



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE AGENDA
APRIL 27, 2021
110 EAST MAIN STREET
LOS GATOS, CA
5:00 PM**

*Marico Sayoc, Mayor
Maria Ristow, Council Member*

**IMPORTANT NOTICE REGARDING THE April 27, 2021
COUNCIL POLICY COMMITTEE MEETING**

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29- 20 dated March 17, 2020, regarding the COVID- 19 pandemic. **In accordance with Executive Order N-29- 20, the public may only view the meeting on online and not in the Council Chamber.**

PARTICIPATION

To watch or provide oral comments real-time during the meeting, you must join the Zoom webinar:

- Join from a PC, Mac, iPad, iPhone or Android device:
- <https://us02web.zoom.us/j/81986498967?pwd=ekViNGkxanh1ais4NHNsWDlZaVpuZz09>
Passcode: 578478. You can also type in 81986498967 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 USA 636 651 0008 US Toll.
Conference code: 969184

During the meeting:

- 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, 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 meeting.

If you are unable to participate in real-time, you may email to PublicComment@losgatosca.gov with the subject line "Public Comment Item #__" (insert the item number relevant to your comment) or "Verbal Communications – Non Agenda Item." Comments will be reviewed and distributed before the meeting if received by 11:00 a.m. on the day of the meeting. All comments received will become part of the record. The Mayor has the option to modify this action on items based on comments received.

**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE AGENDA
APRIL 27, 2021
110 EAST MAIN STREET
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5:00 PM**

REMOTE LOCATION PARTICIPANTS

The following Committee Members are listed to permit them to appear electronically or telephonically at the Policy Committee meeting: MAYOR MARICO SAYOC, COUNCIL MEMBER MARIA RISTOW. All votes during the teleconferencing session will be conducted by roll call vote.

MEETING CALLED TO ORDER

ROLL CALL

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Policy Committee or public may request to have an item removed from the Consent Items for comment and action. A member of the public may request to pull an item from Consent by following the Participation Instructions contained on page 1 of this agenda. If an item is pulled, the Chair has the sole discretion to determine when the item will be heard. Unless there are separate discussions and/or actions requested by the Policy Committee, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)*

1. Approve Minutes of the March 23, 2021 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 consistent with the Participation Instructions contained on page 1 of this 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 comment. In the event additional comments 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 consistent with the Participation Instructions on page 1 of the agenda.)*

2. Review and Provide Direction on Proposed Modifications to the Commission Appointment Policy.
3. Review and Discuss the Agenda Format and Rules Policy and Determine if Any Modifications are Needed.
4. Commercial Cannabis Business Use Policy Framework Discussion

ADJOURNMENT



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

MEETING DATE: 04/27/2021

ITEM NO: 1

**DRAFT
Minutes of the Town Council Policy Committee Regular Meeting
March 23, 2021**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting via Teleconference via COVID-19 Shelter in Place Guidelines on Tuesday, March 23, 2021, at 5:00 p.m.

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

ROLL CALL

Members Present: Maria Ristow, Marico Sayoc.

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Shelley Neis, Town Clerk; Joel Paulson, Community Development Department Director; Monica Renn, Economic Vitality Manager; Robert Gray, Chief Building Official; Sally Zarnowitz, Planning Manager; Jenna De Long, Deputy Clerk; Holly Zappala, Management Analyst.

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

1. Approve the Draft Minutes of the February 23, 2020 Policy Committee Meeting.

Approved.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

2. After Review and Comment, Recommend that the Town Council Approve the Draft Enabling Resolution for the Council Policy Committee

Shelley Neis, Town Clerk, presented the staff report.

Marcia Jensen

- Commented that the Policy Committee is extraordinarily productive and she hopes it continues its work. Suggested that the draft enabling resolution be broadened to include all Town policies and not just Council policies. Also suggested memorializing the

Policy Committee's work of continually reviewing policies, amending them when necessary, and rescinding them when appropriate.

Lee Quintana

- Commented that she is concerned about the role of the Policy Committee taking over General Plan Committee work. Suggested that the Policy Committee have a narrower focus. Also suggested that the enabling resolution include a clause regarding audio file retention.

After discussion, the Committee unanimously agreed to forward a recommendation to the Town Council to approve the draft enabling resolution with minor modifications.

