

DRAFT REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, SEPTEMBER 14, 2023
Held In-Person and Teleconference via Zoom

1. 4:45 p.m. Commencement.

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

2. Posting of agenda.

Town Manager Johnson reported that the agenda was posted according to government requirements. She announced that Item 12 is removed and continued to October.

3. Closed Session.

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code Section 54956.9(d)(4): (two potential cases)

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(d)(1)

Name of case: (Terry Pickett v. Town of Ross, Marin County Superior Court Case No. CV0000719)

4. 6:00 p.m. Open Session. Council will return to open session and announce actions taken, if any.

Mayor Brekhus announced no reportable action was taken in Closed Session.

5. Open Time for Public Expression.

There were no speakers.

6. Mayor's Report

I hope everyone can attend the Town Dinner on Friday September 22nd! If it appeals to you, you might consider sitting at the Community Tables where the Council will be sitting. The Community Tables will be for residents who wish to dine with other residents. Feel free to bring a dish to share if you like but no pressure. I am sure the Town Dinner will be a great success and in advance, a big thank you to Ross Recreation and Ross Town staff for all their work.

The Ross Historical Society asked me to speak at a luncheon on 9/7/23. On the historical side, I tapped former councilmembers and mayors, Peter Brekhus, Gary Scales and Charlie Goodman.

The most obvious change in town operations is the professionalism of town management. We presently have 11 town employees, additional part-time Rec staff, 8 employees with the police, with fire staffed by a separate department.

Past councilmembers actually ran the town and performed the town services. There was a part-time building inspector up until the 90's, no planning staff until the 90's and certainly no town manager. In one flood emergency, two councilmembers rescued residents on Shady Lane in a canoe, and councilmembers personally raised money to light all the bridges and redo the Common and the post office.

It was not until the mid-80's that the Town had overnight police service. And we went from a volunteer fire department to a staffed department of professionals in the span of one generation of councilmembers. The corresponding expense of that is obviously a very significant change to the Town budget and taxes.

One of the biggest changes to the Town was the creation of Ross Recreation in the early 1970's. A large group of residents/parents wrote to the council asking for after care programs. The council was reluctant to expand the services to include recreation, but parents persisted, and the recreation committee was formed.

It was not until the mid-80's that the Town had a tree ordinance prohibiting the removal of trees which came after the Lagunitas Club removed 39 Redwoods. The public outcry was covered in the local press and the Council was able to pass a regulation prohibiting tree removal.

My father was one of the councilmembers who drafted the original design review guidelines, which he based on his experience with ordinances working as an attorney in the County.

As many of you know, Ross does not have a planning commission and the council then and now serves that dual function which is unique from other jurisdictions.

In 2005-06 there could be as many as 5 agenda items on flooding. One closed session item noted there were 34 government claims (i.e., for damages) filed regarding the flooding incident of 12/31/05 and 1/6/06. Speaking of flooding, for those of you who were here for the flooding in the 1980's you will recall as I do that Town residents went house to house on Shady Lane cleaning up mud in homes and after a few months most residents were out on the Common laying down the new grass to replace the fields that were ruined.

Today's legal requirements for legislation in a small town are incredible and much of the council's time is spent passing regulations to comply with state law. In years past, Councilmembers ignored various state regulations with which they did not want to comply. That practice is gone.

I don't want you to have the impression that the Council does not roll up their sleeves and work. An example of that is Elizabeth Robbins' volunteer efforts to save and purchase Mt. Baldy. Every one of the present councilmembers is volunteering a tremendous amount of time and contributing in different ways.

I hope you enjoyed the history lesson and as always, feel free to let me know if you have questions or concerns about the Town.

7. Council Committee & Liaison Reports.

Council Member Robbins reported the RVFD Board had been discussing what to do with its reserves and, given a number of upcoming expenses, a subcommittee was proposed and the Fire Board accepted last night its recommendation to leave the reserves as is.

8. Staff & Community Reports.

a. Town Manager

Town Manager Johnson gave the following report:

Staff produced a postcard that was sent last week to all households in Ross promoting four events that residents can attend to learn more about disaster preparedness.

