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## 9 B Code of Conduct - FACTS

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From Kevin Maguire <kmaguire831@gmail.com>

Date Wed 9/24/2025 5:46 PM

To City Clerk <cityclerk@ci.capitola.ca.us>; City Council <citycouncil@ci.capitola.ca.us>; Clarke, Joe <jclarke@ci.capitola.ca.us>; Westman, Susan <swestman@ci.capitola.ca.us>; Gerry Jensen <gjensen@ci.capitola.ca.us>; Margaux Morgan <mmorgan@ci.capitola.ca.us>; Melinda Orbach <morbach@ci.capitola.ca.us>

Cc Samantha Zutler <SZutler@bwsllaw.com>

Dear [City Clerk/Mayor/City Attorney],

Please enter the attached documentation into the public record for consideration at the September 25, 2025 Council meeting regarding my Code of Conduct complaint against Councilmember Orbach.

The attached timeline and supporting communications are provided to demonstrate my good-faith efforts, beginning in April, to seek a civil resolution through appropriate channels. These are contemporaneous records that show the steps I took and the responses I received.

My intent in submitting this material is not to expand the scope of the complaint, but to ensure the Council has an accurate factual record as it considers this matter.

Thank you for your time and for including this in the official record.

Respectfully

Kevin Maguire

## TIMELINE OF GOOD-FAITH OUTREACH & DOCUMENTED FACTS

**4.23.25** – voicemail exchange with Chief Ryan requesting assistance with resolution. Followed up with a Phone call.

**4.23.25 (8:04 PM)** – Emailed entire Council asking for an apology and resolution.

**4.26.25** – Text exchange with Mayor Clarke requesting assistance regarding resolution (followed by phone calls).

**4.28.25** – Met with Mayor Clarke for over an hour to discuss paths to civility.

**5.02.25** – Texted Chief Ryan reiterating request for peaceful resolution and apology.

**5.29.25** – Follow-up outreach to Councilmember Orbach, Chief Ryan, and Mayor Clarke again seeking resolution.

**6.12.25 (7:57 PM)** – Filed formal Code of Conduct complaint against Councilmember Orbach.

**6.26.25 (4:23 PM)** – First email from Councilmember Orbach in over two months, mentioning CRC mediation.

**7.16.25 (10:20 AM)** – I responded after returning from travel.

**7.16.25 (4:18 PM)** – Councilmember Orbach replied with a brief 13-word response to my detailed question about how mediation could address the harm.

**7.16.25 (4:26 PM)** – I clarified: open to mediation, but stressed the need for sincerity and acknowledgment of the real impact of her remarks as part of any resolution.

**7.31.25 (10:51 AM)** – Orbach: *"You do not start mediation with a set of conditions. That is not how mediation works. If you would like to move forward with mediation, let me know. This is my third and final offer."*

