



**TOWN OF LOS GATOS
DIVERSITY, EQUITY, AND INCLUSION COMMISSION AGENDA
DECEMBER 12, 2024
110 EAST MAIN STREET
TOWN COUNCIL CHAMBERS
5:00 PM**

*Gordon Yamate, Chair
Diane Fisher, Vice Chair
Carmen Lo, Commissioner
Varily Isaacs, Commissioner
Folake Phillips, Commissioner
D. Michael Kane, Commissioner
Vacant, Commissioner
Anne Lamborn, Arts and Culture
Commissioner
Pradeep Khanal, Community Health and
Senior Services Commissioner
Aanya Singh, Youth Commissioner
Ryan Idemoto, Youth Commissioner*

HOW TO PARTICIPATE

This meeting will be held in-person at the Town Council Chambers at 110 East Main Street. Commissioner Isaacs will be participating by telephone from a remote location at 136 Magneson Terrace, Los Gatos, CA 95032. The telephone location shall be accessible to the public and the agenda will be posted at the telephone location 72 hours before the meeting.

The Town of Los Gatos strongly encourages your active participation in the public process. If you are interested in providing oral comments during the meeting, you must attend in-person, complete a speaker's card, and return it to the staff. If you wish to speak to an item on the agenda, please list the item number on the speaker card. The time allocated to speakers may change to better facilitate the meeting. If you are unable to attend the meeting in-person, you are welcome to submit written comments via email to clerk@losgatosca.gov.

Public Comment During the Meeting:

When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Town meeting.

Speakers at public meetings may be asked to provide their name and to state whether they are a resident of the Town of Los Gatos. Providing this information is not required.

Deadlines to Submit Written Comments:

If you are unable to participate in person, you may email clerk@losgatosca.gov with the subject line "Public Comment Item #_" (insert the item number relevant to your comment). Persons wishing to submit written comments to be included in the materials provided to the Commission must provide the comments as follows:

For inclusion in the agenda packet: by 11:00 a.m. the Friday before the Commission meeting.
For inclusion in the agenda packet supplemental materials: by 11:00 a.m. on the day of the Commission meeting.

Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email to clerk@losgatosca.gov by 3:00 p.m. the day of the meeting.

CALL MEETING TO ORDER

ROLL CALL

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Diversity, Equity, and Inclusion Commission on any matter that is not listed on the agenda and is within the subject matter jurisdiction of the Commission. To ensure all agenda items are heard, this portion of the agenda is limited to 30 minutes. 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. Each speaker is limited to three minutes or such time as authorized by the Chair.)*

CONSENT ITEMS *(Items appearing on the Consent are considered routine Town business and may be approved by one motion. Members of the public may provide input on any Consent Item(s) when the Chair asks for public comment on the Consent Items.)*

1. Approve the Draft Minutes of the October 10, 2024 Diversity, Equity, and Inclusion Commission Regular Meeting.
2. Approve the Draft Minutes of the November 14, 2024 Diversity, Equity, and Inclusion Commission Regular Meeting.

COMMISSIONER/STAFF LIAISON REPORTS

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

3. Discuss a Listening Campaign for Outreach to Community Partners in the Categories of (1) Education/Schools, (2) Religious Groups, (3) Businesses, and (4) Non-Profits/Service Organizations (Work Plan Item Regarding Collaboration with Community Organizations Goal C, Item 1.a. and 2.a. Community- and School-Based Programming).
4. Explore Options for a Panel Discussion Event (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b.)
5. Discuss a Revised “Proposal for Los Gatos DEI Commission Effort to Educate Public on Restrictive Covenants” Regarding the Potential Restrictive Covenant Redaction Project

Commission Recommendation (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b. and Work Plan Item Regarding Annual Communications Campaign Goal D, Item 1.a).

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]



**TOWN OF LOS GATOS
DEIC COMMISSION
AGENDA REPORT**

MEETING DATE: 12/12/2024

ITEM NO: 1

**DRAFT
Minutes of the Diversity, Equity, and Inclusion Commission Meeting
October 10, 2024**

The Diversity, Equity, and Inclusion (DEI) Commission of the Town of Los Gatos conducted a regular meeting in person in the Town Council Chambers on Thursday, October 10, 2024, at 5:00 p.m.

CALL MEETING TO ORDER

The meeting was called to order at 5:01 p.m.

ROLL CALL

Present: Chair Gordon Yamate, Vice Chair Diane Fisher, and Commissioners Varily Isaacs, Folake Phillips, D. Michael Kane, and Pradeep Khanal.

Absent: Commissioners Carmen Lo, Aanya Singh, and Ryan Idemoto.

Town Staff Present: Town Clerk Wendy Wood, Senior Management Analyst Holly Young, Economic Vitality Manager Monica Renn, and Events and Marketing Specialist Jessica Ertell.

VERBAL COMMUNICATIONS

Opened public comment.

No one spoke.

Closed public comment.

CONSENT ITEMS

1. Approve the Draft Minutes of the September 12, 2024 Diversity, Equity, and Inclusion Commission Regular Meeting.

Opened public comment.

No one spoke.

Closed public comment.

MOTION: Motion by Commissioner Kane to approve the consent calendar. **Seconded** by Commissioner Phillips.

VOTE: Motion passed unanimously.