3. Review Town of Los Gatos Justice, Equity, Diversity, and Inclusion Efforts and Future Work Plan Items.

Holly Zappala, Management Analyst, presented the staff report.

Amy Nishide

- Commented that she appreciates the work the Town is doing and is concerned about a lack of diversity and DEI expertise in Town government. She suggested that a carefully selected Committee work on DEI issues. She also suggested that the work plan include high-level goals, measurable indicators, and timeframes. For example, suggested goals for the Town may include: have the Town's diversity represented on Boards and Commissions, ensure that everyone feel safe and welcome in Los Gatos, improve trust between the Police Department and community, and celebrate the diversity of our region.

Ali Miano

- Commented that the Town's DEI webpage could include additional information about how the work the Town is doing is specifically helping the community. Commented that there are good ideas in the work plan and that they can be expanded upon. Suggested that the Town partner with local faith-based communities and civic organizations. Also suggested capitalizing the word Black.

Randi Chen, Chamber of Commerce

- Commented that she would like to see a plan of how the Town will expand engagement to Black, Indigenous, and People of Color in the community and that the Chamber of Commerce is willing to partner with the Town on these efforts.

Kareem Syed

- Commented that the work plan is a great start and he would like to see more concrete outcomes that are measurable. Suggested that those who work in Town be considered in addition to those who live and visit here. Encouraged collaborative work between the Council, community, and Chamber of Commerce to increase diverse engagement and representation.

Lee Fagot

- Commented that he appreciates the Town is doing DEI work in an open, engaging, and public way. Commented that benchmarks are important because this is a long-term process. Said that the Town needs to continue to publish the work in a transparent way that encourages participation and should measure progress as we go. Said that he is encouraged by what he is seeing.

Donna McCurrie

- Commented that Catherine Somers is on the teleconference under the Zoom name "Randi Chen."

Catherine Somers, Chamber of Commerce

- Commented that the Chamber of Commerce could form a committee with different community partners that want to get involved in the DEI movement. Said that the "Listen Learn Change Grow" street pole banners will be rolling out soon and could be coordinated with other DEI efforts. Commented that all Town stakeholders need to work together to rally behind building a welcoming community.

After discussion, the Committee asked staff to focus efforts on community partnerships, expanded outreach, and an additional Community Conversation meeting. The Committee asked staff to return to the Committee with an update on next steps at a future meeting in April or May.

4. Review and Provide Direction on Proposed Modifications to the Commission Appointment Policy

Shelley Neis, Town Clerk, presented the staff report.

After discussion, the Committee asked staff to return to the Committee with a revised draft Commission Appointment Policy incorporating the following elements:

- Remove requirements for professional experience;
- Institute term limits similar to those of Council Members, with serving a partial term not counting toward the limit;
- Ask applicants for a particular Commission the same core questions; and

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SUBJECT: Draft Minutes of the Regular Council Policy Committee Meeting of March 23, 2021

DATE: April 27, 2021

- Add a statement regarding the Town's goal to have diverse representation on all Boards, Commissions, and Committees.

5. Review, Discuss, and Recommend that the Town Council Approve the Proposed Travel and Expense Policy for Elected Town Officials.

Holly Zappala, Management Analyst, presented the staff report.

After discussion, the Committee unanimously agreed to forward a recommendation to the Town Council to approve the proposed Travel and Expense Policy for Elected Town Officials.

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 March 23, 2021 meeting as approved by the Town Council Policy Committee.

Holly Zappala, Management Analyst



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

MEETING DATE: 04/27/2021

ITEM NO: 2

DATE: April 1, 2021
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review and Provide Direction on Proposed Modifications to the Commission Appointment Policy

RECOMMENDATION:

Review and provide direction on proposed modifications to the Commission Appointment Policy.

BACKGROUND:

The Committee directed staff to bring the Commission Appointment Policy 2-11 to the March Policy Committee meeting for discussion and to add language to encourage diversity, equity, and inclusion (DEI) in the recruitment and appointment process.

