




MEETING DATE: 11/06/06

ITEM NO. 2

COUNCIL AGENDA REPORT

DATE: November 1, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: LINDA L. SPEICHER, TOWN TREASURER 

SUBJECT: ADOPT RESOLUTION ACCEPTING INVESTMENT POLICY DATED NOVEMBER 1, 2006

RECOMMENDATION:

Adopt resolution accepting the investment policy dated November 1, 2006.

BACKGROUND:

State law no longer requires that the investment policy of the Town must be annually rendered to and then considered by the legislative body of the local government in a public meeting. However, it does allow the Treasurer to do so in his or her judgement. I believe this is a good policy to maintain and thus am submitting the investment policy for your review and acceptance.

DISCUSSION:

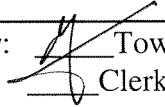


The attached investment policy has been drafted in consultation with MBIA, the investment advisors for the Town of Los Gatos. The new policy retains almost all of the content of the old policy, with additions of more detailed descriptions of the authorized investments and expanded criteria for the selection of banks, brokers, and securities custodians. It complies with all State of California laws.

ENVIRONMENTAL ASSESSMENT:

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

PREPARED BY: Linda L. Speicher, Town Treasurer

C:\TRS\MyDocs\InvPolicyAnnual1106.wpd

Reviewed by:  Town Manager  Assistant Town Manager _____ Town Attorney
_____ Clerk  Finance _____ Community Development Revised: 11/1/06 9:45
pm

Reformatted: 5/30/02

PAGE 2

MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION ACCEPTING INVESTMENT POLICY DATED
NOVEMBER 1, 2006

November 1, 2006

FISCAL IMPACT: None

Attachments: 1. Resolution accepting Investment Policy dated November 1, 2006
Exhibit A - Investment Policy dated November 1, 2006

Distribution: Town Council; Town Manager; Finance Director

Town of Los Gatos

Investment Policy

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 (4) 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 adopted by the Town Council the Town of Los Gatos on November 6, 2006. It replaces 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

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.

OBJECTIVES

The principal investment objectives of the Town, in order of priority are:

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.
5. Compliance with the Los Gatos Town Code and with all applicable California statutes and Federal regulations.

DELEGATION OF AUTHORITY

Management responsibility for the Town's investment program is delegated annually by the Town Council to the Town Treasurer (the "Treasurer") pursuant to California Government Code Section 53607. 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 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 riskless and that the investment activities of the Town are a matter of public record. Accordingly, the Town recognizes that occasional measured losses may be desirable 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.

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.

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

1. United States Treasury bills and notes with a final maturity not exceeding five years from the date of purchase.
2. Federal Agency debentures and mortgage-backed securities with a final maturity not exceeding five years from the date of purchase issued by the Government National Mortgage Association (GNMA).

3. Federal Instrumentality (government sponsored enterprise) debentures, discount notes, callable and step-up securities, with a final maturity not exceeding five years from the date of purchase, issued by the following only: Federal Home Loan Banks (FHLB), Federal National Mortgage Association (FNMA), Federal Farm Credit Banks (FFCB) and Federal Home Loan Mortgage Corporation (FHLMC).
4. Prime Commercial Paper with a maturity not exceeding 270 days from the date of purchase 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,
- 10% of the Town's total portfolio in the commercial paper of any one issuer, and
- 15% of the Town's total portfolio.

5. Eligible Bankers Acceptances with a maturity not exceeding 180 days from the date of purchase, 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 10% 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 15% of the Town's total portfolio.
6. Medium Term 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 purchase, and rated at least A or the equivalent by a NRSRO. The aggregate investment in medium term notes shall not exceed 15% of the Town's total portfolio.
7. Non-negotiable Certificates of Deposit with a maturity not exceeding five years, in state or nationally chartered banks or savings banks that meet the criteria set forth under the section of this Investment Policy, "Selection of Banks." The aggregate amount invested in Non-negotiable Certificates of Deposit shall not exceed 15% of the Town's total portfolio.

8. 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 or 65% of the Town's total portfolio, whichever is less.
9. 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 the securities and obligations authorized in this Investment Policy 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 15% of the Town's total portfolio.

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 purchase, 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.

Each authorized broker/dealer 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. Broker/Dealers shall attest in writing that they have received and reviewed a copy of this Investment Policy.

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.

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, except non-negotiable Certificates of Deposit, Money Market Funds and LAIF, purchased by the Town will be delivered by either book entry or physical

delivery and will be held in third-party safekeeping by a Town approved custodian bank, its correspondent 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."

All non-book entry (physical delivery) securities shall be held by the custodian bank or its correspondent bank and the custodian bank shall provide evidence that the securities are held by the bank 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 actual 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. A statement of compliance with this Investment Policy or an explanation for non-compliance; and
7. 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.

POLICY REVIEW

This Investment Policy shall be adopted by resolution of the Town Council. Annually the Treasurer shall present this Investment Policy to the Town Council 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.

RESOLUTION NO.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
ACCEPTING INVESTMENT POLICY DATED NOVEMBER 1, 2006

WHEREAS, the Town's Investment Policy is required to be annually rendered to and then considered by the legislative body of the local government in a public meeting; and

WHEREAS, the Town's existing Investment Policy was adopted in August, 2005; and

WHEREAS, the new policy retains the content of the old policy without any major policy changes, but with more detailed descriptions of investments allowed;

RESOLVED, the Town Council has reviewed and accepted the Town Investment Policy dated November 1, 2006 as the investment policy for the Town.

PASSED AND ADOPTED at a _____ meeting of the Town Council of the Town of Los Gatos, California, held on the _____ day of _____, 2006 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK OF THE TOWN OF LOS GATOS