



**TOWN OF LOS GATOS  
SPECIAL MEETING OF THE TOWN COUNCIL - COUNCIL  
RETREAT AGENDA  
MAY 05, 2021  
110 EAST MAIN STREET  
LOS GATOS, CA**

*Marcia Jensen, Mayor  
Barbara Spector, Vice Mayor  
Rob Rennie, Council Member  
Marico Sayoc, Council Member  
Vacant, Council Member*

**PARTICIPATION IN THE PUBLIC PROCESS**

**How to participate:** The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Town Council. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

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

**Deadlines for Public Comment and Presentations are as follows:**

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

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

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

**TOWN OF LOS GATOS  
SPECIAL MEETING OF THE TOWN COUNCIL – COUNCIL RETREAT  
MAY 05, 2021  
12:00 PM**

**IMPORTANT NOTICE REGARDING THE MAY 5, 2021  
SPECIAL MEETING OF THE TOWN COUNCIL – COUNCIL RETREAT**

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 online and not in the Council Chamber.**

**PARTICIPATION**

If you are interested in viewing the meeting in real time and/or providing oral comments during the meeting, you must join the Zoom webinar:

- Join from a PC, Mac, iPad, iPhone or Android device: click this link <https://us02web.zoom.us/j/85147747086?pwd=S2xSVtJ4T0t1RWdFUjV5NSSt1MFZ5UT09>. Password: 920563. You can also type in 851 4774 7086 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
- Join by telephone: Dial 877 336 1839. Conference code: 969184

During the meeting:

- When the Mayor announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press \*9 on your telephone keypad to raise your hand. 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 Mayor 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](mailto:PublicComment@losgatosca.gov) the subject line “Public Comment Item #\_\_” (insert the item number relevant to your comment). Comments received by 11:00 a.m. the day of the meeting will be reviewed and distributed before the meeting. All comments received will become part of the record.

**TOWN OF LOS GATOS**  
**SPECIAL MEETING OF THE TOWN COUNCIL - COUNCIL RETREAT AGENDA**  
**MAY 05, 2021**  
**12:00 PM**

**MEETING CALL TO ORDER**

**ROLL CALL**

**VERBAL COMMUNICATIONS** *(Members of the public are welcome to address the Town Council on the matters listed on the agenda only consistent with the Participation Instructions contained on Page 2 of this agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

**OTHER BUSINESS**

1. Council Retreat and Team Building
  - Ice Breaker
  - Brown Act
  - Council Code of Conduct
  - Communications on Town Email

**ADJOURNMENT**

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

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

# Brown Act & FPRA & Code of Conduct Training

May 5, 2021



# PRESENTATION TOPICS



- Brown Act – Government Code 54950-54962
- FPRA – Government Code 81000-81016; California Code of Regulations Sections 18110-18997
- Town Council Code of Conduct Policy Number 2-04

# What are the three major principles of the Brown Act?

- Notice to the public.
- Opportunity for the public to be heard.
- Transparency in decision-making.

BROWN ACT



# Preamble: Doing the People's Business

- "... Councils . . . exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."
- "The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know."

## BROWN ACT



# What is a Brown Act meeting?

- A meeting is a gathering of a majority of members to hear, discuss, or act on any item related to Town business.
- A meeting under the Brown Act does not have to include action.
- It can simply be the exchange of information.

BROWN ACT





# What is NOT considered a Brown Act meeting?

A majority of the body may attend the following so long as they do not discuss official business by themselves:

- Conferences.
- Community meetings.
- Meetings of other legislative bodies, such as the County Board of Supervisors.
- Social or Ceremonial events.

## BROWN ACT



# What is a serial meeting and are they allowed under the Brown Act?

- Serial meetings are not allowed.
- Serial meetings occur when a majority of the commissioners have communicated about an issue and have developed a collective concurrence.
- A collective concurrence is developed when:

Members have either directly or indirectly heard each others opinion on a topic enough to collectively develop or begin to develop an agreement on an issue.

BROWN ACT



# Does the Brown Act apply to emails, social media, and blogging?

The Brown Act applies to any form of communication, whether it is in person, over the telephone, by email, or through other online and social media sources.

BROWN ACT



# Use of Personal Email

- California Supreme Court has held that messages sent or received from personal email accounts by public officials and employees that relate to the public's business are considered "records" under the California Public Records Act.
- Council Members must refrain from communicating with one another through email and should never use their personal email account to conduct Town business.