- The first event was yesterday's Age Friendly Ross Breakfast
- The second is the Ross Firewise event that will be held at MAGC starting at 530pm on Thursday Sept 20
- The third is the Town Dinner event that will be held on Friday, Sept 22 at 530pm on the Ross Common
- And the fourth event is the Oct 14th Live on the Common event co-sponsored by RPOA and the Town which will be held from 230-730pm.

Speaking of the Sept 22 Town Dinner, as of today, 201 tickets have been sold and we expect more coming in over the weekend and beginning of next week.

Next week on September 19th the Town's Advisory Design Group meets starting at 7pm in the Town Council Chambers. The October 17th ADR meeting has been canceled and the November meeting was moved up a week to November 14th due to the Thanksgiving holiday.

The Community Creek Walk was a big success last weekend! There were 25 volunteers, led by Public Works (DPW) staff members Anthony Alcozer and Zach Baker. The hard working volunteers, many students at Ross School, collected an entire dump truck of branches and several big bags of trash out of the creek. Big thanks to all!

The first segment of the restoration of the Shady Lane pathway was completed this week between St. Johns church and 34 Shady Lane and the path is re-opened to the public. Another smaller segment of the path across from St. Anselm church will be restored in early October as part of the drainage improvements being done in that area by the Town. DPW plans to have the entire pathway restored over the next 2 years and has begun reaching out to some of the residents along the path to repair their driveways if needed.

MMWD began their trucking operations through Ross last Tuesday September 5th from their Pine Mountain Tunnel Tanks Project in the hills above Fairfax. Staff has observed several of the trucks passing by Town Hall each day and has taken note that the trucks appear clean and the loads are adequately tarped and covered and in compliance with the conditions of use of the Town right of ways. Staff has received no complaints from the Ross School or preschool, or any residents so

far. Traffic control at Natalie Coffin-Greene Park is observed to be functioning effectively as well. The trucks will continue to haul the loads of dirt through Town until the first week in October.

Town Manager Johnson then turned the mic over to Chief Pata to describe some law enforcement issues occurring in Ross currently and provide tips to you and residents on how to prevent it.

Police Chief Pata reported the department sent an email to residents notifying them about a series of car thefts occurring in Town. He stated on August 12-13 they had 6 cars stolen overnight on the Shady Lane side of town, then in the Laurel Grove area. 4 of the 6 cars have been recovered in Oakland and 1 in town, with 2 outstanding. In each circumstance, the cars were parked in driveways, unlocked and key fobs were in the vehicles.

He added that vehicles have been towed to the police station to conduct evidence work and police have reached out to several law enforcement agencies in the hopes to identify the culprits. In all of 2022, the Town lost 2 vehicles and the year before, 1. This is abnormal, but it occurs throughout the entire county, and he invited their partner agencies to drive through town when they can.

Mayor Brekhus asked about package theft reports, and Chief Pata said this is another incident that is happening. They have had 3 incidents, 1 actual theft, and a couple of suspicious occurrences. They are hoping to identify individuals responsible.

b. Ross Property Owners Association

Jeff Koblick, RPOA, thanked the Council and staff for their support and accomplishments over the years and commented on how great the entire Town looks.

9. Consent Agenda

The following items will be considered in a single motion, unless removed from the consent agenda. Council Member McMillan requested Item 9d be removed.

- a. Minutes: 8/24/23 Meeting**
- b. Demands.**
- c. Town Council review and acceptance of the Fiscal Year 2022-2023 fourth quarter, twelve-month, Financial Summary Report.**
- e. Town Council consideration and adoption of Resolution 2335 authorizing the Town Manager to execute a Second Amendment to the Marin County Community Development Block Grant Program and Home Program Cooperation Agreement correcting the omission of required language.**

Council Member McMillan moved and Council Member Kuhl seconded, to approve Consent Calendar Items a, b, c, and e. Motion carried unanimously (5-0).

Item removed from the Consent Agenda:

- d. Town Council approval of appointment of two Councilmembers, one as the primary and the second as an alternate, to represent the Town of Ross on the Ross Valley Paramedic Authority Board for the remainder of fiscal year 2023-24.**

Councilmember McMillan asked for the item to be removed in order to decide on the 2 liaisons to the RVPA Board.

Mayor Brekhus stated the Council had considered Council Member Robbins as Primary and Mayor Brekhus as Alternate, and she asked if there were any further recommendations. There were none.

Mayor Brekhus opened the Public Forum, and there were no speakers.

