



# Eye on Ethics

The Newsletter for Members of Ethics San Mateo

SUMMER 2024

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### Publication Information

*Eye on Ethics* is a publication of Ethics San Mateo, a California Nonprofit Public Benefit Corporation. The purpose of this publication is to provide our members with information in fulfillment of our mission to educate and to provide benefits to our members. With the accomplishment of our mission, the residents of San Mateo as a whole will benefit.

All information provided is either fact-checked and verified, or so identified as unverified or an opinion.

Editorials, Commentaries, Statements of Position and Ethics Watches, or other writings in this newsletter may contain opinions of Ethics San Mateo. Unless otherwise attributed, all writings included in this publication are attributed to Ethics San Mateo.

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## Announcements

### Dues

Annual Dues Notices are being sent to ESM Regular and Supporter Members. Membership renewal dues are payable at the end of the year you joined us. You should receive the notice during the 12th month of your membership. Our expenditures are kept to a minimum, and none of the Board or volunteers gets a dime for their time and efforts. We only pay for necessary items/services, such as insurance and government fees. If you have any questions or concerns, please contact [Membership@EthicsSanMateo.com](mailto:Membership@EthicsSanMateo.com).

## Membership Meeting and Free BBQ

**SEPTEMBER 14 AT 4:00PM -- PLEASE RSVP BEFORE SEPTEMBER 11**

Join your fellow ESM members for some fun, enjoy some good BBQ, and hear what's going on with ESM. The event is FREE, but we hope some of you will contribute to our operating costs with a donation. All food and beverages are being donated by the ESM Board of Directors so there is no cost to our organization to hold the event. All Members should have received both an "Evite" and email invitation. If you have not, please let us know at [Communications@EthicsSanMateo.com](mailto:Communications@EthicsSanMateo.com).

## Epic Failure!

In the Spring 2024 Eye on Ethics, we proudly announced “A WIN FOR THE RESIDENTS OF SAN MATEO!” Well, we were a bit premature in our celebration. Sadly, our City Council missed the opportunity to take advantage of independent, professional, and costly consultants. The Code of Conduct Study Session was held, but the session and results were more than disappointing. It was an embarrassment, a \$11,500 waste of time and our money.

They had a golden opportunity to create a positive legacy to leave behind, instead of the stain on this city due to the unacceptable behavior of some elected and appointed officials. Bad behavior reflects on the City Council’s performance, especially in the failure to address and eradicate it.

Apparently, the City Council and top staff are unconvinced that the residents of San Mateo deserve a city government led by Council Members and Commissioners who are held accountable to a high level of ethical conduct and behavior standards.

The City Council agreed to try to be nice to each other and residents, to try to get along, not to speak out of turn, and be focused. And, yes, to follow the law. If someone breaks the rules? Short of a serious criminal act, and even that isn’t included in the changes, nothing! And self-determination of a conflict of interest remains! The actual change to the Code of Conduct is on page 7.

Enabled by unchallenged inclusion in the July 15th meeting Consent Calendar, the unanimous adoption of undefined, unenforceable and consequence-free revisions to the Code of Conduct is beyond reasonable explanation. The City Manager’s statement that further work will be done early next year seems a mere appeasement attempt. How many times have we seen the City Council make promises that were unfulfilled? Because of the upcoming election, there will be a new City Council formed in December. Will the new council be held accountable to uphold the City Manager’s promise? Will the two new council members vote to do anything about the joke of a Code of Conduct that now exists?

All of us need to demand more from our City Council, now, not next year! As they fiddle, taxpayer money is burning, and some city officials are out of control with no enforceable guardrails.

## Editorial *Editorials are the collective opinions of the ESM Board of Directors*

### **Apathy, Ethics and Trust**

Sadly, a vast majority of San Mateo residents most likely either do not know and/or do not care about city politics and the ethical issues ESM investigates. People are busy, many struggling with fulfilling the requirements of day-to-day life. That is until they are directly affected by something the “city” does or does not do. The term “city” is purposely used because most people probably view all the pieces and parts of San Mateo city government as a single entity. The apathy of our residents is not unique. We’ve heard over and over that people simply do not pay attention to local government. Again, until something happens that is contrary to what they want. Even then the feeling of having their voice ignored or suppressed drives them to give up. “Whatever, you just can’t fight city hall!” might just fit as the motto of many cities. The longer some of our city officials get away with bad behavior, the stronger this motto becomes.

