

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

MEMORANDUM

DATE: 2/28/23

TO: Councilmembers

FROM: City Manager

SUBJECT: COUNCIL Q&A FOR FEBRUARY 28, 2023, CITY COUNCIL REGULAR MEETING

Item1. Minutes

Comment: Correct typo on page 1 of the minutes (page 5 of the PDF), in the Pledge section, "... with Troop 61911 the pledge of allegiance" is missing something, such as "led the pledge".

Answer: Corrected

Comment: Not a question--For the minutes from the 2/14 meeting, I also asked questions during the Budget Appropriations Item, #7. Can you please update the minutes? Thanks

Answer: Noted

Item 2. Commission Appointment Process:

Question: Where in this policy is it made clear that the Council is not obligated to fill a seat even if there are sufficient applicants

Answer: City staff will add a sentence to the application and on the web page stating "City Council will have discretion to appoint any amount of applicants to fill vacancies but should not feel obligated to appoint any or all applicants."

Question: Would it make more sense to postpone this agenda item until the Council has conducted its study session to consider commission makeup more broadly?

Answer: City Council can direct staff to take any action, including postponement. However, the items in the report were discussed by the City Council and reflect the direction of the City Council.

<u>Item 3. Rescind the Los Altos Open Government Policy and terminate the City Council Legislative Subcommittee and the Council Open Government Subcommittee:</u>

Question: If we rescind the open government policy, what policies and rules remain in place governing things like public notice, document retention, etc.?

Answer: All of the items within the Open Government Policy remain in place unless separate action is taken by Council. Staff will circulate a redline version of the proposed resolution.

Question: Can the RESOLUTION to repeal the Open Government Subcommittee and City Council Legislative Subcommittee be separated so that we can vote on each separately?

Answer: No. The items are in the same resolution because they were derived from the same Council direction.

Question: By repealing the Open Government Committee and policy will the city no longer be notifying residents who reside 1,000 feet away from developments?

Answer: Please see the answer above. Council will take action on this specific notification issue as part of the Housing Element Update.

Question: How much is currently in the PiL fund? What is the forecast? What is the basis of the forecast? When we add 1958 housing units what will the PiL look like?

Answer: Currently, the PiL Fund has Approximately: \$8.3million. Any future fund deposits is dependent upon the additional housing units being constructed within the City. Park In-Lieu is currently established by ordinance as \$77,500.00/per Single Family Dwelling Unit, and \$48,800.00/per Multi-Family Dwelling Unit.

If we take a conservative estimate utilizing the Multi-Family Dwelling Unit Rate of \$48,800.00 X 1958 housing units = \$95,550,400.00; this figure represents the future growth of the Park In-Lieu Fund.

Item 4. Permanent Fenced-In Dog Park at Hillview:

Question: Why is the consultant service anticipated to cost 50% more than was previously approved?

Answer: The consultant service is approximately \$9,500 above the original estimated cost of \$50,000. Fees that were not included in the original estimate are site topographical survey (\$9,100) and online public survey (\$6,400) and public survey software requested by the Parks and Recreation Commission. The \$75,000 is a not to exceed amount.

Question: Correct year to 2023 on page 2 of the resolution (page 24 of the PDF), "... at a meeting thereof on the $__$ day of $__$, 2023 by the following vote ...".

Answer: Noted

Question: Please provide a breakdown for the proposed, \$75,000 expenditure. (I.e., how will the money be used by the consultant? Why will her/his work cost \$75,000? What do we get for the \$75,000?)

Answer: Please see the estimated cost breakdown attached to this document. The final cost breakdown for the execution of the agreement will be submitted by the consultant and will reflect a lower total amount not to exceed \$75,000.

Question: What will happen to the existing, temporary dog park when the permanent site is ready to open?

Answer: Once the permanent dog park is opened, the temporary dog park fencing will be removed.

Question: Why did staff select Verde Design? Their website is impressive but it doesn't seem like they have much experience with dog parks.

Answer: Verde has an outstanding reputation working with Bay Area agencies on projects, including experience with Los Altos staff in the past as well as working on projects in Los Altos. Verde is currently working with the City of Watsonville on their dog park project and previously worked with the City of Novato on the design of their Dog Bone Park.

