pm.

Next on the agenda is the Garden Tour scheduled for May 11, 2024, from 1:00 PM to 4:00 PM. This event, organized by the Ross PTO, serves as a crucial fundraiser for Ross School. I always purchase tickets for my mother, friends, and clients who I believe will appreciate the opportunity to explore the beautiful gardens of our small town.

Last but certainly not least, the Ross Auxiliary dinner, a Verdant Affair, will take place on Saturday, April 20. I have already secured my tickets and am currently on the lookout for a green outfit in line with the Verdant wear theme. This event is my personal favorite, as it offers residents the chance to connect with one another in a delightful dinner party setting. The Auxiliary has made substantial improvements over the years, such as hiring professional chefs and moving the event to the Spring. I hope to see you all there as well.

As many of you may already know, this will be my final regular council meeting as a Council Member and Mayor. Both Beach Kuhl and I will be stepping down after three terms on the Council. On April 25th, at the Council budget meeting, beginning at 9:00 am, the new Council Members will be sworn in: Teri Dowling, Bill Kircher (incumbent Mayor Pro Tem), and Mathew Salter. I wish them all the best of luck in their future endeavors on the Council.

It has been an absolute honor and privilege to serve on the Council for the past 12 years. Serving as a Council Member has been a full-circle experience for me, as my father, Peter Brekhus, served for 16 years in Ross. It has been a pleasure meeting and collaborating with multiple generations of Ross residents, some of whom I knew from childhood and others I have had the pleasure of meeting throughout the years.

I am grateful for the opportunity to work alongside fellow Council Members and dedicated staff members who form an essential part of our Town's fabric. Additionally, serving as the President of the Marin County Council of Mayors and Councilmembers has allowed me to forge valuable connections and work with other council members and the County Board of Supervisors.

I want to express my deepest gratitude to all of you for your trust and support throughout my time in this role.

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

Council Member McMillan reported on her attendance to an Open House at the Fire Foundry in San Rafael. She described the Fire Foundry program which offers an unmatched training experience that prepares individuals from all backgrounds for a rewarding and challenging career. The Foundry's goal is to increase access to sustainable wage careers in the fire services for underrepresented groups in the sector through tailored programs, mentorship, and access to cutting-edge training,

This program was conceived by Marin County Fire Chief Jason Weber and is entering its third year. Marin County Fire, Marin Wildfire, UC Berkeley, College of Marin, Conservation Corps North Bay, and the Marin Professional Firefighters have been working together to make this program possible.

Mayor Pro Tem Kircher reported on the MCCMC meeting and provided three main take-aways: 1) \$73 billion State deficit; 2) Insurance issues with companies cancelling California policies; and 3) legislation for ADUs; exemption from reassessment for 15 years.

#### **6. Staff & Community Reports.**

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

Town Manager Johnson provided the following updates:

- On Thursday, April 25<sup>th</sup> there will be a special Town Council meeting starting at 9am. The current council will be asked to accept the results of the election and the new Town Councilmembers will be sworn in. Next, the Council will make its appointments for the Mayor and MPT roles and then its appointments to various committees and regional boards. The Council's annual budget workshop will follow and will end by 2pm.
- If approved by the Council on tonight's consent calendar, your May and June Council meetings will be held on Monday May 6<sup>th</sup> at 6pm and on Thursday, June 13 at 6pm.

- Registration has begun for Ross Rec Summer Camps that start on June 17<sup>th</sup>. Please register at rossrec.org
- The Town is delighted to co-sponsor RPOA's Live on the Common concert event that will be held on Friday, April 19, 5-8pm. The band is called Swifty!

**b. Ross Property Owners Association**

Elena Batella, RPOA, reported on the meeting on Monday with discussion about: 1) A suggestion box at the Post Office; 2) a historical walk; 3) new RPOA members; 4) Spring Fling was moved to May 4<sup>th</sup> at Marin Art and Garden Center which is sold out; 5) Work is being done on the Turkey Trot and Winterfest; 6) Age-Friendly Valentine's Day Luncheon was a success; 7) Upcoming Age Friendly breakfast on May 8<sup>th</sup> at Marin Art and Garden Center; 8) RPOA is holding off work on the lights at the Post Office while lease is negotiated; 9) new order for the hanging flower baskets was completed for delivery this month; 10) new larger table at the Post Office will be delivered next month; and 11) Live on the Common is on April 19<sup>th</sup> with a Taylor Swift Tribute Band.

