

REGULAR MEETING of the ROSS TOWN COUNCIL  
THURSDAY, SEPTEMBER 12, 2024

*Held In-Person and Teleconference via Zoom*

*Mayor Kircher participated from his home, 24 El Camino Bueno, Ross, CA*

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

Mayor Bill Kircher, Jr.; Mayor Pro Tem Julie McMillan; Council Members Teri Dowling; Elizabeth Robbins; Council Member Mathew Salter; Town Manager Christa Johnson; Town Attorney Ben Stock.

Mayor Kircher announced the Town Council held a Closed Session earlier and will continue that Closed Session upon adjournment of the open session.

**2. Posting of agenda/changes to agenda.**

Town Manager Johnson reported that the agenda was posted according to government requirements.

**3. Open Time for Public Expression.**

Diane Doodha, representative, Marin County Commission on Aging, provided a brief overview of the Commission and requested she be placed on the October Town Council agenda to provide an update on the work of the Commission.

Diane Rudden, 39 Willow Avenue, cited safety and traffic concerns in her neighborhood where there are now many children, and asked that a traffic study be conducted. She and other neighbors plan to sit outside their homes in the morning and will let the Council know what they observe.

Ken Patrilla spoke about very dangerous conditions at the corner at Sir Francis Drake and Winship, said he believes there is too much parking on Winship when entering Sir Francis Drake, and asked for red curbing.

Council Member Salter commented that there will be a Public Works Subcommittee meeting on Tuesday, September 17<sup>th</sup> at 3:00 p.m. on this item, and an agenda will be posted.

**4. Presentation of 10-year service award to Mallory Beren**

Recreation Manager Maureen Borthwick presented a 10-year service award to Mallory Beren, Recreation Specialist. She provided an overview of Ms. Beren's accomplishments as a Co-Lead of the Kid's Club Afterschool Program, a Kid's Club Lead, and then Recreation Specialist. Ms. Beren has made a profound positive impact on countless families and Ms. Borthwick described her contributions to the Town over her 10 years of service.

Mayor Kircher then presented a Certificate of Appreciation and a gift to Ms. Beren, and the Council and staff provided a round of applause.

**5. Mayor's Report.**

As we head into the Fall months, please be sure to add the Ross Town Dinner to your calendar if you haven't already done so. This is an annual tradition which began in 2005 and will again take place on the Common on September 27. It's a chance to mingle and reconnect with friends and neighbors under the trees. Details can be found on the Town's website.

I hope you also had a chance to participate in the Live on the Common event on September 6. Many thanks to the RPOA for putting on this event, and special thanks to Elena Batalla for all her continuing efforts in organizing these fun and entertaining get-togethers.

The summer months are typically a slow time in Ross, with many families vacationing and participating in summer outside activities. But you might have noticed that work has continued throughout the summer on various infrastructure projects, both in Ross and in Marin County generally.

Some of our local projects are short term, and some longer or completed in phases, including for example safe routes to school.

And then there are the mega projects, important and consequential, but also complex, with many moving parts, and with a much longer time horizon.

One such project is the replacement of our aging town administrative and public safety buildings. We completed site planning last year, but further detailed construction planning is dependent on whether the Ross Valley Paramedic Authority is willing to make a sufficient commitment to keep its paramedic station, also known as Medic 18, in Ross. We had originally been led to believe we might have a decision in this regard sometime in the Spring, but action is now not expected until later this year due to delays in completion of a study that the Paramedic Authority has commissioned.

The other major undertaking is one in which Ross is a stakeholder but is not in charge of the overall project, and that is removal of the fish ladder and related changes in the Corte Madera Creek channel to reduce the risk of flooding in times of heavy rain. In perusing some old issues of The Morning After newsletter, I noticed that back in 2010 replacement of the fish ladder was predicted to occur in 2011. As they say, a lot of water has gone under the bridge since then, but the bottom line is, the fish ladder is still there, thirteen years later. The Flood Zone 9 website currently states that removal of the fish ladder is "anticipated" in 2025.

For the present, please enjoy these last days of summer, and I'm looking forward to seeing you all at the Town dinner on the 27th.

