

**REGULAR MEETING of the ROSS TOWN COUNCIL**  
**THURSDAY, OCTOBER 13, 2022**  
*Held In-Person and Teleconference*

**1. 6:00 p.m. Commencement.**

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

**2. Posting of agenda.**

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

**3. Open time for Public Expression**

Barbara Call, Redwood Drive, cited the Housing Element process as contentious, opposed to new low income housing in the downtown, said the Council had promised it would preserve and protect the Town's small town charm, its historic nature, and putting low and very low income units in downtown Ross would destroy it. She asked that the Town consider environmental constraints and impacts of tree removal, reduced parking, noise, additional traffic, and flooding, and asked to remove the downtown sites from the sites inventory mapping.

**4. Mayor's Report.**

Here's a layperson's quick look at the status of what is of interest to us in Ross regarding flood control. There are three separate projects which could affect Ross residents. The first is the San Anselmo Flood Risk Reduction Project. Study has shown that what San Anselmo is planning to do will increase flood risk during a 100 year storm to about eight Ross properties and twelve San Anselmo properties but will decrease flood risk to about 480 properties in the Ross Valley including about 70 properties in Ross. Federal Emergency Management Agency regulations require that such projects provide mitigation from such effects, sometimes by providing funding to raise residents' homes above increased flood levels. This is a very expensive process and no such funds are currently available.

The second program of interest is Ross's own Corte Madera Creek Flood Risk Management Project. This program was being developed by the Marin County Flood Control and Water Conservation District and the Army Corps of Engineers, but ultimately the Corps of Engineers withdrew from participation in planning and construction of the project, thereby eliminating previously proposed flood diversion tunnels to provide 100 year protection in the creek area alongside Sylvan Lane by carrying flood water around the area. This leaves Ross basically with plans to remove the fish ladder and rework the creek bed as necessitated by the removal. As planning moves along, the County will be coming to the Town for permits for the portions of the construction which will occur on property owned by the Town.

The third project affecting us is one that Ross alone is doing, the replacement of the Winship Avenue bridge. That structure has reached the end of its useful life and the opening under it does not allow a sufficient flow of water to pass under it, causing backups when there is substantial water flow in heavy rain.

Right now, full funding is only available for the fish ladder project. The State is expected to come up with funds for the San Anselmo Flood Risk Reduction project. The Winship Avenue bridge project is expected to be funded from federal grants administered through Caltrans. It is likely to be at least several years before construction begins, but we will continue to seek means to speed up the process.

If weather permits, I will continue to be available for questions and comment on the steps of the post office from about 10:30 to 12:30 on the day of Council meetings. Please stop by and say hello.

## **5. Council Committee & Liaison Reports.**

Council Member McMillan reported she and staff attended a Safe Routes to Schools Task Force kick-off meeting on October 3<sup>rd</sup>. The lion's share of the work will be done by Marin Transit Authority and Ross School. She also attended a field trip at the base of Upper Toyon on the San Rafael side to look at a shaded fuel break that has been created with funds from the San Rafael Fire Department and the Marin Wildfire Prevention Authority, who removed tons of French Broom and Bay, trimming trees, making the area much safer.

Council Member Robbins said a small group has been working to buy the 60-acre Bald Hill property which went on the market. She announced all agreements are in place and signed, the County has agreed to accept Bald Hill through Marin Open Space Trust, and the property will be retained as open space in perpetuity.

## **6. Staff & Community Reports.**

### **a. Town Manager**

Town Manager Johnson stated the Public Works Department typically closes the Ross Common playing field for about 3 months from December 20<sup>th</sup> through mid-March before baseball season begins. The field has responded very well over the summer thanks to the rehabilitation of the irrigation wells done last April and continuation of turf management best practices, and Public Works staff is considering leaving a portion of the playing field open this winter and will make a final decision in December.

The Draft Housing Element will be published on October 18<sup>th</sup> for a required 30-day review by the public. Staff is working with Dyett and Bhatia and a community-wide mailer and publication will be sent out October 24<sup>th</sup>, and a second community meeting will be held to gather comments on November 7<sup>th</sup> at 5:00 p.m. at Ross School. The Draft Element will then be reviewed at the Council's December 8<sup>th</sup> meeting with the goal of sending the document to HCD on December 16<sup>th</sup>. HCD has 90 days to review the draft and during this time, Dyett and Bhatia will work on developing a focused EIR and update to the Town's Safety Element. Staff anticipates the Council will consider final adoption of the Housing Element, the EIR, and the Safety Element at its May 2023 meeting.

Ms. Johnson then reported on her first attendance at the Town Dinner event held on September 30<sup>th</sup> which was very special. She reported 350 people had registered for the event and staff received lots of positive feedback from attendees. She thanked Gretchen Castets and Jeneane Wagner in Ross Recreation and Anthony Alcozer in the Public Works Department for putting in many hours to create the event.