Council Member Robbins moved and Council Member Kuhl seconded, to approve Item d, with Council Member Robbins as the Primary representative and Mayor Brekhus as the Alternate representative. Motion carried unanimously (5-0).

End of Consent Agenda.

10. Public Hearings on Planning Projects – Part 1.

- a. 1 Pomeroy Road, Design Review and a Variance, and Town Council consideration of Resolution 2336.**

Gina Weyant, 1 Pomeroy Road, A.P. No. 072-023-04, Zone: R-1:B-5A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate Risk)

Project Description:

The applicant requests approval of Design Review and a Variance. The project involves construction of a new pool/spa within the side and rear yard setbacks of the existing single-family residential property. The proposed size of the pool is 16'x 32' and the size of the SPA is 8'x 8'. The project includes a pool equipment unit within an existing shed located near the north side of the lot. The applicant also proposes to remove the existing concrete driveway and replace it with permeable pavers.

Assistant Planner Alex Lopez-Vega presented the staff report and overview of the request for approval of Design Review and a Variance relating to construction of a new pool and spa within the side and rear yard setback. He indicated the owner is available for any questions.

Gina Weyant, owner, stated they are available to answer any questions.

There were no questions from the Council. Mayor Brekhus opened the Public Forum, and there were no speakers.

Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution 2336 approving 1 Pomeroy Road Design Review and Variance. Motion carried unanimously (5-0).

b. 128 Winding Way, Design Review and Hillside Lot, and Town Council consideration of Resolution 2337.

Kellogg Architects Inc, 128 Winding Way, A.P. No. 073-250-03, Zone: R-1:B-5A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate Risk)

Project Description:

The applicant requests approval of Design Review and a Hillside Lot Permit. The project involves construction of a new 6-foot automatic driveway gate that will be painted Chelsea grey and have metal picket design. Two 6-foot Ashlar Bluestone columns that will match the existing curb and retaining walls are also proposed. A keypad with a Knox key switch is also proposed. The distance from the gate to the roadway easement is 33' 8". The project also includes a 42" ornamental guardrail to match the existing guardrail that will connect to the driveway gate. The automatic driveway gate will be required to comply with safety code regulations.

Assistant Planner Alex Lopez-Vega presented the staff report and overview of the request for Design Review and Hillside Lot Permit relating to construction of a new 6-foot automatic driveway gate.

Martin Kellog, architect, Kellog Architects, said he is representing the homeowner and is available to answer any questions.

Council Member Robbins asked if the bottom of the gate is wood, and she asked if the bars go from the top to the bottom. Mr. Kellog replied the bottom of the gate is wood, with a metal structure behind the wood cladding, and there are metal bars on the upper thin pickets.

Mayor Brekhus opened the Public Forum, and there were no speakers.

Council Member Kuhl commented he spent some time with the applicant's architect yesterday talking about gate safety because he is not satisfied with the gate safety ordinance the Council passed a couple of months ago. The applicant is an architect and understands what is necessary for gate safety, so Council Member Kuhl is satisfied.

Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution 2337 approving 128 Winding Way Design Review and Hillside Lot Permit. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects – Part 1.

Administrative Agenda.

11. Town Council consideration of whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

Interim Planning Director David Woltering stated the subject of whether to regulate short-term rentals has come to the Council in the past. The Town currently does not regulate short-term rentals except for ADUs and JADUs. In the code, short-term rentals are not allowed for ADUs and JADUs. Presently, there are approximately 3 short-term rentals identified in the community. Over time, there have been some complaints received by staff generally about on-street parking.

Mr. Woltering then described the survey done in 2016 to determine where the community stood regarding short-term rental regulation. The survey results provided no clear preference to regulate or not regulate, and the Town Council has, over time, generally not favored regulating short-term rentals. He indicated there are 3 options to consider: 1) not regulating short-term rentals except for ADUs and JADUs; 2) amend the code and prohibit short-term rentals in the community; or 3) regulate short-term rentals within the Town.

If the Council prohibits, the question is how to manage it, on a complaint-only basis or be more proactive, hire a firm that identifies short-term rentals, and assist staff in ensuring compliance. If the Council wants to regulate short-term rentals, it is amending the code to regulate them but the Council should consider program details, i.e., parking requirements, occupancy, number of days during the year, hosted versus non-hosted. There would typically be a requirement to adopt a TOT (Transient Occupancy Tax) so the Town could collect tax dollars, as well as fee collection through initial registration, annual registration, and, additionally, enforcement, and messaging.