DISCUSSION:

At its March 23rd meeting, the Committee discussed term limits, appointments, interview process, application requirements, and DEI. Staff was directed to return to the April 27 Policy Committee meeting with suggestions to include term limits for Commissioners that are similar to Council term limits, remove specific qualifications (i.e. arts professional) from enabling resolutions and applications, and add a statement addressing the Town's goal of diversity, equity, and inclusion. Following is a summary of proposed modifications to the policy (Attachment 1):

Diversity, Equity, Inclusion (DEI)

A suggested statement has been added in red under the heading **PURPOSE** on page one of the Policy.

PREPARED BY: Shelley Neis
Town Clerk

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

DISCUSSION (continued):

Term Limits

Term limits have been added under a new heading **TERM LIMITS** on page three of the Policy following the direction of the Committee to retain at least two incumbents on each Commission to maintain the institutional knowledge and to align with Council Member term limits.

Staff requests guidance on whether term limits would also apply to Youth Commissioners.

Interview Process

Interview procedures have been added under a new sub-heading **Interview Process** on page five of the Policy following the direction of the Committee to ensure the interview process is fair and equitable.

The Town Clerk and staff liaisons will work together to compose core questions for each Commission.

CONCLUSION:

Staff looks forward to the Committee's discussion and direction on the proposed modifications to the Policy.

COORDINATION:

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

FISCAL IMPACT:

There is no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Red-lined Commission Appointment Policy 2-11

TITLE: Commission Appointments, Residency and Attendance Requirements, Term Limits , 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	
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.

TITLE: Commission Appointments, Residency and Attendance Requirements, Term Limits , and Establishing A Quorum	PAGE: 2 of 7	POLICY NUMBER: 2-11
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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. ~~(Revised on 4/07/15)~~

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. 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.
5. 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.

TITLE: Commission Appointments, Residency and Attendance Requirements, Term Limits , and Establishing A Quorum	PAGE: 3 of 7	POLICY NUMBER: 2-11
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*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.

TERM LIMITS

Term Limits are established as follows for adult Commissioners:

1. There shall be at least two incumbents on each Commission to maintain institutional knowledge.
2. A term limit consists of two consecutive full terms on the same Commission.
3. After serving two consecutive full terms on the same Commission, a person is not eligible to serve an additional term until at least the length of one full term for that Commission has elapsed since that person last held the position.
4. A person appointed to serve a partial term of two years or less is eligible to serve an additional two consecutive full terms on the same Commission.
5. A partial term of more than two years is deemed to be one full term for the same Commission.
6. Term limits apply prospectively beginning with the terms that commence on or after January 1, 2022.

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 1 and end on June 30. 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.

TITLE: Commission Appointments, Residency and Attendance Requirements, Term Limits , and Establishing A Quorum	PAGE: 4 of 7	POLICY NUMBER: 2-11
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2. Advertise the vacancies, including the application deadline and the interview date, which shall be set for no later than the second Town Council meeting in December for Adult Commissioners, and by the fourth Wednesday in May, no earlier than 4:00 p.m., for Youth Commissioners.
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.
 - 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.
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.

TITLE: Commission Appointments, Residency and Attendance Requirements, Term Limits , and Establishing A Quorum	PAGE: 5 of 7	POLICY NUMBER: 2-11
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Interview Process

To ensure the interview process is fair and equitable, each applicant shall be asked the same core questions, provided to the Council by the Town Clerk, for the respective Commission(s). If time permits, the applicant could be asked to expand on an answer and/or address additional questions (not of a personal nature unless it pertains to experience).

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.

TITLE: Commission Appointments, Residency and Attendance Requirements, Term Limits , and Establishing A Quorum	PAGE: 6 of 7	POLICY NUMBER: 2-11
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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 ~~student~~ **Youth** Commissioners. The Town Clerk shall advertise mid-term vacancies on Commissions for at least 15 days.

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.
For ~~student~~ youth applicants: Attend the Council Selection Committee interview session.
3. If an incumbent Commission member 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.
4. If appointed, prior to starting the Commission term, appointees are required to attend a Commissioner Orientation and take the "Oath of Office."
5. Attend Advisory Body meetings once term begins.
6. Read the Commissioners' Handbook. The Handbook is 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 youth 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.

