

PUBLIC CORRESPONDENCE

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To send correspondence to the City Council, on matters listed on the agenda please email <u>PublicComment@losaltosca.gov</u>

Council Members:

Jim Jolly is having computer problems and asked me to send this to you. <u>He has also requested</u> that this be read aloud at the October 12 council meeting during public comment on item 8.

Pat Marriott

I am in complete agreement with Pat Marriot's second Public Comment recently submitted. It appears to me that recently elected Council Member Weinberg wants to use his law degree to solve what he seems to feel is one of our town's most critical issues. As a 44 year resident of Los Altos with significant involvement in city governance issues, I feel that Los Altos has somehow been able to move forward, even though we didn't have a formal censure policy in place.

We have always had a City Attorney and to the best of my knowledge, none of them ever recommended such a policy. Pat Marriot indicates in her most recent Public Comment that only 3 of the 101 Bay Area local governmental units have such a policy. Is Mr. Weinberg making "a mountain out of a molehill" with his censure proposal ?? To me, it seems the more applicable solution is "If it ain't broke, don't fix it."

Please reject this needless policy and focus your time, staff resources and taxpayer funds on issues that are much more important. Thank you

Jim Jolly Panchita Way Sent from my iPhone

From:	<u>Harsha Bhat</u>
То:	Public Comment
Subject:	PUBLIC COMMENT Item #8, October 12, 2021
Date:	Friday, October 8, 2021 3:06:29 PM

I WOULD LIKE TO VOTE NO TO A CENSURE POLICY in LOS ALTOS

From:	Jill Woodford
To:	Public Comment
Subject:	Public comment Item #8 oct 12, 2021 Censure policy proposal
Date:	Friday, October 8, 2021 4:47:45 PM

I am writing in support of the Censure Policy proposal. Elected officials should uphold the law and model behavior that is respectful, dignified, and representative of community leaders. This means following rules, being accountable, and respecting their fellow council members as well as city staff, residents, and the public at large.

I support holding a high standard for Council member behavior, just as many employers do for their employees. If laws and council norms are difficult for a Council member to follow, then maybe the role is inappropriate for that person and someone else should step in. High ethical and behavioral expectations are widely accepted and applied to most leadership roles, paid and volunteer. There should be no exemption for City council members.

Regards, Jill Woodford

From:	Al Rooney
To:	Public Comment
Subject:	Censure Policy Item #8, City Council Meeting October 12, 2021
Date:	Friday, October 8, 2021 4:57:11 PM

The Los Altos City Council Norms and Procedures already provide the standards for City Council Member decorum and conduct.

Los Altos has never had or needed a "censure" policy. Indeed, the draft policy acknowledges the City Council already has discretion to take action in response to violations of law or policy. So, why is the City Council considering a censure policy after decades of not having one? The reason is obvious. Mr. Weinberg has made it clear he wants a mechanism to censure his opponents.

Mr. Weinberg's proposed censure policy requires a mere majority vote -3 out of 5 members - to subject a member to public shaming. This means that whoever is in the minority of the City Council will need to fear being censured by the majority.

Mayor Fligor, you are in a position to show true leadership by focusing on bringing our community and City Council together. This new policy will perpetuate division by providing future City Councils with a weapon to publicly shame and attack each other. You already have the means to enforce the existing laws and policies under the Norms and Procedures. Please don't let this ill-advised policy be your legacy especially when you will be seeking re-election.

A. Rooney

From:	Carlos Shaw
То:	Public Comment
Subject:	I am against your proposed Censure Policy.
Date:	Friday, October 8, 2021 5:30:12 PM

Council members need to have freedom of speech.

Doesn't Los Altos have enough problems (e.g. fixing roads, improving parks, taking care of seniors, etc)? I did not elect you to the City Council to find ways to censor each other. Stop this nonsense.

