



TOWN OF LOS GATOS
SPECIAL MEETING OF THE TOWN COUNCIL: STUDY SESSION AGENDA
JUNE 20, 2023
110 EAST MAIN STREET AND VIA TELECONFERENCE
TOWN COUNCIL CHAMBERS
LOS GATOS, CA
5:30 PM

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

PARTICIPATION IN THE PUBLIC PROCESS

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. 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]

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JUNE 20, 2023
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TOWN COUNCIL CHAMBERS
5:30 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/88676867376?pwd=RmFISUIzWG1qVzBQRUNOTG1PRzFUQT09>
Passcode: 360116 You can also type in 886 7686 7376 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.

MEETING CALL TO ORDER

ROLL CALL

APPROVE REMOTE PARTICIPATION *(This item is listed on the agenda in the event there is an emergency circumstance requiring a Council member to participate remotely under AB 2449 (Government Code 54953)).*

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, Council Members, 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.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council only on matters listed on the agenda. Unless additional time is authorized by the Mayor, speaking time is limited to no more than three (3) minutes per speaker.)*

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

1. Discuss and Provide Direction to Potentially Modify Town Policies and Procedures, Including Town Council Policy 2-04, "Town Council Code of Conduct," Town Council Policy 2-05, "Planning Commission Policies and Procedures," Town Council Policy 2-11, "Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum," and the Commissioner Handbook.

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: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
COUNCIL STUDY SESSION REPORT**

MEETING DATE: 6/20/2023

ITEM NO: 1

DATE: June 13, 2023
TO: Mayor and Town Councilmembers
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Discuss and Provide Direction to Potentially Modify Town Policies and Procedures, Including Town Council Policy 2-04, "Town Council Code of Conduct," Town Council Policy 2-05, "Planning Commission Policies and Procedures," Town Council Policy 2-11, "Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum," and the Commissioner Handbook

RECOMMENDATION:

Discuss and provide direction to potentially modify Town Policies and Procedures, including Town Council Policy 2-04, "Town Council Code of Conduct," Town Council Policy 2-05, "Planning Commission Policies and Procedures," Town Council Policy 2-11, "Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum," and the Commissioner Handbook.

BACKGROUND:

The purpose of this study session is for the Town Council to discuss potential updates to the various Town documents that address Councilmember and Board and Commission member conduct. Currently the Town has a number of Town Council Policies relating to this topic:

- Town Council Policy 2-04: Town Council Code of Conduct includes a disciplinary process and states its "expectations of conduct" apply to Board and Commission members as well (Attachment 1).
- Town Council Policy 2-05: Planning Commission Policies and Procedures addresses legal and ethical standards, but not discipline (Attachment 2).
- The Commissioner Handbook provides:

Reviewed by: Town Manager

SUBJECT: Direction on Potential Changes to Town Council Code of Conduct Policy and Related Policies

DATE: June 13, 2023

BACKGROUND (continued):

“If a member of a Town Board, Commission, or Committee does not follow the Commissioners Handbook, the Mayor or his/her designee will counsel that member regarding the rules and their importance to the Council and the Town (see Resolution 1999-167 and the Town Council Code of Conduct Policy).”

- In addition, Town Council Policy 2-11: Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum provides that a Commissioner may be removed by a 3/5 vote of the Town Council for, among other things, failure to comply with all Town Policies, Guidelines, and Handbooks (Attachment 3, page 7).¹

At its February 17th meeting, the Policy Committee discussed potential modifications to the documents referenced above. A copy of the staff report with its attachments is included as Attachment 4. The Policy Committee recommended:

- 1) Clarifying that the Code of Conduct applies to members of Town Boards, Commissions, and Committees in addition to Town Councilmembers;
- 2) Providing specific examples of what constitutes a major as opposed to a minor violation of the Code of Conduct.
- 3) Setting forth a process for subject of a complaint to present facts to the Town Council.
- 4) In the event that a public hearing is held regarding recommended discipline, providing the subject of the complaint with ten minutes to make an introductory statement and five minutes at the end of the public hearing to make an additional statement.
- 5) Providing that censure be done by adoption of a written statement.
- 6) Providing clarification regarding the rules that apply when one is speaking on behalf of a Board or Commission versus providing one's individual opinion.

The Policy Committee considered this topic again on March 28, 2023. Attachment 5 contains a copy of the staff report and its attachments. At the March 28th meeting, the Policy Committee recommended that this topic come to the full Town Council for discussion.

¹ In addition, Town Code Section 2.40.030 provides that the Town Council may remove any member of a Town board or commission from office prior to the expiration of the member's term by the affirmative vote of not less than 3/5 of all the members of the Town Council.

DISCUSSION:

The Town Clerk requested Codes of Conduct from all Santa Clara County jurisdictions.² Staff has noted the following general themes:

- The Code of Conduct can encompass both the Council and the Boards and Commissions or there can be separate Codes of Conduct for Councilmembers as opposed to Board and Commission members.
- Some Codes of Conduct do not provide for Commissioner discipline. Instead, the Codes of Conduct provide that Commissioners can be removed by a 4/5 vote of the Council.
- Many Codes of Conduct do not establish a formal process for reviewing complaints.

Staff seeks direction from the Town Council on the following general questions:

- 1) Does the Town Council prefer that the Code of Conduct address only conduct? Or that the “Code of Conduct” be one chapter in a broader policy addressing Councilmember roles and responsibilities?
- 2) Should the complaint intake and processing procedure in the “Code of Conduct” apply to Board/Commission members as well as Town Councilmembers? If yes:
 - a. Should there continue to be a pre-determined evaluation committee or should complaints be handled on a case by case basis?
 - b. If there is a pre-determined evaluation committee, should the evaluation committee be the same for both Councilmember complaints and Board/Commission member complaints?
- 3) Should there be an option to discipline Board/ Commission members or should the option be removal only?³
 - a. If the option is removal only, should it be by a 3/5 or a 4/5 Town Council vote?
- 4) If there is an option for Board/Commission member discipline, should the options be the same as those for Councilmember discipline?
- 5) The Code of Conduct Policy currently provides that investigations will be conducted by contract attorneys. Does the Town Council prefer to use contract attorneys, non-lawyer investigators, or either?

² A summary of local codes of conduct is contained in Attachment 6.

³ Town Council Policy 2-11: Commission Appointments, Residency, and Attendance Requirements and Establishing a Quorum currently provides that Commissioners may be removed by a majority vote of the Town Council for violations of the Code of Conduct. Other jurisdictions have policies providing that Commissioners may be removed by a majority vote (or in some instances, a 4/5 vote) of the Town Council.

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SUBJECT: Direction on Potential Changes to Town Council Code of Conduct Policy and
Related Policies

DATE: June 13, 2023

CONCLUSION:

Based on the Town Council's feedback, staff will make proposed edits to the Code of Conduct Policy and conforming edits to any other affected Policies and the Commissioner Handbook and return to the Town Council for its consideration of the proposed revisions.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

FISCAL IMPACT:

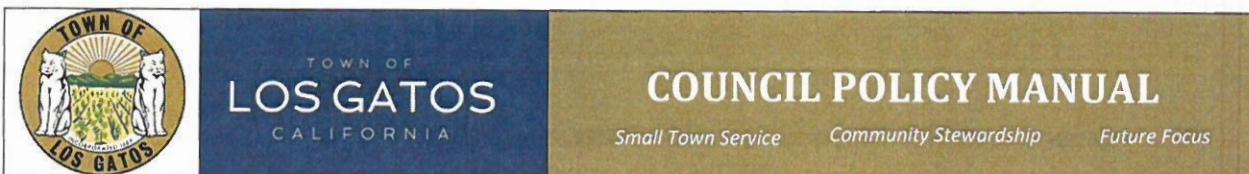
Potential modifications to Council Policies and the Commissioner Handbook have no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project as defined in the California Environmental Quality Act, and no further action is required.

Attachments:

1. Town Council Policy 2-04: Town Council Code of Conduct
2. Town Council Policy 2-05: Planning Commission Policies and Procedures
3. Town Council Policy 2-11: Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum
4. Staff report for February 28, 2023, Policy Committee meeting
5. Staff report for March 28, 2023, Policy Committee meeting
6. Summary of Code of Conduct Provisions from Other County Jurisdictions



TITLE: Town Council Code of Conduct		POLICY NUMBER: 2-04
EFFECTIVE DATE: 5/3/2004		PAGES: 8
ENABLING ACTIONS: 2004-059; 2006-111; 2021-047		REVISED DATES: 12/17/2012; 3/3/2015; 12/17/2019; 11/2/2021; 10/4/2022
APPROVED: 		

I. Preamble

The legal responsibilities of the Los Gatos Town Council are set forth by applicable state and federal laws. In addition, the Town Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials. These expectations of conduct also apply to all members of the Town's Boards, Committees, and Commissions.

II. Form of Government

The Town of Los Gatos operates under a Council-Manager form of government as prescribed by Town Code, Section 2.30.305. Accordingly, members of the Council are elected at-large, provide legislative direction, set Town policy, and ultimately answer to the public. The Town Manager serves as the Town's chief administrative officer and is responsible for directing the day-to-day operations of the Town and implementing policy direction.

III. Town Council Roles and Responsibilities

The role of the Town Council is to act as a legislative and quasi-judicial body. Through its legislative and policy authority, the Council is responsible for assessing and achieving the community's desire for its present and future and for establishing policy direction to achieve its desired outcomes. All members of the Town Council, including those who serve as Mayor and Vice Mayor, have equal votes.

Members of the Town Council fulfill their role and responsibilities through the relationships they have with each other and the public. Town Council Members should approach their work, each other, and the public in a manner that reflects ethical behavior, honesty and integrity. The commitment of Town Council Members to their work is characterized by open constructive communication, innovation, and creative problem solving.

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IV. Mayoral and Vice Mayoral Selection Process

Per Town Municipal Code, Section 2.20.035, the selection of the Mayor and Vice Mayor occurs annually at a special meeting in December by majority vote of the Town Council. The Mayor and Vice Mayor serve at the pleasure of the Town Council and may be replaced by a majority vote of the Council.

V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships

The following outlines some of the key roles, responsibilities, and relationships as they relate to the positions of Mayor and Vice Mayor:

Mayor

- A. The Mayor is the presiding officer of the Town Council. In this capacity, the Mayor is responsible for developing Council agendas in cooperation with the Town Manager and leading Council meetings.
- B. The Mayor recommends various standing committee appointments to the Council for approval.¹ This will be done at a Council meeting in December of each year. When making committee recommendations, the Mayor should attempt to balance shared responsibilities and opportunities among Council Members. The Mayor may also appoint citizens to committees not established by Town ordinance or resolution as s/he deems appropriate.
- C. The title of Mayor carries with it the responsibility of communicating with the Town Council, Town Manager, members of the public, and the media regarding decisions made by a majority of the Town Council. The Mayor also represents the Council at official and ceremonial occasions.
- D. The Mayor performs special duties consistent with the Mayoral office, including, but not limited to: signing of documents on behalf of the Town, issuing proclamations, serving as the official voting delegate for various municipal advocacy groups, and delivering the State of the Town Address at his or her discretion.² The Town Council will determine any additional authority or duties that the Mayor shall perform.
- E. Special duties consistent with the Mayoral office may be delegated to the Vice Mayor or any other member of the Town Council.
- F. In the event that one or more members of a Town Board, Commission, or Committee acts in a manner contrary to approved Board/Commission policies and procedures, the Mayor may counsel those members about the rules set forth in the Town Commissioner Handbook.³

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation Policy

³ Resolution 1999-167

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Vice Mayor

- A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.⁴
- B. When the Vice Mayor performs the duties of the Mayor in his/her absence, the Vice Mayor also carries the responsibility of communicating with the Town Manager, Town Council, and members of the public.

VI. Council Conduct in Public Meetings

To ensure the highest standards of respect and integrity during public meetings, Council Members should:

- A. *Use formal titles.* The Council should refer to one another formally during Council meetings such as Mayor, Vice Mayor or Council Member or Mr., Mrs., or Ms., followed by the individual's last name.
- B. *Practice civility and decorum in discussions and debate.* Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. During public discussions, Council Members should be respectful of others and diverse opinions and allow for the debate of issues.
- C. *Honor the role of the presiding officer in maintaining order and equity.* Respect the Mayor/Chair's efforts to focus discussion on current agenda items.
- D. *Council decisions should be reserved until all applicable information has been presented.*
- E. *Conduct during public hearings.* During public testimony, Council Members should refrain from engaging the speaker in dialogue. Speakers at public meetings will be asked to provide their full name and to state whether they are a resident of the Town of Los Gatos. This information is optional but not required. For purposes of clarification, Council Members may ask the speaker questions. Council comment and discussion should commence upon the conclusion of all public testimony

VII. Maintaining Civility at Council Meetings

The public is welcome to participate at Town Council meetings and the Mayor should remind the public of the Town's expectations for civility in order for the business of the Town to be completed efficiently and effectively. These expectations include and are not limited to:

- A. For the benefit of the entire community, the Town of Los Gatos asks that all speakers follow the Town's meeting guidelines by treating everyone with respect and dignity. This is done by following meeting guidelines set forth in State law, in the Town Code, and on the cover sheet of the Council agenda.
- B. The Town embraces diversity and strongly condemns hate speech and offensive, hateful language or racial intolerance of any kind at Council Meetings.

⁴ Council Agenda Format and Rules Policy

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- C. Town Council and staff are well aware of the public's right to disagree with their professional opinion on various Town issues. However, anti-social behavior, slander, hatred, and bigotry statements are completely unacceptable and will not be tolerated in any way, shape or form at Town Council meetings.
- D. All public comments at the Town Council meeting must pertain to items within the subject matter jurisdiction of the Town and shall not contain slanderous statements, hatred, and bigotry against non-public officials.
- E. The Town will go through the following steps if a disturbance results from a member of the public not following these rules:
 - 1. If participating remotely, Town staff may mute the individual with an explanation for the record of why muting occurred consistent with this Policy.
 - 2. If participating in-person, the Mayor may call a recess for violation of this Policy, resulting in the immediate cessation of the audio and video recording and the Council exiting the Chamber. Staff will determine if the individual should be removed or if all members of the public should leave depending on the extent of the disturbance. In the event that all public members exit, only the press would be allowed back in the meeting. Once the individual(s) leave, the Council would return to the Chamber and the Mayor would resume the meeting.
 - 3. Persons disrupting a Council meeting may be cited for violation of the California Penal Code Section 403.

VIII. Legal Requirements

The Town Council operates under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Council on these matters.

A. Training

Biannual training in the following areas shall be provided by staff to Council Members:

- 1. The Ralph M. Brown Act
- 2. Town / CA State Law on Conflict of Interest (AB 1234)
- 3. Government Section 1090
- 4. Incompatible Offices
- 5. The Fair Political Practices Commission Forms
- 6. Bias
- 7. Town / CA State Law on Harassment (SB 1343)

B. Procurement

Unless authorized by the Town Council, Council Members shall not become involved in administrative processes for acquiring goods and services.

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C. Land Use Applications

The merits of an application shall only be evaluated on information included in the public record. Council Members shall disclose ex parte communication and any information obtained outside of the public record that may influence his/her decision on a matter pending before the Town Council. Council disclosure shall occur after the Public Hearing section of the agenda, and before Council deliberations.

D. Code of Conduct Policy

Newly elected Council Members are strongly encouraged to sign a statement affirming they have read and understand the Town of Los Gatos Council Code of Conduct Policy.

E. Non-Profit Organizations

Council Members may not sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the Town, unless the role serves a legitimate Town purpose, such as the League of California Cities, and the participation is approved by the full Council.

IX. Council Participation in Boards, Commissions and Committees, and Reporting Requirements

There are several committees that Town Council Members have been appointed to or have an interest in, including but not limited to: Town Council standing and ad hoc committees, Town boards and commissions, regional boards and commissions, and community-generated committees.

Primary Council representatives should update the Council about board, commission, and committee activities. When serving as the primary Council representative on any board, commission, or committee, Council Members should periodically provide updated reports to the Council during the "Council Matters" opportunity on the Council meeting agenda.

Recommended actions by Council Committees should be reported to the Council. When serving on a Council Committee, whether standing or ad hoc, all work undertaken by the Committee must be directed by the Council, and all recommended actions of a Council Committee shall be reported to the Council.

X. Council Relationship with Town Staff

The Town Council has adopted a Council-Manager form of government. The Town Manager's powers and duties are outlined in the Town Code, Section 2.30.295.

Council Conduct and Communication with Town Staff

To enhance its working relationship with staff, Council should be mindful of the support and resources needed to accomplish Council goals. When communicating and working with staff, Council should follow these guidelines:

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- A. *Council Members should treat staff as professionals.* Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with Council colleagues, practice civility and decorum in all interactions with Town staff.
- B. *Council Members should direct questions about policy, budget, or professional opinion to the Town Manager, Town Attorney or Department Directors.* Council Members can direct questions and inquiries to any staff for information that is readily available to the general public or easily retrievable by staff.
- C. *The Town Manager and staff are responsible for implementing Town policy and/or Council action.* The processing of Council policy and decisions takes place with the Town Manager and staff. Council should not direct policy/program administrative functions and implementation; rather it should provide policy guidance to the Town Manager.
- D. *Council Members should attempt to communicate questions, corrections, and/or clarifications about reports requiring official action to staff prior to Council meetings.* Early feedback will enable staff to address Council questions and incorporate minor corrections or changes to a Council report, resulting in a more efficient Council meeting discussion; however, this does not preclude Council Members from asking questions at Council Meetings.
- E. *Council Members should not direct the Town Manager to initiate any action, change a course of action, or prepare any report without the approval of Council.* The Town Manager's responsibility is to advise on resources available and required for a particular course of action as it relates to the direction of the majority of the Council.
- F. *Council Members should not attend department staff meetings unless requested by the Town Manager.*
- G. *All Council Members should have the same information with which to make decisions.* Information requested by one Council Member will be shared with all members of the Council.
- H. *Concerns related to the behavior or work of a Town employee should be directed to the Town Manager.* Council Members should not reprimand employees.
- I. *Per California Government Code, Sections 3201-3209, Council Members should not solicit financial contributions from Town staff or use promises or threats regarding future employment.* Although Town staff may, as private citizens with constitutional rights, support political candidates, such activities cannot take place during work hours, at the workplace, or in uniform.

