



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/02/2021

ITEM NO: 8

DATE: October 28, 2021
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve Updates to Council Policy 2-01: Town Agenda Format and Rules and Council Policy 2.04: Town Council Code of Conduct as Recommended by the Council Policy Committee and Adopt a Resolution to Rescind Resolutions 2009-002 and 2006-111.

RECOMMENDATION:

Approve updates to Council Policy 2-01: Town Agenda Format and Rules and Council Policy (Attachment 1) 2.04: Town Council Code of Conduct as recommended by the Council Policy Committee (Attachment 2) and adopt a Resolution (Attachment 6) to Rescind Resolutions 2009-002 and 2006-111.

BACKGROUND:

Since April 2021, the Town Council has listened to public comments at its meeting that have become increasingly hateful and harassing, escalating to disturbances at in-person Council meetings this fall. Proposed updates to Council Policy 2-01: Town Agenda Format and Rules and Council Policy 2.04: Town Council Code of Conduct intend to clarify rules for civility and decorum as well as identify enforcement mechanisms if these rules are not followed.

On October 26, 2021, the Council Policy Committee listened to public testimony and voted unanimously to forward a recommendation to the Town Council to approve the proposed updates with additional language clarifying the process of handling a person disrupting the meeting and stating that the Code of Conduct Policy applies to all Town Boards, Committees, and Commissions.

DISCUSSION:

Both Council Policies should be amended to include specific rules for civility at Town Council meetings. Attachments 1 and 2 contain the proposed redline additions, including the recommendation of the Council Policy Committee.

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

SUBJECT: Proposed Updates to Council Policy 2-01: Town Agenda Format and Rules and Council Policy 2.04: Town Council Code of Conduct, and Adopt a Resolution to Rescind Outdated Resolutions

DATE: October 28, 2016

DISCUSSION (Continued):

Consistent with case law, the proposed rules state:

- The purpose of the Town Council meeting is to conduct the important business of the community in an effective and efficient manner.
- 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 (e.g., Section 2.20.020 contained in Attachment 3), and on the cover sheet of the Council agenda.
- The Town embraces diversity and strongly condemns hate speech and offensive, hateful language or racial intolerance of any kind at Council Meetings.
- 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.
- 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.
- Any disturbance resulting from a member of the public not following these rules can be muted if participating remotely or required to leave if participating in-person. Violators may be cited for violation of the California Penal Code Section 403.

Once these additional rules are in place, the Mayor should explain these rules to the public at each meeting. This practice serves multiple purposes. First, it reminds the Mayor and other Council Members of how disruptions must be handled, and that the rules must be applied in an even-handed manner. Second, it lets the audience know at the outset that the Council has adopted rules prohibiting disruptions, and what the consequences will be if someone chooses to engage in conduct that willfully disrupts the meeting. Third, should someone be removed from the meeting, and later challenge the removal in court, it will assist in the defense of the action.

As recommended by the Council Policy Committee, the steps for addressing a violation have been added to the redlined Policies. Specifically:

- 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

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DISCUSSION (Continued):

meeting. Once the individual(s) leave, the Council would return to the Chamber and the Mayor would resume the meeting.

- c. Persons disrupting a Council meeting may be cited for violation of the California Penal Code Section 403.

As this process would also be in place for other Town Boards, Committees, and Commissions, the staff liaison will need to assist the Chair to call a recess and address the disturbance.

In the past, the Council adopted its Policies by Resolution. This practice ended several years ago with the Council adopting its Council Policies through direction action. The Agenda Format Policy and Code of Conduct Policy have old Resolutions (Attachments 4 and 5, respectively) that need to be rescinded. For this reason, staff is recommending that the Council adopt a Resolution to rescind these outdated Resolutions and set forth the current adoption practice for Council Policies.

CONCLUSION:

Staff recommends that the Town Council approve the updates to the Policies (Attachments 1 and 2) as recommended by the Council Policy Committee and adopt a Resolution (Attachment 6) to rescind outdated Resolutions.

COORDINATION:

The information contained in this report was coordinated with the Town Clerk and Town Attorney.

FISCAL IMPACT:

Adoption of these Policy updates has no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Redlined Updates to Council Policy 2-01: Town Agenda Format and Rules
2. Redlined Updates to Council Policy 2.04: Town Council Code of Conduct
3. Town Code Section 2.20.020
4. Resolution 2009-002
5. Resolution 2006-111.
6. Proposed Resolution to Rescind Resolutions 2009-002 and 2006-111