

SPECIAL MEETING of the ROSS TOWN COUNCIL

~~THURSDAY~~TUESDAY, FEBRUARY 8, 2022

Held by Teleconference

1. 5:00 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, Attorney Michael Biddle

2. Posting of agenda.

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

3. 39 Fernhill Avenue, Branson School Use Permit Amendment and Town Council consideration of adoption of Resolution No. 2233.

The Branson School, 39 Fernhill Avenue, A.P. Nos 073-082-01; 073-082-12; 073-141-03; 073-151-05; 073-072-04; Zoning: R-1: B-A, General Plan: QP (Quasi-public Institutional), Flood Zone: X (Minimal risk area).

Project Summary: The Branson School is requesting approval to amend the existing Use Permit to increase the maximum student enrollment of the school from 320 to 420 as authorized by Measure F in 2020. The school proposes to increase enrollment by 25 students per year over the course of four years.

Mayor Robbins spoke about the continuation of the item from the January 13, 2022 meeting, meeting protocols and background on the matter.

Town Manager Christa Johnson introduced Town staff, attorneys, W-Trans representative, and Contract Planner Meredith Rupp who will present the item.

Meredith Rupp, Contract Planner, gave a PowerPoint presentation of Branson's School request to amend its existing Use Permit to increase the maximum student enrollment from 320 to 420 students. At the last Council meeting, the Council heard concerns about adequacy of the TDMP, particularly concerns about monitoring, methodology and penalties, the off-site drop-off and pickup and hours of the afternoon single student pickup, concerns about regulating athletic facilities by hours of operation, interest from the Town Council in requiring neighborhood traffic monitors, changing certain aspects of the proposed TDMP especially monitoring and trip caps, and, lastly, there was interest in evaluating the use permit on a regular basis.

Staff received direction to re-examine conditions around use of the athletic facilities and to look for an approach that was somewhere between the original condition and the proposed condition for hours of operation, a request for more information on the proposed TDMP and traffic impacts beyond Ross, to consider changes in the monitoring program and TDM strategies, to draft a condition of approval that would require the neighborhood traffic monitors, and to refine the condition of approval around amplified sound.

Ms. Rupp then described previous and on-going receipt of public comments, athletic facilities and use, information derived from the Final EIR, additional information for the TDMP and relating to impacts beyond Ross, remote drop-off and pickup's negligible effects, performance each year regarding enrollment increases with no negative impacts, review and approval by the Town of monitoring efforts and neighborhood traffic monitors, and the various conditions in attached tables.

Town Attorney Ben Stock spoke of the Council's role in considering the application and said next steps would be to 1) direct staff to bring back a resolution for denial; or 2) to continue to a date/time certain with further direction to staff regarding the need for further information and/or information needed to help the Council reach any conditions of approval; or 3) to continue to a date/time certain to approve with direction to staff regarding amended and restated conditions of approval.

Mayor Robbins and Councilmembers asked the following questions of staff:

In the concept of ongoing monitoring, Mayor Robbins asked if this is a situation where Branson School and the Town could get data in real time so they could cure any excess traffic and avoid penalties. *Brian Canepa, W-Trans, replied that it depends on the technology used to be able to monitor, but it can maintain itself in relative real time. He would caution that even permanent counters can be off at times and the Town should fact-check things before making them public.*

Mayor Robbins asked if the Council could garner information from counts at the end of December or how things were going in the fall. *Mr. Canepa said yes; the Town should be able to see results shortly thereafter.*

Regarding the cure period, Council Member Kircher said the TDMP refers to a 60-day cure period. He asked if this is necessary or typical timeframe, and asked what triggers that period. *Mr. Canepa said the cure period for most schools is a full semester of about 4 months. Ms. Rupp deferred the question regarding what triggers the cure period to the applicant.*

If there is a problem during the original monitoring period, then a 60-day period, followed by a week-long monitoring period, Council Member Kircher asked how long all of that would take versus stringing the timeframes together. If there is not a cure, he asked if the enrollment for the following year is put on hold or not. *Mr. Canepa said if a set of counts is done and it takes a couple of weeks to get the data back and review it and they identify something is in violation, his understanding is that would start the 60-day clock. After the 60-day window they would have to count again to ensure they are within compliance or not which would take a week or two to get that data.*

Michael Biddle, Attorney, further clarified that there are two scheduled monitoring periods in the TDMPs proposed by Branson School; one in the fall during October/November for a 14-day period and also one in the spring during March/April for 14 days. If there is a violation that occurs during the fall period, everyone is on notice that there is a violation of the fall monitoring period. Branson would have 60-days to "cure" by implementing extra efforts to get the trips down. At the end of

the 60-day period, there would then be a 7-day monitoring period conducted. If that 7-day monitoring period evidenced a violation that would then trigger an ability to reduce the number of students that are allowed in the upcoming academic year.

If there is a violation in the spring, it is treated as an uncured violation because by the time it is done in the spring in March/April, it would flow into the summer. So, the 7-day monitoring would likely begin at the start of the new academic year and the violation would subject Branson to fines.

Regarding weekend events, Council Member Kircher said if these are monitored for two weeks he asked if a reliable figure is obtained. *Mr. Canepa replied that when it comes to weekend events the schools their firm has worked with do not normally have a set trip cap because traffic volumes are much lower. The focus is creating effective special event management plans to deal with it. They can still monitor on the weekends and if something is very much out of whack or something is not working on weekends, the Town can build in some sort of remedy to address it.*

Under the TDMP, Council Member Kircher said there is a base level and they are still counted. He thinks Branson has represented this as one way to control the use of the athletic fields when there is an increase in enrollment. *Ms. Rupp stated there is a weekend TDM rate for 398 as the trip count which is the 346 trips averaged, plus the buffer. It has a much larger buffer than the weekday which speaks to variability of events. Mr. Canepa stated he believes adhering to the trip cap is reasonable.*

Regarding enrollment decreases, Council Member McMillan asked if this is just for the first 4 years of expansion. *Mr. Biddle confirmed and this is what has been proposed in the TDMP.*

Council Member McMillan asked whether after that 4 years there is a different set of circumstances in terms of the fines and curing. *Mr. Biddle said yes; they talk about the first fine of \$50,000 and thereon. After 6 violations, the school would go back to potential reduction in enrollment.*

Council Member McMillan asked if there are fines associated in the new proposal for broader monitoring just made public a few days ago. *Mr. Biddle stated, no.*

Council Member McMillan asked how he would envision sharing the data with Branson School. *Mr. Biddle said the way it had been drafted is that Branson would be responsible with Town input for the selection and hiring of the traffic consultant. The consultant would be responsible for generating the monitoring report and would submit the report to the Town along with their determination of what, if any, impact there is on their enrollment based on results from the monitoring. That information would come to the Town with the established time period by the 1st of February. The Town would review it and determine what the actual allowable enrollment is by March 1st for the following academic year. Branson would likely have that information before the Town would.*

Council Member McMillan said she would want to make sure Branson had the data continuously, so if they are seeing there is some type of spike in their cap they can pivot and cure immediately instead of waiting. *Mr. Biddle said he thinks this is doable. He also noted that at the prior Council meeting there were some requests in regards to the TDMP proposed by Branson that the Town should be the one engaging the consultant. He believes this was deemed to be some concern that if Branson is controlling the monitoring, there is an opportunity to “game” the results if they are doing monitoring for a couple of weeks. As they drafted what is proposed Condition Nos. 1 and 18, given the longer monitoring period they did not think it was likely anyone would be able to “game” the system for a 2-month period. This is why they did not add language that had the Town as the one to select the consultant. Branson hires them and there is input from the Town regarding protocol. But, the consultant is responsible for collecting the data and then generating the report and generating a recommendation to the Town as to what the enrollment should be for the following year, based on results of the monitoring. If the monitoring shows Branson exceeded the average trip cap for every 2.67 trips, there is a resulting 1-student reduction in enrollment to a maximum of 25 students.*

Council Member McMillan said in the newest proposal she asked if this contemplated any type of spring monitoring in addition to the fall monitoring. *Mr. Biddle said no, they did not. The thinking was that they were trying to make a connection between enrollment and compliance with the trip cap rate.*

Council Member McMillan asked Mr. Canepa whether the latest proposal is something accepted if he would recommend spring monitoring, as well, or asked if the broader monitoring period in the fall would suffice. *Mr. Canepa said typically monitoring for schools is done each semester so there is not as much of a lag time to be able to correct whatever the problem is. Therefore, it is more common but they would need to treat the enrollment decreases differently.*

Mr. Biddle said what could be done is the Town could utilize the fall data, to the extent the Council approves this for the first year going in, and then for subsequent years, if imposed, year-round they could use the spring and fall data for purposes of making the determination for the next academic year.

