

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, DECEMBER 9, 2021
Held by Teleconference

1. 6:00 p.m. Commencement.

Mayor Elizabeth Robbins; Mayor Pro Tem Beach Kuhl; Council Member Elizabeth Brekhus, Council Member Bill Kircher, Jr., and Council Member Julie McMillan; Town Attorney Benjamin Stock

2. Posting of agenda.

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

3. Minutes – Regular Meetings of November 4, 2021

Council Member McMillan moved and Mayor Pro Tem Kuhl seconded, to approve the November 4, 2021 Regular Meeting Minutes, as amended. Motion carried (5-0).

4. Demands.

The demands were met.

5. Town Council introduction and welcome to Town Manager Christa Johnson.

Mayor Robbins introduced Town Manager Christa Johnson, and she and Town Council Members welcomed Ms. Johnson to the Town of Ross as their new Town Manager, effective November 8, 2021. Mayor Robbins then provided a background of Ms. Johnson's experience.

Town Manager Christa Johnson thanked Mayor Robbins and Council Members in what is her 20th day with the Town. She thanked them for the opportunity to serve the Council and the Ross community as Town Manager, knows she has big shoes to fill, and appreciates the warm welcome.

6. Open Time for Public Expression - None

7. Mayor's Report.

Winterfest was true holiday magic! Over 500 children and adults enjoyed an afternoon and evening of fun. There were beautiful holiday lights; snowflakes in the air; food and drink - cookies, hot chocolate, hot toddies! Even a food truck. There was live music: first the adorable Ross Preschool students sang, followed by the Branson Girls A Capella group; then Tailor Made Ensembles played jazzy holiday classics throughout the evening. And the weather was perfect. Huge thanks go to the Ross Auxiliary; they have been planning this event since last July. Dozens and dozens of volunteers helped make this event special, including:

- Ross Auxiliary Co-Presidents Elena Batalla and Adrienne Liggett; event Co-Chairs Jenna Greer and Erin Grace
- the Ross Property Owners' Association for co-sponsoring the holiday lights with Ross Auxiliary
- the Ross Police Officers' Association and family members, who donated and served cookies,

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donuts, cupcakes, and cocoa, and who also helped set up and clean up

- the Ross Valley Fire Department, who escorted Santa to the Common
- Ross Town staff, including Police Chief Pata, Gretchen Castets, Recreation Manager, and Maintenance Supervisor Anthony Alcozer, who made sure the power worked
- Ross School 8th graders (joined by a few high school students), who helped during the event and the morning after cleanup
- the Auxiliary Philanthropy Committee, who raised almost \$2000 at the event for Adopt a Family to support local families in need
- the Age Friendly Task Force, who are helping with Letters to Santa (the red mailbox marked "North Pole" in front of the post office)
- Marin Sanitary Service for donating the garbage and recycling bins for this event.

The Ross community has long enjoyed the annual tree lighting ceremony on the Common. This year the Ross Auxiliary transformed the small ceremony to a full-fledged winter festival, which was enjoyed by hundreds of residents of all ages. It was a wonderful start to the holiday season.

8. Council Committee & Liaison Reports

Council Member McMillan reported that she finished her Stand Up for Racial Justice training one week ago Monday. The MCCMC Meeting and Climate Action Committee meetings were held last Monday, as well and the CEO from Extrafood.org spoke about providing meals to the hungry and their sustainability efforts. Lastly, Resilient Neighborhoods is holding two more workshops starting in January and she encouraged Council Members and residents to attend by signing up on www.resilientneighborhoods.org.

Mayor Pro Tem Kuhl reported on his and Council Member Brekhus's attendance at the meeting last night of the Ross Valley Fire Department Board of Directors. The Board worked on making the necessary changes to the document which creates and describes Ross Valley Fire Department. That document will be before the Town Council and other governing boards next month with proposed language to bring about changes necessary for the closing of the Ross Fire Department.