Question: The resolution (second-to-last line of paragraph 1) refers to the "park master plan." We do not have a "master" plan; it is entitled "Los Altos Parks Plan." Please amend the resolution accordingly.

Answer: Noted

Item 5. Housing Element Update Ordinance:

Question: There are several places throughout the proposed changes to the municipal code where reference is made to the "development services director." Would it be more prudent to instead refer to "the City Manager or her/his designee?"

Answer: The designation of the administration of the Zoning Code is assigned to the department head of the respective department. In the City of Los Altos, the Development Services Director is the assigned authority of local land use decisions, this is also consistent with Zoning in other cities. The designation of the City Manager or their designee is only utilized in areas of the municipal code where it is not clear whom the respective authority is for the administration of that chapter, or when the authority changes from time to time.

Question: Under what circumstances does the Planning Commission have the authority to grant a variance? When must a request for a variance come to the Council?

Answer: The statutory justification for a variance is that the owner otherwise would suffer unique hardship under the general zoning regulations because a particular parcel is different from the others to which the regulations apply due to its size, shape, topography, location, or surroundings. (Gov. Code Section 65906.)

Comment: Subchapter 14.78.010: do not delete the word "the."

Answer: noted.

Question: Please explain the staff design review proposed in chapter 14.78.020. Under what circumstances would staff conduct a review? How will the review be noticed? What standards will be used in the review process?

Answer: Design Review under 14.78.020(A)(1) remains unchanged. This section of the code only updates the accurate title of the director. Administrative Design Review for projects smaller than 500 square feet is not noticed as it is not required in the code, no change is being made.

Question: Regarding proposed subchapter 14.78.090.A.1.: Does this mean that CSC cannot consider the impact of a development elsewhere in a neighborhood? If a development is proposed which will affect the surrounding neighborhood beyond the improvements "that are immediately adjacent to the subject site under consideration," does this subsection prohibit the CSC from considering those impacts?

Answer: This subsection does not prohibit the CSC from considering other impacts in the surrounding area. The CSC and the City of Los Altos do not have legal authority to require or condition a housing development to make improvements which are beyond the confines of the subject site.

Question: Regarding proposed subchapter 14.78.090.D: Does this mean that CSC is only permitted to opine on 100% commercial developments?

Answer: That is correct.

Question: Since we are eliminating the DRC what is the new process for notification to neighbors that reside within a 1,000 feet of a two story and new developments up to five residential units?

Answer: This would follow the Government Code Section 65090 which notices residents of a discretionary action/public hearing within a 300-foot radius.

Question: - Please clarify who the zone administrator is and what is a public hearing going when conducted by the zone administrator?

Answer: The City Planner is designated as the Zoning Administrator Pursuant to Section 1.10.020 of the Los Altos Municipal Code. The city planner is the Development Services Director or their Designee.

Question: - What is the new process for neighbors to participate and provide their input and concerns on these new developments?

Answer: The notification process for both chapter 14.76 and 14.78 has not been changed, only the reviewing body has been changed. The Public will still be notified as they always have, and they will participate as they have previously.

Question: - 14.76.080 should have one more item. Item F. Properties within 1,000 feet of proposed development.

Answer: noted.

Question: 14.76.110 Please clarify when public hearings will be required. What triggers the public hearing?

Answer: The requirement for a public hearing will be triggered as it always has, pursuant to section 14.76.040 of the Los Altos Municipal Code.

Question: -Why is notification lowered in 14.78.030? It should remain at 1,000 feet

Answer: This would follow the Government Code Section 65090 which notices residents of a discretionary action/public hearing within a 300-foot radius.

<u>Item 6. Proposition 218 process/Sewer Rate Study Report:</u>

Question: -Why is this Agenda item a discussion item and not a Public hearing?

Answer: This agenda item is a discussion item and not a Public Hearing because the Council needs to approve going forward with the Proposition 218 process, which means approving the proposed rates to be included in the Prop 218 notice. The public hearing is expected to take place in June.

Question: Has a notice been mailed to each household regarding this agenda item?

Answer: No, the Proposition 218 notice has not yet been sent. It will be sent if a majority of the Council members approve of proceeding with Proposition 218 process. At least 45 days will need to pass from when the notices are mailed before the public hearing is held. If Prop 218 does not gather over 50%+1 protest ballots, the Council can approve the rates.