TITLE: Commission Appointments, Residency and Attendance Requirements, Term Limits , and Establishing A Quorum	PAGE: 7 of 7	POLICY NUMBER: 2-11
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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:

Robert Schultz, Town Attorney



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

MEETING DATE: 04/27/2021

ITEM NO: 3

DATE: April 20, 2021
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review and Discuss the Agenda Format and Rules Policy and Determine if Any Modifications are Needed

RECOMMENDATION:

Review and discuss the Agenda Format and Rules Policy (Attachment 1) and determine if any modifications are needed.

BACKGROUND:

Due to the onset of the COVID-19 Shelter-in-Place Public Health Order, all Town Council, Board, Commission, and Committee meetings were not able to meet in person for the duration of the Order. Because of this, the Town moved all typically in person meetings to a teleconference format in April 2020.

There is legislation currently being discussed that would require the public to have the ability to continue to be able to participate in any public meeting virtually after the Order is lifted. If the legislation passes, Section M of the Policy would need to be modified to allow for this.

Attendance at Meetings

The Town Council Rules provisions concerning Telephonic Attendance shall apply to all Boards, Commissions, and Committees as well as the Town Council. Requests by Council Members to attend a Council 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 Council Member's absence or in the event the Councilmember is out of the area on official Town business. In addition, at least a quorum of the Council must participate from a location within the Town.

PREPARED BY: Shelley Neis
Town Clerk

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

PAGE 2 OF 2

SUBJECT: Review and Discuss the Agenda Format and Rules Policy and Determine if Any
Modifications are Needed

DATE: April 20, 2021

CONCLUSION:

Staff is requesting the Policy Committee review the attendance portion of the policy for possible modifications for remote participation and any other policy modifications the Committee may determine necessary.

The Committee may also consider and direct other changes to improve the efficiency of Council meetings.

If the Committee would like to make any modifications to the Policy, staff would bring the red-lined Policy back at the next meeting for the Committee's review.

COORDINATION:

This report has been prepared with coordination between the Town Manager's and Town Attorney's Offices.

FISCAL IMPACT:

There is no fiscal impact to establish an enabling resolution for the Committee.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Agenda Format and Rules Policy 2-01



TITLE: Town Agenda Format and Rules		POLICY NUMBER: 2-01
EFFECTIVE DATE: 12/15/1986		PAGES: 6
ENABLING ACTIONS: 1986-183; 1987-024; 1988-124; 1993-181; 1994-057; 1996-108; 2001-077; 2004-033; 2009-002		REVISED DATES: 12/15/1986; 3/2/1987; 6/6/1988; 6/15/1992; 12/6/1993; 4/4/1994; 8/5/1996; 7/2/2001; 4/5/2004; 1/20/2009; 3/16/2009; 12/6/2010; 8/5/2013; 3/3/2015; 9/20/2016; 6/20/2017; 8/1/2017; 12/4/18/; 8/20/19; 12/3/19

APPROVED:

PURPOSE

To establish procedures which standardize Town agendas and insure an orderly meeting. This Policy applies to Town Council and all Town Boards, Commissions, and Committees.

POLICY

The following policies have been established:

- A. Order of the Agenda
 Subject to the Mayor's, or Chair's, discretion to change the order of consideration of any agenda item during any individual meeting:
 - Meeting Called to Order
 - Roll Call
 - Pledge of Allegiance
 - Appointments
 - Presentations
 - Closed Session Report
 - Council Matters
 - Manager Matters
 - Consent Calendar
 - Verbal Communications
 - Public Hearings
 - Other Business
 - Adjournment (No later than midnight without vote)

TITLE: Town Agenda Format and Rules	PAGE: 2 of 6	POLICY NUMBER: 2-01
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B. Closed Session Report

At the first Council meeting following any Closed Session, the Town Attorney will report on the Closed Session describing what occurred, but without reporting any information which could damage the Town's position on a) potential or existing litigation, b) the acquisition or disposition of property, or c) any employee's privacy interests. In addition, the Closed Session agenda shall clearly identify the subject of each agenda item consistent with the requirements of the *Brown Act*.

