

**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE MEETING AGENDA
NOVEMBER 26, 2024
110 EAST MAIN STREET
TOWN COUNCIL CHAMBERS
5:00 PM**

*Maria Ristow, Chair
Matthew Hudes, Vice Chair*

HOW TO PARTICIPATE

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 Thursday before the Commission meeting.
- For inclusion in the agenda packet supplemental materials: by 11:00 a.m. the day before the Commission meeting.
- For inclusion in a desk item: by 11:00 a.m. 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

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 Minutes of the September 24, 2024, Policy Committee Meeting.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Committee on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Chair, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

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

2. Discuss and Make a Recommendation to the Town Council to Approve the Modifications to Town Council Policy 2-11 "Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum" Related to Attendance
3. Discussion, Consideration and Possible Action to Revise Town Agenda and Format and Rules Council Policy 2-01
4. Discussion, Consideration and Possible Action to Revise Town Code of Conduct Council Policy 2-04

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]



DRAFT
Minutes of the Town Council Policy Committee Meeting
September 24, 2024
5:00 P.M.

The Town Council Policy Committee conducted a regular meeting in-person.

MEETING CALLED TO ORDER AT 5:00 P.M.

ROLL CALL

Members Present: Chair/Council Member Maria Ristow and Vice Chair/Vice Mayor Matthew Hudes.

Staff Present: Gabrielle Whelan, Town Attorney, and Wendy Wood, Town Clerk.

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

1. Approve Minutes of the August 27, 2024, Council Policy Committee Meeting.

There was no public comment.

MOTION: Motion by Vice Chair Hudes to approve the consent item. **Seconded by Chair Ristow.**

VOTE: Motion passed by a unanimous vote.

VERBAL COMMUNICATIONS

There were no verbal communications.

OTHER BUSINESS

2. Discuss and Recommend Modifications to Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy 2-11 Related to Attendance.

Wendy Wood, Town Clerk, presented the staff report.

There was no public comment.

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SUBJECT: Draft Minutes of the Council Policy Committee Meeting of September 24, 2024

DATE: September 26, 2024

The Committee asked questions, discussed the item, and supported the following redline revisions: adding excused and unexcused absences and setting the allowable limits at twenty percent for unexcused absences and thirty-five percent for total absences; adding a meeting recess in July for all Commissions; adding a two-hour time limit for all Commission meetings with the exceptions of the Planning Commission and the Historic Preservation Committee, and meetings containing discussion regarding the Town's annual budget, and minor clean-up changes to address inconsistencies within the Policy. The Committee also requested additional changes to address any conflicts in the Policy with the Finance Commission ordinance.

The Committee discussed the Youth Commissioners' participation in Adult Commissions in relation to concerns about attendance and the implications of the 700 filing requirement. The Committee requested feedback from the Youth Commission regarding their preferred level of participation in Adult Commissions.

ADJOURNMENT

The meeting adjourned at 5:55 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the September 24, 2024, meeting as approved by the Town Council Policy Committee.

Wendy Wood, Town Clerk



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

MEETING DATE: 11/26/2024

ITEM NO: 2

ITEM NO. 2.

DATE: November 20, 2024
TO: Council Policy Committee
FROM: Chris Constantin, Town Manager
SUBJECT: Discuss and Make a Recommendation to the Town Council to Approve the Modifications to Town Council Policy 2-11 “Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum” Related to Attendance

RECOMMENDATION:

Discuss and make a recommendation to the Town Council to approve the modifications to Town Council Policy 2-11 “Commission Appointments, Residency, and Attendance Requirements, and Establishing a Quorum” related to attendance.

BACKGROUND:

The Town Council Commission Appointment Policy sets forth procedures for consistent recruitment, appointment, residency, and attendance requirements for all Town Boards, Commissions, and Committees (hereafter Commissions). There have been several revisions to this Policy in the past years to ensure consistency.

At the August 27 meeting, the Committee discussed Commissioner attendance and responded to the following questions:

1. Does the Committee wish to amend the Policy to implement excused and unexcused absences?
2. If so, should there be a limit on the number of excused absences?
3. Is the unexcused absence rate of 25 percent of the total number of regular meetings an acceptable limit?
4. Does the Committee wish to implement time limits on the duration of Commission meetings?
5. Does the Committee wish to implement a July summer recess for all Commissions?