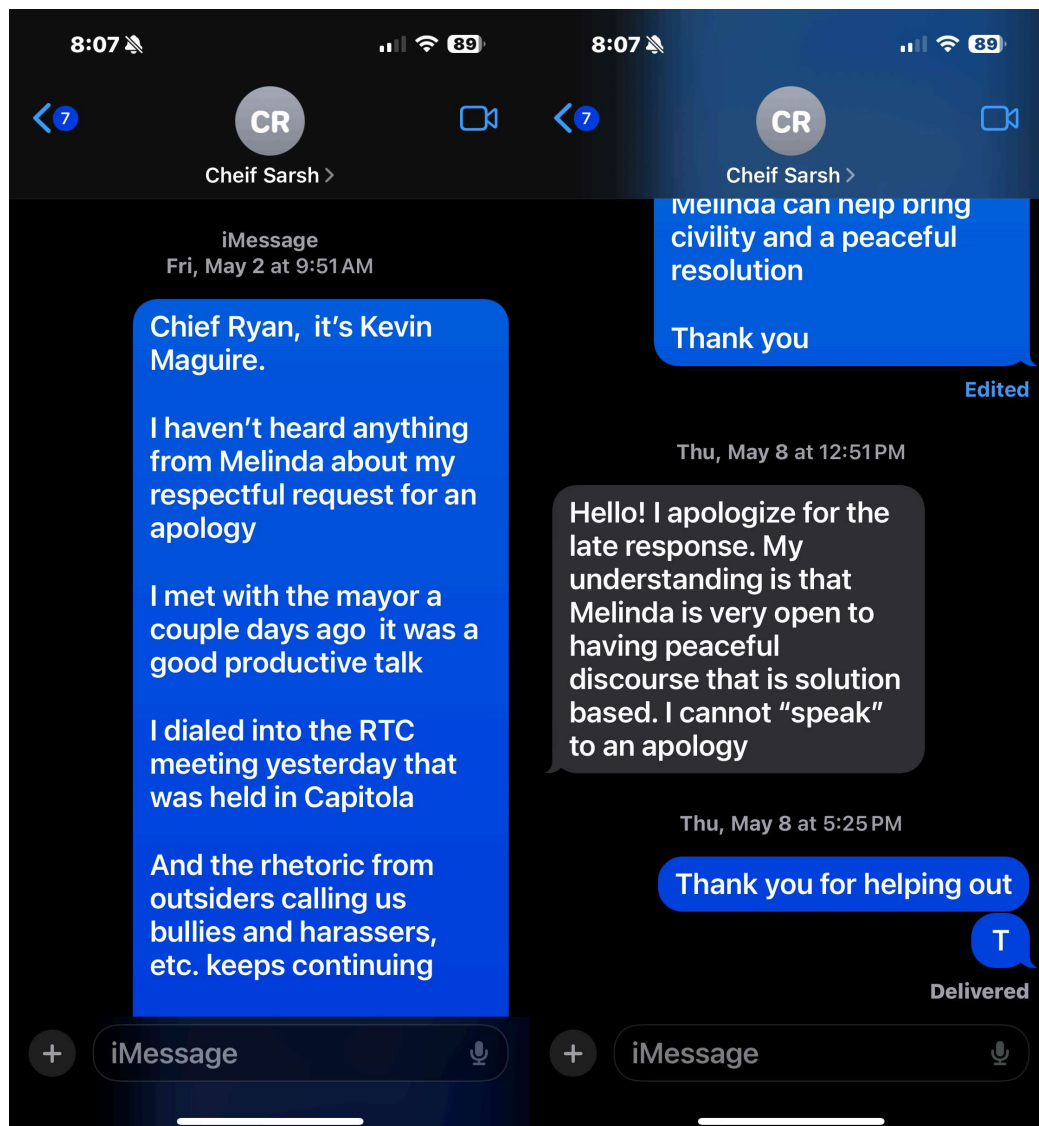
**7.31.25 (8:44 PM)** – My reply: *"Yes, mediation is a voluntary process... to be honest about the real impact of your public remarks and the need for that harm to be acknowledged at some point in the process, not necessarily at the outset, but as part of any genuine resolution."*

**8.01.25 (2:01 PM)** – Orbach replied: 7-word response *"Staff from the CRC will reach out."*

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## Key Clarifications

- Orbach's "three offers" were **not three distinct offers**. It was **one ongoing conversation**, in which I consistently affirmed openness to mediation while emphasizing the need for sincerity.
- CRC has since reviewed the matter and **recommended against mediation**, confirming this is not a "misunderstanding" but a case of public harm that belongs with the Council.



4:53

100

New iMessage

Cancel

To: Joe Clarke

iMessage

Sat, Apr 26 at 12:43 PM

Mayor Clarke it's Kevin Maguire

Hope you're doing well today

Not sure who's in charge but the city flag is not at half staff, but the fire department is for the Pope's funeral

I know the council is dealing with a lot of stuff.

I am trying to come to a peaceful resolution over this. Council members  
Outback situation

+

iMessage



4:53

100

New iMessage

Cancel

To: Joe Clarke

I am trying to come to a peaceful resolution over this. Council members Orbach situation

All I want is an apology and to clear my name

Not sure if you can help foster anything or if my next steps is the file formal complaint

