



**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
NOVEMBER 03, 2020  
110 EAST MAIN STREET  
LOS GATOS, CA**

*Marcia Jensen, Mayor  
Barbara Spector, Vice Mayor  
Rob Rennie, Council Member  
Marico Sayoc, Council Member  
Vacant, Council Member*

**PARTICIPATION IN THE PUBLIC PROCESS**

**How to participate:** The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Town Council meeting.

**Effective Proceedings:** The purpose of the Town Council meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Town Council meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Town Council without first being recognized; interrupting speakers, Town Council or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

**Deadlines for Public Comment and Presentations are as follows:**

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Clerk’s Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
  - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
  - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
  - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

***Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.  
Rebroadcast of Town Council Meetings on the 2<sup>nd</sup> and 4<sup>th</sup> Mondays at 7:00 p.m.  
Live & Archived Council Meetings can be viewed by going to:  
[www.LosGatosCA.gov/TownYouTube](http://www.LosGatosCA.gov/TownYouTube)***

***IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]***

**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
NOVEMBER 03, 2020  
7:00 P.M.**

**IMPORTANT NOTICE REGARDING THE NOVEMBER 3, 2020 MEETING**

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29- 20 dated March 17, 2020, regarding the COVID-19 pandemic. The live stream of the meeting may be viewed on television and/or online at [www.losgatosca.gov/AgendasAndVideos](http://www.losgatosca.gov/AgendasAndVideos). **In accordance with Executive Order N-29- 20, the public may only view the meeting on television and/or online and not in the Council Chamber.**

**PARTICIPATION**

If you are not interested in providing oral comments in real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at [www.LosGatosCA.gov/TownYouTube](http://www.LosGatosCA.gov/TownYouTube).

If you are interested in providing oral comments real-time during the meeting, you must join the Zoom webinar:

- Join from a PC, Mac, iPad, iPhone or Android device: click this link <https://us02web.zoom.us/j/99045549918?pwd=MWw0cm40Y216TTdWS2VMcnoxMWFSZz09>. **Password: 342581**. You can also type in 990 4554 9918 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
- Join by telephone: Dial: USA 636 651 0008 US Toll USA or 877 336 1839 US Toll-free. Conference code: 969184

During the meeting:

- When the Chair announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press \*9 on your telephone keypad to raise your hand. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Council meeting.

If you are unable to participate in real-time, you may email to [PublicComment@losgatosca.gov](mailto:PublicComment@losgatosca.gov) with the subject line “Public Comment Item #\_\_” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 5:00 P.M. on the day of the meeting. All comments received will become part of the record. The Mayor has the option to modify this action on items based on comments received.

**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
NOVEMBER 03, 2020  
7:00 PM**

**REMOTE LOCATION PARTICIPANTS**

*The following Council Members are listed to permit them to appear electronically at the Town Council Meeting: MAYOR MARCIA JENSEN, VICE MAYOR BARBARA SPECTOR, COUNCIL MEMBER ROB RENNIE, COUNCIL MEMBER MARICO SAYOC. All votes during the teleconferencing session will be conducted by roll call vote.*

**MEETING CALLED TO ORDER**

**ROLL CALL**

**COUNCIL / MANAGER MATTERS**

**CONSENT ITEMS** *(Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Council or public may request to have an item removed from the Consent Items for comment and action. A member of the public may request to pull an item from Consent by following the Participation Instructions contained on Page 2 of this agenda. If an item is pulled, the Mayor has the sole discretion to determine when the item will be heard. Unless there are separate discussions and/or actions requested by Council, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)*

1. Approve Minutes of the October 20, 2020 Closed Session Town Council Meeting.
2. Approve Minutes of the October 20, 2020 Town Council Meeting.
3. Gann Appropriation Limit
  - a. Authorize the Town Manager to Enter into an Agreement with the County of Santa Clara for Transfer of Appropriation Limit of the June 18, 2019 Annexation.
  - b. Adopt a Resolution Establishing the FY 2020/21 Gann Appropriations Limit for the Town of Los Gatos.
4. Approve Revisions to the Town's Operating Portfolio Investment Policy as Recommended by the Council Finance Committee.
5. Approval of an Additional Affordable Housing Loan in the Amount of \$600,000 for the Total Amount of \$1,200,000 to Develop Affordable Housing on the Property Located on 20 Dittos Lane and Authorize the Town Manager to Execute all Documents Needed to Complete the Transaction in a Form Acceptable to the Town Attorney.
6. Authorize the Town Manager to Purchase Two Police Patrol Vehicles from Folsom Lake Ford in an Amount Not to Exceed \$83,270.

**VERBAL COMMUNICATIONS** *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda consistent with the Participation Instructions contained on Page 2 of this agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard*

during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)

**OTHER BUSINESS** (Up to three minutes may be allotted for each comment on any of the following items consistent with the Participation Instructions contained on page 2 of this agenda.)

7. Approve an Amendment to the Employment Agreement Between the Town of Los Gatos and the Town Manager and Authorize Salary and Benefits Budget Adjustments in the Amount of \$18,431 from Available General Fund Capital/Special Projects Reserve.
8. Approve an Amendment to the Employment Agreement Between the Town of Los Gatos and the Town Attorney and Authorize Salary and Benefits Budget Adjustments in the Amount of \$13,528 from Available General Fund Capital/Special Projects Reserve.

**PUBLIC HEARINGS** (Applicants/Appellants, their representatives, and members of the public may address the Council on any Public Hearing item consistent with the Participation instructions contained on page 2 of this agenda. Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.)

9. Adopt A Resolution (Attachment 1) Accepting Funds From the California Supplemental Law Enforcement Service Fund (SLESF) of Which \$100,000 Will be Directed to Purchase Equipment and Technology and \$100,000 Will be Directed Toward the Contractually Required Traffic Enforcement Within the City Limits of Monte Sereno; and Authorize an Expenditure Budget Adjustment in the Amount of \$100,000 From Available Capital/Special Projects Reserve.

**OTHER BUSINESS** (Up to three minutes may be allotted for each comment on any of the following items consistent with the Participation Instructions contained on page 2 of this agenda.)

10. Implement the Following Police Reforms:
  - a. Authorize the Town Manager to establish an Independent Police Auditor function;
  - b. Work with the County of Santa Clara Regarding Responses to Mental Health and Homeless Calls for Service;
  - c. Add a Limit Dated (Two Years) Community Service Officer Position to the Police Department to Respond to Non-Emergency Calls at an Annual Cost of Approximately \$148,000 and Authorize a FY 2020/21 Expenditure Budget Adjustment in the Amount of \$68,461 from Available General Fund Capital/Special Projects Reserve; and
  - d. Acknowledge the Timeline for Police Stop Data Availability and Transparency.

**ADJOURNMENT** (Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time.)



***Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.***

***Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.***



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**DRAFT  
Minutes of the Town Council Special Meeting - Closed Session  
October 20, 2020**

The Town Council of the Town of Los Gatos conducted a Special Meeting via Teleconference, due to COVID-19 Shelter in Place guidelines, on Tuesday, October 20, 2020, to hold a Closed Session at 5:30 p.m.

**MEETING CALLED TO ORDER AT 5:30 P.M.**

**ROLL CALL**

Present: Mayor Marcia Jensen, Vice Mayor Barbara Spector, Council Member Rob Rennie, Council Member Marico Sayoc. (All Participating Remotely.)

Absent: None

**VERBAL COMMUNICATIONS**

None.

**THE TOWN WILL MOVE TO THE FOLLOWING CLOSED SESSION ITEMS:**

1. Public Employee Appointment, Employment, Evaluation of Performance, Discipline, and Dismissal  
[Government Code Section 54957(b)(1)]  
Title: Town Manager

Conference with Labor Negotiator  
(Government Code Section 54957.6)  
Town negotiator: Lisa Velasco, Human Resources Director  
Unrepresented Employee: Town Manager

2. Public Employee Appointment, Employment, Evaluation of Performance, Discipline, and Dismissal  
[Government Code Section 54957(b)(1)]  
Title: Town Attorney

Conference with Labor Negotiator  
(Government Code Section 54957.6)  
Town negotiator: Lisa Velasco, Human Resources Director  
Unrepresented Employee: Town Attorney

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Town Council Special Meeting of October 20, 2020

DATE: October 27, 2020

**ADJOURNMENT**

Closed Session adjourned at 6:31 p.m.

Attest:

Submitted by:

\_\_\_\_\_  
Jenna De Long, Deputy Clerk

\_\_\_\_\_  
Laurel Prevetti, Town Manager



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 2

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**DRAFT  
Minutes of the Town Council Meeting  
October 20, 2020**

The Town Council of the Town of Los Gatos conducted a regular meeting via Teleconference via COVID-19 Shelter in Place Guidelines on October 20, 2020, at 7:00 p.m.

**MEETING CALLED TO ORDER AT 7:03 P.M.**

**ROLL CALL**

Present: Mayor Marcia Jensen, Vice Mayor Barbara Spector, Council Member Rob Rennie, Council Member Marico Sayoc. (All participating remotely).

Absent: None

**CLOSED SESSION REPORT**

Robert Schultz, Town Attorney, stated Council met in closed session as duly noted on the agenda and that there is no reportable action.

**COUNCIL/TOWN MANAGER REPORTS**

**Council Matters**

- Vice Mayor Spector stated she attended the Council Finance Committee (CFC), General Plan Advisory Committee (GPAC), West Valley Sanitation District (WVSD) Board of Directors meetings, and she participated in the Santa Clara County Health Department COVID-19 phone conferences.
- Council Member Sayoc stated she attended the CFC meeting and she represented the Town at the League of California Cities Annual Conference.
- Council Member Rennie stated he attended the San Francisco Bay Area Planning and Urban Research (SPUR) Conference sessions, League of California Cities Conference, Cities Association Legislative Action Committee and Board meetings on behalf of Council Member Sayoc, Silicon Valley Clean Energy (SVCEA) Board and Risk Oversight Committee, CFC, Conceptual Development Advisory Committee (CDAC) with Council Member Sayoc, Valley Transportation Authority (VTA) Congestion Management Program and Planning Committee meetings, Silicon Valley Bike Coalition presentation on their network priority tool, and the City of San Jose Downtown West Community meeting for the Google Development project at Diridon Station.
- Mayor Jensen stated she attended the GPAC and VTA Policy Advisory Committee meetings.

**Manager Matters**

- Announced the two ballot boxes in front of the library and the one ballot box located at the bottom of the stairs facing Main Street are legitimate and ballot pick-up is occurring frequently by Registrar of Voters personnel.
- Announced the Inclusive Workshop series continues on October 22, 2020 at 7:00 p.m. with a virtual Community Culture Workshop and invited the community to participate.
- Announced free pop-up COVID-19 testing will be held at the Adult Recreation Center (ARC) on Wednesday, October 28 and encouraged community members to make appointments.
- Announced Boards and Commissions recruitment is open, and applications are due November 6, 2020.

**CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)**

1. Approve the Draft Minutes of the October 6, 2020 Closed Session Meeting.
2. Approve Draft Minutes of the October 6, 2020 Town Council Meeting.
3. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Los Gatos Creek Trail, Park Pathway, and Parking Lot Seal Coat and Striping (PPW Job No. 18-831-4609) Completed by Silicon Valley Paving and Authorize the Town Clerk to File for Recordation.
4. Adopt an Ordinance to Amend Chapter 29 (Zoning Regulations) of the Town Code Regarding Outdoor Lighting. Town Code Amendment Application A-20-005. Applicant: Town of Los Gatos. **ORDINANCE 2312**
5. Adopt an Ordinance to Amend Chapter 29 (Zoning Regulations) of the Town Code Regarding the Below Market Price Program. Town Code Amendment Application A-20-004. Applicant: Town of Los Gatos. **ORDINANCE 2313**
6. Consider Approval of a Temporary Sign Permit Application on Property Zoned C-1:PD Located at 106 E. Main Street. APN 529-34-108. Temporary Sign Permit Application SN-20-042. Property Owner: Town of Los Gatos. Applicant: Kimberly Snyder, New Museum of Los Gatos (NUMU).

**MOTION: Motion by Vice Mayor Spector to approve the Consent Items. Seconded by Council Member Sayoc.**

**VOTE: Motion passed unanimously.**

**VERBAL COMMUNICATIONS**

Catherine Somers, Los Gatos Chamber of Commerce Executive Director

- Announced the Saratoga Senior Area Coordinating Council and the Los Gatos Chamber of Commerce are hosting a drive-thru Senior Resource Fair on October 28, 2020 from 9:30 a.m. to 12:30 p.m. at the Los Gatos Methodist Church Parking Lot, and encouraged the public to contact the Chamber for more information.

**PUBLIC HEARINGS**

7. Consider Modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines Regarding the Visibility Analysis, Town-Wide. Applicant: Town of Los Gatos.

**RESOLUTION 2020-041**

Jocelyn Shoopman, Associate Planner, presented the staff report.

Opened public hearing.

David Weissman

- Commented on the Policy Committee and Planning Commission recommendations and recommended approving the recommendations forwarded by the Planning Commission.

Closed public hearing.

Council discussed the item.

**MOTION: Motion by Council Member Sayoc** to approve the recommendations of the Planning Commission as contained in Attachment 8 modifying Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines regarding the visibility analysis. **Seconded by Vice Mayor Spector.**

**VOTE: Motion passed unanimously.**

8. Consider an Appeal of a Planning Commission Decision Denying a Request for a Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area. Located at 14225 Walker Street. APN 424-07-114. Architecture and Site Application S-20-012. Property Owners/Applicant/Appellant: Summerhill N40, LLC. Project Planner: Jocelyn Shoopman. **RESOLUTION 2020-042**

Jocelyn Shoopman, Associate Planner, presented the staff report.

Opened public hearing.

Michael Keaney, SummerHill Homes Development Manager (appellant/applicant)

- Presented information on the application and appeal.

There was no public testimony.



Public Hearing Item #8 - Continued

Michael Keane, SummerHill Homes Development Manager (appellant/applicant)

- Thanked the Council for their time.

Closed public hearing.

Council discussed the item.

**MOTION: Motion by Council Member Rennie to** adopt a resolution granting the appeal and approving the application with the required Findings and Considerations (Attachment 20, Exhibit A) and recommended Conditions of Approval (Attachment 20, Exhibit B), determining that the Planning Commission's decision should be reversed or modified, and finding one or more of the following in accordance with Town Code Section 29.20.275: The Planning Commission's decision is not supported by substantial evidence in the record and to add requirements to convert three (3) market rate units to affordable housing per the Town's Below Market Price program guidelines in its most recent iteration. **Motion failed for lack of a second.**

**MOTION: Motion by Vice Mayor Spector to** adopt a resolution (Attachment 18) denying the appeal of a Planning Commission decision denying a request for a modification to an existing architecture and site application (S-13-090) to remove underground parking for construction of a commercial building (market hall) in the North 40 Specific Plan area located at 14225 Walker Street based upon the facts and evidence in the record and the finding that the Zoning Ordinance in existence at the time of project approval for Architecture and Site application S-13-090 and Vesting Tentative Map application M-13-014 are the regulations that apply to this proposal, including the parking regulations in effect at the time of the project approval on August 1, 2017 and that the proposed project is inconsistent with North 40 Specific Plan Section 2.5.8 and its parking requirements. **Seconded by Council Member Sayoc.**

**VOTE: Motion passed 3/1. Council Member Rennie voting no.**

## **ADJOURNMENT**

The meeting adjourned at 8:42 p.m.

Submitted by:

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Jenna De Long, Deputy Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 3

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DATE: October 23, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Gann Appropriation Limit  
a. Authorize the Town Manager to Enter into an Agreement with the County of Santa Clara for Transfer of Appropriation Limit of the June 18, 2019 Annexation  
b. Adopt a Resolution Establishing the FY 2020/21 Gann Appropriations Limit for the Town of Los Gatos

**RECOMMENDATION:**

Gann Appropriation Limit

- a. Authorize the Town Manager to enter into an Agreement with the County of Santa Clara for transfer of Appropriation Limit of the June 18, 2019 Annexation
- b. Adopt a Resolution establishing the FY 2020/21 Gann Appropriations Limit for the Town of Los Gatos

**BACKGROUND:**

On November 6, 1979, California voters approved Proposition 4, commonly known as the Gann Spending Limitation Initiative, establishing Article XIII B of the California State Constitution. This Proposition, which became effective in fiscal year (FY) 1980/81, mandated an appropriations (spending) limit on the amount of tax proceeds that the State and most local government jurisdictions may appropriate within a fiscal year. Charges for services, fees, grants, loans, donations, and other non-tax proceeds are excluded from the spending limitation. Exemptions are also made for voter-approved debt prior to January 1, 1979 and the cost of court-related or Federal government mandates.

The Initiative was later modified by two propositions: Proposition 98 in 1988 and Proposition 111 in 1990. Proposition 98 established the return of tax revenues exceeding appropriation

**PREPARED BY:** Stephen Conway  
Finance Director

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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SUBJECT: Adopt a Resolution Establishing the FY 2020/21 Gann Appropriations Limit for the Town of Los Gatos

DATE: October 23, 2020

BACKGROUND (continued):

limit levels to the State or citizens through a process of refunds, rebates, or other means. Proposition 111 allowed more flexibility in the appropriation calculation factors.

The Town recently signed an annexation agreement with the County of Santa Clara reflecting the annexation of multiple county pockets in 2019. The Town has adopted a placeholder Gann Limit resolution in August while both parties were in a process of determining the mutually agreed amount for Gann Limit calculation purposes. In that resolution staff noted that the Town of Los Gatos FY 2020/21 Appropriation Limit will increase with the adjustment, and that a new calculation will be presented to Town Council as soon as the adjustment amount is available.

DISCUSSION:

Attached for Council consideration is a resolution establishing an appropriations limit for FY 2020/21. The appropriations limit is based on population and per capita income data provided by the State of California Finance Department. In alignment with State guidelines, the appropriation limit for FY 2020/21 was calculated using inflation and population factors comprised of the change in County or Town population (whichever is higher) and the change in California per capita personal income.