9. Staff & Community Reports

a. Town Manager

Town Manager Johnson thanked the Ross Auxiliary and the RPOA for their impressive efforts to plan and stage their Winter Fest event last Friday, recognized the support provided by Town staff for the event before and after their usual workdays, and thanked Patty Garbarino of Marin Sanitary Service for offering to donate the extra trash and recycling bins for the event.

The Town's recreation programs are coming back strong and few spaces are left in the Winter Camps offered, with January registration very active. The landscape contractor will start closing the field on the Ross Common on December 20th and it will re-open the weekend before baseball season starts around mid-March.

Storms are forecasted this weekend and into early next week which she described and said the Town is preparing. Tomorrow, staff will be sending out an email to residents alerting them to the forecasted storm with reminders and contact numbers if power goes out.

She reminded everyone that the siren testing occurs at noon on the second and fourth Fridays of each month. Lastly, Town Hall offices will be closed starting December 24th through December 31st. The closure does not apply to Public Safety services and residents will still be able to obtain encroachment permits by emailing public-works@townofross.org as well as obtain building inspections, by appointment, on December 28th and 30th.

b. Ross Property Owners Association

Mark Fritts, RPOA, reported on their increased membership numbers of 300 members with dues and donations 25% higher than last year, reported receiving positive feedback on the lighting at the Town Common which will stay lit until early January, and described painting in the Post Office on January 10th and rehangng artwork, working with the Town on the port-a-potty enclosures, and on their 2022 roadmap of projects and events. Lastly, he thanked the Town for all of the work and assistance provided over the last year.

10. Consent Agenda.

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

- a. **Town Council acceptance of FYE22 Q1 Financial Summary Report.**
- b. **Town Council consideration of adoption of Ordinance No. 710 amending portions of the Ross Municipal Code pertaining to signs.**
- c. **Town Council consideration of adoption of Ordinance No. 711 amending Chapter 6.12 "Solid Waste" of the Ross Municipal Code for compliance with SB 1383: California's Short-Lived Climate Pollutant Reduction Strategy.**
- d. **Town Council consideration of adoption of Resolution No. 2225 designating the authority and updating the process and procedures in the determination of disability retirements for Safety employees and rescinding Resolution No. 1724.**
- e. **Town Council consideration of adoption of Resolution No. 2226 Assembly Bill 361 Immediately Amends Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**
- f. **Town Council consideration of adoption of Resolution No. 2227 requesting to the Metropolitan Transportation Commission for the allocation of fiscal year 2021/2022 Transportation Development Act Article 3 Pedestrian/Bicycle project funding for the Laurel Grove Safe Pathways Project.**

- g. Town Council approval of an amendment to the Consultant Services Agreement for Moe Engineering Inc. related to additional design and project management services for the 2021 Pavement Rehabilitation project.**

Mayor Robbins asked if any Council Members or public members wished to remove any item from the Consent Agenda or had public comments. There were no public comments or items for removal.

Council Member Brekhus moved and Council Member McMillan seconded, to approve the Consent Agenda Items a, b, c, d, e, f and g. Motion carried unanimously (5-0).

End of Consent Agenda.

Administrative Agenda

- 11. Public Hearing: Town Council consideration of adoption of Resolution No. 2228 establishing Marin Sanitary Service rates for 2022.**

Town Manager Johnson gave the staff report and background of the methodology used to establish the rates, described the request for the .74% adjustment which will result in an increase of \$.32/month for a residential 32 gallon cart. Staff's recommendation is that the Town Council adopt Resolution No. 2228 establishing Marin Sanitary Service rates for 2022. Garth Schultz, Principal of R3 Consulting Group, and Patti Garbarino of MSS are available to answer questions as needed.

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

There were no questions of Council Members and Mayor Robbins asked for a motion.

Mayor Pro Tem Kuhl moved and Council Member Brekhus seconded, to adopt Resolution No. 2228 establishing Marin Sanitary Service rates for 2022. Motion carried unanimously (5-0).

