

**REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, MARCH 10, 2022**

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 – February 8, 2022, February 10, 2022, February 15, 2022

February 8, 2022:

Mayor Pro Tem Kuhl moved and Council Member Brekhus seconded, to approve the February 8, 2022 Special Meeting Minutes, as amended. Motion carried (5-0).

February 10, 2022:

Council Member McMillan moved and Mayor Pro Tem Kuhl seconded, to approve the February 10, 2022 Regular Meeting Minutes, as submitted. Motion carried (5-0).

February 15, 2022:

Council Member Brekhus moved and Mayor Pro Tem Kuhl seconded, to approve the February 15, 2022 Special Meeting Minutes, as amended. Motion carried (5-0).

4. Open Time for Public Expression – None.

5. Mayor's Report.

After nearly 15 hours of discussion over three separate meetings, the Ross Town Council approved The Branson School's application to increase its enrollment from 320 to 420 students on February 15.

Branson initiated this process several years ago by beginning a campaign to change the town's ordinance that limited enrollment to 320. Voters approved Measure F in March 2020, allowing the school to apply to the Town Council for a change to its use permit to increase enrollment by up to 100 additional students. Use permits are required for non-residential use of property in residential neighborhoods.

A key element of Branson's proposal to increase student enrollment was its promise, made in campaign and ballot documents, to keep traffic net neutral with any enrollment increase. Net neutral traffic was also a requirement for the enrollment increase to be exempt from further

CEQA environmental review. Branson prepared a Traffic Demand Management Plan to outline strategies for maintaining traffic at the current level.

Much of the discussion at council meetings was focused on whether the traffic plan included adequate monitoring and enforcement to ensure that traffic would remain net neutral. Branson and Town lawyers worked together to finalize the monitoring and enforcement conditions that were ultimately approved. These included traffic monitoring in the fall and again in the spring, with enrollment adjustments or fines if traffic levels exceed the baseline. Traffic monitoring results will be available to Branson during monitoring periods so that it can alter traffic patterns if necessary; this should ensure that enrollment adjustments and fines are never needed.

Branson and the Town had similar approaches to ensure that Branson's promise of net neutral traffic was achieved; the Town's conditions were more robust. Both proposed conditions that would slow the initial addition of 100 students if traffic increased, and both proposed conditions that would include enrollment rollbacks (and fines in Branson's proposal) if traffic increased after enrollment reached 420. The approved conditions should result in net neutral traffic while ensuring that Branson remains a vital member of the Ross community.

The Council now turns its attention to another topic of broad community interest: how Ross, a town of 800 homes, can meet the state's requirement to add an additional 111 housing units by 2031. These discussions begin tonight.

6. Council Committee & Liaison Reports

Council Member McMillan reported the Climate Action Committee met last Monday, and she announced that Ross has the highest number of registered electric vehicles in the entire county at 11%.

She also reported that the Marin Wildfire Prevention Authority is hosting a meeting on the Greater Ross Valley fuel break, a 38-mile long fuel break that will run from Corte Madera, Larkspur, Kentfield, Ross, San Anselmo and end in Fairfax. The break is between 200 and 300 feet in width and it will be primarily cleared by hand. She has asked Mark Brown, Executive Officer, to attend one of the Council's upcoming meetings for him to present the mapping of the fuel break.

7. Staff & Community Reports

a. Town Manager

Town Manager Christa Johnson reported that on February 25th the entire field on the Ross Common was opened up after its winter repair. Ross Valley Little League has begun their season and the Ross Recreation Summer Camps are live for registration.

There are parts of the Common and Redwood Drive closed off during the week of April 4-8 to clean and recondition the three irrigation wells that provide water for the playing fields. The wells were videoed and evaluated last year by the Town Engineer and were found to be in need of

extensive cleaning. This will greatly improve the wells' production and reduce the need to purchase water from MMWD over the summer months.

Traffic enforcement campaigns are in full swing to help calm speeding and stop sign violations in town. These campaigns are based upon the community's requests. Town Police Officers are educating drivers to change driver behaviors.