PREPARED BY: Wendy Wood
Town Clerk

Reviewed by: Town Manager and Town Attorney

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SUBJECT: Modification to the Commission Appointment Policy 2-11

DATE: November 20, 2024

The Committee directed staff to revise the Policy to incorporate excused and unexcused absences, a July summer recess for all Commissions, and a two-hour time limit for all commission meetings, with the exception of the Planning Commission and Historic Preservation Committee. The Committee also asked staff to provide a recommendation for a limit on the number of excused and unexcused absences.

The Committee was also asked the following questions in regard to the Youth Commissioner's participation in the adult commissions:

1. Should Youth Commissioners serve as voting members on an adult commission, which counts toward the Commission quorum, or should Youth Commissioners serve as non-voting members who do not make up the quorum of the adult commission?
2. Should expectations and requirements regarding Youth Commission participation at the adult commissions be adjusted?
3. Should Youth Commission requirements regarding attendance at the adult commissions be adjusted to account for the fact that the Youth Commission is not in session during the summer?

The Committee discussed concerns and requested input from the Youth Commission.

At the September 24 meeting, the Committee discussed the redline revisions and supported revisions, adding excused and unexcused absences and setting the allowable limits at twenty percent for unexcused and thirty-five for total absences; adding a meeting recess in July for all Commissions; adding a two-hour time limit for all Commission meetings with the exception of the Planning Commission and the Historic Preservation Committee; and minor clean-up changes to address inconsistencies. The Committee requested additional changes to address any conflicts in the policy with the Finance Commission ordinance.

The Committee also discussed the Youth Commissioner's participation in Adult Commissions and the issues raised regarding absences. They requested feedback on the Youth Commission's upcoming discussion about their enabling resolution related to their role and participation level in the Adult Commissions.

DISCUSSION:

Staff has prepared a redline Policy (Attachment 1) with the previous revisions and the additional changes to address conflicts in the policy with the Finance Commission ordinance.

Staff attended the Youth Commission meeting on November 12, where they discussed changes to their enabling resolution, which included their role and participation level in the Adult Commission. The requirement for filing a form 700 as a member of the Adult Commission and the impact their attendance has on the Adult Commission's quorum requirement was discussed, and the Commission unanimously voted to recommend changing their role in the

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SUBJECT: Modification to the Commission Appointment Policy 2-11

DATE: November 20, 2024

Adult Commission from a voting member to a liaison.

As a result, staff is proposing the removal of the following sentence: "If a Youth Commissioner liaison misses three meetings of a liaison Commission during a consecutive twelve (12) month period, the Youth Commission shall appoint a different Youth Commissioner as liaison." This change is intended to align the Youth Commissioner's attendance with their role on the Adult Commissions for either outcome. If the Youth Commission's role shifts to that of a liaison not serving as a member of the adult commission, the attendance requirements can be appropriately addressed within the Youth Commission's enabling resolution. If the Youth Commissioners continue to serve as a voting member of the adult commission, the attendance requirements should be the same as the adult members.

CONCLUSION:

Staff looks forward to the Committee's discussion and direction. If the Committee recommends updating the Policy, staff will incorporate any necessary modifications prior to bringing the proposed draft to the full Town Council for consideration and approval.

COORDINATION:

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

FISCAL IMPACT:

This item has no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Redline Commission Appointment Policy 2-11



TITLE: Residency and Attendance Requirements, and Establishing a Quorum		POLICY NUMBER: 2-11
EFFECTIVE DATE: 2/28/1990		PAGES: 7
ENABLING ACTIONS:	REVISED DATES: 6/13/1994; 6/16/2014; 4/7/2015; 10/18/2016; 2/21/2017; 2/6/2018; 3/19/19; 9/3/2019; 6/1/2021; 12/7/21, 3/15/22, 8/2/22; 9/20/22; 10/03/23; 11/21/23; 3/5/2024	
APPROVED:		

PURPOSE

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

SCOPE

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

POLICY

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

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

RESIDENCY REQUIREMENTS

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

Youth Commission:

The members shall be students who are entering grades 8 through 12 in the fall. Membership for the students requires either residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.

Diversity, Equity, and Inclusion Commission:

Membership composition shall be as outlined in the Commission's enabling resolution and includes a Los Gatos business owner/employee, faith leader who leads a congregation in Los Gatos, and Los Gatos non-profit employee who may or may not reside in Los Gatos.