**7. Consent Agenda**

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

**Council Member McMillan moved and Council Member Robbins seconded, to approve Consent Calendar Items a, b, c, d, e.1, e.2, f, g, h, and i. Motion carried unanimously (5-0).**

- a. Minutes: Closed Meeting March 14, 2024, Regular Meeting March 14, 2024**
- b. Town Council to give authorization to the Town Manager to execute a purchase-sale agreement with the owners of APN 072-031-15 providing for the acquisition of a portion of said parcel for public right of way purposes, the construction and temporary maintenance of certain private landscape and frontage improvements, and the acquisition of temporary construction easements for the Laurel Grove Safe Pathways Project Phase IIB and to make certain non-substantive edits, as needed, prior to executing the Agreement.**
- c. Town Council to give authorization to the Town Manager to execute Contract Amendment #8 with Consor (formerly Quincy) Engineering in the amount of \$42,771 for costs associated with surveys and additional tasks related to the National Environmental Policy Act certification for the Winship Bridge replacement project.**
- d. Town Council adoption of Resolution 2412 confirming the Ross Valley Paramedic Authority tax for the 2024-2025 Fiscal Year.**

- e. **Town Council to:**
  - 1. **Authorize the Town Manager, or her designee, to purchase one 2024 Ford Police Interceptor utility vehicle from Folsom Lake Ford, for a cost not-to-exceed \$55,000.**
  - 2. **Authorize the Town Manager, or her designee, to purchase, install and cover labor costs related to emergency equipment necessary to convert the 2024 Ford Police Interceptor utility vehicle from Priority 1, Public Safety Upfitting Company for a cost not to exceed \$24,000.**
- f. **Proclamation celebrating National Fair Housing Month, April 2024.**
- g. **Town Council approval of the Laurel Grove Safe Pathways Phase IIB Project and authorize staff to advertise for construction bids.**
- h. **Town Council to authorize the Town Manager to add one police officer position to the number of authorized positions in the Police Department for succession planning purposes.**
- i. **Town Council to rescind Resolution No. 2317 and adopt Resolution No. 2409 revising Town Council meeting dates for May and June 2024.**

**End of Consent Agenda.**

- 8. **Public Hearings on Planning Projects – Part 1.**
  - a. **12 Garden Road, Design Review, Accessory Dwelling Unit (ADU) Exception, and Nonconformity permit and Town Council consideration of Resolution No. 2408.**  
Michael and Margot Edde, 12 Garden Road, A.P. No. 072-153-05, Zoning: R-1: B-10, General Plan: ML (Medium Low Density), Flood Zone: X (Moderate Risk).

**Project Summary:** The applicant requests a Design Review, an Accessory Dwelling Unit (ADU) Exception and Nonconformity permit. The project includes remodeling and renovating of the existing single-family home, including a 703 square-foot (SF) second story addition, attached 1,200 SF rent restricted ADU integrated within the existing structure, and new landscaping. A Nonconformity permit is required to extend the existing north side setback of 12-feet in the front and rear of the structure.

**Recusal:** Mayor Brekhus was recused from participating in this matter at 6:20p.m. due to the proximity of her residence, and she left the meeting.

Planning and Building Director Feliciano gave the staff report and overview of the request for Design Review, an Accessory Dwelling Unit (ADU) Exception, and Nonconformity permit at 12

Garden Road. The project architect team and property owners are present and she is available for questions.

Council Member McMillan questioned the rent restriction, and Ms. Feliciano explained the rent restriction runs with the land. There is a section in the ADU ordinance that would allow the property owner to seek removal of the rent restriction after 20 years, but this would require Town Council approval.

Council Member McMillan said rent is for very low income and the Town is required to have 34 very low-income units. She asked, and Ms. Feliciano explained, how this ADU helps the Town meet that requirement in the Town's RHNA. The Town Hall is planned for potentially 9 affordable units, as well as Branson School which may have 10 units. The remaining 15 units would come from these deed-restricted ADUs within the next 8 years.

Jarod Polskey, Architect, said they have support from all the neighbors, the ADR suggested a darker shade for the stucco which he presented, and the owners are available to answer any questions.

Mayor Pro Tem Kircher opened the public comment period.

Diane Howley, 31 Winship, said she and her husband Kevin share the rear fence with the applicant at 12 Garden. They love the project but have one concern with the landscaping. She and the owner discussed the removal of three Guava trees which provide an equal amount of privacy between the two properties and asked that they be replaced with equally-sized trees.

Mr. Polskey waived rebuttal comments.

**Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution No. 2408, and approve 12 Garden Road, with a condition that appropriate screening be places along the back fence. Motion carried unanimously (4-0-1; Brekhus recused).**

Returned to Meeting/Noted as Present:

Mayor Brekhus returned to the meeting at 6:29 p.m. and was noted as present.

**b. 200 Lagunitas Road, Design Review, Demolition Permit and Town Council consideration of Resolution No. 2410.**

Sarah and Scott Niehaus, 200 Lagunitas Road, A.P. No. 073-131-23, Zoning: R-1:B-A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate Risk).

**Project Summary:** The applicant is requesting approval for Design Review and a Demolition Permit. The project proposes to replace the existing siding with cedar shingles and add a stone base. The project includes an interior and exterior remodel of the single-family residence, to include new windows, two horizontal additions by pushing the

massing out adding 186 square feet (SF) and two roof dormers to the front of the single-family residence. The project will add 131 SF to the garage for access to a Junior Accessory Dwelling Unit (JADU). A new 115 SF covered entry is also proposed. The project would reduce the overall impervious coverage on the property from 12,186 SF to 12,172 SF.

Assistant Planner Lopez-Vega gave the staff report and overview of the request for Design Review and a Demolition Permit at 200 Lagunitas Road.

There were no Council questions, and Mayor Brekhus asked if the applicant would like to make a presentation.

Brooks McDonald, Architect, stated he was available to answer any questions, has support from neighbors, and the overall intent of the project is to improve the presentation of the house.

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

**Council Member Robbins moved and Council Member Kuhl seconded, to adopt Resolution No. 2410, and approve 200 Lagunitas Road. Motion carried unanimously (5-0).**

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

#### **Administrative Agenda**

There are no Administrative Agenda items.

**End of Administrative Agenda.**

**Public Hearings on Planning Projects – Part 2.**

**9. 2 Bellagio Road, Design Review, a Hillside Lot Permit and Town Council consideration of Resolution No. 2411.**

Bellagio Ross, LP, 2 Bellagio Road, A.P. No. 072-031-04, Zoning: R-1:B5A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate Risk)

**Project Summary:** The applicant requests approval for Design Review. The project proposes to construct a new 30' x 60' basketball court with an 8-ft high stainless-steel rope net and a 5-foot concrete wall with rectangular step lights on the north side of the court. New stone steps with handrails will be provided to have access to the new basketball court. The new basketball court will be made of asphalt or concrete and will be adjacent to the ADU, and stone patio located on the eastern part of the lot.

Planning and Building Director Feliciano gave the staff report and overview of the request for Design Review and a Hillside Lot Permit at 2 Bellagio Road, and Town Council consideration of Resolution No. 2411.

Ms. Feliciano stated the project requires design review because it results in more than 50 cubic yards of grading or fill, it is over 1,000 square feet of impervious landscape surface and fencing over 6 feet with mesh over it. The hillside lot permit is required for any lot with a slope of over 30%, and the lot is 36% in slope.

After publication of the packet, the property owner and developer had concerns on the limitation of the sports court to basketball. They would like to also play baseball, lacrosse, tennis, and in response to community concerns about noise resulting from pickleball and in conjunction with the Council's direction to staff at the last Council meeting to develop policies for pickleball, staff drafted an amendment to Condition 3 which would strike-out the limitation to basketball use and would strike out the clause that states, "If the use is changed, it could not be changed to pickleball or the owners could need an amendment." It also adds, "The sports court shall be subject to all future rules and regulations related to pickleball."

Staff discussed this condition with the property owner who supported the draft condition and amendment to the condition. This provides the applicant with the ability to play other sports on the court while ensuring all future regulations relating to pickleball are met.

Options for Resolution No. 2411 include:

- Town Council can adopt the resolution with the necessary conditions;
- Continue the item to gather further analysis, research, and/or to revise the project; or
- Make findings to deny the application.

Council Member Robbins asked and confirmed the application does not include outdoor lighting and that the new condition of approval means if the Town decided not to allow pickleball in residential properties, this court could not be used for pickleball.

Mayor Brekhus said if the applicant wished to add lights to the court, she asked about the process for permits. Ms. Feliciano explained a use permit is required for nighttime lighting for a sports court so it would have to return to the Council for review and approval.

Mayor Brekhus called on the applicant for a presentation.

Shadi Aboukhater, project developer, said Mr. Eigsti, the designer, can speak better to what the ADR recommended. The ADR approved this as a sports court and had a few suggestions with coloring and sound attenuation which they agreed to.

