



TOWN OF LOS GATOS
SPECIAL MEETING OF THE TOWN COUNCIL: CLOSED SESSION AGENDA
FEBRUARY 21, 2025
110 E MAIN STREET, LOS GATOS CA 95030
2:30 PM

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

IMPORTANT NOTICE

This is an in-person meeting and will be held in the Town Manager's Office at 110 E. Main Street (Town Hall, upstairs). Members of the public may provide public comments for agenda items in-person by following the instructions listed below.

HOW TO PARTICIPATE

The public is welcome to provide oral comments in real-time during the meeting. The Town Manager's Office doors (upstairs) will open at the start of the meeting and you will be asked to make your comments.

NOTES: (1) Comments will be limited to three (3) minutes or less at the Mayor's discretion.
(2) If you are unable to participate in real-time, you may email Clerk@losgatosca.gov with the subject line "Public Comment Item #__" (insert the item number relevant to your comment).
(3) Deadline to submit written comments is 11:00 a.m. on the day of the Council meeting for inclusion in a desk item.

CALL MEETING 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)).*

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council only on the Closed Session items. Each speaker is limited to no more than three (3) minutes or such time as authorized by the Mayor.)*

THE TOWN WILL MOVE TO CLOSED SESSION ON THE FOLLOWING ITEMS:

1. CONFERENCE WITH LEGAL COUNSEL— EXISTING LITIGATION (Government Code §54956.9(d)(1))
Lynley Kerr Hogan vs. Rob Moore et al
Santa Clara County Superior Court Case Number: 25CV456254

RECONVENE IN OPEN SESSION

ADJOURNMENT

ADA NOTICE In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk's Office at (408) 354-6834. Notification at least two (2) business days prior to the meeting date will enable the Town to make reasonable arrangements to ensure accessibility to this meeting [28 CFR §35.102-35.104].

NOTICE REGARDING SUPPLEMENTAL MATERIALS Materials related to an item on this agenda submitted to the Town Council after initial distribution of the agenda packets are available for public inspection in the Clerk's Office at Town Hall, 110 E. Main Street, Los Gatos and on Town's website at www.losgatosca.gov. Town Council agendas and related materials can be viewed online at <https://losgatos-ca.municodemeetings.com/>.



**TOWN OF LOS GATOS
COUNCIL AGENDA
CLOSED SESSION REPORT**

MEETING DATE: 02/21/20

ITEM NO. 1.

ITEM NO: 1

DATE: February 20, 2025
TO: Mayor and Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: CONFERENCE WITH LEGAL COUNSEL— EXISTING LITIGATION
(Government Code §54956.9(d)(1))
Lynley Kerr Hogan vs. Rob Moore et al
Santa Clara County Superior Court Case Number: 25CV456254

REMARKS:

Attachment 1 contains the February 11, 2025 Closed Session Desk Item, the February 18, 2025 Closed Session Desk Items, and a document submitted during verbal communication at the February 18, 2025 Closed Session meeting.

ATTACHMENTS:

1. February 11, 2025 Closed Session Desk Item, February 18, 2025 Closed Session Desk Items, and Document Submitted During Verbal Communication

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**TOWN OF LOS GATOS
COUNCIL AGENDA
CLOSED SESSION REPORT**

MEETING DATE: 02/11/20

ITEM NO. 1.

ITEM NO: 2

DESK ITEM

DATE: February 11, 2025
TO: Mayor and Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: CONFERENCE WITH LEGAL COUNSEL— EXISTING LITIGATION
(Government Code §54956.9(d)(1))
Lynley Kerr Hogan vs. Rob Moore et al
Santa Clara County Superior Court Case Number: 25CV456254

REMARKS:

Attachment 1 contains public comment received before 11:01 a.m. on Tuesday, February 11, 2025.

ATTACHMENTS:

1. Public comment received before 11:01 a.m. on Tuesday, February 11, 2025

From: [Sylvie Hurat](#)
To: [Council](#)
Subject: Council Defense in Hogan vs Moore et al
Date: Monday, February 10, 2025 4:34:13 PM

[EXTERNAL SENDER]

Dear Members of the Los Gatos Town Council,

I am writing to express my support for providing legal defense to Councilmembers Moore and Ristow in the matter of Hogan vs Moore et al. This issue has significant implications for both current and future public servants in our community.

The core principle at stake is the protection of elected officials who serve our community. When individuals step forward to serve in public office, they should be assured that their service will not expose them to personal financial jeopardy for actions reasonably connected to their official duties. This protection is fundamental to maintaining a robust democratic process and ensuring that qualified candidates will continue to seek public office in Los Gatos.

The circumstances of this case raise important concerns about the potential chilling effect on public service. If elected officials must bear the personal financial burden of defending against lawsuits arising from their service, it could:

1. Discourage qualified candidates from running for office
2. Impair Council members' ability to effectively represent their constituents
3. Set a concerning precedent for future conflicts

While each legal matter must be evaluated on its specific merits, the principle of defending public servants acting within the scope of their duties is crucial for maintaining effective local government. The initial decision to provide defense in the first version of the lawsuit reflected this understanding.

I respectfully urge the Council to consider the broader implications of this decision for our community's governance and the future of public service in Los Gatos.

Thank you for your consideration of this important matter.

Sincerely,

Sylvie Hurat

From: Deborah Johnson <[REDACTED]>
Sent: Tuesday, February 11, 2025 9:20 AM
To: Council <Council@losgatosca.gov>
Subject: Please defend LG and each other in Hogan vs Moore - your leadership is at stake

[EXTERNAL SENDER]

Dear Mayor Hudes, Council Member Badame, and Council Member Rennie-

I hope you are all keeping well.

I am writing to you with urgency as it has just come to my attention that you will be meeting this evening to discuss the Hogan vs Moore case and whether to defend your fellow council members, Moore and Ristow, now that Ms Hogan has strategically chosen to go after them 'privately' and not as council members.

This is bullying plain and simple and while I realize it is currently the 'destabilizing' strategy being used by our leaders in DC, I am **desperately** hoping that YOU, my town leaders, will not allow this latest intimidation tactic by Ms Hogan, to derail our town stability too.

I am a Los Gatos Resident (since 2010) - absolutely love our town and feel grateful to be able to live here. My kids have grown up here and my last child is about to finish up at LGHS. I have been an avid volunteer in town (mainly for the schools) and look forward to getting more involved in the coming years - to support the amazing leadership YOU show every day for this town. Thank you for helping us stay strong, balanced and sustainable.

The far right politics of Lynley Kerr Hogan is completely within her First Amendment right to have - however what is NOT in her right is to harass, intimidate and verbal/physical abuse members of our community, and especially leaders in our community, just because she disagrees with their views. It is hard enough to find good people like yourselves to step up and take on community leadership roles - this will only make it harder in the future.

