

**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
JANUARY 17, 2023
110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
LOS GATOS, CA
7:00 PM**

PARTICIPATION IN THE PUBLIC PROCESS

*Maria Ristow, Mayor
Mary Badame Vice Mayor
Matthew Hudes, Council Member
Rob Moore, Council Member
Rob Rennie, Council Member*

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Town Council meeting.

Effective Proceedings: The purpose of the Town Council meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Town Council meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Town Council without first being recognized; interrupting speakers, Town Council or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Clerk’s Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
 - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
 - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

***Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.
Rebroadcast of Town Council Meetings on the 2nd and 4th Tuesdays at 7:00 p.m.
Live & Archived Council Meetings can be viewed by going to:
www.LosGatosCA.gov/TownYouTube***

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]

**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
JANUARY 17, 2023
110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
7:00 PM**

IMPORTANT NOTICE

This is a hybrid meeting and will be held in-person at the Town Council Chambers at 110 E. Main Street and virtually through the Zoom webinar application (log-in information provided below). Members of the public may provide public comments for agenda items in-person or virtually through the Zoom webinar by following the instructions listed below. The live stream of the meeting may be viewed on television and/or online at www.LosGatosCA.gov/TownYouTube.

PARTICIPATION

To provide oral comments in real-time during the meeting:

- **Zoom webinar:** Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: <https://losgatosca.gov.zoom.us/j/89706482434?pwd=VmRFOU5jdVUzUFRTL042bm9WN2cvZz09>
Passcode: 878334 You can also type in 89706482434 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
 - When the Mayor announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand.
- **Join by telephone:** Join by Telephone: Dial: USA 877 336 1839 US Toll-free or 636 651 0008 US Toll. Conference code: 686100
 - If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- **In-Person:** If you wish to speak during the meeting, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Town Clerk. If you wish to speak to an item on the agenda, please list the item number. If you wish to speak on an item NOT on the agenda, please list the subject and you may speak during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

When called to speak, you may be asked to provide your full name and your town/city of residence. This identifying information is optional and not a requirement for participation. Please limit your comments to three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for speakers at a Council meeting. If you wish to speak to an item or items on the Consent Calendar, please state which item number(s) you are commenting on at the beginning of your time.

If you are unable to participate in real-time, you may email to Clerk@losgatosca.gov the subject line “Public Comment Item #__” (insert the item number relevant to your comment) or “Verbal Communications – Non-Agenda Item.” Comments received by 11:00 a.m. the day of the meeting

will be reviewed and distributed before the meeting. All comments received will become part of the record.

RULES OF DECORUM AND CIVILITY

To conduct the business of the community in an effective and efficient manner, please follow the meeting guidelines set forth in the Town Code and State law.

The Town does not tolerate disruptive conduct, which includes but is not limited to:

- Addressing the Town Council without first being recognized;
- Interrupting speakers, Town Council, or Town staff;
- Continuing to speak after the allotted time has expired;
- Failing to relinquish the microphone when directed to do so;
- Repetitiously addressing the same subject.

Town Policy does not allow speakers to cede their commenting time to another speaker. Disruption of the meeting may result in a violation of Penal Code Section 403.

MEETING CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PRESENTATIONS

- i. Recognize Outgoing Board, Commission, Committee Members.

CLOSED SESSION REPORT

COUNCIL / MANAGER MATTERS

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Council may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Mayor asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 2 of this agenda. If an item is removed, the Mayor has the sole discretion to determine when the item will be heard.)*

1. Approve Draft Minutes of the December 20, 2022 Town Council Meeting.
2. Approve Draft Minutes of the January 10, 2023 Special Town Council Meeting.
3. Adopt a Resolution Reaffirming Resolution 2021-044 and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, and, Due to Health and Safety Concerns for the Public, Authorizing the Use of Hybrid Meetings for the Town Council and the Continued Use of Virtual Meetings for Boards and Commissions While Town Staff Makes the Necessary Arrangements to Transition to Hybrid Meetings for All Town Boards, Commissions, and Committees.
4. Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505):
 - a. Approve the Plans and Specifications;

- b. Authorize Advertising the Project for Bid Upon Receipt of Formal Funding Approval (E-76) from Caltrans; and
- c. Authorize the Release of a Request for Proposals for Construction Management, Inspection, and Materials Testing Services.
- 5. Legal Costs for Colantuono, Highsmith & Whatley, PC
 - a. Authorize Payment of Up to An Additional \$50,000 for a Total Payment Not to Exceed \$150,000 for Fiscal Year 2022/23; and
 - b. Authorize Expenditure Budget Adjustment in an Amount of \$100,000 From Available General Fund Capital/Special Projects Reserve.
- 6. Adopt a Resolution to Extend the Term of the Housing Element Advisory Board.
- 7. Authorize Budget Adjustments in the Total Amount of \$57,046 to Recognize Receipt and Expenditure of Pacific Library Partnership, California State Library, and Library Services & Technology Act Grant Funds.
- 8. Authorize the Town Manager to Execute a Fifth Amendment to the Agreement for Services with Brightview Tree Care Services, Inc. to Increase Compensation for Fiscal Year 2022/23 in an Amount of \$100,000 for a Total Annual Amount Not to Exceed \$200,000 with the Total Agreement Amount Not to Exceed \$1,096,000.
- 9. Authorize the Town Manager to Execute a Third Amendment to a Consultant Agreement for Executive Recruitment Services with Teri Black & Company, LLC for an Additional Amount of \$31,000 with a Total Amount Not to Exceed \$170,500 and Authorize an Expenditure Budget Adjustment from Available General Fund Capital/Special Projects Reserve.
- 10. Receive Monthly Investment Reports for October and November 2022.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.)*

- 11. Consider Objections to the Proposed Abatement of Hazardous Vegetation (Weeds) for Properties Listed on the 2023 Weed Abatement Program Commencement Report and Order the Abatement.
- 12. Consider a General Plan Amendment by Resolution to Add Policies to the Hazards and Safety Element. Location: Town-Wide. General Plan Amendment Application GP-22-002.

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

- 13. Receive the Police Services Report: July – December 2022.

14. Review and Approve the Town's Response to the 2022 Civil Grand Jury of Santa Clara County Report Entitled, "Show Me the Money: Financial Transparency Needed" and the Changes to the Town's Operating Portfolio Investment Policy as Reviewed by the Finance Commission.

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.)*

15. Consider an Appeal of a Planning Commission Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence Located Within the Required Front Yard Setback and a Vehicular Gate Set Back Less than 18 Feet from the Edge of the Adjacent Street on Property Zoned R-1:10. Located at 755 Blossom Hill Road. APN 523-04-043. PROPERTY OWNER/APPELLANT: David and Ilana Kohanchi. APPLICANT: Nina Guralnic.

ADJOURNMENT *(Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time)*

Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.

Note: In accordance with Code of Civil Procedure §1094.6; litigation challenging a quasi-adjudicatory decision of the Town Council must be brought within 90 days after the decision is final unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 1/17/2023

ITEM NO: 1

**DRAFT
Minutes of the Town Council
December 20, 2022**

The Town Council of the Town of Los Gatos conducted a regular meeting in-person and utilizing teleconferencing means on Tuesday, December 20, 2022 at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie.

Absent: None

PLEDGE OF ALLEGIANCE

Dominic Farwell led the Pledge of Allegiance. The audience was invited to participate.

COUNCIL / MANAGER MATTERS

Council Matters

- Council Member Hudes stated he attended the Senior Service Committee Roadmap subcommittee meetings, the Finance Commission meeting, and Senior Service Committee meetings.
- Council Member Rennie stated he attended the Bay Area Air Quality Management District (BAAQMD) Board meeting, the Valley Transportation Authority (VTA) Policy Advisory Committee meeting, Cities Association Holiday Party, the Swearing-In of Assembly Member Pellerin, the Silicon Valley Clean Energy Risk Oversight Committee meeting, the BAAQMD Legislative Committee meeting, the Finance Commission meeting, and the Silicon Valley Clean Energy Board meeting.
- Council Member Moore stated he attended the retirement celebration for Diane Fisher of the Jewish Community Relations Council.
- Vice Mayor Badame stated she attended the West Valley Sanitation District Authority Board meeting and observed the December 20th Finance Commission meeting which was cancelled due to lack of a quorum.
- Mayor Ristow stated she attended the Cities Association Holiday Party, the Silicon Valley Bike Coalition Open House and Members Party, the Safe Routes to School (SR2S) Volunteer Luncheon, the Azerbaijani Solidarity Concert, taught Bike Skills to 5th Graders, took a Horse Drawn Carriage Ride and thanked the Chamber of Commerce, and announced a Hannukah on Main event to be held on December 22nd at 5 p.m. on the Civic Center Lawn.

Manager Matters

- Announced free valet parking service is available through Saturday, December 24.
- Announced Town Administrative Offices will be closed Friday, December 23 and will re-open on Tuesday, January 3, 2023.
- Announced the Library will be closed December 23-26 and December 30, 2022 - January 2, 2023.
- Announced a new online business license module will be implemented soon, and additional information is available on the Town website.

CONSENT ITEMS

1. Approve Minutes of the December 6, 2022 Town Council Meeting.
2. Approve Minutes of the December 13, 2022 Town Council Special Meeting.
3. Approve Minutes of the December 13, 2022 Town Council Special Meeting Regarding Commission Interviews.
4. Adopt a Resolution Reaffirming Resolution 2021-044 and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, and, Due to Health and Safety Concerns for the Public, Authorizing the Use of Hybrid Meetings for the Town Council and the Continued Use of Virtual Meetings for Boards and Commissions While Town Staff Makes the Necessary Arrangements to Transition to Hybrid Meetings for All Town Boards, Commissions, and Committees. **RESOLUTION 2022-076**
5. Reaffirm the Town Council Code of Conduct Policy.
6. Adopt 2023 Council Committee Appointments.
7. Annual Comprehensive Financial Report (ACFR):
 - a. Receive the Annual Comprehensive Financial Report (ACFR) for the Fiscal Year Ended June 30, 2022, and
 - b. Adopt a Resolution Confirming June 30, 2022 Fund Balances in Accordance Fiscal Year 2021/22 Final Audit and Town Council General Fund Reserve Policy. **RESOLUTION 2022-077**
8. Approve a First Amendment to the Agreement with Turbo Data Systems, Inc. in the Amount of \$110,774 for a Total Amended Agreement Amount Not to Exceed \$206,041.54 for a Three-Year Extension of Parking Citation and Permit Parking Processing Services.
9. Authorize the Continuation of the Business License Late Fee Penalty Suspension into the 2023 Calendar Year.
10. Authorize the Town Manager to Execute an Assignment of Agreement with Bartel Associates, LLC to Assign the Agreement to Foster and Foster Consulting Actuaries, Inc.

Council Member Hudes pulled item #7.

Opened public comment.

No one spoke.

Closed public comment.

Consent Items – continued

MOTION: Motion by Council Member Rennie to approve items 1-10, exclusive of item 7.
Seconded by Vice Mayor Badame.

VOTE: Motion passes unanimously.

VERBAL COMMUNICATIONS

Chris Wiley

- Requested Council “bury the hatchet” by ripping up a piece of paper with a picture of a hatchet that was distributed to each Council Member.

LOC

- Commented on hate speech and how to express hurt feelings.

PUBLIC HEARING

11. Consider a Request for a Continuance for an Appeal of a Planning Commission Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence Located Within the Required Front Yard Setback and a Vehicular Gate Set Back Less than 18 Feet from the Edge of the Adjacent Street on Property Zoned R-1:10. APN 523-04-043. PROPERTY OWNER/APPELLANT: David and Ilana Kohanchi. APPLICANT: Nina Guralnic.

Jennifer Armer, Planning Manager, presented the staff report.

Opened public comment.

No one spoke.

Closed public comment.

Council discussed the item.

MOTION: Motion by Vice Mayor Badame continue an appeal of a Planning Commission decision to deny a Fence Height Exception request for construction of a Six-Foot Fence located within the required front yard setback and a vehicular gate set back less than 18 feet from the edge of the adjacent street on property zoned R-1:10. APN 523-04-043. PROPERTY OWNER/APPELLANT: David and Ilana Kohanchi. APPLICANT: Nina Guralnic to a date certain of January 17, 2023 per the appellant’s request. **Seconded by Council Member Moore.**

VOTE: Motion passed unanimously.

OTHER BUSINESS

12. Review and Approve the Town's Response to the 2022 Civil Grand Jury of Santa Clara County Report Entitled, "If You Only Read the Ballot, You're Being Duped."

Gabrielle Whelan, Town Attorney, provided the staff report.

Opened public comment.

No one spoke.

Closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Hudes to revise the proposed response to the Grand Jury to accept recommendations 1b and 1c and leave the rest of the letter as is.

AMENDMENT: Revise the response to state the Town is planning to implement recommendation 1c if the County Counsel is open to doing the review, then the ballot question would be provided for a five-day review, and if no comment is received within five days, the Town would proceed with its proposed ballot question. Also, the response to the Grand Jury should include the reasons why the Town feels this recommendation is unnecessary and under these specific circumstances, the Town will submit the response. **Seconded by Vice Mayor Badame.**

VOTE: Motion passes unanimously.

13. Discuss the Housing Element Update and Provide Direction on Next Steps.

Jocelyn Shoopman, Associate Planner, provided the staff report.

Opened public comment.

No one spoke.

Closed public comment.

Council discussed the item.

Other Business Item #13 – continued

MOTION: Motion by Vice Mayor Badame to bring the Housing Element to the Council for consideration of adoption before January 31, 2023, and utilize the minimum density for calculating the residential capacity of the Site Inventory with the understanding that additional sites may need to be selected to comply with California Housing and Community Development Department (HCD) requirements. **Seconded by Council Member Rennie.**

VOTE: Motion passed unanimously.

Pulled Consent Item #7

7. Annual Comprehensive Financial Report (ACFR):

- a. Receive the Annual Comprehensive Financial Report (ACFR) for the Fiscal Year Ended June 30, 2022, and
- b. Adopt a Resolution Confirming June 30, 2022 Fund Balances in Accordance Fiscal Year 2021/22 Final Audit and Town Council General Fund Reserve Policy.

Arn Andrews, Assistant Town Manager, provided the staff report.

Opened public comment.

Ron Dickel

- Commented on the item and stated the Commissioners reviewed the report and were given opportunities to make comments.

Closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Rennie to receive the Annual Comprehensive Financial Report (ACFR) for the fiscal year ended June 30, 2022, as recommended by the Finance Commission and adopt a resolution confirming June 30, 2022 Fund Balances in accordance with Fiscal Year 2021/22 Final Audit and Town Council General Fund Reserve Policy. **Seconded by Council Member Moore.**

VOTE: Motion passed 3-2. Vice Mayor Badame and Council Member Hudes voted no.

ADJOURNMENT

The meeting adjourned at 9:02 p.m.

Respectfully submitted:



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 2

**DRAFT
Minutes of the Town Council Meeting
January 10, 2023**

The Town Council of the Town of Los Gatos conducted a special meeting utilizing teleconference and electronic means consistent with Government Code Section 54956.5, Town Code Section 8.10.035, and Government Code Section 8630 on Tuesday, January 10, 2023, at 3:30 p.m. to consider adopting a resolution ratifying the Director of Emergency Service's proclamation of local emergency.

MEETING CALLED TO ORDER AT 3:31 P.M.

ROLL CALL

Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie.

Absent: None

VERBAL COMMUNICATIONS

No one spoke.

OTHER BUSINESS

1. Proclaimed a State of Emergency for the Purposes of Determining By A Majority Vote, Whether, as a Result of the Emergency, Meeting In Person Would Present Imminent Risks to the Health or Safety of Attendees.

Gabrielle Whelan, Town Attorney, presented the staff report.

Opened Public Comment.

No one spoke.

Closed Public Comment.

Council discussed the matter.

MOTION: Motion by **Mayor Ristow** to proclaim a state of emergency for the purposes of determining by a majority vote whether as a result of the emergency, meeting in person would present imminent risk to the health and safety of attendees.

Seconded by **Council Member Badame**.

VOTE: Motion passed unanimously.

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Town Council Special Meeting of January 10, 2023

DATE: January 10, 2023

2. Adopt a resolution ratifying the Director of Emergency Service's Proclamation of Local Emergency Pursuant to Government Code Section 54956.5 and Town Code Section 8.10.035 and Government Code Section 8630. **RESOLUTION 2023-001**

Arn Andrews, Assistant Town Attorney, presented the staff report.

Opened Public Comment.

No one spoke.

Closed Public Comment.

Council discussed the matter.

MOTION: Motion by **Vice Mayor Badame** to adopt a resolution ratifying the Director of Emergency Service's Proclamation of Local Emergency Pursuant to Government Code Section 54956.5 and Town Code Section 8.10.035 and Government Code Section 8630. **Seconded** by **Council Member Moore**.

VOTE: Motion passed unanimously.

ADJOURNMENT

The meeting adjourned at 3:47 p.m.

Respectfully Submitted:

Jenna De Long, Deputy Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 1/17/2023

ITEM NO: 3

DATE: January 4, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Reaffirming Resolution 2021-044 and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, and, Due to Health and Safety Concerns for the Public, Authorizing the Use of Hybrid Meetings for the Town Council and the Continued Use of Virtual Meetings for Boards and Commissions While Town Staff Makes the Necessary Arrangements to Transition to Hybrid Meetings for All Town Boards, Commissions, and Committees

RECOMMENDATION:

Adopt a Resolution reaffirming Resolution 2021-044 and making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and, due to health and safety concerns for the public, authorizing the use of hybrid meetings for the Town Council and the continued use of virtual meetings for Boards and Commissions while Town staff makes the necessary arrangements to transition to hybrid meetings for all Town Boards, Commissions, and Committees.

BACKGROUND:

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allowed for relaxed provisions of the Ralph M. Brown Act (Brown Act) that allowed legislative bodies to conduct meetings through teleconferencing without having to meet the strict compliance of the Brown Act. All provisions of Executive Order N-29-20 concerning the conduct of public meetings expired on September 30, 2021.

AB 361 was signed into law by the Governor on September 16, 2021, and went into effect immediately upon signing. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021, expiration of the current Brown Act exemptions as long as there is a "proclaimed state of emergency" by

PREPARED BY: Wendy Wood
Town Clerk

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

BACKGROUND (continued):

the Governor and state or local officials recommend social distancing. Through December, the County of Santa Clara recommended social distancing at public meetings but has recently rescinded that public health order. Given the continued spread of COVID-19 and variants, the Town Council recommends continued social distancing.

DISCUSSION:

The Town Council will continue to provide a remote participation option in addition to in-person meetings. Staff will gradually transition all Town Board, Commission, and Committee meetings to a similar hybrid format.

AB 361 requires public agencies to make findings by majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter that a state of emergency still exists and that state or local officials continue to impose or recommend measures to promote social distancing.

Town Council adopted Resolution 2021-044 on October 5, 2021 regarding Brown Act compliance and teleconferencing pursuant to Government Code Section 54953, as amended by AB 361, and adopted resolutions on the following dates reaffirming Resolution 2021-044:

- November 2, 2021 adopted Resolution 2021-046
- November 16, 2021 adopted Resolution 2021-048
- December 7, 2021 adopted Resolution 2021-054
- December 21, 2021 adopted Resolution 2021-059
- January 18, 2022 adopted Resolution 2022-001
- February 1, 2022 adopted Resolution 2022-003
- February 15, 2022 adopted Resolution 2022-004
- March 1, 2022 adopted Resolution 2022-006
- March 15, 2022 adopted Resolution 2022-009
- April 5, 2022 adopted Resolution 2022-013
- April 19, 2022 adopted Resolution 2022-017
- May 3, 2022 adopted Resolution 2022-021
- May 17, 2022 adopted Resolution 2022-031
- June 7, 2022 adopted Resolution 2022-032
- June 21, 2022 adopted Resolution 2022-037
- July 12, 2022 adopted Resolution 2022-048
- August 2, 2022 adopted Resolution 2022-050
- August 16, 2022 adopted Resolution 2022-055
- September 6, 2022 adopted Resolution 2022-056

DISCUSSION (continued):

- September 20, 2022 adopted Resolution 2022-059
- October 4, 2022 adopted Resolution 2022-060
- October 18, 2022 adopted Resolution 2022-065
- November 1, 2022 adopted Resolution 2022-068
- November 15, 2022 adopted Resolution 2022-070
- December 6, 2022 adopted Resolution 2022-073
- December 20, 2022 adopted Resolution 2022-076

CONCLUSION:

Adopt a Resolution reaffirming Resolution 2021-044 making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings. The Town Council will conduct hybrid meetings and staff will work to prepare for a transition to hybrid meetings for all Town Boards, Commissions, and Committees.

COORDINATION:

This report was coordinated with the Town Attorney and Town Manager's offices.

FISCAL IMPACT:

There will be no fiscal impact to the Town at this time.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Draft Resolution

DRAFT RESOLUTION 2023-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS REAFFIRMING RESOLUTION 2021-044 REGARDING BROWN ACT COMPLIANCE AND TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953, AS AMENDED BY ASSEMBLY BILL 361, DURING THE COVID-19 PANDEMIC

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Town of Director of Emergency Services, issued a Proclamation of Local Emergency; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (California Government Code Section 54950 et seq.) so that local legislative bodies can hold public meetings via teleconference (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used; and

WHEREAS, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency as set forth in Resolution 2020-008 and remains in full force and effect to date; and

WHEREAS, on June 4, 2021, the Governor clarified that the “reopening” of California on June 15, 2021, did not include any change to the proclaimed state of emergency or the powers exercised thereunder; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended the provision of N-29-20 concerning the conduct of public meetings through September 30, 2021, and the Governor subsequently signed legislation revising Brown Act requirements for teleconferenced public meetings (Assembly Bill 361, referred to hereinafter as “AB 361”); and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361, which added subsection (e) to Government Code section 54953 of the Brown Act, and makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, the Town Council of the Town of Los Gatos approved Resolution No. 2021-044 on October 5, 2021, declaring the need for the Town Council, Boards, Commissions, and Committees to continue to meet remotely in order to ensure the health and safety of the

public; and

WHEREAS, the Town of Los Gatos remains in a state of emergency due to the continuing spread of COVID-19; and

WHEREAS, given the continued spread of COVID-19 and variants, the Town Council recommends maintaining measures to promote social distancing; and

WHEREAS, technology exists that allows full participation from members of the public without requiring in-person attendance at a Town Council, Board, Commission, or Committee meeting.

WHEREAS, the Town Council has considered all information related to this matter, including the associated staff report and other information relating to COVID-19 provided at prior public meetings of the Town Council; and

WHEREAS, the Town Council wishes to conduct hybrid meetings, at which members of the public have the option to participate remotely, and to transition to hybrid meetings for the Town's Boards, Commissions, and Committees; and

WHEREAS, the Town Council wishes to adopt a Resolution finding that the requisite conditions continue to exist for the legislative bodies of the Town of Los Gatos, as defined in the Brown Act, to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY RESOLVE:

1. The Town Council hereby finds that the fact set forth in the above recitals and as contained in Resolution 2021-044 are true and correct, and establish the factual basis for the adoption of this Resolution;
2. There is an ongoing proclaimed state of emergency relating to the novel coronavirus causing the disease known as COVID-19 and as a result of that emergency, meeting in person may present risks to the health or safety of attendees of in-person meetings of this legislative body and all Town advisory bodies within the meaning of California Government Code section 54953(e)(1).
3. Under the present circumstances, including the risks mentioned in the preceding paragraph, attendees may wish to participate in Town meetings remotely.
4. As authorized by Assembly Bill 361, the Town Council wishes to conduct hybrid meetings and to transition to hybrid meetings for the Town's Boards, Commissions, and Committees.

5. Staff are directed to take all actions necessary to implement this Resolution for all Town Council meetings and Town Board, Commission, and Committee meetings on a rolling basis, in accordance with the foregoing provisions and the requirements of Government Code section 54953, as amended by Assembly Bill 361, including but not limited to returning for ratification of this Resolution every 30 days after teleconferencing for the first time pursuant to Assembly Bill 361 for so long as either of the following circumstances exists: (a) the state of emergency continues to directly impact the ability of this legislative body to meet in person; and/or (b) state or local officials, including but not limited to the County Health Officer, continue to impose or recommend measures to promote social distancing.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of January 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 1/17/2023

ITEM NO: 4

DATE: January 3, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505):
a. Approve the Plans and Specifications;
b. Authorize Advertising the Project for Bid Upon Receipt of Formal Funding Approval (E-76) from Caltrans; and
c. Authorize the Release of a Request for Proposals for Construction Management, Inspection, and Materials Testing Services.

RECOMMENDATION:

Staff recommends that the Town Council authorize the following actions for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505):

- a. Approve the Plans and Specifications;
- b. Authorize Advertising the Project for Bid Upon Receipt of Formal Funding Approval (E-76) from Caltrans; and
- c. Authorize the Release of a Request for Proposals for Construction Management, Inspection, and Materials Testing Services

BACKGROUND:

The construction of a direct bicycle and pedestrian connection between the Los Gatos Creek Trail and Highway 9 was originally identified as a priority project in the Town's 2017 Bicycle and Pedestrian Master Plan and again in the Town's 2020 Bicycle and Pedestrian Master Plan Update. The Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (Trailhead Connector Project) is also included as one of the projects in the Town-wide Connect Los Gatos Program, which strives to promote projects that will improve the connectivity, mobility, and safety for pedestrians and bicyclists throughout the Town.

PREPARED BY: James Watson
Interim Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

BACKGROUND (continued):

The Trailhead Connector Project has been included in the Town's Capital Improvement Program Budgets since Fiscal Year (FY) 2018/19. Design work began on the project in October 2019 following a Request for Proposals (RFP) process which resulted in the award of a Consultant Design Services Agreement to the firm of Mott MacDonald Group, Inc. for preparation of the construction documents for the Project. A significant portion of the funding for the design of the Project was obtained from the non-competitive One Bay Area Grant (OBAG) Cycle 2 funding.

To provide the access between the Los Gatos Creek Trail and Highway 9, the project design includes the installation of a pre-fabricated bicycle and pedestrian bridge across Los Gatos Creek just south of Highway 9 and a pedestrian switchback ramp on the north side of Highway 9.

The preliminary project design was presented to the Complete Streets and Transportation Commission (CSTC) and to the community in February 2020. Both groups provided valuable input and support for the project. On March 3, 2020, the Town Council approved the preliminary design and authorized staff to proceed to final design. In April 2021, a second community meeting and presentation to the CSTC were held to review the 65 percent complete plans. Following input from the community and the CSTC, the final project plans specifications, and engineer's estimate (PS&E) were completed and have been reviewed and approved by Caltrans.

A Disadvantaged Business Enterprise (DBE) goal of 21 percent has been identified by Caltrans as an appropriate level of DBE participation for the project construction contract and has been included in the contract documents. The Project will be entirely within the Caltrans right-of-way, which required the Town Council to execute a Maintenance Agreement to document the Town's responsibilities for the operation and maintenance of the new improvements. The Town and Caltrans executed the Maintenance Agreement in October 2022. Additionally, the project requires the Town to obtain an encroachment permit for the work within the Caltrans right-of-way. The Town has applied for the encroachment permit and is currently awaiting the issuance of the permit from Caltrans.

Construction funding has been identified and on November 15, 2022, the Town Council approved two grant-funding agreements for the project's construction phase. The project is fully funded at this time. Funding sources include OBAG Cycle 2, the Transportation Fund for Clean Air (TFCA) regional grant, 2016 Measure B Funds, and commitment of up to \$1 million of Town local funds.

SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505)

DATE: January 3, 2023

DISCUSSION:

As the Project includes federal grant funds, staff have been closely coordinating the Project with Caltrans and following the procedures and requirements outlined in the Caltrans Local Assistance Program Manual for federal-aid projects. This includes submittal of the formal “Request for Funding Authorization” package, which is required to be approved by Caltrans and the Federal Highway Administration (FHWA) prior to moving the Project into the bid/advertising/construction phases.

The Town is awaiting this formal funding authorization (referred to as the E-76). For the Town to remain eligible for federal funding reimbursements, the Town must receive formal funding authorization/approval (E-76) prior to advertising the project for construction bids. In light of this, the staff recommendation is for the authorization to advertise and solicit construction bids only upon receipt of the Caltrans/FHWA funding approval/E-76 for the Project. The project team anticipates receiving the Town’s project funding authorization by early February 2023 and Table 1 presents the anticipated schedule for the construction contract.

TABLE 1
Anticipated Construction Schedule
CIP No. 832-4505

Milestone Activity	Forecast Date
Town Council Approves PS&E, Solicitation of Bids Authorized	1/17/2023
Town Receives E-76 (Funding approval) from Caltrans/FHWA	2/6/2023
Advertisement Period *	2/6/2023 – 4/6/2023
Bid Opening	4/6/2023
Council Awards Construction Contract	5/16/2023
Notice of Award to Contractor	5/17/2023
Construction Contract Executed	6/15/2023
Notice to Proceed Issued	6/19/2023
Construction	6/2023-11/2024
Construction Close Out	10/2024-11/2024
Town Accepts Final Improvements	12/2024

*Exact advertisement period to be determined following Town’s receipt of funding approval (E-76) from Caltrans/FHWA.

Project management and inspection for a project of this magnitude greatly exceeds the Town’s existing staffing availability. Additionally, the requirements for materials testing will require the use of Caltrans certified technicians and laboratories. To address this need, staff has prepared a Request for Proposals for Construction Management, Inspection, and Materials Testing Services which outlines the additional professional consultant services deemed necessary for

SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505)

DATE: January 3, 2023

DISCUSSION (continued):

the Town's successful project delivery. Due to the federal funding involved in the project construction, the project team will follow the Consultant Selection Process as outlined in the Caltrans Local Assistance Procedures Manual for federally funded projects. Based on this process, and should Council authorize the release of the RFP, Table 2 presents the schedule for the Request for Proposal process.

TABLE 2
Anticipated Schedule for Construction Management Services
CIP No. 832-4505

Milestone Activity	Forecast Date
Town Council Authorizes Release of RFP	01/17/2023
Advertisement Period	01/23/2023 - 02/22/2023
Proposals Due	02/23/2023
Proposal Evaluation, Scoring, and Ranking	02/24/2023 - 03/03/2023
Consultant Interviews	03/09/2023
Consultant Services Agreement Negotiations	03/24/2023
Caltrans Independent Office of Audits and Investigations (IOAI) Review	03/27/2023 - 04/21/2023
Town Council Approves Consultant Services Agreement	05/16/2023
Notice to Proceed	06/01/2023

The engineer's estimate for the Construction Contract is \$4,798,182 which includes a 10 percent contingency. The estimated cost for the Construction Management, Inspection, and Materials Testing Services is anticipated to be in the range of \$700,000 to \$775,000, which is approximately 15 percent of the construction contract. The project plans and specifications can be viewed via the link at www.losgatosca.gov/lgcthw9.

CONCLUSION:

Based on the discussion above, staff recommends the approval of the project plans, specifications, and estimate, and the authorization to advertise and solicit bids for the construction of the Project upon receipt of the funding approval E-76 from Caltrans. Additionally, staff recommends authorization to release the Request for Proposals for Construction Management, Inspection, and Materials Testing Services for the Project.

ALTERNATIVES:

Council could request a postponement of the recommended actions until after the formal Caltrans funding approval (E-76) has been issued to the Town for this project, at which point

SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505)

DATE: January 3, 2023

ALTERNATIVES (continued):

staff would bring the recommendation for approval of the PS&E and authorization to solicit construction bids forward. This would allow the Council to know when the funding approval was received and the exact dates for the advertising periods.

The postponement would delay the solicitation of bids for the construction of the project and the project team would need to reduce/revise the project schedule to show the resultant advertisement period and the delayed project start and completion dates. This alternative is not recommended due to the fact that this would delay the project construction start and end dates.

COORDINATION:

This project has been coordinated with the Finance Department.

FISCAL IMPACT:

The following has been identified as the source and use of funds for the project:

Los Gatos Creek Trail to Highway 9 Trailhead Connector		
CIP No. 832-4505		
	Budget	Costs
OBAG Cycle II Grant - CMAQ	\$ 3,351,000	
GFAR	\$ 995,377	
Measure B (2016 Program Bicycle and Pedestrian Program)	\$ 693,500	
TFCA	\$ 755,921	
Total Budget	\$ 5,795,798	
Construction		\$ 4,361,984
Construction Contingency (10 percent)		\$ 436,198
Construction Management (CM)		
Consultant CM/RE/Inspection		\$ 425,926
Town Project Management		\$ 150,000
Construction Materials Testing		\$ 300,000
Specialized Testing/Monitoring		\$ 50,000
Other Project Delivery Costs		\$ 5,000
Total Expenditures		\$ 5,729,108
Remaining Budget (Budget - Estimated Costs)		\$ 66,690

PAGE 6 OF 6

SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505)

DATE: January 3, 2023

FISCAL IMPACT (continued):

Staff costs are tracked for all projects. Tracking of staff costs allows for accountability in the costs of projects, recovery of costs from grant funded projects, and identification of future staffing needs. This project utilizes a combination of consultant services, temporary staffing that support fluctuating workloads, and full-time budgeted staff. The costs for consultant and temporary staff will be directly associated with this CIP project while full-time staff are accounted for in the department's operating budget.

ENVIRONMENTAL ASSESSMENT:

Caltrans opted to be the lead agency for the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) environmental clearances for the project. The project is categorically exempt per CEQA Section 15301; PRC 21084; 14 CCR 15300.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 1/17/2023

ITEM NO: 5

DATE: January 17, 2023
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Legal Costs for Colantuono, Highsmith & Whatley, PC:
a. Authorize Payment of Up to An Additional \$50,000 for a Total Payment Not to Exceed \$150,000 for Fiscal Year 2022/23; and
b. Authorize Expenditure Budget Adjustment in an Amount of \$100,000 From Available General Fund Capital/Special Projects Reserve

RECOMMENDATION:

Legal Costs for Colantuono, Highsmith & Whatley, PC:

- a. Authorize Payment of Up to An Additional \$50,000 for a Total Payment Not to Exceed \$150,000 for Fiscal Year 2022-23; and
- b. Authorize Expenditure Budget Adjustment in an Amount of \$100,000 From Available General Fund Capital/Special Projects Reserve.

BACKGROUND:

On March 12, 2021, the Town Attorney retained the law firm of Colantuono, Highsmith & Whatley, PC, to represent the Town of Los Gatos in litigation against Santa Clara County regarding needed repairs to Shannon Road. Because staff anticipated that the litigation would cost under \$100,000, the agreement did not go to the Town Council for approval at that time. Subsequently the Town amended its complaint against the County, which required additional legal services.

PREPARED BY: Bridgette Falconio
Administrative Technician

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION:

Staff anticipates requiring an additional \$50,000 for legal costs prior to resolution of the matter and is requesting Town Council authorization to make additional payments to the Colantuono law firm of up to that amount. With this action a budget adjustment of \$100,000 is needed for the Legal Services Account from the Available General Fund Capital/Special Projects Reserve.

RECOMMENDATION:

Authorize the Town to pay up to an additional \$50,000 to Colantuono, Highsmith & Whatley, PC, for legal costs prior to resolution of the matter against Santa Clara County regarding repairs to Shannon Road for a total payment not to exceed \$150,000 for fiscal year 2022/23.

COORDINATION:

The Finance Department, Town Attorney's Office and Town Manager's Office coordinated this report.

FISCAL IMPACT:

The litigation is being funded from the Attorney Legal Services Account. A budget adjustment of \$100,000 is needed for the Legal Services Account to authorize this additional payment to Colantuono, Highsmith & Whatley, PC.

ENVIRONMENTAL ASSESSMENT:

This payment for litigation expenses is not a project defined under CEQA, and no further action is required.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 6

DATE: January 12, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution to Extend the Term of the Housing Element Advisory Board

RECOMMENDATION:

Adopt a resolution to extend the term of the Housing Element Advisory Board.

BACKGROUND:

On August 3, 2021, Town Council adopted a resolution (Attachment 1) to establish the Housing Element Advisory Board (HEAB) for the 2023-2031 Housing Element update. This resolution stated that the HEAB would sunset on February 1, 2023, unless extended by the Town Council.

DISCUSSION:

The HEAB has been working diligently, and additional time is necessary so that it can complete the work on the Housing Element update. The remaining work includes review of comments received from the California Department of Housing and Community Development (HCD) in January and development of revisions in response to those and any future comments. Attachment 2 contains a draft resolution to extend the term of the HEAB until May 31, 2023.

FISCAL IMPACT:

The General Plan Update Fund has monies available to cover the additional HEAB meetings, the overall Housing Element update, and its environmental review.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

PAGE 2 OF 2

SUBJECT: HEAB Extension

DATE: January 12, 2023

ENVIRONMENTAL ASSESSMENT:

This action will have no effect on the environment and is not subject to the California Environmental Quality Act.

Attachments:

1. Resolution 2021-032
2. Draft Resolution

RESOLUTION 2021-032

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ESTABLISHING THE HOUSING ELEMENT ADVISORY BOARD FOR THE 2023-2031 HOUSING ELEMENT UPDATE

WHEREAS, the existing (2015-2023) Housing Element was certified by the State Department of Housing and Community Development (HCD) on May 2015; and

WHEREAS, the Town of Los Gatos is required by the State Housing Laws to prepare an update of its existing State Certified Housing Element for the period of 2023-2031; and

WHEREAS, HCD requires communities to maximize public outreach and community involvement during the preparation and updates of housing elements; and

WHEREAS, the Housing Element Advisory Board (HEAB) is intended to be an advisory committee created for the purpose of advising Town staff, providing a forum for public involvement, and making recommendations to the Planning Commission and Town Council on updates to the Housing Element; and

WHEREAS, the Town Council of the Town of Los Gatos desires to formalize the creation of the HEAB, including its purpose, number, and terms, as set forth below, in this Resolution.

NOW, THEREFORE, BE IT RESOLVED, the Town Council of the Town of Los Gatos establishes the HEAB, which shall be advisory to the Town Council and shall operate in the manner hereinafter prescribed:

1. Appointment

The HEAB shall consist of the nine members of the General Plan Committee as established by Council resolution and up to four “at-large” members of the public who will apply through the Boards and Commissions recruitment process and be appointed by the Town Council. The “at-large” members of the HEAB may not belong to any other established Town Board, Commission, or Committee. The HEAB shall sunset on February 1, 2023, unless extended by Town Council.

2. HEAB Role

The HEAB shall serve as an advisory body that provides input on specific tasks associated with the Housing Element update. Council input and direction will be sought at major milestones during the update. The role of the HEAB is to:

- Provide guidance on the development of the Housing Element update;
- Provide additional forum for public involvement;
- Forward milestone products to Town Council;
- Review the Draft Housing Element; and
- Make recommendations to the Planning Commission and Town Council.

3. Meetings

The HEAB shall elect a Chair and Vice Chair of the HEAB. The HEAB will determine its schedule (it is anticipated that the Committee will meet no more than twice a month).

HEAB members are expected to regularly attend meetings and public workshops.

However, it is understood that on occasion, a Board member may not be able to attend the meeting. Three absences in a consecutive twelve (12) month period may subject the member to expulsion from the HEAB.

4. Agendas

The HEAB meeting agendas shall allow for two opportunities for public comment, at the beginning and at the end of each meeting, to provide the public an opportunity to react to the topics proposed and discussed.

5. Public Outreach

Staff shall engage the public through the use of social media, regular updates at Town Council meetings, and public workshops.

6. Conflict of Interest

Upon appointment to the Board, members are required to file Conflict of Interest Form 700 with the Town Clerk for all Disclosure Categories as listed in Town Code Sec.

2.30.615. Failure to file the form may subject the member to expulsion from the HEAB.

7. Powers of Town Council and Planning Commission

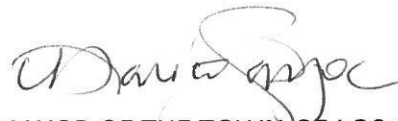
Nothing in this resolution shall be construed as restricting or curtailing any of the powers of the Town Council or Planning Commission, or as a delegation to the HEAB of any authority or discretionary powers vested and imposed by law in such bodies.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 3rd day of August, 2021, by the following vote:

COUNCIL MEMBERS:

AYES: Mary Badame, Matthew Hudes, Rob Rennie, Maria Ristow, Mayor Marico Sayoc
NAYS: None
ABSENT: None
ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 8/11/2021

ATTEST:



TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 8/13/2021

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DRAFT RESOLUTION 2023-
RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS EXTENDING THE TERM OF
THE HOUSING ELEMENT ADVISORY BOARD

Draft Resolution to
be modified by Town
Council deliberations
and direction.

WHEREAS, the Housing Element Advisory Board (HEAB) is intended to be an advisory committee created for the purpose of advising Town staff, providing a forum for public involvement, and making recommendations to the Planning Commission and Town Council on updates to the Housing Element; and

WHEREAS, the HEAB was established by Town Council on August 3, 2021, by Resolution 2021-032; and

WHEREAS, the HEAB has worked diligently on their progress in reviewing the updated Housing Element; and

WHEREAS, additional time is needed for the HEAB to complete their work including review of comments from California Department of Housing and Community Development (HCD) and development of revisions in response to those and any future comments.

NOW, THEREFORE, BE IT RESOLVED, the Town Council of the Town of Los Gatos extends the term of the General Plan Update Advisory Committee to May 31, 2023, unless extended by the Town Council.

ATTACHMENT 2

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 19th day of January, 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 7

DATE: January 17, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize Budget Adjustments in the Total Amount of \$57,046 to Recognize Receipt and Expenditure of Pacific Library Partnership, California State Library, and Library Services & Technology Act Grant Funds

RECOMMENDATION:

Authorize budget adjustments in the total amount of \$57,046 to recognize receipt and expenditure of Pacific Library Partnership, California State Library, and Library Services & Technology Act Grant Funds.

BACKGROUND:

The Library has been successful in obtaining four grants totaling \$57,046 from three different agencies. The first grant in the amount of \$5,264 from the Pacific Library Partnership will be used for supplementing purchases of e-books. The second grant from the Pacific Library Partnership in the amount of \$12,000 will be used for creating activity spaces in the Children's Room that are more inclusive to children with different ability types and learning styles. The third grant from the California State Library in the amount of \$9,782 will be used for continuing the library's Zipbook program. The fourth grant in the amount of \$30,000 from the Library Services & Technology Act (Federal grant funding administered by the State) was written in collaboration with Environmental Programs Specialist Marina Chislett from the Parks and Public Works Department and will be used for Library programs and services focused on environmental and sustainability topics.

FISCAL IMPACT:

Grant revenues totaling \$57,046 will be recorded to account 7801-43343 and be expended from account 7801-61172.

PREPARED BY: Ryan Baker
Library Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

PAGE 2 OF 2

SUBJECT: Approve Receipt and Expenditure of Grants Awarded to Library

DATE: January 17, 2023

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 8

DATE: January 6, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a Fifth Amendment to the Agreement for Services with Brightview Tree Care Services, Inc. to Increase Compensation for Fiscal Year 2022/23 in an Amount of \$100,000 for a Total Annual Amount Not to Exceed \$200,000 with the Total Agreement Amount Not to Exceed \$1,096,000

RECOMMENDATION:

Authorize the Town Manager to execute a fifth amendment (Attachment 1) to the Agreement for Services with Brightview Tree Care Services, Inc. to increase compensation for Fiscal Year (FY) 2022/23 in an amount of \$100,000 for a total annual amount not to exceed \$200,000 with the total agreement amount not to exceed \$1,096,000.

BACKGROUND:

The Town of Los Gatos utilizes contractual tree trimming and removal services to maintain the Town's urban forest. On June 5, 2018, the Town Council authorized the Town Manager to execute a five-year Agreement for Services with Brightview Tree Care Services, Inc. for tree trimming and maintenance services. The original agreement included \$247,000 for year one of the agreement and \$100,000 plus consumer price index adjustments annually thereafter.

On August 7, 2019, Council authorized the Town Manager to execute a first amendment to the Agreement for Services to provide for an additional \$100,000 for FY 2019/20.

On June 2, 2020, Council authorized the Town Manager to execute a second amendment to the Agreement for Services to increase compensation for FY 2019/20 and FY 2020/21 in amounts

PREPARED BY: Nicolle Burnham
Director, Parks and Public Works

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute a Fourth Amendment to the Agreement for Services with Brightview Tree Services, Inc.

DATE: January 6, 2022

BACKGROUND (continued):

of \$47,000 and \$147,000 respectively for total annual contract amounts not to exceed \$247,000.

On May 3, 2022, Council authorized the Town Manager to execute a third amendment to the Agreement for Services to increase compensation for FY 2021/22 in an amount of \$25,000 for a total annual contract amount not to exceed \$125,000.

On June 7, 2022, Council authorized the Town Manager to execute a fourth amendment to the Agreement for Services to increase compensation for FY 2021/22 in an amount of \$30,000 for a total annual contract amount not to exceed \$155,000.

Attachment 2 provides the original contract and prior amendments.

DISCUSSION:

With the recent rainstorms and high winds, plus ongoing wildfire and drought related danger continuing to affect the Town's urban forest, work requests for fallen branches, downed trees, dead tree removals, and defensible space needs continue to be high. These maintenance needs can at times occur simultaneously and not seasonally as expected, as is the case this year. This amendment increases the Brightview Tree Service contract by \$100,000 to provide priority and emergency work to continue through the remainder of the fiscal year. Staff intends to issue a new Request for Proposals for Tree Services in spring 2023.

CONCLUSION:

Authorize the Town Manager to execute a fifth amendment to the Agreement for Services with Brightview Tree Care Services, Inc. to increase compensation for FY 2022/23 in an amount of \$100,000 for a total annual amount not to exceed \$200,000 with the total agreement amount not to exceed \$1,096,000.

FISCAL IMPACT:

The Adopted FY 2022/23 Operating Budget has sufficient funds for tree maintenance. This action will have no additional fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Execute a Fourth Amendment to the Agreement
for Services with Brightview Tree Services, Inc.

DATE: January 6, 2022

Attachments:

1. Fifth Amendment to the Agreement for Services
2. Original Agreement Including the First, Second, Third and Fourth Amendment to Agreement
for Services

FIFTH AMENDMENT TO AGREEMENT

This FIFTH AMENDMENT TO AGREEMENT is dated for identification this ____ day of January 2023 and amends that certain fourth Amendment to Agreement for Services dated June 25, 2022, made by and between the Town of Los Gatos, ("Town,") and Brightview Tree Services, Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into a Agreement for Services on June 5, 2018, ("Agreement"), a First Amendment to Agreement for Services on August 20, 2019, a Second Amendment to Agreement for Services on June 2, 2022, a Third Amendment to Agreement for Services on April 18, 2022, a Fourth Amendment to Agreement for Services on June 25, 2022 copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2021/22.

AMENDMENT

1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19) of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement was **\$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement was **\$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 4 (Fiscal Year 2021/22) of this agreement **shall increase \$30,000, for a total amount not to exceed \$155,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

ATTACHMENT 1

Compensation for year 5 (Fiscal Year 2022/23) of this agreement **shall increase \$100,00 for a total amount not to exceed \$200,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

The total agreement amount **shall not to exceed \$1,096,000.**

2. All other terms and conditions of the Agreement remain in full force and effect

IN WITNESS WHEREOF, the Town and Consultant have executed this Amendment.

Town of Los Gatos:

Approved as to Consent:

Laurel Prevetti, Town Manager

Print Name, Title

Department Approval:

Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney

Shelley Neis, MMC, CPMC, Town Clerk

FOURTH AMENDMENT TO AGREEMENT

This FOURTH AMENDMENT TO AGREEMENT is dated for identification this 26th day of May 2022 and amends that certain Third Amendment to Agreement for Services dated June 2, 2022, made by and between the Town of Los Gatos, ("Town,") and Brightview Tree Services, Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into a Agreement for Services on June 5, 2018, ("Agreement"), a First Amendment to Agreement for Services on August 20, 2019, a Second Amendment to Agreement for Services on June 2, 2022, a Third Amendment to Agreement for Services on April 18, 2022, copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2021/22.

AMENDMENT

1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19 of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement was **\$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement was **\$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 4 (Fiscal Year 2021/22) of this agreement **shall increase \$30,000, for a total amount not to exceed \$155,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 5 (Fiscal Year 2022/23) of this agreement **shall remain the same: a total amount not to exceed \$100,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

The total agreement amount **shall not to exceed \$996,000**.

2. All other terms and conditions of the Agreement remain in full force and effect

IN WITNESS WHEREOF, the Town and Consultant have executed this Amendment.

Town of Los Gatos:

DocuSigned by:
 6/25/2022
853FEEA2EB39470...
Laurel Prevetti, Town Manager

Approved as to Consent:

DocuSigned by:

DAA8BB6650F647E...
Print Name, Title
Michael Black
Michael N Black, General Manager, BVTCS

Department Approval:

DocuSigned by:

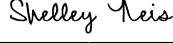
9AC05166650A487...
Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

DocuSigned by:

EFD6738A5534428...
Gabrielle Whelan, Town Attorney

Attest:

DocuSigned by:
 6/25/2022
B9666F65B1F34F6...
Shelley Neis, MMC, CPMC, Town Clerk

THIRD AMENDMENT TO AGREEMENT FOR SERVICES

This THIRD AMENDMENT TO AGREEMENT is dated for identification this 18th day of April 2022 and amends that certain Second Amendment to Agreement for Services dated June 2, 2020, made by and between the Town of Los Gatos, ("Town,") and BrightView Tree Care Services Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 5, 2018, ("Agreement"), and a First Amendment to Agreement for Services on August 20, 2019, and a Second Amendment to Agreement for Services on June 2, 2020, copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2021/22.

AMENDMENT

- 1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19) of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement was **\$247,000**, and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement was **\$247,000**, and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 4 (Fiscal Year 2021/22) of this agreement **shall increase \$25,000, for a total amount not to exceed \$125,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount of \$100,000.

Compensation for year 5 (Fiscal Year 2022/23) of this agreement **shall remain the same: a total amount not to exceed \$100,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount of \$100,000.

The total agreement amount **shall not to exceed \$966,000**.

2. All other terms and conditions of the Agreement remain in full force and effect.
IN WITNESS WHEREOF, the Town and Service Provider have executed this Amendment.

Town of Los Gatos

By: DocuSigned by:
Laurel Prevetti 5/17/2022
853FEEA2EB39470...
Laurel Prevetti, Town Manager

BrightView Tree Care Services Inc. by:

DocuSigned by:
Michael Black 5/16/2022
DAA8BB6650F641E...

Michael Black / General Manager

Name/Title

Department Approval:

DocuSigned by:
Timm Borden 5/16/2022
9AC05166650A487...
Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

DocuSigned by:
Gabrielle Whelan 5/17/2022
EFD6736A5534428...
Robert Schultz, Interim Town Attorney

Attest:

DocuSigned by:
Shelley Neis 5/17/2022
B9666F65B1F34F6...
Shelley Neis, CMC, Town Clerk

SECOND AMENDMENT TO AGREEMENT FOR SERVICES

This SECOND AMENDMENT TO AGREEMENT is dated for identification this 2ND day of June 2020 and amends that certain First Amendment to Agreement for Services dated August 20, 2019, made by and between the Town of Los Gatos, ("Town,") and BrightView Tree Care Services Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 5, 2018, ("Agreement"), and a First Amendment to Agreement for Services on August 20, 2019, copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2019/20 and 2020/21.

AMENDMENT

- 1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19) of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement **shall increase \$47,000, for a total annual amount not exceed \$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement **shall increase \$147,000, for a total annual amount not exceed \$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for years 4 and 5 (Fiscal Years 2021/22 and 2022/23) of this agreement **shall not exceed \$100,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

If the CPI indicates a downward adjustment, compensation would remain at the base amount of \$100,000.

The total agreement amount **shall not to exceed \$941,000.**

2. All other terms and conditions of the Agreement remain in full force and effect.
IN WITNESS WHEREOF, the Town and Service Provider have executed this Amendment.

Town of Los Gatos

DocuSigned by:
Laurel Prevetti 6/22/2020
By: 853FEEA2EB39470...
Laurel Prevetti, Town Manager

BrightView Tree Care Services Inc. by:

DocuSigned by:
Michael Black
F151B180ED294E3...

General Manager

Name/Title

Department Approval:

DocuSigned by:
Matt Morley 6/18/2020
BBA0B3B6D0F4404...
Matt Morley
Director of Parks and Public Works

Approved as to Form:

DocuSigned by:
Robert W. Schultz 6/22/2020
2FE0938555B744C...
Robert Schultz, Town Attorney

Attest:

DocuSigned by:
Shelley Neis 6/22/2020
B9666F65B1F34F6...
Shelley Neis, CMC, Town Clerk

AGR 19.156
 IHH _____

FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 20th day of August 2019 and amends that certain Agreement for Services dated June 5, 2018, made by and between the Town of Los Gatos, ("Town,") and BrightView Tree Care Services Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 5, 2018, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2019/20.

AMENDMENT

1. 2.6 Compensation shall read: Compensation for the first year **shall not exceed \$247,000**, inclusive of all costs. Payment shall be based upon Town approval of each task.

Compensation for year two of this agreement **shall not exceed \$200,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

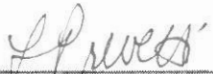
Compensation for years three through five of this agreement **shall not exceed \$100,000** annually and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount of \$100,000.

2. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Town and Service Provider have executed this Amendment.

Town of Los Gatos

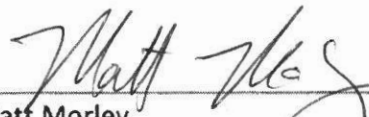
BrightView Tree Care Services Inc. by:

By: 
Laurel Prevetti, Town Manager

Kaela White

Department Approval:

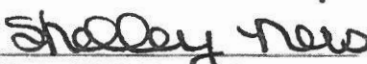
Branch Manager
Name/Title


Matt Morley
Director of Parks and Public Works

Approved as to Form:

Attest:


Robert Schultz, Town Attorney


Shelley Neis, CMC, Town Clerk

AGR 18.149
IHH _____**AGREEMENT FOR SERVICES**

THIS AGREEMENT is dated for identification this 5th of June 2018 and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and BrightView Tree Care Services, ("Service Provider"), whose address is 530 Aldo Avenue, San Jose, CA 95054. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Service Provider to provide tree trimming maintenance services.
- 1.2 The Service Provider represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Service Provider warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Service Provider acknowledges Town has relied upon these warranties to retain Service Provider.

II. AGREEMENT

- 2.1 Scope of Services. Service Provider shall provide services as described in that certain Proposal sent to the Town on April 25, 2018, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. The effective date of this Agreement shall begin on **July 1, 2018** and will continue through **June 30, 2023**, subject to appropriation of funds, notwithstanding any other provision in this agreement.
- 2.3 Compliance with Laws. The Service Provider shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Service Provider represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Service Provider to practice its profession. Service Provider shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Service Provider shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Service Provider by the Town and all reports and supportive data prepared by the Service Provider under this Agreement are the Town's property and shall be delivered to the Town upon the completion of services or

at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Service Provider in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Service Provider shall not make any of these documents or information available to any individual or organization not employed by the Service Provider or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Service Provider pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Service Provider in connection with other projects shall be solely at Town's risk, unless Service Provider expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Service Provider which is and has been confirmed in writing by Service Provider to be a trade secret of Service Provider.

- 2.6 Compensation. Compensation for services shall not exceed \$247,000 for the first year, inclusive of all costs. Payment shall be based upon Town approval of each task. Compensation for years two through five of this agreement shall not exceed \$100,000 and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount of \$100,000.
- 2.7 Failure to Perform. It is mutually agreed by SERVICE PROVIDER and TOWN that in the event that performance of the work by SERVICE PROVIDER under this Agreement is not completed as scheduled, TOWN will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Parties agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of penalty, SERVICE PROVIDER shall pay to TOWN the sum of one hundred dollars (\$100.00) per location per scheduled service in liquidated damages for every missed service beyond three missed services in a month in addition to reducing the monthly payment by the cost of that service. In the event that the liquidated damages are not paid, SERVICE PROVIDER agrees that TOWN may deduct the amount of unpaid damages from any money due or that may become due to SERVICE PROVIDER under this Agreement.
- 2.8 Schedule. Service Provider shall provide a schedule to the Town prior to beginning work. The schedule shall identify dates of service for each location. Schedule changes shall be approved by the Town with 24-hour notice. Each missed location shall be considered a failure to perform, unless the contractor provides advance notice of schedule change.
- 2.9 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

- 2.10 Availability of Records. Service Provider shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Service Provider shall make these records available to authorized personnel of the Town at the Service Provider offices during business hours upon written request of the Town.
- 2.11 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Service Provider. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.12 Independent Service Provider. It is understood that the Service Provider, in the performance of the work and services agreed to be performed, shall act as and be an independent Service Provider and not an agent or employee of the Town. As an independent Service Provider, he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Service Provider may perform some obligations under this Agreement by subcontracting but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Service Provider agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Service Provider shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Service Provider or is based on allegations of Service Provider's negligent performance or wrongdoing.
- 2.13 Conflict of Interest. Service Provider understands that its professional responsibilities are solely to the Town. The Service Provider has and shall not obtain any holding or interest within the Town of Los Gatos. Service Provider has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Service Provider warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Service Provider shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person Service Provider discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement Service Provider shall promptly notify Town of this

employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

- 2.14 Equal Employment Opportunity. Service Provider warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Service Provider nor its subService Providers do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

III. INSURANCE AND INDEMNIFICATION

3.1 Minimum Scope of Insurance:

- i. Service Provider agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Service Provider agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Service Provider shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Service Provider agrees that all certificates and endorsements are to be received and approved by the Town before work commences.

General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Service Provider; products and completed operations of Service Provider, premises owned or used by the Service Provider.
- ii. The Service Provider's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Service Provider's insurance and shall not contribute with it.

- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
 - iv. The Service Provider's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability.
- 3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.
- 3.3 Workers' Compensation. In addition to these policies, Service Provider shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Service Provider shall ensure that all subService Providers employed by Service Provider provide the required Workers' Compensation insurance for their respective employees.
- 3.4 Indemnification. The Service Provider shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Service Provider, or any of the Service Provider's officers, employees, or agents or any subService Provider.

IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.3 Termination of Agreement. The Town and the Service Provider shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Service Provider shall deliver to the Town all plans, files, documents, reports, performed to date by the Service Provider. In the event of such termination, Town shall pay Service Provider an amount that bears the

same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.

- 4.4 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Service Provider.
- 4.5 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.6 Prevailing Wages. In accordance with the provisions of Sections 1770 et seq., of the Labor Code, the Director of the Industrial Relations of the State of California has determined the general prevailing rate of wages applicable to the work to be done. Service Provider will be required to pay to all persons employed on the project by the Service Provider sums not less than the sums set forth in the documents entitled "General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code, part 7, Chapter 1, Article 2, Sections 1770, 1773, 1773.1." These documents may be obtained from the State of California.

Pursuant to Labor Code section 1725.5, no Service Provider or subService Provider may be awarded a contract for public works on a public works project unless registered with the Department of Industrial Relations.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations and/or the Town of Los Gatos.

The Service Provider is required to post notices on Public Works requirements.

- 4.7 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos
Attn: Town Clerk
110 E. Main Street
Los Gatos, CA 95030

BrightView Tree Care Services
530 Aldo Avenue
San Jose, CA 95054

or personally delivered to Service Provider to such address or such other address as Service Provider designates in writing to Town.

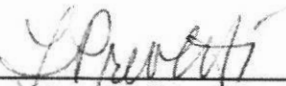
- 4.8 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any

attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.

- 4.9 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Service Provider. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

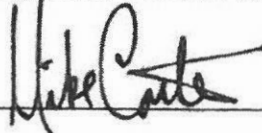
IN WITNESS WHEREOF, the Town and Service Provider have executed this Agreement.

Town of Los Gatos by:



Laurel Prevetti, Town Manager

BrightView Tree Care Services, Inc. by:



Mike Carter

Recommended by:

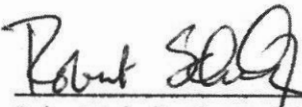


For Matt Morley, Director of Parks and Public Works

Vice President / General Manager

Title

Approved as to Form:



Robert Schultz, Town Attorney

ATTACHMENT D BID PRICE SHEET

For all services described below, unless excluded by the Town in description of services below, the Town shall consider unit prices below to include all labor, equipment, fees of any kind, overhead, insurance, fuel, materials, surcharges, disposal fees, and any other costs associated with and necessary for the Bidder to perform such service. No qualifications, exemptions, or alterations of services described below will be allowed. Failure to comply will result in disqualification of bid.

A. GENERAL SERVICES

	DESCRIPTION, WITH UNIT PRICE IN WORDS. (PRICE IS INCLUSIVE OF ALL APPLICABLE TAXES AND FEES)	UNIT PRICE	ESTIMATED UNITS	EXTENDED PRICE
1.	Annual routine trimming based on tree trimming in pre-designed districts, grids or parks on a set cycle, and includes all trees (small, medium, and large-sized).	Per-tree	700 @ \$95 each	\$ 66,500.00
2.	Service request tree trimming consist of trimming trees outside the grid trimming cycle.			
	0" - 6"	Per tree	3 @ \$72 each	\$ 216
	7" - 12"	Per tree	10 @ \$95 each	\$ 950
	13" - 18"	Per tree	10 @ \$144 each	\$ 1,450
	19" - 24"	Per tree	20 @ \$190 each	\$ 4,700
	25" and over	Per tree	10 @ \$210 each	\$ 2,850
3.	Tree removal (excludes stump removal)			
	0" - 6"	Per tree	5 @ \$95 each	\$ 475
	7" - 12"	Per tree	15 @ \$237 each	\$ 3,555
	13" - 18"	Per tree	20 @ \$522 each	\$ 10,440
	19" - 24"	Per tree	10 @ \$760 each	\$ 7,600
	25" and over	Per tree	5 @ \$1,920 each	\$ 9,600
4.	Stump removal			
	0" - 6"	Per stump	5 @ \$57 each	\$ 285
	7" - 12"	Per stump	15 @ \$114 each	\$ 1,710
	13" - 18"	Per stump	20 @ \$171 each	\$ 3,420
	19" - 24"	Per stump	10 @ \$228 each	\$ 2,280
	25" and over	Per stump	5 @ \$342 each	\$ 1,710
A.	SUB-TOTAL - GENERAL SERVICES			\$ 117,741.00

B. CREW RENTAL AND EMERGENCY SERVICES

	Fully equipped crew as defined. Includes all labor, equipment, tool, traffic control, disposal costs, and zero material markups	UNIT PRICE	ESTIMATED UNITS	EXTENDED PRICE
STRAIGHT TIME				
1.	4 Man crew with Equipment	Per hour	20 @ \$300	\$6,000
2.	3 Man crew with Equipment	Per hour	40 @ \$225	\$9,000
3.	2 Man crew with Equipment	Per hour	20 @ \$150	\$3,000
OVERTIME/WEEKENDS/EMERGENCY AFTER HOURS CALL OUT				
4.	4 Man crew with Equipment	Per hour	10 @ \$380	\$3,800
5.	3 Man crew with Equipment	Per hour	10 @ \$285	\$2,850
6.	2 Man crew with Equipment	Per hour	20 @ \$190	\$3,800
B.	SUB-TOTAL - CREW RENTAL & EMERGENCY SERVICES			\$ 28,450.00

C. OTHER COSTS

	DESCRIPTION, WITH UNIT PRICE IN WORDS. (PRICE IS INCLUSIVE OF ALL APPLICABLE TAXES AND FEES)	UNIT PRICE	ESTIMATED UNITS	EXTENDED PRICE
1.	Cost for crown, trees requiring trimming more than 25% of foliage at one time, or crown shaping or crown reduction. 0-6" 7-12" 13-18" 19-24" 25" and over	Per tree Per tree Per tree Per tree Per tree	3 @ \$72 each 10 @ \$95 each 10 @ \$145 each 10 @ \$235 each 20 @ \$285 each	\$ 216 \$ 950 \$ 1,450 \$ 2,350 \$ 5,700
2.	Specialty equipment - 50-ton crane per hour -95-foot aerial tower per hour	Per hour Per hour	5 @ \$265 each 15 @ \$250 each	\$ 1,325 \$ 3,750
3.	Tree planting and installation services: (Price includes labor, equipment, root irrigation device, and staking; assume trees to be provided by the Town) - 15" gallon - 24" box - 36" box - 48" box	Per tree Per tree Per tree Per tree	40 @ \$130 each 20 @ \$260 each 10 @ \$390 each 5 @ \$650 each	\$ 5,200 \$ 5,200 \$ 3,900 \$ 3,250
4.	Arborist services & report writing per hour	Per hour	10 @ \$120 each	\$ 1,200
5.	Tree watering per day (Assume 1 worker watering 8 hours)	Per day	40 @ \$600 each	\$ 24,000
6.	GPS tree inventory data collection	Per tree site	14,000 @ \$3 each	\$ 42,000
C.	SUB-TOTAL - OTHER COST			\$ 100,491.00
	GRAND TOTAL (A+B+C)			\$ 246,682.00



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 9

DATE: January 10, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a Third Amendment to a Consultant Agreement for Executive Recruitment Services with Teri Black & Company, LLC for an Additional Amount of \$31,000 with a Total Amount Not to Exceed \$170,500 and Authorize an Expenditure Budget Adjustment from Available General Fund Capital/Special Projects Reserve

RECOMMENDATION:

Authorize the Town Manager to execute a Third Amendment (Attachment 4) to a Consultant Agreement for executive recruitment services with Teri Black & Company, LLC (TB&Co) for an additional amount of \$31,000 with a total amount not to exceed \$170,500 and authorize an expenditure budget adjustment from available General Fund Capital/Special Projects Reserve.

BACKGROUND:

On October 19, 2021, the Town Council authorized the Town Manager to execute an Agreement with TB&Co for executive recruitment services (Attachment 1). On November 16, 2021, the Town Council authorized the Town Manager to execute a First Amendment to the Agreement for three Director recruitments (Attachment 2). On May 17, 2022, the Town Council authorized the Town Manager to execute a Second Amendment to the Agreement for two additional Director recruitments (Attachment 3).