- 12. Town Council consideration of introduction of Ordinance No. 712 amending Ross Municipal Code Chapter 8.04 "Animal Control Law" regarding Dogs on the Ross Common.**

Patrick Streeter, Planning & Building Director, gave the staff report and background on the matter. Staff recommends the Town Council consider introducing the first reading of Ordinance No. 712 which would update the "Animal Control Law" to prohibit dogs from being off leash during the times children are arriving to or departing from the Ross School.

Council Members suggested staff place a link to the Ross School on-line handbook and hours for each day on the Town's website, confirmed the handbook specifies the times when the entrances are opened and when there is student dismissal, suggested having a sign or QR code on the dog waste containers indicating where information can be obtained regarding hours as well as an advisory sign that reminds people of "Please—No Dogs Off Leash".

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

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Mayor Pro Tem Kuhl seconded, to introduce Ordinance 712 amending Ross Municipal Code Chapter 8.04 “Animal Control Law” regarding Dogs on the Ross Common. Motion carried unanimously (5-0).

13. Town Council consideration of the Ross Common Landscape Improvement Rehabilitation Plan which includes repairs and improvements for the Common.

Patrick Streeter, Planning & Building Director, gave the staff report and background of the matter. Staff recommends the Town Council review the final plan document, approve it, and staff will use it to apply for grant funding to make some of the immediate improvements to the park.

Mr. Streeter then described improvements proposed, the budget, scope of services with Gates + Associates, costs for improvements, funding sources and grant application deadline of December 31, 2021, and stated the project is proposed to go out to bid in the Spring of 2022.

Council Member Brekhus confirmed the screening of utilities and storage are located by the playground and that staff will work with Ross Recreation and the school to determine screening responsibility of equipment which is not part of the natural aesthetic of the park.

Council Member Kircher questioned if there is a plan to do something with trash receptacles at locations other than Redwood/Ross Common. Mr. Streeter said staff will be reviewing and confirming all trash receptacles throughout the entire park are uniform and practical. Council Member Brekhus and Mayor Robbins supported review by the ADR on trash receptacles.

Council Members asked staff to ensure donated benches and plaques are retained, questioned if the Town might be better served with metal versus wooden benches, confirmed with staff that no paths are proposed to be widened, that the intent for screening is to use landscaping as opposed to cyclone fencing, that benches can be reviewed to meet the needs of users, that landscaping will take into account drought conditions, clarified that the sidewalk realignment would be part of repaving of the asphalt which is a top priority project, and that the Council has the ultimate authority on how to spend the budget and implement the schedule.

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

Mayor Robbins asked for a motion.

Council Member Kircher moved and Mayor Pro Tem Kuhl seconded, to approve Ross Common Landscape Improvement Rehabilitation Plan which includes repairs and improvements for the Common. Motion carried unanimously (5-0).

14. Town Council consideration of introduction of Ordinance No. 713 an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 18.52 “Nonconforming Structures And Uses”.

Patrick Streeter, Planning & Building Director, gave the staff report and background of the request to amend a current pilot program which relates to RMC Chapter 18.52 “Nonconforming Structures and Uses”. Staff has processed 13 minor nonconformity permits over the past year. He cited the extent of time and cost it takes staff to process the permit versus bringing a project to Council; amending the chapter would result in cost and time savings with an administrative process. In response to a Council question, he confirmed staff includes notice to adjacent neighbors including neighbors located across the street.

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

Mayor Robbins asked for a motion.

Mayor Pro Tem Kuhl moved and Council Member Brekhus seconded, to introduce Ordinance No. 713, an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 18.52 “Nonconforming Structures And Uses”. Motion carried unanimously (5-0).