Another Live on the Common event is scheduled for this Friday evening, planned by RPOA and the Ross Auxiliary, with assistance from the Town as a co-sponsor. Lastly, she is looking forward to experiencing Halloween in Ross. Ross Police Officers will start closing Shady Lane at about 5:00 p.m. and eventually the street will be closed from Lagunitas to Fernhill.

**b. Ross Property Owners Association**

Matthew Salter, RPOA, thanked the Town for co-sponsoring the Live on the Common event, said they have been busy with enclosures of port-a-potties around town, are planning for a two-day Ice Skating Rink Winterfest event, are busy with the Age-Friendly Task Force and scheduling breakfasts to discuss community support topics, and hope to partner with the Town on beautification of Kittle Park.

**c. Yes on Measure C Committee**

Amy Lewis, 40 Madrona, Co-Chair of Yes on Measure C Campaign to renew Ross School's funding, gave a slide show presentation and read into the record the names of Committee members. She described the importance of Measure C on the November ballot which represents \$1,550 per parcel which is a 3% annual adjustment for 10 years, with an exemption for those over 65 years old. She then displayed an overview of what the \$1 million in tax revenues represents for the District, 100% of which goes to Ross School. She asked everyone to visit [www.VoteYesonc.org](http://www.VoteYesonc.org) and stated they sent a mailer out today with the names of their supporters.

Kelly Dwinells, Co-Chair of Yes on Measure C Committee, said the biggest hurdle they face as a community and campaign is less about garnering support but rather ensuring voter turnout. Postcard mailings create awareness of the measure, its importance, and educate people on why they need more funding. They held their first information session last week with two more coming up on October 18<sup>th</sup> and November 2<sup>nd</sup> and said every vote counts. They will be at the Post Office sharing information with local publications and have attended a breakfast for Age-Friendly Ross.

Council Member McMillan thanked Ms. Lewis and Ms. Dwinells for doing a wonderful job running this campaign. She has not heard any opposition for Measure C and confirmed with co-chairs there has not been any opposition, no rebuttal argument in election materials, and no negative comments or complaints.

Mayor Pro Tem Brekhus said it is a shame there is not a voting site in Ross.

Town Clerk Lopez said the Elections Department decides that and it is based upon population. Now that the Voter's Choice Act is in place it will be regional voting centers moving forward, and none are scheduled to be located in Ross. She also confirmed there is an article in the Morning After about this.

**7. Consent Agenda.**

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

**a. Minutes: 9/8/22.**

**b. Demands.**

**c. Town Council consideration of adoption of Resolution No. 2272 Assembly Bill 361 Amending Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**

**d. Town Council consideration of adoption of Resolution No. 2273 Approving the Grant Agreement with Marin County Parks for Parks Measure A Grant Funds and authorizing the Town Manager to execute the agreement.**

**Mayor Pro Tem Brekhus moved and Council Member McMillan seconded, to approve Consent Calendar Items a, b, c, and d. Motion carried unanimously (5-0).**

**End of Consent Agenda.**

**Administrative Agenda.****8. Town Council consideration/direction of a Recreation Department After School Extended Childcare Program and Budget Adjustment.**

Gretchen Castets, Recreation Manager, gave a PowerPoint presentation regarding consideration and direction of an after school extended childcare program and budget adjustment. Staff recommends the Council review the information on the costs and logistics of resuming Kid's Club, the extended care program, provide direction to the Town Manager on how to proceed including the additional appropriation of funds if necessary, and discuss the pilot program running from January 2023 to June 2023 which will be 20 academic weeks. If the Council directs the establishment of the pilot program, staff recommends the Council amend the current FY budget Account No. 6192-95; for Recreation Leaders and Instructors from \$120,000 to \$153,000 to pay for increased costs associated with running the pilot program.

Ms. Castets then provided background on the Kid's Club, previous specialized enrichment programs and youth sports, enrollment prior to COVID of 20-30 daily students, two part-time program employees that ran the program along with office staff which coordinated registration, invoicing, and marketing.

She described reductions in attendance prior to and after COVID when in-person learning resumed, analysis conducted, and findings to run the Kid's Club which would cost \$2,500 per week to run the program set for \$12/hour per child. To cover that cost there needs to be an equivalent of 13 kindergarteners (3 hours) each weekday or 15, 1<sup>st</sup> to 5<sup>th</sup> graders (2 hours). Ross School staff receives a 20% discount so any of their children attending the program would lower the revenue brought in.

The estimated maximum subsidy cost for the program is \$33,000 which assumes that 4 children registered per day which is a worst case scenario. This would eliminate the Ross Recreation classroom for use of specialized enrichment programs, which she described.