I have the deepest respect for Council Members Ristow and Moore and while I have not agreed with their views on everything, I know that their intention is 100% to serve the people of LG and make the best decisions for our future. And I love Rob Moore's newsletters!

If the town of LG does not defend them in this law suit, which clearly came about because of their role as town council members, we are giving carte blanche to Ms Hogan and other extreme activists to:

- 1. Continue with her tactics of intimidation towards our leaders and distract them away from town priorities;**
- 2. Continue to maximize attention brought to her herself and her extreme views;**
- 3. Continue with personal vendettas -often based on her own family grievances.**

The fact that Ms Hogan was stopped from attending town meetings was not because there was a desire to silence her - but because she was not respecting the norms that are designed to provide everyone with a voice in a safe and secure way.

This is an important moment for us - please stand up for each other and for the integrity of our town. **I ask you to unequivocally defend Moore and Ristow.**

Thank you for your attention and for your leadership.

Best,
Deborah Johnson
(East Los Gatos Resident)

From: [REDACTED] <[REDACTED]>
Sent: Tuesday, February 11, 2025 8:31 AM
To: Council <Council@losgatosca.gov>
Subject: Ensure legal defense for Councilmembers Ristow & Moore

[EXTERNAL SENDER]

Dear Mayor and Members of the Los Gatos Town Council,

I am writing to express my strong support for Councilmembers Maria Ristow and Rob Moore in their request for the Town of Los Gatos to provide them with legal defense in the lawsuit *Hogan v. Moore et al.* These council members are publicly elected officials carrying out their duties. They are hard-working, dedicated people who devote enormous amounts of time to make our community better. As such, they deserve the Town's full protection in this matter.

If the Town does not stand by its elected officials when they are targeted in the course of their service, it sets a dangerous precedent—one that discourages civic participation, chills free expression, and undermines the ability of future leaders to serve without fear of personal financial ruin. No one should be deterred from public service because of the threat of costly litigation that arises from their role as an elected representative.

The original lawsuit explicitly named them as Councilmembers; then the suit was refiled with changed verbiage, a clear and uncontestable attempt to strip them of defense by the Town. Since the claims in the refiled suit remain substantively unchanged, it is only fair that the Town continue to defend them as it initially agreed.

Council Members cannot function in the interest of the Town and on behalf of constituents if they fear they might be sued and left with no support or assistance by the Town they serve. We must protect them so they can do their jobs. I urge the Town Council to reaffirm its commitment to supporting those who serve our community by defending and indemnifying Councilmembers Ristow and Moore and making sure they receive the legal defense they deserve. Thank you for your time and consideration.

Thank you,

Kristine Goldberg
[REDACTED]

From: [Debbie Parsons](#)
To: [Council](#)
Subject: Hogan v. Moore et al
Date: Monday, February 10, 2025 4:10:14 PM

[EXTERNAL SENDER]

Dear Mayor and Members of the Los Gatos Town Council,

I am writing to express my strong support for Councilmembers Maria Ristow and Rob Moore in their request for the Town of Los Gatos to provide them with legal defense in the lawsuit Hogan v. Moore et al.

As publicly elected officials carrying out their duties, they deserve the Town's complete protection. This lawsuit appears to be an attempt to silence elected officials for engaging in public discourse and expressing their views during their service to our community. Given that the original lawsuit explicitly named them as Councilmembers and that the claims in the refiled suit remain substantively unchanged, it is only fair and just that the Town continues to defend them as it initially agreed.

If the Town does not stand by its elected officials when they are targeted during their service it sets a dangerous precedent that discourages civic participation and chills free expression. It undermines the ability of future leaders to serve without fear of personal financial ruin. No one should be deterred from public service because of the threat of costly litigation arising from their elected representative role.

I urge the Town Council to reaffirm its commitment to supporting those who serve our community by ensuring that Councilmembers Ristow and Moore receive the legal defense they deserve.

Thank you for your time and consideration.
Debbie Parsons
Los Gatos resident

From: [Karen de Louraille](#)
To: [Council](#)
Subject: Hogan vs Moore
Date: Monday, February 10, 2025 11:48:01 PM

[EXTERNAL SENDER]

Dear Town of Los Gatos -

I have just learned of the lawsuit brought against two of your Council Members, Rob Moore and Maria Ristow. I know them to be dedicated and hardworking Council Members who love this town as much as I do.

They are being targeted simply because they serve on the Town Council and work to uphold the progressive policies of this town.

I have also learned that the Town may be considering withdrawing their legal support for these two dedicated public servants.

The lawsuit against Rob and Maria is brought by a known town agitator with a long history of verbal assault against Town officials. This person seems intent on using the legal system to silence my elected officials through intimidation and financial ruin.

The Town needs to provide the legal support to defend Rob and Maria. Current and future Council Members need to know they can safely serve as public servants, free from the fear of financial ruin from frivolous lawsuits such as this.

Please provide legal support for Maria Ristow and Rob Moore.

Thank you for your consideration.

Sincerely -
Karen de Louraille



From: [Kjirste Morrell](#)
To: [Council](#)
Subject: Hogan vs Moore et al
Date: Monday, February 10, 2025 4:55:28 PM
Attachments: [LG Town Council - Hogan v Moore et al.pdf](#)

[EXTERNAL SENDER]

Dear Los Gatos Town Council members,

I would like to submit a letter regarding the topic of Hogan vs Moore et al, in support of LG Town council members Rob Moore and Maria Ristow.

I have attached the letter as a PDF. Please let me know if I need to submit it some other way or if you need more information.

Best,
Kjirste Morrell
Los Gatos resident

From: [Ted & Pam Bancroft](#)
To: [Council](#)
Subject: Hogan vs Moore et Al
Date: Monday, February 10, 2025 9:10:24 PM

[EXTERNAL SENDER]

Hello, Mayor Hudes and Councilmembers,

I am a former Councilmember and Mayor of Monte Sereno, where I live. I have recently become aware of the lawsuit against Maria Ristow, who I know well and Rob Moore, who I am acquainted with. I understand the Town will be discussing the defense and indemnification of these two Councilmembers at tomorrow's closed meeting.

The fact that the claimant withdrew her original lawsuit and refiled without mention of the Council connection seems devious with the motive of disallowing Town support for their elected officials. If that were to succeed, future potential Councilmembers would think twice before running for office in Los Gatos, feeling unsupported.

I would feel very disappointed in the Los Gatos Council if you decide not to defend and indemnify your two Councilmembers. They are creative, hardworking, ethical elected officials and are worthy of your support as they have supported the Town of Los Gatos in the past several years. Please give this matter your most serious attention and make the fair decision to continue supporting them through this lawsuit.

Thank you for your service to the Town and its residents.

Sincerely,
Pamela Bancroft,
Former Monte Sereno City Councilmember and Mayor
Sent from my iPad Pro.