Mayor Robbins referred to amplified sound for non-athletic field events and asked why Branson increased from 5 to 10 outdoor amplified sound events until 10 or 11 p.m. from the January 13th staff report. She also did not believe the conditions allow for outdoor lights. *Ms. Rupp explained that the 10 events came from the events where Branson currently uses amplified sound, but not all of those are outdoors. Therefore, perhaps that number should be revisited. The time prohibitions were something added around community members’ expectations and what they have seen as conditions for other use permits.*

Mayor Robbins asked and confirmed with Ms. Rupp that current conditions do not apply to indoor amplified sound.

Mayor Pro Tem Kuhl asked to go back and get a picture of how the Council got where they are tonight. He said Branson filed its application for an increase in enrollment in March 2021. Some

kind of activity was started by staff to deal with this application. At that time, he asked if Ms. Rupp was part of the staff from the beginning. *Ms. Rupp said no, not from the beginning. She said she came on board in April or May.*

Mayor Pro Tem Kuhl asked and confirmed the Town no longer has the Town Manager or the Town Planner who started working on this project in March 2021. Other than this staff, he asked if any other staff were working on this project. *Town Attorney Ben Stock stated their office has been working on this project, and Mr. Simonitch was involved relating to transportation.*

Mayor Pro Tem Kuhl asked if Branson has the obligation to reimburse the Town for its expenses regarding processing of this application, and if so, he asked how much have they been charged. *Ms. Rupp replied, yes, Branson is obliged to reimburse the Town. Town Manager Johnson added that she could obtain that information. She noted Branson has been very responsive to the request and the Town has been receiving reimbursement on a deposit basis and has provided funding just last week.*

Mayor Pro Tem Kuhl said he recalls seeing something a month ago where Branson owed the Town about \$90,000 for the activities the Town had engaged in for dealing with this application. *Ms. Johnson said she was unsure what the amount has been, but Branson have been replenishing their deposit account required, and the Town has been drawing down on it. Last week, they replenished it again so they have been very responsive.*

Mayor Pro Tem Kuhl said in making decisions about what staff would recommend, typically staff would consider the pros and cons of a particular proposal and in what to bring to the Council. *Ms. Rupp said she would normally look to requirements of the code, findings for a use permit and application submittal checklist requirements.*

Mayor Pro Tem Kuhl asked if there was more than one recommendation staff could make. *Ms. Rupp said yes; staff has discussed options or next steps to consider.*

Mayor Pro Tem Kuhl said in considering the options, he asked if they consider the benefits and drawbacks to the Town and to Branson. *Ms. Rupp said yes. Mr. Stock added that staff has had many discussions with Branson as part of their application submittal about drawbacks and advantages of their application and how to put forward the application. Branson alluded to this in their first meeting.*

Mr. Biddle added that it was not limited to conversations with Ms. Rupp but there were conversations with himself, Mr. Stock, the Town Manager, W-Trans, Mr. Streeter, Mr. Simonitch and former Town Manager Chinn. The application has been given a lot of attention from staff in recognition of the importance of it to the Town of Ross and to Branson School.

Mayor Pro Tem Kuhl asked and confirmed that Branson has the duty to reimburse the Town for whatever expenses relating to dealing with their application. *Mr. Biddle said as far as he understands, Branson is reimbursing the Town.*

Mayor Robbins asked if Mayor Pro Tem Kuhl could focus on this specific proposal and conditions and not necessarily the process.

Mayor Pro Tem Kuhl said he thinks it is important to get an understanding of what has gotten them to where they are now. One of the things they have done is carried out certain activities. He confirmed that Branson is in the process of, or partly has, reimbursed the Town for expenses the Town has incurred. He asked if staff has figured out how much it will cost Branson to pay for the daily monitoring being proposed for the fall semester. *Mr. Biddle said no, they have not put a figure to that.*

Mayor Pro Tem Kuhl said it will be a fairly expensive operation for Branson to pay for daily monitoring. *Mr. Biddle said it really is a matter of putting a piece of equipment in place that collects data. In essence, it will be twice as much of time but he did not know it would necessarily cost twice as much.*

Mr. Canepa added that it cannot simply be doubled for twice as much time. The costs can vary with the equipment being used, if it is damaged, and it depends on the labor involved being able to analyze the results. They have not been asked to look for any cost estimate to this but this is a relatively standard thing that schools go through in order to monitor trips, as well as other private businesses.

Town Manager Johnson commented that the changes brought back tonight by the staff and the consulting team are because the Council had expressed particular concerns and ideas and staff diligently tried to come up with some options for the Council to consider. Some options may have other consequences, but in defense of the staff team they are doing what was requested of them by consensus of the Council on January 13th.

Council Member McMillan confirmed with Ms. Rupp that the first time the Council heard this application was January 13, 2022, as well as the elections report of November 2019 report. In terms of giving direction to staff or consultants, she confirmed none of that occurred until the January 13th Council meeting.

Mayor Robbins confirmed there were no additional questions for staff, and she called on the applicant for a presentation.

Chris Mazzola, Head of School, gave a presentation regarding their process to amend their use permit, described meetings with staff and the Council over time, the ballot measure which passed in March 2020, and their close work with immediate neighbors to discuss their needs before finalizing a TDMP for use in their application. She then described the work to compile materials to ready themselves for the Council hearing and said throughout the process they were told by Town staff and Council Members that the Council wanted the work of designing the CUP amendment and conditions to take place before the matter was formally presented at a public meeting.

As the discussion now turns to brand new conditions with major consequences for the school, she is worried that the time, thought and energy by Branson and Town staff over the last 11 months is being forgotten. It was clear that traffic was the most relevant issue and they developed a detailed traffic plan.

She then described the strategies and concessions agreed to and said they believe they have a plan that will prevent any increase in traffic from the increase in students. Further, Town staff indicated there was a desire to also amend Condition Nos. 11, 12 and 13 of their use permit. They complied with this request and agreed to several important restrictions regarding use of their facilities which are unrelated to the addition of new students, which she described. They were shocked with the new conditions, as not one of them had not been discussed in their months of working with Town staff. They now find themselves back to the beginning with proposed conditions they cannot agree to, and she referred reasons which are outlined in their letter sent to the Council on Monday. She then turned over the presentation to Riley Hurd, Branson's attorney.

Riley Hurd, Attorney for Branson School, said he has been trying to determine how this got off track and thinks it was miscommunication. He described the amount of compromise that went into bringing the Council the amended application that ultimately garnered the full support of staff along with a resolution of approval suggested for the Council's adoption. The school has spent over \$133,000 on Town fees thus far processing this, and it is increasing. The school has asked for an increase from 320 to 420 students and staff wanted to address some other conditions and cleanup of the use permit. The school agreed to this as part of their compromise.

But from a legal perspective, he asked if a proposed condition is necessary to address 100 new students, which is the nexus test. If not, it is probably not appropriate. If yes, the next question is whether there is evidence in the record to support there is an impact. The final question is whether the condition is being proposed roughly proportional to the impact the Council is trying to address. At some time, the framework went off-track. The school consented to this along the way, but the last set of conditions in the new staff report was the breaking point. Experts, mostly engaged by the Town have opined that the TDMP and conditions will work and they will offset any impacts.

He also noted there is no prohibition of adding vehicle trips as part of a project. The school is willing for a clear plan with penalties, monitoring and rollbacks which is the plan they are asking the Council to ultimately approve tonight. He concluded that at some point there must be some recognition that this is a school and not a commercial enterprise. The Council also has the ability to call back the use permit if it is not functioning as designed but they ask for clear, effective conditions understood by all that can be enforced. Those submitted on January 25th by the school meet that criteria, support the findings, and are based upon evidence.

David Parisi, Parisi Transportation Consulting, said his firm was hired by Branson School which is similar to other independent schools to develop a successful TDMP. This plan would result in net neutral or even less traffic with enrollment increases. A lot rides on success of their plan since

they are Marin-based and they have worked with every Marin city, town and school over the last 25 years. Most important, if the plan does not work the school can face penalties.

Regarding traffic monitoring, the TDMP they developed which W-Trans reviewed and concurred with includes conducting two-week counts every fall and spring semester. This lines up with how the baseline traffic counts were conducted. The recent proposal to monitor traffic every day over an entire semester for two straight months does not make sense. Deploying permanent count stations or manually doing the counts would need to be done in multiple locations which is very expensive for a school, and it is not as reliable as conducting periodic counts which is the norm. Keeping permanent count stations calibrated and functioning perfectly on a 24/7 basis is also not something schools take on.