15. Town Council and staff discussion of October 24, 2021 storm event.

Police Chief Pata gave a PowerPoint presentation and overview of the staff report regarding the significant storm event on October 24, 2021 and staff’s response. He spoke of identified weaknesses in the Town, impacts on the Corte Madera Creek, work to clean culverts, preparation of emails to residents prior to the storm, monitoring of the weather, and collaboration with Town staff. As Acting Town Manager he described efforts in monitoring and anticipating events of the storm, cited flooding that occurred in the area with a large fallen tree and downing of power lines, door to door contact with residents to evacuate, the inoperable siren system as well as reflections from the event, accountability, recognition of those who assisted in the emergency, and alternative actions to address future emergencies.

Chief Pata addressed Council Members questions regarding downed power lines and indicated his officers worked to place A-frame signs on both sides of it. He addressed staffing shortages during an emergency, working with Ross Ready to prepare for future events, generalized messaging, a master services agreement with tree companies, the work of responders to non-stop problems, consideration for use of various emergency notifications such as the State’s high/low siren in police cars, the Town’s siren, Alert Marin, Nixle and alternative notifications, leaks in the Police, Fire and Communications Center buildings, suggestions for a postcard campaign at the Post Office to sign up for Alert Marin and or contact to purchase email lists from the Registrar of Voters, and the history of problems with the fallen tree.

Mayor Robbins opened the public comment period.

David Allen-Hughes thanked Chief Pata for his presentation and said he recalled reading about Sonoma County and their firestorms. There was some question about how they were able to

push notifications to residents regardless of whether or not they had signed up, and he wondered if Ross had this ability.

Police Chief Pata spoke of a phone notification system through the County EOS which he can look into, and referred to Nixle, email, social media, and any other systems to ensure people are aware of emergencies.

Mayor Robbins and Council Members agreed with the need to sending out notifications to as many people as possible, cited previous efforts of Marin Sanitary to help remove excess debris, and recognized the efforts of all involved in responding to the emergency.

16. Town Council consideration of adoption of Resolution No. 2229 directing Town staff to prepare an implementing ordinance and guidance documents regarding Senate Bill 9.

Planning and Building Director Patrick Streeter gave the staff report and overview of SB 9 which he said substantially changes the way local control applies to single-family zoning throughout California, much of which the Town of Ross is located in. He spoke about the bill's allowance for ministerial approval of a two-lot subdivision or lot split, the law's effective date of January 1, 2022, and the need to develop interim regulations and standards to guide implementation. The resolution directs staff to prepare an implementing ordinance and to develop an interim guidance document to reference and apply in response to applications submitted pursuant to SB 9 until an ordinance can be adopted by the Town Council.

Mayor Robbins and Council Members held discussion regarding lot split and setbacks which must not preclude development of a property, the WUI (Wildland Urban Interface) and the extent of SB 9 on public health and safety requirements, some cities hiring a consultant to assist with SB 9, identifying objective design standards to add for the subdivision or housing process, and Berkeley's analysis that the bill would not result in many lot splits.

Mr. Streeter stated that as staff prepares the ordinance he can make the determination as to whether or not to bring a proposal for consultant work to the Council, citing Ross's existing conservative development standards and objective design standards already prepared by a consultant which need to be refined and adopted.

Council Member McMillan asked for the difference between the WUI and being in a fire zone, and Mr. Streeter said the legislation is specific about high fire severity hazard zones and he believes it is Cal Fire that makes those definitions. WUI is locally adopted and, while the Town can apply standards to that as objective standards, they are not an outright prohibition on development.

Mr. Stock added that if the Building Official believes there are certain things that need to be addressed for health and safety can be mitigated to the extent the legislation allows towns to do this.

Council Member Kircher asked about the impact of SB 9 on local ordinances with respect to lot coverage. Mr. Streeter replied that it is untested as to how this would play out but if a property

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is already pushing the limits on FAR and lot coverage and then the lot is split in half it will probably become a legal non-conforming unit. The new lot would be subject to those same requirements, so FAR and lot coverage would be calculated from the much smaller lot that is now created.

Council Member Kircher asked if there was a downside if the Town does not treat this as an urgency matter and follows the recommended path which is to develop their ordinance in regular course.