Brad Eigsti, designer, said they presented at the ADR and received unanimous support on the project. In discussions, there were some suggestions about proposing some sound mitigation to the rear wall. They added some wood cladding to the rear wall to help soften sounds. It was also suggested they add more privacy screening so they added more native plants and increased screening.

Mr. Aboukhater added that he thinks it would be very hard to see the sports court which is behind the three homes on Bellagio. There was another concern from a neighbor on Canyon but nothing can be seen from Canyon up to Bellagio. The two homes with concerns are 200+ feet away and this court does not need any variance, is on a 3 ½ acre lot, and otherwise, he thanked the Council and was available to answer questions.

Council Member Kuhl asked what is the surface of the court. Mr. DeFoor said it is concrete. They are looking at permeable concrete but it would rust the rebar. They have a linear drain for water mitigation at the end that will dissipate water.

Mayor Brekhus opened the public comment period.

Bradley DeFoor, purchaser, thanked the Council for hearing the proposal and said he was available to answer questions.

Rupert Montagu, said his family lives at 7 Bellagio and also owns 1 Bellagio which is slightly down the hill. They have already voiced their opposition to the sports court in a letter to the Town, and his wife also attended the ADR meeting. The area is tranquil, close to nature and wildlife, and it is a canyon so noise echoes easily around it. They hear a lot of noise by neighbors which is gentle right now, but many trees have been removed as part of the project and this has reduced sound insulation more.

Therefore, they are opposed to the sports court on the basis of noise because there is no doubt that it will echo around the canyon and impact all homes around the project. If the Council approves the application he would request they research the materials to use to absorb noise to make it as quiet as possible.

*Rebuttal – Applicant*

Shadi Aboukhater, developer, noted that at this point they will be planting 150 plants, trees, bushes and shrubs, and also on the landscape plan for the sports court there are many plants being installed. Right now, it looks sparse but at some point there will be a lot of screening in between homes.

Council Member Robbins asked if there is an option for a quieter surface. Mr. Aboukhater said he was unsure and said he has never built a sports court but could look into it. He thinks the owner would like something quieter as well.

Mayor Brekhus returned to the Council for deliberation.

Council Member McMillan asked to display the map showing the relationship of the sports court to neighboring homes. She thinks neighbors are accustomed to not having anything there and change is hard. The location of the sports court is such that it is in a location which is least intrusive to all other neighbors. She appreciates the applicant agreeing to abide by any future pickleball rules because that could create noise. She is prepared to make a motion to support the project. Council Member Kuhl seconded the motion.



Council Member Robbins asked for a condition such that the builder and applicant work with staff and condition the project to look into a quieter surface.

Council Member McMillan noted that the applicant agreed they would be interested in that.

Mayor Brekhus suggested being very clear so staff knows the totality of the motion, as currently it is not an obligation to change the court surface.

Town Attorney Ben Stock restated the motion to adopt Resolution No. 2411 with the amendment regarding Condition 3 which was read into the record during the presentation, and further request, but not require, the applicant to research other sports court surfaces.

Council Member McMillan said hypothetically, if the applicant finds another court material and thinks it is too expensive to install she asked what would happen. She therefore retained her original motion, with Condition 3's amendment. Council Member Kuhl again seconded that motion.

**Council Member McMillan moved and Council Member Kuhl seconded, to adopt Resolution No. 2411, and approve 2 Bellagio Road Design Review and Hillside Lot Permit, with amendments to Condition 3 which would strike-out the limitation to basketball use and would strike out the clause that states, "If the use is changed, it could not be changed to pickleball or the owners would need an amendment." It also adds, "The sports court shall be subject to all future rules and regulations related to pickleball." Motion carried unanimously (5-0).**

**End of Public Hearings on Planning Projects – Part 2.**

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

**11. Open Time for Public Expression.**

Teri Dowling, Marin Commission on Aging, reported this fiscal year the Commission worked with the County Area Agency on Aging to conduct a new, four-year needs assessment, a new four-year plan for Marin County's older adults. She will send a link to the draft plan and a printed copy to the Town Manager, provided a few highlights of the needs assessment, and thanked the Council for appointing her over 12 years ago to represent the Town on the Commission. Her term is almost over and she thanked the Council for the opportunity to serve.

**12. Adjourn Meeting**

The meeting was adjourned at 6:56 p.m.

**ATTEST:**

  
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Cyndie Martel, Town Clerk

  
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Elizabeth Brekhus, Mayor