Sincerely, Carlos Shaw

From:	<u>Toni Moos</u>
То:	Public Comment
Cc:	Kevin Moos; Toni Moos
Subject:	PUBLIC COMMENT - AGENDA ITEM 8 - OCTOBER 12, 2021
Date:	Friday, October 8, 2021 6:18:18 PM

Dear Mayor Fligor, VM Enander, Councilmember Weinberg, Councilmember Meadows, and Councilmember Lee Eng,

I am writing in support of the proposed Censure Policy that is agendized for the October 12th City Council Meeting. It is imperative that there is a mechanism in place to appropriately censure a councilmember who goes against council norms and procedures, who displays inappropriate behavior or who breaks the law. I understand that this censure would not take place until several warnings are made, eliminating what some fear will be a quick and unwarranted censure of fellow councilmembers. This is, in essence, only to be exercised when the councilmember's behavior fails to change. At this time there is no process in place to appropriately address issues that may arise by a councilmember who fails to follow norms snd procedures or who engages in unlawful or undesirable behavior, so it is important that such a process be put in place.

Thank you for your time and attention in addressing this matter.

With appreciation,

Toni and Kevin Moos (Los Altos Residents for 18 years and 50 years, respectively)

From:	Frank Martin
To:	City Council; Public Comment
Subject:	CITY COUNCIL OCTOBER 12 MEETING - AGENDA ITEM 8
Date:	Saturday, October 9, 2021 12:05:11 PM
Attachments:	<u>Censure.docx</u>

City Council Members, City Manager, and Staff,

Enclosed are my thoughts about item 8 - a proposal for a censure policy.

In summary this is a step in the wrong direction because it is not needed and is an obvious attempt by the majority of council members to bully the minority. Voters like me that care about good government urge you to VOTE NO.

Frank Martin

October 9, 2011

City Council, City Manager, and Staff,

"Censure is a formal, and public, group condemnation of an individual, often a group member, whose actions run counter to the group's acceptable standards for individual behavior. ... Like a reprimand, a censure does not remove a member from their office so they retain their title, stature, and power to vote." So, why is censure now needed?

Looking back for over 50 years Los Altos has never had or needed a censure policy because our voters instead routinely exercise their right to choose council members they trust just like most other nearby cities and towns. When someone violates our trust we do simply do not re-elect them for another term.

The power to censure can and in my opinion will be abused by any majority of council members that vote in a block like the current cabal of Fligor, Weinberg, and Meadows.

Ironically, by definition a minority of independent council members such as Lee Eng and Anita Enander do not have the same power to censure just because they are a minority.

And, with our current dysfunctional majority; censure is just another way to bully.

If you decide to add a censure policy common sense and fairness would require that certain principals must be included:

- (1) Censure violations must be clearly defined and non vague and transparent.
- (2) To avoid bullying or abuse censure shall require a 2/3 majority of council member votes to start the process and come to a final decision. In our case 4 council member votes.
- (3) The censure process shall be clearly spelled out and include two fully transparent process steps (1) A discussion and later vote by council members to first investigate and (2) only then to vote on censure after hearing the findings.
- (4) The investigation of censure shall be conducted by an independent body and not by the council itself or the city staff or any person or group chosen by the council itself such as an arbitrator or the Los Altos Community Foundation group(s) or the League of Women Voters. I would suggest the Santa Clara District Attorney's office or equivalent independent agency. This investigation source should be spelled out in the process.

- (5) The accused person shall have the right to appeal to another organization in the chain of county or state government before any judgment is final.
- (6) The city shall reimburse the accused for any expenses for self-defense regardless of the outcome. These expenses shall be promptly paid as they occur.
- (7) The city shall be subject to a civil complaint and meaningful fine for any censure vote that fails. For example, a fine up to \$100,000.

Council members in favor of censure should be careful to get what they wish for. For example, in my opinion Weinberg should have been censured for past admitted lies to damage the reputation of Los Altos Parks and Recreation Commissioner Scott Spielman that led to his firing. Indeed, Weinberg apologized afterward, but did not remedy this injustice to Scott and the residents of Los Altos that lost a valuable contributor to our city government. Worse yet was the bullying by Fligor, Meadows, and Weinberg to unfairly reprimand Lee Eng for the Moos incident.

In summary, a censure policy is not needed and can easily allow the majority to bully the minority of independent council members to stifle their opinions like the current cabal of Meadows, Weinberg, and Fligor who almost always vote together.

