



## City Council Agenda Report

Meeting Date: April 22, 2025

Initiated By: City Council

Prepared By: Anthony Carnesecca

Approved By: Gabriel Engeland

**Subject: Special Events as Government Speech**

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### **COUNCIL PRIORITY AREA**

- ☒ Business Communities
- ☐ Circulation Safety and Efficiency
- ☒ Environmental Sustainability
- ☐ Housing
- ☒ Neighborhood Safety Infrastructure
- ☒ General Government

### **RECOMMENDATION**

Direct City staff to return with an updated resolution that will adopt special events as government speech.

### **POLICY QUESTION(S) FOR COUNCIL CONSIDERATION**

- Would the City Council wish to continue sponsoring special events by adopting sponsored special events as government speech?

### **FISCAL IMPACT**

The fiscal impact will depend upon the adjustment to special event sponsorships.

### **ENVIRONMENTAL REVIEW**

This resolution are exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

### **PREVIOUS COUNCIL CONSIDERATION**

June 2015 & October 2023

### **SUMMARY**

- City Council created Los Altos Municipal Code 9.25 “Special Events” in March 2007 that governs special events and modified this code section in October 2023.
- The City sponsors certain special events as outlined in 2015-23.
- The City Council has directed staff to bring special event sponsorship for discussion

## **BACKGROUND**

The City Council adopted Los Altos Municipal Code 9.25 “Special Events” in March 2007 that governs special events. In October 2023, the City Council adopted changes to this code section that simplified a confusing code section, retained control over more events on public property, and simplified the special event and block party process.

In 2024, the City received, reviewed, and approved various special event applications. These special event applications vary from one-time events to the weekend-long Art and Wine Festival to the weekly Farmers Market in downtown. They also vary in attendance from large events such as the weekend-long Fine Art in the Park to the multi-minute (depending upon the speed of Los Altos children in any given year) Spring Egg Hunt.

## **DISCUSSION/ANALYSIS**

The U.S. Supreme Court recently decided that the city of Boston’s flag raising policy was in violation of an applicant’s First Amendment right to free speech due to insufficient guidance in the policy regarding selection of flags that the city would allow to be flown from city-owned flagpoles. The flying of flags on City-own flagpoles is analogous to the City allowing certain special events to be held on City-owned property. There are two options under consideration for the City.

The first option is to review and revise the City’s Special Event Resolution No. 2015-23 to expressly adopt certain special events as government speech (City speech). Typically, when a government entity opens its property for expressive activities by members of the public, it creates a public forum. In other words, if one person can use the property to exercise his or her right to free speech, then everyone else must be accorded the same right. Content based restrictions on speech are impermissible unless policies are first established that are reasonable considering the purpose served by the forum. However, in *Pleasant Grove City v. Summum* (2008) 555 U.S. 460, the United States Supreme Court held that this rule does not apply to expressive activity that a government agency adopts as its own speech. Just like private parties, a government agency has a right to use its own property to convey its values, and in doing so the agency does not open its property as a public forum. Thus, the City Council should not authorize certain special events unless the Council is prepared to adopt the event’s message as government speech (City speech).

All recommendations provided by the City Council will be returned at another meeting with a resolution determining that those City-sponsored events qualify as government speech and provide the sponsorship level prescribed by the City Council.

The second option is to prohibit the use of City-owned property and/or any sponsored special events.

## **ATTACHMENT**

1. Presentation