XI. Council Communication with the Public and other Council Members

The Public has a reasonable expectation that it may engage its Council Members on matters of community concern. In response, Council Members may express a preliminary opinion on general issues or policies that are in the development phase. Any such preliminary statement shall not indicate that a decision has been reached before the public hearing or create a presumption of bias on any quasi-adjudicatory decision such as a land use approval. In addition, Council Members may from time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies or explain an individual vote. Such

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statements are permissible if clearly characterized as personal opinion or policy change objectives rather than the opinion of the full Town Council.

XII. Enforcement

A. Purpose

The Council Code of Conduct Policy establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Council Members. The purpose of the policy language is to establish a process and procedure that:

1. Allows the public, Town Council, and Town employees to report Code of Conduct policy violations or other misconduct.
2. Provides guidelines to evaluate Code of Conduct policy violations or other misconduct and implement appropriate disciplinary action when necessary.

B. Procedures

1. Reporting of Complaints

The following section outlines the process for reporting Council Member Code of Conduct Policy violations or other misconduct:

- a. Complaints made by members of the public, the Town Manager, and Town Attorney should be reported to the Mayor. If a complaint involves the Mayor, it should be reported to the Vice Mayor.
- b. Complaints made by Council Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.
- c. Complaints made by Town employees should be reported to the Town Manager, who will direct them to the Mayor or Vice Mayor.

2. Evaluation of Complaints Alleging Violations

Upon report of a written complaint, the Town Manager and Town Attorney will join the Mayor or Vice Mayor as an evaluation committee to determine the validity of the complaint and, if appropriate, an initial course of action as discussed below. If the Town Manager or Town Attorney is the complainant, the longest serving uninvolved Council Member will replace the Town Manager or Town Attorney on the evaluation committee.

Within seventy-two (72) hours of receipt of the complaint by the Mayor or Vice Mayor, the Council Member in question shall be notified of the reported complaint by the Mayor or his/her designee. The notification shall include a copy of the written complaint and supporting documentation, if any, the identity of the complainant and nature of the complaint.

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3. Unsubstantiated or Minor Violations

If the majority of the Committee agrees that the reported violation is without substance, no further action will be taken. If the reported violation is deemed valid but minor in nature, the Mayor or Vice Mayor shall counsel and, if appropriate, admonish the Council Member privately to resolve the matter. Admonishment is considered to be a reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.

4. Allegations of Major Violations

If the reported violation is considered to be serious in nature, the matter shall be referred to outside legal counsel selected by the Committee for the purpose of conducting an initial interview with the subject Council Member. The outside counsel shall report his/her initial findings back to the Committee.

If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel to conduct an investigation. The investigation process would include, but is not limited to, the ascertainment of facts relevant to the complaint through interviews and the examination of any documented materials.

5. Report of Findings

At the conclusion of the investigation, outside legal counsel shall report back to the Committee in writing. The report shall either (1) recommend that the Council Member be exonerated based on a finding that the investigation did not reveal evidence of a serious violation of the Code of Conduct, or (2) recommend disciplinary proceedings based on findings that one or more provisions of the Code of Conduct or other Town policies have been violated. In the latter event, the report shall specify the provisions violated along with the facts and evidence supporting each finding.

The Committee shall review the report and its recommendations. If the consensus of the Committee is to accept the report and recommendations, the Committee shall implement the recommendations. Where the recommendation is exoneration, no further action shall be taken. Where the recommendation is to initiate disciplinary proceedings, the matter shall be referred to the Council. Where there is no consensus of the Committee regarding the recommendations, the matter shall be referred to the Council.

The subject Council Member shall be notified in writing of the Committee's decision within 72 hours. Where the decision is to refer the matter to the Council, a copy of the full report, including documents relied on by the investigator shall be provided with the notification, and a copy of both shall be provided to the whole Council.

6. Proceedings

Investigative findings and recommended proceedings and disciplinary action that are brought forward to Council as a result of a significant policy violation shall be considered at a public hearing. The public hearing should be set far enough in advance to allow the Council Member in question reasonably sufficient time to prepare a response.

Investigative findings shall be presented to the Town Council at a public hearing. The rules of evidence do not apply to the public hearing. It shall not be conducted as an adversarial proceeding.

C. Disciplinary Action

1. Considerations in Determining Disciplinary Action

Disciplinary action may be imposed by Council upon Council Members who have violated the Council Code of Conduct Policy. Disciplinary action or sanctions are considered when a serious violation of Town policy has occurred by a Council Member. In determining the type of sanction imposed, the following factors may be considered:

- a. Nature of the violation
- b. Prior violations by the same individual
- c. Other factors which bear upon the seriousness of the violation

2. Types of Sanctions

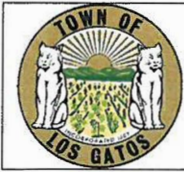
At the discretion of the Council, sanctions may be imposed for violating the Code of Conduct or engaging in other misconduct. These actions may be applied individually or in combination. They include, but are not limited to:

- a. *Public Admonishment* – A reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.
- b. *Revocation of Special Privileges* – A revocation of a Council Member's Council Committee assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.
- c. *Censure* – A formal statement or resolution by the Council officially reprimanding a Council Member.

APPROVED AS TO FORM:



Gabrielle Whelan, Town Attorney



Title: Planning Commission Policies and Procedures

Policy Number: 2-05

Effective Date: 1983

Pages: 11

Enabling Actions:

Revised Date: 5/8/1985; 11/18/1987;
9/22/93; 11/16/1998; 4/16/2001;
12/6/2010; 4/21/2015; 9/20/2016;
8/20/2019

Approved:

PURPOSE

This Policy is to inform Planning Commission Members of their roles, responsibilities, and functions, as well as operating procedures for meetings.

SCOPE

Since 1983, the Town Council has adopted Planning Commission Policies and Procedures. The Procedures address topics including the agenda format, Commissioner conduct at Planning Commission meetings, absences, evidence outside of formal hearings, findings, voting, and other issues. Periodically, the Town Council adopts revisions to the Procedures.

POLICY AND PROCEDURES

1. ORGANIZATION, OFFICERS, DUTIES

1.1 Organization.

The Planning Commission consists of seven voting members and shall be organized as prescribed by Town Code Section 29.20.750 and the Town Council. All Planning Commissioners shall be appointed by the Town Council. Commissioners serve at the pleasure of the Town Council and may be removed prior to the end of his or her term by a four-fifths vote of the Town Council.

1.2 Officers.

A Chairperson (hereinafter Chair) and Vice-Chairperson (hereinafter Vice Chair) shall be elected annually from among the Commission's membership at the first meeting in January, to serve at the pleasure of the Commission for a term of office of one year.

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The Chair shall:

- a) Preside at all meetings of the Commission.
- b) Sign documents of the Commission.
- c) Determine meeting schedule and agenda items consistence with state law noticing requirements.

During the absence, disability or disqualification of the Chair, the Vice-Chair shall perform all the duties and be subject to all the responsibilities of the Chair.

The Vice-Chair shall succeed the Chair if he or she vacates the office before his or her term is completed and shall serve the unexpired term of the vacated office. (A new Vice-Chair shall be elected at the next regular meeting.)

In the absence of the Chair and Vice-Chair, any other Commissioner shall call the Commission to order whereupon a Chair pro tem shall be elected from the Commissioners present to preside.

1.3 Duties.

The functions, powers and duties of the Planning Commission shall consist of all those functions, powers and duties of a Planning Commission as provided in Chapters 3 and 4 of Title 7, commencing with Section 65100 of the California Government Code (Planning and Zoning Law) and as the same may be hereafter amended. The Planning Commission shall perform such other duties and functions as may be designated in Town Code and by the Town Council.

1.4 Support.

The Secretary of the Planning Commission is the Community Development Director or designee. The Chair shall set the Agenda in consultation with the Secretary.

2. LEGAL AND ETHICAL STANDARDS

Planning Commissioners must serve as a model of leadership and civility to the community and treat all members of the public, each other, and the issues before them with respect to ensure open and effective government.

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To ensure the highest standards of respect and integrity during public meetings, Planning Commissioners shall:

1. Use formal titles. The Commissioners shall refer to one another formally during Commission meetings such as Chair, Vice Chair, Commissioner, or Mr., Mrs., or Ms., followed by the individual's last name.
2. Practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. This does not allow, however, Commissioners to make abusive, slanderous, and personal comments, and/or physical actions that could be construed as threatening. During public discussions, Commissioners shall be respectful of others and diverse opinions, practice objectivity, and allow for the debate of issues.
3. Honor the role of the Chair in maintaining order and equity, and respect the Chair's efforts to focus discussion on current agenda items. Objections to the Chair's actions should be voiced politely and with reason.
4. Demonstrate effective problem-solving approaches. Commissioners are role models for residents, business people, and other stakeholders involved in public debate.
5. Base decisions on the -written evidence, arguments or testimony and decisions should be made objectively and based upon the merits and substance of the matter at hand, not through established coalitions or well-defined voting blocks. Judgment of decisions should be reserved until all applicable information has been presented.
6. Be prepared and knowledgeable. To effectively lead and inform the public, Commissioners shall be prepared and informed about issues on the agenda.
7. Be respectful of other people's time. Commissioners should stay focused, listen attentively, and act efficiently during public meetings. During public testimony, Commissioners should refrain from engaging the speaker in dialogue; however, for purposes of clarification, Commissioners may ask the speaker questions. Commission comment and discussion should commence upon the conclusion of all public testimony.

3. MEETINGS, STUDY SESSIONS, AGENDAS, AND STAFF REPORTS

3.1 Quorum and Attendance at Meetings.

A quorum to conduct business shall consist of a majority of the total number of filled seats consistent with Town Council Resolution 2014-041. For example, if all seven Commissioners are seated, then a quorum consists of a minimum total of four members of the Commission. A quorum is not required for workshops.

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Requests by Commissioners to attend a Commission meeting via telephonic appearance are actively discouraged. Telephonic attendance shall only be permitted in the event of extraordinary events such as a medical, family, or similar emergency requiring a Commissioner's absence or in the event the Commissioner is out of the area on official Town business. In addition, at least a quorum of the Commission must participate from a location within the Town.

3.2 Public Meetings.

All meetings shall be held in full compliance with the provisions of state law, ordinances of the Town, and these Policies and Procedures.

3.3 Regular Meetings.

Regular meetings of the Commission shall be held on the second and fourth Wednesdays of each month in Town Council Chambers at 110 E. Main Street, Los Gatos, unless otherwise determined by the Commission. All regular meetings of the Commission will be called to order at 7:00 p.m., unless advertised otherwise, canceled, or rescheduled.

The Commission with the consent of the majority of the Commission, adjourn its meetings on or before 11:30 p.m. with any unfinished business being continued to the next regular, adjourned, or special meeting, unless the Commission votes to extend the meeting. At approximately 11:15 p.m., the Chairperson will call for review of any remaining agenda items to consider whether they will likely be completed by 11:30 p.m., or whether continuances should be considered. The Secretary of the Planning Commission, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

3.4 Special Meetings.

A special meeting may be called at any time by the Chairperson of the Commission, or by a majority of its membership on its own motion, or at the direction of the Town Council. Notice shall be sent in compliance with the Ralph M. Brown Act, Government Code section 54950, *et seq.* ("Brown Act") and the Los Gatos Town Code.

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3.5 Adjourned Meetings.

The Commission may adjourn any regular or special meeting to a time and place specified pursuant to the procedures set forth in the Brown Act.

3.6 Workshops/Study Sessions.

The Commission may hold a workshop as part of a regular or special meeting. When a matter is set for a workshop, public testimony on each item will generally be limited to three (3) minutes per person, at the discretion of the Chair. A workshop shall be for discussion only and the Commission will take no action on the workshop item.

3.7 Agendas.

At least seventy-two (72) hours before a regular meeting, copies of the Commission's agenda shall be posted in a location that is available for viewing by the public and made available on the Town website and at the Community Development Department. In accordance with the Brown Act, the Commission may not take action on any item that did not appear on the posted agenda, unless an exception is made as permitted under Government Code section 54954.2. The Chair may rearrange the order of presentation of items appearing on the agenda as he or she may deem necessary or desirable for the conduct of the meeting. No person shall be entitled to rely upon the order in which public hearing items appear on the posted agenda, and any public hearing on any agenda may commence immediately upon the time the meeting is called to order.

3.8 Staff Reports.

Staff Reports shall be made public whenever they are distributed to the Commission, except in the case of attorney/client privilege memoranda. Staff reports will usually be prepared with recommendations and shall include the basis for these recommendations and included in the hearing record on any application.

If, in reviewing a staff report, a Commissioner sees omissions, has questions, or is looking for specific information, it is advisable that the Commissioner contact the Community Development Director or designee prior to the hearing.

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3.9 Order of Meetings.

The Order of Business shall be as follows subject to the Chairperson's final approval:

1. Roll Call
2. Pledge of Allegiance
3. Written Communications
4. Requested Continuances
5. Sub-Committee Reports
6. Verbal Communications
7. Consent Calendar
8. Continued Public Hearings
9. New Public Hearings
10. Continued Other Business
11. New Other Business
12. Adjournment

3.10 Chair's Rules of Order.

After issuing a warning, the Chair may order from the meeting location any person(s) who commit the following acts with respect to a regular or special meeting of the Commission:

1. Disorderly, contemptuous or insolent behavior toward the Commission, or any member thereof, which interrupts the due and orderly course of said meeting.
2. A breach of the peace, boisterous conduct or violent disturbance which interrupts the due and orderly course of said meeting.

After a warning by the Chair, if more than one individual at a given meeting continues to engage in disruptive or unruly behavior to the extent that it is preventing Commissioners from adequately participating in the meeting, the Chair may order that the meeting location be cleared of all members of the public (with the exception of members of the press who are not participating in the disruption), and/or (c) adjournment of the meeting to another time or place so that the meeting may continue uninterrupted.

Any Commissioner may move to require the Chair at the meeting to enforce the rules, and the affirmative vote of a majority of the Commissioners present shall require him or her to so act.

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4. PRESENTATION OF AGENDA ITEMS

4.1 Minutes and Recording.

Commission meetings are recorded and the recording is permanently preserved by the Town. The recording of the meeting is used by the Secretary of the Commission to prepare minutes of the hearing which must be approved by the Commission. The minutes of the Commission's proceedings shall show the vote of each Commissioner, including if they were absent or failed to vote on a matter considered.

4.2 Order of Presentation.

The order of the presentation shall be as follows:

1. The Chair shall announce the subject of the agenda item.
2. Presentation of staff report, including any environmental analysis or recommendation.
3. Questions of staff by Commissioners.
4. Public hearing opened.
5. Presentation of the applicant(s) or appellant(s).
6. Public comment.
7. Rebuttal comments by the applicant(s) or appellant(s).
8. Public hearing closed.
9. Commission discussion and action.

4.3 Public Participation.

The Commission welcomes participation and comment on any matter within its subject matter jurisdiction. It is the Commission's intent to create and maintain an environment where people feel comfortable participating in the public process and an atmosphere of respect for all who participate in the Town's public meetings. To maintain civility and respect and to allow the Commission to complete its work in a timely manner, the Commission requests that all attendees and participants show respect for every speaker regardless of his or her viewpoint, and to refrain from conduct that may inhibit others from addressing the Commission. Disrespectful conduct, such as hissing, booing, whistling, cheering, chanting, and judgmental hand gestures, are all inappropriate. The Commission also discourages profane remarks or personal attacks or insults to any member of the Commission, staff, other attendees or speakers, or the general public. Accordingly, the Commission requests the cooperation of all in maintaining a meeting

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environment where persons can feel comfortable participating in the public process and expressing their views and opinions, and an atmosphere of respect for all.

4.4 Rules of Evidence.

Hearings and meetings before the Commission need not be conducted according to formal rules of evidence. Any relevant evidence may be considered if it is the sort of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.

4.5 Written Evidence.

Written evidence that members of the public wish to submit to the Commission in advance of a Commission agenda item should be submitted by 11:00 a.m. on the Wednesday one week prior to the Commission meeting in order for such evidence to be provided to the Commission with its agenda packet in advance of the meeting. Any written evidence submitted after this day and time but prior to 11:00 a.m. on the day of the hearing will be distributed to the Commission in an Addendum or Desk Item.

Written or pictorial evidence distributed to the Commission at the meeting may not be effective, as the Commission may not have enough time to absorb its content. Although late correspondence is highly discouraged for this reason, any participant may submit written and pictorial evidence to the Commission during the public hearing on an item.

4.6 Oral Evidence, Time Limits, and Number of Speakers.

A speaker's card to speak on an item should be submitted to the Secretary of the Commission or designee.

The Chair's instructions to the audience will generally follow these guidelines:

1. Any person desiring to speak must first be recognized by the Chair.
2. All participants must speak from the podium.
3. All speakers are requested to first state their full name and full address, and to speak into the microphone as all meetings are recorded. To ensure correct spelling of names and addresses, all speakers are encouraged to submit a speaker's card to the Secretary of the Commission or designee.

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4. All comments shall be directed to the Commission as a body, and not to any particular Commissioner, staff person or audience. No person, other than Commissioners, staff, and the person having the floor shall be permitted to enter into the discussion. Commissioners shall only ask questions of the speakers through the Chair. Each applicant and appellant shall be limited to a five (5) minute presentation at the start of the public hearing and a three (3) minute rebuttal after all other speakers have been heard. All members of the applicant's or appellant's team shall be heard as a group within these time limits. Questions by the members of the Commission do not count against the time. Members of the public who wish to speak on any items will be limited to up to 3 minutes each. No person shall be allowed to speak a second time per item. In order to assure the opportunity for all those desiring to speak before the Commission, there is no yielding of time to another speaker. The Chair, at his or her discretion, may allocate more or less time for speakers due to the complexity of the issues and/or due to a large number of speakers on a particular item. Except for the applicant or appellant, all speakers shall be limited to the same amount of time to speak.

4.7 Evidence Received Outside a Hearing.

Applications before the Planning Commission involve quasi-judicial matters, legislative matters and matters that have attributes of each. On quasi-judicial matters California law requires decisions to be based on findings, and findings to be based on evidence presented at the hearing. Accordingly, the actual decision of the Commission on a quasi-judicial matter must be supported by evidence presented at the hearing, i.e. the staff report, testimony given during the hearing and comments from other Commissioners. A Commissioner may not state or predetermine his or her decisions on an application prior to the hearing.