I hope council members will come to their senses and abandon this horrid policy idea if they wish to avoid the wrath of the vast majority of Los Altos voters. Voters like me that care about good government will remember how every council member votes and what you argue for. I ask you to vote NO on censure!

Thanks for listening,

Frank Martin

Hello,

why do you need to create a "Censure Policy"? The polarization is already at a height in this country and we need to move towards cooperation and respectful controversies honoring each person's dignity.

As a clinical psychologist, I strongly appose to the Censure Policy Mr. Weinberg is proposing.

Sincerely Sabriele Hilberg, PhD., MFT. My name is Tien Ngueyn. I live on 659 Springer Terrace, Los Altos. I would like to vote NO TO A CENSURE POLICY in LOS ALTOS. Thank you,

Regards, Tien Dear City Council,

The Los Altos City Council has changed enormously over recent years. The public, by way of voting, moved the council from all male to all female, and back to a mix. We had a point where history was made with the all female council. These shifts and changes are important to recognize. The public sent a message of the desire for a change in leadership and the way things were done.

Censure policies do not support change and most defiantly do not support positive change. It is highly likely that the concepts of censure do not align with what the residents of Los Altos want. Censure policies set a tone of intolerance and a reversal of progress of change. Censure sends the message to not speak one's mind. This intolerance and *sit down and shut up* message is one women and other minorities have lived with for centuries.

Censure does not encourage collaboration. It encourages an authoritarian single message atmosphere.

Censure stifles dialog. When difficult topics rise to the top, we have an opportunity to have tough conversations and to make positive change in our City and world. The most recent incident of racial discord in our City is an example of an opportunity. Certainly the City Council meetings were disrupted and the usual business did not get done, but I felt privileged to hear the concerns and insightful messages from the people speaking up. Some of the participants have never spoken at City Council meetings. What a valuable opportunity the disruption provided us.

If a censure policy were in place, those voices likely would not have been heard. Passion, missteps and tumult are all on the path to change. The positive changes in this country are all built on passion and the need for the repair of injustices.

Censure does not encourage positive changes. Nor does it encourage passion and repair of injustices. As a woman and voter in Los Altos, I vote no to censure in any form. All voices must be lifted and heard. All difficulties within our City must be viewed as an opportunity to hear vital messages that, if handled effectively, lead to positive changes.

Take the time and opportunity to find solutions that lift voices and promote healthy change in our City. Plan for future discord now. Don't try to stifle the tough conversations. Instead, consider alternatives. Perhaps mediation, a grievance board, or perhaps borrow from our wise Native American citizens and form a panel to act as "elders" in finding solutions to difficult conversations.

Do not reverse the progress made in changing the message sent to women and minorities to speak up. Vote no to censure.

Respectfully, Teresa Morris Dear City Council,

The Los Altos City Council has changed enormously over recent years. The public, by way of voting, moved the council from all male to all female, and back to a mix. We had a point where history was made with the all female council. These shifts and changes are important to recognize. The public sent a message of the desire for a change in leadership and the way things were done.

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Do not reverse the progress made in changing the message sent to women and minorities to speak up. Vote no to censure.

Respectfully, Teresa Morris

From:	maureen smith
To:	Public Comment
Subject:	Censure of fellow counsel
Date:	Sunday, October 10, 2021 2:57:45 PM

For heavens sake, to even contemplate passing such proposal of censuring another member of the council without due process is just another hate filled action. There is no circumstance that I would support such a proposal. Be careful what action you pass as it might come back to haunt you Sent from my iPhone

From:	Gary Carville
То:	Public Comment
Subject:	Censure Policy
Date:	Sunday, October 10, 2021 4:14:29 PM

I am extremely upset with the proposal for censure by the city council. This is a terrible idea and hope it is not approved.

I have lived in Los Altos for 37 years and had an established business here for 27 of those years. In that period of time, I have noticed the quality of the council members deteriorate dramatically and the in fighting increase exponentially.