COMMISSIONER/STAFF LIAISON REPORTS

Chair Yamate reported that he met with Jennifer Lin from the Los Gatos Chamber of Commerce to discuss the Commission's potential restrictive covenant redaction project and attended the September 23, 2024 Democracy Tent meeting as a guest speaker with Commissioners Phillips and Kane.

Commissioner Phillips reported that she also attended the Democracy Tent meeting and participated in a Santa Clara County Office of Immigration event.

Commissioner Kane reported that he also attended the Democracy Tent meeting, saw the movie "Am I Racist?" and handed out business cards in the theatre.

Vice Chair Fisher reported that she met with the Congregation Shir Hadash Rabbi and the West Valley Muslim Association Executive Director regarding inclusion at Town events and attended the October 7 Congregation Shir Hadash Memorial Service with Commissioners Kane and Phillips.

Commissioner Isaacs had no report.

Commissioner Khanal reported that he attended the KCAT Oktoberfest event in Town.

The staff liaison reported that Commissioner Dornaz Memarzia, the DEI Commission's Arts and Culture Commission member, submitted her resignation as she moved outside of the Town of Los Gatos. The Arts and Culture Commission will appoint a new member at its meeting on November 20. The staff liaison also reported that potential changes to the Commission Appointment Policy regarding attendance requirements will be considered by the Council on November 19 and that the November 5 Council meeting is cancelled as it falls on Election Day.

OTHER BUSINESS

2. Debrief the Commission's participation in the Town's Screen on the Green event (Work Plan Item Regarding Town Events, Goal B., Item 1.a.).

Opened public comment.

No one spoke.

Closed public comment.

The Commission discussed the event and commented on observations.

3. Discuss the DEI Commission's Participation in Los Gatos in Lights, the Town's Annual Winter Celebration, Through Winter Messaging Displayed at the Event and Provide Direction to Staff on the Messaging and Display Options.

Opened public comment.

No one spoke.

Closed public comment.

Monice Renn, Economic Vitality Manager, presented the staff report.

The commission discussed creating a subcommittee made up of Vice Chair Fisher and Commissioners Phillips and Kane to work on ideas for a DEI Commission banner at the Los Gatos in Lights winter celebration and bring the recommendation back to the commission at the next meeting.

MOTION: Motion by **Commissioner Kane** to establish an [ad hoc] subcommittee.
Seconded by **Commissioner Phillips**.

VOTE: Motion passed unanimously.

4. Discuss a Potential Restrictive Covenant Redaction Project (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b. and Work Plan Item Regarding Annual Communications Campaign Goal D, Item 1.a).

Opened public comment.

No one spoke.

Closed public comment.

The Commission discussed the recommendations and suggested modifications.

1. **MOTION:** Motion by **Commissioner Phillips** to move the recommendations [from Attachment 2: 1) Create a Town webpage as a public service to alert and educate Los Gatos residents about racially or other discriminatory restrictive covenants in real

property records and explain what residents can do about them and why they should be redacted. The webpage content would be mutually agreed to by the Town Council and the DEI Commission and would provide, among other information: (a) Steps on locating appropriate property records and determining whether a property record contains a restrictive covenant that is illegal and unenforceable; (b) A referral link to the Restrictive Covenant Modification (RCM) Program managed by the Santa Clara County Office of the County Clerk-Recorder, explaining how the County's redaction process works; (c) A referral link to a nonprofit organization that can direct to local title companies and/or other real estate businesses requests for assistance in obtaining a title report at either a greatly reduced cost or without charge to Los Gatos property owners to determine if restrictive covenants exist on, or apply to, their properties; and (d) An email link to the Town's DEI Commission for Los Gatos residents who have questions about the RCM Program or who would like to share information uncovered or discovered from inquiry into their recorded property deeds; and 2) Approve a Town Council proclamation in a form mutually agreeable to the Town Council and the DEI Commission, acknowledging and repudiating the use of racially or other discriminatory restrictive covenants regarding the sale, transfer or use of real property within the Town.] forward to the Town Council with a change to work with NUMU as the third-party collaborator, the idea of a six-month pilot project, and a modification to the language to include Commission input. **Seconded by Commissioner Kane.**

VOTE: Motion passed unanimously.

5. Discuss a Listening Campaign for Outreach to Community Partners in the Categories of (1) Education/Schools, (2) Religious Groups, (3) Businesses, and (4) Non-Profits/Service Organizations (Work Plan Item Regarding Collaboration with Community Organizations Goal C, Item 2.a. Community- and School-Based Programming).

Opened public comment.

No one spoke.

Closed public comment.

The Commission discussed modifying the proposed outreach questions listed in the staff report attachment to remove questions two and four.

MOTION: Motion by Vice Chair Fisher to move forward with the questionnaire as modified and move forward with the listening campaign. **Seconded by Commissioner Khanal.**

VOTE: Motion passed unanimously.

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SUBJECT: Draft Minutes of the DEI Commission Meeting of October 10, 2024

DATE: November 14, 2024

The Commission discussed the members of the ad hoc committees for the outreach efforts.

MOTION: **Motion** by **Commissioner Kane** to add Commissioner Isaacs to the Non-Profits/Service Organizations ad hoc committee. **Seconded** by **Commissioner Khanal**.