Another important consideration is the baseline of recent counts using TDMP is not for an entire semester. So, using data done over one week periods over three separate years compared to full semester counts or two straight months would be like comparing apples and oranges.

Regarding the cure and correction period, last week's proposal from the Town recommends immediate student rollbacks if there is a violation. This is a very unusual approach and one he has never seen used before. Usually schools are allowed to cure a correction period and if traffic is not reduced over that period then fines are imposed. He concluded that he knows of no TDMPs that have automatic student enrollment rollbacks and this is for a number of reasons Branson relayed in their letter. This would be a penalty of last resort and not a first consequence.

Mayor Robbins asked if there were specific questions from Councilmembers for Branson staff.

Council Member Brekhus questioned Ms. Mazzola's comments wherein she said currently there is no limitation on amplified sound for outdoor events. She thought it was capped at 10 under the present condition.

Ms. Mazzola said no; the present condition from the 1978 use permit restricts athletic events from using outside amplified sound. There is no restriction on other events, whatever those might be.

Council Member Brekhus said she thought the 1978 use permit listed some specific events that exist and asked if that was only in the new proposal. Mayor Robbins said she believes Ms. Mazzola is correct. The 1978 permit is silent on amplified sound for non-athletic events. It only addresses amplified sound for athletic events.

Ms. Mazzola said she always thought it was for everything but said the school does not use amplified sound outside very often because of that.

Council Member Kircher referred to timing. They have the monitoring period and then if there is a violation there is a cure period. After that, there is a second monitoring period that is shorter. He asked if there is anything in the TDMP that spells that out as to how this would happen. He believes there might be a timing issue if there was a problem with the second cure period. The

results of the second semester would not be known in time to have any impact on the enrollment for the coming year.

Mr. Hurd replied that the TDMP does spell out the timing issue and he spoke of what it states. There are two distinct periods during the two distinct semesters which is the industry norm. If the school is over the number, then they wait 60 days and test again. It is a short timeframe but the school really wanted to endeavor to be sure there was not a long period of an overage ever. Therefore, the second testing might need to occur a bit earlier so the Town could have that information if it were to impact enrollment, and they would be happy to agree to that.

BREAK

Mayor Robbins called for a break at 6:25 p.m. and thereafter reconvened the special meeting at 6:40 p.m.

Mayor Robbins opened the public comment period.

Ted Williams, 61 Glenwood, voiced concerns with the amount Branson has had to pay thus far to the Town, views Branson as an asset and essential fabric to Ross, opposed restriction, and if not approved Branson will be forced to move elsewhere. He asked the Council to approve the conditions as proposed by Branson's most recent proposal.

Bill Poland said Branson has been a great member of the community and it is a prestigious school. He finds it 'off putting' when it was said the City would hire their traffic engineer. The school needs to increase their enrollment and voiced support of their proposal.

Court Haslett said he has been the unofficial CYO liaison between the St. Anselm's Parish and the Ross community for almost a decade. He believes the posture of the Town Council is very much keeping people out of Ross as opposed to the posture of opening up and being more inclusive. Branson's programs engender a goodwill in Ross and in neighboring communities, has strengthened institutional relationships, and it helped change the image of Ross being exclusive and non-welcoming. He also thinks there is an obsession about traffic, thinks fines should stop, voiced concern with Branson's survival, cited the will of the voters for expansion, and encouraged the Council to approve the expansion.

Billie Buck, Bolinas Avenue, said she walks and runs regularly on Fernhill and has never perceived traffic from Branson as a problem. Compared to neighboring towns it never feels there is a long backup of vehicles disturbing the neighborhood even during peak hours. She is a parent, youth coach and boardmember in local youth sports and she is surprised the Town is not allowing Branson's facilities to host our community programs such as CYO, Ross Valley Soccer, Grizzly Lacrosse, etc. Children need Branson facilities and partnerships. She questioned if 1978 is an appropriate baseline for use in 2022 under Condition 11, cited the progression of sports and asked for approval of the expansion by the Council.

Kimberly Rochat said she thinks approving Branson's enrollment increase should not be difficult, questioned true impacts and unnecessary conditions, thinks the Town's requests go beyond what

other communities require of schools, and cited Branson's great relationships with institutions. She thinks experts are being second guessed by the Town and opposed unnecessary restrictions. She urged the Council to trust the school based on their track record and asked not to be so extreme in their requests.

Jim Harleen said they live one-half block from Branson School which is a good neighbor and traffic is not an issue. He thinks excessive fines for traffic violations, rollback penalties, excessive monitoring and micro-management are not appropriate for a school and thinks it has gotten grossly out of control. He asked to stop and said people are afraid to speak before the Council, thinking they will be penalized later on. Branson is a great school. Traffic is already well managed and not a problem for neighbors, and he asked to support Branson without onerous restrictions.

Bob Dickinson, Glenwood Avenue, voiced full support of increasing Branson's enrollment as specified. He emphasized and described the many efforts Branson which are already working well, spoke about expensive traffic monitoring not needed, noise problems that have never occurred over 23 years, the need for the school's financial sustainability, impractical rollbacks, the school's support of 10 Ross residents with jobs, supporting the Town's tax base, and he asked the Council to see the big picture of Branson's value for the community.

Damon Kirby, San Anselmo, said he has been associated with Branson School for a long time, served as the President of the California Association of Independent Schools, said most schools have CUPs and in his experience he has never heard such onerous conditions placed on a CUP. These seem punitive or obstructionist and encouraged the Council tonight to approve Branson's CUP and go back to the plan Branson negotiated over months with the Town.

Eileen Sheldon echoed comments of speakers for support of Branson, thinks every great partnership is rooted in collaboration and trust, applauded Ms. Mazzola's unfailing commitment to this process and her intent to do the right thing for the Town. She likened the Council's approach not as a partnership but as a transaction. The student increase will only succeed if this process and outlook is treated like a true partnership and hopes the Council will be supportive of how much the Branson School enhances the community.

Gia Fisher, Ross senior at Branson, said she will play volleyball at UC Berkeley next year and learned the Council is trying to make Branson never hold a playoff game or championship game at all which would be devastating and very unfair. Sports is a huge deal for the school, thinks home field is a huge advantage in sports, thinks the number of games should not be an issue. She asked the Council to reconsider the proposal.

Marcia Skall, RPOA Board member and speaking as a Ross homeowner, said at their meeting last night, the Mayor stated in her report that the Council had twin goals of keeping Branson in Ross and having a net zero impact on traffic. She has attended almost every Council meeting when Branson has been agendized, and she was dismayed to see and hear the way in which Ms. Mazzola was grilled at the January meeting about the school's traffic plan which is an understatement. To learn about the additional requests this past week was frankly incredulous. She questioned where the draconian requests come from, asked the Council to approve

Branson's request, to operate from a mindset of abundance, not scarcity and create a win/win environment.

Elena Batalla, RPOA Boardmember and co-President of Ross Auxiliary and Ross School PTO Boardmember, echoed comments of speakers and voiced support of the Council's approval of Branson's request for the betterment of the community.

Melissa Slayen said she devotes her extra curricula time to diversity, equity and inclusion, sits on committees at Ross School and Branson School, feels very positive in terms of their work and said she has received so many texts and calls from students at both schools and people in the community asking her what is going on in town. She is embarrassed for the town and thinks the Council should be, as well and asked to represent the voter's wishes.

Matthew Salter recognized serving on the Council is not an easy job, know they have the best of intentions for the town and school, said he reflected on the process and it sounds like it is broken. It could be staff turnover, the length it took the application to get to the Council, and he would recommend appointing a subcommittee in the future to negotiate with another party in good faith. Branson had negotiated in good faith thinking the Town would, did not think renegotiations should take place now, agrees the conditions are very arduous, and asked the Council to approve Branson's request.

Robert Kuzma commended the Council and staff for performing the due diligence to maintain the public's trust. He thinks the Council can vote in favor of the increased enrollment tonight, knows it has been a difficult process, and echoed many of the speakers that this is about providing students with an opportunity to benefit from Branson and give back to the community.

Peter Nelson endorsed speakers' comments, has a background in transportation planning, finds the reports and mitigation measures supported by both transportation consultants to be very substantive without any reason for extensive measurement times beyond two weeks. He also thinks the original proposals are fine, did not believe creating additional barriers is warranted, said for 16 years he has witnessed traffic at the main school gate and along nearby streets and Branson's work to manage traffic has been successful, and the school has a genuine effort to be a consistently good neighbor.

