

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Wednesday, July 23, 2025 8:01 AM
To: City Council; City Clerk
Subject: Agenda Item 9.E Administrative Policy I-42: Code of Conduct 7.23.2025
Attachments: Code of Conduct Draft resolution 7.4.2025.docx

Kevin Maguire
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Date: July 23, 2025

Mayor Joe Clarke and Members of the Capitola City Council

Capitola City Hall
420 Capitola Avenue
Capitola, CA 95010

Subject: Request for the City of Capitola to Adopt Stronger Standards and Accountability Procedures for Council Conduct Violations

Dear Mayor Clarke, and Councilmembers,

I am writing as a long-time resident and deeply engaged community member to express my concern regarding recent violations of the City's Code of Conduct by Councilmember Melinda Orbach. Specifically, her public statements have contravened:

- **Section 5.4 – Council Conduct with the Public**, which requires that “Councilmembers shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of members of the public,” and
- **Section 7.2.4(i) – Public Communication and Appearance**, which states that “Members should express their dissenting views with tact and civility.”

These violations have resulted not only in reputational harm to individuals, including myself, but have also undermined the City's stated values of integrity, transparency, and respectful governance. It is now imperative that the City Council adopt a formal process to ensure accountability and rebuild public trust.

As an agenda item for 7.24.2025 council meeting, there needs to be a path towards accountability, roles of the council, and rebuilding public trust.

Recommended Best Practices and Policy Framework for Council Accountability

I respectfully request the City of Capitola consider implementing the following standards and protocols, consistent with best practices from other California municipalities:

Please see attached file **Code of Conduct Draft Resolution**.

1. Create a Clear and Transparent Complaint & Investigation Procedure

Establish a process for submitting and reviewing complaints of Code of Conduct violations:

- Complaints may be submitted to the City Clerk, City Attorney, or designated Ethics Officer.
- A tiered review process (intake → preliminary review → formal investigation → adjudication).
- Investigations may be conducted by an independent ethics panel or hearing officer.

Model Cities: Bellflower, Pismo Beach, Sunnyvale, Windsor.

2. Define a Graduated System of Sanctions

Develop a clear policy outlining escalating consequences for violations, and based on seriousness.

- **Admonishment or verbal warning**
- **Formal written reprimand**
- **Public censure by Council vote**
- **Removal from committee assignments or leadership roles**
- **Mandatory ethics or civility training**

Model Cities: Bellflower, Ventura, Sunnyside (WA).

3. Adopt Independent Oversight Measures

To avoid conflicts of interest and reinforce impartiality:

- Refer formal complaints to an independent third-party ethics panel or hearing officer.
- Empower the panel to investigate and make findings for Council review and action.

Model: San Antonio's external Ethics Review Board.

4. Address Slander and Abuse of Power Directly

Enhance the Code of Conduct to:

- Define and prohibit defamatory or slanderous speech made in official capacity, during official city business activities, including city council meetings, public appearances, participation on other boards and committees.
- Reference constitutional limits of protected speech in cases of malicious or knowingly false statements.

- Include mandatory training in defamation law and public communication.
 - Empowerment to intervene: The Mayor, City Clerk, City Manager, and City Attorney shall each have the express authority to interject and call to order any councilmember whose statements: Violate the City's code of Conduct, constitute slanderous, defamatory, or abusive remarks, engage in personal attacks against members of the public, staff, or fellow councilmembers
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5. Formalize the Appeal and Public Disclosure Process

- Allow the accused councilmember the right to respond or appeal findings.
 - Require public reporting of outcomes (except in confidential matters).
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6. Regular Ethics Training and Code Review

- Require all councilmembers to attend annual ethics and civility training.
 - Reaffirm commitments to the Code of Conduct at the start of each term or annually.
 - Consider a signed “Model of Excellence” pledge, as adopted by Sunnyvale and Ventura.
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7. Cultivate a Culture of Accountability

- Encourage open discussion about civility and public trust in Council retreats.
 - Foster a council culture that prioritizes transparency, humility, and repair when harm is caused.
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A Call to Act Now

Capitola deserves a leadership body that holds itself to the highest standards. The actions of any one councilmember reflect on the entire Council and City. Failing to respond undermines trust in government. By adopting these best practices and procedures, Capitola can lead with integrity, ensure accountability, and model the civic respect our community expects and deserves.

I would appreciate the opportunity to discuss these recommendations further or to support a working group tasked with strengthening Council accountability. Thank you for your time and service to our community.

Sincerely,

Kevin Maguire

kmaguire831@gmail.com

DRAFT RESOLUTION

RESOLUTION NO. [XXXX]

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA ESTABLISHING PROCEDURES TO ADDRESS COUNCILMEMBER MISCONDUCT AND PROTECT THE PUBLIC FROM ABUSIVE OR SLANDEROUS CONDUCT DURING PUBLIC MEETINGS

WHEREAS, the City of Capitola affirms its commitment to integrity, civility, and respectful public discourse as outlined in its adopted Code of Conduct; and

WHEREAS, Section 5.4 of the City Council Code of Conduct prohibits councilmembers from engaging in “abusive conduct, personal charges, or verbal attacks upon the character or motives of members of the public”; and

WHEREAS, Section 7.2.4(i) of the Code of Conduct requires councilmembers to “express their dissenting views with tact and civility”; and

WHEREAS, recent events have revealed the need for stronger procedural authority and real-time enforcement to ensure these standards are upheld;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Capitola as follows:

Section 1: Empowerment to Intervene

The Mayor, City Clerk, City Manager, and City Attorney shall each have the express authority to interject and call to order any councilmember whose statements:

- Violate the City’s Code of Conduct,
 - Constitute slanderous, defamatory, or abusive remarks,
 - Engage in personal attacks against members of the public, staff, or fellow councilmembers.
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Section 2: Immediate Action Procedures

Upon identifying inappropriate conduct from the dais:

- The presiding officer or any of the authorized officials listed above may issue a verbal request for the offending councilmember to cease their remarks.

- The City Attorney shall be empowered to advise the Council on potential legal risks arising from the continued statements.
 - If the conduct persists, the presiding officer may call for a recess or move to suspend the speaking privileges of the councilmember for the remainder of the item.
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Section 3: Protection of Public Participants

Any public speaker or resident who is personally attacked, mischaracterized, or defamed by a councilmember during a meeting may request immediate intervention by the Mayor or City Attorney, and may file a formal Code of Conduct complaint to be reviewed under City procedures.

Section 4: Follow-Up Accountability

All instances of intervention shall be documented by the City Clerk and reviewed as part of a formal Code of Conduct complaint, if filed. Disciplinary actions may include, but are not limited to:

- Verbal admonishment or warning,
 - Public censure by Council resolution,
 - Loss of committee assignments,
 - Mandatory participation in civility or ethics training.
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Section 5: Annual Review

The City Council shall review this resolution annually as part of its organizational procedures and Code of Conduct reaffirmation.

PASSED AND ADOPTED this ____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Signed,

Joe Clarke, Mayor

Jamie Goldstein, City Manager

[Attestation: City Clerk Name]