VOTE: **Motion passed unanimously.**

6. Explore Options for a Panel Discussion Event (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b.).

No one spoke.

The Commission discussed pursuing option three listed in the staff report.

The Commission requested that the ad hoc subcommittee made up of Commissioners Phillips, Lo, and Kane to consider the options presented in the staff report and present a recommendation to the full DEI Commission for consideration at the November 14 meeting.

ADJOURNMENT:

The meeting adjourned at 7:01 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the October 10, 2024, meeting as approved by the Diversity, Equity, and Inclusion Commission.

Holly Young, Senior Management Analyst



**TOWN OF LOS GATOS
DEIC COMMISSION
AGENDA REPORT**

MEETING DATE: 12/12/2024

ITEM NO: 2

**DRAFT
Minutes of the Diversity, Equity, and Inclusion Commission Meeting
November 14, 2024**

The Diversity, Equity, and Inclusion (DEI) Commission of the Town of Los Gatos conducted a regular meeting in person in the Town Council Chambers on Thursday, November 14, 2024, at 5:00 p.m.

CALL MEETING TO ORDER

The meeting was called to order at 5:03 p.m.

ROLL CALL

Present: Chair Gordon Yamate, Vice Chair Diane Fisher, and Commissioners Carmen Lo, Varily Isaacs, Folake Phillips, D. Michael Kane, Pradeep Khanal, and Aanya Singh.

Absent: Commissioner Ryan Idemoto.

Town Staff Present: Assistant Town Manager Katy Nomura, Senior Management Analyst Holly Young, Economic Vitality Manager Monica Renn, and Events and Marketing Specialist Jessica Ertell.

VERBAL COMMUNICATIONS

Opened public comment.

No one spoke.

Closed public comment.

CONSENT ITEMS

1. Approve the Draft Minutes of the August 8, 2024 Diversity, Equity, and Inclusion Commission Regular Meeting.

This item was continued to the next meeting due to an error in the date of the draft meeting minutes on the agenda that references the August 8 meeting instead of the October 10 meeting.

COMMISSIONER/STAFF LIAISON REPORTS

Commissioner Singh reported that the Youth Commission met on November 12 and they are preparing to present to Council. They will also be recommending that Youth Commissioners be non-voting members of other Commissions in the future.

Commissioner Phillips had no report.

Commissioner Kane reported that on October 19 he attended a mosque quarterly coffee event, on October 20 he went to the installation of the new priest at St. Mary's Church, and on October 26 he went to the Diwali Festival of Lights program at the Los Gatos Library with Commissioner Phillips and her son.

Vice Chair Fisher had no report.

Chair Yamate reported that he communicated with Councilmember Moore regarding protecting the Los Gatos community from anticipated changes resulting from the change in Federal leadership with a draft resolution for the Council regarding protecting the rights and freedoms of the Los Gatos community. He also reported that Jessica Blitchok with the Jewish Relations Council invited him to attend a press conference for the "Here I Am" initiative.

Commissioner Lo reported that she spoke to Jasmine with the Office of Racial Equity at the City of San Jose regarding a DEI meeting group. She also reported that she spoke to Ally, an elementary school teacher, regarding DEI efforts.

Commissioner Isaacs reported that she attended a "Finding Your Roots" session with Henry Louis Gates and met with Commissioner Khanal to brainstorm ideas. She also reported that the Los Gatos Unified School District is holding a Climate and Culture meeting on December 9.

Commissioner Khanal had no report.

The staff liaison reported that the annual Commission recruitment period is now open, the deadline to apply is December 9, and more information is available on the Town website.

OTHER BUSINESS

2. Discuss the Inclusion of a Welcome Message at the Town's Annual Winter Celebration, Los Gatos in Lights.

Monica Renn, Economic Vitality Manager, presented the staff report.

Opened public comment.

No one spoke.

Closed public comment.

The Commission discussed the item and offered input on the message.

3. Discuss a Listening Campaign for Outreach to Community Partners in the Categories of (1) Education/Schools, (2) Religious Groups, (3) Businesses, and (4) Non-Profits/Service Organizations (Work Plan Item Regarding Collaboration with Community Organizations Goal C, Item 2.a. Community- and School-Based Programming).

Holly Young, Senior Management Analyst, presented the staff report.

Opened public comment.

No one spoke.

Closed public comment.

The Commission discussed the item.

4. Explore Options for a Panel Discussion Event (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b.).

Opened public comment.

No one spoke.

Closed public comment.

Holly Young, Senior Management Analyst, presented the staff report.

The ad hoc working group did not have a recommendation and the Commission continued this item to the next meeting.

5. Discuss a Potential Restrictive Covenant Redaction Project (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b. and Work Plan Item Regarding Annual Communications Campaign Goal D, Item 1.a).

Opened public comment.

No one spoke.

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SUBJECT: Draft Minutes of the DEI Commission Meeting of November 14, 2024

DATE: December 12, 2024

Closed public comment.

The Commission discussed the item.

ADJOURNMENT:

The meeting adjourned at 6:34 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the November 14, 2024, meeting as approved by the Diversity, Equity, and Inclusion Commission.