If the Town considers regulating short-term rentals, there are quite a few staffing responsibilities, technology responsibilities, and associated costs. He then outlined what other Marin County communities are doing, stating Sausalito, Tiburon, Belvedere and Larkspur all currently prohibit short-term rentals. Other communities allow but have regulations which include Mill Valley, San Anselmo, Fairfax, San Rafael, Novato, and the County of Marin. Corte Madera is in transition to allowing but regulating short-term rentals.

Council Member Robbins said a goal of regulating is to promote residential neighborhoods and not have hotel-like dwellings. If this was a goal she asked if the Town could allow rentals of 2 months or longer. Town Manager Johnson noted State law does not allow jurisdictions to prohibit anything for 30 consecutive days or more.

Mayor Pro Tem Kircher referred to the 3 short-term rentals that exist in Town and asked how this was ascertained. Mr. Woltering said it was based upon reports from community members, as staff received complaints or comments about the location of short-term rentals.

Council Member Kuhl asked if these were all parking complaints. Mr. Woltering said it was parking and level of activities of coming and going.

Mayor Pro Tem Kircher stated he believes there was a complaint from a resident who had small children who felt uncomfortable with strangers in the neighborhood.

Council Member Robbins asked if what the Council is considering tonight is whether or not to allow rentals of less than 30 days, and Mr. Woltering confirmed.

Mayor Pro Tem Kircher asked if it is also the case that while allowing them, the Town can regulate them and that different jurisdictions in Marin County have varying levels of regulation. Mr. Woltering confirmed, and described the various options the Council could choose.

Mayor Pro Tem Kircher asked if staff had a sense of how often the 3 properties are being rented out. Mr. Woltering said he does not.

Council Member McMillan said in terms of enforcing no rentals of ADUs and JADUs, she asked if this is on a complaint basis or asked if this has been an issue or is burdensome for staff. Mr. Woltering said this is currently complaint-based.

Council Member Robbins said if the Council were not to allow short-term rentals it could adopt a policy. She asked if the Town would have to have enforcement or just complaint-driven for the time being, and possibly more robust enforcement or registration program set in place later, if needed. Mr. Woltering said what could be done is to amend the code to prohibit short-term rentals and initially start on a complaint basis. If it becomes an issue, there are companies that could monitor and support the Town.

Council Member Kuhl asked if ADU and JADU provisions are the result of State law requiring they be allowed. Mr. Woltering said he believes so, but deferred to the Town Attorney.

Town Attorney Benjamin Stock confirmed. The recent ADU amendments made a year ago were driven by State law to encourage housing and as a requirement, the Town must have in its code that they not be allowed to be vacation rental properties.

Council Member McMillan said if the Council were to prohibit short-term rentals, she asked if there would be any preclusion of the owner allowing a family member to use the property for

less than 30 days if there was no rental fee incurred by the owner. Mr. Woltering said no, that would not be an issue.

Mayor Pro Tem Kircher referred to the Town of San Anselmo which requires a business license. He asked if any more information is known about any additional conditions they impose. Mr. Woltering said it is common that a business license would be required. It is typically seen that the property becomes a business, and typically a TOT ballot measure is passed. There would be an initial fee collected to operate as a short-term rental and a tax on the revenues produced by that short-term rental, a portion of which would come to the local community. Business license, registration fee, and then the TOT would all typically be the revenue sources that would come to a local community.

Town Manager Johnson added that the Town does not have a TOT here and would need to go to the voters. The Town does have a business license but not a business registration so those fees would need to be added to the Town's master fee list.

Mayor Brekhus asked if the Towns charging a TOT have put this to their voters. Mr. Woltering said yes, and he pointed out that as they talk about regulating in terms of business license fees and annual renewals, TOT and its collection, there is significant staff time involved in all of this, as well as enforcement. He emphasized there is a lot of staff work and technology adjustments in terms of the registration system which communities need to be aware of before moving forward in terms of regulating the short-term rentals.