Gary Carville 1165 Laureles Drive Sent from my iPhone Council members,

I strongly object to the Censure Policy which has been put forth by a member of our Los Altos City Council. We do not need to encourage division in our council and public shaming. The Norms and Procedures provide guidelines for acceptable conduct of our elected City Council members. The proposed policy discourages public discussion and exchange of ideas. I encourage the Council to reject Agenda Item 8, October 12, 2021 C

Jolene Cole Los Altos Resident

From:	Pat Sheehan
То:	Public Comment
Subject:	Please do not censure Free Speech
Date:	Sunday, October 10, 2021 6:07:09 PM

Please do not adopt any policy that will censure free speech for any Councilmember. It is incredible to me that there is a proposed policy that will do just that. Council members are elected by the citizens of Los Altos and have the mandate to express options of the people who elected them.

Respectfully, Pat Sheehan 360 Yerba Santa Ave. Los Altos CA. 94022

From:	Tom Parsons
То:	Public Comment
Subject:	Do not implement a censure policy within the City Counsel
Date:	Sunday, October 10, 2021 9:12:55 PM

I have just read about this policy on next-door neighbor. I pray it is not accurate, but in case it is, I need to express my concern.

Do not implement a censure policy within the City Counsel. This would be an embarrassment to our city and reflect badly on the immaturity of the Counsel.

Please do not consider such an unnecessary and unsound policy. No other city uses such extreme measures to hush opposition and remove healthy debate and expressing of opinions.

Lori Parsons, Los Altos resident and tax payer.

Council members,

I strongly object to the Censure Policy which has been put forth by a member of the Los Altos City Council. We do not need to encourage division in our council and public shaming. The Norms and Procedures provide guidelines for acceptable conduct of our elected City Council members. The proposed policy discourages public discussion and exchange of ideas.

I encourage the Council to reject Agenda item b, October 12, 2021 C.

Louis Cole Los Altos Resident

MEMORANDUM

To:	Mayor Fligor; Vice-Mayor Enander; Members Lee Eng, Meadows, Weinberg
From:	Eric Steinle
Subject:	Agenda Item #8: Discussion of Proposed Council Censure Policy
Date:	October 12, 2021

I submit this memorandum in my capacity as a resident of Los Altos, and not as a city commissioner. The views expressed here are my personal views. I do not write to represent the views of any other person or persons.

I submit this memorandum in opposition to any proposed policy to authorize either the admonition or censure of a member of the City Council. The grounds are that any such policy would be supererogatory, in that the Los Altos Municipal Code (LAMC) and the California Government Code already provide sufficient protections against misbehavior by a member of the Council; any such policy would intrude into areas that are none of this Council's business; any such policy would accomplish nothing of substance or of value to the city and its residents; and any such policy is, on its face, bad public policy.

For the reasons set forth in this memorandum, I urge this Council to drop the matter and move to its proper business.

Government Code section 36813 provides: "The council may establish rules for the conduct of its proceedings. It may punish a member or other person for disorderly behavior at a meeting." That is the extent of permissible discipline under state law. LAMC 1.20.010(A) enacts this power of discipline: "It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code shall be guilty of a misdemeanor, unless the violation is expressly specified to be an infraction." LAMC 2.05.030(A) provides: "The

city council may establish rules for the conduct of its proceedings by resolution or an action by the city council in accordance with state law." More broadly, our Constitution provides, in Article XI, section 7: "A county or city may make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws." And Government Code section 37112 provides: "In addition to other powers, a legislative body may perform all acts necessary or proper to carry out the provisions of this title." This refers to Title 4, Government of Cities.

It is clear from all this that the only discipline anticipated by state law includes disruption of legitimate city functions. It does not anticipate discipline beyond what is provided. Even the "necessary and proper" provision of section 37112 is followed by very specific words of limitation.

Censure (and its more lenient cousin, admonition) is the act of properly-constituted legislative bodies. By this, I mean those created by a constitution, such as the Senate and House of Representatives created by the federal Constitution (and which have full power to expel members, see Article I, section 5, a power that this Council lacks), or the California legislature (which also has the power to suspend or expel members, although that last happened in 1905). It is noteworthy that inferior legislative bodies, such as this Council, do not have the same power.

I suggest this difference is due to the simple fact that this Council is entirely a creature of state law. Its existence, power, jurisdiction, and function are defined by the Government Code. While it has the duty to certify elections, it does not have the power to annul their results. I suggest that discipline, such as the kind proposed here, is beyond the scope of what our Constitution and Legislature reasonably intended to provide.