In order to avoid the appearance of bias or impropriety, individual Commissioners are prohibited from discussing, outside of the public hearing process, the substance of any project with project proponents, opponents and member of the public. This prohibition shall apply to all projects, whether conceptual or proposed, that can be considered by the Commission in reviewing an application, on appeal or on remand. Study sessions may be used as a means of facilitating informal communication. Individual Commissioners who have engaged in prohibited discussions shall recuse themselves from consideration of the project.

Incidental contacts that do not address the substance of any project are not prohibited. Incidental contacts are those that are not reasonably understood to influence a Commissioner's decision and include speaking with an interested party to obtain approval to enter a property and to

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obtain information intended to orient the Commissioner about the physical aspects of the property or a project.

5. MOTIONS

Action upon an order, resolution, ordinance, or any other action of the Commission may be proposed by any Commissioner by a motion. Before a motion can be considered or debated it must be seconded, at which time it shall be on the floor and must be considered. If not seconded, the motion dies for lack of a second and shall be so declared by the Chair. Substitute motions and other parliamentary procedures shall follow Robert's Rules of Order.

Pursuant to Planning Commission Resolution No. 78-4, adopted May 10, 1978, the Planning Commission will not accept requests for continuances from applicants after 12:00 noon of the Friday preceding any Commission meeting, provided, however, that the Commission retains the right to make exceptions when it finds that a genuine emergency exists which was not known to the applicant.

A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified be deemed to include adoption of all proposed findings and execution of all actions recommended in both the written staff report on file on the matter, any verbal staff report, and other evidence presented during the hearing.

6. VOTING AND ABSENTEES

Voting of not less than three (3) votes shall be required to carry a motion, unless a larger number of votes is required by applicable ordinance or other law.

If a Commissioner is not eligible to participate in the consideration of an item due to a conflict of interest, the Commissioner shall be disqualified and shall recuse him or herself from the voting, in which case the Commissioner cannot be included in the quorum. Prior to consideration of the matter, the conflicted Commissioner shall recuse on the record, stating the basis for the recusal, and shall then leave the room, unless legally entitled to remain under applicable law.

If a majority of the Commission shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, the Commission shall select by lot, or other means of random

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selection, that number of disqualified Commissioners which, when added to the Commissioners eligible to vote, shall constitute a quorum.

A Commissioner who expects to be absent should notify the Chair and the Community Development Department prior to the meeting.

Pursuant to Resolution 2011-012, any Commissioner who is absent from eight (8) regular meetings held in a twelve (12) consecutive month period, shall, as a result, surrender his or her office on the Planning Commission and the office shall be considered vacant.

A Commissioner who is absent from any portion of a hearing conducted by the Commission may vote on the matter at the time it is acted upon, provided that he or she viewed the video recording of the entire portion of the hearing from which he or she was absent, and he or she has examined all of the staff reports and minutes presented during the portion of the hearing from which he or she was absent; and he or she states for the record before voting that the Commissioner deems himself or herself to be as familiar with the record and with the evidence presented at the hearing as he or she would have been had he or she personally attended the entire hearing.

7. LEGAL REQUIREMENTS

The Planning Commission operates under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Commission on these matters.

The Ralph M. Brown Act requires that meetings of the Planning Commission be open and public. "Meetings" occur whenever four (4) or more members of the Commission hear, discuss, or deliberate on any matter that is relevant to the Town. This includes discussions that occur face to face, serially, through third parties, or through written, telephonic, or e-mail communications.

The Political Reform Act controls conflicts of interests through disclosure of financial interests and prohibition in participating in decision making. Commissioners are prohibited from making, participating in or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. Financial interests can arise out of property ownership, business investment, leadership in a business entity, and receipt of money or gifts.

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8. CONSTRUCTION AND EFFECT

These Policies and Procedures shall be construed and applied so as to ensure a full and fair hearing of relevant evidence which is offered on a land use matter and to facilitate an orderly analysis of evidence and issues by the Commission. Failure to comply with the strict provisions of these Policies and Procedures shall not necessarily invalidate any action taken by the Commission.

9. RULES OF ORDER.

Except as otherwise provided in these Policies and Procedures, Roberts Rules of Order shall be used as a guide for the conduct of the meetings of the Planning Commission. No omission to conform to said rules of order shall in any instance be deemed to invalidate any action taken by the Commission.

10. AMENDMENT.

These Policies and Procedures may only be amended by the Town Council.

APPROVED AS TO FORM:


 Robert Schultz, Town Attorney



TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum

POLICY NUMBER: 2-11

EFFECTIVE DATE: 2/28/1990

PAGES: 7

ENABLING ACTIONS:

REVISED DATES: 6/13/1994; 6/16/2014;
4/7/2015; 10/18/2016; 2/21/2017;
2/6/2018; 3/19/19; 9/3/2019; 6/1/2021;
12/7/21, 3/15/22, 8/2/22; 09/20/22

APPROVED:

PURPOSE

To establish a policy to encourage participation by the Town's residents on Town Boards, Commissions and Committees (hereinafter referred to as "Commissions"). The Town of Los Gatos is committed to inclusivity. We value all our community members, regardless of religion, immigration status, ethnicity, race, disability, gender, sexual orientation, or gender identity. The Town will encourage residents to participate on Commissions by advertising vacancies on Commissions for at least 30 days, preparing easily understood applications, maintaining clear descriptions of the role of each Board, Commission, and Committee and its respective members, providing current meeting schedules, and conducting public interviews of all Commission applicants, except as provided by this Policy.

SCOPE

This Policy applies to all applicants to Town Boards, Commissions and Committees.

POLICY

The Town Council encourages public participation in all decision-making and to be successful residents must be assured both that the participation is meaningful and that their input will be valued. The widest representation from the community can only be achieved if vacancies are well advertised so that anyone interested will have the opportunity to apply. Interviews of the applicants conducted in public by the Town Council demonstrates that it values these appointments and that all have an equal opportunity to be appointed. Applicants may apply to more than one Commission, and shall rank their choices in their preferred order, during each recruitment cycle.

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To ensure the greatest possible participation by the public, it is the Town's policy that no person shall be appointed to more than one Commission except in those cases where they are ex-officio members of other Boards, Commissions and Committees. This Policy does not apply to Commission members serving as representatives of their Commission who have been appointed by the Town Council.

RESIDENCY REQUIREMENTS

Residency within the incorporated municipal limits of the Town of Los Gatos, California is required for appointment and continued membership on all Town of Los Gatos Boards, Commissions, and Committees, with the exception of the Youth Commission.

Youth Commission:

The members shall be students who are entering grades 8 through 12 in the fall.

Membership for the students requires either residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.

ATTENDANCE REQUIREMENTS

1. All members of all appointive Town Advisory Bodies should attend all regular and special meetings of said Advisory Bodies.
2. Any member not in attendance at a regular meeting of said Advisory Body for at least 70% of the meeting shall be considered absent.
3. Any member of an appointive Town Advisory Body who is absent from the number of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.
 - a. For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.
 - b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.
 - c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.
4. Consistent with the Family Medical Leave Act and the California Family Rights Act, absences of up to 12 weeks due to parental leave constitute excused absences.
5. The vacant position shall be filled by appointment by a majority vote of the Town Council, for a term equal to the unexpired portion of the office vacated. Any member removed from office due to non-attendance may re-apply to serve on a Town Advisory Body but will not be treated as an incumbent in any subsequent application to the same Advisory Body.
6. If a Youth Commissioner liaison misses three meetings of a liaison Commission during a consecutive twelve (12) month period*, the Youth Commission shall appoint a different Youth Commissioner as liaison.

*Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence. A regular meeting shall not be cancelled and replaced with a special meeting in order to alleviate an absence by an advisory body member.

QUORUM REQUIREMENTS

The number of members needed to constitute a quorum on any Town Advisory Body shall be a majority of the total number of filled seats.

PROCEDURES

The following procedures will be followed by the applicant, the Town Clerk, and the Town Council for the appointment of applicants to Town Commissions:

Responsibility and Actions: Town Clerk

A. Annual Recruitments

Adult Commission members' terms begin on January 1st and end December 31st, Youth Commissioners' terms follow the academic year and begin on August 1st and end on June 30th. The Town Clerk shall perform the following duties in conducting an annual recruitment for Commission members:

1. Notify Town Council of vacancies on Commissions by indicating the names of the Commissions, the number of terms expiring or being vacated, names of individual(s) with expiring terms or vacating seats, advertising periods (at least 30 days) and the date of interview.
2. Advertise the vacancies, including the application deadline and the interview date. Interviews and appointments for Adult Commissioners shall occur after annual Mayor and Vice Mayor selection, and in the case of election years, after new Council Members have been seated. Interviews and appointments for Youth Commissioners shall occur by the fourth Wednesday in May, no earlier than 4:00 p.m.
3. Prepare and maintain easily understood applications for appointment to Commissions. Applications shall include the following policy information:
 - a. Prior to initial appointment to any Commission, non-incumbent applicants must be interviewed by the Town Council. The applications of those not appearing will be held for the next recruitment.
 - b. If an incumbent Commissioner is requesting reappointment to the same Commission, the incumbent may submit a request to be interviewed by telephone, with their application, instead of attending the interview or must submit a letter prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.

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c. Submissions deadlines are mandatory; no exceptions are permitted.

4. Applications:

- a. *For adult applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council prior to the interviews for appointment.
- b. *For student applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council Selection Committee, consisting of the Mayor, Vice Mayor, Police Chief, and Youth Commission Chair (if not reapplying), prior to the interviews for appointment.

5. Notify the applicant by letter or email as to the date and time of the interview and provide the option for an in person or teleconference interview.

6. Facilitate the Council voting process set forth below by informing Council as to how many votes are possible on each Commission, calling out applicants' names, and identifying the applicants receiving sufficient votes for appointment. This process does not apply to student applicants.

7. Applicants:

- a. *For adult applicants* — After the interviews and Council vote are completed, notify all applicants of the Council's action, and explain Town policy of keeping application active for one year with notification of subsequent openings on that Commission to the interested applicants.
- b. *For student applicants* — After the interviews are completed, notify all applicants of the Council Committee's action, and prepare a staff report for the Town Council to ratify the Committee's appointment at the first Town Council meeting in June.

Interview Process

To ensure the interview process is consistent, fair, and equitable, each applicant shall be asked the same standard questions, as provided below. Notwithstanding, no Council Member shall be prevented from asking appropriate questions of applicants.

1. If appointed, what ideas would you like to see the Commission explore?
2. Please expand beyond the written response on your application: your experience, interest, and/or expertise that you feel would be most useful to the Commission.
3. Please elaborate on any written response provided in the application to assist the Council learn more about you.
4. If you did not answer any of the questions on the application, please explain why.

The standard questions are limited in number to allow an applicant sufficient time to respond. While the intent is for each Council Member to be able to ask one question of each applicant, the Council may decide not to ask all of the provided questions, change the order of the questions, or rotate which Council member asks a specific question. Interview questions will be reviewed annually by the Town Council in advance of the interview process for any potential modifications.

Balloting Process

Unless determined otherwise, the Council shall conduct a ballot vote for the appointment of individuals to fill the vacancies for each Commission. Such ballot vote may be conducted at either a regular, adjourned, or special meeting of the Town Council. The ballot vote process shall be conducted as follows:

1. The Town Clerk shall provide a ballot to each Town Council member listing the names of all applicants and “None of the above” for each respective Commission. Prior to the vote, the Town Clerk shall publicly announce the position vacancy and all applicant names that are listed on the ballot.
2. Each Council member may vote for the same number of applicants as there are current vacancies on the respective Commission. In no case, can a Council Member cast more votes than there are vacancies; or vote for the same candidate more than once on each ballot (i.e. cumulative voting -- e.g. where there are three vacancies, a Council member may not give all three votes to the same candidate). A Council Member is not required to vote for any of the candidates or for the total number of vacancies available.
3. The Town Clerk shall collect all ballots and shall publicly announce the name of each Town Council member and how that Council member cast his or her vote. In the case of a tie vote, the Town Clerk will announce that there is a tie and that a run-off vote shall be conducted but will not announce the names of the applicants in the run-off. Once all voting is concluded and a decision made, the votes will be made public. The run-off ballot will also include a “None of the above” option.
4. Applicants receiving a majority number of votes shall be deemed appointed to the Commission. In the event of a tie, a run-off vote shall be conducted among the applicants receiving the highest number of votes from the previous round. This shall continue until a majority consensus on an applicant(s) is reached for the number of vacancies to be filled. In the event of an unbreakable tie, the Council may determine an alternative method for selecting the appointee(s) or direct the Town Clerk to re-advertise the vacancy.
5. If an applicant(s) is appointed to an Advisory Body which has vacancies for both full and partial, unexpired terms, the length of the appointee’s term will be determined by the Mayor.

B. Mid-Term Recruitments

During the year, Commissions may experience vacancies that drop the number of filled seats to a number of members that is not sufficient to conduct Commission business. The Commission may request the Council to conduct a mid-term recruitment to fill seats. To the extent possible, the Town Clerk will consolidate mid-term recruitments to minimize the number of recruitments occurring throughout the year. In the event of a vacancy on the Planning Commission, the Town will automatically conduct a mid-term recruitment. Mid-term recruitments will not be conducted for Youth Commissioners. The Town Clerk shall advertise mid-term vacancies on Commissions for at least 15 days.

TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum	PAGE: 6 of 7	POLICY NUMBER: 2-11
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Responsibility and Action: Applicant

1. Read the Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy, complete and submit to the Town Clerk the application for appointment to a Town Commission by the advertised deadline date and time.
2. *For adult applicants:* Attend the Council meeting to be interviewed for Commission appointment. The applicant is required to notify the Town Clerk no later than 4:00 p.m. the Friday before the scheduled interview date whether they will attend in person or via teleconference.
3. *For student applicants:* Attend the Council Selection Committee interview session. The applicant is required to notify the Town Clerk no later than 4:00 p.m. the Friday before the scheduled interview date whether they will attend in person or via teleconference.
4. If an incumbent Commission member is requesting reappointment to the same Commission and is not available on the date of the interview, the incumbent must submit a letter by 4:00 p.m. the Friday prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.
5. If appointed, prior to starting the Commission term, appointees are required to attend a Commissioner Orientation and take the "Oath of Office."
6. Attend Advisory Body meetings once term begins.
7. Read the Commissioners' Handbook. Hard copies of the Handbook are to be returned to the Town Clerk when the term is complete.

Responsibility and Action: Town Council

1. Review applications.
2. *For adult applicants* – Interview applicants individually by Commission at a public meeting with all applicants present.
For student applicants – Town Council Selection Committee interviews applicants.
3. Determine if the incumbents not in attendance and having submitted a letter pursuant to this Policy should be considered for reappointment.
4. If there are limited applications for any vacancy to a Commission, the Mayor, on behalf of the Council, may request that the Town Clerk re-advertise the vacancy, reschedule the interviews, and notify all applicants of the new interview date.

COMPLIANCE - GROUNDS FOR DISMISSAL

A member may be removed from the Advisory Body prior to the end of his or her term by a three-fifths (3/5) vote of the Town Council and may not be reappointed for the following reasons:

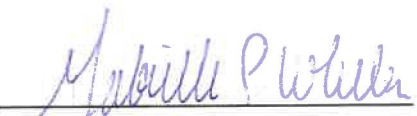
1. Failure to attend Advisory Body meetings.
2. Failure to file the following documents required by the Fair Political Practices Commission (Adult Commissioners):
 - a. Form 700 – Assuming Office, Annual, and Leaving Office when term is complete.
 - b. Planning Commissioners are also required to complete AB 1234 Ethics Training and file the original certificate with the Town Clerk every two years.
3. Failure to comply with all Town Policies, Guidelines, and Handbooks.

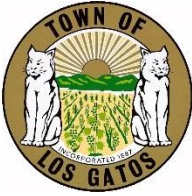
CONFLICT OF INTEREST

Under the Fair Political Practice Act, an advisory board member has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision.

The Fair Political Practice Act does not prohibit an advisory board member from participating in a decision simply by virtue of holding a position as a board member, director, officer, or employment with a nonprofit corporation. However, the Town strongly encourages that in the event that a decision concerns a nonprofit corporation for which an advisory board member is a board member, director, officer, or employed with that nonprofit corporation, the person should recuse him or herself and at a minimum shall disclose the potential conflict of interest before any discussion and decision.

APPROVED AS TO FORM:


Gabrielle Whelan, Town Attorney



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE AGENDA
FEBRUARY 28, 2023
TELECONFERENCE
5:00 PM**

*Rob Moore, Chair
Mathew Hudes, Vice Chair*

IMPORTANT NOTICE

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.). Consistent with AB 361 and Town of Los Gatos Resolution 2021-044, this meeting will not be physically open to the public and the Council will be teleconferencing from remote locations. Members of the public can only participate in the meeting by joining the Zoom webinar (log in information provided below).

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/83046365193?pwd=ckFQUVBdWEVNZTBQZXhFbjhDL3B1QT09>
Passcode: 812858. You can also type in 830 463 65193 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
- **Join by telephone.** Dial: USA 877 336 1839 US Toll-free or 636 651 0008 US Toll. Conference code: 686100

When the Chair 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. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.

When called to speak, you will 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 Chair may decide, consistent with the time limit for speakers at a Council Policy Committee 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 PublicComment@losgatosca.gov the subject line “Public Comment Item #__” (insert the item number relevant to your comment). 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 Committee without first being recognized;
- Interrupting speakers, Committee Members, 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

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Committee 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 Chair 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 Chair has the sole discretion to determine when the item will be heard.)*

1. Approve Draft Minutes of the January 23, 2023 Council Policy Committee Meeting.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Policy Committee 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 Chair, 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.)*

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

2. Confirm 2023 Work Plan Items for the Council Policy Committee.
3. Discuss and Provide Direction to Potentially Modify Town Council Policy 2-04: Town Council Code of Conduct, Town Council Policy 2-05: Planning Commission Policies and Procedures, Town Council Policy 2-11: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum, and the Commissioner Handbook.

ADJOURNMENT



**TOWN OF LOS GATOS
TOWN COUNCIL
POLICY COMMITTEE**

MEETING DATE: 02/28/2023

ITEM NO: 1

**DRAFT
Minutes of the Town Council Policy Committee Meeting
January 23, 2023**

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting utilizing teleconference and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.) and Town of Los Gatos Resolution 2021-044 on Monday, January 23, 2023, at 5:00 p.m.