Mayor Brekhus said if the Town is not recouping those costs in terms of licensing, they are then just subsidizing the costs. Mr. Woltering said there would need to be analysis of short-term rentals revenue the Town would receive versus the cost for staffing and technology services, given the fact there are only 3 short-term rentals in town, and the cost to set up a system to regulate would be fairly substantial.

Council Member Kuhl said the TOT would have to be put on the ballot and voted for by 2/3 vote, and Mr. Woltering deferred to the Town Attorney or Town Manager in terms of the required vote. Town Manger Johnson confirmed it would only require a simple majority vote, or 50% + 1.

Mayor Pro Tem Kircher said if Ross adopted a system not nearly as robust as what other cities are doing like what Fairfax has in terms of requiring registration and their limit on the number of nights one can rent for in a calendar year, number of adults present, and an on-line complaint system, perhaps they have a TOT but he did not notice this, he asked if this type of complaint-driven system would be a significant staff cost.

Mr. Woltering said he thinks it is. He is very familiar with the Fairfax model which has TOT in place. Fairfax has approximately 90 units, has a requirement to register, annually re-register, and fee collection. The process has taken many months to attempt to put in place, is much more complicated than the Town of Fairfax originally thought, and it is still not fully implemented. The Town has been using Granicus Host Compliance to assist them as an on-line vendor and are finding that in addition to that service there is a significant staff and technology impact in terms of fee collection, messaging, etc. So, it may seem simple, but there is more to it than many people might imagine. These contractors suggest they can provide certain services, but staff will need to provide significant support to a vendor like that.

Mayor Pro Tem Kircher spoke of a hypothetical situation where an investor buys a property and does not live there but they repeatedly rent it out for income. He asked if there is something Ross can do about that short of banning all short-term rentals without going into monitoring and TOT, etc. Mr. Woltering said the Town could address this by not allowing non-hosted short-term rentals.

Mayor Pro Tem Kircher asked and confirmed a hosted rental is where the owner is still there but rents a room out in the home or on the property. He asked if Ross could simply require a short-term rental be of a primary residence for up to 30 days, and not an investor-owned or non-hosted property.

Mr. Stock said in other jurisdictions to address that problem, it is not just the primary residence but putting a limit on how many days per year the home could be rented out short-term rather than implementing a host versus non-host requirement.

Mayor Pro Tem Kircher suggested a system where someone renting out their home was required to simply register and declare their intention and the Town could limit the number of nights during a year a property could be rented out to 20-30 nights, and it is complaint-driven where the Town would respond to complaints but not have active enforcement. He asked if this would still be considerable staff time.

Town Manager Johnson said she has worked in 2 cities that have had short-term lodging programs and the Councils really struggled with how to find a balance and make it work. It is incredibly challenging and impossible to have a program work well where people can rent their homes for 20 days a year. The minute a person is causing problems, the Town will have no way of enforcing this and being able to bring them to court to stop the behavior. There could be many police and code enforcement personnel sting operations, and all sorts of things, but if someone wants to be a bad actor it is impossible to prove, enforce, and issue citations. People can make so much money off of short-term rentals that \$100 per day citation is nothing but the cost of

doing business. If the Council were to prohibit it, this would be easier to enforce than some type of regulation such as restricting number of days annually.

Council Member Kuhl observed there is another way to alleviate the problem Mayor Pro Tem Kircher presented which is completely forbidding short-term rentals. Mr. Woltering said in terms of this matter given this community, outright prohibition would be much easier to regulate and enforce versus coming up with a menu approach associated with a program to allow and regulate short-term rentals.

Mayor Brekhus said there are 4 jurisdictions that prohibit short-term rentals, Tiburon, Sausalito, Larkspur, and Belvedere. Some of this was to avoid competing with hotels. Mr. Woltering said this could be the situation in some cases and the other aspect has to do with preserving the long-term rental stock in addition to supporting hotels.

Mayor Brekhus asked if the code enforcement actions would need to be subsidized if the Town were to take it on, and said she believes it costs about \$20,000 for a digital code enforcement program. Mr. Woltering said it would be difficult to collect funding to support code enforcement efforts. Given the staff capacity here, as code enforcement issues come up, likely staff would be augmented in some manner to enforce. With Granicus Host Compliance, to set up the platform, the initial contract for Fairfax was approximately \$14,000 for the first year. However, his point is that the on-line service will send out the initial letter but in terms of follow-up to actually achieve compliance, it will be on staff. Sausalito has a code enforcement effort, and staff could learn more about what this city does.

