



1 North San Antonio Road  
Los Altos, California 94022-3087

## MEMORANDUM

**DATE:** 3/8/22

**TO:** Councilmembers

**FROM:** City Manager

**SUBJECT: COUNCIL Q&A FOR THE MARCH 8, 2022 CITY COUNCIL REGULAR MEETING**

### Minutes:

- Page 8, item 5: In the final paragraph on the page, six lines down, the phrase “in favor of or against the bill” should read “in favor of **and** against the bill.”
- Same paragraph: Two lines below that, the word “Reports” should be singular.

Noted.

### Agenda Item 2 (Quarterly Financial Report):

- Why did our LAIF account only earn \$411.33 in total interest last quarter?

Balance was drawn down to only 95K due to payments of CAPERS \$5 M prepayment, Balance now increased to 6M after receiving property tax.

- Please explain the table entitled “Pooled Money Investment Account.” What do the figures in the chart represent?

The pooled money investment account is a new table we incorporated that shows LAIF (local Agency Investment Fund) performance over time.

### Agenda 3 - (Final Map and Subdivision Agreement)

- Is this a resubmission/reapplication or an amendment to the prior tentative map from 2018?

No, this is not a resubmission/reapplication or an amendment to the tentative map. The tentative map was approved on November 27, 2018 and there are no changes to the tentative map. A Tract Map is the instrument that actually divides the property, it was reviewed by the City Surveyor and determined to conform to the all tentative map conditions. A final map approval is ministerial if it substantially conforms to the TM. The TM needed to conform with all of the local ordinance in place at the time it was deemed complete. The council cannot change any of the TM conditions at this time.

- Are there any additional costs to the city or fees that would need to be paid by the applicant?

The subdivision fees (\$2,871,273.00) were collected on January 25, 2022. There are no additional fees that shall be paid prior to final map approval.

Agenda Item 4 (Maze Assoc. Contract Extension):

- Has the State Controller waived the requirements of G. C. § 12410.6(b)? If not, how can the city enter into the proposed contract?

These requirements pertain to rotation of the Audit partner not the firm itself, the partner was rotated 2 years ago. The proposed agenda item does not violate any requirements of the State Controller.

- What are the fees Maze has charged the City annually over the prior 8 fiscal years?

Within the same ballpark with a 3% build in to increase annually.

- Please modify the resolution to acknowledge the requirements of G. C. § 12410.6(b) and include as an exhibit a copy of the Controller's certificate permitting the city to use Maze. Otherwise we are being asked to approve a resolution contrary to law.

Please see bullet 1 on this subject.

- On the resolution, please add that the contract is not to exceed \$52,175 with a contingency not to exceed \$5,000.

Noted.

Agenda 5 (Zoning Text Amendment Ordinance):

- Can we clarify and have guidelines as to which appeals go to staff and which will go to Council?
- Which advisory body would have the authority to hear an appeal? Can the appeals body be identified in the ordinance under Section 1.
- If the appeal is denied by the Official or body, can the applicant then appeal to the City Council?
- Can we include reference to a step-by-step process for the appeals?

The appeals ordinance does not create an appeals process. It allows the City Council to create appeals processes by resolution. The only legal limitation on the Council's power to create appeals processes is that ministerial decisions (e.g., decisions of the Building Official) are not appealable to the City Council, and therefore the Council does not have the ability to delegate appellate authority by resolution. But for all discretionary matters, over which the City Council does have appellate authority, the City Council could create whatever appeals process it thinks is fair, subject to the right of applicants to notice and hearing, and subject to the community's right to notice and hearing per Government Code Section 65090, et seq.

Agenda Item 6 (Independent Intake Official Complaint Summary):

- How does the number of complaints (formal and informal) and disposition of those complaints compare to those received and disposed of over each of the last five years?

2021 2 Formal Complaints Disposition 1 Unfounded 1 Pending Investigation

2021 14 Informal Complaints 10 Resolved 3 Closed 1 Declined to Investigate

2020 3 Formal Complaints 1 Sustained 2 Unfounded Informal Complaints were not tracked prior to 2021

2019 No Formal Complaints

2018 3 Formal Complaints 1 Sustained 2 Unfounded

2017 4 Formal Complaints 2 Unfounded 1 Exonerated 1 No Finding

- Have the patrol officers provided their input and assessment of how well the IIO program is working?

No, there is little impact on patrol officers other than informal complaints are being tracked.

- How much did the City of Los Altos pay the independent intake official?
  - January through June 2021 \$2200
  - July-December 2021 \$990

Total Billed and Paid for 2021: \$3190

Agenda Item 8 (347 First Street Historic Landmark Designation):

- What is the practical consequence of designating a landmark as “historical?”