Mr. Stock said adoption of the Resolution tonight is meant to provide the Town with the most flexibility moving forward before it adopts its permanent ordinance. If not done and the Town has not adopted findings relating to health and safety for applications, the Town cannot use that as a basis for conditions of approval. Likewise, if someone proposes a lot split and asks for two units on each lot right now with no adopted Town resolution, the applicant would also be entitled to an ADU and theoretically there could be 3 homes on each lot.

Mayor Pro Tem Kuhl referred to Section 1 of the Resolution which states, "The Town of Ross finds that the things authorized under SB 9 are a valuable form of housing" which he vehemently disagreed with and asked that this be removed.

Mr. Stock said it is not critical to the Resolution but the reason it is there is because of someone challenging the Town based on its Resolution and the avoidance of its obligations under SB 9. He also cited a typographical error in Section 4, subpoint 4; "All SB 9 urban lot splits ~~housing developments~~". He noted subpoints 3 and 4 deal with urban lot splits and 1 and 2 deal with housing developments.

Mayor Pro Tem Kuhl pointed to another typographical error in Section 4, subsection 2(b), which should state, "one off-street parking space per unit is required." Mr. Stock said this is pulled from SB 9 and this is why it reads that way.

Council Member Brekhus said she would agree with Mayor Pro Tem Kuhl's suggestion to remove the word "valuable" which she likened as a noble protest. Mr. Streeter suggested Mayor Pro Tem Kuhl do so in a motion, and the Council can vote on it as to whether to strike that word.

Mayor Robbins opened the public comment period, and there were no comments.

Mr. Stock said the word "valuable" is not critical either way. It is there in case someone challenges the Town as he stated previously. Mayor Robbins said she thinks it reads fine, is not hostile if they remove the word "valuable", and she read the revised statement.

Mayor Pro Tem Kuhl moved and Council Member Brekhus seconded, to adopt Resolution No. 2229, as amended to remove the word "valuable" in Section 1, and directing Town staff to prepare an implementing ordinance and guidance documents regarding Senate Bill 9. Motion carried unanimously (5-0).

17. Town Manager update and Council discussion on Town activities in response to COVID.

Town Manager Johnson provided the following update regarding Town activities in response to COVID:

- Case rates have climbed over the past few weeks, but Marin hospital's numbers have been quite low which reflects the County's high vaccination rate;
- The first cases of flu have been detected in the County, signaling the start of the flu season. Health care providers are urging everyone to get a flu vaccine;
- The County has a vaccine-finder on their website which was updated to include filters that will help guide vaccine seekers to available appointments and individuals can also find vaccines through their health care providers and local pharmacies;
- She met last Thursday with many of the Marin County City Managers and Mill Valley is the only Council meeting in person. Staff is keeping track of updates; and
- When the Town Council is ready to consider in-person meetings, it is recommended the Council alert staff to prepare and adopt a policy to outline what it would look like

End of Administrative Agenda.

Public Hearings on Planning Projects

18. 14 Lagunitas Road, Amendment to Use Permit, and Town Council consideration of adoption of Resolution No. 2230.

St. John's Episcopal Church, Property Owner, Ross Preschool, David Allen-Hughes, Applicant, 14 Lagunitas Road, A.P. No. 073-191-26, Zoning: R-1:B-A, General Plan: QP (Limited quasi-public/private), Flood Zone: AE (Area subject to inundation by the 1-percent-annual chance flood event).

Project Summary: The applicant is requesting approval to amend the existing Use Permit conditions of approval to allow the Ross Preschool Summer School Session to continue operating with an enrollment of up to 40 students from 8:00 a.m. to 5:00 p.m., Monday through Friday, in July and August, excluding Town of Ross Holidays as defined by Section 9.20.060 of the Ross Municipal Code, as currently approved and beyond the previously approved three-year period. The amendment includes no changes to the currently approved Fall or Spring Sessions.