# Regular Meetings

## Conditions for a regular meeting:

- Written notice posted at least 72 hours prior to the regular meeting in a site freely accessible to the public.
- Notice must include the time and place of the meeting, and a brief description of all business to be transacted or discussed.
- Cannot consider business that is not mentioned in the notice.
- Notice is required even if no action is taken at the meeting.
- Every regular meeting must allow for a public comment period.

## BROWN ACT



# Special Meetings

## Conditions for a special meeting:

- Written notice posted at least 24 hours prior in a site freely accessible to the public.
- Notice must include the time and place of the meeting, and a brief description of all business to be transacted or discussed.
- Cannot consider business that is not mentioned in the notice.
- Notice is required even if no action is taken at the meeting.
- As with regular meetings, every special meeting must allow for a public comment period.

## BROWN ACT





# Closed Session Overview

- “Secret meetings” are closely scrutinized by the press and public.
- Only allowed when expressly permitted by law.
- Agenda description is required.
- No minutes or tape recording required.
- Public may comment before session.
- Some actions must be reported out
- Confidentiality required!



# Permitted Closed Session

- Legal Advice on Pending Litigation.
- Instruct Real Estate Negotiators.
- Employee Performance Evaluation & Complaints (for TM and TA only).
- Labor Negotiations.

BROWN ACT





# What are the consequences of violating the Brown Act?

- Enforced through civil lawsuits brought by private citizens.
- Violations can also be criminally prosecuted, but the prosecutor must prove a knowing violation of the Brown Act with the intent to deprive the public of information.



# What does FPRA stand for?

- Fair Political Reform Act.
- The Act's major provisions regulate political activities in campaign finance, lobbying registration and conflicts of interest.
- Every member, officer, employee, or consultant of a state or local government agency is a public official for purposes of the Act.

FPRA



# Purpose of FPRA?

To ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests.

FPRA



# Fair Political Reform Act Requires

- All public officials to refrain from participating in decisions in which they have a financial interest.
- Requires designated officials to file financial disclosure statements (700 Form).
- Imposes limits on designated officials on the acceptance of gifts and honoraria.
- Imposes post-employment restrictions.



# Fair Political Reform Act Conflict of Interest Summary

- Prohibitions
- Disclosure
- Disqualification

FPRA



# Two Prohibitions

- Gifts over \$520
  - From a Single Source
  - In a Calendar Year
- Honoraria
  - Payment for Speech or Attendance
  - Prohibited at Any Amount

FPRA



# Gifts Include

- Meals
- Tickets
- Passes
- Discounts
- Travel

FPRA



# Gifts Do Not Include

- Informational Materials.
- Gifts From Family.
- Inheritance.
- Personalized Plaques.
- Birthday & Holiday Gifts if Equal Value is Exchanged.

FPRA





# Gifts Do Not Include

- Home Hospitality if Host is Present.
- Wedding Gifts.
- Travel & Lodging in California in Connection with Speech.
- Admission to & Refreshments at an Event at Which Council Member is Speaking.

FPRA



# Disclosure

- Gifts Totaling \$50 from Single Donor.
- Identify Donor and any Intermediary.
- Intermediaries Must Disclose Actual Source of Gifts.

FPRA



# Economic Interest in a Council Decision

- Economic/Financial Interest in a Council Decision Triggers Disqualification.
- Reasonably Foreseeable That Decision will have a material Financial Effect on your economic interests.
- Financial Interest of Council Member or Immediate Family.

FPRA



# Financial Interests

- Investment of \$2,000 in Business Entity.
- Investment of \$2,000 in Real Property (1000 foot Rule).
- Source of Income of \$500 or More.
- Involvement in Business Entity: Director, Officer, Partner, Trustee, Employee, Manager.
- Donor of Gifts of \$440 or More.

FPRA



# Disqualification Process

Unless Absent from Hearing

- Disclose on the Record at the Meeting.
- In Detail.
- Recuse from Discussion and Vote.
- Leave the Room.

FPRA



# Town Council Code of Conduct Policy

- The Town Code of Conduct Policy holds Council Members to standards of conduct above and beyond what is required by law.
- The Policy requires Council Members to approach their work, each other, and the public in a manner that reflects ethical behavior, honesty and integrity.
- Town Council Members work is characterized by open constructive communication, innovation, and creative problem solving.



# Town Council Code of Conduct Policy

The Policy requires Council Members to:

- Use formal titles.
- Practice civility and decorum in discussions and debate.
- Be respectful of others and diverse opinions and allow for the debate of issues.
- Honor the role of the presiding officer in maintaining order and equity.
- Comment and discussion should commence upon the conclusion of all public testimony and reserve decisions until all applicable information has been presented.
- Refrain from engaging the speaker in dialogue but may ask speaker questions.
- For purposes of clarification, Council Members may ask the speaker questions.





