

City of Capitola Agenda



Mayor: Yvette Brooks
Vice Mayor: Sam Storey
Council Members: Jacques Bertrand
Margaux Keiser
Kristen Petersen

CAPITOLA CITY COUNCIL SPECIAL WORKSHOP MEETING AGENDA

THURSDAY, JANUARY 21, 2021

6 PM

All correspondences received prior to 5:00 p.m. on the Wednesday preceding a City Council Workshop will be distributed to the City Council to review prior to the meeting. Information submitted after 5 p.m. on that Tuesday may not have time to reach the City Council, nor be read by them prior to consideration of an item.

All matters listed on the City Council Workshop Agenda shall be considered as Public Hearings.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Council Members Margaux Keiser, Kristen Petersen, Jacques Bertrand, Sam Storey, and Mayor Yvette Brooks.

2. ADDITIONAL MATERIALS

Additional information submitted to the City after distribution of the agenda packet.

3. ADDITIONS AND DELETIONS TO THE AGENDA

4. PUBLIC COMMENT

Please review the Notice of Remote Access for instructions.

5. GENERAL GOVERNMENT / PUBLIC HEARINGS

All items listed in "General Government" are intended to provide an opportunity for public discussion of each item listed. The following procedure pertains to each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.

CAPITOLA CITY COUNCIL SPECIAL WORKSHOP AGENDA
January 21, 2021

- A. Review Council Member Handbook, Code of Conduct, and Various City Policies
RECOMMENDED ACTION: Receive presentations regarding: 1) Council Member Handbook, 2) Code of Conduct, 3) Recusal Policy, 4) Social Media Policy, and 5) provide input on recommended City Policy updates.
- B. Discuss Processes Preparing for and Conducting City Council Meetings
RECOMMENDED ACTION: Receive presentation.
- C. Review City Council Training Requirements/Options
RECOMMENDED ACTION: Receive presentation regarding required training and provide direction regarding further Council training opportunities.

6. ADJOURNMENT

NOTICE OF REMOTE ACCESS

In accordance with the current Santa Cruz County Health Order outlining social distancing requirements and Executive Order N-29-20 from the Executive Department of the State of California, the City Council meeting is not physically open to the public and in person attendance cannot be accommodated.

To watch:

- 1) Online <http://capitolaca.igam2.com/Citizens/Default.aspx>
- 2) Spectrum Cable Television channel 8
- 3) Join the Zoom Meeting (below)

Zoom Link: <https://us02web.zoom.us/j/89267914280?pwd=d3E4NytsR003QUF2NWZlZTJnYUZhZDZ09>

- 1) ID # 892 6791 4280
- 2) Enter passcode 327773

Zoom Phone Call:

CALL **669 900 6833** OR **1 408 638 0968** OR **1 346 248 7799**

- 1) ID # 892 6791 4280
- 2) Enter passcode 327773

To submit public comment:

When submitting public comment, one comment (via phone **or** email, not both), per person, per item is allowed. If you send more than one email about the same item, the last received will be read.

- 1. Zoom Meeting (Via Computer or Phone) Link:
 - A. IF USING COMPUTER:
 - § Use participant option to “raise hand” during the public comment period for the item you wish to speak on. Once unmuted, you will have up to 3 minutes to speak
 - B. IF CALLED IN OVER THE PHONE:
 - § Press *9 on your phone to “raise your hand” when the mayor calls for public comment. Once unmuted, you will have up to 3 minutes to speak
- 2. Send Email:
 - A. During the meeting, send comments via email to publiccomment@ci.capitola.ca.us

CAPITOLA CITY COUNCIL SPECIAL WORKSHOPAGENDA
January 21, 2021

- § Emailed comments on items will be accepted after the start of the meeting until the Mayor announces that public comment for that item is closed.
- § Emailed comments should be a maximum of 450 words, which corresponds to approximately 3 minutes of speaking time.
- § Each emailed comment will be read aloud for up to three minutes and/or displayed on a screen.
- § Emails received by publiccomment@ci.capitola.ca.us outside of the comment period outlined above will not be included in the record.

Note: Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes “final.” Please be advised that in most instances the decision become “final” upon the City Council’s announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

Notice regarding City Council: The City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The City Council Agenda and the complete Agenda Packet are available for review on the City’s website: www.cityofcapitola.org and at Capitola City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. Need more information? Contact the City Clerk’s office at 831-475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk’s office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: City Council meetings are cablecast “Live” on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed “Live” on the City’s website at www.cityofcapitola.org by clicking on the Home Page link “Meeting Video.” Archived meetings can be viewed from the website at any time.



CAPITOLA CITY COUNCIL WORKSHOP AGENDA REPORT

MEETING OF JANUARY 21, 2021

FROM: City Manager Department

SUBJECT: Review Council Member Handbook, Code of Conduct, and Various City Policies

RECOMMENDED ACTION: Receive presentations regarding: 1) Council Member Handbook, 2) Code of Conduct, 3) Recusal Policy, 4) Social Media Policy, and 5) provide input on recommended City Policy updates.