Holly Young, Senior Management Analyst



TOWN OF LOS GATOS
DEI COMMISSION REPORT

MEETING DATE: 12/12/2024

ITEM NO: 3

DATE: December 2, 2024

TO: Diversity, Equity, and Inclusion Commission

FROM: Holly Young, Senior Management Analyst

SUBJECT: Discuss a Listening Campaign for Outreach to Community Partners in the Categories of (1) Education/Schools, (2) Religious Groups, (3) Businesses, and (4) Non-Profits/Service Organizations (Work Plan Item Regarding Collaboration with Community Organizations Goal C, Item 1.a. and 2.a. Community- and School-Based Programming).

RECOMMENDATION:

Discuss a listening campaign for outreach to community partners in the categories of (1) Education/Schools, (2) Religious Groups, (3) Businesses, and (4) Non-Profits/Service Organizations (Work Plan item regarding Collaboration with Community Organizations Goal C, Item 2.a. Community- and School-Based Programming).

REMARKS:

On July 11, 2024, the Commission unanimously voted to create four ad hoc working groups focusing on community outreach in the areas of (1) Education/Schools, (2) Religious Groups, (3) Businesses, and (4) Non-Profits/Service Organizations to develop a set of outreach questions for the organizations in each category in order to support a listening campaign.

The ad hoc working groups are currently comprised as follows:

- Education/Schools: Commissioners Carmen Lo, Varily Isaacs, Folake Phillips, Ryan Idemoto, and Aanya Singh
- Religious Groups: Vice Chair Diane Fisher and Commissioners D. Michael Kane and Folake Phillips
- Businesses: Chair Gordon Yamate and Commissioners Pradeep Khanal and Carmen Lo
- Non-Profits/Service Organizations: Chair Gordon Yamate, Vice Chair Diane Fisher, and Commissioners Aanya Singh and Varily Isaacs

Prepared by: Holly Young
Senior Management Analyst

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SUBJECT: Listening Campaign for Outreach to Community Partners

DATE: December 12, 2024

On October 10, 2024, the Commission unanimously voted to move forward with the listening campaign outreach to schools, religious groups, businesses, and non-profits/service organizations using the following questions:

- Does your (school/business/religious group/non-profit or service organization) have concerns about the issues of diversity, equity, and inclusion in the Town of Los Gatos?
- What are you most hopeful for relative to these concerns?
- Do you see opportunities for the Town to do more to promote and ensure diversity, equity, and inclusion?
- What type of support could the Town and the DEI Commission provide to your (school/business/religious group/non-profit or service organization) to provide a more inclusive community?

Staff looks forward to the ad hoc working groups' report outs and the full Commission's discussion.



TOWN OF LOS GATOS
DEI COMMISSION REPORT

MEETING DATE: 11/14/2024

ITEM NO: 4

DATE: December 2, 2024
TO: Diversity, Equity, and Inclusion Commission
FROM: Holly Young, Senior Management Analyst
SUBJECT: Explore Options for a Panel Discussion Event (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b.)

RECOMMENDATION:

Explore options for a panel discussion event (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b.)

BACKGROUND:

Earlier this year, the DEI Commission discussed a potential recommendation to the Town Council for the DEI Commission to host a panel discussion event regarding the [Silicon Valley Pain Index](#) and specifically focusing on the housing and education data in the report and how those inequities came about. An ad hoc working group made up of Commissioners Phillips, Lo, and Kane worked on this topic.

On September 17, 2024, the Town Council adopted the Commission Events Policy. In an effort to provide consistent guidance to Commissions and ensure appropriate use of staff resources, the Commission Events Policy encourages Commissions to have self-sufficient tabling at existing Town events, rather than separate events, to minimize use of staff resources. If a Commission wants to hold a unique event, as an exception and not the norm, the Commission would submit a recommendation to the Town Council for consideration and approval.

Commission Hosted Events are referenced as follows in the Commission Events Policy:

a. Commission Hosted Events:

- i. Commission Hosted Events are events hosted, funded, and implemented by the Commission.*
- ii. Commissions are advisory bodies to Council and do not typically host or produce events, unless requested by Town Council. Therefore, Commissions are*

PREPARED BY: Holly Young
Senior Management Analyst

encouraged to participate in existing Town Hosted or Externally Hosted Events as outlined above, rather than hold Commission Hosted Events. If no Town Hosted or Externally Hosted Event exists, alternatives could be for an appropriate non-profit to develop an Externally Hosted Event or to pursue the event outside of the Commission's or Commissioner's official capacity.

- iii. In the rare instance a Commission is interested in holding a Commission Hosted Event, the Commission should make a recommendation to the Town Council for its consideration.*
- iv. All Commission Hosted Events require Town Council approval prior to implementation to ensure adequate staff and financial resources are available, alignment with Town Council priorities, and consideration of liability and logistics. If staff attendance is necessary, events past 8:00 p.m. or on weekends should be avoided whenever possible and staff availability should be taken into account when planning the date and time.*

DISCUSSION:

Options for the panel discussion event previously discussed by the Commission would be as follows:

- (1) An appropriate non-profit could host the event;
- (2) The event can be pursued outside of the Commission's official capacity; or
- (3) The Commission can make a recommendation to the Town Council for the Commission to host the panel discussion event.

For options (1) and (2), a Special Event Permit through the Town would only be needed if the event was going to be held on public property. If it were to be held at LGS Rec or other private property, no special event permit from the Town would be needed.