DISCUSSION:

The candidate pool for executive level positions is typically smaller, so it is not unusual for public sector agencies to outsource recruitment processes to executive recruitment search firms. Because executive search firms focus solely on recruitments, they have a vast number of contacts. They also have the resources and relationships to proactively contact candidates directly that may not be actively searching for a new opportunity and encourage those candidates to compete in a specific recruitment.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

CONCLUSION:

Based on TB&Co.'s expertise related to successfully completing several director level recruitments for the Town, staff is requesting authorization for the Town Manager to execute a Third Amendment to the current Agreement for services. Given the competition for talent within the public sector, the Town needs to be positioned to move swiftly if and when an executive vacancy occurs. Staff recommends that the Town Council authorize the Town Manager to execute a Third Amendment to add \$31,000 to this Agreement and approve the associated budget adjustment as described under the Fiscal Impact section below.

COORDINATION:

The preparation of this report was coordinated with the Human Resources and Finance Departments, and the Town Attorney's Office.

FISCAL IMPACT:

The additional cost of \$31,000 brings the total not to exceed amount to \$170,500. Staff recommends using a portion of the available balance in the Town's Capital/Special Projects Reserve.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Agreement for Consultant Services
2. First Amendment
3. Second Amendment
4. Proposed Third Amendment

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on October 20, 2021 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Teri Black & Company, LLC ("Consultant"), whose address is 25500 Hawthorne Blvd., Suite 1158, Torrance, CA 90505. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Consultant to provide executive recruitment services for the position of two director-level recruitments.
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in that certain proposal sent to the Town on September 15, 2021, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from October 20, 2021 to October 31, 2023. Consultant shall perform the services described in the proposal labeled Exhibit A.
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services

pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of these documents or information available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.

2.6 **Compensation.** Compensation for Consultant's professional services shall not exceed \$54,000, inclusive of all costs. The fee for each of the executive recruitment searches is \$18,500, plus an additional \$8,500 is allocated for reimbursable expenses. Payment shall be based upon Town approval of each task.

2.7 **Billing.** Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be emailed to HR@losgatosca.gov.

2.8 **Availability of Records.** Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.

2.9 **Assignability and Subcontracting.** The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.

2.10 **Independent Contractor.** It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of

compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

- 2.11 **Conflict of Interest.** Consultant understands that its professional responsibilities are solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.12 **Equal Employment Opportunity.** Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

III. INSURANCE AND INDEMNIFICATION

- 3.1 **Minimum Scope of Insurance:**
- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
 - ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
 - iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.

- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
 - ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
 - iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
 - iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.
- 3.3 Workers' Compensation. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.
- 3.4 Indemnification. The Consultant shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up

because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

IV. GENERAL TERMS

- 4.1 **Waiver.** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 **Governing Law.** This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.3 **Termination of Agreement.** The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
- 4.4 **Amendment.** No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.
- 4.5 **Disputes.** In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.6 **Notices.** Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos
Attn: Human Resources
110 E. Main Street
Los Gatos, CA 95030

Teri Black & Company, LLC
Attn: Tracey Carlson
25500 Hawthorne Blvd, Suite 1158
Torrance, CA 90505

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to Town.

- 4.7 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.
- 4.8 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement.

Town of Los Gatos by:

DocuSigned by:

Laurel Prevetti

11/16/2021

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Laurel Prevetti, Town Manager

Consultant, by:

DocuSigned by:

Teri Black

11/1/2021

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Teri Black, President

Teri Black & Company, LLC

Recommended by:

DocuSigned by:

Lisa Velasco

11/2/2021

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Lisa Velasco, Human Resources Director

Approved as to Form:

DocuSigned by:

Robert W. Schultz

11/16/2021

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Robert Schultz, Town Attorney

Attest:

DocuSigned by:

Shelley Neis

11/17/2021

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Shelley Neis, MMC, CPMC

Town Clerk



STELLAR TALENT.
PREMIER SERVICE.
POWERFUL RESULTS.



STELLAR TALENT.
PREMIER SERVICE.
POWERFUL RESULTS.

September 15, 2021

Ms. Laurel Prevetti
Town Manager
110 E. Main Street
Los Gatos, CA 95030

Dear Ms. Prevetti:

Thank you for contacting Teri Black & Company (TBC) regarding the opportunity to assist the **Town of Los Gatos** with the successful recruitments for three (3) executive/senior management level positions. We are the recruiter of choice for many Northern California communities and would be honored to represent Los Gatos again with its search needs in the coming months.

Founded in 2006, TBC provides the most personalized executive search services to clients and candidates in the industry. The business goals of the firm are centered on producing quality results and establishing long-term relationships with our customers. Personalized service and inclusivity have never been more important in our industry as the competition for outstanding talent continues to intensify. **In 2020, 44 percent of our placements were of diverse representation and 63 percent of our placements were female. Our diversity performance record exceeded 30 percent in the year prior and reached 45 percent in 2018.** With our extensive network and incomparable approach to client and candidate care, **our consultants consistently produce outstanding results.** As a result, nearly all of our business is a result of repeat customers.

TBC is not driven by volume which helps set us apart from our competitors. We are committed to providing customized and flexible service to our clients and will only take on a select number of recruitments at any given time. Based in Los Angeles, TBC is one of the few woman-owned executive search firms serving local government in the United States. Detailed information about the firm and our clients is available on our website – www.tbcrecruiting.com.

You will have my personal commitment that the Los Gatos recruitments will receive the highest level of attention and will not be delegated to a junior level staff. Please do not hesitate to call if you have any questions or need additional information regarding our services or qualifications.

Sincerest regards,

Teri Black
President

PROPOSAL

Executive Search Services

for the

TOWN OF LOS GATOS

to recruit up to three (3)

**EXECUTIVE & SENIOR MANAGEMENT
LEVEL RECRUITMENTS**

TB&^{CO.}

September 2021



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I. CREDENTIALS, QUALIFICATIONS & COMMITMENT

Teri Black & Company, LLC (TBC) has a solid reputation for providing exemplary service to its clients and has enjoyed great success in **recruiting impressive local government professionals** for our clients throughout the western United States. In addition to serving the Town of Los Gatos in the past, our **Northern California/Bay Area** municipal client base is extensive and includes the Cities of Mountain View, Redwood City, Santa Clara, Burlingame, San Leandro, Fremont, Pleasanton, Palo Alto, Menlo Park, South San Francisco, San Mateo, Berkeley, Santa Rosa, Pacifica, San Jose, Alameda, Sunnyvale, and Brisbane, as well as the Town of Hillsborough among numerous others. As evidence of our clients' **high satisfaction levels**, nearly **90%** of our projects are generated through repeat business and client referrals.

Because we are driven by a concern for **quality results rather than volume**, we limit the number of recruitments the firm handles at any given time. In addition, we are careful to only partner with clients that appreciate the value of **highly personalized services** and the importance of finding qualified candidates who would be a good fit rather than simply attracting individuals who meet minimum qualification criteria.

TBC has an **excellent track record** for recruiting well-qualified candidates and has been successful in **consistently attracting diverse candidate pools**. In 2020, **44 percent** of our placements were of diverse representation and **63 percent** of our placements were female. Our **diversity performance record exceeded 30 percent** in the year prior and reached **45 percent** in 2018. The trust and credibility Teri and her team have earned over the course of two decades is proudly reflected in these results.

Lastly, our **commitment to candidate care is incomparable**. From initial conversations during the active recruiting period, personalized coaching as they prepare for final interviews, all the way to professional development debriefings at the end of a process – **no other firm invests the amount of time and level of attention in candidates than we do**. Our treatment of applicants is a direct reflection of our customers' values, and we consistently receive feedback that our service is simply unmatched.

Depending on the positions, Senior Recruiters Suzanne Mason or Nina Morris Collins will co-lead all projects with Teri Black and be supported by other members of the TBC Team. Our recruiters maintain **strong networks** throughout various local government disciplines through their involvement and membership with numerous professional associations. Profiles on the recruiters and staff who will be actively engaged in this assignment can be found in Section V.

TBC will work closely with the Town of Los Gatos in adjusting and redesigning activities associated with the recruitment in response to COVID-19 public health orders and corresponding protocols throughout the recruitments.

II. RECRUITMENT STRATEGY

The executive search strategy that follows describes four complete phases of a comprehensive recruitment for executive management and senior level positions.

PHASE I

Client Feedback & Involvement

The lead recruiter will work closely with the City Manager and Human Resources Director in customizing ideal candidate profiles for Los Gatos. We will work in partnership with the Client on the recruitment strategies and timelines in accordance with the Client's desires and expectations. It is our goal to gain a complete understanding of the experience, knowledge, expertise and strengths the organization is seeking in the new professionals, as well as learn about the Department's priorities, current and upcoming challenges, organizational culture and composition of the overall management team.

At the City Manager's discretion, the recruiter can meet with various stakeholders including department heads, and other internal stakeholders as deemed appropriate. These supplemental meetings sometimes allow us to obtain additional feedback and gain a broader understanding of the community along with the organization's culture and inner workings. This additional knowledge can often be helpful to the recruiter as we assess the critical factors relating to candidate "fit" later in the process. Because our clients know their organizations best, we rely on their guidance to determine the best sources of information upon launching each assignment.

Strategy Refinement

Following the gathering of feedback, TBC will develop detailed timelines for the projects along with proposed methodologies for attracting the best possible candidates. The timelines and overall strategies will be reviewed and approved by the Client prior to execution.

Material Development & Production

Immediately following the client feedback activities, a TBC team member will draft advertising and recruitment brochure text for each recruitment for the Client's review. This information (description of community, culture, organizations, departments, ideal candidate profiles, and compensation/benefits, etc.) should accurately summarize what was learned from the feedback sources.

PHASE II

Advertising & Marketing

Once the lead recruiter develops a clear understanding of what the Client is seeking, TBC will create customized advertising, marketing and social media campaigns for the recruitments. Both the traditional and electronic campaigns will be interrelated to ensure the positions have a powerful presence in the marketplace.

Once the advertising is executed, TBC will distribute the recruitment brochures with personalized cover letters to the national network of professional contacts in our database for the respective searches. Both e-mail and traditional mail are utilized in our marketing efforts. The jobs will also be promoted through the firm's social media presence via LinkedIn, Facebook, Twitter.



Personalized Outreach

As an intensive follow-up to the direct mail campaigns, the recruiter will personally contact the individuals targeted and generate new contacts through referrals made by respected sources. The most impressive candidates are usually found this way and it frequently requires several persuasive conversations to attract them into a recruitment if they are content and successful in their current position. The majority of highly qualified candidates will not necessarily respond to an advertisement; therefore, extensive proactive outreach is required.

Our clients pay for results and that's exactly what we deliver. TBC dedicates an extraordinary amount of time to discovering new talent. With the number of retirements and movement in the industry, there has been a tremendous loss of executive/ management talent in the profession. In response, we invest more time and resources in finding undiscovered superstars across the country as well as within the state. While most of our competitor's charge additional consulting fees beyond a specific threshold, we do not limit the number of consulting hours, travel or meetings dedicated to any given project.

PHASE III

Resume Assessment

While the lead recruiter will review resumes as they are received, a final detailed review of each submission will be conducted immediately following the closing date of each respective recruitment. Those candidates determined to be the most highly qualified will be selected for screening interviews.

The TBC online application system was introduced to the market more than 13 years ago and was the first in the public sector executive search industry. Leveraging the power, reach, and accessibility of the internet, TBC pioneered a modern digital experience for both candidates and clients. Since then, some of our competitors have followed suit, but TBC continues to set the bar with **enhanced website and online application security features**, two-step authentication, strong passwords, and secure candidate database storage to keep candidate information safe and confidential.

Screening Interviews

TBC does not restrict the number of candidates to be screened. Rather, we interview every candidate who meets our Client's criteria. As a rule, this group frequently amounts to 6-12 candidates per recruitment. The number of candidates screened ranges from just a handful of professionals for highly specialized positions to more than 20 for highly coveted opportunities. The screening interviews are typically conducted by Zoom or phone.

Recruitment Report

Following the completion of the screening interviews, the recruiters will develop a written report for each recruitment that includes: a master list of all the applicants, resumes and cover letters for each candidate interviewed, a one-page profile summarizing each candidate's professional history, plus an overview of the recruiter's initial assessment of each individual based on their experience and the results of their screening interview.

TBC will send the written reports to the Client's designated recipients in advance of a scheduled meeting that will be dedicated to reviewing the results of the recruitments, discussing each candidate screened, and planning for the final stages of the selection process.

Candidate Communications & Care

Throughout each recruitment, TBC will take responsibility for communicating with the candidates during each stage of the search. In addition, the Client should feel free to refer any inquiries from potential or existing candidates directly to the lead recruiter at any time during the engagement. We handle all administrative aspects of the assignment.

TBC is **extremely attentive to internal candidates**. Our recruiters make sure they understand the process and are kept informed at every juncture as they may have never worked with a recruiter before. We take great care to meet the needs of the entire candidate pool throughout our engagements as it is critical that **all the participants**, regardless of whether or not they are selected, have a **positive experience**, and leave the process with a **favorable impression** of the Town of Los Gatos.

PHASE IV

Selection Process

TB&Co. will design and administer appropriate final selection processes in partnership with the Client. Most traditional selection processes entail at least one or two panel interviews followed by the appointing authority spending time with the highest ranked candidates. Our team will prepare the materials for the panel interviews, arrange for follow-up interviews with the Client, and coordinate all logistics with the candidates. If additional selection activities are desired, TBC will assist with designing and facilitating written exercises, presentations, problem-solving scenarios, etc. We tailor each process to best meet the Client's needs and will assist the decision makers with deliberations. Lastly, it is critical that candidates' confidentiality be respected and maintained to the greatest degree possible to maintain the integrity of the process.

Our professional fee includes one day of facilitated panel interviews either by Zoom or in-person depending on COVID-19 conditions for each assignment. A recruiter will be available to facilitate additional interviews, although this is rarely necessary.

Background & References

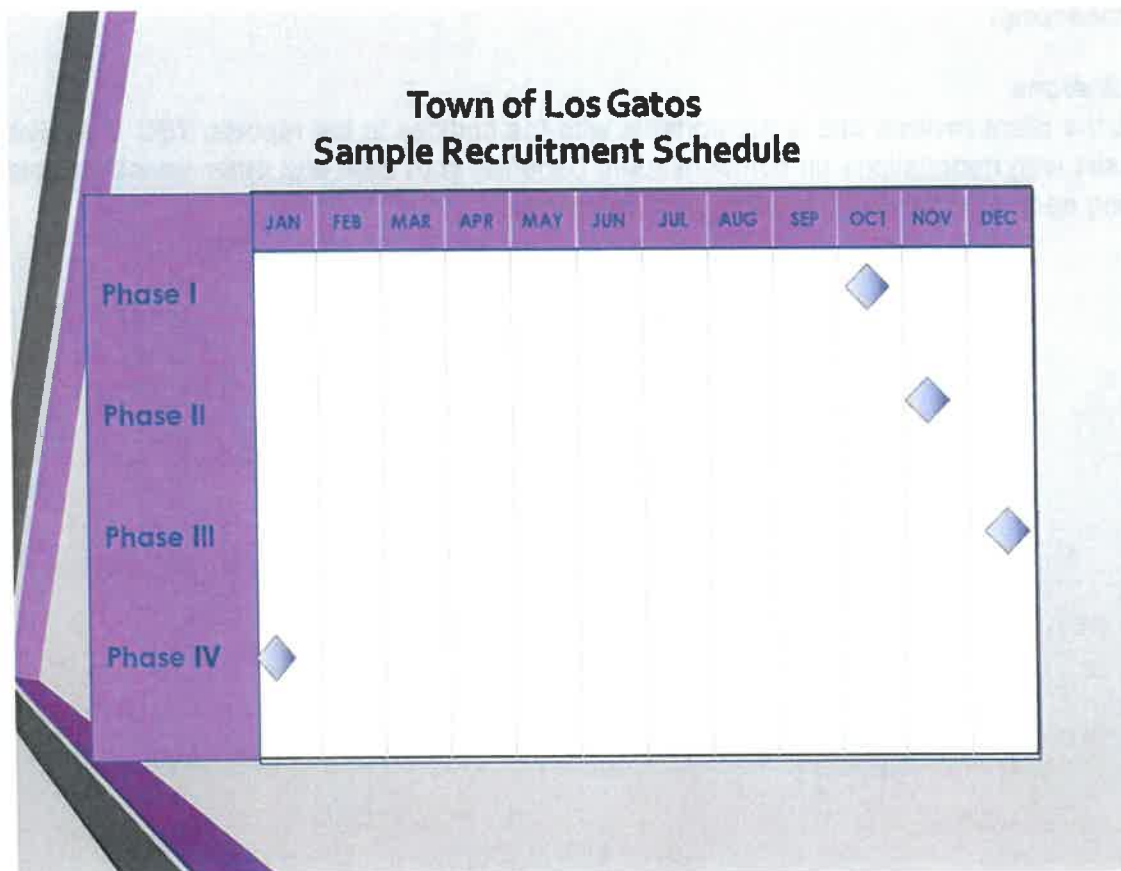
Following the final process and the Client's selection of its top candidates (one per recruitment), TBC will conduct **thorough background and in-depth reference checks**. Our background checks are performed by a licensed private investigator and entail credit, driving record, civil, criminal, and academic credential records checks. Court records checks include county, state, and federal systems. Media, internet, and social networking checks are also included. The reference checks are conducted by a TBC consultant and are typically supplemented by comments generated from contacts that do not appear on the candidate's reference list. Extensive written reports are provided to the Client for review and recordkeeping.

Negotiations

Once the client reviews and is comfortable with the findings in the reports, TBC is available to assist with negotiations on compensation, benefits, start date and other transition details to bring each assignment to a successful completion.

III. PROJECT TIMELINE

Each recruitment can typically be completed within approximately 100-120 days. A visual of a typical recruitment timeline is portrayed below and assumes that work will commence in October. The actual recruitment schedule can be adjusted in accordance with the Client's goals.



IV. CLIENT REFERENCES

Client: City of San Mateo **Tel:** 650.522.7000
Contacts: Drew Corbett
E-mail: dcorbett@cityofsanmateo.org
Searches: City Manager, City Attorney, Police Chief, Public Works Director, Community Development Director, Deputy City Librarian, Deputy Community Development Director

Client: City of Mountain View **Tel:** 650.903.6057
Contacts: Sue Rush, Director of Human Resources
E-mail: sue.rush@mountainview.gov
Searches: City Manager, Community Development Director, Zoning Administrator, Current Planning Manager, Fire Chief, Deputy Fire Chief, Fire Marshal, Fire Protection Engineer, Finance & Administrative Services Director, Police Captain -Internal Process, Assistant Public Works Director - Transportation & Business Services, Assistant Public Works Director - Public Services, Chief Communications Officer, Chief Building Official, Economic Development Manager (upcoming), Housing & Neighborhood Services Manager (current)

Client: City of Redwood City **Tel:** 650.780.7288
Contacts: Michelle Katsuyoshi, Director of Human Resources
E-mail: mkatsuyoshi@redwoodcity.org
Searches: City Manager, Assistant City Manager, Deputy City Manager, Library Director, Director of Community Development & Transportation, Planning Manager, Police Chief, Human Resources Director, Finance Director, Housing Leadership Manager (partial), Fire Chief, Public Works Director

Client: City of Santa Clara **Tel:** 408.615.2228 (Nadine)
408.615.2161 (Aracely)
Contact: Nadine Nader, Assistant City Manager
Aracely Azevedo, Director of Human Resources
Email: nnader@SantaClaraCA.gov
AAzevedo@SantaClaraCA.gov
Searches: Human Resources Director, Fire Chief, Assistant Finance Director, Assistant Public Works Director, Risk Manager, Finance Director, City Manager (partial – negotiations only), City Planner, Economic Development Officer, Accounting Manager, Assistant Finance Director, Assistant Community Development Director, Planning Manager (upcoming), City Librarian, Housing Manager (current)

V. RECRUITERS & STAFF PROFILES

Teri Black, President

Following a distinguished career in local and federal government, Teri has been dedicated to public sector executive search since 1999. Serving communities with populations in the millions to as small as 1,500 for over 20 years, she has built a substantial base of clients across the Western United States that continually rely on her personalized service and recruitment expertise. In addition to cities and counties, Teri's clients also include special districts, utility agencies, and non-profit organizations. She has managed a multitude of high profile and sensitive recruitments over the years. Prior to starting her own firm in 2006, Teri was affiliated with Shannon Executive Search/CPS Human Resource Services and The Oldani Group.

Before entering the executive search profession, Teri served as Chief of Staff in the U.S. Department of Justice/Office of Community Oriented Policing Services (COPS) in the Clinton Administration. Her local government experience includes management positions in the Cities of Santa Ana, Lakewood, and Oakland, California. As a consultant, clients find her prior government experience to be of tremendous value as they often comment, "She has walked in our shoes and understands our business."

Teri earned her Master's degree in Public Administration from the University of Southern California and holds a bachelor's degree in Criminal Justice from California State University, Fullerton. She is a graduate of the UCLA Anderson School of Management's invitational certificate program for entrepreneurs and a founding member of Cal-ICMA's Preparing the Next Generation (PNG) committee which has served as a model for the national association.

Teri will co-lead each engagement alongside Suzanne Mason or Nina Morris Collins.

Suzanne Mason, Senior Recruiter

Suzanne has over 33 years of professional experience working with cities and counties in California as a local government administrator and human resources professional focusing on business process improvement, change management and improved human resource practices.

Suzanne has worked to modernize and improve public sector recruitment and hiring practices throughout her career and recently was part of a multi-jurisdictional team that worked with the State of California to rewrite the State's county personnel merit rules which were adopted in 2016. During her career she has worked with the City of Long Beach, Napa County, the City of Palo Alto and the City and County of San Francisco. With these jurisdictions she has served as Deputy City Manager, Assistant City Manager, Director of Human Resources and Director of Employee Relations, in addition to various departmental assignments. Suzanne has extensive experience with organizational change management, community and employee engagement, budgeting, as well as all areas of human resources management.

Suzanne earned a Master's degree in Public Administration from the University of Southern California, with an emphasis in Intergovernmental Management, and her bachelor's degree in History from the University of California at Santa Barbara. Suzanne also holds a certificate from the Senior Executives in State and Local Government Program at the Kennedy School of Government at Harvard University.

Suzanne has served as a member of Cal-ICMA's Preparing the Next Generation Committee since its inception and was part of the team that transitioned to the effort to the Ca-ICMA Talent Initiative. Suzanne also serves as a Civil Service Commissioner for the City of Napa, where she resides.

Nina Morris Collins, Senior Recruiter

Nina has over 30 years of professional experience working in full-service cities in California and has held various positions including Director of Human Resources and Chief of Staff. Her areas of expertise include employee and labor relations, recruitment and selection, classification and compensation, benefits administration, improving business processes, policy development, change management, and training.

As Director of Human Resources, Nina was an executive representative on the City of Hayward's Government Alliance on Race and Equity Team that was responsible for reviewing and improving recruitment policies to reflect the City's commitment to be a diverse, equitable, and inclusive organization. She also served as Chief Spokesperson for labor negotiations with eleven bargaining units and led the effort to update and rewrite the Personnel Rules, which were adopted in 2019. Nina is highly skilled and has extensive experience leading organizational change, promoting employee engagement, relationship building, conflict resolution, and mediation. Additionally, Nina facilitates and provides diversity, equity, and inclusion training and policy development, working with public agencies, community groups, and small businesses.

Nina earned her Juris Doctorate from John F. Kennedy Law School and has a Bachelor's degree in Political Science/Public Administration from California State University Hayward (now East Bay). She also has a certificate from the Harvard University School of Law, Program on Negotiation.

Tracey Carlson, Director of Client & Candidate Care

Tracey is responsible for managing the numerous administrative activities and logistical coordination associated with TBC recruitments and special projects. Her 15 years of project management experience benefits the company in many ways. From overseeing our massive database, ensuring contractual requirements are met and interacting with candidates to coordinating background checks, she is involved with all aspects of the search process.

Tracey is also charged with the most difficult responsibility in the practice – managing Teri's calendar! In addition, she serves as an outstanding resource for candidates and sets a high bar for the firm's commitment to five-star quality service. In a nutshell, she serves as Teri's invaluable "right hand" in ensuring that all client and candidate needs are met.

Prior to joining the firm more than 10 years ago, Tracey held a variety of finance, IT and project management related positions with Northrop Grumman and Toyota Motor Sales, USA.

Lucia Vo, Recruiting Assistant

Lucia interfaces extensively with our candidates and works alongside Tracey to help ensure our clients and candidates receive the proper care and support. A great deal of her time is spent handling incoming calls, researching candidates, monitoring our online application system, responding to e-mails, and assisting candidates with their submissions.

Lucia has worked in various administrative capacities in the private sector throughout Europe and the United States. She graduated from Technic University Kosice in Slovakia majoring in Business Administration.

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Elizabeth Emmett, Chief Communicator

Elizabeth Emmett spent her 30-year communications career with Bay Area public agencies, working to recognize needs, strategize solutions and execute successful outreach campaigns. Having joined TBC in January of this year, she is the newest member of the team and is responsible for the firm's social media, branding, and overall communications efforts.

In 2007, Elizabeth became the first Public Information Officer for the County of Napa, and built the program from scratch, managing the redesign of the County logo, website and style guide, as well as establishing the bedrock internal, external and media communications tools and practices serving all County departments. Seven years later, she was called to again create an entirely new program, this time at Napa Valley Unified School District, where she helped lead the organization through the 2014 Napa earthquake, the 2017 fires and other crises. She retired from NVUSD in early 2019.

During the worst of the California drought in the late 1980's, Elizabeth was part of the award-winning public information team at Santa Clara Valley Water District, working to inform and educate more than a million customers. She continued her "water work" at Sonoma County Water Agency in the early 2000s, followed by a stint at CirclePoint, an award-winning environmental, marketing and community outreach based in San Francisco. Elizabeth headed up the North Bay office in Napa, working on transportation and water projects throughout the region.

Elizabeth has a bachelor's degree in Mass Communications/Journalism from Minnesota State University Mankato. She has served in several Board positions, including president, for the California Association of Public Information Officials (CAPIO). She is based in Napa.

VI. PROFESSIONAL FEES & GUARANTEE

The **professional fee** for the complete scope of work outlined in Phases I – IV articulated in this quote covering three (3) comprehensive executive/senior management level recruitments will be **\$55,000** (\$18,500 per recruitment). Services include conference calls/Zoom meetings for the purposes of gathering stakeholder feedback on candidate profiles, briefing client on results of the recruitments, facilitating one day of panel interviews for each search, assisting the Client with selection deliberations and conducting background and reference checks.

REIMBURSABLE EXPENSES¹ (NOT TO EXCEED)

Advertising (3)	\$6,900
Recruitment Brochures & mailings (3)	\$4,500
Administrative support	\$8,000
Shipping/FedEx (if required)	\$1,500
Background & records checks (3)	\$1,800
Consultant Travel (ground, air, lodging if necessary)	\$3,000
Project expenses (NTE)	\$25,700 (approx. \$8,500 max. per search)

Professional fees and expenses are billed monthly. Expenses are billed at their actual level and are never marked-up or inflated with special fees. Not knowing the specifics regarding the anticipated vacancies, expenses have been estimated on the high side and rarely exceed \$7,500 in the current virtual/hybrid environment.

Placement Guarantee

If a candidate is selected and appointed by the Town of Los Gatos terminates employment for any reason before the completion of the first year of service as a result of a comprehensive TBC recruitment, the firm will provide Los Gatos with the necessary consulting services required to secure a replacement. Depending on the nature of the departure, professional consulting services will be provided at no charge or a discounted rate of 25-50% of the original fee.² Expenses will be covered by the Client.

Fee for Additional Placements & Discounts

Because of the challenging market for top talent, our clients are increasingly taking advantage of selecting more than one outstanding candidate from a single recruitment that will benefit the organization in a different capacity. In these instances, a \$3,000 placement fee per additional candidate placed will apply and will include completion of background check records review as well as reference checking

² Reimbursable Expenses by Category are an estimation. Invoices may reflect actual expense amounts in any given category that are above or below the estimated amount, however, total expenses billed during the project shall not exceed the total "Project Expenses (NTE)" amount as stated.

³To be negotiated at the time of re-engagement and will be dependent on scope of work needed to refill the position.

VII. COMPANY CONTACT INFORMATION

Business address: 25500 Hawthorne Blvd., Suite 1158
Torrance, CA 90505

Telephone: 424.296.3111

Web site: www.tbcrecruiting.com

Federal Tax ID: 13-4346458

Primary Contact: Teri Black
teri@tbcrecruiting.com
Office: 424.296.3111 Mobile: 310.781.0878

Company Officers: Teri Black, President
Joseph E. Brann, CEO

VIII. COMPREHENSIVE LIST OF CLIENTS

Cities

- ◆ Agoura Hills
- ◆ Alameda
- ◆ Alhambra
- ◆ Aliso Viejo
- ◆ Antioch
- ◆ Anaheim
- ◆ Arlington, TX
- ◆ Arroyo Grande
- ◆ Ashland, OR
- ◆ Belmont
- ◆ Berkeley
- ◆ Beverly Hills
- ◆ Brisbane
- ◆ Buena Park
- ◆ Burbank
- ◆ Burlingame
- ◆ Cannon Beach, OR
- ◆ Carlsbad
- ◆ Carmel-by-the-Sea
- ◆ Carpinteria
- ◆ Chandler, AZ
- ◆ Colorado Springs, CO
- ◆ Concord
- ◆ Costa Mesa
- ◆ Cupertino
- ◆ Cypress
- ◆ Daly City
- ◆ Davis
- ◆ Del Mar
- ◆ Denver, CO
- ◆ Dublin
- ◆ East Palo Alto
- ◆ El Cajon
- ◆ Escondido
- ◆ Eugene, OR
- ◆ Fairfield
- ◆ Fort Worth, TX
- ◆ Fremont
- ◆ Fresno
- ◆ Fullerton
- ◆ Glendale
- ◆ Goleta
- ◆ Half Moon Bay
- ◆ Hayward
- ◆ Healdsburg
- ◆ Hermiston, OR
- ◆ Hermosa Beach
- ◆ Hillsborough
- ◆ Huntington Beach
- ◆ Imperial Beach
- ◆ Indian Wells
- ◆ Indio
- ◆ Laguna Niguel
- ◆ La Habra
- ◆ La Mesa
- ◆ La Palma
- ◆ La Quinta
- ◆ Lakewood, CO
- ◆ Livermore
- ◆ Lomita
- ◆ Lompoc
- ◆ Long Beach
- ◆ Los Alamitos
- ◆ Los Altos
- ◆ Los Banos
- ◆ Los Gatos
- ◆ Lynwood
- ◆ Manhattan Beach
- ◆ Marina
- ◆ Manteca
- ◆ Menlo Park
- ◆ Milpitas
- ◆ Modesto
- ◆ Moreno Valley
- ◆ Morgan Hill
- ◆ Mountain View
- ◆ Murrieta
- ◆ Napa
- ◆ National City
- ◆ Newport Beach
- ◆ Oakland
- ◆ Pacifica
- ◆ Palo Alto
- ◆ Pasadena
- ◆ Petaluma
- ◆ Piedmont
- ◆ Pismo Beach
- ◆ Pittsburg
- ◆ Pleasanton
- ◆ Prescott Valley, AZ
- ◆ Pomona
- ◆ Poway
- ◆ Provo City, UT
- ◆ Rancho Cordova
- ◆ Redlands
- ◆ Redwood City

- ◆ Rohnert Park
- ◆ Riverside
- ◆ Roseville
- ◆ San Diego
- ◆ San José
- ◆ San Leandro
- ◆ San Luis Obispo
- ◆ San Mateo
- ◆ Santa Barbara
- ◆ Santa Clara
- ◆ Santa Clarita
- ◆ Santa Cruz
- ◆ Santa Monica
- ◆ Santa Paula
- ◆ Santa Rosa
- ◆ Sierra Vista, AZ
- ◆ Signal Hill

- ◆ South Pasadena
- ◆ South San Francisco
- ◆ Sunnyvale
- ◆ Surprise, AZ
- ◆ Torrance
- ◆ Tracy
- ◆ Truckee, Town of
- ◆ Turlock
- ◆ Tustin
- ◆ Vallejo
- ◆ Ventura
- ◆ Vista
- ◆ Walnut Creek
- ◆ West Sacramento
- ◆ Woodside, Town of
- ◆ Yucca Valley, Town of

Counties

- ❖ Alameda
- ❖ Contra Costa
- ❖ Denver, CO (City/County)
- ❖ Lane, OR
- ❖ Los Angeles
- ❖ Merced
- ❖ Monterey
- ❖ Napa
- ❖ San Diego
- ❖ Santa Barbara

Special Districts/Authorities

- Ashland, OR Parks Commission
- Beach Cities Health District
- Calleguas Municipal Water District
- Castaic Lake Water Agency
- Goleta Water District
- Hi-Desert Water District
- Indio Water Authority
- Menlo Park Fire Protection District
- Mesa Consolidated Water District
- Municipal Water District of Orange County
- Sacramento Metropolitan Fire District
- San Ramon Valley Fire Protection District
- South Bay Regional Public Communications Authority
- Southern California Association of Governments
- West Basin Municipal Water District

Universities

Cal State University Los Angeles

FIRST AMENDMENT TO AGREEMENT

This AMENDMENT TO AGREEMENT is dated for identification this 17th day of November, 2021 and amends that certain agreement for executive recruitment services dated October 20, 2021, made by and between the Town of Los Gatos, ("Town") and Teri Black & Company, LLC ("Consultant").

RECITALS

- A. Town and Consultant entered into a Consultant Services Agreement on October 20, 2021, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.

AMENDMENT

1. Section 2.6 "Compensation" is amended to read as follows:
Compensation by the Town for the Consultant's services shall increase by an additional \$21,000 plus expenses not-to-exceed \$8,500 for the Council Appointed Town Attorney recruitment. The new not-to-exceed total amount for the agreement is \$83,500.
2. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Town and Consultant have executed this Amendment.

Town of Los Gatos

DocuSigned by:
By: Am Andrews 12/21/2021
D4CB4F7122584C2...
Laurel Frevein, Town Manager

Approved as to Consent:

DocuSigned by:
By: Teri Black 12/16/2021
8076B4825742410...
Teri Black, President
Teri Black & Company, LLC

Department Approval:

DocuSigned by:
Lisa Velasco 12/20/2021
9B54465A40A3428...
Lisa Velasco, Human Resources Director

Approved as to Form:

DocuSigned by:
Robert W. Schultz 12/21/2021
2FE0938555B744C...
ROBERT SCHULTZ, Town Attorney

Attest:

DocuSigned by:
Shelley Neis 12/21/2021
B9666F65B1F34F6...
Shelley Neis, MMC, CPMC
Town Clerk

SECOND AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

THIS SECOND AMENDMENT TO AGREEMENT is entered into this 17th day of May, 2022, by and between the Town of Los Gatos, State of California, herein called the "Town," and Teri Black & Company, LLC ("Consultant"), herein called the "Consultant."

RECITALS

- A. Town and Consultant entered into a Consultant Services Agreement on October 20, 2021, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town and Consultant entered into a First Amendment to Agreement on November 17, 2021, a copy of which is attached hereto and incorporated by reference as Attachment 2.

AMENDMENT

- 1. Scope of Services of the Agreement is hereby amended to provide executive recruitment services for two additional recruitments: Parks and Public Works Director and Town Clerk.
- 2. Compensation by the Town for the Consultant's services shall increase by an additional \$56,000. The new not-to-exceed total amount for the agreement is \$139,500. The Agreement is here by amended from \$83,500 to \$139,500.
- 3. All other terms and conditions of the Agreement dated October 20, 2021, remain in full force and effect.

IN WITNESS WHEREOF, the Town and Consultant have executed the Second Amendment to Agreement as of the date indicated on page one (1).

Town of Los Gatos:

DocuSigned by:
By: Laurel Prevetti 6/30/2022
Laurel Prevetti
Town Manager

Consultant:

DocuSigned by:
By: Teri Black
Teri Black, President
Teri Black & Company, LLC

Department Approval:

DocuSigned by:
Salina Flores
Salina Flores
Human Resources Director

Approved as to Form:

DocuSigned by:
Gabrielle Whelan
Gabrielle Whelan
Town Attorney

Approved as to Form:

DocuSigned by:
Shelley Neis 6/30/2022
Shelley Neis, MMC, CPMC
Town Clerk

THIRD AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

THIS THIRD AMENDMENT TO AGREEMENT is entered into this 17th day of January, 2023, by and between the Town of Los Gatos, State of California, herein called the "Town," and Teri Black & Company, LLC ("Consultant"), herein called the "Consultant."

RECITALS

Town and Consultant entered into a Consultant Services Agreement on October 20, 2021, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 3 to this Amendment.

AMENDMENT

1. Scope of Services of the Agreement is hereby amended to provide executive recruitment services for one additional executive recruitment.
2. Compensation by the Town for the Consultant's services shall increase by an additional \$31,000 of which \$21,000 is the professional fee and expenses are not to exceed \$10,000. The new not-to-exceed total amount for the Agreement is \$170,500. The Agreement is here by amended from \$139,500 to \$170,500.
3. Term. Extend the term through December 31, 2023.
4. All other terms and conditions of the Agreement dated October 20, 2021, remain in full force and effect.

IN WITNESS WHEREOF, the Town and Consultant have executed the Third Amendment to Agreement.

Town of Los Gatos:

Consultant:

By: _____
Laurel Prevetti
Town Manager

By: _____
Teri Black, President
Teri Black & Company, LLC

Department Approval:

Salina Flores
Human Resources Director

Approved as to Form:

Approved as to Form:

Gabrielle Whelan
Town Attorney

Wendy Wood
Town Clerk



**TOWN OF LOS GATOS
FINANCE COMMISSION REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 10

DATE: January 11, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive Monthly Investment Reports for October and November 2022

RECOMMENDATION:

Receive Monthly Investment Reports for October and November 2022.

DISCUSSION:

Staff is changing the frequency of the reporting from quarterly to monthly to comply with the California Government Code Section 41004.

As of November 30, 2022, the Town's weighted portfolio yield was 2.03% which exceeded by 2 basis points the Local Agency Investment Fund (LAIF) yield of 2.01% as of the same reporting period. Currently the LAIF portfolio weighted average maturity (WAM) is 304 days versus the Town's longer WAM of 435 days. The Town's weighted average rate of return of 2.03% at the close of November was 23 basis points higher when compared to the First quarter return of 1.80% reported as of September 30, 2022.

Since September 30, 2022, LAIF yields had climbed from 151 basis points (1.51%) to 201 basis points (2.01%) through the end of November 2022. Staff in coordination with the Town's investment advisor primarily replaced maturing investments in shorter to medium term maturities in the two- to three-year maturity range. These investments capture current yields that exceed the rates expected to be earned in the State LAIF pool during that same time period. The State LAIF pool typically lags the market when current market yields are either increasing or decreasing.

At its most recent meeting in December 2022, the Fed indicated it expected to raise interest rates further in 2023 to approximately 5.25% from its current rate of 4.25% to 4.5%, with the Fed anticipating that 5.25% rate to hold steady for the remainder of calendar year 2023.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

PAGE 2 OF 2

SUBJECT: Receive the Monthly Investment Reports for October and November 2022

DATE: January 11, 2023

DISCUSSION (continued):

The Finance Commission was scheduled to receive the reports at its January 10, 2023 meeting. The item was pulled from the consent calendar and moved to the end of the agenda. Given other items and the time constraint for the meeting, the Commission did not have time to discuss the reports. These reports will be provided again to the Finance Commission for its February meeting.

CONCLUSION:

Staff recommends that the Town Council receive the Monthly Investment Reports for October and November 2022.

Attachments:

1. Monthly Investment Report for October 2022
2. Monthly Investment Report for November 2022

Town of Los Gatos
Summary Investment Information
October 31, 2022

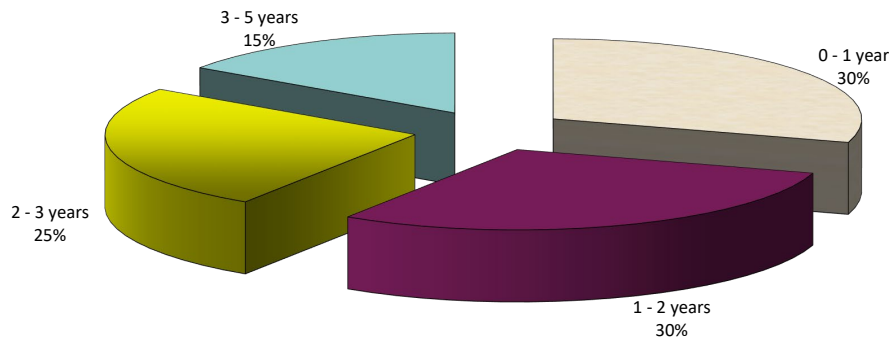
Weighted Average YTM Portfolio Yield: **1.82%** **Weighted Average Maturity (days)** **425**

	<u>This Month</u>	<u>Last Month</u>	<u>One year ago</u>
Portfolio Balance	\$62,569,240	\$62,736,952	\$59,763,609

Benchmarks/ References:

Town's Average Yield	1.82%	1.80%	1.24%
LAIF Yield for month	1.77%	1.51%	0.20%
3 mo. Treasury	4.09%	3.29%	0.06%
6 mo. Treasury	4.55%	3.97%	0.06%
2 yr. Treasury	4.49%	4.28%	0.50%
5 yr. Treasury (most recent)	4.23%	4.09%	1.19%
10 Yr. Treasury	4.05%	3.84%	1.56%

Portfolio Maturity Profile

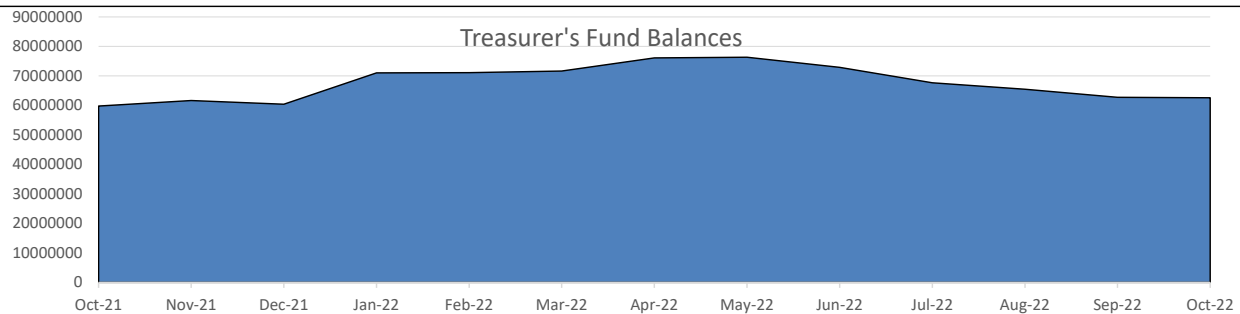
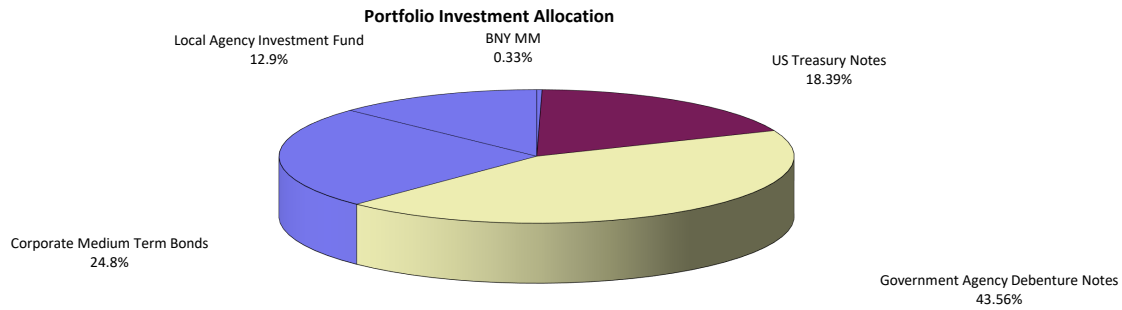


Compliance: The Town's investments are in compliance with the Town's investment policy dated September 21, 2021 and also in compliance with the requirements of Section 53601 of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
October 31, 2022

	Month	YTD
Fund Balances - Beginning of Month/Period	\$62,736,951.51	\$72,886,942.83
Receipts	2,970,841.52	14,361,634.16
Disbursements	(3,138,553.40)	(24,679,337.36)
Fund Balances - End of Month/Period	<u>\$62,569,239.63</u>	<u>\$62,569,239.63</u>

<u>Portfolio Allocation:</u>	% of Portfolio	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$179,619.69 0.33%	20% of Town Portfolio
US Treasury Notes	\$9,883,589.53 18.39%	No Max. on US Treasuries
Government Agency Debenture Notes	\$23,416,349.00 43.56%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$13,336,173.01 24.81%	30% of Town Portfolio
Local Agency Investment Fund	\$6,941,939.56 12.91%	\$75 M per State Law
Subtotal - Investments	<u>53,757,670.79</u> 100.00%	
Reconciled Demand Deposit Balances	<u>8,811,568.84</u>	
Total Treasurer's Fund	<u>\$62,569,239.63</u>	



Town of Los Gatos
Non-Treasury Restricted Fund Balances
October 31, 2022

	Beginning Balance	OCT 22 Deposits Realized Gain/Adj.	OCT 22 Interest/ Earnings	OCT 22 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	688,224.79		\$ 1,029.47	\$ 1,973.79	\$ 687,280.47	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	132.26		0.27		\$ 132.53	Note 1
Cert. of Participation 2002 Lease Payment Fund	65.79	1,973.79			\$ 2,039.58	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,282,093.98		2,396.58		1,284,490.56	Note 2
Total Restricted Funds:	<u>\$ 1,970,516.82</u>	<u>\$ 1,973.79</u>	<u>\$ 3,426.32</u>	<u>\$ 1,973.79</u>	<u>\$ 1,973,943.14</u>	
CEPPT IRS Section 115 Trust	638,355.08		5,466.39	0.00	\$ 643,821.47	
Grand Total COP's and CEPPT Trust	<u>\$ 2,608,871.90</u>	<u>\$ 1,973.79</u>	<u>\$ 8,892.71</u>	<u>\$ 1,973.79</u>	<u>\$ 2,617,764.61</u>	

These accounts are not part of the Treasurer's fund balances reported elsewhere in this report, as they are for separate and distinct entities.

Note 1: The three original funds for the Certificates of Participation 2002 Series A consist of construction funds which will be expended over the next few years, reserve funds which will guarantee the payment of lease payments, and a third fund for the disbursement of lease payments and initial delivery costs.

Note 2: The 2010 COP Funds are all for the Library construction, reserves to guarantee lease payments, and a lease payment fund for the life of the COP issue. The COI fund was closed in September 2010.

Note 3: The CEPPT Section IRS Section 115 Trust was established as an irrevocable trust dedicated to accumulate resources to fund the Town's unfunded liabilities related to pension and other p

**Town of Los Gatos
Statement of Interest Earned
October 31, 2022**

Interest by Month

July 2022	\$60,107.76
August 2022	61,456.65
September 2022	60,153.38
October 2022	68,965.25
November 2022	
December 2022	
January 2023	
February 2023	
March 2023	
April 2023	
May 2023	
June 2023	
	<u>\$250,683.04</u>

Town of Los Gatos Investment Schedule

October

2022

Institution	CUSIP #	Security	Deposit Date	Par Value	Original Cost	Market Value	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs.	Interest Earned Current FY	Days to Maturity
Treasury	91282CAP6	US Treasury Note	6/30/2021	1,000,000.00	995,390.63	957,734.38		10/15/2023	0.33%	\$ 1,615.44	\$ 3,260.06	\$ 1,098.60	349
Toyota Motor Credit	89236THA6_1	Corporate Bond	04/12/21	500,000.00	510,580.00	485,471.94		8/25/2023	0.45%	\$ 9,243.75	\$ 2,780.30	\$ 770.22	298
Toyota Motor Credit	89236THA6	Corporate Bond	1/11/2022	1,100,000.00	1,107,315.00	1,068,038.27		8/25/2023	0.94%	\$ 9,240.00	\$ 4,812.29	\$ 3,481.84	298
US Treasury	91282CDD0	US Treasury Note	1/13/2022	1,100,000.00	1,090,675.78	1,054,023.43		10/31/2023	0.85%	\$ 3,281.77	\$ 4,286.54	\$ 3,138.36	365
US Treasury	91282CCN9	US Treasury Note	1/13/2022	1,200,000.00	1,188,375.00	1,160,250.00		7/31/2023	0.75%	\$ 823.37	\$ 4,153.18	\$ 3,040.72	273
FFCB	3133EKMx1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	968,808.22		2/23/2024	1.90%	\$ 73,775.83	\$ 55,756.94	\$ 6,451.65	480
FFCB	3133EMIB1	Gov. Agency Debenture	10/8/2020	1,600,000.00	1,598,000.00	1,504,220.59		3/28/2024	0.34%	\$ 9,453.34	\$ 9,279.41	\$ 1,811.69	514
FFCB	3133EMCQ3	Gov. Agency Debenture	10/16/2020	2,000,000.00	1,998,000.00	1,912,165.36		10/13/2024	0.31%	\$ 11,153.33	\$ 10,396.24	\$ 2,055.85	713
BankAmerica Corp	06051GHC6	Corporate Bond	10/9/2020	1,300,000.00	1,366,287.00	1,295,318.96		12/20/2023	0.66%	\$ 66,279.92	\$ 31,569.88	\$ 6,173.44	415
Home Depot	437076BM3	Corporate Bond	8/4/2022	1,000,000.00	991,960.00	939,937.13		1/1/2026	3.04%	\$ 4,750.00	\$ -	\$ 7,800.71	1158
Home Depot	912828ZW3	US Treasury Note	8/9/2022	350,000.00	322,096.88	313,960.94	95.11	6/30/2025	3.16%	\$ (95.11)	\$ -	\$ 2,392.12	973
IBM	459200Y8	Corporate Bond	3/25/2021	1,000,000.00	1,071,040.00	970,339.39		5/15/2024	0.71%	\$ 34,166.67	\$ 9,358.41	\$ 2,491.52	562
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	493,261.72		4/30/2023	1.77%	\$ 27,046.54	\$ 26,507.80	\$ 2,980.31	181
Freddie Mac	3137EAE5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	1,976,295.56		6/19/2023	1.79%	\$ 160,416.67	\$ 107,829.55	\$ 12,314.80	231
FFCB	3133EKFV0	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	994,936.65		1/17/2023	1.89%	\$ 55,989.58	\$ 55,482.90	\$ 6,354.19	78
Treasury	91282CBT7	US Treasury Note	9/30/2022	800,000.00	712,565.18	707,875.00		3/31/2026	4.14%	\$ -	\$ -	\$ 2,630.46	1247
FFCB	3133ENP95	Gov. Agency Debenture	9/30/2022	900,000.00	900,939.60	891,494.81		9/30/2025	4.14%	\$ -	\$ -	\$ 3,222.05	1065
US Treasury	91282CDA6	Gov. Agency Debenture	1/31/2022	1,100,000.00	1,085,222.44	1,057,031.25		9/30/2023	1.07%	\$ 1,820.74	\$ 4,781.92	\$ 3,921.18	334
US Treasury	91282CAW1	Gov. Agency Debenture	7/15/2021	1,200,000.00	1,199,437.50	1,146,796.87		11/15/2023	0.27%	\$ 2,502.72	\$ 3,107.52	\$ 1,092.07	380
American Honda	02665WCZ2	Corporate Bond	11/27/2019	1,000,000.00	1,012,410.01	957,536.74		6/27/2024	2.12%	\$ 72,733.34	\$ 55,189.68	\$ 7,175.82	605
JP Morgan Chase	46625HRS1	Gov. Agency Debenture	9/23/2022	500,000.00	474,660.00	462,877.42	4,355.56	3/15/2026	4.70%	\$ (4,355.56)	\$ -	\$ 2,424.56	1231
Honeywell Int'l.	438516BW5	Corporate Bond	11/20/2019	1,000,000.00	1,014,660.00	957,664.07		7/15/2024	1.64%	\$ 62,483.33	\$ 51,828.99	\$ 6,689.37	623
Caterpillar Financial Serv	14913Q2V0	Corporate Bond	2/23/2021	1,000,000.00	1,077,370.00	970,099.77		5/17/2024	0.44%	\$ 35,150.00	\$ 6,129.72	\$ 1,532.43	564
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,100,000.00	1,105,833.30	1,050,134.43		7/2/2024	1.63%	\$ 52,456.25	\$ 48,706.74	\$ 6,069.84	610
US Bancorp	91159HHV5	Corporate Bond	12/24/2019	1,000,000.00	1,049,040.00	979,313.57		1/5/2024	2.12%	\$ 88,218.75	\$ 54,380.13	\$ 7,278.30	431
FHLB	3133834G3	Gov. Agency Debenture	3/11/2021	1,400,000.00	1,460,522.00	1,377,991.73		6/9/2023	0.19%	\$ 37,022.22	\$ 3,664.98	\$ 947.04	221
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	954,400.43		9/10/2024	1.66%	\$ 60,031.11	\$ 45,130.78	\$ 5,647.09	680
PNC Financial	69349LAM0	Corporate Bond	2/7/2022	1,000,000.00	1,033,470.00	989,670.62		6/25/2023	1.49%	\$ 17,733.33	\$ 5,372.34	\$ 4,620.97	237
FHLB	3135G05X7	Gov. Agency Debenture	6/10/2022	1,200,000.00	1,102,952.40	1,069,830.90		8/25/2025	3.04%	\$ 937.50	\$ 1,902.68	\$ 11,701.47	1029
Treasury	912828ZL7	Gov. Agency Debenture	4/12/2022	1,700,000.00	1,583,927.57	1,539,296.88		4/30/2025	2.72%	\$ 3,504.49	\$ 9,611.14	\$ 14,964.18	912
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,382,875.52		2/1/2024	2.39%	\$ 154,913.89	\$ 96,022.89	\$ 11,682.31	458
American Honda	02665WDH1	Corporate Bond	2/14/2020	600,000.00	603,756.00	591,047.52		5/10/2023	1.75%	\$ 28,145.00	\$ 25,034.14	\$ 3,551.56	191
Treasury	912828V23	US Treasury Note	11/29/2021	1,000,000.00	1,032,933.04	972,968.75		12/31/2023	0.66%	\$ 13,206.52	\$ 3,924.44	\$ 2,266.23	426
Treasury	91282CBE0_2	Gov. Agency Debenture	10/7/2021	1,000,000.00	994,768.98	947,070.31		1/15/2024	0.36%	\$ 964.67	\$ 2,587.41	\$ 1,196.43	441
FHLB	3130ALH98	Gov. Agency Debenture	2/26/2021	1,000,000.00	997,610.00	940,126.43		2/26/2024	0.33%	\$ 3,750.00	\$ 4,416.63	\$ 1,110.93	483
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23	998,690.43		11/30/2022	1.81%	\$ 57,158.47	\$ 53,444.10	\$ 6,120.69	30
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	973,789.06		11/30/2023	1.84%	\$ 60,208.33	\$ 54,014.24	\$ 6,238.26	395
Treasury	912828X70	US Treasury Note	12/30/2019	1,000,000.00	1,010,589.29	961,679.69		4/30/2024	1.75%	\$ 62,703.30	\$ 48,922.73	\$ 6,590.90	547
Treasury	912828XT2	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	960,000.00		5/31/2024	1.64%	\$ 51,639.34	\$ 44,208.50	\$ 5,588.54	578
American Honda	02665WCQ2	Corporate Bond	9/14/2021	950,000.00	1,012,871.00	937,058.14		10/10/2023	0.41%	\$ 36,924.65	\$ 3,232.93	\$ 1,375.95	344
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,465,477.95		12/21/2023	2.12%	\$ 121,348.96	\$ 64,945.24	\$ 7,703.24	416
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,542,347.67		2/8/2023	1.82%	\$ 117,606.25	\$ 86,008.42	\$ 9,599.85	100
Treasury	91282CBE0	Gov. Agency Debenture	9/15/2021	650,000.00	647,615.46	615,595.70		1/15/2024	0.28%	\$ 675.62	\$ 1,447.14	\$ 618.05	441

Subtotal				\$ 46,200,000.00	\$ 46,636,111.54	\$ 44,495,504.20	\$ 4,450.67			\$ 1,606,624.32	\$ 1,103,488.93	\$ 205,915.78	
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BNY MM	Money Market				179,619.69	179,619.69			0.00%				1
LAIF	State Investment Pool				6,941,939.56	6,941,939.56			1.77%			33,791.70	1

					\$53,757,670.79	\$51,617,063.45				\$ 1,606,624.32	\$ 1,103,488.93	\$ 239,707.48	
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Matured Assets													
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00			8/1/2022	2.05%	\$ 55,885.42	\$ 59,141.32	\$ 1,790.47	
JP Morgan Chase	46625HUE1	Gov. Agency Debenture	2/11/2020	900,000.00	934,587.00			9/23/2022	1.74%	\$ 76,537.50	\$ 38,210.60	\$ 3,733.22	
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40			9/30/2022	2.09%	\$ 67,016.39	\$ 63,644.66	\$ 5,451.87	

Total Investments "Matured"												\$ 10,975.56	
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Total Interest FY 22_23 Matured and Current												\$ 250,683.04	
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Maturity Profile					Amount								
	0-1 year				\$23,358,334.42								
	1-2 years				\$24,310,234.74								
	2-3 years				\$3,909,916.45								
	3-5 years				\$ 2,179,185.18								
					\$53,757,670.79								

Market to Cost Position Report

Institution		Amortized Cost	
BNY Assets		\$46,636,111.54	
BNY MM		179,619.69	
LAIF		6,941,939.56	
Totals:		\$53,757,670.79	

**Town of Los Gatos
Summary Investment Information
November 30, 2022**

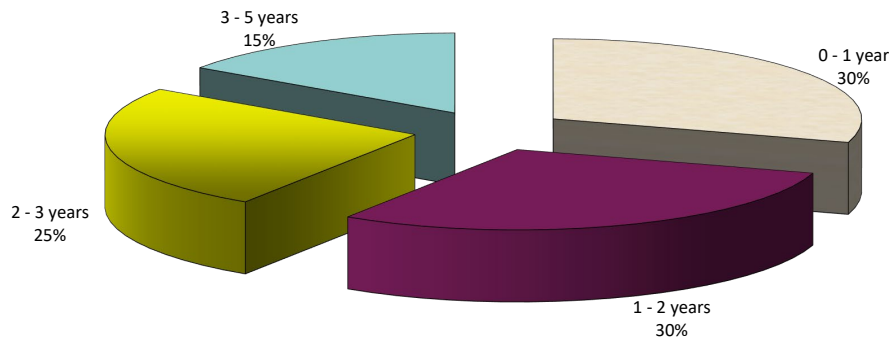
Weighted Average YTM Portfolio Yield: **2.03%** **Weighted Average Maturity (days)** **435**

	<u>This Month</u>	<u>Last Month</u>	<u>One year ago</u>
Portfolio Balance	\$65,273,987	\$62,569,240	\$61,676,887

Benchmarks/ References:

Town's Average Yield	2.01%	1.82%	1.21%
LAIF Yield for month	1.77%	1.77%	0.20%
3 mo. Treasury	4.38%	4.09%	0.05%
6 mo. Treasury	4.71%	4.55%	0.10%
2 yr. Treasury	4.31%	4.49%	0.52%
5 yr. Treasury (most recent)	3.74%	4.23%	1.15%
10 Yr. Treasury	3.61%	4.05%	1.45%

Portfolio Maturity Profile



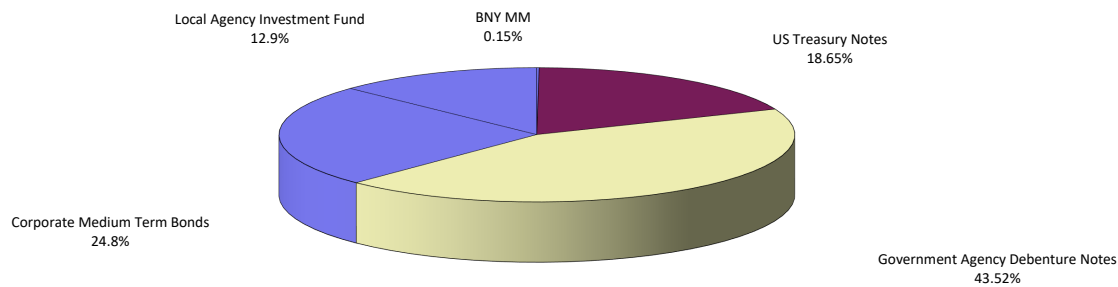
Compliance: The Town's investments are in compliance with the Town's investment policy dated September 21, 2021 and also in compliance with the requirements of Section 53601 of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
November 30, 2022

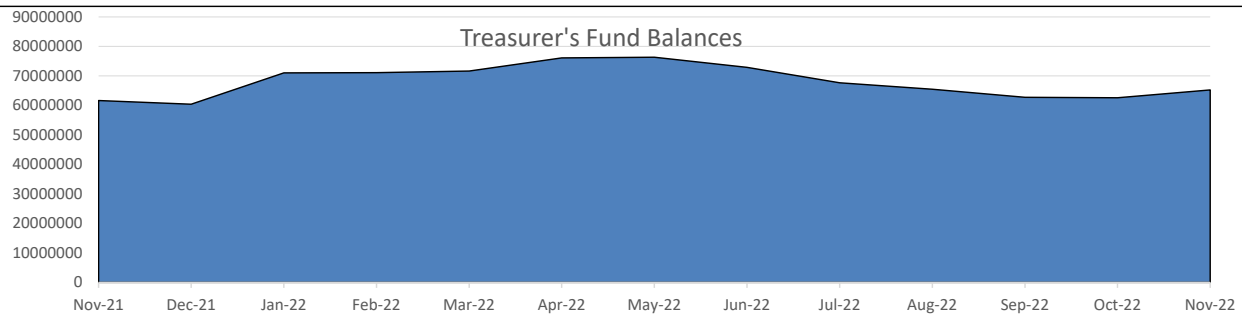
	Month	YTD
Fund Balances - Beginning of Month/Period	\$62,569,239.63	\$72,886,942.83
Receipts	5,801,425.93	20,163,060.09
Disbursements	(3,096,678.62)	(27,776,015.98)
Fund Balances - End of Month/Period	<u>\$65,273,986.94</u>	<u>\$65,273,986.94</u>

<u>Portfolio Allocation:</u>	% of Portfolio	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$79,480.09 0.15%	20% of Town Portfolio
US Treasury Notes	\$10,037,973.70 18.65%	No Max. on US Treasuries
Government Agency Debenture Notes	\$23,416,349.00 43.52%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$13,336,173.01 24.78%	30% of Town Portfolio
Local Agency Investment Fund	\$6,941,939.56 12.90%	\$75 M per State Law
Subtotal - Investments	53,811,915.36 100.00%	
Reconciled Demand Deposit Balances	<u>11,462,071.58</u>	
Total Treasurer's Fund	<u>\$65,273,986.94</u>	

Portfolio Investment Allocation



Treasurer's Fund Balances



Town of Los Gatos
Non-Treasury Restricted Fund Balances
November 30, 2022

	Beginning Balance	NOV 22 Deposits Realized Gain/Adj.	NOV 22 Interest/ Earnings	NOV 22 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	687,280.47		\$ 1,399.90		\$ 688,680.37	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	132.53		0.31		\$ 132.84	Note 1
Cert. of Participation 2002 Lease Payment Fund	2,039.58		3.78		\$ 2,043.36	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,284,490.56		3,008.68		1,287,499.24	Note 2
Total Restricted Funds:	<u>\$ 1,973,943.14</u>	<u>\$ -</u>	<u>\$ 4,412.67</u>	<u>\$ -</u>	<u>\$ 1,978,355.81</u>	
CEPPT IRS Section 115 Trust	643,821.47		29,920.82	0.00	\$ 673,742.29	
Grand Total COP's and CEPPT Trust	<u>\$ 2,617,764.61</u>	<u>\$ -</u>	<u>\$ 34,333.49</u>	<u>\$ -</u>	<u>\$ 2,652,098.10</u>	

These accounts are not part of the Treasurer's fund balances reported elsewhere in this report, as they are for separate and distinct entities.

Note 1: The three original funds for the Certificates of Participation 2002 Series A consist of construction funds which will be expended over the next few years, reserve funds which will guarantee the payment of lease payments, and a third fund for the disbursement of lease payments and initial delivery costs.

Note 2: The 2010 COP Funds are all for the Library construction, reserves to guarantee lease payments, and a lease payment fund for the life of the COP issue. The COI fund was closed in September 2010.