- 6. Council Committee & Liaison Reports.**
- a. Chris Martin, Marin County Flood Control Zone 9 Advisory Board Member**

Chris Martin, Marin County Flood Control Zone 9 Advisory Board Member, provided a background of the Ross Valley Watershed, its many creeks which feed into Corte Madera Creek, and described the ways in which the natural course of the creek system has been significantly altered. He described damage caused by the 2005 flood and said Flood Zone 9's flood fee was adopted which funds administration and reduction of the frequency and severity of flooding throughout Ross Valley Watershed, while prioritizing public safety and minimizing environmental impacts.

In 2012, the Board adopted a 10-year plan which included a series of detention basins, bridge and creek modifications, and undertaking feasibility and extensive environmental studies, community meetings, and outreach. He then described additional operational improvements, projects, and work scheduled to reduce flooding to properties in San Anselmo and Ross.

Removal of the fish ladder is overdue, but it will be demolished and replaced with a more gradual and natural transition in the concrete channel which will allow the passage of fish. He then provided an historical account of coho salmon and steelhead migration and said the project also includes installing taller, new flood walls in the flood channel, and removal of 625 linear feet of concrete wall from the lower reaches of the concrete channel at the College of Marin and beyond to improve fish and wildlife habitat.

Lastly, there will be a community workshop about the Corte Madera Flood Risk Project on October 15<sup>th</sup> at Marin Catholic High School as well as a tentatively scheduled Flood Zone 9 meeting on November 7<sup>th</sup>.

Mayor Pro Tem McMillan said she believes it was in the March election that the Town of San Anselmo voted to remove themselves from Flood Zone 9, and she asked what this will mean.

Mr. Martin said the Town of San Anselmo gives up its seat and is still assessed until the flood fee expires in a couple of years. He would not advise the Town of Ross consider a similar move, as there is too much to gain with these projects. They will want to continue with creek improvements when funding stops, especially as more property develops.

Council Member Salter asked if Mr. Martin could provide the presentation in writing, and Mr. Martin agreed.

Mayor Kircher asked if it is Mr. Martin's understanding that the plans for the SAFR project and the Corte Madera Creek are complete but they are just waiting for FEMA to review the new modeling and provide feedback.

Mr. Martin said FEMA and the County will start meeting on this in October. The model has not been finalized and it will take time for FEMA to review and provide comments.

Mayor Kircher opened the public comment period.

Daryl Page thanked Mr. Martin for his report and questioned where he obtained his documentation, stating a great deal of it does not comport with what she understands to be the case or has heard at any meetings with the County. She described the Sunnyside Basin which was supposed to hold 88-acre feet. However, as built, it holds 13.5-acre feet. Also, contrasting 625 linear feet of concrete removal in the lower reaches of the Corte Madera Creek versus the over 2,000 feet of new walls up to 6 feet tall also needs to be reconsidered. She then described the creek's history of coming down Bolinas Avenue and switching to the other side of San Anselmo which the railroads took advantage of in the late 1800's, and she disagreed which what has been presented as accurate.

**b. Other**

Mayor Pro Tem McMillan reported that on Saturday, over 5,000 people attended Ember Stomp at the Marin County Fairgrounds, as sponsored by Marin Wildfire Prevention Authority. An interesting demonstration was given of two homes being burned, one with and one without defensible space, which she described.

Mayor Pro Tem McMillan also reported attending a field trip on Wednesday on behalf of Marin Wildfire at the San Rafael/San Anselmo Fuel Reduction Zone, and she noted that eucalyptus trees are slowly being removed to enhance the fuel break between San Rafael, San Anselmo, and Ross.

Lastly, she reported on Wednesday, September 18<sup>th</sup> at Marin Art and Garden from 5:00 to 7:00 p.m. the Town of Ross and the Barbara Winship Firewise neighborhood will be sponsoring an educational event. Executive Officer Mark Brown of Marin Wildfire and Kathleen Cutter, in charge of all defensible space inspectors, will be speaking about how to get ahead of the property insurance crisis.

Council Member Dowling reminded everyone of the Disaster Planning Breakfast hosted by Age-Friendly Ross at Cedars on Monday, September 16, 2024 from 9:30 to 11:30 a.m. with the focus on disaster planning, defensible space, and alert system notifications.

Mayor Kircher spoke about his attendance to the RVPA meeting as the Alternate for Council Member Robbins. The Authority authorized the purchase of a new ambulance for Medic 18 which is the ambulance stationed in Ross.