From: [Karla Albright](#)
To: [Council](#)
Subject: Hogan vs Moore et al
Date: Monday, February 10, 2025 10:57:07 PM

[EXTERNAL SENDER]

To the LG town council, manager and attorney,

It has come to my attention that there is the possibility that the town will not be defending its own council members from a defamation lawsuit. Hogan vs Moore et al.

This makes me very sad to hear this. I absolutely love this town and I would expect that our town would support its very own hard working council members who are being threaten because they are in public facing positions. I have known both Rob and Maria for many years. They are exemplary citizens and I am grateful that they give so much of their time, heart and energy to bettering our town. And I know that each of you do likewise. Being a council member is a lot of work and thank you.

It feels so wrong not to provide the legal support that they need at this time.

It seems highly unlikely that Ms Hogan would have had any contact with Maria and Rob had they not been council members.

Ms Hogan has a history of verbal abuse of the council as well as other citizens in town (I know of 2 instances of verbal abuse). The first time I heard Ms Hogan saying extreme, hateful and personal comments in a council meeting, I googled her name. I was surprised to find that the town had a restraining order against her in 2012 and the police convinced her to return the gun she had bought at Templar sports because it was not allowed per her restraining order. I watched Ms Hogan repeatedly abuse Marico while she was mayor.

It feels like Ms Hogan is singling out Maria and Rob to silence their more progressive voices. And if the town does not defend them, it is a sure fire way to silence future progressive voices and a sure fire way to discourage anyone else from running for the council. Unless you want Ms Hogan and her friends to join the board....

Last election, Maria and Mathew ran unopposed. You need to ensure a safe environment for our town staff and council members. This means you need to defend Rob and Maria in this suit. If not, this will have a chilling effect on the current and future council members worried that they too might be sued by an unhappy towns person.

Please do the right thing and defend Maria and Rob.

Thank you for your hard work and your consideration,

Karla Albright



From: [rude tina](#)
To: [Council](#)
Subject: Hogan vs Moore et al
Date: Monday, February 10, 2025 4:54:08 PM

[EXTERNAL SENDER]

Dear Town Council:

I am writing to voice my support for council members, Rob Moore and Maria Ristow. I have known both of these outstanding and dedicated council members for several years. I couldn't be more pleased with their representation at the council and with the vision they hold for the future of Los Gatos, as a welcoming, inclusive community responsive to the everyday needs of all our citizens and sensitive to the challenges ahead with respect to climate change and housing.

I am alarmed by the possibility that a frivolous lawsuit could not only upend their efforts, but also their personal financial lives. This action will create a chill in the civic life of our town. Please support your fellow council members by defending them against this damaging assault on our town government.

Sincerely,
Christina Rude, DPM
Retired PMG, Kaiser Permanente
Los Gatos resident since 1975

From: [MIKE WASSERMAN](#)
To: [Council](#)
Subject: LG defending Council members
Date: Monday, February 10, 2025 7:45:35 PM

[EXTERNAL SENDER]

Good evening Honorable Council Members,

My Mom suffered a stroke about 10 days ago, so my daily/nightly schedule has become unpredictable, so I hope this short email gets to you ahead of your Closed Session on the 11th.

The reason I'm writing is simply to share my personal perspective on a Council defending Council members. Obviously each and every instance is unique and should be reviewed and evaluated separately, but in general I wanted to say I hope the Town leans towards defending their Elected Officials whenever possible when they perform lawfully in their capacity as Elected Officials.

As you know each of them is elected to serve and represent our citizens, which, based on their monthly (or hourly) compensation, practically qualifies as "community service". I remember when I was on Council the salary was \$6/day (\$180/mo.).

Anyway, if the Council majority felt previously it should defend Moore and Ristow in this current matter, I hope they follow through and do so. Thanks for reading and thanks for the tough job you all do. You deserve to hear appreciation more often!

Mike Wasserman

Sent from my iPad

From: [Chris Burkhart](#)
To: [Council](#)
Subject: LG Town Council should defend Maria Ristow and Rob Moore
Date: Monday, February 10, 2025 11:04:30 PM

[EXTERNAL SENDER]

Hello Los Gatos council members,

I have been a resident in Los Gatos since 1994, and I plan on staying here for many years to come. I fell in love with this town, enjoyed raising our children here, and have faithfully supported the LG Town Council.

I was angered to learn that a lawsuit originally directed against Town Council members Maria Ristow and Rob Moore has been revised to omit referring to them as council members. I understand that the Town Council will be meeting tomorrow to vote on whether to defend them.

I urge you to stand up and defend your fellow council members, mainly because this is the only ethical path to take. Defending Rob and Maria is critical to prevent setting a precedent in which you and future town council members may be personally held liable for town council related actions.

Matthew, I know from personally attending your election to Mayor, that you grew up in, love, and support Los Gatos. Mary, I am thankful that your mother and father “instilled a strong work ethic and moral compass” as noted in your bio. And Rob Rennie, thank you for your long history of community, school, and Rotary volunteer work.

And most of all, my heartfelt thanks to all of you for your diligence and dedication in supporting the town of Los Gatos. I am confident that you three will make the right decision tomorrow—to defend council members Maria Ristow and Rob Moore to the best of your ability.

Regards,

Chris Burkhart

From: [Audrey Fox](#)
To: [Council](#)
Subject: Please ensure legal defense for Council members Ristow and Moore
Date: Tuesday, February 11, 2025 7:27:16 AM

[EXTERNAL SENDER]

Dear Mayor and Members of the Los Gatos Town Council,

I am writing to express my strong support for Councilmembers Maria Ristow and Rob Moore in their request for the Town of Los Gatos to provide them with legal defense in the lawsuit *Hogan v. Moore et al.* These council members are publicly elected officials carrying out their duties. They are hard-working, dedicated people who devote enormous amounts of time to make our community better. As such, they deserve the Town’s full protection in this matter.

If the Town does not stand by its elected officials when they are targeted in the course of their service, it sets a dangerous precedent—one that discourages civic participation, chills free expression, and undermines the ability of future leaders to serve without fear of personal financial ruin. No one should be deterred from public service because of the threat of costly litigation that arises from their role as an elected representative.

The original lawsuit explicitly named them as Councilmembers; then the suit was refiled with changed verbiage, a clear and uncontestable attempt to strip them of defense by the Town. Since the claims in the refiled suit remain substantively unchanged, it is only fair that the Town continue to defend them as it initially agreed.

Council Members cannot function in the interest of the Town and on behalf of constituents if they fear they might be sued and left with no support or assistance by the Town they serve. We must protect them so they can do their jobs. I urge the Town Council to reaffirm its commitment to supporting those who serve our community by defending and indemnifying Councilmembers Ristow and Moore and making sure they receive the legal defense they deserve. Thank you for your time and consideration.

