
Subject: Item 9 for 12-15-20 Town Council Meetig

From: jvannada@ [REDACTED]
Sent: Saturday, December 12, 2020 10:48 AM
To: Laurel Prevetti <LPrevetti@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>
Subject: Item 9 for 12-15-20 Town Council Meetig

**Town Council Meeting 12-15-20
Item 9**

Dear Town Council,

On November 6, 2018, the voters of the Town approved Measure G which established the General Transaction and Use Tax (Ordinance 2274). Among other things Ordinance 2274 and Measure G required Citizens Oversight, mandatory financial audits, and yearly reports to the community to ensure funds are spent as promised. The following is the relevant section of the Ordinance discussing citizen oversight and annual audit.

Section 2.60.140 Citizens' oversight and annual audit

B. Beginning with the fiscal year that ends June 30, 2019, the Town' s independent auditors shall, as part of their annual audit of the Town' s financial statements, review the collection and expenditure of revenue from the tax authorized by this chapter.

The auditors' review shall be a public document. The committee shall annually review the auditors' findings and report in writing to the Town Council regarding the auditors' findings regarding the revenues and expenditures. The committee' s statement shall be transmitted to the Town Council for consideration at a public meeting.

At the upcoming December 15 Council meeting agenda, agenda item 9 is requesting this Council to among other things “adopt a resolution confirming June 30, 2020 Fund Balance in accordance (sic) Fiscal Year 2019/20 Final Audit and Town Council General Reserve Policy”. We want to point out that to the best of our knowledge agenda item 9 does not include a public document that has been prepared by the auditor in conformance with section 2.60.140. What we do note is that in Footnote 8 of the latest draft of the FY 2020 CAFR, the Town has established a new “assigned” fund balance

called "Measure G 2018 District Sales Tax" with the following description - "assigned fund balance will be used to track receipt and use of the 1/8 cents District tax funds collected by the Town". It is also noted that the balance in the assigned reserve is \$1,181,162 as of June 30, 2020.

While this disclosure is helpful, it does not fully comply with Measure G since there is no discussion as to the "collection and expenditure of revenue from the tax authorized by this chapter". What is presented is one number, the fund balance of \$1,181,162, which represents a balance that has been established by the Town Manager. There is no disclosure as to why that is the correct number or how it was determined. We wish to remind this Council of the legal obligation to disclose annually how much money the Town received and where the Town spent those sales tax receipts. When can the voters expect the auditor to issue the "findings" required by the Ordinance?

The same section of the Ordinance requires "the committee" to review the "auditor's findings". This has not occurred since there has not been a meeting of the Sales Tax Oversight Committee since December 2019. To complicate the matter, Measure A is now legally in effect and requires the new Finance Commission to assume the duties of the disbanded Sales Tax Oversight Committee, including reviewing the "auditor's findings" and advising the Town Council on whether expenditures meet the Town Council's objectives for the tax.

We understand that the new Finance Commission will be appointed during the month of January. Once that has happened, when can we expect the Finance Commission to review the "auditor's findings" and advise the Town Council on whether expenditures meet the Town Council's objectives for the tax?

If the Council decides to move forward with agenda item #9 to receive the FY 2020 CAFR and adopt a resolution confirming the fund balances, we strongly suggest that this accomplished with a conditional statement that the auditor produce the "findings" as required by the Sales Tax Ordinance and the new Finance Commission review that report as soon as practical in accordance with newly enacted Measure A. Given that both Measures were approved by voters, we think it is in the best interest of the Town Council to guarantee that the will of the people is fully honored.

Thank you.

Jak Van Nada
Los Gatos Community Alliance