



MEETING DATE: 9/17/2007  
ITEM NO. 10

## COUNCIL AGENDA REPORT

DATE: SEPTEMBER 13, 2007

TO: MAYOR AND TOWN COUNCIL

FROM: COUNCIL POLICY COMMITTEE  
VICE MAYOR BARBARA SPECTOR  
COUNCIL MEMBER DIANE MCNUTT

SUBJECT: CONSIDERATION OF PROPOSED SOLICITATION AND DONATION  
POLICY

### RECOMMENDATION:

It is recommended that the Council consider and adopt the proposed Solicitation and Donation Policy (Attachment 1).

### BACKGROUND:

In November 2005, Council approved a Policy Focus Area Matrix which identified several key Council policy issues for consideration. Priority was given to the development of a policy work plan that addressed the solicitation of goods, services, and other contributions on behalf of the Town, acceptance of donations, and recognition of donors. Subsequent to this direction, Council requested that the Committee pursue policy matters related to the development of Code of Conduct disciplinary procedures. Upon completion of this policy issue, the Committee refocused its discussions on solicitations and donations.

With the objective of building pride in our community and trust and confidence in Town government, the Committee presents for Council consideration its recommended draft Solicitation and Donation Policy.

### DISCUSSION:

Understanding that the Los Gatos community is known for its generosity and desire to improve its quality of life, the Committee developed the draft solicitation and donation policy to achieve the following objectives:

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Reviewed by: PS Interim Town Manager SB Town Attorney

AT Administrative Programs Manager

Revised: 09/13/2007 12:58 PM

Reformatted: 5/30/02

- Ensure the ethical and consistent solicitation, acceptance, and recognition of donations.
- Enhance and expand community awareness of donation opportunities.
- Recognize the benefit of independent, non-profit organizations to support Town services and activities.
- Build community pride and trust and confidence through collaboration among residents, businesses, and non-profit and other community organizations.

Prior to developing the attached draft policy, the Committee carefully examined the Town's current practice and other local government processes and policies, including but not limited to the cities of Costa Mesa, Cupertino, Gilroy, Lafayette, Mountain View, Palo Alto, San Diego, San Jose, and Sunnyvale, and out-of-state communities such as Atlanta, Georgia and Seattle, Washington. The analysis revealed a need to develop a comprehensive policy and process to guide Town solicitation and donation activities in an equitable manner consistent with existing California ethics laws and Town policies and procedures.

### **Proposed Solicitation and Donation Policy Overview**

In 2005, the State Legislature passed AB 1234, a bill requiring elected and appointed officials who are compensated for their services or receive reimbursement for their expenses to receive training on complex ethics laws and principles. This mandatory requirement has raised awareness of the ethical expectations of public officials – both elected and appointed - in terms of their responsibility to serve as stewards of the public's resources and trust. The public holds local officials to high standards of ethical conduct. In this context, the Committee evaluated the appropriateness of the Town's current solicitation practices, which involve the direct solicitation of individuals, companies, foundations, and other entities by Town elected and appointed officials and staff to support Town-sponsored events and programs.

The Committee determined that the Town's current practices which have evolved over time without structure have the potential to create conflicting interests and loyalties that could undermine the community's perception of the fairness of the Town's processes. Examples of these ethical concerns include creating a "pay to play" or special treatment expectation as it relates to donors that might come before the Council. Direct solicitation by elected and appointed officials and staff may also pressure potential donors who feel obligated into making contributions.

The recommended policy does support the continuing solicitation of goods, services, and contributions, but through a broad outreach approach that communicates donation opportunities to all segments of the community. Under the proposed policy, funding may come from the Town and donations from an expanded base of individuals and businesses and/or existing and potential non-profit organizations.

Lastly, the proposed policy establishes donation acceptance and recognition guidelines. These guidelines would create a consistent and equitable process for determining the appropriateness of donations and acceptable forms of donor recognition. The Town currently does not have an established donation acceptance and recognition practice.

### **Policy Implementation**

Implementation of the proposed policy would modify the way in which the Town currently communicates its donation needs to individuals, businesses, and non-profit organizations. Instead of direct solicitation, donation opportunities would be conveyed through a Town-wide broad outreach program. The Town has successfully used this approach with the Adopt-a-Planter and Adopt-a-Bench programs, which now have waiting lists. Broad outreach to the community would involve using communication methodologies such as the Town's website, e-mail subscription notification systems, *Vista* Newsletter and other Town publications, brochures, inserts, and articles published in local media resources.