MEETING CALLED TO ORDER AT 5:02 P.M.

ROLL CALL

Members Present: Rob Moore, Matthew Hudes

Staff Present: Laurel Prevetti, Town Manager; Gabrielle Whelan, Town Attorney; Wendy Wood, Town Clerk; Joel Paulson, Community Development Department Director; Jennifer Armer, Planning Manager.

APPOINT CHAIR AND VICE CHAIR

Rob Moore was appointed Chair and Matthew Hudes was appointed Vice Chair by unanimous vote of the Committee.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approve Draft Minutes of the September 17, 2022 Council Policy Committee.
2. Approve the Town Council Policy Committee Meeting Schedule for 2023.

Approved.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

3. Recommend to the Town Council Modifications to Town Council Policy 2-01: Agenda Format and Rules Regarding Town Remote Attendance for Town Boards, Commissions, and Committees.

Laurel Prevetti, Town Manager, presented the staff report.

Opened public comment.

Cindy Walker from the Complete Streets and Transportation Committee commented in favor of hybrid meetings for all Boards, Commissions, and Committees due to concerns regarding Committee members being unable to attend in person and to increase the opportunity for public participation.

Susan Burnett from the Planning Commission asked for clarification regarding the discussion and commented in favor of in-person and video meetings, and not in support of audio only meetings.

Closed Public Comment.

After discussion, the Committee was split with Vice Chair Hudes recommending the Council approve the proposed changes with the exception of conducting hybrid meetings for the Planning Commission and Finance Commission. Chair Moore requested that Council consider the staff recommendation as well as additional information regarding the feasibility and cost of options for audio only and audio with video hybrid meetings for all Board, Commission, and Committee meetings.

4. Identify Future Work Plan Items for the Council Policy Committee.

Laurel Prevetti, Town Manager, presented the staff report.

Opened public comment.

None.

Closed Public Comment.

After discussion, the Committee approved the proposed 2023 Work Plan with the following additions:

- Review of Ethics and Conflict of Interest Policies.

- Review Policies for Commission, Board, Committee, and Council Recusal.
- Review the Brown Act and Council Communications with Regards to Forums such as Democracy Tent.
- Review Conflicts of Interest for Political Endorsements from Organizations Funded by the Town.
- Reexamine the Policy Committee's Enabling Resolution.
- Consider a Capital Improvement Equity Policy.
- Consider a Commercial Rent Control Policy.

And the following deletions, recognizing that the other Commissions should be the recommending body to Town Council:

- Consider the Creation of a Reorganization Policy.
- Potential Amendments to the Story Pole and Netting Policy.
- Consider a Los Gatos Election Policy.
- Consider Home Occupancy Permit Criteria and Limitations.
- Discuss Guidelines for Tree Planting In-Lieu Fees When Additional Trees Would Conflict with Maintaining Defensible Space.
- Discuss Transportation Impact Mitigation Policy and Fees.
- Consider the Definition of "Specialty Retail."
- Review Zoning Requirements for Banks in the Downtown District.
- Continue to Consider Land Use Streamlining Modifications and Review of Items in the Land Use Policies Binder.

The Committee asked staff to return with a revised Work Plan for review based on their input.

ADJOURNMENT

The meeting adjourned at 6:25 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the January 23, 2023 meeting as approved by the Town Council Policy Committee.

Holly Young, Senior Management Analyst



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 02/28/2023

ITEM NO: 2

DATE: February 28, 2023
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Confirm 2023 Work Plan Items for the Council Policy Committee

RECOMMENDATION:

Confirm 2023 work plan items for the Council Policy Committee.

REMARKS:

On January 23, 2023, the Council Policy Committee discussed a proposed 2023 Work Plan. The Committee provided input on the proposed Plan including requesting various items be added and deleted. The Committee asked staff to return with a revised Work Plan for review based on the discussion (see Attachment 1).

The revised Work Plan is arranged loosely in priority order. The Work Plan also includes two items directed by the Town Council:

- An evaluation of remote participation for Boards, Committees, and Commissions later in 2023; and
- Modifications to Town Policies to address Commissioner discipline.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office (including Economic Vitality and the Clerk Department), Community Development Department, Parks and Public Works Department, and the Town Attorney's Office.

PREPARED BY: Holly Young
Senior Management Analyst

Reviewed by: Town Manager and Town Attorney

PAGE 2 OF 2

SUBJECT: 2023 Work Plan Items

DATE: February 28, 2023

FISCAL IMPACT:

There is no associated fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under the California Environmental Quality Act, and no further action is required.

Attachment:

1. Revised 2023 Draft Work Plan

2023 Town Council Policy Committee Work Plan Items (Revised)

- Determine Modifications to Town Policies to Address Commissioner Discipline.
- Consider an Emergency Procurement Policy.
- Consider Legislative Advocacy Priorities/Principles (Building from Existing Legislative Policy).
- Consider Finance Commission Recommendation to Create a Public Input and Outreach in Labor Negotiations Policy Modeled after Menlo Park.
- Consider Finance Commission Recommendation for Council Not to Engage in Confidential Agreements with Bargaining Units that Would Prevent Disclosure that Would Otherwise be Properly Disclosed under the Brown Act.
- Review of Ethics and Conflict of Interest Policies.
- Review Policies for Commission, Board, Committee, and Council Recusal.
- Review the Brown Act and Council Communications with Regards to Forums, such as Democracy Tent.
- Review Conflicts of Interest for Political Endorsements from Organizations Funded by the Town.
- Consider a Capital Improvement Equity Policy.
- Consider a Commercial Rent Control Policy.
- Reexamine the Policy Committee's Enabling Resolution.
- Evaluate the Remote Participation Provisions for Boards, Committees, and Commissions as Contained in the Agenda Format and Rules Policy.



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 02/28/2023

ITEM NO: 3

DATE: February 17, 2023
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction to Potentially Modify Town Council Policy 2-04: Town Council Code of Conduct, Town Council Policy 2-05: Planning Commission Policies and Procedures, Town Council Policy 2-11: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum, and the Commissioner Handbook

RECOMMENDATION:

Discuss and provide direction to potentially modify Town Council Policy 2-04: Town Council Code of Conduct, Town Council Policy 2-05: Planning Commission Policies and Procedures, Town Council Policy 2-11: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum, and the Commissioner Handbook.

BACKGROUND:

Currently the Town has a patchwork of Town Council Policies that are used to evaluate a potential disciplinary issue with a Commissioner. The Commissioner Handbook states that for enforcement:

If a member of a Town Board, Commission, or Committee does not follow the Commissioner's Handbook, the Mayor or his/her designee will counsel that member regarding the rules and their importance to the Council and the Town (see Resolution 1999-167 and Town Council Code of Conduct Policy).

Town Council Policy 2-04: Town Council Code of Conduct has a specific disciplinary process that has been used for Commissioners (see Attachment 1).

In addition, Town Council Policy 2-11: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum states the grounds for dismissal of a Commissioner (see Attachment 2, page 7). Since this Policy does not provide a process for evaluating a policy violation, the Town's practice has been to follow the procedure in the Code of Conduct.

Reviewed by: Town Manager and Town Attorney

BACKGROUND (continued):

After a recent disciplinary proceeding, the Town Council asked the Council Policy Committee to review the applicable Policies and make recommendations to improve the procedure to discipline Commissioners.

DISCUSSION:

This agenda item provides the Policy Committee an opportunity to provide direction to staff to improve the procedure. The Committee may want to consider the following questions in its deliberations:

- Should the discipline procedure in the Code of Conduct Policy in its entirety apply to Commissioners?
- If not, are there any elements of the discipline procedure from the Code of Conduct that should apply? For example:
 - Should the evaluation committee consist of the same members?
 - Should the same Minor and Major distinction apply?
 - Under what circumstances should a third party conduct an initial interview with the subject Commissioner and report the findings to the evaluation committee?
 - What discipline options should be available for Commissioners?
- What other procedural steps would the Committee recommend?
- What other guidance should be contained in Town Policies regarding this matter?

In addition to the above referenced Policies, the Planning Commission Policy is contained in Attachment 3.

Based on the direction of the Committee, staff will return at a subsequent meeting with draft language for the Committee's review. Once the Committee has completed its work, the matter will go before the entire Council for final consideration and action.

CONCLUSION:

Staff looks forward to the Committee's discussion and direction. Based on the direction, staff will return to subsequent Policy Committee meetings to review draft specific redline modifications.

COORDINATION:

The preparation of this report was coordinated with the Town Attorney.

PAGE 3 OF 3

SUBJECT: Discuss and Provide Direction on Potential Modifications to Several Council Policies and the Commissioner Handbook

DATE: February 17, 2023

FISCAL IMPACT:

Potential modifications to Council Policies and the Commissioner Handbook have no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under the California Environmental Quality Act, and no further action is required.

Attachments:

1. Town Council Policy 2-04: Town Council Code of Conduct
2. Town Council Policy 2-11: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum
3. Town Council Policy 2-05: Planning Commission Policies and Procedures

 TOWN OF LOS GATOS CALIFORNIA COUNCIL POLICY MANUAL <i>Small Town Service Community Stewardship Future Focus</i>	
TITLE: Town Council Code of Conduct	POLICY NUMBER: 2-04
EFFECTIVE DATE: 5/3/2004	PAGES: 8
ENABLING ACTIONS: 2004-059; 2006-111; 2021-047	REVISED DATES: 12/17/2012; 3/3/2015; 12/17/2019; 11/2/2021; 10/4/2022
APPROVED: 	

I. Preamble

The legal responsibilities of the Los Gatos Town Council are set forth by applicable state and federal laws. In addition, the Town Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials. These expectations of conduct also apply to all members of the Town's Boards, Committees, and Commissions.

II. Form of Government

The Town of Los Gatos operates under a Council-Manager form of government as prescribed by Town Code, Section 2.30.305. Accordingly, members of the Council are elected at-large, provide legislative direction, set Town policy, and ultimately answer to the public. The Town Manager serves as the Town's chief administrative officer and is responsible for directing the day-to-day operations of the Town and implementing policy direction.

III. Town Council Roles and Responsibilities

The role of the Town Council is to act as a legislative and quasi-judicial body. Through its legislative and policy authority, the Council is responsible for assessing and achieving the community's desire for its present and future and for establishing policy direction to achieve its desired outcomes. All members of the Town Council, including those who serve as Mayor and Vice Mayor, have equal votes.

Members of the Town Council fulfill their role and responsibilities through the relationships they have with each other and the public. Town Council Members should approach their work, each other, and the public in a manner that reflects ethical behavior, honesty and integrity. The commitment of Town Council Members to their work is characterized by open constructive communication, innovation, and creative problem solving.

TITLE: Town Council Code of Conduct	PAGE: 2 of 9	POLICY NUMBER: 2-04
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IV. Mayoral and Vice Mayoral Selection Process

Per Town Municipal Code, Section 2.20.035, the selection of the Mayor and Vice Mayor occurs annually at a special meeting in December by majority vote of the Town Council. The Mayor and Vice Mayor serve at the pleasure of the Town Council and may be replaced by a majority vote of the Council.

V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships

The following outlines some of the key roles, responsibilities, and relationships as they relate to the positions of Mayor and Vice Mayor:

Mayor

- A. The Mayor is the presiding officer of the Town Council. In this capacity, the Mayor is responsible for developing Council agendas in cooperation with the Town Manager and leading Council meetings.
- B. The Mayor recommends various standing committee appointments to the Council for approval.¹ This will be done at a Council meeting in December of each year. When making committee recommendations, the Mayor should attempt to balance shared responsibilities and opportunities among Council Members. The Mayor may also appoint citizens to committees not established by Town ordinance or resolution as s/he deems appropriate.
- C. The title of Mayor carries with it the responsibility of communicating with the Town Council, Town Manager, members of the public, and the media regarding decisions made by a majority of the Town Council. The Mayor also represents the Council at official and ceremonial occasions.
- D. The Mayor performs special duties consistent with the Mayoral office, including, but not limited to: signing of documents on behalf of the Town, issuing proclamations, serving as the official voting delegate for various municipal advocacy groups, and delivering the State of the Town Address at his or her discretion.² The Town Council will determine any additional authority or duties that the Mayor shall perform.
- E. Special duties consistent with the Mayoral office may be delegated to the Vice Mayor or any other member of the Town Council.
- F. In the event that one or more members of a Town Board, Commission, or Committee acts in a manner contrary to approved Board/Commission policies and procedures, the Mayor may counsel those members about the rules set forth in the Town Commissioner Handbook.³

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation Policy

³ Resolution 1999-167

TITLE: Town Council Code of Conduct	PAGE: 3 of 9	POLICY NUMBER: 2-04
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Vice Mayor

- A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.⁴
- B. When the Vice Mayor performs the duties of the Mayor in his/her absence, the Vice Mayor also carries the responsibility of communicating with the Town Manager, Town Council, and members of the public.

VI. Council Conduct in Public Meetings

To ensure the highest standards of respect and integrity during public meetings, Council Members should:

- A. *Use formal titles.* The Council should refer to one another formally during Council meetings such as Mayor, Vice Mayor or Council Member or Mr., Mrs., or Ms., followed by the individual's last name.
- B. *Practice civility and decorum in discussions and debate.* Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. During public discussions, Council Members should be respectful of others and diverse opinions and allow for the debate of issues.
- C. *Honor the role of the presiding officer in maintaining order and equity.* Respect the Mayor/Chair's efforts to focus discussion on current agenda items.
- D. *Council decisions should be reserved until all applicable information has been presented.*
- E. *Conduct during public hearings.* During public testimony, Council Members should refrain from engaging the speaker in dialogue. Speakers at public meetings will be asked to provide their full name and to state whether they are a resident of the Town of Los Gatos. This information is optional but not required. For purposes of clarification, Council Members may ask the speaker questions. Council comment and discussion should commence upon the conclusion of all public testimony

VII. Maintaining Civility at Council Meetings

The public is welcome to participate at Town Council meetings and the Mayor should remind the public of the Town's expectations for civility in order for the business of the Town to be completed efficiently and effectively. These expectations include and are not limited to:

- A. For the benefit of the entire community, the Town of Los Gatos asks that all speakers follow the Town's meeting guidelines by treating everyone with respect and dignity. This is done by following meeting guidelines set forth in State law, in the Town Code, and on the cover sheet of the Council agenda.
- B. The Town embraces diversity and strongly condemns hate speech and offensive, hateful language or racial intolerance of any kind at Council Meetings.

⁴ Council Agenda Format and Rules Policy

TITLE: Town Council Code of Conduct	PAGE: 4 of 9	POLICY NUMBER: 2-04
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- C. Town Council and staff are well aware of the public's right to disagree with their professional opinion on various Town issues. However, anti-social behavior, slander, hatred, and bigotry statements are completely unacceptable and will not be tolerated in any way, shape or form at Town Council meetings.
- D. All public comments at the Town Council meeting must pertain to items within the subject matter jurisdiction of the Town and shall not contain slanderous statements, hatred, and bigotry against non-public officials.
- E. The Town will go through the following steps if a disturbance results from a member of the public not following these rules:
 - 1. If participating remotely, Town staff may mute the individual with an explanation for the record of why muting occurred consistent with this Policy.
 - 2. If participating in-person, the Mayor may call a recess for violation of this Policy, resulting in the immediate cessation of the audio and video recording and the Council exiting the Chamber. Staff will determine if the individual should be removed or if all members of the public should leave depending on the extent of the disturbance. In the event that all public members exit, only the press would be allowed back in the meeting. Once the individual(s) leave, the Council would return to the Chamber and the Mayor would resume the meeting.
 - 3. Persons disrupting a Council meeting may be cited for violation of the California Penal Code Section 403.

VIII. Legal Requirements

The Town Council operates under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Council on these matters.

A. Training

Biannual training in the following areas shall be provided by staff to Council Members:

- 1. The Ralph M. Brown Act
- 2. Town / CA State Law on Conflict of Interest (AB 1234)
- 3. Government Section 1090
- 4. Incompatible Offices
- 5. The Fair Political Practices Commission Forms
- 6. Bias
- 7. Town / CA State Law on Harassment (SB 1343)

B. Procurement

Unless authorized by the Town Council, Council Members shall not become involved in administrative processes for acquiring goods and services.

TITLE: Town Council Code of Conduct	PAGE: 5 of 9	POLICY NUMBER: 2-04
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C. Land Use Applications

The merits of an application shall only be evaluated on information included in the public record. Council Members shall disclose ex parte communication and any information obtained outside of the public record that may influence his/her decision on a matter pending before the Town Council. Council disclosure shall occur after the Public Hearing section of the agenda, and before Council deliberations.

D. Code of Conduct Policy

Newly elected Council Members are strongly encouraged to sign a statement affirming they have read and understand the Town of Los Gatos Council Code of Conduct Policy.

E. Non-Profit Organizations

Council Members may not sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the Town, unless the role serves a legitimate Town purpose, such as the League of California Cities, and the participation is approved by the full Council.

IX. Council Participation in Boards, Commissions and Committees, and Reporting Requirements

There are several committees that Town Council Members have been appointed to or have an interest in, including but not limited to: Town Council standing and ad hoc committees, Town boards and commissions, regional boards and commissions, and community-generated committees.

Primary Council representatives should update the Council about board, commission, and committee activities. When serving as the primary Council representative on any board, commission, or committee, Council Members should periodically provide updated reports to the Council during the "Council Matters" opportunity on the Council meeting agenda.

Recommended actions by Council Committees should be reported to the Council. When serving on a Council Committee, whether standing or ad hoc, all work undertaken by the Committee must be directed by the Council, and all recommended actions of a Council Committee shall be reported to the Council.

X. Council Relationship with Town Staff

The Town Council has adopted a Council-Manager form of government. The Town Manager's powers and duties are outlined in the Town Code, Section 2.30.295.