Note 3: The CEPPT Section IRS Section 115 Trust was established as an irrevocable trust dedicated to accumulate resources to fund the Town's unfunded liabilities related to pension and other p

**Town of Los Gatos
Statement of Interest Earned
November 30, 2022**

Interest by Month

July 2022	\$60,107.76
August 2022	61,456.65
September 2022	60,153.38
October 2022	68,965.25
November 2022	68,430.71
December 2022	
January 2023	
February 2023	
March 2023	
April 2023	
May 2023	
June 2023	
	<u><u>\$319,113.75</u></u>

Town of Los Gatos Investment Schedule November 2022

Institution	CUSIP #	Security	Deposit Date	Par Value	Original Cost	Market Value	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs.	Interest Earned Current FY	Days to Maturity
Treasury	91282CAP6	US Treasury Note	6/30/2021	1,000,000.00	995,390.63	960,468.75		10/15/2023	0.33%	\$ 1,615.44	\$ 3,260.06	\$ 1,366.55	319
Toyota Motor Credit	89236THA6_1	Corporate Bond	04/12/21	500,000.00	510,580.00	487,892.44		8/25/2023	0.45%	\$ 9,243.75	\$ 2,780.30	\$ 958.08	268
Toyota Motor Credit	89236THA6	Corporate Bond	1/11/2022	1,100,000.00	1,107,315.00	1,073,363.37		8/25/2023	0.94%	\$ 9,240.00	\$ 4,812.29	\$ 4,331.06	268
US Treasury	91282CDD0	US Treasury Note	1/13/2022	1,100,000.00	1,090,675.78	1,056,988.28		10/31/2023	0.85%	\$ 3,281.77	\$ 4,286.54	\$ 3,903.81	335
US Treasury	91282CCN9	US Treasury Note	1/13/2022	1,200,000.00	1,188,375.00	1,163,859.37		7/31/2023	0.75%	\$ 823.37	\$ 4,153.18	\$ 3,782.36	243
FFCB	3133EKMx1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	970,232.63		2/23/2024	1.90%	\$ 73,775.83	\$ 55,756.94	\$ 8,025.22	450
FFCB	3133EMIB1	Gov. Agency Debenture	10/8/2020	1,600,000.00	1,598,000.00	1,508,219.33		3/28/2024	0.34%	\$ 9,453.34	\$ 9,279.41	\$ 2,253.57	484
FFCB	3133EMCQ3	Gov. Agency Debenture	10/16/2020	2,000,000.00	1,998,000.00	1,917,840.74		10/13/2024	0.31%	\$ 11,153.33	\$ 10,396.24	\$ 2,557.27	683
BankAmerica Corp	06051GHC6	Corporate Bond	10/9/2020	1,300,000.00	1,366,287.00	1,298,477.34		12/20/2023	0.66%	\$ 66,279.92	\$ 31,569.88	\$ 7,679.16	385
Home Depot	437076BM3	Corporate Bond	8/4/2022	1,000,000.00	991,960.00	957,879.31		1/1/2026	3.04%	\$ 4,750.00	\$ -	\$ 10,460.04	1128
Home Depot	912828ZW3	US Treasury Note	8/9/2022	350,000.00	322,096.88	317,269.53	95.11	6/30/2025	3.16%	\$ (95.11)	\$ -	\$ 3,256.74	943
IBM	459200Y8	Corporate Bond	3/25/2021	1,000,000.00	1,071,040.00	975,063.37		5/15/2024	0.71%	\$ 49,166.67	\$ 9,358.41	\$ 3,099.21	532
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	493,847.66		4/30/2023	1.77%	\$ 27,046.54	\$ 26,507.80	\$ 3,707.22	151
Freddie Mac	3137EAEN5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	1,977,773.54		6/19/2023	1.79%	\$ 160,416.67	\$ 107,829.55	\$ 15,318.40	201
FFCB	3133EKFV0	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	996,621.89		1/17/2023	1.89%	\$ 55,989.58	\$ 55,482.90	\$ 7,903.99	48
Treasury	91282CBT7	US Treasury Note	9/30/2022	800,000.00	712,565.18	719,406.25		3/31/2026	4.14%	\$ -	\$ -	\$ 5,176.08	1217
FFCB	3133ENP95	Gov. Agency Debenture	9/30/2022	900,000.00	900,939.60	898,884.76		9/30/2025	4.14%	\$ -	\$ -	\$ 6,340.17	1035
US Treasury	91282CDA6	Gov. Agency Debenture	1/31/2022	1,100,000.00	1,085,222.44	1,059,867.18		9/30/2023	1.07%	\$ 1,820.74	\$ 4,781.92	\$ 4,877.56	304
US Treasury	91282CAW1	Gov. Agency Debenture	7/15/2021	1,200,000.00	1,199,437.50	1,149,656.26		11/15/2023	0.27%	\$ 4,002.72	\$ 3,107.52	\$ 1,358.43	350
American Honda	02665WCZ2	Corporate Bond	11/27/2019	1,000,000.00	1,012,410.01	962,210.06		6/27/2024	2.12%	\$ 72,733.34	\$ 55,189.68	\$ 8,926.03	575
JP Morgan Chase	42665HRS1	Gov. Agency Debenture	9/23/2022	500,000.00	474,660.00	475,651.94	4,355.56	3/15/2026	4.70%	\$ (4,355.56)	\$ -	\$ 4,338.68	1201
Honeywell Int'l.	438516BW5	Corporate Bond	11/20/2019	1,000,000.00	1,014,660.00	963,960.61		7/15/2024	1.64%	\$ 62,483.33	\$ 51,828.99	\$ 8,320.92	593
Caterpillar Financial Serv	14913Q2V0	Corporate Bond	2/23/2021	1,000,000.00	1,077,370.00	974,035.65		5/17/2024	0.44%	\$ 49,400.00	\$ 6,129.72	\$ 1,906.19	534
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,100,000.00	1,105,833.30	1,053,545.45		7/2/2024	1.63%	\$ 52,456.25	\$ 48,706.74	\$ 7,550.29	580
US Bancorp	91159HHV5	Corporate Bond	12/24/2019	1,000,000.00	1,049,040.00	984,049.79		1/5/2024	2.12%	\$ 88,218.75	\$ 54,380.13	\$ 9,053.49	401
FHLB	3133834G3	Gov. Agency Debenture	3/11/2021	1,400,000.00	1,460,522.00	1,382,160.43		6/9/2023	0.19%	\$ 37,022.22	\$ 3,664.98	\$ 1,178.03	191
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	957,952.26		9/10/2023	1.66%	\$ 60,031.11	\$ 45,130.78	\$ 7,024.42	650
PNC Financial	69349LAM0	Corporate Bond	2/7/2022	1,000,000.00	1,033,470.00	993,945.43		6/25/2023	1.49%	\$ 17,733.33	\$ 5,372.34	\$ 5,748.03	207
FHLB	3135G05X7	Gov. Agency Debenture	6/10/2022	1,200,000.00	1,102,952.40	1,083,265.30		8/25/2025	3.04%	\$ 937.50	\$ 1,902.68	\$ 14,555.48	999
Treasury	912828ZL7	Gov. Agency Debenture	4/12/2022	1,700,000.00	1,583,927.57	1,551,914.05		4/30/2025	2.72%	\$ 3,504.49	\$ 9,611.14	\$ 18,613.99	882
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,386,956.65		2/1/2024	2.39%	\$ 154,913.89	\$ 96,022.89	\$ 14,531.65	428
American Honda	02665WDH1	Corporate Bond	2/14/2020	600,000.00	603,756.00	592,837.25		5/10/2023	1.75%	\$ 33,995.00	\$ 25,034.14	\$ 4,417.79	161
Treasury	912828V23	US Treasury Note	11/29/2021	1,000,000.00	1,032,933.04	973,671.88		12/31/2023	0.66%	\$ 13,206.52	\$ 3,924.44	\$ 2,818.97	396
Treasury	91282CBE0_2	Gov. Agency Debenture	10/7/2021	1,000,000.00	994,768.98	950,742.19		1/15/2024	0.36%	\$ 964.67	\$ 2,587.41	\$ 1,488.24	411
FHLB	3130ALH98	Gov. Agency Debenture	2/26/2021	1,000,000.00	997,610.00	943,234.98		2/26/2024	0.33%	\$ 3,750.00	\$ 4,416.63	\$ 1,381.89	453
FHLB	3130AQF65	US Treasury Note	11/30/2022	1,300,000.00	1,160,559.40	1,166,829.33	7,177.08	12/21/2026	4.15%	\$ (7,177.08)	\$ -	\$ -	1482
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	974,335.94		11/30/2023	1.84%	\$ 70,833.33	\$ 54,014.24	\$ 7,759.79	365
Treasury	912828X70	US Treasury Note	12/30/2019	1,000,000.00	1,010,589.29	964,218.75		4/30/2024	1.75%	\$ 62,703.30	\$ 48,922.73	\$ 8,198.44	517
Treasury	912828XT2	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	962,734.38		5/31/2024	1.64%	\$ 61,639.34	\$ 44,208.50	\$ 6,951.59	548
American Honda	02665WCQ2	Corporate Bond	9/14/2021	950,000.00	1,012,871.00	936,168.88		10/10/2023	0.41%	\$ 36,924.65	\$ 3,232.93	\$ 1,711.55	314
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,466,647.35		12/21/2023	2.12%	\$ 121,348.96	\$ 64,945.24	\$ 9,582.08	386
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,544,142.57		2/8/2023	1.82%	\$ 117,606.25	\$ 86,008.42	\$ 11,941.28	70
Treasury	91282CBE0	Gov. Agency Debenture	9/15/2021	650,000.00	647,615.46	617,982.42		1/15/2024	0.28%	\$ 675.62	\$ 1,447.14	\$ 768.79	411

Subtotal				\$ 46,500,000.00	\$ 46,790,495.71	\$ 44,846,805.54	\$ 11,627.75			\$ 1,599,513.77	\$ 1,050,044.83	\$ 255,122.55	
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BNY MM	Money Market				79,480.09	79,480.09			0.00%				1
LAIF	State Investment Pool				6,941,939.56	6,941,939.56			2.01%			45,402.09	1

					\$53,811,915.36	\$51,868,225.19				\$ 1,599,513.77	\$ 1,050,044.83	\$ 300,524.64	
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Matured Assets													
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00			8/1/2022	2.05%	\$ 55,885.42	\$ 59,141.32	\$ 1,790.47	
JP Morgan Chase	46625HUE1	Gov. Agency Debenture	2/11/2020	900,000.00	934,587.00			9/23/2022	1.74%	\$ 76,537.50	\$ 38,210.60	\$ 3,733.22	
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40			9/30/2022	2.09%	\$ 67,016.39	\$ 63,644.66	\$ 5,451.87	
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23			11/30/2022	1.81%	\$ 67,158.47	\$ 53,444.10	\$ 7,613.55	

Total Investments "Matured"												\$ 18,589.10	
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Total Interest FY 22_23 Matured and Current												\$ 319,113.75	
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Maturity Profile					Amount								
	0-1 year				\$24,463,332.09								
	1-2 years				\$22,098,922.24								
	2-3 years				\$3,909,916.45								
	3-5 years				\$ 3,339,744.58								
					\$53,811,915.36								

Market to Cost Position Report

Institution	Amortized Cost	
BNY Assets	\$46,790,495.71	
BNY MM	79,480.09	
LAIF	6,941,939.56	
Totals:	\$53,811,915.36	



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 11

DATE: January 3, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider Objections to the Proposed Abatement of Hazardous Vegetation
(Weeds) for Properties Listed on the 2023 Weed Abatement Program
Commencement Report and Order the Abatement

RECOMMENDATION:

Consider objections to the proposed abatement of hazardous vegetation (weeds) for properties listed on the 2023 Weed Abatement Program Commencement Report (Attachment 1) and order the abatement.

BACKGROUND:

The Weed Abatement Program is a different, and complementary program to the Brush Abatement Program. Both programs work to protect the Town by preventing fire hazards created by vegetative growth and the accumulation of combustible debris with the goal of voluntary compliance.

The Town of Los Gatos Municipal Code Chapter 11, Article II (also called the Weed Abatement Ordinance) requires property owners to prevent potential fire hazards and provide protection for their property and any nearby structures by clearing hazards. Properties are inspected by the County to confirm the property has been cleared of hazards according to the clearance requirements as defined in the Santa Clara County Weed Abatement program

<https://weedabatement.sccgov.org/sites/g/files/exjcpb431/files/Program-Guidelines-Brochure.pdf>.

PREPARED BY: Meredith Johnston
Administrative Technician

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

SUBJECT: Weed Abatement Program Public Hearing to Consider Objections to the
Proposed Abatement of Hazardous Vegetation (Weeds) for Properties Listed on
the 2023 Weed Abatement Program Commencement Report and Order the
Abatement

DATE: January 3, 2023

BACKGROUND (continued):

The Town Code also authorizes the Town or the Town's representative to remove the weeds if the property owner fails to do so and to recover those costs through an assessment of the property tax bill for each parcel. The Town has contracted with the County for enforcement of the Town's Weed Abatement Ordinance.

Typically, a property is placed in the program after a County inspector identifies a potential fire hazard on the premises. Individuals, Fire Departments, Code Enforcement, Public Works, and other public agencies can also submit complaints to the County. Once a parcel is placed in the program, it will remain in the program until it displays compliance for three consecutive years, at which point it will be removed.

The Program is administered by the County on behalf of the Town and is funded from fees assessed on the properties included on the assessment list. Every year while in the program, each of the property owners are charged an annual compliance inspection fee and some incur costs for additional inspections, administrative, and abatement fees.

DISCUSSION:

On December 6, 2022, the Town Council passed Resolution 2022-74 (Attachment 2) declaring hazardous vegetation (weeds) a public nuisance, providing for their abatement, and setting January 17, 2023 as a public hearing for the annual program to consider objections for proposed removal and to order the abatement. On December 13, 2022, the County mailed informational weed abatement program packets to all property owners, including the schedule and price list (Attachment 3).

The weed abatement process consists of eight steps that begin in November and go through August of each year. Currently, the process is at Step 4 on the list as illustrated below.

1. When properties are identified as having hazardous weeds, they are placed in the program, monitored, and must be compliant for three consecutive years in order to be removed from the program. County prepares a report of all properties that have been identified and provides the report to the Town (Attachment 1) (November).
2. Town Council adopts resolution declaring weeds a nuisance and sets a hearing date to hear objections by property owners to having their property listed on the report (Attachment 2) (December).

SUBJECT: Weed Abatement Program Public Hearing to Consider Objections to the
Proposed Abatement of Hazardous Vegetation (Weeds) for Properties Listed on
the 2023 Weed Abatement Program Commencement Report and Order the
Abatement

DATE: January 3, 2023

DISCUSSION (continued):

3. County sends notice to property owners on the report notifying them of the hearing date, along with guidelines on the Weed Abatement Program explaining that they must remove weeds by the abatement deadline or it will be done for them and the cost of the abatement plus administrative costs will be assessed by the County Tax Collector against the respective property (Attachment 3) (December).
4. Town Council holds a public hearing to consider objections by property owners and orders abatement (January).
5. County sends a courtesy letter to property owners on the report notifying them again of the abatement deadline (January).
6. After the April parcel abatement deadline, the properties are inspected by the County to verify that weeds were removed and proceeds with abatement if the inspection fails. County creates an assessment report of all costs associated with the abatement and provides that report to the Town (June-July).
7. Town notifies the property owners on the assessment report notifying them of the hearing date (July).
8. Town Council holds a public hearing, notes any disputes, and adopts a resolution confirming the assessment report, authorizing collection of the assessment charges (August).

CONCLUSION:

Staff recommends that the Council conduct a public hearing to consider objections to the proposed abatement of hazardous vegetation (weeds) for properties listed on the 2023 Weed Abatement Program Commencement Report (Attachment 1) and order the abatement. At the time of this report's preparation, staff had not been contacted regarding potential objections.

COORDINATION:

This program has been coordinated with the Santa Clara County Department of Agriculture and Environmental Management.

PAGE 4 OF 4

SUBJECT: Weed Abatement Program Public Hearing to Consider Objections to the
Proposed Abatement of Hazardous Vegetation (Weeds) for Properties Listed on
the 2023 Weed Abatement Program Commencement Report and Order the
Abatement

DATE: January 3, 2023

FISCAL IMPACT:

The County's Weed Abatement Program administers services for 13 local agencies under a cost recovery model, paid for by fees imposed on the parcel owners. The estimated program cost related to each agency is based on the number of parcels per agency.

Should the funding associated with the assessments fall short of the total program cost, the Town will be billed for a pro-rata share of the program such that the County achieves full cost recovery. If the County needs to request additional funds, this would be absorbed in the PPW Operating Budget. Funds are provided in the Fiscal Year (FY) 2022/23 Operating Budget to cover the cost of publishing all required legal notices.

ENVIRONMENTAL ASSESSMENT:

In accordance with CEQA Guidelines Section 15304, the Town's weed abatement program is categorically exempt from CEQA as a minor alteration to land.

Attachments:

1. 2023 Weed Abatement Program Commencement Report
2. Resolution 2022-74
3. Abatement Program Packet Mailed to Parcel Owners

**2023 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
TOWN OF LOS GATOS**

Exhibit A

Situs		APN		CITY/STATE					
1	831	POLLARD	RD	406-26-011	LAM, MITCHELL	831 POLLARD RD	LOS GATOS	CA	95032-0000
2	0	CALLE		409-04-049	GUPTA, MOHIT AND APAN, PARUL	4708 GRIMSBY DR	SAN JOSE	CA	95130-2037
3	0			409-04-052	UNION PACIFIC CO	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95030
4	0			409-08-001	UNION PACIFIC CO	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95030
5	17291	WEDGEWOOD	AV	409-14-013	KIM, YOUNG CHANG AND TAI HYUN	17291 WEDGEWOOD AV	LOS GATOS	CA	95032-1217
6	14330	LA	DR	409-14-020	GERA, NICHOLAS TRUSTEE & ET AL	19341 MONTE VISTA DR	SARATOGA	CA	95070-6219
7	14341	BROWNS	LN	409-14-035	OKAGAKI, JONATHAN T ET AL	14341 BROWNS LN	LOS GATOS	CA	95032-1214
8	14316	MULBERRY	DR	409-15-005	SAWHNEY, CHANDANDEEP AND	14316 MULBERRY DR	LOS GATOS	CA	95032-0000
9	17631	WEDGEWOOD	AV	409-17-010	BELCHER, PHYLLIS TRUSTEE	17631 WEDGEWOOD AV	LOS GATOS	CA	95032-1220
10	14821	GOLF LINKS	DR	409-27-005	NEAL WALTER E JR TRUSTEE	770 CHESTNUT ST	SAN JOSE	CA	95110-1805
11	27	MONTGOMERY	ST	410-17-008	DELLA MAGGIORE, EUGENE D AND	P O BOX 5068	SAN JOSE	CA	95150
12	25	MONTGOMERY	ST	410-17-009	MILLEN, MARK P	25 MONTGOMERY ST	LOS GATOS	CA	95030-5314
13	16245 N	BURTON	RD	424-06-115	SWENSON, C B TRUSTEE	777 1ST ST N FL 5	SAN JOSE	CA	95112
14	0 N	BURTON	RD	424-06-116	SWENSON, C B TRUSTEE	777 1ST ST N FL 5	SAN JOSE	CA	95112
15	14823	LOS GATOS	BL	424-07-065	14823 LGB LLC	2600 EL CAMINO REAL STE	PALO ALTO	CA	94306-1719
16	14926	LOS GATOS	BL	424-10-009	TSAI, UNDINE Y TRUSTEE	276 LAS MIRADAS DR	LOS GATOS	CA	95032-7687
17	15545	BENEDICT	LN	424-20-008	NELSON, VICTORIA S	1480 MORAGA RD C	MORAGA	CA	94556-2005
18	15710	WINCHESTER	BL	424-27-013	DONNELLY, TESSA I ET AL	15710 WINCHESTER BL	LOS GATOS	CA	95030-3305
19	0	LAUREL	AV	510-41-068	GERTRIDGE, JOHN H ET AL	1080 COLLEGE AV	MENLO PARK	CA	94025
20	72	FAIRVIEW		510-43-010	MURPHY, ROBERT J	72 FAIRVIEW PLAZA	LOS GATOS	CA	95030-5818
21	110 N	WOOD	RD	510-47-038	COVIA COMMUNITIES	2185 CALIFORNIA BL N STE	WALNUT CREEK	CA	94596-3508
22	138	WOOD	RD	510-47-044	FRENKEL, LILY M AND DRAA, JUSTIN	138 WOOD RD	LOS GATOS	CA	95030-6740
23	779	BLOSSOM HILL	RD	523-04-037	LI, LINYING AND SUN, SHENGXUAN	779 BLOSSOM HILL RD	LOS GATOS	CA	95032-3502
24	15931	BLOSSOM HILL	RD	523-25-028	TERRY, NAKA K	15931 BLOSSOM HILL RD	LOS GATOS	CA	95032-4808

**2023 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
TOWN OF LOS GATOS**

Exhibit A

Situs		APN		CITY/STATE					
25	263	PINEHURST	AV	523-43-019	GORMAN, ROBERT L AND THERESA A	263 PINEHURST AV	LOS GATOS	CA	95032-3917
26	15941	QUAIL HILL	RD	527-02-006	KHOSRAVI, ARVIN AND MOZAFAR,	15941 QUAIL HILL RD	LOS GATOS	CA	95032-4819
27	72	DRYSDALE	DR	527-02-007	DIEP, JOHN AND ALLISON	5950 COUNTRY CRUZ PY	SAN JOSE	CA	95138
28	15790	BLOSSOM HILL	RD	527-07-006	TAI, CHAIN CHANG AND HOH, BAO	2941 BANNISTER AV	GILROY	CA	95020-0000
29	16084 N	GREENRIDGE	TR	527-15-002	LUU, RICHARD T	952 5TH ST N	SAN JOSE	CA	95112-4411
30		LARGA VISTA	DR	527-16-013	GUEVARA MARIA E TRUSTEE & ET AL	14975 LARGA VISTA DR	LOS GATOS	CA	95032-4917
31	14960	LARGA VISTA	DR	527-16-016	PROUTY, PAUL ROBERT AND	14960 LARGA VISTA DR	LOS GATOS	CA	95032-4918
32	14850	BLOSSOM HILL	RD	527-18-014	O'DEEGAN, STEPHEN J TRUSTEE	14850 BLOSSOM HILL RD	LOS GATOS	CA	95032-4901
33	401	SURMONT	DR	527-20-002	BATE, ROSEMARY S	110 BELVALE DR	LOS GATOS	CA	95032
34	175	BELWOOD		527-30-032	HOUGH, JUSTIN TRUSTEE	175 BELWOOD GATEWAY	LOS GATOS	CA	95032-5139
35	310	SANTA ROSA	DR	527-55-036	VERSGROVE, JOHN	310 SANTA ROSA DR	LOS GATOS	CA	95032-5721
36	0	ALTA TIERRA	CT	527-55-042	OHM, VICTOR J AND VANNA J	3802 AINSLEY CT	CAMPBELL	CA	95008
37	118	HARWOOD	CT	527-56-020	SIU, MARIAN Y TRUSTEE	118 HARWOOD CT	LOS GATOS	CA	95032-0000
38	112	HARWOOD	CT	527-57-008	CHANG, WEICHAU AND YISHAN Y	112 HARWOOD CT	LOS GATOS	CA	95032-5151
39	615	BLOSSOM HILL	RD	529-16-026	DUNN PROPERTIES LP ETAL	301 ALTA LOMA LN	SANTA CRUZ	CA	95062
40	17045	PINE	AV	529-20-011	HOANG, HENRY TRUSTEE	215 VISTA DE SIERRA	LOS GATOS	CA	95030-0000
41	0	BELLA VISTA	AV	529-21-010	MASTERSON, ANTHONY D AND KU-	385 BELLA VISTA AV	LOS GATOS	CA	95032-5416
42		BELLA VISTA	AV	529-23-015	PETERS JAKE C AND KATHERINE H	P O BOX 3486	KETCHUM	ID	83340
43		BELLA VISTA	AV	529-23-016	ROSS DANIEL LEE TRUSTEE	188 VILLA AVE	LOS GATOS	CA	95030
44	401	ALBERTO	WY	529-23-018	LP ACQUISITIONS LLC	535 MIDDLEFIELD RD STE	MENLO PARK	CA	94025
45	0	BELLA VISTA	AV	529-23-019	HARLAN, MARILYN S TRUSTEE	4168 RIVA RIDGE	FAIR OAKS	CA	95628-6429
46	0	BELLA VISTA	AV	529-23-020	SHANKER, BENJAMIN J AND SHARI	350 BELLA VISTA AV	LOS GATOS	CA	95032-5400
47		NO SITUS		529-29-065	DOUGLAS-KIDDER, VASILIKI	10 RESERVOIR RD	LOS GATOS	CA	95030-0000
48	0	RESERVOIR	RD	529-29-066	DOUGLAS-KIDDER, VASILIKI	10 RESERVOIR RD	LOS GATOS	CA	95030-0000

**2023 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
TOWN OF LOS GATOS**

Exhibit A

Situs			APN			CITY/STATE				
49	140	FOSTER	RD	529-37-015	MULLANEY, STEPHEN P TRUSTEE &	140 FOSTER RD	LOS GATOS	CA	95030-0000	03-
50		(VACANT)	NU	529-39-047	GLEMBOCKI, JAROSLAW TRUSTEE	471 SANTA ROSA DR	LOS GATOS	CA	95032	300
51	16336	SHADY VIEW	LN	532-03-034	COULSON, ALLAN A AND ADRIANA C	16336 SHADY VIEW LN	LOS GATOS	CA	95032-4723	03-
52	16666	TOPPING	WY	532-09-018	PINKSTON, DEBORAH J TRUSTEE	16666 TOPPING WY	LOS GATOS	CA	95032-5648	03-
53	0	N TWIN OAKS	DR	532-16-006	SURREY FARMS GROUP LLC	401 CARMELINA AV N	LOS ANGELES	CA	90049	03-
54	16510	KENNEDY	RD	532-17-025	TSAO, WILLIAM AND PENG, ANGELA	16510 KENNEDY RD	LOS GATOS	CA	95032-6431	03-
55	16461	KENNEDY	RD	532-17-027	WALL, RYAN COMFORT TRUSTEE &	15650 LINDA AV	LOS GATOS	CA	95032-3714	03-
56	16481	KENNEDY	RD	532-17-028	HAKHU, JAI K AND NALINI	7 SHORE PINE DR	NEWPORT COAST	CA	92657	03-
57	17511	PHILLIPS	AV	532-39-009	UPLIFT FAMILY SERVICES	251 LLEWWLLYN AV	CAMPBELL	CA	95008	03-
58	17435	PHILLIPS	AV	532-39-013	SCHWEKUTSCH, MICHAEL AND	17435 PHILLIPS AV	LOS GATOS	CA	95030-7562	03-
59	15220	KENNEDY	RD	537-15-004	IYAR, SUBRAH S TRUSTEE	15292 KENNEDY RD	LOS GATOS	CA	95032-0000	03-
60	14050	SHANNON	RD	537-17-027	LEIRER, VON OTTO AND PERZOW,	14050 SHANNON RD	LOS GATOS	CA	95032-0000	03-
61	233	FORRESTER	RD	537-21-010	PSF REO LLC	2121 PARK PL STE 230	EL SEGUNDO	CA	91302	03-
62	229	FORRESTER	RD	537-22-011	SATIA, JAGAT B AND INDIRA	229 FORRESTER RD	LOS GATOS	CA	95032-6508	03-
63	210	WOODED VIEW	DR	537-23-046	CUNNINGHAM, JAMES F TRUSTEE	210 WOODED VIEW DR	LOS GATOS	CA	95032-5738	03-
64	15876	SHANNON	RD	537-26-009	REDDY, SHIVPAL G TRUSTEE & ET AL	15876 SHANNON RD	LOS GATOS	CA	95032	03-
65	15760	SHANNON	RD	537-26-018	KELLERMANN, MARC AND GUPTA,	15760 SHANNON RD	LOS GATOS	CA	95032-5759	03-
66	16060	CERRO VISTA	DR	537-30-004	BREZOCZKY, BLASIUS TRUSTEE &	16060 CERRO VISTA DR	LOS GATOS	CA	95032-0000	03-

RESOLUTION 2022-074

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DECLARING CERTAIN HAZARDOUS VEGETATION GROWING IN THE TOWN OF LOS GATOS TO BE A PUBLIC NUISANCE, DESCRIBING PROPERTIES WHERE SUCH NUISANCE EXISTS; ORDERING ABATEMENT AND SETTING A PUBLIC HEARING DATE OF JANUARY 17, 2023 TO CONSIDER OBJECTIONS FOR PROPOSED ABATEMENT

WHEREAS, Section 39501 and Section 39502 of the Government Code of the State of California authorize the Town of Los Gatos to prescribe a procedure for compelling the owner, lessees or occupant of buildings, grounds, or lots to remove hazardous vegetation (weeds) from such buildings or grounds and adjacent sidewalks, and, upon his failure to do so, to remove such hazardous vegetation (weeds) at owner's expense, making the cost thereof a lien upon such property; and

WHEREAS, the Town of Los Gatos, by ordinance, has adopted such a procedure, codified in Chapter 11, Article II, Sections 11.20.010 through 11.20.045 of the Los Gatos Town Code.

NOW, THEREFORE, BE IT RESOLVED: that the Town Council hereby finds that hazardous vegetation "weeds," as that term is defined in Section 11.20.010, are growing upon and adjacent to private property within the Town of Los Gatos, and declares that all hazardous vegetation (weeds) growing upon any private property or properties, and in any sidewalk street, or alley within the Town of Los Gatos are a public nuisance and should be abated.

BE IT FURTHER RESOLVED that unless such nuisance be abated by the destruction or removal of such hazardous vegetation (weeds) within thirty (30) days after the adoption of this resolution, or within the time specified in a written agreement with the Town of Los Gatos Director of Parks and Public Works, or his representative, whichever time shall be later, as provided in Chapter 11, Article II, of the Los Gatos Town Code, the Town of Los Gatos shall cause such nuisance to be abated, and the expense thereof assessed upon the lots and lands from which, or in the front and rear of which, such hazardous vegetation (weeds) shall have been destroyed or removed, such expense constituting a lien upon such lots or lands until paid, and to be collected upon the next tax roll upon which general municipal taxes are collected.

BE IT FURTHER RESOLVED that the Director shall execute a "Notice to Destroy Hazardous Vegetation (Weeds)" in the form set forth in Section 11.20.020(b) and shall cause same to be published and posted in the manner prescribed by Section 11.20.020(c).

BE IT FURTHER RESOLVED that on the 17th day of January 2023 at a meeting of the Town Council beginning at 7:00 p.m. in the Council Chambers of the Civic Center, 110 E. Main Street, Los Gatos, California, and via Teleconference, a public hearing will be held during which all property owners in the Town of Los Gatos having any objections to the proposed destruction or removal of such hazardous vegetation (weeds) will be heard and given due consideration.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of December 2022 by the following vote:

COUNCIL MEMBERS:

AYES: Mary Badame, Matthew Hudes, Maria Ristow, Marico Sayoc, Mayor Rob Rennie
NAYS: None
ABSENT: None
ABSTAIN: None

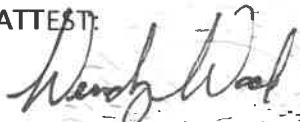
SIGNED:



**MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATE: 12/13/22

ATTEST:



**TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATE: 12/19/22

County of Santa Clara

Consumer and Environmental Protection Agency
Weed Abatement Division

1553 Berger Drive
Building 1
San Jose, CA 95112
(408) 282-3145
Fax (408) 286-2460



AFFIDAVIT OF MAILING

Notice of Public Hearing for the Jurisdictions of: Los Gatos

Brenda Petroni, declares as follows: That he is a citizen of the United States, over the age of 18 years, that at all times herein mentioned was an employee/agent of the County of Santa Clara.

Brenda Petroni, deposited in the United States Post Office, California, a Notice of Hearing, a copy of which is attached hereto. That said mailing list has been provided by the applicant and lists the owners of property who are entitled to Notice of Hearing. That on said day, there was a regular communication by United States mail between San Jose, California and the addresses shown on the attached mailing list.

I declare under penalty of perjury that
the foregoing is true and correct.

Date: 12/13/22

By: Brenda Petroni

1553 Berger Drive
Building 1
San Jose, CA 95112
(408) 282-3123

County of Santa Clara

Consumer and Environmental Protection Agency
Weed Abatement Division

1553 Berger Drive
Building 1
San Jose, CA 95112
(408) 282-3145
Fax (408) 286-2460



November 23, 2022

IMPORTANT NOTICE TO ABATE WEEDS

Dear Parcel Owner:

To protect your property and the surrounding area from possible fire, your jurisdictional city (or County if in unincorporated areas) contracts with the County of Santa Clara to operate a Weed Abatement Program. You are receiving this notice and information because our team has determined that your parcel is within the Weed Abatement Program. Please read the information carefully and contact us for clarification or additional information.

The governing body representing this parcel has or will adopt a resolution declaring your parcel as one that may contain fire hazards from weeds or other debris. Following this action, your governing body will conduct a public Commencement Hearing as part of a public meeting to consider an abatement order which would require you to remove any hazardous vegetation or combustible debris prior to the deadline in the included *Weed Abatement Program Schedule*. The public Commencement Hearing will be held on the date and at the place stated in the included *Notice to Destroy* and provides an opportunity for you to raise any objections or concerns with this requirement and with the parcel being on the Weed Abatement Program.

If you believe your parcel includes an environmentally sensitive habitat, please check the box on the blue *Return Reply Form* and provide any additional information on the *Return Reply Form* to assist us in determining the best approach to abating your parcel from fire hazards.

If, after the public Commencement Hearing, the Weed Abatement Program is approved for your parcel, the County is authorized by your city, and the California Health and Safety Code sections §14875-14922 to inspect your parcel to confirm that the parcel has been cleared of hazards and is compliant with *Minimum Fire Safety Standards* (see enclosed brochure). Inspections will begin after the abatement deadline for your jurisdiction. This notice does not relieve you of your responsibility to complete the necessary work before your jurisdiction's deadline. All parcels designated to be part of the Weed Abatement Program will have a \$92 annual inspection fee to cover the cost of the program. This \$92 cost will be included on your property tax bill as a special assessment.

In addition to the annual inspection fee, if the parcel is found to be non-compliant at the time of our inspection, the parcel will be assessed a processing fee of \$519 per parcel and the property will be scheduled for abatement by the County designated contractor. If the abatement work is completed before the County designated contractor arrives, you will not incur additional charges. However, should the abatement work be performed by the County contractor, the parcel will incur the cost associated with the contractor's work plus an additional County administrative fee of \$891 per parcel.

The County will use the least costly method of abatement considering the physical characteristics of your property and any other environmental or related concerns. Fees are detailed on the price list included in the

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

Notice to Destroy. The total amount of fees incurred will be included as a special assessment on your property tax bill following confirmation of the charges by your city (or the County if the parcel is in an unincorporated area) at a public Assessment Hearing. This Assessment Hearing will be scheduled in late spring/early summer, with the exact date determined by your governing body. Typically, Assessment Hearing information is posted at the physical location of the governing body (typically at a city hall building or other government center and most also publish this information on their websites) prior to the meeting.

You can avoid all costs, other than the \$92 annual inspection fee, by completing the abatement work yourself according to Minimum Fire Safety Standards (see enclosed brochure) prior to the abatement deadline for your jurisdiction and maintaining the Minimum Fire Safety Standards for the duration of fire season, which typically runs March through October. Parcels will be removed from the program after three consecutive years of voluntary compliance (work completed by parcel owner prior to the deadline and confirmed by our inspection).

In preparation for this program, please complete and return the enclosed blue *Return Reply Form* so we are notified of your plans for abating your property.

If you designate on your *Return Reply Form* that you intend to abate the weeds yourself, you need to complete the abatement before the deadline listed on the attached abatement program schedule and maintain fire safe conditions for the duration of the fire season. Responding that you intend to provide maintenance yourself does not release you from this responsibility to have the maintenance *completed* before your deadline and *repeated* as necessary to maintain Minimum Fire Safe Standards. The County will abate hazardous vegetation as required after the deadline for your jurisdiction at your cost.

Enclosed you will find the following information:

- ✓ ***Return Reply Form* specific to your parcel. Please complete and return to us.**
- ✓ ***Notice to Destroy Weeds* informing you of an upcoming public Commencement Hearing (that you may attend if you have any objections to the proposed removal of hazardous vegetation or debris from your parcel). Your jurisdiction may offer the ability for you to participate in this meeting virtually; please confirm directly with your jurisdiction.**
- ✓ ***Weed Abatement Program Schedule* for your city with current County abatement fees.**
- ✓ ***County of Santa Clara Weed Abatement Brochure*.**

Please be aware that any abatement performed by the County must comply with all applicable regulations. If your property falls within an area designated as possible habitat for burrowing owls or any other protected species of bird or animal, the methods used to remove vegetation may be regulated by specific laws or local ordinances.

If you are no longer the owner of the parcel identified by this mailing, please notify us immediately at (408) 282-3145. If you sell your parcel after the date of this letter, it is your responsibility to notify the new owner and to include the obligation to pay any abatement costs in your agreement of sale. Without taking this action, you will be responsible for all hazard abatement charges assessed to the parcel.

Our goals are voluntary compliance with the Minimum Fire Safety Standards and that all properties remain safe from fire. If you have any questions or need on-site advice to help you achieve compliance with the Minimum Fire Safety Standards, please call us at (408) 282-3145.

Sincerely,

DocuSigned by:


9A7E52EB1925473

Notice to Destroy Weeds

NOTICE IS HEREBY GIVEN that on December 6, 2022, pursuant to the provisions of Section 11.20.020 of the Town Code of the Town of Los Gatos, the Town Council of said Town adopted a Resolution declaring that all weeds growing upon any private property or in any street, sidewalk or alley, as defined in Section 11.20.020 of such code, constitute a public nuisance, which nuisance must be abated by the destruction or removal thereof.

NOTICE IS FURTHER GIVEN that property owners shall within thirty days after the adoption of such resolution, or within the time specified in a written agreement with the Director of Parks and Pubic Works of the Town of Los Gatos, or the Director of Parks and Pubic Works' representative, whichever time shall be later, remove all such weeds from their property, the abutting sidewalks, and the abutting half of the street in front, and alleys, if any, behind such property, and between the lot lines thereof as extended, or such weeds will be destroyed or removed and such nuisance abated by the Town of Los Gatos, in which case the cost of such destruction or removal will be assessed upon the lots and lands from which, or from the front or rear of which, such weeds shall have been destroyed or removed; and such cost will constitute a lien upon such lots or lands until paid, and will be collected upon the next tax roll upon which general municipal taxes are collected. All property owners having any objections to the proposed destruction or removal of such weeds are hereby notified to attend a meeting of the Town Council of such Town to be held in the Council Chambers of said Town at 110 East Main Street, Los Gatos, California, on **Tuesday, January 17, 2023 at 7:00 p.m.**, or as soon thereafter as the matter can be heard, when their objections will be heard and given due consideration. *The language and format for this notice is required by California Health and Safety Code Sections 14891 Et. Seq.*

LOS GATOS WEED ABATEMENT PROGRAM SCHEDULE

January 17, 2023	Public hearing to consider objections to Abatement List.
April 15, 2023	<u>PARCEL ABATEMENT DEADLINE</u> Parcel must be free from hazardous vegetation by this date or Inspector will order abatement.
July-August, 2023	Assessment Hearing to protest abatement charges (Date subject to change, please confirm with City Clerk)

2023 COUNTY WEED ABATEMENT FEES

Properties in the Weed Abatement Program, you will be responsible for an annual inspection fee of \$92.00 per parcel.

Please be advised that the property owner of any parcel found to be non-compliant on or after the March 1st deadline will be charged a processing fee of \$519.00 and the property will be scheduled for abatement by the County contractor. If you complete the abatement work before the County contractor performs the abatement, you will not incur further charges. Should the abatement work be performed by a County contractor, you will be assessed the contractor's charges plus a County administrative fee of \$891.00 per parcel.

2023 COUNTY CONTRACTOR'S WEED ABATEMENT PRICE LIST

A) Disc Work**

PARCEL SIZE:	1 st Disc	+	2 nd Disc	= Total Discs
0-12,500 sq.ft.	<u>\$412.39</u>		<u>\$165.79</u>	<u>\$578.18</u>
12,501sq.ft.- 43,560sq.ft.	<u>\$412.39</u>		<u>\$165.79</u>	<u>\$578.18</u>
Larger than 1 Acre	<u>\$299.56</u>		<u>\$146.30</u>	<u>\$445.86</u> (PER ACRE)

** It is required that parcels be disced twice a year. The cost for the first discing is higher due to additional work normally required during the first discing.

B) HANDWORK	<u>\$5.57 PER 100 Square Feet (SF)</u>
C) FLAIL	<u>6 Foot Mower \$7.11 PER 1,000 SF</u>
MOWING	<u>12 Foot Mower \$7.11 PER 1,000 SF</u>
D) LOADER WORK	<u>\$170.40 PER HOUR</u>
E) DUMP TRUCK	<u>\$157.29 PER HOUR</u>
F) BRUSH WORK	<u>\$5.32 PER 100 SF</u>
G) DEBRIS REMOVAL	<u>\$58.52 PER HOUR</u>
H) DUMP FEE	<u>100%</u>

Added to orders with debris removal at 100% of the dump site charge.

***Please note this program does not offer herbicide application as a method of abatement.**

2023 Return Reply Form

WANG, YUNBING TRUSTEE & ET AL

IMPORTANT: Please complete this form and mail back to the Weed Abatement Program **within 15 days of receipt of this notice.** Thank you.

TRA: 06-059



WANG, YUNBING TRUSTEE & ET AL
567 MAYBELL AV
PALO ALTO CA 94306-0000

137-25-134

Please check the box that applies for each parcel (see explanations below):

Parcel Number	Site Address	A	B	C
137-25-134	567 MAYBELL PALO ALTO	☐	☐	☐

A I am no longer the owner of this property, and the new owner information is listed below. Please return Reply Form immediately.

B I intend to maintain this parcel in a manner consistent with the Minimum Fire Safety Standards from **April 30, 2023 through the end of the fire season (typically runs through October)**. All parcels on the abatement list remain subject to inspection and fee to ascertain compliance. Non-compliance by the deadline will result in an Inspection fee and the abatement of weeds by the County contractor and the resulting charges added to the property tax bill.

C I request that the County Contractor perform weed abatement work on this parcel. Charges for this work will be added to my property tax bill. **(All County fees apply)**

Please provide any additional information such as new owners, presence of piping, irrigation, crops or other improvement. If your property is fenced/locked, please provide instructions on how to enter the property. If you are no longer the owner of the property identified by this mailing, please notify the County immediately. If you sell your property after December 1st, 2022, it is your responsibility to notify the new owner and to include the obligation to pay any abatement costs in your agreement of sale. Without taking this action, you will be liable for all hazard abatement charges assessed to the property. Thank you

☐ Please check if you feel this parcel is environmentally sensitive

Signature

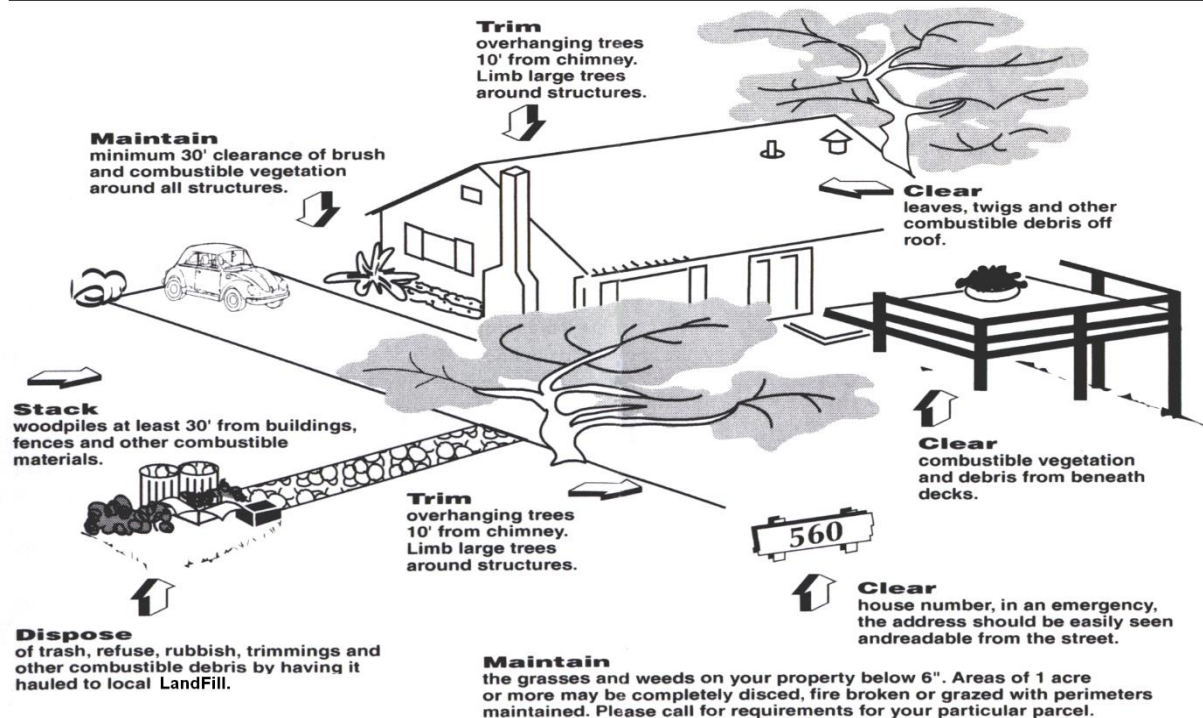
Name (please print)

Date

()
Day time phone

MINIMUM FIRE SAFETY STANDARDS (MFSS)

1. **Vegetation must not exceed 6 inches in height any time after the compliance deadline.**
2. Maintain grasses and weeds below 6 inches for 10 feet horizontally on both sides of all roadways, including driveways and access routes. Roads and driveways must maintain a clearance of 10' W by 13'6" H for all vegetation.
3. Clear flammable vegetation a minimum of 30 feet around any structure, occupied or not. Ornamental vegetation should be kept clear of dead material. Some conditions, such as slopes, may require up to a 100 foot clearance.
4. Parcels one acre or less shall be completely abated. Parcels over one acre up to five acres require 30 foot clearance around structures and perimeter property lines. Additional 30 foot cross fuel breaks may also be required.
5. Parcels larger than five acres require 30 foot clearance around structures and perimeter property lines in addition to 30-foot cross fuel breaks as needed to separate the remaining vegetation into sections no larger than five acres.
6. Keep property clear of accumulation of combustible debris, such as trash, wood, and dead vegetation. Stacked firewood and neatly piled yard waste is not considered to be combustible debris.
7. Keep vegetation cleared from under the eaves of houses.
8. Trim tree branches to at least 10 feet away from chimneys. Trim tree branches up from the ground to provide at least 6 feet of vertical clearance.
9. Clear leaves, pine needles and debris from roof and gutters.



Fire Resistant Landscaping

The following is a partial list of fire resistant plants that you may choose to use around your home to reduce the risk of fire. Contact your local nursery for selections appropriate to your area. All grasses, including those purportedly fire resistant, must be maintained below 6" in height.

Trees:

African Sumac
Pepper

Shrubs:

Bearberry
Carmel Creeper
Carolina Cherry
Catalina Cherry

Escallonia

Hopseed Bush
Lemonade Berry

Groundcover:

Aaron's Beard
Australian Daisy
Candytuft
Sterile Capeweed

Freeway Daisy

Rock Rose (except Gum
Variety)

Fire Safety Through Vegetation Management

Santa Clara County

Consumer and Environmental
Protection Agency

Weed Abatement Program



1553 Berger Drive #1

San Jose, Ca 95112

Phone (408) 282-3145

Fax: (408) 286-2460

SCC.WeedAbatement@cep.sccgov.org

The Santa Clara County Weed Abatement Program

The Santa Clara County Consumer and Environmental Protection Agency and your city are working together to protect your community from fire. We need your help. Please read and follow the directions provided in this brochure regarding fire prevention on your property. The purpose of the Weed Abatement Program is to prevent fire hazards posed by vegetative growth and the accumulation of combustible materials.

The Weed Abatement program is entirely funded from fees charged to residents. Fees will be assessed for any property in the program. This is to cover the cost of the compliance inspection for the property. Properties that fail the compliance inspection will be charged a failed inspection fee, even if the resident completes the weed abatement. If the property requires abatement by the County contractor, the property owner will be responsible for the actual cost of abatement plus an administrative fee. Properties that meet and maintain the minimum fire safety standards will not be charged other than the annual fee.

Program staff annually inspect parcels at the beginning of the fire season, which is typically in March or April depending on your jurisdiction. If the parcel is not in compliance at the time of inspection, the property owner will be charged a failed inspection fee, and the owner will be sent a courtesy notice as a reminder to abate the weeds. If the weeds are not abated by the property owner, the work will be completed by the County contractor. The property owner will pay the contractor's fees plus a County administrative fee. All fees will be included in your property tax bill.

Our Goal Is Voluntary Compliance

Property Owner's Responsibilities

- Do not allow a fire hazard to exist on your property. The Minimum Fire Safety Standards (MFSS) in this brochure give you guidelines to follow in order to maintain your property and protect against a fire hazard. **Please contact our office if you need guidance or have any questions regarding the requirements!**
- Make arrangements to have your property maintained throughout the year. Contractors can be found in the yellow pages. You may choose to have the County contractor maintain your property. A current price list is included in your packet.
- Please complete and return the Reply Form provided in your mailing packet by the date on the form. Indicate your preference regarding performance of weed abatement services.

Program Staff Responsibilities

- Weed Abatement Inspectors will perform periodic inspections on all parcels included in the Santa Clara County Weed Abatement Program. Properties that fail the compliance inspection will be charged a failed inspection fee, even if the resident completes the weed abatement.

- Inspectors will order the County contractor to perform all necessary abatement work on any parcel where the MFSS are not met. An attempt will be made to give the owner a courtesy notice prior to releasing the work order.
- The County contractor uses several methods of abatement including discing and handwork. The property owner is free to select whatever method they choose, provided the MFSS of all federal, state and local laws are met.
- The Weed Abatement Program will place inspection costs and the charges for County contractor services plus a County administrative fee on the property owner's tax bill during the next fiscal year.

Burrowing Owls

These small owls nest in abandoned ground squirrel burrows. Discing collapses the burrows and kills the young. These owls are listed as a state Species of Special Concern and are protected by the federal Migratory Bird Treaty Act. If you suspect burrowing owls on your property you **must** use another form of weed abatement such as mowing or weed-eating. If you request the County perform abatement services, please notify program staff or your City if burrowing owls are known to exist on your property.

Frequently Asked Questions

Q. Why have I received an Abatement Notice?

A. Typically, a property is placed on the program if a Weed Abatement Inspector identified a potential fire hazard on the property. Fire Departments and other agencies also submit complaints to the Weed Abatement Program.

Q. What is required of me now that I am in the Program?

A. All property owners are required to maintain their property free of fire hazards throughout the year.

Q. The grasses planted on my property are fire resistant. Are they exempt from the Weed Abatement program?

A. No. Even grasses that possess some fire resistant qualities are not fire proof, and they can add fuel to any site that is subject to a fire. Additionally, fire resistant grasses are rarely found in a pure, homogenous stand but rather are usually found to occur mixed with other common introduced annual grasses that are highly flammable and hazardous in a fire event. Finally, many grasses occur in Santa Clara County and species identification is difficult in the field, especially after the spring when the reproductive portions required for identification have dried and dispersed. Weed Abatement Inspectors can only focus on the presence of grasses and weeds on your property and the Minimum Fire Safety Standards, and not on grass species identification. Therefore, all grasses are required to be below 6 inches in height.

Q. What is the SC County Weed Abatement Program?

A. This is a monitoring program and our primary objective is voluntary compliance. See the first two paragraphs of this brochure for further specifics.

More FAQ:

Q. How long will I be on the Program?

A. Your property will remain on the Program for three years. If no hazards are found during that time, your property may be removed from the program.

Q. How much will this cost me?

A. There will be an annual fee to cover the cost of the compliance inspection. If the parcel does not meet the MFSS when it is first inspected in the spring, or if work is required by the County contractor, you will be charged additional fees. Our goal is to ensure that the MFSS are met at the lowest possible cost to the property owner.

Q. How will I be billed?

A. Any charges for the inspection and any abatement work performed will appear as a special assessment on your next property tax bill.

Q. Why have you performed work on my property while the vegetation is still green?

A. Grass, weeds or piles of combustible debris have been declared a public nuisance by your jurisdiction. Abating fire hazards in the spring minimizes the volume of combustible material before the hazards increase and dries out completely during the peak fire season.

Q. Will you notify me prior to beginning abatement work?

A. Property owners are responsible for preventing fire hazards on their property. If the MFSS have been met, but further work is necessary, you will receive notice prior to the County contractor performing the work. If the MFSS have **not** been met, an attempt will be made to give the owner a courtesy notice prior to initial abatement.

Q. Where can I find someone to provide abatement services?

A. Weed Abatement contractors can be found in the Yellow Pages under "Weed Control Services" or "Discing Services". You may have the County contractor perform the necessary work; see your mailing packet for a current price list as administrative costs are charged.

Q. How can I get additional information or assistance regarding the specific requirements for my property?

A. Weed Abatement Inspectors are available to assist you and answer your questions. Please call our Customer Service line at (408) 282-3145 to schedule a consultation with program staff or to obtain additional information.

Q. I have Grazing Animals do I need to perform abatement?

A. Grazing animals do not absolve you of your responsibilities to provide a fire safe condition on your property. You will need to check with our office to determine if grazing is adequate or if additional work is required.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 12

DATE: January 12, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider a General Plan Amendment by Resolution to Add Policies to the Hazards and Safety Element. Location: Town-Wide. General Plan Amendment Application GP-22-002

RECOMMENDATION:

Adopt a General Plan amendment by resolution to add policies to the Hazards and Safety Element.

BACKGROUND:

On June 30, 2022, the Town Council adopted the 2040 General Plan. On August 16, 2022, signatures were submitted to the Town in support of a referendum on the Land Use and Community Design Elements of the adopted 2040 General Plan. The referendum proposes that the Land Use and Community Design Elements of the 2040 General Plan be repealed. Once the referendum signatures were verified by the County Registrar in late September, the 2040 General Plan Land Use and Community Design Elements were suspended in accordance with Elections Code Section 9237.

On October 4, 2022, Town Council adopted a Resolution to confirm suspension of the 2040 General Plan Land Use and Community Design Elements and provide that the 2020 General Plan Land Use and Community Design Elements govern during the suspension period.

State Law requires that any General Plan or Housing Element update conducted after January 1, 2014, include review and update of the Safety Element to address the risk of fire for land classified as very high fire hazard severity zones (VHFHSZ's) [Gov. Code, § 65302, subd. (g)(3)]. Some of the language in the Community Design Element, adopted as part of the 2040 General

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

BACKGROUND (continued):

Plan, was prepared in coordination with the California Board of Forestry for compliance with this State law.

On October 26, 2022, the General Plan Committee met (Attachment 1, Exhibit 2) and recommended the addition of two policies to the Hazards and Safety Element of the General Plan to ensure that the specific wording identified by the California Board of Forestry was maintained in the General Plan.

On December 14, 2022, the Planning Commission met (Attachments 1 and 2) and recommended that the Town Council add two policies to the Hazards and Safety Element of the General Plan, as recommended by the General Plan Committee and described below.

DISCUSSION:

As part of the review by the California Board of Forestry, two policies within the suspended 2040 General Plan Community Design Element were identified with specific wording added to reference VHFHSZ's:

- Policy CD-5.2 Hillside Development Limitation
Limit hillside development, specifically in VHFHSZ's, to mitigate wildfire risk.
- Policy CD-6.1 Least Restrictive Development Areas
All development, including those in VHFHSZ's, is required to adhere to the Least Restrictive Development Areas (LRDA) to ensure minimal disturbance of the natural environment and to avoid wildfire and geological hazards.

These two policies are proposed to be added as new policies in the 2040 General Plan Hazards and Safety Element under Goal HAZ-2 and renamed as Policies HAZ-2.10 and HAZ-2.11.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for Implementation of California Environmental Quality Act, Section 15061(b)(3).

Attachments:

1. December 14, 2022, Planning Commission Staff Report, with Exhibits 1 and 2
2. December 14, 2022, Planning Commission Verbatim Minutes
3. Draft Resolution



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/14/2022

ITEM NO: 6

DATE: December 9, 2022
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider a General Plan Amendment to Add Policies to the Hazards and Safety Element. Location: Town-wide. General Plan Amendment Application GP-22-002.

RECOMMENDATION:

Consider a General Plan amendment to add policies to the Hazards and Safety Element.

BACKGROUND:

On June 30, 2022, the Town Council approved the 2040 General Plan. On August 16, 2022, signatures were submitted to the Town in support of a referendum on the Land Use and Community Design Elements of the approved 2040 General Plan. The referendum proposes that the Land Use and Community Design Elements of the 2040 General Plan be repealed. Once the referendum signatures were verified by the County Registrar in late September, the 2040 General Plan Land Use and Community Design Elements were suspended in accordance with Elections Code Section 9237.

On October 4, 2022, Town Council approved a Resolution to confirm suspension of the 2040 General Plan Land Use and Community Design Elements and provide that the 2020 General Plan Land Use and Community Design Elements govern during the suspension period.

State Law requires that any General Plan or Housing Element update conducted after January 1, 2014, include review and update of the Safety Element to address the risk of fire for land classified as very high fire hazard severity zones (VHFHSZ's) [Gov. Code, § 65302, subd. (g)(3)]. Some of the language in the Community Design Element adopted as part of the 2040 General Plan was prepared in coordination with the California Board of Forestry, for compliance with this State law.

PREPARED BY: JENNIFER ARMER, AICP
Planning Manager

Reviewed by: Community Development Director

BACKGROUND (continued):

On October 26, 2022, the General Plan Committee recommended the addition of two policies to the Hazards and Safety Element of the General Plan, as described below (Exhibit 2).

DISCUSSION:

As part of the review by the California Board of Forestry, two policies within the suspended 2040 General Plan Community Design Element were identified with specific wording added to reference the VHFHSZ:

- Policy CD-5.2 Hillside Development Limitation
Limit hillside development, specifically in VHFHSZ's, to mitigate wildfire risk.
- Policy CD-6.1 Least Restrictive Development Areas
All development, including those in VHFHSZ's, is required to adhere to the Least Restrictive Development Areas (LRDA) to ensure minimal disturbance of the natural environment and to avoid wildfire and geological hazards.

These could be added as new policies in the 2040 General Plan Hazards and Safety Element under Goal HAZ-2 and renamed as Policies HAZ-2.10 and HAZ-2.11.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for Implementation of California Environmental Quality Act, Section 15061(b)(3).

PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Recommendation

Staff recommends that the Planning Commission:

1. Receive and consider public comments;
2. Complete the review of the proposed General Plan amendment; and
3. Forward a recommendation to the Town Council to approve the Draft Resolution (Exhibit 1).

PAGE 3 OF 3

SUBJECT: Hazards and Safety Element Update/GP-22-001

DATE: December 9, 2022

CONCLUSION (continued):

B. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Recommend approval with modifications.

EXHIBITS:

1. Draft Resolution
2. October 26, 2022 General Plan Committee Staff Report

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RESOLUTION 20__-__

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AMENDING THE HAZARDS AND SAFETY ELEMENT
OF THE GENERAL PLAN.**

Draft Resolution to
be modified by Town
Council deliberations
and direction.

WHEREAS, the Town of Los Gatos has prepared the 2040 General Plan to update and enhance the 2020 General Plan, along with the Final Environmental Impact Report (Final EIR); and

WHEREAS, on June 30, 2022, Town Council adopted Resolution 2022-046 and certified the Environmental Impact Report for the 2040 General Plan; and

WHEREAS, on June 30, 2022, Town Council adopted Resolution 2022-047 approving the 2040 General Plan; and

WHEREAS, on October 4, 2022, Town Council adopted Resolution 2022-064 to confirm the suspension of the 2040 General Plan Land Use and Community Design Elements because sufficient signatures had been gathered to place a referendum on a future ballot with regard to those two Elements, provide that the 2020 General Plan Land Use and Community Design Elements govern during the suspension period, and that the remaining Elements of the 2040 General Plan remain in effect; and

WHEREAS, language required by the State Board of Forestry was included in the Community Design Element, which is now suspended; and

WHEREAS, the Town wishes to move the required language to the Town's Hazards and Safety Element; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on _____.

WHEREAS, the Town Council finds as follows:

- A. The project is Categorically Exempt pursuant to the adopted Guidelines for Implementation of California Environmental Quality Act, Section 15061(b)(3); and

EXHIBIT 1

- B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.

NOW, THEREFORE, BE IT RESOLVED:

The Hazards and Safety Element shall be amended to add:

- Policy HAZ-2.10 Hillside Development Limitation
Limit hillside development, specifically in VHFHSZ's, to mitigate wildfire risk.
- Policy HAZ-2.11 Least Restrictive Development Areas
All development, including those in VHFHSZ's, is required to adhere to the Least Restrictive Development Areas (LRDA) to ensure minimal disturbance of the natural environment and to avoid wildfire and geological hazards.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the ___th day of _____, 20__, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



**TOWN OF LOS GATOS
GENERAL PLAN COMMITTEE
REPORT**

MEETING DATE: 10/26/2022

ITEM NO: 2

DATE: October 21, 2022

TO: General Plan Committee

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider a General Plan Amendment to Add Policies to the Hazards and Safety Element. Location: Townwide. General Plan Amendment Application GP-22-002.

RECOMMENDATION:

Consider a General Plan amendment to add policies to the Hazards and Safety Element.

BACKGROUND:

On June 30, 2022, the Town Council approved the 2040 General Plan. On August 16, 2022, signatures were submitted to the Town in support of a referendum on the Land Use and Community Design Elements of the approved 2040 General Plan. The referendum proposes that the Land Use and Community Design Elements of the 2040 General Plan be repealed. Once the referendum signatures were verified by the County Registrar in late September, the 2040 General Plan Land Use and Community Design Elements were suspended in accordance with Elections Code Section 9237.

On October 4, 2022, Town Council approved a Resolution to confirm suspension of the 2040 General Plan Land Use and Community Design Elements and provide that the 2020 General Plan Land Use and Community Design Elements govern during the suspension period.

State Law requires that any General Plan or Housing Element update conducted after January 1, 2014, include review and update of the Safety Element to address the risk of fire for land classified as very high fire hazard severity zones (VHFHSZ's) [Gov. Code, § 65302, subd. (g)(3)]. Some of the language in the Community Design Element adopted as part of the 2040 General Plan was prepared in coordination with the California Board of Forestry, for compliance with this State law.

PREPARED BY: JENNIFER ARMER, AICP
Planning Manager

DISCUSSION:

As part of the review by the California Board of Forestry, two policies within the suspended 2040 General Plan Community Design Element were identified with specific wording added to reference the VHFHSZ:

Policy CD-5.2 Hillside Development Limitation
Limit hillside development, specifically in VHFHSZ's, to mitigate wildfire risk.

Policy CD-6.1 Least Restrictive Development Areas
All development, including those in VHFHSZ's, is required to adhere to the Least Restrictive Development Areas (LRDA) to ensure minimal disturbance of the natural environment and to avoid wildfire and geological hazards.

For simplicity, staff's recommendation is to add these as new policies in the 2040 General Plan Hazards and Safety Element under Goal HAZ-2 as Policies HAZ-2.10 and HAZ-2.11.

PUBLIC COMMENTS:

As of the drafting of this report, no comments from the public have been received.

CONCLUSION:

The Committee should review the proposed amendments and provide a recommendation of approval to the Planning Commission and the Town Council.

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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Melanie Hanssen, Chair Jeffrey Barnett, Vice Chair Kathryn Janoff Steve Raspe Emily Thomas
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

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P R O C E E D I N G S:

CHAIR HANSSEN: We can move on to the next item, which is Item 6, which is considering a General Plan Amendment to add policies to the Hazards and Safety Element. Location: Town-wide. General Plan Amendment Application GP-22-002.

I assume we have a Staff Report for this as well.

JENNIFER ARMER: Thank you, Chair and Planning Commissioners. As stated, this is a proposed amendment to the Hazards and Safety Element of the General Plan.

As you may remember from last year when the Draft General Plan was brought to the Planning Commission for consideration, one component of the recommended changes from the draft that was prepared by the GPAC were some modifications required by the State as part of the CAL FIRE review and the Board of Forestry review.

A couple of those changes were included within the Community Design Element, and because at this point the Community Design Element is on hold because the referendum that qualified for the ballot has not yet been voted upon, Staff is recommending that we take the two policies that included those changes from the State and move them into the Hazards and Safety Element, which is in effect, so that

LOS GATOS PLANNING COMMISSION 12/14/2022
Item #6, General Plan Amendment to
Hazards and Safety Element

1 it is clear that we have complied with that requirement for
2 update to the Safety Element, both for the General Plan as
3 a whole as well as for future adoption of the Housing
4 Element.

5 This concludes Staff's presentation, but if you
6 have any questions I'd be happy to answer.

7 CHAIR HANSSEN: Thank you for that. Before I take
8 any questions I'll just add on that since I'm chairing the
9 General Plan Committee this year that when we heard this at
10 the General Plan Committee it seemed to make a lot of
11 sense, given that the Community Design Element had been
12 suspended, to have these safety provisions moved into the
13 Hazards and Safety Element, and the only question that I
14 recall coming up during that meeting was just about the
15 number of General Plan amendments, because some people
16 thought it was limited to four, and so Ms. Armer, if you
17 could let the Commission know what you told us yesterday.

18 JENNIFER ARMER: Yes, thank you for that
19 question. We did verify the language of State law that does
20 limit the number of changes to a General Plan within each
21 calendar year. The limitation of four is actually to each
22 of the required elements.

23 For example, the Safety Element is a required
24 element, and so we could make up to four changes to the
25

1 Safety Element. That does not limit possible changes to,
2 say, the Land Use Element or the Housing Element within
3 that same year; those each could have four changes.

4 In addition, those that are not required
5 elements, for example, our Community Design Element is not
6 a required element, it is not one of those that's listed in
7 that law.

8 CHAIR HANSSEN: So we can take comfort that we're
9 not going to bump up against that, especially considering
10 that due to the referendum there's likely to be more
11 multiple changes to the General Plan next year, or those
12 two elements.

13 Commissioner Thomas.

14 COMMISSIONER THOMAS: Ms. Armer, can you also
15 confirm—we did talk about this at the General Plan Update
16 Committee meeting—that also when we make an amendment you
17 can clump more than one change together and that just
18 counts as one, one time?

19 JENNIFER ARMER: That is correct. It's not each
20 individual change we take forward. We are making this group
21 of changes that counts as a single amendment to the General
22 Plan for each of those chapters.