ATTENDANCE REQUIREMENTS

1. All members of all appointive ~~Town Advisory Bodies~~Commissions should attend all regular and special meetings of said ~~Advisory Bodies~~Commissions.
2. Consistent with the Town Council's summer recess, Commissions will not schedule a regular meeting in the month of July to allow time for vacations.
- 2.3. Any member not in attendance at a regular meeting of said ~~Advisory Body~~Commissions for at least 70% of the meeting shall be considered absent. To allow Commissioners to plan ahead to meet the 70% requirement, there will be a two-hour time limit for a regular Commission meeting with the exception of the Planning Commission and the Historic Preservation Committee and meetings containing discussion regarding the Town's annual budget.
3. ~~Any member of an appointive Town Advisory Body who is absent from the number of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.~~
 - a. ~~For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.~~

- ~~b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.~~
- ~~c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.~~
- ~~4. Consistent with the Family Medical Leave Act and the California Family Rights Act, absences of up to 12 weeks due to parental leave constitute excused absences.~~
4. A Commissioner shall be deemed to have automatically surrendered their office if they have either:
- a. Three consecutive unexcused absences from the regular meetings of the Commission; or
 - b. Unexcused absences totaling more than twenty percent* of the total number of scheduled regular meetings in any calendar year;* or
 - c. Absences, whether excused or unexcused, totaling more than thirty-five percent* of the total number of scheduled regular meetings in that calendar year.**
5. Excused absences shall be limited to those which meet both of the following requirements:
- a. The absent Commissioner must have informed the chair and the staff liaison to the Commission, of their intended absence prior to the scheduled meeting. (Failure to inform the chair and the staff liaison prior to the meeting shall result in an unexcused absence unless an unusual circumstance prevents advance notice.); and
 - b. The following shall be considered an excused absence:
 - i. An absence due to illness of the Commissioner; or
 - ii. An absence due to a medical emergency of the Commissioner or the Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
 - iii. An absence due to the Commissioner's need to provide direct caregiving related to the illness of the Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
 - iv. An absence due to the death of a Commissioner's immediate family (spouse, domestic partner, parent, child, sibling, or dependent); or
 - v. An absence because a Commissioner is away on authorized commission business; or
 - vi. An absence due to required military service; or
 - vii. An absence related to Federal and State Family Leave.
- 5.6. For all Commissions other than the Finance Commission, The vacant positions shall be filled by appointment by a majority vote of the Town Council, for a term equal to the unexpired portion of the office vacated. Any member removed from office due to non-attendance may re-apply to serve on a Town ~~Advisory Body~~Commission but will not be treated as an incumbent in any subsequent application to the same ~~Advisory Body~~Commission.

~~6. If a Youth Commissioner liaison misses three meetings of a liaison Commission during a consecutive twelve (12) month period*, the Youth Commission shall appoint a different Youth Commissioner as liaison.~~

~~* Percentages will be rounded to the nearest whole number using standard rounding rules (less than .5 will round down and .5 or more will round up) and if the Commissioner was appointed to fill a vacancy, more than twenty percent of the total number of remaining scheduled regular meetings in that calendar year.~~

~~** Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence. A calendar year is defined as January 1 through December 31. Any absence that causes the cancellation of a regular meeting due to lack of a quorum shall be counted as an absence for the Commissioner. A regular meeting shall not be cancelled and replaced with a special meeting in order to alleviate an absence by an advisory body member Commissioner.~~

QUORUM REQUIREMENTS

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

PROCEDURES

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

Responsibility and Actions: Town Clerk

A. Annual Recruitments

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

1. Notify Town Council of vacancies on Commissions by indicating the names of the Commissions, the number of terms expiring or being vacated, names of individual(s) with expiring terms or vacating seats, advertising periods (at least 30 days) and the date of interview.
2. Advertise the vacancies, including the application deadline and the interview date. Interviews and appointments for Adult Commissioners shall occur after annual Mayor and Vice Mayor selection, and in the case of election years, after new Council Members have been seated. Interviews and appointments for Youth Commissioners shall occur by the fourth Wednesday in May, no earlier than 4:00 p.m.

