
[PDF] Fwd: Item 9 E-Code of Conduct and Residency

From Welch, Troy (TJ) (noworries4TJ@mac.com) <noworries4TJ@mac.com>

Date Wed 7/23/2025 11:04 AM

To Gautho, Julia <jgautho@ci.capitola.ca.us>; City Council <citycouncil@ci.capitola.ca.us>

 1 attachment (616 KB)

Jamie-Samantha response to Formal Complaint to city.pdf;

My apologies, this has the attachment.

Begin forwarded message:

From: TJ WELCH <noworries4tj@mac.com>

Subject: Item 9 E-Code of Conduct and Residency

Date: July 23, 2025 at 11:00:30 AM PDT

To: Julia Gautho <jgautho@ci.capitola.ca.us>, Capitola City Council
<citycouncil@ci.capitola.ca.us>

Cc: Undisclosed CC recipients <noworries4tj@mac.com>, Concerned Citizens Of
Capitola <concernedcitizensofcapitola@gmail.com>

Dear City Council Members,

I strongly encourage the continued support for the Code of Conduct Policy I-42.
Additionally, I recommend the following additions and clarifications

1. **Acknowledgment of Formal Complaints (8.4.1):** Include language that ensures all formal complaints are acknowledged, regardless of their merit
2. **Complaint Handling Process (8.4.2):** Provide a clear response regarding how each complaint will be handled.
3. **Forwarding Complaints (8.4.2):** Add language specifying that all formal complaints are forwarded to the City Council, irrespective of the City Attorney's understanding or recommendations.
4. **Open Session Discussions (8.4.2):** Require that all formal complaints, regardless of enforcement, be addressed during open sessions of scheduled City Council meeting.
5. **Dismissal Reasons:** Ensure that if a complaint is dismissed, a reason is provided.

In 2024, a formal complaint was filed against two council members for allegedly violating CMC 8.42. Within an hour, the City Manager responded via email, stating that there is no

internal procedure for a resident to file a complaint against either the full Council or individual Councilmembers, followed by a similar email from the City Attorney (attached). This should be cleared up, so the residents have access for complaints to be heard by our City Representatives.

Policy I-42 is an essential resource for Capitola residents to address issues with Council Members or Commissioners not acting within the city's framework. I urge you to embrace this process and enhance the transparency of the policy.

Residency Requirements

I initially believed that State law sufficed for City Council residency requirements; however, recent events suggest otherwise. It was my expectation that upon filing the formal complaint, the City Attorney would conduct thorough due diligence to investigate whether Council Member Pedersen meets the residency requirements outlined in State election law. This did not occur and led to further turmoil within the community. Notably, the City Attorney publicly stated that the City lacks a residency requirement, which appears disingenuous given the obligation to adhere to State law.

Given the prevalence of vacation homes in our community, we must articulate residency requirements specifically as outlined in State laws regarding domiciles. We should not permit part-time homeowners with a "primary" residence outside of Capitola to serve as City Council Members.

Respectfully,

TJ Welch

From: Zutler, Samantha W. <SZutler@bwsllaw.com>
Sent: Thursday, April 04, 2024 11:33 AM PDT
To: capcouncil@aol.com <capcouncil@aol.com>; noworries4TJ@mac.com <noworries4TJ@mac.com>
CC: jgoldstein@ci.capitola.ca.us <jgoldstein@ci.capitola.ca.us>
Subject: FW: [PDF] Formal Complaint to city

TJ and Bruce:

I have reviewed your May 27 complaint.

The City has no jurisdiction over the RTC, and thus cannot respond to complaints about Capitola Councilmembers in their capacity as RTC Board members. Your complaints about Councilmembers in their capacity as Councilmembers appear to be: 1) at the January 25, 2024 Council meeting, Councilmember Pedersen "requested that the city also review widening Stockton bridge, specifically for the Rail-Trail bicycle and pedestrian path"; and 2) the Council "abdicated their responsibility to uphold the municipal code by voting for the joint Coastal Development Permit."

Your complaint regarding Councilmembers' votes is not subject to the City Council and Commissioner Code of Conduct, including the Enforcement procedures in Section 8.0. The Code of Conduct governs Council and Commission conduct, specifically Councilmembers' treatment of each other and staff. It does not limit Councilmembers' authority to take legislative or quasi-judicial action. The Council is the final authority on decisions made by the City; there is no internal procedure for you to challenge or appeal Councilmember votes. Indeed, there is no person or body in the City that could rule on such a challenge, and there are no available remedies. If you believe one of the votes listed above should be challenged, your remedy is to request that the Council reconsider or to seek judicial intervention.

Your complaint regarding Councilmembers' comments is also not subject to the Code of Conduct. Councilmembers have wide latitude to make requests at Council meetings. (See Code of Conduct Section 7.1(b)(i).) The Code of Conduct does not limit substantive questions from Council, nor does it require specific responses from staff.

Regardless, even assuming, for the sake of argument, that the Code of Conduct does apply to your complaints, that analysis would lead to the same result. Section 8.4.1 states that complaints are forwarded to the City Attorney for determination of next steps.