Council Conduct and Communication with Town Staff

To enhance its working relationship with staff, Council should be mindful of the support and resources needed to accomplish Council goals. When communicating and working with staff, Council should follow these guidelines:

TITLE: Town Council Code of Conduct	PAGE: 6 of 9	POLICY NUMBER: 2-04
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- A. *Council Members should treat staff as professionals.* Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with Council colleagues, practice civility and decorum in all interactions with Town staff.
- B. *Council Members should direct questions about policy, budget, or professional opinion to the Town Manager, Town Attorney or Department Directors.* Council Members can direct questions and inquiries to any staff for information that is readily available to the general public or easily retrievable by staff.
- C. *The Town Manager and staff are responsible for implementing Town policy and/or Council action.* The processing of Council policy and decisions takes place with the Town Manager and staff. Council should not direct policy/program administrative functions and implementation; rather it should provide policy guidance to the Town Manager.
- D. *Council Members should attempt to communicate questions, corrections, and/or clarifications about reports requiring official action to staff prior to Council meetings.* Early feedback will enable staff to address Council questions and incorporate minor corrections or changes to a Council report, resulting in a more efficient Council meeting discussion; however, this does not preclude Council Members from asking questions at Council Meetings.
- E. *Council Members should not direct the Town Manager to initiate any action, change a course of action, or prepare any report without the approval of Council.* The Town Manager's responsibility is to advise on resources available and required for a particular course of action as it relates to the direction of the majority of the Council.
- F. *Council Members should not attend department staff meetings unless requested by the Town Manager.*
- G. *All Council Members should have the same information with which to make decisions.* Information requested by one Council Member will be shared with all members of the Council.
- H. *Concerns related to the behavior or work of a Town employee should be directed to the Town Manager.* Council Members should not reprimand employees.
- I. *Per California Government Code, Sections 3201-3209, Council Members should not solicit financial contributions from Town staff or use promises or threats regarding future employment.* Although Town staff may, as private citizens with constitutional rights, support political candidates, such activities cannot take place during work hours, at the workplace, or in uniform.

XI. Council Communication with the Public and other Council Members

The Public has a reasonable expectation that it may engage its Council Members on matters of community concern. In response, Council Members may express a preliminary opinion on general issues or policies that are in the development phase. Any such preliminary statement shall not indicate that a decision has been reached before the public hearing or create a presumption of bias on any quasi-adjudicatory decision such as a land use approval. In addition, Council Members may from time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies or explain an individual vote. Such

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statements are permissible if clearly characterized as personal opinion or policy change objectives rather than the opinion of the full Town Council.

XII. Enforcement

A. Purpose

The Council Code of Conduct Policy establishes guiding principles for appropriate conduct and behavior and sets forth the expectations of Council Members. The purpose of the policy language is to establish a process and procedure that:

1. Allows the public, Town Council, and Town employees to report Code of Conduct policy violations or other misconduct.
2. Provides guidelines to evaluate Code of Conduct policy violations or other misconduct and implement appropriate disciplinary action when necessary.

B. Procedures

1. Reporting of Complaints

The following section outlines the process for reporting Council Member Code of Conduct Policy violations or other misconduct:

- a. Complaints made by members of the public, the Town Manager, and Town Attorney should be reported to the Mayor. If a complaint involves the Mayor, it should be reported to the Vice Mayor.
- b. Complaints made by Council Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.
- c. Complaints made by Town employees should be reported to the Town Manager, who will direct them to the Mayor or Vice Mayor.

2. Evaluation of Complaints Alleging Violations

Upon report of a written complaint, the Town Manager and Town Attorney will join the Mayor or Vice Mayor as an evaluation committee to determine the validity of the complaint and, if appropriate, an initial course of action as discussed below. If the Town Manager or Town Attorney is the complainant, the longest serving uninvolved Council Member will replace the Town Manager or Town Attorney on the evaluation committee.

Within seventy-two (72) hours of receipt of the complaint by the Mayor or Vice Mayor, the Council Member in question shall be notified of the reported complaint by the Mayor or his/her designee. The notification shall include a copy of the written complaint and supporting documentation, if any, the identity of the complainant and nature of the complaint.

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3. Unsubstantiated or Minor Violations

If the majority of the Committee agrees that the reported violation is without substance, no further action will be taken. If the reported violation is deemed valid but minor in nature, the Mayor or Vice Mayor shall counsel and, if appropriate, admonish the Council Member privately to resolve the matter. Admonishment is considered to be a reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.

4. Allegations of Major Violations

If the reported violation is considered to be serious in nature, the matter shall be referred to outside legal counsel selected by the Committee for the purpose of conducting an initial interview with the subject Council Member. The outside counsel shall report his/her initial findings back to the Committee.

If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel to conduct an investigation. The investigation process would include, but is not limited to, the ascertainment of facts relevant to the complaint through interviews and the examination of any documented materials.

5. Report of Findings

At the conclusion of the investigation, outside legal counsel shall report back to the Committee in writing. The report shall either (1) recommend that the Council Member be exonerated based on a finding that the investigation did not reveal evidence of a serious violation of the Code of Conduct, or (2) recommend disciplinary proceedings based on findings that one or more provisions of the Code of Conduct or other Town policies have been violated. In the latter event, the report shall specify the provisions violated along with the facts and evidence supporting each finding.

The Committee shall review the report and its recommendations. If the consensus of the Committee is to accept the report and recommendations, the Committee shall implement the recommendations. Where the recommendation is exoneration, no further action shall be taken. Where the recommendation is to initiate disciplinary proceedings, the matter shall be referred to the Council. Where there is no consensus of the Committee regarding the recommendations, the matter shall be referred to the Council.

The subject Council Member shall be notified in writing of the Committee's decision within 72 hours. Where the decision is to refer the matter to the Council, a copy of the full report, including documents relied on by the investigator shall be provided with the notification, and a copy of both shall be provided to the whole Council.

6. Proceedings

Investigative findings and recommended proceedings and disciplinary action that are brought forward to Council as a result of a significant policy violation shall be considered at a public hearing. The public hearing should be set far enough in advance to allow the Council Member in question reasonably sufficient time to prepare a response.

Investigative findings shall be presented to the Town Council at a public hearing. The rules of evidence do not apply to the public hearing. It shall not be conducted as an adversarial proceeding.

C. Disciplinary Action

1. Considerations in Determining Disciplinary Action

Disciplinary action may be imposed by Council upon Council Members who have violated the Council Code of Conduct Policy. Disciplinary action or sanctions are considered when a serious violation of Town policy has occurred by a Council Member. In determining the type of sanction imposed, the following factors may be considered:

- a. Nature of the violation
- b. Prior violations by the same individual
- c. Other factors which bear upon the seriousness of the violation

2. Types of Sanctions

At the discretion of the Council, sanctions may be imposed for violating the Code of Conduct or engaging in other misconduct. These actions may be applied individually or in combination. They include, but are not limited to:

- a. *Public Admonishment* – A reproof or warning directed to a Council Member about a particular type of behavior that violates Town policy.
- b. *Revocation of Special Privileges* – A revocation of a Council Member's Council Committee assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.
- c. *Censure* – A formal statement or resolution by the Council officially reprimanding a Council Member.

APPROVED AS TO FORM:



Gabrielle Whelan, Town Attorney



TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum

POLICY NUMBER: 2-11

EFFECTIVE DATE: 2/28/1990

PAGES: 7

ENABLING ACTIONS:

REVISED DATES: 6/13/1994; 6/16/2014;
4/7/2015; 10/18/2016; 2/21/2017;
2/6/2018; 3/19/19; 9/3/2019; 6/1/2021;
12/7/21, 3/15/22, 8/2/22; 09/20/22

APPROVED:

PURPOSE

To establish a policy to encourage participation by the Town's residents on Town Boards, Commissions and Committees (hereinafter referred to as "Commissions"). The Town of Los Gatos is committed to inclusivity. We value all our community members, regardless of religion, immigration status, ethnicity, race, disability, gender, sexual orientation, or gender identity. The Town will encourage residents to participate on Commissions by advertising vacancies on Commissions for at least 30 days, preparing easily understood applications, maintaining clear descriptions of the role of each Board, Commission, and Committee and its respective members, providing current meeting schedules, and conducting public interviews of all Commission applicants, except as provided by this Policy.

SCOPE

This Policy applies to all applicants to Town Boards, Commissions and Committees.

POLICY

The Town Council encourages public participation in all decision-making and to be successful residents must be assured both that the participation is meaningful and that their input will be valued. The widest representation from the community can only be achieved if vacancies are well advertised so that anyone interested will have the opportunity to apply. Interviews of the applicants conducted in public by the Town Council demonstrates that it values these appointments and that all have an equal opportunity to be appointed. Applicants may apply to more than one Commission, and shall rank their choices in their preferred order, during each recruitment cycle.

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To ensure the greatest possible participation by the public, it is the Town's policy that no person shall be appointed to more than one Commission except in those cases where they are ex-officio members of other Boards, Commissions and Committees. This Policy does not apply to Commission members serving as representatives of their Commission who have been appointed by the Town Council.

RESIDENCY REQUIREMENTS

Residency within the incorporated municipal limits of the Town of Los Gatos, California is required for appointment and continued membership on all Town of Los Gatos Boards, Commissions, and Committees, with the exception of the Youth Commission.

Youth Commission:

The members shall be students who are entering grades 8 through 12 in the fall.

Membership for the students requires either residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.

ATTENDANCE REQUIREMENTS

1. All members of all appointive Town Advisory Bodies should attend all regular and special meetings of said Advisory Bodies.
2. Any member not in attendance at a regular meeting of said Advisory Body for at least 70% of the meeting shall be considered absent.
3. Any member of an appointive Town Advisory Body who is absent from the number of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.
 - a. For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.
 - b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.
 - c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.
4. Consistent with the Family Medical Leave Act and the California Family Rights Act, absences of up to 12 weeks due to parental leave constitute excused absences.
5. The vacant position shall be filled by appointment by a majority vote of the Town Council, for a term equal to the unexpired portion of the office vacated. Any member removed from office due to non-attendance may re-apply to serve on a Town Advisory Body but will not be treated as an incumbent in any subsequent application to the same Advisory Body.
6. If a Youth Commissioner liaison misses three meetings of a liaison Commission during a consecutive twelve (12) month period*, the Youth Commission shall appoint a different Youth Commissioner as liaison.

*Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence. A regular meeting shall not be cancelled and replaced with a special meeting in order to alleviate an absence by an advisory body member.

QUORUM REQUIREMENTS

The number of members needed to constitute a quorum on any Town Advisory Body shall be a majority of the total number of filled seats.

PROCEDURES

The following procedures will be followed by the applicant, the Town Clerk, and the Town Council for the appointment of applicants to Town Commissions:

Responsibility and Actions: Town Clerk

A. Annual Recruitments

Adult Commission members' terms begin on January 1st and end December 31st, Youth Commissioners' terms follow the academic year and begin on August 1st and end on June 30th. The Town Clerk shall perform the following duties in conducting an annual recruitment for Commission members:

1. Notify Town Council of vacancies on Commissions by indicating the names of the Commissions, the number of terms expiring or being vacated, names of individual(s) with expiring terms or vacating seats, advertising periods (at least 30 days) and the date of interview.
2. Advertise the vacancies, including the application deadline and the interview date. Interviews and appointments for Adult Commissioners shall occur after annual Mayor and Vice Mayor selection, and in the case of election years, after new Council Members have been seated. Interviews and appointments for Youth Commissioners shall occur by the fourth Wednesday in May, no earlier than 4:00 p.m.
3. Prepare and maintain easily understood applications for appointment to Commissions. Applications shall include the following policy information:
 - a. Prior to initial appointment to any Commission, non-incumbent applicants must be interviewed by the Town Council. The applications of those not appearing will be held for the next recruitment.
 - b. If an incumbent Commissioner is requesting reappointment to the same Commission, the incumbent may submit a request to be interviewed by telephone, with their application, instead of attending the interview or must submit a letter prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.

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c. Submissions deadlines are mandatory; no exceptions are permitted.

4. Applications:

- a. *For adult applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council prior to the interviews for appointment.
- b. *For student applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council Selection Committee, consisting of the Mayor, Vice Mayor, Police Chief, and Youth Commission Chair (if not reapplying), prior to the interviews for appointment.

5. Notify the applicant by letter or email as to the date and time of the interview and provide the option for an in person or teleconference interview.

6. Facilitate the Council voting process set forth below by informing Council as to how many votes are possible on each Commission, calling out applicants' names, and identifying the applicants receiving sufficient votes for appointment. This process does not apply to student applicants.

7. Applicants:

- a. *For adult applicants* — After the interviews and Council vote are completed, notify all applicants of the Council's action, and explain Town policy of keeping application active for one year with notification of subsequent openings on that Commission to the interested applicants.
- b. *For student applicants* — After the interviews are completed, notify all applicants of the Council Committee's action, and prepare a staff report for the Town Council to ratify the Committee's appointment at the first Town Council meeting in June.

Interview Process

To ensure the interview process is consistent, fair, and equitable, each applicant shall be asked the same standard questions, as provided below. Notwithstanding, no Council Member shall be prevented from asking appropriate questions of applicants.

1. If appointed, what ideas would you like to see the Commission explore?
2. Please expand beyond the written response on your application: your experience, interest, and/or expertise that you feel would be most useful to the Commission.
3. Please elaborate on any written response provided in the application to assist the Council learn more about you.
4. If you did not answer any of the questions on the application, please explain why.

The standard questions are limited in number to allow an applicant sufficient time to respond. While the intent is for each Council Member to be able to ask one question of each applicant, the Council may decide not to ask all of the provided questions, change the order of the questions, or rotate which Council member asks a specific question. Interview questions will be reviewed annually by the Town Council in advance of the interview process for any potential modifications.

Balloting Process

Unless determined otherwise, the Council shall conduct a ballot vote for the appointment of individuals to fill the vacancies for each Commission. Such ballot vote may be conducted at either a regular, adjourned, or special meeting of the Town Council. The ballot vote process shall be conducted as follows:

1. The Town Clerk shall provide a ballot to each Town Council member listing the names of all applicants and “None of the above” for each respective Commission. Prior to the vote, the Town Clerk shall publicly announce the position vacancy and all applicant names that are listed on the ballot.
2. Each Council member may vote for the same number of applicants as there are current vacancies on the respective Commission. In no case, can a Council Member cast more votes than there are vacancies; or vote for the same candidate more than once on each ballot (i.e. cumulative voting -- e.g. where there are three vacancies, a Council member may not give all three votes to the same candidate). A Council Member is not required to vote for any of the candidates or for the total number of vacancies available.
3. The Town Clerk shall collect all ballots and shall publicly announce the name of each Town Council member and how that Council member cast his or her vote. In the case of a tie vote, the Town Clerk will announce that there is a tie and that a run-off vote shall be conducted but will not announce the names of the applicants in the run-off. Once all voting is concluded and a decision made, the votes will be made public. The run-off ballot will also include a “None of the above” option.
4. Applicants receiving a majority number of votes shall be deemed appointed to the Commission. In the event of a tie, a run-off vote shall be conducted among the applicants receiving the highest number of votes from the previous round. This shall continue until a majority consensus on an applicant(s) is reached for the number of vacancies to be filled. In the event of an unbreakable tie, the Council may determine an alternative method for selecting the appointee(s) or direct the Town Clerk to re-advertise the vacancy.
5. If an applicant(s) is appointed to an Advisory Body which has vacancies for both full and partial, unexpired terms, the length of the appointee’s term will be determined by the Mayor.

B. Mid-Term Recruitments

During the year, Commissions may experience vacancies that drop the number of filled seats to a number of members that is not sufficient to conduct Commission business. The Commission may request the Council to conduct a mid-term recruitment to fill seats. To the extent possible, the Town Clerk will consolidate mid-term recruitments to minimize the number of recruitments occurring throughout the year. In the event of a vacancy on the Planning Commission, the Town will automatically conduct a mid-term recruitment. Mid-term recruitments will not be conducted for Youth Commissioners. The Town Clerk shall advertise mid-term vacancies on Commissions for at least 15 days.

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Responsibility and Action: Applicant

1. Read the Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy, complete and submit to the Town Clerk the application for appointment to a Town Commission by the advertised deadline date and time.
2. *For adult applicants:* Attend the Council meeting to be interviewed for Commission appointment. The applicant is required to notify the Town Clerk no later than 4:00 p.m. the Friday before the scheduled interview date whether they will attend in person or via teleconference.
3. *For student applicants:* Attend the Council Selection Committee interview session. The applicant is required to notify the Town Clerk no later than 4:00 p.m. the Friday before the scheduled interview date whether they will attend in person or via teleconference.
4. If an incumbent Commission member is requesting reappointment to the same Commission and is not available on the date of the interview, the incumbent must submit a letter by 4:00 p.m. the Friday prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.
5. If appointed, prior to starting the Commission term, appointees are required to attend a Commissioner Orientation and take the "Oath of Office."
6. Attend Advisory Body meetings once term begins.
7. Read the Commissioners' Handbook. Hard copies of the Handbook are to be returned to the Town Clerk when the term is complete.

Responsibility and Action: Town Council

1. Review applications.
2. *For adult applicants* – Interview applicants individually by Commission at a public meeting with all applicants present.
For student applicants – Town Council Selection Committee interviews applicants.
3. Determine if the incumbents not in attendance and having submitted a letter pursuant to this Policy should be considered for reappointment.
4. If there are limited applications for any vacancy to a Commission, the Mayor, on behalf of the Council, may request that the Town Clerk re-advertise the vacancy, reschedule the interviews, and notify all applicants of the new interview date.

COMPLIANCE - GROUNDS FOR DISMISSAL

A member may be removed from the Advisory Body prior to the end of his or her term by a three-fifths (3/5) vote of the Town Council and may not be reappointed for the following reasons:

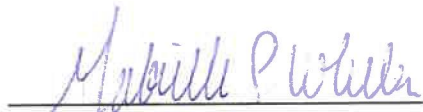
1. Failure to attend Advisory Body meetings.
2. Failure to file the following documents required by the Fair Political Practices Commission (Adult Commissioners):
 - a. Form 700 – Assuming Office, Annual, and Leaving Office when term is complete.
 - b. Planning Commissioners are also required to complete AB 1234 Ethics Training and file the original certificate with the Town Clerk every two years.
3. Failure to comply with all Town Policies, Guidelines, and Handbooks.

CONFLICT OF INTEREST

Under the Fair Political Practice Act, an advisory board member has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision.

The Fair Political Practice Act does not prohibit an advisory board member from participating in a decision simply by virtue of holding a position as a board member, director, officer, or employment with a nonprofit corporation. However, the Town strongly encourages that in the event that a decision concerns a nonprofit corporation for which an advisory board member is a board member, director, officer, or employed with that nonprofit corporation, the person should recuse him or herself and at a minimum shall disclose the potential conflict of interest before any discussion and decision.