3. Prepare and maintain easily understood applications for appointment to Commissions. Applications shall include the following policy information:
 - a. Prior to initial appointment to any Commission, non-incumbent applicants must be interviewed by the Town Council, with the exception of the Finance Commission which will be interviewed by the appointing Council Member. The applications of those not appearing-interviewed will be held for the next recruitment.
 - b. If an incumbent Commissioner is requesting reappointment to the same Commission and is not available to be interviewed, the incumbent may submit a request to be interviewed by telephone, with their application, instead of attending the interview or must submit a letter prior to the interviews, describing the reason why the applicant cannot be present telephonically via teleconference or in person for the interview, and why the applicant should be reappointed to the Commission.
 - c. Submission~~s~~ deadlines are mandatory; no exceptions are permitted.
4. Applications:
 - a. *For adult applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council prior to the interviews for appointment.
 - b. *For student applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council Selection Committee, consisting of the Mayor, Vice Mayor, Police Chief, and Youth Commission Chair (if not reapplying), prior to the interviews for appointment.
5. Notify the applicant by letter or email as to the date and time of the interview and provide the option for an in person or teleconference interview.
6. Facilitate the Council voting process set forth below by informing the Council as to how many votes are possible on each Commission, calling out applicants' names, and identifying the applicants receiving sufficient votes for appointment. This voting process does not apply to ~~student~~ Youth Commission or Finance Commission applicants.
7. Applicants:
 - a. *For adult applicants* — After the interviews and the Council votes~~s~~ are completed, notify all applicants of the Council's action, and explain the Town's policy of keeping applications~~s~~ active for one year with notification of subsequent openings on that Commission to the interested applicants.
 - b. *For ~~student~~ Youth Commission applicants* — After the interviews are completed, notify all applicants of the Council Committee's action, and prepare a staff report for the Town Council to ratify the Committee's appointment at the first Town Council meeting in June.

Interview Process

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

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

The standard questions are limited in number to allow an applicant sufficient time to respond. While the intent is for each Council Member to be able to ask one question of each applicant, the Council may decide not to ask all of the provided questions, change the order of the questions, or rotate which Council member asks a specific question. Applicants will be given a two-minute time limit to answer each question.

Balloting Process

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

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

5. If an applicant(s) is appointed to an ~~Advisory Body~~ Commission ~~which that~~ has vacancies for both full and partial, unexpired terms, the length of the appointee's term will be determined by the Mayor.

B. Mid-Term Recruitments

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

Responsibility and Action: Applicant

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

Responsibility and Action: Town Council

1. Review applications.

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

COMPLIANCE - GROUNDS FOR DISMISSAL REAPPOINTMENT GUIDELINES

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

- ~~1. Failure to attend Advisory Body meetings.~~
- ~~2.1.~~ 1. Failure to file the following documents required by the Fair Political Practices Commission (Adult Commissioners):
 - a. Form 700 – Assuming Office, Annual, and Leaving Office when term is complete.
 - b. Planning Commissioners are also required to complete AB 1234 Ethics Training and file the original certificate with the Town Clerk every two years.
- ~~3.2.~~ 2. Failure to comply with all Town Policies, Guidelines, and Handbooks.

CONFLICT OF INTEREST

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

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

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

PAGE:
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POLICY NUMBER:
2-11

ITEM NO. 2.

APPROVED AS TO FORM:

Gabrielle Whelan, Town Attorney



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

MEETING DATE: 11/26/2024

ITEM NO: 3

ITEM NO. 3.

DATE: November 26, 2024
TO: Council Policy Committee
FROM: Chris Constantin, Town Manager
SUBJECT: Discussion, Consideration and Possible Action to Revise Town Agenda and Format and Rules Council Policy 2-01

RECOMMENDATION:

Provide direction to Town staff related to proposed changes in the Town Agenda Format and Rules Council Policy.

FISCAL IMPACT:

None. Changing this policy does not result in a significant cost.

BACKGROUND:

Policy 2-01, originally adopted in 1986, governs the format and rules for Town Council and Town Board, Commission, and Committee agendas. It has undergone 25 periodic updates to reflect evolving needs of the Town Council.

The proposed changes aim to establish a transparent and inclusive process for Councilmembers to propose future agenda items. This process ensures that any Councilmember may bring forward a topic for initial consideration, while requiring a majority of the Council to agree before directing staff to undertake significant work on the matter.