Section 8.4.2 states that, after review of the complaint with the City Manager, the City Attorney determines appropriate next steps. I have reviewed the complaint with the City Manager. My determination is above.

Best,

Samantha

Samantha W. Zutler | Partner

Pronouns: she, her, hers

1 California Street, Suite 3050 | San Francisco, CA 94111

d - 415.655.8113 | t - 415.655.8100 | f - 415.655.8099

szutler@bwsllaw.com | [vCard](#) | bwsllaw.com

[Burke, Williams & Sorensen, LLP](#)

The information contained in this e-mail message is intended only for the CONFIDENTIAL use of the designated addressee named above. The information transmitted is subject to the attorney-client privilege and/or represents confidential attorney work product. Recipients should not file copies of this email with publicly accessible records. If you are not the designated addressee named above or the authorized agent responsible for delivering it to the designated addressee, you received this document through inadvertent error and any further review, dissemination, distribution or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. Thank you.

CAP_000012

From: capcouncil (null) <capcouncil@aol.com>
Sent: Tuesday, April 2, 2024 3:13 PM
To: Welch, Troy (TJ) (noworries4TJ@mac.com) <noworries4TJ@mac.com>
Cc: Goldstein, Jamie (jgoldstein@ci.capitola.ca.us) <jgoldstein@ci.capitola.ca.us>; Samantha Zutler <SZutler@bwsllaw.com>; City Council <citycouncil@ci.capitola.ca.us>
Subject: Re: [PDF] Formal Complaint to city

Outstanding. Waiting with bated breath to hear the spin the city manager and or the city attorney come up with.

Bruce

Sent from my iPhone

On Apr 2, 2024, at 7:58AM, TJ WELCH <noworries4tj@mac.com> wrote:

Jamie,

We want to follow up and make sure that everyone is on the same page. Don't be confused as this is not an issue for the RTC, the complaint is based completely on the actions of the City of Capitola staff and City Council. Additionally, City administrative policy 8.4 was followed to file the complaint.

City administrative policy 8.4, clearly states that any resident with complaints against any Member shall be filed with the City Clerk, who will then forward it to the City Manager and City Attorney. The complaint filed was in response to section 8.3-violation of oath of office. The policy states under section 8.3.1, that all members take an oath to uphold the laws of the City, and we feel that this oath has been violated as council members voted to approve a project that is in direct conflict of municipal code 8.72.

Based on the quickness of your response, I am not sure that the city administrative policy was followed. The policy states that both the City Manager and the City Attorney will review and determine the appropriate next action. Under Section 8.4.2, if in the City Attorney's determination, the complaint alleges violation of law, the City Attorney shall determine appropriate next steps.

If the attorney finds, as you say that the City is in compliance, does that mean

1. the City has not and will not issue any permits for roads to be painted or signage to be installed?
2. the City, including the City Attorney, had no involvement in encouraging the City Council's decision to approve the CDP to avoid our Planning Commission involvement?
3. City staff, including the City Attorney, has not discussed means or methods to work around City municipal code 8.72?
4. the City, staff and/or council, is not supporting the county in any way to build a path through the city which is in clear conflict with the will of the community?

If in fact the City Attorney has reviewed the complaint and found the complaint to be unfounded; and that no City staff and/or Council Members have taken any action that would be in conflict with municipal code 8.72, please advise so we can move forward.

We find it very disheartening that the City has not demonstrated support our community, as well as enforcing the intent and purpose of our municipal code 87.2. We believe that municipal code 8.72 is not a choice and that the City should use all methods available to prevent the unsafe bike trail of being routed through the city.

Respectfully,

TJ

<Screen Shot 2024-04-01 at 12.40.07 PM.png>

On Mar 28, 2024, at 7:27 PM, Goldstein, Jamie (goldstein@ci.capitola.ca.us) <jgoldstein@ci.capitola.ca.us> wrote:

Hi TJ

I am in receipt of your letter dated March 27, in which you complained about the Council's actions regarding Segments 10 and 11 of the Santa Cruz County Coastal Rail Trail Project. The City believes it is in compliance with Measure L.

The City Council is the final authority for legislative action taken by the City, so there is no internal procedure for a resident to file a complaint against the full Council or any individual Councilmember regarding any such action. I will forward your letter to the City Council. If you would like to comment on the Proposed Project, we suggest contacting the County or the RTC.

Jamie Goldstein, City Manager

City of Capitola

831.475.7300

<image001.jpg>

-----Original Message-----

From: TJ WELCH <noworries4tj@mac.com>

Sent: Wednesday, March 27, 2024 2:38 PM

To: Gautho, Julia <jGautho@ci.capitola.ca.us>

Cc: Sam Storey <sam@storeylaw.net>; Westman, Nels (nels@bestwestman.com) <nels@bestwestman.com>; Hanna, Carin (carinhanna@aol.com) <carinhanna@aol.com>; Welch, Troy (TJ) (noworries4TJ@mac.com) <noworries4TJ@mac.com>

Subject: [PDF] Formal Complaint to city

On behalf of concerned citizens of Capitola, please find attached a formal complaint to the City of Capitola. This letter will also be presented during public comment at the city council meeting tomorrow, March 28, 2024.

CAP_000014

Respectfully,