In addition to the annual inflation and population adjustments, the Appropriations Limit must be adjusted in the event that the financial responsibility for providing services is transferred in whole or in part from one entity of government to another. Whenever financial responsibility for all or some part of a service is transferred between government agencies, the agencies must increase or decrease their limits "by such reasonable amount as the said entities shall mutually agree..." The amounts adjusted should be the same for the two agencies.

As mentioned earlier, the Town recently signed an annexation agreement with the County of Santa Clara and subsequently, both parties reached a mutually agreed amount for Gann Limit calculation purposes. One of the actions for Town Council consideration is authorizing the Town Manager to enter into an agreement with the County reflecting the mutually agreed upon transfer amount (Attachment 1).

The current calculation of the FY 2020/21 Gann Appropriations Limit, including the annexation adjustment, is as follows:

SUBJECT: Adopt a Resolution Establishing the FY 2020/21 Gann Appropriations Limit for the Town of Los Gatos

DATE: October 23, 2020

DISCUSSION (continued):

**FY 2020/21 Calculation**

<b>Town Population Factor</b>		<b>Per Capita Income Factor</b>		<b>Appropriation Factor</b>		<b>2019/20 Appropriation Limit</b>		<b>2020/21 Appropriation Limit</b>
1.0234	X	1.0373	=	1.061573	X	\$ 43,180,611	=	\$ 45,839,363

The appropriations limit is the total amount of tax money that can be appropriated by the Town in FY 2020/21. The proposed FY 2020/21 budget anticipates \$31,407,235 in taxes, which is \$15,391,792 less than the appropriation limit of \$45,839,363.

FISCAL IMPACT:

There is not direct identifiable fiscal impact from this action.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Agreement regarding Transfer of Appropriation Limit between the Town of Los Gatos and Santa Clara County
2. Resolution establishing the Gann Appropriation Limit for FY 2020/21

## AGREEMENT REGARDING TRANSFER OF APPROPRIATION LIMIT

This Agreement, effective as of the date last signed below, is by and between the County of Santa Clara, a political subdivision of the State of California (“County”), and the Town of Los Gatos, a municipal corporation (“Town”) (collectively, the “Parties”).

**WHEREAS**, on June 18, 2019, by resolution of the Town Council, the Town annexed twenty-four unincorporated County islands identified as LG 01, LG 02-02, LG 03, LG 04, LG 05, LG 06, LG 07, LG 09, LG 10, LG 11, LG 12, LG 14, LG 15-01, LG 15-02, LG 16, LG 17-01-01-01, LG 17-01-01-02, LG 17-01-02, LG 17-02, LG 17-03, LG 17-04, LG 17-05, LG 18-01, and LG 18-02 (“Annexation”);

**WHEREAS**, Article XIII B of the California Constitution establishes limits on the appropriations of local governments;

**WHEREAS**, section 3 of Article XIII B provides that, when the financial responsibility of providing services is transferred by annexation from one government entity to another, then the appropriations limit of the transferee entity shall increase, and the appropriations limit of the transferor entity shall decrease, by such reasonable amount as said entities shall mutually agree;

**WHEREAS**, on August 30, 2019, the Santa Clara County Local Agency Formation Commission issued a Certification of Completion for the Annexation;

**WHEREAS**, as part of the Annexation, the effective tax rates of certain taxing jurisdictions within the Annexation area were adjusted to reflect the transfer of responsibility to the Town for providing certain services, and this adjustment resulted in a portion of the County’s property tax revenues from the Annexation area being reallocated to the Town (“County Revenue Transfer”); and

**WHEREAS**, the Parties agree that the appropriations limit of the Town shall increase in the amount of the County Revenue Transfer, and the County’s appropriations limits shall decrease the same amount in accordance with Article XIII B.

**NOW, THEREFORE**, the Parties agree as follows:

1. As of fiscal year 2020-21, the appropriations limit for the Town of Los Gatos shall be increased by \$130,503, and the resulting appropriations limit shall serve as the base amount for any subsequent increases or adjustments implemented pursuant to law.
2. As of fiscal year 2020-21, the appropriations limit for the County of Santa Clara shall be decreased by \$130,503, and the resulting appropriations limit shall serve as the base amount for any subsequent increases or adjustments implemented pursuant to law.
3. The Parties agree to take such administrative steps as may be necessary to implement this Agreement.

- 4. Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

**ACCEPTED AND AGREED TO:**

COUNTY OF SANTA CLARA:

TOWN OF LOS GATOS:

By: \_\_\_\_\_  
Miguel Márquez, Chief Operating Officer

By: \_\_\_\_\_  
Laurel Prevetti, Town Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

DocuSigned by:  
  
 F3D1422DF937476...

\_\_\_\_\_  
Lesley Pak  
Deputy County Counsel



**RESOLUTION 2020-**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
ESTABLISHING THE FY 2020/21 APPROPRIATIONS LIMIT  
FOR THE TOWN OF LOS GATOS**

**WHEREAS**, Article XIII B of the California Constitution (Limitation of Government Appropriations) was passed by the California electorate on November 6, 1979, and became effective on July 1, 1980; and

**WHEREAS**, Chapter 1205, Statute of 1980, Section 7900 of the California Government Code formally implements methods for governmental entities to establish and define annual appropriations limits; and

**WHEREAS**, the growth factors used to calculate the Annual Appropriations Limit are County or Town population change and the increase in the California per capita income;

**WHEREAS**, in addition to the annual inflation and population adjustments, state law requires the Appropriations Limit to be adjusted in the event that the financial responsibility for providing services is transferred in whole or in part from one entity of government to another; and

**WHEREAS**, the Town is reached a mutually agreed amount with the County of Santa Clara regarding the Town's annexation of unincorporated islands in 2019;

**WHEREAS**, the Town is calculating its Annual Appropriations Limit for FY 2020/21 based on the mutually agreed amount as of this date with the County of Santa Clara; and

**THEREFORE, BE IT RESOLVED:** that the Annual Appropriations Limit for the Town of Los Gatos for FY 2020/21 is \$45,839,363 as reflected in Exhibit A.

ATTACHMENT 2

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 3<sup>rd</sup> day of November 2020 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**APPROPRIATION LIMIT FACTORS**

<b>For YE June 30</b>	<b>Beginning Appropriation Limit</b>	<b>County Population Factor</b>	<b>Town Population Factor</b>	<b>Per Capita Income Factor</b>	<b>Ending Appropriation Limit</b>	<b>% Limit Increase</b>
2010	28,426,367	1.0156	1.0108	1.0062	29,048,811	2.19%
2011	29,048,811	1.0126	1.0101	0.9746	28,667,689	-1.31%
2012	28,667,689	1.0089	1.0096	1.0251	29,669,366	3.49%
2013	29,669,366	1.0124	1.0081	1.0377	31,169,671	5.06%
2014	31,169,671	1.0157	1.0147	1.0512	33,279,977	6.77%
2015	33,279,977	1.0150	1.0102	0.9977	33,701,485	1.27%
2016	33,701,485	1.0113	1.0020	1.0382	35,384,256	4.99%
2017	35,384,256	1.0126	1.0070	1.0537	37,754,174	6.70%
2018	37,754,174	1.0081	1.0040	1.0369	39,464,396	4.53%
2019	39,464,396	1.0099	1.0050	1.0367	41,317,775	4.70%
2020	41,317,775	1.0033	0.9998	1.0385	43,180,611 *	4.51%
2021	43,180,611 *	1.0037	1.0234	1.0373	45,839,363	6.16%

**FY 2020/21 Calculation**

<b>Town Population Factor</b>		<b>Per Capita Income Factor</b>		<b>Appropriation Factor</b>		<b>2019/20 Appropriation Limit</b>		<b>2020/21 Appropriation Limit</b>
1.0234	X	1.0373	=	1.061573	X	\$ 43,180,611	=	\$ 45,839,363

**Percentage of Appropriation**

<b>2020/21 Tax Revenues</b>		<b>2020/21 Appropriation Limit</b>		<b>Percentage of Limit</b>
30,447,571	/ \$	45,839,363	=	66%

\*FY 2019/20 ending and FY 2020/21 beginning Appropriation Limit includes an adjustment of \$130,503 to address the recently annexed parcels from Santa Clara County. The Town of Los Gatos increasing its base by \$130,503 while the County of Santa Clara decreasing its base with the same amount.

EXHIBIT A



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 4

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DATE: October 23, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Approve Revisions to the Town's Operating Portfolio Investment Policy as Recommended by the Council Finance Committee.

**RECOMMENDATION:**

Approve revisions to the Town's Operating Portfolio Investment Policy as recommended by the Council Finance Committee.

**DISCUSSION:**

The Investment Policy establishes the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, State mandated eligible investments, transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the operating funds of the Town. All Town funds are invested and/or will be invested in accordance with the Investment Policy and with applicable sections of the California Government Code.

The Council Finance Committee is tasked with the annual review of the Town Investment Policy.

On October 12, 2020, the Council Finance Committee reviewed the Investment Policy and recommended that the Quarterly Investment Report should include the Town portfolio Environmental, Social and Governance (ESG) scores and should be presented to the Council Finance Committee. The proposed changes are reflected in red in Attachment 1.

**FISCAL IMPACT:**

This action has no fiscal impact.

**PREPARED BY:** Stephen Conway  
Finance Director

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

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PAGE 2 OF 2

SUBJECT: Annual Review of the Town's Portfolio Investment Policy

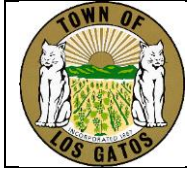
DATE: October 23, 2020

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Town of Los Gatos Investment Policy (redlined)



**COUNCIL POLICY MANUAL**  
*Small Town Service    Community Stewardship    Future Focus*

<b>TITLE: Investment Policy</b>		<b>POLICY NUMBER: 4-02</b>
<b>EFFECTIVE DATE: 11/1/16</b>		<b>PAGES: 8</b>
<b>ENABLING ACTIONS: 2016-063</b>	<b>REVISED DATES: 5/16/17;5/15/2018; 9/3/2019</b>	
<b>APPROVED:</b>		

**PURPOSE**

The Town of Los Gatos (the “Town”), incorporated in 1887, is located approximately 60 miles south of San Francisco, in the southwestern portion of Santa Clara County. The Town operates under the Council/Manager form of government. The Town Council is the legislative body for the Town. It has five members elected to serve staggered four year terms. The Town Manager is appointed by the Town Council.

The Town Council has adopted this Investment Policy in order to establish the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the funds of the Town. All Town funds will be invested in accordance with this Investment Policy and with applicable sections of the California Government Code.

This Investment Policy was originally adopted by the Town Council of the Town of Los Gatos November 1, 2016. Town Council adopted revisions replace any previous investment policy or investment procedures of the Town.

**SCOPE**

This Investment Policy applies to all of the Town's short-term operating funds. These funds are described in the Town's annual financial report and include, but are not limited to:

General Fund

**Special Revenue Funds**

- Capital Project Funds
- Debt Service Funds
- Enterprise Fund
- Internal Service Funds
- Fiduciary Funds

ATTACHMENT 1



<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 2 of 10	<b>POLICY NUMBER:</b> 4-02
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Specifically excluded from this Investment Policy are amounts which are held by a trustee or fiscal agent and pledged as payment or security for bonds or other indebtedness, obligations under a lease, or obligations under certificates of participation. Such funds are invested in accordance with statutory provisions, ordinance, resolution, or indenture governing the issuance of the obligations. In addition, this Investment Policy is not applicable to the Town's Deferred Compensation Plan. These investments are directed by each employee participant in accordance with the rules of the Deferred Compensation Plan.

**POLICY**

**OBJECTIVES**

The Town’s funds shall be invested in accordance with all applicable Town policies and codes, State statutes, and Federal regulations, and in a manner designed to accomplish the following objectives, which are listed in priority order:

1. Preservation of capital and protection of investment principal.
2. Maintenance of sufficient liquidity to meet anticipated cash flows.
3. Attainment of a market value rate of return.
4. Diversification to avoid incurring unreasonable market risks.

**DELEGATION OF AUTHORITY**

Management responsibility for the Town’s investment program is delegated annually by the Town Manager to the Town Treasurer/Finance Director (the “Treasurer”) pursuant to California Government Code Section 36510. The Treasurer may delegate the authority to conduct investment transactions and to manage the operation of the investment portfolio to other specifically authorized staff members. The Treasurer shall maintain a list of persons authorized to transact securities business for the Town. No person may engage in an investment transaction except as expressly provided under the terms of this Investment Policy.

The Treasurer shall develop written administrative procedures and internal controls, consistent with this Investment Policy, for the operation of the Town's investment program. Such procedures shall be designed to prevent losses arising from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees.

The Town may engage the support services of outside investment advisors in regard to its investment program, so long as it can be demonstrated that these services produce a net financial advantage or necessary financial protection of the Town's financial resources.

**PRUDENCE**

The standard of prudence to be used for managing the Town's investments shall be California Government Code Section 53600.3, the prudent investor standard which states, “When

<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 3 of 10	<b>POLICY NUMBER:</b> 4-02
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investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

The Town's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The Town recognizes that no investment is totally without risk and that the investment activities of the Town are a matter of public record. Accordingly, the Town recognizes that occasional measured losses may occur in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the Town.

The Treasurer and authorized investment personnel acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that the deviations from expectations are reported in a timely fashion to the Town Council and appropriate action is taken to control adverse developments.

**ETHICS AND CONFLICTS OF INTEREST**

Elected officials and Town employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or could impair or create the appearance of an impairment of their ability to make impartial investment decisions. Elected officials and Town employees shall disclose to the Town Council any business interests they have in financial institutions that conduct business with the Town and they shall subordinate their personal investment transactions to those of the Town. In addition, the Town Manager and the Treasurer shall file a Statement of Economic Interests each year pursuant to California Government Code Section 87203 and regulations of the Fair Political Practices Commission.

**SOCIALLY RESPONSIBLE INVESTING**

In addition to and subordinate to the objectives set forth above, investment of funds should be guided by the following socially responsible investment goals when investing in corporate securities and depository institutions. Investments shall be made in compliance with the responsible investment goals to the extent that such investments achieve substantially equivalent safety, liquidity and yield compared to other investments permitted by state law.

<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 4 of 10	<b>POLICY NUMBER:</b> 4-02
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(1) Environmental, Social Responsibility and Governance Concerns  
Investments are encouraged in entities that support community well-being through safe and environmentally sound practices and fair labor practices. Investments are encouraged in entities that support equality of rights regardless of sex, race, age, disability or sexual orientation. All corporate securities within the portfolio will be monitored by an independent third-party who will provide the Town with an ESG (Environmental, Social Responsibility, and Governance) rating. The Town will prefer companies when appropriate that maintain a higher ESG rating as opposed to those companies that have a lower ESG Rating.

(2) Community Investments  
Investments are encouraged in entities that promote community economic development, and investments are discouraged in entities that finance high-cost check-cashing and deferred deposit (payday-lending) businesses. Investments are encouraged in entities that have a demonstrated involvement in the development or rehabilitation of low-income affordable housing and have a demonstrated commitment to reducing predatory mortgage lending and increasing the responsible servicing of mortgage loans. Securities investments are encouraged in financial institutions that have a Community Reinvestment Act (CRA) rating of either Satisfactory or Outstanding, as well as financial institutions that are designated as a Community Development Financial Institution (CDFI) by the United States Treasury Department, or otherwise demonstrate commitment to community economic development.

### **AUTHORIZED SECURITIES AND TRANSACTIONS**

All investments and deposits of the Town shall be made in accordance with California Government Code Sections 16429.1, 53600-53609 and 53630-53686, except that pursuant to California Government Code Section 5903(e), proceeds of bonds and any moneys set aside or pledged to secure payment of the bonds may be invested in securities or obligations described in the ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of the bonds. Any revisions or extensions of these code sections will be assumed to be part of this Investment Policy immediately upon being enacted. However, in the event that amendments to these sections conflict with this Investment Policy and past Town investment practices, the Town may delay adherence to the new requirements when it is deemed in the best interest of the Town to do so. In such instances, after consultation with the Town's attorney, the Treasurer will present a recommended course of action to the Town Council for approval. All investment limits specified in the Policy are calculated at the time of investment.

The Town has further restricted the eligible types of securities and transactions as follows:

1. United States Treasury bills, notes, bonds, or certificates with a final maturity not exceeding five years from the date of trade settlement.
2. Federal Agency Obligations for which the faith and credit of the United States are pledged for the payment of principal and interest and which have a final maturity not exceeding five years from the date of trade settlement. There is no limit on the percentage of the

<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 5 of 10	<b>POLICY NUMBER:</b> 4-02
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portfolio that can be invested in this category, however, no more than 20% of the town's total portfolio shall be invested in the combination of Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC) mortgage-backed securities.

3. Federal Instrumentality (government sponsored enterprise) debentures, discount notes, callable securities, step-up securities, and mortgage-backed securities (including FNMA and FHLMC) with a final maturity not exceeding five years from the date of trade settlement. There is no limit on the percentage of the portfolio that can be invested in this category, however, no more than 20% of the town's total portfolio shall be invested in the combination of GNMA, FNMA, and FHLMC mortgage-backed securities.
4. Prime Commercial Paper with a maturity not exceeding 270 days from the date of trade settlement with the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either sub-paragraph A. or sub-paragraph B. below:

A. The entity shall (1) be organized and operating in the United States as a general corporation, (2) have total assets in excess of five hundred million dollars (\$500,000,000) and (3) Have debt other than commercial paper, if any, that is rated "A" or higher by a NRSRO.

B. The entity shall (1) be organized within the United States as a special purpose corporation, trust, or limited liability company, (2) have program wide credit enhancements, including, but not limited to, over collateralization, letters of credit or surety bond and (3) have commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Purchases of eligible commercial paper shall not exceed:

- 10% of the outstanding commercial paper of any single corporate issuer,
- 5% of the Town's total portfolio in the commercial paper of any one issuer, and
- 25% of the Town's total portfolio.