23 COMMISSIONER THOMAS: Thank you.

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25
LOS GATOS PLANNING COMMISSION 12/14/2022
Item #6, General Plan Amendment to
Hazards and Safety Element

1 CHAIR HANSSEN: I will put it out there to see if
2 any Commissioners have questions for Staff beyond what we
3 just talked about. I'm not seeing any, and so like our
4 previous item, this would be a motion to make a
5 recommendation to Town Council to approve the movement of
6 these items to the Hazards and Safety Element, and we would
7 follow the same process.

8 Oh, I forgot to do public comment, so let me stop
9 and see if there are any members of the public that would
10 like to speak on this item.
11

12 JENNIFER ARMER: Please raise your hand if you'd
13 like to speak on this item. I'm not seeing any hands
14 raised.

15 CHAIR HANSSEN: Okay, thank you for that. That
16 being the case, if no one wants to speak on this item, is
17 there a motion to make this recommendation?

18 Vice Chair Barnett.

19 VICE CHAIR BARNETT: Concerning our Agenda Item
20 #5 tonight, I move that we recommend to the Town Council
21 the amendments which are set forth in the Staff Report on
22 that item. I can make the findings that there's no
23 possibility that the project will have a significant impact
24 on the environment and is therefore not subject to CEQA,
25

1 and also that the Town Code Amendments are consistent with
2 the General Plan.

3 CHAIR HANSSEN: Ms. Armer has her hand up; so let
4 me see before I take a second.

5 JENNIFER ARMER: Thank you. I just wanted clarify
6 that you are referring to Item #6, the Amendments to the
7 General Plan. You stated Item #5.

8 VICE CHAIR BARNETT: Gosh, mine looks like #5,
9 but in any event the appropriate provision of our Staff
10 Report, thank you.

11 CHAIR HANSSEN: Is there a second? Commissioner
12 Raspe.

13 COMMISSIONER RASPE: I second the motion.

14 CHAIR HANSSEN: Thank you for that. Any further
15 discussion? Okay, Commissioner Thomas.

16 COMMISSIONER THOMAS: Yes.

17 CHAIR HANSSEN: Commissioner Raspe.

18 COMMISSIONER RASPE: Yes.

19 CHAIR HANSSEN: Commissioner Janoff.

20 COMMISSIONER JANOFF: Yes.

21 CHAIR HANSSEN: Vice Chair Barnett.

22 VICE CHAIR BARNETT: Yes.

23 CHAIR HANSSEN: And I vote yes as well, and like
24 our previous item, since is a recommendation to Town
25

LOS GATOS PLANNING COMMISSION 12/14/2022
Item #6, General Plan Amendment to
Hazards and Safety Element

1 Council I do not believe there are any appeal rights. Ms.
2 Armer is shaking her head.

3 (END)

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DRAFT RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING THE HAZARDS AND SAFETY ELEMENT OF THE 2040 GENERAL PLAN

Draft Resolution to
be modified by Town
Council deliberations
and direction.

WHEREAS, the Town of Los Gatos prepared the 2040 General Plan to update and enhance the 2020 General Plan, along with the Final Environmental Impact Report (Final EIR); and

WHEREAS, on June 30, 2022, Town Council adopted Resolution 2022-046 and certified the Environmental Impact Report for the 2040 General Plan; and

WHEREAS, on June 30, 2022, Town Council adopted Resolution 2022-047 approving the 2040 General Plan; and

WHEREAS, on October 4, 2022, Town Council adopted Resolution 2022-064 to confirm the suspension of the 2040 General Plan Land Use and Community Design Elements because sufficient signatures had been gathered to place a referendum on a future ballot with regard to those two Elements, provide that the 2020 General Plan Land Use and Community Design Elements govern during the suspension period, and that the remaining Elements of the 2040 General Plan remain in effect; and

WHEREAS, language required by the State Board of Forestry was included in the 2040 General Plan Community Design Element, which is now suspended; and

WHEREAS, the Town wishes to move the required language to the 2040 General Plan Hazards and Safety Element; and

WHEREAS, on October 26, 2022, the General Plan Committee met to consider this matter. The General Plan Committee unanimously recommended that the Town Council adopt this amendment to the Hazards and Safety Element of the General Plan; and

WHEREAS, on December 14, 2022, the Planning Commission held a public hearing to consider this matter. The Planning Commission received and considered public comments and unanimously recommended that the Town Council adopt this amendment to the Hazards and Safety Element of the General Plan; and

ATTACHMENT 3

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on January 17, 2023; and

WHEREAS, the Town Council finds as follows:

- A. The project is Categorically Exempt pursuant to the adopted Guidelines for Implementation of California Environmental Quality Act, Section 15061(b)(3); and
- B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.

NOW, THEREFORE, BE IT RESOLVED:

The Hazards and Safety Element shall be amended to add the following policies:

- Policy HAZ-2.10 Hillside Development Limitation
Limit hillside development, specifically in VHFHSZ's, to mitigate wildfire risk.
- Policy HAZ-2.11 Least Restrictive Development Areas
All development, including those in VHFHSZ's, is required to adhere to the Least Restrictive Development Areas (LRDA) to ensure minimal disturbance of the natural environment and to avoid wildfire and geological hazards.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of January, 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/17/2023

ITEM NO: 13

DATE: January 2, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Police Services Report: July – December 2022

RECOMMENDATION:

Receive the Police Services Report: July – December 2022

BACKGROUND:

On August 16, 2022, the Police Department presented an update on overall delivery, staffing updates and comparison analysis of Police services. This Police Services Report presents the following information:

- Department staffing update,
- Calls for service and Officer activity,
- Training and mandates,
- Operational responses, mental health services, and Flock updates, and
- Community outreach and partnerships

DISCUSSION:

DEPARTMENT STAFFING UPDATE

Law enforcement agencies continue to compete for fewer applicants as there remains a nationwide decline in the number of qualified people wanting to become Police Officers since the start of the COVID-19 pandemic and the national spotlight on policing in 2020. The law enforcement profession continues to see a trend of retirements and career changes. Los Gatos-Monte Sereno Police Department (LGMSPD) culture and institutional knowledge transfer are integral parts of all Department staff and the loss of local experience is noticeable.

PREPARED BY: Jamie Field
Chief of Police

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

The LGMSPD is in the process of implementing mechanisms to bring new staff up to speed, which takes at least six months for each new staff member.

The Police Department is in the process of administering a Career Development Plan and a Leadership Development Plan for all staff. These plans will support and provide guidance for career growth and advancement through internal mentorship and required or recommended Police Officer Standards and Training (POST) training.

The LGMSPD budget allocates for 39 sworn positions; however, recruitment and retention of qualified personnel remains challenging and a priority. The LGMSPD operates in an extremely regulated environment and data-driven profession with fewer staff than 15 years ago. From July 2022 through December 2022, two sworn staff members have departed for personal reasons or lateraled to a department closer to their home. Additionally, an academy recruit self-selected to not continue in the Police Academy. Also, several additional experienced Officers are expected to be separating soon for other career opportunities, to work closer to home, or pursue a new career path, bringing the current sworn number below what is reflected in the chart on this page. The Police Department has been successful in hiring two Police Officers in the last six months from other Bay Area law enforcement agencies. These new Officers are currently assigned to the Field Training Program and are not yet operating as independent Police Officers.

The Department has two current vacancies with one Police Officer Recruit scheduled for the Police Academy beginning February 2023. The 30 available sworn personnel are divided among four patrol shifts, the Investigations Bureau, and Administration. In addition, the last six months have experienced significant impacts by vacancies caused by extended on the job injuries and Family Medical Leave Act (FMLA). These have resulted in higher-than-normal overtime needs to maintain staffing levels, support special events, and participate in community outreach opportunities. Of the remaining sworn personnel, the table identifies the current availability of sworn staff, while also considering injury status, light or modified duty, and those currently being trained:

Budgeted Sworn	Current Sworn	Off due to injury	Light / Modified Duty	Training	Total Active and available
39	37	5	2	2	30

The process of hiring and training a Police Officer is a lengthy process. The process is further extended for applicants that have not completed a Police Academy. Recruitment, background

DISCUSSION (continued):

investigations, and hiring of sworn and professional staff is estimated to take about three months. Each officer is required to complete a California POST accredited Police Academy for about six months. Upon graduation, the recruit must complete a POST approved 16-week Field Training Program led by certified members of our Police Department. Since July 2022, the Police Department has conducted three sworn oral boards and two professional staff oral boards. These efforts resulted in 15 applicants entering the background process phase, with nine as sworn positions. An additional sworn oral board is scheduled for the beginning of February.

It should be noted that the Fiscal Year 2022/23 Adopted Budget included one-time temporary staff hours to further augment sworn and non-sworn capacity with additional academy recruits, Community Service Officers (CSOs), and Reserve Officer support.

The Los Gatos-Monte Sereno Police Department's localized and full-service Dispatch Center (Communications Division) is critical to the personalized and high-quality public safety response and delivery provided to the community. The Police Department is budgeted for eight full time Dispatchers and presently is at four with two additional expected to begin in training. Over the prior six months, one trained Dispatcher accepted an opportunity at another Police Department.

The hiring and recruitment efforts between July – December 2022 resulted in the following ten sworn and nonsworn hires:

- Police Officers – two with law enforcement experience
- Police Academy Recruit – one starting the Academy February 2023
- Dispatcher – three with two beginning training on January 17, 2023
- Records Specialist – two began in November 2022
- Community Service Officer Interns – two began training on September 1, 2022

The Police Department currently has the following open positions:

- 2 Sworn Personnel with more expected
- 2 Communications Dispatchers
- Police and Records Manager (expected to be reclassified to a different position)

The Police Department has a total of six per diem Dispatchers to supplement the full-time Dispatch staff and allow for better coverage, training, and vacation opportunities with more focused training of the new Dispatch staff. Vacations or elective time off frequently requires per diem backfill as well as overtime coverage.

SUBJECT: Receive the Information Provided in the Police Services Report: July – December 2022

DATE: January 17, 2023

DISCUSSION (continued):

COVID continues to be an impact to staff and necessary overtime to fill the unexpected sick time vacancies. There were 496 fewer hours of Supplemental Paid Sick Leave (SPSLA) in the last six months of 2022 versus the first six months. SPSLA time for the last six months was 728 hours, and the six months prior to that (1/1/22 – 6/30/22) was 1,224 hours.

Since October 30, 2022, the Police Department began collecting staff hours spent on special events and Community Policing activities. There were 300 staff hours spent in preparation for and the day of the Children's Holiday Parade. Additionally, an estimated 58 staff hours were allocated to the Tree Lighting and 34 hours devoted to Community Policing activities. The table below depicts the number of overtime hours collected in pay and compensatory time that were necessary to fill shift vacancies when comparing January to June with July to December. The variance of 1,227 hours more overtime for sworn staff during the second six months is due to vacancy, workers compensation vacancy, staff transition, community outreach and special events, required trainings, and SPSLA coverage.

Title	1/1/22 – 6/30/22	7/1/22-12/31/22	Variance in FY 2021/2022
Communications	1,607 hours	1,582 hours	-25 hours
Sworn Staff	3,523 hours	4,750 hours	1,227 hours

CALLS FOR SERVICE AND OFFICER ACTIVITY

Despite the outlined staffing challenges, the LGMSPD has continued to meet response times and provide an uncompromising high level of service to the community. The following table depicts a comparison of the Communications Division call volume, both inbound and outbound, immediacy to which they are answered, and number of 911 calls over the last two years between the months of July to December.

The industry standard for a Public Safety Answering Point (PSAP) agency is a target for 911 calls to be answered within less than ten seconds 95% of the time. Outbound calls can be a result of transferring callers to other points of contact within Town Departments, contacting or following up with community members, or conducting other inter-agency duties.

DISCUSSION (continued):

July – December	Inbound 911 calls	% of 911 calls answered < 10 seconds	Incoming Non-emergency calls	Non-emergency Outbound calls
2021	4,875	95.3%	16,219	7,786
2022	4,589	96.8%	15,112	7,453

Officers' response to priority calls for service continue to be comparable to prior years, generally responding faster than the response time goals. The LGMSPD has set response time goals of 5:00 minutes for Priority 1 calls, 10:00 minutes for Priority 2 calls, and 15:00 minutes for Priority 3 calls. This data will be presented at the Council meeting. The metrics can also be found in the Fiscal Year 2022/23 Adopted Operating Budget in the performance measures section of the Police Department chapter. Priority 1 refers to immediate emergency with threat to life or a public safety hazard, Priority 2 is an urgent emergency that requires an immediate response, and a Priority 3 incident is a non-emergency.

Additional data regarding traffic stops and preliminary Racial Identity Profile Act information will be provided in the presentation to Town Council on January 17, 2023.

TRAINING AND MANDATES

The LGMSPD is committed to ensuring exceptional public safety service levels as a result of dedicated efforts from the Communications, Patrol, and other Divisions within the Police Department. Recruitment, training, and succession planning continue to remain an ongoing priority while monitoring the fiscal implications from overtime needs and wellness impacts on staff members.

Unfunded State legislative mandates effective in 2023 are being implemented, carefully navigated, and are a primary focus in the Police Department's personnel assessment, equipment, and training. These mandates require a close review of Department policies and processes, and many are outcomes of police reform efforts towards increased transparency.

There have been several opportunities for promotions throughout the summer of 2022 for sworn and professional staff. These included five promotional positions for sworn staff and four for professional staff that require POST mandated and recommended training. There are no more open promotional positions currently in the Police Department. Within their first year, a new Corporal or Sergeant is required to attend a two-week Supervisor School and an Internal Affairs course, while the Captain position is required to attend a three-week Management

DISCUSSION (continued):

School. The Department's currently strained staffing level has forced this training to be delayed or required backfilling by a supervisor on overtime.

Open and necessary collateral assignments for Field Training Officer, Peer Support, Drone and Defensive Tactics and De-escalation have required staff to be sent to training for certification. Training for these courses is generally a week in length and due to staffing, frequently requires backfill by other staff.

The LGMSPD sworn staff are required by POST to complete 34 hours of training annually and Dispatchers are required to complete 24 hours. This year, Officers have completed training in Emergency Vehicle Operations (EVOC) in the Explorer patrol vehicles to re-emphasize safe driving disciplines. From July to December 2022, staff have attended 812 hours of required training due to POST, Cal-Occupational Safety and Health Administration (OSHA), and other compliance mandates. An additional 656 hours of necessary development training has been provided for sworn and professional staff. Finally, sworn and professional staff have attended 320 hours of leadership training to aid in the career growth and new promotional positions achieved in 2022.

Staff is also being trained and preparing for compliance with Senate Bill (SB) 2 – Police Decertification. This legislative requirement is overseen by POST to ensure reporting and compliance with Police misconduct and eligibility for current or future employment. The Police Department's Personnel and Training staff have been engaged in learning, explaining, and preparing for the robust requirements outlined in SB 2, as portions of the bill are retroactive to the conduct of Officers.

Finally, SB 16 is intended to increase the level of transparency into allegations and investigations of peace officer misconduct, and accountability for such misconduct. It expands on Senate Bill 1421, enacted in 2018, to create exceptions to the general rule that peace officer personnel records are confidential and not subject to disclosure. SB 16 also requires a pre-employment background check of personnel files for each applicant, extended record-retention requirements, individual use-of-force reporting requirements, and expanded use of peace officer records in litigation.

Providing newly promoted and existing staff with the POST required and highly recommended training to develop confidence and competency is a priority for the Police Department. This requires continuous assessment of mandatory or immediate Department training needs based on POST requirements and operational effectiveness.

DISCUSSION (continued):

OPERATIONAL RESPONSE, MENTAL HEALTH SERVICES, AND FLOCK UPDATES

Earlier in 2022, the Department leadership participated in a Team Building Workshop. The outcome was the development of a two-year Strategic Plan that outlines five goals and priorities that the Police Department will continuously assess and remain focused on as part of the Departments direction through 2024. These goals and some of the accomplishments this year are listed below:

Goal 1 – Organizational recruitment, development, and retention of a quality workforce

- New staff – Officers, CSOs, Parking Control Officer, Records Specialists
- Sworn promotions and professional staff career ladder
- Outside background investigator for sworn personnel
- Training for career growth and advancement for sworn and professional staff

Goal 2 – Prevent and reduce crime, increase quality of life, and focus on traffic safety

- Community Emergency Response Team (CERT) – ongoing drills and trainings
- Jewish Community Center – hosted law enforcement training location
- School Resource Officer (SRO) Agreement with School Districts 2022 – 2024
- Methodist and St. Luke’s Church – vulnerable communities support with LGMSPD
- Collaborative work with federal and local law partners regarding residential and commercial burglary

Goal 3 – Active partnerships

- Neighborhood Watch – 16 meetings in 2022
- Special Event support – Promenades, Music in the Park, Tree Lighting, and Parade
- Community Policing – Coffee with a Cop, Community Police Academy, Special Olympics
- Los Gatos-Monte Sereno Police Foundation

Goal 4 – Embrace and integrate technology throughout the agency

- Flock – significant increase in investigative leads, crime prevention, and recoveries
- California Incident-Based Reporting System (CIBRS)/National Incident-Based Reporting System (NIBRS) compliance by LGMSPD in July 2022
- Axon camera update to fleet and body worn cameras
- Drone Team – early development stages

Goal 5 – Organizational wellness

- Peer Support Training – sworn and professional staff
- Two new Chaplains

DISCUSSION (continued):

- Therapy Canines continued training and community engagement
- Support for time off for professional and sworn staff and improved managed leave balances

Santa Clara County Behavioral Health Services and the LGMSPD collaborate to provide mental health resources. LGMSPD evaluates multi-disciplinary needs when providing support to those of our unhoused community or experiencing mental health concerns. Below is an outline of available resources that may be utilized:

Therapy Canine Program

- Training is ongoing and they are an available resource to both staff and the public.

Mobile Crisis Response Team (MCRT)

- Efforts of MCRT are focused on connecting family/caregivers to community support, conduct mental health evaluations and assessments, provide post-crisis follow up, and provide crisis intervention and safety planning as needed for 18 or older.

Mobile Response and Stabilization Services (MRSS)

- Provides stabilization and support services for children and young adults from ages 4-20. Post-crisis stabilization services are provided to ensure referral and coordination to ongoing services.

Trusted Response Urgent Support Team (TRUST)

- TRUST onsite field teams are available on weekdays and consist of a Crisis Intervention Specialist, First Aid Professional, and a Peer Support Specialist. This non-law enforcement
- mobile crisis response team works closely with crisis hotlines, the community and family member to provide intervention and follow up.

9-8-8

- In Santa Clara County, when someone calls 9-8-8 for services, their needs are evaluated by the Suicide Prevention Hotline to determine what above resources may be best suited to meet the caller's needs.

The Flock Safety Technology pilot program continues to be an extremely valuable investigative and crime prevention tool throughout the Town of Los Gatos. Metrics will be shared in graph form during the presentation of this staff report at the Council meeting. The information will depict the increase in Flock incidents that alerted law enforcement in Los Gatos to vehicles

DISCUSSION (continued):

associated to criminal acts and direct Officers to respond to specific areas or provide effective investigative follow up abilities. The current pilot program includes 16 Flock cameras. The agreement ends in February 2024. Consideration for ongoing funding at \$2,500 annually per camera will need to be evaluated for consideration in the FY 2023/24 Proposed Operating Budget.

The public is encouraged to access and use the information available on the [Police Department's website Transparency page](#) which includes updated transparency data, crime statistics, and the [Flock Transparency Page](#).

COMMUNITY OUTREACH AND PARTNERSHIPS

The Police Department is committed to building, bridging, and enhancing police-community relationships. This is done through opportunities for engagement and in the multitude of services that the Department offers to develop collaborative methods to maintain a safe community that is free of the fear of crime. LGMSPD initiated a Community Policing campaign in May 2022. The engagements are integral to building community – police partnerships and a better-informed vision of public safety needs and responses.

Community outreach and resources occur in many forms. Below are some highlights of the last six months:

- Neighborhood Watch meetings – 7
- National Night Out – 4 Participating Neighborhoods
- Coffee With a Cop – 2
- Bike Rodeos – 5
- Boy or Girl Scout Troop Presentations – 8
- Inaugural 10-week Community Police Academy
- Therapy Canine community engagements – 10
- PRAGNYA event for neurodiverse community
- Downtown Business Safety Meeting with Chamber of Commerce
- Presentations to Interfaith / Service Clubs – 3
- New Resident Welcome Packet deliveries - 72
- Vacation Checks – 192 and homes registered / visited 576 times

The Disaster Aid Response Team (DART) and CERT work collaboratively throughout the year on common drills and robustly support the Los Gatos Holiday Parade with many volunteers. Two trainings, one annual drill, and six new CERT graduates occurred in the last six months. Additionally, the Police Department has been recruiting for other volunteer opportunities, such as the Explorer Cadet program.

CONCLUSION:

The Police Services Report is intended to provide a six-month review of available resources, operational efforts, and continued priorities that may be considered valuable to the community and Town Council. The overview provides a comprehensive understanding of the full-service model provided by localized policing services. The LGMSPD is committed to providing and demonstrating the values of professionalism, compassion, and integrity. The Police Department continues to pivot to meet the highly regulated federal, state, and local mandates and requirements within the law enforcement profession. Continued reduction in sworn staffing may lead to a modification and evaluation of the ability to support nonessential activities at the scale of the prior six months. LGMSPD also adjusted in response to national incidents that developed necessary evaluation of prior standard operations to assure the safety and security of the community.

In 2023, the LGMSPD organizational vision is centered on a theme of development. This includes professional development, advancement, and progressive efforts in technology throughout the Department. The focus on development and growth opportunities, progress on staffing, and career focused training for our most valued resource, our staff. This development will allow for greater efficiencies, eventual reduction in overtime, and retention. The external focus continues to be local engagement, safety, and security for our community and those that visit the Town of Los Gatos.

FISCAL IMPACT:

The receipt of this report has no fiscal implications.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 1/10/2023

ITEM NO: 14

DATE: January 11, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review and Approve the Town's Response to the 2022 Civil Grand Jury of Santa Clara County Report Entitled, "Show Me the Money: Financial Transparency Needed" and the Changes to the Town's Operating Portfolio Investment Policy as Reviewed by the Finance Commission

RECOMMENDATION:

Review and approve the Town's response to the 2022 Civil Grand Jury of Santa Clara County report entitled, "Show Me the Money: Financial Transparency Needed" and the changes to the Town's Operating Portfolio Investment Policy as reviewed by the Finance Commission.

BACKGROUND:

On December 14, 2022, the 2021-2022 Civil Grand Jury of Santa Clara County released a report entitled, "Show Me the Money: Financial Transparency Needed." The Grand Jury's final report is included as Attachment 1.

General law cities in California are required to comply with California Government Code Section 41004 (Section 41004), which states, "at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body." The benefit of the law is to ensure financial accountability and public transparency as well as to foster better fiscal affairs. Treasurer's reports provide city councils with timely and accurate financial information necessary to make reliable and sound decisions.

The Grand Jury's final report includes the following finding related to the Town of Los Gatos:

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

BACKGROUND (continued):

Finding:

The Town of Los Gatos produced reports that contain the required content but does not produce the treasurer's reports on a monthly basis as required by California Government Code section 41004.

Recommendation:

The Town of Los Gatos should produce its reports on a monthly basis to comply with California Government Code section 41004 by March 15, 2023.

Pursuant to Penal Code Sections 933 and 933.05, the Grand Jury requested a response from the Town of Los Gatos and other jurisdictions by March 14, 2023.

DISCUSSION:

The Town's current Investment Policy was last reviewed by the Finance Committee in January 2021 and adopted by Council in November of 2021. The Investment Policy establishes the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, State mandated eligible investments, transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the operating funds of the Town. All Town funds are invested and/or will be invested in accordance with the Investment Policy and with applicable sections of the California Government Code.

The Finance Commission is tasked with the review of the Town Investment Policy. At its January 10, 2023 meeting, the Finance Commission reviewed the proposed changes provided by staff and suggested one additional change to clarify that the monthly report will comply with Government Code Section 41004 (Attachment 2). Town Council approval of the staff and Commission recommendations will ensure the Town is in compliance with California Government Code Section 41004. The Finance Commission plans to review additional elements of the Investment Policy and potentially recommend supplemental reporting.

The draft Town response to the Civil Grand Jury of Santa Clara County for Town Council consideration is included as Attachment 3. The response is consistent with the proposed changes to the Town's Investment Policy.

FISCAL IMPACT:

There is no fiscal impact associated with responding to the Grand Jury and modifying the Investment Policy.

PAGE 3 OF 3

SUBJECT: Operating Portfolio Investment Policy Review and Recommendation to Town Council

DATE: January 11, 2023

Attachments:

1. 2021-22 Civil Grand Jury Report "Show Me the Money: Financial Transparency Needed"
2. Town Council Policy 4-02: Investment Policy - Redlined
3. Staff Response to the Civil Grand Jury Report "Show Me the Money: Financial Transparency Needed"

SHOW ME THE MONEY: FINANCIAL TRANSPARENCY NEEDED



2022 Santa Clara County
Civil Grand Jury

December 14, 2022

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GLOSSARY AND ABBREVIATIONS

Government Code, Section 41004 California Government Code section 41004 states: “Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body.”

Treasurer’s Reports The reports required by Government Code section 41004 may have various styles and titles. For purposes of this report, the Civil Grand Jury will refer to these reports throughout as "treasurer's reports."

Charter City Article XI, section 3(a) of the California Constitution authorizes the adoption of a city charter and provides that the charter has the force and effect of state law. Article XI, section 5(a), the "home rule" provision, grants to charter cities the ability to govern over "municipal affairs."

There are six charter cities in Santa Clara County: San José, Palo Alto, Santa Clara, Sunnyvale, Gilroy, and Mountain View.

General Law City A general law city may only have a form of government authorized by state general law. A city that has not adopted a charter is bound by the state’s general laws even with respect to municipal affairs.

There are nine general law cities and towns in Santa Clara County: Los Altos, Los Altos Hills, Los Gatos, Milpitas, Campbell, Monte Sereno, Cupertino, Saratoga and Morgan Hill. The scope of this investigation is limited to general law cities.

GAAP Generally Accepted Accounting Principles: a set of accounting rules and standards established by the accounting industry.

SUMMARY

General law cities in California are required to comply with California Government Code section 41004 (Section 41004), which states, “at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body.” The benefit of the law is to ensure financial accountability and public transparency as well as to foster better fiscal affairs. Treasurer’s reports provide city councils with timely and accurate financial information necessary to make reliable and sound decisions.

The 2022 Santa Clara County Civil Grand Jury (Civil Grand Jury) found that there is widespread noncompliance with this state requirement throughout Santa Clara County (County) by the general law cities. As of the date of this report, six of the nine general law cities¹ in the County are noncompliant with this state law: Los Altos, Los Altos Hills, Los Gatos, Milpitas, Campbell, and Monte Sereno. Additionally, the City of Cupertino was initially noncompliant until the city took corrective action during the Civil Grand Jury’s investigation. The City of Saratoga and City of Morgan Hill were the only two cities compliant prior to the investigation.

Based on responses from city officials, the Civil Grand Jury determined that there is a widespread misunderstanding among these general law cities in the County regarding Section 41004 reporting requirements. The Civil Grand Jury recommends that the noncompliant cities – Los Altos, Los Altos Hills, Los Gatos, Milpitas, Campbell, and Monte Sereno – comply with Section 41004.

¹ The Town of Los Altos Hills and the Town of Los Gatos are general law cities.

BACKGROUND

The State Legislature established the office of city treasurer by enactment of California Government Code, Title 4 - Government of Cities, Division 3 - Other Officers, Chapter 3 - City Treasurer. The statutory duties for city treasurers may generally be found in the following sections:

Section 41001: The city treasurer shall receive and safely keep all money the treasurer receives.

Section 41002: (a) The city treasurer shall comply with all laws governing the deposit and securing of public funds and the handling of trust funds in their possession; and (b) if the city has issued bonds, the city treasurer shall use a system of accounting and auditing that adheres to generally accepted accounting principles.

Section 41003: The city treasurer shall pay out money only on warrants signed by legally designated persons.

Section 41004: Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body.

Pursuant to California Government Code section 36502, the city treasurer is an elective office. California Government Code section 36508 and California Elections Code section 9222 permit cities to submit to the electors the question of whether the city treasurer position should be an appointive office. In that instance, the financial duties assigned by the state statutes to the city treasurer are transferred from an elected treasurer to an appointed officer if approved by the electorate. Only one general law city in the County, Morgan Hill, continues to have an elected city treasurer, who serves for four years. All other cities in the County have opted to assign city treasurer duties to senior administrative staff.

METHODOLOGY

Upon receiving a complaint regarding Government Code section 41004 noncompliance in Cupertino, the Civil Grand Jury decided to expand the investigation to review all nine general law cities in the County: Los Altos, Los Altos Hills, Los Gatos, Milpitas, Campbell, Monte Sereno, Cupertino, Saratoga, and Morgan Hill. From March to August 2022, the Civil Grand Jury began the process by polling these Cities to determine if they produced treasurer's reports.

The Civil Grand Jury took the following steps:

- Contacted a total of 22 officials across nine cities who were responsible for tasks relevant to the topic of this report.
- Reviewed relevant sections of the California Government Code, California Elections Code, and examined the ordinances, policies, and memos of each city relevant to their city treasurer duties.
- Reviewed published city council and city committee agendas relevant to Section 41004.
- Reviewed other relevant city documents, including but not limited to financial audits, city organizational charts, and relevant job descriptions.
- Verified the six most recent treasurer's reports of each city, if submitted.

The Civil Grand Jury inspected the contents of each report to verify the inclusion of the required elements: monthly disbursements, receipts, and fund balances. The Civil Grand Jury also determined whether the reports were published at least once each month to be compliant with Section 41004.

It should be noted that most cities do not call their report "Treasurer's Report." [Appendix A](#) provides links to examples of compliant Section 41004 reports, showcasing variations in terms of report name, style, layout, and appearance.

The Civil Grand Jury used the 2011-2012 Solano County Civil Grand Jury report entitled "City Treasurer Functional Review" as a reference for this report.

INVESTIGATION

All interviews and email correspondence were designed to determine if general law cities complied with Section 41004. To be deemed compliant, a city must produce a financial document at least once each month that details all of the following: monthly disbursements, receipts, and fund balances – and must be filed with the legislative body. Six months of reports were requested to verify an existing track record. Data collection and verification took place from March to July 2022.

The results of this investigation are depicted in Table 1 below.

Table 1. Section 41004 Compliance Among Nine General Law Cities

City/Town	Compliant	Noncompliant
Los Altos		X
Los Altos Hills		X
Los Gatos		X
Milpitas		X
Campbell		X
Monte Sereno		X
Cupertino		X*
Saratoga	X	
Morgan Hill	X	

*During the investigation, Cupertino started complying with Section 41004.

There are a number of reasons for cities' noncompliance:

- Some cities were under the impression that the Section 41004 mandate was a discretionary guideline.
- Others adopted the practice of other cities that did not produce the requisite monthly reports.

However, the primary error among the cities was that they produced abbreviated reports that omitted required information such as receipts, disbursements, and fund balances. Some of the deficient reports lacked substance, with abbreviated information presented without context or details.

The Civil Grand Jury believes there is no fiscal impact involved in complying with Section 41004. Outside resources should not be required since existing staff already make some financial reports, collect this type of data, and should be able to produce treasurer's reports. Therefore, each of the deficient cities can be compliant with minimal effort or burden.

Noncompliant Cities and Towns

Los Altos

The City of Los Altos does not have an elected city treasurer. Further, the Los Altos Municipal Code does not specifically state which official performs the duties of a city treasurer. Los Altos Municipal Code Section 2.01.060, however, provides that the city manager is the administrative head of the city and is specifically empowered “keep the council at all times fully advised as to the financial condition and needs of the city.” In the City of Los Altos, monthly treasurer’s reports are not prepared and submitted to the city clerk in accordance with Section 41004.

At the time of the Civil Grand Jury inquiry in June 2022, the City of Los Altos did not submit any treasurer’s reports. According to the City of Los Altos, Government Code section 37208 indemnified them from the Section 41004 mandate. However, the language of Government Code Section 37208 refers to payroll warrants or checks and makes no mention of the reporting required by Section 41004, which requires a report of “receipts, disbursements and general fund balances.” Moreover, the language of Government Code Section 37208 neither excuses a city from complying with Section 41004 nor makes any reference to Section 41004.

Further, the city erroneously noted that its Generally Accepted Accounting Principles (GAAP) policy on financial reporting excused noncompliance with Section 41004 reporting requirements. In 2015, the city adopted a “Financial Policy” that reads in part, “The city’s accounting and financial reports are to be maintained in accordance with GAAP.” GAAP accounting does not address the Section 41004 mandated requirements.

The Civil Grand Jury determined that the City of Los Altos does not produce treasurer's reports and thus is noncompliant.

Los Altos Hills

The Town of Los Altos Hills does not have an elected city treasurer. The town's Municipal Code is silent on who performs the duties of the treasurer; however, the Civil Grand Jury learned that the treasurer responsibilities fall to the director of administrative services.

The Civil Grand Jury received monthly treasurer's reports in June 2022. Upon inspection, however, they contained only disbursements and lacked receipts as well as fund balances; thus the reports are incomplete and noncompliant.

Los Gatos

The Town of Los Gatos does not have an elected city treasurer. The town's Municipal Code Section 2.30.035 delegates the responsibility of the treasurer and the ability to assign those duties to the town manager. The director of finance is responsible for the town's financial matters. The Town of Los Gatos produces quarterly reports, not monthly reports as required by Section 41004. While the disbursements, receipts, and fund balances are in the reports, they must be published at least once each month to comply with Section 41004. Because the production intervals are quarterly, the Town of Los Gatos is not in compliance.

Milpitas

The City of Milpitas does not have an elected city treasurer. Milpitas Municipal Code section VI-1-3.02 vests the duties of a city treasurer with the city manager, who is empowered to appoint a city treasurer pursuant to Section VI-1-3.04. In the City of Milpitas, the finance director produces weekly disbursement reports, quarterly receipt and investment reports for the general and special districts' funds, and annual reports for all other reporting.

At the time of inquiry in June 2022, the Civil Grand Jury noted well-prepared reports. However, the frequency of report submission does not meet Section 41004 criteria, which requires monthly reports. Reports showing all receipts, disbursements, and fund balances must be filed with the city clerk at least once each month. Due to submission infrequency, the City of Milpitas is not in compliance.

Campbell

In November of 2010, voters in the City of Campbell approved Measure O, which changed the office of the city treasurer (and city clerk) from an elected to an appointed office. The City of

Campbell's Municipal Code is silent on who has officially assumed those duties.² The Civil Grand Jury learned that the city's finance director has the responsibilities of a treasurer and oversees the preparation of financial reports. The reports are prepared by the accounting clerk, reviewed by the finance manager and the finance director, and approved by the city manager for inclusion in the council packet.

At the time of inquiry in June 2022, 21 reports were submitted. The submitted documents had no payroll records and accounts payable balances with paid or disbursed funds. Additionally, the required information was not published at least once each month.

The City of Campbell's submitted reports do not comply with Section 41004 because disbursements, receipts, and balances are not filed at least once each month.

Monte Sereno

The City of Monte Sereno does not have an elected city treasurer. The Monte Sereno Municipal Code section 2.04.010 designates the city manager as the director of finance and tasks the city manager with "performing all duties of City treasurer as set forth in Government Code sections 41000 et seq." At the time of inquiry in June 2022, six treasurer's reports were received by the Civil Grand Jury. While the reports did contain the required fund balances, the receipts and disbursements were not compliant with the Section 41004 requirement.

Compliant Cities

Cupertino

The City of Cupertino does not have an elected city treasurer. The City of Cupertino's Municipal Code section 2.24.030 states:

The treasurer shall make monthly reports which conform to the requirements of Government Code Section 41004. Said reports shall be delivered to the City Council, city manager and made available for review by such other persons who may so request.

Until 2022, no staff member for the City of Cupertino had been preparing and delivering a monthly treasurer's report to the Cupertino City council. However, during the Civil Grand Jury's

² The City of Campbell's Municipal Code does not appear to have been updated. The City of Campbell's Municipal Code section 2.08.010 still states that the elected officers shall be those designated by general laws, which includes a city treasurer. Further, the code has other references to an elected city treasurer. (See Sections 2.16.040 [city treasurer compensation] and 2.16.010 [establishment of salaries].)

investigation, the belated monthly treasurer's reports for January and February 2022 were published and placed on the Cupertino Audit Committee agenda.

The Civil Grand Jury recognizes the action taken by the City of Cupertino as soon as it was brought to their attention. The City of Cupertino is now compliant with Section 41004 as of March 2022, despite the stated history of not submitting the required reports.

Saratoga

The City of Saratoga does not have an elected city treasurer. The City of Saratoga Municipal Code section 2-20.035 states that the city manager shall serve as the city treasurer and be responsible for "other duties and responsibilities as required by law to be performed by the City Treasurer." Thus, the city manager is responsible for the preparation and submission of monthly treasurer's reports.

The Civil Grand Jury verified in June 2022 that regular monthly treasurer's reports are filed with the City of Saratoga and are fully compliant with Section 41004. These reports can also be found by the public on the city's website. An example is shown in [Appendix A](#).

Morgan Hill

The City of Morgan Hill has an elected city treasurer. The treasurer, in conjunction with the finance director, prepares the treasurer's reports.

The Civil Grand Jury verified in June 2022 that regular monthly treasurer's reports are produced. The reports contain all the required components of disbursements, receipts, and fund balances. Thus, the City of Morgan Hill is compliant with Section 41004. A compliant Morgan Hill treasurer's report is shown in [Appendix A](#).

CONCLUSION

Within the County, there is widespread noncompliance with California Government Code section 41004 by the general law cities. The Civil Grand Jury commends the cities of Saratoga and Morgan Hill for being in full compliance and notes the City of Cupertino's quick action to become compliant. The Civil Grand Jury recommends that the noncompliant cities of Los Altos, Los Altos Hills, Los Gatos, Milpitas, Campbell, and Monte Sereno comply with Section 41004. This is to be done by producing treasurer's reports at least once each month containing the required disbursements, receipts, and fund balance information. The benefit of implementing this recommendation overshadows any limited cost impact since existing staff could compile the report. In short, there is great benefit in producing these reports, as they improve financial transparency to the residents of the cities.

FINDINGS AND RECOMMENDATIONS

It is recommended that noncompliant cities start producing treasurer's reports as required by law. Some cities produce abbreviated information that does not include requisite financial information as defined in state Government Code section 41004. Some cities produce requisite reports, but not on a monthly basis.

Finding 1

The City of Los Altos is not submitting monthly treasurer's reports in compliance with California Government Code section 41004.

Recommendation 1

The City of Los Altos should comply with Government Code section 41004 by submitting monthly treasurer's reports that include monthly disbursements, receipts, and fund balances and by filing those reports with the city. This recommendation should be implemented by March 15, 2023.

Finding 2

The City of Los Altos does not produce treasurer's reports in compliance with California Government Code section 41004. The reason provided for non-compliance was that the City of Los Altos' financial policy does not require the preparation and submission of treasurer's reports. It is an erroneous belief that internal policies excuse compliance with Government Code section 41004.

Recommendation 2

The City of Los Altos should amend its financial policy to require that monthly treasurer's reports be prepared and submitted in accordance with California Government Code section 41004 by March 15, 2023.

Finding 3

The Town of Los Altos Hills produces monthly treasurer's reports but the content of those reports lacks monthly disbursements, receipts, and fund balances required by California Government Code section 41004.

Recommendation 3

The Town of Los Altos Hills should update their existing monthly reports to include monthly disbursements, receipts, and fund balances by March 15, 2023.

Finding 4

The Town of Los Gatos produced reports that contain the required content but does not produce the treasurer's reports on a monthly basis as required by California Government Code section 41004.

Recommendation 4

The Town of Los Gatos should produce its reports on a monthly basis to comply with California Government Code section 41004 by March 15, 2023.

Finding 5

The City of Milpitas does not produce monthly treasurer's reports as required by California Government Code section 41004.

Recommendation 5

The Civil Grand Jury recommends that the City of Milpitas comply with California Government Code section 41004 by producing monthly treasurer's reports that include monthly disbursements, receipts, and fund balances by March 15, 2023.

Finding 6

The City of Campbell does not produce monthly treasurer's reports as required by California Government Code section 41004.

Recommendation 6

The City of Campbell should comply with California Government Code section 41004 by producing monthly treasurer's reports that include monthly disbursements, receipts, and fund balances by March 15, 2023.

Finding 7

The City of Monte Sereno does not produce monthly treasurer's reports as required by California Government Code section 41004.

Recommendation 7

The City of Monte Sereno should comply with California Government Code section 41004 by producing monthly treasurer's reports that include monthly disbursements, receipts, and fund balances by March 15, 2023.

Finding 8

When the Civil Grand Jury began this investigation, the City of Cupertino was not in compliance with California Government Code section 41004. However, starting in March 2022, the City of Cupertino began producing treasurer's reports compliant with Section 41004.

Recommendation 8

The City of Cupertino should maintain compliance with California Government Code section 41004. Continued compliance is recommended.

Finding 9

The Civil Grand Jury commends the City of Saratoga for producing monthly treasurer's reports that include disbursements, receipts, and fund balances. The City of Saratoga is in full compliance with California Government Code section 41004.

Recommendation 9

No recommendation.

Finding 10

The Civil Grand Jury commends the elected city treasurer for producing monthly treasurer's reports that include monthly disbursements, receipts, and fund balances. The City of Morgan Hill is in full compliance with California Government Code section 41004.

Recommendation 10

No recommendation.

REQUIRED RESPONSES

Pursuant to California Penal Code section 933(b) et seq. and California Penal Code section 933.05, the Civil Grand Jury requests responses from the following governing bodies:

Responding Agency	Findings	Recommendations
City of Los Altos	1, 2	1, 2

Responding Agency	Findings	Recommendations
Town of Los Altos Hills	3	3

Responding Agency	Findings	Recommendations
Town of Los Gatos	4	4

Responding Agency	Findings	Recommendations
City of Milpitas	5	5

Responding Agency	Findings	Recommendations
City of Campbell	6	6

Responding Agency	Findings	Recommendations
City of Monte Sereno	7	7

Responding Agency	Findings	Recommendations
City of Cupertino	8	8

Responding Agency	Findings	Recommendations
City of Saratoga	9	

Responding Agency	Findings	Recommendations
City Treasurer of Morgan Hill	10	

APPENDIX A: EXAMPLES OF COMPLIANT TREASURER'S REPORTS

On the following pages are two examples of monthly treasurer's reports that contain the required disbursements, receipts, and starting and ending fund balances and are therefore compliant with California Government Code section 41004. They are included to show that there are various names and formats that the reports may take. Following the examples are links to the full reports for ease of access.

SHOW ME THE MONEY: FINANCIAL TRANSPARENCY NEEDED

Example 1. Page 3 of 7 from Saratoga August 2022 Treasurer's Report

TABLE 1: CHANGES IN TOTAL FUND BALANCE

Fund Description	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) July	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 8/31/2022*
General Fund							
Restricted Fund Balances:							
Environmental Services Reserve	63,182	-	-	-	-	-	63,182
Committed Fund Balances:							
Hillside Stability Reserve	1,000,000	-	-	-	-	-	1,000,000
Assigned Fund Balances:							
Future Capital Replacement & Efficiency Project Reserve	2,796,663	-	-	-	-	-	2,796,663
Carryforwards Reserve	20,850	-	-	-	-	-	20,850
Facility Reserve	3,700,000	-	-	-	-	-	3,700,000
Unassigned Fund Balances:							
Working Capital Reserve	1,000,000	-	-	-	-	-	1,000,000
Fiscal Stabilization Reserve	3,150,000	-	-	-	-	-	3,150,000
Compensated Absences Reserve	331,481	-	-	-	-	-	331,481
Other Unassigned Fund Balance Reserve (Pre YE distribution)	3,348,282	(602,197)	682,632	(1,063,288)	-	-	2,365,429
General Fund Total	15,410,458	(602,197)	682,632	(1,063,288)	-	-	14,427,605
Special Revenue							
Landscape/Lighting Districts	977,231	-	44	(15,943)	-	-	961,331
ARPA Federal Grants	7,127,589	-	-	-	-	-	7,127,589
Special Revenue Fund Total	8,104,820	-	44	(15,943)	-	-	8,088,920
Debt Service							
Library Bond	805,311	(714,893)	3,312	-	-	-	93,730
Arrowhead Bond	481,242	(774)	-	(68,767)	-	-	411,701
Debt Service Fund Total	1,286,554	(715,667)	3,312	(68,767)	-	-	505,431
Internal Service Fund							
Liability/Risk Management	641,403	(759,998)	517	(6,948)	-	-	(125,027)
Workers Compensation	232,829	(2,185)	-	(54,431)	-	-	176,212
Office Support Fund	155,443	149	890	(2,027)	-	-	154,456
Information Technology Services	661,159	(30,693)	-	(98,942)	-	-	531,525
Vehicle & Equipment Maintenance	278,317	(5,541)	-	(20,466)	-	-	252,310
Building Maintenance	764,302	(22,267)	-	(60,637)	-	-	681,398
Vehicle & Equipment Replacement	1,201,979	-	-	-	-	-	1,201,979
Technology Replacement	798,337	-	-	-	-	-	798,337
Facility FFE Replacement	1,012,136	-	-	-	-	-	1,012,136
Internal Service Fund Total	5,745,905	(820,535)	1,407	(243,452)	-	-	4,683,326
Trust/Agency							
WVCWP Agency Fund	558,655	(29,955)	-	(41,044)	-	-	487,656
Trust/Agency Fund Total	558,655	(29,955)	-	(41,044)	-	-	487,656
Capital Project							
Street Projects	3,381,066	(34,069)	50,747	(355,438)	-	-	3,042,306
Park and Trail Projects	849,562	-	-	(4,143)	-	-	845,419
Facility Projects	623,475	4,458	-	(53,643)	-	-	574,289
Administrative Projects	1,429,921	7,042	8,205	(290)	-	-	1,444,879
Tree Fund Projects	52,541	-	-	-	-	-	52,541
Park In-Lieu Projects	1,172,555	-	-	-	-	-	1,172,555
CIP Grant Street Projects	(46,912)	-	-	-	-	-	(46,912)
CIP Grant Park & Trail Projects	-	-	100,000	-	-	-	100,000
CIP Grant Administrative Projects	(164,574)	-	-	-	-	-	(164,574)
CIP Grant ARPR/SLFRF Projects	-	-	-	(142,725)	-	-	(142,725)
Gas Tax Fund Projects	247,731	-	126,140	-	-	-	373,871
CIP Fund Total	7,545,366	(22,570)	285,092	(556,240)	-	-	7,251,649
Total City	38,651,757	(2,190,923)	972,487	(1,988,733)	-	-	35,444,587

*Fund balances are unaudited, and may not include all necessary adjustments. These figures will be updated in future reports once the FY 2021/22 independent audit is completed.

**Negative fund balance due to authorized spending of anticipated revenues

https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/1578630/Treasurer_Report_for_August_2022.pdf

SHOW ME THE MONEY: FINANCIAL TRANSPARENCY NEEDED

Example 2. Page 12 of 21 from Morgan Hill March 2022 Financial and Investment Report

 CITY OF MORGAN HILL CASH AND INVESTMENT REPORT FOR THE MONTH OF MARCH 31, 2022 FOR THE FISCAL YEAR OF 2021-22					
	Invested in Fund	Yield	Book Value End of Month	% of Total	Market Value
Investments					
State Treasurer LAIF - City	All Funds Pooled	0.37%	\$ 45,441,165	25.03%	\$ 45,324,795
2015 Wastewater Rev Bonds - CIP	Wastewater Fund	0.37%	16,505,883	9.09%	16,463,614
Federal Issues	All Funds Pooled	0.94%	98,042,404	54.01%	94,770,480
US Treasury Notes	All Funds Pooled	1.73%	6,437,395	3.55%	4,489,470
Certificate of Deposits	All Funds Pooled	0.45%	500,000	0.28%	499,998
Dreyfus Treas Cash Management Acct	All Funds Pooled	0.16%	85,113	0.05%	85,113
	SUBTOTAL		\$ 167,011,960	92.00%	\$ 161,633,469
Bond Reserve Accounts - held by trustees					
Zions Bank - Civic Center/Library Facility					
Blackrock Liq Fund	Debt Service	0.01%	3	0.00%	3
Zions Bank - MH Police Facility Lease Revenue Bonds					
Blackrock Liq Fund	Debt Service	0.01%	4	0.00%	4
BNY - RDA Bonds					
Dreyfus Cash Mgmt 521	Successor Fund	0.01%	6,262,932	3.45%	6,262,932
Zions Bank - MH Ranch 2015					
Blackrock Liq Funds Fed Fund -DI -2015	Agency Fund	0.01%	614,302	0.34%	614,302
Zions Bank - Madrone Bus Park Taxable/ Tax Exempt 2015					
Blackrock Liquidity Temp Fund-2015	Agency Fund	0.01%	596,450	0.33%	596,450
	SUBTOTAL		7,473,690	4.12%	7,473,690
Other Cash/Deposits					
General Checking	All Funds		1,825,901	1.01%	1,825,901
Workers' Comp Administrators	Workers' Comp		30,000	0.02%	30,000
Petty Cash & Emergency Cash	General Fund		7,112	0.00%	7,112
CALPERS CERBT - OPEB Trust			3,487,404	1.92%	4,194,950
PARS - PENSION Trust			1,700,000	0.94%	1,987,827
	SUBTOTAL		7,050,417	3.88%	8,045,789
Total Cash and Investments			\$ 181,536,067	100.00%	\$ 177,152,949

** As of 02/28/2022

CASH ACTIVITY SUMMARY FY 2021-22			
Fund Type	07/1/21 Balance	Change in Cash Balance	3/31/2022 Balance
General Fund	\$ 19,007,873	\$ 1,673,604	\$ 20,681,477
Community Development	1,077,499	74,934	1,152,433
RDA Successor Agency (except Housing)	508,427	5,755,321	6,263,749
Housing Successor Agency/ CDBG	4,307,419	334,589	4,642,008
Water - Operations	2,573,349	431,704	3,005,052
Water Other	15,405,786	3,097,753	18,503,539
Sewer - Operations	1,593,140	1,632,205	3,225,345
Sewer Other	57,221,072	(3,033,264)	54,187,808
Other Special Revenue	7,425,644	1,105,689	8,531,334
Streets and Capital Projects (except RDA)	37,931,830	(173,075)	37,758,756
Debt Service	337,123	(32,855)	304,268
Internal Service	19,378,242	1,128,766	20,507,008
Agency Funds (assessment dists./refundable deposits)	3,356,940	(583,651)	2,773,290
Total	\$ 170,124,346	\$ 11,411,721	\$ 181,536,067

<https://www.morgan-hill.ca.gov/DocumentCenter/View/40944/March-2022-Financial-and-Investment-Report-PDF>

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Los Gatos Municipal Code 2.30.035.

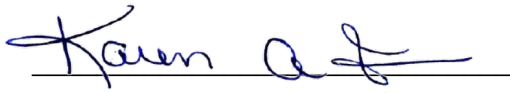
Milpitas Municipal Code VI-1-3.04.

Interviews

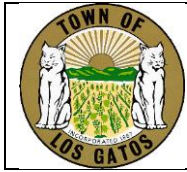
Interviews were conducted with 16 individuals between April 25, 2022, and June 16, 2022.

SHOW ME THE MONEY: FINANCIAL TRANSPARENCY NEEDED

This report was **ADOPTED** by the 2022 Santa Clara County Civil Grand Jury on this 14th day of December, 2022.

A handwritten signature in blue ink, appearing to read "Karen af", written over a horizontal line.

Karen Enzensperger
Foreperson



TOWN OF
LOS GATOS
CALIFORNIA

COUNCIL POLICY MANUAL

Small Town Service

Community Stewardship

Future Focus

TITLE: Investment Policy

POLICY NUMBER: 4-02

EFFECTIVE DATE: 11/1/16

PAGES: 8

ENABLING ACTIONS: 2016-063

**REVISED DATES: 5/16/17;5/15/2018;
9/3/2019; 11/03/2020, 1/17/2023**

APPROVED:

PURPOSE

The Town of Los Gatos (the "Town"), incorporated in 1887, is located approximately 60 miles south of San Francisco, in the southwestern portion of Santa Clara County. The Town operates under the Council/Manager form of government. The Town Council is the legislative body for the Town. It has five members elected to serve staggered four year terms. The Town Manager is appointed by the Town Council.

The Town Council has adopted this Investment Policy in order to establish the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the funds of the Town. All Town funds will be invested in accordance with this Investment Policy and with applicable sections of the California Government Code.

This Investment Policy was originally adopted by the Town Council of the Town of Los Gatos November 1, 2016. Town Council adopted revisions replace any previous investment policy or investment procedures of the Town.

SCOPE

This Investment Policy applies to all of the Town's short-term operating funds. These funds are described in the Town's annual financial report and include, but are not limited to:

General Fund

Special Revenue Funds

Capital Project Funds

Debt Service Funds

Enterprise Fund

Internal Service Funds

Fiduciary Funds

ATTACHMENT 2

TITLE: Investment Policy	PAGE: 2 of 10	POLICY NUMBER: 4-02
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Specifically excluded from this Investment Policy are amounts which are held by a trustee or fiscal agent and pledged as payment or security for bonds or other indebtedness, obligations under a lease, or obligations under certificates of participation. Such funds are invested in accordance with statutory provisions, ordinance, resolution, or indenture governing the issuance of the obligations. In addition, this Investment Policy is not applicable to the Town's Deferred Compensation Plan. These investments are directed by each employee participant in accordance with the rules of the Deferred Compensation Plan.

POLICY

OBJECTIVES

The Town's funds shall be invested in accordance with all applicable Town policies and codes, State statutes, and Federal regulations, and in a manner designed to accomplish the following objectives, which are listed in priority order:

1. Preservation of capital and protection of investment principal.
2. Maintenance of sufficient liquidity to meet anticipated cash flows.
3. Attainment of a market value rate of return.
4. Diversification to avoid incurring unreasonable market risks.

DELEGATION OF AUTHORITY

Management responsibility for the Town's investment program is delegated annually by the Town Manager to the Town Treasurer/Finance Director (the "Treasurer") pursuant to California Government Code Section 36510. The Treasurer may delegate the authority to conduct investment transactions and to manage the operation of the investment portfolio to other specifically authorized staff members. The Treasurer shall maintain a list of persons authorized to transact securities business for the Town. No person may engage in an investment transaction except as expressly provided under the terms of this Investment Policy.

The Treasurer shall develop written administrative procedures and internal controls, consistent with this Investment Policy, for the operation of the Town's investment program. Such procedures shall be designed to prevent losses arising from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees.

The Town may engage the support services of outside investment advisors in regard to its investment program, so long as it can be demonstrated that these services produce a net financial advantage or necessary financial protection of the Town's financial resources.

PRUDENCE

The standard of prudence to be used for managing the Town's investments shall be California Government Code Section 53600.3, the prudent investor standard which states, "When

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investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

The Town's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The Town recognizes that no investment is totally without risk and that the investment activities of the Town are a matter of public record. Accordingly, the Town recognizes that occasional measured losses may occur in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the Town.

The Treasurer and authorized investment personnel acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that the deviations from expectations are reported in a timely fashion to the Town Council and appropriate action is taken to control adverse developments.

ETHICS AND CONFLICTS OF INTEREST

Elected officials and Town employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or could impair or create the appearance of an impairment of their ability to make impartial investment decisions. Elected officials and Town employees shall disclose to the Town Council any business interests they have in financial institutions that conduct business with the Town and they shall subordinate their personal investment transactions to those of the Town. In addition, the Town Manager and the Treasurer shall file a Statement of Economic Interests each year pursuant to California Government Code Section 87203 and regulations of the Fair Political Practices Commission.

SOCIALLY RESPONSIBLE INVESTING

In addition to and subordinate to the objectives set forth above, investment of funds should be guided by the following socially responsible investment goals when investing in corporate securities and depository institutions. Investments shall be made in compliance with the responsible investment goals to the extent that such investments achieve substantially equivalent safety, liquidity and yield compared to other investments permitted by state law.

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(1) Environmental, Social Responsibility and Governance Concerns

Investments are encouraged in entities that support community well-being through safe and environmentally sound practices and fair labor practices. Investments are encouraged in entities that support equality of rights regardless of sex, race, age, disability or sexual orientation. All corporate securities within the portfolio will be monitored by an independent third-party who will provide the Town with an ESG (Environmental, Social Responsibility, and Governance) rating. The Town will prefer companies when appropriate that maintain a higher ESG rating as opposed to those companies that have a lower ESG Rating.

(2) Community Investments

Investments are encouraged in entities that promote community economic development, and investments are discouraged in entities that finance high-cost check-cashing and deferred deposit (payday-lending) businesses. Investments are encouraged in entities that have a demonstrated involvement in the development or rehabilitation of low-income affordable housing and have a demonstrated commitment to reducing predatory mortgage lending and increasing the responsible servicing of mortgage loans. Securities investments are encouraged in financial institutions that have a Community Reinvestment Act (CRA) rating of either Satisfactory or Outstanding, as well as financial institutions that are designated as a Community Development Financial Institution (CDFI) by the United States Treasury Department, or otherwise demonstrate commitment to community economic development.

AUTHORIZED SECURITIES AND TRANSACTIONS

All investments and deposits of the Town shall be made in accordance with California Government Code Sections 16429.1, 53600-53609 and 53630-53686, except that pursuant to California Government Code Section 5903(e), proceeds of bonds and any moneys set aside or pledged to secure payment of the bonds may be invested in securities or obligations described in the ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of the bonds. Any revisions or extensions of these code sections will be assumed to be part of this Investment Policy immediately upon being enacted. However, in the event that amendments to these sections conflict with this Investment Policy and past Town investment practices, the Town may delay adherence to the new requirements when it is deemed in the best interest of the Town to do so. In such instances, after consultation with the Town's attorney, the Treasurer will present a recommended course of action to the Town Council for approval. All investment limits specified in the Policy are calculated at the time of investment.

The Town has further restricted the eligible types of securities and transactions as follows:

1. United States Treasury bills, notes, bonds, or certificates with a final maturity not exceeding five years from the date of trade settlement.
2. Federal Agency Obligations for which the faith and credit of the United States are pledged for the payment of principal and interest and which have a final maturity not exceeding five years from the date of trade settlement. There is no limit on the percentage of the

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portfolio that can be invested in this category, however, no more than 20% of the town's total portfolio shall be invested in the combination of Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC) mortgage-backed securities.

3. Federal Instrumentality (government sponsored enterprise) debentures, discount notes, callable securities, step-up securities, and mortgage-backed securities (including FNMA and FHLMC) with a final maturity not exceeding five years from the date of trade settlement. There is no limit on the percentage of the portfolio that can be invested in this category, however, no more than 20% of the town's total portfolio shall be invested in the combination of GNMA, FNMA, and FHLMC mortgage-backed securities.
4. Prime Commercial Paper with a maturity not exceeding 270 days from the date of trade settlement with the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either sub-paragraph A. or sub-paragraph B. below:

A. The entity shall (1) be organized and operating in the United States as a general corporation, (2) have total assets in excess of five hundred million dollars (\$500,000,000) and (3) Have debt other than commercial paper, if any, that is rated "A" or higher by a NRSRO.

B. The entity shall (1) be organized within the United States as a special purpose corporation, trust, or limited liability company, (2) have program wide credit enhancements, including, but not limited to, over collateralization, letters of credit or surety bond and (3) have commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Purchases of eligible commercial paper shall not exceed:

- 10% of the outstanding commercial paper of any single corporate issuer,
- 5% of the Town's total portfolio in the commercial paper of any one issuer, and
- 25% of the Town's total portfolio.

5. Eligible Bankers Acceptances with a maturity not exceeding 180 days from the date of trade settlement, issued by a state or national bank with combined capital and surplus of at least \$250 million, whose deposits are insured by the FDIC, and whose senior long-term debt is rated at least A or the equivalent by a NRSRO at the time of purchase. No more than 5% of the Town's total portfolio shall be invested in banker's acceptances of any one issuer, and the aggregate investment in banker's acceptances shall not exceed 30% of the Town's total portfolio.

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6. Medium Term Notes (Corporate Notes) issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States, with a final maturity not exceeding five years from the date of trade settlement and rated at least “A” or the equivalent by a NRSRO. No more than 5% of the Town’s total portfolio shall be invested in the medium-term notes of any one issuer and the aggregate investment in medium term notes shall not exceed 30% of the Town’s total portfolio.

7. Municipal & State Obligations:

- A. Municipal bonds including registered notes or bonds of any of the 50 states, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the 50 states.
- B. In addition, bonds, notes, warrants, or other evidences of indebtedness of any local agency in California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, operated by the local agency, or by a department, board, agency, or authority of the local agency.

Municipal bonds must be rated at least “A” or the equivalent by a NRSRO with maturities not exceeding five years from the date of the trade settlement. No more than 5% of the Town’s total portfolio shall be invested in “A” rated bonds or in the bonds of any one municipality. In addition, the aggregate investment in municipal bonds may not exceed 30% of the total portfolio.

8. Certificates of Deposit with a final maturity not exceeding five years from the date of trade settlement. The aggregate investment in certificates of deposit shall not exceed 30% of the Town’s portfolio, and no more than 5% of the portfolio shall be held in any one deposit or allocated to any one issuer. Certificates of Deposit shall be issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank or by a federally licensed branch of a foreign bank provided that the senior debt obligations of the issuing institution are rated at least “A” or the equivalent by a NRSRO.

Negotiable certificates of deposit issued by a nationally or state-chartered bank, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposits are subject to the limitations of Section 53601(i), shall be fully insured by the FDIC with a corresponding FDIC certification number, and shall be delivered through the Depository Trust Company.

Non-Negotiable certificates of deposit issued by a nationally or state-chartered bank, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of non-negotiable certificates of deposit are subject to the limitations of Sections 53601(n) and 53638 and shall be fully insured by the FDIC with a corresponding FDIC certification number.

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Private sector entities may be used to place certificates of deposit subject to the limitations of Section 53601.8.

9. State of California's Local Agency Investment Fund (LAIF), pursuant to California Government Code Section 16429.1. The aggregate amount invested in LAIF shall not exceed the maximum allowed by the fund.
10. Money Market Funds registered under the Investment Company Act of 1940 that (1) are "no-load" (meaning no commission or fee shall be charged on purchases or sales of shares); (2) have a constant net asset value per share of \$1.00; (3) invest only in government securities, and (4) have a rating of at least AAA or the equivalent by at least two NRSROs. No more than 10% of the Town's total portfolio shall be invested in money market funds of any one issuer, and the aggregate investment in money market funds shall not exceed 20% of the Town's total portfolio.

Securities that have been downgraded to a level that is below the minimum ratings described herein may be sold or held at the Town's discretion. The portfolio will be brought back into compliance with Investment Policy guidelines as soon as is practical.

The foregoing list of authorized securities and transactions shall be strictly interpreted. Any deviation from it must be preapproved by resolution of the Town Council.

PORTFOLIO MATURITIES AND LIQUIDITY

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities. The Town will not invest in securities maturing more than five years from the date of trade settlement, unless the Town Council has by resolution granted authority to make such an investment at least three months prior to the date of investment.

SELECTION OF BROKER/DEALERS

The Treasurer shall maintain a list of broker/dealers approved for investment purposes, and it shall be the policy of the Town to purchase securities only from those authorized firms. To be eligible, a firm must meet at least one of the following criteria:

- Be recognized as a Primary Dealer by the Federal Reserve Bank of New York or have a primary dealer within their holding company structure; or
- Report voluntarily to the Federal Reserve Bank of New York; or
- Qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule).

In addition, authorized broker/dealers must be licensed by the State of California as a broker/dealer as defined in Section 25004 of the California Corporations Code.

The Town may engage the services of investment advisory firms to assist in the management of the portfolio and investment advisors may utilize their own list of approved broker/dealers.

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Such broker/dealers will comply with the selection criteria above and the list of approved firms shall be provided to the Town on an annual basis or upon request.

In the event that an external investment advisor is not used in the process of recommending a particular transaction in the Town's portfolio, authorized broker/dealers shall attest in writing that they have received and reviewed a copy of the this Investment Policy and shall be required to submit and annually update a Town approved Broker/Dealer Information request form, which includes the firm's most recent financial statements.

The Town may purchase commercial paper from direct issuers even though they are not on the approved broker/dealer list as long as they meet the criteria outlined in Item 4 of the Authorized Securities and Transactions section of this Investment Policy.

COMPETITIVE TRANSACTIONS

Each investment transaction shall be competitively transacted with authorized broker/dealers. At least three broker/dealers shall be contacted for each transaction and their bid and offering prices shall be recorded.

If the Town is offered a security for which there is no other readily available competitive offering, the Treasurer will document quotations for comparable or alternative securities.

SELECTION OF BANKS

The Treasurer shall maintain a list of banks and savings banks approved to provide banking services for the Town. To be eligible, a bank must be a member of the Federal Deposit Insurance Corporation, must qualify as a depository of public funds in the State of California as defined in California Government Code Section 53630.5 and shall secure deposits in excess of FDIC coverage in accordance with California Government Code Section 53652.

Authorized banks that accept deposits from the Town shall meet high standards with regard to liquidity, asset quality, profitability and capital adequacy. The Treasurer shall utilize a commercial bank rating service to perform credit analysis on banks seeking authorization. Banks that in the judgment of the Treasurer no longer offer adequate safety to the Town shall be removed from the Town's list of authorized banks.

SAFEKEEPING AND CUSTODY

The Treasurer shall select one or more financial institutions to provide safekeeping and custodial services for the Town. A Safekeeping Agreement shall be executed with each custodian bank prior to utilizing that bank's safekeeping services.

Custodian banks will be selected on the basis of their ability to provide services for the Town's account and the competitive pricing of their safekeeping related services.

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The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery versus payment basis. All securities shall be perfected in the name of the Town. Sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investment securities, purchased by the Town, will be delivered by book entry and will be held in third-party safekeeping by a Town approved custodian bank or its Depository Trust Company (DTC) participant account.