C. Communications by Members of the Public

1. *Verbal Communications.* Comments by members of the public during the initial Verbal Communications portion of the agenda on items not on the Council agenda shall be limited to 30 minutes and no more than three (3) minutes per speaker. As an item not listed on the agenda, no response is required from Town staff or the Council and no action can be taken. However, the Council may instruct the Town Manager to place the item on a future agenda. At the conclusion of the first Verbal Communications, the agenda will proceed onto the Public Hearings and Other Business sections of the agenda. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications section can be opened prior to Adjournment.
2. *Public Hearings.* Presentations during the Public Hearings portion of the agenda by appellants and applicants, including any expert or consultant assisting with the presentation, shall be limited to a total of no more than five (5) minutes for all speakers. Appellants and applicants shall be provided no more than three (3) minutes to rebut at the end of the public hearing. Other members of the public testifying at public hearings shall be limited to no more than three (3) minutes.
3. *Submittal of written materials by Applicant and Appellant.* To allow Town Council, Boards, Commissions, Committees, Town Staff, and the public the opportunity to review material in advance of a hearing, all materials submitted by the Applicant or Appellant must be received by the Town Clerk fourteen (14) days prior to the scheduled public hearing. Documents and materials received from the Applicant or Appellant after the deadline will be accepted; however, the Town Staff may not have the time to analyze the documents and material, and Town Council may not have the time to consider materials submitted after the deadline. The submittal of any additional material by the Applicant or Appellant shall not be considered prima facie evidence (sufficient to establish a fact or raise a presumption) under Town Code Section 29.20.300.
4. *Other Agenda Items.* Comments by members of the public concerning any other item on an agenda shall be limited to no more than three (3) minutes per item.
5. *Mayor's Discretion.* All time limits noted above shall be subject to change at the Mayor's discretion.

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D. Consent Calendar

Items on the Council agenda that are considered to be of a routine and non-controversial nature are placed on the Consent Calendar. Typical items include meeting minutes, final reading and adoption of ordinances, resolutions approving agreements, awards of contracts, status staff reports, etc.

Consent items shall be approved by a single Council motion, unless a member from the Council or the public requests that an item be removed for separate Council action. Items removed from the Consent Calendar may be considered at that meeting at the Mayor's discretion.

E. Presentations

The Presentations portion of the agenda is intended to allow organized groups to make formal presentations to the Council and to recognize and honor deserving individuals and organizations. All matters included on the Presentations portion of the agenda require the prior approval of the Mayor and shall be limited to no more than ten (10) minutes, unless the Mayor grants additional time.

F. Council Matters

Members of Council may report on the activities of the committees to which they belong or the meetings they attend, question staff briefly on matters upon which the Council has taken action or given direction, make brief announcements, or discuss whether to place particular items on future agendas for action by the Council. Future agenda items to be briefly discussed here shall be identified consistent with Section G of this policy, or may be raised for the first time under this item.

G. Adjournment

Council meetings will be adjourned at midnight unless a majority of the Council Members present vote to extend the adjournment time.

H. Americans with Disabilities Notice on Town Agendas

As part of the requirements under the Americans with Disabilities Act, the Town is required to provide notice of whom to contact in advance of a public meeting for assistance to disabled individuals who might wish to participate. The following notice shall be provided in at least one location on each Town agenda for Council, Boards, Commissions, or Committees.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk Administrator 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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I. Preparation of the Agenda

The agenda is prepared by staff in consultation with the Mayor for the Mayor's final approval. If there is a disagreement between the Mayor and staff, the Mayor makes the ultimate call on the Agenda and its items. Any member of the Council may submit a request through the Town Manager or directly to the Mayor to make a change or addition to the agenda. In no event may the subject of whether to amend the agenda be discussed outside of a public meeting by more than two (2) members of the Council.

Items thus proposed to be added to the agenda require the Mayor's agreement to be added for action. If the Mayor does not agree, the item shall be listed on the agenda for discussion purposes only under the Council Matters section of the agenda. Council may then discuss whether to place the item on a future agenda for action. Two (2) or more members of the Council must vote in favor of placing an item on a future agenda for action. The Mayor in good faith will make every effort to place the item on the first available Council agenda in consultation with the Town Manager.

If the wish of the Council is to add an item on the agenda of the current meeting, then the *Brown Act* generally requires a two-thirds (2/3) vote or a unanimous vote of those present if less than five (5) Council Members are present, with a finding that there is a need to take immediate action and the need for action came to the attention of the Town after the agenda was posted.

J. Agenda Schedule and Preparation

In general, questions or inquiries from Council Members to the Town Manager and/or Town Attorney regarding agenda items should be responded to within 24 hours, and then placed into Addenda and/or Desk Items, as appropriate.

