



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

## MEMORANDUM

**DATE:** 11/29/22

**TO:** Councilmembers

**FROM:** City Manager

**SUBJECT:** COUNCIL Q&A FOR NOVEMBER 29, 2022 CITY COUNCIL REGULAR MEETING

### Study Session Questions:

**Question 1: If the city adopts and certifies their housing element does this prevent builders remedy?**

**Answer:** Answer will be provided during the Study Session.

**Question 2: What is the estimated cost for a contract extension for the consultant to conduct further outreach as recommended by HCD?**

**Answer:** Answer will be provided during the Study Session.

### Item 1. Annual Development Impact Fees: Report for Fiscal Year 2022

**Question:** Are we seeing this item again because it was an informational item and instead required a motion to accept/receive?

**Answer:** Yes. This meeting requires a motion to accept the report. State law requires the City to make this report available for public inspection at least 10 days before the City Council accepts the report. The last meeting was information only to the city council and available to the public for inspection.

### Item 2. Approve Addendum No. 11 to the Regional Water Quality Control Plant Basic Agreement:

**Question:** When will we receive addendum No. 11 to the Regional Water Quality Control Plant Basic Agreement? Can you provide a summary and the cost analysis.

**Answer:** On September 20, 2022, City Council approved Addendum No. 11 for the construction of the Secondary Treatment Upgrades Project. Item 2 in the consent calendar for the November 29, 2022, Council meeting is for the approval of the updated Addendum No. 11 for additional funds due to the bid results received by the City of Palo Alto. Enclosed is the revised Addendum No. 11. Please refer to Addendum No. 11 for a summary of the cost.

**Comment:** Please provide a copy of the new addendum.

**Answer:** A copy of the revised Addendum No. 11 is enclosed.

**Comment:** For historical clarity, the proposed resolution should reference Resolution 2022-64 to explain why the Council twice authorized the CM to execute the addendum.

**Answer:** The resolution for the updated Addendum No. 11 has been revised to reference Resolution 2022-64.

#### **Item 4. Quarterly Investment Portfolio Report: Receive the Investment Portfolio Report through September 30, 2022**

**Question:** In Attachment 3 of the LAIF statement balance, it shows that fund of 9,112,388.30 was deposited and the same amount was withdrawn. Does that mean that there is now a zero balance in that account? Were the funds transferred to our General fund or another account?

**Answer:** From the statement, in the first line, the deposit amount is \$0. The beginning balance is \$9,112,388.30. In the Second line, the withdrawal amount is \$0. The ending balance is \$9,112,338.30. So, there were no transactions for the month of September 2022. The ending cash balance in LAIF is \$9,112,338.30 on 9/30/2022.

#### **Item 5. Approve updated Conflict of Interest Code: Adopt Resolution 2022-XX updating the Los Altos Conflict of Interest Code for staff and commissioners pursuant to the Political Reform Act of 1974**

**Comment:** Please provide a red-lined version of the proposed COI policy.

**Answer:** Red-lined version to be provided to Council via email.

#### **Item 6. Minutes**

**Comment:** Since our meetings are now hybrid, the minutes should reflect which Councilmembers were in attendance in person and who was virtual.

**Answer:** Noted.

**Comment:** In Council Reports, please change to, "Vice Mayor Meadows mentioned that the City would recognize its 70th anniversary of incorporation throughout the coming year."

**Answer:** Noted.

**Comment:** pdf with corrections sent as attachment to Interim City Clerk

**Answer:** Noted

#### **Item 7. Approve use of Park-In-Lieu funds: Authorize the City Manager or his designee to purchase and install shade structures over the playgrounds at the Los Altos Community Center and McKenzie Park in the amount of \$92,198.09 to the lowest responsible proposal from Ross Recreation Equipment**

**Question:** It was brought to my attention that our playground needs to be replaced because of its age. Is the equipment at McKenzie Park in need of replacement. If yes, have we considered updating the playground equipment simultaneously with the shade structure?

**Answer:** Yes, the McKenzie Park equipment is beyond its expected life and should be regularly inspected for replacement. The Parks and Recreation Commission has outlined a schedule for replacement for playground equipment in each park. The installation of this equipment will not change the replacement schedule and the equipment can be incorporated in future playscapes at McKenzie Park. It will be evaluated as the scheduled replacement gets closer. The surface

temperature in the summer/fall is so high that it is unusable, so staff recommend immediate installation of the shade structure.

**Question:** There is a shade structure proposed for the Los Altos Community Center, why is there one not proposed for Grant Park?

**Answer:** There are trees around the play structures that limit sun exposure for the play structure at Grant Park. Staff have not been made aware of heat issues on the equipment surfacing.

**Question:** How does staff know that the shade for McKenzie Park will be used in the same manner as future replacement equipment?

**Answer:** The shade at McKenzie Park. can be used in the same manner with future playground designs.

**Question:** What is the annual cost to maintain the shades? Where will the funds for maintenance come from?

**Answer:** Shade structures will be inspected as part of the regular playground inspections done by staff. Damage repair and maintenance will be handled in the same as-needed manner as the playgrounds. Regular maintenance beyond inspections is not needed.