Question: Are there any exemptions or discounts that can be provided? E.g. for seniors

Answer: Under Proposition 218, one class of ratepayers cannot subsidize another class. Any exemptions granted, such as an exemption for seniors would need to be paid by the General Fund.

<u>Item 7. Automated License Plate Reader Cameras:</u>

Question: Previously, the police department had represented to the community that it intended to ask for the installation of 10 ALPR's. Why is staff now requesting "up to 25?"

Answer: Staff is requesting the City Council consider a pilot program for the installation of automatic license plate readers. Staff is not asking Council to approve a specific number of cameras or a specific dollar amount for this program. If a pilot program is approved, the City will need to determine which installation locations provide the best opportunities for the ALPRs to be an effective resource in crime reduction or crime deterrence. This analysis has not yet been completed. The actual number of cameras placed would be determined based on this analysis as opposed to a generic number. The City's best estimate is the appropriate number of cameras will be less than 25, with total expenditures of less than \$75,000.

Question: What is the price difference to install 10 ALPR's as opposed to 25?

Answer: If approved, the total number of cameras is likely to be between 10-25 with the cost ranging from \$31,000 to \$75,000.

Question: Where *precisely* does the City plan to install the cameras? (Certainly both the Council and community understand that none of us have the expertise needed to critique and/or offer suggestions about alternative placements of the cameras. However, in the interest of transparency, I'm certain that the community would appreciate knowing where the cameras will be placed.)

Answer: As stated above, the cameras would be installed in locations that provide the best opportunity for crime reduction or crime deterrence based on the crimes defined by the City Council in the pilot program. City staff would make the location determination based on several factors, including type of intersection, physical location, proximity to highways and thoroughfares, type of neighborhood or type of development, type of activity, etc.

Once the locations have been determined staff would provide a map to the public and post the information on the City's webpage.

Question: What is needed to allow the police department to access data on a private ALPR?

Answer: This will require an MOU agreement between the Los Altos Police Department and the private ALPR owner. It should be noted that the LAPD will not review, audit or maintain private entity ALPR data. Private entity ALPR data will be solely used for active criminal investigations follow up.

Question: From where in the budget will the money for this project be allocated? Will any CIP or other needed expense be delayed because of this purchase?

Answer: The proposed pilot program would start in the 2023-24 Fiscal Year. The funds would be budgeted from the General Fund. Yes, CIP or other expenses would likely be delayed or terminated due to this request.

Question: Will auditor reports be public? What details about the audit results will be made available to the public? (I.e., will the public simply be told "we conducted an audit and the City passed" or will the police department provide details about the results of the audit?

Answer: The audits will provide as much detail as is legally possible without providing confidential CJIS information. For instance, an audit can provide details about any identified discrepancies and the entered search reasons of the data set used for the audit. The transparency portal will cover additional useful information.

Question: What is the annual cost to maintain and run the ALPR program as proposed? From where in the budget does staff propose to allocate those funds?

Answer: The annual cost of the program is between \$31,000 and \$75,000. These

amounts do not include staff time associated with the program.

The funds would be allocated from the City's General Fund as part of the 2023-24 Fiscal Year budget.

Question: As proposed, it seems like the proposed audits will inspect for the improper access of ALPR data. Can we also conduct audits to test for the disparate impacts of authorized use of the data?

Answer: The audits will provide as much detail as is legally possible without providing confidential CJIS information. For instance, an audit can provide details about any identified discrepancies and the entered search reasons of the data set used for the audit. As I mention later in this document, the transparency portal will cover additional information that will be useful to the public. As far as the disparate impacts of ALPR system usage, there is already a system in place, RIPA, that will gather data on all real-time contacts conducted because of an ALPR alert.

Question: Please explain the goal for a 10% reduction in property crime solvability rates. How will this be measured? Why was the figure of 10% selected?

Answer: We needed to start with an attainable figure that wasn't so small that it would be negligible. This metric was not previously discussed with the installation of the mobile ALPR unit, which is currently inoperable. We will measure the number of cases solved during our 1-year pilot, I.e. suspect identified, cases sent to the District Attorney or an arrest made, versus the solvability rate (using these same factors) of the previous year.

