



**TOWN OF LOS GATOS  
COUNCIL POLICY COMMITTEE MEETING AGENDA  
MARCH 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](mailto: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](mailto: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](mailto: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 February 27, 2024, Policy Committee Meeting.
- [2.](#) Confirm the 2024 Work Plan Items for the Council Policy Committee

**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.)*

- [3.](#) Discuss the Code of Conduct Policy Sections V. and XI. Pertaining to Councilmember Communications with the Media and Public

## ADJOURNMENT

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



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

MEETING DATE: 3/26/2024

ITEM NO. 1.

ITEM NO: 1

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**DRAFT  
Minutes of the Town Council Policy Committee Meeting  
February 27, 2024**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, February 27, 2024, at 5:00 p.m.

**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: Laurel Prevetti, Town Manager; Katy Nomura, Assistant Town Manager; Gabrielle Whelan, Town Attorney; and Wendy Wood, Town Clerk.

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

**1. Approve Minutes of the January 23, 2023, Council Policy Committee Meeting.**

There was no public comment.

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

**VOTE:** Motion passed by a unanimous vote.

**VERBAL COMMUNICATIONS**

No one spoke.

**OTHER BUSINESS**

**2. Discuss, Provide Direction, and Recommend to the Town Council Modifications to the Commission Appointment Policy 2-11.**

Wendy Wood, Town Clerk, presented the staff report.

Opened public comment.

SUBJECT: Draft Minutes of the Council Policy Committee Meeting of February 27, 2024

DATE: March 19, 2024

Karen Delaney

- Commented on concerns with the Commission interview process.

Closed public comment.

The Committee discussed the interview process and asked questions.

Staff provided responses.

After further discussion, the Committee suggested conducting future interviews with Council Members and applicants seated at the table in the Council Chambers and having each Commission interviewed as a group rather than as individual candidates. They also discussed implementing a time limit for answers to each question asked of a candidate. The Commission unanimously agreed to forward a recommendation to the Town Council to approve a Policy modification to add a two-minute time limit for answers.

### **3. Confirm 2024 Work Plan Items for the Council Policy Committee.**

Laurel Prevetti, Town Manager, presented the staff report.

There was no public comment.

The Committee discussed the work plan and asked questions.

Staff provided responses.

The Committee recommended combining the following work plan items together:

- Review the Code of Conduct Policy Council sections addressing Council communications and enforcement; and
- Review the Brown Act and Council communications with regards to forums such as Democracy Tent, social media, and other meetings.

The Committee discussed reviewing the Code of Conduct discipline section after reviewing the communication section.

The Committee also recommended combining the following work plan items together:

- Review Menlo Park's labor negotiation process to see how it differs from Town, and determine if there is anything the Town could do to be more transparent;
- Consider Finance Commission recommendation to create a Public Input and Outreach in Labor Negotiations Policy Modeled after Menlo Park; and
- Consider Finance Commission recommendation for Council not to engage in confidential agreements with bargaining units that would prevent disclosure that would otherwise be properly disclosed under the Brown Act.

SUBJECT: Draft Minutes of the Council Policy Committee Meeting of February 27, 2024

DATE: March 19, 2024

In addition, the Committee recommended combining the following work plan items together:

- Review procedures for remote participation disruptions; and
- Receive an update on remote participation and evaluate the effectiveness of the current policy).

The Committee prioritized the items in the following order: Code of Conduct, taking the communication portion first; labor negotiations; and remote participation.

### **ADJOURNMENT**

The meeting adjourned at 6:08 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the February 27, 2024, meeting as approved by the Town Council Policy Committee.

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Wendy Wood, Town Clerk



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

MEETING DATE: 03/26/2024

ITEM NO. 2.

ITEM NO: 2

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DATE: March 21, 2024  
TO: Council Policy Committee  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Confirm the 2024 Work Plan Items for the Council Policy Committee

**RECOMMENDATION:**

Confirm the 2024 work plan items for the Council Policy Committee.

**REMARKS:**

On February 27, 2024, the Council Policy Committee discussed the proposed 2024 Work Plan. The Committee provided input on the proposed Plan including combining various items. The Work Plan was revised based on the discussion and is available for review as Attachment 1. The revised Work Plan is arranged loosely in priority order.

**Attachment:**

1. Revised 2024 Work Plan

**PREPARED BY:** Wendy Wood  
Town Clerk

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Reviewed by: Town Manager

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**2024 Town Council Policy Committee Work Plan Items (Revised 2-27-24)**

- Review the Commission Appointment Policy for additional modifications. **(Completed)**
- Review the Code of Conduct Policy Council sections addressing Council communications; and review the Brown Act and Council Communications with regards to forums, such as Democracy Tent, social media, and other meetings.
- Review the Code of Conduct Policy Council sections addressing enforcement.
- Review Menlo Park's labor negotiation process to see how it differs from Town and determine if there is anything the Town could do to be more transparent; consider the Finance Commission's recommendation to create a public input and outreach in Labor Negotiations Policy modeled after Menlo Park; and consider the Finance Commission's recommendation for Council not to engage in confidential agreements with bargaining units that would prevent disclosure that would otherwise be properly disclosed under the Brown Act. **(This item went to the Town Council on March 5, 2024)**
- Review procedures for remote participation disruptions and receive an update on remote participation and evaluate the effectiveness of the current policy.