5. Eligible Bankers Acceptances with a maturity not exceeding 180 days from the date of trade settlement, issued by a state or national bank with combined capital and surplus of at least \$250 million, whose deposits are insured by the FDIC, and whose senior long-term debt is rated at least A or the equivalent by a NRSRO at the time of purchase. No more than 5% of the Town's total portfolio shall be invested in banker's acceptances of any one issuer, and the aggregate investment in banker's acceptances shall not exceed 30% of the Town's total portfolio.

<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 6 of 10	<b>POLICY NUMBER:</b> 4-02
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6. Medium Term Notes (Corporate Notes) issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States, with a final maturity not exceeding five years from the date of trade settlement and rated at least “A” or the equivalent by a NRSRO. No more than 5% of the Town’s total portfolio shall be invested in the medium-term notes of any one issuer and the aggregate investment in medium term notes shall not exceed 30% of the Town’s total portfolio.

7. Municipal & State Obligations:

- A. Municipal bonds including registered notes or bonds of any of the 50 states, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the 50 states.
- B. In addition, bonds, notes, warrants, or other evidences of indebtedness of any local agency in California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, operated by the local agency, or by a department, board, agency, or authority of the local agency.

Municipal bonds must be rated at least “A” or the equivalent by a NRSRO with maturities not exceeding five years from the date of the trade settlement. No more than 5% of the Town’s total portfolio shall be invested in “A” rated bonds or in the bonds of any one municipality. In addition, the aggregate investment in municipal bonds may not exceed 30% of the total portfolio.

8. Certificates of Deposit with a final maturity not exceeding five years from the date of trade settlement. The aggregate investment in certificates of deposit shall not exceed 30% of the Town’s portfolio, and no more than 5% of the portfolio shall be held in any one deposit or allocated to any one issuer. Certificates of Deposit shall be issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank or by a federally licensed branch of a foreign bank provided that the senior debt obligations of the issuing institution are rated at least “A” or the equivalent by a NRSRO.

Negotiable certificates of deposit issued by a nationally or state-chartered bank, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposits are subject to the limitations of Section 53601(i), shall be fully insured by the FDIC with a corresponding FDIC certification number, and shall be delivered through the Depository Trust Company.

Non-Negotiable certificates of deposit issued by a nationally or state-chartered bank, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of non-negotiable certificates of deposit are subject to the limitations of Sections 53601(n) and 53638 and shall be fully insured by the FDIC with a corresponding FDIC certification number.

<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 7 of 10	<b>POLICY NUMBER:</b> 4-02
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Private sector entities may be used to place certificates of deposit subject to the limitations of Section 53601.8.

9. State of California’s Local Agency Investment Fund (LAIF), pursuant to California Government Code Section 16429.1. The aggregate amount invested in LAIF shall not exceed the maximum allowed by the fund.
10. Money Market Funds registered under the Investment Company Act of 1940 that (1) are “no-load” (meaning no commission or fee shall be charged on purchases or sales of shares); (2) have a constant net asset value per share of \$1.00; (3) invest only in government securities, and (4) have a rating of at least AAA or the equivalent by at least two NRSROs. No more than 10% of the Town’s total portfolio shall be invested in money market funds of any one issuer, and the aggregate investment in money market funds shall not exceed 20% of the Town’s total portfolio.

Securities that have been downgraded to a level that is below the minimum ratings described herein may be sold or held at the Town’s discretion. The portfolio will be brought back into compliance with Investment Policy guidelines as soon as is practical.

The foregoing list of authorized securities and transactions shall be strictly interpreted. Any deviation from it must be preapproved by resolution of the Town Council.

### **PORTFOLIO MATURITIES AND LIQUIDITY**

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities. The Town will not invest in securities maturing more than five years from the date of trade settlement, unless the Town Council has by resolution granted authority to make such an investment at least three months prior to the date of investment.

### **SELECTION OF BROKER/DEALERS**

The Treasurer shall maintain a list of broker/dealers approved for investment purposes, and it shall be the policy of the Town to purchase securities only from those authorized firms. To be eligible, a firm must meet at least one of the following criteria:

- Be recognized as a Primary Dealer by the Federal Reserve Bank of New York or have a primary dealer within their holding company structure; or
- Report voluntarily to the Federal Reserve Bank of New York; or
- Qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule).

In addition, authorized broker/dealers must be licensed by the State of California as a broker/dealer as defined in Section 25004 of the California Corporations Code.

The Town may engage the services of investment advisory firms to assist in the management of the portfolio and investment advisors may utilize their own list of approved broker/dealers.



<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 8 of 10	<b>POLICY NUMBER:</b> 4-02
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Such broker/dealers will comply with the selection criteria above and the list of approved firms shall be provided to the Town on an annual basis or upon request.

In the event that an external investment advisor is not used in the process of recommending a particular transaction in the Town’s portfolio, authorized broker/dealers shall attest in writing that they have received and reviewed a copy of the this Investment Policy and shall be required to submit and annually update a Town approved Broker/Dealer Information request form, which includes the firm’s most recent financial statements.

The Town may purchase commercial paper from direct issuers even though they are not on the approved broker/dealer list as long as they meet the criteria outlined in Item 4 of the Authorized Securities and Transactions section of this Investment Policy.

### **COMPETITIVE TRANSACTIONS**

Each investment transaction shall be competitively transacted with authorized broker/dealers. At least three broker/dealers shall be contacted for each transaction and their bid and offering prices shall be recorded.

If the Town is offered a security for which there is no other readily available competitive offering, the Treasurer will document quotations for comparable or alternative securities.

### **SELECTION OF BANKS**

The Treasurer shall maintain a list of banks and savings banks approved to provide banking services for the Town. To be eligible, a bank must be a member of the Federal Deposit Insurance Corporation, must qualify as a depository of public funds in the State of California as defined in California Government Code Section 53630.5 and shall secure deposits in excess of FDIC coverage in accordance with California Government Code Section 53652.

Authorized banks that accept deposits from the Town shall meet high standards with regard to liquidity, asset quality, profitability and capital adequacy. The Treasurer shall utilize a commercial bank rating service to perform credit analysis on banks seeking authorization. Banks that in the judgment of the Treasurer no longer offer adequate safety to the Town shall be removed from the Town’s list of authorized banks.

### **SAFEKEEPING AND CUSTODY**

The Treasurer shall select one or more financial institutions to provide safekeeping and custodial services for the Town. A Safekeeping Agreement shall be executed with each custodian bank prior to utilizing that bank's safekeeping services.

Custodian banks will be selected on the basis of their ability to provide services for the Town's account and the competitive pricing of their safekeeping related services.

<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 9 of 10	<b>POLICY NUMBER:</b> 4-02
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The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery versus payment basis. All securities shall be perfected in the name of the Town. Sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investment securities, purchased by the Town, will be delivered by book entry and will be held in third-party safekeeping by a Town approved custodian bank or its Depository Trust Company (DTC) participant account.

All Fed wireable book entry securities owned by the Town shall be held in the Federal Reserve System in a customer account for the custodian bank which will name the Town as "customer."

All DTC eligible securities shall be held in the custodian bank's DTC participant account and the custodian bank shall provide evidence that the securities are held for the Town as "customer."

### **PORTFOLIO PERFORMANCE**

The investment portfolio shall be designed to attain a market rate of return throughout budgetary and economic cycles, taking into account prevailing market conditions, risk constraints for eligible securities, and cash flow requirements. The performance of the Town's investments shall be compared to the average yield on the U.S. Treasury security that most closely corresponds to the portfolio's weighted average effective maturity. When comparing the performance of the Town's portfolio, its rate of return will be computed net of all fees and expenses.

### **REPORTING**

No less than quarterly, the Treasurer shall prepare a report of the investment earnings and performance results of the Town's investment portfolio. The report shall be submitted to the Town Clerk within 45 days after the end of each quarter for inclusion as an agenda item at the next scheduled Town Council meeting. The report shall include the following information:

1. Investment type, issuer, date of maturity, par value and dollar amount invested in all securities, and investments and monies held by the Town;
2. A market value as of the date of the report (or the most recent valuation as to assets not valued monthly) and the source of the valuation;
3. Realized and unrealized gains or losses calculated by amortized cost and by fair value;
4. The weighted average maturity of the portfolio and a percentage breakdown of the total portfolio by maturity;
5. A description of the funds, investments and programs that are under the management of contracted parties;
6. **The Town of Los Gatos Environmental, Social and Governance (ESG) scores;**
7. A statement of compliance with this Investment Policy or an explanation for non-compliance; and

<b>TITLE: Investment Policy</b>	<b>PAGE:</b> 10 of 10	<b>POLICY NUMBER:</b> 4-02
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8. A statement of the ability to meet expenditure requirements for the next six months, and an explanation of why money will not be available if that is the case.

**PROCEDURES**

This Investment Policy shall be adopted by resolution of the Town Council. Annually the Town Manger shall present this Investment Policy to the Town Council **and the Council Finance Committee** for review to ensure its consistency with the Town’s investment objectives, current law and economic trends. Any amendments to this Investment Policy shall be approved by the Town Council.

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Schultz, Town Attorney



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 5

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DATE: October 27, 2020  
TO: Mayor and Town Council  
FROM: Robert Schultz, Town Attorney  
SUBJECT: Approval of an Additional Affordable Housing Loan in the Amount of \$600,000 for the Total Amount of \$1,200,000 to Develop Affordable Housing on the Property Located on 20 Dittos Lane and Authorize the Town Manager to Execute all Documents Needed to Complete the Transaction in a Form Acceptable to the Town Attorney.

**RECOMMENDATION:**

Approve an additional Affordable Housing Loan in the amount of \$600,000 (Attachment 1) for the Total amount of \$1,200,000 to develop affordable housing on the Property Located on 20 Dittos Lane and authorize the Town Manager to execute all documents needed to complete the transaction in a form acceptable to the Town Attorney.

**BACKGROUND:**

On October 16, 2018, the Town Council approved an exclusive negotiating agreement with Sarah Chaffin ("Developer") for the development of affordable housing at 20 Dittos Lane.

On February 11, 2020, the Developer received approval for the Architectural and Site application and Subdivision Application which included requests for a lot line adjustment, subdivision of one lot into three, and construction of two single-family residences on property zoned R1-D. In addition, the developer has submitted the grading permit application to the Town.

On June 2, 2020, the Town Council adopted a resolution approving the land purchase agreement and first amendment to the agreement for the sale of 20 Dittos Lane for the development of affordable housing on the property. The property is currently in escrow.

**PREPARED BY:** Robert Schultz  
Town Attorney

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Reviewed by: Town Manager, Town Assistant Manager and Finance Director

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SUBJECT: Affordable Housings Loan for 20 Dittos Lane Property

DATE: October 27, 2020

PAGE: 2 of 3

Discussion:

Section 2.6 of the First Amendment to the Purchase and Sale Agreement states the terms of the first affordable loan agreement of \$600,000 as follows:

Section 2.6 Loan Agreement. Prior to Closing, Town agrees to loan Buyer the sum of \$600,000.00, with zero interest, amortized over 55 Years from the Inclusionary Fund. The Buyer's obligation to pay the Town Loan shall be evidenced by a Promissory Note and secured Deed of Trust, and shall be used solely for construction and permanent financing of the Improvements. The Town agrees to subordinate the Town's Deed of Trust to Senior Liens,

The developer is seeking access to an additional zero-interest loan of \$600,000 from the Town's Inclusionary (BMP) Fund. Due to restrictions associated with COVID-19 and the subsequent economic disruptions, the developer wants to ensure that once construction begins, the project will be completed regardless of the pace of fundraising.

Attachment 1 is a draft of the second Promissory Note for the additional amount of \$600,000. The second loan contains two key terms that are different than the first loan. This loan also has a 55-year period for amortized payments, but the term of loan is only 10 years. The 10-year term will ensure that regardless of the current or future fundraising environment, the developer has an incentive to continue fundraising. Second, this loan will require the borrower to pay to the Town all proceeds received from the sale of any Affordable unit to pay off the loan.

CONCLUSION:

The additional affordable housing loan of \$600,000 will ensure the development of four (4) affordable housing units are built at 20 Dittos Lane.

COORDINATION:

This staff report was coordinated with the Town Manager and the Finance Department.

FISCAL IMPACT:

The proposed funding source for the loans has been identified as the General Fund Below Market Housing Deposit account. The promissory notes will be recorded and tracked as loans receivables in the Town General Fund balance sheet. The promissory notes do not provide for annual or semi-annual interest payments on the total amount loaned. As a result, staff anticipates lower interest earned on the Below Market Housing Deposit account.

ENVIRONMENTAL ASSESSMENT:

SUBJECT: Affordable Housings Loan for 20 Dittos Lane Property

DATE: October 27, 2020

PAGE: 3 of 3

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

Attachment:

1. Promissory Note

**PROMISSORY NOTE**  
**Secured by Deed of Trust**

\$600,000.00

Los Gatos, California  
, 2020

FOR VALUE RECEIVED, \_\_\_\_\_, a California limited liability company ("Borrower"), promises to pay, or cause to be paid, to the Town of Los Gatos ("Town"), the principal sum of six hundred thousand Dollars (\$600,000).

1. Borrower's Obligation. This promissory note (the "Note") evidences the Borrower's obligation to pay the Town the principal amount of Six Hundred Thousand Dollars (\$600,000) (the "Project Loan"), which Project Loan is related to the sale and development of rental housing affordable to low and moderate income households, located at 20 Dittos Lane in Los Gatos, California.

2. Loan Agreement. This Promissory Note is made and delivered pursuant to and in implementation of the Affordable Housing Agreement entered into by and between the Town and Borrower. Borrower acknowledges but for the execution of this Promissory Note, the Town would not have entered into the Affordable Housing Agreement or made the loan contemplated therein.

3. Interest. There shall be no interest.

4. Term. The term of this Note ("the Term") shall begin on the date of execution of this Note and shall terminate upon the earlier of (i) repayment in full of the debt evidenced by this Note or (ii) by January 1, 2031. at which time all unpaid principal remaining will be due and payable.

5. Repayment. Beginning at the end of Borrower's first fiscal year following the issuance of a certificate of occupancy for the Affordable Housing Project, Borrower shall make annual payments of principal to the Town in an amount amortized over fifty-five (55) years.

6. Principal Due. All principal owed under this Note is due on the earlier to occur of: (i) the date of any Default, or (ii) the expiration of the Term, (iii) any sale, transfer, or assignment of any interest of the borrower or any sale, transfer, or assignment of any interest in the property located at 20 Dittos Lane CA.

7. Security. This Note shall be secured by a Deed of Trust and Security Agreement (the "Deed of Trust"), wherein the Borrower is the Trustor and the Town is the Beneficiary, which shall be recorded against the Borrower's fee interest in the Property and at such time as the Borrower acquires the fee interest in the Property.

8. Terms of Payment.

(a) All payments due under this Note are to be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

(b) The Project Loan is nonrecourse to the Borrower and to any of its partners. Except as provided below, Borrower and its partners shall not have any direct or indirect personal liability for payment of the Project Loan or the performance of the covenants of Borrower under this Note and the Deed of Trust. The sole recourse of the Town with respect to the Project Loan and defaults by Borrower in the performance of its covenants under this Note and the Deed of Trust is to the Security. Borrower may prepay the Project Loan at any time without premium or penalty.

9. Default.

(a) Any of the following constitutes an event of default under this Note ("Default"):

(i) Any failure to pay, in full, any payment required under this Note within thirty (60) days of written notice that such payment is due;

(ii) Other than the failure addressed above in subsection (i), failure of Borrower to duly perform, comply with, or observe any of the conditions, terms, or covenants of this Note and such failure having continued uncured for ninety (90) days after receipt of written notice thereof from the Town to Borrower;

(iii) The occurrence of any Event of Default under the Affordable Housing Agreement by and between the Borrower and the Town (the "Affordable Housing Agreement"), or other instrument securing the obligations of the Borrower under this Note or under any other promissory notes hereafter issued by the Borrower to the Town, subject to notice and cure periods, if any, set forth therein.

(b) Upon the occurrence of a Default, the entire unpaid principal balance, and together with all other sums then payable under this Note shall at the option of the Town become immediately due and payable upon written notice by the Town to the Borrower without further demand.

(c) The failure to exercise the remedy set forth in Section 7(b) of this Note or any other remedy provided by law upon the occurrence of one or more of the foregoing events of Default does not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other Default. The acceptance by the Town of any payment which is less than the total of all amounts due and payable at the time of such payment does not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of the Town, except as and to the extent otherwise provided by law.

10. Waivers.

(a) The Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, and notice of dishonor of this Note. The Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and



that the Town may accept further security or release any security for this Note, all without in any way affecting the liability of the Borrower.

(b) No extension of time for payment of this Note or any installment hereof made by agreement by the Town with any person now or hereafter liable for payment of this Note operates to release, discharge, modify, change or affect the original liability of the Borrower under this Note, either in whole or in part.

(c) The obligations of the Borrower under this Note are absolute, and the Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

11. Miscellaneous Provisions.

(a) All notices to the Town or the Borrower shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the parties as follows:

Town:

Town of Los Gatos  
Attn: Town Manager  
110 E. Main  
Los Gatos, CA 94403

Borrower:

193 Smith Ranch Court  
Los Gatos, CA 95032

(b) The Borrower promises to pay all costs and expenses, including reasonable attorneys' fees, incurred by the Town in the enforcement of the provision of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(d) This Note shall be governed by and construed in accordance with the laws of the State of California.

(e) The times for the performance of any obligations hereunder are strictly construed, time being of the essence.

(f) The Town shall not assign this Note (or any interest therein) without the consent of the Borrower.

(g) This Note contains the entire agreement between the Town and Borrower as to the Loan evidenced by this Note. It may not be modified except upon written consent of the parties.