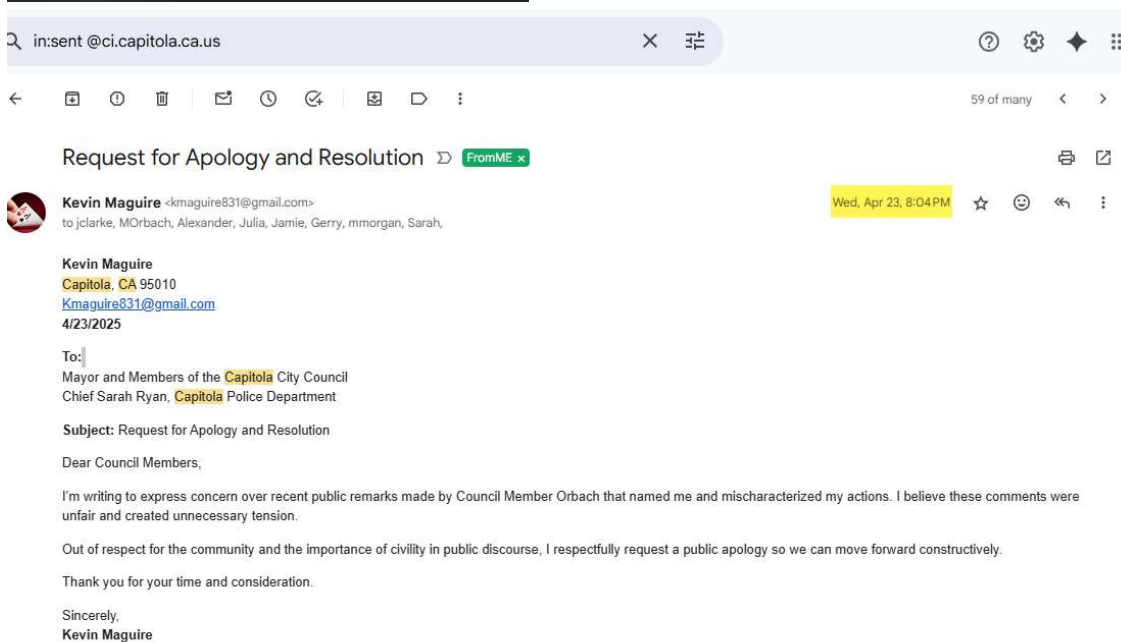
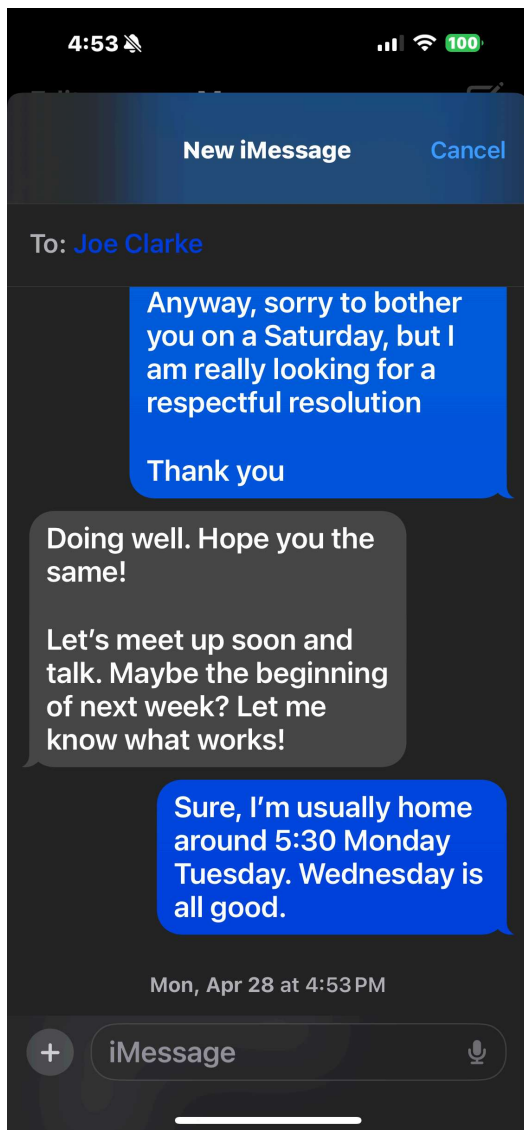
I've already talked to a chief Ryan and cleared everything up there. I didn't do what was alleged, and did no wrong doing

I have been in talks with

+

iMessage





in:sent @ci.capitola.ca.us

40 of many

Request for Resolution as I Pursue Council Appointment on June 12th 2025

FromME x


Thu, May 29, 4:46 PM

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 **Kevin Maguire** <kmaguire831@gmail.com>  
to **MOrbach, jclarke, Sarah**

Hi Councilmember Orbach,  
  
I hope you're doing well. I wanted to follow up regarding the remarks made during the **April 17th council meeting**, where I was personally named and characterized in ways that were both untrue and harmful.  
  
Accusations of harassment and threatening behavior were made publicly, from the dais, without speaking to me, verifying facts, or initiating any investigation. Those words carry weight, and the result has been reputational damage and unnecessary division in our community.  
  
I've taken time to reflect on how we got here. But when harm is done **publicly**, I believe **resolution** should be **public as well**.  
  