If the Commission decides to pursue making a recommendation to the Town Council for the Commission to host the event, the Commission should put together as much detailed information as possible to present to the Council regarding the content of the proposed event.

Items to consider may include:

- An outline of the information that will be presented/discussed
- Any presentations or slide decks
- The potential speakers/panelists and their bios
- Any associated costs (speaker fees, room rental, etc.) and funding source
- Desired outcome(s) of the event

If the Commission decides to pursue the third option, no speakers or venues should be booked until Council approval is received.

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SUBJECT: Panel Discussion Community Learning Opportunity

DATE: December 12, 2024

On October 10, 2024, the DEI Commission requested that the ad hoc working group made up of Commissioners Phillips, Lo, and Kane to consider the options above and present a recommendation to the full DEI Commission for consideration.

Staff looks forward to the Commission's discussion.



**TOWN OF LOS GATOS
DEI COMMISSION REPORT**

MEETING DATE: 12/12/2024

ITEM NO: 5

DATE: December 5, 2024
TO: Diversity, Equity, and Inclusion Commission
FROM: Holly Young, Senior Management Analyst
SUBJECT: Discuss a Revised “Proposal for Los Gatos DEI Commission Effort to Educate Public on Restrictive Covenants” Regarding the Potential Restrictive Covenant Redaction Project Commission Recommendation (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b. and Work Plan Item Regarding Annual Communications Campaign Goal D, Item 1.a).

RECOMMENDATION:

Discuss a revised “Proposal for Los Gatos DEI Commission Effort to Educate Public on Restrictive Covenants” regarding the Potential Restrictive Covenant Redaction Project Commission Recommendation (Work Plan Item Regarding Developing a Community Learning Opportunity on Historic Inequities and Developing Diversity, Sensitivity, and Awareness Training Goal B, Items 3.a. and b. and Work Plan Item Regarding Annual Communications Campaign Goal D, Item 1.a).

REMARKS:

On October 10, 2024, the DEI Commission unanimously voted to recommend to the Council that the Town launch a Restrictive Covenant Redaction Program on a six-month pilot basis. The pilot program would encompass creating a Town webpage as a public service to alert and educate Los Gatos residents about racially or other discriminatory restrictive covenants in real property records and explain what residents can do about them. The Commission also recommended that the Council approve a proclamation acknowledging and repudiating the use of racially or other discriminatory restrictive covenants regarding the sale, transfer, or use of real property within the Town.

The Commission’s recommendation has been shared with the Town Council. Staff will proceed with creating a Town webpage sharing the County’s program information and link.

On November 14, the Commission discussed having the ad hoc working group made up of Chair Yamate and Commissioners Lo and Kane work on revising the “Proposal for Los Gatos DEI

PREPARED BY: Holly Young
Senior Management Analyst

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SUBJECT: Potential Restrictive Covenant Redaction Project

DATE: October 10, 2024

Commission Effort to Educate Public on Restrictive Covenants” attachment for the full Commission’s consideration.

Chair Yamate has provided the revised proposal with track changes in Attachment 1 and the clean copy in Attachment 2 for the Commission’s consideration.

Staff looks forward to the Commission’s discussion.

ATTACHMENTS:

1. Revised Proposal in Track Changes
2. Revised Proposal Clean Copy

Proposal for Los Gatos DEI Commission Effort to Educate Public on Restrictive Covenants

We have a challenge. We need to find creative ways to educate our community on DEI issues. As pointed out during the process of updating our Town’s Housing Element, Los Gatos ~~has been unfortunately recognized as being~~ among the “most segregated, heavily white cities in [Santa Clara County].”¹ How did the Town get this way? While the Los Gatos Town Library maintains a “collection of historically valuable documents” regarding the Town’s history, information relating to Los Gatos residents who are members of BIPOC communities and/or other groups suffering discrimination are underrepresented in the Library’s collection.² If an important goal of Los Gatos is to shed this undesirable status, it is important to understand what specific factors got the Town to this point.

The historic practice of using restrictive covenants to prevent the transfer of property in Los Gatos to non-white persons might serve as an entry point to understand how discriminatory practices started and evolved in the Town. These vestiges still exist as a reminder of the Town’s racist past, ~~and provide insight into its current segregated make-up.~~ While the California State Legislature has taken steps to remove these offensive provisions from the public record, an opportunity exists for Los Gatos residents to use that process to determine whether their own properties may contain restrictive covenants. We ask that the community actively participate in reporting whether restrictive covenants exist regarding their property. We will collect the results of this community effort and assist Los Gatos property owners on what they can do to get rid of these distasteful and obnoxious provisions. ~~-This can serve as an important step in acknowledging the past harms of racism, and inform the steps we can take to ensure Los Gatos is a welcoming town to all regardless of race or ethnicity.~~

What are restrictive covenants?

Restrictive covenants are provisions in title documents that govern and impact the use and/or transfer of real property. Not all restrictive covenants are illegal, invalid or unenforceable. For example, two-story buildings may be prohibited in a neighborhood that desires to maintain the character of one-story buildings. However, restrictive covenants that prohibit the transfer of the property to non-white persons or other Constitutionally-protected classes of individuals are not legal, valid or enforceable by law. Some racially restrictive covenants specifically reference particular races or ethnicities. ~~-Black people were systematically excluded from living in many communities across the United States, including within California, and particularly Los Gatos.~~ California has a long well-documented history of prominent public and private leaders who advocated against the presence of Asians—mainly those of Chinese and Japanese ethnicity³. But, these covenants can also apply to any Constitutionally-protected classes of individuals who

have been discriminated against based upon gender, religion, age, sexual preference, and disability, among others.

