



TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT

MEETING DATE: 03/25/2025

ITEM NO: 3

DATE: March 25, 2024
TO: Mayor and Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: Discuss and Consider Revisions to the Code of Conduct Policy 2-04

RECOMMENDATION:

Discuss and consider revisions to the Code of Conduct Policy with revisions recommended by the Council Policy Commission in January 2025.

BACKGROUND:

The Town Council's Code of Conduct was adopted in 2004 and has been revised several times since then. On April 2, 2024, the Town Council discussed the Code of Conduct. During the discussion, the Council directed several actions.

- The Council acted to clarify that the Mayor's communication with the Town Council will conform with the Brown Act, and change the wording under Vice Mayor, Subsection A to "In the Mayor's absence, the Vice Mayor shall perform the duties of the Mayor," striking the word "formal." This passed unanimously.
- The Council acted to add 'where not prohibited by the Brown Act' to the sentence referencing the Mayor's communication with Town Councilmembers and directed the Town Attorney to work on the following:
 - Explain the difference between a policy matter pending before the Town Council and a future quasi-adjudicatory project;
 - Separate out discussion of quasi-adjudicatory decisions and address participation in community meetings;
 - Change references to "full" Town Council to a "majority" of the Town Council;
 - Add "No Councilmember shall communicate in a manner that appears to come from the Town or Town staff or the Town Council;"
 - Provide examples of how to indicate to the press that a Councilmember is speaking on his or her own behalf and not on behalf of the Council; and

Reviewed by: Town Manager and Town Attorney

- Change the last sentence of Section XI to “such statements are permissible if clearly characterized as personal opinion or policy change objectives including those made on behalf of another elected official, or on behalf of a public or state agency or political subdivision, rather than the opinion of the majority of the Town Council.”

These changes were approved and made, but the revised Code of Conduct has not yet returned to the Town Council for final approval. The agenda report recommends changes based on the Council’s April 2024 actions.

Changes to Address Conflict of Interest

On November 26, 2024, the Council Policy Committee heard a presentation by the Town Manager regarding the Code of Conduct. The primary concern centered around placing the Town Attorney and Town Manager in a conflict position by participating in the classification and response to complaints against Council Members. As elected officials, the responsibility to determine what manner to address complaints falls to the Council themselves. Thus, this agenda report recommends changes to address this conflict of interest concern.

On January 29, 2025, the Council Policy Committee met to discuss changes to the Code of Conduct. During the meeting, a number of changes were proposed for inclusion into the Code of Conduct.

DISCUSSION

On February 25, 2025, the Council Policy Committee met to discuss the proposed policy revisions which included a change to the entire enforcement section to remove the Town Attorney and Town Manager from a material role in determining discipline and to define minor and major violations.

Additional changes proposed by the Council Policy Committee at the February 25, 2025, meeting are included in Attachment 1 for the Council Policy Committee’s consideration. The changes include, but are not limited to:

Section VI. Council Conduct in Public Meetings

- Add the language, “Refrain from texting communications during the meeting to ensure the public and Council are privy to the same information.”

Section VIII. Legal Requirements

- Change the language in Subsection E to align with the Fair Political Practices Commission (FPPC) guidelines. The Town Attorney has asked outside counsel to review the proposed language with regard to Councilmember service on non-profit boards and anticipates

receiving any other recommendations on this language prior to the Town Council's consideration of this item.

Section XII. Enforcement

- Change the language in Subsection B(1)(a) bullet three to state, "The complaint shall be copied and forwarded to the Mayor."
- Add language in Subsection B(2)(a) to add that the Ad Hoc Committee will be composed of the Mayor and one rotating Council Member, which will be determined based on alphabetical order.
- Add language in Subsection B(4)(b)(1) to remove language stating, "and provide a copy of the report (including supporting documents) and add language stating, "if there will be disciplinary proceeding then the report would be disclosed."
- Add language in Subsection B(4)(b) that a minor violation notification will state the matter has been resolved and a major violation notification will include the next steps.
- Add language in Subsection C(2) from Section IV

The committee also discussed incorporating language to require the Town Attorney or Town Manager to provide an annual summary of all open and closed complaints.

Additionally, the committee requested that staff explore the development of a separate policy for the commissions. This policy is currently being drafted and will be presented at the next committee meeting for consideration. Please note that all references to Board, Committees, and Commissions have been removed from this policy and will be addressed in the separate Commission policy.

The current policy is included as Attachment 2 for your reference.

COORDINATION:

This report was coordinated with the Town Manager and Town Attorney.

FISCAL IMPACT:

The impact depends on the number of investigations requiring review by an outside investigator.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Redline version of the Code of Conduct Policy
2. Current Code of Conduct Policy