Blair Shane thanked Ms. Mazzola for her leadership, recognized staff, consultants and Councilmembers for their work but thinks the process has gone south unnecessarily. They do not want to be Woodside and thinks the egregious changes late in the game make the town appear unreasonable and elitist. She thinks the Council does want to move forward, thinks the school, teachers and kids deserve more, asked to approve Branson's original January 13th proposal and approve the expansion.

Will Bollini, senior at Branson, said he has had time to reflect since the last meeting, heard concerns about traffic and he has continued to drive a carpool every day to school, said he and his friends are extremely thoughtful to concerns, and thinks the transportation plan will not affect

traffic. He emphasized Branson's education which he said travels way beyond the classroom and accelerated academics and asked for approval of the expansion.

Andrew Biggs said they love the Town of Ross and have a daughter at Branson and kids at the Ross Schools and live on Fernhill Avenue. He spoke of their experience with traffic as a non-issue, said he spent 6 hours listening to the last meeting which felt like a marathon and hoped for a finish line. He urged the Council to respect the goodwill demonstrated and to listen to the will of the people who are supportive of Branson.

Charlie Goodman said having served on the Council he knows how difficult it is. He thinks putting in place fines and penalties are needed so that if there is a problem Branson will be required to follow the rules. He suggested having the requirements in place in the hopes the school follows the rules, and hopes they do not have to address it in the future. He said Branson is a good fit in the community but there have been times when they have not been, so this is the Council's chance to get things in place in order to use the tools to address any infractions and wished the Council good luck.

Ken Fineman said he voted "yes" on Measure F, fully supports Branson's expansion, as well as monitoring on a more regular basis to provide an accurate representation of actual traffic conditions. He cited automated technologies to provide this with marginal financial burdens when compared to the number of additional students. He asked that traffic information not be used as a "gotcha" but that it be shared and used to create a win/win for Branson and the Town. If Branson is out of compliance after a fair cure period then penalties should address traffic net neutrality as opposed to being financial in nature.

Robert Herbst thinks adding 100 students per year is essential for Branson to be competitive. He noted Ross School has 387 students and does not compare to Branson's job in addressing traffic. He cited the 10 months Branson has worked with staff and the amount of money spent, noting this adds up to 3 scholarships that have been removed due to this long process. He also said 56% voted for the expansion and 20+ speakers tonight are supportive of the expansion, and encouraged the Council to respect speaker's comments and adopt the January 13th recommendations.

Ryan Murr said he echoes comments made, thinks the framework in Mr. Hurd's memo was nicely addressed with the point that what the Council is looking at imposing additional restrictions needs to be related to the proposed change in the CUP and needs to be the least restrictive means available. It is not clear there is data in the record to support some of the changes proposed or determine whether they are incorrect or inadequate. He suggested the Town specifically address any impacts from the student increase, the proposed change in sporting events post-season on campus, and the proposed random sampling for monitoring traffic.

Regarding Councilmember Kuhl's point about taking into account not only the benefits of the Town but the cost to other constituents, this is a highly relevant consideration and something that needs to be part of the overall balancing. He noted most neighbors around the school were

not there in 1978 and retracted his comments referring to NIMBYism. After having heard all comments he would think there is no NIMBYism here as 21 out of 22 speakers are in favor.

Sina Shekou thanked the Council for hearing the issue, echoed Mr. Herbst's and Mr. Murr's comments and said good faith comes into play when looking at Branson, which is not a corporation but a school. If they are going to stay in this community the Town must partner with them to make that possible. The fact they have had to spend so many resources to get to where they are at now has continued to give them no confidence there will be any end to this negotiation. He would implore the Council to reconsider continuing this process any longer. The voices of the community supports this, noted the Council can bring this back if there is an issue, and he asked to approve the expansion.

Craig Slayen reminded the Council that Branson is a private school that has educated hundreds of kids making a large impact in Marin and around the globe. He questioned why the Council would not want to give more kids the opportunity to have a Branson education and asked why they are limiting this to 100 kids per year, noting this week a Branson alumni was named to be the Principal at the Archie Williams High School. He asked that the Council trust the school and give them the opportunity to thrive and education youth.

BREAK

Mayor Robbins called for a break at 7:42 p.m., and thereafter reconvened the special meeting at 7:48 p.m.

Mayor Robbins referred to Condition No. 11; use of the field. There has been the widely held belief that Condition No. 11 was limited in Branson's use of its athletic facilities to the 1978 level which was the genesis of the proposal that playoffs be restricted which was also a traffic concern. As they have read the EIR from 1978 and the condition there was an interest in not increasing the use of Branson's athletic facilities but the wording did not say Branson itself could not increase its use. So, she did not see there were restrictions on the use of their field. It establishes use of the athletic field facilities for regular scheduled practice and teams and certain hours of use, and indoor gym facilities for Branson regular scheduled practice and teams and hours of use. She suggested the Council back off on the "no playoffs" and go back to Branson's proposal from January 25th in Table 1.

Regarding Condition No. 12; outside organizations using the field, staff recommends it be on a staff decision when outdoor groups can use the athletic facilities which she supported because it is what has been done from 1978. She suggested adding a sentence that states, "Whenever possible, use by local youth athletic organizations be allowed."

Council Members Kircher and McMillan agreed with the Mayor's comments.

Council Member Brekhus referred to the January 25th proposal for Condition No. 11 and said it seems like there is a difference. She referred to Table 1, Condition No. 11 and the additional set of options under Item ii which states, "Vehicle trips associated with the use of the Branson School at the facilities by such outside organizations shall not be excluded."

Mayor Robbins stated those trips are already included in the baseline of the counts being used.

Council Member Brekhus asked if the vehicle trips already counted so they are part of the baseline and asked if the condition is not needed.

Mr. Biddle explained this language was added to provide clarity to the extent there is any question those trips would not be counted. They are counted as part of any monitoring.

Council Member Brekhus asked if it is ambiguous such that the condition should be stated. Mr. Biddle said he did not think so. There is nothing in the TDMP that suggests they are not to be counted. They would not be able to discern what one car is there for versus another.

Council Member Brekhus stated she therefore is fine with Condition No. 11.

Mayor Pro Tem Kuhl said he generally opposed with the Council getting into all of these details. He thinks they should have accepted an overall traffic plan and work with some of the necessities but this is close to being okay.

Mayor Robbins then referred to Condition No. 12 and asked if Council Members supported adding a sentence that makes it clear and states, "Whenever possible, use by local youth athletic organizations be allowed."

Mr. Biddle asked if they propose staff's language or Branson's January 25th proposal. Mayor Robbins said she was referring to staff's February 8th wording which reflects the existing Condition No. 12 along with the proposed sentence to clarify youth sports groups could use the field.

Council Member Brekhus said therefore, there was only one provision E that was a difference between the applicant's proposal on January 13th and the applicant's proposal on the 25th. What Mayor Robbins is saying is to go with the applicant's proposal on January 25th which includes E and includes also the additional staff option which allows Town Manager approval.

Mayor Robbins said she had not thought of that and asked if Council Member Brekhus wanted to combine the two. Mr. Biddle clarified that on Table 2 she is looking at the provision on far right which is the applicant's proposal, dated January 25th.

Council Member Brekhus said this seems to merge what the applicant proposed before with what staff suggested and there is a new applicant proposal. It merges that and says, "By permission of Town staff on a case-by-case basis."

Mayor Robbins said this is fine with her, and Council Members Kircher and McMillan also agreed.

Mayor Pro Tem Kuhl said they will then have their Town Manager charged with determining what entities other than those previously enumerated can use the field. He thinks they should not get involved in running the school.

Mr. Biddle noted in the staff report they noted that they were not in favor of the bold language where Town staff would have to be the ones granting permission. The idea behind Condition No. 12 was to put some real clear parameters on how they could use the facilities and not have to involve Town staff in those decisions.

Council Member Brekhus said it was an additional staff option presented on February 8, 2022 but then the staff report said it could be added but possibly it is not a great idea. It puts Town staff in the position of getting involved in that. If it is taken out, they still have the traffic count as the limitation and it still is one of Branson's options. So, she is supportive of the proposal Branson provided, including E, but taking out the bolding on January 25, 2022.

Mayor Robbins said part of her like to have some oversight, but she asked if this is only the school year. Mr. Biddle said E restricts it to no use during the summer.

Mayor Robbins said Branson is saying they will not use their field on Sundays. Mr. Biddle confirmed and said they are parsing out use of the field on Sunday probably primarily so they can be used by youth organizations.