APPROVED AS TO FORM:



Gabrielle Whelan, Town Attorney



Title: Planning Commission Policies and Procedures

Policy Number: 2-05

Effective Date: 1983

Pages: 11

Enabling Actions:

Revised Date: 5/8/1985; 11/18/1987;
9/22/93; 11/16/1998; 4/16/2001;
12/6/2010; 4/21/2015; 9/20/2016;
8/20/2019

Approved:

PURPOSE

This Policy is to inform Planning Commission Members of their roles, responsibilities, and functions, as well as operating procedures for meetings.

SCOPE

Since 1983, the Town Council has adopted Planning Commission Policies and Procedures. The Procedures address topics including the agenda format, Commissioner conduct at Planning Commission meetings, absences, evidence outside of formal hearings, findings, voting, and other issues. Periodically, the Town Council adopts revisions to the Procedures.

POLICY AND PROCEDURES

1. ORGANIZATION, OFFICERS, DUTIES

1.1 Organization.

The Planning Commission consists of seven voting members and shall be organized as prescribed by Town Code Section 29.20.750 and the Town Council. All Planning Commissioners shall be appointed by the Town Council. Commissioners serve at the pleasure of the Town Council and may be removed prior to the end of his or her term by a four-fifths vote of the Town Council.

1.2 Officers.

A Chairperson (hereinafter Chair) and Vice-Chairperson (hereinafter Vice Chair) shall be elected annually from among the Commission's membership at the first meeting in January, to serve at the pleasure of the Commission for a term of office of one year.

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The Chair shall:

- a) Preside at all meetings of the Commission.
- b) Sign documents of the Commission.
- c) Determine meeting schedule and agenda items consistence with state law noticing requirements.

During the absence, disability or disqualification of the Chair, the Vice-Chair shall perform all the duties and be subject to all the responsibilities of the Chair.

The Vice-Chair shall succeed the Chair if he or she vacates the office before his or her term is completed and shall serve the unexpired term of the vacated office. (A new Vice-Chair shall be elected at the next regular meeting.)

In the absence of the Chair and Vice-Chair, any other Commissioner shall call the Commission to order whereupon a Chair pro tem shall be elected from the Commissioners present to preside.

1.3 Duties.

The functions, powers and duties of the Planning Commission shall consist of all those functions, powers and duties of a Planning Commission as provided in Chapters 3 and 4 of Title 7, commencing with Section 65100 of the California Government Code (Planning and Zoning Law) and as the same may be hereafter amended. The Planning Commission shall perform such other duties and functions as may be designated in Town Code and by the Town Council.

1.4 Support.

The Secretary of the Planning Commission is the Community Development Director or designee. The Chair shall set the Agenda in consultation with the Secretary.

2. LEGAL AND ETHICAL STANDARDS

Planning Commissioners must serve as a model of leadership and civility to the community and treat all members of the public, each other, and the issues before them with respect to ensure open and effective government.

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To ensure the highest standards of respect and integrity during public meetings, Planning Commissioners shall:

1. Use formal titles. The Commissioners shall refer to one another formally during Commission meetings such as Chair, Vice Chair, Commissioner, or Mr., Mrs., or Ms., followed by the individual's last name.
2. Practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. This does not allow, however, Commissioners to make abusive, slanderous, and personal comments, and/or physical actions that could be construed as threatening. During public discussions, Commissioners shall be respectful of others and diverse opinions, practice objectivity, and allow for the debate of issues.
3. Honor the role of the Chair in maintaining order and equity, and respect the Chair's efforts to focus discussion on current agenda items. Objections to the Chair's actions should be voiced politely and with reason.
4. Demonstrate effective problem-solving approaches. Commissioners are role models for residents, business people, and other stakeholders involved in public debate.
5. Base decisions on the -written evidence, arguments or testimony and decisions should be made objectively and based upon the merits and substance of the matter at hand, not through established coalitions or well-defined voting blocks. Judgment of decisions should be reserved until all applicable information has been presented.
6. Be prepared and knowledgeable. To effectively lead and inform the public, Commissioners shall be prepared and informed about issues on the agenda.
7. Be respectful of other people's time. Commissioners should stay focused, listen attentively, and act efficiently during public meetings. During public testimony, Commissioners should refrain from engaging the speaker in dialogue; however, for purposes of clarification, Commissioners may ask the speaker questions. Commission comment and discussion should commence upon the conclusion of all public testimony.

3. MEETINGS, STUDY SESSIONS, AGENDAS, AND STAFF REPORTS

3.1 Quorum and Attendance at Meetings.

A quorum to conduct business shall consist of a majority of the total number of filled seats consistent with Town Council Resolution 2014-041. For example, if all seven Commissioners are seated, then a quorum consists of a minimum total of four members of the Commission. A quorum is not required for workshops.

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Requests by Commissioners to attend a Commission meeting via telephonic appearance are actively discouraged. Telephonic attendance shall only be permitted in the event of extraordinary events such as a medical, family, or similar emergency requiring a Commissioner's absence or in the event the Commissioner is out of the area on official Town business. In addition, at least a quorum of the Commission must participate from a location within the Town.

3.2 Public Meetings.

All meetings shall be held in full compliance with the provisions of state law, ordinances of the Town, and these Policies and Procedures.

3.3 Regular Meetings.

Regular meetings of the Commission shall be held on the second and fourth Wednesdays of each month in Town Council Chambers at 110 E. Main Street, Los Gatos, unless otherwise determined by the Commission. All regular meetings of the Commission will be called to order at 7:00 p.m., unless advertised otherwise, canceled, or rescheduled.

The Commission with the consent of the majority of the Commission, adjourn its meetings on or before 11:30 p.m. with any unfinished business being continued to the next regular, adjourned, or special meeting, unless the Commission votes to extend the meeting. At approximately 11:15 p.m., the Chairperson will call for review of any remaining agenda items to consider whether they will likely be completed by 11:30 p.m., or whether continuances should be considered. The Secretary of the Planning Commission, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

3.4 Special Meetings.

A special meeting may be called at any time by the Chairperson of the Commission, or by a majority of its membership on its own motion, or at the direction of the Town Council. Notice shall be sent in compliance with the Ralph M. Brown Act, Government Code section 54950, *et seq.* ("Brown Act") and the Los Gatos Town Code.

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3.5 Adjourned Meetings.

The Commission may adjourn any regular or special meeting to a time and place specified pursuant to the procedures set forth in the Brown Act.

3.6 Workshops/Study Sessions.

The Commission may hold a workshop as part of a regular or special meeting. When a matter is set for a workshop, public testimony on each item will generally be limited to three (3) minutes per person, at the discretion of the Chair. A workshop shall be for discussion only and the Commission will take no action on the workshop item.

3.7 Agendas.

At least seventy-two (72) hours before a regular meeting, copies of the Commission's agenda shall be posted in a location that is available for viewing by the public and made available on the Town website and at the Community Development Department. In accordance with the Brown Act, the Commission may not take action on any item that did not appear on the posted agenda, unless an exception is made as permitted under Government Code section 54954.2. The Chair may rearrange the order of presentation of items appearing on the agenda as he or she may deem necessary or desirable for the conduct of the meeting. No person shall be entitled to rely upon the order in which public hearing items appear on the posted agenda, and any public hearing on any agenda may commence immediately upon the time the meeting is called to order.

3.8 Staff Reports.

Staff Reports shall be made public whenever they are distributed to the Commission, except in the case of attorney/client privilege memoranda. Staff reports will usually be prepared with recommendations and shall include the basis for these recommendations and included in the hearing record on any application.

If, in reviewing a staff report, a Commissioner sees omissions, has questions, or is looking for specific information, it is advisable that the Commissioner contact the Community Development Director or designee prior to the hearing.

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3.9 Order of Meetings.

The Order of Business shall be as follows subject to the Chairperson's final approval:

1. Roll Call
2. Pledge of Allegiance
3. Written Communications
4. Requested Continuances
5. Sub-Committee Reports
6. Verbal Communications
7. Consent Calendar
8. Continued Public Hearings
9. New Public Hearings
10. Continued Other Business
11. New Other Business
12. Adjournment

3.10 Chair's Rules of Order.

After issuing a warning, the Chair may order from the meeting location any person(s) who commit the following acts with respect to a regular or special meeting of the Commission:

1. Disorderly, contemptuous or insolent behavior toward the Commission, or any member thereof, which interrupts the due and orderly course of said meeting.
2. A breach of the peace, boisterous conduct or violent disturbance which interrupts the due and orderly course of said meeting.

After a warning by the Chair, if more than one individual at a given meeting continues to engage in disruptive or unruly behavior to the extent that it is preventing Commissioners from adequately participating in the meeting, the Chair may order that the meeting location be cleared of all members of the public (with the exception of members of the press who are not participating in the disruption), and/or (c) adjournment of the meeting to another time or place so that the meeting may continue uninterrupted.

Any Commissioner may move to require the Chair at the meeting to enforce the rules, and the affirmative vote of a majority of the Commissioners present shall require him or her to so act.

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4. PRESENTATION OF AGENDA ITEMS

4.1 Minutes and Recording.

Commission meetings are recorded and the recording is permanently preserved by the Town. The recording of the meeting is used by the Secretary of the Commission to prepare minutes of the hearing which must be approved by the Commission. The minutes of the Commission's proceedings shall show the vote of each Commissioner, including if they were absent or failed to vote on a matter considered.

4.2 Order of Presentation.

The order of the presentation shall be as follows:

1. The Chair shall announce the subject of the agenda item.
2. Presentation of staff report, including any environmental analysis or recommendation.
3. Questions of staff by Commissioners.
4. Public hearing opened.
5. Presentation of the applicant(s) or appellant(s).
6. Public comment.
7. Rebuttal comments by the applicant(s) or appellant(s).
8. Public hearing closed.
9. Commission discussion and action.

4.3 Public Participation.

The Commission welcomes participation and comment on any matter within its subject matter jurisdiction. It is the Commission's intent to create and maintain an environment where people feel comfortable participating in the public process and an atmosphere of respect for all who participate in the Town's public meetings. To maintain civility and respect and to allow the Commission to complete its work in a timely manner, the Commission requests that all attendees and participants show respect for every speaker regardless of his or her viewpoint, and to refrain from conduct that may inhibit others from addressing the Commission. Disrespectful conduct, such as hissing, booing, whistling, cheering, chanting, and judgmental hand gestures, are all inappropriate. The Commission also discourages profane remarks or personal attacks or insults to any member of the Commission, staff, other attendees or speakers, or the general public. Accordingly, the Commission requests the cooperation of all in maintaining a meeting

Title: Planning Commission Policies and Procedures	Page: 8 of 12	Policy Number: 2-05
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environment where persons can feel comfortable participating in the public process and expressing their views and opinions, and an atmosphere of respect for all.

4.4 Rules of Evidence.

Hearings and meetings before the Commission need not be conducted according to formal rules of evidence. Any relevant evidence may be considered if it is the sort of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.

4.5 Written Evidence.

Written evidence that members of the public wish to submit to the Commission in advance of a Commission agenda item should be submitted by 11:00 a.m. on the Wednesday one week prior to the Commission meeting in order for such evidence to be provided to the Commission with its agenda packet in advance of the meeting. Any written evidence submitted after this day and time but prior to 11:00 a.m. on the day of the hearing will be distributed to the Commission in an Addendum or Desk Item.

Written or pictorial evidence distributed to the Commission at the meeting may not be effective, as the Commission may not have enough time to absorb its content. Although late correspondence is highly discouraged for this reason, any participant may submit written and pictorial evidence to the Commission during the public hearing on an item.

4.6 Oral Evidence, Time Limits, and Number of Speakers.

A speaker's card to speak on an item should be submitted to the Secretary of the Commission or designee.

The Chair's instructions to the audience will generally follow these guidelines:

1. Any person desiring to speak must first be recognized by the Chair.
2. All participants must speak from the podium.
3. All speakers are requested to first state their full name and full address, and to speak into the microphone as all meetings are recorded. To ensure correct spelling of names and addresses, all speakers are encouraged to submit a speaker's card to the Secretary of the Commission or designee.

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4. All comments shall be directed to the Commission as a body, and not to any particular Commissioner, staff person or audience. No person, other than Commissioners, staff, and the person having the floor shall be permitted to enter into the discussion. Commissioners shall only ask questions of the speakers through the Chair. Each applicant and appellant shall be limited to a five (5) minute presentation at the start of the public hearing and a three (3) minute rebuttal after all other speakers have been heard. All members of the applicant's or appellant's team shall be heard as a group within these time limits. Questions by the members of the Commission do not count against the time. Members of the public who wish to speak on any items will be limited to up to 3 minutes each. No person shall be allowed to speak a second time per item. In order to assure the opportunity for all those desiring to speak before the Commission, there is no yielding of time to another speaker. The Chair, at his or her discretion, may allocate more or less time for speakers due to the complexity of the issues and/or due to a large number of speakers on a particular item. Except for the applicant or appellant, all speakers shall be limited to the same amount of time to speak.

4.7 Evidence Received Outside a Hearing.

Applications before the Planning Commission involve quasi-judicial matters, legislative matters and matters that have attributes of each. On quasi-judicial matters California law requires decisions to be based on findings, and findings to be based on evidence presented at the hearing. Accordingly, the actual decision of the Commission on a quasi-judicial matter must be supported by evidence presented at the hearing, i.e. the staff report, testimony given during the hearing and comments from other Commissioners. A Commissioner may not state or predetermine his or her decisions on an application prior to the hearing.

In order to avoid the appearance of bias or impropriety, individual Commissioners are prohibited from discussing, outside of the public hearing process, the substance of any project with project proponents, opponents and member of the public. This prohibition shall apply to all projects, whether conceptual or proposed, that can be considered by the Commission in reviewing an application, on appeal or on remand. Study sessions may be used as a means of facilitating informal communication. Individual Commissioners who have engaged in prohibited discussions shall recuse themselves from consideration of the project.

Incidental contacts that do not address the substance of any project are not prohibited. Incidental contacts are those that are not reasonably understood to influence a Commissioner's decision and include speaking with an interested party to obtain approval to enter a property and to

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obtain information intended to orient the Commissioner about the physical aspects of the property or a project.

5. MOTIONS

Action upon an order, resolution, ordinance, or any other action of the Commission may be proposed by any Commissioner by a motion. Before a motion can be considered or debated it must be seconded, at which time it shall be on the floor and must be considered. If not seconded, the motion dies for lack of a second and shall be so declared by the Chair. Substitute motions and other parliamentary procedures shall follow Robert's Rules of Order.

Pursuant to Planning Commission Resolution No. 78-4, adopted May 10, 1978, the Planning Commission will not accept requests for continuances from applicants after 12:00 noon of the Friday preceding any Commission meeting, provided, however, that the Commission retains the right to make exceptions when it finds that a genuine emergency exists which was not known to the applicant.

A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified be deemed to include adoption of all proposed findings and execution of all actions recommended in both the written staff report on file on the matter, any verbal staff report, and other evidence presented during the hearing.

6. VOTING AND ABSENTEES

Voting of not less than three (3) votes shall be required to carry a motion, unless a larger number of votes is required by applicable ordinance or other law.

If a Commissioner is not eligible to participate in the consideration of an item due to a conflict of interest, the Commissioner shall be disqualified and shall recuse him or herself from the voting, in which case the Commissioner cannot be included in the quorum. Prior to consideration of the matter, the conflicted Commissioner shall recuse on the record, stating the basis for the recusal, and shall then leave the room, unless legally entitled to remain under applicable law.

If a majority of the Commission shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, the Commission shall select by lot, or other means of random

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selection, that number of disqualified Commissioners which, when added to the Commissioners eligible to vote, shall constitute a quorum.

A Commissioner who expects to be absent should notify the Chair and the Community Development Department prior to the meeting.

Pursuant to Resolution 2011-012, any Commissioner who is absent from eight (8) regular meetings held in a twelve (12) consecutive month period, shall, as a result, surrender his or her office on the Planning Commission and the office shall be considered vacant.

A Commissioner who is absent from any portion of a hearing conducted by the Commission may vote on the matter at the time it is acted upon, provided that he or she viewed the video recording of the entire portion of the hearing from which he or she was absent, and he or she has examined all of the staff reports and minutes presented during the portion of the hearing from which he or she was absent; and he or she states for the record before voting that the Commissioner deems himself or herself to be as familiar with the record and with the evidence presented at the hearing as he or she would have been had he or she personally attended the entire hearing.

7. LEGAL REQUIREMENTS

The Planning Commission operates under a series of laws that regulate its operations as well as the conduct of its members. The Town Attorney serves as the Town's legal officer and is available to advise the Commission on these matters.

The Ralph M. Brown Act requires that meetings of the Planning Commission be open and public. "Meetings" occur whenever four (4) or more members of the Commission hear, discuss, or deliberate on any matter that is relevant to the Town. This includes discussions that occur face to face, serially, through third parties, or through written, telephonic, or e-mail communications.

The Political Reform Act controls conflicts of interests through disclosure of financial interests and prohibition in participating in decision making. Commissioners are prohibited from making, participating in or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. Financial interests can arise out of property ownership, business investment, leadership in a business entity, and receipt of money or gifts.

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8. CONSTRUCTION AND EFFECT

These Policies and Procedures shall be construed and applied so as to ensure a full and fair hearing of relevant evidence which is offered on a land use matter and to facilitate an orderly analysis of evidence and issues by the Commission. Failure to comply with the strict provisions of these Policies and Procedures shall not necessarily invalidate any action taken by the Commission.

9. RULES OF ORDER.

Except as otherwise provided in these Policies and Procedures, Roberts Rules of Order shall be used as a guide for the conduct of the meetings of the Planning Commission. No omission to conform to said rules of order shall in any instance be deemed to invalidate any action taken by the Commission.

10. AMENDMENT.

These Policies and Procedures may only be amended by the Town Council.

APPROVED AS TO FORM:



 Robert Schultz, Town Attorney



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE AGENDA
MARCH 28, 2023
110 EAST MAIN STREET
TOWN COUNCIL CHAMBERS
5:00 PM**

*Rob Moore, Chair
Matthew Hudes, Vice Chair*

This meeting will be held in-person at the Town Council Chambers at 110 E. Main Street. Members of the public may only provide public comments for the agenda item in-person.

PARTICIPATION IN THE PUBLIC PROCESS

The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you are interested in providing oral comments during the meeting, you must attend in-person and complete a “speaker’s card” located on the back of the chamber benches and return it to the staff. If you wish to speak to an item on the agenda, please list the item number. The time allocated to speakers may change to better facilitate the Board meeting. You are welcome to submit written comments via email to Clerk@LosGatosCA.Gov.