Thank you,

Audrey Fox
[Redacted]
[Redacted]

From: [REDACTED]
To: [Council](#)
Subject: Please ensure legal defense for Council members Ristow and Moore
Date: Monday, February 10, 2025 7:05:17 PM

[EXTERNAL SENDER]

Dear Mayor and Members of the Los Gatos Town Council,

I am writing to express my strong support for Councilmembers Maria Ristow and Rob Moore in their request for the Town of Los Gatos to provide them with legal defense in the lawsuit *Hogan v. Moore et al.* These council members are publicly elected officials carrying out their duties. They are hard-working, dedicated people who devote enormous amounts of time to make our community better. As such, they deserve the Town’s full protection in this matter.

If the Town does not stand by its elected officials when they are targeted in the course of their service, it sets a dangerous precedent—one that discourages civic participation, chills free expression, and undermines the ability of future leaders to serve without fear of personal financial ruin. No one should be deterred from public service because of the threat of costly litigation that arises from their role as an elected representative.

The original lawsuit explicitly named them as Councilmembers; then the suit was refiled with changed verbiage, a clear and uncontestable attempt to strip them of defense by the Town. Since the claims in the refiled suit remain substantively unchanged, it is only fair that the Town continue to defend them as it initially agreed.

Council Members cannot function in the interest of the Town and on behalf of constituents if they fear they might be sued and left with no support or assistance by the Town they serve. We must protect them so they can do their jobs. I urge the Town Council to reaffirm its commitment to supporting those who serve our community by defending and indemnifying Councilmembers Ristow and Moore and making sure they receive the legal defense they deserve. Thank you for your time and consideration.

Thank you,

Karen Rubio
[REDACTED]
[REDACTED]

From: [Jeffrey Seizan Suzuki](#)
To: [Clerk](#)
Subject: Public Comment Item #2
Date: Tuesday, February 11, 2025 9:10:50 AM

[EXTERNAL SENDER]

To the Los Gatos Town Council,

I am writing to the Town Council not as a Complete Streets and Transportation Commissioner, but as a concerned private citizen regarding the potential legal defense of Councilmembers Ristow and Moore.

Last December, the Los Gatos Town Council authorized a legal defense of Councilmembers Ristow and Moore, agreeing to indemnify them. This makes sense— both had been acting in the line of duty as representatives in public, engaging with their community. And the allegations were, as you all understand, absurd.

Now, in the new complaint with the omission of Councilmember Ristow and Moore's affiliation with the Los Gatos Town Council, are we supposed to believe that the dynamics of the case have fundamentally changed? Is the fact that they are Councilmembers engaging with the public no longer relevant?

The comment you are currently reading is quite different from the one I had written originally. My original comment was far more specific and provided more context regarding all parties involved. However, I re-wrote sections of it because I do not wish to empty my pockets to defend against an utterly spurious lawsuit.

Precedent in Los Gatos matters. There will be a chilling effect on everyone's ability to speak. You will have a target painted on your back, not only reputationally, but legally. This is not to say that local governments should unconditionally support their Councilmembers in every legal dispute. However, defending Councilmembers who face such baseless accusations while carrying out their duties is in the public interest.

You may have differences in opinion, yes. But by failing to defend these Councilmembers, you will open yourselves to exactly the same line of attack. In conducting your duties to engage with the general public, those hostile to your political views could sue you at will because there will be a widespread understanding that you will face these lawsuits alone. All someone has to do is neglect to mention that you are a Councilmember, and you may have to pay five or six figures to survive the lawsuit.

Regards,
Jeff Suzuki

From: [REDACTED]
To: "Carole Phipps"; Council
Subject: RE: Support our Council Members
Date: Monday, February 10, 2025 3:57:09 PM

[EXTERNAL SENDER]

Thank you so much, Carole! Please feel free to share this with any friends who would like to write in as well. I appreciate you

From: Carole Phipps [REDACTED]
Sent: Monday, February 10, 2025 3:51 PM
To: council@losgatosca.gov
Subject: Support our Council Members

I am writing to the Los Gatos Town Council on the topic of Hogan vs Moore et al. I want to express my support for all of our hard-working council members and request that the Town indemnify and defend them in this lawsuit.

Clearly Council Members cannot function in the interest of the Town and all of us if they fear they might be sued and left with no support or assistance for the Town they serve. We must protect them so they can do their jobs.

Thank you,

Carole Phipps

[REDACTED]
[REDACTED]

From: [Leslee Guardino](#)
To: [Council](#)
Subject: Support for Maria Ristow and Rob Moore
Date: Monday, February 10, 2025 8:39:11 PM

[EXTERNAL SENDER]

Subject: Support for Town Defense of Councilmember Maria Ristow

Dear Members of the Los Gatos Town Council,

I am writing to express my strong support for the Town of Los Gatos to provide a legal defense for Councilmembers Maria Ristow and Rob Moore in the lawsuit filed against them.

I am a business owner in the town of Los Gatos for the last 20 years.

The Town initially agreed to defend them when they were named as Councilmembers in the original lawsuit. The fact that the lawsuit was refiled without explicitly naming their official roles, while maintaining the same factual allegations, should not change the Town's responsibility to stand by its elected officials.

Councilmember Ristow's involvement in this case is a direct result of her public service. As an elected representative, she has engaged in policy discussions and community dialogue—actions that are essential to democracy and to the functioning of local government. The lawsuit appears to be an attempt to silence her and Councilmember Moore for their political positions, setting a troubling precedent that could deter future leaders from serving in public office.

If the Town fails to defend them, it sends a message that elected officials are personally liable for engaging in public discourse. This would have a chilling effect on civic participation, making it financially and personally risky for qualified individuals to seek office. It also raises serious concerns about the ability of the Town Council to function effectively if members fear that their policy positions could result in personal lawsuits.

I urge you to reaffirm the Town's commitment to its elected officials and provide a legal defense for Councilmembers Ristow and Moore. They should not bear the financial and emotional burden of a lawsuit that stems from their service to the community.

Sincerely,

Leslee Guardino

Leslee Guardino
Principal



From: [Carole Phipps](#)
To: [Council](#)
Subject: Support our Council Members
Date: Monday, February 10, 2025 3:51:42 PM

[EXTERNAL SENDER]

I am writing to the Los Gatos Town Council on the topic of Hogan vs Moore et al. I want to express my support for all of our hard-working council members and request that the Town indemnify and defend them in this lawsuit.

Clearly Council Members cannot function in the interest of the Town and all of us if they fear they might be sued and left with no support or assistance for the Town they serve. We must protect them so they can do their jobs.

Thank you,

Carole Phipps

[REDACTED]
[REDACTED]

From: [Marsha Palitz-Elliott](#)
To: [Council](#)
Subject: The Town Needs To Stand By Its Councilmembers
Date: Monday, February 10, 2025 9:54:59 PM

[EXTERNAL SENDER]

To the Town of Los Gatos,

I am writing as a long term resident of Los Gatos, having resided in the Town for 37 years. I love my town, and appreciate the dedication of our Town's elected officials, having worked with many over the years.