That's why I'm **respectfully** asking for a **public apology**, not to dwell on the past, but to begin **repairing trust**. Like you, I believe in doing my homework and coming prepared with facts and notes. In that spirit, I wanted to give you time to consider a short statement at the June 12th council meeting.  
  
I understand the Council is currently reviewing its **Code of Conduct**, and I believe this moment offers an opportunity to lead by example, showing how we hold **ourselves accountable** and engage **one another with respect**.  
  
While I hope we can resolve this **respectfully**, I've been advised to preserve all legal and formal avenues available to address the reputational and personal harm caused, should this not be resolved constructively.  
  
I truly hope it doesn't come to that. **Capitola** deserves leadership that models **accountability and civility**, from all of **us**.  
  
I also want to share that I intend to apply for the **vacant council appointment**. Since your public remarks, I've felt **discouraged** from participating in **meetings and community discussions**, something that's always been important to me. The **emotional toll**, including **anxiety** and **public embarrassment**, has made it more difficult to **fully engage** in the spaces where I've long felt a sense of **purpose and belonging**.  
  
If you're open to discussing this further, I'd truly appreciate a response before the June 12th meeting. I believe having some resolution beforehand would help **us** all move forward in a more constructive and unified way.  
  
Thank you for taking the time to consider this. I remain **hopeful** we can move forward in a way that **strengthens our community**.  
  
Warmly,  
**Kevin Maguire**

in:sent @ci.capitola.ca.us

31 of many

Formal Complaint Against Councilmember Melinda Orbach

Inbox x FromME x


Thu, Jun 12, 7:57 PM

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 **Kevin Maguire** <kmaguire831@gmail.com>  
to **jclarke, Gjensen, MOrbach, mmorgan, Julia, Jamie, City, citycouncil, City**

**Formal Complaint Against Councilmember Melinda Orbach**  
Submitted by: **Kevin Maguire**  
Resident of **Capitola, CA**  
Date: 6.12.2025

**Subject:** Formal Complaint – Violation of **Capitola** City Council Code of Conduct by Councilmember Melinda Orbach  
  
To the Mayor, City Council, City Attorney, and City Manager:  
  
My name is Kevin Maguire, and I am a lifelong **Capitola** resident. My family has called this city home since 1966. My grandfather (Adamo D'Ambrosio), a veteran of both World Wars, was an active civic participant — attending council and planning commission meetings and contributing to responsible land use through the Young Conservationists. I proudly continue that tradition through ongoing civic engagement and advocacy for transparency and respect in public service.  
  
I am submitting this formal complaint regarding the conduct of Councilmember Melinda Orbach during the April 17, 2025, City Council meeting. During that meeting, Councilmember Orbach used her position on the dais to publicly accuse me — by name — of harassment and threatening behavior. These accusations were made without any prior communication with me, without evidence, and without any due process. They were broadcast to the community, recorded in the city's official meeting archive, and made in the context of a public meeting, where power dynamics are not equal.  
  
This is not the first instance where Councilmember Orbach has misused the dais — repeatedly using public time and her platform to respond to personal criticism and online commentary, rather than focusing on city business or respectful civic discourse.

**Violations of the Code of Conduct**  
  
Councilmember Orbach's comments directly violated key provisions of the **Capitola** City Council Code of Conduct, including:  

- Section 5.4 – Council Conduct with the Public**  
"Councilmembers shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of members of the public."
- Section 6.1.2 – Avoiding Impropriety and the Appearance of Impropriety**  
"Members should not engage in behavior that could be perceived as retaliatory, dismissive, or personally biased."

  
Councilmembers are also expected to be courteous and responsive to public communications. To that end, I recently submitted a **Public Records Act (PRA) request** to audit Councilmember Orbach's constituent communication activity over the past six months, seeking to understand her patterns of responsiveness and public engagement.

Inbox x FromME x



Dear N

I hope this message finds you well.

To that end, I'd like to invite you to consider working with the **Conflict Resolution Center of Santa Cruz County (CRC)**. CRC is a well-regarded local nonprofit that has been helping individuals, organizations, and communities navigate conflict for over 35 years. Their services are confidential, voluntary, and completely neutral. The mediators are trained professionals who are committed to creating a safe and respectful space for open communication and problem-solving.

My intent in reaching out is to de-escalate the situation and invite a new kind of conversation—one guided by experienced facilitators who can help us move beyond misunderstandings. I am willing to participate in this process if you are open to it as well.