Matthew Weintraub, Planner, gave the staff report and background regarding the project at 14 Lagunitas Road for Amendment to the Use Permit to extend the Ross Pre-School Summer program. Staff recommends approval of Resolution No. 2230 approving the Use Permit Amendment and stated the project is categorically exempt from CEQA. The applicant, David Allen-Hughes is available to present information and he was available to answer questions.

Council Member McMillan asked and confirmed with staff that no objections had been received from residents.

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Mayor Robbins cited cones along Lagunitas to save space for the preschool. She supports having the drop-off being in the church parking lot but did not think the cones should be placed and questioned why they were there.

Mr. Weintraub explained the language of the Use Permit identifies the parking lot as the primary pickup and drop-off location. It does not specify it be the only pickup and drop-off but it also does not allow for queuing on Town streets. The cones put out on Lagunitas are often for mid-day bus parking which does not occur during the primary pickup and drop-off periods. Technically, the preschool should have asked for permission to cone off the spaces but because it is done on an irregular basis for the purpose of bus parking, it does not seem to be in direct conflict with the Use Permit.

Mayor Robbins said she was not sure she agrees and thinks the bus should use the church parking lot. Council Member Brekhus agreed and while she was not sure how often it happens she has seen it on a number of occasions, was very surprised and recommended it not be allowed.

Council Members then held discussion regarding the cones, suggestions to state in the Use Permit that no cones be put out, and asked the applicant to address the issue.

David Allen-Hughes, Applicant, said he made a mistake and misunderstood his conversation with the Town at the beginning of the school year. They immediately removed the cone areas with the exception of Thursdays from noon to 2:00 p.m. or so where the cones occupy about 2 ½ parking spaces they set aside for a bus. There is a sign that states, "Bus from noon to 2 p.m. on Thursdays" they try and remember to put out on Wednesdays.

He further explained that the bus in the church parking lot would be a traffic nightmare for Shady Lane unless the lot was completely empty, noted a large majority of families ride bikes or walk to the preschool, and the preschool also staggers their start times and end times to help further mitigate traffic in downtown Ross. They have quite a few families that have children in both schools requiring waiting in cars to drop-off different aged children, so their policy is for those with varying drop-off times to drop off a bit earlier at the preschool so they can move out of the spaces.

In response to Mayor Robbins, Mr. Allen-Hughes explained that the bus has no seats and serves as a gymnastics class for pre-school children. It pulls up, children get walked to the bus, hold the class for one-half hour and then another group comes. The bus is there for about an hour and 10 minutes on Thursdays and then leaves.

Council discussion ensued regarding use of parking spaces in the downtown, congestion issues with parking the bus in the church parking lot, signage posted without complaints, suggestion that the preschool include the bus parking in their use permit, possibly renting out extra space at the church for the preschool's program, fairness and the effect of a special privilege by the preschool using the public street and parking spaces, the fact that the proposed Amendment to the Use Permit before the Council does not address or authorize the bus parking situation, and consideration to no longer offering gymnastics through the bus program for families.

Mayor Robbins opened the public comment period.

David Peterson asked the Council for perspective in the matter, noting this is 2 hours once a week in the middle of the day and it is not a typical pickup or drop-off situation. He feels the preschool is an asset to the town and cited the value of giving kids physical activity.

Council Member McMillan asked if they could vote on the matter at hand which is the Use Permit Amendment now, ignore the bus issue and have staff pay attention to what is going on between 12 noon and 2:00 p.m. and determine whether it needs to bring the issue to the Council.

Council Member Brekhus voiced opposition of allowing a private, for-profit school to have a bus park on the Town's street, stated the time is when kindergarteners get out and 2:45 p.m. is when grades 1-4 get out, disagreed with the bus blocking parking spaces without obtaining permission from the Town to use its property when no other person or entity has such a right, suggested utilization of the parking lot and have someone help the bus back out, and questioned how the Town would feel if Ross Recreation ran their programs along the sidewalk or street affecting parking.