Secondly, the Town has been waiting on a decision regarding extension of the current lease for the Authority and they hoped for a commitment from the Authority to remain in Ross to justify their undertaking to build new paramedic quarters. The study is still not complete, but is broader than the expected limited deployment study.

**7. Staff & Community Reports.**

**a. Town Manager**

Town Manager Johnson gave the following report:

The annual Town Dinner will be held on Friday, Sept 27<sup>th</sup>, 5:30-8:30 p.m. on the Common. There will be musical performances by Pride and Joy and by a local band called Lunar Mooners. It is sure to be a fun event! Please register at [rossrecreation.org/events/towndinner](https://rossrecreation.org/events/towndinner)

Big thanks to RPOA for purchasing four benches for the tennis courts and for the fabulous Live on the Common concert last Friday evening.

Fire season is here. We continue to find cars parked illegally on roads that may prevent access by emergency vehicles. The Ross Municipal Code requires there to be 12 feet of unobstructed roadway at all times to allow access by emergency vehicles. Five signs reminding drivers of this requirement were recently installed at five locations. During the month of August Police officers provided warnings to violators. This has now transitioned into enforcement and violators are receiving citations.

Last week, the Town began dismantling the pedestrian bridges that serve the picnic areas at Natalie Coffin Greene Park. You may recall that last year, the Public Works Director determined that these three wooden/timber pedestrian bridges have exceeded their useable life and need to be replaced. The Town will be installing new bridges at these locations. Due to the seasonal restrictions imposed by the State regulatory agencies the Town has a very limited time window for completing all of the work in this area. The Town will need to demolish the bridges in over the next month, and then install the new bridges in September-October 2025. This means that except for the main MMWD access road bridge, there will be no available means to cross over the creek within the picnic area for up to 12 months. The Town is coordinating with MMWD to upgrade the switchback trail and split-rail fence that leads from their maintenance road down to the "Three-Bear" picnic hut on Town property, since this will be the only way for visitors to access the picnic area around the hut for the 12-month period after the bridges are demolished. The other picnic area can be accessed using the trail from the parking lot that runs along the creek. Beginning tomorrow, parking will be restricted in the area of the public restrooms as the Town's contractor mobilizes for the removal of the remaining bridges. The demolition will begin next week. This information will be sent out to the public via an eblast tomorrow.

"Chipper Days" sponsored by MWPA is coming up at the end of the month for Ross residents. Residents can reserve a pickup here: <https://reserve.chipperday.com/marin>. Looks like some space is still available.

The Ross Creek Clean-up day sponsored by the Ross Public Works Department maintenance staff is being held on Saturday, September 21, 2024. This annual event provides an opportunity for kids and grown-ups alike to get a hands-on tour of Ross and Corte Madera Creeks while helping Town staff maintain our primary drainage ways by removing debris and litter before the winter rains come. Meet in front of the Ross Post Office at 9AM sharp and wear old clothes, long pants, long sleeves, and gloves if you have them.

For our Housing Element there are a few resources we need to "informally present" or share with the public. Therefore, I am including in my Town Manager's Report this evening. These resources have now been put on our Town website and will also be sent out annually in the Morning After e-newsletter.

1. **Housing needs in Ross.** Our Housing Element requires the Town to inform the public about the need for workforce housing/affordable housing in Ross. Staff recently created an infographic on this which is linked on the Town website under our new housing page. As you know, we have entered a new Housing Element cycle which will allow the Town to work towards goals of creating more housing at all income levels.
2. **Accessory Dwelling Units (ADUs).** The Town's website now includes new information, resources and checklists that allow residents to easily apply for and build ADUs.
3. **Home Match Marin.** The adopted Housing Element also requires the Town to promote home sharing programs which will increase affordable housing opportunities in Ross. Home Match Marin is a free service based out of San Rafael that connects people seeking to rent a room in their home or ADU on their property with community members seeking affordable housing options. Home Providers benefit from additional income, companionship, and, or help with chores such as grocery shopping, pet care, or transportation. This is a great option for Ross residents with ADUs. Information can be found at <https://frontporch.net/live/home-match>
4. **FHANC (pronounced fancy).** Fair Housing Advocates of Northern California is an organization which provides resources for residents on accessing and securing fair housing. On top of providing education of fair housing, FHANC aids with investigating and filing housing discrimination complaints with the State.
5. **Marin Senior Fair with Community Action Marin.** Community Action Marin is hosting its annual senior fair on September 18 from 9am to 3pm at the Marin Center Exhibit Hall. Attendance and parking are free. The fair will have booths to learn more about many of the housing resources previously mentioned as well as music and dancing!

