

Los Altos City Council Releases Draft Memo On First & Main Property

To eliminate an unnecessary distraction for newly-elected Council

Los Altos, Calif. - November 30, 2012 - To eliminate an unnecessary distraction for the newly-elected Los Altos City Councilmembers, the Los Altos City Council yesterday directed Mayor Val Carpenter to release a confidential draft internal memorandum written by a former City of Los Altos staff member that is the subject of current litigation.

Prior to yesterday's direction, the Council had declined to release the confidential draft internal memorandum ("draft memo") due to concerns that doing so would reflect poorly on a former employee, and would also have a chilling effect on robust City staff debate on internal, pre-decisional, strategic, legal and administrative issues, which increases the quality of City executive decisions. However, with two of the five Councilmembers termed out on Tuesday, December 4, 2012, the Council decided to make the draft memo public, thus allowing the new Council to proceed unencumbered by the continuation of litigation, despite misgivings regarding the negative effect doing so may have on the candor and quality of City staff debate.

The draft memo was written by a junior staff member who is no longer employed by the City. The draft memo, which is now posted on the City's website at www.losaltosca.gov, discusses the sale of the City-owned property located at the corner of First and Main Streets, and presents the junior staff member's opinion that the City should entertain additional proposals. However, the junior staff member did not participate in Council closed sessions in which these issues were discussed with senior City staff members and the City Attorney, and the draft memo contains many factual omissions and inaccuracies.

The facts relevant to the subject of the draft memo and the reasons that the City did not previously disclose it are these:

1. Over a 10-year period the City unsuccessfully completed two expensive and time-consuming RFPs (Requests for Proposals) for the sale of the City's property at Main and First Streets, one in 1999 and one in 2008. The first RFP process resulted in extended on-again, off-again negotiations beginning in 2001 with Roxy Rapp and his various partner teams.
2. During that period there was an almost constant stream of "interested" developers, but none took the next step of presenting a credible offer. Senior City staff members continued to meet with several developers/investment teams outside of the formal RFP

process. None of those meetings resulted in a proposal.

3. After the unsuccessful completion of the second RFP in 2008, Jeff Morris independently came forward with a credible offer. It involved a real estate commission to an agent, and was attractive given the specificity of the offer, the reasonableness of the purchase price in light of the real estate market at that time, and the capability of the developer to finance and complete this type of project.

4. The junior staff member subsequently wrote the draft memo, which was designated as a "confidential draft", to her immediate supervisor and the City Manager, in which she argued for a third RFP, suggesting that there might be another "interested" but unnamed developer, with the caveat that their project would involve the relocation of Safeway. As such, the finalization of the agreement with Morris was postponed for a week to allow the new, unnamed developer an opportunity to come forward. That developer failed to do so.

5. At the September 14, 2010 regular Council meeting during which approval of the Morris option agreement was discussed, the "interested" developer was apparently present but did not step forward to express any interest. Some of the public speakers on this item expressed support for initiating another RFP process, while others expressed appreciation that a proposal which could actually be completed had been submitted and urged the Council to move forward with the project. One of the closest residents to the subject property strongly supported the Morris project, saying "Thank God we now have a proposal in front of us." Another prominent community member stated "Now here's an opportunity. Let's not blow it again. Let's go with this."

6. The Council discussed initiating another RFP process for this property during two regular meetings held on February 23, 2010 and September 14, 2010, carefully considered all public input, made a conscious decision not to delay the proposed project by initiating a third RFP process, and voted to approve the option agreement with Morris.