All Fed wireable book entry securities owned by the Town shall be held in the Federal Reserve System in a customer account for the custodian bank which will name the Town as "customer."

All DTC eligible securities shall be held in the custodian bank's DTC participant account and the custodian bank shall provide evidence that the securities are held for the Town as "customer."

PORTFOLIO PERFORMANCE

The investment portfolio shall be designed to attain a market rate of return throughout budgetary and economic cycles, taking into account prevailing market conditions, risk constraints for eligible securities, and cash flow requirements. The performance of the Town's investments shall be compared to the average yield on the U.S. Treasury security that most closely corresponds to the portfolio's weighted average effective maturity. When comparing the performance of the Town's portfolio, its rate of return will be computed net of all fees and expenses.

REPORTING

~~No less than quarterly~~ Every month, the Treasurer shall prepare a report ~~that conforms to Government Code Section 41004. of the investment earnings and performance results of the Town's investment portfolio.~~ The report shall be submitted to the Town Clerk within 45 days after the end of each ~~quarter~~ month for inclusion as an agenda item at the next scheduled Town Council meeting. The report shall include the following information:

1. Investment type, issuer, date of maturity, par value and dollar amount invested in all securities, and investments and monies held by the Town;
2. A market value as of the date of the report (or the most recent valuation as to assets not valued monthly) and the source of the valuation;
3. Realized and unrealized gains or losses calculated by amortized cost and by fair value;
4. The weighted average maturity of the portfolio and a percentage breakdown of the total portfolio by maturity;
5. A description of the funds, investments and programs that are under the management of contracted parties;
6. The Town of Los Gatos Environmental, Social and Governance (ESG) scores;

TITLE: Investment Policy	PAGE: 10 of 10	POLICY NUMBER: 4-02
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7. A statement of compliance with this Investment Policy or an explanation for non-compliance; and
8. A statement of the ability to meet expenditure requirements for the next six months, and an explanation of why money will not be available if that is the case.

PROCEDURES

This Investment Policy shall be adopted by resolution of the Town Council. Annually the Town Manger shall present this Investment Policy to the Town Council and the Finance Commission for review to ensure its consistency with the Town's investment objectives, current law and economic trends. Any amendments to this Investment Policy shall be approved by the Town Council.

APPROVED AS TO FORM:

Gabrielle Whelan, Town Attorney



TOWN OF LOS GATOS
OFFICE OF THE TOWN COUNCIL
(408) 354-6801
Council@LosGatosCA.gov

January 18, 2023

The Honorable Beth McGowen, Presiding Judge
Santa Clara County Civil Grand Jury
Superior Court Building
191 North First Street
San Jose, CA 95113

RE: Response to the Santa Clara Civil Grand Jury Report on “Show Me the Money: Financial Transparency Needed” Dated December 14, 2023

Dear Presiding Judge McGowen,

The Town would like to thank the Grand Jury for its work on this important topic. Enclosed please find the Town’s response to the Santa Clara Civil Grand Jury Report on “Show Me the Money, Financial Transparency Needed.”

The response was reviewed and approved by the Los Gatos Town Council on January 17, 2023. The Town is required to respond to one Finding and one Recommendation. The attached document contains the Town’s responses to the Finding and Recommendation. In summary, the Town agrees and already implemented the recommendation of monthly reporting.

If you have any questions, please contact me at Council@LosGatosCA.gov or (408) 354-6801.

Sincerely,

Maria Ristow
Town of Los Gatos Mayor

Enclosure

cc:

Karen Enzensperger, Foreperson, 2022 Civil Grand Jury
Clerk of the Santa Clara County Superior Court

ATTACHMENT 3

Town of Los Gatos Response to Grand Jury Report on Ballot Questions

Finding:

The Town of Los Gatos produced reports that contain the required content but does not produce the treasurer's reports on a monthly basis as required by California Government Code section 41004.

Recommendation:

The Town of Los Gatos should produce its reports on a monthly basis to comply with California Government Code section 41004 by March 15, 2023.

Response: The Town has already implemented changing the frequency of the reporting from quarterly to monthly.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 1/17/2023

ITEM NO: 14

DESK ITEM

DATE: January 17, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review and Approve the Town's Response to the 2022 Civil Grand Jury of Santa Clara County Report Entitled, "Show Me the Money: Financial Transparency Needed" and the Changes to the Town's Operating Portfolio Investment Policy as Reviewed by the Finance Commission

REMARKS:

On January 16, 2023, Finance Commission Vice Chair Phil Koen sent a request to Vice Mayor Badame to refer the proposed Investment Policy item back to the Finance Commission (see Attachment 4). The Vice Mayor requested that staff respond to the points in his email.

For its January 10th meeting, the Finance Commission was provided the Grand Jury Report, a staff report explaining the recommended response (though not the draft letter as that is for Council to consider), and a recommended change to the Town's Investment Policy. The Commission discussed the matter and the Chair provided suggested edits to the Investment Policy which have been forwarded to the Council for consideration for tonight. To provide some additional context to the meeting, provided below are comments from Chair Tinsley:

"I absolutely agree Phil but that's not what's on the agenda today. We have an item on the agenda today because we are noncompliant with the law and we need to become compliant with it. I totally agree, I like Saratoga's report a lot more than our own. I like seeing all those Internal Service funds, the monthly transactions, and Internal Service funds and capital projects. That would be very illuminating so I think we should talk about this. This should be a part of our workplan which we were not going to have time to talk about tonight, but we will in the next meeting. This should be part of our workplan to review the format of the report, but for now this specific item on the agenda just deals with complying with the law. And so, I would suggest

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

we update the Investment Policy to comply specifically with 41004 and in the future work ideas this year let's talk about improving the report format in a more general sense. Which I think is a much bigger topic and I agree Phil much more important but it's not on the agenda tonight."

In addition, in response to a question from Commissioner Koen, the Town Attorney has opined that Government Code Section 41004 requires that the Town file a document showing the Town's "disbursements, receipts, and fund balances" with the Town Clerk monthly. The Town Attorney reviewed the Town's investment report and it includes this information. The Grand Jury Report also states that the investment report satisfies the criteria of Government Code Section 41004. For these reasons, while there may be additional documents that would satisfy the requirement, staff proposes to currently use the Town's investment report to comply with Government Code Section 41004.

Staff informed the Finance Commission that it welcomes a future conversation about potential additional changes to the Investment Policy, including additional reporting as noted in the Report to the Town Council.

It is important to note, the Civil Grand Jury found the Town's report compliant with State law; however, it was the frequency of reporting that concerned the Grand Jury. The Town Investment Report includes the Town's Cash Fund Balances, the money that is available for investment.

In regards to the suggested iterative process between staff and the Finance Commission, it is not practical given the lean resources of the Town to have every staff report that summarizes the work of the Finance Commission to be reviewed by the Commission prior to Council consideration. Members are welcome to provide additional information in the form of public comment which can then be forwarded to the Town Council, such as the one from Vice Chair Koen dated January 16, 2023. This is the Town's practice with all of its Boards, Committees, and Commissions.

It is inefficient for the Town's limited resources to revisit or refer issues back to the Finance Commission that have already come before the Finance Commission. For example, the Finance Commission has important work to do at its February meeting, including a review of the Mid-Year Budget Report, Five-Year Forecast, and its budget recommendations to Town Council. Because of Measure A, the Town is under a compressed schedule to post a complete and balanced Proposed Operating and Capital Budget by mid-April. To meet this deadline, the Finance Commission should complete its work on these three February items as Council is scheduled to consider them on Feb. 21.

PAGE 3 OF 3

SUBJECT: Operating Portfolio Investment Policy Review and Recommendation to Town Council

DATE: January 17, 2023

In addition, Vice Chair Koen has submitted two other communications to staff after the January Finance Commission meeting requesting information that was provided at the meeting as well as additional data (Attachment 4). The Town does not have the financial resources to repeat what was stated at the meeting as the meeting recordings are available for the public and Finance Commission members, nor to address additional matters in between the monthly Finance Commission meetings while meeting the Measure A requirements.

Additional public comment from a resident is also included in Attachment 4.

Attachments previously distributed with the Staff Report:

1. 2021-22 Civil Grand Jury Report "Show Me the Money: Financial Transparency Needed"
2. Town Council Policy 4-02: Investment Policy - Redlined
3. Staff Response to the Civil Grand Jury Report "Show Me the Money: Financial Transparency Needed"

Attachment distributed with this Desk Item:

4. Public Comments received before 11:01 a.m. Tuesday January 17, 2023

From: Jak Van Nada

Sent: Tuesday, January 17, 2023 10:58 AM

To: Wendy Wood <WWood@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>; Gabrielle Whelan <GWhelan@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Rob Moore; Rob Rennie <RRennie@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>

Subject: 1-17-23 Council Meeting Item 14

EXTERNAL SENDER

1-17-23

Town Council Meeting Item 14

The purpose of the report requested by the Grand Jury was to increase transparency and give the Council more information upon which to make decisions. This is not what the Staff has proposed to do.

GC section 41004 mandates a monthly report “accounting of **all** receipts, disbursements and **fund balances**”. The investment report does not comply with GC 41004 since **all** fund balances and activity impacting the fund balances is not reported. This is a problem. Simply submitting the investment report monthly will not be sufficient to meet the “**all fund balances**” reporting requirements found in GC section 41004.

The Grand Jury report specifically cited the City of Saratoga’s monthly report as an example of what should be provided to the State. I have attached that report whose tables 1 and 2 fulfill the reporting requirement for GC 41004. Note that Saratoga in the Staff report specifically addresses the difference between a Cash and Investment summary and fund balance. And this is why GC section 41004 exists. That is why this report provides the TRANSPARENCY that the Town states they provide to the Council and to the citizens. The Town Council should instruct Staff to prepare tables 1 and 2 for Los Gatos and incorporate those tables into the investment report. By doing so, the town will be in compliance with all government mandated reporting.

Once again, the problem we have is not what you see, but rather, what you don’t see.

Jak Van Nada

Los Gatos Community Alliance



SARATOGA CITY COUNCIL

MEETING DATE: December 7, 2022

DEPARTMENT: Administrative Services

PREPARED BY: Ann Xu, Accountant
Agnes Pabis, Finance Manager

SUBJECT: Treasurer's Report for the Month Ended October 31, 2022

RECOMMENDED ACTION:

Review and accept the Treasurer's Report for the month ended October 31, 2022.

BACKGROUND:

California government code section 41004 requires that the City Treasurer submits to the City Clerk and the legislative body a written report and accounting of all receipts, disbursements, and fund balances. The Municipal Code of the City of Saratoga, Article 2-20, Section 2-20.035 designates the City Manager as the City Treasurer. This report is prepared to fulfill this requirement.

The following attachments provide various financial transaction data for the City of Saratoga's Funds collectively as well as specifically for the City's General (Operating) Fund, including an attachment from the State Treasurer's Office of Quarterly LAIF rates from the 1st Quarter of 1977 to the present.

FISCAL STATEMENT:

Cash and Investments Balance by Fund

As of October 31, 2022, the City's unaudited cash and investments totaled \$34,998,784. The City Council's adopted policy on the Working Capital Reserve Fund states that effective July 1, 2016: for cash flow purposes and to avoid the occurrence of dry period financing, pooled cash from all funds should not be allowed to fall below \$1,000,000. The total pooled cash balance of \$34.9 million exceeds the minimum amount required.

Cash Summary	
Comerica Bank	\$ 2,366,778
Deposit with LAIF	\$ 32,632,006
Total Cash	\$ 34,998,784

City's Current Financial Position

In accordance with California government code section 53646 (b) (3), the City is financially well positioned and able to meet its estimated expenditure requirements for the next six months. As of October 31, 2022, the City's financial position (Assets \$35.2M, Liabilities \$4.9M, and Fund Equity \$30.3M) remains very strong and there are no issues in meeting financial obligations now or in the foreseeable future.

The following Fund Balance schedule represents actual funding available for all funds at the end of the monthly period. This amount differs from the above Cash Summary schedule as assets and liabilities are components of the fund balance. As illustrated in the summary below, *Total Cash* is adjusted by the addition of *Total Assets* less the amount of *Total Liabilities* to arrive at the *Ending Fund Balance* – which represents the actual amount of funds available.

Adjusting Cash to Ending Fund Balance		
Total Cash	\$	34,998,784
Plus: Assets		177,614
Less: Liabilities		(4,876,570)
Ending Fund Balance	\$	30,299,828

ATTACHMENTS:

Table 1 – Change in Total Fund Balances by Fund

Table 2 – Change in Total Fund Balances by CIP Project

Chart 1 – Change in Investment Pool Balance by Month

Chart 2 – Local Agency Investment Fund (LAIF) Quarterly Apportionment Rates

TABLE 1: CHANGES IN TOTAL FUND BALANCE

Fund Description	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) Jul - Sep	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 10/31/2022
General Fund							
Committed Fund Balances:							
Hillside Stability Reserve	1,000,000	-	-	-	-	-	1,000,000
Assigned Fund Balances:							
Future Capital Replacement & Efficiency Project Reserve	3,509,000	-	-	-	-	-	3,509,000
Carryforwards Reserve	20,000	-	-	-	-	-	20,000
Facility Reserve	3,700,000	-	-	-	-	-	3,700,000
Unassigned Fund Balances:							
Working Capital Reserve	1,000,000	-	-	-	-	-	1,000,000
Fiscal Stabilization Reserve	3,250,000	-	-	-	-	-	3,250,000
Compensated Absences Reserve	330,000	-	-	-	-	-	330,000
Other Unassigned Fund Balance Reserve (Pre YE distribution)	2,601,458	(3,928,371)	1,162,030	(1,551,359)	-	-	(1,716,242) *
General Fund Total	15,410,458	(3,928,371)	1,162,030	(1,551,359)	-	-	11,092,758
Special Revenue							
Landscape/Lighting Districts	977,231	(57,805)	847	(17,579)	-	-	902,694
ARPA Federal Grants	7,127,589	-	-	-	-	-	7,127,589
Special Revenue Fund Total	8,104,820	(57,805)	847	(17,579)	-	-	8,030,283
Debt Service							
Library Bond	805,311	(710,933)	2,754	-	-	-	97,132
Arrowhead Bond	124,402	(69,541)	-	(767)	-	-	54,094
Debt Service Fund Total	929,714	(780,474)	2,754	(767)	-	-	151,226
Internal Service Fund							
Liability/Risk Management	641,403	(588,061)	-	(11,324)	-	-	42,018
Workers Compensation	232,829	(226)	1,535	(55,007)	-	-	179,130
Office Support Fund	155,443	4,072	615	(1,473)	-	-	158,658
Information Technology Services	661,159	(6,254)	797	(50,198)	-	-	605,505
Vehicle & Equipment Maintenance	278,317	17,846	-	(23,027)	-	-	273,136
Building Maintenance	764,302	30,844	-	(62,168)	-	-	732,977
Vehicle & Equipment Replacement	905,217	24,738	-	-	-	-	929,954
Technology Replacement	798,337	37,263	-	-	-	-	835,600
Facility FFE Replacement	941,400	46,334	-	-	-	-	987,735
Internal Service Fund Total	5,378,407	(433,444)	2,947	(203,197)	-	-	4,744,713
Trust/Agency							
WVCWP Agency Fund	558,655	197,263	-	(47,148)	-	-	708,769
Trust/Agency Fund Total	558,655	197,263	-	(47,148)	-	-	708,769
Capital Project							
Street Projects	3,381,066	(432,231)	132,561	(86,642)	-	-	2,994,755
Park and Trail Projects	849,562	(1,824)	-	(16,720)	-	-	831,019
Facility Projects	623,475	(155,704)	5,029	(2,098)	-	-	470,702
Administrative Projects	1,429,921	(50,295)	5,226	(14,050)	-	-	1,370,802
Tree Fund Projects	52,541	-	-	-	-	-	52,541
Park In-Lieu Projects	1,172,555	30,098	-	(62,663)	-	-	1,139,991
CIP Grant Street Projects	(46,912)	(2,131)	-	(12,228)	-	-	(61,271) *
CIP Grant Park & Trail Projects	-	100,000	-	(196,841)	-	-	(96,841) *
CIP Grant Administrative Projects	(164,574)	-	-	-	-	-	(164,574) *
CIP Grant ARPR/SLFRF Projects	-	(142,725)	-	(182,105)	-	-	(324,830) *
Gas Tax Fund Projects	247,731	258,409	127,538	(1,273,891)	-	-	(640,213) *
CIP Fund Total	7,545,366	(396,402)	270,354	(1,847,238)	-	-	5,572,079
Total City	37,927,419	(5,399,234)	1,438,931	(3,667,288)	-	-	30,299,828

*Negative fund balance due to authorized spending of anticipated revenues

TABLE 2: FUND BALANCES BY CIP PROJECT

CIP Funds/Projects	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) Jul - Sep	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 10/31/2022
Street Projects							
Annual Road Improvements	1,009,556	(137,971)	132,561	(37,196)	-	-	966,951
Roadway Safety & Traffic Calming	147,118	-	-	-	-	-	147,118
Citywide Traffic Signal Battery Backup	266,315	-	-	-	-	-	266,315
Portable Radar Feedback Sign	1,548	-	-	-	-	-	1,548
Local Roadway Safety Plan	3,410	(237)	-	(126)	-	-	3,047
Prospect/Saratoga Median Improvement	309,379	-	-	-	-	-	309,379
Village Clock	8,626	(6,066)	-	-	-	-	2,560
Big Basin Way/Blaney Trash Can Replacement	50,802	-	-	-	-	-	50,802
Annual Infrastructure Maintenance & Repairs	41,431	(13,705)	-	-	-	-	27,726
Guava Court Curb & Gutter Replacement	280,000	-	-	-	-	-	280,000
El Camino Grande Storm Drain Pump	104	-	-	-	-	-	104
Saratoga Village Crosswalk & Sidewalk Rehabilitation	49,055	(1,052)	-	-	-	-	48,004
Quito Road Sidewalk Improvements	43,370	-	-	-	-	-	43,370
Saratoga/Sunnyvale Road Sidewalk	92,158	-	-	-	-	-	92,158
Quito Road Sidewalk Rehabilitation and Gap Closure	182,609	-	-	-	-	-	182,609
Fourth Street Bridge Widening	99,837	-	-	(1,438)	-	-	98,399
Quito Road Bridge Replacement	132,197	-	-	(162)	-	-	132,035
Quito Road Bridge - ROW Acquisition	3,662	-	-	-	-	-	3,662
Annual Retaining Wall Maintenance & Repairs	222,450	3,209	-	(333)	-	-	225,327
Mt. Eden Erosion Repair	59,622	(3,209)	-	-	-	-	56,412
Continental Circle Landslide Stabilization	57,447	-	-	-	-	-	57,447
Pierce Road Retainment	300,290	(273,200)	-	(47,389)	-	-	(20,299) *
Mt. Eden Emergency Landslide	20,080	-	-	-	-	-	20,080
Total Street Projects	3,381,066	(432,231)	132,561	(86,642)	-	-	2,994,755
Parks & Trails Projects							
Park/Trail Repairs	32,873	-	-	-	-	-	32,873
Hakone Gardens Infrastructure Improvements	16,599	-	-	-	-	-	16,599
Hakone Pond Reconstruction	300,000	-	-	-	-	-	300,000
Beauchamps Park Playground Replacement	35,131	-	-	(11,418)	-	-	23,713
Guava/Fredericksburg Entrance	235,970	(1,824)	-	(5,302)	-	-	228,844
Saratoga Village to Quarry Park Walkway - Design	228,989	-	-	-	-	-	228,989
Total Parks & Trails Projects	849,562	(1,824)	-	(16,720)	-	-	831,019
Facility Projects							
Open Work Space	80,000	-	-	-	-	-	80,000
Civic Theater Improvements	-	4,458	5,029	-	-	-	9,486
PEG Funded Project	113,650	-	-	-	-	-	113,650
Community Center Improvement	24,513	(3,351)	-	-	-	-	21,162
Community Center Generator and EV Charging Stations	395,312	(156,811)	-	(2,098)	-	-	236,404
Library Building Exterior Maintenance	10,000	-	-	-	-	-	10,000
Total Facility Projects	623,475	(155,704)	5,029	(2,098)	-	-	470,702
Administrative and Technology Projects							
Safe Routes to School	-	(1,245)	-	-	-	-	(1,245) *
City Website/Intranet	16,948	-	-	-	-	-	16,948
Development Technology	20,538	552	13	(9,455)	-	-	11,648
Software Technology Management	118,695	20,916	5,213	-	-	-	144,824
LLD Initiation Match Program	25,000	-	-	-	-	-	25,000
Horseshoe Beautification	13,295	(290)	-	-	-	-	13,005
Business Renewal Program	6,643	-	-	(2,345)	-	-	4,298
Citywide Accessibility Assessment	28,066	-	-	-	-	-	28,066
City Art Program	53,669	-	-	-	-	-	53,669
Safe Routes to School Needs Assessment	15,748	-	-	-	-	-	15,748
El Quito Neighborhood Improvements	284,507	-	-	-	-	-	284,507
Parking District ADA Improvements and Rehabilitation	250,000	-	-	-	-	-	250,000
Storm Drain Master Plan	300,000	-	-	-	-	-	300,000
ADA Self Assessment	-	-	-	(2,250)	-	-	(2,250) *
General Plan Update	238,592	(70,228)	-	-	-	-	168,364
Wildfire Mitigation Program	4,067	-	-	-	-	-	4,067
Risk Management Project Funding	54,153	-	-	-	-	-	54,153
Total Administrative and Technology Projects	1,429,921	(50,295)	5,226	(14,050)	-	-	1,370,802

*Negative fund balance due to authorized spending of anticipated revenues

TABLE 2 (cont.): FUND BALANCES BY CIP PROJECT

CIP Funds/Projects	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) Jul - Sep	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 10/31/2022
Tree Fund Projects							
Citywide Tree Planting Program	26,666	-	-	-	-	-	26,666
Tree Dedication Program	25,875	-	-	-	-	-	25,875
Total Tree Fund Projects	52,541	-	-	-	-	-	52,541
Park In-Lieu Projects							
Orchard Irrigation & Tree Planting	10,947	-	-	-	-	-	10,947
Hakone Gardens Infrastructure	82,420	-	-	-	-	-	82,420
Trail Pet Stations	25,000	-	-	-	-	-	25,000
Saratoga Village to Quarry Park Walkway - Design	73,810	-	-	-	-	-	73,810
Unallocated Park In-Lieu Funds	970,299	31,343	-	-	-	-	1,001,642
Total Park In-Lieu Projects	1,172,555	30,098	-	(62,663)	-	-	1,139,991
CIP Grant Street Projects							
Local Roadway Safety Plan	(1,619)	(2,131)	-	(1,132)	-	-	(4,882) *
Prospect/Saratoga Median Improvement	(19,217)	-	-	-	-	-	(19,217) *
Citywide Signal Upgrade II	18	-	-	-	-	-	18
Saratoga Ave Sidewalk	(34,146)	-	-	-	-	-	(34,146) *
Village Sidewalk, Curb & Gutter - Phase II Construction	(91)	-	-	-	-	-	(91) *
Saratoga Village Crosswalk & Sidewalk Rehabilitation	(834)	-	-	-	-	-	(834) *
4th Street Bridge	-	-	-	(11,096)	-	-	(11,096) *
Quito Bridge Replacement	18,597	-	-	-	-	-	18,597
Quito Road Bridges - ROW Acquisition	(9,619)	-	-	-	-	-	(9,619) *
Total CIP Grant Street Projects	(46,912)	(2,131)	-	(12,228)	-	-	(61,271)
CIP Grant Park & Trail Projects							
Beauchamps Park Playground	-	-	-	(196,841)	-	-	(196,841) *
Park and Trail Fire Mitigation	-	100,000	-	-	-	-	100,000
Total CIP Grant Park & Trail Projects	-	100,000	-	(196,841)	-	-	(96,841)
CIP Grant Administrative Projects							
CDD Software/ADA	(14,574)	-	-	-	-	-	(14,574) *
General Plan Update (LEAP)	(150,000)	-	-	-	-	-	(150,000) *
Total CIP Grant Administrative Projects	(164,574)	-	-	-	-	-	(164,574)
CIP Grant ARPA/SLFRF Projects							
Storm Water Master Plan	-	(88,055)	-	(139,398)	-	-	(227,453) *
Saratoga Village Water Improvement	-	(54,670)	-	(42,707)	-	-	(97,377) *
Total CIP Grant ARPA/SLFRF Projects	-	(142,725)	-	(182,105)	-	-	(324,830)
Gas Tax Fund Projects							
Annual Roadway Improvements	194,170	258,409	127,538	(1,273,891)	-	-	(693,774) *
Prospect/Saratoga Median Improvements	48,278	-	-	-	-	-	48,278
Big Basin Way Sidewalk Repairs	(1,802)	-	-	-	-	-	(1,802) *
Quito Road Bridges	7,085	-	-	-	-	-	7,085
Total Gas Tax Fund Projects	247,731	258,409	127,538	(1,273,891)	-	-	(640,213)
Total CIP Funds	7,545,366	(396,402)	270,354	(1,847,238)	-	-	5,572,079

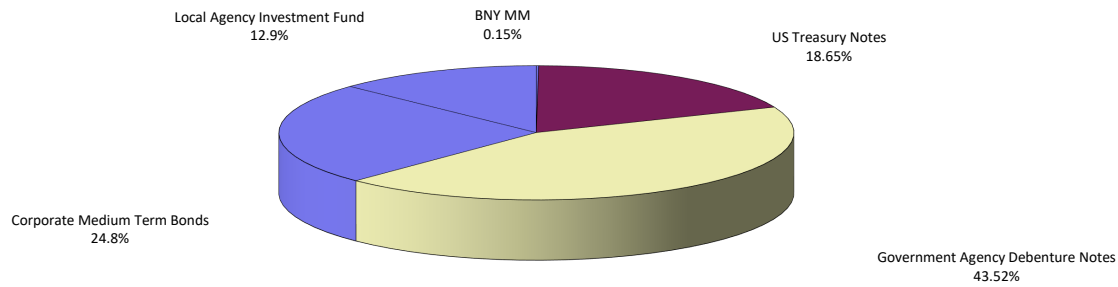
*Negative fund balance due to authorized spending of anticipated revenues

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
November 30, 2022

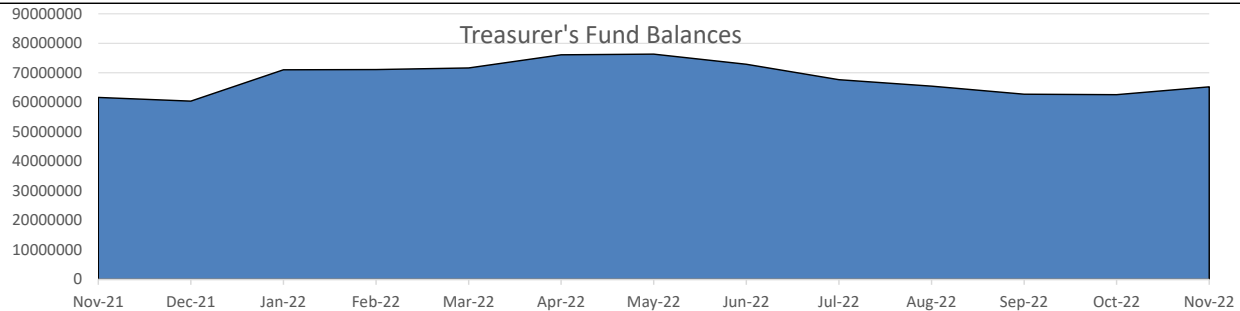
	Month	YTD
Fund Balances - Beginning of Month/Period	\$62,569,239.63	\$72,886,942.83
Receipts	5,801,425.93	20,163,060.09
Disbursements	(3,096,678.62)	(27,776,015.98)
Fund Balances - End of Month/Period	\$65,273,986.94	\$65,273,986.94

<u>Portfolio Allocation:</u>		<u>% of Portfolio</u>	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$79,480.09	0.15%	20% of Town Portfolio
US Treasury Notes	\$10,037,973.70	18.65%	No Max. on US Treasuries
Government Agency Debenture Notes	\$23,416,349.00	43.52%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$13,336,173.01	24.78%	30% of Town Portfolio
Local Agency Investment Fund	\$6,941,939.56	12.90%	\$75 M per State Law
Subtotal - Investments	53,811,915.36	100.00%	
Reconciled Demand Deposit Balances	<u>11,462,071.58</u>		
Total Treasurer's Fund	\$65,273,986.94		

Portfolio Investment Allocation



Treasurer's Fund Balances



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From: Phil Koen
Sent: Monday, January 16, 2023 10:04:43 AM
To: Mary Badame <MBadame@losgatosca.gov>
Subject: Agenda Item #14 - recommendations

EXTERNAL SENDER

Dear Vice Mayor Badame,

I am writing to you in my capacity as your citizen appointee to the Finance Commission. I am also the newly elected Vice Chair of the Finance Commission.

As a member of the Finance Commission, I am tasked with providing advice to assist the Town Council in making financial decisions and establishing the Town's fiscal policies and priorities. I am writing to you to provide my advice and guidance regarding Agenda Item #14 for the upcoming Town Council meeting. This item is requesting the Town Council to a) review and approve the Town's response to the 2022 Civil Grand Jury Report and b) review and approve changes to the Town's Operating Portfolio Investment Policy.

Since the Finance Commission was not consulted in the preparation of the Staff's memo for agenda item 14, the Commission was unaware of the memo's content. Furthermore, since no Finance Commission meeting was scheduled after the Staff memo was published and prior to the Town Council meeting, the only opportunity for a member of the Finance Commission to provide advice is through direct communication with the Council Member who appointed the citizen. Hence, the reason I am writing to you today.

Please be advised of the following:

Concern #1: Town's Response to the 2022 Civil Grand Jury report entitled "Show me the Money: Financial Transparency Needed"

The Town's response is listed as attachment #3 to agenda item #14. The summary statement in the cover letter to Judge McGowen which states, "In summary, the Town agrees and already implemented the recommendation of monthly reporting," is general enough to appear to be an acceptable response.

A major problem however exists with the "Findings." The issue is: what financial data is included in the report entitled "Portfolio Allocation and Treasurer's Fund Balances" and does the financial data fully comply with the required reporting under State Government Codes Sections 53607, 53646(b) and 41004? I have attached the first page of the November report which was included in the Town Council agenda packet. I will be referring to the area boxed in red.

The first line of the report shows, "fund balances – beginning of month/period." The amount \$72,886,942 supposedly represents the closing fund balances for FY 2022, which also represents the opening balance for FY 2023. However, this amount is NOT the total fund balances for the Town. As of the end of FY 2022 the Town's total fund balances combined was \$59,102,420, which represents the combined fund balances of all governmental funds (\$50,862,138) and all proprietary funds (\$8,240,282). These numbers were taken from the just-published FY 2022 Annual Comprehensive Financial Report (ACFR).

The amount that is reported as "fund balances" appears instead to be the total amount of cash and investments held by the Town. The difference between the two numbers represents the total liabilities

of the Town. Fund balance should represent the actual net funding available for all funds at the end of the reporting period and is computed by taking a fund's total assets (including cash and investments) less all liabilities. That is how a fund balance is calculated. There is no doubt that the "fund balance" as reported in the "Portfolio Allocation and Treasurer's Report Fund Balances" is not fund balance but rather the total amount of the investment portfolio. The two are not the same.

The Grand Jury report only focused on government code Section 41004 which specifically states, "at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances." There are other government codes, namely sections 53607 and 53646(b) that require monthly reporting on an investment portfolio, including but not limited to market value information, cost basis of investment, interest rates, weighted average maturity, etc. Apart from the area boxed in red, the Town's report addresses the reporting requirements for an investment portfolio as mandated by sections 53607 and 53646(b). To be clear, the Town's report does not provide the specific information required by section 41004.

Based on a reading of the footnotes of the Grand Jury report, the Town provided a copy of the report, "Portfolio Allocation and Treasurer's Fund Balances," to the Grand Jury. Without having specific knowledge of the source of the numbers being reported, it is only logical that the Grand Jury assumed that the numbers reported as "fund balances" would be the actual fund balances. Any casual reader of the report would naturally assume the same. We now know this is not correct.

Now that we have a correct understanding of what is reported, asserting that the finding, "Los Gatos produced reports that contain the required content... ..as required by California Government Code Section 41004," would be incorrect and inappropriate. I recommend that the Town fully comply with section 41004 and produce the required fund balance information. Furthermore, the Town should disclose to the Grand Jury that the Treasurer's Report does not include fund balances, but rather a total of the investment portfolio. The Grand Jury likely would appreciate this additional disclosure and full transparency.

The Grand Jury Report pointed to the City of Saratoga's "Changes in Total Fund Balance" as an excellent example of a treasurer's report "fully compliant with section 41004." I have attached Saratoga's Treasurer's Report for the month of October 2022 which contains Table 1 referenced by the Grand Jury. Please note that Saratoga's report specifically references that the report complies with section 41004 and is accomplished through Table 1 and Table 2. Table 1 and 2 provide an accounting for all receipts, disbursements, and fund balances for all funds, including CIP funds. To even the most casual observer, it is obvious that Saratoga's reporting is extensive and fully transparent of the net change in fund balances.

It is my recommendation that the Town produce the equivalent of Table 1 and Table 2, which would bring it into compliance with section 41004 while greatly improving financial transparency.

Concern #2: Staff's Report Discussion – "Finance Commission reviewed the proposed changes provided by staff and suggested one additional change to clarify that the monthly report will comply with Government Code Section 41004"

At the January 10, 2023 meeting of the Finance Commission, a discussion commenced concerning the redline changes to the Town's Investment Policy within a few minutes of a "hard stop" 5 pm deadline that had been previously established. I was in the process of making several suggestions of additional changes that should be made to the Investment Policy including but not limited to clarifying the specific Government Codes that apply to investing, managing, and reporting of the Town's investment portfolio,

such as sections 53607 and 53646 (b), and the reporting required to conform to section 41004. In the middle of the discussion, the meeting was terminated. It is inaccurate to suggest that the Commission had completed its review work and that there was only one additional suggested change to the Investment Policy. In fact, there are many changes that should be made.

Furthermore, there was no vote taken by the Commission to approve the redline version that is now before the Town Council. To have the Council “approve” this version of the Investment Policy prior to the Finance Commission completing its work would appear to be ignoring the spirit of Measure A and the Commission’s advice process which previously had been established in making changes to the Town’s financial policies.

My recommendation is to have the Town Council take no action on the Investment Policy at this meeting. Rather the Investment Policy should be sent back to the Finance Commission so the Commission can complete its work and present a revised Investment Policy to the Town Council later.

Concern #3: Staff’s Report Discussion – “Town Council approval of the staff and Commission recommendations will ensure the Town is in compliance with California Government Code Section 41004”

There are 2 separate issues here that need to be addressed. The first is the claim that the proposed redline changes to the Investment Policy are sufficient to “ensure” the Town is fully compliant with section 41004. To be clear, the redline changes only propose to increase the frequency of the reporting, moving from quarterly to monthly reporting. The changes do not address the adequacy of the financial data to be reported. This has been explained above and there is no need to cover this ground again.

The second issue is the implication that the Finance Commission took a formal vote and approved the redline version of the Investment Policy. This did not occur and can be verified by listening to the recording of the meeting.

In conclusion, for the Town to fully comply with section 41004 there are 2 steps that must be taken. First, the Town must implement substantially the same monthly reporting that the City of Saratoga produces in Tables 1 and 2 of their Treasurer’s Report. These reports will provide the Town Council and the residents a level of transparency the Town has never had before, thus ensuring timely financial information is available to all. By reporting for all fund revenues, expenditures, transfers in and out and ending fund balance monthly, the Town Council, Finance Commission, and members of the public will experience the “financial transparency needed” as identified by the Grand Jury. If this level of reporting is not implemented, the Town will not be in compliance with Government Code section 41004. .

The second step is to revise the Investment Policy to, among other items, reflect all government code sections that apply and to make other clarifying revisions. The Finance Commission should be allowed to complete the work that it started. There is no reason for the Town Council to act on this redline version prior to the Commission completing its work.

Thank you for your consideration of these points. Please let me know if you have any questions.

Phil Koen

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From: [Phil Koen](#)
To: [Gitta Ungvari](#)
Cc: [Arn Andrews](#); ricktinsley1@gmail.com
Subject: Follow up to Investment Report discussed at the FC meeting
Date: Friday, January 13, 2023 3:09:13 PM
Attachments: [Pages from FY-202122-ACFR - \(5\).pdf](#)
[July investment report.pdf](#)

EXTERNAL SENDER

Hello Gitta,

It was great to see you on the FC meeting call this past Tuesday. I appreciate your patience in answering my questions. There is a lot to absorb, and I only learn by asking questions. I'll try to keep them to a minimum going forward.

I would like to circle back to the investment report. I have attached a page from the July Investment Report which shows a "beginning funds balances" totaling \$72,886,942. I have also attached a portion of footnote #2 from the ACFR which shows the total cash and investments held by the Town and Fiduciary Funds totaling \$74,096,537. Can you explain the source of the \$72,886,942 shown on the Investment Report?

Also, could you clarify the description "Fund Balances" on the investment report. What does that exactly mean? As far as I can tell this is not the total of all fund balances for the Town. According to the ACFR, the total fund balance for all Governmental Funds was \$50,862,138 and the fund balance for all Proprietary Funds was \$8,240,282. That would mean the total fund balances for the Town was \$59,102,420, leaving an unexplained gap of \$13,784,522.

I think it is important that we use terminology which is accurate to avoid any confusion for members of the TC and the public. My concern here is the term "funds balances" as used on the Investment report really means the total of all financial assets being invested. Could you please clarify what the term "funds balances" as used on the investment report means.

All the best,

Phil Koen

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From: [Phil Koen](#)
To: [Arn Andrews](#)
Cc: ricktinsley1@gmail.com
Subject: Follow up to the FC meeting
Date: Thursday, January 12, 2023 4:59:37 PM

EXTERNAL SENDER

Hello Arn,

Just a quick follow up note regarding information requests from the FC meeting last Tuesday evening. Staff was going to provide the FC with the gross amount of the market-to-market adjustment that was netted in the “net” investment income of \$(1,404,563).

Also, there were a couple of questions regarding the balance of the development deposits for General Plan Revenue (\$698,302 in revenue was recognized) and the balance of the development deposits for the Below Market Housing Program (\$1,200,000 in revenue was recognized). I am assuming that all these various development fee deposits are consolidated and reported in the \$6.8m deposits on the General Fund balance sheet. Is my understanding correct? How many different deposit accounts are consolidated into the \$6.8m?

I had one last question which I forgot to ask last. On page 35 of the transactions report, under the private purpose trust fund column there is a \$5,899,675 deduction. Could you provide some detail about this deduction?

Thank you.

Phil Koen

TOWN OF LOS GATOS, CALIFORNIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2022

The following table summarizes the Town's policy related to maturities and concentration of investments:

Investment Type	Maximum Maturity	Maximum Portfolio Percentage
US Treasury Obligations	5 years	None
US Agency Obligations	5 years	None
Bankers Acceptances	180 days	30%
Commercial Paper	270 days	25%
Medium Term Notes	5 years	30%
Collateralized CD's	5 years	30%
CA LAIF	NA	\$65 million
Money Market Funds	NA	20%

The following is a summary of the Town's Cash and Investments (stated at fair value) as of June 30, 2022:

Description	Available for Operations	Restricted	Total	Concentration of Credit Risk	Rating	Input Level	Time to Mature (Years)	Weighted Average Maturity
US Treasury Securities	\$ 15,212,639	\$ -	\$ 15,212,639	29.29%	n/a	2	0-3	1.35
Government Agencies	15,995,919	-	15,995,919	30.79%	n/a	2	0-4	1.52
Corporate Bonds	13,664,652	-	13,664,652	26.31%	A3	2	0-3	1.33
Market Mutual Funds	253,599	-	253,599	0.49%	Not Rated	2	n/a	n/a
LAIF	6,816,565	-	6,816,565	13.12%	Not Rated	n/a	n/a	n/a
Total Investments	51,943,374	-	51,943,374	100.00%				
Cash Deposits with Banks	19,349,009	2,094,363	21,443,372					
Money Market Accounts	17,391	-	17,391					
Pension Trust	-	690,000	690,000					
Cash on Hand at Town	2,400	-	2,400					
Total Cash and Investments	\$ 71,312,174	\$ 2,784,363	\$ 74,096,537					

Cash and investments are classified in the financial statements as shown below, based on whether or not their use is restricted by Town debt or Agency agreements.

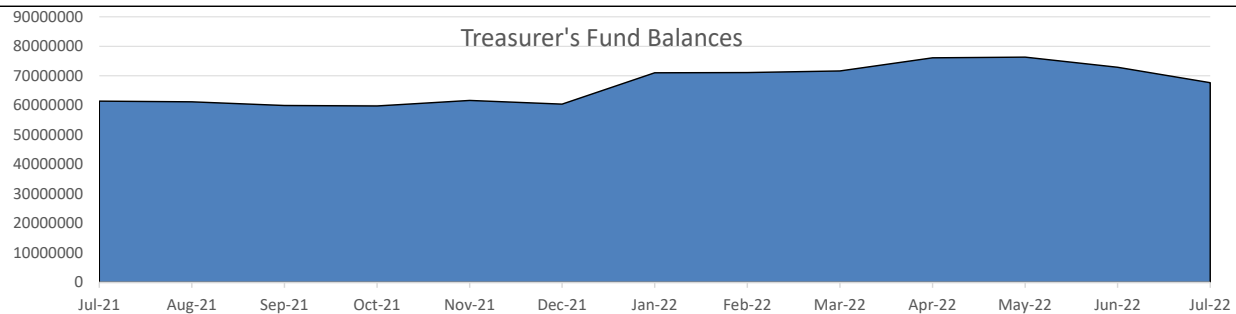
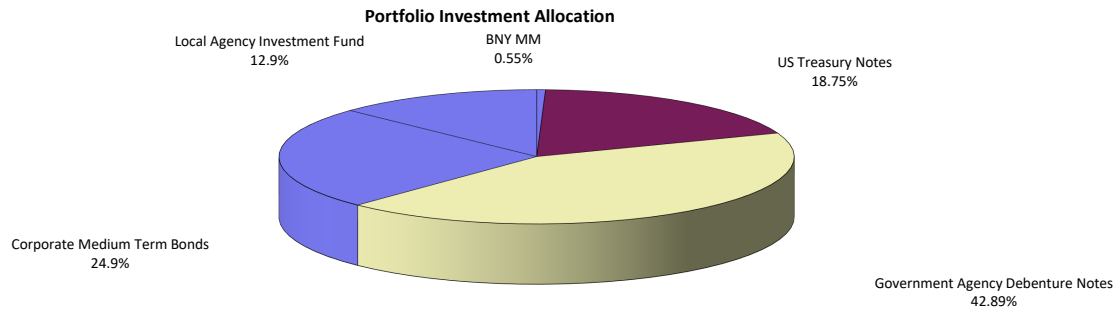
Description	Total Town	Fiduciary Funds	Totals
Cash and Investments Available for Operations	\$ 69,392,044	\$ 1,920,130	\$ 71,312,174
Restricted Cash and Investments	819,929	1,964,434	2,784,363
Total Cash and Investments	\$ 70,211,973	\$ 3,884,564	\$ 74,096,537

$$70,211,973 + 1,920,130 = 72,132,103$$

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
July 31, 2022

	Month	YTD
Fund Balances - Beginning of Month/Period	\$72,886,942.83	\$72,886,942.83
Receipts	6,045,229.86	6,045,229.86
Disbursements	(11,248,320.72)	(11,248,320.72)
Fund Balances - End of Month/Period	<u>\$67,683,851.97</u>	<u>\$67,683,851.97</u>

<u>Portfolio Allocation:</u>		% of Portfolio	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$292,775.99	0.55%	20% of Town Portfolio
US Treasury Notes	\$10,046,915.87	18.75%	No Max. on US Treasuries
Government Agency Debenture Notes	\$22,975,336.40	42.89%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$13,339,223.01	24.90%	30% of Town Portfolio
Local Agency Investment Fund	<u>\$6,918,398.79</u>	<u>12.91%</u>	<u>\$75 M per State Law</u>
Subtotal - Investments	53,572,650.06	100.00%	
Reconciled Demand Deposit Balances	<u>14,111,201.91</u>		
Total Treasurer's Fund	<u>\$67,683,851.97</u>		



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From: [Phil Koen](#)
To: [Gabrielle Whelan](#); [Arn Andrews](#); [Ron Dickel](#)
Cc: [Laurel Prevetti](#)
Subject: FY 23 Fund Balances Activity and Net Change.pdf
Date: Sunday, January 8, 2023 8:05:41 AM
Attachments: [FY 23 Fund Balances Activity and Net Change.pdf](#)

EXTERNAL SENDER

Hello Gabrielle,

Here is the Town's report of change in fund balances that I referenced in my earlier email. For some reason the attachment did not properly attach.

Thank you,

Phil Koen

FUND BALANCE ACTIVITY SUMMARY

FISCAL YEAR 2022/23

	7/1/22	Fiscal Year 2022/23 Proposed Budget					6/30/23
	Estimated	Plus	Transfers	Less	Transfers	Use of	Estimated
	Fund Balance	Revenues & Carryforwards	In	Expenditures & Carryforwards	Out	Reserves	Fund Balance
GENERAL FUND							
Unreserved Fund Balances							
<i>Undesignated Reserves</i>							
Available to be Appropriated	\$ -	\$ 49,466,931	\$ 538,536	\$ 49,637,932	\$ 3,006,978	\$ 2,639,443	\$ -
Restricted Fund Balances							
Pension Trust	690,000	-	-	-	-	390,000	1,080,000
Committed to:							
Budget Stabilization Reserve	5,991,566	-	-	-	-	-	5,991,566
Catastrophic Reserves	5,991,566	-	-	-	-	-	5,991,566
Pension/OPEB Reserve	300,000	-	-	-	-	-	300,000
Assigned to:							
Open Space Reserve	410,000	-	-	-	-	-	410,000
Sustainability	140,553	-	-	-	-	-	140,553
Capital/Special Projects	5,682,452	-	-	-	-	(2,350,000)	3,332,452
Compensated Absences*	1,649,917	-	-	-	-	-	1,649,917
Market Fluctuations	438,333	-	-	-	-	-	438,333
Measure G District Sales Tax	679,443	-	-	-	-	(679,443)	-
Rehab Loan (Nonspendable)	159,000	-	-	-	-	-	159,000
Total General Fund Reserves	\$ 22,132,830	\$ 49,466,931	\$ 538,536	\$ 49,637,932	\$ 3,006,978	\$ -	\$ 19,493,387
General Fund Undesignated Reserves reflect ongoing revenue, carryforward, transfer, expenditures, the net effect of the change in Designated Reserves, and the use of Undesignated Reserves.							
FY2022/23 Budgeted revenue (include \$1.6 million ARPA revenue replacements and \$0.9 OPEB 115 Trust reimbursement) and expenditure appropriations, and transfers to and from the General Fund. Authorized carryforwards reflect operating appropriations that were brought forward as a funding source. The actual carryforward amount will be determined at FY 2022/23 year-end, with funding offset by undesignated reserves. General Fund Reserve Policy requires a minimum of 25% of General Fund operating expenditures equally divided between the Budget Stabilization Reserve and Catastrophic Reserve. In FY 2015/16, Council established a General Fund Pension/Other Post Employment Benefits (OPEB) Reserve Account. At the same time, the Council revised the General Fund Reserve Policy to provide for a maximum of \$300,000 in General Fund Year End Savings upon year-end close to be deposited in the Pension/OPEB Reserve Account and used as authorized by Town Council. Undesignated Fund Balance is a year-end fund balance not yet identified by the Town Council for a specific purpose. The Town General Fund Reserve Policy requires full funding of the Catastrophic and Budget Stabilization Reserves, distribution to the Pension/OPEB Reserve, and any remaining balance to the Capital/Special Projects Reserve.							
SPECIAL REVENUE FUNDS							
Housing Conservation Program	\$ 177,241	\$ -	\$ -	\$ -	\$ -	\$ -	177,241
Community Dev Block Grant	(10,587)	-	-	-	-	-	(10,587)
Urban Run-Off Source Fund	416,611	359,950	-	190,911	-	-	585,650
Blackwell Assessment District	13,657	3,210	-	10,678	460	-	5,729
Kennedy Assessment District	22,101	10,605	-	17,410	1,510	-	13,786
Gemini Assessment District	36,407	4,750	-	12,148	610	-	28,399
Santa Rosa Assessment District	35,352	-	-	19,957	660	-	14,735
Vasona Assessment District	37,652	10,075	-	15,720	1,430	-	30,577
Hillbrook Assessment District	23,804	6,040	-	19,729	250	-	9,865
ARPA	-	1,304,696	-	1,304,696	-	-	-
Library Trust	82,598	70,500	-	95,000	-	-	58,098
Ness Trust Bequest	22,189	250	-	20,755	-	-	1,684
Betty McClendon Trust	88,005	1,000	-	1,000	-	-	88,005
Barbara J Cassin Trust	361,735	4,500	-	4,500	-	-	361,735
Total Special Revenue Funds Reserves	\$ 1,306,765	\$ 1,775,576	\$ -	\$ 1,712,504	\$ 4,920	\$ -	\$ 1,364,917

FUND BALANCE ACTIVITY SUMMARY

FISCAL YEAR 2022/23

	7/1/22 Estimated Fund Balance	Fiscal Year 2022/23 Proposed Budget					6/30/23 Estimated Fund Balance
		Plus		Less			
		Revenues & Carryforwards	Transfers In	Expenditures & Carryforwards	Transfers Out	Use of Reserves	
INTERNAL SERVICE FUNDS							
Liability Self-Insurance	\$ 638,860	\$ 429,249	\$ -	\$ 846,940	\$ -	\$ -	\$ 221,169
Worker's Comp Self-Insurance	818,420	1,033,315	-	1,840,000	-	-	11,735
Information Technology	2,793,817	714,309	-	983,975	700,000	-	1,824,151
Equipment Replacement	1,657,006	686,837	-	816,240	-	-	1,527,603
Facilities Maintenance	102,962	1,262,247	-	1,240,344	-	-	124,865
Total Internal Service Funds Reserves	\$ 6,011,065	\$ 4,125,957	\$ -	\$ 5,727,499	\$ 700,000	\$ -	\$ 3,709,523

Equipment Replacement Fund Balance is the accumulation of replacement funding-to-date for assets. Revenues are the pro-rated annual charges to departments for asset replacement, and expenditures reflect the cost of equipment up for replacement in this fiscal year. The Fund will continue to reallocate Fund Balance as a transfer to the General Fund for assets that have accumulated replacement costs and have been identified as no longer being part of the Replacement Schedule.

CAPITAL PROJECTS FUNDS							
GFAR	\$ 14,273,601	\$ 4,748,297	\$ 3,706,978	\$ 8,982,939	\$ 417,616	\$ -	\$ 13,328,321
Grant Funded CIP Projects	(3,689,292)	5,437,041	-	4,967,041	-	-	(3,219,292)
Storm Drain #1	1,135,466	49,680	-	-	-	-	1,185,146
Storm Drain #2	2,090,579	54,520	-	-	-	-	2,145,099
Storm Drain #3	(155,453)	880	-	-	-	-	(154,573)
Traffic Mitigation	381,319	-	-	-	10,000	-	371,319
Construction Tax-Undergrounding	3,257,936	52,490	-	-	-	-	3,310,426
Gas Tax	1,898,590	1,603,689	-	1,497,689	106,000	-	1,898,590
Total Capital Projects Funds Reserves	\$ 19,192,746	\$ 11,946,597	\$ 3,706,978	\$ 15,447,669	\$ 533,616	\$ -	\$ 18,865,036

GFAR, Grant Fund, Storm Drain Funds, and Gas Tax Fund Balances reflect the spending down of available funds in FY 2022/23 in line with the planned Capital Improvement Program. The GFAR and Grant Funds also include transfers-in to fund these planned projects. Traffic Mitigation Fund reflects a transfer out of \$10,000 for estimated annual administration fees. Grant Funded Projects Fund Balance reflects appropriations for incoming revenues and prior year carryforwards, which will result in either positive or negative fund balance depending on timing of receipts and budget. All grant projects net to zero at completion.

Successor Agency of the Los Gatos RDA Fund							
SA- Trust Fund	\$ 4,080,130	\$ 3,799,926	\$ -	\$ 3,799,877	\$ -	\$ -	\$ 4,080,179
Total SA of the Los Gatos RDA Funds Reserves	\$ 4,080,130	\$ 3,799,926	\$ -	\$ 3,799,877	\$ -	\$ -	\$ 4,080,179

TOTAL RESERVES	\$ 52,723,536	\$ 71,114,987	\$ 4,245,514	\$ 76,325,481	\$ 4,245,514	\$ -	\$ 47,513,042
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From: [Phil Koen](#)
To: [Gabrielle Whelan](#); [Arn Andrews](#); [Ron Dickel](#)
Cc: [Laurel Prevetti](#)
Subject: Update of Investment Policy - Agenda Item #7
Date: Sunday, January 8, 2023 8:00:29 AM
Attachments: [Update of Investment Policy.pdf](#)
[Pages from FY-2022-23-Operating-Budget\(2\).pdf](#)

EXTERNAL SENDER

Hello Gabrielle,

In reading the Staff report for agenda item #7, the purpose of the proposed changes to the Town's Investment Policy is to bring the policy into compliance with Government Code Section 41004. Additionally the Staff attached a report from the Civil Grand Jury entitled "Show Me the Money; Financial Transparency Needed" as supporting material.

Section 41004 states "at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements and fund balances". Please note that the code explicitly states the requirement is to provide a report and accounting of "fund balances". There is no mention in the code about reporting the Town's investment portfolio.

The Civil Grand Jury report included the City of Saratoga's Treasurer's Report which the Grand Jury found to be an excellent example of an acceptable report. In reviewing the report, which is attached, all of the Saratoga's fund balances are listed with columns showing current period revenues, expenditures, transfers in and out and ending balances for every fund. To be clear, this report does not discuss in any way the performance of the City's investment portfolio.

My question is how does the document described in the proposed Investment Policy comply with Government Code Section 41004 if the report only shows the performance results of the Town's investment portfolio? The monthly results of the Town's investment portfolio is not the same as a monthly accounting of the change in all fund balances. The ability of the Town to produce on a monthly basis a Treasurer's report similar to Saratoga's would be a "game changer" in improving financial transparency, which is the ultimate goal.

In addition to the question of periodicity of reporting, there appears to be a more fundamental question as to what is actually required to be reported. Based on my reading of Section 41004 and the report issued by the Grand Jury, in addition to the Treasurer's Report issued by Saratoga, I don't see how any reasonable reading of the Town's Investment Report one can conclude the report (see agenda item 1 for an example) remotely complies with the requirements of Section 41004.

I would appreciate you reviewing this matter prior the Finance Commission's meeting so the Commission can be fully informed regarding the legal reporting requirement of Section 41004. I have also attached a copy of a change in fund balance report published by the Town which is substantially the same as the Treasurer's report produced by Saratoga.

Thank you for your assistance,

Phil Koen

Example 1. Page 3 of 7 from Saratoga August 2022 Treasurer's Report

TABLE 1: CHANGES IN TOTAL FUND BALANCE

Fund Description	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) July	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 8/31/2022*
General Fund							
Restricted Fund Balances:							
Environmental Services Reserve	63,182	-	-	-	-	-	63,182
Committed Fund Balances:							
Hillside Stability Reserve	1,000,000	-	-	-	-	-	1,000,000
Assigned Fund Balances:							
Future Capital Replacement & Efficiency Project Reserve	2,796,663	-	-	-	-	-	2,796,663
Carryforwards Reserve	20,850	-	-	-	-	-	20,850
Facility Reserve	3,700,000	-	-	-	-	-	3,700,000
Unassigned Fund Balances:							
Working Capital Reserve	1,000,000	-	-	-	-	-	1,000,000
Fiscal Stabilization Reserve	3,150,000	-	-	-	-	-	3,150,000
Compensated Absences Reserve	331,481	-	-	-	-	-	331,481
Other Unassigned Fund Balance Reserve (Pre YE distribution)	3,348,282	(602,197)	682,632	(1,063,288)	-	-	2,365,429
General Fund Total	15,410,458	(602,197)	682,632	(1,063,288)	-	-	14,427,605
Special Revenue							
Landscape/Lighting Districts	977,231	-	44	(15,943)	-	-	961,331
ARPA Federal Grants	7,127,589	-	-	-	-	-	7,127,589
Special Revenue Fund Total	8,104,820	-	44	(15,943)	-	-	8,088,920
Debt Service							
Library Bond	805,311	(714,893)	3,312	-	-	-	93,730
Arrowhead Bond	481,242	(774)	-	(68,767)	-	-	411,701
Debt Service Fund Total	1,286,554	(715,667)	3,312	(68,767)	-	-	505,431
Internal Service Fund							
Liability/Risk Management	641,403	(759,998)	517	(6,948)	-	-	(125,027)
Workers Compensation	232,829	(2,185)	-	(54,431)	-	-	176,212
Office Support Fund	155,443	149	890	(2,027)	-	-	154,456
Information Technology Services	661,159	(30,693)	-	(98,942)	-	-	531,525
Vehicle & Equipment Maintenance	278,317	(5,541)	-	(20,466)	-	-	252,310
Building Maintenance	764,302	(22,267)	-	(60,637)	-	-	681,398
Vehicle & Equipment Replacement	1,201,979	-	-	-	-	-	1,201,979
Technology Replacement	798,337	-	-	-	-	-	798,337
Facility FFE Replacement	1,012,136	-	-	-	-	-	1,012,136
Internal Service Fund Total	5,745,905	(820,535)	1,407	(243,452)	-	-	4,683,326
Trust/Agency							
WVCWP Agency Fund	558,655	(29,955)	-	(41,044)	-	-	487,656
Trust/Agency Fund Total	558,655	(29,955)	-	(41,044)	-	-	487,656
Capital Project							
Street Projects	3,381,066	(34,069)	50,747	(355,438)	-	-	3,042,306
Park and Trail Projects	849,562	-	-	(4,143)	-	-	845,419
Facility Projects	623,475	4,458	-	(53,643)	-	-	574,289
Administrative Projects	1,429,921	7,042	8,205	(290)	-	-	1,444,879
Tree Fund Projects	52,541	-	-	-	-	-	52,541
Park In-Lieu Projects	1,172,555	-	-	-	-	-	1,172,555
CIP Grant Street Projects	(46,912)	-	-	-	-	-	(46,912)
CIP Grant Park & Trail Projects	-	-	100,000	-	-	-	100,000
CIP Grant Administrative Projects	(164,574)	-	-	-	-	-	(164,574)
CIP Grant ARPR/SLFRF Projects	-	-	-	(142,725)	-	-	(142,725)
Gas Tax Fund Projects	247,731	-	126,140	-	-	-	373,871
CIP Fund Total	7,545,366	(22,570)	285,092	(556,240)	-	-	7,251,649
Total City	38,651,757	(2,190,923)	972,487	(1,988,733)	-	-	35,444,587

*Fund balances are unaudited, and may not include all necessary adjustments. These figures will be updated in future reports once the FY 2021/22 independent audit is completed.

**Negative fund balance due to authorized spending of anticipated revenues

https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/1578630/Treasurer_Report_for_August_2022.pdf


TITLE: Investment Policy
POLICY NUMBER: 4-02
EFFECTIVE DATE: 11/1/16
PAGES: 8
ENABLING ACTIONS: 2016-063
**REVISED DATES: 5/16/17;5/15/2018;
9/3/2019; 11/03/2020, 1/17/2023**
APPROVED:

PURPOSE

The Town of Los Gatos (the "Town"), incorporated in 1887, is located approximately 60 miles south of San Francisco, in the southwestern portion of Santa Clara County. The Town operates under the Council/Manager form of government. The Town Council is the legislative body for the Town. It has five members elected to serve staggered four year terms. The Town Manager is appointed by the Town Council.

The Town Council has adopted this Investment Policy in order to establish the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the funds of the Town. All Town funds will be invested in accordance with this Investment Policy and with applicable sections of the California Government Code.

This Investment Policy was originally adopted by the Town Council of the Town of Los Gatos November 1, 2016. Town Council adopted revisions replace any previous investment policy or investment procedures of the Town.

SCOPE

This Investment Policy applies to all of the Town's short-term operating funds. These funds are described in the Town's annual financial report and include, but are not limited to:

General Fund

Special Revenue Funds

Capital Project Funds

Debt Service Funds

Enterprise Fund

Internal Service Funds

Fiduciary Funds

ATTACHMENT 2

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Specifically excluded from this Investment Policy are amounts which are held by a trustee or fiscal agent and pledged as payment or security for bonds or other indebtedness, obligations under a lease, or obligations under certificates of participation. Such funds are invested in accordance with statutory provisions, ordinance, resolution, or indenture governing the issuance of the obligations. In addition, this Investment Policy is not applicable to the Town's Deferred Compensation Plan. These investments are directed by each employee participant in accordance with the rules of the Deferred Compensation Plan.

POLICY

OBJECTIVES

The Town's funds shall be invested in accordance with all applicable Town policies and codes, State statutes, and Federal regulations, and in a manner designed to accomplish the following objectives, which are listed in priority order:

1. Preservation of capital and protection of investment principal.
2. Maintenance of sufficient liquidity to meet anticipated cash flows.
3. Attainment of a market value rate of return.
4. Diversification to avoid incurring unreasonable market risks.

DELEGATION OF AUTHORITY

Management responsibility for the Town's investment program is delegated annually by the Town Manager to the Town Treasurer/Finance Director (the "Treasurer") pursuant to California Government Code Section 36510. The Treasurer may delegate the authority to conduct investment transactions and to manage the operation of the investment portfolio to other specifically authorized staff members. The Treasurer shall maintain a list of persons authorized to transact securities business for the Town. No person may engage in an investment transaction except as expressly provided under the terms of this Investment Policy.

The Treasurer shall develop written administrative procedures and internal controls, consistent with this Investment Policy, for the operation of the Town's investment program. Such procedures shall be designed to prevent losses arising from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees.

The Town may engage the support services of outside investment advisors in regard to its investment program, so long as it can be demonstrated that these services produce a net financial advantage or necessary financial protection of the Town's financial resources.

PRUDENCE

The standard of prudence to be used for managing the Town's investments shall be California Government Code Section 53600.3, the prudent investor standard which states, "When

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investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

The Town's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The Town recognizes that no investment is totally without risk and that the investment activities of the Town are a matter of public record. Accordingly, the Town recognizes that occasional measured losses may occur in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the Town.

The Treasurer and authorized investment personnel acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that the deviations from expectations are reported in a timely fashion to the Town Council and appropriate action is taken to control adverse developments.

ETHICS AND CONFLICTS OF INTEREST

Elected officials and Town employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or could impair or create the appearance of an impairment of their ability to make impartial investment decisions. Elected officials and Town employees shall disclose to the Town Council any business interests they have in financial institutions that conduct business with the Town and they shall subordinate their personal investment transactions to those of the Town. In addition, the Town Manager and the Treasurer shall file a Statement of Economic Interests each year pursuant to California Government Code Section 87203 and regulations of the Fair Political Practices Commission.

SOCIALLY RESPONSIBLE INVESTING

In addition to and subordinate to the objectives set forth above, investment of funds should be guided by the following socially responsible investment goals when investing in corporate securities and depository institutions. Investments shall be made in compliance with the responsible investment goals to the extent that such investments achieve substantially equivalent safety, liquidity and yield compared to other investments permitted by state law.

(1) Environmental, Social Responsibility and Governance Concerns

Investments are encouraged in entities that support community well-being through safe and environmentally sound practices and fair labor practices. Investments are encouraged in entities that support equality of rights regardless of sex, race, age, disability or sexual orientation. All corporate securities within the portfolio will be monitored by an independent third-party who will provide the Town with an ESG (Environmental, Social Responsibility, and Governance) rating. The Town will prefer companies when appropriate that maintain a higher ESG rating as opposed to those companies that have a lower ESG Rating.

(2) Community Investments

Investments are encouraged in entities that promote community economic development, and investments are discouraged in entities that finance high-cost check-cashing and deferred deposit (payday-lending) businesses. Investments are encouraged in entities that have a demonstrated involvement in the development or rehabilitation of low-income affordable housing and have a demonstrated commitment to reducing predatory mortgage lending and increasing the responsible servicing of mortgage loans. Securities investments are encouraged in financial institutions that have a Community Reinvestment Act (CRA) rating of either Satisfactory or Outstanding, as well as financial institutions that are designated as a Community Development Financial Institution (CDFI) by the United States Treasury Department, or otherwise demonstrate commitment to community economic development.

AUTHORIZED SECURITIES AND TRANSACTIONS

All investments and deposits of the Town shall be made in accordance with California Government Code Sections 16429.1, 53600-53609 and 53630-53686, except that pursuant to California Government Code Section 5903(e), proceeds of bonds and any moneys set aside or pledged to secure payment of the bonds may be invested in securities or obligations described in the ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of the bonds. Any revisions or extensions of these code sections will be assumed to be part of this Investment Policy immediately upon being enacted. However, in the event that amendments to these sections conflict with this Investment Policy and past Town investment practices, the Town may delay adherence to the new requirements when it is deemed in the best interest of the Town to do so. In such instances, after consultation with the Town's attorney, the Treasurer will present a recommended course of action to the Town Council for approval. All investment limits specified in the Policy are calculated at the time of investment.

The Town has further restricted the eligible types of securities and transactions as follows:

1. United States Treasury bills, notes, bonds, or certificates with a final maturity not exceeding five years from the date of trade settlement.
2. Federal Agency Obligations for which the faith and credit of the United States are pledged for the payment of principal and interest and which have a final maturity not exceeding five years from the date of trade settlement. There is no limit on the percentage of the

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portfolio that can be invested in this category, however, no more than 20% of the town's total portfolio shall be invested in the combination of Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC) mortgage-backed securities.