I note that, while disruptive *conduct* is controllable (and controlled), that control is intended to occur at the time of the disruption. It is not intended to refer back to an earlier episode. For instance, if someone disrupts a meeting, that person may be arrested and charged with a misdemeanor. The misdemeanor would not include previous bad behavior.

Of course, the proposed policy does not anticipate criminal sanctions; it may be argued, and I will argue later, that it anticipates no sanctions at all. It also refers to a

violation, not only of law, as above; but also to a violation of city policy as expressed in the Council Norms. The Norms fall under the "necessary and proper" provision of Government Code section 37112, as they are the procedural rules for conducting city business. They are also authorized under LAMC 2.05.303(A), quoted above. These do anticipate certain disciplinary acts, along lines remarkably like what the code provides. For example, section 2.2 provides for removal of the Mayor, and 2.3 for removal of the Vice-Mayor. That is, it provides that they may be removed from those functions, not that they may be removed from the Council. Section 4.5 provides for removal of volunteer commissioners, who serve at the pleasure of the Council and may be removed with or without cause by, in the end, the votes of three members of this Council. Section 11.2 gives the mayor the power to impose ad hoc rules during a meeting, subject only to an objection by a majority of the members of the Council who are present. It is important to note that, even in this kind of extreme situation, the discipline is intended to control present conduct. Finally, section 14 provides, inter alia, that "all Councilmembers are required to comply with these Norms and Procedures." To the extent that the proposed policy provides that a member may be replaced on the various other bodies to which each member is appointed by the Mayor, since that is, like the election of the Mayor and Vice-Mayor, a function of this Council, it may be annulled by this Council. The Norms provide only that, what the Council has the power to grant, it has the power to withdraw.

To sum up, there is no authority clearly permitting this Council to impose any discipline on its members for anything they may do outside a meeting, so long as, in the manner prescribed by the Norms, they account publicly for what they do. Thus, the proposed policy would appear to be beyond the powers of this Council. The current laws of the state and the city protect against any disruptive conduct. The rest appears to be none of anyone's business, except to the extent an individual member chooses to transmute private affairs into city business. Even then, unless that transmutation includes disruptive behavior that impedes the orderly conduct of city business, it may be many things—rude, ugly, of only prurient interest—but it is not something this Council can control.

It should be noted that nothing anywhere prevents the Mayor from reminding members of this Council of their obligations under the Norms. Thus, it would be entirely appropriate, and perhaps even a good idea, for the Mayor to remind members at the beginning of a meeting that they should shut off all social media, messaging

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apps, and the like during the meeting; indeed, they should put away their phones. At the same time, the Mayor could call on the members of the public who are present to join the Council in putting phones away, or at least putting them on silent. As provided, in the event a Councilmember needs to remain in touch with family, because of a medical emergency or the like, it is sufficient to alert the Mayor to this need, and for the Mayor to announce that the Councilmember may have to consult their phone for this limited purpose. This, like the current practice of routinely reminding people of the rules concerning public comment, can and should become a regular feature of Council meetings, and it is squarely within the power of the Mayor as the presiding officer.

The proposed policy, besides lacking an appropriate focus, as I argue above, also does nothing. It, quite properly, does not specify what kind of violation of law or norms would trigger admonition or censure. But it also does not lead to anything but a kind of name-calling.

Here, this takes the form of a resolution voted by at least three members of the Council; whether it be an admonition or censure does not seem to matter, as they come to the same thing. The Council would be on record as not approving something one of its member did. Quite apart from the simple fact that the Council may not repeat, may not; is not permitted to—make such findings as required for the resolution as envisioned, this proposed policy leaves an important matter entirely within the discretion of individual members of the Council. Thus, one member may "call out" another for what the caller conceives is a violation of law or norms by the callee. When I was younger (I am now old enough to remember when I could remember things), we called this bullying.

That is what this is all about. Any member may, for any reason, seek to "admonish" another member; that admonishment may be pushed to the extreme, with or without investigation, of a formal (*i.e.*, written) admonition or censure, as the member moving the resolution may choose, apparently. We do not need this kind of schoolyard shenanigans at Council meetings. In the end, it will be simply an elaborate kind of objection to something one member of this Council may have done that the one seeking the admonition or censure seeks to call out.

