

## Gautho, Julia

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**From:** Heidi <Heidy@cwo.com>  
**Sent:** Monday, March 23, 2026 3:40 PM  
**To:** City Council  
**Subject:** March 26, 2026 meeting

Dear Capitola City Council,

I write regarding Item **8E on your March 26, 2026 agenda** (Capitola Mall and Objective Standards Zoning Code Amendments). I respectfully request that this item be pulled from the Consent Calendar and that Councilmember Orbach abstain due to her spouse's formal complaint to the State's Housing and Community Development Department on this same matter.

As you may recall, I have previously raised this issue on a procedural basis. I first requested her recusal at your February 23, 2026 meeting. When she did not recuse, I then asked the Council, at your March 16, 2026 meeting, to address how it would safeguard the integrity of its deliberations moving forward.

Because the matter has not yet been addressed, I have prepared a summary of pertinent issues drawn from the **Fair Political Practices Commission ethics training that City Councilmembers are required to complete** within six months of taking office and every two years thereafter. My intent is to offer relevant context and source material for your consideration.

While I understand the situation may not constitute a financial conflict of interest under state law, the combination of a close family relationship and a formal complaint to the State on the same matter raises reasonable questions regarding impartiality and fairness. When such concerns are not addressed on the record, it can impact public confidence in the integrity of the Council's decision-making process.

### FPPC ETHICS COURSE CITATIONS

#### Public Trust

"Public service ethics is not just about whether you do the right thing, but also about whether the public feels confident that you put the public's interest above all others. As stewards of the public's trust, public officials should always consider how their actions, decisions, and relationships will be perceived by the public."

"The law, however, only sets a *minimum* standard for ethical conduct. Just because an action is legal doesn't mean that it is ethical or that it reflects your or the public's values."

"Therefore, a person who acts with ethical considerations in mind will often go well beyond the law's minimum requirements."

"If you receive advice that the law permits you to participate in a decision, your analysis is not over."

"Ask yourself whether your constituents will reasonably question your ability to put your personal interests aside and put their, the public's, interests first."

## **Fair Process Laws**

“The public’s perception that decisions are made fairly is an important element of the public’s confidence and trust in government and individual public officials.”

“Although California statutes largely determine when public officials must disqualify themselves from participating in decisions, common law (judge-made law) and some constitutional principles still require a public official to exercise his or her decision-making powers free from personal bias—including biases that have nothing to do with financial gain or losses.”

“Non-financial interests can make participation in a decision improper if one has a personal interest in the outcome that causes observers to reasonably question the decision-maker’s ability to be fair and impartial.”

## **Possible Consequences**

*The following citations reflect how questions of bias are typically addressed in public decision-making contexts:*

“Typically, having the official who may have exhibited bias disqualify himself or herself avoids legal issues.

“If the problem is not addressed though, the agency’s decision will be at risk of being overturned by the courts.

“The agency will have to conduct new proceedings free of the influence of the biased decision-maker.”

## **Family Members**

“The notion is that it is very difficult for any person to be fair and unbiased when one’s family’s interests are concerned; it of course is also difficult for the public to perceive the official to be fair and unbiased about close family members.”

“It can be wise to avoid questions about family relationship by voluntarily not participating in decisions that affect family members, even if the law or local agency regulations allow you to participate.”

## **Closing**

In closing, I offer this letter in the spirit of supporting a strong and defensible process. While Councilmember Orbach has already participated in deliberations, which may leave the matter vulnerable to procedural challenge, it would be unfortunate for such an important redevelopment effort to face further risk when recusal remains a simple step that helps preserve public trust and confidence in the Council’s decision-making.

Best Regards,

Heidy Kellison