When were these restrictive covenants used? Are they enforceable as a matter of law?

Although the U.S. Supreme Court in its 1926 decision *Corrigan v. Buckley* discusses the use of racially-based restrictive covenants, the practice dates back to at least the late 1800s, if not earlier. A reported California federal district court case in 1892 struck down the enforceability of a restriction on selling property to Chinese Americans, but surprisingly that case was ignored by the courts and seldom cited. In the *Corrigan* decision, the Court actually upheld the mere existence of restrictive covenants in title documents on the grounds that such transactions were between private parties and involved no state action (e.g., no use of governmental agencies or tribunals to enforce such covenants). Twenty-two years later, the Court struck down the enforceability of these types of covenants in *Shelley v. Kraemer*. In *Shelley*, the seller of a parcel of real estate discovered that the purchaser of the property was not white and sought to prevent the purchaser from taking possession of the property. In finding the racial covenant violative of the Equal Protection Clause of the Fourteenth Amendment, the Court found state action present with the contemplated judicial enforcement of those covenants. Subsequent federal and state fair housing laws have also made such restrictive covenants and practices unlawful.

What has California done to deal with these restrictive covenants?

In 1999, California began creating ways for property owners, upon discovering the existence of a restrictive covenant in their title documents, to apply to the Fair Employment and Housing Commission (FEHC) to have the FEHC review the validity of the covenant and, if found invalid, request the county recorder to strike the unlawful covenant.⁴ In 2005, the law was streamlined to allow owners to file directly with the county recorder a Restrictive Covenant Modification (RCM) form to have such covenants redacted from title documents.⁵ However, these changes did not prevent restrictive covenants from appearing in title documents, and unsuspecting buyers might nevertheless be unduly influenced by such covenants and choose not to pursue the purchase or at the very least feel unwelcome in that neighborhood.⁶

What has Santa Clara County done to deal with these restrictive covenants?

In 2022, California law was amended to require county recorders to develop plans to affirmatively identify and redact restrictive covenants.⁷ Santa Clara County has created a Restrictive Covenant Modification Program (“RCM Program”), where it has committed to devote staff and resources to the process of identifying restrictive covenants, evaluating their lawfulness and enforceability, and redacting the covenants from the public record.⁸ With a deadline of December 2027, the challenges for the County’s RCM Program are enormous. The County estimates that it needs to process over 24 million pages of recorded documents, the vast majority of which have not yet been digitized. Starting in July 2022, the County has processed to date 462,600 pages or just under 2%. At its new offices in North San Jose, the County makes available computer terminals where the public can access recorded documents

with the assistance of staff. But, unless the party interested in reviewing his or her property deeds already possesses a title report for that property, a search at the County office will most likely not uncover the restrictive covenants. Even if a property owner has an address and assessor's parcel number for the property, that will likely not be sufficient to locate all of the documents in the chain of title that have some bearing or impact on the property.

Santa Clara County's RCM Program has to date uncovered 19 instances of racially restrictive covenants governing parcels located within the Town of Los Gatos. All of these racially restrictive covenants were identified by County staff utilizing key word searches. None of the 19 redactions of racially restrictive covenants were initiated by private parties. Information on a county-wide basis is updated from time to time on the County's website.⁹ The Town's DEI Commission will continue to explore ways to assist Santa Clara County in such redaction process as it relates to properties located within the Town of Los Gatos.

If the Santa Clara County Recorder is already underway to redact restrictive covenants from public records, why do I need to take any further action to get them removed?

While we understand that Santa Clara County will address racially and other discriminatory restrictive covenants through its RCM Program, we also recognize the enormous undertaking of such program ~~and anticipate~~. According to recent news reports,¹⁰ that it will take longer than currently planned to ameliorate this problem, the County is partnering with Stanford University's Regulation, Evaluation, and Government Lab (RegLab) to utilize AI technology to uncover racially and other discriminatory restricted covenants affecting properties in the County, particularly in light of the County's ambitious goal of identifying all discriminatory restrictive covenants by December 2027. As currently reported on the County's RCM program website, the County has reviewed approximately 2% of the 24 million pages of recorded documents—although the website is updated frequently, this information is just slightly higher than what the County had disclosed on its website back in August when we started communicating with them. At that time, the County's manual search process had identified 19 properties within Los Gatos that contain restrictive covenants. That number of properties is still reported today with respect to Los Gatos.

We were surprised to discover that at least 9 of the 19 properties found by the County did not show up on the RegLab's mapping of the properties that it found.¹¹ We have conveyed this information to the County, and they are looking into how the properties may have been missed. The paper discussing the project by the RegLab researchers also notes that the AI tool may not catch all properties with restrictive covenants.¹²

Inasmuch as our efforts at the DEI Commission are also focused on creating learning opportunities for the Town of Los Gatos and the Los Gatos community, particularly using the County's RCM program to educate property owners and the community about the historical discriminatory practices, there is still a need to get private property owners more involved in this search process. When the County uncovers a racially restrictive covenant and processes a redaction of that covenant, the County is unable to notify the property owner of such action. In addition, given the possibility that the augmented AI search of the County's records may not

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necessarily uncover a discriminatory covenant, it is still important for property owners to review a title report of their property to ensure that their property is not subject to such a covenant. Property owners reviewing such reports may also discover recent action taken by the County to redact a discriminatory covenant, which we assume would be of interest to them.