Mayor Brekhus said there was mention about a resident who raised concerns regarding the safety of her children. She asked if there were any evidence that the children were in an unsafe setting because of renters. Mr. Woltering said he was unfamiliar with that complaint.

Chief Pata said they have had no complaints and he has not heard of this case. Every day in town, there are many people who come into the town and work for extended periods of time and he has had no complaints on those either.

Council Member McMillan pointed out in the June 2017 staff report there are some additional costs identified for the Town as approximately \$24,000, 10 hours a month at \$197/hour. Or, if the Town were to hire a consultant such as Host Compliance, this is where they are getting the \$27,000 to \$35,000 a year figure and the staff report from 2017 indicates it would cost \$24,000 of staff time.

Mayor Pro Tem Kircher said when this issue was before the Council in the past, he was trying to get a sense of why people were renting their units. One person communicated with the Council

and said they rent their house out and they think they are providing a valuable service. People like to go back to where they were raised or possibly, they want to buy property here or have a family reunion. This resonated with him because he had a family reunion and had no place to put people, and their next-door neighbor said they would be gone, and his family could stay at their house for free.

His point is that the owner indicated he uses the money to pay his property taxes and to subsidize travel, and he is traveling when he is renting it out. He was not sure people in town really depend on this income and, if so, the Council has not heard from them. He was therefore concerned with a ban on cutting rentals off if they were relying on the income stream.

Mayor Brekhus said the survey is interesting because you can read it different ways. She read it as there are 9 people who have done it and they have 53 who said they have not done it but would consider it. She was not sure if there is overlap between those 62 and the 36 who are not interested in doing it, but they would support it. It seemed like there was 97 or 98 people who are okay with this and then the 67 who were not.

Mayor Brekhus opened the public comment period.

Ken Pickart, 70 Baywood Avenue, said he has 1 of the 3 short-term rentals listed. He has owned the property for 6 years and it has been rented 4 times for a total of 18 or 20 days. It is not a cash-cow or lucrative, and he thinks there is an extreme shortage of housing in the area. The primary user is a family that has a wedding and needs a place to stay. They can go to San Rafael to a hotel or the Embassy Suites or Courtyard Marriott, but there are no places for them to stay in Town. He also referred to the ADUs and knows there is a huge push to build ADUs in the town. He does not know any of them that are rented, but he questioned if that was not the goal of the ADUs to have affordable rental property.

In addition, he questioned how many ADUs are there and how many are rented. He thinks most of the ADUs are not being rented, and the source of the complaint from his property is basically a person that has an ADU that has converted it into residential living area and never rents it. He also has some property in San Anselmo which is more of a mixed use building which they also host on Airbnb, and he has never had one incident and people are beyond grateful to have a place to stay in the community. So, he asked the Council to take all of this into consideration.

Douglas Abrams, 126 Winding Way, said he has never used Airbnb and only uses HomeAway. He began using them 7 years ago and has had no complaints from any neighbors in 7 years. He probably uses HomeAway 8 or 9 times a year and most of the people who rent are either from Ross or Kentfield and they are coming back. The rentals are also usually very short, just 3 or 4 days, but once he had someone rent for one month and they lived in Ross and were having their

floors redone. They had 3 kids in school and his kids were already in college, so it worked out. As is typical, the person staying next week is a woman who rented the house for her mother and stepfather because she grew up here in Ross. Her sister is getting married. She has been living in Manhattan for 10 years and the sister is getting married at Marin Art & Garden Center.

Therefore, he cannot imagine a better use of his home for 4 nights than helping someone who lived in the community for over 20 years. The people who rented his house this summer came from San Francisco and are thinking of moving to Ross and wanted to experience the town. They have a 7 year old, a 4 year old, and a 4 month old. They got to spend 4-5 nights at his house, enjoy the pool, enjoy the Common, see what schools are like, and he wishes he had that opportunity when he was living in New York. He had to stay at the Madrona Hotel in Sausalito and drive all the way over here when he was building his house on 12 Canyon Road when HomeAway and Airbnb did not exist. So, he thinks it helps facilitate wonderful people coming to town whether it is for a wedding or family event. He does not allow events, so he has never hosted any parties or weddings, and there is never more than 6 to 8 people staying in his house. So, if the Town does enforcement, the Council should consider not allowing events at the homes.