I feel strongly that the Town needs to defend Rob Moore and Maria Ristow who are being sued in their capacity as Town Council members by a disgruntled Los Gatos resident who has a long history of opposing the Town's progressive policies. It is not right to look to our leaders to carry out Town policies and then abandon those same leaders when they are sued.

From the outside looking in, it appears that this resident is using the legal system to try to silence our elected representatives. This sets a dangerous precedent - hamstringing our elected leaders, leaders who were duly elected to their posts.

If Rob and Maria are left to pay for legal representation on their own, who will be willing to run to serve on the Town Council in the future?

Please do the right thing and defend Maria Ristow and Rob Moore. They are hard working, dedicated public servants and they deserve the support of their Town.

Thank you for your consideration.

Sincerely,
Marsha Palitz-Elliott



From: [Fred Rubio](#)
To: [Council](#)
Subject: Please ensure legal defense for Council members Ristow and Moore
Date: Tuesday, February 11, 2025 10:49:37 AM

[EXTERNAL SENDER]

Dear Mayor and Members of the Los Gatos Town Council,

I am writing to express my strong support for Councilmembers Maria Ristow and Rob Moore in their request for the Town of Los Gatos to provide them with legal defense in the lawsuit *Hogan v. Moore et al.* I am very concerned that if council members are not supported in their efforts to help our community thrive, it will have an effect for years to come – who would want to serve on the council if they were liable for any lawsuit, frivolous or not?

The original lawsuit explicitly named them as Councilmembers; then the suit was refiled with changed verbiage, a clear and uncontestable attempt to strip them of defense by the Town. Since the claims in the refiled suit remain substantively unchanged, it is only fair that the Town continue to defend and indemnify them as it initially agreed.

Thank you,

Fred Rubio

[REDACTED]
Los Gatos, CA 95032

From: [Catherine Macierz](#)
To: [Council](#)
Subject: Stand up for the truth
Date: Tuesday, February 11, 2025 9:43:24 AM

[EXTERNAL SENDER]

Good morning Los Gatos Town Council....

We have been a proud members of this community for 60 years! We must defend Rob Moore and Maria Ristow against this ongoing hateful and ridiculous lawsuit. Please do not be bullied! We must stand with Rob and Maria who have done so much good for our town.

Thank you,
Tim and Cathy Macierz

From: [The Javeys](#)
To: [Council](#)
Subject: Support Fare & Principled Leadership in Los Gatos. Support Los Gatos Council members, Rob Moore and Maria Ristow.
Date: Tuesday, February 11, 2025 10:52:12 AM

[EXTERNAL SENDER]

To Los Gatos Town Council and Staff,

I am writing to express my unwavering support for the principles of fairness, integrity, and community service that define strong leadership in Los Gatos. It is deeply troubling to see legal action like the one currently being brought by a disgruntled and misinformed town resident against two of our committed public servants. This individual is weaponizing litigation as a tool against those who have lawfully dedicated themselves to upholding the values of inclusivity, respect, and civic responsibility in our town.

Los Gatos thrives when our leaders foster dialogue, advocate for marginalized voices, and uphold justice and decency. Leadership requires the courage to stand against divisive rhetoric and protect the rights and dignity of all residents. Attempts to undermine this commitment through retribution and litigation set a dangerous precedent that threatens the democratic process and discourages public service.

We cannot allow intimidation to replace constructive discourse. Supporting ethical leadership means standing up for the core principles of our community: respect, diversity, and civility. I urge my fellow residents and community leaders to reaffirm these values and to support those who work tirelessly to preserve them, namely Ms Ristow and Mr Moore.

**Sincerely,
Maureen Cappon-Javey
Town of Los Gatos resident**

From: [Jonathan Knowles](#)
To: [Council](#); [Maria Ristow](#); [Rob Moore](#); [Rob Rennie](#); [Matthew Hudes](#); [Mary Badame](#)
Subject: Support for council members legal defense funding
Date: Tuesday, February 11, 2025 9:38:06 AM

[EXTERNAL SENDER]

Dear Members of the Los Gatos Town Council,

I am writing to express my strong support for the Town of Los Gatos providing legal defense funding for Council Members Maria Ristow and Rob Moore in their current lawsuit.

The circumstances of this case raise serious concerns about the future of public service in our community. These council members were initially named in their official capacity, and although the lawsuit was strategically refiled to remove these references, the underlying facts remain unchanged. The Town Council had previously agreed to defend them in the original version of the lawsuit, and this support should continue.

The potential financial burden of self-defense in this case could be devastating for these public servants, with damages being sought above \$35,000 from each council member. This sets a concerning precedent that could deter qualified candidates from seeking public office in Los Gatos. How can we expect community members to step forward and serve if they risk personal financial ruin for carrying out their duties?

More broadly, this situation threatens the effective functioning of our town council. If council members must operate under the constant threat of personal litigation, it could severely impact their ability to serve our community effectively and speak freely on important issues.

We have seen and continue to see this approach to bullying elected officials playing out on local, state and national levels. I believe this has the potential to disrupt effective governance for generations if allowed to play out.

I urge you to approve the town's defense of Council Members Ristow and Moore. This decision is not just about these two individuals - it's about protecting the integrity of our local government and ensuring that public service remains accessible to all who wish to serve our community.

Thank you for your consideration of this important matter.

Sincerely,

Jonathan Knowles
Los Gatos, California

From: [Rebecca O'Connor](#)
To: [Council](#)
Subject: support for Maria Ristow and Rob Moore
Date: Tuesday, February 11, 2025 9:47:35 AM

[EXTERNAL SENDER]

Please support Mrs. Ristow and Mr. Moore by covering their legal expenses. Board members dedicate many hours for our community and are not paid for that service.

--

Rebecca 'Becky' O'Connor

[REDACTED]



**TOWN OF LOS GATOS
COUNCIL AGENDA
CLOSED SESSION REPORT**

MEETING DATE: 02/18/20

ITEM NO. 1.

ITEM NO: 1

DESK ITEM

DATE: February 18, 2025
TO: Mayor and Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: CONFERENCE WITH LEGAL COUNSEL— EXISTING LITIGATION
(Government Code §54956.9(d)(1))
Lynley Kerr Hogan vs. Rob Moore et al
Santa Clara County Superior Court Case Number: 25CV456254

REMARKS:

Attachment 1 contains public comments received before 11:01 a.m. on Tuesday, February 18, 2025.