Thursday, prior to the meeting	Written agenda is finalized and printed. Agenda packets distributed to Town Council Members. Public comments on agenda items received by 11:00 a.m. will be included in the agenda packet.
Friday, prior to the meeting	Additional information from staff available after the Thursday distribution of the agenda packet, and public comments received prior to 11:00 a.m. on Friday will be distributed to Town Council members as an Addendum to a staff report.
Monday, prior to the meeting	Additional information from staff available after the Friday Addendum and received prior to 11:00 a.m. on Monday will be distributed to Town Council members as an Addendum to a staff report.
Day of Council Meeting	Council comments and questions received by 7:00 a.m. and public comments received by 11:00 a.m. on the morning of a Council meeting will be included in a Desk Item for distribution Town Council members by 1:00 p.m. on the afternoon of a Council meeting. Council comments and questions received after 7:00 a.m. may be addressed during the

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Council meeting. Public comment received after 11:00 a.m. will not be distributed to the Council in the Desk Item; however, public comment may be submitted by individuals during the Council meeting.

In general, questions or inquiries from Council Members to the Town Manager and/or Town Attorney regarding agenda items should be responded to within 24 hours, and then placed into Addenda and/or Desk Items, as appropriate.

K. Agenda Posting

Council Agendas shall be posted at least 72 hours prior to a regular meeting, and at least 24 hours prior to a special meeting. Notice of any meeting of a formally appointed Committee where two Council Members could be present shall be posted at least 24 hours in advance of any such meeting with a note as to the time and location, and an invitation to the public to attend.

L. Conduct of Town Council Meetings

The Council shall adopt:

1. Robert's *Rules of Order* or
2. Some other rules of order, or
3. Allow the Mayor to conduct the meeting as deemed appropriate so long as all members of the Town Council concur.

M. Attendance at Meetings

The Town Council Rules provisions concerning Telephonic Attendance shall apply to all Boards, Commissions, and Committees as well as the Town Council. Requests by Council Members to attend a Council 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 Council Member's absence or in the event the Councilmember is out of the area on official Town business. In addition, at least a quorum of the Council must participate from a location within the Town.

N. Proposed Reconsideration of Prior Council Actions

Reconsideration of prior Council actions is discouraged and may only occur in special circumstances subject to the procedural restrictions outlined herein. Reconsideration does not include, and this Policy does not prohibit, the repeal of a resolution or ordinance in response to a lawsuit or a referendum challenging that adoption.

Step 1 – Motion to Place Reconsideration of a Prior Action on a Future Council Agenda

- a) The motion must be made by a Council Member who previously voted on the prevailing side of the prior action;
- b) The maker of the motion shall specifically articulate the new information, analysis and/or circumstances that warrant(s) reconsideration of the prior action;

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- c) The motion must be adopted by a majority of the full Council; and
- d) The motion may only be made and considered at the next regularly scheduled meeting of the Council after the item was originally acted upon.

Step 2 – Full Reconsideration of the Prior Action, if a motion as outlined in Step 1 is approved.

- a) The full reconsideration of the prior action will be placed on the next available Council agenda following the agenda-setting and required public notification process.
- b) The agenda, public notification and staff report for the full reconsideration of the prior action shall clearly state that the item has been previously acted upon by the Council and is being reconsidered by the Council.
- c) Action on the reconsideration of the prior action shall adhere to regular Council policies and practices as if the item was being heard for the first time.
- d) The full reconsideration of the prior action (whether sustained, reversed or otherwise modified) will be the final action on that item, and no further reconsiderations will be considered.

O. Motions by the Chairperson

The Chairperson of the meeting may make or second motions. The Chairperson may also restate, or ask that the maker restate, all motions immediately prior to any vote.

APPROVED AS TO FORM:

Robert Schultz, Town Attorney



TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT

MEETING DATE: 04/27/2021

ITEM NO: 4

DATE: April 27, 2021
TO: Council Policy Committee
FROM: Robert Schultz, Town Attorney
SUBJECT: Commercial Cannabis Business Use Policy Framework Discussion

RECOMMENDATION:

Staff recommends that the Town Policy Committee receive and discuss an initial analysis and assessment of various aspects concerning potentially permitting commercial cannabis businesses within the Town of Gatos.