The practical consequence for a historic landmark property is that it imposes restrictions on alterations and demolition, and it may require maintenance of exterior ornamentation and other façade treatments over and above those required in the city ordinance. For historic landmark properties, a historic alteration permit is required for alterations to a historic landmark. The historical commission is required to review and issue a decision on a historic alteration permit. In order to approve a permit, the commission shall find that:

- (1) The project complies with all provisions of this chapter;
- (2) The project does not adversely affect the physical integrity or the historic significance of the subject property; and
- (3) The project is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. The Secretary of the Interior's Standards for the treatment of historic properties are a series of concepts about maintaining, repairing, and replacing historic materials, as well as designing new additions or making alterations.

- If the council grants the requests, what are the burdens and protections that “historic landmark” status will afford the property?

The designation of historic properties for preservation purposes is to safeguard the heritage of the city by providing for the protection of irreplaceable historic resources representing significant elements of its history. A property with “historic landmark” status enjoys the greatest level of protection from threats to historic integrity. Local designation of a historical property imposes restrictions (burden) on alterations and demolition, and it may require maintenance of exterior ornamentation and other façade treatments over and above those required in the city ordinance to protect the “landmark status” of a historic property.

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CEQA also governs alteration or demolition of all structures with "historical" significance. However, if the owner a historic landmark decides to restore and preserve a historic structure in compliance with the Secretary of the Interior's standards and applicable federal guidelines, it is entitled to request a specific "categorical exemption" from CEQA under Section 15331 of the Public Resource Code.

If a property owner decides to pursue the option of demolishing a "historically significant" structure, it must comply with CEQA. This is because issuance of a demolition permit, normally a "ministerial" decision outside the purview of CEQA, is considered a "discretionary" decision when it could cause a "significant adverse effect" on a qualified historic resource. CEQA analysis of the proposed demolition of a historic resource is typically performed by means of an EIR. CEQA does not prohibit the demolition of historic resources. CEQA is California's main legal protection for historic structures, but its protections are mainly procedural, requiring public analysis and notice rather than prohibiting demolition.

- Can Council have conditions associated with designating a property as an Historical Landmark, for example requiring restoration work to return the site more closely to its historical integrity of setting or materials?

The Historic Preservation Ordinance is silent whether the City Council may require a condition that mandates the restoration of a historic structure pursuing a landmark designation. Chapter 12.44.200 (Duty to keep in good repair) of the Historic Preservation Ordinance requires the following: (a) The owner, occupant or the person in actual charge of a historic resource or a historic landmark shall keep and maintain in good condition and repair all exterior portions of the improvement or structure, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature or natural feature. However, it is the duty of the building official to enforce this section.

In pursuing a landmark designation for the hall at 347 First Street, the American Legion pursued the landmark designation to permit the preservation of the structure for the long term, which will avoid development of the site. The American Legion's goal is to utilize the landmark designation to fundraise and pursue grants to preserve and restore the building.

- What kind of basis would Council need, if any, for a decision to not designate this property as a historic landmark?

In order to designate the property as a historic landmark, the city council shall make the following positive findings: (1) That the proposed historic landmark satisfies the three criteria

outlined in Section 12.44.040; and (2) That the proposed landmark has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.

- a. If the City Council disagreed with the determination that the proposed historic landmark satisfied the three criteria outlined in Section 12.44.040, the City Council has the discretion to not designate the property landmark. However, the City Council would need to provide substantial evidence in the record supporting the city's decision. The City Council would need to find that the analysis or determinations made by the project historian in the Historic Resource Evaluation (HRE) and California Department Park and Recreation forms 523A and 523B (DPR forms 523A and 523B) were inadequate. If the Council were to deny the project, staff would require direction from the City Council on the inadequacy of the HRE or DPR forms.
  - b. If the City Council disagreed with the determination that the proposed historic landmark has "special historical and cultural interest or value as part of the heritage or history of the city," the City Council has broad discretion to determine whether they believe the proposed landmark has "special historical and cultural interest or value as part of the heritage or history of the city." If the City Council believes the American Legion Hall does not provide "special historical and cultural interest or value as part of the heritage or history of the city," it would need to provide substantial evidence in the record supporting the city's decision.
- Typos:
    - o The "; and" at the end of the fourth WHEREAS is floating.
    - o After the NOW THEREFORE, the numbering should start at "1."

Noted.

#### Agenda Item 9 (CAAP):

- There is no proposed resolution. Does the Council adopt the CAAP merely by voice vote after a motion is made and seconded? If not, then what is the process for the Council to formally adopt the CAAP?

Referred to Consultant.

- Is adoption of the CAAP immediate, or is there a further process?