Question: What has Los Altos Hills' experience been with the use of ALPR's? Did they reach a reduction of 10% in their property crime solvability rates? If not, why would we suspect that Los Altos would have a different experience?

Answer: As of the time of this report, I have not spoken directly to the Santa Clara County Sheriff's Office to obtain their feedback about Los Altos Hills but have spoken to many other agencies in and around our region about the effectiveness of the cameras.

What is important to note here is that we are two different cities with different needs and policing strategies. Many residents of Los Altos Hills are not full-time residents. The reporting of some crimes can be delayed, beyond the 30-day data retention period, due to the homeowner not discovering the property crime for weeks to several months after the fact and the data is gone. The SCC Sheriff's Office directs limited resources to Los Altos Hills, and I do not know how many Flock alerts are followed up on, nor do I know how many investigative leads can be attributed to the cameras.

I am aware that Los Altos Hills residential burglaries have increased recently. Crime is very cyclical, and this fact contributes to this phenomenon. Also, particularly important to note is that use of ALPR cameras is not a panacea and will not eradicate crime on it own. What it can do is help point us in the right direction to focus our investigative efforts in solving property

crimes after the fact as well as help us locate vehicles associated with criminal activity in real time. It is a tool that can assist our limited resources.

Question: Does the 30-day proposed record retention policy violation Cal. Gov't Code § 34090.6(a) which seems to require that recordings be maintained for a minimum of 100 days?

Answer: No, this Government Code section is in relation to "routine video monitoring" which means "video recording by a video or electronic imaging system designed to record the regular and ongoing operations of the departments described in subdivision (a), including mobile in-car video systems, jail observation and monitoring systems, and building security recording systems." Fixed position ALPR cameras do not fall into any of the above-mentioned categories under this Government Code section.

Question: What ALPR records must be turned over to a member of the public pursuant to a PRA request? See <u>American Civil Liberties Union Foundation v. Superior Court</u> (2017) 3 Cal. 5th 1032

Answer: All PRA requests will receive the information readily available on the Transparency Portal, under the following sections (see Morgan Hill PD's Transparency Portal for further) - what is detected, data retention, number of cameras, use policy, external agencies with access, prohibited uses, access policy, hotlist policy, hotlist alerted on, Vehicles detected in the last 30 days, hotlist hits in the last 30 days and searches done in the last 30 days. PRA requests will not receive any of the actual data from the ALPR cameras, i.e. license plate numbers, because it is confidential, protected CJIS information

In the proposed new policy:

- Question: Is the phrase "Administration Division Commander" intended to be deleted throughout the document?
 - Answer: This was due to the way the editing function was set up in Lexipol. The actual verbiage has been cleaned up and now reads "Administrative Division Captain."
- O Question: The policy sometimes refers to "police officers" and at other times refers to "members." Are "officers" and "members" the same thing?
 - **Answer**: No, "members" cover both sworn officers and communications dispatchers because they will also have access to the ALPR system.
- Ouestion: Please describe the proposed training for this program.
 - Answer: The training will consist of a review and acknowledgement of the revised ALPR policy (and all updates) coupled with technical training of how to use, and how not to use, the ALPR system. Minimally, the policy review will cover acceptable searches, the penalties for improperly accessing the system, the procedures to follow when an alert is received, what the ALPR system shall not be used for etc.
- O Question: Under the proposed policy, is Flock the proposed "custodian of records?"
 - Answer: No, the Custodian of Records is the Police records supervisor, not Flock.

- Question: Regarding section 462.4(c): what is a "crime scene?" Does this
 proposed policy mean that ALPR's cannot be used in conjunction with hot lists
 or do hot lists fall under the category of "crime scene?"
 - Answer: This section refers to crimes that have already occurred, not to hot lists. Hot lists are for "real time" alerts because a crime associated vehicle is currently traversing in our city. An "after the fact" search may be done in and around an area identified as a crime scene to attempt to locate persons associated with the crime, i.e. search of ALPR camera data after a significant injury hit and run collision. This section relates to an investigative data search.

Question: Proposed section 462.4(h)(5) refers to the "ALPR Administrator (or her/his designee)." Who is that?