The revisions strike a balance by preserving the ability of minority Councilmembers to initiate public discussions on the merits of a proposal, while aligning resource allocation with the collective priorities of the Council. Additionally, these changes remove the responsibility from the Mayor to unilaterally decide whether a Councilmember's proposed agenda item proceeds,

PREPARED BY: Chris Constantin
Town Manager

Reviewed by: Town Manager and Town Attorney

SUBJECT: Revise Town Agenda and Format and Rules Council Policy 2-01

DATE: November 26, 0224

thereby mitigating potential discomfort associated with such determinations and fostering a more collaborative approach to agenda-setting.

As part of the proposed revisions to Town Council Policy 2-01, staff recommends adopting Rosenberg's Rules of Order, published by Cal Cities, as the primary framework for conducting Town Council meetings. These rules are widely recognized and utilized by local governments across California for their simplicity, clarity, and efficiency in parliamentary procedure.

Instead of the complex Robert's Rules of Order, Rosenberg's Rules offer a practical approach to meeting management that emphasizes transparency, fairness, and inclusivity. Their adoption will provide a clear and consistent structure for Council deliberations while remaining accessible to both Councilmembers and the public. By transitioning to Rosenberg's Rules, the Town Council will align with best practices endorsed by municipal organizations, reinforcing its commitment to effective governance and public engagement. At only 6 pages, Rosenberg's Rules are much easier to follow during a meeting.

DISCUSSION:

Attachment 1 provides a redline version of Policy 2-01 which provides draft language for the Council's consideration. The following is a listing of the key changes:

- Section C.1 Verbal Communications – Remove a line where the Council may instruct the Town Manager to place an item presented by a public speaker on the agenda.
 - **Redundant Language** – This is redundant to language proposed later in the policy which allows the Town Council to agendize an item at any time by majority vote.

- Section I Preparation of the Agenda – This section has been comprehensively rewritten to update and refine the process for Councilmembers to request agenda items for Town Council consideration. The proposed revisions aim to:
 - **Align Policy with Current Practices:** The existing policy does not reflect the Town Council's current practices, necessitating changes to ensure consistency and transparency.
 - **Empower the Majority:** The new policy ensures that any direction to staff requires the approval of a majority of the Town Council, aligning with democratic principles and collective decision-making.
 - **Reduce Potential Conflicts:** The proposed change avoids placing the Mayor in an adversarial role or giving undue influence to one individual. This adjustment ensures that all Councilmembers have equal opportunities to raise issues, subject to the consideration and support of the majority.
 - **Enhance Public Accountability:** The revised approach requires public deliberation and majority support for directing staff resources, ensuring that

SUBJECT: Revise Town Agenda and Format and Rules Council Policy 2-01

DATE: November 26, 0224

Town priorities are established transparently and collaboratively. These changes foster a more inclusive and balanced agenda-setting process while upholding the principles of fairness, transparency, and efficient governance.

- **Section L Conduct of Town Council Meetings** – This section has been updated to designate Rosenberg's Rules of Order, supported by Cal Cities, as the standard framework for governing the efficient operation of Town Council meetings. While Rosenberg's Rules will serve as the primary procedural guide, the policy maintains the Mayor's authority to propose modifications to meeting rules, subject to Council concurrence, to address specific needs or circumstances. Key benefits of this change include:
 - **Clarity and Accessibility:** Rosenberg's Rules offer a simplified and user-friendly alternative to the complex Robert's Rules of Order, making them easier for Councilmembers, staff, and the public to understand and apply.
 - **Operational Consistency:** The adoption of these rules provides a clear and consistent structure for conducting meetings, particularly during complex or contentious discussions, ensuring a uniform approach to deliberation and decision-making.

ALTERNATIVES (continued):

The Committee can elect to not make the recommended changes or consider revised language.