She and the Superintendent have also explored the ability to utilize other classrooms at the time of dismissal within the school, as the school has access to 4 additional classrooms after 3:30 p.m. in addition to the Ross Recreation room. Options include:

1. Explore keeping things status quo where classes are offered at the time of dismissal, cover the same timeframe, and have Ross Recreation staff assist the children from the classroom to their programs; and
2. The Council to direct staff to re-establish the Kid's Club Pilot Program for 20 academic weeks, obtain a \$100 non-refundable pledge/deposit as soon as possible from K-8 families with a deadline of October 28th. Staff would start the hiring process immediately and would report back on how the program is going. Registration would open October 31<sup>st</sup> or November 1<sup>st</sup> once pledges are received and put all marketing efforts into action. The start date is contingent on the successful hiring of two part-time employees.

Mayor Pro Tem Brekhus said she was involved when the program began in 2013 and they did not consider the rent, cost, or custodial. It is the Town's building and space and she asked if additional custodial services would be proposed.

Ms. Castets said office staff is currently doing the custodial work themselves because of the limited number of enrichment programs. If they were to have a 5 day program the Town would need to outsource custodial services. In the past, a school custodian independent contractor was used, but he is no longer interested.

Mayor Pro Tem Brekhus questioned why it has been called a Pilot Program and she described potential problems that might occur as a result. Ms. Castets stated this program would not run in the summer months and workers would be hired as part-time recreation instructors. The department is often able to utilize those same people in summer camps so there are ways to be flexible to allow them to work through the summer.

Mayor Pro Tem Brekhus said the program used to go to 6:00 p.m. She asked and confirmed the program went from 2:00 to 5:00 p.m. last year, but they had very few kids between 4:00 and 5:00 p.m. However, it could extend to 6:00 p.m. if things change.

Mayor Pro Tem Brekhus asked where the programs were held when they offered the same program. Ms. Castets stated they have more enrichment programs now that would be run better indoors right now. They have had access to the Green Room on campus and the conference room, but the real issue will be at dismissal time. Teachers are contracted to a certain time so it might be hard to get into their classrooms because they are working or prepping. The Superintendent wants to make it work and it is just a matter of how to do it without disrupting teachers.

Mayor Pro Tem Brekhus said when she was on the Ross Recreation Committee they thought the after care program really helped the Enrichment Program. People would drop their kids for an hour and then sign up for another program so kids could seamlessly go from one to the next.

Ms. Castets said if the Kid's Club is happening at dismissal time it might not be as essential to have their enrichment classes also right at dismissal time. However, some parents might not want to sign up for Kid's Club and would like their kids to go directly to an enrichment program, so this is something to be worked out.

Mayor Pro Tem Brekhus asked if any of the classrooms were being used under the MOU agreement. Ms. Castets said they have in the past, but during COVID they were not allowed to. The process for the janitors everyday was very intense with cleaning classrooms so thoroughly. They used a conference room last year for their Chess class which worked but they have used classrooms more in the summer when they have had camps.

Council Member McMillan said the worst case scenario is the subsidy would be \$33,000 for the 20-week period. If they did it for an entire year they would take out summer so the subsidy would be about \$20,000 to \$25,000.

Council Member McMillan asked how much excess revenue does Ross Rec generate that contributes to the Town.

Town Manager Johnson said it is not as simple as saying they had more revenue than expenses because it is what costs are being allocated. Staff has not yet done a full cost recovery analysis. She thinks the Town has better cost recovery because they do not have large facility costs which most cities have, such as senior centers, community centers, and aquatics facilities. The rent and utility costs with the School District are modest and there is no senior programming. It is not as simple as looking at revenue and expenses, and staff can determine this in the coming year.

Ms. Castets said recreation can change a lot year to year and it is impossible to guarantee a certain number or surplus. Either the goal is to break even or departments are often subsidized by the Town. This last year was one of the first years where they have had a surplus because they had cut back so much on expenses due to COVID.

Ms. Johnson added that staffing levels had also decreased and are still below normal because of COVID.

Council Member McMillan said she would be interested in receiving more information to understand how much of a surplus Ross Rec is being generated. She suggested going back before COVID three or four years and then making general projections to determine how much potential surplus there would be going forward to determine the sweet spot for the number of kids. She would be more comfortable if funds to subsidize were being generated by Ross Rec instead of the Town.

Mayor Kuhl said no matter how much they go back and study it will still be difficult to predict to get solid figures. Ms. Castets agreed, especially because there is so much change occurring coming out of the COVID era.

Council Member Robbins asked and confirmed that Kid's Club starts right after school and they have not confirmed the school can provide another classroom like the kindergarten classroom, noting there are about 54 children in enrichment programs.

Ms. Castets said they did approach this with the Superintendent and his concern is that those teachers are still contracted to a certain time and he was not sure this would be possible but would continue with this request.

Mayor Kuhl opened the public comment period.