Mayor Brekhus returned to discussion by the Council.

Council Member Robbins said she does not disagree there are lovely people coming into town that benefit from staying in a home versus a hotel, but looking at it from the perspective of the Town, she does not know why a community would want to have homes that are rented out as hotels from time to time. The Town's goal is to have neighborhoods and community, and people who rent a house for a week or less are short-term. She did not know why the Town would want to find a balance, and she would not be in favor of allowing short-term rentals.

Council Member Kuhl said he thinks it is not a problem that is worth getting into after all of the details have been presented. They do not need to do something. The Town allows people to use Airbnb's/HomeAway's because they are not affecting the Town currently. He voiced support to continue to not regulate short-term rentals.

Mayor Pro Tem Kircher said he was still uncomfortable with a complete ban. He thinks short-term rentals can have an appropriate place in a community, even as small as Ross. He has been looking for a way to do light regulation, not burden staff while still setting some markers even if it would be difficult to enforce. The Town does not want repeated rentals, absentee landlords, added traffic, or imposition on neighbors.

He would favor doing something like that but fairly minimal and something that is not an undue burden on staff. He would limit the number of nights and would favor this to be someone's primary residence they are only rent out occasionally. This creates opportunities in Ross that

would otherwise not exist. He echoed the sentiment expressed that there are not many hotel options here, and he described his experience. His kids are always renting Airbnb's. They have family coming up for their new grandchildren from the east coast, and they are renting a San Francisco Airbnb, and he thinks it is a convenience for Ross residents and families. He would volunteer to be on a subcommittee to explore light regulation and setting markers if another Council Member was interested.

Council Member Robbins cited burdens on staff and said if there is not an outright ban, she would do nothing and leave it as is.

Council Member McMillan agreed with Council Member Robbins. She thinks they are opening a hornet's nest if they try to regulate at all. There are many grey areas, people may abuse, and this is not why they would be regulating. She is in favor of a ban because she does not think people moved to Ross to have an Airbnb next door to them. In looking at the other communities that have prohibited short-term rentals and they are more similar to Ross. The jurisdictions that allow short-term rentals are not of the same character in her opinion as Ross. People do not move here and buy a \$4 million house to have a short-term rental right next door. They move here for the community, the school, and neighbors. Unfortunately, she did not think the Town can regulate so she believes they should have no short-term rentals shorter than 30 days.

Mayor Brekhus said just because you can legislate does not mean you should. So, she thinks the first question is whether the Town has a problem. It does not. They have 3 residences using Airbnb and there have been a handful of complaints, some of which sound like they simply do not approve of the concept, which is not reason enough. They had a Town Manager who rented Airbnb, and this is how he was able to stay in the community. He switched his workdays, so he worked from home and then had a long weekend and it worked for years.

Therefore, in addition to parents renting and grandparents renting or visiting nurses, there is a real need. She also believes there are no problems. So, she questioned why the Council would take this on as something to be regulated when they do not have a problem. If they have a problem, this is when they can start considering regulations. She is tired of the topic because they have had this come up over and over again and even when they had a survey, there were more people supporting it than opposed to it.

Council Member McMillan said she thinks it was brought up because the Town had complaints, and noted the survey was done in 2017. Mayor Brekhus said they had one individual who complained, and that person indicated they were offended by the idea of Airbnb's, and not that this particular property had created any parking problems or unsavory renters. They just did not like the concept. She has no problem with Airbnb's and thinks it is a bit snobbish frankly to be opposed in concept to the idea of short-term rentals. She thinks there is room for short-term

rentals, as she rents Airbnb's all the time and does not consider herself an unsavory person who threatens the children of neighbors.

Council Member McMillan said it was more than one complaint other than this person. She said it sounds like the Council will do nothing, and they will revisit it again whenever they get a groundswell of complaints.

Mayor Brekhus confirmed that the majority of the Council did not want to take any action.

**12. Town Council to receive a presentation from staff regarding Ross Recreation.
(Borthwick)**

This item was moved to the October Town Council meeting agenda.

End of Administrative Agenda.

Public Hearings on Planning Projects – Part II.

13. 3 Ross Common, Town Council consideration of conditional approval of use permit to allow a wine bar for on-site tastings and retail sales of beer and wine for consumption off-site and consideration of Resolution 2338.