IN WITNESS WHEREOF, Borrower has caused this Note to be executed and delivered on the date set forth above.

BORROWER:

By: \_\_\_\_\_  
Sarah Chaffin, President

DRAFT



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 6

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DATE: October 28, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Purchase Two Police Patrol Vehicles From Folsom Lake Ford in an Amount Not to Exceed \$83,270

**RECOMMENDATION:**

Authorize the Town Manager to purchase two police patrol vehicles from Folsom Lake Ford in an amount not to exceed \$83,270.

**BACKGROUND:**

As part of the Fiscal Year 2020/21 Operating Budget, the Equipment Replacement Fund was approved, providing funds for replacement of high mileage or older vehicles that have reached their replacement criteria or do not meet federal regulations for emissions. The Town amortizes a vehicle's replacement over its forecasted life and sets funds aside on an annual basis to ensure the Equipment Replacement Fund has sufficient resources for the timely replacement of vehicles. In addition, this funding structure allows for a smoothing of operating expenditures and a more accurate reflection of the actual cost of operations.

The Town Vehicle and Equipment Acquisition and Replacement Policy (Attachment 1) determines which assets should be replaced by evaluating predetermined age and/or mileage criteria.

Fleet vehicle replacement purchases are reviewed annually through the Operating Budget and approved as part of the budget process. There are two assets recommended for replacement at this time.

**PREPARED BY:** Jim Harbin  
Superintendent

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

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PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Purchase Two Vehicles From Folsom Lake Ford  
in an Amount Not to Exceed \$83,270

DATE: October 28, 2020

DISCUSSION:

The two police pursuit interceptors recommended for replacement are over four years old with close to 60,000 miles usage. The lead time for purchasing and equipping patrol vehicles will result in increased age and mileage.

Ford Motor Company introduced a pursuit rated hybrid vehicle for police patrol purposes last year. Extensive idle times make hybrid technology ideal for law enforcement. While stopped, the lithium hybrid batteries power lights, radios, computers, and other on-board electrical systems. The hybrid engine can shut off intermittently, self-starting to charge the battery when needed. This compares with the current need for police patrol vehicles to idle for extended periods, for example while on the scene of an incident.

The hybrid system reduces fuel consumption and expenditures, CO2 emissions, and maintenance costs. The combined horsepower rating between the gas motor and hybrid system are enhanced over the standard gas platform version of the previous model year Explorers. Fuel economy increases from an average of 17 miles per gallon in town with the standard gas platform to 24 miles per gallon in town with the hybrid system. Neighboring Police Departments such as Santa Clara, San Jose, and others have opted to move to the hybrid system based on performance and overall cost of operation.

In accordance with the Town's Purchasing Policy, Section 7c (Cooperative Purchasing), the purchase of these vehicles is based on a formal bid process completed by the State of California Department of General Services, which allows for other municipalities to purchase vehicles using their formal bid proposal documents (Attachment 2). The budget allows for replacement of each of the police interceptors as recommended in this report plus approximately \$15,000 in additional equipment build out that will be completed by a separate specialty contractor.

CONCLUSION:

Authorize the Town Manager to purchase two police patrol vehicles from Folsom Lake Ford in an amount not to exceed \$83,270.

ALTERNATIVES:

Alternatively, the Town Council could direct staff to delay replacement of the equipment. Staff does not recommend this alternative as the vehicles have reached the end of their useful life and the lack of a replacement vehicle will impact daily operations.

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Purchase Two Vehicles From Folsom Lake Ford  
in an Amount Not to Exceed \$83,270

DATE: October 28, 2020

FISCAL IMPACT:

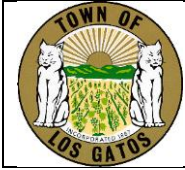
There are sufficient funds available in the Equipment Replacement Fund to purchase these vehicles.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Town Vehicle and Equipment Acquisition and Replacement Policy
2. Bid Proposal Document



**COUNCIL POLICY MANUAL**  
*Small Town Service    Community Stewardship    Future Focus*

<b>TITLE:</b> Town Vehicle and Equipment Acquisition and Replacement Policy		<b>POLICY NUMBER:</b> 4-05
<b>EFFECTIVE DATE:</b> 4/6/1994		<b>PAGES:</b> 3
<b>ENABLING ACTIONS:</b>	<b>REVISED DATES:</b> 5/26/1998	
<b>APPROVED:</b> Mayor Linda Lubeck		

**PURPOSE**

To set forth specific procedures for the acquisition and disposal of vehicle and motorized equipment used by the Town of Los Gatos.

**SCOPE**

This policy will apply to the acquisition and disposal of vehicles and equipment used by all Town Departments.

**POLICY**

When purchasing vehicles or motorized equipment or disposing of surplus vehicles and equipment, the following will apply:

- A. Replacement of vehicles and motorized equipment is based on an equipment replacement schedule that allows for replacement on a programmed cycle. The recommended basis is as follows:

<u>Vehicle/Equipment Type</u>	<u>Replacement Cycle</u>
Police Patrol	3 years and/or 85,000 miles
Police Undercover (used, 1 to 2 years old)	4 years and/or 75,000 miles
Police Sedans (used, 1 to 2 years old)	4 years and/or 75,000 miles
Motor Cycles	4 years and/or 42,000 miles
Parking Vehicles	6 years and/or 75,000 miles
All-Terrain Vehicle	8 years and/or 50,000 miles
Police Vans	6 years and/or 85,000 miles
Sedans (new)	8 years and/or 85,000 miles

<b>TITLE:</b> Town Vehicle and Equipment Acquisition and Replacement Policy	<b>PAGE:</b> 2 of 3	<b>POLICY NUMBER:</b> 4-05
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<u>Vehicle/Equipment Type</u>	<u>Replacement Cycle</u>
Sedans (used 1 to 2 years old)	6 years and/or 85,000 miles
Pickups (gas)	8 years and/or 72,000 miles
Pickups (diesel)	12 years and/or 100,000 miles
Medium Trucks (gas)	8 years and/or 80,000 miles
Medium Trucks (diesel)	12 years and/or 100,000 miles
Heavy Trucks (gas)	8 years and/or 80,000 miles
Heavy Trucks (diesel)	15 years and/or 100,000 miles
Lawn Mowers	6 years
Roadable Mowers	8 years
Vans	8 years and/or 100,000 miles
Sweepers	6 years and/or 65,000 miles
Backhoes	10 years and/or 7,000 hours
Loaders	12 years and/or 7,200 hours
Graders	20 years and/or 9,000 hours
Aerial Units	12 years and/or 80,000 miles
Chippers	10 years and/or 5,000 hours
Compressors	12 years and/or 5,000 hours
Forklifts	17 years and/or 9,000 hours
Rollers	15 years
Trailers	10 years
Sprayers	8 years
Sewer Cleaners	6 years
Rodders	10 years

The equipment/replacement list will be used as a guideline in the replacement of vehicles and equipment. Other factors that will be used in the evaluation process include:

1. Overall conditions of vehicles and equipment
2. Repair records.
3. Vehicle efficiency and safety.
4. Service life related to extended use in other departments.

**B. COOPERATIVE PURCHASING PROGRAM:**

When purchasing vehicles and equipment, the town of Los Gatos will invite vendors (local and non-local) to submit bids. Where applicable, the Town will use the State of California Cooperative Purchasing Program.

<b>TITLE:</b> Town Vehicle and Equipment Acquisition and Replacement Policy	<b>PAGE:</b> 3 of 3	<b>POLICY NUMBER:</b> 4-05
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C. SPECIFICATIONS:

The Department of Parks and Public Works will review all specifications for vehicles and motorized equipment to be purchased by the Town of Los Gatos. Specifications will be prepared based on user needs, operating costs, safety factors, life expectancy, new technology, availability, and cost. When applicable, performance standards will be included in the specification writing process.

D. VEHICLE AND EQUIPMENT DISPOSAL:

Disposal may take place via trade-in when vehicles or equipment are purchased. If the trade-in offer is deemed insufficient, the Town will advertise and surplus items at a minimum pre-determined price. When possible, staff will try to offer specialized vehicles, such as Police patrol cars, to agencies that need such equipment but may not be able to purchase new equipment. Prior to the disposal of vehicle or equipment, the Parks and Public Works Department will determine if reassignment to another department is warranted.

E. RESPONSIBILITY:

All applicable departments within the Town of Los Gatos who are assigned vehicles or motorized equipment may be involved in the procurement/disposal process.

1. Finance personnel and the Town Manager shall review the equipment replacement list annually to ensure that replacement costs for vehicles and equipment are current and in-line with long-term replacement needs.
2. Each Department is responsible for requesting vehicle or equipment replacement during the annual budget process.
3. The Parks and Public Works Department will prepare vehicle specifications for all Town Departments except the Police Department.
4. The Parks and Public Works Department will review all Town specifications for vehicles and motorized equipment.
5. Disposal or reassignment of surplus vehicles and equipment will be coordinated by the Parks and Public Works Department.

APPROVED AS TO FORM:

\_\_\_\_\_  
/s/ Orry Korb, Town Attorney



# FOLSOM LAKE

## FORD



## THE FORD SOURCE

12755 FOLSOM BOULEVARD  
FOLSOM, CA 95630 • (916) 353-2000

**DANIEL A. RAIMONDI**

Fleet Director

HYBRID

(916) 353-2000, Ext.376  
Toll Free 1-800-655-0555  
Cell (916) 825-1622  
Fax (916) 353-2078  
danr@folsomlakeford.com

2021 ORDER-14-16 WEEKS

STATE CONTRACT 1-18-23-14B

10/6/2020

K8A 4DR AWD POLICE  
.119" WHEELBASE  
UM AGATE BLACK  
9 CLTH BKTS/VNL R  
6 EBONY  
500A EQUIP GRP  
.AM/FM STEREO  
99W .3.3L HYBRID  
44B .10-SP MOD HYBRD  
52P DR LOCK PLUNGER  
JOB #2 ORDER  
CA BOARD FEES  
16D BADGE DELETE  
17T CARGO DOME LAMP  
21L FRONT AUX LIGHT  
425 50 STATE EMISS  
43D COURTESY DISABL  
47A ENGINE IDLE  
51V SPTLMP LED DUAL  
59B KEY CODE 1284X  
60R NOISE SUPPRESS  
66A FRONT HDLMP PKG  
.GRILL WIRING  
68G RR DR/LK INOP  
76R REVERSE SENSING  
86T RR TAILLAMP HSG  
87R RR VIEW MIR/CAM  
92G E MARKED SOLAR  
153 FRT LICENSE BKT

\$38,142.00  
\$ 3,480.74 TAX @ 9.125%  
\$ 8.75 CA TIRE FEE

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\$41,634.49 DELIVERED

LESS \$500.00 DISCOUNT  
20 DAY PAYMENT

INCLUDES PAINTED WHITE  
ROOF AND 4 DOORS



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 7

---

DATE: October 28, 2020  
TO: Mayor and Town Council  
FROM: Lisa Velasco, Human Resources Director  
SUBJECT: Approve an Amendment to the Employment Agreement Between the Town of Los Gatos and the Town Manager and Authorize Salary and Benefits Budget Adjustments in the Amount of \$18,431 from Available General Fund Capital/Special Projects Reserve

**RECOMMENDATION:**

Approve an amendment to the Employment Agreement (Attachment 1) between the Town of Los Gatos and the Town Manager and authorize salary and benefits budget adjustments in the amount of \$18,431 from available General Fund Capital/Special Projects Reserve.

**BACKGROUND:**

As an appointee of the Town Council, the Town Manager is employed under an Employment Agreement specifying the terms and conditions of employment. The terms and conditions of employment include items such as base pay, basic and optional benefits, covered expenses, parameters for an annual performance review, and conditions for termination/severability. Senate Bill 1436 requires an oral summary at a Council meeting when a recommendation is made related to modifying the salary, salary schedule, or fringe benefits of any person employed under an Employment Agreement with a local agency.

**DISCUSSION:**

As outlined in the Employment Agreement, the Town Manager's performance and compensation is reviewed annually in conjunction with a performance evaluation. The review of the Employment Agreement is conducted to ensure legal compliance and to provide for any adjustments in the terms and conditions of employment. In accordance with the agreement terms for Town Manager Laurel Prevetti, the Town Council completed the evaluation for her fifth year in the position, from September 2019 through September 2020.

**PREPARED BY:** Lisa Velasco  
Human Resources Director

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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PAGE 2 OF 2

SUBJECT: Approve an Amendment to the Town Manager Employment Agreement

DATE: October 28, 2020

CONCLUSION:

Based upon the satisfactory completion of the performance review in Closed Session, it is recommended that the Town Manager's annual base salary increase to \$262,500, effective in the pay period that includes the anniversary date of September 2, 2020. In addition, it is recommended that the Town Manager receive a one-time lump sum performance bonus of \$5,000.

FISCAL IMPACT:

Funding to support the Town Manager's salary and benefits is authorized in the annual budget each fiscal year along with all other Town employee compensation and benefits.

The anticipated fiscal impact for the remainder of 2020/21 is \$18,431. The requested budget adjustment in the amount of \$18,431 from available General Fund Capital/Special Projects Reserve will provide funding for the additional salary and benefit cost for FY 2020/21. Funding to support the FY 2020/21 ongoing cost each year will be incorporated into the proposed future year budgets for Council approval.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Amendment to the Employment Agreement – Town Manager
2. Salary Schedule for Town Council and Management

## **FIFTH AMENDMENT TO THE TOWN MANAGER EMPLOYMENT AGREEMENT**

This Amendment to Town Agreement AGR 15-172 is entered into this 3<sup>rd</sup> day of November, 2020, by and between the Town of Los Gatos, a municipal corporation (“TOWN”), and Laurel Prevetti (“EMPLOYEE”).

### **RECITALS**

**WHEREAS**, Town and Laurel Prevetti executed an Agreement effective September 2, 2015 to provide Town Manager services to the Town;

**WHEREAS**, a First Amendment to the Agreement was executed on April 4, 2017 to amend the employment agreement to award a 4.43% wage increase to the annual base salary, effective on April 4, 2017 and a lump sum performance bonus of \$3,000; and

**WHEREAS**, a Second Amendment to the Agreement was executed on January 16, 2018 to amend the employment agreement to award a \$8,000 wage increase to the annual base salary, effective on January 16, 2018; and

**WHEREAS**, a Third Amendment to the Agreement was executed on December 18, 2018, to amend the employment agreement to award a \$16,250 wage increase to the annual base salary, effective on September 2, 2018 and a lump sum performance bonus of \$3,300; and

**WHEREAS**, a Fourth Amendment to the Agreement was executed on December 3, 2019 to amend the employment agreement to award a \$13,750 wage increase to the annual base salary, effective on September 2, 2019 and a lump sum performance bonus of \$5,000; and

**WHEREAS**, on the basis of the annual evaluation, the Town Council desires to amend the employment agreement to award a \$12,500 wage increase to the annual base salary, effective on September 2, 2020 and a lump sum performance bonus of \$5,000; and

**IT IS THEREFORE AGREED** by the parties as follows:

Section 2 of the Agreement is amended to read as follows:

**A. Salary.**

The Town Manager is awarded a \$12,500 wage increase for a total annual base salary of \$262,500, effective September 2, 2020.

- (1) On the basis of an annual performance evaluation covering the fifth year of employment from September 2019 to September 2020, the Town Manager is awarded a one-time lump sum payment of \$5,000.

**IN WITNESS WHEREOF**, the parties have executed this Amendment to the Town Manager Agreement on the date written above.

TOWN OF LOS GATOS

\_\_\_\_\_  
Marcia Jensen, Mayor

\_\_\_\_\_  
Laurel Prevetti, Town Manager

ATTEST:

\_\_\_\_\_  
Shelley Neis, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert W. Schultz, Town Attorney

**Town of Los Gatos Town Council and Management Classifications**  
**Salary Schedule for Fiscal Year 2020/21**  
**Effective July 1, 2020 (unless otherwise noted)**  
**Adopted by Town Council November 3, 2020**

<b>Class Code</b>	<b>Classification Title</b>	<b>Annual Salary Minimum</b>	<b>Annual Salary Maximum</b>
2615	Assistant Parks & Public Works Director/Town Engineer	\$ 139,007	\$ 187,660
2110	Assistant Town Manager	\$ 165,235	\$ 223,067
2420	Chief Building Official	\$ 125,934	\$ 170,011
2400	Community Development Director	\$ 161,201	\$ 217,621
2180	Community Outreach Coordinator	\$ 86,953	\$ 117,386
2010	Deputy Attorney	\$ 108,592	\$ 146,599
2130	Economic Vitality Manager	\$ 119,865	\$ 161,817
2310	Finance and Budget Manager	\$ 125,934	\$ 170,011
2300	Finance Director	\$ 157,273	\$ 212,319
2200	Human Resources Director	\$ 146,044	\$ 197,159
2900	Information Technology Manager	\$ 125,934	\$ 170,011
2800	Library Director	\$ 146,044	\$ 197,159
2820	Library Division Manager	\$ 95,979	\$ 129,572
2600	Parks & Public Works Director	\$ 161,201	\$ 217,621
2645	Parks & Public Works Operations Manager	\$ 108,592	\$ 146,599
2630	Parks & Public Works Superintendent	\$ 125,934	\$ 170,011
2412	Planning Manager	\$ 125,934	\$ 170,011
2510	Police Captain	\$ 149,695	\$ 202,088
2500	Police Chief	\$ 169,366	\$ 228,644
2545	Police Records & Communication Manager	\$ 116,941	\$ 157,870
2140	Senior Administrative Analyst	\$ 93,638	\$ 126,411
2650	Senior Civil Engineer	\$ 119,865	\$ 161,817
2000	Town Attorney - Council Appointed ( <i>Effective 11/29/20, Adopted by Town Council 11/3/20</i> )*		\$ 245,000
2190	Town Clerk	\$ 125,934	\$ 170,011
2100	Town Manager - Council Appointed ( <i>Effective 8/23/20, Adopted by Town Council 11/3/20</i> )*		\$ 262,500
2655	Transportation & Mobility Manager	\$ 116,941	\$ 157,870
1000	Town Council ( <i>Effective 1/1/19 Pursuant to Ordinance Adopted by Town Council on 2/6/18</i> )	\$570 Stipend per month, for a total compensation of \$6,840 per year	

**Management salaries reflect a spread of 35% to the top of the range.**

**Reflects a General Increase of 1%**

*\*Approval of Annual Maximum Salary November 3, 2020*

ATTACHMENT 2



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 7

DESK ITEM

---

DATE: October 28, 2020  
TO: Mayor and Town Council  
FROM: Lisa Velasco, Human Resources Director  
SUBJECT: Approve an Amendment to the Employment Agreement Between the Town of Los Gatos and the Town Manager and Authorize Salary and Benefits Budget Adjustments in the Amount of \$18,431 from Available General Fund Capital/Special Projects Reserve

**RECOMMENDATION:**

Attachment 3 contains public comments received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020.