COORDINATION:

None.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Draft Changes to Policy 2-01
2. Rosenberg's Rules



TITLE: Town Agenda Format and Rules		POLICY NUMBER: 2-01
EFFECTIVE DATE: 12/15/1986		PAGES: 7
ENABLING ACTIONS: 1986-183; 1987-024; 1988-124; 1993-181; 1994-057; 1996-108; 2001-077; 2004-033; 2009-002; 2021-047	REVISED DATES: 12/15/1986; 3/2/1987; 6/6/1988; 6/15/1992; 12/6/1993; 4/4/1994; 8/5/1996; 7/2/2001; 4/5/2004; 1/20/2009; 3/16/2009; 12/6/2010; 8/5/2013; 3/3/2015; 9/20/2016; 6/20/2017; 8/1/2017; 12/4/18/; 8/20/19; 12/3/19; 6/1/2021; 11/2/2021; 9/20/22; 2/7/2023; 11/21/2023; 8/6/2024	
APPROVED:		

PURPOSE

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

POLICY

The following policies have been established:

- A. Order of the Agenda
 Subject to the Mayor’s, or Chair’s, discretion to change the order of consideration of any agenda item during any individual meeting:
 - Call Meeting to Order
 - Roll Call
 - Pledge of Allegiance
 - Appointments
 - Presentations
 - Closed Session Report
 - Council Matters
 - Manager Matters
 - Consent Calendar
 - Verbal Communications
 - Public Hearings
 - Other Business

Adjournment (No later than midnight without vote)

B. Closed Session Report

As required by the Brown Act, the Town Attorney will report on actions taken at the Closed Session, but without reporting any information which could damage the Town's position on a) potential or existing litigation, b) the acquisition or disposition of property, or c) any employee's privacy interests. In addition, the Closed Session agenda shall clearly identify the subject of each agenda item consistent with the requirements of the *Brown Act*.

C. Communications by Members of the Public

Speakers at public meetings will be asked to provide their full name and to state whether they are a resident of the Town of Los Gatos. This information is optional but not required.

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

5. *Mayor's Discretion.* All time limits noted above shall be subject to change at the Mayor's discretion. If a member of the public speaks on the wrong item, the time used would be deducted from the speaker's overall public comment time allowance on the correct item.

D. Consent Calendar

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

Consent items shall be approved by a single Council motion unless a member of the Council requests that an item be removed for separate Council action. Members of the public may speak on an item on the Consent Calendar during the public comment portion before the Council votes on the Consent Calendar. Items removed from the Consent Calendar may be considered at that meeting at the Mayor's discretion. If an item is removed for discussion, members of the public may speak to that item even if they previously spoke on the item during public comment.

E. Presentations

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

F. Council Matters

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

G. Adjournment

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

H. Americans with Disabilities Notice on Town Agendas

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

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

I. Preparation of the Agenda

The agenda is prepared by the Town Manager in coordination with the Mayor, who retains final approval after consultation.

Councilmember Requesting a Future Agenda Item – At a public meeting and without prior agendaing, a Councilmember may request during **Council Matters** whether another Councilmember supports placing an item on a future agenda. If a second Councilmember provides support, the item will be listed on a subsequent agenda as a **discussion-only item**. The future discussion-only item will list the requested item under Council Matters by a brief description on the agenda. No staff report or other materials will be included. The purpose of this future discussion is for the Council to determine, by majority vote, whether Town resources should be expended to prepare a comprehensive agenda item for possible action at a future meeting.

Council Acting to Request Future Action Item – Nothing will restrict the Council from acting at any time by majority vote to place a specific item on a future agenda. A minority of the Council cannot agendaize items. Authorization to proceed with staff work requires a majority vote of the Council.

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

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

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

~~immediate action and the need for action came to the attention of the Town after the agenda was posted.~~

J. Agenda Schedule and Preparation

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

Thursday, prior to the meeting Written agenda is finalized and printed. Agenda packets distributed to Town Council Members. Public comments on agenda items received by 11:00 a.m. will be included in the agenda packet.

Friday, prior to the meeting Additional information from staff available after the Thursday distribution of the agenda packet, and public comments received prior to 11:00 a.m. on Friday will be distributed to Town Council members as an Addendum to a staff report.

Monday, prior to the meeting Additional information from staff available after the Friday Addendum and public comment received prior to 11:00 a.m. on Monday will be distributed to Town Council members as an Addendum to a staff report.

Day of Council Meeting Council comments and questions received by 7:00 a.m. and public comments received by 11:00 a.m. on the morning of a Council meeting will be included in a Desk Item for distribution to Town Council members by 3:00 p.m. on the afternoon of a Council meeting. Council comments and questions received after 7:00 a.m. may be addressed during the Council meeting. Public comment received after 11:00 a.m. will not be distributed to the Council in the Desk Item; however, public comment may be submitted by individuals during the Council meeting.