ATTACHMENTS:

1. Public comments received before 11:01 a.m. on Tuesday, February 18, 2025

From: Lisa Wade [REDACTED]
Sent: Tuesday, February 18, 2025 10:54 AM
To: Council <Council@losgatosca.gov>
Subject: Fwd: Please support council members Moore and Ristow

[EXTERNAL SENDER]

Dear Mayor and Town Council members,

I am a long-time Los Gatos resident asking you to please support Council members Rob Moore and Maria Ristow with legal defense in the lawsuit *Hogan v. Moore et al.* These two council members do a lot for Los Gatos and I believe they deserve the Town's full protection.

We must protect council members from this kind of legal action so they can perform their duties. I strongly urge the Town Council to support council members Moore and Ristow by providing the legal defense they so deserve.

Sincerely,

Lisa Wade

From: Tori Horton [REDACTED]
Sent: Monday, February 17, 2025 8:57 PM
To: Matthew Hudes <MHudes@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Council <Council@losgatosca.gov>
Subject: Protect Los Gatos Councilmembers

[EXTERNAL SENDER]

Dear Los Gatos Town Council,

I'm writing as a resident of Los Gatos to urge you to stand by Councilmembers Rob Moore and Maria Ristow and provide them with a legal defense in the lawsuit against them. Public service should not come with the risk of personal financial ruin for engaging in policy discussions, yet that's exactly what's at stake here.

This lawsuit appears to be an attempt to intimidate and silence elected officials over political disagreements. The case was initially filed naming them as Councilmembers, and the Town rightly agreed to indemnify and defend them. After learning this, the complainant refiled, omitting their official titles—but the claims remain the same. This should not be a loophole to strip them of the protection they deserve as public servants.

If the Town fails to defend them, we risk setting a terrible precedent for those in public service. Who will want to run for office if they risk being personally sued for simply participating in civic discussions? This isn't just about these two Councilmembers—it's about ensuring that all elected officials can serve our community without fear of targeted legal attacks.

Please do the right thing and reaffirm the Town's commitment to defending its Councilmembers. It's not just fair—it's necessary for the future of good governance in Los Gatos.

Sincerely,

Tori Horton

[REDACTED]

From: Annie Schwartzstein [REDACTED]
Sent: Monday, February 17, 2025 10:04 PM
To: Clerk <Clerk@losgatosca.gov>
Subject: Public Comment Item #1

[EXTERNAL SENDER]

Dear Mayor and Council Members,

This last year, I moved to Los Gatos from a nearby Bay Area city. Since moving here, I have absolutely loved living in the town. During this time, I have become interested in the town council, and I've really enjoyed coming to town meetings and activities. It's been a great way to get to know people and get to know the town. In other places I've lived, I've also been involved in local politics, and I have been so impressed since moving here with how involved the people in Los Gatos are. People seem really excited to give back to the community.

When the calls came out late last year and earlier this year to serve on town commissions, boards, and committees, I thought about getting more involved. I thought it would be a fun way to get more involved and give back to the community. I have opinions and would love to share a younger voice for the town!

However, since learning more about the town council's recent history, I have decided that I do not see myself ever serving the town in any official capacity.

This decision was made after going back and watching council meetings from 2021 when Mayor Sayoc was enduring harassment from a few people within the community. I have also watched the council meetings where Planning Commissioner Kylie Clark was censured. Now, the town is considering potentially not paying the legal fees for Councilmembers Moore and Ristow. To me, it appears that there are a few people within Los Gatos who can be incredibly hostile to people from one side of the political spectrum.

As a person with more progressive political ideas, I have hesitated at times in council meetings to speak. I am nervous about being recognizable enough that I could potentially be followed after meetings and harassed. I'm nervous that people could find out where I live and harass me there for my opinions and ideas. This is unfortunate because one of the biggest reasons I enjoy going to council meetings is to meet new people and gain a sense of community.

But let me be clear: these anxieties are not simply imagined by our town officials; they are reality. It has been well documented over the last few years that if you serve Los Gatos, you must endure not only harassment within town meetings but also threats at your own home and now threats to your financial well-being that could impact you for the rest of your life. It seems like if you have a certain set of beliefs on the Los Gatos Town Council or commissions/boards/committees, you have to accept that you have signed up for bullying, harassment, public humiliation, and shaming, and your livelihood being played with for political gain. This is unacceptable. It should not be a brave act to serve the town.

The lawsuit that is facing Councilmembers Moore and Ristow is impacting them because they have decided to serve this town. You are sending a very strong message to people who are considering serving this town if you do not use town resources to defend them. You are also

sending a strong message to the people threatening town officials that this is acceptable behavior.

I strongly urge the town council to provide legal support to Councilmembers Moore and Ristow.

Thank you for your hard work and continued service to the town.

Best,
Annie

From: Gayle Blayney Gordon [REDACTED]
Sent: Tuesday, February 11, 2025 2:32 PM
To: Council <Council@losgatosca.gov>
Subject: Hogan vs. Moore lawsuit

[EXTERNAL SENDER]

To Los Gatos Mayor Matthew Hudes, Town Council members Rob Rennie and Mary Badame,

We have lived in the town of Los Gatos since 1987. We have been active volunteers in our town and in our schools. We feel proud of our community and the Town Councils' support of community activities and events, and our town's facilities and services. We have always voted in elections for our Town Council members, and have participated in some Town Council members campaigns. We have attended Town Council meetings and have spoken before the Town Council on matters important to us.

It has come to our attention that Vice Mayor Rob Moore and Town Council member Maria Ristow are being sued by a town resident. They are apparently being sued due to their positions on the Town Council. It is unknown at this time whether they will be represented by our Los Gatos Town Attorney.

We feel that Maria Ristow and Rob Moore should be represented by the Los Gatos Town Attorney since the legal complaint apparently arose due to their elected positions on the Town Council. It is only fair that Los Gatos citizens that are elected to our Town Council should receive the services of our Los Gatos Town Attorney to represent them when lawsuits are filed that arise as the result of their actions in representing their fellow citizens.

As Town Council members, you need to ensure a safe environment for our town staff and all council members. This means you need to approve the Los Gatos Town Attorney to defend your fellow town council members, Rob Moore and Maria Ristow, in this lawsuit. If not, this will have a chilling effect on the current and future Town Council members worried that they too might be sued by an unhappy town resident.

Thank you.
Gayle and Malcolm Gordon

[REDACTED]

From: J.R. Fruen <JRFruen@cupertino.gov>
Sent: Tuesday, February 11, 2025 12:00 PM
To: Council <Council@losgatosca.gov>
Subject: Hogan v. Moore, et al.

[EXTERNAL SENDER]

Mayor Hudes and Members of the Town Council:

It has come to my attention through news reports and elsewhere that two of your colleagues, Vice Mayor Rob Moore and Councilmember Maria Ristow, are the subject of a purported defamation lawsuit whose clear aim is to stifle public discourse and to harass fellow councilmembers in the performance of their public function. Given the clear intersection between the claimed unlawful activity and the public roles that your two colleagues perform, I would hope and expect that you would authorize defense of this suit on their behalf.