She reminded everyone to move their clocks forward an hour this Sunday for Daylight Savings Time which begins at 2:00 a.m.

The Town Council Strategic Planning Workshop will be held via Zoom this Tuesday, March 15th starting at 9:00 a.m. The agenda will be published tomorrow and the first hour of the workshop will be dedicated to receiving an orientation for the Housing Element update process.

Police Chief Pata has been interviewed extensively in an episode of "On the Case" with Paula Zahn. The episode will air this Sunday, March 13th at 7:00 p.m. on Cable ID network and on Amazon Prime.

- b. Ross Property Owners Association – No report.**

8. Consent Agenda.

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

- a. Demands.**
- b. Town Council consideration of adoption of Resolution No. 2241 Assembly Bill 361 Immediately Amends Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**
- c. Town Council approval of a One-Year Pilot Program for Intermittent Community use of Ross School Exterior Restrooms.**

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 and c. Motion carried unanimously (5-0).

End of Consent Agenda.

Administrative Agenda

- 9. Town Council consideration to authorize the Town Manager to execute the Third Amendment to the Ross Valley Fire Department Joint Powers Agreement.**

Jason Weber, Fire Chief, gave a presentation regarding the third amendment to the Ross Valley JPA. He spoke about the community engagement process regarding replacement of the Civic Center facilities, including the Fire Station, cost challenges and how to bring down costs, the process involved with several community meetings and surveys, and ultimately the Council's direction for staff to work with the Fire Board to look at alternative options for fire services that would alleviate a \$14 million cost for the station's replacement.

Chief Weber said they worked with the Fire Board and other JPA member agencies, ultimately narrowing a pool of recommendations down to what is before the Council this evening. The proposal includes the closure of the Ross Fire Station, some one-time costs borne by the Town of Fairfax for remodeling, sharing of facility maintenance costs with San Anselmo, associated service level changes, movement of personnel and the capital assets piece. The respective legal counsels have reviewed the JPA and documents, as well as Town Managers, himself, Fairfax, Sleepy Hollow and San Anselmo.

Council Member McMillan commented that they tried to privately fundraise for the fire station which was not a viable option.

Mayor Robbins asked and confirmed with Chief Weber that the maintenance cost has to do with the Town of Ross paying for maintenance of the San Anselmo station, where San Anselmo pays 73% and Ross pays 27% of associated costs.

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

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Council Member Kircher seconded, to execute the Third Amendment to the Ross Valley Fire Department Joint Powers Agreement. Motion carried unanimously (5-0).

- 10. Town Council consideration of adoption of Resolution No. 2242 calling a Municipal Election to be held in its jurisdiction on June 7, 2022 for the purpose of submitting to the Voters a Measure authorizing the continuation of a Special Tax for Paramedic Services; requesting the Marin County Board of Supervisors to consolidate with the General Election conducted on that date; and requesting election services of the County Elections Department; and Town Council discussion of proposed ballot argument.**

Jason Weber, Fire Chief, gave a presentation and background of the parcel tax which has been in place for some time, sharing of paramedic costs between the 8 members of the greater Ross Valley with the ambulance hosted in Ross, and his recommendation for continuation of the tax for an additional 4 years. He noted that because there was a need from multiple communities to try and put this on the June ballot versus the November ballot, the recommendation is to leave it at the 4 year mark.

He also described the excellent financial condition of the JPA which has no unfunded liabilities or OPEB liability. The property tax raises about 2/3 of the funding for the ambulance. The other 1/3 comes from revenues associated with billing insurance companies for the transport. Residents are not billed for the transport because of this tax. The first year would be \$94.50, increasing by \$3 for a total of \$103 for FY 2026/27.

Council Member McMillan asked and confirmed that the parcel tax approval rating from the last election was in the 80th percentile in Ross, it has never been a challenge to make the 2/3 threshold historically, with no need for campaigning.

Council Member McMillan referred to ADUs and she asked if owners of them pay a separate parcel tax for paramedics.