Billie Buck, 83 Bolinas Avenue, said she has 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> graders at the Ross School. When her kids were little they had child care at home and she worked from home. The program was something her kids still beg to do and even though they had other options most days, it was an opportunity for all kids to be together and enjoy each other. It was important to her family even though she was not in the camp of "needing it," thinks with the right environment there and teachers or providers and real momentum from the school, they can work together to make it special.

She also would love to see it not just be K-8 but incorporate some of the older kids as part of their volunteer hours to work together with the younger kids and loop everyone together so the momentum of leadership is brought together. It is more of a community "peach pit" and she would love to see it go in that direction.

Elena Batalla, 18 Sylvan, said one thing not mentioned is the advisory committee made of parents who have and can give support and guidance. Not everyone involved in the decision has kids or sends them to the program now, and she knows parents who are interested in being part of the advisory committee.

Adrienne Liggett, 10 Madrona, said this is a very important issue as far as diversity, equity, and inclusion. She noted David Allen Hughes at the Ross Preschool indicated this is a program he is willing to take over, and she cited the many synergies with pre-school teachers getting out at 1:00 p.m. and the many fun things they do with afterschool programming at the school which could be brought to the Ross School. He has a background of running a great preschool in town, has run summer camp programs, and she asked the Council to explore this option.

Mayor Kuhl closed the public comment period, and asked for Council comments.

Mayor Pro Tem Brekhus said she is supportive of this program for the community in terms of supporting parents, working families, and providing this kind of space, thinks it was probably very lucrative at the time before COVID, voiced concern with calling it a pilot program because of the need to hire people, for the temporary-ness of the name, and thinks the Town could always continue it or discontinue if needed.

She also did not support asking people to pay a non-refundable \$100 deposit, and thinks the program will be great again, and supports changes if the pay or hours are increased to work with some other enrichment program. She then spoke about being on the advisory committee which was disbanded, and believes feedback can be received from staff on programming.

Council Member Robbins said she values the idea of aftercare, thinks Ross Rec did a great job running programs that could fill in the gap of not having Kid's Club, voiced support of starting again if there is interest from more than 4 students, and supports staff working with the Superintendent to send out emails asking for the \$100 pledge for beginning in January. She did not mind calling it a pilot program, cited the need for part-time jobs noting there are summer opportunities as well, thinks the Town should pay a subsidy no matter what happens, and liked the suggestion for preschool teachers to work for the Kid's Club.

Council Member McMillan said she thinks the Council needs more information, suggested getting more definitive answers from Superintendent Rice about alternative space, feels more comfortable moving forward with the pledge process, asked for more information about the surplus revenue that Ross Rec generates pre-COVID, during COVID, and post COVID, whether Ross Rec is generating \$100,000 or is anticipated to be subsidizing programs into the future. She is unsure as to whether staff needs feedback from the advisory committee and summarized her desire to have more information on space, number of sign-ups, and finances.

Council Member Robbins said she would like to see both the afterschool enrichment programs and Kid's Club, cited Ross School's change in schedule of classes for 4 ½ days a week from 5 days a week and childcare issues, and thinks the school should work on this.

Council Member Kircher voiced support for the Kid's Club, hopes to get a better understanding of why people choose it or not choose it and why the dramatic drop in registration, long-term trends, agrees with Council Member McMillan that it would be nice to have more information, is willing to take the risk to subsidize to some degree, and voiced concern with timing of not moving forward to be ready in January.

Mayor Kuhl said he is in favor of this program with conditions. He thinks the Council should set a minimum number of kids where parents are willing to pay \$100. A decision needs to be made quickly to get the program started, and he suggested a motion with conditions. He voiced support with setting a limit to move forward, and request future information from staff on costs.

Council discussion ensued regarding setting the minimum number as 10, the need for an extra classroom for the first hour, commitment of the \$100 pledge which would go towards registration cost, and the deadline of October 28<sup>th</sup> and immediate hiring process.

Ms. Johnson said staff believes the cost would be a \$14,000 subsidy if there were 10 kids for the pilot program. She suggested the Council provide direction on establishment of the pilot program, and amend the FY budget from \$120,000 to \$153,000 to pay for the increased costs, contingent upon the pledge and deposit of an average of 10 kids per day.



Mayor Pro Tem Brekhus asked and confirmed with Ms. Castets that by October 28<sup>th</sup> staff would ask the Superintendent's office to send out the email to the entire K-8 to let them know there will be something on the Town's website set up where parents can pay for the \$100 deposit and hold a space for their child or children. If the class is not run the deposit would be refunded. She said she very much supports this but noted some parents do not want their kids to go full-time and many drop in, and she thinks there is the will of staff and the community to just let the Kid's Club happen.

Mayor Kuhl suggested a motion.