Police Chief Pata provided an update on the August 20<sup>th</sup> armed robbery against a businesswoman who was crossing the street. Police also learned the perpetrators also had just committed a burglary in Kentfield just before and once leaving Ross. They discarded many items from the businesswoman, then went to Mill Valley and committed another robbery, and then drove to San Francisco. This was an anomaly as the first armed robbery in Ross in 4 years and the second in 20 years.

Police put out an all-points bulletin of the car which resulted in a chase in Mill Valley but then lost. Police learned the car had been stolen from the South Bay at 3:00 a.m. that morning as license plate information was captured by a Flock camera system. The car then was dumped and processed for evidence. Most importantly, the victim was not harmed and did exactly what she should have done, which was to comply.

On August 14<sup>th</sup> Chief Pata had discussed exploring cameras for Ross as well as in the last budget cycle. He pulled the statistics for this month and then went back to 2021 given last year they had a blip of stolen automobiles. In comparing month to month, they were up and down one or two cases, noting these are crimes of opportunities, so he recommended people secure their possessions.

Lastly, he had heard there was a home invasion in Ross; however, it was someone who hopped a fence and took items from a carport which was actually a theft and then elevated to a burglary. He also heard twice tonight that there was a second robbery in town, but this is inaccurate. He would encourage anyone to contact him directly at 415-453-1453 ext. 101 for confirmation of crimes. They have conducted patrols around homes and are available to do this upon request.

Council Member Robbins asked and confirmed with the Town Manager that the funds for replacement of the Bridge at Natalie Coffin Greene Park are Town funds. She asked if the Council will have an opportunity to weigh in on bridge types in the picnic areas after the ADR's review.

Public Works Director Rich Simonitch confirmed but noted the Town is limited in what type of pre-fabricated bridge can be used, which he described.

Council Member Salter thanked Chief Pata for the update. He suggested posting monthly crime updates and best practices in the Morning After.

Town Manager Johnson clarified the Chief has a column in the Morning After on tips, and last month was an article on E-Bikes. The Chief has also prepared a follow-up regarding the armed robbery for tomorrow's Morning After newsletter.

**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.

Council Member Salter requested removal of Item 8b for discussion, and there were no public requests for removal of items or public comments.

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

- a. Minutes: Special Meeting Closed Session, August 8, 2024**
- Minutes: Regular Meeting, August 8, 2024**

- c. **Town Council to authorize the Town Manager to execute a Master Consultant Services Agreement with CSG Consultants, Inc. for Building Plan Review and Inspection Services during the period September 13, 2024, through June 30, 2027.**
- d. **Town Council to review and accept the fiscal year 2023-24 fourth quarter, twelve-month, Financial Summary Report.**

Item Removed from Consent:

**b. Demands for August 2024.**

Council Member Salter asked if more detail could be added to the larger sum amounts in the Demands. Town Manager Johnson stated anything over \$5,000 requires a second signature by a Councilmember, and Mayor Pro Tem McMillan is accessible to do this. She agreed to ask their accountant if more information can be added to the report and asked Council Member Salter to contact her with any other questions.

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

Mayor Pro Tem McMillan suggested a parenthetical of two or three words to describe amounts over \$10,000. Town Manager Johnson said she will ask the accountant if it is possible to add more explanation of the expenditure.

**Council Member Salter moved and Council Member Robbins seconded, to approve Consent Calendar Items b. Motion carried unanimously (5-0).**

**End of Consent Agenda.**

**There are no Public Hearings on Planning Projects – Part 1.**

**9. Public Hearings on Planning Projects – Part 1.**

- a. **21 Loma Linda, Design Review, Nonconformity Permit, Hillside Lot Permit, a Variance and Town Council adoption of Resolution No. 2433 approving the project, subject to conditions.**

Ben Kozub and Scott Golden, 21 Loma Linda, A.P. No. 072-121-04, Zoning: R-1: B-10, General Plan: ML (Medium Low Density), Flood Zone: X (Moderate Risk).