3. Federal Instrumentality (government sponsored enterprise) debentures, discount notes, callable securities, step-up securities, and mortgage-backed securities (including FNMA and FHLMC) with a final maturity not exceeding five years from the date of trade settlement. There is no limit on the percentage of the portfolio that can be invested in this category, however, no more than 20% of the town's total portfolio shall be invested in the combination of GNMA, FNMA, and FHLMC mortgage-backed securities.
4. Prime Commercial Paper with a maturity not exceeding 270 days from the date of trade settlement with the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either sub-paragraph A. or sub-paragraph B. below:

A. The entity shall (1) be organized and operating in the United States as a general corporation, (2) have total assets in excess of five hundred million dollars (\$500,000,000) and (3) Have debt other than commercial paper, if any, that is rated "A" or higher by a NRSRO.

B. The entity shall (1) be organized within the United States as a special purpose corporation, trust, or limited liability company, (2) have program wide credit enhancements, including, but not limited to, over collateralization, letters of credit or surety bond and (3) have commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Purchases of eligible commercial paper shall not exceed:

- 10% of the outstanding commercial paper of any single corporate issuer,
- 5% of the Town's total portfolio in the commercial paper of any one issuer, and
- 25% of the Town's total portfolio.

5. Eligible Bankers Acceptances with a maturity not exceeding 180 days from the date of trade settlement, issued by a state or national bank with combined capital and surplus of at least \$250 million, whose deposits are insured by the FDIC, and whose senior long-term debt is rated at least A or the equivalent by a NRSRO at the time of purchase. No more than 5% of the Town's total portfolio shall be invested in banker's acceptances of any one issuer, and the aggregate investment in banker's acceptances shall not exceed 30% of the Town's total portfolio.

6. Medium Term Notes (Corporate Notes) issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States, with a final maturity not exceeding five years from the date of trade settlement and rated at least "A" or the equivalent by a NRSRO. No more than 5% of the Town's total portfolio shall be invested in the medium-term notes of any one issuer and the aggregate investment in medium term notes shall not exceed 30% of the Town's total portfolio.
7. Municipal & State Obligations:
- A. Municipal bonds including registered notes or bonds of any of the 50 states, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the 50 states.
 - B. In addition, bonds, notes, warrants, or other evidences of indebtedness of any local agency in California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, operated by the local agency, or by a department, board, agency, or authority of the local agency.

Municipal bonds must be rated at least "A" or the equivalent by a NRSRO with maturities not exceeding five years from the date of the trade settlement. No more than 5% of the Town's total portfolio shall be invested in "A" rated bonds or in the bonds of any one municipality. In addition, the aggregate investment in municipal bonds may not exceed 30% of the total portfolio.

8. Certificates of Deposit with a final maturity not exceeding five years from the date of trade settlement. The aggregate investment in certificates of deposit shall not exceed 30% of the Town's portfolio, and no more than 5% of the portfolio shall be held in any one deposit or allocated to any one issuer. Certificates of Deposit shall be issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank or by a federally licensed branch of a foreign bank provided that the senior debt obligations of the issuing institution are rated at least "A" or the equivalent by a NRSRO.

Negotiable certificates of deposit issued by a nationally or state-chartered bank, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposits are subject to the limitations of Section 53601(i), shall be fully insured by the FDIC with a corresponding FDIC certification number, and shall be delivered through the Depository Trust Company.

Non-Negotiable certificates of deposit issued by a nationally or state-chartered bank, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of non-negotiable certificates of deposit are subject to the limitations of Sections 53601(n) and 53638 and shall be fully insured by the FDIC with a corresponding FDIC certification number.

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Private sector entities may be used to place certificates of deposit subject to the limitations of Section 53601.8.

9. State of California's Local Agency Investment Fund (LAIF), pursuant to California Government Code Section 16429.1. The aggregate amount invested in LAIF shall not exceed the maximum allowed by the fund.
10. Money Market Funds registered under the Investment Company Act of 1940 that (1) are "no-load" (meaning no commission or fee shall be charged on purchases or sales of shares); (2) have a constant net asset value per share of \$1.00; (3) invest only in government securities, and (4) have a rating of at least AAA or the equivalent by at least two NRSROs. No more than 10% of the Town's total portfolio shall be invested in money market funds of any one issuer, and the aggregate investment in money market funds shall not exceed 20% of the Town's total portfolio.

Securities that have been downgraded to a level that is below the minimum ratings described herein may be sold or held at the Town's discretion. The portfolio will be brought back into compliance with Investment Policy guidelines as soon as is practical.

The foregoing list of authorized securities and transactions shall be strictly interpreted. Any deviation from it must be preapproved by resolution of the Town Council.

PORTFOLIO MATURITIES AND LIQUIDITY

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities. The Town will not invest in securities maturing more than five years from the date of trade settlement, unless the Town Council has by resolution granted authority to make such an investment at least three months prior to the date of investment.

SELECTION OF BROKER/DEALERS

The Treasurer shall maintain a list of broker/dealers approved for investment purposes, and it shall be the policy of the Town to purchase securities only from those authorized firms. To be eligible, a firm must meet at least one of the following criteria:

- Be recognized as a Primary Dealer by the Federal Reserve Bank of New York or have a primary dealer within their holding company structure; or
- Report voluntarily to the Federal Reserve Bank of New York; or
- Qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule).

In addition, authorized broker/dealers must be licensed by the State of California as a broker/dealer as defined in Section 25004 of the California Corporations Code.

The Town may engage the services of investment advisory firms to assist in the management of the portfolio and investment advisors may utilize their own list of approved broker/dealers.

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Such broker/dealers will comply with the selection criteria above and the list of approved firms shall be provided to the Town on an annual basis or upon request.

In the event that an external investment advisor is not used in the process of recommending a particular transaction in the Town's portfolio, authorized broker/dealers shall attest in writing that they have received and reviewed a copy of the this Investment Policy and shall be required to submit and annually update a Town approved Broker/Dealer Information request form, which includes the firm's most recent financial statements.

The Town may purchase commercial paper from direct issuers even though they are not on the approved broker/dealer list as long as they meet the criteria outlined in Item 4 of the Authorized Securities and Transactions section of this Investment Policy.

COMPETITIVE TRANSACTIONS

Each investment transaction shall be competitively transacted with authorized broker/dealers. At least three broker/dealers shall be contacted for each transaction and their bid and offering prices shall be recorded.

If the Town is offered a security for which there is no other readily available competitive offering, the Treasurer will document quotations for comparable or alternative securities.

SELECTION OF BANKS

The Treasurer shall maintain a list of banks and savings banks approved to provide banking services for the Town. To be eligible, a bank must be a member of the Federal Deposit Insurance Corporation, must qualify as a depository of public funds in the State of California as defined in California Government Code Section 53630.5 and shall secure deposits in excess of FDIC coverage in accordance with California Government Code Section 53652.

Authorized banks that accept deposits from the Town shall meet high standards with regard to liquidity, asset quality, profitability and capital adequacy. The Treasurer shall utilize a commercial bank rating service to perform credit analysis on banks seeking authorization. Banks that in the judgment of the Treasurer no longer offer adequate safety to the Town shall be removed from the Town's list of authorized banks.

SAFEKEEPING AND CUSTODY

The Treasurer shall select one or more financial institutions to provide safekeeping and custodial services for the Town. A Safekeeping Agreement shall be executed with each custodian bank prior to utilizing that bank's safekeeping services.

Custodian banks will be selected on the basis of their ability to provide services for the Town's account and the competitive pricing of their safekeeping related services.

The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery versus payment basis. All securities shall be perfected in the name of the Town. Sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investment securities, purchased by the Town, will be delivered by book entry and will be held in third-party safekeeping by a Town approved custodian bank or its Depository Trust Company (DTC) participant account.

All Fed wireable book entry securities owned by the Town shall be held in the Federal Reserve System in a customer account for the custodian bank which will name the Town as "customer."

All DTC eligible securities shall be held in the custodian bank's DTC participant account and the custodian bank shall provide evidence that the securities are held for the Town as "customer."

PORTFOLIO PERFORMANCE

The investment portfolio shall be designed to attain a market rate of return throughout budgetary and economic cycles, taking into account prevailing market conditions, risk constraints for eligible securities, and cash flow requirements. The performance of the Town's investments shall be compared to the average yield on the U.S. Treasury security that most closely corresponds to the portfolio's weighted average effective maturity. When comparing the performance of the Town's portfolio, its rate of return will be computed net of all fees and expenses.

REPORTING

~~No less than quarterly~~ Every month, the Treasurer shall prepare a report of the investment earnings and performance results of the Town's investment portfolio. The report shall be submitted to the Town Clerk within 45 days after the end of each month quarter for inclusion as an agenda item at the next scheduled Town Council meeting. The report shall include the following information:

1. Investment type, issuer, date of maturity, par value and dollar amount invested in all securities, and investments and monies held by the Town;
2. A market value as of the date of the report (or the most recent valuation as to assets not valued monthly) and the source of the valuation;
3. Realized and unrealized gains or losses calculated by amortized cost and by fair value;
4. The weighted average maturity of the portfolio and a percentage breakdown of the total portfolio by maturity;
5. A description of the funds, investments and programs that are under the management of contracted parties;
6. The Town of Los Gatos Environmental, Social and Governance (ESG) scores;

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Item 7.

7. A statement of compliance with this Investment Policy or an explanation for non-compliance; and
8. A statement of the ability to meet expenditure requirements for the next six months, and an explanation of why money will not be available if that is the case.

PROCEDURES

This Investment Policy shall be adopted by resolution of the Town Council. Annually the Town Manger shall present this Investment Policy to the Town Council and the Finance Commission for review to ensure its consistency with the Town's investment objectives, current law and economic trends. Any amendments to this Investment Policy shall be approved by the Town Council.

APPROVED AS TO FORM:

Gabrielle Wheelan, Town Attorney

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From: [Phil Koen](#)
To: [Arn Andrews](#); [Ron Dickel](#)
Cc: [Laurel Prevetti](#)
Subject: Treasurer_Report_for_October_2022.pdf
Date: Saturday, January 7, 2023 8:44:15 AM
Attachments: [Treasurer_Report_for_October_2022.pdf](#)

EXTERNAL SENDER

Hello Arn and Ron,

Could you please distribute the attached City of Saratoga Treasurer's Report to the FC to discuss during agenda item #2 and #7.

Also I would like to pull agenda item #2 from the consent items because I have a number of questions I would like to ask/discuss.

Thank you.

Phil Koen



SARATOGA CITY COUNCIL

MEETING DATE: December 7, 2022

DEPARTMENT: Administrative Services

PREPARED BY: Ann Xu, Accountant
Agnes Pabis, Finance Manager

SUBJECT: Treasurer's Report for the Month Ended October 31, 2022

RECOMMENDED ACTION:

Review and accept the Treasurer's Report for the month ended October 31, 2022.

BACKGROUND:

California government code section 41004 requires that the City Treasurer submits to the City Clerk and the legislative body a written report and accounting of all receipts, disbursements, and fund balances. The Municipal Code of the City of Saratoga, Article 2-20, Section 2-20.035 designates the City Manager as the City Treasurer. This report is prepared to fulfill this requirement.

The following attachments provide various financial transaction data for the City of Saratoga's Funds collectively as well as specifically for the City's General (Operating) Fund, including an attachment from the State Treasurer's Office of Quarterly LAIF rates from the 1st Quarter of 1977 to the present.

FISCAL STATEMENT:

Cash and Investments Balance by Fund

As of October 31, 2022, the City's unaudited cash and investments totaled \$34,998,784. The City Council's adopted policy on the Working Capital Reserve Fund states that effective July 1, 2016: for cash flow purposes and to avoid the occurrence of dry period financing, pooled cash from all funds should not be allowed to fall below \$1,000,000. The total pooled cash balance of \$34.9 million exceeds the minimum amount required.

Cash Summary	
Comerica Bank	\$ 2,366,778
Deposit with LAIF	\$ 32,632,006
Total Cash	\$ 34,998,784

City's Current Financial Position

In accordance with California government code section 53646 (b) (3), the City is financially well positioned and able to meet its estimated expenditure requirements for the next six months. As of October 31, 2022, the City's financial position (Assets \$35.2M, Liabilities \$4.9M, and Fund Equity \$30.3M) remains very strong and there are no issues in meeting financial obligations now or in the foreseeable future.

The following Fund Balance schedule represents actual funding available for all funds at the end of the monthly period. This amount differs from the above Cash Summary schedule as assets and liabilities are components of the fund balance. As illustrated in the summary below, *Total Cash* is adjusted by the addition of *Total Assets* less the amount of *Total Liabilities* to arrive at the *Ending Fund Balance* – which represents the actual amount of funds available.

Adjusting Cash to Ending Fund Balance	
Total Cash	\$ 34,998,784
Plus: Assets	177,614
Less: Liabilities	<u>(4,876,570)</u>
Ending Fund Balance	\$ 30,299,828

ATTACHMENTS:

Table 1 – Change in Total Fund Balances by Fund

Table 2 – Change in Total Fund Balances by CIP Project

Chart 1 – Change in Investment Pool Balance by Month

Chart 2 – Local Agency Investment Fund (LAIF) Quarterly Apportionment Rates

TABLE 1: CHANGES IN TOTAL FUND BALANCE

Fund Description	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) Jul - Sep	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 10/31/2022
General Fund							
Committed Fund Balances:							
Hillside Stability Reserve	1,000,000	-	-	-	-	-	1,000,000
Assigned Fund Balances:							
Future Capital Replacement & Efficiency Project Reserve	3,509,000	-	-	-	-	-	3,509,000
Carryforwards Reserve	20,000	-	-	-	-	-	20,000
Facility Reserve	3,700,000	-	-	-	-	-	3,700,000
Unassigned Fund Balances:							
Working Capital Reserve	1,000,000	-	-	-	-	-	1,000,000
Fiscal Stabilization Reserve	3,250,000	-	-	-	-	-	3,250,000
Compensated Absences Reserve	330,000	-	-	-	-	-	330,000
Other Unassigned Fund Balance Reserve (Pre YE distribution)	2,601,458	(3,928,371)	1,162,030	(1,551,359)	-	-	(1,716,242) *
General Fund Total	15,410,458	(3,928,371)	1,162,030	(1,551,359)	-	-	11,092,758
Special Revenue							
Landscape/Lighting Districts	977,231	(57,805)	847	(17,579)	-	-	902,694
ARPA Federal Grants	7,127,589	-	-	-	-	-	7,127,589
Special Revenue Fund Total	8,104,820	(57,805)	847	(17,579)	-	-	8,030,283
Debt Service							
Library Bond	805,311	(710,933)	2,754	-	-	-	97,132
Arowhead Bond	124,402	(69,541)	-	(767)	-	-	54,094
Debt Service Fund Total	929,714	(780,474)	2,754	(767)	-	-	151,226
Internal Service Fund							
Liability/Risk Management	641,403	(588,061)	-	(11,324)	-	-	42,018
Workers Compensation	232,829	(226)	1,535	(55,007)	-	-	179,130
Office Support Fund	155,443	4,072	615	(1,473)	-	-	158,658
Information Technology Services	661,159	(6,254)	797	(50,198)	-	-	605,505
Vehicle & Equipment Maintenance	278,317	17,846	-	(23,027)	-	-	273,136
Building Maintenance	764,302	30,844	-	(62,168)	-	-	732,977
Vehicle & Equipment Replacement	905,217	24,738	-	-	-	-	929,954
Technology Replacement	798,337	37,263	-	-	-	-	835,600
Facility FFE Replacement	941,400	46,334	-	-	-	-	987,735
Internal Service Fund Total	5,378,407	(433,444)	2,947	(203,197)	-	-	4,744,713
Trust/Agency							
WVCWP Agency Fund	558,655	197,263	-	(47,148)	-	-	708,769
Trust/Agency Fund Total	558,655	197,263	-	(47,148)	-	-	708,769
Capital Project							
Street Projects	3,381,066	(432,231)	132,561	(86,642)	-	-	2,994,755
Park and Trail Projects	849,562	(1,824)	-	(16,720)	-	-	831,019
Facility Projects	623,475	(155,704)	5,029	(2,098)	-	-	470,702
Administrative Projects	1,429,921	(50,295)	5,226	(14,050)	-	-	1,370,802
Tree Fund Projects	52,541	-	-	-	-	-	52,541
Park In-Lieu Projects	1,172,555	30,098	-	(62,663)	-	-	1,139,991
CIP Grant Street Projects	(46,912)	(2,131)	-	(12,228)	-	-	(61,271) *
CIP Grant Park & Trail Projects	-	100,000	-	(196,841)	-	-	(96,841) *
CIP Grant Administrative Projects	(164,574)	-	-	-	-	-	(164,574) *
CIP Grant ARPR/SLFRF Projects	-	(142,725)	-	(182,105)	-	-	(324,830) *
Gas Tax Fund Projects	247,731	258,409	127,538	(1,273,891)	-	-	(640,213) *
CIP Fund Total	7,545,366	(396,402)	270,354	(1,847,238)	-	-	5,572,079
Total City	37,927,419	(5,399,234)	1,438,931	(3,667,288)	-	-	30,299,828

*Negative fund balance due to authorized spending of anticipated revenues

TABLE 2: FUND BALANCES BY CIP PROJECT

CIP Funds/Projects	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) Jul - Sep	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 10/31/2022
Street Projects							
Annual Road Improvements	1,009,556	(137,971)	132,561	(37,196)	-	-	966,951
Roadway Safety & Traffic Calming	147,118	-	-	-	-	-	147,118
Citywide Traffic Signal Battery Backup	266,315	-	-	-	-	-	266,315
Portable Radar Feedback Sign	1,548	-	-	-	-	-	1,548
Local Roadway Safety Plan	3,410	(237)	-	(126)	-	-	3,047
Prospect/Saratoga Median Improvement	309,379	-	-	-	-	-	309,379
Village Clock	8,626	(6,066)	-	-	-	-	2,560
Big Basin Way/Blaney Trash Can Replacement	50,802	-	-	-	-	-	50,802
Annual Infrastructure Maintenance & Repairs	41,431	(13,705)	-	-	-	-	27,726
Guava Court Curb & Gutter Replacement	280,000	-	-	-	-	-	280,000
El Camino Grande Storm Drain Pump	104	-	-	-	-	-	104
Saratoga Village Crosswalk & Sidewalk Rehabilitation	49,055	(1,052)	-	-	-	-	48,004
Quito Road Sidewalk Improvements	43,370	-	-	-	-	-	43,370
Saratoga/Sunnyvale Road Sidewalk	92,158	-	-	-	-	-	92,158
Quito Road Sidewalk Rehabilitation and Gap Closure	182,609	-	-	-	-	-	182,609
Fourth Street Bridge Widening	99,837	-	-	(1,438)	-	-	98,399
Quito Road Bridge Replacement	132,197	-	-	(162)	-	-	132,035
Quito Road Bridge - ROW Acquisition	3,662	-	-	-	-	-	3,662
Annual Retaining Wall Maintenance & Repairs	222,450	3,209	-	(333)	-	-	225,327
Mt. Eden Erosion Repair	59,622	(3,209)	-	-	-	-	56,412
Continental Circle Landslide Stabilization	57,447	-	-	-	-	-	57,447
Pierce Road Retainment	300,290	(273,200)	-	(47,389)	-	-	(20,299) *
Mt. Eden Emergency Landslide	20,080	-	-	-	-	-	20,080
Total Street Projects	3,381,066	(432,231)	132,561	(86,642)	-	-	2,994,755
Parks & Trails Projects							
Park/Trail Repairs	32,873	-	-	-	-	-	32,873
Hakone Gardens Infrastructure Improvements	16,599	-	-	-	-	-	16,599
Hakone Pond Reconstruction	300,000	-	-	-	-	-	300,000
Beauchamps Park Playground Replacement	35,131	-	-	(11,418)	-	-	23,713
Guava/Fredericksburg Entrance	235,970	(1,824)	-	(5,302)	-	-	228,844
Saratoga Village to Quarry Park Walkway - Design	228,989	-	-	-	-	-	228,989
Total Parks & Trails Projects	849,562	(1,824)	-	(16,720)	-	-	831,019
Facility Projects							
Open Work Space	80,000	-	-	-	-	-	80,000
Civic Theater Improvements	-	4,458	5,029	-	-	-	9,486
PEG Funded Project	113,650	-	-	-	-	-	113,650
Community Center Improvement	24,513	(3,351)	-	-	-	-	21,162
Community Center Generator and EV Charging Stations	395,312	(156,811)	-	(2,098)	-	-	236,404
Library Building Exterior Maintenance	10,000	-	-	-	-	-	10,000
Total Facility Projects	623,475	(155,704)	5,029	(2,098)	-	-	470,702
Administrative and Technology Projects							
Safe Routes to School	-	(1,245)	-	-	-	-	(1,245) *
City Website/Intranet	16,948	-	-	-	-	-	16,948
Development Technology	20,538	552	13	(9,455)	-	-	11,648
Software Technology Management	118,695	20,916	5,213	-	-	-	144,824
LLD Initiation Match Program	25,000	-	-	-	-	-	25,000
Horseshoe Beautification	13,295	(290)	-	-	-	-	13,005
Business Renewal Program	6,643	-	-	(2,345)	-	-	4,298
Citywide Accessibility Assessment	28,066	-	-	-	-	-	28,066
City Art Program	53,669	-	-	-	-	-	53,669
Safe Routes to School Needs Assessment	15,748	-	-	-	-	-	15,748
El Quito Neighborhood Improvements	284,507	-	-	-	-	-	284,507
Parking District ADA Improvements and Rehabilitation	250,000	-	-	-	-	-	250,000
Storm Drain Master Plan	300,000	-	-	-	-	-	300,000
ADA Self Assessment	-	-	-	(2,250)	-	-	(2,250) *
General Plan Update	238,592	(70,228)	-	-	-	-	168,364
Wildfire Mitigation Program	4,067	-	-	-	-	-	4,067
Risk Management Project Funding	54,153	-	-	-	-	-	54,153
Total Administrative and Technology Projects	1,429,921	(50,295)	5,226	(14,050)	-	-	1,370,802

*Negative fund balance due to authorized spending of anticipated revenues

TABLE 2 (cont.): FUND BALANCES BY CIP PROJECT

CIP Funds/Projects	Prior Year Carryforward 7/1/2022	Increase/ (Decrease) Jul - Sep	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Fund Balance 10/31/2022
Tree Fund Projects							
Citywide Tree Planting Program	26,666	-	-	-	-	-	26,666
Tree Dedication Program	25,875	-	-	-	-	-	25,875
Total Tree Fund Projects	52,541	-	-	-	-	-	52,541
Park In-Lieu Projects							
Orchard Irrigation & Tree Planting	10,947	-	-	-	-	-	10,947
Hakone Gardens Infrastructure	82,420	-	-	-	-	-	82,420
Trail Pet Stations	25,000	-	-	-	-	-	25,000
Saratoga Village to Quarry Park Walkway - Design	73,810	-	-	-	-	-	73,810
Unallocated Park In-Lieu Funds	970,299	31,343	-	-	-	-	1,001,642
Total Park In-Lieu Projects	1,172,555	30,098	-	(62,663)	-	-	1,139,991
CIP Grant Street Projects							
Local Roadway Safety Plan	(1,619)	(2,131)	-	(1,132)	-	-	(4,882) *
Prospect/Saratoga Median Improvement	(19,217)	-	-	-	-	-	(19,217) *
Citywide Signal Upgrade II	18	-	-	-	-	-	18
Saratoga Ave Sidewalk	(34,146)	-	-	-	-	-	(34,146) *
Village Sidewalk, Curb & Gutter - Phase II Construction	(91)	-	-	-	-	-	(91) *
Saratoga Village Crosswalk & Sidewalk Rehabilitation	(834)	-	-	-	-	-	(834) *
4th Street Bridge	-	-	-	(11,096)	-	-	(11,096) *
Quito Bridge Replacement	18,597	-	-	-	-	-	18,597
Quito Road Bridges - ROW Acquisition	(9,619)	-	-	-	-	-	(9,619) *
Total CIP Grant Street Projects	(46,912)	(2,131)	-	(12,228)	-	-	(61,271)
CIP Grant Park & Trail Projects							
Beauchamps Park Playground	-	-	-	(196,841)	-	-	(196,841) *
Park and Trail Fire Mitigation	-	100,000	-	-	-	-	100,000
Total CIP Grant Park & Trail Projects	-	100,000	-	(196,841)	-	-	(96,841)
CIP Grant Administrative Projects							
CDD Software/ADA	(14,574)	-	-	-	-	-	(14,574) *
General Plan Update (LEAP)	(150,000)	-	-	-	-	-	(150,000) *
Total CIP Grant Administrative Projects	(164,574)	-	-	-	-	-	(164,574)
CIP Grant ARPA/SLFRF Projects							
Storm Water Master Plan	-	(88,055)	-	(139,398)	-	-	(227,453) *
Saratoga Village Water Improvement	-	(54,670)	-	(42,707)	-	-	(97,377) *
Total CIP Grant ARPA/SLFRF Projects	-	(142,725)	-	(182,105)	-	-	(324,830)
Gas Tax Fund Projects							
Annual Roadway Improvements	194,170	258,409	127,538	(1,273,891)	-	-	(693,774) *
Prospect/Saratoga Median Improvements	48,278	-	-	-	-	-	48,278
Big Basin Way Sidewalk Repairs	(1,802)	-	-	-	-	-	(1,802) *
Quito Road Bridges	7,085	-	-	-	-	-	7,085
Total Gas Tax Fund Projects	247,731	258,409	127,538	(1,273,891)	-	-	(640,213)
Total CIP Funds	7,545,366	(396,402)	270,354	(1,847,238)	-	-	5,572,079

*Negative fund balance due to authorized spending of anticipated revenues

CHART 1: CHANGE IN INVESTMENT POOL BALANCE BY MONTH

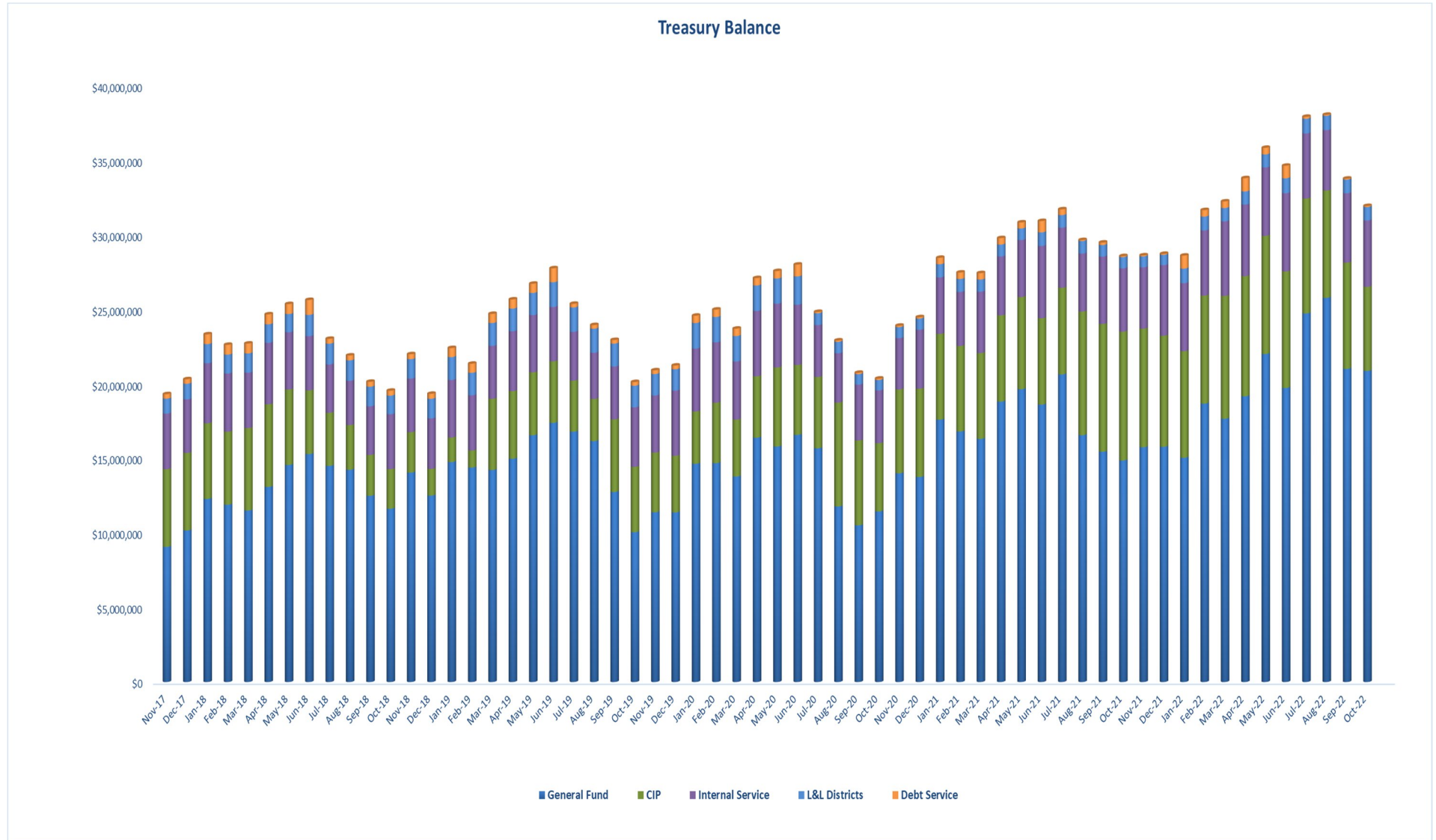


CHART 2

Local Agency Investment Fund Quarterly Apportionment Rates

	March	June	September	December
1977	5.68	5.78	5.84	6.45
1978	6.97	7.35	7.86	8.32
1979	8.81	9.10	9.26	10.06
1980	11.11	11.54	10.01	10.47
1981	11.23	11.68	12.40	11.91
1982	11.82	11.99	11.74	10.71
1983	9.87	9.64	10.04	10.18
1984	10.32	10.88	11.53	11.41
1985	10.32	9.98	9.54	9.43
1986	9.09	8.39	7.81	7.48
1987	7.24	7.21	7.54	7.97
1988	8.01	7.87	8.20	8.45
1989	8.76	9.13	8.87	8.68
1990	8.52	8.50	8.39	8.27
1991	7.97	7.38	7.00	6.52
1992	5.87	5.45	4.97	4.67
1993	4.64	4.51	4.44	4.36
1994	4.25	4.45	4.96	5.37
1995	5.76	5.98	5.89	5.76
1996	5.62	5.52	5.57	5.58
1997	5.56	5.63	5.68	5.71
1998	5.70	5.66	5.64	5.46
1999	5.19	5.08	5.21	5.49
2000	5.80	6.18	6.47	6.52
2001	6.16	5.32	4.47	3.52
2002	2.96	2.75	2.63	2.31
2003	1.98	1.77	1.63	1.56
2004	1.47	1.44	1.67	2.00
2005	2.38	2.85	3.18	3.63
2006	4.03	4.53	4.93	5.11
2007	5.17	5.23	5.24	4.96
2008	4.18	3.11	2.77	2.54
2009	1.91	1.51	0.90	0.60
2010	0.56	0.56	0.51	0.46
2011	0.51	0.48	0.38	0.38
2012	0.38	0.36	0.35	0.32
2013	0.28	0.24	0.26	0.26
2014	0.24	0.22	0.24	0.25
2015	0.26	0.28	0.32	0.37
2016	0.46	0.55	0.60	0.68
2017	0.78	0.92	1.07	1.20
2018	1.51	1.90	2.16	2.40
2019	2.55	2.57	2.45	2.29
2020	2.03	1.36	0.84	0.63
2021	0.44	0.33	0.24	0.23
2022	0.32	0.75	1.35	



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 1/17/2023

ITEM NO: 15

DATE: January 12, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider an Appeal of a Planning Commission Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence Located Within the Required Front Yard Setback and a Vehicular Gate Set Back Less than 18 Feet from the Edge of the Adjacent Street on Property Zoned R-1:10. Located at 755 Blossom Hill Road. APN 523-04-043. PROPERTY OWNER/APPELLANT: David and Ilana Kohanchi. APPLICANT: Nina Guralnic.

RECOMMENDATION:

Deny an appeal of a Planning Commission decision to deny a fence height exception request for construction of a six-foot fence located within the required front yard setback and a vehicular gate set back less than 18 feet from the edge of the adjacent street on property zoned R-1:10, located at 755 Blossom Hill Road.

BACKGROUND:

The subject property is located on the north side of Blossom Hill Road, east of the intersection with Camelia Terrace (Attachment 1, Exhibit 1).

On December 14, 2020, the Town issued an administrative warning for a code violation at 755 Blossom Hill Road (Attachment 1, Exhibit 4). This warning was sent after several complaints were submitted regarding a front yard fence and vehicular gate. This administrative warning requested that the property owners reduce their six-foot fence along the front property line down to three feet, and to remove the vehicular gate, to meet Town Code, by January 3, 2021.

On February 12, 2021, the applicant applied for an exception to the Town's fence regulations for the unpermitted construction of the vehicular gate and fencing on the subject property,

PREPARED BY: Savannah Van Akin
Assistant Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

BACKGROUND (continued):

which does not comply with the Town Code fence regulations for height and setbacks (Attachment 1, Exhibits 5 and 6). The request was based on concerns related to protection for children, animals, and a garden. Privacy is also listed as a concern.

Staff contacted the applicant to discuss the concerns with the vehicular gate and fence, and explore potential options available.

On July 2, 2021, the Town denied the exception request because the findings listed in Town Code Section 29.40.0320 could not be made. Safety concerns with the fence included the location of the metal fencing relative to the driveway which obstructs visibility as vehicles exit the driveway and cross over the sidewalk and into the roadway, and the reduced setback of the vehicular gate would not allow for vehicles to clear the travel lanes of Blossom Hill Road while queuing (Attachment 1, Exhibit 7).

On November 16, 2021, staff contacted the applicant and provided examples of similar fence height exception requests that were appealed to the Planning Commission. Staff also reminded the applicant of the options to remedy the situation. These options included: removing the illegal fence and gate; modifying the fence and gate to comply with Town Code; or filing an appeal of the decision to deny the fence height exception.

The applicant was contacted via email on January 31, 2022, March 22, 2022, April 5, 2022, May 3, 2022, and May 24, 2022. Staff asked for a progress update and provided the options to remedy the situation.

On July 7, 2022, the Town issued a second administrative warning for a code violation (Attachment 1, Exhibit 8). This administrative warning requested the property owners to: remove the illegal fence and gate; modify the fence and gate to comply with Town Code; or file an appeal of the decision to deny the fence height exception by August 7, 2022.

On August 5, 2022, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission (Attachment 1, Exhibit 9). The project was scheduled for review on September 13, 2022, and in response to a request from the applicant, the item was continued to the November 9, 2022 Planning Commission hearing date (Attachment 3, Exhibit 14).

On November 9, 2022, the Planning Commission denied the appeal and upheld the Community Development Director denial of the fence height exception request for construction of six-foot tall fencing located within the required front yard setback and construction of a vehicular gate with reduced setbacks (Attachment 5).

On November 14, 2022, the decision of the Planning Commission was appealed to the Town Council by the property owners, David and Ilana Kohanchi (Attachment 6).

BACKGROUND (continued):

On December 13, 2022, the appellant made a request for a continuance of the item to a date certain of January 17, 2023 (Attachment 7). Because this item was publicly noticed and because the Town Code Section 29.20.280 requires that the Town hold a public hearing within 56 days of an appeal (in this case by January 4, 2023), the Town Council opened the public hearing on December 13, 2022 and continued the appeal hearing to January 17, 2023. No one provided testimony on December 13, 2022.

Pursuant to Town Code Section 29.20.295, in the appeal, and based on the record, the appellant bears the burden to prove that there was an error or abuse of discretion by the Planning Commission, or that its decision is not supported by substantial evidence in the record. If neither is proved, the appeal should be denied. If the appellant meets the burden, the Town Council shall grant the appeal and may modify, in whole or in part, the determination from which the appeal was taken or, at its discretion, return the matter to Planning Commission. If the basis for granting the appeal is, in whole or in part, information not presented to or considered by the Planning Commission, the matter shall be returned to the Planning Commission for review.

DISCUSSION:

A. Project Summary

The property owner requested an exception to the fence regulations to approve a constructed six-foot fence located within the required front set back and a vehicular gate set back less than (18) feet from the edge of the adjacent street (Attachment 1, Exhibits 5 and 6). The vehicular gate and fencing exceed the three-foot height limitation when located in a required front setback, traffic view area, and driveway view area; and the vehicular gate does not meet the 18-foot setback requirement as measured from the edge of the street.

Per Town Code Section 29.40.0315 (a)(3), fences, walls, gates, and hedges may not exceed a height of three feet when located within a required front or side yard abutting a street, driveway view area, or traffic view area unless an exception is granted by the Town Engineer and Community Development Director. This regulation is intended to minimize conflicts between pedestrians, cyclists, and cars by ensuring fences, walls, gates, and hedges do not obstruct the view from a car as it exits a driveway and crosses over a sidewalk to enter the roadway. Limiting the height of fences and gates to no more than three feet in these areas allows drivers and pedestrians a view of each other while continuing to afford property owners the opportunity to define the boundaries of their property.

The required front yard setback in the R-1:10 zone is 25 feet. A traffic view area is the area which is within 15 feet of a street and a driveway view area is a triangular area at the intersection of driveways and sidewalks and street intersections having sides 10 feet in

DISCUSSION (continued):

length (Attachment 1, Exhibit 10). The existing six-foot tall wood fence, built prior to the fence regulations update in 2019, has a minimum setback of nine feet from the property line. The six-foot tall metal fence and vehicular gate, constructed after the adoption of the new regulations, are located on the property line (Attachment 1, Exhibit 11).

Per Town Code Section 29.40.0315 (c)(3), vehicular gates shall be set back from the edge of the adjacent street a minimum of 18 feet. The intent of this regulation is to allow for vehicles to clear the travel lanes while queuing as the gate is opening.

Per Town Code Section 29.40.0315 (b)(1)(c), barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors materials are prohibited. The existing metal fence and gate have distinct sharp points at the top (Attachment 1, Exhibit 12).

Town Code Section 29.40.0320, provided below, allows an exception to any of the fence regulations if a property owner can demonstrate that one of the following conditions exist.

Sec. 29.40.0320. - Exceptions.

An exception to any of these fence regulations may be granted by the Community Development Director. A fence exception application and fee shall be filed with the Community Development Department and shall provide written justification that demonstrates one (1) of the following conditions exist:

- (a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.*
- (b) On interior lots, side yard and rear yard fences, walls, gates, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification that either:
 - (1) A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening; or*
 - (2) A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.**
- (c) At public utility facilities, critical infrastructure, and emergency access locations, exceptions may be granted where strict enforcement of these regulations will result in a security or safety concern.*
- (d) A special security concern exists that cannot be practically addressed through alternatives.*
- (e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.*

The property owner requested an exception due to security and privacy concerns (Attachment 1, Exhibit 5 and 6). The privacy concerns were related to the property's

DISCUSSION (continued):

proximity to commercial centers and medical offices, citing instances when people mistake their home for the chiropractor's office next door. Regarding the security concerns, the property owner cited protecting children, containing animals, and protecting a garden as justification.

Staff was unable to support the proposed exceptions as the location of the metal fencing relative to the driveway creates a safety concern as vehicles exit the driveway and cross over the sidewalk to enter the roadway. Additionally, the location of the vehicular gate would not allow for vehicles to clear the travel lanes while queuing. Parks and Public Works Department staff reviewed the proposal and could not support the exception requests. The Town denied the exception request on July 2, 2021 (Attachment 1, Exhibit 7).

B. Planning Commission

The project was scheduled for review on September 13, 2022 (Attachments 1, 2, and 3), and in response to a request from the applicant the item was continued to the November 9, 2022, the Planning Commission hearing.

On November 9, 2022, the Planning Commission opened the public hearing and considered testimony from the appellant, and the public (Attachments 4 and 5). After asking questions, the Planning Commission closed the public hearing and discussed the appeal. The Commission discussed the appellant's concerns. The Commission stated that the fence was in clear violation of the Town Code, and that they could not find compelling evidence to grant an exception. One of the findings discussed was regarding a special privacy concern. The Commission did not see substantial evidence that a special privacy concern exists that could not be practically addressed in other ways. The Commission listed the properties in the immediate neighborhood with fencing that complies with current fence height regulations, the sufficient space in the front yard to install a tall fence behind the required front yard setback, and the other security measures that already exist onsite as reasons for not being able to make the required findings for approval. The Commission also listed the safety concerns address by Parks and Public Works staff as a reason for their motion. After completing their deliberations, the Commission denied the appeal and upheld the Community Development Director denial of the Fence Height Exception application.

C. Appeal to Town Council

The decision of the Planning Commission was appealed on November 14, 2022, by David and Ilana Kohanchi (Attachment 6). The appellant stated that the Planning Commission erred or abused its discretion because of discrimination and bias. The appellant stated that the Planning Commission's decision was not supported by substantial evidence in the record, including crime statistics, concerns about break-ins, safety given recent burglaries, the location being a high traffic commercial area, and neighbor support. The Town Council

DISCUSSION (continued):

should review the record contained in the Planning Commission Verbatim Minutes (Attachment 5) to determine if the appeal should be upheld or denied.

PUBLIC COMMENTS:

Written notice of the Town Council hearing was sent to property owners and tenants within 300 feet of the subject property.

CONCLUSION:

A. Recommendation

For the reasons stated in this report, it is recommended that the Town Council uphold the decision of the Planning Commission and adopt a resolution denying the appeal (Attachment 8).

B. Alternatives

Alternatively, the Town Council could:

1. Adopt a resolution to grant the appeal and remand the application back to the Planning Commission with specific direction (Attachment 9);
2. Adopt a resolution granting the appeal and approving the application (Attachment 10);
or
3. Continue the application to a date certain with specific direction.

COORDINATION:

The Community Development Department coordinated with the Parks and Public Works Department in the review of the fence height exception.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

ATTACHMENTS:

1. September 14, 2022, Planning Commission Staff Report, with Exhibits 1 through 12
2. September 14, 2022, Planning Commission Desk Addendum, with Exhibit 13
3. September 14, 2022, Planning Commission Desk Item, with Exhibit 14 and 15

PAGE 7 OF 8

SUBJECT: 755 Blossom Hill Road/FHE-21-003

DATE: January 12, 2022

ATTACHMENTS (continued):

4. November 9, 2022, Planning Commission Staff Report, with Exhibit 16
5. November 9, 2022, Planning Commission Verbatim Minutes
6. Appeal of the Planning Commission decision, received November 14, 2022
7. Request for Continuance, dated December 13, 2022
8. Draft Resolution to Deny the Appeal and Deny the Project
9. Draft Resolution to Grant the Appeal and Remand the Project to Planning Commission
10. Draft Resolution to Grant the Appeal and Approve the Project, with Exhibits A and B

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 9/14/2022

ITEM NO: 2

DATE: September 9, 2022

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of Six-Foot Tall Fencing Located Within the Required Front Yard Setback and Construction of a Vehicular Gate with Reduced Setbacks on Property Zoned R-1:10. **Located at 755 Blossom Hill Road.** APN 523-04-043. Fence Height Exception Application FHE-21-003. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

RECOMMENDATION:

Deny the appeal of a Community Development Director decision to deny an exception to the Town's fence regulations on property zoned R-1:10, located at 755 Blossom Hill Road.

PROJECT DATA:

General Plan Designation: Low Density Residential

Zoning Designation: R-1:10 – Single-family residential

Applicable Plans & Standards: General Plan, Residential Design Guidelines

Parcel Size: 21,058 square feet

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:8
South	Residential & Commercial	High Density Residential & Neighborhood Commercial	R-M:12-20:PD & C-1
East	Residential	Low Density Residential	R-1:10
West	Office	Office Professional	O

PREPARED BY: SAVANNAH VAN AKIN
Assistant Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures. The project proposes fencing and a vehicular gate.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the north side of Blossom Hill Road, east of the intersection with Camelia Terrace (Exhibit 1).

On December 14, 2020, the Town issued an administrative warning for a code violation at 755 Blossom Hill Road (Exhibit 4). This warning was sent after several complaints were submitted regarding a front yard fence/vehicular gate. This letter requested that the property owners reduce their six-foot fence along the front property line down to three feet to meet Town Code, by January 3, 2021.

On February 12, 2021, the property owner applied for an exception to the Town's fence regulations for the unpermitted construction of the vehicular gate and fencing on the subject property, which does not comply with the Town Code fence regulations for height and setbacks (Exhibits 5 and 6). The request was based on concerns related to protection for children, animals, and a garden. Privacy is also listed as a concern.

Staff contacted the property owner to discuss concerns with the vehicular gate and fence and explore potential options available.

On July 2, 2021, the Town denied the exception request because the findings listed in Town Code Section 29.40.0320 could not be made, safety concerns including the location of the metal fencing relative to the driveway which obstructs visibility as vehicles exit the driveway and cross over the sidewalk and into the roadway, and the reduced setback of the vehicular gate would not allow for vehicles to clear the travel lanes of Blossom Hill Road while queuing (Exhibit 7).

BACKGROUND (continued):

On November 16, 2021, staff contacted the property owner and provided examples of similar fence height exception requests that were appealed to the Planning Commission. Staff also reminded the property owners of the options to remedy the situation. These options included: removing the illegal fence and gate; modifying the fence and gate to comply with Town Code; or filing an appeal of the decision to deny the fence height exception.

The property owner was contacted via email on January 31, 2022, March 22, 2022, April 5, 2022, May 3, 2022, and May 24, 2022. Staff asked for a progress update and provided the options to remedy the situation.

On July 7, 2022, the Town issued a second administrative warning for a code violation (Exhibit 8). This letter requested the property owners to: remove the illegal fence and gate; modify the fence and gate to comply with Town Code; or file an appeal of the decision to deny the fence height exception by August 7, 2022.

On August 5, 2022, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission (Exhibit 9).

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the north side of Blossom Hill Road, east of the intersection with Camelia Terrace (Exhibit 1). The property has single-family residential properties to the north and east, a senior living facility and a commercial center to the south, and an office to the west.

B. Project Summary and Zoning Compliance

The property owner is appealing the Community Development Director decision to deny a request for an exception to the fencing regulations of the Town Code for the unpermitted construction of the vehicular gate and fencing.

DISCUSSION:

A. Fence Height Exception

The property owner requested an exception to the fence regulations to approve a constructed six-foot fence located within the required front yard and a vehicular gate set back less than eighteen (18) feet from the edge of the adjacent street (Exhibits 5 and 6). The vehicular gate and fencing exceed the three-foot height limitation when located

DISCUSSION (continued):

in a required front setback, traffic view area, and driveway view area; and the vehicular gate does not meet the 18-foot setback requirement as measured from the edge of the street.

Per Town Code Section 29.40.0315 (a)(3), fences, walls, gates, and hedges may not exceed a height of three feet when located within a required front or side yard abutting a street, driveway view area, or traffic view area unless an exception is granted by the Town Engineer and Community Development Director. This regulation is intended to minimize conflicts between pedestrians, cyclists, and cars by ensuring fences, walls, gates, and hedges do not obstruct the view from a car as it exits a driveway and crosses over a sidewalk to enter the roadway. Limiting the height of fences and gates to no more than three feet in these areas allows drivers and pedestrians a view of each other while continuing to afford property owners the opportunity to define the boundaries of their property. The required front yard setback in the R-1:10 zone is 25 feet. A traffic view area is the area which is within 15 feet of a street and a driveway view area is a triangular area at the intersection of driveways and sidewalks and street intersections having sides 10 feet in length (Exhibit 10). The existing six-foot tall wood fence has a minimum setback of nine feet from the property line and the six-foot tall metal fence and vehicular gate are located on the property line (Exhibit 11).

Per Town Code Section 29.40.0315 (c)(3), vehicular gates shall be set back from the edge of the adjacent street a minimum of 18 feet. The intent of this regulation is to allow for vehicles to clear the travel lanes while queuing as the gate is opening.

Per Town Code Section 29.40.0315 (b)(1)(c), barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors materials are prohibited. The existing metal fence and gate has distinct sharp points at the top (Exhibit 12).

Town Code Section 29.40.0320, provided below, allows an exception to any of the fence regulations if a property owner can demonstrate that one of the following conditions exist.

Sec. 29.40.0320. - Exceptions.

An exception to any of these fence regulations may be granted by the Community Development Director. A fence exception application and fee shall be filed with the Community Development Department and shall provide written justification that demonstrates one (1) of the following conditions exist:

- (a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.*

DISCUSSION (continued):

- (b) On interior lots, side yard and rear yard fences, walls, gates, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification that either:
 - (1) A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening; or*
 - (2) A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.**
- (c) At public utility facilities, critical infrastructure, and emergency access locations, exceptions may be granted where strict enforcement of these regulations will result in a security or safety concern.*
- (d) A special security concern exists that cannot be practically addressed through alternatives.*
- (e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.*

The property owner requested an exception due to security and privacy concerns (Exhibit 5 and 6). The privacy concerns were related to the property's proximity to commercial centers and medical offices, citing instances when people mistake their home for the chiropractor's office next door. Regarding the security concerns, the property owner cited protecting children, containing animals, and protecting a garden as justification.

Staff was unable to support the proposed exceptions as the location of the metal fencing relative to the driveway creates a safety concern as vehicles exit the driveway and cross over the sidewalk to enter the roadway. Additionally, the location of the vehicular gate would not allow for vehicles to clear the travel lanes while queuing. Parks and Public Works Department staff reviewed the proposal and could not support the exception requests. The Town denied the exception request on July 2, 2021 (Exhibit 7).

B. Appeal Analysis

The decision of the Community Development Director to deny the Fence Height Exception application was appealed on August 5, 2022 (Exhibit 9), after several months of staff reaching out and after a second administrative warning letter was sent on July 7, 2022. The appellant lists security and the unique location as justification for their appeal. The appellant's letter raises several points to support their appeal of the fence height exception as listed below.

DISCUSSION (continued):

1. The noncompliant fence and gate are already built.
2. All other noncompliant fences within the Town should be altered to meet Town Code.
3. The fence provides protection against wildlife.
4. The fence adds extra security for their family while away at work.
5. The fence adds extra security and privacy against intrusions from the public.
6. The location of their home is uniquely surrounded by businesses.
7. Town staff were not accessible for questions during the pandemic closure.
8. The fence provided safety during COVID.

The property appellant's letter also provided responses to support their appeal of the 18-foot setback requirement for the vehicular gate as listed below.

1. There are existing seven feet tall trees lining the property that block visibility.
2. Their fence has gaps between the rails, making visibility easy for incoming or outgoing vehicles.
3. The gate receiver works from a distance of 1,000 feet, which prevents cars from stopping in the road to enter through the gate.
4. They are willing to leave the gate open during the day. The gate is to prevent nighttime intruders.
5. Their home is uniquely placed among commercial properties, and along Blossom Hill Road, creating a less defined "neighborhood character."

C. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. At time of preparation of this report, no public comment has been received.

CONCLUSION:

A. Summary

The property owner is requesting that the Planning Commission reconsider the Community Development Director's decision to deny the exceptions to the fence regulations to maintain an unpermitted vehicular gate and fencing that exceeds the three-foot height

CONCLUSION (continued):

limitation when located in a required front setback, and a vehicular gate that does not meet the 18-foot setback requirement as measured from the edge of the street.

B. Recommendation

Staff recommends that the Planning Commission deny the appeal of a Community Development Director decision to deny the exceptions to the Town's fence regulations.

C. Alternatives

Alternatively, the Commission can:

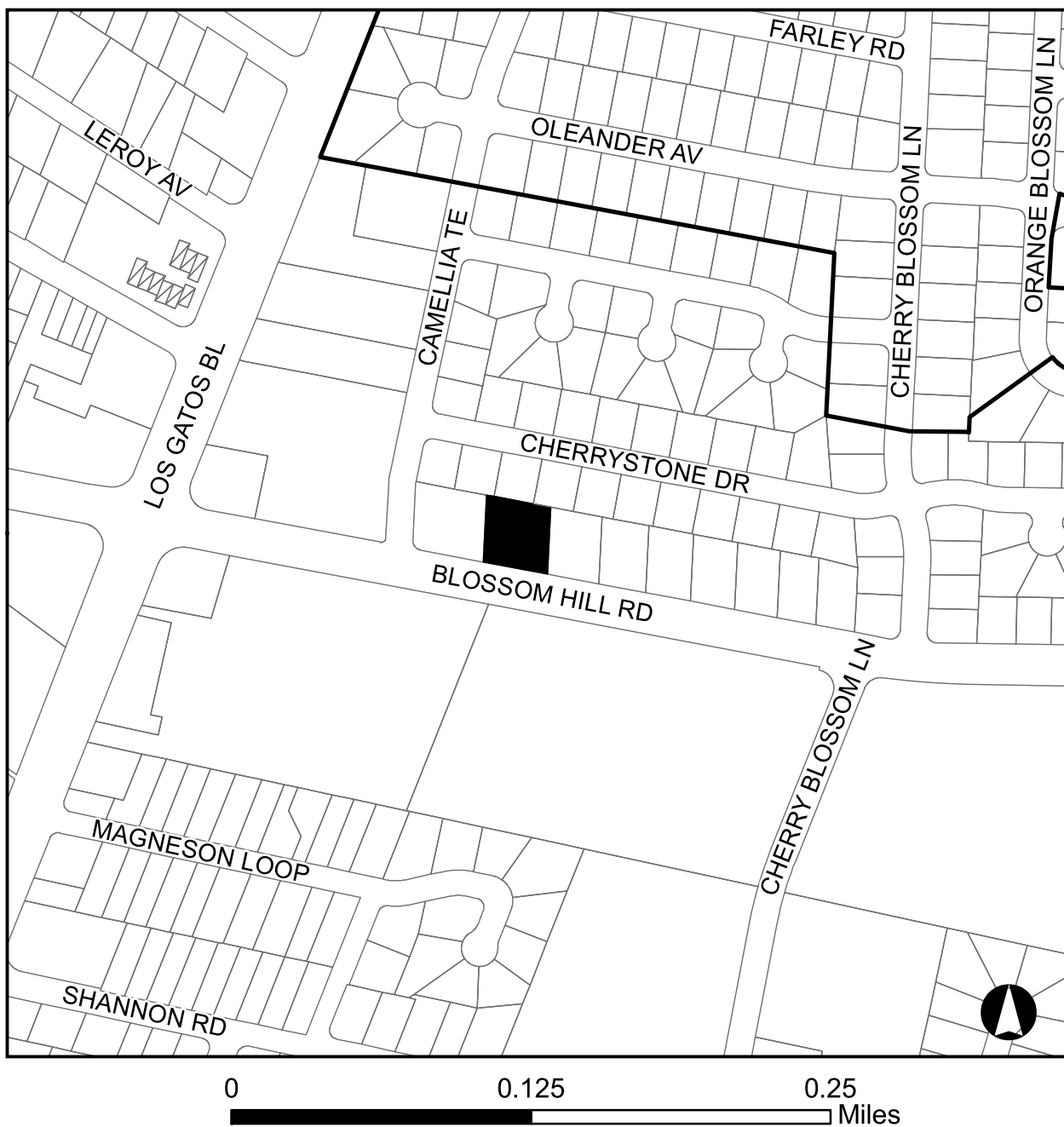
1. Continue the matter to a date certain with specific direction;
2. Grant the appeal and approve the exceptions to the Town's fence regulations with the finding in Exhibit 2 and the draft conditions provided in Exhibit 3; or
3. Grant the appeal with additional and/or modified conditions.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Administrative Warning Letter, dated December 14, 2020
5. Fence Height Exception Request, dated February 12, 2021 to the Community Development Department
6. Fence Height Exception Request, dated February 12, 2021 to the Parks and Public Works Department
7. Fence Height Exception Denial Letter, dated July 2, 2021
8. Administrative Warning Letter, dated July 7, 2022
9. Appeal of the Community Development Director Decision, received August 5, 2022
10. View Areas Diagrams
11. Site Plan
12. Site Images

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755 Blossom Hill Road



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PLANNING COMMISSION –September 14, 2022
REQUIRED FINDINGS FOR:

755 Blossom Hill Road
Fence Height Exception FHE-21-003

Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of Six-Foot Tall Fencing Located Within the Required Front Yard Setback; and Construction of a Vehicular Gate with Reduced Setbacks on Property Zoned R-1:10. APN 523-04-043. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

Required finding for CEQA:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

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PLANNING COMMISSION – September 14, 2022
CONDITIONS OF APPROVAL

755 Blossom Hill Road
Fence Height Exception FHE-21-003

Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of Six-Foot Tall Fencing Located Within the Required Front Yard Setback and Construction of a Vehicular Gate with Reduced Setbacks on Property Zoned R-1:10. APN 523-04-043. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below.
2. EXPIRATION: The Fence Height Exception approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. BUILDING PERMIT: The proposed vehicular gate requires a Building Permit.
4. FENCE AND GATE SHARP POINTS: Any sharp points shall be removed, prior to the issuance of a building permit.
5. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.

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TOWN OF LOS GATOS

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

December 14, 2020

David and Llana Kohanchi
755 Blossom Hill Road
Los Gatos, CA 95030

Administrative Warning

Re: Code Violation at 755 Blossom Hill Rd, Los Gatos

As you are aware, the Town of Los Gatos Community Development Department has received complaints regarding the above referenced property. The complaints are in regards to a front yard fence/vehicular gate and alleged unpermitted construction. Front yard fencing shall be no taller than three feet in height and a vehicular gate may be no closer than 18 feet from the property line.

The Town has received three complaints regarding unpermitted construction consisting of interior electrical and plumbing work started without permits as well as unpermitted work on the detached garage. I contacted your assistant (Sherena) about a month ago a have not heard back from her. She was to get back to me regarding the fence/vehicular gate and unpermitted construction.

Pursuant to Town Code Section 29.40.0315. - Height, materials and design, and location.

(a) Height.

(3) Fences, walls, gates, and hedges may not exceed three (3) feet in height when located within a required front or side yard abutting a street (as required by the zone), driveway view area, traffic view area, or corner sight triangle unless an exception is granted by the Town Engineer and Community Development Director. Trees, hedges, and vegetation within a corner sight triangle shall meet the requirements of section 26.10.065.

(c) Location.

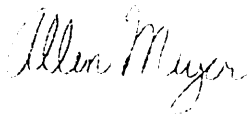
(3) Vehicular gates shall be set back from the edge of the adjacent street a minimum of eighteen (18) feet as measured along the centerline of the driveway.



Pursuant to Town Code Section 6.150.010 (R 105.1) Permit Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Accordingly, we are asking that the six feet fence along the property line be reduced in height to three feet, the vehicular gate be removed, and all required permits be submitted by **January 3, 2021**. Failure to comply by the compliance date will result in a citation. Please feel to contact me if you should have any questions regarding this notice at ameyer@losgatosca.gov or at 408-399-5746.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Allen Meyer".

Allen Meyer
Code Compliance Officer
Town of Los Gatos

Dear Mr. Mora,

Upon purchasing this house, we hoped to have a warm welcome to the neighborhood. We are spending a life's fortune to live in Los Gatos, in the hopes that our newborn daughter has the best chance at a successful, fruitful, and healthy life.

I would like to usher that I aim to be an outstanding and contributing member, and strong supporter, of the Los Gatos Community. As one of a limited number of Cardiac Anesthesiologists that cover Regional Medical Center, Good Samaritan Hospital, and O'Connor Medical Center, I spend my days in the pursuit of improving lives. This has only been validated with the recent COVID pandemic and the necessity for VV-ECMO placement (artificial devices to assist with blood oxygenation) which places all healthcare workers at a DIRECT risk.

We purchased our home amidst a global pandemic with rampant fear across the country. I, myself a physician at the front line, contacted the LG Building Department in an attempt to better understand the myriad town codes and apply for permitting. Unfortunately, things became more difficult with intermittent quarantining and unavailability of people to speak with. Our only option was to use your website logatosca.gov for answers.

- 1) Town Code Section 29.40.0315 does not appear readily accessible online. In fact, I can't find it anywhere. The only guidance available for "Fences, hedges, and walls" is section 29.40.030, which clearly states...
 - a. "In residential zones, fences, hedges, and walls not over 6 feet high are allowed on or within all property lines, except that no owner or occupant of **any corner lot or premises** in the Town shall erect or maintain upon such lot or premises any fence, hedge or wall higher than 3 feet above the curb in a traffic view area unless a permit is secured from the Town Engineer. A traffic view area is the area which is within 15 feet of a public street and within 200 feet of the right-of-way line of an intersection. Barbed wire or razor ribbon wire is prohibited in all zones."
 - b. Our front fence is precisely 6 feet in height. We didn't see our house as a **corner lot or premise**. That being said, the fence was placed out of a sense of necessity. The start of the COVID pandemic was scary for everyone. Given a demonstrated lack of concern for personal space, social distancing, and mask requirements by local residents, it became incumbent for me (and my mother-in-law) to protect my wife and future child from the heavy walking traffic. Not to mention the fact that our house resides next to a community chiropractor office inundated with strangers and across the street from a supermarket parking lot filled with homeless people. In fact, the day we moved into our home we had to kindly ask a homeless gentleman to remove his belongings from our front yard. This is now a matter of personal and public safety.

- 2) The above paragraph is very clear about stating that the 3 feet height, 15 ft from public street and 200 ft from intersection rules only apply to "any corner lot or premises."

Our house is in no way considered a corner lot or premises. The regulation also states that there is a 6ft maximum height for areas "within all property lines." Our house does fall into this category, and definitely adheres to the 6 ft maximum rule.

The Code Section 29.40.0315 applies to ANY CORNER LOT OR PREMISES, it does not say AND the premises/lot inside the block should have the same regulations. Also, it does not say OR any premises/lot inside the block should follow the same rule.

It does not say ANY premises or lots, so it is specifically applies to the corner lots/premises and cannot be considered relevant to our case.

- 3) According to Section 29.40.0305, the intent of the fence regulations is to:
 - a.) Preserve the natural beauty of the Town of Los Gatos:
 - Our fence does not block any natural beauty as it is an open view fence, not a solid fence. It does not interfere with any part of the natural beauty.
 - b.) Preserve the natural movement of wildlife:
 - The birds and squirrels can easily operate their daily lives with the fence in place.
 - c.) Protect traffic view areas:
 - The fence doesn't hamper the traffic view area as we are far away from the intersection (i.e. not the corner house)
- 4) Further according to the same Section 29.40.0305, the city of Los Gatos acknowledges the residents have the right to:
 - a.) Protect children: We have a 2 month
 - b.) old infant at home (see picture attached.)
 - c.) Contain animals
 - d.) Protect garden or agricultural areas: We have a lot of fruit trees that we love and care for.
 - e.) Maintain privacy: Invasions of our privacy have occurred multiple times:
 - Sometimes people come to our home mistakenly while searching for the chiropractor's office next door.
 - A man, posing as a lawyer for the city of Los Gatos, attempted to sneak into our front yard through the wooden fence. We did not let him in and so he sent neighbors a request to file complaints against our metal fence. Instead three different neighbors showed us his e-mails, and offered their support. In fact, they pointed out how happy they are to have something so beautiful in their neighborhood to raise their property value. Upon further investigation, we discovered that this man was actually a real estate broker. We still don't know what his reasons were for such behavior.
 - One day when walking home with my pregnant wife (before the baby was born), I had to interact with a homeless man who was attempting to use our wooden fence as a restroom.
- 5) Security is an important factor for us. The political situation is unstable, and there can be riots or dangerous situations anywhere at any time, not to mention Covid is a huge concern. For all these reasons, we need to trust that we have something secure in place to protect ourselves.
- 6.) There are several fences all over Los Gatos that are 6 feet high.

We are asking for an exception for the vehicular gate regulations.

Vehicular gates shall be set back from the edge of the adjacent street a minimum of eighteen (18) feet as measured along the centerline of the driveway. A greater setback may be required when a gated entrance serves more than one (1) house.

- (a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.

According to the above exception, we can keep this gate because we are adjacent to a commercial property, which is a corner building.

(e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.

([Ord. No. 2286](#), § I, 8-6-19)

Our lot has several fruit trees that produce various fruits. Because of this, many uninvited visitors show up to collect them, including homeless people coming from the plaza across the street. We need additional security to prevent these unwanted guests. Therefore we are asking for an exception to qualify for this special circumstance.

We also would lose our emergency parking spaces entirely if we move the gate to 18 feet from the property line, as they would be blocked off by the gate. I need emergency parking that I can use to get out quickly when I am on call for urgent surgical procedures day and night.

Also, as you can imagine, not having adequate parking in one's own home is an extreme hardship and huge interference with daily life (going to and from work, carrying groceries, not to mention a heavy car seat for my wife with a baby inside.)

The only other parking space would be closer to the house, but that section is going to be used for children's play. There is no other space for our daughter to play outside when she grows up. If the parking is forced out, it would have to be moved to this space, and the baby's play area would disappear.

D.) A special security concern exists that cannot be practically addressed through alternatives.

We respectfully ask that you make an exception and allow our fence with the vehicular gate to remain intact. We are very willing to get the permit required to secure legalization of this gate. If any and all other permits are needed, we will be happy to comply. We can ask Mr. Meyer which paperwork/permit(s) are necessary. We ask that an exception be granted by the Town Engineer and Community Development Director.

Also, on our street and several streets around the neighborhood, there are many 6 feet high fences (see addresses below and pictures attached) with a high vehicular gate on the property line in plain view in front of people's houses. There are many more in the neighborhood but the following is only a list of the addresses around our house. Based on all the aforementioned reasons, we respectfully ask for you to allow us to also have such a gate and fence.