Mayor Pro Tem Kuhl raised a point of order, stating the Town has been told by staff that this is not part of the Use Permit Amendment and the issue is not agendaized. If someone wants to ban it they can request it be put on some future agenda, but it is inappropriate to consider it now.

Council Member Brekhus disagreed and thinks it is part of the Use Permit and suggested adding this into the amendment for the Use Permit and it could be heard at a future Council meeting.

Mr. Stock said he thinks both Council Members have a point in that the Council cannot decide whether or not to allow parking for the bus. In essence, an encroachment permit would be needed and the current Use Permit does not allow it. If the Council wants the bus to be able to park regularly the applicant would need an encroachment permit which is not on the agenda. However, as Council Member Brekhus points out, the Use Permit Amendment is open today by their application. The Council has evidence in the record establishing that they are in violation of their Use Permit because they are using Town property which is not subject to their Use Permit.

If the Council wished to vote on the Use Permit today and direct staff to follow up with the applicant about an encroachment permit, the Council could handle it that way. Or, the Council could be explicit as a condition of approval for this Use Permit to prohibit classroom activities to use the public right-of-way without an encroachment permit.

Mayor Robbins asked if Council Members want to decide tonight or return with a request for an encroachment permit. She prefers the latter because it is simpler but in any case, it should be addressed because it is not allowed.

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Council Member Brekhus asked if an encroachment permit is an administrative process through staff. She also thinks the preschool should have a Use Permit to expand their rental space into Town property as opposed to an encroachment permit.

Mr. Stock said again, the Council can handle it either way—on a reoccurring encroachment permit or as a condition of approval through the Use Permit. It is his understanding that if any applicant wanted to use the Town’s public right-of-way for either a one-time event or a reoccurring event they could request an encroachment permit. He was unsure if the Town has ever issued an encroachment permit for use as a business for an on-going activity, but some cities do that.

Town Manager Johnson commented that her first reaction to this is that gymnastics on a bus is very interesting, but it is a business and the applicant needs a business license and the ability to conduct their business on City property. Therefore, it is more of a business and whether the Town wants to allow a business to operate in a bus on a street. Staff could also look into the business license aspect of this and determine whether that business complies with the Town codes.

Mr. Simonitch cited a similar condition with PG&E’s contractor doing tree work where staff will issue an annual encroachment permit that gets reviewed every year. That allows them to conduct their business within the Town-maintained right-of-way. He thinks it is true that the Town can either do an encroachment permit or a Use Permit but the encroachment permit might be more flexible in that staff reviews it every year ministerially.

Mayor Robbins said one thing that is ironic here is the preschool is beloved but they did not talk about traffic once they expanded. If they had been asked at that point whether they could have more parking one afternoon a week the Town would have said “no”. Now it is happening and agreed it is a business operating on the Town’s street.

Council Member Brekhus made a motion to approve the Amendment to the Use Permit with the idea that if the applicant wants to return with a Use Permit to request the bus parking and explain why this is appropriate and it is not a problem, staff can determine whether the bus has insurance for the kids, a business license, the Council can formally review this with the idea that it is setting a precedent. She again questioned what would stop other entities from having a food truck or recreation classes on the sidewalk or public streets if the applicant does not return for approval.

Council Member Brekhus moved and Mayor Robbins seconded, to adopt Resolution No. 2230 approving 14 Lagunitas Road Amendment to Use Permit, with the further request for the applicant to amend the Use Permit for bus parking approval to return before the Town Council. Motion carried (4-1; Kuhl opposed).

End of Public Hearings on Planning Projects.


19. No Action Items:

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- a. **Council correspondence:** Mayor Robbins stated she received a complaint about Branson School and the use of loud speakers at a football game on a Saturday.
- b. **Future Council items** – Mayor Pro Tem Kuhl requested an item be agendaized for next month for Branson School to submit an application for a use permit, which was not supported.

20. Adjournment.

Mayor Robbins adjourned the meeting at 8:52 p.m.



Elizabeth Robbins, Mayor

ATTEST:



Linda Lopez, Town Clerk