**Attachments Previously Received with the Staff Report:**

1. Amendment to the Employment Agreement – Town Manager
2. Salary Schedule for Town Council and Management

**Attachment Received with this Desk Item:**

3. Public Comments Received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020

**PREPARED BY:** Lisa Velasco  
Human Resources Director

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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**From:** Phil Koen

**Sent:** Monday, November 2, 2020 11:05 AM

**To:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>

**Cc:** Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Lee Fagot; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Dear Council Members,

At the upcoming Council Meeting you will be discussing various budget actions which will require additional funding. For FY 21, agenda Items #7, #8, #9 and #10 will require \$200,420 in additional sources of funds. It should be pointed out, that the \$200,420 being requested does not represent the total annual cost, but only the impact on the remainder of FY 21. The Staff is recommending that these on-going, unbudgeted operating expenses (the majority are incremental salary and benefits) be funded from the General Fund Capital/Special Project fund balance.

The Capital/Special Project fund balance is an “assigned” (as opposed to unassigned”) fund balance which is to be used for the acquisition and construction of capital facilities. Clearly the proposed use of funds does not fall within the assigned definition. The Council, however, does have the full authority to use the funds as they determine. Council should also be aware that the Staff has repeatedly informed the Council that “establishing a reliable, dedicated source of funding for basic capital improvements beyond the use of accumulated reserves remains a long-term need and important goal”. The use of this assigned fund balance to pay for on-going, unbudgeted operating expenses, such as salary and benefits, will eventually deplete this reserve, leaving no source of funds for future capital projects, unless other sources are identified.

You should also be reminded that in the FY 21 Adopted Budget, the Staff already programed \$769,308 from this assigned general fund balance to “plug” a FY 21 operating budget hole. This action combined with the items being discussed tonight, will result in \$1m of the Capital/Special fund balance being used to fund on-going general fund operating expenses in just FY 21. This is not fiscally prudent since this suggests that FY 21 operating revenues are insufficient to fund current operating expenditures.

Normally, unbudgeted expenditures such as those being proposed by Items #7 - #10, can be covered by the existing adopted budget because Staff has historically taken a “conservative” approach to budgeting general fund revenues. This results in actual revenues exceeding the budget creating funding for unbudgeted expenditures. However, given the current economic impact of COVID 19, it is highly unlikely that the Town’s adopted FY 21 revenue budget will be achieved based on the material declines being reported County wide in Sales Tax and TOT receipts. These two revenue sources account for approximately 25% of the Town’s total general fund revenues.

To date, the Staff has not reported (at least not publicly) the Town’s actual revenues for Q1 FY 21 as compared to the adopted budget. The cities of Los Altos and Campbell have disclosed to the public an analysis of Q1 FY 21 revenue results as well as a revised revenue estimates for FY 21. Both cities are reporting material declines in Sales Tax and TOT receipts. I would recommend the Council ask the Staff to publish as soon as possible an update on the Town’s budget vs actual Q1 revenue and expense results



so the Council has a clear understanding of how tax receipts are tracking and if any FY 21 budget adjustments are required. This could be the subject of a first ever, joint Council/Finance Committee study session.

While it would have been desirable for the Staff to provide an update on Q1 results in conjunction with the requests for funding items #7-#10, the Council may not have the flexibility to wait on making a determination to fund these items. If that is the case, the Council should consider using the \$1.2m Surplus Property Reserve instead of the Capital/Special Project Reserve to provide the required funding for the unbudgeted expenditures outlined in agenda items #7 - #10.

The Surplus Property reserve was authorized by the Council on May 19, 2020 to “be used for alleviating COVID 19 economic impacts including revenue declines (for example Sales Tax, Property Tax, and Transient Occupancy Tax) and/or unanticipated expenditure cost increases in FY 2019/20 and beyond”. The Surplus Property Reserve balance is more appropriate and is consistent with the definition of fund use than the Capital/Special Project Reserve. I would recommend that if funding approval is required now, the Council direct Staff to comply with the May 19, 2020 directive and use the Surplus Property Reserve rather than depleting the Town’s only source of future capital project funding, namely the Capital/Special Project Reserve.

Thank you for your consideration.

Phil Koen

**From:** Lee Fagot

**Sent:** Monday, November 2, 2020 3:47 PM

**To:** Phil Koen

**Cc:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** Re: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Phil,

Excellent observations, analysis and recommendations. Your proposals are specific to help with this challenge of very probable **declining revenue** for the Town, and the proposed **new spending** on salary and benefits - which is **NOT** the intended use of these ASSIGNED funds for Capital/Special Projects. And, as you also pointed out, and the Council earlier approved, any surplus in our Budget should be kept to alleviate COVID's financial impact on the Town. While we have good, hard working Town employees, we need to be more strategic and financially sound in our decisions and fund allocations, and more transparent in the analysis of financial matters.

There needs to be a more earnest and open discussion of these agenda items (7,8,9 and 10) before a decision on such spending is made. I trust the Council members will pull and discuss earnestly.

Thanks again,  
Lee Fagot

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**Sent:** Monday, November 2, 2020 7:42 PM

**To:** Marcia Jensen

**Cc:** Phil Koen; BSpector; Marico Sayoc; Rob Rennie; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti; Stephen Conway

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Thank you for your quick response. I also appreciate you clarifying some of the points I was raising.

1) I apologize for having used the term "pulled" for discussion to these items, inferring they too were on "Consent", but intended to have each item, 7 thru 10, to be discussed by the Council as part of the normal open forum/public "Other Business" comment session, to help add clarity to these items for the public to better understand the intent and impact. For example, item 10, establishing independent review of complaints against police, is a good start, but there perhaps should also be discussion of review of police services when there are NOT formally filed complaints, but observations from community members and Town staff, and their analysis of more efficiency or better services to prevent crime, solve crime, and deal with the social/emotional issues that have manifest in our community that are NOT criminal, or at least not yet matured into criminal activity by the folks involved. I also agree the Community discussion referenced was a very healthy session for all involved. Good movement, and the Council should discuss further how to keep both oversight as guidance, and not be left with "hindsight" to remedy a problem, and for all of us to work tougher for solutions.

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Mr. Fagot and Mr. Koen --

Thank you for your emailed comments on Agenda Items 7-10.

A few points:

1. Mr. Fagot asks that they be "pulled." *All* of these agenda items are scheduled for full public hearings, that is, *none* are on the Consent Calendar.
2. Funds for Agenda Item 9 consist of State grant funds which the Town receives on an annual basis. They are normally used for Motorcycle Officers. This year, in light of the Town's attention on Police reform, it was suggested that these funds should be considered for other possible uses within the grant parameters. Options for expenditure of those funds are presented in the Staff Report.
3. Item 10 is a direct product of the Community discussion regarding police reform and the Council's subsequent action directing Staff to provide information - including budgeting - regarding the implementation of a mechanism to provide independent review and oversight of complaints regarding police conduct.

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**Sent:** Tuesday, November 3, 2020 8:42 AM

**To:** Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>; Lee Fagot <[leefagot@gmail.com](mailto:leefagot@gmail.com)>

**Cc:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** RE: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Hello Ms. Jensen,

Thank you for your reply. I understood that Agenda items #7 -#10 were not part of the consent calendar and were for general discussion. But thank you for your clarification.

Regarding your two other points, I want to make sure there is no misunderstanding regarding the intent of my first email. For sake of clarity, I was not expressing an opinion regarding the underlying appropriateness of any of the staff recommendations regarding Agenda Items #7 -#10. I am confident that the Council can make those decisions. Rather my comments were financially focused on 1) raising a concern as to whether the Capital/Special Project fund balance VS. the Surplus Property Reserve fund balance should be used to fund any proposed unbudgeted expenditures, 2) pointing out that if all agenda items are approved as recommended by staff, \$200,420 in additional funding will be required for just FY 21 which is in addition to the \$760,308 that has already been used from the Capital/Special Project fund balance to fund on-going FY 21 operating expenses (which are mainly salary and benefit expenditures), 3) recommending the Council direct staff to publish an update of actual revenue and expenditure results for Q1 FY 21 vs the adopted FY 21 budget and 4) recommending the Town Council hold a joint Council/Finance Committee study session to review/discuss the Q1 revenue and expenditure results compared to the adopted budget to determine if any other budget adjustments are required and if there are any other "known" and unbudgeted expenditures which will require funding.

Regarding Agenda Item #9, the Staff Memo does discuss the fiscal impact of the proposed recommendation and states that "a \$100,000 expenditure budget adjustment from available Capital/Special Projects Reserve is needed to maintain the motorcycle unit program at its current staffing level as identified in the adopted FY 21 operating budget". The Staff's recommendation is to shift the Town's \$100,000 portion of the \$200,000 SLESF grant from supplemental funding for the salary of two traffic enforcement motorcycle officers to the purchase of equipment and technology (which is not fully explained). Shifting these SLESF funds to purchase this equipment will create a \$100,000 "budget funding hole" for the motorcycle officer's salaries. Staff is recommending using available funds in the Capital/Special Project Reserve to plug this "budget funding hole". To be clear, I am not expressing any opinion regarding the appropriateness of the staff's recommendation other than to question the use of the Capital/Special Project fund balance to plug the "budget funding hole".

Regarding Agenda Item #10, I fully understand the objective of the agenda item and that it is the product of Community discussion. I was not expressing an opinion regarding the appropriateness of the agenda Item #10 other than pointing out that, if approved, the Staff is recommending that \$68,461 from the Capital/Special Project Reserve to fund the unbudgeted expenditures. Again, I was only pointing out the questionable use of the Capital/Special Project fund balance to provide funding for the unbudgeted expenditures.

Please let me know if you have any additional questions.

Thank you.

Phil Koen



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 8

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DATE: October 28, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Approve an Amendment to the Employment Agreement Between the Town of Los Gatos and the Town Attorney and Authorize Salary and Benefits Budget Adjustments in the Amount of \$13,528 from Available General Fund Capital/Special Projects Reserve

**RECOMMENDATION:**

Approve an amendment to the Employment Agreement (Attachment 1) between the Town of Los Gatos and the Town Attorney and authorize salary and benefits adjustments in the amount of \$13,528 from available General Fund Capital/Special Projects Reserve.

**BACKGROUND:**

As an appointee of the Town Council, the Town Attorney is employed under an Employment Agreement specifying the terms and conditions of employment. The terms and conditions of employment include items such as base pay, basic and optional benefits, covered expenses, parameters for an annual performance review, and conditions for termination/severability. Senate Bill 1436 requires an oral summary at a Council meeting when a recommendation is made related to modifying the salary, salary schedule, or fringe benefits of any person employed under an Employment Agreement with a local agency.

**DISCUSSION:**

As outlined in the Employment Agreement, the Town Attorney's performance and compensation is reviewed annually in conjunction with a performance evaluation. The review of the Employment Agreement is conducted to ensure legal compliance and to provide for any adjustments in the terms and conditions of employment. In accordance with the agreement terms for Town Attorney Robert Schultz, the Town Council completed the evaluation for his seventh year in the position, from December 2019 through December 2020.

**PREPARED BY:** Lisa Velasco  
Human Resources Director

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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CONCLUSION:

Based upon the satisfactory completion of the performance review in Closed Session, it is recommended that the Town Attorney's annual base salary increase to \$245,000 effective in the pay period that includes the anniversary date of December 12, 2020. In addition, it is recommended that the Town Attorney receive a one-time lump sum performance bonus of \$5,000.

FISCAL IMPACT:

Funding to support the Town Attorney's salary and benefits is authorized in the annual budget each fiscal year along with all other Town employee compensation and benefits.

The anticipated fiscal impact for the remainder of 2020/21 is \$13,528. The requested budget adjustment in the amount of \$13,528 from available General Fund Capital/Special Projects Reserve will provide funding for the additional salary and benefit cost for FY 2020/21. Funding to support the FY 2020/21 ongoing cost each year will be incorporated into the proposed future year budgets for Council approval.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Amendment to the Employment Agreement – Town Attorney
2. Salary Schedule for Town Council and Management

## **SEVENTH AMENDMENT TO THE TOWN ATTORNEY EMPLOYMENT AGREEMENT**

This Amendment to Town Agreement AGR13.180 is entered into this 3<sup>rd</sup> day of November, 2020, by and between the Town of Los Gatos, a municipal corporation ("TOWN") and Robert Schultz ("EMPLOYEE").

### **RECITALS:**

**WHEREAS**, Town and Robert Schultz executed an Agreement effective December 12, 2013 to provide Town Attorney services to the Town;

**WHEREAS**, a First Amendment to the Agreement was executed on December 17, 2015 to amend the employment agreement to award a 2% wage increase to the annual base salary, effective with the Town Attorney's anniversary date of December 12, 2014 and a lump sum performance bonus of \$2,000; and

**WHEREAS**, a Second Amendment to the Agreement was executed on January 19, 2016 to amend the employment agreement to award a 5% wage increase to the annual base salary, effective with the Town Attorney's anniversary date of December 12, 2015 and a lump sum performance bonus of \$5,000; and

**WHEREAS**, a Third Amendment to the Agreement was executed on February 7, 2017 to amend the employment agreement to award a 2.5% wage increase to the annual base salary, effective with the Town Attorney's anniversary date of December 12, 2016, a lump sum performance bonus of \$2,500, and transfer the \$350 per month (\$4,200 annually) car allowance to annual base salary; and

**WHEREAS**, a Fourth Amendment to the Agreement was executed on January 16, 2018 to amend the employment agreement to award a \$7,607 wage increase to the annual base salary, effective January 16, 2018, and a one-time lump sum performance bonus of \$3,000; and

**WHEREAS**, a Fifth Amendment to the Agreement was executed on December 4, 2018 to amend the employment agreement to award a \$10,000 wage increase to the annual base salary, effective with the Town Attorney's anniversary date of December 12, 2018, and a one-time lump sum performance bonus of \$3,225; and

**WHEREAS**, a Sixth Amendment to the Agreement was executed on December 3, 2019 to amend the employment agreement to award a \$10,000 wage increase to the annual base salary, effective with the Town Attorney's anniversary date of December 12, 2019, and a one-time lump sum performance bonus of \$5,000.

**WHEREAS**, on the basis of the annual evaluation, the Town Council desires to amend the employment agreement to award a \$10,000 wage increase to the annual base salary, effective with the



Town Attorney's anniversary date of December 12, 2020, and a one-time lump sum performance bonus of \$5,000.

**IT IS THEREFORE AGREED** by the parties as follows:

Section 4 of the Agreement is amended to read as follows:

4. Compensation

(a) Base Salary.

(1) The Town Attorney is awarded a \$10,000 wage increase for a total annual base salary of \$245,000, effective December 12, 2020.

(b) Performance Review.

(1) On the basis of an annual performance evaluation covering the seventh year of employment from December 2019 to December 2020, the Town Attorney is awarded a one-time lump sum performance bonus of \$5,000.

**IN WITNESS WHEREOF**, the parties have executed this Amendment to the Town Attorney Agreement on the date written above.

TOWN OF LOS GATOS

\_\_\_\_\_  
Marcia Jensen, Mayor

\_\_\_\_\_  
Robert Schultz, Town Attorney

ATTEST:

\_\_\_\_\_  
Shelley Neis, Town Clerk

**Town of Los Gatos Town Council and Management Classifications**  
**Salary Schedule for Fiscal Year 2020/21**  
**Effective July 1, 2020 (unless otherwise noted)**  
**Adopted by Town Council November 3, 2020**

Class Code	Classification Title	Annual Salary Minimum	Annual Salary Maximum
2615	Assistant Parks & Public Works Director/Town Engineer	\$ 139,007	\$ 187,660
2110	Assistant Town Manager	\$ 165,235	\$ 223,067
2420	Chief Building Official	\$ 125,934	\$ 170,011
2400	Community Development Director	\$ 161,201	\$ 217,621
2180	Community Outreach Coordinator	\$ 86,953	\$ 117,386
2010	Deputy Attorney	\$ 108,592	\$ 146,599
2130	Economic Vitality Manager	\$ 119,865	\$ 161,817
2310	Finance and Budget Manager	\$ 125,934	\$ 170,011
2300	Finance Director	\$ 157,273	\$ 212,319
2200	Human Resources Director	\$ 146,044	\$ 197,159
2900	Information Technology Manager	\$ 125,934	\$ 170,011
2800	Library Director	\$ 146,044	\$ 197,159
2820	Library Division Manager	\$ 95,979	\$ 129,572
2600	Parks & Public Works Director	\$ 161,201	\$ 217,621
2645	Parks & Public Works Operations Manager	\$ 108,592	\$ 146,599
2630	Parks & Public Works Superintendent	\$ 125,934	\$ 170,011
2412	Planning Manager	\$ 125,934	\$ 170,011
2510	Police Captain	\$ 149,695	\$ 202,088
2500	Police Chief	\$ 169,366	\$ 228,644
2545	Police Records & Communication Manager	\$ 116,941	\$ 157,870
2140	Senior Administrative Analyst	\$ 93,638	\$ 126,411
2650	Senior Civil Engineer	\$ 119,865	\$ 161,817
2000	Town Attorney - Council Appointed ( <i>Effective 11/29/20, Adopted by Town Council 11/3/20</i> )*		\$ 245,000
2190	Town Clerk	\$ 125,934	\$ 170,011
2100	Town Manager - Council Appointed ( <i>Effective 8/23/20, Adopted by Town Council 11/3/20</i> )*		\$ 262,500
2655	Transportation & Mobility Manager	\$ 116,941	\$ 157,870
1000	Town Council ( <i>Effective 1/1/19 Pursuant to Ordinance Adopted by Town Council on 2/6/18</i> )	\$570 Stipend per month, for a total compensation of \$6,840 per year	

**Management salaries reflect a spread of 35% to the top of the range.**

**Reflects a General Increase of 1%**

*\*Approval of Annual Maximum Salary November 3, 2020*

ATTACHMENT 2



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 8

DESK ITEM

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DATE: October 28, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Approve an Amendment to the Employment Agreement Between the Town of Los Gatos and the Town Attorney and Authorize Salary and Benefits Budget Adjustments in the Amount of \$13,528 from Available General Fund Capital/Special Projects Reserve

**RECOMMENDATION:**

Attachment 3 contains public comments received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020.

