



Agenda Item No. 20.

Staff Report

Date: June 14, 2018

To: Mayor Robbins and Council Members

From: Joe Chinn, Town Manager
Greg Stepanicich, Town Attorney

Subject: Branson School Process to Increase Student Enrollment

Recommendation

This item is for informational purposes to describe the process if Branson seeks to increase the current school student enrollment.

Background and discussion

A couple of Councilmembers requested a description of the process if Branson wants to increase the current student enrollment limit that is currently set at 320 students. As background, in 1978 the voters in the Town of Ross approved an initiative ordinance (Ordinance No. 394) that amended Section 18.16.030(b) of the Ross Municipal Code to provide that no use permit or variance may be issued to any public or private school whose total enrollment exceeds 320 students. Section 3 of the Ordinance provides that it "can only be amended or repealed by the voters at a regular municipal election." This Ordinance applies to the total enrollment at Branson. Branson's total enrollment also is limited by Condition No. 1 of its existing Use Permit approved on May 11, 1978 which also imposes the 320 student cap. The attachment on the following pages show the steps and process for Branson School to increase the existing student cap.

Fiscal, resource and timeline impacts

None for this informational item.

Alternative actions

Information item only discussing process.

Environmental review (if applicable)

N/A

Attachments

- Exhibit outlining process to increase the student enrollment

Branson School Process to Increase Student Enrollment

In 1978, the voters in the Town of Ross approved an initiative ordinance (Ordinance No. 394) that amended Section 18.16.030(b) of the Ross Municipal Code to provide that no use permit or variance may be issued to any public or private school whose total enrollment exceeds 320 students. Section 3 of the Ordinance provides that it “can only be amended or repealed by the voters at a regular municipal election.” This Ordinance applies to the total enrollment at Branson. Branson’s total enrollment also is limited by Condition No. 1 of its existing Use Permit approved on May 11, 1978 which also imposes the 320 student cap.

Any increase in Branson’s enrollment from 320 students requires a two-step process, starting first with a Ballot Initiative and then with a subsequent discretionary approval. At a minimum, the subsequent discretionary approval by the Council would consist a Use Permit to increase the enrollment above 320 students. Additional land use approvals would be required if new facilities are proposed to be constructed. The Ballot initiative would require the approval of a majority of the registered voters in the Town voting on the measure. Any subsequent discretionary land use approvals would require a majority vote of the Town Council.

The following describes the Ballot Initiative process and then follows up with the requirements for a discretionary action.

Ballot Initiative Process for Branson

- Placing an ordinance on the ballot to increase the permitted maximum enrollment at Branson may be accomplished either by a voter petition or action of the Town Council. Action initiated by the Council to place an ordinance on the ballot for voter approval, however, requires compliance with CEQA which in this case likely means the preparation of an EIR. CEQA compliance is not required for an initiative measure based on a voter petition. This memorandum assumes that the Branson measure would be initiated by voter petition.
- Process
 - Proponents file Notice of Intent to Circulate Initiative Petition with the Town Clerk.
 - Town Clerk contacts the County Registrar of Voters to get the official voter count in order to determine how many signatures are necessary. Election Code Section 9215 requires at least 10% of the Town’s registered voters to sign the petition (unofficial number of registered voters in Ross currently is 1,554). Ten percent of the voters based on this unofficial count would be 155 signatures.

- Town Clerk concurrently sends the Notice of Intent to Circulate Initiative Petition to the Town Attorney to prepare a Title and Summary.
- Town Attorney has 15 days to provide the Town Clerk with the Title and Summary of the Initiative.
- Town Clerk sends the Town Attorney Title and Summary to Proponents.
- Proponents publish a Notice of Intention and the Title and Summary and send proof of the published notice to the Town Clerk.
- Proponents circulate petition to obtain requisite number of signatures.
- Proponents must file the petition (with the requisite number of signatures) with the Town Clerk within 180 days after the publication of the Title and Summary.
- Town Clerk has 30 working days to verify signatures after receipt of the petition.
- If the petition does not qualify, then the Town Clerk sends a letter notifying the proponents.
- If the Petitions qualifies, then the Town Clerk certifies the results and informs the Town Council.
- After the results are certified, the Town Council generally has the option to adopt the proposed ordinance within 10 days, call an election, or order a report on the proposed ordinance which is due within 30-days and take action after the report is presented. In this case, since Ordinance No. 394 requires that it can only be amended by the voters at a general municipal election, the Council may not adopt the ordinance itself but must submit it to the voters at the next general municipal election. Therefore, if a sufficient initiative petition is submitted to the Town Council, the Council must adopt a resolution placing the proposed ordinance on the ballot at the next regular municipal election.
- Under Elections Code Section 1405(b), the Council normally would have the discretion to order a special election on an initiative measure that would be held prior to the next general municipal election provided that the special election is held at least 88 days before and not more than 103 days after the election is ordered. The special election option is not available with respect to a Branson

initiative measure since Section 3 of Ordinance No. 394 requires an amendment to this ordinance to be voted on at a **regular** municipal election. The Town's next regular municipal election will be held in March 2020.

- After the election, the Town Council must adopt a resolution declaring the election results and whether the initiative measure has passed or not.

Approval of the Ballot Initiative does not automatically entitle Branson to increase its enrollment. It only authorizes the Council to increase the enrollment with the approval of a new or amended Use Permit. A subsequent discretionary review process is required.

Discretionary Action After Ballot Initiative Approval

- If the initiative passes and Branson would like to increase its enrollment without building any new facilities, the approval of a new or amended Use Permit will be required. If Branson also wants to build new facilities to accommodate the increased enrollment, then the school would need to submit an application for the other development permit applications (such as Design Review, Nonconformity Permit, and Variance) required for new construction on the site. The necessary land use entitlements will require CEQA compliance which most likely is an EIR.
- Through the discretionary review process, the Town may consider entering into a Development Agreement for a fixed period of time with the school to allow for additional benefits the school can provide the Town, such as street paths or other monetary compensation provided that Branson is willing to enter into such agreement. The benefit to the property owner of a Development Agreement is that it freezes the applicable land use regulations to those regulations in effect when the project is approved for the duration of the agreement. The Development Agreement would need to be approved by the Town Council after a noticed public hearing.
- All discretionary land use approvals required by the project proposed by Branson are subject to a majority vote of the Town Council.