**Council Member Robbins moved and Council Member McMillan seconded, to approve a Recreation Department After School Extended Childcare Program, as conditioned to: 1) ask for pledges and a refundable \$100 deposit if the program does not happen, 2) move forward with the pilot program if there are 10 students interested; 3) for staff to work with Ross School to find another classroom so the current enrichment programs in the first hour can continue; and 4) and to amend the current FY budget from \$120,000 to \$134,000 to pay for increased costs associated with running the program. Motion carried unanimously (4-1; Brekhus opposed).**

Mayor Pro Tem Brekhus and Council Member McMillan asked that this item be agendaized for the next meeting to receive follow-up from staff on registration figures.

**9. Town Council approval of Consultant Services Agreement for Preparation of the Town Master Facilities Plan and authorizing the Town Manager to execute the agreement and amend the Budget.**

Rebecca Markwick, Planning & Building Director, gave the staff report and brief overview of the item relating to a consultant services agreement for preparation of the Town Master Facilities Plan and emergency services not including fire, and budget adjustment. She described the RFP sent to qualified consultants to prepare this plan and related tasks, a panel used to evaluate the proposals and interview consultant team, with criteria.

The proposal by the KPA Group was ranked the highest which she described, and said staff recommends the Council discuss the matter and approve the agreement for the cost of \$162,285 with an additional \$5,000 for miscellaneous expenses that may be incurred by the Town such as audio visual services and refreshments for community meetings, noticing, and other services during development of the plan. She then described the budget amendment of \$168,000 to cover the cost of the agreement and the \$5,000 for anticipated expenses.

Staff recommends the Council authorize the Town Manager to execute an agreement with the KPA Group in an amount not to exceed \$162,285 for the preparation of the Facilities Master Plan and to amend the current budget for this project in the Facilities and Equipment Fund from \$150,000 to \$168,000. Matthew Evans, Project Associate and Lisa Lim, Senior Project Manager from the KPA Group are present and available for questions.

Council Member McMillan said the Ross Town Hall was included and she was always under the impression that this building was not going to be touched.

Ms. Markwick explained that it will be evaluated as part of this plan. Part of the RFP included three different options and if it is the Council's will, it would include one or two options with the shell remaining and one option without. This is something to explore through the needs assessment with the KPA Group.

Council Member McMillan asked how the Master Plan will evaluate potential housing on this site. Ms. Markwick said staff anticipates in the Draft Housing Element sites inventory map that there will be 5 units on this site. The KPA Group has provided over 35 years of architectural and engineering services for public projects through Northern California, and have experience with California local codes as it applies to public housing. Should they not have the expertise at their firm, they would hire a subconsultant to evaluate how housing units are constructed.

Mayor Kuhl opened the public comment period, and there were no speakers. He then closed the public comment period.

Council Member McMillan said the type of architecture for this building and the firehouse which were originally designed in 1927 by Architect John White is Spanish Colonial Revival and she voiced the importance to the consultant to try and preserve and/or replicate the facades of these buildings.

Mayor Pro Tem Elizabeth Brekhus and Council Member Robbins concurred.

Mayor Kuhl asked for a motion.

**Mayor Pro Tem Brekhus moved and Council Member McMillan seconded, to approve Consultant Services Agreement for Preparation of the Town Master Facilities Plan and authorizing the Town Manager to execute the agreement and amend the Budget. Motion carried unanimously (5-0).**

**10. Town Council consideration of introduction of Ordinance No. 718 which adopts and amends Title 15 of the Ross Municipal Code to adopt the 2022 California Building Standards Code, Title 24 of the 2022 California Code of Regulations.**

Rebecca Markwick, Planning & Building Director, gave the staff report and brief overview of the request that the Town Council introduce Ordinance No. 718 adopting certain parts of Title 24 Code or Regulations with local amendments; or the California Building Codes, amending Title 15 of the RMC, and said these are updated every 3 years and become effective Statewide January 1, 2023.

Staff noted they will be deferring the Reach Code discussion to the Spring of 2023 to allow staff more time to understand the impacts of the Reach Code on the community.

Council Member McMillan asked and confirmed with Ms. Markwick the Reach Code is a local amendment that further amends the building code. Right now, Marin County has developed a Reach Code that is asking for many things and the one most being discussed require all new construction to go all-electric. This will most likely need to be better researched before coming to the Council.

Council Member Kircher asked if anything here is controversial as opposed to incremental, and Ms. Markwick said no, nothing has caused staff to take pause over the past 3 years.

Mayor Kuhl opened the public comment period, and there were no speakers. He then closed the public comment period.

Mayor Kuhl asked for a motion.