**Project Summary:** The applicant requests approval from the Town Council for Design Review, Nonconformity Permit, Hillside Lot Permit, and a Variance. The project proposes to renovate the existing nonconforming wooden deck, expanding it from 710 square-feet (SF) to 720 SF. Additionally, the project will include a new fireplace, seat wall and a new arbor. Variances are requested to allow for the construction of new landscape structures within the rear yard setback and a new rock wall that will measure 8 feet in height.



Assistant Planner Alex Lopes-Vega gave the staff report and overview of the request for Design Review, Nonconformity Permit, Hillside Lot Permit, a Variance and Town Council adoption of Resolution No. 2433 regarding 21 Loma Linda. The ADR Group reviewed the project and all members voiced their support. Staff also received three letters of support from neighbors at 230, 220, and 70 Wellington Avenue, and recommends adoption of Resolution No. 2433.

Brad Eigsti, Imprints Landscape Architecture, gave an overview, stating what is on site now is a wood deck with a large rock wall on the uphill side. Their request is to slightly expand the deck to straighten out a curving corner, put an outdoor fireplace structure to replace the rock wall, and an arbor structure with down lights mostly to provide shade for the deck. It is a simple project and he was available to answer any questions.

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

**Council Member Robbins moved and Council Member Dowling seconded, to adopt Resolution No. 2433 approving 21 Loma Linda Design Review, Nonconformity Permit, Hillside Lot Permit, and Variance. Motion carried unanimously (5-0).**

**End of Public Hearings on Planning Projects - Part 1.**

### **Administrative Agenda**

- 10. Town Council to adopt Resolution No. 2434 to establish school zone speed limits on two-lane streets within 500 feet of Ross School, located at 9 Lagunitas Road, Ross, CA and the Branson School, located at 39 Fernhill Avenue, Ross, CA.**

Police Chief Pata gave the staff report and overview of the Safe Routes to School Task Force meeting wherein AB321 was discussed. AB321 is a bill amending the Vehicle Code which allows cities and towns to reduce the speed limit of streets by school zones, which many jurisdictions have implemented. The law and proposal are attached in his staff report, and he described a 1999 study from the National Highway and Traffic Safety Administration, specific recommendations for how measurements were taken, and recommended speeds be reduced to 15 mph during school hours for the Ross School and Ross Preschool, and Branson School.

Council Member Dowling referred to the Post Office parking lot and asked if this is the entire parking lot.

Chief Pata included the map in the staff report which he explained is just past the driveway and not as far as the wine store.

Council Member Robbins asked if there is any reason not to do this.

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Chief Pata said he reached out to peers, could not find any downside to reducing speeds, likened it to a safety tool, and said the first couple of months police will do an education campaign for vehicles, E-bikes, bicyclists, and scooters.

Council Member Robbins asked and confirmed that from 8:30 a.m. to 3:30 p.m. the speed limit will be in effect.

Council Member Dowling asked about any difficulty in enforcement. Chief Pata replied that the first week of school is usually the most difficult in getting people to break bad habits. He has reassigned staff to day shift and with two positions, they can conduct enforcement.

Mayor Pro Tem McMillan said school starts at 8:30 a.m. and she confirmed the speed limit will be in effect before school opens, and Chief Pata said he will work with Public Works and the Town Manager for signage. He added that the law waives the necessity of doing a traffic study.

Mayor Kircher asked and confirmed the signs posted will read per the law as, "15 mph when children are present."

Town Manager Johnson commented that emails were received from Branson and Ross Schools who are enthusiastic and in support of this measure.

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

**Mayor Pro Tem McMillan moved and Council Member Dowling seconded, to adopt Resolution No. 2434 to establish school zone speed limits on two-lane streets within 500 feet of Ross School, located at 9 Lagunitas Road and the Branson School, located at 39 Fernhill Avenue. Motion carried unanimously (5-0).**

**11. Town Council to discuss and provide direction to staff and to the Advisory Design Review Group on pickleball court regulation options.**

Planning Director Roberta Feliciano gave the staff report and overview of the item regarding pickleball court regulation options on private property in residential zones. Staff recommends the Town Council discuss and provide direction to staff and the ADR on pickleball court regulation options.