Sincerely,

Get [Outlook for iOS](#)

[Message clipped] [View entire message](#)

Kevin Maguire

Wed, Jul 16, 10:20 AM ☆

Dear Councilmember Orbach, In response to your email and the suggestion of using the CRC, I must be clear: your public comments on April 17 — and your reaffirma

Melinda Orbach <morbach@ci.capitola.ca.us>

Wed, Jul 16, 4:18 PM ☆ 😊 ⏪ ⋮

to me, Joe, City ▾

Mr. Maguire,

If you agree to mediation through CRC, I can set up a meeting.

Melinda Orbach  
Capitola City Councilmember

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From: Kevin Maguire <[kmaguire831@gmail.com](mailto:kmaguire831@gmail.com)>  
Sent: Wednesday, July 16, 2025 10:21 AM

Wed, Jul 16, 10:20 AM

Wed, Jul 16, 4:18 PM ☆ 😊 ⏪ ⋮

from:morbach@ci.capitola.ca.us

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Sincerely,  
Kevin Maguire  
Lifelong Capitola Resident

M

Melinda Orbach

<morbach@ci.capitola.ca.us>

to me, Joe, City

Jul 16, 2025, 4:18 PM

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Mr. Maguire,

If you agree to mediation through CRC, I can set up a meeting.

Melinda Orbach  
Capitola City Councilmember

Get [Outlook for iOS](#)

From: Kevin Maguire <kmaguire831@gmail.com>  
Sent: Wednesday, July 16, 2025 10:21 AM  
To: Melinda Orbach <morbach@ci.capitola.ca.us>  
Cc: Clarke, Joe <jclarke@ci.capitola.ca.us>; City Attorney <cityattorney@santaclaraca.gov>  
Subject: Re: Invitation to Consider Mediation Through the Conflict Resolution Center

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...  
[Message clipped] [View entire message](#)

Kevin Maguire

<kmaguire831@gmail.com>

to Melinda, Joe, City

Jul 16, 2025, 4:26 PM

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Councilmember Orbach,

Thank you for your reply.

I remain open to exploring mediation through the Conflict Resolution Center. However, I want to be clear that participation on my part depends on one key point:

This matter was made public from the dais, with direct and harmful accusations against me. That public harm cannot be resolved solely through a private process. Any sincere effort toward resolution must include a **public step to repair the damage**, whether in the form of a correction, clarification, and apology that acknowledges the real impact of what was said.

Mediation could be a tool to help get us there, but it can't be a substitute for **accountability or truth**. I also believe we must go into any mediated process with a shared understanding: **that facts must be separated from feelings**, and that meaningful resolution includes some willingness to reflect on how this situation was handled.

If you can agree to those basic principles, a path that includes both dialogue and public accountability, I will participate in mediation.

Sincerely,  
Kevin Maguire

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Kevin Maguire

----- Forwarded message ----- From: Melinda Orbach <morbach@ci.capitola.ca.us> Date: Wed, Jul 16, 2025 at 4:18 PM Subject: Re: Invitation to Consider M

Jul 18, 2025, 1:26 PM

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from:morbach@ci.capitola.ca.us

1 of 1

M

Melinda Orbach

<morbach@ci.capitola.ca.us>

to me

Jul 31, 2025, 10:51 AM

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Mr. Maguire,

You do not start mediation with a set of conditions. That is not how mediation works. If you would like to move forward with mediation, let me know. This is my third and final offer.

Melinda Orbach  
Capitola City Councilmember

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From: Kevin Maguire <kmaguire831@gmail.com>

Sent: Wednesday, July 16, 2025 4:26:35 PM

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Kevin Maguire

<kmaguire831@gmail.com>

to Melinda

Jul 31, 2025, 8:44 PM

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Councilmember Orbach,

Thank you for your response.

To clarify: I understand mediation is a voluntary process that cannot begin with rigid conditions or demands. My intent was not to set ultimatums, but to be honest about the real impact of your public remarks and the need for that harm to be acknowledged at some point in the process, not necessarily at the outset, but as part of any genuine resolution.

I remain willing to participate in mediation through the Conflict Resolution Center. I'll approach it with a sincere and open mind, focused on moving forward. I hope you'll do the same, not just to resolve a dispute, but to begin rebuilding trust and civility, values we both claim to support in our community.

Please let me know how we move forward with scheduling the process through CRC.

Sincerely,  
Kevin Maguire

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M

Melinda Orbach

<morbach@ci.capitola.ca.us>

to me

Aug 1, 2025, 2:01 PM

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Staff from the CRC will reach out.

Melinda Orbach  
Capitola City Councilmember

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