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

K. Agenda Posting

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

L. Conduct of Town Council Meetings

The Council ~~shall adopt~~ Rosenberg's Rules Order for the parliamentary rules of the Council meeting. At the discretion of the Mayor, an alternate approach or set of rules may be used as long as all members of the Town Council concur.:

- ~~1. Robert's Rules of Order or~~
- ~~2. Some other rules of order, or~~
- ~~3.1. Allow the Mayor to conduct the meeting as deemed appropriate so long as all members of the Town Council concur.~~

M. Attendance at Meetings

The Town Council and Commissioners are expected to attend all meetings as part of their commitment to their positions. Attendance requirements for Commissioners are set forth in Town Council Policy 2-11: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum. Consistent with the Family Medical Leave Act and the California Family Rights Act, absences of up to 12 weeks due to the birth of a child constitute excused absences.

N. Remote Attendance

In addition to the requirements of the Brown Act, the following guidelines apply to Town meetings:

1. Town Council Meetings: Requests by Council Members to attend a regular Council meeting via remote appearance (either Zoom or telephone) are allowed on a limited basis and with no more than two remote participations in a row. Remote attendance shall be permitted for a medical, family or work event requiring a Council Member's absence or in the event the Council Member is out of the area on official Town business. In addition, at least a quorum of the Council must participate from a location within the Town and comply with other requirements of the Brown Act. When a Council Member is participating remotely, they shall have their camera on and be visible for the duration of the meeting.
2. Town Board, Committee, and Commission Meetings: Board, Committee, and Commission members may participate remotely by telephone only, with the exception of the Finance and Planning Commissioners who have the choice of either Zoom or telephone. Requests by Commissioners to attend a Commission meeting via remote appearance should be allowed on a limited basis to mirror the existing attendance requirements, with no more than four remote participations annually, no more than two remote participations in a row, and in compliance with the Brown Act.
3. Remote Participation by the Public: With the exception of Town Council Closed Sessions, the public may participate in Town Council, Finance Commission, and Planning Commission meetings remotely by following the remote participation instructions that are provided on the agenda. The remote participation instructions shall be provided on all Town Council, Finance Commission, and Planning Commission agendas with the

exception of Town Council Closed Sessions. There is not a remote public participation option for other Town Boards, Committees, or Commissions.

O. Proposed Reconsideration of Prior Council Actions

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

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

- a) The motion must be made by a Council Member who previously voted on the prevailing side of the prior action;
- b) The maker of the motion shall specifically articulate the new information, analysis and/or circumstances that warrant(s) reconsideration of the prior action;
- c) The motion must be adopted by a majority of the full Council; and
- d) The motion may only be made and considered at the next regularly scheduled meeting of the Council after the item was originally acted upon.

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

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

P. Motions by the Chairperson

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

Q. Behavior Expectations and Consequences at Town Council Meetings

At each meeting, the Mayor should welcome the public to participate in the meetings, understanding that the purpose of the meeting is to conduct the important business of the Town in an efficient and effective manner. The Mayor may promote constructive communication by asking Council members, staff, and community members to embrace and adhere to the following values:

- Be respectful, welcoming, inclusive, compassionate, and kind to each other,
- Appreciate the diversity of perspectives and views in our community,
- Express your views and share your perspectives in helpful ways,
- Listen to understand and empathize with each other, and
- Collaborate and work together to do what is best for Los Gatos.

As needed, the Mayor may need to remind the public about the Town’s civility rules:

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

TITLE: Town Agenda Format and Rules

PAGE:
9 of 9

POLICY NUMBER:
2-01

ITEM NO. 3.

APPROVED AS TO FORM:

Gabrielle Whelan, Town Attorney



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.




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

MEETING DATE: 11/26/2024

ITEM NO. 4.

ITEM NO: 4

DATE: November 26, 2024
TO: Council Policy Committee
FROM: Chris Constantin, Town Manager
SUBJECT: Discussion, Consideration and Possible Action to Revise Town Code of Conduct Council Policy 2-04

RECOMMENDATION:

Provide direction to Town staff related to proposed changes in the Town Code of Conduct Council Policy.

FISCAL IMPACT:

None. Changing this policy does not result in a significant cost.

