



MEETING DATE: 10/1/2007
STUDY SESSION

COUNCIL AGENDA REPORT

DATE: SEPTEMBER 24, 2007

TO: MAYOR AND TOWN COUNCIL

FROM: PAMELA JACOBS, INTERIM TOWN MANAGER

P. Jacobs

SUBJECT: STUDY SESSION ON SOLICITATION AND DONATION POLICY

RECOMMENDATION:

Discuss the attached draft Council Policy Committee Solicitation and Donation Policy (Attachment 1) and provide direction to staff concerning the proposed policy.

BACKGROUND:

On September 17, 2007, the Council Policy Committee presented a draft Solicitation and Donation policy for Council consideration. This policy was in response to Council direction to develop a policy that addresses solicitation of goods, services, and contributions to support Town services, acceptance of donations, and recognition of donors.

DISCUSSION:

Following public input and Council discussion at the September 17th meeting, Council directed staff to schedule a Study Session to further explore several of the issues raised concerning the solicitation and donation policy. To assist Council, staff has summarized comments made by the Council Policy Committee, public, and Council during the policy discussion (Attachment 2).

During the discussion, there were several reoccurring policy issues raised by the public and Council. These issues include the following:

- Continuation of direct solicitation by the Arts Commission to support Music in the Park
- Appropriateness of direct solicitation by other appointed officials (i.e., members of Town boards, committees and commissions).
- Options for other types of donor recognition and for naming of Town facilities

PREPARED BY:

JENNY HARUYAMA

Administrative Programs Manager

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Reviewed by: _____ Assistant Town Manager *OK* Town Attorney
_____ Clerk Administrator *vm* Finance _____ Community Development

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Council requested a Study Session to discuss these issues in particular, as Council expressed different views about how these issues should be addressed in the policy. Staff is seeking direction from Council as to if and how to modify the proposed policy regarding these, and any other policy considerations.

FISCAL IMPACT:

Depending on Council direction, there may be fiscal impacts associated with the solicitation and donation policy. Any significant fiscal impacts will be brought forward to Council during the FY 2008/09 budget development discussions.

Attachments:

Attachment 1: September 17, 2007 Council Agenda Report – Consideration of Proposed Solicitation and Donation Policy
Attachment 2: Summary of September 17, 2007 Solicitation and Donation Policy Discussion

Distribution:

Executive Team
Town Boards, Commissions, and Committees
Friends of the Library
Police Foundation



MEETING DATE: 9/17/2007

ITEM NO.

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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 JK Town Attorney

JH Administrative Programs Manager

Revised: 09/13/2007 12:58 PM

Reformatted: 5/30/02

ATTACHMENT 1

- 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.

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SEPTEMBER 13, 2007

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 4th 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.

SUMMARY OF SEPTEMBER 17, 2007 PROPOSED SOLICITATION AND DONATION POLICY DISCUSSION

Council Policy Committee Comments

- The purpose of the proposed policy is to build pride in the community and establish trust and confidence in Town Government.
- The recommended solicitation and donation policy guidelines are proactive, minimize potential conflict of interest issues, and increase awareness of ethical decision making.
- The proposed policy expands donation opportunities for the entire community.
- The proposed policy supports the direct solicitation of goods and services by existing non-profit organizations to fund Town services and encourages the establishment of new non-profit organizations to fundraise on behalf of the Town.

Pubic Comments

- Questioned if there is evidence demonstrating a "pay to play" environment regarding Music in the Park (MIP).
- Consideration should be given to expanding recognition guidelines to include naming rights for those who contribute sizable donations.
- The elimination of direct solicitation would significantly reduce sponsor donations, impacting the quality of the event.
- The restriction of direct solicitation would jeopardize existing relationships built as a result of MIP.
- The Arts Commission should be the exception to the rule regarding direct solicitation.
- There are clear contractual arrangements between the Town and sponsors; no special treatment is given.
- Questioned how the proposed policy will impact fundraising for the skate park.
- Donation recognition guidelines should be less restrictive.

Council Discussion

- The proposed policy has flexibility built into it to allow for other forms of recognition; Council could modify the policy via resolution.
- The Town should pay for MIP and encourage the establishment of a "Friends of the MIP" non-profit organization.
- Arts Commissioners should not be burdened with the responsibility of raising funds for Town events.
- Volunteers who wish to solicit for funds to support Town events such as MIP should be supported.

- It is inappropriate for elected officials to directly solicit individuals, businesses and nonprofit/community organizations for goods, services, or other contributions.
- The lack of naming rights will seriously impact the skate park and other recreational fundraising.
- Consideration should be given to expanding the types of donation recognition outlined in the proposed policy.
- Arts Commission could be exempt from the direct solicitation rule given its involvement in MIP fundraising. Consideration could be given to other commissions.
- The Town should consider the importance of public-private partnerships and examine "best practices" employed by other communities.

Council Direction

- Schedule Study Session for further discussion.
- MIP can continue its current funding raising approach for 2008 until a Council policy is in place.
- Town Council Members stated that they would not participate in the direct solicitation of goods, services, and other contributions to support Town services, programs, or events.