BACKGROUND/DISCUSSION: Staff will present on the following City materials and policies:

Council Member Handbook

Updated for 2021, this handbook includes basic information about City of Capitola departments, staff, and day-to-day operations and the functions of City Council. An appendix is included that outlines current operations due to the COVID-19 pandemic. The handbook is Attachment 1

Code of Conduct

Included as Administrative Policy I-42, the Code of Conduct was adopted by City Council on September 10, 2020. It states the City's core values and outlines what is considered appropriate and expected behavior of Council Members and covers topics like ethical decision making and proper meeting decorum. The Code also includes information on what happens when/if a violation of the code occurs and explains the investigation and enforcement procedures. Appendix C of the Code is a "receipt of the code of conduct" that all Council Members should sign. The Code is Attachment 2.

Recusal Policy

The City of Capitola City Council Abstentions Policy 1-31 was issued by City Council on March 14, 2013. The Administrative Procedure explains when and how Council Members must disqualify themselves from participating in a decision. The Policy is Attachment 3.

Social Media Policy

The City of Capitola Elected/Appointed Officials & Social Media Policy 1-18 was issued by City Council on June 27, 2019. The policy provides guidance for the appropriate use of social media by elected and appointed City of Capitola officials, and other members of committees subject to the Brown Act. The Policy is Attachment 4.

FISCAL IMPACT: None

Review City Materials
January 21, 2021

ATTACHMENTS:

1. City Council Handbook 2020
2. I-42 Council and Board Code of Conduct
3. I-31 City Council Abstentions
4. I-18 Council & Committee Use of Social Media

Report Prepared By: Chloe Woodmansee
City Clerk

Reviewed and Forwarded by:



Jamie Goldstein, City Manager 1/13/2021



COUNCILMEMBER HANDBOOK

CITY OF CAPITOLA CITY COUNCIL

- SECTION 1: GENERAL POWERS & RESPONSABILITIES**
- SECTION 2: CITY COUNCIL SUPPORT**
- SECTION 3: CITY COUNCIL MEETINGS**

- SUPPLEMENT 1: COVID-19 OPERATIONS**

SECTION 1

GENERAL POWERS AND RESPONSIBILITIES

CITY COUNCIL & SUCCESSOR AGENCY OVERVIEW

The purpose of the City Council is to establish local laws, set policy, reject or approve programs, allocate funds, and provide direction through the City manager to City staff.

The City Council has the power in the name of the City to do and perform all acts and actions appropriate to a municipal corporation that are not specifically forbidden by the Constitution and laws of the State of California or the United States. In certain circumstances, it may delegate this power to a person, officer, board, or commission.

The City Council is composed of five Councilmembers, all of whom are directly elected by the voters in the City of Capitola to serve four-year terms. The Council elects a mayor and mayor pro tempore (vice mayor) annually.

Municipal elections: The City's municipal elections are consolidated with other state and local elections on the first Tuesday of November in each even-numbered year, with three council seats and two council seats alternatingly up for election.

Term limits: The people of Capitola voted in November 2002 to adopt an ordinance limiting the terms of elected officials to two (2) consecutive terms. Members must wait two years before running again.

Regular Council Meetings: The City Council meets regularly, generally twice monthly on the second and fourth Thursdays with one meeting in July, August, and December. Additional budget workshops are scheduled in the spring, usually on Wednesday evenings.

Capitola Successor Agency: The City Council also acts as the Board of Directors for the City of Capitola as Successor Agency to the Former Capitola Redevelopment Agency. The Successor Agency is responsible for retiring obligations and winding down the affairs of the former Redevelopment Agency. The Successor Housing Agency will continue to underwrite affordable housing activities.

ROLE OF MAYOR AND MAYOR PRO TEM

Appointment of mayor and vice mayor: After each general municipal election, the City Council reorganizes and selects its mayor and mayor pro tempore. In off-election years Capitola Municipal Code allows for selection of a new mayor and vice mayor in December. (CMC Section 2.04.150)

Mayor (presiding officer): The mayor is the presiding officer and acts as chair at Council and Successor Agency meetings and performs other duties consistent with the office as may be imposed by the Council. The mayor is a voting member of the Council and possesses no veto power. In the absence or incapacity of the mayor, the vice mayor will serve as presiding officer. The mayor serves the official head of the City for all ceremonial purposes.

Vice mayor (mayor pro tempore): In case of the temporary absence or inability of the mayor to act as presiding officer, the mayor pro tempore, or vice mayor, shall preside. In case of the

absence or disability of both the mayor and mayor pro tempore, the Council shall elect one of its members to act as mayor pro tempore (CMC 2.04.160).

Council Chambers seating arrangement: Following the annual reorganization of the City Council, the mayor, with the approval of individual Councilmembers, shall establish seating arrangements for regular Council meetings.