Referred to Consultant.

- Once the CAAP is adopted, does it immediately supersede and replace the prior CAP?

Referred to Consultant.

- Brief mention is made that "[e]quity and climate justice are important considerations." Specifically, which proposed actions address equity and climate justice?

Actions 1.2 A (addition of low-income multifamily Transit-Oriented Development), 1.2 B (encouraging of Live Near Work incentives), 1.3 B (expansion of transit options), 7.1A (development of temperature/heat safety protocols), 7.2 C (ensure high air quality indoor spaces),

and 8.2 A (outreach and care strategy for vulnerable populations) all address equity and climate justice directly. Many other actions help facilitate equity and climate justice. In addition, the implementation of the CAAP itself is assumed to address equity and climate justice, since the impacts of climate change generally fall disproportionately on vulnerable populations.

- What is the mechanism to monitor our progress and to implement corrections as needed? As an example, goal 5.2A tasks the city with planting 10,000 new trees. This seems like a lofty goal. Who will monitor to see how many trees have been planted, whether we are on target to meet our goal by 2035, and if we are not, then to ensure that staff takes the necessary corrective action to reach that goal?

The City will use ClearPath, developed by the International Council for Local Environmental Initiatives (ICLEI), to track CAAP implementation. The City has a multi-year subscription to the platform. In addition, individual implementation leads and partners are outlined in Appendix F. The City's Sustainability Director will coordinate ongoing monitoring and reporting.

- Who signs the initial study (page 9) of the document?

Referred to Consultant.

- Why are two boxes checked on item VI.b (Energy) of the initial study (page 18)? Is the “Less than Significant” box marked in error?

Referred to Consultant.

- Throughout the initial study the CAAP is frequently referred to as the “CAP.”

Referred to Consultant.

- Based on the report, the total cost of 14,981,000 will be needed to implement all mitigating actions. What funds do we have available today? What projects would need to be defunded to provide funds for the CAAP? How many additional staff members would we need to hire to take us through the grant application process?

Referred to Consultant.

#### Agenda Item 10 (Bond):

- Typos in resolution:
  - o In the second WHEREAS (second to last line), the word “to” is missing the “t.”
  - o NOW THEREFORE item 2: the words “toamend” should be separated with a space.

Noted.

- Do we have staff members capable of conducting a scientific/demographically representative poll of the community to determine at what level a bond member might pass or be successful? What would be the hurdles that would prevent our own staff from conducting the poll?

No, staff does not have the ability to conduct, construct, or interpret a poll that would be scientifically significant.

- What is the estimate on a poll before hiring additional consultants?

Hiring a polling company to conduct the polling is estimated to cost \$35,000. However, staff would not recommend hiring only a polling company without also engaging a consultant on potential ballot measures (estimated at \$85,000), as well as the other advisors listed in the staff report.

- Which consultants will be available to answer questions?

Stifel will be available to answer questions.

#### Agenda Item 11 (HRI):

- Why does staff believe that our HRI is not “sufficiently comprehensive in identifying all potential historic resources in the City?”

Although the City’s HRI is created by local ordinance so it is not subject to Public Resources Code Section 5024.1, subdivision (g)(4) is instructive that a best practice would be to update the HRI every 5 years. The City’s HRI has not been updated in over a decade. Lastly, staff is advised that in the past resources were deliberately excluded or removed from the HRI because property owners did not want their properties included.

- What resources (time, cost, staff availability) are required to make our HRI “sufficiently comprehensive in identifying all potential historic resources in the City?”

We would have to do an RFP to make this determination.

- What is the difference in cost between option 2 and option 3 as proposed in the report, because both state it will take time and money?

There are two different costs. The property owner cost and the city cost. The property owner cost is the cost of providing the completed DPR forms to comply with early historic reviews. Option No 2 would cast a wider net and would require more property owners to submit DPR forms for early historic reviews and there would be no cost to the city (except for spending the time reviewing the information).

The city cost is the time and resources to develop specific criteria (in Option 3). Option No 3 would require the city to develop specific criteria which would limit the number of properties requiring early historic reviews and therefore reduce the number of properties that would need to submit a DPR form (owner cost).

- Can the City require a property be designated as a historic resource or landmark against an owner's desire to do so?

Normally the property owner initiates the request to designate, although Council and PC can initiate the request. The property owner is entitled to notice and a hearing, and the property owner’s desire not to list the property is entitled to great weight. However, the owner’s consent is not required, and even if the property is not designated, it may still be considered a “discretionary historic resource,” as described in the staff report. Even if it is not on the inventory CEQA may apply - if it is eligible for the inventory. So, a property owner with an eligible historic resource may NOT demo it without CEQA.