To the extent that any action touching on public functions, such as community engagement and the dissemination of official information, is implicated in a suit alleging defamation, it should be the duty of the public agency to defend such action. The alternative is the chilling of the free exchange of ideas and the erection of new impediments to running for office—namely whether any eligible candidate would put him- or herself forward in light of the personal legal risk it would entail. Los Gatos already saw no non-incumbents file to run in the last election. For the sake of a reasonably functioning local democracy, please support the defense of your colleagues and prevent the legal equivalent of a heckler’s veto on public discourse.

Respectfully yours,



J.R. Fruen
Councilmember
City Council
JRFruen@cupertino.gov
(408)777-1316



From: Lisa Wade [REDACTED]
Sent: Tuesday, February 11, 2025 11:10 AM
To: Council <Council@losgatosca.gov>
Subject: Please support council members Moore and Ristow

[EXTERNAL SENDER]

Dear Mayor and Town Council members,

I am a long-time Los Gatos resident asking you to please support Council members Rob Moore and Maria Ristow with legal defense in the lawsuit *Hogan v. Moore et al.* These two council members do a lot for Los Gatos and I believe they deserve the Town's full protection.

I believe we must protect council members from this kind of legal action so they can perform their duties. I strongly urge the Town Council to support council members Moore and Ristow by providing the legal defense they so deserve.

Sincerely,

Lisa Wade

From: Carl Guardino [REDACTED]
Sent: Wednesday, February 12, 2025 4:12 AM
To: Council <Council@losgatosca.gov>
Subject: Hogan Lawsuit -- Defending Councilmembers' Moore and Ristow

[EXTERNAL SENDER]

Dear Mayor Hudes, Town Council and Town Manager:

My thanks to each of you for your service and leadership for the Town of Los Gatos and all of its residents.

For more than 21 years, my family and I have lived in both Los Gatos and Monte Sereno. My wife is also a long-time business owner in town. We have long been impressed and appreciative of the work of the Council and its commitment to the community.

It is also why we are deeply concerned about the lawsuit that has been filed against two of the five Councilmembers, Vice Mayor Moore and Councilmember Ristow. It is vitally important that the Town represent and indemnify each of these committed and thoughtful leaders against this frivolous lawsuit. The fact that the initial lawsuit, which recognized the vital public role of Councilmembers' Moore and Ristow, was rescinded and refiled without listing their public role -- in no way diminishes the fact that Mr. Moore and Ms Ristow serve the Town in their elected capacities.

If the Town were to choose not to represent and indemnify these two Members of the Council, it would place a chill on any public official's ability to conduct the public's business, and limit interest in serving the Town in an elected or appointed capacity.

With great respect, I urge the Town Council to resist the pressure that the litigant is trying to exert on the Town, and to stand with Vice Mayor Moore and Councilmember Ristow against this lawsuit.

Thank you for your time and consideration.

Sincerely,

Carl Guardino

From: Deborah Lowe [REDACTED]
Sent: Tuesday, February 11, 2025 7:51 PM
To: Council <Council@losgatosca.gov>
Subject: Concerned Resident

[EXTERNAL SENDER]

To the Los Gatos Council Members, Town Manager and attorney,

First, let me thank you for your service and dedication to the Town of Los Gatos. I appreciate the commitment you have made to public service, especially in light of the contentious times we are living in. I have lived in Los Gatos for over 30 years, raised my kids here and love our community.

It has come to my attention that a resident of our town, Lindley Hogan, has filed a defamation suit against two of our council members, Rob Moore and Maria Ristow. I am aware of Ms. Hogan's history of grievances against council members and that the town has filed a restraining order against her in the past. This adversarial relationship she has with town council members, in particular, the progressive members of the council, is troubling to say the least. Because you disagree with the politics of someone else does not give you the right to harass them or to file suit because they don't hold the same beliefs.

I further understand she has sought to file suit against them personally rather than as members of the Town Council. My personal interpretation of this move is it is one of intimidation. I'm sure any interactions she has had with Rob or Maria was in their capacity as council members. I hope the town stands by council members Moore and Ristow. I have attended council meetings, I sit on the library board and every interaction with Mr. Moore and Ms. Ristow has been nothing but courteous and professional. They are thoughtful and pleasant and I feel strive to work in the best interest of the town.

In the bigger picture, not standing by them would surely dissuade folks in the future from public service.

Thank you for your time, please stand by Council members Moore and Ristow.

Sincerely,

Debbie Lowe
[REDACTED]

February 18, 2025

**Top reasons why the Town of Los Gatos
should not pay for the defense of
Rob Moore and Maria Ristow:**

1. Town Social Media Policy

Under Elected Officials, page 6.

"If Elected/Appointed Town officials have their own social media accounts, the Town recognizes that they may choose, in their individual capacity, to post items relevant to Town business."

"Elected/Appointed Officials are prohibited from ... representing that they speak on behalf of the Town within their official or personal social accounts."

Under **Content Moderation**, it states: "The following types of content shall not be permitted in connection with the town social media accounts and will be removed:" (Page 5) #12 mentions that "Personal attacks or comments containing actual defamation against a person, either as determined by a court or comments that are patently defamatory by beastly discovered facts."

2. Rob Moore did not act in his official capacity when he maliciously posted that very old and unflattering article about me which was untrue and misleading.

Inciting hatred in others towards a constituent and further hurting a constituent is not the role of a council member.

- It is not a public act of any council member
- to publicly disclose past lawsuits of any constituent
- with the malicious intention of inciting more hatred towards her
- to a group of people on Nextdoor.

3. Where is the opposition to the Townspeople paying for the defense of these two individuals?

Those opposing are scared they will be harassed by Rob and Maria's friends as Cyndi Sheehan and I have been for years now.

4. The letters that I read in support of Rob and Maria having their defense paid for by all of us were clearly a bunch of copies of one original.

The letters were written by people who don't know the situation at hand, and their opinions are irrelevant. *It is my speech that Rob and Maria are chilling.*

5. There needs to be Consistency when choosing whether or not someone is acting in their official capacity.

Kylie Clark, partner to Rob Moore, said she was acting as an individual when she wrote the terribly hurtful letter exemplifying her distaste for "rich, white, anti-housing men."

Rob Moore recently posted on social media that he is joining the President's Day protest in downtown San Jose.

Was Rob posting as a public official or as himself.

Rob, posting from Rob's personal Nextdoor account, is not official business.

It is Rob posting as himself, an individual.



6. Democracy Tent is nothing but a discussion group and is not an official public meeting

Rob and Maria cannot act in their official capacity any more than they could if out to lunch with friends.

What is official public town business about Maria and Rob lying to Lee and claiming that Maria had a Restraining Order on Me, when she never did?