# Town Council Code of Conduct Policy

When communicating and working with staff, Council is required to follow these guidelines:

- Treat staff as professionals with dignity, civility and decorum.
- Direct questions about policy, budget, or professional opinion to the Town Manager, Town Attorney or Department Directors.
- Do not direct policy/ program administrative functions and implementation.
- Communicate questions, corrections, and/or clarifications about agenda items to staff prior to Council meetings.

## CODE OF CONDUCT





# Town Council Code of Conduct Policy ( Cont.)

When communicating and working with staff, Council is required to follow these guidelines:

- Do not direct the Town Manager to initiate any action, change a course of action, or prepare any report without the approval of Council.
- Do not attend Department staff meetings unless requested by the Town Manager.
- All Council Members should have the same information with which to make decisions. Information requested by one Council Member will be shared with all members of the Council.
- Concerns related to a Town employee should be directed to the Town Manager. Council Members should not reprimand employees.

## CODE OF CONDUCT

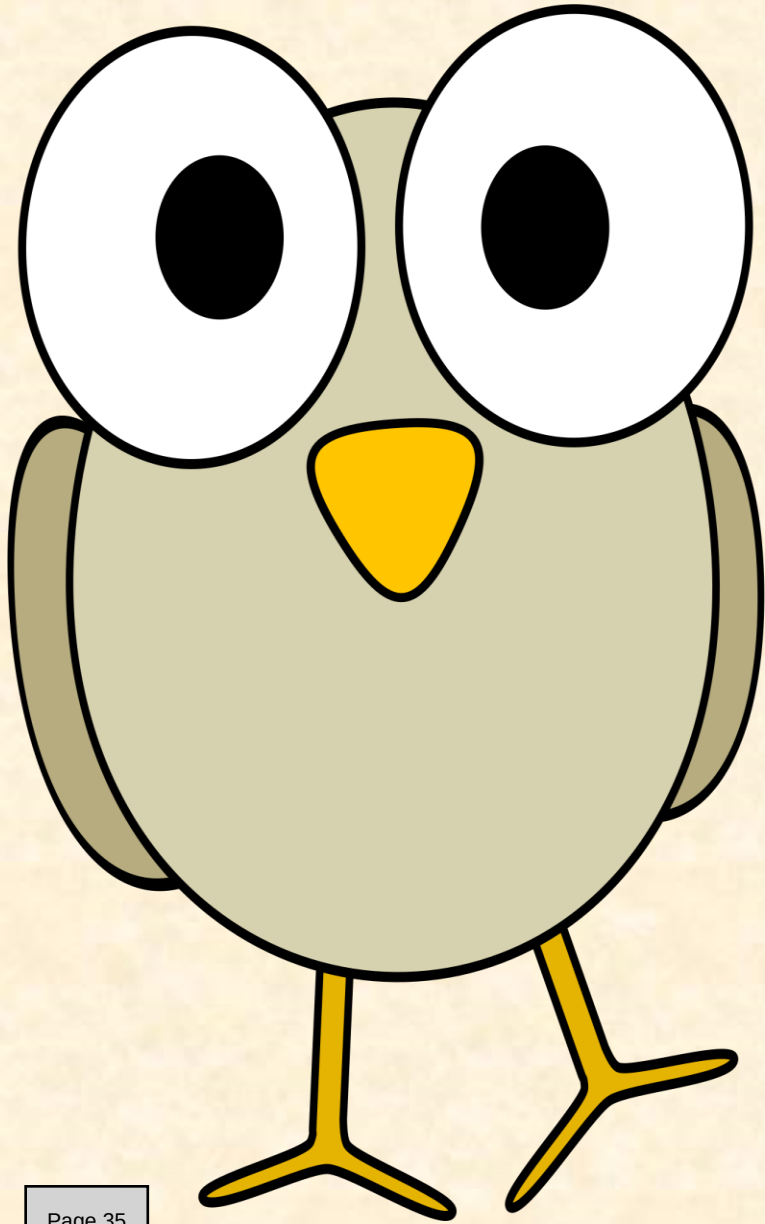


# Code Compliance

- Part of the "executive" powers delegated to the Town Attorney.
- Town Council's role is ordinance adoption or modification and budgetary in nature.
- Town Council cannot give direction as to what action should be taken in specific cases
- This division of power is because executive/administrative officers are immune from any liability for enforcing the code.

# CODE COMPLIANCE





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QUESTIONS?