Public Comment During the Meeting:

- When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Town meeting.
- Speakers at public meetings will be asked to provide their full name and to state whether they are a resident of the Town of Los Gatos. This information is optional and not required.

Deadlines for Public Comment and Presentations are as follows:

- If you are unable to participate in person, you may email Clerk@LosGatosCA.Gov with the subject line “Public Comment Item #_” (insert the item number relevant to your comment). Persons wishing to submit written comments to be included in the materials provided to Board must provide the comments as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Friday before the Committee meeting
 - For inclusion in an Addendum: by 11:00 a.m. the Monday or Tuesday before the Committee meeting
 - For inclusion in a Desk Item: by 11:00 a.m. on the day of the Committee meeting
- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email to Clerk@LosGatosCA.Gov to the by 3:00 p.m. the day of the meeting.

MEETING CALL TO ORDER

ROLL CALL

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 Committee without first being recognized;
- Interrupting speakers, Committee Members, 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.

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 Chair 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 Chair has the sole discretion to determine when the item will be heard.)*

1. Approve Minutes of the February 28, 2023 Council Policy Committee Meeting.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Committee 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 Chair, 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.)*

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

2. Discuss Proposed Changes to Council Code of Conduct Policy, and Commission Appointments, Residency and Attendance Requirements and Establishing a Quorum Policy.
3. Recommend Legislative Priorities to the Town Council.

ADJOURNMENT



**TOWN OF LOS GATOS
TOWN COUNCIL
POLICY COMMITTEE**

MEETING DATE: 03/28/2023

ITEM NO: 1

**DRAFT
Minutes of the Town Council Policy Committee Meeting
February 28, 2023**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting utilizing teleconference and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.) and Town of Los Gatos Resolution 2021-044 on Tuesday, February 28, 2023, at 5:00 p.m.

MEETING CALLED TO ORDER AT 5:01 P.M.

ROLL CALL

Members Present: Rob Moore, Matthew Hudes

Staff Present: Laurel Prevetti, Town Manager; Gabrielle Whelan, Town Attorney; Wendy Wood, Town Clerk; Joel Paulson, Community Development Department Director; Holly Young, Senior Management Analyst.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approve Draft Minutes of the January 23, 2023 Council Policy Committee.

Approved.

VERBAL COMMUNICATIONS

Abc123 commented that the meeting was not on the calendar system on the Town website.

Lee Quintana commented that the meeting is on the Town's agenda calendar, but not on the monthly calendar.

OTHER BUSINESS

2. Confirm 2023 Work Plan Items for the Council Policy Committee.

Laurel Prevetti, Town Manager, presented the staff report.

Opened public comment.

Lee Quintana commented that the second to last item of reexamining the Policy Committee's enabling resolution should be moved up in importance because it has to do with the role of the Committee itself.

Closed Public Comment.

After discussion, the Committee agreed to adopt the items as listed in loose priority order with staff using discretion to group items together and the following adjustments:

- Move the two items regarding labor negotiations recommended by the Finance Commission (items 4 and 5) down the list to just above the last item;
- Move the item regarding reexamining the Policy Committee's enabling resolution up the list to the #5 position;
- Delete the commercial rent control item; and
- Add a review of Senate Bill 1439 to the review of Ethics and Conflict of Interest Policies item.

3. Discuss and Provide Direction to Potentially Modify Town Council Policy 2-04: Town Council Code of Conduct, Town Council Policy 2-05: Planning Commission Policies and Procedures, Town Council Policy 2-11: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum, and the Commissioner Handbook.

Laurel Prevetti, Town Manager, and Gabrielle Whelan, Town Attorney, presented the staff report.

Opened public comment.

Karen Delaney commented that in 2018, she asked the Committee to revise the Code of Conduct, requested that a third party be brought in to investigate violations, and said that the policy should meet or exceed best practices.

Lee Quintana commented that the Code of Conduct policy should be clarified with definitions of minor and major infractions, minor infractions should be handled privately, there should be appropriate actions for varying degrees of major infractions, a third party should investigate major infractions, and the subject of a violation should be treated as an appellant.

Susan Burnett commented that errors in judgment should be defined and that many minor errors should be considered a major error. She commented that errors should be documented as to how they should be handled and that censures should be specified as written or verbal.

Closed Public Comment.

After discussion, the Committee asked staff to return to the Committee with a revised Code of Conduct Policy that includes: a fair process for discipline of varying degrees, specific definitions/examples, clear enforcement direction, a process for the subject of a violation to be able to present facts to the Council, clarification regarding speaking on behalf of a Commission versus as an individual, use of a third party to review major violations, and other adjustments. The Committee asked that staff consolidate disciplinary items to the Code of Conduct and remove similar guidance from the other policies.

ADJOURNMENT

The meeting adjourned at 6:32 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the February 28, 2023 meeting as approved by the Town Council Policy Committee.

Holly Young, Senior Management Analyst



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 03/28/2023

ITEM NO: 2

DATE: March 22, 2023
TO: Council Policy Committee
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Discuss Proposed Changes to Council Code of Conduct Policy, and
Commission Appointments, Residency and Attendance Requirements and
Establishing a Quorum Policy

RECOMMENDATION:

Discuss proposed changes to Town Council Policy 2-04, the "Code of Conduct" as well as potential changes to Town Council Policy 2-11, "Commission Appointments, Residency, and Attendance Requirements and Establishing a Quorum" and provide direction to staff.

BACKGROUND:

At its February meeting, the Policy Committee discussed potential modifications to Town Council Policy 2-04, "Code of Conduct." The Committee preferred that all guidance pertaining to discipline of Commissioners be contained in a single policy.

DISCUSSION:

The Policy Committee's discussion focused on Town Council Policy 2-04, "Code of Conduct." Specifically, the Policy Committee discussed:

- 1) Clarifying that the Code of Conduct applies to members of Town Boards, Commissions, and Committees in addition to Town Councilmembers;
 - 2) Potentially changing the current composition of the Evaluation Committee to consist primarily of elected officials;
 - 3) Providing examples of what will constitute major and minor violations of the Code of Conduct;
 - 4) In the event that a public hearing is held regarding recommended discipline, providing the subject of the complaint with ten minutes to make an introductory statement and five minutes at the end of the public hearing to make an additional statement.
 - 5) Specifying that censure consists of a written statement.
-

Reviewed by: Town Manager

DISCUSSION (continued):

Staff has the following additional questions for the Policy Committee's consideration:

- 1) Several sections of the existing policy are unrelated to "conduct." These are sections pertaining to: the Mayoral and Vice Mayoral Selection Process and Mayoral and Vice Mayoral Roles, Responsibilities, and Relationships. Does the Policy Committee recommend that these topics move to separate policies?
- 2) The Section titled "Maintaining Civility at Council Meetings" duplicates language in the Council's "Agenda Format and Rules Policy." Does the Policy Committee recommend removing this Section from the "Code of Conduct Policy?"
- 3) A subsection regarding "Training" lists the type of training that will be provided. Should this section be revised to state that members of legislative bodies are required to attend training that is provided in the listed subject areas?
- 4) The Code of Conduct Policy currently provides that investigations will be conducted by contract attorneys. Does the Policy Committee recommend using contract attorneys or non-lawyer investigators or either?
- 5) Town Council Policy 2-11, "Commission Appointments, Residency, and Attendance Requirements and Establishing a Quorum" currently provides that Commissioners may be removed by a majority vote of the Town Council for violations of the Code of Conduct. Other jurisdictions have policies providing that Commissioners may be removed by a majority vote of the Town Council for any or no reason. Does the Policy Committee recommend revising Policy 2-11 to provide that Commissioners may be removed by majority vote of the Town Council for any or no reason? Alternatively, this Policy could be modified to refer matters of discipline and removal to the Code of Conduct Policy.

CONCLUSION:

Based on the Policy Committee's feedback, staff will make additional proposed edits to the Code of Conduct Policy and conforming edits to any other affected Policies and the Commissioner Handbook and either return to the Policy Committee or schedule the revisions for consideration by the Town Council.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

FISCAL IMPACT:

Potential modifications to Council Policies and the Commissioner Handbook have no fiscal impact.

PAGE 3 OF 3

SUBJECT: Proposed Changes to Council Code of Conduct Policy and Related Policies

DATE: March 22, 2023

ENVIRONMENTAL ASSESSMENT:

This is not a project as defined in the California Environmental Quality Act, and no further action is required.

Attachment:

1. Redline of Council Code of Conduct Policy



TITLE: ~~Town Council~~ Code of Conduct for Town Council and Board, Commission, and Committee Members

POLICY NUMBER: 2-04

EFFECTIVE DATE: 5/3/2004

PAGES: 8

ENABLING ACTIONS: 2004-059; 2006-111; 2021-047

REVISED DATES: 12/17/2012; 3/3/2015; 12/17/2019; 11/2/2021, [2023]

APPROVED:

I. Preamble

The legal responsibilities of the Los Gatos Town Council, -as well as Town Board, Commission, and Committee members, are set forth by applicable state and federal laws. In addition, the Town Council has adopted regulations, including this Code of Conduct Policy, that hold Council ~~m~~Members and Board, Commission, and Committee members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council ~~m~~Members, through training, are aware of their legal and ethical responsibilities as elected officials. This Code of cese expectations of conduct also applies to all members of the Town's Boards, Commisssiontees, and Committeessions.

II. Form of Government

The Town of Los Gatos operates under a Council-Manager form of government as prescribed by Town Code, Section 2.30.305. Accordingly, members of the Council are elected at-large, provide legislative direction, set Town policy, and ultimately answer to the public. The Town Manager serves as the Town's chief administrative officer and is responsible for directing the day-to-day operations of the Town and implementing policy direction. **The Town's Boards, Commissions, and Committees are advisory to the Town Council with additional responsibilities given to the Planning Commission in the Town Code.**

III. Town Council Roles and Responsibilities

The role of the Town Council is to act as a legislative and quasi-judicial body. Through its legislative and policy authority, the Council is responsible for assessing and achieving the community's desire for its present and future and for establishing policy direction to achieve its desired outcomes. All members of the Town Council, including those who serve as Mayor and Vice Mayor, have equal votes.

Members of the Town Council fulfill their role and responsibilities through the relationships they have with each other and the public. Town Council Members should approach their work,

each other, and the public in a manner that reflects ethical behavior, honesty and integrity. The commitment of Town Council Members to their work is characterized by open constructive communication, innovation, and creative problem solving.

IV. Mayoral and Vice Mayoral Selection Process

Per Town Municipal Code, Section 2.20.035, the selection of the Mayor and Vice Mayor occurs annually at a special meeting in December by majority vote of the Town Council. The Mayor and Vice Mayor serve at the pleasure of the Town Council and may be replaced by a majority vote of the Council. [FOR CONSIDERATION: Would this section fit better in a separate operational policy?]

V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships [FOR

CONSIDERATION: Would this section fit better in a separate operational policy?]

The following outlines some of the key roles, responsibilities, and relationships as they relate to the positions of Mayor and Vice Mayor:

Mayor

- A. The Mayor is the presiding officer of the Town Council. In this capacity, the Mayor is responsible for developing Council agendas in cooperation with the Town Manager and leading Council meetings.
- B. The Mayor recommends various standing committee appointments to the Council for approval.¹ This will be done at a Council meeting in December of each year. When making committee recommendations, the Mayor should attempt to balance shared responsibilities and opportunities among Council Members. The Mayor may also appoint citizens to committees not established by Town ordinance or resolution as s/he deems appropriate.
- C. The title of Mayor carries with it the responsibility of communicating with the Town Council, Town Manager, and members of the public. In this capacity, the Mayor serves as the Town “spokesperson” representing the Council in official and ceremonial occasions.
- D. As the official Town spokesperson, the Mayor performs special duties consistent with the Mayoral office, including, but not limited to: signing of documents on behalf of the Town, issuing proclamations, serving as the official voting delegate for various municipal advocacy groups, and delivering the State of the Town Address at his or her discretion.² The Town Council will determine any additional authority or duties that the Mayor shall perform.
- E. Special duties consistent with the Mayoral office may be delegated to the Vice Mayor or any other member of the Town Council.

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation Policy

- F. In the event that one or more members of a Town Board, Commission, or Committee acts in a manner contrary to approved Board/Commission/~~Committee~~ policies and procedures, the Mayor may counsel those members ~~about the rules set forth in the Town Commissioner Handbook.~~³

Vice Mayor

- A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.⁴
- B. When the Vice Mayor performs the duties of the Mayor in his/her absence, the Vice Mayor also carries the responsibility of communicating with the Town Manager, Town Council, and members of the public.

VI. Council Conduct in Public Meetings

To ensure the highest standards of respect and integrity during public meetings, Councilm
~~Members~~ and Board, Commission, and Committee members should:

- A. *Use formal titles.* ~~Members~~The Council should refer to one another formally during public Council meetings such as Mayor, Vice Mayor or Council Member, Chairperson, or Mr., Mrs., or Ms., followed by the individual's last name.
- B. *Practice civility and decorum in discussions and debate.* Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. During public discussions, ~~members~~Council Members should be respectful of others and diverse opinions and allow for the debate of issues.
- C. *Honor the role of the presiding officer in maintaining order and equity.* Respect the Mayor/Chair's efforts to focus discussion on current agenda items.
- D. ~~DCouncil decisions~~ *should be reserved until all applicable information has been presented.*
- E. *Conduct during public hearings.* During public testimony, ~~mCouncil Members~~ should refrain from engaging the speaker in dialogue. Speakers at public meetings will be asked to provide their full name and to state whether they are a resident of the Town of Los Gatos. This information is optional but not required. For purposes of clarification, ~~mCouncil Members~~ may ask the speaker questions. Member Council comment and discussion should commence upon the conclusion of all public testimony

VII. Maintaining Civility at Public Council Meetings [FOR CONSIDERATION: This language appears in the Council's "Agenda Format and Rules Policy" – should it remain in this Policy?]

³ Resolution 1999-167

⁴ Council Agenda Format and Rules Policy

The public is welcome to participate at public-Town Council meetings and the Mayor/Chairperson should remind the public of the Town's expectations for civility in order for the business of the Town to be completed efficiently and effectively. These expectations include and are not limited to:

- A. For the benefit of the entire community, the Town of Los Gatos asks that all speakers follow the Town's meeting guidelines by treating everyone with respect and dignity. This is done by following meeting guidelines set forth in State law, in the Town Code, and on the cover sheet of the Council agenda.
- B. The Town embraces diversity and strongly condemns hate speech and offensive, hateful language or racial intolerance of any kind at Council Meetings.
- C. Town Council/**Commission members** and staff are well aware of the public's right to disagree with their professional opinion on various Town issues. However, anti-social behavior, slander, hatred, and bigotry statements are completely unacceptable and will not be tolerated in any way, shape or form at ~~Town Council~~ **public** meetings.
- D. All public comments at the Town Council/**Commission** meeting must pertain to items within the subject matter jurisdiction of the Town and shall not contain slanderous statements, hatred, and bigotry against non-public officials.
- E. The Town will go through the following steps if a disturbance results from a member of the public not following these rules:
 1. If participating remotely, Town staff may mute the individual with an explanation for the record of why muting occurred consistent with this Policy.
 2. If participating in-person, the Mayor may call a recess for violation of this Policy, resulting in the immediate cessation of the audio and video recording and the Council/**Commission** exiting the Chamber. Staff will determine if the individual should be removed or if all members of the public should leave depending on the extent of the disturbance. In the event that all public members exit, only the press would be allowed back in the meeting. Once the individual(s) leave, the Council/**Commission** would return to the Chamber and the Mayor would resume the meeting.
 3. Persons disrupting a Council meeting may be cited for violation of the California Penal Code Section 403.

VIII. Legal Requirements

The Town Council and Boards, Commissions, and Committees operates under a series of laws that regulate ~~its-their~~ operations as well as the conduct of ~~theirits~~ members. Councilmembers and Board, Commission, and Committee members shall adhere to these regulations. The Town Attorney serves as the Town's legal officer and is available to advise the Council, Boards, Commissions, and Committees on these matters.

- A. Training [this seems like it belongs in a different policy]
Biannual training in the following areas shall be provided ~~by staff~~ to Council and Board, Commission, and Committee Members:

1. The Ralph M. Brown Act
2. Town / CA State Law on Conflict of Interest (AB 1234)
3. Government Section 1090
4. Incompatible Offices
5. The Fair Political Practices Commission Forms
6. Bias
7. Town / CA State Law on Harassment (SB 1343)

B. Procurement

Unless authorized by the Town Council, ~~Council Members and Board, Commission, and Committee members~~ shall not become involved in administrative processes for acquiring goods and services.

C. Land Use Applications

The merits of an application shall only be evaluated on information included in the public record. ~~Council Members and Board, Commission, and Committee members~~ shall disclose ex parte communication and any information obtained outside of the public record that may influence ~~their~~ his/her decision on a matter pending before the Town Council or Board, Commission, or Committee. ~~Council disclosure shall occur prior to consideration of the agenda item, after the Public Hearing section of the agenda, and before Council deliberations.~~

D. Code of Conduct Policy

Newly elected ~~Council members and Board, Commission, and Committee members~~ ~~shall are strongly encouraged to~~ sign a statement affirming they have read and understand the Town of Los Gatos Council Code of Conduct Policy.

E. Non-Profit Organizations

~~Council Members and Board, Commission, and Committee members~~ may not sit on boards of directors of non-profit organizations which receive funding or in-kind contributions from the Town, unless the role serves a legitimate Town purpose, such as the League of California Cities, and the participation is approved by the full Council.

IX. Council Participation in Boards, Commissions and Committees, and Reporting Requirements

There are several committees that Town Council Members have been appointed to or have an interest in, including but not limited to: Town Council standing and ad hoc committees, Town boards and commissions, regional boards and commissions, and community-generated committees.

Primary Council representatives should update the Council about board, commission, and committee activities. When serving as the primary Council representative on any board,

commission, or committee, Councilmembers should periodically provide updated reports to the Council during the "Council Matters" opportunity on the Council meeting agenda.

Recommended actions by Council Committees should be reported to the Council. When serving on a Council Committee, whether standing or ad hoc, all work undertaken by the Committee must be directed by the Council, and all recommended actions of a Council Committee shall be reported to the Council.