Prior to implementing the policy, donation opportunities would be identified in collaboration with residents, businesses, and other community organizations and brought before Council for consideration. The identification of these donation opportunities would result in a Council-approved list of needs that could be developed in parallel with the annual operating and capital budget process. Given that the Town's service needs may change over time, Council would have discretion to modify the donation list as necessary.

### **Other Considerations**

The Committee recognizes that implementation of the proposed policy would affect the way in which the Town currently solicits for goods and services. However, alternate communication approaches as described earlier in this report would be used to convey donation opportunities to individuals, businesses, and non-profits. Staff has tested this policy approach against the Town's current practice of direct solicitation and anticipates that through education and awareness, department service goals can be reached and expanded.

Below is an overview of the value and type of goods, services, and other contributions currently received by Town Departments that support various services and programs. Also included is a discussion of the Town's relationship with non-profit organizations.

*General Town Services* - Currently, the Community Services, Library, and Police Departments directly solicit for goods, services, and contributions to offset expenses for Town programs. It is estimated that the value of these contributions average between \$200 - \$5,000, with the exception of the Police Department that received an annual donation of \$10,000 to support the Canine program. Types of programs supported by donations include, but are not limited to: senior activities, special events, such as 4<sup>th</sup> of July and the Annual Volunteer Recognition program, library book collections, furniture, equipment and program supplies, public safety equipment and canine program support.

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Under the policy, these general Town services could be funded by expanded donation opportunities, the Town, and existing and potential non-profit organizations.

*Music in the Park* – The Arts Commission actively solicits funds to support the Town's Music in the Park (MIP) program. Community contributions collected for MIP are anticipated to be \$40,000 annually. As with other Town events, the Town provides funding to cover associated staff costs.

Under the policy, MIP could be funded by expanded donation opportunities, the Town, and existing or potential non-profit organizations.

*Solicitation of Non-Profit Organizations* – The Library and Police Department have established relationships with non-profit organizations that fundraise on their behalf or seek donations for specific goods and services. Currently, the departments make direct service requests of these non-profit organizations.

Under the policy, these existing non-profit organizations could be made aware of expanded donation opportunities benefiting the Library and Police Departments and could continue to seek donations on behalf of the departments.

#### CONCLUSION:

The recommended Solicitation and Donation Policy supports the continued solicitation of goods, services, and contributions, but through communication mechanisms that broadly outreach donation opportunities to all segments of the community. This policy provides a comprehensive approach and process that address direct solicitation in a manner that has been proven successful through similar Town programs and, more importantly, builds pride in the community and trust and confidence in Town government.

#### Attachments:

Proposed Solicitation and Donation Policy

#### Distribution:

Executive Team

Town Boards, Commissions, and Committees

Friends of the Library

Police Foundation

## **DRAFT SOLICITATION AND DONATION POLICY FOR DISCUSSION PURPOSES ONLY**

### **POLICY PURPOSE**

The purpose of this policy is to effect Town donations and solicitations in a manner that complies with both the letter and spirit of California ethics laws and, within that framework, to expand the potential for community donations by establishing a mechanism by which individuals and organizations may be more readily advised of donation opportunities.

### **SOLICITATION GUIDELINES**

#### *Targeted Solicitation*

Targeted solicitation is defined as the direct petition or contact of specific individuals, companies, foundations or other entities initiated by the Town Council and other elected officials, Council advisory bodies, and Town employees herein called "Town Officials" for the purpose of receiving goods, services, or other contributions for the Town. Targeted solicitation excludes the direct petition for government, private, or non-profit grants for Council-approved programs, projects, and services. Unless otherwise stated in this policy, Town Officials shall not engage in targeted solicitation activities on behalf of the Town.

### **BROAD OUTREACH GUIDELINES**

#### *Broad Outreach*

Broad outreach is defined as the process of informing a broad spectrum of individuals, companies, foundations, non-profit organizations, or other entities of donation opportunities through various communication vehicles, including but not limited to written, electronic, or internet-related publications, flyers, brochures, news releases, and television or radio announcements. Broad outreach is permitted by the Town Manager or designee subject to the guidelines provided in this policy.