Answer: That specific person has not yet been designated, but their responsibilities are different from those of the Administrative Division Captain. The captain oversees <u>all</u> operations of the ALPR system. The ALPR administrator will be a Sergeant who will oversee day-to-day operations of the system. The "designee" will be assigned when the identified sergeant administrator is out of the office.

 Question: Why is the record retention policy longer for ALPR data obtained from a vehicle mounted camera than from a stationary camera. (See § 462.5, second para.)

Answer: This is the language that remained from the original policy and is in reference to the minimum retention period as discussed in Government Code section 34090.6 © "mobile in-car video system." It is now a moot point, however, since the vehicle mounted camera is not collecting data or being actively used.

Question: Why did the initial proposal for the pilot change from 10 cameras to now up to 25 cameras?

Answer: Staff is requesting the City Council consider a pilot program for the installation of automatic license plate readers. Staff is not asking Council to approve a specific number of cameras or a specific dollar amount for this program. If a pilot program is approved, the City will need to determine which installation locations provide the best opportunities for the ALPRs to be an effective resource in crime reduction or crime deterrence. This analysis has not yet been completed. The actual number of cameras placed would be determined based on this analysis as opposed to a generic number. The City's best estimate is the appropriate number of cameras will be less than 25, with total expenditures of less than \$75,000.

Question: Please explain, step by step, what happens after a license plate is identified as a vehicle of interest on the "hot list" and how officers respond?

Answer: After the license plate image has been captured on the ALPR camera, it compares the plate to vehicles that have been flagged as being involved in some sort of criminal activity (or flagged from an Amber or Silver Alert). Dispatch and/or a police officer will run the plate through California CLETS systems to verify the plate and determine the associated reason for the hit, i.e. stolen vehicle, wanted person, etc. The officer will attempt to locate the vehicle and visually verify the plate BEFORE taking enforcement action, when feasible. If it is a match,

the officer will conduct a traffic stop and take the appropriate investigative steps they would normally do at that point.

Question: In general, do we know what proportion of stolen vehicles that are identified using ALPRs are from outside a jurisdiction vs. from inside a jurisdiction?

Answer: We do not have specific data on this. As it relates to Los Altos, we had a relatively small number of stolen vehicles reported that were taken in Los Altos in 2022. Once we get the ALPR cameras, we will be able to better determine the percentage of stolen vehicles originating from our jurisdiction vs outside jurisdictions.

Question: In general, what proportion of alerts from ALPRs cannot be visually verified by an officer and are potentially an error? How is such an erroneous alert handled or identified in the system?

Answer: As a step in this process, and per policy, officers should visually verify the license plate prior to taking enforcement action. The only exception would be some sort of exigent circumstance that would not allow the officer time to visually verify the license plate. If there is a discrepancy between the alert and the visual license plate verified by the officer, an enforcement stop will not be conducted unless other probable cause exists.

Question: The Atherton letter says that ALPR data can be used to identify serial criminal activities across various jurisdictions. How can this data be shared across jurisdictions in a way that will be consistent with Los Altos' ALPR policy but still allow for identifying serial criminal activities?

Answer: Los Altos PD can choose which police agencies to grant access to ALPR data, such as local and bay area partners. As stated in the proposed policy, ALPR data will not be shared with federal agencies for immigration enforcement.

As an example, if a series of crimes occurs in San Jose and a vehicle has been associated with those crimes, San Jose PD will add the license plate to the ALPR system as a wanted vehicle. If that same vehicle enters Los Altos and is captured on one of our cameras, we will be alerted that the vehicle is in our city. The originating jurisdiction is responsible for entering the license plate information into the system so other jurisdictions with ALPR cameras will be alerted when the vehicle enters their respective city. This is different than the current system we use called "TRAK flyers." These flyers, also known as BOLO's, are emailed to outside jurisdictions to alert other police agencies of a crime that occurred and the associated license plate information, if applicable. This is not real time information, and an alert does not go out through this system.

Question: On page 1 of the policy (page 129 of the PDF), are the various references to "Administration Division Commander" meant to be shown in strikethrough for deletion and "Administrative Captain" used in its place? It is unclear to me if both titles are supposed to be used throughout the policy as they are currently included or if only "Administrative Captain" is supposed to be used.