Ms. Feliciano discussed the following options for the Council to consider:

1. Prohibit pickleball courts within 250 feet of residential property lines, and she noted this would include most of the lots in Ross that would be able to meet that 250-foot condition;
2. Amend the Municipal Code and adding pickleball courts to the list of uses requiring a use permit. This would allow the requirement for a noise study and mitigation to ensure they are able to meet the 55-decibel standard along the property line; and
3. Provide policy guidance to the ADR Group and pause the review of private pickleball courts until a policy or ordinance is adopted. There are currently in queue two sports courts that are likely to go before the ADR Group in the October meeting.

Thus far, staff has not received any complaints on any existing pickleball courts and staff is requesting direction from the Town Council on regulations for private pickleball courts due to potential noise disturbances as requested during the April 4<sup>th</sup> Town Council meeting.

Mayor Pro Tem McMillan thanked Ms. Feliciano for the great staff report and asked if staff was referring only to the public courts when talking about not receiving any complaints. Ms. Feliciano clarified there may be some private homeowners who play pickleball on their own private courts, but there have been no complaints.

Council Member Dowling asked if a sports court is for tennis, pickleball, or used for many sports. Ms. Feliciano said sometimes they are drawn as tennis courts, basketball courts, but basically the sports court would allow people to play any sport. There are two requests now to develop a sports court, but staff does not know if pickleball is proposed for either of them.

Council Member Robbins stated the Town already regulates noise with the 55-decibel standard, which she confirmed is a weighted average over 24 hours.

Council Member Robbins asked if the Town would regulate the decibel level for each whack of the paddle or regulate the noise over 24 hours. Ms. Feliciano explained how a noise study is taken and said people would not be able to play pickleball unless they are 250 feet away and still meet the 55-decibel standard.

Council Member Salter asked if staff researched the new paddles and balls that reduce noise. Ms. Feliciano said yes; In terms of use of quieter paddles and balls, the challenge is the enforcement. Hypothetically, it would be challenging to verify people have these quieter paddles and balls and they are strictly using that equipment.

Council Member Dowling asked what mitigation would include and what it means. Ms. Feliciano explained mitigation would include a sound barrier, such as a wall or a solid fence without gaps, or something that would block the travel of the noise so when it gets to the property line to meet the 55-decibel threshold.

Mayor Pro Tem McMillan asked if staff has any idea how many people with existing courts are using them for pickleball. Ms. Feliciano said they only know how many courts there are, but it is challenging to determine whether they have been converted, whether they are now used as pickleball courts, and this would entail more research. She confirmed there are about 20 courts and said it is easy to convert a tennis court to pickleball court.

Mayor Pro Tem McMillan asked if staff was seeking guidance on the two projects coming up or asked if the Town will regulate existing courts, as well. Ms. Feliciano said this is up for discussion by the Council. If retroactive, staff would have to identify what was originally approved.

Council Member Robbins said if the Town regulates limiting pickleball by 250 feet and a use permit, and then things change with pickleball, she asked and confirmed that Council could return and evaluate this again.

Mayor Kircher referred to the pending projects and noted a sports court was approved at 2 Bellagio but with the condition that there would be no pickleball use without further action by the Council. He asked and confirmed this would bring the total outstanding requests to three. As to these three properties, he asked if these could meet the 250 feet, whether they would require a use permit, or whether they would have to comply with other conditions.

Ms. Feliciano stated of those three, none would meet the 250-foot distance requirement. The condition for 2 Bellagio read that the court would be subject to any regulations for pickleball, but that other sports could be played.

Mayor Kircher referred to properties where its edge is up on a hillside or road, and confirmed with Ms. Feliciano that the Town would regulate a use at its property line and that topography or distance would pose a challenge in enforcement. If an applicant is interested in a pickleball court, they would hire a noise consultant, run the analysis, and propose a mitigation recommendation that ensures noise is not over the 55-decibel threshold at the property line.

Mayor Kircher said variances or exceptions can sometimes be granted depending upon the case. He would think that there ought to be some objective standards where the Council could grant exceptions or variances or require a use permit in certain cases.

Mayor Pro Tem McMillan asked and confirmed there are four pickleball courts in Frederick Allen Park and each one can accommodate four players. Therefore, 16 people could be playing at the same time.