We view requirements for adherence to Ethics Standards and Codes of Conduct as mandatory, not optional. These standards and codes must be present and strong. Let’s depart from our city, a small dot on the map, and consider the on-going discussion about the ethics standards of the United States Supreme Court. Under intense pressure, SCOTUS adopted a Code of Conduct. As occurrences of accepting “gifts” in the form of free travel, etc., and signs (flags?) of prejudicial ideology became widely publicized, the Justices apparently thought it would be a good idea to address the criticism. The result ([https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices\\_November\\_13\\_2023.pdf](https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices_November_13_2023.pdf)) rings familiar with San Mateo’s newly “revised” Code of Conduct. There are no provisions for enforcement, any conflict of interest determination is the purview of the Justice involved, the provisions are worded as “should” adhere statements rather than “must” adhere, and there are no consequences for even the most egregious violation.

Ketanji Brown Jackson, Associate Justice of the Supreme Court of the United States, in an interview on CBS News (<https://www.cbsnews.com/news/ketanji-brown-jackson-supreme-court-ethics-code/>) discussed the lack of enforceability in the SCOTUS Code of Conduct. Are the ethics standards of the highest court of the land, the place of final judgment of disputes that could affect the whole world, acceptable in light of many of their recent decisions? Have the rules allowed powerful and wealthy entities to become more influential than the United States Constitution and Rule of Law? Have some very fat thumbs been tipping the scales of justice?

Yes, it is a very lofty discussion for a tiny nonprofit in a city of around 100,000 population to conduct. It is, however, a necessary discussion when studying at what level of government does the apathy end and robust democracy begin.

Ethics San Mateo challenges our City Council members to ask themselves if they believe that the SCOTUS Code of Conduct provides enough protection from the potential of corruption of the Court. If they believe that the currently unabated questionable behavior of some of the Justices is unacceptable, they must take action. They must repair the very same lack of enforceability and consequences for violations in the city’s joke of a Code of Conduct. Accountability to the residents of San Mateo with rules that mean something is desperately needed.

## Voices

***“Voices” are submissions by members of Ethics San Mateo. Published submissions must comply with our Code of Conduct. Only submissions by verified members of Ethics San Mateo will be accepted. These are the opinions of the submitting members, not necessarily of Ethics San Mateo. If you are interested in submitting an article, please contact us at [Information@ethicssanmateo.com](mailto:Information@ethicssanmateo.com).***

As an original member of Ethics San Mateo, together we have been working towards pushing our City Council into implementing ethical conduct and standards for our city government. As of yet, the City Council has not adopted any of our recommendations except the failed study session.

Our City Council has put on the next election, for San Mateo voters, Measure T which according to my research will result in our current Measure Y, which the voters passed in 2020, no longer being the standard for development, height and density.

My concern with Measure T is the donations received by major developers to support its passage, which the City Council has advertised as a state mandate to supply housing, especially low-cost housing, towards meeting our requirements of 7,900 new units. The fact is that we met our housing requirements set by the state through the first cycle using Measure Y, but for reasons still not satisfactorily explained to me, was only conditionally accepted by the state. The city has reported that the state requires bypassing Measure Y to fully approve the Housing Plan going into the next cycle.

One of the developers contributing to Yes on T is Prometheus, a major developer and landlord in San Mateo. They have contributed \$20,000 to Yes on T. They have also been named in an anti-trust lawsuit filed by the US Department of Justice, (<https://www.mercurynews.com/2024/08/26/tenants-say-bay-area-landlords-colluded-to-inflate-rents-now-the-department-of-justice-is-involved/>), and could profit from the passage of Measure T.

I feel that the donation should, for transparency, be returned to Prometheus until this matter is resolved.

Michael Ragan

## The Flashlight

**The Flashlight articles are discussions of items Ethics San Mateo has identified, or has been alerted to, as possible ethical issues. Information may not be verified, and Ethics San Mateo is not attesting to the accuracy of unverified statements, information or accounts of events, nor making any accusations. We are simply letting our members know that we are looking at something.**

This edition's Flashlight is shining on an aspect of a very contentious issue, Measure T.

Measure T is a ballot measure developed at taxpayer's expense by the City of San Mateo. The proponents of the measure claim that the measure will not affect other areas, although it repeals Measure Y completely. Some opponents of Measure T believe that statements by city officials, written and verbal, are incorrect and purposely misleading.

Ethics San Mateo is not supporting or opposing the measure, which will be subject to a vote in November. We are, however, concerned that some vitally important information isn't being explained in sufficient clarity to provide voters with a factual basis upon which to determine their vote. We have studied the proposed measure, including the related documents, San Mateo City Municipal Codes/Ordinances, as well as written statements by city officials, and are focusing on a few points of initial concern:

- Measure T both removes all the text of Measure Y AND repeals it.
- Measure Y specifically allows the city to conduct a vote to increase building heights in specific areas without repealing Measure Y. If just modifying the height/density in the stated areas is the only intent of Measure T, why was this Measure Y provision not utilized to avoid much of the confusion and contention surrounding Measure T?
- Measure T states that the height and density provisions of a repealed Measure Y will be adhered to outside of the specified areas. Is this adherence enforceable?
- The provisions in Measure Y for affordable housing, etc., would be repealed; affecting all of San Mateo, not just the areas mapped.

