

**From:** [Jeffrey P. Blum, Mediator and Private Judge](#)  
**To:** [Clerk](#)  
**Cc:** [Council](#)  
**Subject:** Town Council Special Study Session on 6/17/2025 on Code of Conduct Policy  
**Date:** Wednesday, June 11, 2025 1:30:15 PM  
**Attachments:** [towncouncil6112025.docx](#)

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[EXTERNAL SENDER]

To Whom It May Concern:

Please see attached memo for inclusion in the Town Council's Agenda Packet.

Please confirm receipt.

Thank you.

Jeffrey P. Blum, Attorney at Law  
Family Law Mediation and Private Judging

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**To:** The Los Gatos Town Council:

**From:** Jeffrey P. Blum

**Date:** 6/12/2025

Dear Town Council: I am a Commissioner on the Community Health and Senior Services Commission. I write this memo on my individual behalf and not as a Commissioner, however.

**Subject:** Comparative Analysis of Communication and Inquiry Policies for Board and Commission Members in Palo Alto, Mountain View, Cupertino, and Campbell.

This document is intended for review and consideration by the Town Council during the Town Council's June 17, 2025, study session regarding the town's code of conduct policy.

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## Overview

This memorandum provides a comparative analysis of the policies governing communications by members of Boards, Commissions, and Committees (BCCs) with the public and media, as well as policies regarding the authority of BCC members to conduct independent investigations or inquiries. The cities reviewed include Palo Alto, Mountain View, Cupertino, and Campbell.

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## 1. Media and Public Communications

City	Policy Summary	Remarks
<b>Palo Alto</b>	BCC members must clarify personal vs. official capacity; must not speculate or make binding commitments; encouraged to route media inquiries through Chair and Communications Office.	Restrictive tone may chill participation or independent expression; high centralization of message control.
<b>Mountain View</b>	No formal restrictions found; standard Brown Act engagement applies; no explicit constraints on individual commissioner speech.	Offers greater speech latitude; more reliant on informal norms and staff coordination.

<b>Cupertino</b>	Emphasizes speaking only on behalf of the full commission; discourages public persuasion or dissent; no gag order.	Suggests caution in independent communication; expectations set implicitly rather than formally.
<b>Campbell</b>	No formal policy located; governed by general ethics guidelines and voluntary Statement of Values emphasizing civility and respect.	Most flexible; relies on personal judgment and voluntary norms.

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## 2. Investigations and Inquiries by BCC Members

<b>City</b>	<b>Policy Summary</b>	<b>Remarks</b>
<b>Palo Alto</b>	Commissioners may not expend time or resources on topics not in the Council-approved work plan.	Effectively prohibits independent inquiries unless explicitly sanctioned.
<b>Mountain View</b>	No explicit prohibition found; commissions likely expected to coordinate with staff.	Ambiguous; absence of rules may support discretion but also lead to inconsistent practices.
<b>Cupertino</b>	No codified policy found; expectation appears to be commission-wide efforts with staff support.	Informal barriers may inhibit initiative or independent research.
<b>Campbell</b>	No formal restriction identified; expected to work within advisory scope and collaborate with staff as needed.	Permissive in absence of explicit rules; potential for greater individual initiative.

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## Legal and Constitutional Considerations

Under the First Amendment and case law such as *Bond v. Floyd* and *Pickering v. Board of Education*, appointed commissioners:

- Retain the right to speak publicly as private citizens on matters of public concern.
- May not be compelled to remain silent merely to preserve a uniform city message.
- Should not be prohibited from seeking non-binding information from third parties unless doing so misuses city resources or misrepresents authority.
- More importantly, commissioners retain First Amendment rights. Courts have affirmed that appointed officials may speak, inquire, and seek information so long as they do not claim to represent the Town's official position.
- Cases like *Sprague v. Spokane Valley* and *Zilich v. Longo* confirm that commissioners can engage third parties, conduct outreach, and gather facts. This is protected speech—essential to public service and democratic governance.
- Blanket pre-approval of all commission communication risks unconstitutional prior restraint and chills the volunteerism that sustains our advisory bodies. It fosters centralized control at the expense of transparency, dialogue, and meaningful input.