BACKGROUND:

Medical cannabis use has been legal in California since 1996. On November 9, 2016, adult recreational use of cannabis by persons age 21 or over became legal in California. In June 2017, California enacted the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), which consolidated the state regulatory and licensing framework for medical and recreational adult-use cannabis. The state agencies responsible for regulating commercial cannabis activity adopted regulations addressing commercial cannabis activity. These state regulations affect commercial cannabis activity and include a variety of licensing, operation, and business location requirements.

On January 1, 2018, the state began issuing state licenses allowing businesses to sell cannabis products for medical use to individuals who are at least 18 and have a valid physician's recommendation, and recreational adult use to adults 21 or over. With recent state law changes, cities and counties across California are exploring these new regulations and policy options concerning both medicinal and recreational cannabis. Legalized cannabis and related business activity are an entirely new area of the law and land use regulation for California communities to consider.

The possession of cannabis (medical and recreational) remains illegal under the Federal

PREPARED BY: Robert Schultz
Town Attorney

Reviewed by: Town Manager and Assistant Town Manager

BACKGROUND (continued):

Controlled Substances Act. Federal enforcement remains at the discretion of the executive branch and the current administration has not focused on such enforcement.

According to local governments' cannabis policy experts HdL Companies, two years ago there were 16,000 cannabis businesses nationally. In California, there are 661 storefront retail licenses in 120 jurisdictions that allow retail. HdL indicates the market demand in California is for 1,842 retail licenses.

The only other city in Santa Clara County that has, to this point, permitted commercial cannabis businesses is San Jose. The City of San Jose has a total of 16 cannabis retail facilities, approximately one per every 64,000 residents. Many other cities are currently studying whether to allow commercial cannabis businesses including Mountain View.

The Town of Los Gatos has maintained a moratorium or prohibition of cannabis dispensaries or any other cultivation, sales, exchanges, or distribution of cannabis within the Town's limits. However, in January 2021, the Town Council gave direction to staff to examine the potential of updating the Town's cannabis regulations to allow commercial cannabis businesses.

Over the next few months, the Town will be gathering information to help decide which types of cannabis-related businesses, if any, should be allowed in Los Gatos and, if allowed, where they would go and how they would operate. To obtain community input, the Town will be holding community workshops and conducting a survey. The goal of the workshops will be to gauge the community's interest and concerns associated with allowing commercial cannabis businesses to operate in the Town.

Overview of State Law

In 1996, California voters enacted the Compassionate Use Act, legalizing the medical use and possession of cannabis for qualified patients. In 2003, the California Legislature adopted the Medical Cannabis Program Act (MMPA), allowing for the cultivation and distribution of medical cannabis at collectives and dispensaries. In 2015, the state enacted the Medical Cannabis Regulation and Safety Act (now Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), which created a framework for state-level licensing and regulation for cultivation, manufacturing, distribution, transport, laboratory testing and dispensing of medical cannabis. The MAUCRSA legalized and currently regulates for-profit commercial medical cannabis businesses in the state.

In 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Cannabis Act (AUMA). AUMA legalized recreational use (referred to as "adult use") of cannabis for adults 21 years of age or older. The Act created a new regulatory and licensing

BACKGROUND (continued):

framework for adult use commercial cannabis businesses. In 2017, the State legislature passed SB 94, which essentially merged the regulations and licensing requirements of the MAUCRSA and AUMA. According to the Santa Clara County Registrar of Voters, approximately X percent of Los Gatos voters and 58 percent of Santa Clara County voters cast ballots in favor of Proposition 64. 57 percent of California voters supported Proposition 64.

Cities still retain full regulatory authority over all commercial cannabis businesses (both medical and recreational adult use). Cities must allow indoor cultivation for personal use but can reasonably regulate it. Commercial indoor cultivation may still be banned. All cannabis businesses must have a State license.

Revenue Generation

HdL has been tracking sales tax gross receipts over a 14-year period. There is almost \$26 billion in revenue being put into the legal cannabis market. For 2018-2019, gross receipts were \$4,499,679,511 and local tax allocations of (1%) were \$44,996,795.