List of 6 Ft high fences addresses in our neighborhood:

- 16698 Los Gatos Almaden Road
- 16486 Los Gatos Almaden Road
- 16400 Los Gatos Almaden Road
- 16388 Los Gatos Almaden Road
- 16360 Los Gatos Almaden Road
- 16194 Los Gatos Almaden Road
- 16166 Los Gatos Almaden Road
- 16250 Blossom Hill Road
- 907 Blossom Hill Road
- 16310 Shannon Road

List of vehicular gates on the property line addresses in our neighborhood:

- 16400 Los Gatos Almaden Road
- 16388 Los Gatos Almaden Road
- 16374 Los Gatos Almaden Road
- 16360 Los Gatos Almaden Road
- 16194 Los Gatos Almaden Road
- 16166 Los Gatos Almaden Road
- 15996 Los Gatos Almaden Road
- 907 Blossom Hill Road
- 16450 Shannon Road

Thank you so much for your time and kindly attention to this matter.

With utmost respect,

The Kohanchi Family

[REDACTED]

Dear Mr. Kim,

Upon purchasing this house, we hoped to have a warm welcome to the neighborhood. We are spending a life's fortune to live in Los Gatos, in the hopes that our newborn daughter has the best chance at a successful, fruitful, and healthy life.

I would like to usher that I aim to be an outstanding and contributing member, and strong supporter, of the Los Gatos Community. As one of a limited number of Cardiac Anesthesiologists that cover Regional Medical Center, Good Samaritan Hospital, and O'Connor Medical Center, I spend my days in the pursuit of improving lives. This has only been validated with the recent COVID pandemic and the necessity for VV-ECMO placement (artificial devices to assist with blood oxygenation) which places all healthcare workers at a DIRECT risk.

We purchased our home amidst a global pandemic with rampant fear across the country. I, myself a physician at the front line, contacted the LG Planning Department in an attempt to better understand the myriad town codes and apply for permitting. Unfortunately, things became more difficult with intermittent quarantining and unavailability of people to speak with. Our only option was to use your website logatosca.gov for answers. We signed the contract and started building the fence on 9/10/2020.

- 1) Town Code Section 29.40.0315 does not appear readily accessible online. In fact, I can't find it anywhere. The only guidance available for "Fences, hedges, and walls" is section 29.40.030, which clearly states...
 - a. "In residential zones, fences, hedges, and walls not over 6 feet high are allowed on or within all property lines, except that no owner or occupant of **any corner lot or premises** in the Town shall erect or maintain upon such lot or premises any fence, hedge or wall higher than 3 feet above the curb in a traffic view area unless a permit is secured from the Town Engineer. A traffic view area is the area which is within 15 feet of a public street and within 200 feet of the right-of-way line of an intersection. Barbed wire or razor ribbon wire is prohibited in all zones."
 - b. Our front fence is precisely 6 feet in height. We didn't see our house as a **corner lot or premise**. That being said, the fence was placed out of a sense of necessity. The start of the COVID pandemic was scary for everyone. Given a demonstrated lack of concern for personal space, social distancing, and mask requirements by local residents, it became incumbent for me (and my mother-in-law) to protect my wife and future child from the heavy walking traffic. Not to mention the fact that our house resides next to a community chiropractor office inundated with strangers and across the street from a supermarket parking lot filled with homeless people. In fact, the day we moved into our home we had to kindly ask a homeless gentleman to remove his belongings from our front yard. This is now a matter of personal and public safety.
- 2) The new law that states the 3 feet height rule for fences came into effect on 9/20/2020. However, as previously stated, we began building the fence on 9/10/2020, thus it was 10 days prior to the enforcement of the new law, when the 6 ft rule was still applicable. Therefore, no rules were broken at the time of the fence's conception, and the new laws cannot be applied to us in this situation.
- 3) According to Section 29.40.0305, the intent of the fence regulations is to:

- a.) Preserve the natural beauty of the Town of Los Gatos:
 - Our fence does not block any natural beauty as it is an open view fence, not a solid fence. It does not interfere with any part of the natural beauty.
- b.) Preserve the natural movement of wildlife:
 - The birds and squirrels can easily operate their daily lives with the fence in place.
- c.) Protect traffic view areas:
 - The fence doesn't hamper the traffic view area as we are far away from the intersection (i.e. not the corner house)
- 4) Further according to the same Section 29.40.0305, the city of Los Gatos acknowledges the residents have the right to:
 - a.) Protect children: We have a 1 month old infant at home (see picture attached.)
 - b.) Contain animals
 - c.) Protect garden or agricultural areas: We have a lot of fruit trees that we love and care for.
 - d.) Maintain privacy: Invasions of our privacy have occurred multiple times:
 - Sometimes people come to our home mistakenly while searching for the chiropractor's office next door.
 - A man, posing as a lawyer for the city of Los Gatos, attempted to sneak into our front yard through the wooden fence. We did not let him in and so he sent neighbors a request to file complaints against our metal fence. Instead three different neighbors showed us his e-mails, and offered their support. In fact, they pointed out how happy they are to have something so beautiful in their neighborhood to raise their property value. Upon further investigation, we discovered that this man was actually a real estate broker. We still don't know what his reasons were for such behavior.
 - One day when walking home with my pregnant wife (before the baby was born), I had to interact with a homeless man who was attempting to use our wooden fence as a restroom.
- 5) Security is an important factor for us. The political situation is unstable, and there can be riots or dangerous situations anywhere at any time, not to mention Covid is a huge concern. For all these reasons, we need to trust that we have something secure in place to protect ourselves.
- 6.) There are several fences all over Los Gatos that are 6 feet high.

We respectfully ask that you make an exception and allow our fence with the vehicular gate to remain intact. We are very willing to get the permit required to secure legalization of this gate. If any and all other permits are needed, we will be happy to comply. We can ask Mr. Meyer which paperwork/permit(s) are necessary. We ask that an exception be granted by the Town Engineer and Community Development Director.

Thank you so much for your time and kindly attention to this matter.

With utmost respect,

The Kohanchi Family

██████████



TOWN OF LOS GATOS

COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

July 2, 2021

Nina Guralnic
755 Blossom Hill Road
Los Gatos, CA 95032

RE: 755 Blossom Hill Road
Fence Height Exception (FHE-21-003)

Requesting approval for a constructed six (6) foot fence located within the required front yard and a vehicular gate set back less than eighteen (18) from the edge of the adjacent street on property zoned R-1:10. APN 523-04-043.

PROPERTY OWNER: David and Ilana Kohanchi

APPLICANT: Nina Guralnic

The Los Gatos Community Development Department has reviewed the referenced application for a fence height exception pursuant to Section 29.40.0320. On July 2, 2021, the Los Gatos Community Development Department has denied the request.

PLEASE NOTE: Pursuant to Section 29.20.255 of the Town Code, this decision may be appealed to the Planning Commission within 10 days of the denial date.

Any interested person may appeal this decision to the Planning Commission. Appeals, with the completed Appeal Form and appeal fee payment, must be submitted within 10 days from the date of denial, or by 5:00 p.m., July 12, 2021.

If you have any questions concerning this decision, please contact Project Planner Diego Mora at (408) 354-6806 or via email at DMora@losgatosca.gov.

Sincerely,

Diego Mora
Assistant Planner

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TOWN OF LOS GATOS

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

July 7, 2022

David and Llana Kohanchi
Nina Guralnic
755 Blossom Hill Road
Los Gatos, CA 95030

Administrative Warning

Re: Code Violation at 755 Blossom Hill Rd, Los Gatos

As you are aware, the Town of Los Gatos Community Development Department has received several complaints regarding an unpermitted front yard fence on the above referenced property. An Administrative Warning letter was issued on December 14, 2020. On February 12, 2021, an application for a fence height exception (FHE-21-003) was applied for. The fence height exception was denied on July 2, 2021. An appeal of this decision was not received. On May 3rd and 24th, 2022, Planning Staff emailed you requesting a status update, no reply was received.

Options to remedy the current fence height violations on this property are to:

1. Remove the illegal fence and gate;
2. Modify the fence and remove the gate to comply with the Town Code (3 feet tall or less);
3. File an appeal of our decision to deny your requested Fence Height Exception.

Accordingly, we are asking you to remedy the current fence violation by completing one of the above referenced options by **August 7, 2022**. Failure to comply by the compliance date may result in daily fines. Please feel to contact me if you should have any questions regarding this notice at ameyer@losgatosca.gov or at 408-399-5746.

Respectfully yours,

Allen Meyer
Code Compliance Officer
Town of Los Gatos



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BP35631
PAID
 AUG 05 2022
 TOWN OF LOS GATOS

TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT
 110 E. Main Street
 Los Gatos, CA 95030

**APPEAL OF THE DECISION OF
 DIRECTOR OF COMMUNITY DEVELOPMENT**

PLEASE TYPE or PRINT NEATLY

I, the undersigned, do hereby appeal a decision of the DIRECTOR OF COMMUNITY DEVELOPMENT as follows:

DATE OF DECISION: July 2nd, 2021

PROJECT/APPLICATION: Fence Height Exception (FHE-21-003)

LOCATION: 755 Blossom Hill Rd, Los Gatos, CA 95032

Pursuant to the Town Code, any interested person as defined
 Commission any decision of the Director.

Interested person means:

1. *Residential projects.* Any person or persons or ent
 1,000 feet of a property for which a decision has be
 will be injured by the decision.
2. *Non-residential and mixed-use projects.* Any pers
 demonstrate that their property will be injured by t

LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:

Please see the statement attached.

I reserve the right to submit a more detailed supplement by letter.

IMPORTANT:

1. Appeal must be filed not more than ten (10) days after
 Development. If the tenth (10th) day is a Saturday, Sun
 the workday immediately following the tenth (10th) da
2. The appeal shall be set for the first regular meeting of the Planning Commission. The
 Planning Commission will permit, more than five (5) days after the date of the filing of the appeal. The
 Planning Commission may hear the matter anew and render a new decision in the matter.
3. You will be notified, in writing, of the appeal date.
4. Contact the project planner to determine what material is required to be submitted for the public hearing.

paid v
**FENCE
 HEIGHT
 EXP. APPEAL**
8/5/22

RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT

PRINT NAME: Nina Guralnik

SIGNATURE: Nina Guralnik

DATE: 8/3/2022

ADDRESS: 755 Blossom Hill Rd, Los Gatos, CA 95032

PHONE: (415) 307-6381

EMAIL: nina_guralnik@yahoo.com

OFFICE USE ONLY

DATE OF PLANNING COMMISSION HEARING: _____

COMMISSION ACTION: 1. _____
 2. _____
 3. _____

DATE: _____
 DATE: _____
 DATE: _____

PLAPPEAL \$ 234.00 Residential
 PLAPPEAL \$ 934.00 Commercial
 PLAPPEAL \$ 95.00 Tree Appeals

We are appealing the decision to cut our fence from 6 feet to 3 feet and to move the vehicular gate 18 feet from the property line based on the following arguments:

- 1.) At the current moment, we are not applying for an exception for permission to build a fence. Our fence is already built, and it cost a great deal of money because it was made entirely from galvanized material. Now it would cost a lot to reconstruct it. We already borrowed money to build it (which we are still very slowly paying back) in order to protect our family, and now we simply don't have the funds for the reconstruction. It would be a significant financial hardship. Despite that, we love the community we live in and will do our best to work for its benefit.
- 2.) If this regulation is based on the homogenous "beauty" of the city, then we would need to remove or alter all the other existing 6 foot tall fences. Otherwise, there is no "beauty" if 900 fences are 6 feet tall and another few hundred that do comply are now 3 feet tall.
- 3.) As far as the argument that the rule somehow protects wildlife, perhaps the wildlife should be educated enough to understand that they need to enter and exit through the 3 foot high front fence, but not through the 8 foot high back and side fences. Though it can be fathomed, that the exact location of the fence in proportion to the house is of no importance whatsoever to an animal. Perhaps we don't want to welcome all wildlife into our yard. We certainly welcome bunny rabbits, but why should we invite coyotes, for example, to play with our 1 and a half year old baby?
- 4.) My son-in-law is a doctor, and by moving the vehicular gate, the city would be taking away his emergency parking that allows him to get to the OR in 5 minutes at night, when on-call. Furthermore, he should be thinking about the patient on the table in those times, rather than about the safety of his wife and daughter left alone at home without the added security of the fence. (when the house is located on a main road).
- 5.) My daughter is a well-known actress who works on popular TV shows and movies. She works mostly in Los Angeles, and though she keeps her home address as private as possible, (and Hollywood maintains that contact should go through agents rather than actors directly) she still regularly receives requests, online messages and e-mails from fans. (We have tons of these examples in writing). The messages run the gamut from requesting a simple headshot and autograph to a shout-out on social media to video messages to crazy things that you can imagine. (multiple people have asked for her address). Some fans are nice and polite while others may be stalkers. Should someone like that get a hold of her address, (which has happened in the past) with no metal fence in place, a low wooden gate that can easily be entered would lead this person straight to her front door with unbeknown intentions.

6) Location is unique.

Our house is likely one of the only ones in Los Gatos county completely surrounded by businesses. There are no other homes in this situation.

- The dental/chiropractor office next door has high foot traffic. This poses a clear safety risk to our home. The gate helps distinguish our home from the practice making it less likely for patients to inadvertently park in our driveway.
- The shopping centers (with gas station) to the right and across from us have odd characters at all hours of the day. We've seen people selling goods to one another between 1-3 AM. I've confronted people a number of times - suffice it to say we needed an added barrier of protection from these individuals.
- There is a nursing home across the street with innumerable workers on a daily basis. That creates a privacy issue. The residents of this nursing home also applaud our fence, and have expressed their support in keeping it up because it adds to the beauty of their view.
- Our home is placed on a long straight stretch of road between Cherry Blossom lane and Los Gatos Blvd. Despite the city's best efforts to curb the speed of vehicles on this road, cars are driving upwards of 60 miles/hr (measured on my radar, constantly). As I understand it there have been multiple accidents and even the death of a child in recent years. I won't be a statistic to a car accidentally jumping our curb and ending up in our living room. Our fence is galvanized steel, at six feet would be able to prevent the inevitable catastrophe in this exact scenario. Furthermore, when this tragedy occurred, people asked for the speed limit to be reduced on this road, and it has not been done yet. It seems like that is not as urgent as lowering the fence in front of our house.

7) Ordinance Contradiction

Series of events as they stand.

The home was purchased in October of 2020. Many attempts were made to communicate with the city of Los Gatos. There was limited accessibility to staff members for direct information. Their unavailability throughout most of 2021 was a problem for new homeowners unfamiliar with the area.

The day we moved into our home there was a homeless person sleeping in our driveway INSIDE of the supposed secure wooden gate already in place. The person kindly left when asked, fortunately.

Before the fence was up, various people regularly came into our backyard unannounced "picking our persimmons." Some of them were under the impression the previous owners had abandoned the property given how much quieter and more polite we were in comparison. They were shocked when I walked outside and calmly asked them to leave. Before coming outside, however, I had no idea what they came for. With a wife and baby at home to protect, and 3

strangers outside my window, imagine how frightened I could be at night. I was well within my right to defend my property by the way.

Given the above information, what would be the most appropriate manner to protect your family without aggression? We looked to whatever information was available at the time.

UNFORTUNATELY, the information posted on the city's website had the outdated fence ordinance listed (as of 11/2020). I (a physician) and the contractor used what was easily and readily available to put up a fence in accordance with the rules. I apologize for not having looked up the complete compendium of city ordinances or running it through the office of the City of Los Gatos, **but the contradiction listed on the website versus the updated ordinance handbook should not come at our loss.**

Our fence was built merely 1 short year after the amendment to this law that made our specific fence proportions no longer allowed. Unfortunately, it was nearly impossible to get this information online, despite extensive searches on our part prior to building the fence. The most available record that we could find stated the 6 ft rule, rather than the new, obscure to find 3 ft rule. We also tried to call numerous times and could not get this information. Perhaps a professional who works with county issues, such as yourselves, would easily be able to get this information, but for us lay people, it was extremely difficult, so much so that we did not even find out about the new regulation until after the complaint, and that is how we ended up in this predicament. That is why we are now asking for an exception.

8) The fence was placed solely for safety during a Covid pandemic. There are two people on our street who have made outlandish comments to my wife and I on our walks with our 19 month old daughter. One person said "surprised how good looking your daughter is." My wife and I are a proud interracial couple. Is it possible that this is motivated by racism or ignorance that we should be protected from?

- Lastly, there is significant hypocrisy in citing our home and not the other hundreds within a close proximity that violate the ordinance. If we were being chosen out of 250 high fences because of racism or ignorance, then those complaints should not be validated. Furthermore, a neighbor told us that someone was coercing people to complain about the fence.

Response to 18 ft setback vehicular gate rules:

1. Our property already had a row of trees in front, up to 7 feet tall that already decrease visibility coming out of our driveway.
2. Unlike all the other fences in the city that are already in place, a lot of which violate this ordinance, ours is perforated in design. It is completely see through with large holes in between the rails making it very easy to see the outgoing or incoming cars.
- 3.) In response to the setback - our gate opener was intentionally installed as to allow for the receiver to work from a distance of 1000 feet. This was deliberate in an attempt to avoid the dangers of stopping for an opening gate.

For the vehicular gate, if an 18 ft setback is required as a safety measure for the passing traffic, that is already a non-issue in our case, as the gate can be opened from hundreds of feet away, thus well before pulling up to it (and pulling in would never stop traffic). Please see the contractor's description of the remote and methods of operation attached:

- "Albano MD-1 Long Range Transmitter

I bought and connected the longest transmitter that could be found. It's placed near the car control panel and easy to use. There is only one button that sends a signal to the receiver and starts to open or close the gate. It can be programmed with most receivers quickly and easily. Its range of operation is up to 1000 feet. Link with manufacturer's description here (<https://www.northshorecommercialdoor.com/almdloragado.html>)

If changing the transmitter is not an option, REIGN XRE-100 relay Extender can be purchased. There are 2 transmitters included in the kit (manual attached) (link included below) (<https://www.northshorecommercialdoor.com/transmitter-solutions-tx-100.html>)

This device can work with a range of up to 500 feet as it described in specification. Range: ½ miles through obstruction. It sends a signal to retransmit from the opener to the gate through these 2 extenders."

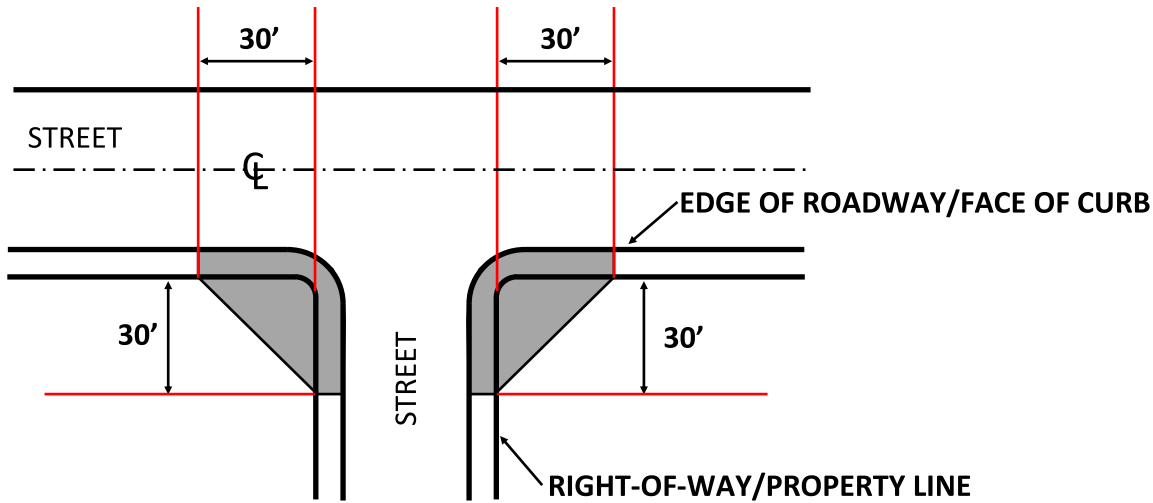
In the manufacturer's description, it is clear that with the devices described above, there is plenty of time to open the gate while driving to it from a long range.

4.) As a compromise, we are willing to leave the gate open at all hours during the day to avoid conflicting with any regulations. The gate is primarily in place to protect from nighttime intruders.

5.) Our home is uniquely placed amid commercial properties. We share a wall with a large chiropractor/dental office, are directly across a large retirement complex and two shopping centers. It is also directly on blossom hill road. Not a small neighborhood or side street as to create a visual problem with the "character of the neighborhood". We don't exist in such a setting.

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CORNER SIGHT TRIANGLE

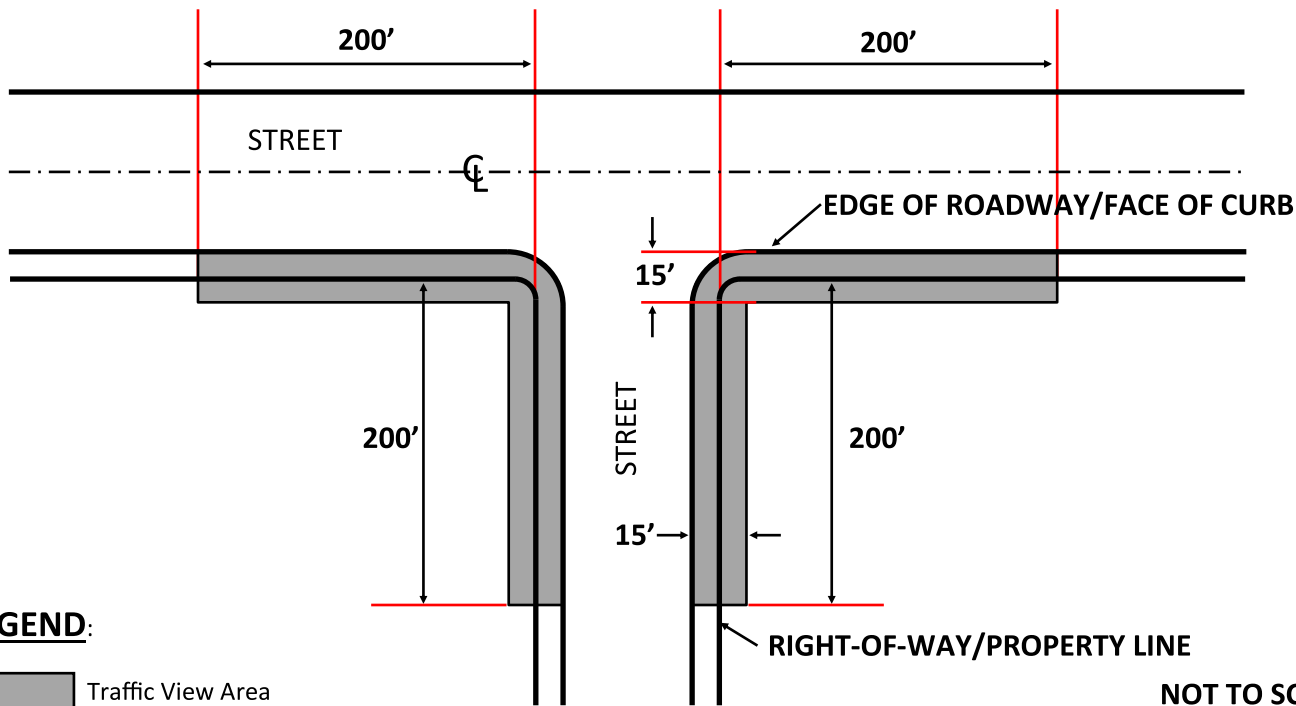


LEGEND:

 Corner Sight Triangle

NOT TO SCALE

TRAFFIC VIEW AREA

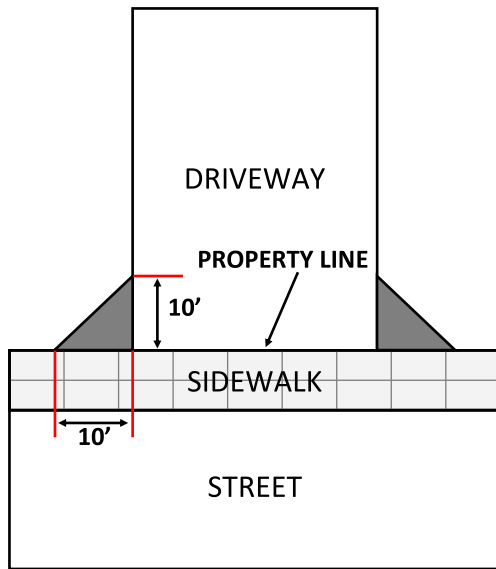


LEGEND:

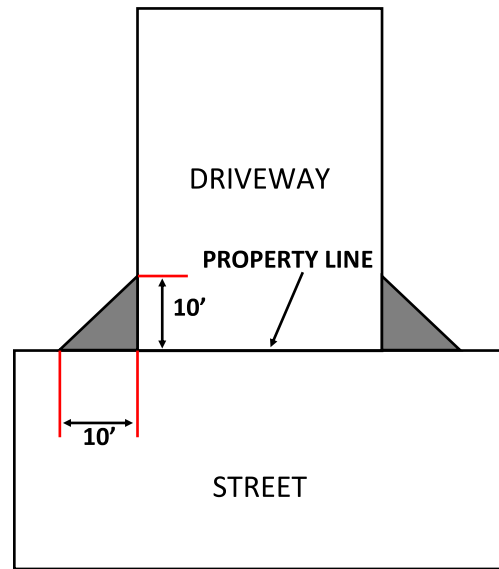
 Traffic View Area

NOT TO SCALE

DRIVEWAY VIEW AREA



Sidewalk Example



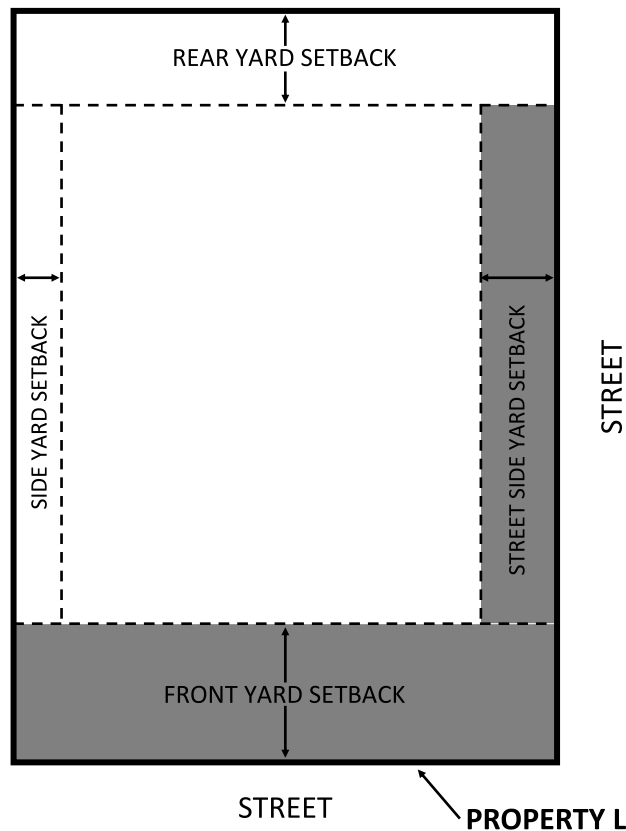
No Sidewalk Example

LEGEND:

 Driveway View Area

NOT TO SCALE

FRONT AND STREET SIDE YARD AREA

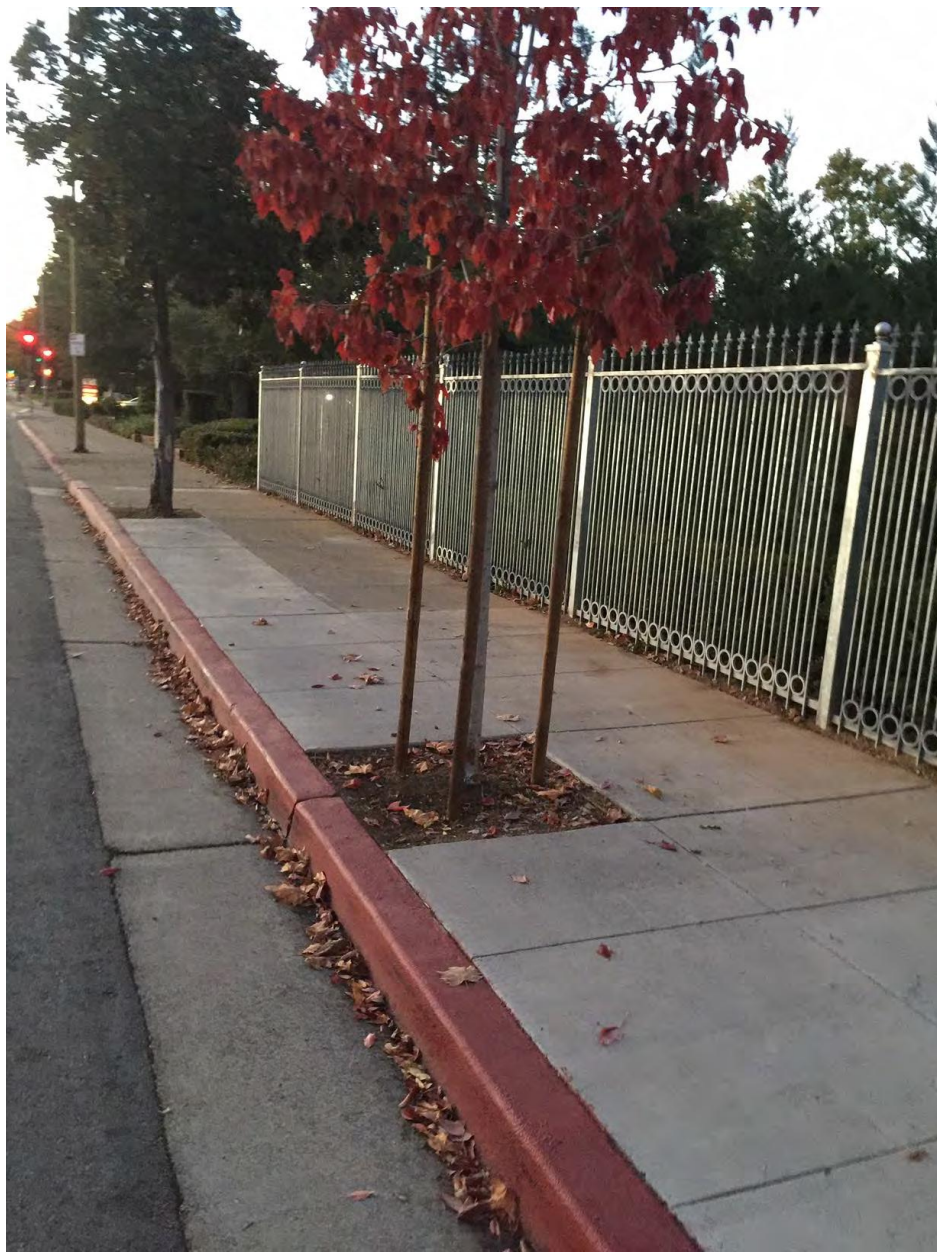


LEGEND:

 Front and Street Side Yard Area

NOT TO SCALE

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 9/14/2022

ITEM NO: 2

ADDENDUM

DATE: September 13, 2022
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of Six-Foot Tall Fencing Located Within the Required Front Yard Setback and Construction of a Vehicular Gate with Reduced Setbacks on Property Zoned R-1:10. **Located at 755 Blossom Hill Road.** APN 523-04-043. Fence Height Exception Application FHE-21-003. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

REMARKS:

Exhibit 13 includes public comments received after the preparation of the Staff Report.

EXHIBITS:

Previously received with the September 14, 2022 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Administrative Warning Letter, dated December 14, 2020
5. Fence Height Exception Request, dated February 12, 2021 to the Community Development Department
6. Fence Height Exception Request, dated February 12, 2021 to the Parks and Public Works Department
7. Fence Height Exception Denial Letter, dated July 2, 2021
8. Administrative Warning Letter, dated July 7, 2022
9. Appeal of the Community Development Director Decision, received August 5, 2022
10. View Areas Diagrams
11. Site Plan
12. Site Images

Received with this Addendum Report:

13. Public Comment received 11:01 a.m., September 9, 2022, and 11:00 a.m., September 13, 2022

PREPARED BY: SAVANNAH VAN AKIN
Assistant Planner

Reviewed by: Planning Manager and Community Development Director

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From: Jenny Gifford
Sent: Sunday, September 11, 2022 11:26 AM
To: Planning Comment <PlanningComment@losgatosca.gov>
Subject: FHE-21-003 755 Blossom Hill road

EXTERNAL SENDER

Dear Planning Commission members,
I believe the fencing at 755 Blossom Hill Road should remain as installed. Notwithstanding the Town's ordinances regarding fencing, this fencing is not impeding any driver visibility, nor cross traffic awareness. I think this fence is aesthetically pleasing, provides the family safety necessary when living on a busy thoroughfare, and allows for additional parking; which is not available off street in this location.

As for myself, I would not want people wandering onto my property unannounced, nor trespassing to "pick fruit from an abandoned property". In the current times, property crimes are up, our Los Gatos transient population has increased and we no longer feel safe leaving our home. I for one, if I had this property, would want additional security.

If anything, the fire department should require a "knox box" which would allow for fire access should there be an emergency.

Again, I am in favor of approving a fence height exception for 755 Blossom Hill Road.

Sincerely,
Jennifer Gifford

From: Samantha Perez
Sent: Monday, September 12, 2022 10:04 AM
To: Planning Comment <PlanningComment@losgatosca.gov>
Subject: Written statement

EXTERNAL SENDER

To whom it may concern,

Hello, thank you for this opportunity to speak in support of the family. My name is Sam and I am writing to express my support for this case to be an exception to keep their current fence on their property. I understand that there are city ordinances in place for safety reasons but I feel that this situation should be granted as an exception. Given the location of the property the fence seems appropriate for the location. They are surrounded by businesses and are in a busy commercial area which I think warrants an exception. Everyone should have the right to choose the type of safety they prefer to protect their property and I believe that this family should continue to have this right.

Thank you for your time,
Sam

From: [REDACTED]
Sent: Monday, September 12, 2022 10:29 AM
To: Savannah Van Akin
Subject: 755 Blossom Hill Rd.; Deny Appeal by Property Owner; Remove Steel Fence; Safety Issue

EXTERNAL SENDER

09.12.22

To: Savannah Van Akin
Planning Dept.
Town of Los Gatos

Re: 755 Blossom Hill Rd.; Deny Appeal by Property Owner; Remove Steel Fence; Safety Issue

Hello,

I am writing for two purposes: 1) To recommend the Planning Commission deny 755 Blossom Hill Rd.'s request for a fence height exception and 2) To recommend the Planning Commission require 755 Blossom Hill Rd. remove the steel fencing abutting the Town's sidewalk because it presents serious safety issues on busy Blossom Hill Rd. both to vehicle traffic and the pedestrian using the sidewalk.

This year, I witnessed while walking and driving two safety issues from trucks attempting to access the property that could have resulted in vehicle accidents with injury or death. While walking eastbound on the south side of Blossom Hill Rd., I witnessed a gardening truck come to a complete stop in the traffic lane on Blossom Hill Rd. directly in front of 755 Blossom Hill Rd.'s driveway. There was no access to the property because the steel fence gate was closed; the steel fence abuts the Town's sidewalk. As a result, the gardening truck in the westbound lane impeded the flow of traffic. The driver got out of the truck and walked up to the gate and appeared to call for access. This was not an emergency where a firetruck or police car had the legal right to stop traffic. The second safety event I witnessed was a delivery truck that ran up onto the sidewalk with the back of the vehicle sticking out into the westbound traffic lane. The delivery truck was either a UPS or Amazon truck. Further, regarding the sidewalk use for the pedestrian: the steel fence abuts right to the edge of the sidewalk where walking becomes problematic whether one is pushing a wheelchair, in a wheelchair pushing oneself, or pushing a stroller because there is virtually no "elbow room" nor is there any margin to correct while in a wheelchair, pushing a wheelchair or stroller because one would collide with the steel fence. Code requires setbacks for fencing. Presently a setback is nonexistent.

No property owner along Blossom Hill Rd. between Cherry Blossom Dr. and Camellia Terrance has a fence and gate that abuts to the sidewalk as to impede access to and from their property. This section of Blossom Hill Rd. is a thoroughfare. There is no street parking. The property owner has no legal right to impede vehicle traffic. Presently, this is an untenable situation with no guarantee the westbound lane on Blossom Hill Rd. will not be impeded by any delivery or gardening truck in the future in an attempt to access the property. The Planning Dept. for the Town of Los Gatos cannot create a legal ordinance based on a promise by the property owner to leave their gate open. The property owner already has a wooden fence in back of the steel fence that appears to meet code in terms of setback and height requirement.

I urge the Planning Commission to deny the appeal at 755 Blossom Hill Rd. and require the property owner to remove the illegal fence. This matter is not just a height issue but a safety issue. As you are aware, a man was killed a block away on busy Blossom Hill Rd. prior to the Pandemic while removing items from the trunk of his car while parked legally on Blossom Hill Rd. The man was hit from behind and died from his injuries.

I respectfully request the Planning Dept. and the Planning Commission omit my contact information from the public record. I do not want to potentially be harassed by a property owner because my statement and concerns are not favorable to a property owner. I have learned of both the Town Council and those in the Los Gatos community who have experienced harassment.

Thank you.

Sincerely,

[REDACTED]

From: Maria Chemodan <[REDACTED]>

Sent: Monday, September 12, 2022 11:25 AM

To: Planning Comment <PlanningComment@losgatosca.gov>

Subject: Statement for 755 Blossom Hill Rd - Fence acceptance application FHE-21-003

EXTERNAL SENDER

Hello, my name is Mary Redmond.

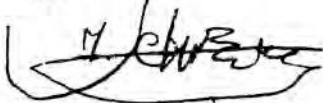
I am working near this property everyday. I can see the property on my way to work. The family at this house is being told to cut the beautiful metal fence they have put up on their property to protect their home and family members. This is a very busy and dangerous road with fast cars driving by. We must allow our families to protect themselves and especially their children. This fence is a way to protect them, and it allows the neighborhood to remain beautiful and the views remain unobstructed. The fence is pleasant and peaceful to look at. Being able to see the gorgeous trees through the fence makes it special, as does the strength and protection of the metal. I know there are children who live and play in the yard that the fence protects. It makes the neighborhood look better.

Please leave it the way it is.

Thank you for your attention,
Mary Redmond

Lana and Mark

As young doctor's family and as the members of the Los Gatos Community we would like our opinion to be heard. I am sorry we cannot attend zoom meeting on 09/14/2022 because we will be working at that time. We feel it is very appropriate to keep the gate and 6 ft. fence because of the location of the property being next to a commercial area with two big shopping plazas, senior community homes, and medical facility. The 6 ft. fence they have should be an exemption because it is the same as many 6ft. metal fences we have seen along Blossom Hill Rd. There is no continuity with the gates on Blossom Hill Rd. The town code states 3ft. fences, but we have seen many 6ft. front yard fences and Vehicular Gates on the property line on Blossom Hill Rd and surrounding streets. We believe that there is justified means that the applicant should be an exemption as their request is consistent with the Blossom Hill Rd community collectively. We love architecture and am learning a lot about it, and we think the fence is adding value to the properties around. The fence looks fitting to the community. We have been at the plaza late at night and have witnessed suspicious activity going on that could potentially cause safety concerns for the family. So, we believe that the family has justifiable means to keep the fence. We think it is appropriate for the family to keep their gate for their right to provide themselves with safety.



M. Hoffer



G. K. K. K.



L. Kachergitsky

M. Sender



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/14/2022

ITEM NO: 2

DESK ITEM

DATE: September 14, 2022
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of Six-Foot Tall Fencing Located Within the Required Front Yard Setback and Construction of a Vehicular Gate with Reduced Setbacks on Property Zoned R-1:10. **Located at 755 Blossom Hill Road.** APN 523-04-043. Fence Height Exception Application FHE-21-003. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

REMARKS:

Exhibit 14 includes a request for a continuance of the item to the November 9, 2022 Planning Commission meeting. Exhibit 15 includes public comments received after the preparation of the Addendum Report.

EXHIBITS:

Previously received with the September 14, 2022 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Administrative Warning Letter, dated December 14, 2020
5. Fence Height Exception Request, dated February 12, 2021 to the Community Development Department
6. Fence Height Exception Request, dated February 12, 2021 to the Parks and Public Works Department
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10. View Areas Diagrams
11. Site Plan
12. Site Images

PREPARED BY: SAVANNAH VAN AKIN
Assistant Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 2

SUBJECT: 755 Blossom Hill Road/FHE-21-003

DATE: September 14, 2022

Previously received with the September 14, 2022 Addendum Report:

13. Public Comment received 11:01 a.m., September 9, 2022, and 11:00 a.m., September 13, 2022

Received with this Desk Item Report:

14. Request for Continuance

15. Public Comment received 11:01 a.m., September 13, 2022, and 11:00 a.m., September 14, 2022

From: David Kohanchi
To: Savannah Van Akin
Tue 9/13/2022 3:35 PM

EXTERNAL SENDER

Hi Savannah,

Hope this email finds you well!

I would sincerely appreciate a short delay based on the following-

1. We're currently dealing with a family medical issue related to renal failure/hospitalization. This could result in Nina Guralnik missing the meeting and/or creating unnecessary tensions.
2. Keith Freeman, our only true front yard neighbor, would not be able to make the zoom meeting as it stands. He lives in the house directly adjacent to our home and would like to also speak on our behalf.
3. I'm on call tomorrow. There is a decent likelihood that I won't be able to make the meeting either. For all of our sake, I think it would be better if I were able to attend.

If it were possible to delay, I'd like to move to either October 16th or **November 9th**.

Thanks for taking the time. It was nice meeting you finally.

Respectfully
David Kohanchi MD

EXHIBIT 14

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From: Vlad Kostenko

Sent: Wednesday, September 14, 2022 8:21 AM

To: Planning Comment <PlanningComment@losgatosca.gov>

Subject: APN 523-04-043. Fence Height Exception Application FHE-21-003

EXTERNAL SENDER

Hello, I am Vladyslav Kostenko. I love the fence and would like to see it stay the way it is. My mother-in-law lives in the Senior Community across the street from this property, and she agrees that the fence is good just how it is. Everyone I have spoken with who lives in the Senior Community agrees that the fence is spectacular. I remember when it was built, many people from the Senior Community would walk across the street and offer their support for the fence, saying they have never seen one so beautiful. Also, the plaza across the street has busy activity occurring at night time. I am positive this fence will raise the value of all the nearby properties because of how nice it is. I talked to an appraiser who told me this. It really brings joy to the neighborhood. This fence is great the way it is. Cutting it down will hurt the neighborhood.

As a valuable member of this valuable Community, I would like Los Gatos to continue to be one of the best places in America. In regards to 755 Blossom Hill Rd everyone understands that the fence is gorgeous, but i want to talk about the vehicular gate. I have experience working for the company that serves vehicular gates and electrical motors. I know that this gate could be opened with a remote with a range of operation up to 1000 ft. There is no reason to remove the gate 18 ft out of the property line due to traffic safety concerns.

From: Yana Smolii

Sent: Wednesday, September 14, 2022 10:53 AM

To: Planning Comment <PlanningComment@losgatosca.gov>

Subject: APN 523-04-043. Fence Height Exception Application FHE-21-003

EXTERNAL SENDER

Hello, my name is Yana Smolii. I live near the property at 755 Blossom Hill Road in Los Gatos. I am here in support of the fence along the property and would like to see the fence remain in its current state. The fence is amazing, and you can see the great green color of the trees through the fence. I recently moved here from Ukraine, where there is terrible destruction, where no person or family feels safe, and I understand the need for protection. Please do not cut this fence. As someone in this community, when I see this beautiful fence, it is a good thing and it makes me feel happy. I find it to be very pleasant. This property is on a very busy and dangerous road with fast moving vehicles and children play in the yard with water and fruit trees. The security of the fence and its beauty and strength far outweigh

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 11/9/2022

ITEM NO: 3

DATE: November 4, 2022

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of Six-Foot Tall Fencing Located Within the Required Front Yard Setback and Construction of a Vehicular Gate with Reduced Setbacks on Property Zoned R-1:10. **Located at 755 Blossom Hill Road.** APN 523-04-043. Fence Height Exception Application FHE-21-003. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

REMARKS:

This item was originally scheduled for review on September 14, 2022, and was continued to November 9, 2022, due to a request from the applicant.

EXHIBITS:

Previously received with the September 14, 2022 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Administrative Warning Letter, dated December 14, 2020
5. Fence Height Exception Request, dated February 12, 2021 to the Community Development Department
6. Fence Height Exception Request, dated February 12, 2021 to the Parks and Public Works Department
7. Fence Height Exception Denial Letter, dated July 2, 2021
8. Administrative Warning Letter, dated July 7, 2022
9. Appeal of the Community Development Director Decision, received August 5, 2022
10. View Areas Diagrams
11. Site Plan
12. Site Images

PREPARED BY: SAVANNAH VAN AKIN
Assistant Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 2

SUBJECT: 755 Blossom Hill Road/FHE-21-003

DATE: November 4, 2022

Previously received with the September 14, 2022 Addendum:

13. Public Comment received 11:01 a.m., September 9, 2022, and 11:00 a.m., September 13, 2022

Previously received with the September 14, 2022 Desk Item:

14. Request for Continuance

15. Public Comment received 11:01 a.m., September 13, 2022, and 11:00 a.m., September 14, 2022

Received with this Staff Report:

16. Additional Owner Justification, dated September 19, 2022

David Kohanchi [REDACTED]

To: Savannah Van Akin

Mon 9/19/2022 12:26 AM

EXTERNAL SENDER

Hey Savannah,

Hope this email finds you well!

It is currently midnight on Monday sept 19th.

I just arrived at Good Samaritan Hospital (GSH) on account of an emergency cardiac patient. Likely aortic dissection versus emergent CABG.

As I'm preparing for the patient's arrival in the OR, I rest assured knowing that I have a secure galvanized steel fence protecting my family. I left my wife and daughter at home alone (on a rainy night) as a means of helping a fellow Los Gatos member in duress. There was no other option.

There are roughly 5 Cardiac Anesthesiologists that cover all of the cardiac patients in the nearest vicinity to Los Gatos. This equates to me being on cardiac call alone every 5ish days, excluding any other call requirements (probably every 4th night). This applies to any cardiac cath lab assistance or main OR cardiothoracic procedure - which at times can be quite daunting.

What do you think should be my priority? Do you think I should worry about my family's safety as I'm looking up patient information, rushing to the hospital during an aortic dissection where every second matters to the patient's survival? Should I be concerned that our neighbor Jim two homes down was robbed a few years ago? (which is something I just recently discovered)? Should I be concerned that my boss' car was stolen in front of his house less than 6 months ago on Oleander (less than 3 blocks from our home)?

I understand that your office has been inundated with paperwork in the midst of this exemption, but could you please my own personal concerns to the list.

Thank you for your time and consideration. It is highly appreciated.
David Kohanchi MD

EXHIBIT 16

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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Melanie Hanssen, Chair Jeffrey Barnett, Vice Chair Kylie Clark Kathryn Janoff Steve Raspe Emily Thomas
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

1
2 P R O C E E D I N G S:
3

4 CHAIR HANSSEN: We will move on to the Public
5 Hearings portion of the meeting, and we have two items for
6 Public Hearings this evening.

7 The first one is consider an appeal of a
8 Community Development Director Decision to deny a Fence
9 Height Exception request for construction of a 6' tall
10 fence located within the required front yard setbacks, and
11 construction of a vehicular gate with reduced setbacks on
12 property zoned R-1:10, located at 755 Blossom Hill Road,
13 APN 523-04-043, Fence Height Exception Application FHE-21-
14 003, Property Owners David and Ilana Kohanchi, and
15 Applicant Nina Gurainic. Project planner is Savannah Van
16 Akin.
17

18 I will ask if any Commissioners need to be
19 recused from this item? And may I see a show of hands from
20 Commissioners who have visited the subject property? Very
21 good.

22 Then I will turn it over to staff for their Staff
23 Report.

24 SAVANNAH VAN AKIN: Good evening, Planning
25 Commissioners. Before you is an appeal of a Community

1 Development Director Decision to deny a Fence Height
2 Exception request at 755 Blossom Hill Road. This item was
3 originally scheduled for the September 14th meeting date. On
4 September 13th the property owner requested the item be
5 continued to the November 9, 2022 Planning Commission
6 meeting. The Staff Report and exhibit materials from the
7 September 14th meeting are what are being considered today.
8

9 The property owner is requesting approval to
10 permit a previously constructed 6' metal fence and gate.
11 The fence is along the property line within the required
12 front yard setback. Per current Town Code, fences are
13 limited to 3' in height when located within a required
14 front yard setback, and gates have an 18' setback
15 requirement unless accepted as granted by the Town Engineer
16 and the Community Development Director. The fence also has
17 sharp points, as seen in Exhibit 12, which are prohibited
18 per Town Code.

19 On February 12, 2021 the property owner applied
20 for an exception to the Town's fence regulations for the
21 unpermitted construction of the gate and the fencing on the
22 subject property, which does not comply with the Town Code
23 fence regulations. The property owner cited Condition D for
24 privacy and security concerns as justification for their
25 fence and gate. The privacy concerns were related to the

1 property's proximity to the commercial centers and medical
2 offices, citing occasions when people thought their home
3 was the chiropractor's office, which is located next door.
4 The property owner also cited protecting children,
5 containing animals, and protecting a garden as
6 justification for extra security.

7 On July 2, 2021 the Town denied the exception
8 request because the findings listed in the Town Code could
9 not be made. The decision of the Community Development
10 Director to deny the Fence Height Exception application was
11 appealed on August 5, 2022. The Appellant listed security
12 and the unique location as justification for their appeal.

13 The Appellant's letter raises several points to
14 support their Fence Height Exception, all of which is
15 listed in your Staff Report. Of the seven public comments
16 received for this application, one was in opposition to the
17 fence.

18 Based on the discussion provided in the Staff
19 Report Staff, Staff recommends that the Planning Commission
20 deny the appeal, uphold the decision of the Community
21 Development Director, and deny the Fence Height Exception.

22 This concludes Staff's presentation and we're
23 happy to answer any questions.
24
25

1 CHAIR HANSSEN: Thank you very much for your
2 Staff Report. Do any Commissioners have questions for Staff
3 at this time? Commissioner Janoff.

4 COMMISSIONER JANOFF: Thank you. This is a
5 question for the Town Attorney. It seems to me in the
6 Appellant's package they were disputing this item because
7 they couldn't get ahold of Town Staff because of COVID, and
8 so there was no clear direction given from Staff, and the
9 information that they could find online didn't provide
10 clarification as to their specific circumstance. Could you
11 comment on those reasons why the appeal should be
12 considered and provide guidance?
13

14 ATTORNEY WHELAN: Those contentions really fall
15 into an estoppel argument, and the courts have held there
16 are cases in which towns actually gave the wrong
17 information to an applicant and court held that the
18 applicant was still required to undo what had been
19 constructed, because it was not possible to get estoppel
20 against a public agency, because the courts will balance
21 the public interest in having a consistent code applied
22 against the private injustice, and the public interest in
23 almost all cases will prevail in the court decision.
24

25 CHAIR HANSSEN: Thank you. Thank you for that,
Commissioner Janoff. Commissioner Clark.

1 COMMISSIONER CLARK: Thank you. I have two
2 questions. I was wondering if you would be able to say
3 again the amount of attempts that the Town made to reach
4 out to them, and was it attempts where you just didn't hear
5 back at all?

6 SAVANNAH VAN AKIN: Thank you for that question.
7 The Town first sent a warning letter on December 14, 2020.
8 They applied for their exception on February 12, 2021. We
9 denied the application on July 2, 2021 and then the Town
10 continued to contact the property owner on November 16,
11 2021, January 31, 2022, March 22, April 5, May 3, and May
12 24, and then we proceeded to send a second warning letter
13 on July 7th, 2022.

15 COMMISSIONER CLARK: Okay, thank you, and all of
16 those attempts that were listed before the warning letter,
17 you just didn't get any sort of response?

18 SAVANNAH VAN AKIN: There were many instances
19 where there was just no response at all, and if there was a
20 response, it was very minimal.

21 JENNIFER ARMER: Sorry Commissioner, I just
22 wanted to add as well, we do generally reach out to try to
23 have a conversation when we've had a report of something
24 that's nonconforming before issuing a violation, and there
25 have been numerous conversations with them through the

1 process, so it isn't a case where we just aren't getting a
2 response. There are numerous conversations and following up
3 to make sure that they are continuing and moving forward
4 with what needs to be the next steps in the process, as
5 they decided that they didn't want to remove the fence and
6 so they wanted to move onto the next steps.

7 COMMISSIONER CLARK: Okay, thank you. Chair, may
8 I ask another question?

9 CHAIR HANSSEN: Yes.

10 COMMISSIONER CLARK: I was wondering if you can
11 speak a little bit more to the safety hazards for traffic
12 and pedestrians that it causes? One thing I saw was that it
13 wouldn't allow for vehicles to clear the travel lanes while
14 queuing and I don't really understand what that means, if
15 you'd be able to speak a little bit to that?

16 JENNIFER ARMER: I can jump in initially,
17 Savannah, if you'd like. We also have the Town Engineer,
18 WooJae Kim, available. It has to do with the location of
19 the gate, not allowing a car to pull all the way onto the
20 property while waiting for the gate to open, but would
21 block the sidewalk and the travel lane is one issue.

22 The other issue, I believe, was the view
23 triangle. If somebody is coming out of the driveway, does
24 this fence and gate block that? But as I said, we do have
25

1 WooJae Kim here, Town Engineer, who may have something to
2 add.

3 WOOJAE KIM: Thank you, Ms. Armer. WooJae Kim,
4 Town Engineer. This request came through our office as well
5 and we reviewed the site. Blossom Hill Road is an arterial
6 for the Town, so it's heavily used, 35 miles per hour speed
7 limit, and the 18' requirement is so that the vehicle when
8 entering the property wouldn't be blocking the street and
9 they wouldn't be queuing waiting for the gate to open, so
10 that's a safety concern there.
11

12 Also, there is quite a bit of pedestrian and
13 student traffic on the sidewalks, and that's the other
14 issue with the traffic view area, which needs to be
15 cleared, or at least at like 3' high obstruction at most.

16 COMMISSIONER CLARK: Thank you, that's perfect.

17 CHAIR HANSSEN: Vice Chair Barnett.

18 VICE CHAIR BARNETT: Thank you. I have a question
19 for Staff in terms of the availability of the Staff to
20 answer questions from the public during the COVID shutdown.
21

22 JENNIFER ARMER: Thank you, Commissioner. I'll
23 jump in again since Savannah has joined us since that time.
24 We have continued to be available through the entire
25 closure. Even when we did not have open door, drop-in

1 hours, we did continue to respond to inquiries via phone
2 and email.

3 VICE CHAIR BARNETT: Thank you for that response.

4 CHAIR HANSSEN: Did you have any other questions?

5 VICE CHAIR BARNETT: Yes, I have a question for
6 the Town Attorney, if I might?

7 CHAIR HANSSEN: Go ahead.

8 VICE CHAIR BARNETT: I noticed in Section
9 29.40.0320(b) that their reference is to special privacy
10 concerns and wildlife problems as potential reasons for
11 exception from the fence regulations, and my question is
12 are these only relevant where the fence is outside of the
13 setback?
14

15 ATTORNEY WHELAN: Yes, that is correct.

16 VICE CHAIR BARNETT: Thank you.

17 CHAIR HANSSEN: Commissioner Thomas.

18 COMMISSIONER THOMAS: I have a question for Staff
19 also about the other houses on that block of Los Gatos
20 Boulevard. I just wanted to confirm that, because there are
21 other fences on that block of Los Gatos Boulevard going
22 towards the school, and I just wanted to confirm that all
23 of those were in compliance with the ordinance, and if any
24 are not if it's because they were built before the
25 ordinance was passed.

1 JENNIFER ARMER: Yes, that is our understanding,
2 that all of the other properties either are in conformance,
3 or the fence was built prior to the adoption of the most
4 recent ordinance in 2019. I don't believe we're aware of
5 any in that vicinity that are currently in noncompliance
6 and built after the new ordinance.

7 COMMISSIONER THOMAS: Okay, perfect. I just
8 wanted to confirm, because there are lots of different
9 options and styles happening along there. Thank you.

10 CHAIR HANSSEN: Are there any other questions
11 from Commissioners? And you'll have another opportunity to
12 ask Staff questions after the public hearing is closed. I
13 don't see any, so we will turn to the Appellant, and the
14 Appellant has up to five minutes to speak to the Planning
15 Commission on this item.

16 JENNIFER ARMER: We've got two hands raised,
17 Ilana, and I'll let you speak. You may speak for up to five
18 minutes. If there is anyone else on your team who also
19 wants to speak, let us know and we can allow them. It all
20 needs to be part of the same five minutes.

21 DAVID KOHANCHI: Can you show the PowerPoint, if
22 possible, before we start the timer?

23 JENNIFER ARMER: Yes, I can get that started.

1 DAVID KOHANCHI: Thank you so much for coming. We
2 truly appreciate it.

3 ILANA KOHANCHI: Hi, you guys are confused. I'm
4 Ilana, that's my husband David. We're on my computer.

5 DAVID KOHANCHI: Hi. This is the Fence Height
6 Exception request for the Kohanchi family. There are a lot
7 of topics to cover, so I'll go as quickly as possible.

8 Our home is positioned, as we discussed, in a
9 commercial area. Directly in front of us are the Terraces
10 of Los Gatos, to the right in the front is King's Court
11 Shopping Center, and directly to the right adjoined to our
12 home is a large dental/chiropractor office.

13 This is the Terraces of Los Gatos.

14 This is the King's Court.

15 And this to the right adjoining our fence is the
16 chiropractor/dental office.

17 Again, concerns with this, I couldn't be more
18 vocal about it. In the area there is a lot of walking
19 traffic, there are a lot of strangers, there's a lot of
20 very suspicious characters. We feel that we need the added
21 protection.

22 In addition, the Terraces, our home is directly
23 under their second story, so there are probably within a
24 hundred people that can view into our kitchen and into our
25

1 front lot, so we think that we need an added layer of
2 protection from that as well.

3 Again, as discussed, we're on Blossom Hill Road,
4 a very dangerous street, and the speeds have been unchecked
5 for years. There was within recent years an accident where
6 somebody was unfortunately killed; that was within a block
7 of our home.

8 The fence is a galvanized steel fence. It is
9 almost impenetrable by a car, and we fear a car jumping the
10 curb, and just like before a car actually swerved off the
11 road and hit someone who was opening their trunk; we feel
12 that's puts us at high risk, so we think it's a safety
13 measure.
14

15 Things to consider. Crime rates are going up
16 everywhere, in particular Blossom Manor. Our home was
17 actually burglarized within the last two years, very known
18 to the Town and to the street. Two doors down, 763 Blossom
19 Hill Road, was burglarized within the last year, which I
20 think is important to note.

21 In general, we live in a great area that
22 unfortunately is not as safe as we think. Our Town is more
23 dangerous than 53% of cities.
24

25 If you look at the Ring thread, which we have
from our front door camera, there's a bunch of stuff that's

1 going on in the Town; I know if you are discussing it.
2 Trespassing. This is all in Los Gatos. Gunshots, people
3 with guns, people stealing packages. I think we need to
4 reevaluate the safety of our community.

5 Something that was astounding to us, we have a
6 child, a three year old, at home. The southern part of Los
7 Gatos might be protected from this, but where we live in
8 the dot, we're within a very close area to about 200 sex
9 offenders, one within a few homes of us, so we think it's
10 safe to have an extra fence, one in which the vehicular
11 gate is only closed at nighttime to protect us from these
12 incidents.
13

14 Again, Ilana and I are both Jewish. I don't like
15 to say this. Ilana and I come from families, Russian and
16 Persian, that left their home countries in exile, and we're
17 quite concerned given the current rhetoric in the world.
18 Notable on this is that there was a manifesto of somebody
19 who had guns ready to kills Jews in Los Gatos within the
20 last year on 7/19/2021.

21 In addition to that, some other considerations.
22 I'm a single provider physician. I don't truthfully make
23 enough money. We make good money, but I'm a single provider
24 and we have active endeavors in the works. I'm buying a
25 vending machine business that requires a lot of inventory

1 that will stay in our home. I plan for an exotic car
2 business on (inaudible) that will start in the next year,
3 and we have the original Cilker farmland that has a lot of
4 productive products that we're going to sell in the future.
5 So I think those assets put this at higher risk than other
6 properties.

7 Again, this was discussed, when we went online.
8 We moved to this town, my wife was pregnant, we were very
9 stressed, and it was the COVID pandemic. Nobody was
10 accessible. Very, very difficult to get ahold of people.

11 So we used the only resource available,
12 losgatosca.gov, which was unfruitful. It basically said 6'
13 and that's all. Six feet, no setback, period.

14 So, if you look through Los Gatos there are
15 fences everywhere. And we looked everywhere, and this was
16 within the two-minute drive, we found 39 fences. We
17 discussed it with the Town, the comments that these are
18 before, etc., don't seem to apply given the ubiquitousness
19 of the fences.

20 Again, you can't have selective enforcement of
21 the rules. We should have a way to monitor who has a fence
22 and who doesn't for you to be able to say that previous
23 fences existed. There are actually one to two on this
24
25

1 street that violate, and one that was built in the last few
2 months.

3 I'm a single provider. My wife and I live here.
4 We moved here to protect our daughter. We bought our home
5 close to its peak; property taxes are high. So at least our
6 opinion should be as important as others. COVID happened,
7 we're scared; life is tough.

8 We understand the concerns that are presented. A
9 single person complained, and we don't think their concerns
10 are valid. We're here, and we're all just trying to survive
11 and live happily. Thank you so much.

12
13 CHAIR HANSSEN: Thank you very much for your
14 presentation. I'd like to ask if any Planning Commissioners
15 have questions for the Appellant? Commissioner Clark.

16 COMMISSIONER CLARK: Thank you. Where did you get
17 the number that Los Gatos is more dangerous than 53% of
18 cities?

19 DAVID KOHANCHI: There are a number of registries
20 online. I can actually open it up. I initially had a
21 reference. I can get it to you in about 30 seconds. That's
22 a universally accepted number currently. The crime index is
23 47 out of 100, which indicates it's 47% safer (inaudible)
24 than other U.S. cities.
25

1 COMMISSIONER CLARK: Then a follow up. It seems
2 like you have a lot of concern specifically about Los Gatos
3 and crime here, and instead of doing all of this for your
4 home, why did you move here and why don't you move if this
5 is such a big concern for you?

6 DAVID KOHANCHI: I'm a cardiac anesthesiologist
7 at Good Samaritan Hospital. I have to be within 15-20
8 minutes for emergencies, very important ones, and there is
9 a very selective distance that I can live that we felt
10 safe. We want our daughter to be in a good school district
11 and this is one of the best. It's tough to say that I'm
12 suggesting that this is a very dangerous area. Clearly I
13 didn't think so, given that we moved here, but given what
14 we've heard in moving here and the dangers that it
15 presents...

17 Our home was robbed within in the last three
18 years. Somebody jumped over a fence and came here and
19 robbed the home. We weren't here, but that's the story that
20 we're hearing from our neighbors. That's terrifying. Two
21 doors down they were robbed. On Oleander Avenue a car was
22 stolen two blocks away within the last six months.

23 Everybody during COVID and pre-COVID, we wanted
24 to buy a home. That's the thing to do. You move to the
25 City, you start working, and you buy a home. One of the

1 biggest concerns when you buy a home is where to live.
2 Unfortunately, it was very hard to find homes, and this was
3 the quickest to get, and we actually bought it off market
4 and we were very lucky. I love the Town; I just think we
5 should be transparent about the safety concerns so that we
6 can move forward safely as citizens. We can't take a blind
7 eye to the dangers that exist right here.

8 COMMISSIONER CLARK: Thank you.

9
10 CHAIR HANSSEN: Thank you for that. Do any other
11 Commissioners have questions for the Appellant? Vice Chair
12 Barnett.

13 VICE CHAIR BARNETT: I'm afraid I have a large
14 number of questions, maybe eight or nine, so I wonder if
15 the Chair would indulge me as I go through them?

16 CHAIR HANSSEN: Yes, go ahead and do that.

17 VICE CHAIR BARNETT: What's your position on the
18 Town's argument that your fence spikes are in violation of
19 the code?

20 DAVID KOHANCHI: Sorry, could you repeat that?

21 VICE CHAIR BARNETT: The Town has pointed out
22 that you have spikes at the top of the fence in violation
23 of Section 29.40.0315 of the code, and I was wondering what
24 your position is on that?
25

1 DAVID KOHANCHI: To be quite honest, the spikes
2 were an intent of an aesthetic. We were trying for it to
3 look nice. We didn't realize it was against the code when
4 we looked at the rules. The ordinance that was listed was
5 very clear, and that was all that was listed with regards
6 to fences that was posted on that website.

7 Though I understand the concern, and I understand
8 that that might be an issue, that for us is not that
9 significant. If needed, I can get rid of the spikes on the
10 fence. I understand that concern.

11 VICE CHAIR BARNETT: Okay, appreciate that. Is
12 the garage on your property available for parking, and if
13 not, why?

14 DAVID KOHANCHI: The garage on the property was
15 converted to closed space so that we can use it as storage,
16 so no, it is not currently used and accessible for cars.

17 VICE CHAIR BARNETT: Could the storage be removed
18 to another location so that you could park your car in the
19 garage and have straight access out to Blossom Hill Road
20 for your emergency calls?

21 DAVID KOHANCHI: The front lot of our house is
22 very large, and it's really far back, so in theory if you
23 put a car in there it can only fit one and not two, and
24 that still wouldn't... I don't fully understand. Are you
25

1 saying that parking in the garage would make it easier to
2 get out for emergencies? It's very far away from the front
3 of the house.

4 VICE CHAIR BARNETT: No, what I understand is
5 that you want to keep the front area available for
6 potential use by your daughter as a playing area, and
7 therefore you don't want a car parked there, so my question
8 is whether you could find that available parking, keep the
9 play space open, and still have direct access out to the
10 street?