**Attachments Previously Received with the Staff Report:**

1. Amendment to the Employment Agreement – Town Attorney
2. Salary Schedule for Town Council and Management

**Attachment Received with this Desk Item:**

3. Public Comments Received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020

**PREPARED BY:** Lisa Velasco  
Human Resources Director

---

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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**From:** Phil Koen

**Sent:** Monday, November 2, 2020 11:05 AM

**To:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>

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**Subject:** Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Dear Council Members,

At the upcoming Council Meeting you will be discussing various budget actions which will require additional funding. For FY 21, agenda Items #7, #8, #9 and #10 will require \$200,420 in additional sources of funds. It should be pointed out, that the \$200,420 being requested does not represent the total annual cost, but only the impact on the remainder of FY 21. The Staff is recommending that these on-going, unbudgeted operating expenses (the majority are incremental salary and benefits) be funded from the General Fund Capital/Special Project fund balance.

The Capital/Special Project fund balance is an “assigned” (as opposed to unassigned”) fund balance which is to be used for the acquisition and construction of capital facilities. Clearly the proposed use of funds does not fall within the assigned definition. The Council, however, does have the full authority to use the funds as they determine. Council should also be aware that the Staff has repeatedly informed the Council that “establishing a reliable, dedicated source of funding for basic capital improvements beyond the use of accumulated reserves remains a long-term need and important goal”. The use of this assigned fund balance to pay for on-going, unbudgeted operating expenses, such as salary and benefits, will eventually deplete this reserve, leaving no source of funds for future capital projects, unless other sources are identified.

You should also be reminded that in the FY 21 Adopted Budget, the Staff already programed \$769,308 from this assigned general fund balance to “plug” a FY 21 operating budget hole. This action combined with the items being discussed tonight, will result in \$1m of the Capital/Special fund balance being used to fund on-going general fund operating expenses in just FY 21. This is not fiscally prudent since this suggests that FY 21 operating revenues are insufficient to fund current operating expenditures.

Normally, unbudgeted expenditures such as those being proposed by Items #7 - #10, can be covered by the existing adopted budget because Staff has historically taken a “conservative” approach to budgeting general fund revenues. This results in actual revenues exceeding the budget creating funding for unbudgeted expenditures. However, given the current economic impact of COVID 19, it is highly unlikely that the Town’s adopted FY 21 revenue budget will be achieved based on the material declines being reported County wide in Sales Tax and TOT receipts. These two revenue sources account for approximately 25% of the Town’s total general fund revenues.

To date, the Staff has not reported (at least not publicly) the Town’s actual revenues for Q1 FY 21 as compared to the adopted budget. The cities of Los Altos and Campbell have disclosed to the public an analysis of Q1 FY 21 revenue results as well as a revised revenue estimates for FY 21. Both cities are reporting material declines in Sales Tax and TOT receipts. I would recommend the Council ask the Staff to publish as soon as possible an update on the Town’s budget vs actual Q1 revenue and expense results

so the Council has a clear understanding of how tax receipts are tracking and if any FY 21 budget adjustments are required. This could be the subject of a first ever, joint Council/Finance Committee study session.

While it would have been desirable for the Staff to provide an update on Q1 results in conjunction with the requests for funding items #7-#10, the Council may not have the flexibility to wait on making a determination to fund these items. If that is the case, the Council should consider using the \$1.2m Surplus Property Reserve instead of the Capital/Special Project Reserve to provide the required funding for the unbudgeted expenditures outlined in agenda items #7 - #10.

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Again, thank you for providing clarity to some of the points, and look forward to a productive meeting Tuesday.

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Hello Ms. Jensen,

Thank you for your reply. I understood that Agenda items #7 -#10 were not part of the consent calendar and were for general discussion. But thank you for your clarification.

Regarding your two other points, I want to make sure there is no misunderstanding regarding the intent of my first email. For sake of clarity, I was not expressing an opinion regarding the underlying appropriateness of any of the staff recommendations regarding Agenda Items #7 -#10. I am confident that the Council can make those decisions. Rather my comments were financially focused on 1) raising a concern as to whether the Capital/Special Project fund balance VS. the Surplus Property Reserve fund balance should be used to fund any proposed unbudgeted expenditures, 2) pointing out that if all agenda items are approved as recommended by staff, \$200,420 in additional funding will be required for just FY 21 which is in addition to the \$760,308 that has already been used from the Capital/Special Project fund balance to fund on-going FY 21 operating expenses (which are mainly salary and benefit expenditures), 3) recommending the Council direct staff to publish an update of actual revenue and expenditure results for Q1 FY 21 vs the adopted FY 21 budget and 4) recommending the Town Council hold a joint Council/Finance Committee study session to review/discuss the Q1 revenue and expenditure results compared to the adopted budget to determine if any other budget adjustments are required and if there are any other "known" and unbudgeted expenditures which will require funding.

Regarding Agenda Item #9, the Staff Memo does discuss the fiscal impact of the proposed recommendation and states that "a \$100,000 expenditure budget adjustment from available Capital/Special Projects Reserve is needed to maintain the motorcycle unit program at its current staffing level as identified in the adopted FY 21 operating budget". The Staff's recommendation is to shift the Town's \$100,000 portion of the \$200,000 SLESF grant from supplemental funding for the salary of two traffic enforcement motorcycle officers to the purchase of equipment and technology (which is not fully explained). Shifting these SLESF funds to purchase this equipment will create a \$100,000 "budget funding hole" for the motorcycle officer's salaries. Staff is recommending using available funds in the Capital/Special Project Reserve to plug this "budget funding hole". To be clear, I am not expressing any opinion regarding the appropriateness of the staff's recommendation other than to question the use of the Capital/Special Project fund balance to plug the "budget funding hole".

Regarding Agenda Item #10, I fully understand the objective of the agenda item and that it is the product of Community discussion. I was not expressing an opinion regarding the appropriateness of the agenda Item #10 other than pointing out that, if approved, the Staff is recommending that \$68,461 from the Capital/Special Project Reserve to fund the unbudgeted expenditures. Again, I was only pointing out the questionable use of the Capital/Special Project fund balance to provide funding for the unbudgeted expenditures.



Please let me know if you have any additional questions.

Thank you.

Phil Koen



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 9

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DATE: October 29, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt A Resolution (Attachment 1) Accepting Funds From the California Supplemental Law Enforcement Service Fund (SLESF) of Which \$100,000 Will be Directed to Purchase Equipment and Technology and \$100,000 Will be Directed Toward the Contractually Required Traffic Enforcement Within the City Limits of Monte Sereno; and Authorize an Expenditure Budget Adjustment in the Amount of \$100,000 From Available Capital/Special Projects Reserve.

**RECOMMENDATION:**

Adopt a Resolution (Attachment 1) accepting funds from the California Supplemental Law Enforcement Service Fund (SLESF) of which \$100,000 will be directed to purchase equipment and technology and \$100,000 will be directed toward the contractually required traffic enforcement within the city limits of Monte Sereno; and authorize an expenditure budget adjustment in the amount of \$100,000 from available Capital/Special Projects Reserve.

**BACKGROUND:**

In 1996, California legislation (Assembly Bill 3229) created the Citizens Options for Public Safety (COPS) program allocating \$100,000,000 to local governments yearly for front-line law enforcement. These funds are to be distributed through an established Supplemental Local Law Enforcement Services Fund (SLESF). State General Fund distribution to local law enforcement agencies are specifically intended for "front-line municipal police services." COPS funds must be spent on personnel, equipment, or supplies and are not approved for public safety capital improvement or construction projects.

**PREPARED BY:** Peter Decena  
Chief of Police

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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SUBJECT: Adopt a resolution authorizing the continued use of Supplemental Local Law Enforcement Services Funds

DATE: October 29, 2020

BACKGROUND (continued):

Other COPS funds requirements and restrictions include:

- COPS funds shall be used to supplement, not supplant existing funding for law enforcement services.
- COPS funds shall be deposited into a separate fund, not intermingled with other monies.
- The Town Council shall approve the appropriation of COPS funds pursuant to a recommendation by the Chief of Police.
- Each county shall establish a Supplemental Law Enforcement Services Fund for deposit of State COPS funds and distribution to municipalities.

Pursuant to AB 3229, the City of Monte Sereno also receives a share of the state SLESF funds (\$100,000). The City of Monte Sereno is required by contractual agreement for law enforcement services to transfer those funds to the Town of Los Gatos within 30 days of receipt of the monies from the State of California. The contract stipulates that the Los Gatos-Monte Sereno Police Department will provide an additional 416 hours of traffic enforcement within the city limits of Monte Sereno in exchange for its portion of SLESF funds.

The total of \$200,000 in SLESF funds (\$100,000 from each jurisdiction) has historically been used to supplement the salary, equipment, and training costs of the Town's only two traffic enforcement motorcycle Officers. Despite this, there is no mandated appropriation of these funds towards the two motorcycle officers.

DISCUSSION:

In the FY 2020/21 budget, a total of \$200,000 in SLESF funds were directed to be allocated to supplement the salary of two traffic enforcement motorcycle officers. The Monte Sereno share of the SLESF monies (\$100,000) is contractually obligated to fund 416 hours of traffic enforcement within the city limits of Monte Sereno.

This report recommends the use of the Los Gatos SLESF funds that is different from previous years and more consistent with the spirit of the COPS program. Property crime comprises a large percentage of overall crime in Los Gatos. The Police Department is looking at innovative, technology-based means of preventing and solving these types of crimes without increasing sworn staffing levels. The Police Department proposes utilizing the Los Gatos portion (\$100,000) of SLESF funds in Fiscal Year 2020/21 to identify and implement equipment and technology that will assist Patrol Officers in property crime prevention.

SUBJECT: Adopt a resolution authorizing the continued use of Supplemental Local Law Enforcement Services Funds

DATE: October 29, 2020

CONCLUSION:

Staff recommends approval of a resolution (Attachment 1) to use of SLESF funds as follows:

- \$100,000 of SLESF funds will be directed to purchase equipment and technology that will assist Los Gatos-Monte Sereno Police Officers in the prevention of property crime.
- \$100,000 of SLESF funds will be directed toward the contractually required traffic enforcement within the city limits of Monte Sereno.

ALTERNATIVE:

Alternatively, the Council can continue to use SLESF funds in the same manner as FY 2019/20, supplementing funding for two full-time motorcycle traffic officers. A combined total of \$200,000 in SLESF (\$100,000 from each jurisdiction) would be used to supplement the salary, equipment, and training costs of the approximately \$400,000 expense associated with both motorcycle Officers. If this is the preference of the Council, it should adopt the Resolution contained in Attachment 2.

FISCAL IMPACT:

If Council approves the proposed recommendation, the Town will continue to receive a combined total of \$200,000 in SLESF funding. Per contract stipulation with the City of Monte Sereno, \$100,000 of SLESF funds will continue being directed toward additional traffic enforcement within the city limits of Monte Sereno. The remaining \$100,000 of Town SLESF funds will be redirected toward the purchase of equipment and technology that will assist Los Gatos-Monte Sereno Patrol Officers in the prevention of property crime.

It should be noted that while the redirected funds to enhance property crime prevention would mitigate the need for additional sworn personnel, a \$100,000 expenditure budget adjustment from available Capital/Special Projects Reserve is needed to maintain the motorcycle unit program at its current staffing level as identified in the adopted FY 2020/21 Operating Budget.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Resolution authorizing use of SLESF funds (staff recommendation)
2. Resolution authoring use of SLESF funds (alternative)

**RESOLUTION 20**

**RESOLUTION OF THE TOWN OF LOS GATOS ACCEPTING SUPPLEMENTAL LAW ENFORCEMENT SERVICE FUNDS (SLESF) GRANT ALLOCATION FOR FY 2020-21 AND APPROVE USE OF THE FUNDS**

**WHEREAS**, Government Code Section 30061(b)3 was amended with the Governor's approval of Assembly Bill 3229; and

**WHEREAS**, the Town of Los Gatos is entitled to receive approximately \$100,000 under the terms of the Supplemental Law Enforcement Services Fund if specified requirements are met as well as \$100,000 from the City of Monte Sereno under the terms of the fund; and

**WHEREAS**, the State funding cannot be used to supplant current Town costs for law enforcement and must be expended exclusively for front-line police services; and

**WHEREAS**, the Town Council has considered the written request separate and apart from the allocation of general funds for police services;

**NOW, THEREFORE, BE IT RESOLVED:** by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, that the Town of Los Gatos authorize the continued expenditure of funds from the Supplemental Law Enforcement Services Fund for 416 hours of traffic enforcement within the city limits of Monte Sereno; and implement equipment and technology that will assist Patrol Officers in property crime prevention in the Town of Los Gatos.

**BE IT FURTHER RESOLVED,**

1. The Town Manager is directed to continue the Supplemental Law Enforcement Services Fund (SLESF) within the Town for receipt and disbursement of money received from the County Supplemental Law Enforcement Services Fund.
2. The Town Manager is directed to promptly remit to the General Fund all funding deposited in such SLESF fund.

ATTACHMENT 1

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 3rd day of November 2020 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**RESOLUTION 20**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AUTHORIZING THE CONTINUED EXPENDITURE OF FUNDS FROM THE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR TWO ADDITIONAL POLICE OFFICERS TO BE ASSIGNED AS MOTORCYCLE TRAFFIC OFFICERS**

**WHEREAS**, Government Code Section 30061(b)3 was amended with the Governor's approval of Assembly Bill 3229; and

**WHEREAS**, the Town of Los Gatos is entitled to receive approximately \$100,000 under the terms of the Supplemental Law Enforcement Services Fund if specified requirements are met as well as \$100,000 from the City of Monte Sereno under the terms of the fund; and

**WHEREAS**, the State funding cannot be used to supplant current Town costs for law enforcement and must be expended exclusively for front-line police services; and

**WHEREAS**, the Town Council has considered the written request separate and apart from the allocation of general funds for police services;

**NOW, THEREFORE, BE IT RESOLVED:** by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, that the Town of Los Gatos authorize the continued expenditure of funds from the Supplemental Law Enforcement Services Fund for two police officers to be assigned as motorcycle traffic officers.

**BE IT FURTHER RESOLVED,**

1. The Town Manager is directed to continue the Supplemental Law Enforcement Services Fund (SLESF) within the Town for receipt and disbursement of money received from the County Supplemental Law Enforcement Services Fund.

2. The Town Manager is directed to promptly remit to the General Fund all funding deposited in such SLESF fund for the additional funding of two Police Officer positions to be assigned as motorcycle traffic officers.

ATTACHMENT 2

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 3rd day of November 2020 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 9

DESK ITEM

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DATE: October 29, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt A Resolution (Attachment 1) Accepting Funds From the California Supplemental Law Enforcement Service Fund (SLESF) of Which \$100,000 Will be Directed to Purchase Equipment and Technology and \$100,000 Will be Directed Toward the Contractually Required Traffic Enforcement Within the City Limits of Monte Sereno; and Authorize an Expenditure Budget Adjustment in the Amount of \$100,000 From Available Capital/Special Projects Reserve.

REMARKS:

Attachment 3 contains public comments received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020.

Attachments Previously Received with the Staff Report:

1. Resolution authorizing use of SLESF funds (staff recommendation)
2. Resolution authoring use of SLESF funds (alternative)

Attachment Received with this Desk Item:

3. Public Comments Received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020.

PREPARED BY: Peter Decena  
Chief of Police

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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**From:** Phil Koen

**Sent:** Monday, November 2, 2020 11:05 AM

**To:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>

**Cc:** Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Lee Fagot; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Dear Council Members,

At the upcoming Council Meeting you will be discussing various budget actions which will require additional funding. For FY 21, agenda Items #7, #8, #9 and #10 will require \$200,420 in additional sources of funds. It should be pointed out, that the \$200,420 being requested does not represent the total annual cost, but only the impact on the remainder of FY 21. The Staff is recommending that these on-going, unbudgeted operating expenses (the majority are incremental salary and benefits) be funded from the General Fund Capital/Special Project fund balance.

The Capital/Special Project fund balance is an “assigned” (as opposed to unassigned”) fund balance which is to be used for the acquisition and construction of capital facilities. Clearly the proposed use of funds does not fall within the assigned definition. The Council, however, does have the full authority to use the funds as they determine. Council should also be aware that the Staff has repeatedly informed the Council that “establishing a reliable, dedicated source of funding for basic capital improvements beyond the use of accumulated reserves remains a long-term need and important goal”. The use of this assigned fund balance to pay for on-going, unbudgeted operating expenses, such as salary and benefits, will eventually deplete this reserve, leaving no source of funds for future capital projects, unless other sources are identified.