Council Member Robbins said if the Council regulates pickleball with the 250-foot requirement, she asked if this would apply to Branson School or the Lagunitas Club. Ms. Feliciano said currently the discussion is for private pickleball courts in residential zones. She would have to check the zoning for Cedars and the Lagunitas Country Club.

Council Member Robbins said if they were not in a residential zone, she asked if the noise standard applies to them. Ms. Feliciano said the noise standard would apply to exterior uses in residential areas.

Council Member Salter questioned the Town's pickleball courts, and Ms. Feliciano said she did not believe the public courts are in a residential zone.

Council Member Salter noted that Lagunitas Country Club and Branson School are both in a residential zoning district.

Council Member Dowling asked if a sound study was ever done for the public courts, noting there are five or more homes right next to the court but no complaints. She lives in one of these homes and can hear the pickleball being played. They never complained because they know it is a recreation area but some neighbors have bedrooms right against the back but also have never complained.

Mayor Pro Tem McMillan said she visited the four courts today and took a decibel reading on her phone. There was so much ambient noise in the area that she could not discern the ping of the ball. However, she worries about courts in canyon-like areas where sound travels.

Mayor Kircher opened the public comment period.

Robert Ludlow said he and his wife Sandra moved to Ross one year ago and live in one of the quiet canyons where you hear crickets and frogs at night. He expressed their opposition to allowing pickleball courts in residential areas because of the noise nuisance they represent. He read aloud sections of Ordinance 920-010 which prohibits annoying noise and he asked that the Town respect limited noise in residential properties and privacy. He cited the difficulty in establishing a decibel reading and proposed the Town enact a simple distance requirement which would be easy to enforce.

Dennis Muren introduced his wife Zara and said they are the house right between the two pickleball courts that are coming up for review. The New York Times said the most grating and disruptive sound in the entire athletic ecosystem right now may be the “pop-pop-pop” emanating from rapidly multiplying pickleball courts. When living in a small, quiet area like their home, they will hear the pickleball court which is completely different than being down at Poplar and Sir Francis Drake where there is traffic and other noises, and the pop-pop-pop will drive them and others crazy.

Ken Petrilla, Lagunitas Country Club, said they are in a residential area, have a use permit, have two pickleball courts, and a total of six tennis court of which one was not converted in the sense that people can play tennis or pickleball. They have been playing for a little over a year and it has been very successful with tremendous usage. They have not had one complaint from anyone and he agrees topography makes a big difference with noise. They implemented their own hours of 9:00 a.m. to 6:00 p.m. and would be opposed to any regulations being considered.

Zara Muren said pickleball is increasing all over the states. She spoke of a protest in Tiburon where an association contested turning tennis courts into pickleball courts and they have been stopped. The reason is loss of the peaceful enjoyment of decks and patios and the negative effect on property values based upon experience of the nearby courts that were converted. She then described litigation in Massachusetts, voiced support for Option 1, and commented that there is only a fall off of 6 decibels with the doubling of the 250-foot distance.

Beach Kuhl, former Council Member, said he lives across the street from a tennis court which has been lined for pickleball and has first-hand knowledge. They can hear the noise of the ball being stricken but it is not something that is upsetting or distracting, and he thinks it is a mistake for the Council to regulate this. If the Town wants to control noise, it should think about controlling construction noise, given it goes on all day and is much more annoying. There will be problems enforcing this and he thinks if the Town does regulate it, it should be the same as the public courts, with fences or sound barriers.

Mayor Kircher confirmed there were no additional speakers and called for Council deliberation.

Council discussion ensued regarding pickleball courts in canyon-like areas where there is no other ambient noise, existing noise from construction and other landscaping equipment, sports facilities with existing use permits and existing Town pickleball courts for people to use, Option 1 to regulate pickleball courts if over 250 feet away from a property line, the difficulty of regulating noise and enforcement, suggestions to receive input from residents, a suggestion to review requests on a case-by-case basis, over-complicating regulations for pickleball, new technology of equipment, banning use of certain equipment, setting hours of play between 9AM and 6PM similar to what Lagunitas Country Club does without complaints, the difficulty of enforcing use of certain equipment which does not work as well as availability of staff resources, and suggestions for tabling the item to obtain more information.