Effective January 1, 2018, a 15% State excise tax became imposed upon retail purchasers of all cannabis and cannabis products. On top of this tax rate, cannabis sales are subject to local sales tax. In addition to the excise and sales tax, local taxation is possible but would require the approval of Town of Los Gatos voters at a general election.

Estimating future tax revenues for commercial cannabis business activities is difficult but not impossible. It is important to understand and evaluate the complexities and changing cannabis industry environment when making revenue projections. Additionally, the Town's determination on the type, size, location and number of cannabis businesses will also impact any expected tax revenue. Dispensaries are generally similar in size to a small convenience store, and will likely range from approximately 1,000 to 3,000 square feet. Average Gross Receipts per Dispensary commonly range from \$4.5 million in smaller communities, and up to \$8.0 million in large, urban areas. Therefore, a local tax rate of between 4% and 6% would potentially generate between approximately \$800,000 to \$1.5 Million in revenue for the Town.

Retail Operations

Retail establishments include both brick-and-mortar storefront retail businesses (dispensaries) and delivery services. Under State law, the Town may prohibit retail storefront sales. State law allows sales from 6:00 a.m. to 10:00 p.m.; the Town may further limit hours of operation. Retail establishments may not be within 600 feet of a K-12 school, day care or youth center; the Town may impose additional zoning restrictions such as greater distances from schools and Town parks, or require additional distances from existing cannabis retail

BACKGROUND (continued):

establishments or other uses. In addition, other jurisdictions that have adopted ordinances permitting commercial cannabis businesses have established a maximum number of businesses allowed in the City. It is possible that as the industry and regulatory frameworks change, maximum quotas can increase or go away altogether.

Cultivation, Manufacturing, and/or Microbusinesses

Cultivators grow medical and adult use cannabis in indoor and/or outdoor settings and are annually licensed by the CalCannabis division of the California Department of Food and Agriculture (CDFA). Indoor cultivation may be appropriate in a industrial zone due to the need for warehousing and storage facilities and to minimize impacts, such as odors, to residential neighborhoods.

Manufacturers produce adult-use and medical cannabis concentrate and cannabis-infused edible or topical products. Annual licensing is required by MCSB. Manufacturing businesses may be best located in the Commercial and IR zones due to their use of medical lab equipment and commercial kitchens. Manufacturing facilities require careful review and regulation due to potential fire and waste issues.

Under State law, microbusinesses must engage in at least three of the following commercial cannabis activities: cultivation, manufacturing, distribution and retail sales. Cultivation areas must be less than 10,000 square feet. The concept is similar to small-scale breweries or vineyards and tasting rooms: in-house cultivation, production, distribution and retail operations.

Individual activities for each microbusiness should be located as previously described. Should a prospective microbusiness desires to conduct all activities in one location, it may be best located in the IR zone.

Few of the commercial cannabis license types are applicable to Los Gatos. For example, with respect to cultivation, cannabis grows need to occur either in greenhouses or on land that can be fully secured and Los Gatos does not lend itself to either of these options due to a lack of agriculture land.

DISCUSSION:

The Policy Committee should consider and discuss the following preliminary issues:

1. What should the Town's objectives and goals be with respect to cannabis?

2. What should the Town's vision be for Los Gatos business districts and adjacent neighborhoods if commercial/retail cannabis businesses were allowed?
3. What are the top issues of concern related to cannabis use and sales that the Town may be able to address through its regulations?
4. If allowed, how many commercial/retail cannabis businesses should be allowed in the Town?
5. If allowed, in which zoning districts should commercial/retail cannabis businesses be allowed in the Town?
6. If allowed, what type of restrictions should be placed on each of the operations?
7. If allowed, the Town would consider establishing administrative and license fees for cannabis related businesses to ensure that the costs of regulations are covered. What level of taxation should the Town pursue in addition to its efforts to pursue cost recovery (low, medium, or high)?
8. If allowed, what type of application process should be established for the issuance of the permits?
9. What other issues and considerations should be evaluated based on the experiences of other jurisdictions, such as associated impacts, enforcement, etc.

CONCLUSION:

In January 2021, the Council directed staff to study permitting and regulating commercial cannabis businesses in Los Gatos. The purpose of this item is to facilitate the discussion requested and seek direction from the Policy Committee on whether the Council should consider potential amendments to the cannabis regulations (ordinances and resolutions).