Answer: This was due to the way the editing function was set up in Lexipol. The actual verbiage has been cleaned up and now reads "Administrative Division Captain."

Question: 462.4 (h)3 (page 3 of the policy, pg 131 of the PDF) details what happens if there is an enforcement action due to a stop based on a hot list alert. What happens if there is no enforcement action from such a stop, how is that recorded and treated?

Answer: Although the language in this section does not specifically bring attention to "negative" ALPR hits, it is implied in the section. However, I added the following language to

the policy, "Department members will clear all stops from hot list alerts by indicating the positive ALPR hit, i.e. with an arrest or other enforcement action, or by notating that the hit was not a visual match with the associated vehicle alert.

Question: Who maintains the cameras, the City or the Vendor?

Answer: The vendor will maintain the cameras, but Los Altos Police Department will own the data. The data will not be sold to a third-party vendor by the original vendor.

Question: What would full deployment look like for the size of our city? (How many cameras to have full coverage)

Answer: If a pilot program is authorized by the City Council, the results will be made public to determine if the goals were reached and the installation of the ALPRs had the intended impact, as well as review other impacts that may or may not have been anticipated. A permanent program, outlining "full deployment" would be discussed at that time.

Verde Design Date: January 31, 2023 PROJECT: Los Altos Dog Park Community Outreach and Conceptual Design CLIENT: City of Los Altos PROJECT NUMBER: 23003002148M TASKS ANDRES BILL TODD COURTNEY DEREK Verde Total Fees Ifland Survey TOTAL FEES DAN PD DOD SPM PIC PD PE COMMUNITY OUTREACH & CONCEPTUAL DESIGN 1.0 \$415.00 \$415.00 Establish Files & Admin, Procedures 1.0 KO meeting and Site Walk 5.0 4.0 2.0 \$2,355.00 \$2,355.00 Utility Company & Existing Utilities Review 2.0 2.0 \$830.00 \$830.00 Site Topographical Survey[®] 2.0 1.0 \$580.00 \$8,500.00 \$9,080.00 1.0 Project Schedule \$250.00 \$250.00 2.0 Review City, Utility and Consultant Data 2.0 \$830.00 \$830.00 12.0 8.0 4.0 4.0 1.0 \$5,565.00 \$5,565.00 Preliminary Program & Use Relationship Graphics 5.0 4.0 Review Meeting with City Staff #2 2.0 \$2,355.00 \$2,355.00 Community Meeting #1 6.0 6.0 \$3,020.00 2.0 \$3,020.00 Community Pop-Up at Jade St Park 6.0 5.0 \$2,240.00 \$2,240.00 Online Survey #1 8.0 4.0 4.0 \$3,245.00 \$3,245.00 1.0 12.0 8.0 10.0 4.0 \$7,065.00 Develop Schematic Alternative Plans (2 total) 1.0 \$7,065.00 Staff Review Meeting #3 5.0 5.0 1.0 \$2,340.00 \$2,340.00 8.0 4.0 4.0 4.0 \$4,245.00 \$4,245.00 Revise Schematic Alternative Design 1.0 6.0 6.0 \$3,020.00 \$3,020.00 Community Meeting #2 2.0 \$3,245.00 4.0 Online Survey #2 8.0 4.0 1.0 \$3,245.00 12.0 8.0 8.0 4.0 \$6,565.00 \$6,565.00 Prepare Draft Alternative Conceptual Plans 1.0 Preliminary Construction Estimate 5.0 2.0 \$1,457.50 \$1,457.50 0.5 \$2,090.00 \$2,090.00 Review Meeting with City Staff #4 5.0 4.0 1.0 4.0 4.0 \$1,925.00 \$1,925.00 Presentation Materials for PRC Meeting 1.0 4.0 \$1,000.00 \$1,000.00 21 PRC Meeting #1

8.0

44.0

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134.0

Prepare Final Preferred Alternative Plan

Update Preliminary Construction Estimate

City Council Meeting #1 Project Administration

Reimbursables

SUBTOTAL:

Presentation Materials for City Council Meeting

3.0

2.0

3.0

4.0

6.0

93.0

\$4,405.00

\$1,260.00

\$1,245.00

\$1,000.00

\$2,490.00

\$1,500.00

\$66,537.50

\$8,500.00

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