Mayor Pro Tem Kuhl said if it is a group of kids on the field versus a large organization who start playing a touch football game. He asked if the police would be called to arrest them.

Council Member Brekhus said it is a use and not some authorized use by Branson. So, people walking their dogs, throwing frisbees, etc. are not something that has ever been restricted or prohibited.

Mayor Robbins said she likes the way it is worded with the bold, but with the understanding the Town should permit whatever Branson is okay with and whatever the traffic will bear, but she could go either way.

Council Member McMillan suggested that instead of using "by permission of Town staff on a case-by-case basis" they could ask Branson to notify Town staff when field is being utilized on the weekends. It is not that they are giving authorization but just being informed.

Mr. Biddle asked if the Council could agree that instead of the bold, add "with notification to Town staff".

Mayor Pro Tem Kuhl said he has become the objector to the entire process and again said the Town should not be running a school and should trust Branson to handle matters appropriately.

Council Member McMillan said she thinks they are just trying to be informed about what is going on in the neighborhood.

Mayor Robbins said these rules began because in 1978 it became a big school in a small neighborhood and rules were set, but again, Ross groups are using it and they would like them to be there or at Ross School.

Council Member McMillan said they are not going to restrict the use to only Ross organizations.

Council Member Brekhus noted Ross Rec does not only serve only Ross or does CYO. These are groups that are generally Ross Valley but San Francisco kids can join the groups, as well. Mayor Robbins said she thinks it should state local youth organizations.

Mayor Pro Tem Kuhl said he thinks they are creating trouble for themselves in thinking of every situation that may occur and cover it now.

Council Member Brekhus said right now the language does not state "local". It states "outside organizations". Mr. Biddle clarified that it states "It shall be limited to youth oriented (school-aged, i.e., 18 years of age and under) athletics organizations."

Council Member Brekhus suggested leaving it as is, whether it is by permission by Town staff on a case-by-case basis she is not as married to, but she is fine with the applicant's proposal dated January 25, 2022.

Mr. Biddle asked if they are keeping the bold language, and Mayor Robbins replied yes.

Council Member McMillan said she does not see the word "local" included, and Mayor Robbins said the Town is likely to say yes as this is the intention. Mr. Biddle said he thinks Mayor Pro Tem Kuhl's point on that is well taken.

Mayor Robbins said therefore, they have consensus on Condition No. 12. She moved onto Table 4 relating to amplified sound. She suggested applying the existing condition for "No temporary grandstands or bleachers, amplified equipment or outside lighting be constructed, maintained or used in connection with any athletic events held on campus." Then, the February 8th additional staff option A; and suggested they clarify there can be amplified equipment for a certain number of events, and they can decide what those hours should be.

Council Member Kircher said Branson had indicated that with regard to the championship games, the league rules may require they be announced. He would be okay with amplified sound for championship games. He does not see it as a huge problem.

Mayor Robbins said it indicates they are required for North Coast section championship. Council Member Kircher said they could also state that "if required" and he voiced his support of this.

Mayor Robbins said she has heard from neighbors that loud speakers at athletic events are really disruptive. There is a lot of noise and she thinks this is something to take into consideration.

Council Member Brekhus said this is the more difficult issue. Branson does not have amplified sound outside of sporting events very often, but sporting events are different and she thinks 10 p.m. or 11 p.m. amplified noise is unreasonable and should not be allowed. She feels they should have some kind of reporting so people know when these occur and they do not feel they have to count the number of times these events have been held. She said Branson is requesting amplified sound at any games and not just championship games.

Mayor Robbins said they indicate it is for championship, varsity football or championship varsity soccer. This was not an original request with Branson's amendment to the use permit and it was added recently when they discussed clarifying the amplified sound.

Council Member Brekhus said it is for any such game which counts towards the annual limit of 10. She thinks it would be ideal if Branson posted on their website the 10 events they will have amplified sound so people and the Town know so they do not feel they are policing it. But, she was ambivalent on the idea of amplified sound for games generally. She thinks it will be a change in use with bigger games in a quiet neighborhood.

Council Member McMillan said she has heard from a lot of neighbors and the Council has received letters about the play by play announcements made during championship games and she totally understands the desire to play everything at Branson. She thinks all playoff games should be played without amplified sound. To the extent they can get a waiver from NCS, MCal or whoever is mandating the play by play announcements, they should because it is pretty disruptive for neighbors.

Mayor Robbins said it is not part of the use permit now, and if they keep it that way and Branson asks to have play by play, the Council can always reconsider that later.

Council Member Brekhus asked why it seems like staff came up with the option of going up to 10 p.m. Sunday through Thursday and 11 p.m. Friday to Saturday because it does not seem that came from the applicant.

Mayor Robbins said she thinks 6 or 7 p.m. makes better sense. The 5 events they cited where they use amplified sound for are: All-School Welcome BBQ during the day, Convocation during the day, Branson's Annual Fundraiser during the day; Alumni Reunion Weekend, and Graduation. One of Branson's conditions is that they do not have outdoor lights, so it is not as though there would be a gathering at 10 or 11 p.m. at night where they need sound and lights. She thinks it also would be very disruptive to the neighborhood.

Mayor Pro Tem Kuhl said it sounds like what the Council is concerned about is the announcing of football games which is common. The Town has a noise ordinance where if it does not violate the ordinance, there should be no restrictions when they do not do it for others.

Mayor Robbins said the Town does this now and it is already an existing restriction. Mayor Pro Tem Kuhl opposed it.

Mayor Robbins echoed her comments to carry through the restriction on allowing amplified sound for sports and clarify amplified sound is allowed for 5 non-sport Branson events or up to 10 events; however, they only cited 5 events.

She asked if the Council agrees to keep the prohibition on amplified sound for sports events. She agrees, as well as Council Members McMillan and Brekhus, but no from Council Members Kircher and Kuhl.

Mayor Robbins said in clarifying amplified sound for other events, she asked if the Council wants to change 10 and 11 and asked if this should be changed to 7:00 p.m. Right now, there are no guidelines whatsoever on amplified events during the day. Council Member Brekhus agreed there should be a limit and not 10 or 11 p.m. and thought 7:00 p.m. is reasonable.

Council Member said he would say 7 p.m. is reasonable but would like Branson's comments on this.

Council Member McMillan said she thinks the annual fundraiser is at night, but she confirmed it is inside and she questioned why they list it. Mr. Biddle explained they initially listed that without making a distinction of what is likely to be inside or outside. This is why there was the change presented at the last meeting where they crossed out the specific events and put in a number of 10 events targeted to be outside events and not indoor events.

Ms. Rupp added that the information staff shows that there are two outdoor evening events; the All School BBQ and the Annual Fundraiser.

Mayor Robbins said this should stay and if it was silent before they do not want to add a new restriction now. She asked if they should disregard the number and go back to a time.

Council Member Brekhus asked if those events go past 7 p.m. and Mayor Robbins asked Ms. Mazzola to respond.

Ms. Mazzola clarified that the events in the evening they would host would be their annual fundraiser, the alumni event, and their annual BBQ. But, these are not blasting amplified sounds but speakers talking into a microphone, and they do not last past 10 p.m.

Council Member Brekhus said she did not support leaving it at 10 p.m. for unlimited events. If there are 3 events that go to 10 p.m. already, she would be supportive of that and would ask Branson to report it to the Town so staff can put it on their website or their website so neighbors know. She heard from a number of neighbors stating they did not want to police it, so ideally, letting people know about the event gives them the expectation.

Mayor Robbins said the condition for amplified sound for campus events and non-athletic events can go until 7 p.m. for 7 events and 10 p.m. to for 3 events.

Ms. Mazzola guessed that probably in the last 6 years, Branson has had less than 5 events that have gone past 10 p.m. with noise and she did not think it was a nuisance to the neighbors. They have no dances for kids or many events at night and, therefore, this should not be a worry.

Mr. Biddle asked if those three events were primarily held on a weekend night. Ms. Mazzola confirmed they were Friday and Saturday evenings.

Mayor Robbins asked Council Members what they would like. They are going from no guidelines on outdoor events to the suggested guidelines.

Council Member Brekhus suggested they look at the applicant's proposal dated January 25, 2022 which is Table 4 in the last column, and strike B in its entirety. Then, they can modify Provision A which says "For 10 outdoor special events per year, 7 of which may end at 7 p.m., 3 of which can end at 10 p.m. with the applicant posting those on their website."

Ms. Mazzola stated this is not a problem. They regularly send out notices to neighbors one or two days in advance of any events on campus, whether it is a big game or a social event.