You should also be reminded that in the FY 21 Adopted Budget, the Staff already programed \$769,308 from this assigned general fund balance to “plug” a FY 21 operating budget hole. This action combined with the items being discussed tonight, will result in \$1m of the Capital/Special fund balance being used to fund on-going general fund operating expenses in just FY 21. This is not fiscally prudent since this suggests that FY 21 operating revenues are insufficient to fund current operating expenditures.

Normally, unbudgeted expenditures such as those being proposed by Items #7 - #10, can be covered by the existing adopted budget because Staff has historically taken a “conservative” approach to budgeting general fund revenues. This results in actual revenues exceeding the budget creating funding for unbudgeted expenditures. However, given the current economic impact of COVID 19, it is highly unlikely that the Town’s adopted FY 21 revenue budget will be achieved based on the material declines being reported County wide in Sales Tax and TOT receipts. These two revenue sources account for approximately 25% of the Town’s total general fund revenues.

To date, the Staff has not reported (at least not publicly) the Town’s actual revenues for Q1 FY 21 as compared to the adopted budget. The cities of Los Altos and Campbell have disclosed to the public an analysis of Q1 FY 21 revenue results as well as a revised revenue estimates for FY 21. Both cities are reporting material declines in Sales Tax and TOT receipts. I would recommend the Council ask the Staff to publish as soon as possible an update on the Town’s budget vs actual Q1 revenue and expense results

so the Council has a clear understanding of how tax receipts are tracking and if any FY 21 budget adjustments are required. This could be the subject of a first ever, joint Council/Finance Committee study session.

While it would have been desirable for the Staff to provide an update on Q1 results in conjunction with the requests for funding items #7-#10, the Council may not have the flexibility to wait on making a determination to fund these items. If that is the case, the Council should consider using the \$1.2m Surplus Property Reserve instead of the Capital/Special Project Reserve to provide the required funding for the unbudgeted expenditures outlined in agenda items #7 - #10.

The Surplus Property reserve was authorized by the Council on May 19, 2020 to “be used for alleviating COVID 19 economic impacts including revenue declines (for example Sales Tax, Property Tax, and Transient Occupancy Tax) and/or unanticipated expenditure cost increases in FY 2019/20 and beyond”. The Surplus Property Reserve balance is more appropriate and is consistent with the definition of fund use than the Capital/Special Project Reserve. I would recommend that if funding approval is required now, the Council direct Staff to comply with the May 19, 2020 directive and use the Surplus Property Reserve rather than depleting the Town’s only source of future capital project funding, namely the Capital/Special Project Reserve.

Thank you for your consideration.

Phil Koen

**From:** Lee Fagot

**Sent:** Monday, November 2, 2020 3:47 PM

**To:** Phil Koen

**Cc:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** Re: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Phil,

Excellent observations, analysis and recommendations. Your proposals are specific to help with this challenge of very probable **declining revenue** for the Town, and the proposed **new spending** on salary and benefits - which is **NOT** the intended use of these ASSIGNED funds for Capital/Special Projects. And, as you also pointed out, and the Council earlier approved, any surplus in our Budget should be kept to alleviate COVID's financial impact on the Town. While we have good, hard working Town employees, we need to be more strategic and financially sound in our decisions and fund allocations, and more transparent in the analysis of financial matters.

There needs to be a more earnest and open discussion of these agenda items (7,8,9 and 10) before a decision on such spending is made. I trust the Council members will pull and discuss earnestly.

Thanks again,  
Lee Fagot

**From:** Lee Fagot

**Sent:** Monday, November 2, 2020 7:42 PM

**To:** Marcia Jensen

**Cc:** Phil Koen; BSpector; Marico Sayoc; Rob Rennie; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti; Stephen Conway

**Subject:** Re: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Madam Mayor,

Thank you for your quick response. I also appreciate you clarifying some of the points I was raising.

1) I apologize for having used the term "pulled" for discussion to these items, inferring they too were on "Consent", but intended to have each item, 7 thru 10, to be discussed by the Council as part of the normal open forum/public "Other Business" comment session, to help add clarity to these items for the public to better understand the intent and impact. For example, item 10, establishing independent review of complaints against police, is a good start, but there perhaps should also be discussion of review of police services when there are NOT formally filed complaints, but observations from community members and Town staff, and their analysis of more efficiency or better services to prevent crime, solve crime, and deal with the social/emotional issues that have manifest in our community that are NOT criminal, or at least not yet matured into criminal activity by the folks involved. I also agree the Community discussion referenced was a very healthy session for all involved. Good movement, and the Council should discuss further how to keep both oversight as guidance, and not be left with "hindsight" to remedy a problem, and for all of us to work tougher for solutions.

2) As we are now better grasping some of the financial impact of COVID, it would be good to have a discussion amongst the council members of the results thus far this fiscal year, projections going forward, and determine how any reserves are being managed against these trend lines. That is the intent of my message to have the Council and staff have an open forum to better inform the public of how funds are being allocated and then spent, within or outside the original allocations. What are the priorities?

Again, thank you for providing clarity to some of the points, and look forward to a productive meeting Tuesday.

Regards,  
Lee Fagot

On Nov 2, 2020, at 17:23, Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)> wrote:

Mr. Fagot and Mr. Koen --

Thank you for your emailed comments on Agenda Items 7-10.

A few points:

1. Mr. Fagot asks that they be "pulled." *All* of these agenda items are scheduled for full public hearings, that is, *none* are on the Consent Calendar.
2. Funds for Agenda Item 9 consist of State grant funds which the Town receives on an annual basis. They are normally used for Motorcycle Officers. This year, in light of the Town's attention on Police reform, it was suggested that these funds should be considered for other possible uses within the grant parameters. Options for expenditure of those funds are presented in the Staff Report.
3. Item 10 is a direct product of the Community discussion regarding police reform and the Council's subsequent action directing Staff to provide information - including budgeting - regarding the implementation of a mechanism to provide independent review and oversight of complaints regarding police conduct.

**From:** Phil Koen

**Sent:** Tuesday, November 3, 2020 8:42 AM

**To:** Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>; Lee Fagot <[leefagot@gmail.com](mailto:leefagot@gmail.com)>

**Cc:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** RE: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Hello Ms. Jensen,

Thank you for your reply. I understood that Agenda items #7 -#10 were not part of the consent calendar and were for general discussion. But thank you for your clarification.

Regarding your two other points, I want to make sure there is no misunderstanding regarding the intent of my first email. For sake of clarity, I was not expressing an opinion regarding the underlying appropriateness of any of the staff recommendations regarding Agenda Items #7 -#10. I am confident that the Council can make those decisions. Rather my comments were financially focused on 1) raising a concern as to whether the Capital/Special Project fund balance VS. the Surplus Property Reserve fund balance should be used to fund any proposed unbudgeted expenditures, 2) pointing out that if all agenda items are approved as recommended by staff, \$200,420 in additional funding will be required for just FY 21 which is in addition to the \$760,308 that has already been used from the Capital/Special Project fund balance to fund on-going FY 21 operating expenses (which are mainly salary and benefit expenditures), 3) recommending the Council direct staff to publish an update of actual revenue and expenditure results for Q1 FY 21 vs the adopted FY 21 budget and 4) recommending the Town Council hold a joint Council/Finance Committee study session to review/discuss the Q1 revenue and expenditure results compared to the adopted budget to determine if any other budget adjustments are required and if there are any other "known" and unbudgeted expenditures which will require funding.

Regarding Agenda Item #9, the Staff Memo does discuss the fiscal impact of the proposed recommendation and states that "a \$100,000 expenditure budget adjustment from available Capital/Special Projects Reserve is needed to maintain the motorcycle unit program at its current staffing level as identified in the adopted FY 21 operating budget". The Staff's recommendation is to shift the Town's \$100,000 portion of the \$200,000 SLESF grant from supplemental funding for the salary of two traffic enforcement motorcycle officers to the purchase of equipment and technology (which is not fully explained). Shifting these SLESF funds to purchase this equipment will create a \$100,000 "budget funding hole" for the motorcycle officer's salaries. Staff is recommending using available funds in the Capital/Special Project Reserve to plug this "budget funding hole". To be clear, I am not expressing any opinion regarding the appropriateness of the staff's recommendation other than to question the use of the Capital/Special Project fund balance to plug the "budget funding hole".

Regarding Agenda Item #10, I fully understand the objective of the agenda item and that it is the product of Community discussion. I was not expressing an opinion regarding the appropriateness of the agenda Item #10 other than pointing out that, if approved, the Staff is recommending that \$68,461 from the Capital/Special Project Reserve to fund the unbudgeted expenditures. Again, I was only pointing out the questionable use of the Capital/Special Project fund balance to provide funding for the unbudgeted expenditures.

Please let me know if you have any additional questions.

Thank you.

Phil Koen



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 10

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DATE: October 27, 2020

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Implement the Following Police Reforms:

- a. Authorize the Town Manager to establish an Independent Police Auditor function;
- b. Work with the County of Santa Clara Regarding Responses to Mental Health and Homeless Calls for Service;
- c. Add a Limit Dated (Two Years) Community Service Officer Position to the Police Department to Respond to Non-Emergency Calls at an Annual Cost of Approximately \$148,000 and Authorize a FY 2020/21 Expenditure Budget Adjustment in the Amount of \$68,461 from Available General Fund Capital/Special Projects Reserve; and
- d. Acknowledge the Timeline for Police Stop Data Availability and Transparency

**RECOMMENDATION:**

Implement the following Police reforms:

- a. Authorize the Town Manager to establish an Independent Police Auditor function;
- b. Work with the County of Santa Clara regarding responses to mental health and homeless calls for service;
- c. Add a limit dated (two years) Community Service Officer to the Police Department to Respond to non-emergency calls at an annual cost of approximately \$148,000 and authorize a FY 2020/21 expenditure budget adjustment in the amount of \$68,461 from available General Fund Capital/Special Projects Reserve; and
- d. Acknowledge the timeline for Police stop data availability and transparency.

**BACKGROUND:**

Since late May after the murder of George Floyd by Minneapolis Police, the Town has received considerable public input regarding the Town's Police budget and ideas for potential Police

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Reviewed by: Assistant Town Manager, Police Chief, Town Attorney, and Finance Director

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BACKGROUND (continued):

reforms. Input has been provided via email, and public comment at the General Plan Update Advisory Committee and Council meetings. In addition, the Town held a community workshop on September 8 facilitated by retired Judge LaDoris Cordell to discuss potential reforms. All of this input and additional public testimony were considered by the Town Council on September 15 for an agenda item regarding potential Police reforms. After discussion, the Council unanimously approved four motions to direct staff to:

- Pursue a model of police oversight and authorize the Town Manager to work with Judge Cordell to develop ideas to be reported to Council;
- Explore mental health and social services options and to report findings to Council;
- Investigate the use of non-sworn personnel including ramifications for staffing and budgeting and to report findings to Council; and
- Pursue increased transparency and data accessibility by the public, including reporting stop statistics and apples-to-apples data comparisons with other jurisdictions, and to report findings to Council.

This report responds to the Council direction and requests Council action to proceed with implementation in all four areas.

DISCUSSION:

**Independent Police Auditor Function**

As directed by the Town Council, the Town Attorney and I have been working with Judge LaDoris Cordell to determine an appropriate approach for a jurisdiction of our size to establish an independent, objective, fair, and transparent review process of citizen and internal complaints regarding the conduct of sworn Police Department personnel. If it is the preference of the Council, the process could apply to all Police personnel. Attachment 1 details the proposed Independent Police Auditor approach which consists of selecting approximately five qualified investigators who would serve on a rotating basis to independently investigate complaints submitted by the public or Town employees.

The Town would promote the IPA function and the Town's commitment to independent, thorough, and fair review of all complaints via social and print media. The complaint form would be available at the Town Clerk's website and in the Clerk's Office, instead of our current practice of it being available solely on the Police Department website.

Attachment 1 describes the review process for each complaint and the role of the Town Attorney in overseeing the work of the independent investigator. Once the investigation is complete to the satisfaction of the Town Attorney, the Police Chief would determine the appropriate discipline of the Officer.

DISCUSSION (continued):

Every year, the Town Attorney would compile the summaries of the complaints and findings (without names or confidential information) prepared by the rotating investigators into an Annual IPA Report. This would be submitted to the Town Council, posted on the Town's website, and made available to anyone who requests it. The Mayor may choose to agendaize the report for discussion by the entire Council. Judge Cordell will be participating in the Council meeting on this item.

**Coordination of Mental Health Response with the County**

The Santa Clara County Police Chiefs Association is fully aware of the scope and impact of responding to community members in mental health crisis, including many of the homeless population. It is widely agreed that Police Officers, even those who have undergone Crisis Intervention Training are not the best option for offering appropriate assistance in these situations.

For the last two years, Chief Decena has represented the County Chiefs in a working group that meets on a monthly basis with the Director and other representatives from Santa Clara County Behavioral Health Services as well as Santa Clara Valley Medical Center Emergency Psychiatric Services. The focus of the meetings is to facilitate the deployment of mental health professionals in field response to individuals in crisis and promote a multi-disciplinary approach to ensuring these individuals get ongoing assistance to prevent recurrence.

Behavioral Health Services has struggled to hire the necessary number of clinicians to staff the two primary programs: Mobile Crisis Response Teams (MCRT-Mental health workers on-call to respond to field situations with law enforcement or resulting from calls from the public) and Psychiatric Emergency Response Teams (PERT-Pairing a clinician with a specially trained Police Officer to work in the field as a team and respond to all mental health calls for service). MCRT is finally fully staffed with eleven clinicians who are available Monday through Friday, 8:00 a.m. to 8:00 p.m. PERT is still in development, hiring the necessary clinicians and training the partner Police Officers.

The Town has recently been using the MCRT program and has found the partnership effective. Given the recent strides with the County, staff recommends that we continue the partnership and support the County's efforts to strengthen the programs.

**Use of Non-Sworn Personnel for Response to Non-Emergency Calls for Service**

Use of non-sworn personnel to respond to non-critical calls for service is already in place with the Community Service Officer (CSO) Intern program. CSO Interns are part-time employees,

DISCUSSION (continued):

typically college students, who perform a variety of field assignments and administrative duties that do not require the legal authority of a sworn police officer.

The Department is proposing to expand the program by creating an additional full-time CSO position that would absorb additional duties and serve as a lead position for the part time CSO's. Principal duties of the full time CSO may include: response to non-hazardous calls for service; report writing and follow up of specified low-level property crimes and other non-criminal related incidents; parking and vehicle abatement program oversight and enforcement; traffic control duties; crime prevention activities; and other law enforcement services and duties as required. The estimated cost for salary and benefits for the full time CSO is \$148,000 annually.

**Transparency and Data Access**

Implementation of the newly purchased RIMS Computer Aided Dispatch/Records Management System (CAD/RMS) over the last month will allow the Department to comply with the requirements of Assembly Bill 953: Racial and Identity Profile Act of 2015 (RIPA) by the specified deadline of 2023. RIPA mandates that each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year. The data include time, date, and location of the stop; reason and resulting action of the stop; perceived race or ethnicity, gender and approximate age of the person stopped (based solely on observation as officers are disallowed from requesting the information); etc.

Since all California law enforcement agencies are required to adhere to the same parameters for data collection, creating apple-to-apple comparisons with other jurisdictions throughout the County will be greatly simplified.

The Department has already begun to collect stop data in an abbreviated form (perceived race; gender and approximate age) and this will be collated for presentation to the Town Council and the public by July 2021. The information will then be posted to the Department's website and augmented with future annual reporting periods.

CONCLUSION:

Implementation of the four reforms would continue to demonstrate the Town's commitment to transparency as well as investing in a highly skilled and compassionate Police Department that provides exceptional services to the Los Gatos and Monte Sereno communities.

COORDINATION:

Preparation of this report was coordinated with the Town Attorney, Police Chief, Finance Director, and Human Resources Director.

FISCAL IMPACT:

The Independent Police Auditor function has fiscal implications. Based on past experience with independent investigations, each investigation may cost from \$5,000 to \$30,000 depending on the nature of the complaint. At the time of the approval of the contracts with the independent investigators, the Council will be asked to take appropriate budget actions to augment the Town Attorney's budget to cover potential expenses.

The Community Service Officer position also has fiscal implications of approximately \$148,000 per year. As a limited dated position for two years, the Town will have the flexibility to assess our budget capacity in future years. To create this position now, the Council is being asked to take a budget action to utilize \$68,461 available in the Town's Capital/Special Projects Reserve to cover the anticipated fiscal impact for the remainder of FY 2020/21. Funding to support the second year of the limited dated position will be incorporated into the proposed FY 2021/22 Operating Budget for Council consideration.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Independent Police Auditor Function

# Independent Police Auditor Complaint Process

Purpose: To establish an independent, objective, fair, and transparent review process of citizen and internal complaints regarding the conduct of sworn Police Department personnel.

Process:

- 1. Select 4 to 5 qualified professionals to perform the services of an Independent Police Auditor (IPA) on a rotating basis.**
  - a. The Town issues a Request for Qualifications (RFQ) with the intention of selecting approximately five consultants. The RFQ process would occur every five years or on a schedule consistent with the Town's procurement procedures.
  - b. Qualifications include, but are not limited to, retired/former City Attorneys and/or attorneys with expertise in employment law, criminal procedure, and the Public Safety Officers Procedural Bill of Rights. Retired Police Command Officers who conduct Police agency investigations as a bona fide business would also be eligible to apply.
  - c. Candidates need to demonstrate that they have no connection to the LGMSPD and its staff; document their ability to work efficiently and effectively to investigate complaints thoroughly, objectively, and promptly; and prepare reports of their investigation methods, facts, and findings presented in a consistent format developed by the Town. All candidates would need to provide at least three references.
  - d. The Town Attorney and a Town-designated outside expert [e.g. Judge LaDoris H. Cordell (ret.)] will review all candidate submittals, determine if interviews are necessary, conduct the interviews, and select the rotating investigators. The Chief of Police may review all submittals and provide comments to the Town Attorney and outside expert for their consideration in the interview and selection of rotating investigators.
  - e. The Town will enter into a contract with each investigator in the role of the Town's IPA, clarifying that the Town intends to rotate the complaint work to various investigators to balance workload, ensure independent review, and maintain timely performance. Work of the investigators is overseen by the Town Attorney. Investigators will be paid for the work completed to the satisfaction of the Town. Poor performance in terms of timeliness, thoroughness, or other factors will result in removal from the list of rotating investigators.
  