**Council Member Robbins moved and Mayor Pro Tem Brekhus seconded, to introduce Ordinance 718 which adopts and amends Title 15 of the Ross Municipal Code to adopt the 2022 California Building Standards Code, Title 24 of the 2022 California Code of Regulations. Motion carried unanimously (5-0).**

**11. Town Council consideration of introduction of Ordinance No. 719 which revises Chapter 14.04 of the Ross Municipal Code – adopting the 2022 Edition of the California Fire Code and 2021 International Fire Code with certain local amendments and additions and Appendix A of the 2021 International Wildland-Urban Interface Code.**

Rob Bastianon, Ross Valley Fire Department, gave an overview of the request to introduce an ordinance which would amend the RMC to adopt the 2022 Edition of the California Fire Code, the 2021 International Fire Code with certain local amendments and additions, along with Appendix A of the 2021 International Wildland-Urban Interface Code. The Town has until January 1, 2023 to make local changes. He described review of the model code by the Marin County Fire Officers, minor changes between jurisdictions for a more consistent and cooperative approach to fire safety issues, making it easier for contractors and developers to work with each jurisdiction, and he described changes in red which are what RFD has added to the code and wording in green where modifications were made to the State codes.

Council Member Robbins referred to the gate setback requirement of 30 feet and asked what happens if it is not set back. Mr. Bastianon said the time the gate was installed refers to the code adopted at the time. The 30-foot setback is only for fire roads or driveways that serve as a fire road.

Council Member Robbins said generators now require a construction permit and she asked and confirmed that these are the generators connected to a building's power supply, with inclusion of language and signage for shut-off's so it is universal for first responders when they show up at nighttime or during an emergency.

Mayor Kuhl questioned and confirmed that the green section relates to renumbering some of the model code language with some minor additions.

Council Member McMillan referred to all new information about fire hazard reduction and if not followed, she asked if the nuisance abatement process can be used. Mr. Bastianon said the abatement process has been in place for multiple cycles and it is a tool for fire to use. Usually, any abatements are typically addressed in the first step of sending a certified letter to the homeowner. However, they have had to take some properties through the abatement process which is very time-consuming.

Council Member McMillan said she was under the understanding that if the MWPA does a defensible space inspection and the homeowner does not do anything about it or not enough, they would have no recourse, so she is happy to see this language. Mr. Bastianon noted that MWPA is not an enforcement agency and are just performing home evaluations and making recommendations. If there was something egregious they would send it to the Fire Department, they would follow up, and take it through the abatement process.

Council Member Kircher referred to Chapter 12 on energy systems which talks about labeling power sources. He asked and confirmed this would apply to new or modified systems, or when a permit would be applied for.

Mayor Pro Tem Brekhus said the Council's next item has a proposal to install two trees "if the Fire Department allows it" when building ADUs. She asked if the Fire Department allows a tree to be planted within 4 feet of a building and a property line. Mr. Bastianon said the code reads that no vegetation within 5 feet of an ADU can be planted or, a tree must be planted such that when mature, the dripline will fall 5 feet outside of the "zero zone."

Mayor Pro Tem Brekhus clarified if this means any type of vegetation. Mr. Bastianon said it reads as "non-combustible within that zero to 5 foot zone" so it would be anything that would burn.

Council Member McMillan commented there is a Town generator policy and she believes the Town should be encouraging people to install solar panels to the extent they have an area that gets sun, as well as a backup battery rather than a noisy, polluting generator. However, the proposed regulations are silent on the preference for this. Mr. Bastianon explained the Fire Code does not change the Town's preferences. It only addresses when they are installed and what the requirements are for it to be installed. He noted there are some cases where batteries do not have enough power to operate some of the engine and motor-driven fire pumps and other equipment.

Mayor Kuhl opened the public comment period, and there were no speakers. He closed the public comment period.

Mayor Kuhl asked for a motion.

**Mayor Pro Tem Brekhus moved and Council Member Robbins seconded, to introduce Ordinance No. 719 which revises Chapter 14.04 of the Ross Municipal Code – adopting the 2022 Edition of the California Fire Code and 2021 International Fire Code with certain local amendments and additions and Appendix A of the 2021 International Wildland-Urban Interface Code. Motion carried unanimously (5-0).**

**12. Accessory Dwelling Unit (ADU) Study Session.**

Rebecca Markwick, Planning & Building Director, said the Town Council has requested a review and discussion of the Town's ADU ordinance. She provided a brief history of the ADU ordinance, described how the Town's ordinance compares to other cities using Belvedere, Tiburon, San Anselmo, and Larkspur as examples, and provided topical suggestions for possible amendments to the code based on prior discussions with Town Council and staff's own experience using the ADU ordinance.

Staff received information on two new recently adopted bills that revise the existing State law which go into effect January 1, 2023. Staff is analyzing them and will likely require further revisions to the ordinance. One bill relates to the height of an ADU which can go up to 18 feet, as well as front yard setback encroachment.

Mayor Pro Tem Brekhus asked if by-right ADUs are allowed to go up 18 feet, and she asked if this is for a second story ADU, for a single story, or for an over the garage ADU.