BACKGROUND:

The Town of Los Gatos operates under a Council-Manager form of government, which requires a clear separation of powers and responsibilities between the elected Town Council and the appointed Town Manager and Town Attorney. The current Code of Conduct includes provisions for handling complaints against Councilmembers, with the Town Manager and Town Attorney acting as evaluators alongside the Mayor or Vice Mayor. This arrangement presents potential conflicts of interest, as the Town Manager and Town Attorney are directly evaluated and employed by the Town Council.

The current process raises concerns about the impartiality and effectiveness of complaint evaluations, particularly when significant or complex issues arise. The potential for perceived or real conflicts of interest in this process underscores the need for a revised approach to ensure transparency, fairness, and accountability.

PREPARED BY: Chris Constantin
Town Manager

Reviewed by: Town Manager and Town Attorney

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SUBJECT: Revise Town Code of Conduct Council Policy 2-04

DATE: November 26, 0224

While this policy is current under review with other changes, the significance of the potential conflict necessitates a conversation to consider an alternative means to ensure adherence to the Town Council's expectations while ensuring objective review of any reported violations of those expectations.

DISCUSSION:

To address the concerns of conflicts of interest inherent in the current system, a revision to the Town Council Code of Conduct is needed. A recommendation is to shift the responsibility for handling most complaints against Councilmembers to the Town Council itself, thereby minimizing the involvement of the Town Manager and Town Attorney in evaluative roles. This change aligns with best practices in governance by clearly delineating the decision-making and advisory roles within the Town's leadership structure.

A revised approach may establish the following key provisions:

- **Council-Driven Complaint Resolution:** The Town Council, as the elected governing body, would assume primary responsibility for evaluating and resolving complaints against its members, except in cases where external action is legally or procedurally mandated.
- **Role of the Town Manager and Town Attorney:** In instances of egregious misconduct or where state or federal laws or regulations require external reporting or investigation, the Town Manager and Town Attorney would act as facilitators to ensure compliance with external processes. They would not serve as decision-makers in these cases.
- **Transparency and Fairness:** Any proposed changes aim to reinforce public trust by ensuring that complaint evaluations are conducted without undue influence from individuals who have a direct employment relationship with the Town Council.

This revision supports the Town's commitment to integrity, fairness, and adherence to ethical standards, while also preserving the Council-Manager form of government. Staff recommends that the Town Council consider revisions to enhance the impartiality and credibility of the complaint resolution process.

Any direction will be integrated with other changes previously discussed and will be presented to the Town Council for approval.

ALTERNATIVES (continued):

None.

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SUBJECT: Revise Town Code of Conduct Council Policy 2-04

DATE: November 26, 0224

COORDINATION:

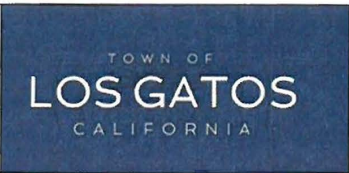
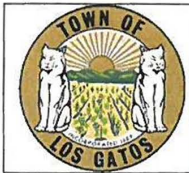
None.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Current Policy 2-04



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

I. Preamble

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

II. Form of Government

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

III. Town Council Roles and Responsibilities

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

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

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

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

V. Mayoral and Vice Mayoral Roles, Responsibilities, Relationships

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

Mayor

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

¹ Council Agenda Format and Rules Policy

² Council Commendation and Proclamation Policy

³ Resolution 1999-167

Vice Mayor

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

VI. Council Conduct in Public Meetings

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

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

VII. Maintaining Civility at Council Meetings

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

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

⁴ Council Agenda Format and Rules Policy

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

VIII. Legal Requirements

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

A. Training

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

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

B. Procurement

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

C. Land Use Applications

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

D. Code of Conduct Policy

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

E. Non-Profit Organizations

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

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

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

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

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

X. Council Relationship with Town Staff

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

Council Conduct and Communication with Town Staff

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

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

XI. Council Communication with the Public and other Council Members

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

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

XII. Enforcement

A. Purpose

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

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

B. Procedures

1. Reporting of Complaints

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

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

2. Evaluation of Complaints Alleging Violations

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

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

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3. Unsubstantiated or Minor Violations

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

4. Allegations of Major Violations

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

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

5. Report of Findings

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

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

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

6. Proceedings

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

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

C. Disciplinary Action

1. Considerations in Determining Disciplinary Action

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

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

2. Types of Sanctions

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

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

APPROVED AS TO FORM:



Gabrielle Whelan, Town Attorney