- 2. Promote the Independent Police Auditor function and the Town's commitment to independent, thorough, and fair review of all complaints.**
  - a. Update the online complaint form to ensure it is user friendly and clarify that complaints are directed to the Independent Police Auditor and not the Police Department.
  - b. Move the complaint form from the Police Department website to the Town Clerk's website (Maintain a link to complaint form on the Police website for residents who may navigate to the Police site.)
  - c. Produce hard copies of the complaint form and make them available at the Clerk's Office.

- d. Promote outreach about the complaint form and the complaint process to the public using social media, print media, flyers, and other methods.

**3. Implement a consistent, fair, thorough and independent analysis of all citizen and internal (Town staff member/Police Department personnel) complaints.**

- a. All complaints are submitted to the Town Clerk.
- b. Complaints will fall under the following classification system:
  - i. Policy Complaint: A Policy Complaint is defined as a complaint in which a sworn Officer took action that was in compliance with policies and procedures, but for which the complainant believes the policy is inappropriate or invalid. In these cases, there is no indication a complaint is made specifically against the Officer taking the action.
  - ii. Conduct Complaint: A Conduct Complaint is defined as a complaint in which a complainant files an allegation against a sworn Officer, which if true would indicate the Officer violated (1) any local, state, or federal law or, (2) any Department policy or procedure, and where such actions could result in the involved Officer receiving disciplinary action.
  - iii. Non-Misconduct Concern: After receiving a complaint alleging misconduct by a sworn Officer, a preliminary investigation by the IPA may indicate that the allegations did not involve a violation of (1) any local, state or federal law or, (2) any Department policy or procedures. Such a complaint will be re-categorized as a Non-Misconduct Concern, meaning it does not meet the criteria outlined in the definition of a Conduct Complaint. Recategorizing complaints as Non-Misconduct Concerns allows the Department to track issues that may indicate a need for training for sworn personnel and/or community outreach/dialogue.
  - iv. Exceptional Clearance Complaint: When the initial investigation of a complaint reveals that the misconduct alleged in the complaint did not occur, based on immediately available evidence and/or recorded media, the complaint is categorized as an Exceptional Clearance Complaint. The investigator completes formal written documentation of the incident using the designated report format to explain why the case was cleared exceptionally.
  - v. Incomplete: A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. In such matters, the IPA may further investigate the matter depending on the seriousness of the complaint. If there is not the availability of sufficient independent evidence to continue, the complaint will be classified and found Incomplete

- c. Upon receipt, copies of the complaint are sent to the Town Attorney, Town Manager, Human Resources Director, and Chief of Police.
  - i. The Chief of Police will direct the Support Services Captain or designee to collect all relevant evidence related to the complaint (reports, video footage, audio recordings, Computer Aided Dispatch printouts, etc.)
  - ii. The Chief of Police determines if the Officer who is the subject of the investigation should be placed on administrative leave during the investigation in consultation with Town Attorney and Human Resources Director.
- d. The Town Attorney selects an investigator from the list of IPA contractors to conduct an independent investigation into the complaint with any necessary parameters, such as timeline for completion.
- e. The IPA contacts the complaining party (by phone preferably), introducing himself/herself as the Independent Auditor for this complaint and outlines the process. This contact is followed by a short letter on his/her own firm's letterhead with the same content.
- f. After consulting with the Town's Human Resources Director regarding appropriate content, the IPA sends formal written notice on his/her own firm's letterhead to the affected Officer informing them of the complaint, investigation process, and other information. All interaction between the IPA and the affected Officer will occur within the parameters outlined in California Government Code Section 3300-3312: Public Safety Officers Procedural Bill of Rights Act.
- g. The IPA conducts the investigation by interviewing the complaining party, the Police Officer named in the complaint, and others as appropriate; reviewing body camera and in-car video; and reviewing other relevant materials.
- h. The IPA writes a report, documenting type of complaint, the methods used to investigate the complaint, the facts pertaining to the complaint, findings associated with each element of the complaint, and rationale for the findings.
- i. The IPA report is submitted to the Town Attorney and Human Resources Director to ensure the facts support the findings.
- j. Once the IPA report meets the approval of the Town Attorney and if any of the allegations are sustained, it is submitted to the Chief of Police to determine appropriate discipline.
  - i. If after reviewing the report and its findings, the Chief of Police disagrees with the findings, the Town Attorney will consider the Chief's concerns and determine if the investigator needs to do additional work to substantiate the findings.
  - ii. In the event that professionals disagree on the findings, the Town Attorney may ask another investigator to evaluate the facts, materials, and methods and determine its own independent conclusions/findings. The second IPA analysis must be prepared to the satisfaction of the Town Attorney consistent with the procedure for the first independent analysis. If the second IPA report results in a different set of findings, the Town Attorney will determine which analysis stands.

- iii. The Chief of Police will determine the appropriate discipline for the Officer based on the findings. Discipline may need to be coordinated with the Human Resources Director to ensure appropriate appeal/Skelly rights of the employee
    - iv. The Chief of Police will notify the Officer of the intended discipline and offer appropriate appeal rights.
  - k. The IPA writes a letter on his/her own firm's letterhead informing the complaining party of the completion of the investigation and the findings of the investigation. Confidential information will not be provided.
  - l. If the allegations are not sustained, the IPA writes a letter on his/her own firm's letterhead informing the affected Police Officer of the completion of the investigation and the findings. Confidential information will not be provided.
  - m. The IPA writes a brief summary of the complaint (the nature of the complaint and key "facts" with no names or sensitive information provided), investigation steps, and findings for inclusion in an annual report to the Town Council and community regarding the work of the IPA.
- 4. Provide an Annual IPA Report to the Town Council and the community to foster transparency and accountability.**
  - a. The Town Attorney compiles the summaries from the IPA investigators into an Annual IPA Report.
  - b. The Annual IPA Report is submitted to the Town Council, posted on the Town's website, and made available to anyone who requests it. The Mayor may choose to agendaize the report for discussion by the entire Council.
- 5. Updates to this process may be done as needed by the Town Manager, consistent with other Town procedures.**





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/03/2020

ITEM NO: 10

DESK ITEM

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DATE: October 27, 2020

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Implement the Following Police Reforms:

- a. Authorize the Town Manager to establish an Independent Police Auditor function;
- b. Work with the County of Santa Clara Regarding Responses to Mental Health and Homeless Calls for Service;
- c. Add a Limit Dated (Two Years) Community Service Officer Position to the Police Department to Respond to Non-Emergency Calls at an Annual Cost of Approximately \$148,000 and Authorize a FY 2020/21 Expenditure Budget Adjustment in the Amount of \$68,461 from Available General Fund Capital/Special Projects Reserve; and
- d. Acknowledge the Timeline for Police Stop Data Availability and Transparency

REMARKS:

Attachment 2 contains public comments received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020

Attachment Previously Received with the Staff Report:

1. Independent Police Auditor Function

Attachment Received with this Desk Item:

2. Public Comment Received 11:01 a.m. Monday, November 2, 2020 to 11:00 a.m. Tuesday, November 3, 2020.

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Reviewed by: Assistant Town Manager, Police Chief, Town Attorney, and Finance Director

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**From:** Phil Koen

**Sent:** Monday, November 2, 2020 11:05 AM

**To:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>

**Cc:** Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Lee Fagot; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Dear Council Members,

At the upcoming Council Meeting you will be discussing various budget actions which will require additional funding. For FY 21, agenda Items #7, #8, #9 and #10 will require \$200,420 in additional sources of funds. It should be pointed out, that the \$200,420 being requested does not represent the total annual cost, but only the impact on the remainder of FY 21. The Staff is recommending that these on-going, unbudgeted operating expenses (the majority are incremental salary and benefits) be funded from the General Fund Capital/Special Project fund balance.

The Capital/Special Project fund balance is an “assigned” (as opposed to unassigned”) fund balance which is to be used for the acquisition and construction of capital facilities. Clearly the proposed use of funds does not fall within the assigned definition. The Council, however, does have the full authority to use the funds as they determine. Council should also be aware that the Staff has repeatedly informed the Council that “establishing a reliable, dedicated source of funding for basic capital improvements beyond the use of accumulated reserves remains a long-term need and important goal”. The use of this assigned fund balance to pay for on-going, unbudgeted operating expenses, such as salary and benefits, will eventually deplete this reserve, leaving no source of funds for future capital projects, unless other sources are identified.

You should also be reminded that in the FY 21 Adopted Budget, the Staff already programed \$769,308 from this assigned general fund balance to “plug” a FY 21 operating budget hole. This action combined with the items being discussed tonight, will result in \$1m of the Capital/Special fund balance being used to fund on-going general fund operating expenses in just FY 21. This is not fiscally prudent since this suggests that FY 21 operating revenues are insufficient to fund current operating expenditures.

Normally, unbudgeted expenditures such as those being proposed by Items #7 - #10, can be covered by the existing adopted budget because Staff has historically taken a “conservative” approach to budgeting general fund revenues. This results in actual revenues exceeding the budget creating funding for unbudgeted expenditures. However, given the current economic impact of COVID 19, it is highly unlikely that the Town’s adopted FY 21 revenue budget will be achieved based on the material declines being reported County wide in Sales Tax and TOT receipts. These two revenue sources account for approximately 25% of the Town’s total general fund revenues.

To date, the Staff has not reported (at least not publicly) the Town’s actual revenues for Q1 FY 21 as compared to the adopted budget. The cities of Los Altos and Campbell have disclosed to the public an analysis of Q1 FY 21 revenue results as well as a revised revenue estimates for FY 21. Both cities are reporting material declines in Sales Tax and TOT receipts. I would recommend the Council ask the Staff to publish as soon as possible an update on the Town’s budget vs actual Q1 revenue and expense results

so the Council has a clear understanding of how tax receipts are tracking and if any FY 21 budget adjustments are required. This could be the subject of a first ever, joint Council/Finance Committee study session.

While it would have been desirable for the Staff to provide an update on Q1 results in conjunction with the requests for funding items #7-#10, the Council may not have the flexibility to wait on making a determination to fund these items. If that is the case, the Council should consider using the \$1.2m Surplus Property Reserve instead of the Capital/Special Project Reserve to provide the required funding for the unbudgeted expenditures outlined in agenda items #7 - #10.

The Surplus Property reserve was authorized by the Council on May 19, 2020 to “be used for alleviating COVID 19 economic impacts including revenue declines (for example Sales Tax, Property Tax, and Transient Occupancy Tax) and/or unanticipated expenditure cost increases in FY 2019/20 and beyond”. The Surplus Property Reserve balance is more appropriate and is consistent with the definition of fund use than the Capital/Special Project Reserve. I would recommend that if funding approval is required now, the Council direct Staff to comply with the May 19, 2020 directive and use the Surplus Property Reserve rather than depleting the Town’s only source of future capital project funding, namely the Capital/Special Project Reserve.

Thank you for your consideration.

Phil Koen

**From:** Lee Fagot

**Sent:** Monday, November 2, 2020 3:47 PM

**To:** Phil Koen

**Cc:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** Re: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Phil,

Excellent observations, analysis and recommendations. Your proposals are specific to help with this challenge of very probable **declining revenue** for the Town, and the proposed **new spending** on salary and benefits - which is **NOT** the intended use of these ASSIGNED funds for Capital/Special Projects. And, as you also pointed out, and the Council earlier approved, any surplus in our Budget should be kept to alleviate COVID's financial impact on the Town. While we have good, hard working Town employees, we need to be more strategic and financially sound in our decisions and fund allocations, and more transparent in the analysis of financial matters.

There needs to be a more earnest and open discussion of these agenda items (7,8,9 and 10) before a decision on such spending is made. I trust the Council members will pull and discuss earnestly.

Thanks again,  
Lee Fagot

**From:** Lee Fagot

**Sent:** Monday, November 2, 2020 7:42 PM

**To:** Marcia Jensen

**Cc:** Phil Koen; BSpector; Marico Sayoc; Rob Rennie; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti; Stephen Conway

**Subject:** Re: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Madam Mayor,

Thank you for your quick response. I also appreciate you clarifying some of the points I was raising.

1) I apologize for having used the term "pulled" for discussion to these items, inferring they too were on "Consent", but intended to have each item, 7 thru 10, to be discussed by the Council as part of the normal open forum/public "Other Business" comment session, to help add clarity to these items for the public to better understand the intent and impact. For example, item 10, establishing independent review of complaints against police, is a good start, but there perhaps should also be discussion of review of police services when there are NOT formally filed complaints, but observations from community members and Town staff, and their analysis of more efficiency or better services to prevent crime, solve crime, and deal with the social/emotional issues that have manifest in our community that are NOT criminal, or at least not yet matured into criminal activity by the folks involved. I also agree the Community discussion referenced was a very healthy session for all involved. Good movement, and the Council should discuss further how to keep both oversight as guidance, and not be left with "hindsight" to remedy a problem, and for all of us to work tougher for solutions.

2) As we are now better grasping some of the financial impact of COVID, it would be good to have a discussion amongst the council members of the results thus far this fiscal year, projections going forward, and determine how any reserves are being managed against these trend lines. That is the intent of my message to have the Council and staff have an open forum to better inform the public of how funds are being allocated and then spent, within or outside the original allocations. What are the priorities?

Again, thank you for providing clarity to some of the points, and look forward to a productive meeting Tuesday.

Regards,  
Lee Fagot

On Nov 2, 2020, at 17:23, Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)> wrote:

Mr. Fagot and Mr. Koen --

Thank you for your emailed comments on Agenda Items 7-10.

A few points:

1. Mr. Fagot asks that they be "pulled." *All* of these agenda items are scheduled for full public hearings, that is, *none* are on the Consent Calendar.
2. Funds for Agenda Item 9 consist of State grant funds which the Town receives on an annual basis. They are normally used for Motorcycle Officers. This year, in light of the Town's attention on Police reform, it was suggested that these funds should be considered for other possible uses within the grant parameters. Options for expenditure of those funds are presented in the Staff Report.
3. Item 10 is a direct product of the Community discussion regarding police reform and the Council's subsequent action directing Staff to provide information - including budgeting - regarding the implementation of a mechanism to provide independent review and oversight of complaints regarding police conduct.

**From:** Phil Koen

**Sent:** Tuesday, November 3, 2020 8:42 AM

**To:** Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>; Lee Fagot <[leefagot@gmail.com](mailto:leefagot@gmail.com)>

**Cc:** BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Matthew Hudes; Maria Ristow; Michael Kane; Rob Stephenson; Mary Badame; Heidi Owens; Larry Maggio; Jak Van Nada; Catherine Somers; Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Stephen Conway <[sconway@losgatosca.gov](mailto:sconway@losgatosca.gov)>

**Subject:** RE: Use of General Fund Capital/Special Project fund balance to fund on-going unbudgeted operating expenses (Agenda Items #7, #8, #9 and #10)

Hello Ms. Jensen,

Thank you for your reply. I understood that Agenda items #7 -#10 were not part of the consent calendar and were for general discussion. But thank you for your clarification.

Regarding your two other points, I want to make sure there is no misunderstanding regarding the intent of my first email. For sake of clarity, I was not expressing an opinion regarding the underlying appropriateness of any of the staff recommendations regarding Agenda Items #7 -#10. I am confident that the Council can make those decisions. Rather my comments were financially focused on 1) raising a concern as to whether the Capital/Special Project fund balance VS. the Surplus Property Reserve fund balance should be used to fund any proposed unbudgeted expenditures, 2) pointing out that if all agenda items are approved as recommended by staff, \$200,420 in additional funding will be required for just FY 21 which is in addition to the \$760,308 that has already been used from the Capital/Special Project fund balance to fund on-going FY 21 operating expenses (which are mainly salary and benefit expenditures), 3) recommending the Council direct staff to publish an update of actual revenue and expenditure results for Q1 FY 21 vs the adopted FY 21 budget and 4) recommending the Town Council hold a joint Council/Finance Committee study session to review/discuss the Q1 revenue and expenditure results compared to the adopted budget to determine if any other budget adjustments are required and if there are any other "known" and unbudgeted expenditures which will require funding.

Regarding Agenda Item #9, the Staff Memo does discuss the fiscal impact of the proposed recommendation and states that "a \$100,000 expenditure budget adjustment from available Capital/Special Projects Reserve is needed to maintain the motorcycle unit program at its current staffing level as identified in the adopted FY 21 operating budget". The Staff's recommendation is to shift the Town's \$100,000 portion of the \$200,000 SLESF grant from supplemental funding for the salary of two traffic enforcement motorcycle officers to the purchase of equipment and technology (which is not fully explained). Shifting these SLESF funds to purchase this equipment will create a \$100,000 "budget funding hole" for the motorcycle officer's salaries. Staff is recommending using available funds in the Capital/Special Project Reserve to plug this "budget funding hole". To be clear, I am not expressing any opinion regarding the appropriateness of the staff's recommendation other than to question the use of the Capital/Special Project fund balance to plug the "budget funding hole".

Regarding Agenda Item #10, I fully understand the objective of the agenda item and that it is the product of Community discussion. I was not expressing an opinion regarding the appropriateness of the agenda Item #10 other than pointing out that, if approved, the Staff is recommending that \$68,461 from the Capital/Special Project Reserve to fund the unbudgeted expenditures. Again, I was only pointing out the questionable use of the Capital/Special Project fund balance to provide funding for the unbudgeted expenditures.

Please let me know if you have any additional questions.

Thank you.

Phil Koen