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## Recommendation

Considering the above, I respectfully recommend that Los Gatos consider adopting language such as the following to protect both organizational integrity and constitutional rights:

“Commissioners may speak publicly, including to the media, and are encouraged to support informed civic dialogue. They must clearly indicate whether they are speaking in a personal or official capacity and may not represent the commission's views unless formally authorized by the Commission, Town staff, or the Town Council. Commissioners shall not commit Town resources without prior approval.

Memo to Town Council

Staff coordination is encouraged and may be required for communications involving legal, financial, or policy matters. Outreach and fact-finding within the commission's scope are permitted, provided they are conducted professionally."

This language promotes transparency, intellectual freedom, and civic participation, while maintaining accountability and coordination within city government.

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**Prepared by:** Jeffrey P. Blum; [REDACTED], Los Gatos,  
California 95032; [REDACTED]

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**From:** Gordon Yamate [REDACTED]  
**Sent:** Friday, June 13, 2025 5:41 AM  
**To:** Chris Constantin <[CConstantin@losgatosca.gov](mailto:CConstantin@losgatosca.gov)>  
**Cc:** Katy Nomura <[KNomura@losgatosca.gov](mailto:KNomura@losgatosca.gov)>; Holly Young <[HYoung@losgatosca.gov](mailto:HYoung@losgatosca.gov)>  
**Subject:** Commissioner Code of Conduct

[EXTERNAL SENDER]

*Please note that this communication is being made in my personal and individual capacity and not as a member of, or on behalf of, the Town of Los Gatos DEI Commission, nor is it intended to, nor does it in fact, represent the position of the Town of Los Gatos DEI Commission.*

Hi Chris—I will be returning from overseas on Tuesday, June 17, 2025, and will likely be unable to attend the Town Council’s Policy Committee meeting on that day (as reported in the press) when that Committee reconsiders the Code of Conduct for Town Commissions. I did not see any meeting notice posted online for the Policy Committee, but in the abundance of caution I wanted to make sure these comments were provided to the Policy Committee. In light of the concerns raised by various commissioners and Jeffrey Blum’s opinion column in the *Los Gatan* newspaper dated May 29, 2025, I would recommend the following changes to the draft policy presented in agenda item 11 on May 6, 2025:

- (1) Article VI, Section A—the new code requires commissioners to use formalities during the DEI Commission’s deliberations. While I appreciate the need for respectful conversations and deliberations, I believe that already occurs at the DEI Commission. Our prior Town Manager actually allowed less formal communications, recognizing that the nature of DEI Commission’s conversations are often different from other commissions. They are difficult conversations because they confront and reveal our own personal values, experiences and beliefs that are currently under attack. I would suggest that the following be added to the sentence in Section A:

“..., except where at the discretion of the Chair less formal references would facilitate more comfortable, effective, and/or deeper conversations among Commissioners.”

- (2) Article VI, Section B—paragraphs 2 and 3 should be deleted in their entirety and the numbering of paragraph 1 can be deleted as it would be the sole paragraph of Section B.
- (3) Article VII, Section B—as noted from public comments and the op ed piece in the *Los Gatan*, if the Policy Committee insists on retaining paragraph 2, that paragraph should at a minimum be revised so that the Town Council or a subcommittee of the Town Council consisting of three Councilmembers considers any complaint brought against any Commissioner, a copy of the complaint is promptly furnished to that Commissioner following receipt by the Town or any Town official, and the Town Council or subcommittee, as the case may be, has had an opportunity to

review and discuss the complaint with that Commissioner prior to making any decision regarding the complaint.

Gordon Yamate

[REDACTED]  
[REDACTED]