



AGENDA REPORT SUMMARY

Meeting Date: September 26, 2023

Subject Council consideration of Vice Mayor Weinberg's request to discuss remedial action regarding Planning Commissioner Kate Disney's violation of the City's Norms and policies

Prepared by: Jolie Houston, City Attorney

Reviewed by: Gabriel Engeland, City Manager

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Email dated September 8, 2023, to the Council from Commissioner Disney

Initiated by:

Vice Mayor Weinberg, with Mayor Meadows and Councilmember Dailey supporting the agenda item.

Previous Council Consideration:

None

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

Does the Council wish to remove or discipline Commissioner Disney?

Summary/Background:

At the September 12, 2023, Council Meeting Councilmember Weinberg requested a future agenda item as follows:

“A discussion of remedial action regarding Planning Commissioner Kate Disney's violation of the City's Norms and policies.”



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

It is at 3:59:07 at this link: <https://www.losaltosca.gov/citycouncil/page/city-council-meeting-170>. They directed the City Attorney to draft “some kind of memo outlining what the violations were and what Councils options are should they decide to take action.”

Commissioner Disney is currently in her first full term on the Planning Commission, which ends September 2026.

Discussion/Analysis:

On September 7, 2023, the Los Altos Planning Commission conducted a regular meeting. One of the items on the Commission’s agenda concerned the re-zoning of the City’s CN districts. The re-zoning is an obligation of the City pursuant to the Housing Element Update adopted by the Council in January. With respect to proposed amendments to section 14.40 of the City’s Municipal Code (“LAMC”), the Planning Commission voted 4-1-2 (one recusal, one absent) in favor of recommending that the Council approve the amendments. Commissioner Disney was the only dissenting vote.

On September 8, 2023, Commissioner Disney sent an email to the City Council (Attachment A). That email set forth the rationale for why Commissioner Disney opposed recommending that the Council approve the proposed amendments to § 14.40 of the LAMC. Commissioner Disney’s email appears to be written in her capacity as a Planning Commissioner since she expressly says that her goal is to explain her minority vote.

For the purposes of this report, her email may be problematic for the following reasons:

- Commissioner Disney (a) did not support the majority of the Commission; and (b) requested Council to disregard the recommendation of the majority of the Planning Commission; and
- Commissioner Disney formally and unilaterally requested that the Council task the Planning Commission with a new agenda item.

The Los Altos Commissions are governed by the Council Norms and Commission Handbook (CHB). The CHB and the LAMC, Chapter 2.08, provide that a commissioner is appointed by a majority of the Council and may be removed with, or without cause, by a majority of the Council. The Council has the discretion to remove, discipline or refer this matter to the Council Liaison (Council Norms, 4.5, 4.3).



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

For purposes of the Council’s discussion, the following Council Norms, CHB and LAMC sections may be relevant because they pertain to the appointment and/or removal of a Commissioner:

“4.3 Commission Liaisons. To facilitate the exchange of information between the Council and its Commissions, the Mayor will at least annually make liaison appointments to the Commissions. These appointments shall be ratified by the Council. Councilmembers shall respect the separation between policy making and advisory Commissions by: A) not attempting to lobby or influence Commissions on any item under their consideration; B) attending meetings of assigned Commissions, but not taking a position on an item before the Commission; C) not voting at the Commission’s meeting on any item; and D) assisting the Commission in scheduling recommendations to be heard by the Council.

If an issue arises regarding a member of any Commission, staff may work with the assigned Council Liaison to resolve the issue.” Council Norms, page 8.

“4.5 Discipline or Removal of a Commissioner. Commissioners serve at the pleasure of the City Council. The City Council may discipline or remove a Commissioner at any time solely at the discretion of the Council. Any proposed removal can be with or without cause. A Councilmember who wishes to discipline or remove a Commissioner shall indicate their desire to place the discipline or removal on a future agenda at the end of a regular Council meeting. If three or more Councilmembers wish to agendaize the discipline or removal of a certain Commissioner, the item will be placed on a Council agenda.” Council Norms, page 8.

“Terms, appointments, and vacancies.

A. Commissioners, with the exception of senior and youth commissioners, shall serve for a term of four years and may be reappointed to one additional four-year term. Terms shall be staggered and expire on the last day of March or September. A commissioner shall be appointed by a majority vote of the Council and may be removed prior to the expiration of his or her term by a majority vote of the Council, and such removal may be with or without cause.” LAMC 2.08.030.



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

“Members are appointed by and serve at the pleasure of the City Council.” CHB, page 3.

“Members of Commissions serve at the pleasure of the City Council. The City Council shall review members’ performance and fulfillment of Commission member obligations and may remove a member from a Commission based upon that review. The City Council may discipline or remove a Commissioner at any time solely at the discretion of the Council. Any proposed removal can be with or without cause. A Councilmember who wishes to discipline or remove a Commissioner shall indicate their desire to place the discipline or removal on a future agenda at the end of a regular Council meeting. If three or more Councilmembers wish to agendize the discipline or removal of a certain Commissioner, the item will be placed on a future Council agenda.” CHB, page 5.

For purposes of the Council’s discussion, the following CHB and LAMC sections may be relevant because they pertain to a Commissioner and his/her conduct regarding a Commission action:

“As appointees of the City Council, members of Commissions are public officials and are appointed to represent all residents of the City, not individual organizations or special interest groups. Care should be taken to ensure that viewpoints expressed as public officials are consistent with City Council policy and the position of the majority of the Commission. Minority opinions are allowed but Commissioners acting in the role of a Commissioner should support actions taken by a majority of the Commission.” CHB, page 2.

“Unless speaking as the official spokesperson for the commission at a City Council or other public forum, commissioners should begin all written or verbal comments with ‘I am a commissioner for the [insert commission name here], but I am speaking on behalf of myself and my own personal beliefs.’” CHB, page 2.

The CHB describes how a future agenda item may be added.

“Adding items to a future agenda Commissioners may request that items be placed on a future agenda. This is done by requesting an item during the ‘Potential Future Agenda Items’ portion of the meeting or by emailing a request to the staff liaison. Requests must be for items that are under the purview of the Commission. One less than a majority of members is required to place an item on an agenda. The staff liaison will work with the



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

Chair to determine the best meeting to place an item on an agenda. Any background materials or information should be provided to the staff liaison for inclusion in the agenda packet. Future agenda items must be consistent with the Commission’s Approved Work Plan.” CHB, page 8.

Staff Recommendation:

Council may discuss and (a) determine whether to take remedial action against Commissioner Disney; and/or (b) give additional direction to staff (if any).