7. The Article states:

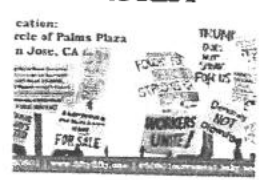
"...Councilmembers cannot have a personal conflict of interest, cannot have prejudged the facts and must remain free of prejudice against any of the parties. A councilmember's failure to recuse his or herself could invalidate the decision and expose the public entity, and the legislator, to potential legal challenges.

 **Los Gatos Anti-Racism Coalition**
 Moderator Debbie Sy · 7h · 

San Jose from 12-2pm.





We the people call on Congress to uphold & enforce the Constitution

PRESIDENTS' DAY PROTEST



February 17th, 2025

eventbrite.com
Presidents' Day Protest (50501)

 Like  Comment  Send  Share





  4

Most relevant ▾



Rob Moore, Vice Mayor of Los Gatos · Follow
I'll be there!

3h Like Reply  1

 Comment as   

Caption

Pamela's post



newsweek.com
0501 organizers launch "Not My resident's Day" nationwide day of acti..





 Like  Comment  Send  Sha

  5

Most relevant ▾



Rob Moore Moderator
No protests organized at Los Gatos Town Hall that I know of. I've heard both San Jose City Hall and the location Karen posted. They're nearby each other in downtown San Jose so I hope they'll combine. I plan to go to downtown San Jose.

 Comment as...   

Caption



City Officials Must Be Neutral & Unbiased

City Officials Must Be Neutral & Unbiased

2/18/25, 4:09 PM

concerns on matters of public interest and to express their views without recusing themselves for bias.

However, in the run up to the hearing, Schenier crossed the line into advocacy against the project.

"Councilmember Schenier acted as advocate, not a neutral and impartial decisionmaker, and should have recused himself from voting on the appeal. Because he did not, Petrovich did not receive a fair hearing," Presiding Judge Vanora W. Ray wrote for the court.

The appellate court concluded that, even if only one of the decisionmakers fails to recuse oneself because of a disqualifying bias, there are sufficient grounds to overturn the body's decision — even if that councilmember's singular vote was not outcome determinative or necessary to the decision.

In its decision, the appellate court rejected the City's "harmless error" argument that Schenier's vote was not outcome determinative because the Council voted 7-2 to deny the CUP, with Councilmember Schenier's assistance ... in obtaining the City Council's vote against the project was not a mere technical error that can be deemed harmless or nonprejudicial, but rather a fundamental error in the process."

In a rare move, the California Supreme Court granted itself an extension to review the case.

While no petition for review was submitted, it's likely a request for the decision's publication by the California State Association of Counties and League of California Cities caught the Court's eye. The CSAC and Cal Cities claim the decision's "lack of clarity" regarding appropriate procedures for adjudicatory proceedings could subject routine routine government decision-making to legal challenges.

The retail center has since been built and partially opened, including a Safeway without a gas station.

Separately, Petrovich has a claim for damages against the City over the conditional use permit denial. He's also seeking to hold Schenier and Johnson personally liable.

This article first appeared in [Law360](#) on Sept. 1, 2020. [Republished with permission.](#)

Gary Solans is no longer with BBK. If you have questions about this decision please contact [John Czarinski](#).

HOME > REPOSURE > CITY OFFICIALS MUST BE NEUTRAL &...

Articles | 09/01/2020



City Officials Must Be Neutral & Unbiased

PublicCEO Article Examines California Precedent-Setting Bias Tainting Decision

City councilmembers are policymakers. They are the voice of their constituents. Occasionally, this role shifts to mirror that of a judge when the legislative body hears matters on appeal from an administrative body. Serving in this quasi-judicial capacity, officials must remain neutral and unbiased decisionmakers.

The restraint imposed on city councilmembers when hearing an appeal was explored earlier this year in ["Sacramento, California: Council of Sacramento" in which the Third District Court of Appeal affirmed a lower court's decision to void a city's conditional use permit denial. The appellate court affirmed that one biased councilmember's participation in the permit denial process was enough to invalidate the decision.](#)

The new precedent-setting decision in California affirms that when acting in a quasi-judicial capacity, councilmembers cannot have a personal conflict of interest, cannot have prejudged the facts and must remain free of prejudice against any of the parties. A councilmember's failure to recuse his or herself could invalidate the decision and expose the public entity, and the legislator, to potential legal challenges.

To Recuse or Not to Recuse

In 2010, the Sacramento City Council approved land use and zoning entitlements for a 72-acre, mixed-use development including angle- and multi-family residential housing plus retail and commercial areas.

Local developer Paul Petrovich's company sought a conditional use permit four years later to construct and operate a 16-pump gas station providing an expansion of the services offered by the development's shopping center anchor, a Safeway supermarket. A nearby neighborhood association opposed the CUP.

Sacramento City Councilmember Jay Schenier, a resident of the adjacent neighborhood, was a current member and former board member of the neighborhood association opposing the gas station CUP.

By an 8-3 vote, the city's Planning and Design Commission approved the CUP in 2015. This decision was appealed to the City Council. While pending, the president of the union representing local grocery store employees wrote to the city attorney about the gas station and sought legal guidance on whether Schenier should recuse himself. The union president cited a quote the councilmember made at a neighborhood association meeting, "I don't think a gas station fits within what was originally proposed," in his recusal reasoning.

The city attorney responded that, while Schenier had expressed an opinion about the project at a public meeting, he had not attended the proposal or advocated against it, nor had he indicated that his mind was made up. Therefore, the city attorney concluded the councilmember's recusal was not required.

At the hearing, the City Council, including the mayor, voted 7-2 against the CUP.

Petrovich Development Co. filed a lawsuit to void the decision alleging that city councilmembers were influenced by bias and inducements outside the public record, had improperly made a decision before a public hearing was open and had wrongfully denied the company the right to a fair and impartial quasi-judicial hearing.

An Unseemly Probability of Actual Bias

Discovery and trial revealed that Schenier had made a host of maneuvers outside the public eye, designed to deny the CUP.

A series of text messages, emails and meetings leading up to the hearing between Schenier, then mayor Kevin Johnson, the mayor's advisor and other city councilmembers, demonstrated Schenier had lined up the votes needed and planned to bring the motion to deny the CUP. He also prepared and emailed the mayor a compilation of "talking points" that amounted to a presentation against the gas station.

These tactics, the court held, suggested behind-the-scenes advocacy against the gas station and showed that Schenier had pre-judged the matter and went into the hearing committed to an outcome.

As did the trial court, the appellate court found that Schenier's nearby residence, membership in the neighborhood association and public comments on the gas station did not disqualify him from voting on the issue. The appellate court even noted that public officials have a right, and obligation, to speak to their

<https://bbklaw.com/resources/city-officials-must-be-neutral-and-unbiased>

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<https://bbklaw.com/resources/city-officials-must-be-neutral-and-unbiased>