Chief Weber said the paramedic tax is based on a living unit where service comes from and not necessarily the parcels. It is assessed at a single living unit or 1500 square feet of non-residential property which would be commercial property. They believe if the ADU is considered separately through the Assessor/Recorder's Office. It may be taxed as an additional living unit unless it was considered exempt, so it depends on how it is registered through the Assessor/Recorder's Office. Some ADUs are separate buildings and living units and others are consolidated within the main home. Therefore, if any constituents have questions he agreed to work with them on specific parcel(s).

Council Member McMillan asked if this is spelled out on property tax bills, and Chief Weber said he did not believe many of them are.

Mayor Robbins asked if there ever has been any thought to making this an 8 year tax. Chief Weber said if they were to go out for a November ballot, he thinks they would have had more time to work through the longer financial strategy. But, because they have bumped it up to additional members to June, they did not have time to analyze what they would need and adjust. He noted that the 4 years allows them some flexibility but since this is his third run doing it, he suggested going for an 8 or 9 year timeframe for the next time.

Mayor Robbins stated the Town switched its parcel tax for police from 4 years to 8 years and it passed with about 79% of the voters, so she thinks this could be proposed for the next extension.

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 adopt Resolution No. 2242 calling a Municipal Election to be held in its jurisdiction on June 7, 2022 for the purpose of submitting to the Voters a Measure authorizing the continuation of a Special Tax for Paramedic Services; requesting the Marin County Board of Supervisors to consolidate with the

General Election conducted on that date; and requesting election services of the County Elections Department. Motion carried unanimously (5-0).

Mayor Robbins asked if the Council had any questions about the wording of the ballot argument, and there were none. She then asked how the Council decides on who should sign the ballot argument.

Town Clerk Lopez stated that in years' past, all 5 Council Members signed it. Alternatively, the Council can decide if they want one or more community members sign it, as well.

Mayor Pro Tem Kuhl said he thinks they should have at least 2 members of the public sign it and Council Member Brekhus agreed.

Mayor Robbins said they could vote tonight to indicate all 5 Council Members sign it and confirmed with Mr. Stock it could return as an amendment.

Council Member Brekhus said she thinks it would be nice to have the Mayor and Mayor Pro Tem sign the argument and then consider selecting others such as a school board member, past Mayors, etc. for broader appeal. Council Member Kircher agreed.

Council Member McMillan recommended Council Members email the Mayor their choice(s) for other community signers.

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

Town Clerk Lopez stated next week she will need to obtain signatures from those on the ballot argument to meet the deadline and everyone will need to sign in person.

Mayor Pro Tem Kuhl moved and Council Member Brekhus seconded, to accept the ballot argument and have it signed by the Mayor, Mayor Pro Tem and three citizens of Ross, selected by the Mayor. Motion carried unanimously (5-0).

11. Town Council approval of Consultant Services Agreement for preparation of the 2023-2031 Town of Ross Housing Element Update and Budget adjustments recommended as a result of this Agreement.

David Woltering, Interim Planning and Building Director, gave a PowerPoint presentation regarding approval of a Consultant Services Agreement for preparation of the 6th Cycle Housing Element update, covering the period 2023 to 2031. The update also includes an update of the Safety Element of the Town's General Plan and a focused EIR. This is a significant work effort, and the State has given municipalities until January 31, 2023, to complete this work, with a 120-day grace period thereafter. It is anticipated that this project would be completed by April 15, 2023, within the allowed timeline.

Staff is recommending hiring a consultant to undertake this work, given its complexity, the required timeline, and the more difficult and stringent process by the State to meet housing needs with this Sixth Cycle. The consultant and staff will need to perform an analysis of housing opportunity sites to ensure they meet size requirements, do not have environmental constraints that would impede achieving the number of units anticipated, and to make sure, overall, the number of units suggested could be achieved on the sites identified to satisfy the Regional Housing Needs Allocation (RHNA) of 111 units assigned to the Town of Ross. It will also be important that the Housing Element has policies that facilitate the equitable disbursement of affordable housing throughout the community in support of affirmatively furthering fair housing.