It may be objected that the Council needs to do something if a member violates

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the law. Imagine that one of you robbed a bank, was caught and arrested, was tried and convicted. Imagine further that all of this happened within the four years of a Council term. Imagine further that the member refused to abandon their seat, at least until being taken to prison. What could this Council do? At present, it could soldier on; if the accused chose to appear, there would be no way to prevent them from participating in meetings, voting, and otherwise doing the one thing for which they were elected: the city's business. What would admonition/censure add to this? A resolution stating the disapproval of the Council.

The proposed policy, even if it were possible to enact it, is bad public policy. As noted above, it is, baldly-stated, bullying. One member may officially and publicly criticize another and push for this process to go forward. The target would get ten minutes at a later meeting of the Council to meet whatever charges were made. The basis would be vague: a violation of law or policy. Violation of law is uncertain enough—does it require official action by the police (something I believe our code anticipates, as the violation would be a misdemeanor, which, if I am not mistaken, requires an arrest)? An indictment? Conviction? Or "mere suspicion," which, unless it is "reasonable," will not even allow a constable to look in the member's pocket? Violation of the Norms is different, as they specifically say that the members are required to follow them, and rightly so. But what constitutes a violation? The devil is always in the details, and nothing about the proposed policy allows for developing a proper record of the "details."

It is also very bad public policy for this Council to invite controversy, for no gain. While nothing said during a meeting can be the basis for a lawsuit (Cal. Civ. Code, § 47), it is quite easy to anticipate that the kinds of things that might give rise to admonition or censure would, in a different setting, be defamatory. This policy only encourages such speech. That is not good public policy.

The proposed policy seems to go beyond the scope of the Council's authority and certainly encourage excursion into matters that are not this Council's business. Even without that, it would not accomplish anything of substance. It would invite unnecessary, distracting, and inappropriate controversy. It is bad policy and should be rejected.

Hi,

I am a Los Altos resident at 1372 Garthwick Ct and I am voting NO to this censure bill. Council members work for the residents and should work together to sort out their differences or resolve issues among themselves. I believe this will be for the best interest of Los Altos residents. Thank you, Bee-Ean Kua

Sent from Yahoo Mail for iPhone

From:	<u>Rj Devincenzi</u>
То:	Public Comment
Subject:	PUBLIC COMMENT Item #8, October 12, 2021
Date:	Monday, October 11, 2021 12:52:04 PM

Los Altos City Council worked as a team, for the most part, in past years. With so many troubling issues facing the community, I think it is a big mistake for council to consider censure and admonition powers among fellow members. It is adversarial and unnecessary.

Santa Clara City Council misused it last summer, making themselves look foolish.

Los Altos is home to numerous wounded veterans that fought for all Americans to enjoy civil rights, including the freedoms of expression and speech.

If elected officials are censored or admonished based on arbitrary interpretations, then our citizen's rights may topple too. That cannot happen. It disrespects our veterans.

Ronna Devincenzi Palo Alto, CA

From:	<u>nancy ell</u>
To:	City Council
Cc:	Andrea Chelemengos
Subject:	Item 8, October 12, 2021
Date:	Monday, October 11, 2021 11:05:04 AM

Hello Los Altos City Council,

We are writing in regard to Item 8 on your 10/12/2021 agenda.

As Council members, you were elected by the people of Los Altos. If you censure your colleagues, you are essentially negating the results of our election process.

And as your constituents, it is embarrassing to watch how certain Council members gang up on others. Adding public censure would make it worse. Plus, consider long term how other Councils who may (or may not) share your views could use this divisive tactic.

We expect more from those we elected into office like professionalism, collegiality and a desire to add to, not tear down, our community.

The mean-spirited behavior exhibited by some of our current Council members isn't what we voted for and you are not representing our values, ideals or sense of fair play.

Please listen to each other, respect diverse views and try to get along without having to censure another Council colleague with differing views.

Sincerely,

Nancy and Ron Ellickson Los Altos residents