**Question:** Will the shades be removed in windy or inclement weather? If so, does the city have the facilities to properly store the shades?

**Answer:** The shades are not removable and are engineered to withstand wind and inclement weather.

**Question:** Can the poles that will support the shades be used for other purposes (e.g., lighting, etc.)?

**Answer:** No. The poles are designed for support of the shade structures only.

**Comment:** Proposed resolution: On the first line of item 1 after “NOW THEREFORE . . .” delete the words “to” and “the” so the sentence reads “The City Council finds that Park in Lieu fees. . . .”

**Answer:** Updated resolution will be posted.

### **[Item 9. City of Los Altos Flag Raising Policy: Adopt Resolution 2022-XX of the City of Los Altos defining a Flag Raising Policy](#)**

**Question:** Are there any requirements or rules regarding flags for banner locations around town since these are not technically flag poles? So for example, could someone purchase the banner space across Main Street and hang a flag or flags there even if we adopted a no flags other than US-CA-LA policy, which only seems to apply to flags flown from flag poles?

**Answer:** This policy only applies to flag poles. The City currently has a banner policy controlling those banner locations, which can be found [here](#).

**Question:** What examples are there of other flags that have been flown in Los Altos?

**Answer:** City staff does not have any examples of flags flown in Los Altos previously due to a lack of policy.

**Question:** For City Attorney: if the City adopts a policy that honors free speech flag policy, how can we be sure that we do not face a discrimination case should we deny an application?

**Answer:** Council is not being presented with a "free speech" option. One option states that only flags of the US, California, and the City will be flown. The other lets others propose flags to fly, but only if City Council adopts the flag as its own speech. Anyone can sue a city for anything at any time. The lawsuit may not be valid, but the City will still have to engage counsel to get the lawsuit dismissed. But the best way to avoid liability is a policy that permits only the US, California, and City flag to be flown. Anything less than that will open the City to claims for discrimination, violation of free speech, etc. The option that allows the City Council to consider other flags will minimize the risk to the extent possible if the City Council follows the policy strictly as set forth.

The goal of requiring the Council to adopt a flag as its own speech is to minimize free speech claims. The City may use its own property to convey its own messages without opening up the property as a public forum. That is what we are trying to accomplish with the proposed policy. But the law of free speech is an evolving area of law, and again, a strict policy of only allowing the US, California, and City flag is safest.

**Question:** What is the City's current policy and from where was it derived?

**Answer:** The City of Los Altos does not currently have a policy.

**Comment:** On the first resolution, on the second line of the "NOW THEREFORE" paragraph, insert the word "the" in between "adopts" and "policy."

**Answer:** This edit has been made. Thank you for bringing this to our attention.

**Question:** In the exhibit to the proposed first resolution, it says that a referral from council can only be made by "the entire Council." (Last paragraph of the first page of the exhibit.) Why do staff propose unanimity be required instead of allowing for a simple majority of the Council to make the referral?

**Answer:** "The entire Council" refers to the majority of City Council approving an item. Unanimity will not be required for the approval.

**Question:** Why do staff propose to give referral authority to the commissions? Will the commissions also need unanimous consent to make the referral? If not, then why is unanimity required for the Council?

**Answer:** This referral authority will allow commissions to bring matters that they find relevant to the attention of City Council. The commission will need to approve a motion to recommend that City Council review their proposal.

**Question:** Is the only fee associated with the proposed policy related to a flag raising ceremony? What is the amount of the fee anticipated by staff?

**Answer:** The fee for a flag raising ceremony would be dependent upon the size, scope, and location of the event so there is not a set fee as it would be based upon rental costs for facilities, tables, chairs, and staff time. The fee would be calculated based upon our existing fee schedule.

**Question:** May the Council decide to keep a commemorative flag raised for longer than seven days?

**Answer:** The City Council can establish the timeframe they would like to include in the policy, which can be as flexible as they would like. However, it is important to stick with the same time limit for all flags so there is no preference shown for any organizations.

**Item 10. Appoint Representative to VTA North County Cities Group: Nominate a Council Member to serve as the Valley Transportation Authority Board Alternate for the North County Cities Group**

**Question:** The staff report says that Councilmember Lee Eng's 3-year term as Los Altos' VTA Group 2 representative is ending, but meeting minutes from August 2018 show she was also our representative then, and that was over 4 years ago. How long has CM Lee Eng served in this capacity?

**Answer:** Councilmember Lee Eng has served since 2017 on the VTA Policy Advisory Committee, a mayor-appointed position done annually. Since the end of 2019, Councilmember Lee Eng has been nominated by Council and voted in by the VTA North County Cities group as the alternate to the VTA Board. The Alternate VTA Board Member position is a 2-year term, which is why this nomination is for Council consideration tonight. The Staff Report will be updated accordingly.