W~~In addition, we~~ want to encourage Los Gatos property owners to affirmatively take steps to investigate whether their homes or other properties may be subject to these covenants and get them eliminated from their title deeds. By affirmatively undertaking steps to discover the existence of restrictive covenants, Town residents can denounce these practices and demonstrate our community's concern with eliminating these covenants.

We are concerned, however, that such voluntary efforts by property owners will not occur unless that process to identify and redact restrictive covenants is simple, burdenless (with little or minimal cost), timely and efficient for property owners. The RCM Program appears to assume that the property owner has a readily available copy of his or her title documents that will reveal whether a restrictive covenant on that property exists. A party who has recently acquired a property in Los Gatos is more likely to have ready access to the package of closing documents containing the title report. However, if the purchase of a home occurred some years ago, such documents may not be readily available. A title report can be obtained from a title company, but there will be charges for the title search and report. Although the County's public computers can be used to search title documents without charge, online information may not be downloaded or otherwise transmitted electronically, and users will normally be charged for copies of relevant documents.

How can a Los Gatos property owner get a copy of a title report?

With Town staff's assistance, we have located a third party organization who is willing to collaborate with the Town on the Commission's restricted covenant project. The New Museum of Los Gatos has agreed to post contact information to title companies, who are doing business in Los Gatos and willing to help facilitate access to title documents for Los Gatos property owners without charge or at a reduced cost. We will be reaching out to such title companies as part of our listening efforts to find out how the Town can assist local businesses and other organizations with their DEI efforts. We are aware of the Town's policy to not include business contacts directly on its website or to name specific businesses that may be able to help property owners (notwithstanding such businesses may well be interested in so participating directly).

How can Town residents help construct the history surrounding racially restrictive covenants?

-To the extent that property owners undertake efforts to determine whether their properties are subject to restrictive covenants, we encourage them to share information about the covenants revealed in the title documents and, even if no such covenant is found, to report that information to the DEI Commission. We believe that such efforts can help inform the Town about the extent of such discriminatory practices. We will also share with the New Museum and the Los Gatos Public Library information uncovered in this process so that it can be

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incorporated into programs, historical records and archives, and other informational sources of value to the community.

The information gleaned from such action by Town residents may serve as part of an educational project for the Town, helping us understand how restrictive covenants have contributed to the highly segregated community in Los Gatos. When restrictive covenants are discovered, we encourage residents to look more deeply into the circumstances surrounding the recording of such covenant. Apart from identifying the source and nature of the covenant, residents could consider the following:

- (1) To the extent that restrictive covenants are discovered, do they extend to neighboring properties or to particular tracts or subdivisions? The discovery of a restrictive covenant on one parcel may help focus the search on adjoining or nearby parcels.
- (2) What was going on in Los Gatos at the time such covenants were inserted or used? Do historical records reveal events, circumstances or thinking that may have given rise or influenced the use of these covenants? What was going on in areas beyond Los Gatos that may have explained these covenants?
- (3) What might have been the fears or concerns of the people who inserted the covenants in the title documents?
- (4) Who were the parties involved in transactions that included such covenants? Were they known community leaders or otherwise active in the community? Were they real estate developers or urban planners? Did people voice concerns about using these covenants, both for and against?
- (5) Were other efforts undertaken to achieve the same result as the restrictive covenants?

What is the ultimate purpose and value of this project?

If you embrace and celebrate concepts of DEI and believe they are essential for creating a better community for Los Gatos, you can demonstrate your support of DEI principles by investigating whether your property is subject to such restrictive covenants, and if so, by taking steps to have that provision redacted from your title report. We admit that this is largely a symbolic effort, but it sends a message that you, and our community as a whole, denounce the racist policies of the past of your concern for critical values embraced by this community. Participating in these efforts reaffirms our community's rejection of racist behavior, and strengthens Los Gatos' reputation for being a DEI-community that embraces diversity, equity, and inclusion.

¹ https://www.losgatosca.gov/DocumentCenter/View/38848/3_Adopted-2023-2031-Housing-Element-Clean-Copy, p. A-3 of Appendix A, p. 61 of 331,

² <https://www.losgatosca.gov/2616/Represent-Los-Gatos>

³ James D. Phelan, "The Japanese Evil in California," 210 The North American Review 323-328 (September 1919). See also https://encyclopedia.densho.org/James_D._Phelan/.