Adnan Daken and Dena Bliss, 3 Ross Common, A.P. No. 073-273-13, Zone: C-L (Local Service Commercial), General Plan: PS (Public Service), Flood Zone: AE (High Risk Area)

Project Description

The applicants, Adnan Daken & Dena Bliss, are requesting a Use Permit for a wine bar to serve wine and beer on-site and retail sales of those products for off-site consumption. The proposed site will also serve snacks, including cheese and meat boards. The wine bar would have three employees and an estimated patronage of 20-30 customers per day. The proposed hours of operation are from 2:00 p.m. to 9:00 p.m., no more than six days a week, days to be open yet to be determined.

Assistant Planner Alex Lopez-Vega presented the staff report and overview regarding the request for conditional use permit approval to allow a wine bar for on-site tastings and retail sales of beer and wine for consumption off-site. Staff recommends the Town Council approve Resolution 23-38 approving the conditional use permit to allow the wine bar at 3 Ross Common, and the applicant is available for questions of the Council.

Mayor Brekhus asked why the 9:00 p.m. cutoff period. Mr. Lopez-Vega said this is what the applicant proposes and wants.

Dena Bliss, applicant, said she was available for questions of the Council. She said that looking at the other restaurants in town, most close around 9:00 p.m. or 10:00 p.m.

Mayor Brekhus said to Ms. Bliss, if the Council allows the closing time at 10:00 p.m., would they not be open past 10:00 p.m. Dena Bliss indicated they would likely go past 9:00 p.m. on Thursdays through Saturdays, but close by 10:00 p.m.

Mayor Brekhus asked and confirmed allowing 10:00 p.m. closure would allow them the flexibility if they need to stay open later.

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

Council Member McMillan asked if there would be any need to notice the neighbors of the 10:00 p.m. closure versus the 9:00 p.m. closure, and Mr. Stock stated no.

Council Members voiced support for allowing a 10:00 p.m. closure time.

Council Member Robbins moved and Council Member Kuhl seconded, to adopt Resolution 2338, as amended, approving Conditional Use Permit revising the condition to change the closing time to 10:00 p.m. at 3 Ross Common. Motion carried unanimously (5-0).

14. 7 Ross Common, Town Council consideration to allow a use permit for a hair salon at 7 Ross Common and consideration of Resolution 2339.

Magen Sledge, 7 Ross Common, A.P. No. 073-273-13, Zone: C-L (Local Service Commercial), General Plan: PS (Public Service, Flood Zone: AE (High Risk Area)

Project Description

The applicant, Megan Sledge, is requesting approval of a Use Permit to operate a hair salon business in the ground floor space on the south side (street-side facing) of an existing commercial/residential building at 7 Ross Common. The proposed site is approximately 750-800 square feet of space, and the site has no onsite parking. The salon business will also offer for sale various hair care products on a retail basis. The hair salon would have three employees and three clients at most at one time. The proposed days and hours of operation are Monday through Saturday from 9:00 a.m. to 7:00 p.m.

Assistant Planner Alex Lopez-Vega presented the staff report and overview of the request for a use permit for a hair salon at 7 Ross Common.

Mayor Pro Tem Kircher asked and confirmed with staff that the space was formerly part of Breaking Away Bicycles.

Magen Sledge, applicant, said she is hoping to open a hair salon, has been in the area 14 years and has a full clientele. She is also hoping to bring in contractors who also will come with a full clientele.

Mayor Pro Tem Kircher asked Ms. Sledge how many customers can be accommodated at one time in the space. Ms. Sledge said there will be 3 stylist chairs, so the most would be 3 clients and 3 hairstylists.

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

Council Member Robbins moved and Council Member McMillan seconded, to adopt Resolution 2339 approving a use permit for a hair salon at 7 Ross Common. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects – Part II.

15. No Action Items: (Mayor)

- a. **Council correspondence – None.**
- b. **Future Council items – Mayor Brekhus moved and Council Member Robbins seconded, to agendize closure of the Town of Ross Fire Station. Motion carried unanimously (5-0).**

16. Adjournment.

Mayor Brekhus adjourned the meeting at 7:47 p.m.

ATTEST:

Cyndie Martel, Town Clerk

Elizabeth Brekhus, Mayor