The following broad outreach guidelines apply when communicating a Town need for goods, services, or other contributions:

- Broad outreach must relate to a Town Council-approved purpose, service, project, or program.
- Broad outreach for goods, services, or other contributions should be made by using a variety of communication methodologies to ensure outreach to the entire community.
- Donations shall not be made under the guise, pretense, or presumption of receiving official Town endorsement or approval of the donating party, product, project, or activity.

## **PROCEDURE FOR ESTABLISHING COUNCIL APPROVED TOWN NEEDS**

The Council shall direct the Town Manager to develop a list of recommended Town needs for donation opportunities. Council consideration and approval of the list of Town needs may occur as part of the annual operating and capital budget development process and can be amended by Council at any time.

## **DONATION ACCEPTANCE GUIDELINES**

All goods, services, or other contributions offered by individuals, companies, foundations, non-profit organizations, or other entities will be considered for acceptance or rejection, including items offered for donation that are identified on a Council approved list of needs. The acceptance of all donations to the Town will be based on the following guidelines.

- Purpose of the donation.
- Community or municipal need for the donation.
- Compatibility of the donation with Los Gatos Municipal Code, policies, programs, and other applicable laws.
- Timeliness of the donation as it relates to implementation.
- Level of benefit and financial impact to the Town.

All donations should be reviewed by the Town Manager or designee in advance of acceptance to ensure consistency with established policy guidelines.

## **AUTHORITY TO ACCEPT DONATIONS**

The authority to accept all donations is based on the market value of the donation as reasonably determined.

### *Donations \$25,000 and Under*

The Town Manager or designee is authorized to accept or reject all minor donations that have a market value equal to or less than \$25,000.

### *Donations Over \$25,000*

The Town Council shall consider and accept or reject all major donations that have a market value greater than \$25,000.

## **PROCEDURES FOR ACCEPTING MAJOR DONATIONS**

For all major donations, a staff report, containing analysis based on the donation acceptance guidelines established in this policy, will be written to guide the Council when considering major donations. The report will also provide donation recognition alternatives for Council consideration should the donation be accepted. The Council will determine on a case by case basis if the donation should be accepted or rejected.

## DONOR RECOGNITION GUIDELINES

Acceptance of donations shall be acknowledged by the Town. Donation recognition practices shall be implemented in a consistent manner and adhere to Town Municipal Code, all applicable laws, regulations, and policies. Recognition of donations will be determined by the Council or Town Manager and shall be consistent with acceptance requirements of this policy and the guidelines set forth below:

Donations accepted by the Town may be acknowledged through one or more of the forms of recognition as indicated below. Other forms of recognition may be approved by the Town Council via resolution if compelled by special circumstances which shall be specified in the resolution.

- Written and/or verbal recognition.
- Public recognition at Town Council meetings.
- Inclusion in Town public communication materials, such as electronic media and selected publications.
- Plaques.

Plaques may be used to commemorate donations accepted by the Town from persons, businesses, and organizations according to the following standards:

Plaques used for recognition purposes may be affixed to an appropriate Town facility, which includes, but is not limited to a building or any portion thereof, structure, equipment, furniture or natural asset. Plaques shall include the name(s) of the person(s) being recognized and applicable date, with standard wording limited to:

- The Town of Los Gatos recognizes and appreciates \_\_\_\_\_ [and his/her family] for [his/her/their] donation to [identify facility].
- The Town of Los Gatos recognizes and appreciates \_\_\_\_\_ [business or organization] for its donation to [identify facility].
- The Town of Los Gatos recognizes and appreciates \_\_\_\_\_ for [his/her/its] donation to [identify facility] in the name of \_\_\_\_\_.
- Or language acceptable to the Town Council.

The size of the plaque shall not exceed 8"x10," unless the number of donors exceeds the allowable space. For multiple donors, the names of the donors should be proportioned thereto, and the size of the plaque shall not exceed four (4) square feet. The location, materials, size and color of plaques shall be consistent with acceptance requirements of this policy or by Council on a case by case basis should special circumstances exist, which shall be specified in a resolution. Town facilities shall not be named after an individual, group, organization or business as a result of any donated good, service, or other contribution to the Town.