The State is also requiring that before the Housing Element goes to HCD for its review, there be a 30-day local review, so residents have an opportunity to comment on the draft, and those comments are then forwarded to HCD.

Staff's recommendation is that the Town Council move forward with approval of a Consultant Services Agreement with the firm of Dyett & Bhatia Urban and Regional Planners from Oakland who has significant experience. To assure there is funding for the project, which will total \$356,815, the Council is also asked to approve adjustments to the budget to transfer funds from the General Plan Update fund to support funding of the project.

Mr. Woltering then provided a brief overview of the Housing Element and its purpose. He continued by stating that the Town's RHNA assignment of 111 new housing units represents a significant increase. For example, the Town of Ross was assigned a RHNA of 18 units for the prior, Fifth Cycle. Likewise, other communities throughout the State are experiencing significant assignment increases. Mr. Woltering stated possible measures to facilitate achieving the assignment of 111 new housing units during the eight-year Sixth Cycle include rezoning of properties; relaxing development standards; allowing higher densities; and/or some combination of incentives, waivers, and concessions.

Mr. Woltering then described the consultant selection process and said the distributed Request for Proposals (RFP) resulted in receipt of three proposals. Dyett & Bhatia is being recommended by staff for ranking very high in all evaluation criteria categories, the firm's understanding of the need to develop an approach that facilitates developing more housing units in the community while preserving the valued community character, the firm's understanding of the likely need to prepare a focused environmental impact report (EIR) for the project, and the very positive references from city clients who were likewise preparing similar Housing Element Updates.

The Director then described the phasing plan for preparing the Housing Element Update, the target date of April 15, 2023, for completion, the kickoff and phasing events, and the substantial public outreach proposed by Dyett and Bhatia overall for the project. After the initial kickoff associated with Phase 1, Phase 2 will be drafting the plan, research, and analysis, informing citizens of legal requirements, and receipt of information to prepare the document. Phase 3 is public review, soliciting feedback and response to comments, and Phase 4 is finalization and adoption.

Throughout the process, there will be opportunities to inform, receive feedback, and engage Ross citizens about the legal requirements associated with this project and the Town's approach to meeting the RHNA challenge of creating 111 new housing units over the next 8-year period. The budget is \$356,815, with some additional optional tasks such as rezoning of properties, as may be needed, and adopting a local SB 9 ordinance to allow lot splits ministerially (staff level) of single-family properties under certain circumstances, a State mandate. In conclusion, Mr. Woltering indicated that he, Ross Planner Matthew Weintraub, and Mr. Andrew Hill, Project Manager, of Dyett & Bhatia are available to answer any questions.

Council Member Brekhus asked if Dyett & Bhatia has worked with a small town like Ross which has difficulty in achieving infill development and whether the Town could financially incentivize the development of ADUs.

Mr. Woltering said incentivizing the development of ADUs is something the consultant and staff team will be looking at. ADUs have been identified in the Consultant's proposal as one way of meeting the housing needs.

Andrew Hill, Dyett & Bhatia, said his firm has worked in several small, built-out communities that value community character, including the cities of St. Helena, Pleasanton, Half Moon Bay, and others and he referenced a map on Page 7 of the firm's proposal that depicts these communities where the firm has done General Plan and Housing Element work. Regarding relying on ADUs, this will be a big part of the strategy for this project, he said. Mr. Hill indicated, however, that he is not aware of any other community that has relied largely on ADUs for satisfying RHNA, but Ross is not a typical community and will not require a typical solution. The team will have to consider specific factors and come up with strategies, while respecting elements of community character, to facilitate achieving the assigned RHNA numbers.

Council Member McMillan asked if there is a way to purchase housing unit credits from another nearby city. Mr. Hill said in San Mateo County, where jurisdictions undertake a coordinated effort together, the State has allowed for built-out jurisdictions to make a payment and receive credit for units. Whether or not this concept would work in the Town of Ross remains to be seen. He thinks they could research to see if this is possible.