Mayor Robbins asked if Council wished to work from the applicant's proposal or an additional staff option.

Council Member Brekhus responded the applicant's proposal and delete Condition B in bold and underlined and modify Condition to state "7 p.m. for 7 events and 10 p.m. for 3 events."

Ms. Mazzola asked how is the amplified sound part is related to the addition of 100 students.

Council Member Brekhus stated she believes they have closed this as a discussion item and she does not feel it is time to further engage on it.

Council Member McMillan said perhaps Mr. Stock could briefly address that issue for Ms. Mazzola.

On behalf of Mr. Stock, Mr. Biddle explained that if they look at the applicant's proposal it is for a use permit to increase student enrollment by 100 and to implement a TDMP to keep and maintain traffic as net neutral. Branson purposely included the TDMP as part of their project application so to be clear, it is a request for a use permit to increase enrollment and the TDMP. The reasoning for doing so is so they could squarely fall within the CEQA exemption of 15314 that the Town has already dispensed with.

So, the TDMP as proposed by Branson again is with the idea of keeping traffic net neutral as a result to the increase of students. The increase of 100 students does not necessarily limit its potential effect to traffic so the increase of 100 students might have an impact on the athletic fields. They have talked about this to make sure they have some clear and enforceable conditions discussed for Condition Nos. 11 and 12 for use of the athletic fields, not only by Branson but by outside organizations.

With respect to the issue of sound and use of facilities, there will be an increase in the number of students where likely over the past 42 years there has been an increase in use which will result, notwithstanding the fact that the existing Condition No. 3 speaks to not using amplified sound for athletic events, in a desire to hold athletic events where league rules require them to use amplified sound. So, it is trying to negate the impact of the increased enrollment and increased activity at the school and it is resulting in impacts from traffic and noise and from regular use on the local community.

There is the suggestion there is no relation between increase in student population and potential increases in noise levels as a result of activities at the campus is misplaced. He thinks the Council is well within its right, irrespective of the fact that Branson did not seek to modify Condition Nos. 11, 12, 13, that this is an appropriate time for the Council to look at those conditions, particularly because some have historically been issues relating to use of sound, amplifying equipment as well as use of the athletic facilities. Therefore, he was comfortable with tying the nexus in relationship between the application and addressing these conditions.

Mayor Robbins referred to traffic and said net neutral traffic was a key feature of Branson's campaign. However, once 100 students are added it only requires there be a single 7-day period of net neutral traffic every 2 ½ years in order to keep that enrollment. If traffic exceeds the cap before the 2 ½ year mark, then cash payments are made. She personally thinks that is a problem because residents were promised and voted for net neutral traffic. They did not vote for cash payments for excess traffic. So, this is why they are still talking about traffic.

They have staff's new proposal which suggests on-going monitoring in the fall and the spring via a camera with almost real-time feedback to Branson so they could know they were over and make adjustments. The other is the TDM plan, but it uses fines to penalize traffic overages. It falls short of guaranteeing there is net neutral traffic most of the time. It is an announced 7-day test and likely people will be careful about traffic and the rest of the year there is no penalty for traffic not being net neutral. Therefore, she might be in favor of some variation of the staff's new proposal but with a provision that Branson gets the data all the time so they can fix their traffic so there is not an overage.

Council Member McMillan said she does not think the Council is in the business of fining and does not like fining Branson. The Town has even revised their construction periods to avoid fining people. She thinks it is better to have more monitoring earlier in the year and providing information to Branson almost instantly so they can make whatever adjustments they need to make. Their consultant seems very confident that the TDMP will work and the Town wants it to work and neighbors to be happy. It ultimately ends up with pleading special circumstances and she does not want to put future Councils in the position of having to go through this because it is not constructive.

She likes what has been proposed with some modifications in terms of starting a little later, ending earlier and providing data to Branson. She is not sure they have to do the monitoring

every single day and there are most likely some samples they can take rather than continuous monitoring to make it more cost-effective for Branson.

Council Member Brekhus said she agrees and does not want to fine and wants Branson to succeed, does not want to hear from neighbors and does not want to put the Council in a difficult position. They are trying to make it work for everybody and wants it to be very clear so there are not arguments later that this was ambiguous.

As she understands it, Branson hires the company and the equipment and they are done. She thinks sporadic sampling is not needed and likes the longer term, giving Branson these real time review to allow them to respond. This is about parking and traffic and they can make it work. When they assign consequences, it is about setting expectations, making it work for everybody, and meeting Measure F's promise.

She thinks the buffering is very generous as it allows Branson to exceed what they have said is their baseline count. To her, this makes her feel that even occasional events will hit this appropriate average. Her only question is whether there should just be some measuring in the spring for a month. If Branson does not comply with the TDMP, the Town is able to raise it as a violation.

She suggested sticking with the procedure staff has proposed with respect to this Condition Nos. 1 and 18 for the shortened fall monitoring and making sure they are getting it in real time. She thinks it would be better that the Town's consultant provides the data to Branson in real time and provides the report to the Town. She would even suggest doing a monitoring for a 30-day time in the spring which provides information. If it rises to the level of a violation, it can be addressed. But again, no one wants the violation so she wants to be clear and thinks that is the better procedure.

Mayor Robbins referred to page 6 of the staff report under 3B and suggested maybe two months is better for the spring and not to count the first two weeks so Branson can see the data. In both monitoring periods there is a grace period at the beginning—one to get the data and two to make adjustments. If there are overages, for the first year the fall count would affect the next year's enrollment but thereafter, spring plus fall are combined and if over, that would result in a reduction. Hopefully, that would not happen because the school would see all of the data and could make adjustments.

Council Member Brekhus said she is willing to do anything in that variation described as long as this can be finalized quickly after this discussion.

Council Member Kircher said he has doubts as to whether that is workable. He is most uncomfortable with the automatic rollbacks as there will be an adjustment period and perhaps some trial and error which will take time to work out. He is concerned about the existing proposal pursuant to the TDMP where there is a cure period and a week to monitor whether that cure has been successful. He can see how the school really doubling down and putting everybody on red alert so they can pass it and doubling down and get some better results they had during the

earlier monitoring period. But, they can work on this forever and he does not think they will come up with the perfect plan.

Mayor Robbins asked if it would make the on-going monitoring she and Council Members Brekhus and McMillan support more feasible. She asked if having more time in the beginning of the monitoring could make a difference.

Council Member Kircher said no, not from what he has heard so far. He understood and heard from the consultant that this is not usual and not necessarily something that would work all that well. There are enough concerns about whether this would work in the long run and how reliable and usable the data would be. The thought is that they are providing guidance to Branson but he was a little stuck at how useful or helpful that would be or whether they could make a correction during that period that would not result in a rollback pursuant to the formula.

Mayor Robbins suggested starting in the fall for a trial of this on-going system for 6 weeks and they do not make any rollbacks on the first one so they see how it works. If it is not working at all for some reason they can change the spring plans and not have any consequences for the fall.

Council Member Brekhus said she guessed this is a possibility for the first year to give them a pass but then the only negative is that they have not complied and now they have 50 students. This would be a concern. She would also point out the environmental review would be required of this application if traffic is going to increase. The only reason they are exempt from environmental review is because their proposal is that they will not increase traffic. She just feels like they are skirting environmental law if they do not require them to comply with what they told everybody with this Measure.

Again, it should not be controversial, as their plan was to fine themselves. The Council is saying they do not really want the monetary fine. They just do not want the increased traffic. No one wants a rollback of existing students who are there which would be crazy, but continuing to increase and sustain that enrollment is completely within their rights. If Branson is willing to fine themselves \$50,000, they could find a parking lot off site, rent it and create a new parking plan. So, she does not feel this is a penalty and thinks it is one they can manage. They will also have a full-time person dedicated to it and will need to stay on top of it.

Mayor Robbins asked then if Council Member Brekhus would support a fall and spring monitoring, 6-8 weeks each time with the first two to three weeks not counting.

Council Member Brekhus said there is an amendment from staff saying that instead of August through mid-October there be a more limited period. If it is a fall measuring of 30-60 days she thinks the traffic consultant said they could launch that into some timeframe. Or, maybe they just give the school the spring to give them that information and expect that their traffic proposal will comply. If they are completely out of whack in the spring, it is a violation and this gives numerous tools under their code, including nuisance she assumes.

Mayor Robbins asked if the fall monitoring should count.

Council Member Brekhus said she thinks all of the traffic should count. Whether they give them a pass for the first year she was a little lukewarm to because of the fact that she wants them to meet their application which says they can meet this.

Council Member McMillan said she was sitting thinking when Mayor Robbins proposed the transition which might be workable, but it seems like it would create a whole new hurdle of negotiations and questions. If it wasn't working they would be right back where they are which they do not want. Maybe the first two weeks of the fall when monitoring occurs there should be a grace period. This information can be provided to them and they can tweak things and pivot and then the data is provided to them as continuously as possible. The Council's motivation is not to have a 'gotcha' moment and make them be in the hot seat. Their motivation is to help them succeed.

She thinks what the staff has proposed in the latest round to ensure there is a grace period, ensure they get the data as soon as possible, not making it four months but something like September to late October which seems doable, and a limited period in the spring too as a check-in. This would also be good for CEQA. This is not just about Branson. They want Branson to succeed but this school is in a very rural residential neighborhood with narrow roads. It is not like this is Marin Academy or Ross School. They need to pay attention to what is going on not just with Branson but also the neighbors. She feels like it is the Council's obligation for the neighbors to be happy too. She feels like they are negotiating a case here. The evidence of a good settlement is that both parties are kind of unhappy. No one is going to be 100% happy and there is compromise along the way.

Mayor Robbins said clearly three Council Members agree with the staff's proposal with some edits. She did not know Councilmembers Kuhl or Kircher concur, but she asked if this gives staff enough direction to draft something.

Mr. Biddle replied, yes.

Mayor Robbins asked if there were any other conditions or points to be discussed. One was how long should monitoring continue. W-Trans in their peer review of September 16th said something different from what is in the TDMP. They said, "The monitoring plan should be updated to include annual monitoring for the first 10 years and every other year thereafter." The TDMP says after 10 years the school goes to the Council. She asked if this is what the Council would agree to.

Mr. Biddle said he was not sure about what the Mayor is referring to related to W-Trans. He knows the TDMP essentially provides that the monitoring continues but at Year 10, Branson can seek Council approval to discontinue the monitoring which, regardless of whether this is in the TDMP or not, applicants can always petition the Council to modify conditions. But he knows in the Conditions of Approval, it indicates that the TDMP is to be implemented throughout the life of the project.

Mayor Robbins said it sometimes helps for people to know what is the intention. This is the peer review dated September 16, 2021 and there was a list of 5 things W-Trans was suggesting. The school could come back anytime, but the TDMP says after 10 years it could end whereas this recommendation is that it keeps going every other year indefinitely.

Mr. Biddle said he thinks they were really exchanging proposals. Initially, the TDMP piece indicates they are going to stop monitoring after Year 10, and staff said no and wanted it to go on. So, he thinks there were different proposals at that time and maybe that is what Mayor Robbins is seeing in the W-Trans memo back in September.

Mr. Canepa said the intent behind their recommendation was that, generally speaking, a TDMP for a school or for another private use does not really matter. Once you have a track record having demonstrated the program works to a certain degree after which point generally you either eliminate the monitoring altogether which they generally are not totally in favor of because monitoring does not seem to be that high a cost especially if switched to every other year monitoring. You can set a sunset date on it, say every year for the first 10 years and then every other year for the next 10 years and sunset it after that. But, doing monitoring every other year is relatively low cost.

Mr. Biddle added the notion of monitoring every other year doesn't really work in concert with the proposal because the end result if there is a violation relates to enrollment.

Mayor Robbins said she heard from a number of people that the plan should work but there should be ongoing enforcement because everybody wants it to work indefinitely. She would be in favor of it goes to every other year after 10 years and does not think after 10 years the school can ask to have it stop. She did not think it should sunset.

Mr. Biddle said it does not. The way the conditions are drafted currently they say they will continue to do the monitoring year in and year out as long as the school is in operation.

Mayor Robbins said she thinks the TDMP says after 10 years the school could ask to have it stop and the Council can determine whether it continues.

Mr. Biddle said the Council can take that position, but what he is saying is that they are currently saying it continues from now through Year 10 and thereafter continuously. There is no break.

Council Member Brekhus said she is fine with having it continue after 10 years each year. Branson can always ask for a modification, but this is something that should not be changed tonight.

Mayor Robbins asked if they should take out from the TDMP "...that the Town will determine whether monitoring should continue.

Council Member Brekhus said the TDMP is modified through the Council's conditions of approval.

Mr. Biddle said if the Council would feel more comfortable in having a specific condition that provides that language in the TDMP is stricken or not applicable, they can add something like that.

Council Member Brekhus said she would agree to the extent that the TDMP is contradicted by any condition of approval, the condition of approval controls over it.

Council Member McMillan said this brings up another issue that she has thought about. She thinks all of this should be in one document. She does not think they should have conditions of approval and referencing the TDMP and having to go back and look at the transcript. She would like for simplicity everything in one document in terms of what is being adopted.

Mayor Robbins asked if Council Member McMillan supported monitoring be continuous in conditions of approval.

Council Member Brekhus said she is a bit worried about having another Council meeting. Attorneys cannot turn over this in two days. They would have another 30 residents weigh in on a new document and asked if this is manageable.

Mayor Robbins said if this is continued deliberations to February 15th and not necessarily taking public comments. Mr. Stock confirmed this is correct.

Council Member McMillan asked if Mr. Stock had thoughts about how to accomplish this so it is clear and concise and they are not referring to other documents.

Mr. Stock said they already have the bones of that in the staff report with conditions of approval, the resolution with conditions of approval and they reference Condition 3 that the project has to comply with the traffic plan, and they can incorporate by reference so it is in one document within the City files.

Council Member Brekhus said where the TDMP says the study daylight after 10 years and the conditions require it to go on indefinitely, she asked if this could be dealt with wording in the condition of approval.

Mr. Stock said they could, but he would say the TDMP does not say it sunsets in 10 years. It just gives them the opportunity to ask the Town Council to discontinue it. Staff can include a statement that says conditions take precedence over the TDMP.

Ms. Rupp noted there was the excerpt the Mayor read and then there is also language around this on page 2 of the TDMP which is even more clear. It states, "Thereafter, the monitoring shall continue unless otherwise deferred, reduced, or terminated by the Town following a meeting with the Town Council and Branson." The language the Mayor read would need to be updated to match this.

Mr. Stock said they understand the intent and can work with this in the condition.

Mayor Robbins said the other item similar is 3B in the staff report which has provisions that it be the Town that selects the consultant with input from Branson and the Town that has the final decision as to the consultant, scope of servicing, monitoring, and empirical methodology.” She thinks this is important and asked if this needs to be transferred into one of the conditions.

Mr. Stock clarified that right now the proposed Condition 18 allows the Town to approve whoever Branson will hire.

Mayor Robbins said she thinks 3B is more detailed than Condition 18 in that it provided the Town more oversight of the monitoring.

Mr. Biddle said 3B really puts Town staff in the position of having to not only review or have their traffic consultant review the protocol but also puts them in the position of having them do all of the contracting work and manage the monitoring in a way that otherwise would be the responsibility of Branson. So, this is shifting a certain workload from the applicant to Town staff which the Council should be mindful for considering 3B.

Mayor Robbins asked if Condition 18 gives the Town the right to hire the person.

Mr. Biddle said no; it is Branson that is hiring. The Town is approving the protocol and methodology used by the consultant so it has that input on how the data is to be collected.

Mayor Robbins said so approving it is the same as deciding. She asked and confirmed Branson will be hiring a traffic consultant. They will put together some proposal as to how they are going to implement the monitoring, and Town staff likely with some input from Mr. Canepa and his firm on that protocol. But that scope of services will be what Branson then goes and engages their consultant to do. This is just collecting data and looking at the data once it is generated so it is pretty hard to argue with that.

Mayor Robbins said she thinks it should be the Town in charge of choosing the contractor and choosing the methodology. Mr. Stock noted the Town gets to approve both under Condition 18.

Mayor Robbins asked what happens if the Town does not like it. Mr. Stock said it then is not approved and then the school will have to choose someone else.

Council Member Brekhus asked if the Town can we get reimbursement for the cost staff incurs to review this process.

Mr. Biddle said for on-going monitoring he thinks the Town could require that if so inclined.

Council Member Brekhus said she thinks they should. She appreciates Branson’s concerns about costs but she also does not think Ross residents should subsidize what is an application staff works on for cost recovery.

Council Member McMillan said she is reflecting on the undergrounding of utilities and she believes the staff time for this is not something the Town is passing along to residents. She is also wondering if this is going to be a material cost. It does not seem like it is that material but she is not sure.

Mr. Biddle said certainly he would tend to agree with Council Member McMillan; that to the extent the Town is not the one engaging the traffic consultant and preparing the contract, etc. he thinks the cost to the Town will be relatively minor in terms of reviewing the reports once they are completed.