Town Attorney Ben Stock explained it is 18 feet for a detached ADU on a lot within one-half mile walking distance of a major transit stop or high quality transit corridor, which is the same language as in the SB 9 ordinance. It is 18 feet for a detached ADU on a lot with existing a proposed multi-family house. It can be up to 25 feet height limit under local zoning ordinance for an ADU attached to a primary dwelling, although it should not go up past two stories.

Mayor Pro Tem Brekhus confirmed these provisions come into effect January 1, 2023. Mr. Stock said staff is seeking direction on things the Council might want to see in a revised ordinance because the ordinance will have to be revised regardless under the new legislation, as well as additionally because of the Housing Element programs they are trying to encourage for ADU production in order to satisfy RHNA.

Council Member McMillan referred to parking requirements, and Ms. Markwick said local agencies are prohibited from imposing any parking standards on an ADU that is included in an application to create a new single family dwelling unit or a new multi-family dwelling unit on the same lot provided the ADU meets other specified requirements.

Council Member Robbins voiced a preference for materials of the ADU to match the primary home for aesthetic reasons.

Council Member McMillan asked if ADUs go through the ADR in terms of their design. Ms. Markwick said yes; it has been the Town's past practice for ADUs that are not able to be approved ministerially. They would go through design review and go to the ADR as well as to the Town Council, and this is something the Council should discuss if the Town is trying to encourage them.

Council Member McMillan thought about imposing a requirement for similar design as the existing structure and a new ADU, thinks having them different would allow flexibility, but thought the ADR could opine on this.

Mayor Kuhl questioned the color being the same as the primary unit and a provision about not making any requirements that provide for discretion in making decisions, and he asked if Ms. Markwick thinks the Council should require this. Ms. Markwick explained there needs to be objective standards. If the Council wanted a condition for architecturally cohesive it would state, "The colors and materials of the ADU shall match the primary residence." She said the question is whether the Council wants everything to look the same on the property.

Council Member Robbins asked if there were many ADUs that cannot be approved ministerially. Ms. Markwick described one coming to the Council soon which requires discretionary review. It is 535 square feet but it is encroaching into the front yard setback because it is proposed on top of an existing garage and carport.

Council Member Robbins said she was not sure the Council should be the designers for the ADUs and believes they should go through the ADR Group who could make the decision without charging any fees.

Council Member McMillan asked how much revenue would be lost from doing this. Ms. Markwick said a ministerial fee is about \$1,200. Discretionary review can range from \$4,000 to \$5,000 with a deposit retained and then staff bills towards that deposit.

Council Member Robbins said they have talked about this as a priority to make it easier to build ADUs. Council Member McMillan said she would want more thorough analysis as to the give and take, overall impact, the projection of ADUs over time, and history.

Mayor Pro Tem Brekhus suggested streamlining some things to incentivize ADU production. What the Council is talking about today are some additional regulations to consider. She asked if going through the ADR or not is within the scope of what they are talking about here.

Ms. Markwick said she thinks it is a discussion on the Town's ADU ordinance and whether there are things seen in other jurisdictions that might make the Town's ordinance better. She is seeing where there are problems having a ministerially approved ADUs that are 4 feet from the side and rear property lines where neighbors cannot comment on them. On some of the lots it is okay, but some of them are very close to neighbors. She thought requiring specific landscaping language would be a good idea, but it would not meet the Fire Code.

Mayor Pro Tem Brekhus said the way it is worded for Tiburon's ordinance states, "Two trees shall be planted at each proposed window of the ADU facing a neighborhood property whereas the trees are consistent with the Fire Code." What happens sometimes is that there have been times when people have reached out to the Fire Department and there have been modifications, but she likes the clerestory windows for that reason. It is like unfairly developing one lot at the expense of another and for the purpose of an ADU which more than half are not used for additional housing so it seems unfair.

Council Member Kircher said in terms of what staff has seen thus far in terms of ADU applications he asked if there is an issue where someone has constructed or intends to construct an ADU that is not consistent color-wise or architecturally compatible, or he asked if owners are addressing this. Ms. Markwick said given the level of care of development in this town she has not seen boxes placed on lots. It seems people very much care about the integrity of their property and they have been consistent.

Mayor Kuhl opened the public comment period, and there were no speakers. He then closed the public comment period.

Council Member Brekhus suggested items to consider as: 1) Differences of colors and materials between the ADU and home, 2) Tiburon's rule of no windows facing the rear and side property lines when located less than 6 feet from the rear or side property lines, or making them clerestory; 3) Consideration to change the provisions for the trees, but the Council could consider 8 foot windows but then have trees, or if the ADU is not that far away it is clerestory windows or something along those lines; and 4) "No entries are allowed within 10 feet of side or rear property line."

Ms. Markwick said she thinks it is difficult to have an entry 4 feet from a fence, and this was one of her suggestions. In a denser area, it helps not to have an entry on the side or rear of the lot.