Council Member McMillan asked and confirmed with Mr. Hill that the EIR can be completed by April 15, 2023, by adhering to defined timeframes accounted for in the schedule and include the 30-day public review period.

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

Mayor Robbins asked for a motion.

Council Member Brekhus moved and Council Member Kircher seconded, to approve the Consultant Services Agreement for preparation of the 2023-2031 Town of Ross Housing Element Update and Budget adjustments recommended as a result of this Agreement. Motion carried unanimously (5-0).

12. Town Manager COVID update and Council discussion on potential for returning to in-person meetings. (Johnson, 15 minutes)

Christa Johnson, Town Manager, said she received an update on some of what neighboring cities are doing as their Councils consider how and when to bring back in-person Council meetings, as follows:

- Novato will have in-person meetings in a hybrid option starting April 12th where the public can Zoom in and also come in-person to the Chambers. San Rafael will do the same starting April 18th.
- Larkspur is also doing the hybrid on April 6th. They are able to reduce the seating capacity in their Chambers because of movable chairs and will spread out seats. Their staff and consultants will be allowed to participate via Zoom.
- Fairfax is starting on April 6th with a hybrid format; however, they are holding off on allowing the public to physically enter their Chambers for the first meeting and assess this thereafter.
- Marin County does not have guidelines specific to Council meetings.

She said most Councils are meeting in person, although if a Councilmember prefers to participate with Zoom, they can and take a slower approach without the public necessarily able to participate in person until later on.

Council Member McMillan asked if the Chambers have the capability to have hybrid public/in-person Council meetings. Ms. Lopez said yes, they set this up last summer thinking they were returning but it did not happen. They have not tested it so it will be a learning experience.

Mayor Pro Tem Kuhl proposed that starting with the April meeting it would be appropriate for the Council to have a hybrid process by which the members of the Council and/or the public can attend in person if they wish and also have Zoom capabilities so members of the Council or public can also participate in that manner.

Ms. Johnson asked the Town Clerk to comment on the ability with Zoom and what the Council can expect. Ms. Lopez explained they are only set up to hear audio but no video.

Ms. Johnson confirmed this would also apply to Council Members, and Ms. Lopez also confirmed and described how members of the public would be able to see everything from home, including presentations via Zoom.

Mayor Robbins asked if a Council Member could see a public member as they were speaking if they had a laptop at the dais. Ms. Lopez said she believes there would be feedback with two computers in the same meeting on Zoom.

Ben Stock, Town Attorney, said if a Council Member Zoomed in for the meeting they would have to follow the old Brown Act rules where they would have to provide notice of the meeting at their home or wherever they are and provide access to the public.

Council Member discussion ensued regarding Council Member Brekhus's desire to return to in-person meetings but concerns of potential added exposure from her three children to Council Members or the public, Councilmembers getting COVID, whether or not to require masks at meetings, the desire to wait a month or two to confirm there is not another variant or surge, limits on the number of people in the Chambers, the desire to return to in-person meetings with the thinking they are more effective, fairness of being able to see some applicants and not others, examples of bad behaviors while holding Zoom meetings, the Brown Act which allowed Council Members to call in, items on the agenda which attract crowds, Mill Valley's example of meeting since July or August without a problem, the level of discourse and frustration among public members, a suggestion for a screen in the Chambers for display of Council Members and/or the public, the need to contact the Community Media Center to set this up, a hybrid format for larger crowds, given space constraints in the Chambers, the need in some communities for police and staff presence to enforce the rules, Mr. Stock's offer to develop a policy, the preference not to have to wear masks for 3 to 4 hours, and the Council favoring going back to in-person meetings without masks.

Mr. Stock said it sounds like there is consensus to go back in April and to have masks be optional. The one part they have not heard about is whether there is consensus to offer Zoom or not.

Mayor Robbins and Council Members voiced support to continue to also use Zoom because the Town is set up for it and can also be used when the public or Council Members are ill, which then led to discussion regarding proper noticing of meetings and adding the teleconference location, which Mr. Stock agreed to research in development of a policy.