Mayor Kircher took a straw vote of the Council regarding approving sports courts with a 250-foot measurement between property lines and the court and for those properties less than 250 feet, the owner has the option of having a sound study done and mitigation, which would require a use permit and ADR review, and that there be some flexibility that the Council could waive portions of this if there were unusual circumstances.

Additional discussion ensued. Mayor Pro Tem McMillan said she did not think the Council should allow pickleball at private residences due to its annoying sound and that commercial sports facilities could be regulated with use permits. Council Members Robbins and Dowling both agreed, noting that 250 feet eliminates just about all courts.

Town Manager Johnson asked if Mayor Pro Tem McMillan only wanted to restrict new development of pickleball courts. The Town's courts, Lagunitas and Branson's courts already exist.

Mayor Pro Tem McMillan asked if existing courts must be denied, and Town Attorney Stock said it depends on how they were approved. From his understanding, Mayor Pro Tem McMillan's request applies to prospective courts only in residential zones.

Council Member Salter noted there are 13 courts and some people are playing on them already. Therefore, the Town would need to restrict pickleball altogether on existing or future courts.

Town Manager Johnson commented that she has some concerns outright prohibiting pickleball because sometimes people can start playing in their driveway with taping. This begins to be an enforcement issue and it is something she would like to spend more time on. One idea is that the Council could start off with a prohibition of pickleball on new development and see how that goes or if there are problems on existing courts. The Council could always go back and change the ordinance or direct staff to do research on applying it retroactively and phase it.

Council Members then described outlawing pickleball in residential areas, the many people who love the sport and want to play it, surveying the community on the issue to receive more input on those who play, why they like it, people who live next to courts and do not mind the noise, and those who are annoyed by the noise, the cost of paddles versus paying for sound-proofing, enforcement, and options moving forward.

Mayor Kircher said one option is to ban new pickleball uses on residential properties and not go back and try to ban existing uses that the Council may or may not know about, and have non-residential properties subject to a use permit. Another possibility is to table this for further information. He would be interested in new products, would also like to hear more about Belvedere's experience, what problems they had, and why they repealed the ordinance. This could provide more time to hear more information.

Mayor Pro Tem McMillan suggested putting a moratorium on the two pending pickleball court requests until the Council further discusses this as they did with 2 Bellagio.

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Council Member Robbins suggested something be included in the Morning After to indicate the Council is discussing pickleball and noise issues and that it will be discussed again in the October meeting.

Town Attorney Stock clarified there is no moratorium in effect. Right now, with the current applicant, there was a condition of approval when the application came forward. If warranted, the Council can do this for the other two properties.

Town Manager Johnson stated staff can learn more about Belvedere's experience, can conduct some Google searches and find out more of what is available, and put out an E-blast about this issue. The Morning After goes out tomorrow and she can ask the Town Clerk to add some information about looking for a pickleball item on the October 10<sup>th</sup> agenda.

Regarding the idea of surveying, staff does not have that ability before October but can try to get information out via an E-blast in the Morning After. She confirmed that Ms. Feliciano has direction for the ADR, noting they would apply the same conditions from 2 Bellagio which basically states they would be subject to any regulations regarding pickleball for the sports courts.



**End of Administrative Agenda.**

**There are no Public Hearings on Planning Projects – Part 2.**

**12. No Action Items: (Mayor)**

- a. **Council Correspondence** – None.
- b. **Future Council Items** – Mayor Pro Tem McMillan requested an agenda item on the Marin Commission on Aging, and Council Member Robbins voiced support.

Council Member Robbins asked for an agenda item next month to discuss the Ross Valley Fire Station Lease and whether the Board could be asked if they would consider postponing the closure of the station until certainty is identified about the paramedics. Council Member Salter seconded his interest.

Council Member Salter asked for an agenda item on whether to hold a separate brainstorming discussion prior to the budget retreat to identify any new Council priorities, and Council Member Robbins seconded her interest.

Mayor Kircher asked for a Council discussion of the circumstances under which proclamations are appropriate, and Council Member Salter seconded his interest.

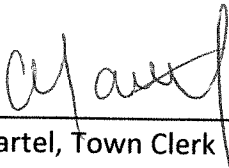
**13. Adjournment.**

The meeting adjourned at 9:05 p.m.



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C. William Kircher, Jr., Mayor

**ATTEST:**

  
\_\_\_\_\_  
Cyndie Martel, Town Clerk