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

MEETING DATE: 03/26/2024

ITEM NO. 3.

ITEM NO: 3

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DATE: March 21, 2024  
TO: Council Policy Committee  
FROM: Gabrielle Whelan, Town Attorney  
SUBJECT: Discuss the Code of Conduct Policy Sections V. and XI. Pertaining to Councilmember Communications with the Media and Public

**RECOMMENDATION:**

Discuss the Code of Conduct Policy sections V. and XI. pertaining to Councilmember communications with the Media and Public

**BACKGROUND:**

Questions have arisen regarding Councilmember communications with the media and public. Currently, the Code of Conduct provides that the Mayor is responsible for communicating with the media regarding decisions made by a majority of the Town Council. Individual Councilmembers may communicate opinions and policy objectives as well as explain individual votes.

Code of Conduct Section V(C) provides: "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."<sup>1</sup>

Code of Conduct Section XI provides: "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. 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."

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<sup>1</sup> In 2022, language describing the Mayor as the "Town spokesperson" was replaced with the current language.

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

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BACKGROUND (continued):

The most recent amendments to these sections were approved by the Town Council on October 4, 2022. Attachment 1 contains the redlined version of the Code of Conduct Policy at that time to show the evolution of these sections.

DISCUSSION:

The current Code of Conduct provides that:

- 1) The Mayor communicates with the media regarding decisions made by a majority of the Town Council.
- 2) Individual Councilmembers may express opinions on policies and explain individual votes so long as those statements are characterized as individual opinions or objectives and not representing the Town Council as a whole.

This topic is before the Policy Committee for a discussion of whether:

- 1) There is an interest in retaining these standards;
- 2) There is a clearer way to state these standards; and
- 3) There are other standards that the Policy Committee would like to recommend to the Town Council pertaining to Councilmember newsletters, emails, or other forms of communication with constituents.

Free Speech

Based on “free speech” considerations, I recommend retaining the distinction between representing the opinion of the full Town Council as opposed to expressing individual opinions or explaining votes. I do not recommend adopting language that eliminates the ability of individual Councilmembers to express opinions or explain votes. [*Bond v. Floyd*, 385 U.S. 116 (1966)(holding that Georgia legislature’s disqualification of elected representative on account of statements about the Vietnam War violated the representative’s right of free expression under the First Amendment)]. In the *Bond v. Floyd* decision, the court opines that government requires that legislators be given wide latitude to express their views on issues of policy. That said, the Town is free to require that legislators explain when they are expressing their own views as opposed to representing the Town Council as a whole.

Other Examples

It will be helpful to get input from the Policy Committee on whether there is a clearer way to make this distinction between speaking on behalf of the Town Council and providing one’s individual opinion. I have reviewed other Santa Clara County Codes of Conduct for other examples.

DISCUSSION (continued):

Cupertino

The City of Cupertino's Code of Conduct provides:

"... when City elected/appointed officials and staff are presenting their individual opinions and positions on issues potentially relevant to the City, they must explicitly state that they do not represent their body or the City and must not allow any inference that they do."

Gilroy

The City of Gilroy's Code of Conduct provides:

"When a Council Member is identified as a spokesperson, then only they will speak on behalf of the City Council."

"No Council Member shall communicate in a manner that appears to come from the City or City staff or the City Council, or in a manner that suggests a position associated with the City or with the knowledge of the City Council."

"Repeated or serious violations of these norms can be addressed by the Council by censure of a Council Member, following notice and an opportunity to be heard. This document formally authorizes the censure remedy to the City Council and allows for the basic due process protections of notice and hearing."

Mountain View

The City of Mountain View's Code of Conduct provides:

"Personal opinions and comments may be expressed only if the Councilmember clarifies that these statements do not reflect the official position of the City Council."

San Jose

The City of San Jose's Code of Conduct provides:

"A Council Member must clearly state when he or she is speaking on behalf of the City Council."

COORDINATION:

This report was coordinated with the Town Manager.

FISCAL IMPACT:

This discussion will not have a fiscal impact on the Town.

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SUBJECT: Code of Conduct

DATE: March 21, 2024

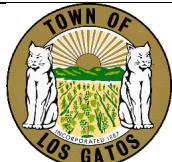


ITEM NO. 3.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. October 4, 2022 Redline version of the Code of Conduct Policy

			
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	
APPROVED:			

### 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.

**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.<sup>1</sup> 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, ~~and~~ members of the public, and the media regarding decisions made by a majority of the Town Council. In this capacity, the The Mayor ~~serves as the Town "spokesperson" representing also represents~~ the Council ~~at~~ official and ceremonial occasions.
- D. ~~As the official Town spokesperson, t~~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.<sup>2</sup> 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.<sup>3</sup>

<sup>1</sup> Council Agenda Format and Rules Policy

<sup>2</sup> Council Commendation and Proclamation Policy

<sup>3</sup> Resolution 1999-167

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#### Vice Mayor

- A. In the Mayor's absence, the Vice Mayor shall perform the formal duties of the Mayor.<sup>4</sup>
- 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.

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<sup>4</sup> Council Agenda Format and Rules Policy

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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**

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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 or projects. Any such preliminary statement shall not ~~constitute a~~ indicate that a decision has been reached before the public hearing-prejudgment or create a presumption of bias on any ~~issue or a project 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

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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.

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.

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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 reasonably 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:

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Gabrielle Whelan, Town Attorney