Mayor Robbins opened the public comment period, and there were no speakers. She confirmed staff had direction.

End of Administrative Agenda.

Public Hearings on Planning Projects

13. 58 Shady Lane, Design Review, Exception to Accessory Dwelling Unit and Variance, and Town Council consideration of adoption of Resolution No. 2243.

Robert and Madeline Wiginton, 58 Shady Lane, A.P. No. 073-161-05, Zoning: R-1: B-20, General Plan: L (Low Density), Flood Zone: AE (Area subject to inundation by 1-percent-annual chance flood event).

Project Summary: The applicant is requesting approval of Design Review to make alterations and additions at the back of the existing single-family residence. Exception to Accessory Dwelling Unit (ADU) Permit is requested to allow for the amount of area converted to an accessory dwelling unit to transfer as an allowance for a new addition. Variance is requested to allow for new construction which is nonconforming with respect to zoning district standards for side yard setbacks and building coverage.

Recusal: Mayor Robbins recused herself from participating in item 13 because she lives within 500 feet of the property.

Matthew Weintraub, Planner, gave the staff report and overview of the request for design review, exception to an ADU, and variance for 58 Shady Lane.

The ADR group reviewed the project on January 18th and also a previous design at which time they recommended some revisions and resubmittal which included simplifying and minimizing the design of the second story addition. The applicant accomplished that and by doing so, they reduced the size of the addition by 93 square feet and simplified the roofline which is the project before the Council.

At the second review there was a split vote, which Mr. Weintraub described. Four members felt the design was complementary to the building and two members disagreed with the concept and principle of transferring floor area from the ADU at the first story to an addition to the second story and their preference to see a detached ADU configuration. They also made comments that the project as proposed met the minimum design review standards for architecture, design and bulk and mass. The ADR group also commented that there was a proposed rear deck that would have extended off the back of the building and there was some objections to its size, and this deck has been removed from the project so the only addition is at the second story.

Staff recommends that the findings can be made for design review, the ADU permit, and for the variance, which Mr. Weintraub described as outlined in the staff report. Letters of support were received and submitted by a number of property owners, as were letters from the owners of 56 and 60 Shady Lane which are on either side of the project. Staff recommends adoption of Resolution No. 243 approving the design review, exception to the ADU permit and the variance for the project.

Jared Polsky, Architect, thanked staff for a thorough staff report and presentation, noted neighbors on both sides are in support, and voiced appreciation of the ADR group's recommendations to clarify the rear addition which matches the design of the front of the house.

Mayor Pro Tem Kuhl opened the public comment period.

Madeline Wiginton, applicant, said she and her husband Bobby are appreciative of the Council's time and they look forward to moving to Ross.

M. Bruce said he thinks the project looks great and should be approved.

Council Members Brekhus and McMillan voiced support of the project, noted there are similar projects in Town, and in light of State law, the Council needs to be supportive of people developing ADUs.

Mayor Pro Tem Kuhl asked for a motion.

Council Member Brekhus moved and Council Member McMillan seconded, to adopt Resolution No. 2243 approving Design Review and Variance at 58 Shady Lane. Motion carried by a vote of (4-0-1; Mayor Robbins recused).

End of Public Hearings on Planning Projects.

Rejoined Meeting: Mayor Robbins resumed her seat at videoconference.

14. No Action Items: (Mayor, 5 minutes)

- a. Council correspondence** – Mayor Robbins stated Doug Ryan has been corresponding with Flood District staff regarding concerns about mitigation for his home which is likely to flood if upstream projects are done.

Council Member Brekhus commented that she supports Mr. Ryan and thinks potential flooding is an open question.

- b. Future Council items** - Council Member McMillan stated Mark Brown from MWPA, will speak to the Council regarding the Ross Valley Shaded Fuel Break.

15. Adjournment.

Mayor Robbins adjourned the meeting at 7:54 p.m.

Elizabeth Robbins, Mayor

ATTEST:

Linda Lopez, Town Clerk