Council Member Robbins asked how to keep ADUs from not having windows right next to a neighbor's property without it being discretionary. Mr. Stock said this is the side and rear yard setbacks and these standards are non-discretionary or ministerial permits for ADUs. If someone comes in staff must have the list of objective standards which apply. If someone makes the case that their boundary line is so far from a neighboring house they can still have an ADU with windows but they just need to go through the Town's discretionary process. Therefore, some jurisdictions like Tiburon have it as the standard for someone who does not want to go through a discretionary process, but there is still the option of going through the exception process.

Council Member Robbins supported the standard of not having windows at the back or side if the ADU is close to the property line. Ms. Markwick said they could also consider clerestory windows and require them to be 6 ½ feet above the floor, which adds light inside and preserves the privacy of the neighbor.

Mayor Pro Tem Brekhus said one option is to allow clerestory windows if they are 6 feet away from the property line. If the ADU is less than 6 feet, then there are no windows.

Council Member Robbins asked if clerestory windows open. Mayor Pro Tem Brekhus said no, they typically do not open, and it would be a shame not to have landscaping but instead a blank wall to look at.

Mayor Pro Tem Brekhus said she is curious about the Tiburon example that states, "No portico, trellis, or other roof is allowed as part of the ADU. A 5x5 entryway roof is allowed and it must be at least 10 feet from any property line." Right now, someone could install a portico or trellis.

Ms. Markwick said she has an application for an ADU that has a large trellis off it and a deck underneath it. She investigated the code and there is nothing that prohibits it, but it did not feel right to her. She said the Town's standards are specific to the structure and they do not have anything that goes into whether you can have a structure coming off a structure. They allow entryways of 150 square feet. This is good and it is clear and defines it.

Mayor Pro Tem Brekhus asked about decking around an ADU and review of lot coverage. Ms. Markwick said there cannot be a deck in a setback, the deck cannot be taller than 18 inches off the grade, and staff does review the lot coverage and can bring more information about this.

Mayor Pro Tem Brekhus said she likes the language about no portico or trellis because it makes the ADU a big presence which is not necessary. She likes the entryway wording and her thought would be to allow clerestory windows even if it is 4 feet.

Council Member Robbins supported windows at higher levels for light, favored no windows if right at the property's edge, and if an applicant wanted windows they could go through the ADR group and Council.

Council Member Kircher said he agrees with Mayor Pro Tem Brekhus's suggestions and leave the decision about the clerestory windows to staff to show alternatives.

Mayor Pro Tem Brekhus said she likes the skylight provision in Belvedere. Where they are visible from off-site locations skylights shall not have white or light opaque colored exterior lenses. She thinks they should be picky about what to allow and tinker with these design standards.

Mayor Kuhl asked if staff had what they need, and Ms. Markwick said yes, Ms. Markwick said she can return with some illustrations of ADUs with and without clerestory windows, entries, and other scenarios.

#### **End of Administrative Agenda.**

#### **Public Hearings on Planning Projects.**

##### **13. *\*This item has been continued to November 10, 2022 Council meeting.***

##### **21 Loma Linda Avenue, Accessory Dwelling Unit Permit.**

Scott Golden and Ben Kozub, 21 Loma Linda Avenue, A.P. No. 073-261-10, Zoning: R-1: B-10, General Plan: ML (Medium Low Density), Flood Zone: X.

**Project Summary:** The applicant is requesting approval to construct a new 535-square-foot, attached, second-story accessory dwelling unit (ADU) above the existing garage and carport. ADU Permit Exception is required to allow a newly constructed ADU in the front yard setback. The proposed ADU will match the existing residence with dark brown shingles and dark charcoal asphalt shingle roof.

#### **End of Public Hearings on Planning Projects.**

##### **14. No Action Items:**



**a. Council correspondence** – Council Member McMillan referred to oversight of PG&E tree trimming and work going on. There are many things happening with trees as well as with power pole replacements and she has received many comments from neighbors.

Ms. Johnson stated she and Rich Simonitch and another staff member met via Zoom earlier this week with Mark Van Gorder, Government Affairs Representative with PG&E and their staff person who focuses on their tree maintenance program. Brief discussion ensued regarding PG&E's tree programs and Council Members asked that Mr. Van Gorder be invited for Council Members to express their thoughts.

Council Member McMillan reported receiving a correspondence from a neighbor who lives on Ivy Drive regarding a large construction project, and a video that was to be done pre- and post-construction of the private road.

**b. Future Council items** – Council Member Robbins requested, and Council Member McMillan agreed, to agendaize an item to determine whether the Council wishes to donate to the acquisition of Bald Hill and to develop a plaque to recognize donors at a certain level of \$25,000 and up at the foot of Bald Hill in Natalie Coffin Greene Park. In November, San Anselmo will have a similar agenda item.

**15. Adjournment.**

Mayor Kuhl adjourned the meeting at 8:38 p.m.

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P. Beach Kuhl, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk