



**Agenda Item No. 16c.**

**Staff Report**

**Date:** September 12, 2019

**To:** Mayor Brekhus and Council Members

**From:** Joe Chinn, Town Manager

**Subject:** Maintenance and Scheduling Agreement of the Ross Common with the Ross School District

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**Recommendation**

Staff recommends Town Council adopt Resolution No. 2123 approving a Maintenance and Scheduling Agreement between the Town of Ross and the Ross School District for the maintenance and scheduling of the Ross Common with the Town Council authorizing the Town Manager to execute the Agreement.

**Background and discussion**

The Ross Common is an approximately 4.3 acre parcel owned by the Town of Ross that is utilized for multiple public purposes. The Ross Common serves as a Recreation Center for the Ross School District and is used for playground, recreational, sporting, and social purposes by the residents of the Town, the School District, and for Ross Recreation programs and activities. In 2002, an Maintenance and Scheduling Agreement between the Town of Ross, Ross Recreation, and the Ross School District designated that the School District oversee and administer the maintenance of the Ross Common and that Ross Recreation would administer the scheduling of recreational activities and field use of the Ross Common. The Agreement specified that the Town, Ross Recreation, and the Ross School District would each be responsible for one-third (33.33%) of the total maintenance costs. In 2014, Ross Recreation was incorporated into the Town of Ross and made an official Department of the Town. Since that time, the Town has been funding two-thirds of the maintenance costs.

The Town in the past year has been active in reviewing options to improve the maintenance and look of the Common. As part of that process, both the Town and the Ross School District agreed to replace the previous landscape contractor for the Common with Cagwin and Dorward beginning in July 2019. In addition, after consulting with turf landscape professionals, we are now increasing the number of times of year for aeration, seeding, and fertilization.

Town staff and Ross School District staff have been working on a new Agreement between the Town and School District for the maintenance and scheduling of the Ross Common (see attached). The main changes in the new Agreement from the existing Agreement are as follows:

- The Town rather than the Ross School District will oversee the administration and maintenance program for the Common
- Ross Recreation is incorporated within the Town role thus it is a two party agreement rather than a three party agreement
- The School District will pay the Town \$21,000 for Fiscal Year 2019-20 for their share of the Ross Common maintenance costs, which approximates the one-third share in the existing Agreement. The School District cost share will increase each year with the consumer price index with the intent to approximate the one-third cost share.

The Ross School District is planning to take the Agreement to the School Board of Directors at their September Board meeting.

#### **Fiscal, resource and timeline impacts**

The attached Maintenance and Scheduling Agreement for the Ross Common does not change the net cost to the Town of maintaining the Common. The Agreement does change who contracts for the maintenance services and pays the bills and then is reimbursed by the other party. However, the net effect (cost less revenue) to both entities is the same whether the Town oversees the administration and maintenance of the Common (new Agreement) or the School District is in this role of overseeing and maintaining the Common (existing Agreement). There is some additional cost to both entities this fiscal year compared to last fiscal year for maintenance given the additional maintenance services being added this year in the goal of improving the maintenance and look of the Common.

#### **Alternative actions**

The Council could decide to continue to have the Ross School District administer the landscape maintenance of the Common versus the Town even though the Town owns the Common.

#### **Environmental review (if applicable)**

None

#### **Attachment**

1. Resolution No. 2123 including Agreement between the Town and Ross School District for the Maintenance and Scheduling of the Ross Common

# **TOWN OF ROSS**

## **RESOLUTION NO. 2123**

### **A RESOLUTION OF THE TOWN OF ROSS APPROVING AGREEMENT BETWEEN THE TOWN OF ROSS AND ROSS SCHOOL DISTRICT FOR THE MAINTENANCE AND SCHEDULING OF THE ROSS COMMON**

**WHEREAS**, the Ross Common is an approximately 4.3 acre parcel owned by the Town of Ross that is utilized for multiple public purposes; and

**WHEREAS**, the Ross Common serves as a Recreation Center for the Ross School District and is used as for playground, recreational, and social purposes by the residents of the Town, the School District, and for Ross Recreation programs and activities; and

**WHEREAS**, in 2002 the Town of Ross, Ross Recreation, and the Ross School District entered into an Agreement for the maintenance and scheduling of the Ross Common; and

**WHEREAS**, the Town of Ross and School District desire to change the existing maintenance and scheduling Agreement with a new Agreement.

**NOW THEREFORE BE IT RESOLVED**, the Ross Town Council of the Town of Ross hereby approves the new Agreement between the Town of Ross and Ross School District for the Maintenance and Scheduling of the Ross Common, attached hereto, and hereby authorizes the Town Manager to sign said Agreement.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 12<sup>th</sup> day of September 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Elizabeth Brekhus, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk

**AGREEMENT BETWEEN THE TOWN OF ROSS  
AND ROSS SCHOOL DISTRICT  
FOR THE MAINTENANCE AND SCHEDULING OF  
THE ROSS COMMON**

This Agreement, made and entered into the \_\_\_\_ day of September 2019 between the Town Council of The Town of Ross ("Town") and the Ross School District ("District"), (collectively the Parties), provides for the maintenance and scheduling of Ross Common (defined below).

**DEFINITIONS AND RECITALS**

"Ross Common" is the real property containing approximately 4.3 acres located within the Town boundaries, commonly known as the "Ross Common", and owned by the Town.

"Recreation Center": The Town and the District, contemporaneously with the execution of this Agreement, designate Ross Common as a "Recreation Center" pursuant to the provisions of Section 10901 et seq. of the Education Code of the State of California. The Recreation Center shall be used for playground and recreational purposes by the residents of the Town, the District, its faculty and students, for its programs and activities.

"Maintenance Costs" include only the actual direct expenses of third-party maintenance and repair of the grounds, landscaping, watering, and electricity of the Recreation Center. Maintenance Costs do not include: any costs paid to individuals directing activities in the Recreation Center; costs associated with the land enclosed by an existing fence surrounding the former residence previously located at 6 Redwood Drive; costs specific to setting-up fields for sports league usage such as installing baseball backstops, additional mowing related to league play, installing pitcher's mound, home plate, and base cut-outs; or major repair or rehabilitation costs over \$15,000. Town and District will meet and confer related to other repair and rehabilitation costs that exceed \$15,000, however, such discussions and decisions are outside the purview of this agreement

**AGREEMENT**

1. Legal Ownership: The Town is the legal owner of the grounds comprising the Recreation Center. The District has no right, title or interest therein, and no interest is granted by this Agreement.
2. Term: This Agreement will cover a period of one year commencing the first day of July, 2019, and ending the 30<sup>th</sup> day of June 2020. This Agreement shall be renewed automatically thereafter as of the 1<sup>st</sup> day of July of each succeeding year unless a Party

gives thirty (30) days written notice of cancellation to the other Parties. If such notice is given, the Parties agree to meet and confer in an effort to resolve associated issues.

3. Shared Maintenance Costs: The Parties will share the annual Maintenance Costs of the Recreation Center, with the following qualifications:
  - a. District shall pay Town \$21,000 for Fiscal Year 2019-20 beginning July 1, 2019 through June 30, 2020 for their respective share of the Maintenance Costs. The District cost shall be inflated each fiscal year beginning July 1, 2020 by the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-Hayward Area published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor to that index.
  - b. District shall reimburse the Town semiannually or at such other reasonable intervals as may be mutually agreed upon for their respective share of the Maintenance Costs.
  - c. The District may make third-party payments towards the Maintenance Costs, and will be credited with that amount against its obligated share assuming the District has provided reasonable written notice to the Town prior to incurring any cost, and the Town does not object to any said cost. Should the District seek any such credit, it shall provide the invoices for such costs to the Town to be accounted for in the quarterly request for reimbursement.
  - d. The District's payments in Section 3a represent the District's share of the actual direct expenses of third-party maintenance and repair of the grounds, landscaping, watering and electricity of the south portion of the Recreation Center that pertains to the open grass area and excludes the dog park and all others areas pertaining to the northern portion of the Recreation Center.
  - e. The District is not responsible for the actual direct expenses of third-party maintenance and repair of the grounds, landscaping, watering and electricity of the Recreation Center that pertain to the northern portion of the Recreation Center.
4. Administration and Oversight: A Town employee, designated by the Town, shall oversee and administer the maintenance program for the Recreation Center. The Town shall not be reimbursed for this individual's time spent engaged in maintenance oversight and administration of the Recreation Center.
5. Billing Procedures: The Town will provide a letter to the District requesting reimbursement for Maintenance Costs as calculated in Section 3 above twice a year with 50% of the annual Maintenance Costs to be paid by the School by December 1 and 50% by May 1 of each fiscal year.

6. Meetings: At least one representative from each Party shall meet and confer with at least one representative of the other Party on the matters covered by this Agreement three times a year, during the months of March, July, and November. At two of the meetings per year, the Town shall provide the District the estimated and actual Maintenance Costs for that fiscal year.
7. Scheduling: Town will administer the scheduling of recreational activities and field use at the Recreation Center by the District, the Town, and the various sports leagues that engage in team play on Ross Common. The District shall have priority use of the fields adjacent to the playground and gymnasium during School hours. Ross Recreation reserves the right to concurrently run programs which do not interfere with School usage. The District is prohibited from using the land enclosed by an existing fence surrounding the former residence previously located at 6 Redwood Drive for its students during recess.
8. No Assumption of Liability: No Party is assuming any liability for the other Party for any willful misconduct or negligence of the other Party, either separately or together; however, each Party agrees to indemnify, defend, and hold harmless the other Party for any liability, claims, suits, actions, losses, expenses, or any injury or damage of any kind whatsoever as a consequence of, or arising out of, the performance of this Agreement, and attributable to the fault of the other.
9. This Agreement supersedes any and all other agreements between the Parties regarding the maintenance of Ross Common.

Town of Ross Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Town Manager, Town of Ross

Ross School District Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Ross School District Superintendent