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¹⁰ <https://www.kqed.org/news/12009822/stanford-ai-model-helps-locate-racist-deeds-in-santa-clara-county>; <https://www.kron4.com/news/bay-area/stanford-researchers-map-white-only-properties-in-santa-clara-co-using-ai/>; <https://law.stanford.edu/press/stanford-reglab-princeton-and-the-county-of-santa-clara-collaborate-to-use-ai-to-identify-and-map-racial-covenants-from-over-5-million-deed-records/>

¹¹ https://reglab.github.io/racialcovenants/static/maps/dotmap_lot_level.html

¹² <https://dho.stanford.edu/wp-content/uploads/Covenants.pdf>

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Proposal for Los Gatos DEI Commission Effort to Educate Public on Restrictive Covenants

We have a challenge. We need to find creative ways to educate our community on DEI issues. As pointed out during the process of updating our Town’s Housing Element, Los Gatos is among the “most segregated, heavily white cities in [Santa Clara County].”¹ How did the Town get this way? While the Los Gatos Town Library maintains a “collection of historically valuable documents” regarding the Town’s history, information relating to Los Gatos residents who are members of BIPOC communities and/or other groups suffering discrimination are underrepresented in the Library’s collection.² If an important goal of Los Gatos is to shed this undesirable status, it is important to understand what specific factors got the Town to this point.

The historic practice of using restrictive covenants to prevent the transfer of property in Los Gatos to non-white persons might serve as an entry point to understand how discriminatory practices started and evolved in the Town. These vestiges still exist as a reminder of the Town’s racist past, and provide insight into its current segregated make-up. While the California State Legislature has taken steps to remove these offensive provisions from the public record, an opportunity exists for Los Gatos residents to use that process to determine whether their own properties may contain restrictive covenants. We ask that the community actively participate in reporting whether restrictive covenants exist regarding their property. We will collect the results of this community effort and assist Los Gatos property owners on what they can do to get rid of these distasteful and obnoxious provisions. This can serve as an important step in acknowledging the past harms of racism, and inform the steps we can take to ensure Los Gatos is a welcoming town to all regardless of race or ethnicity.

What are restrictive covenants?

Restrictive covenants are provisions in title documents that govern and impact the use and/or transfer of real property. Not all restrictive covenants are illegal, invalid or unenforceable. For example, two-story buildings may be prohibited in a neighborhood that desires to maintain the character of one-story buildings. However, restrictive covenants that prohibit the transfer of the property to non-white persons or other Constitutionally-protected classes of individuals are not legal, valid or enforceable by law. Some racially restrictive covenants specifically reference particular races or ethnicities. Black people were systematically excluded from living in many communities across the United States, including within California, and particularly Los Gatos. California has a long well-documented history of prominent public and private leaders who advocated against the presence of Asians—mainly those of Chinese and Japanese ethnicity³. But, these covenants can also apply to any Constitutionally-protected classes of individuals who

have been discriminated against based upon gender, religion, age, sexual preference, and disability, among others.

When were these restrictive covenants used? Are they enforceable as a matter of law?

Although the U.S. Supreme Court in its 1926 decision *Corrigan v. Buckley* discusses the use of racially-based restrictive covenants, the practice dates back to at least the late 1800s, if not earlier. A reported California federal district court case in 1892 struck down the enforceability of a restriction on selling property to Chinese Americans, but surprisingly that case was ignored by the courts and seldom cited. In the *Corrigan* decision, the Court actually upheld the mere existence of restrictive covenants in title documents on the grounds that such transactions were between private parties and involved no state action (e.g., no use of governmental agencies or tribunals to enforce such covenants). Twenty-two years later, the Court struck down the enforceability of these types of covenants in *Shelley v. Kraemer*. In *Shelley*, the seller of a parcel of real estate discovered that the purchaser of the property was not white and sought to prevent the purchaser from taking possession of the property. In finding the racial covenant violative of the Equal Protection Clause of the Fourteenth Amendment, the Court found state action present with the contemplated judicial enforcement of those covenants. Subsequent federal and state fair housing laws have also made such restrictive covenants and practices unlawful.

What has California done to deal with these restrictive covenants?

In 1999, California began creating ways for property owners, upon discovering the existence of a restrictive covenant in their title documents, to apply to the Fair Employment and Housing Commission (FEHC) to have the FEHC review the validity of the covenant and, if found invalid, request the county recorder to strike the unlawful covenant.⁴ In 2005, the law was streamlined to allow owners to file directly with the county recorder a Restrictive Covenant Modification (RCM) form to have such covenants redacted from title documents.⁵ However, these changes did not prevent restrictive covenants from appearing in title documents, and unsuspecting buyers might nevertheless be unduly influenced by such covenants and choose not to pursue the purchase or at the very least feel unwelcome in that neighborhood.⁶

What has Santa Clara County done to deal with these restrictive covenants?

In 2022, California law was amended to require county recorders to develop plans to affirmatively identify and redact restrictive covenants.⁷ Santa Clara County has created a Restrictive Covenant Modification Program (“RCM Program”), where it has committed to devote staff and resources to the process of identifying restrictive covenants, evaluating their lawfulness and enforceability, and redacting the covenants from the public record.⁸ With a deadline of December 2027, the challenges for the County’s RCM Program are enormous. The County estimates that it needs to process over 24 million pages of recorded documents, the vast majority of which have not yet been digitized. Starting in July 2022, the County has processed to date 462,600 pages or just under 2%. At its new offices in North San Jose, the County makes available computer terminals where the public can access recorded documents

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¹ https://www.losgatosca.gov/DocumentCenter/View/38848/3_Adopted-2023-2031-Housing-Element-Clean-Copy, p. A-3 of Appendix A, p. 61 of 331,

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