Proponents of Measure T, including city officials, are publishing and distributing statements that the repeal of Measure Y is needed to meet the demands of the State of California (HCD) and to maintain consistency in the General Plan, City Municipal Codes and Ordinances. They state that the provisions for affordable housing, building heights and density of Measure Y are contained in City Municipal Codes and Ordinances, and would thus be preserved, but with the exceptions contained in Measure T.

There are City Municipal Codes/Ordinances that contain requirements for developers to pay a fee or provide low-income housing and put limits on height and density. Yes, buried in the many hundreds of pages of law are bits and pieces of these provisions. Finding and mapping the applicable sections would be quite time-consuming, leading to a likely conclusion that few voters would bother to make the effort.

There is a lot of information from proponents and opponents. Determining which are facts, which are untrue, and which parts are "spin" is challenging. It is apparent that city officials are not presenting a clear, comprehensive and complete description.

## **The Flashlight** *(continued from page 5)*

The city's general approach to convince us to vote yes on Measure T is "TRUST US, we won't expand the higher density or building heights outside of the mapped areas." Additionally, the threat of upzoning in certain areas of the city is being used and is becoming a promise if Measure T does not pass.

If Measure Y is repealed, any of the City Municipal Codes/Ordinances which were based on the VOTER MANDATES contained in Measure Y could be changed or removed by a simple majority vote of the City Council. Three council members could decide that a 50-story apartment building could be developed in the middle of a R1 (single family) zoned neighborhood.

It is at the "TRUST US" to which the focal point of our flashlight is aimed. We have been advocating for a Code of Conduct and Ethics Standard for a long time. We have not seen any substantive progress beyond an agreement that the City Council should look into it and hold a study session which resulted in nothing substantial and a delay in considering actually doing something meaningful.

*We have one simple question:*

### ***Has our City Council earned the trust of the residents of San Mateo?***

Ethics San Mateo, to reiterate, is not taking a position of support or opposition to Measure T. We are watching closely to see if the city will provide factually correct and detailed information to the voters rather than depending on "TRUST US".

**Our Flashlight is ON.**

### ***ESM Board of Directors***

*David Cohen, President/CEO\**

*Randy Hietter, Treasurer/CFO\**

*Lisa Vande Voorde, Secretary\* and*

*Director of Membership*

*Connie Weiss, Director of Communications*

*Michael Weinbauer, Director at Large*

*\* Denotes a Corporate Officer*

### ***Advisory Council***

*Reverend Lorrie Carter Owens*



**(Continued from EPIC FAILURE!, Page Two)**

Excerpted directly from San Mateo City Council Rules & Procedures, Chapter 6:

**Council Member Conduct**

*1. Council Members are committed to governing for all, and running our meetings with civility, decorum, and respect. With that spirit, San Mateo Council Members shall:*

*A. Govern as a body. If we work together well as a team, our City will excel.*

*B. Treat all with dignity, courtesy, and respect. This includes staff, each other, or members of the public, on and off the dais.*

*C. Keep confidential matters confidential.*

*D. Respect process and roles. This includes avoiding interruptions and distractions.*

*E. Agree to disagree in a respectful manner. We focus on the issue not the person.*

*F. Keep our comments clear, concise, and on-topic. This respects our colleagues', the public's, and staffs' time.*

*G. Give each other a chance to speak. Everyone gets to speak before another of us speaks for a second time. We refrain from dominating the discussion.*

*H. The Mayor normally speaks last. After other members of the Council have offered their opinions, the Mayor speaks. The Mayor can speak after each round of speaking by Council Members.*

*I. Be mindful of the impact of our words and tone. We consider this as we address each other, staff, and the public.*

*J. Promote discussion and resolution. We present problems and issues in that way.*

*K. Follow the agenda. We begin and end meetings on time.*

*L. Respect the City Charter, rule of law, and decisions once made. We do not attempt to undermine decisions.*

*M. Speak for the City only when specifically authorized.*

*N. Practice a "no surprises" rule. We give a heads up to the City Manager and City Attorney out of respect and teamwork.*

*O. Practice the principles of inclusivity and self-awareness to guard against implicit bias in our actions and decisions.*

*P. Adhere to all conflict-of-interest laws*