X. Council and Board, Commission, and Committee Relationships with Town Staff

The Town Council has adopted a Council-Manager form of government. The Town Manager's powers and duties are outlined in the Town Code, Section 2.30.295.

Council Conduct and Communication with Town Staff

To enhance its working relationship with staff, Councilmembers and Board, Commission, and Committee members should be mindful of the support and resources needed to accomplish Town Council goals. When communicating and working with staff, members ~~Council~~ should follow these guidelines:

- A. ~~T~~Council Members ~~should treat staff as professionals.~~ Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. As with Council colleagues, practice civility and decorum in all interactions with Town staff.
- B. ~~D~~Council Members ~~should direct questions about policy, budget, or professional opinion to the Town Manager, Town Attorney or Department Directors.~~ ~~Council~~ Members can direct questions and inquiries to any staff for information that is readily available to the general public or easily retrievable by staff.
- C. *The Town Manager and staff are responsible for implementing Town policy and/or Council action.* The processing of Council policy and decisions takes place with the Town Manager and staff. Council should not direct policy/program administrative functions and implementation; rather it should provide policy guidance to the Town Manager.
- D. ~~Council~~ Members *should attempt to communicate questions, corrections, and/or clarifications about reports requiring official action to staff prior to Council meetings.* Early feedback will enable staff to address ~~Council~~ questions and incorporate minor corrections or changes to a ~~Council~~ report, resulting in a more efficient ~~Council~~ meeting discussion; however, this does not preclude m~~Council~~ Members from asking questions at public m~~Council Meetings~~.
- E. ~~Councilm~~ Members *should not direct the Town Manager to initiate any action, change a course of action, or prepare any report without the approval of Council.* The Town Manager's responsibility is to advise on resources available and required for a particular course of action as it relates to the direction of the majority of the Council.
- F. ~~Councilm~~ Members *should not attend department staff meetings unless requested by the Town Manager.*

- G. All Council ~~m-M~~embers should have the same information with which to make decisions. Information requested by one Council ~~m-M~~ember will be shared with all members of the Council.
- H. Concerns related to the behavior or work of a Town employee should be directed to the Town Manager. Council ~~m-M~~embers should not reprimand employees.
- I. Per California Government Code, Sections 3201-3209, Council ~~me-M~~embers should not solicit financial contributions from Town staff or use promises or threats regarding future employment. Although Town staff may, as private citizens with constitutional rights, support political candidates, such activities cannot take place during work hours, at the workplace, or in uniform.

XI. ~~Council~~ Communication with the Public and other Council, Board, Commission, or Committee Members

The ~~p~~Public has a reasonable expectation that it may engage ~~its~~ Council ~~m-M~~embers and Board, Commission, and Committee members on matters of community concern. In response, ~~m~~Council ~~M~~embers may express a preliminary opinion on issues or projects raised. Any such preliminary statement shall not constitute a prejudgment or create a presumption of bias on any issue or a project. In addition, ~~m~~Council ~~M~~embers may from time to time express opinions regarding broad policy matters which may be in conflict with currently adopted Council policies. Such statements are permissible if clearly characterized as personal opinion or policy change objectives.

XII. Enforcement

A. Purpose

This ~~e Council~~ Code of Conduct Policy establishes ~~guiding principles~~ **expectations for** appropriate conduct and behavior and sets forth the expectations of Council ~~m~~embers and Committee, Commission, and Board members. The purpose of this ~~Section~~ **policy language** is to establish a process and procedure that:

- 1. Allows the public, Town Council, **Town Committee/Commission/Board members**, and Town employees to report Code of Conduct policy violations or other misconduct.
- 2. Set standards for the evaluation of ~~Provides guidelines to evaluate~~ Code of Conduct policy violations or other misconduct and ~~implement~~ appropriate disciplinary ~~action~~ when necessary.

B. Procedures

- 1. Reporting of Complaints

The following section outlines the process for reporting Councilm-Member or Committee, Commission and Board member Code of Conduct Policy violations or other misconduct:

- a. Complaints made by members of the public, the Town Manager, and Town Attorney should be reported to the Mayor. If a complaint involves the Mayor, it should be reported to the Vice Mayor.
- b. Complaints made by Councilm-Members should be reported to the Town Manager or Town Attorney to adhere to Brown Act requirements.
- c. Complaints made by Town employees should be reported to the Town Manager, who will direct them to the Mayor or Vice Mayor.

2. Evaluation of Complaints Alleging Violations

Upon the Town's receipt report of a written complaint, the Town Manager and Town Attorney will join the Mayor and/or Vice Mayor as an evaluation committee to ("Committee") [OPTION: The Committee could consist of Mayor, Vice Mayor, and Town Manager with technical support from the Town Attorney – or another variation] to determine the validity of the complaint and, if appropriate, an initial course of action as discussed below. If the Town Manager or Town Attorney is the complainant, the longest serving uninvolved Councilm-Member will replace the Town Manager or Town Attorney on the Cevaluation committee [FOR CONSIDERATION: This would be revised if the recommendation is to change the composition of the Evaluation Committee]. If the Mayor or Vice Mayor is the complainant, the longest serving uninvolved Councilmember will replace the Mayor or Vice Mayor on the Committee.

Within seventy-two (72) hours five days of receipt of the complaint by the Mayor or Vice Mayor, the Councilm-Member or Board, Committee, or Commission member in question shall be notified of the reported complaint by the Mayor or theirhis/her designee. The notification shall include a copy of the written complaint and supporting documentation, if any, the identity of the complainant and nature of the complaint.

3. Allegations of Major Violations

If the reported violation is major, the matter shall be referred to outside legal counsel [this could also be an investigator] selected by the Committee for the purpose of conducting an initial interview with the subject member. The outside counsel shall report their initial findings back to the Committee. Examples of major violations are:

- a. Breach of attorney-client privilege confidentiality;
- b. Violation of Council policies, including but not limited to, instances of harassment;
- c. Use of Town resources for other than Town business;
- d. Violation of local, state, or federal laws, including conflict of interest laws;
- e. Abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the Town Council, Boards, Commissions, Committees, staff, or the public.

f. Repeated minor violations.

If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel [FOR CONSIDERATION: This could be a non-lawyer investigator] to conduct an investigation. The investigation process would include, but is not limited to, the ascertainment of facts relevant to the complaint through interviews and the examination of any documented materials.

3.4. Unsubstantiated or Minor Violations

If the majority of the Committee agrees that the reported violation is without substance, no further action will be taken and the complainant will be informed. If the reported violation is deemed valid but minor ~~in nature~~, the Mayor or Vice Mayor shall counsel and, if appropriate, either verbally admonish the Council ~~m~~ Member or Board, Commission, or Committee member privately or send a written reprimand to resolve the matter. Admonishment is ~~considered to be~~ a reproof or warning directed to a ~~m~~ Council Member about a particular type of behavior that violates Town policy. Minor violations are any violations other than major violations as described above.

4. Allegations of Major Violations

~~If the reported violation is considered to be serious in nature, the matter shall be referred to outside legal counsel selected by the Committee for the purpose of conducting an initial interview with the subject Council Member. The outside counsel shall report his/her initial findings back to the Committee.~~

~~If the Committee then determines that an investigation is warranted, the Committee shall direct the outside legal counsel to conduct an investigation. The investigation process would include, but is not limited to, the ascertainment of facts relevant to the complaint through interviews and the examination of any documented materials.~~

5. Report of Findings Regarding Major Violation

At the conclusion of the investigation, outside legal counsel [FOR CONSIDERATION: This could be an investigator who is not an attorney] shall report back to the Committee in writing. The report shall either (1) recommend that the ~~m~~ Council Member be exonerated based on a finding that the investigation did not reveal evidence of a ~~major~~ serious violation of the Code of Conduct, or (2) recommend disciplinary proceedings based on findings that there has been a major violation as described above in Section B.3 ~~have been violated~~. In the latter event, the report shall specify the provisions violated along with the facts and evidence supporting each finding.

The Committee shall review the report and its recommendations. If the consensus of the Committee is to accept the report and recommendations, the Committee shall implement the recommendations. Where the recommendation is exoneration, no further action shall be taken.

Where the recommendation is for discipline~~to initiate disciplinary proceedings~~, the matter shall be referred to the Council. Where there is no consensus of the Committee regarding the recommendations, the matter shall be referred to the Council.

The subject Council Member shall be notified in writing of the Committee's decision within 72 hours. Where the decision is to refer the matter to the Council, a copy of the full report, including documents relied on by the investigator shall be provided with the notification, and a copy of both shall be provided to the whole Council.

6. Proceedings

Investigative findings and recommended proceedings and disciplinary action that are brought forward to Council as a result of a major significant policy violation shall be considered at a public hearing **either at a regular or special meeting**. The public hearing should be set far enough in advance to allow the subject ~~Council Member in question~~ reasonably sufficient time to prepare a response.

Investigative findings shall be presented to the Town Council at a public hearing. The rules of evidence do not apply to the public hearing. It shall not be conducted as an adversarial proceeding. However, at the subject's option, the subject can present an introductory statement of up to ten minutes and an additional statement of up to five minutes at the end of the public hearing.

C. Disciplinary Action

1. Considerations in Determining Disciplinary Action

Disciplinary action may be imposed by Council for major violations ~~upon Council Members who have violated the Council Code of Conduct Policy~~ **as described in Section B.3. above.**

Disciplinary action ~~is or sanctions are~~ considered when a major serious violation of Town policy has occurred ~~by a Council Member~~. In determining the type of discipline to be sanction imposed, the following factors may be considered:

- a. Nature of the violation
- b. Prior violations by the same individual
- c. Other factors which bear upon the seriousness of the violation

2. Types of Discipline~~Sanctions~~

At the discretion of the Council, disciplinesanctions may be imposed for violating the Code of Conduct, **other Town policies**, or engaging in other misconduct **as described in Section B. 3 above**. These actions may be applied individually or in combination. They include, but are not limited to:

- a. *Public Admonishment* – A verbal reproof or warning directed to a ~~m~~Council Member about a particular ~~violation~~type of behavior that violates Town policy.
- b. *Revocation of Special Privileges* – A revocation of a member's ~~Council Member's Council Committee~~ assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.
- c. *Censure* – A written~~formal~~ statement ~~or in a~~ resolution by the Council officially reprimanding a Council Member.
- d. *Removal* – A Commission, Board, or Committee member could be removed by a majority of the Town Council.

APPROVED AS TO FORM:

Gabrielle Whelan, Town Attorney



TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT

MEETING DATE: 03/28/2023

ITEM NO: 3

DATE: March 23, 2023
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Recommend Legislative Priorities to the Town Council

RECOMMENDATION:

Recommend legislative priorities to the Town Council.

BACKGROUND:

In 2016, the Town Council adopted Council Policy #2-18: Legislative Policy (Attachment 1). This Policy sets forth the procedures for engagement in the legislative process and the types of issues that are appropriate for the Town to state a position.

Last year, the Policy Committee requested that staff prepare a list of potential legislative priorities for the Committee to discuss and forward to the Town Council. Due to other workload, this item was not completed in 2022 and carried over to the 2023 Policy Committee work plan. These priorities are intended to be helpful to Town Council members as they engage in discussions with State legislators and as the Town considers which bills it chooses to endorse, oppose, or recommend amendments.

DISCUSSION:

Consistent with the Legislative Policy, the following draft legislative priorities align with proposals that clearly impact our Town and funding resources:

- **Concealed Weapons:** In light of the recent Supreme Court ruling, the Town should advocate for legislation that clarifies the concealed carry weapons process and protects sensitive places from the presence of concealed weapons. Senate Bill (SB) 2 is an example of a such a bill. The Town is currently working to update its concealed carry weapons ordinance and a draft sensitive places ordinance.

Reviewed by: Town Attorney and Finance Director

DISCUSSION (continued):

- Clarifications regarding SB 9: The Town may want to advocate for legislation that clarifies SB lot splits and developments in Very High Fire Hazard Severity Zones, affordability requirements, and the attestation of intent to occupy.
- Reform of Proposition 47 and 57: Several bills are expected to address the unintended consequences of these ballot measures. For example, AB 1708 would increase accountability for repeat theft offenders and offer pathways for pre-plea diversion programming.
- Protect Vehicle License Fee (VLF) and Educational Revenue Augmentation Fund (ERAF): As the State considers how it will address expected budget shortfalls, it is critical that the State not take funding from local government. In the past, these two funding sources have been redirected to the State for its own budgeting purposes.
- Internet Sales Tax: With the exception of our Measure G district sales tax, internet sales tax goes into a pool and is distributed based on a jurisdiction's share of the overall sales tax collected in the respective County. In contrast, the Measure G district sales tax is distributed based on the buyer's location, yielding higher revenue for the Town. Changes to the general distribution of sales tax would benefit Los Gatos.

CONCLUSION:

The Committee is encouraged to discuss these and other potential priorities.

COORDINATION:

The preparation of this report was coordinated with all Town Department Directors and the Town Attorney.

FISCAL IMPACT:

There is no fiscal impact associated with recommending legislative priorities to the Town Council.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Council Policy #2-18: Legislative Policy



Title: Legislative Policy

Policy Number: 2-18

Effective Date: 10/5/16

Pages: 3

Enabling Actions:

Revised Date:

Approved:

Barbara Spate

PURPOSE

The purposes of the Legislative Policy are to: identify opportunities for the Town to participate in state, federal, and regional legislation and other policy matters, and describe a process for Town positions, actions, and related activities.

BACKGROUND

Council Members have the opportunity to learn of legislative issues from their work on the Council, general awareness of current topics, and their service on other Board and Committees as representatives of the Town. The Town Manager encourages all Town Departments to monitor and be knowledgeable of any legislative issues related to their disciplines. The Town Manager and Town Attorney similarly stay engaged with their professions as well as monitor the activities of the League of California Cities and other organizations. The Town benefits from a Legislative Policy to articulate overarching legislative principles to guide the Town's engagement in the legislative process as outlined in this Policy.

LEGISLATIVE PRINCIPLES

The Town should take a position and advocate for the position when proposed federal, state, County, or other agency legislative or measure has a potential direct impact on the Town. Direct impact includes and is not limited to issues of local control, revenue reductions, grant eligibility, unfunded mandates and regulatory burdens.

POLICY GOALS

1. Advocate the Town's legislative interests at the federal, state, regional, and County levels.
2. Inform and provide information to our legislators, Town Council, and staff on the key issues and legislation that could have potential impact on the Town.
3. Serve as an active participant with other local governments, the League of California Cities, local profession organizations, and/or other entities on legislative/regulatory issues that are important to the Town and our region.
4. Seek grant and funding assistance for Town projects, services, and programs to enhance services for our community.

LEGISLATIVE STRATEGIES

1. Communicate legislative positions on proposed federal, state, and County legislation, measures, initiatives, and governmental regulations.
2. Work with Town Departments to develop positions on proposed federal and state legislative measures based on analysis done by the League of California Cities, communication with legislators' offices, and other local government/professional associations in formulating our positions.
3. Take positions only on proposals that clearly impact our Town or are a threat to local control.
4. Actively track key bills through the legislative process, utilizing various legislative websites, government/professional associations, and other means.
5. Communicate the Town's position to our federal, state, regional, and County members, bill author(s), Committees, and/or other governmental bodies through correspondence, testimony, and in-person meetings.
6. Work cooperatively with other cities, associations and the League of California Cities on advocating our legislative positions.
7. As necessary, participate in the drafting and amending of proposed federal, state, regional, and/or County measures that have the potential to significantly impact the Town.
8. Meet with legislators and their representatives, as well as other federal, state, regional, and/or County government officials on a regular basis to discuss local government issues, proposed legislation, requests for funding assistance, and Town programs and services.
9. Seek federal, state, and County funding through earmarks, grants, and other discretionary funding for Town projects, services, and programs.
10. Annually identify Town projects for potential submittal for federal earmark consideration and develop a submittal packet for legislators that provides information and need for the projects.
11. Provide information to Town Departments on potential grant funding opportunities and recognition programs.
12. Advocate and request letters of support for Town projects and grant applications or other resources that are being considered for federal, state, regional, and/or County funding.

LEGISLATIVE POSITION PROCESS

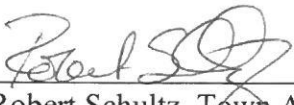
The process for responding to legislative proposals is as follows:

1. Once the Town Manager and/or Town Attorney determines that a legislative proposal may impact the Town, a letter outlining the Town's position (support, neutral or oppose) will be drafted for the Mayor's signature.
2. The Town Manager will circulate the draft position letter to the Town Council for review.
3. If there is Council objection, the position letter will be placed on the next Town Council agenda for consideration.

Title: Legislative Policy	Page: 3 of 3	Policy Number: 2-18
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4. If there is no objection, staff will finalize the position letter for the Mayor's signature and forward the signed letter to the bill's author, the League of California Cities, and other stakeholders as deemed appropriate.
5. A copy of the final letter will be distributed to the Town Council.

APPROVED AS TO FORM:



Robert Schultz, Town Attorney

Summary of Code of Conduct Provisions from Other County of Santa Clara Jurisdictions

City of Campbell

- Code of Conduct focuses on conflicts of interest and requires recusal for perceived conflicts of interest
- Provides that any Board or Commission member may be removed by majority vote of Council

City of Cupertino

- Has adopted an Ethics Policy
 - Provides that Board and Commission members may be removed by a majority vote of the Council

City of Gilroy

- Has adopted City Council Norms – does not contain discipline procedures

City of Los Altos

- Separate policy regarding admonition and censure
- Applies to City Council only
- Requires two violations of law or policy and a warning prior to censure
- Censure adopted by resolution
- Three or more Councilmembers may place discipline or removal of a Board or Commission member on a Town Council agenda

City of Mountain View

- Board and Commission conduct addressed in one chapter of Council Code of Conduct
- Board or Commission member subject to removal by 4/5 vote of Council

City of San Jose

- Joint Council/Commission Code of Conduct – focus on avoiding perceived conflicts of interest
- Council Conduct Policy
 - Council may initiate an investigation of allegations
 - Provides for remedies of admonition, sanction, and censure

City of Saratoga

- Adopted Resolution Establishing a Code of Ethics
 - Aspirational statements
 - No discipline procedures

City of Sunnyvale

- Separate policy for Board and Commission members
- Counseling, verbal reprimands, and written warnings given by Mayor privately
- Censure imposed by a majority of the City Council publicly
- Board or Commission member can be removed by 4/5 vote of Council for enumerated reasons