11 DAVID KOHANCHI: In theory, yes, I could put my
12 car, but currently we have two cars and a third, because
13 our mother-in-law is here all the time. I plan on buying
14 two to three more exotic cars in the next six months to a
15 year for the purpose of renting them out as a business, so
16 even if did that it would be blocked for me to get out,
17 because those cars require space to be parked.

18 VICE CHAIR BARNETT: So we can move on. The
19 letters that you sent to the Town don't actually have dates
20 on them. I looked at Exhibit 5 on page 27, and Exhibit 6 on
21 page 31. Are you able to define what the sending dates of
22 those two letters were?

23 DAVID KOHANCHI: I don't have those in front of
24 me, so I can't answer that question.
25

1 VICE CHAIR BARNETT: My fellow Commissioner
2 raised the question about notices from the Town. Is it
3 accurate that you received a number of outreaches by the
4 Town concerning the fence and gate?

5 DAVID KOHANCHI: The notices that responded to us
6 were after the fence was made, not previous to. Those were
7 several attempts to contact the Town where we did not get
8 responsiveness, and we made the fence given what we knew to
9 be the knowledge at the time. In response to every single
10 one that was sent, every since message that was sent that
11 we received, we communicated again with the Town to say
12 that we believe that this should be appealed for X, Y, and
13 Z. The delay in that time frame is nothing to do with our
14 miscommunication, it has to do with we were waiting for the
15 next steps to occur.

17 Our mother-in-law met with the Town several
18 times. I met with the Town at least once, and there have
19 been several phone calls between then and now. The
20 narrative that we were communicated with without
21 responsiveness is false. We definitely responded to every
22 message if it made sense for the next step to occur.

23 VICE CHAIR BARNETT: Were some of those emails,
24 or was it all oral?
25

1 DAVID KOHANCHI: Mainly phone calls and in-person
2 meetings. In fact, it's very easy for us to find out,
3 because Nina Gurainic met with the Planning Committee
4 multiple times: Joel, Jocelyn, everybody who is well aware
5 of her communication. I'm late to the game of
6 communication, because the last several years have been
7 relatively tough for us, but in response to that, yes, we
8 have definitely responded to the messages.

9 VICE CHAIR BARNETT: Okay, thank you. My next
10 question is in Exhibit 6, which is one of the letters
11 submitted to the Town. In paragraph eight it says that the
12 fence was placed solely for safety during the COVID
13 pandemic. Was that correct at the time?

14 DAVID KOHANCHI: Not solely, but one of the major
15 reasons, yes.

16 VICE CHAIR BARNETT: And would you acknowledge
17 that there's a risk that the gate mechanism or the remote
18 might not be operable at some times due to malfunction or
19 batteries?
20

21 DAVID KOHANCHI: Is it possible? Are you asking
22 me is it possible that a mechanical vehicle gate can
23 malfunction? Yes. In response to that, if I may, the gate
24 is left open all days from 6:30 to 9:00pm. And the
25 potential that that would happen would happen during off

1 hours when the car traffic is significantly minimal on
2 Blossom Hill Road, in which case we would park on the side
3 of the road, and we have side gates that would allow us
4 into the gate.

5 ILANA KOHANCHI: I just want to clarify. He meant
6 6:30am to 9:00pm, not evening hours, but as in the entire
7 day from morning till night. It's only closed at night for
8 our safety.

9 DAVID KOHANCHI: Never, never has it been closed
10 during the day.

11 ILANA KOHANCHI: Therefore, it could never block
12 anyone from driving in or pulling in or block the road;
13 that just wouldn't happen, because it's always open.

14 DAVID KOHANCHI: That being said, also we
15 intentionally purchased the top of the line clicker and
16 device that is over 500' away. We thought of that concern
17 prior to placing it and planned ahead.

18 VICE CHAIR BARNETT: Clarify for me, if you
19 would, how many occasions of trespass there have been
20 during your period of ownership.

21 DAVID KOHANCHI: Twice. One person came into our
22 back yard to obtain persimmons when we moved in, and when
23 we moved there was a small amount of time between the time
24 that we purchased the home and when we moved in, because we
25

1 were delivering a baby, and in that two-week time somebody
2 squatted in the front of our house. We had a squatter in
3 the front of our home. Very nice couple that was sleeping
4 on the front of the home; we asked them to leave. So in
5 terms of how long we have lived here and how many people
6 have trespassed on our watch, twice.

7 VICE CHAIR BARNETT: Okay, thank you for that.
8 You pointed out in your appeal that there were a number of
9 fences within the setback in Los Gatos-Almaden Road, but
10 did you find any on Blossom Hill Road between, say, Cherry
11 Blossom and Camellia Terrace?
12

13 DAVID KOHANCHI: You're speaking of a very small
14 distance, right? So you're asking a question of seven
15 homes. You're asking were there any within seven homes,
16 right? Because across the street is the retirement
17 facility, and to the right of me is the dental/chiropractor
18 office, and the answer is yes, there's a vehicular gate at
19 the end of the street.

20 VICE CHAIR BARNETT: Do you know if it's within
21 the setback?
22

23 DAVID KOHANCHI: It is not within the setback.
24 The reason I don't bring that up is because I don't feel
25 that that's appropriate to discuss my neighborhood.

1 VICE CHAIR BARNETT: Can you comment on the fact
2 that you have security concerns, but at the same time
3 you're willing to keep the gate open during daylight hours?

4 DAVID KOHANCHI: I think the vast majority of
5 trespassing that occurs in Los Gatos, if you look at the
6 Ring thread and historically and you look at crime data,
7 happens at night. So my concern is when I am not home. I am
8 a happy gun owner, and if somebody comes into my house
9 during the nighttime I'm usually present, but during the
10 nighttime, sometimes when I leave the house I am not
11 present; it was my concern. I'm worried about the time when
12 I leave to go to call in the hospital in the middle of the
13 night and I'm not home. I am not as concerned during the
14 day.
15

16 VICE CHAIR BARNETT: Finally, you acknowledged in
17 your presentation today, and I think in your appeal also,
18 that Blossom Hill Road is in fact a dangerous road because
19 of speeding?

20 DAVID KOHANCHI: Yes, sir.

21 VICE CHAIR BARNETT: And in light of that
22 statement, what do you feel is incorrect about the Town's
23 position that there is a safety risk with respect to the
24 gate not being 18' back and the fence being within the
25 setback?

1 DAVID KOHANCHI: In response, I have to take a
2 step back from you. If the true concern were that the gate
3 and the vehicle setback was a risk, then everyone with a
4 gate that's on a high-speed street, Los Gatos-Almaden as an
5 example, should be at the same risk.

6 In response to that comment also, would be that
7 the fence to us, because the incident where the person was
8 killed, and there was another incident I know of in the
9 same town on Blossom Hill Road where a car ran into
10 somebody's home, drove into somebody's home within the last
11 five years, I believe. We don't want that to happen. Our
12 fence would prevent a car from getting into our lot, so
13 that's one of the main reasons why we put up that metal
14 fence.
15

16 VICE CHAIR BARNETT: Okay, thank you. I think
17 that's all my questions. I appreciate your time.

18 CHAIR HANSSEN: Thank you for all your questions,
19 Vice Chair Barnett. Then we also have Commissioner Thomas
20 has her hand up.

21 COMMISSIONER THOMAS: Thank you, Chair. I have
22 two questions for the Applicant.

23 The first is if you could walk us through how and
24 when you tried to contact the Town to get clarification on
25 the Fence Ordinance?

1 DAVID KOHANCHI: The vast majority of
2 communication prior to the placement of the fence was done
3 by Nina Gurainic.

4 When we purchased the house it was October of
5 2020. I was sick; I had COVID. We were managing
6 complications of COVID. My wife was pregnant. We were
7 living on Santana Row. She had a very complicated
8 pregnancy. She was in the hospital probably eight times
9 over the course of a month with the concerns that there
10 would be fetal demise. The baby was small; we had IUGR,
11 Intrauterine Growth Restriction.

12 In the time from when we were in the hospital
13 delivering the baby, within several weeks Nina definitely
14 contacted the Planning Department at least four separate
15 times. I know, because she was in the hospital when she did
16 it.

17 I personally did not call within that time frame.
18 I spoke to the contractor. We hired a contractor who looked
19 at the online ordinance that was listed, and I approved
20 given the ordinance that was listed. I, myself, did not
21 attempt to contact the Planning Department.

22 COMMISSIONER THOMAS: Thank you for that. So the
23 contractor that you hired said that they looked at the
24 ordinance and you went with them that they trusted it?
25

1 DAVID KOHANCHI: We confirmed by looking up the
2 ordinance as well.

3 COMMISSIONER THOMAS: So you do not think that
4 the way that the ordinance was written that it's clear that
5 the way that you built your fence, that it's in violation?

6 DAVID KOHANCHI: The ordinance that we used is
7 the one that I put in the PowerPoint. The ordinance that we
8 used we actually followed to a tee. There was an ordinance
9 listed online, I can pull it up, and that ordinance
10 essentially says, "In residential zones fences, hedges, and
11 walls not over 6' high are allowed on or within all
12 property lines," period. There is no addendum to it,
13 there's no setback discussion, there's no 3'. This was
14 modified after the fact. So this was listed on the website
15 in October of 2020.

16 The Ordinance Handbook, which is what we were
17 told after the fact is different, was updated within the
18 last few years and unfortunately the onsite website was not
19 updated. And I understood the lawyer's very intricate and
20 phenomenal argument that the public, etc., but this is what
21 was written and this is what we used. So it's not that I
22 violated an ordinance and I had any nefarious agenda. That
23 was what was posted.
24
25

1 And I get it, COVID, life is tough and we didn't
2 update anything. But I just used what was there. I don't
3 know how else to answer that, to be honest with you. So no,
4 I did not know I violated the ordinance, because the one
5 that I had utilized I currently followed.

6 COMMISSIONER THOMAS: Okay, thank you.

7 CHAIR HANSSEN: Commissioner Janoff.

8 COMMISSIONER JANOFF: Just quickly, because I
9 know we have public comments and then the Appellant does
10 have the opportunity to speak again, but I did want to
11 follow up on the question Commissioner Thomas was asking of
12 Staff.

13 Staff, can you verify that at the time the
14 Appellant looked at the ordinance that that in fact was the
15 ordinance and the only thing listed was what he's
16 describing, or were there other sections of code that the
17 Appellant simply missed, or didn't know to find, or didn't
18 search thoroughly enough? I'm having a hard time
19 understanding the content of what is publicly available
20 online, which is generally all anybody is going to have
21 access to, during COVID anyway, how that could be so
22 different from what the actual code at the time was, if
23 Staff could please explain?
24
25

1 JENNIFER ARMER: Thank you, Commissioner. I'd be
2 happy to give a little bit of background on that. The
3 official Town Code that is available online, that's Chapter
4 29, which is the Zoning Code, but all of the other chapters
5 of the Municipal Code, when code updates are adopted by
6 Town Council those updates actually get automatically
7 updated by the company that maintains that website and our
8 code. However, there are sometimes other pages on the
9 Town's website with reference information pulling out
10 certain sections of the code to try to make it more easily
11 accessible, and I believe the page that the Appellant is
12 referencing was a reference that was connected with the
13 Building Department's webpage stating when a building
14 permit would be required for a fence and it had reference
15 to the old code at that time, and so that was delayed in
16 being updated. The full Municipal Code was updated
17 promptly.

19 COMMISSIONER JANOFF: So you're saying that there
20 were two places where there were two code reference, one up
21 to date and one not up to date, so up to date code was
22 available at the time the Appellant was searching for fence
23 information?

24 JENNIFER ARMER: That is correct.

25 COMMISSIONER JANOFF: Thank you.

1 CHAIR HANSSEN: Commissioner Raspe.

2 COMMISSIONER RASPE: Thank you, Chair. I actually
3 had the same question as Commissioner Janoff, so thank you
4 for asking that, and for your answer.

5 I did have one other question for the Appellant,
6 because I just don't find it readily in my packet. What was
7 the date of construction of the fence? I don't know that
8 our materials contain that.

9 DAVID KOHANCHI: The date of construction of the
10 fence is the end of 2020. We were delivering a child, so
11 somewhere early in December of 2020, I would say December
12 6th, somewhere around there.

13 COMMISSIONER RASPE: Okay. I notice that the Town
14 issued its administrative warning on December 14th, so it
15 would have to be before that. What was the time lapse
16 between the time you completed the fence and the time you
17 got the warning?

18 DAVID KOHANCHI: Probably several weeks. One to
19 two weeks.

20 COMMISSIONER RASPE: Okay, thanks so much.

21 DAVID KOHANCHI: That's my best guestimate, to be
22 honest with you.

23 COMMISSIONER RASPE: I appreciate it. Thanks.

24
25

1 CHAIR HANSSEN: That was a lot of questions, and
2 thank you for all your thorough questions, Commissioners. I
3 feel like we should turn to the public for public comments,
4 so I will put out to those in attendance, this would be the
5 time for anyone that would like to speak in Verbal
6 Communications on this item. So if you would like to do so,
7 please raise your hand on Zoom.

8 JENNIFER ARMER: Thank you, Chair. We do have
9 several people who have their hands raised. Right now the
10 first is Mark. I will allow you to speak. Mark, you should
11 be able to unmute, and you have up to three minutes.

12 MARK JAMIESON: Hi, my name is Mark Jamieson; I
13 live at 285 Marchmont Drive. I'm an acquaintance with the
14 Kohanchis.

15 I'm basically in support of the fence. I drive by
16 their house every morning. I find nothing offensive with
17 the fence. The gate is open during the day that I've
18 noticed. The only safety issue I would potentially realize
19 is if like an Amazon truck or something like that had a
20 delivery, and during the day it's open for delivery, so I
21 don't see anything that would block the driveway.

22 We've been woken up to my daughter going into our
23 garage and finding a stranger asleep in our garage, and if
24 I had the same opportunity to build a security fence if my
25

1 property afforded that, I would. I know through reading all
2 the Nextdoor and comments that have been going on in town,
3 If I had a young baby and wife at home during the day, I
4 would definitely have a secure fence at night.

5 Maybe there is some compromise that could happen,
6 like taking the spikes down and leaving the gate open
7 during the day, and so I would like to see maybe the Town
8 could work with the Kohanchis as far as keeping the gate
9 and maybe painting it that it might blend in a little bit
10 more with the surrounding area.

11 I see many gates similar to theirs, and I realize
12 it's not fully to code, but I think there might be some
13 room for exception, the fact that they live on one of the
14 busiest places in Town. Thank you for your time.

15 CHAIR HANSSEN: Thank you for your comments, and
16 I will turn to the Commission and see if any Commissioners
17 have questions for you, Mr. Jamieson. I don't see any hands
18 raised, but thank you again for your comments. It looks
19 like we do have others that would like to speak on this
20 item.

21 JENNIFER ARMER: Yes, Steve is next in line.
22 We'll allow you to speak. You should be able to unmute, and
23 you have up to three minutes.
24
25

1 STEVE DOZIER: Thank you. Steven Dozier. I live
2 at 16536 Englewood Avenue and I frequently drive by the
3 property in question—I go to Peet's quite a bit—and I find
4 the fence well constructed and immaculate and I've never
5 really had any problem with it. It seems to fit into the
6 neighborhood as far as I can see on my daily trips to
7 King's Court.

8 I agree that perhaps maybe there is a compromise
9 here between the Town and the Kohanchis. He has a young
10 child and security these days is a concern; I also have. I
11 just think the fence fits into the neighborhood, and I
12 think that the security it provides to this family is
13 important and I support the presence of the fence. That's
14 all I really have to say.

15 CHAIR HANSSEN: Thank you for your comments, and
16 I'd like to see if any Commissioners have questions for
17 you. I don't see any hands raised. Thank you, again, and it
18 looks like we have others as well.

19 JENNIFER ARMER: Yes, next in line is John. You
20 should be able to unmute and you have up to three minutes.

21 JOHN CELLAR: Thank you, my name is John Cellar.
22 I'm a 31 year resident of Los Gatos, and going back further
23 I actually went to high school here, so I have deep roots
24 in the community. I appreciate your time and your
25

1 consideration of this matter. There are a couple of points
2 that I would like to make.

3 One is I understand and respect the need for
4 rules and regulations around building issues such as Dr.
5 Kohanchi's; I absolutely think that they create an orderly
6 and aesthetic community. But if we're going to have these
7 ordinances, they either need to be applied uniformly or
8 they should not be applied at all. To single one person out
9 while there are many examples of others that have in fact
10 violated this code I think is blatantly unfair, unethical,
11 and not in the spirit of community.

12
13 The other point that I would like to make is I
14 live on Littlefield Lane. Prior to that I lived at the
15 corner of Camino del Cerro and Blossom Hill Road. I was not
16 on Blossom Hill Road, but we cornered it, and it's a very
17 busy road. People would drive very rapidly down the road.
18 In fact, there were two instances—not while we owned the
19 home—where cars came through the fence onto our property.
20 So the issue of safety is one that is very near and dear to
21 me.

22
23 Blossom Hill is a very busy road. Dr. Kohanchi is
24 surrounded by commercial buildings. I live on a cul-de-sac
25 now, I don't have those kinds of concerns, but if I were to
live on Blossom Hill Road... And I have to tell you, part of

1 the reason we left our previous home is because of issues
2 around safety with cars coming rapidly down the street. So
3 I think that it's really important to consider the safety
4 aspect of cars jumping the road and potentially going
5 through the fence and causing harm to family and/or
6 construction. That's all I have to say. Thank you for your
7 time.

8
9 CHAIR HANSSEN: Thank you so much for your
10 comments. It looks like there are a couple of questions for
11 you from Commissioners. I'll start with Commissioner
12 Janoff.

13 COMMISSIONER JANOFF: Thank you, and thank you,
14 Mr. Cellar. I just wanted to point out one thing. I
15 appreciate your concern for the Kohanchis, and I appreciate
16 your thinking that this is an isolated incident that we
17 would be seeing the fence issue for this one family
18 differently from others, but I wanted to point out and
19 perhaps direct you to previous Planning Commission
20 meetings.

21 We've had a number of Fence Ordinance issues
22 along these very lines. We are not singling out one family.
23 I just wanted to make sure that you understood, we do hear
24 these issues individually, we consider them on their
25 merits, and I just wanted to assure you, this is not an

1 isolated, singled out instance. Just wanted to make that
2 perfectly clear.

3 JOHN CELLAR: I appreciate that. We all know
4 there are multiple examples of fences that are 6' that are
5 within the 18' setback. Maybe each one of them has been
6 (inaudible).

7 COMMISSIONER JANOFF: We are aware of that, Mr.
8 Cellar, and many of them are prior to the Fence Ordinance
9 being in place, and some are not and they come to us
10 individually. But thank you for your comments. Appreciate
11 it.
12

13 CHAIR HANSSEN: Then also Commissioner Thomas has
14 a question for you.

15 COMMISSIONER THOMAS: Thank you. Mr. Cellar, I
16 was wondering if you were aware of any recent fence height
17 exceptions that you felt have been unfair? Because you
18 mentioned this, that you feel like not enforcing it
19 uniformly is a problem, so are you positive that the fences
20 you're thinking of and referring to have been built since
21 the new ordinance was adopted?

22 JOHN CELLAR: No, I'm not positive of that, but
23 like I said, I've been in this community for a lot of
24 years, I've worked in this community, and I drive through
25 the streets. Can I prove that? No, absolutely not, but it

1 is very much my sense that there have been continued
2 construction of 6' fences over the years, and obviously
3 some were put in prior to the ordinance and my sense is
4 that some have been put in subsequent to the ordinance.

5 COMMISSIONER THOMAS: Thank you, I appreciate
6 that. I think that it is important. I think that our Town
7 Staff works really hard to ensure that things are enforced
8 uniformly across the Board, and I know that this has been
9 something that has come up in previous meeting, and every
10 single time we ask, "Can you tell us exactly how many 6'
11 fences that are violation that had been built since the
12 ordinance?" and as far as my experience since being on the
13 Planning Commission, we haven't had one issue with it, so
14 thank you.

16 CHAIR HANSSEN: Thank you for that, Commissioner
17 Thomas. Do any other Commissioners have questions for Mr.
18 Cellar? I don't see any hands raised, so thank you for your
19 comments, and it looks like we still have others that want
20 to speak.

21 JENNIFER ARMER: Yes, I believe the next speaker
22 is Tony, and I'm going to allow you to speak. Go ahead, you
23 can unmute and you have up to three minutes.

24 TONY BOMMARITO: My name is Tony Bommarito; I'm
25 well acquainted with the Kohanchis. I was just listening to

1 the entire discussion and I just to make the point, and I
2 hope it's accurate, but it sounds like they did what I
3 would expect any reasonable person to do, which is to
4 consult the Town's website, and it sounds like any
5 reasonable person in their circumstances would have
6 concluded that they were acting within the code. Now, I
7 guess they could have scoured further and found more
8 information through other accessible sites, but I can
9 easily see how I, myself, would have been directed toward
10 the information that they had and thought I was acting
11 within the code properly.
12

13 I think in fairness to them, this is sort of a
14 similar circumstance where somebody might have built a
15 fence 20 years ago or whatever, and then later on after the
16 fact they find out that the code is in fact different than
17 what they were told, and I don't think that's any fault of
18 theirs, so I think in fairness to them I could see how they
19 could be treated like somebody who built there fence before
20 the code was changed. That's my comment.
21

22 CHAIR HANSSEN: Thank you for your comment. Do
23 any Commissioners have questions for Tony? I don't see any,
24 but thank you for your comments.
25

1 I don't see any other hands raised, but if anyone
2 else that is viewing the meeting would like to speak on
3 this item. It looks like we have a couple more.

4 JENNIFER ARMER: Yes, Lee, you should be able to
5 speak. You have up to three minutes.

6 LEE QUINTANA: I don't think I'll take the three
7 minutes, but I would like to comment that one of the
8 reasons that that Fence Ordinance was changed as to the
9 setbacks in the front and the sides of yards that fronted
10 streets was to maintain the small town character of Los
11 Gatos, and when I drove by this this morning after reading
12 it on the website, after just coming back from vacation in
13 Oregon, I was sort of shocked by that fence and I felt like
14 if everybody who wanted to be more protected put up fences
15 like that, it would definitely change the character of Los
16 Gatos.
17

18 As far as safety goes, I live in a house that's
19 on a corner of a street where there's a curve going uphill,
20 and before I moved in the actual bay window of our house on
21 the street was hit by a car, the tree in front of our house
22 was hit by a car, and my car was demolished by a speeder
23 coming up the hill, and yet I don't have that kind of a
24 fence, and I would never put it up because I think it would
25 be an affront to my neighbors.

1 I understand to a certain extent their concern,
2 but there must have been another way to do that. They could
3 have replaced their 6' fence that is further in with a more
4 substantial fence.

5 I also would like to comment on the fact that the
6 whole front of that lot is fronted by very large trees
7 that, again, are not consistent with our current code, but
8 they were there, and their concern is about intruders, and
9 it seems to me having those large trees along that area
10 provides a sort of hiding place for people, and if they're
11 concerned about safety one thing would be to lower the
12 foliage in the front of their yard.

14 I also looked at the plans and I was confused,
15 because it looked like there was a lot of space inside the
16 yard inside the existing fence that has a gate across it
17 that would allow for more storage of cars; it just shows on
18 the plan asphalt.

19 I do have a certain amount of sympathy for them,
20 but I also think that the Town needs to be very careful
21 about the exceptions that it grants. Thank you.

22 CHAIR HANSSEN: Thank you so much, Ms. Quintana.
23 Do any Commissioners have questions for Ms. Quintana? I
24 don't see any hands raised, but thank you again for your
25

1 comments, and it looks like we have another speaker, Mr.
2 Freeman.

3 JENNIFER ARMER: Yes, Keith, you should be able
4 to unmute. You have up to three minutes.

5 KEITH FREEMAN: Thank you. I live at 759 Blossom
6 Hill Road, next door to the Kohanchis, and have lived here
7 for 30 years, and over the years have seen quite a few
8 incidents on the street.

9 All the comments have already been made about it
10 being a commercial area. I'd like to point out that the
11 land slopes downward where 755 is located, and without that
12 fence they were quite exposed to everything that's been
13 mentioned: people walking by, accidents. While we've lived
14 next door there have been burglaries next door to me at
15 763, so the Kohanchis wanting to put up this fence in this
16 particular area makes sense to me and I don't have any
17 objections to it. I don't have any aesthetic problems with
18 it, because it's in such a commercial area, especially with
19 the Terraces located across the street. It isn't really out
20 of character, considering where it's located. Thank you.

21
22 CHAIR HANSSEN: Thank you so much for your
23 comments, Mr. Freeman. Do any Commissioners have questions?
24 I don't see any hands raised, so thank you again.
25

1 I will again say that I don't see anyone else
2 with their hand raised, so this would be the time to raise
3 your hand if you want to speak on this item before I close
4 the public hearing.

5 JENNIFER ARMER: If anyone else wishes to speak
6 before we do return to the Applicant/Appellant for their
7 closing statement, any members of the public who wish to
8 speak should raise your hand now. I don't see any
9 additional hands raised, Chair.

10 CHAIR HANSSEN: Thank you for that. As Staff
11 said, that would be the end of public comments, and now we
12 will go back to the Applicant/Appellant, and you have an
13 additional three minutes to address the Planning Commission
14 as well as any comments that were made by the public.

15 DAVID KOHANCHI: I'm going to respond to a few of
16 the comments that were made negatively toward the fence,
17 and then I'll just make it brief. Thank you so much for
18 being here. I sure appreciate it. We're neighbors at the
19 end of the day, so I hope it stays that way regardless.

20 One, in relation to the comment about maintaining
21 small town values, we are, again, in a business area. We
22 fit into where we are, and respectfully that doesn't make
23 sense with the ubiquitousness of the violations that are so
24 severe. I spoke with Director Paulson within the last day.

1 There are thousands of violations. When it's that much of a
2 portion it no longer makes sense to say that's the value of
3 the Town, unless we were to accept the 12,000 to 20,000 or
4 whatever properties you want to build in the next decade,
5 that doesn't make sense. I understand your point. I respect
6 the comment, but I disagree.

7 With regard to packages if the gate were closed.
8 Again, the gate is opened from sometimes earlier, 6:30, to
9 9:00 to 10:00pm at night. If you want we can have some kind
10 of system where I monitor that and media record it; we can
11 do that. Whatever you say I will abide by, but in response
12 to the package, on Blossom Hill Road and nowhere else in
13 this area Amazon trucks don't drive into the driveway; they
14 just don't. They stop in front of the driveway, they take
15 out the package, and they walk it to your front door.

17 In addition, if, let's say, our gate was closed,
18 we have a metal package and delivery system outside of the
19 gate that's embedded in the gate itself for this very
20 purpose, so the potential for a delivery truck stopping and
21 staying for longer than any other home does not exist in
22 our home.

23 In response to a comment from somebody who said
24 even though a car flew into her house and she didn't have a
25 fence, so why does anybody else have a fence? Do we believe

1 that to be a justifiable comment? Do we think that somebody
2 saying that just because my house was robbed, my house had
3 a car crash into it, why did I have a fence? Does that
4 merit you after the fact saying that why does somebody else
5 want to prevent these disasters? That does not make sense
6 to me as a logical statement.

7 In response to the trees that we have, there was
8 a comment about visibility. One of the big comments is
9 there's walking traffic, there are people coming by, and
10 you can't see when you come out of the fence. This gate was
11 designed as a metal perforated fence with the intent of
12 being able to see through the fence; that was deliberate.

13 In addition, the trees alone block the view
14 enough, and they're grandfathered in because they were
15 placed a decade ago, so none of those arguments seem to be
16 valid with response. Yes, in theory that is a great
17 argument, but when you look at the fine details of what is
18 actually happening, it does not make sense.

19 Our gate, if closed, which it never is, has a
20 package delivery system, so cars will not stop. The trees
21 are there and they obstruct already, so even if I were to
22 remove the gate, the trees are there, so I don't think the
23 vast majority of comments that were made, though I do
24 respect them, were valid in their points to get across.
25

1 CHAIR HANSSEN: I think Ms. Armer had her hand
2 up, so I'm sensing that is probably the three minutes.

3 DAVID KOHANCHI: Thank you so much.

4 CHAIR HANSSEN: Don't go just yet. Let me see if
5 Commissioners have any additional questions for you, and
6 this would be the last time to ask the Applicant/Appellant
7 any questions, because after this we will be closing the
8 public hearing. Commissioner Janoff.

9 COMMISSIONER JANOFF: Thank you. Mr. Kohanchi,
10 you have a fence within this fence. Could you please
11 describe that and tell us why that fence is not sufficient
12 security for your needs?

13 DAVID KOHANCHI: When we came into the home
14 initially that fence was locked, and we had squatters in
15 the home with that fence already. We also hired somebody to
16 fix the door. Within the first three months that we were
17 here, the front door was broke into the home; there was
18 like a lock issue, and we left. He left for lunch and came
19 back and got over that fence.

20 The way that the fence is designed, given the
21 slope of the lot, and it's a very flimsy wooden fence, in
22 theory for someone to say why didn't you replace that
23 fence? There's a misunderstanding of the cost incurred. To
24 replace that fence entirely would have cost three to five
25

1 times the cost of putting our fence in, so that's why we
2 didn't. I would have replaced and fixed that fence, but the
3 cost was too great to do so.

4 COMMISSIONER JANOFF: So there's a cost issue,
5 and you're saying that the fence...

6 DAVID KOHANCHI: It's not sufficient.

7 COMMISSIONER JANOFF: ...inside the metal fence is
8 not (inaudible).

9 DAVID KOHANCHI: Not (inaudible).

10 COMMISSIONER JANOFF: Another question, if I
11 might, Chair?

12
13 Your recent presentation indicated that you've
14 got two new businesses that require use of your property in
15 a way that makes it necessary to park your personal use
16 cars outside the original fence and behind the new fence.
17 It's a little unclear to me. Your arguments have gone quite
18 a bit into personal security, but what it looks like to me
19 is that you're really creating security for the cars that
20 you want parked inside that fence as well; it seems like
21 that's a pretty high priority. Also, you're starting a
22 high-end car rental business of some sort, and my guess is
23 that you're going to want to park those cars behind this
24 fence as well, because there obviously wouldn't be room
25

1 behind the wooden fence, since there already isn't room
2 behind the wooden fence.

3 DAVID KOHANCHI: No, I think I could sufficiently
4 fit more cars, but I did not prioritize one versus the
5 other. All of them, I feel, are arguments that stand. I
6 think the notion that safety is a priority to us; it's been
7 made very clear. The notion that if I buy cars that are
8 worth a lot would I park them inside the inner gate versus
9 in the other gate, the space and availability and
10 protective measures, the outer gate is significantly more
11 sufficient in protecting the cars, and so for the added
12 space I would park it in either.

14 There's also the potential that if I were to rent
15 those cars that I would want those cars in the in-between
16 space, and this is not a priority issue, so that the person
17 that came to access the car, there would also be an extra
18 layer there between the car and coming into our home.

19 COMMISSIONER JANOFF: What I'm trying to
20 understand is given the use of your property in these new
21 business ventures whether or not you have sufficient room
22 behind the wooden fence to store the vending machines and
23 high-end cars as well as your cars?

24 DAVID KOHANCHI: Likely not.

25 COMMISSIONER JANOFF: Thank you.

1 CHAIR HANSSEN: Commissioner Thomas.

2 COMMISSIONER THOMAS: Thank you, Chair. I have
3 one follow up question, and that is in order for us to
4 grant an exception we have to make these required findings.
5 One of them includes an undue hardship, so can you tell me
6 the status of your two business ventures at this moment?

7 DAVID KOHANCHI: Yes. One of the business
8 ventures I'm in a bidding war to purchase a vending machine
9 route that has 55 vending machines, 14 of which are
10 unallocated, that would stay in our home until I find a
11 location for them. I would store a significant inventory in
12 the house. Likely it will go through within the next two
13 weeks, and I'll probably start taking over that business
14 within the next month or two.

16 As far as cars, the car market, within the last
17 two years I've been looking for cars. I went to this Los
18 Gatos exotic car collection many times. Unfortunately, the
19 price of cars right now is 10-30% or even higher for exotic
20 cars, so I've been waiting for the price of the used car
21 market to decline significantly for it to make sense.

22 COMMISSIONER THOMAS: Thank you. I do just have a
23 question. In the materials you submitted, when you
24 discussed earlier you stated that over 100 people, you
25 estimate, from the Terraces can see directly into your

1 house, and so are you arguing that you feel like there's a
2 safety concern because the people that live at the Terraces
3 can see your house?

4 DAVID KOHANCHI: I think uninvited visibility of
5 any place creates the potential for a person to have
6 malintent. Any unwelcomed visibility creates a scenario of
7 somebody you do not know having some intent upon you that
8 you are unaware of. So do I think the retirement facility
9 is the most risky of them all? No, but the facility in and
10 of itself has a lot of outsiders the come and work in the
11 facility that have no association with Los Gatos. There is
12 heavy turnaround there with cooking staff, cleaning staff,
13 the day-to-day workers, and nursing staff that have changed
14 in and out. My concern isn't necessarily for the residents
15 that are retired there and living happily, my concern is
16 for everybody else.

18 Directly across from us on the bottom floor,
19 which has a large gate itself, is like I think a restaurant
20 related to the retirement facility, where all of the
21 workers sit directly outside our home and smoke constantly
22 from early hours when I leave the home until 11:00pm. Right
23 now, if I go outside there's likely somebody smoking there.
24 That in and of itself creates a level of stress and a level
25

1 of fear with the stranger that's there, because there's
2 very little accountability.

3 COMMISSIONER THOMAS: Okay, you answered my
4 question. I just would like to clarify, so you're not
5 really concerned about the residents that live across the
6 street, but you are concerned about the type of workers
7 that might come and be working at the Terraces?

8 DAVID KOHANCHI: Everybody else that frequents
9 that site, yes.

10 COMMISSIONER THOMAS: Chair, I have one more
11 question.

12 CHAIR HANSSEN: Go ahead.

13 COMMISSIONER THOMAS: One of the other things
14 with the exceptions is that there are security concerns
15 that exist that cannot be practically addressed through
16 alternatives, and I think Commissioner Janoff talked about
17 this a little bit with the second fence, but can you walk
18 us through any other improvements that you've made to your
19 home, or anything else that you've done to improve and
20 increase the safety of your home for your family?

21 DAVID KOHANCHI: The front door that was broken
22 when we moved in we fixed. The back door we reinforced with
23 a double lock. We created a security system with about 17
24 cameras in the home, two outside in the front, three
25

1 outside in the back, and a Ring doorbell. Everything that
2 we can do that seems feasible, we've done.

3 COMMISSIONER THOMAS: Are those all the things
4 that you've done? Is there anything else that you've done
5 to try to improve safety?

6 DAVID KOHANCHI: Improve safety? I don't see any
7 other thing that you could do, respectfully.

8 COMMISSIONER THOMAS: And do you have a pool?

9 DAVID KOHANCHI: Yes.

10 COMMISSIONER THOMAS: And is there a fence around
11 your pool?
12

13 DAVID KOHANCHI: There's a reinforced cover that
14 we essentially just reinforced within the last two months,
15 because our baby decided to walk and we're aware that she's
16 at risk, so yes, there is a cover to the pool.

17 COMMISSIONER THOMAS: Okay, thank you.

18 CHAIR HANSSEN: I had a question for you. I was
19 going to ask about the security system. I'm trying to
20 understand, and maybe you could help me understand. You're
21 leaving the gate open from, if I heard correctly, 6:30 in
22 the morning till 9:00 o'clock at night, so relative to this
23 issue with the Terraces, I'm having a hard time visualizing
24 where the concern would be from 9:00 o'clock at night until
25 6:30 in the morning from the Terraces. Could you help me

1 with that, because you're leaving the gate open the rest of
2 the time?

3 DAVID KOHANCHI: I'm confused by the question.

4 CHAIR HANSSEN: Well, you're talking about being
5 concerned about your safety and gave the examples of the
6 workers at the Terraces and people sitting outside, and so
7 are these workers sitting outside from 9:00 at night until
8 6:30 in the morning?

9 DAVID KOHANCHI: There are risks that I can
10 control and risks that I can't control. One, we are in
11 agreement from the beginning that this gate should not be
12 closed during the day, so we feel that there is a potential
13 that if my wife wants to come in and out that there could
14 be an issue, so we decided from the very inception that the
15 gate would be open during those hours. For the sake of just
16 us, we thought that it was appropriate for the gates to be
17 open during the day.

18
19 Now, I don't fully understand, because the gate
20 is perforated, so my concern is not necessarily that at
21 daytime somebody is going to come in and at nighttime
22 they're not. My concern is that the very added layer of
23 protection is a strong deterrent to anybody that would
24 create a problem. And again, crime across the board is
25

1 significantly worse at night, specifically with regards to
2 trespassing and strangers breaking into homes.

3 I mean, if there was an option to close the gate
4 during the day and we thought it made sense, then yes, but
5 I think logically speaking we keep it open, and there are
6 things that you can and make sense to do, and things that
7 you can't. I don't walk around in a bulletproof vest. When
8 COVID happened we could have all wore...

9
10 CHAIR HANSSEN: It's okay. I think you answered
11 by question, thank you.

12 DAVID KOHANCHI: No problem.

13 CHAIR HANSSEN: Do any other Commissioners have
14 questions? Vice Chair Barnett.

15 VICE CHAIR BARNETT: Doctor, I'm having trouble
16 understanding why you wouldn't get adequate security if you
17 moved the fence back to the setback as required by the
18 ordinance. Wouldn't you get everything you're asking for by
19 moving it into compliance with the ordinance?

20 DAVID KOHANCHI: Respectfully, multiple
21 responses. If we moved cars closer to the front because we
22 needed the space, those cars would be at risk for people
23 jumping over the curb and hitting those cars and
24 vandalizing the cars, as a business discussion we had, and
25 if we moved the gate it would incur significant costs that

1 are insurmountable. So even the notion, even if that was
2 possible, even if we said we're going to move the gate,
3 then by that virtue we followed an ordinance that it would
4 be surmisable that other people that were within similar
5 situations should do the same.

6 The reason that we're asking, we changed the code
7 and we said it's really important for the Town to maintain
8 small town values, right? And we're saying that the reason
9 that we can't ask everybody else, and the reason we made
10 everyone grandfathered in (inaudible) because it's a burden
11 to its citizens, right? Because the notion of removing or
12 reinstalling a fence is months of income, six months to a
13 year of work, and a lifetime of money. I get the
14 suggestion, but in practicality I think it's very, very
15 difficult and non-feasible.

16 VICE CHAIR BARNETT: Okay, I understand your
17 response. Continuing the conversation on that point, would
18 it be safe to say other than the cost factor, which I
19 respect is significant, the risk would be to the cars
20 parked in front of it?

21 DAVID KOHANCHI: Well, also us, right? This is
22 the lot of our home, it's our property, so in theory if I'm
23 walking out to get my mail a car could hop the curb and hit
24 me. Same thing with our daughter. It's a big lot, there's
25

1 we're saying 18' setback from where the other fence is,
2 there's 18', and on both sides probably 50-60'. You're
3 talking a big portion of our lot would be exposed. It's not
4 like every other home. Our lot is set back 40' from the
5 front of the street, so you're taking away a significant
6 portion of our property.

7 VICE CHAIR BARNETT: I understand your point and
8 appreciate your input.

9 CHAIR HANSSEN: Thank you for that, and
10 Commissioner Thomas has another question.

11 COMMISSIONER THOMAS: Thank you, Chair. I just
12 have another question, because you mentioned that you're
13 going to start this business venture with the cars, but you
14 currently don't own any of those vehicles and you're not
15 storing any of them on your property?

16 DAVID KOHANCHI: My car is very expensive, but
17 no. Other than my own personal car that I use? No.

18 COMMISSIONER THOMAS: And then have you filed for
19 a business license for this business that you're planning
20 on doing yet?

21 DAVID KOHANCHI: I have a business license. I
22 don't think this should be privy to the Town, but yes, I
23 have a business license that could be utilized (inaudible)
24 to the public.
25

1 COMMISSIONER THOMAS: Well, it is part of our
2 seeing if this is an undue hardship or something, so that's
3 why I'm asking.

4 DAVID KOHANCHI: Understood. It could be amended.
5 I have a corporation that could be amended easily to be
6 utilized for this, so yes, the infrastructure is in place
7 for me to start the business.

8 COMMISSIONER THOMAS: Okay, but it would be very
9 expensive to move the fence back, so that's the main issue
10 here?

11 DAVID KOHANCHI: That's one of the issues. That's
12 the one that I think makes it almost impossible to do. It's
13 not the main issue, I think there are many, but that's one
14 of the issues that I think are very important.

15 COMMISSIONER THOMAS: Thank you.

16 CHAIR HANSSEN: Any other Commissioners have
17 questions for the Applicant/Appellant? I don't see any
18 other hands raised, so thank you for your responses and I'm
19 going to close the public hearing and turn to the
20 Commission for any additional questions for Staff, or
21 comments on the application/appeal. I don't know that we're
22 ready for a motion yet, but maybe, and I will start with
23 Commissioner Clark.
24
25

1 COMMISSIONER CLARK: Thank you. I have several
2 comments that I want to share. I think that a lot of what
3 he said ended up countering his other points, and so I want
4 to go through my thoughts I had as this was happening.

5 What we have is a fence that's prohibited no
6 matter what, because it has spikes, within the setback, and
7 then another fence in that fence that's also within the
8 setback, and there's a 3' height limitation when it's in
9 the front setback, traffic view area, and driveway view
10 area, and this property meets all three of those criteria
11 for why it should have a 3' height, and so I think that's a
12 very important base to start with. There is a lot of
13 reasoning behind them not being able to do this.

14 One concern I had was they talked about how it
15 will increase safety, because the fence is pretty much
16 impenetrable by cars, and where my mind went with this is
17 that then if a pedestrian is walking along and a car comes
18 or something, they'd have absolutely nowhere to go, and I'm
19 a lot more concerned about a pedestrian than about some
20 expensive cars inside of a fence, and so I think that it
21 sacrifices the safety of the public for the potential
22 safety of some cars and supposedly his family, even though
23 I think that there are other ways around this.
24
25

1 And he said that he didn't replace the existing
2 fence because of the cost, but that really confuses me,
3 because he's talking about expensive cars and having all
4 these business ventures and saying that that makes it
5 nearly impossible, but I think that it's definitely within
6 the realm of possibility for them to create a fence within
7 their setback, and I don't see any reason why they
8 shouldn't be required to do that.

9
10 He said he wants two fences so that people can go
11 through the first one to get the cars and then maybe not
12 get past the second, which I also think contradicts some of
13 the other points.

14 So yes, overall I think that this feels like a
15 very, very special exception that they're asking for that I
16 don't think is warranted. I think this fence really doesn't
17 fit with Town character. I was definitely surprised to see
18 it, and I am not personally open to some form of compromise
19 where they keep the fence open during the day and then
20 close it at night, because first, there's not a way to
21 enforce that, and I don't think we can just put that as a
22 condition. But also, I don't think that that's the only
23 problem by any means.

24
25 CHAIR HANSSEN: Thank you so much for your
comments, Commissioner Clark. Commissioner Thomas.

1 COMMISSIONER THOMAS: Thank you, Chair. I also
2 just want to add that it's difficult for me to see this as
3 a special security concern that exists that cannot be
4 practically addressed; there are alternatives. I know that
5 we've talked about security and safety and how that can be
6 problematic, because some of it is like a feeling and
7 perception, but it is very difficult for me to grant an
8 exception, to grant this appeal as an exception based on
9 possible future business ventures. I'm interested to hear
10 what other Commissioners have to say.
11

12 I know that during COVID things were difficult,
13 but it's also difficult for me to think that the Town
14 didn't respond at all. There's just the lack of proof of
15 communication on either way. It's just really unfortunate,
16 because it's making it difficult for me to know just based
17 on multiple phone calls, and I think that as a person that
18 has recently dealt with things digitally when offices
19 haven't been open, getting some permits for stuff, I
20 definitely have proof of when I contacted the Town first
21 about things to clarify with Staff, and so it just makes it
22 hard to me to believe since our email addresses are all
23 over that there wasn't a possible way to get a phone call
24 back or an email, so that's something that I'm kind of
25 struggling with too.

1 CHAIR HANSSEN: Thank you for that, Commissioner
2 Thomas. Commissioner Raspe.

3 COMMISSIONER RASPE: Thank you, Chair. I'll join
4 in my fellow commissioners. I think it's fairly plain that
5 the fence as currently constructed is violative of various
6 aspects of our new Town ordinance of height, setback, and
7 materials.

8 I also didn't find many of the Applicant's
9 arguments compelling, the reliance upon the crime
10 statistics, for instance. Certainly we've all faced those
11 types of things, but my experience in Los Gatos, and I
12 think for most people, it's not such a crime infested area
13 that 6' spiked fences are required for our protection.

14 All that being said, I think the only point that
15 caught me at all was the notion of the confusion during
16 COVID regarding what the Town Code actually provided. I
17 listened to both sides of the argument on that issue, and I
18 agree there may have been some confusion or lack of clarity
19 perhaps, but the Applicant has made clear this was an
20 expensive build, and so I think reasonable due diligence
21 was imperative on that part; I'm not sure they satisfied
22 that requirement. It sounds like the Town was available in
23 large measure to answer reasonable queries, and so that
24 could have been sorted out before, and so even that I think
25

1 the fence fails in the long run, and so that's the way I
2 see it.

3 CHAIR HANSSEN: Thank you for that, Commissioner
4 Raspe. Back to Commissioner Thomas.

5 COMMISSIONER THOMAS: I do have a question for
6 Staff, if that's okay.

7 CHAIR HANSSEN: It is.

8 COMMISSIONER THOMAS: Thank you. I have a
9 question about if cars were being stored in between the
10 fences, can they be stored there permanently or is that one
11 of those rules that we have about things like RVs and boat
12 trailers, that they're not supposed to be visible to the
13 street. I didn't really think about that until now, so I
14 didn't have time to look up that part of our code, but
15 could Staff clarify that?
16

17 SAVANNAH VAN AKIN: Thank you for that question.
18 I can address that in terms of our Home Occupation Permit,
19 which corresponds to receiving a business license. In this
20 case, there are restrictions for having commercial vehicles
21 or also storage that is visible from the street.

22 COMMISSIONER THOMAS: So it is allowed, or would
23 it be part of the application process, or it's not allowed?
24

25 JENNIFER ARMER: Review of the description of the
business would be part of the process. When an Applicant

1 comes in for a business license that is associated with the
2 residential address we do look to get details of the
3 business, whether they're going to be storing materials or
4 have unusual activity that is out of character with the
5 residential neighborhood, and so that's part of a Home
6 Occupancy Permit that would be required if they were to
7 apply for a business license.

8 It looks like Director Paulson has turned on his
9 camera, so he may have something else to add as well.

10 JOEL PAULSON: Thank you, Ms. Armer. Commissioner
11 Thomas, I think you were calling out the RVs, boats,
12 campers, trailers, and those are not allowed to be stored
13 in the front setback, but a vehicle, you can park a vehicle
14 as long as it's not your required parking, which is not the
15 instance here. The other component that Ms. Van Akin and
16 Ms. Armer were talking about is more related to the
17 potential for any future business endeavors, so we would
18 evaluate those at that time.

19 COMMISSIONER THOMAS: Thank you for the
20 clarification. I didn't know if it had to do with the type
21 of thing that was parked, or if it was how long it was
22 parked, or both, so thank you for that clarification.

23 CHAIR HANSSEN: Thank you for that. Commissioner
24 Janoff.
25

1 COMMISSIONER JANOFF: Thank you. The only area
2 that I could think would warrant an exception would be for
3 a special circumstance where you've got some undue
4 situation that requires this fence, and at the moment the
5 only circumstance that the Appellant has described that I
6 heard tonight was a future potential high-end car rental
7 business, and that's all we heard. They're too expensive to
8 purchase now, I get that, and so that business hasn't
9 launched, but the Planning Commission can't make decisions
10 based on a potential future what if. Somebody could say I'm
11 planning to have a dinosaur statue in my front yard and I
12 need a fence to protect it from vandals. Well, we can't
13 really make a decision based on the what if, we need to
14 make a decision based on the existing circumstances, and I
15 think what we have heard tonight, and I think what I'm
16 hearing my fellow commissioners saying, is that we have
17 clear violations of an ordinance and there aren't
18 compelling reasons to make a finding for an exception. And
19 I can't make an exception based on a what if scenario. It
20 might never materialize, and there we are.

22 Having said that, I'm sympathetic to this
23 property being in a quasi-commercial zone. If there were a
24 car business, if there were an active car rental business,
25 I could see potentially having this sort of a fence to

1 protect the vehicles behind it. It's not an affront to me
2 to see this fence in this particular area of town, I just
3 can't find a compelling reason to make an exception, but
4 I'm open to other Commissioners.

5 CHAIR HANSSEN: Thank you, Commissioner Janoff.
6 Vice Chair Barnett.

7 VICE CHAIR BARNETT: Thank you, Chair. One thing
8 that troubles me a lot is the discrepancy between the code
9 provision and what was on the website. The fact is that the
10 actual language of the ordinance was always in place and
11 easily viewed.
12

13 Also, I think it's quite important that we take
14 advice from our Town Attorney that there is no estoppel
15 under the general rules applicable to towns and cities.

16 I'm concerned about the spikes, but appreciate
17 the offer of the Applicant/Appellant to remove those.

18 It seems to me that there is adequate parking. A
19 major part of the presentation in support of the appeal was
20 that there wouldn't be an adequate play area for the
21 children based on the parking requirement of the doctor,
22 however, we did discuss the garage and that seemed to be a
23 partial solution to the problem.
24

25 I don't think it's consistent with the Blossom
Hill neighborhood. There are no other homes on that stretch

1 between Camellia Terrace and Cherry Blossom that don't have
2 the proper setbacks.

3 In terms of the safety, which the Town raised as
4 a concern, I assumed that there was an opportunity to
5 understand the spacing of the pickets on the fence and the
6 view that would be allowed by that, but it appears that the
7 Town, for whatever reason, discounted that as a problem.

8 So in all, I tend to agree with my fellow
9 commissioners that there is a problem with this. I'm very
10 sympathetic to the Applicant, having to rely on the
11 incorrect information on the website and spent a lot of
12 money doing that, but I don't see that we have an
13 opportunity to go outside our jurisdiction and allow it in
14 this case. Thank you.

15 CHAIR HANSSEN: Thank you for that, Vice Chair
16 Barnett.

17 I have a few comments as well. I was on the
18 Planning Commission when we were considering the update to
19 the Fence Ordinance, and I think the whole idea was very
20 much in line with what Ms. Quintana said in her comments,
21 which is that if we're going to have the small town
22 character we can't go into a situation where we're going to
23 have all these homes that are going to put big fences along
24
25

1 the front of their property, that does jive with it being a
2 welcoming community.

3 Having said that, the ordinance is law and it
4 became law, and I was a bit concerned to hear that there is
5 the possibility of one kind of information in one place and
6 one in another place, but nonetheless, the Fence Ordinance
7 had been in place.

8 I also had the experience of having been on the
9 Commission when we were working on the General Plan during
10 the pandemic, and I don't see any scenario where Town Staff
11 wouldn't have been very and incredibly responsive during
12 that entire ordeal of the pandemic.

13 As for the concerns as noted by my fellow
14 commissioners, in order for us to grant an exception we
15 would have to have compelling evidence that would support
16 one of the findings that would be allowing for an
17 exception, and I just wasn't hearing it. It sounds like
18 there are other means of security that are in place, and
19 then there's also this future business but we can't
20 consider that at this point in time, and so I can't find
21 any compelling reasons to grant an exception.

22 I would also add that in listening to our Town
23 Traffic Engineer, just the very concern alone about the
24 viewing and stuff for the fence, whether it's open or not,
25

1 is a very compelling thing to make sure that we get this
2 set right.

3 I will see if there are any other comments from
4 Commissioners, and if not, I would ask that somebody make a
5 motion. Commissioner Clark.

6 COMMISSIONER CLARK: Thank you. I'll make a
7 motion. I move to deny the appeal of a Community
8 Development Director decision to deny an exception to the
9 Town's fence regulations on property zoned R-1:10 located
10 at 755 Blossom Hill Road.

11 CHAIR HANSSEN: Thank you for that. Commissioner
12 Thomas.

13 COMMISSIONER THOMAS: I second the motion.

14 CHAIR HANSSEN: So we have a motion and a second.
15 Are there any additional comments from Commissioners before
16 I call the question? So we will go again with the roll call
17 vote, and I will start with Commissioner Thomas.

18 COMMISSIONER THOMAS: Yes.

19 CHAIR HANSSEN: Commissioner Raspe.

20 COMMISSIONER RASPE: Yes.

21 CHAIR HANSSEN: Commissioner Janoff.

22 COMMISSIONER JANOFF: Yes.

23 CHAIR HANSSEN: Commissioner Clark.

24 COMMISSIONER CLARK: Yes.

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CHAIR HANSSEN: Vice Chair Barnett.

VICE CHAIR BARNETT: Yes.

CHAIR HANSSEN: And I vote yes as well, so the motion passes unanimously, and I will ask Staff if there are appeal rights for this action by the Commission?

JENNIFER ARMER: Thank you, Chair. Yes, there are appeal rights. The decision of the Commission can be appealed to the Town Council by any interested person as defined by Town Code Section 29.10.020 within ten days, and on forms available online with fees paid. Final deadline is 4:00pm on the tenth day.

CHAIR HANSSEN: Very good. Thank you for that.

(END)

FILING FEES
\$464.00 (PLAPPEAL) Residential
\$1,867.00 (PLAPPEAL), per
Commercial, Multi-family, or
Tentative Map Appeal
TRANSCRIPTION \$500 (PLTRANS)

Town of Los Gatos
Office of the Town Clerk
110 E. Main St., Los Gatos CA 95030

APPEAL OF PLANNING COMMISSION DECISION

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION 11/9/2022

RECEIVED
TOWN OF LOS GATOS

NOV 14 2022

CLERK DEPARTMENT

PROJECT / APPLICATION NO:

Fence Height Exception Request/ APN 523-04-043

ADDRESS LOCATION:

755 Blossom Hill Rd, Los Gatos, CA 95032

Pursuant to the Town Code, any interested person as defined in Section 29.10.020 may appeal to the Council any decision of the Planning Commission.

Interested person means:

1. *Residential projects.* Any person or persons or entity or entities who own property or reside within 1,000 feet of a property for which a decision has been rendered, and can demonstrate that their property will be injured by the decision.
2. *Non-residential and mixed-use projects.* Any person or persons or entity or entities who can demonstrate that their property will be injured by the decision.

Section 29.20.275 The notice of appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record.

1. There was an error or abuse of discretion by the Planning Commission:

Discrimination - Antisemitism argument was not addressed by anyone at all.

Bias - (because appellant is a doctor) to the extreme undue financial hardship reconstructing the fence would create.

thousands of other fence violations, including on the same street, were said to be not in violation (despite photos)

proof of the ordinance available on the website in 2020 - they simply said it seems unlikely, "other info also existed somewhere."

OR

2. The Planning Commission's decision is not supported by substantial evidence in the record:

Crime statistics - large number of registered sex offenders in the area. (We have a baby girl).

Townpeople who called in were in support of the fence 6 to 1.

Letters of people who wrote in were in support of the fence 7 to 1.

High traffic commercial area = reason for exception. Unique location is an exception.

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

more
on back →

IMPORTANT:

1. **Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.**
2. **Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 4:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.**
3. **The Town Clerk will set the hearing within 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967).**
4. **Once filed, the appeal will be heard by the Town Council.**
5. **If the basis for granting the appeal is, in whole or in part, information not presented to or considered by the Planning Commission, the matter shall be returned to the Planning Commission for review.**

PRINT NAME: David and Ilana Kohanchi

SIGNATURE: Dora Kohanchi

DATE: 11/10/2022

ADDRESS: 755 Blossom Hill Rd, Los Gatos, CA 95032

PHONE: [REDACTED]

EMAIL: [REDACTED]

*** OFFICIAL USE ONLY ***

DATE OF PUBLIC HEARING: _____

Pending Planning Department Confirmation

DATE TO SEND PUBLICATION: _____

DATE OF PUBLICATION: _____

- ignored our concerns for break-ins (into our home + another a few doors down) within the last few years.
- did not address the realistic concerns to our safety given the recent burglaries.
- verified by next door neighbor.

To Whom it May Concern,

We would like for this item at [755 Blossom Hill Road](#) (FHE-21-003) to be continued to the January 17 meeting. We acknowledge that we understand that the January 17 meeting date is after the 56 day window period from the date of the Planning Commission Decision as outlined in Ordinance No 1967.

Sincerely,
David and Ilana Kohanchi

ATTACHMENT 7

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DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
DENYING AN APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A FENCE
HEIGHT EXCEPTION REQUEST FOR CONSTRUCTION OF A SIX-FOOT FENCE LOCATED
WITHIN THE REQUIRED FRONT YARD SETBACK AND A VEHICULAR GATE SET BACK
LESS THAN 18 FEET FROM THE EDGE OF THE ADJACENT STREET ON PROPERTY
ZONED R-1:10.**

APN 523-04-043

FENCE HEIGHT EXCEPTION APPLICATION: FHE-21-003

PROPERTY LOCATION: 755 BLOSSOM HILL ROAD

APPELLANT/PROPERTY OWNERS: DAVID AND ILANA KOHANCH

APPLICANT: NINA GURALNIC

WHEREAS, on December 14, 2020, the Town issued an administrative warning for a code violation at 755 Blossom Hill Road and requested that the property owners reduce their six-foot fence along the front property line down to three feet, and to remove the vehicular gate, to meet Town Code, by January 3, 2021; and

WHEREAS, on February 12, 2021, the property owner applied for an exception to the Town's fence regulations for the unpermitted construction of the vehicular gate and fencing on the subject property, which does not comply with the Town Code fence regulations for height and setbacks; and

WHEREAS, on July 2, 2021, the Town denied the exception request because the findings listed in Town Code Section 29.40.0320 could not be made; and

WHEREAS, on July 7, 2022, the Town issued a second administrative warning for a code violation. This administrative warning requested the property owners to: remove the illegal fence and gate; modify the fence and gate to comply with Town Code; or file an appeal of the decision to deny the fence height exception by August 7, 2022; and

WHEREAS, on August 5, 2022, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission; and

WHEREAS, on November 9, 2022, this matter came before the Planning Commission for public hearing and considered an appeal of the Community Development Director denial of a fence height exception request for construction of six-foot tall fencing located within the

required front yard setback and construction of a vehicular gate with reduced setbacks and was regularly noticed in conformance with State and Town law; and

WHEREAS, on November 9, 2022, the Planning Commission denied the appeal and denied the fence height exception request; and

WHEREAS, on November 14, 2022, the decision of the Planning Commission was appealed to the Town Council by the property owners, David and Ilana Kohanchi; and

WHEREAS, on December 13, 2022, the appellant made a request for a continuance of the item from December 20, 2022, to a date certain of January 17, 2023.

WHEREAS, on December 20, 2022, the Town Council opened the public hearing to take public comments from members of the public who would not be able to attend the January 17, 2023, meeting and continued the appeal hearing to January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, this matter came before the Town Council for public hearing on January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, the Town Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. The Town Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report for their meeting on January 17, 2023, along with any and all subsequent reports and materials prepared concerning this application.

NOW, THEREFORE, BE IT RESOLVED:

1. The appeal of the decision of the Planning Commission decision to deny a fence height exception for construction of a six-foot fence located within the required front yard setback and a vehicular gate set back less than 18 feet from the edge of the adjacent street on property zoned R-1:10 **is denied and the application is denied.**

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such

shorter time as required by state and federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the day of January 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
GRANTING AN APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A FENCE
HEIGHT EXCEPTION REQUEST AND APPROVE THE CONSTRUCTION OF A SIX-FOOT
FENCE LOCATED WITHIN THE REQUIRED FRONT YARD SETBACK AND A VEHICULAR
GATE SET BACK LESS THAN 18 FEET FROM THE EDGE OF THE ADJACENT STREET ON
PROPERTY ZONED R-1:10.**

**APN 523-04-043
FENCE HEIGHT EXCEPTION APPLICATION: FHE-21-003
PROPERTY LOCATION: 755 BLOSSOM HILL ROAD
APPELLANT/PROPERTY OWNERS: DAVID AND ILANA KOHANCH
APPLICANT: NINA GURALNIC**

WHEREAS, on December 14, 2020, the Town issued an administrative warning for a code violation at 755 Blossom Hill Road and requested that the property owners reduce their six-foot fence along the front property line down to three feet , and to remove the vehicular gate, to meet Town Code, by January 3, 2021; and

WHEREAS, on February 12, 2021, the property owner applied for an exception to the Town's fence regulations for the unpermitted construction of the vehicular gate and fencing on the subject property, which does not comply with the Town Code fence regulations for height and setbacks; and

WHEREAS, on July 2, 2021, the Town denied the exception request because the findings listed in Town Code Section 29.40.0320 could not be made; and

WHEREAS, on July 7, 2022, the Town issued a second administrative warning for a code violation. This administrative warning requested the property owners to: remove the illegal fence and gate; modify the fence and gate to comply with Town Code; or file an appeal of the decision to deny the fence height exception by August 7, 2022; and

WHEREAS, on August 5, 2022, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission; and

WHEREAS, on November 9, 2022, this matter came before the Planning Commission for public hearing and considered an appeal of the Community Development Director denial of a fence height exception request for construction of six-foot tall fencing located within the required front yard setback and construction of a vehicular gate with reduced setbacks and was

regularly noticed in conformance with State and Town law; and

WHEREAS, on November 9, 2022, the Planning Commission denied the appeal and denied the fence height exception request; and

WHEREAS, on November 14, 2022, the decision of the Planning Commission was appealed to the Town Council by the property owners, David and Ilana Kohanchi; and

WHEREAS, on December 13, 2022, the appellant made a request for a continuance of the item from December 20, 2022, to a date certain of January 17, 2023.

WHEREAS, on December 20, 2022, the Town Council opened the public hearing to take public comments from members of the public who would not be able to attend the January 17, 2023, meeting and continued the appeal hearing to January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, this matter came before the Town Council for public hearing on January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, the Town Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. The Town Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report for their meeting on January 17, 2023, along with any and all subsequent reports and materials prepared concerning this application.

NOW, THEREFORE, BE IT RESOLVED:

1. The appeal of the decision of the Planning Commission denying a fence height exception for construction of a six-foot fence located within the required front yard setback and a vehicular gate set back less than 18 feet from the edge of the adjacent street on property zoned R-1:10 **is granted and the application is approved.**

2. The Town Council finds that the project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

3. The Town Council hereby approves the fence height exception with conditions of

approval set forth in Exhibit A and shown in the development plans in Exhibit B.

4. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by state and federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of January 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

TOWN COUNCIL – January 17, 2023
CONDITIONS OF APPROVAL:

755 Blossom Hill Road
Fence Height Exception FHE-21-003

Consider an Appeal of a Planning Commission Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence Located Within the Required Front Yard Setback and a Vehicular Gate Set Back Less than 18 Feet from the Edge of the Adjacent Street on Property Zoned R-1:10. APN 523-04-043. PROPERTY OWNER/APPELLANT: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below.
2. EXPIRATION: The Fence Height Exception approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. BUILDING PERMIT: The proposed vehicular gate requires a Building Permit.
4. FENCE AND GATE SHARP POINTS: Any sharp points shall be removed, prior to the issuance of a building permit.
5. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.

EXHIBIT A

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DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
GRANTING AN APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A FENCE
HEIGHT EXCEPTION REQUEST FOR CONSTRUCTION OF A SIX-FOOT FENCE LOCATED
WITHIN THE REQUIRED FRONT YARD SETBACK AND A VEHICULAR GATE SET BACK
LESS THAN 18 FEET FROM THE EDGE OF THE ADJACENT STREET ON PROPERTY
ZONED R-1:10 AND REMANDING THE MATTER TO THE PLANNING COMMISSION FOR
FURTHER CONSIDERATION.**

**APN 523-04-043
FENCE HEIGHT EXCEPTION APPLICATION: FHE-21-003
PROPERTY LOCATION: 755 BLOSSOM HILL ROAD
APPELLANT/PROPERTY OWNERS: DAVID AND ILANA KOHANCH
APPLICANT: NINA GURALNIC**

WHEREAS, on December 14, 2020, the Town issued an administrative warning for a code violation at 755 Blossom Hill Road and requested that the property owners reduce their six-foot fence along the front property line down to three feet , and to remove the vehicular gate, to meet Town Code, by January 3, 2021; and

WHEREAS, on February 12, 2021, the property owner applied for an exception to the Town's fence regulations for the unpermitted construction of the vehicular gate and fencing on the subject property, which does not comply with the Town Code fence regulations for height and setbacks; and

WHEREAS, on July 2, 2021, the Town denied the exception request because the findings listed in Town Code Section 29.40.0320 could not be made; and

WHEREAS, on July 7, 2022, the Town issued a second administrative warning for a code violation. This administrative warning requested the property owners to: remove the illegal fence and gate; modify the fence and gate to comply with Town Code; or file an appeal of the decision to deny the fence height exception by August 7, 2022; and

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required front yard setback and construction of a vehicular gate with reduced setbacks and was regularly noticed in conformance with State and Town law; and

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WHEREAS, on December 20, 2022, the Town Council opened the public hearing to take public comments from members of the public who would not be able to attend the January 17, 2023, meeting and continued the appeal hearing to January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, this matter came before the Town Council for public hearing on January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, the Town Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. The Town Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report for their meeting on January 17, 2023, along with any and all subsequent reports and materials prepared concerning this application.

NOW, THEREFORE, BE IT RESOLVED:

1. The appeal of the decision of the Planning Commission denying a fence height exception for construction of a six-foot fence located within the required front yard setback and a vehicular gate set back less than 18 feet from the edge of the adjacent street on property zoned R-1:10 is granted and the application is remanded to the Planning Commission for further consideration.

2. The decision does not constitute a final administrative decision and the applications will be returned to Planning Commission for further consideration.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the day of January 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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