Council Member Brekhus said she can imagine it would not be expensive if there are no violations. What she is concerned with is if there is a violation and Branson and the Town are engaged in back and forth about it. Suddenly, the attorneys are getting involved, then staff prepares a staff report and negotiations and discussion.

Mr. Biddle said it is not drafted to play out that way. Staff is just looking at data and if Branson is in excess of their trip cap the rule is they get one fewer student for every 2.67 trips.

Town Manager Johnson said she appreciates Council Member Brekhus' interests in recovering Town costs and she pointed out that unlike other towns, Ross has very few staff here. They have a planner whose priority is to handle incoming applications to keep their process for design review, etc. moving along timely. Something like this and the people it falls to will be the Community Development Director, the Town Attorney or her, and they are a hire hourly rate. They have very few staff. She likes the idea of having the ability to seek reimbursement or making the expectation known that staff costs will be recovered, especially the Town Attorney's time.

Council Member McMillan said this seems reasonable to her especially in light of her other constant point that Branson pays very little in property taxes and receives a lot of services from the Town.

Mayor Pro Tem Kuhl echoed his comments from earlier and he does not like the idea of making some assumption with a Town Council 10 years from now and thinks they are micro-managing this. In fact, he will not vote for a provision that calls for something to occur 10 years into the future and thinks it is terrible government.

Council Member Kircher said he guessed it is okay, but along with Mayor Pro Tem Kuhl, he is a little concerned about making this too complicated. One thing they should keep in mind is whether the Town is compensated or not, this is another thing staff must keep track of and manage, but he does not have any strong feelings one way or another on the specifics of this.

Mayor Robbins said the whole point is they want sports facilities for local youth, but there is Provision 15 that states their auditorium cannot be rented out or used for non-Branson parties. But, there is nothing that states the rest of the school facilities themselves cannot be rented out. She was not sure whether this has anything to do with adding 100 students but she asked if this

is a concern or something that should be identified in a condition. Or, she asked if it was relevant as part of this application.

Council Member Kircher said he does not think there is enough of a nexus between this and the application.

Mayor Robbins asked and confirmed Council Members agreed to leave it as is. She said one person asked whether the use permit should be re-evaluated every other year like the Lagunitas Country Club, and she asked if this is something they should consider.

Council Member Brekhus said she feels they went over that with the 10 years, so the answer is no.

Mayor Robbins said she thinks the review is only for the traffic and not the whole use permit and she asked if that was okay. Council Member Brekhus said she thinks it is.

Council Member McMillan said in the neighborhood partnership group she wants to make sure it is open to all surrounding neighbors on Bolinas, Glenwood, Fernhill, Hillgirt, and Shady Lane. She would like for it to continue to meet twice a year even after enrollment reaches 420. She thinks it would be good to have the Police Chief and Town Planner and a Town Council liaison included as members so that the Town is being informed on a real time basis about how this is going. She thinks it would also be good to notice the meetings jointly by the Town and Branson together to ensure everyone is getting notified of the meetings.

Mayor Robbins asked if this would be a condition and asked if this is reasonable.

Mr. Biddle said the concern he would have about noticing meetings is triggering provisions of Brown Act. If you have a Council liaison, he would need to know more about that and think about that a bit. The part of including residents in the 5 neighboring streets and providing notice of it including Town staff is one thing, but then to start engaging Council Members and noticing it, this is where he would get a little concerned.

Council Member McMillan said she is fine not having a Council liaison. This could be deleted and she suggested having the Town Planner and Police Chief attend.

Town Manager Johnson referred back to the presentation and asked if the Council already discussed the neighborhood 3a monitors. She said she thinks the Council was interested in this and Branson representatives seemed to be fine at the last meeting with including that in their TDMP.

Ms. Rupp noted this is included in TDMP, but there is also a condition of approval to consider which is more specific about when the monitors are out there and prohibiting them from parking on nearby property owners' driveways.

Town Manager Johnson asked if the difference that in the TDMP it is one of several tools Branson could use but putting it as a condition the Council would be saying Branson would be required to have those neighborhood monitors.

Mr. Biddle said he does not recall it being listed in one of the TDMP strategies. Council Member McMillan pointed out it is in the safety mitigation measures of the TDMP.

Town Manager Johnson said she remembers Ms. Mazzola commenting about it at the last meeting and there was Council consensus for this. She thinks staff can add it as a condition as 3a.

Mr. Biddle confirmed it is included in the TDM Monitoring Plan provision on the last page. It is not one of the TDM strategies, so he thinks it is appropriate for the Council to consider 3a if it wants more clarity and specificity about the monitoring.

Town Manager Johnson asked and confirmed 3a appears on Option 1 and Option 2 as Condition 3a. She confirmed this is something new that was not presented at the first meeting in January.

Mayor Robbins said the monitors have been very helpful, but they have already asked to have traffic net neutral with monitoring. She worries a little that Branson has to hire 5 employees which is a big ask.

Council Member Brekhus said she thought that was part of Branson's presentation that they were going to do and it is a benefit.

Mr. Biddle confirmed it is in the TDMP. He thinks they took that provision and made it more specific in certain areas.

Council Member McMillan said Branson has already hired 4 of the employees to do the monitoring. The 5th one is just a monthly thing on Bolinas and Waverly which is where Glenwood continues into San Anselmo. It goes back to her point about how this is going to be really confusing where they have reference to the TDMP and conditions and she thinks it will be difficult to draft something that covers everything.

Council Member Brekhus said she thinks Branson can do this and said 3a looks pretty clear. The only other comment is that preventing solo drop-offs was until 3:30 p.m. but the pickup is at 3:15 p.m. and Ms. Mazzola said she was open to it going later. She thinks it should go later and would be in support of it going until 4:30 p.m.

Council Member McMillan said this is another point from the safety mitigation measures which is the pedestrian pathway on Fernhill from the Branson gate to Norwood. She thinks it is really important that that gets done as soon as possible. She has walked up that shoulder before when school is getting out. Kids are coming down and cars are going down. She was not sure it is appropriate for the use permit or conditions but she would like to see something about the Town and Branson will use their best efforts to try to get this process moving and completed as soon

as possible, and the Town will use every effort it can to get grants and funding for Safe Routes to School monies to help offset the cost of the project. She asked if everyone agreed to this idea.

Mayor Robbins said she thought about looking into it and eventually if the Town can engineer it and get funding it would be great, but she does not see it happening very soon.

Mayor Pro Tem Kuhl said he agrees and said this is not part of this agreement and something else. They would like to get it done. They had discussions about a path in connection with a house up on Circle a few years ago and there were some real questions by the time they ended that discussion about whether it could be done and designed to safe standards, and he thinks this should be left out of this.

Mayor Robbins agreed and said she was supportive of leaving it out and the Council can address this separately.

Mr. Biddle commented that the single-student pickup at 4:30 p.m. and asked if Council Members were supportive.

Council Member Brekhus suggested stating within an hour of drop-off and one hour within pickup. Mayor Robbins stated it is an hour and 15 minutes within drop-off, but it could be an hour within pickup.

Mr. Stock asked and confirmed there was majority consensus for an hour and 15 minutes within drop-off and an hour within pickup.

Mayor Robbins suggested continuing this to a meeting so the Council can see the draft and approve it then.

Mr. Biddle said yes; in looking at the last screen on the PowerPoint, he presented 3 next steps and it is probably the last option which was to continue the meeting to a date and time certain to approve, subject to conditions of approval. He thinks they will need a little bit of time to finalize this.

Town Manager Johnson said they had originally asked the Council to provide a couple of minutes so they could confer and figure out how much time is needed because the motion should include the time and date certain.

BREAK

Mayor Robbins called for a break at 9:43 p.m. and, thereafter, reconvened the meeting at 9:47 p.m.

Town Manager Johnson confirmed that the amendment to the use permit package could be drafted and ready for approval for February 15, 2022 at 8:30 a.m.

Mayor Robbins asked for a motion to continue the item to February 15, 2022 at 8:30 a.m. to approve with direction given to staff regarding the amended and restated conditions of approval.

Council Member McMillan moved and Council Member Brekhus seconded, to continue meeting to February 15, 2022 at 8:30 a.m. to approve with direction given to staff regarding the amended and restated conditions of approval. Motion carried (5-0).

4. Adjournment.

Mayor Robbins adjourned the meeting at 9:50 p.m.

Elizabeth Robbins, Mayor

ATTEST:

Linda Lopez, Town Clerk