Signing of city documents: The mayor, unless unavailable or disqualified, shall sign all ordinances, resolutions, and other documents that require an official signature, except where the city manager has been authorized by Council to sign documents. In the event the mayor is unavailable, the vice mayor may sign.

TYPES OF COUNCIL ACTIONS AND DIRECTIONS

ORDINANCES: Ordinances are the laws of a municipality and once effective become part of the municipal code. City councils are given the power to adopt ordinances by Government Code Section 37100 as long as those ordinances are not in conflict with the laws and the Constitution of the State of California or the United States. An ordinance is the most binding form of action taken by the City Council. It is an act of law.

Introduction and adoption: Ordinances require a first and second reading for adoption and may only be adopted at a regular meeting. However, an urgency ordinance may be adopted immediately upon introduction at either a regular or special meeting with appropriate findings (see below). State law requires ordinances shall be read in full either at the time of introduction or adoption, although standard language on City of Capitola agendas waives this requirement.

Noticing: Generally, ordinances do not require additional notice ahead of a meeting beyond the agenda listing. The City Clerk's office posts adopted ordinances within 15 days and the public has 30 days after adoption during which to challenge them.

Effective date: All ordinances, except as provided in section 36937 of the Government Code, shall take effect thirty (30) days after adoption. A later date may be designated in the ordinance, such as the start of the new calendar year. If an ordinance relates to zoning and is included in the Local Coastal Plan (LCP), such ordinances do not become effective until approval by the California Coastal Commission.

Urgency ordinances: Urgency ordinances shall only be enacted when necessary to protect the public health, safety, or welfare, or as otherwise permitted by State law. All urgency ordinances must receive four (4) affirmative votes to be adopted and to become effective immediately. If such an ordinance fails to receive a 4/5 majority, it may be considered and passed in the same manner as a regular ordinance.

Municipal code: Since the City of Capitola is a general law city, as opposed to a charter city, its Council must act within the framework of limitations and procedures established by state law such as the California Government Code or the Election Code. Local laws are established by ordinance and are compiled in the Capitola Municipal Code. These laws are enforceable by the City, and violations can constitute a misdemeanor or an infraction.

RESOLUTIONS: A resolution is a written action or decision. It is generally introduced and adopted at the same meeting and becomes effective immediately. Resolutions are often used when findings need to be made or when another agency wishes to have a record provided of an action. Fee schedules, annual budgets, adoption of multi-agency agreements, or actions required by state or federal agencies are often handled by resolution.

MINUTE ORDERS: Many actions can be taken simply as minute orders through a motion and vote recorded in a meeting's minutes. These can include approval of contracts, direction to staff regarding projects, appointments, and much more.

ADMINISTRATIVE POLICIES & PROCEDURES: The City also establishes administrative policies that guide how staff and Councilmembers handle many duties and programs. These range from requests for a proclamation and the memorial plaque program to use of sick leave and credit card purchasing. Some of these policies require City Council approval while others are signed off at the staff level.

COUNCILMEMBERS' COMPENSATION

Beginning December 2020, Councilmembers are each paid \$600 per month pursuant to Capitola Municipal Code Section 2.04.275 (Ordinance No. 1032, adopted February 2019). On May 14, 2020, members of Council individually affirmed they would decline the previously approved \$100 salary adjustment and continue to be paid \$500 a month due to the COVID-19 pandemic's negative impact upon the City budget. On June 25, 2020, members of the City Council voted to receive a reduced monthly salary, consistent with most employees, making Council's current monthly salary \$470 per month.

Expenses related to conferences, dues, memberships, subscriptions, and supplies are reimbursable and must be submitted for approval and payment to the city manager's office. The Council travel and training budget is established in each fiscal year budget.

City Councilmembers may obtain medical, dental, and vision insurance through the City, but they must pay the entire premium. Please see the Personnel Analyst for further information on this and eligibility for retirement benefits.

FILING REQUIREMENTS

As public officials, Councilmembers are required by the state to make conflict of interest disclosures through the annual filing of a Form 700. These are filed with the city clerk and transmitted to the state's Fair Political Practices Commission, and they outline members' financial interests such as real property or household income sources.

The state also requires annual campaign filing, even if a Councilmember does not have an active campaign committee. Those members with an open committee will file at Form 460, while others file a Form 470.

The City implemented electronic filing via NetFile for conflict of interest and campaign filings. Electronic campaign filing is now mandatory as of 2020.

APPOINTMENT OF CITY MANAGER, CITY ATTORNEY

The City Council appoints two positions within the City organization: the city manager and the city attorney. Both positions serve at the will of the City Council. City attorney services have been provided by contract since 2001. Per Municipal Code 2.04.365, The city manager shall

nominate a city treasurer for consideration by the city council, which may appoint the nominee with a majority vote. (Ord. 1028 § 1 (part), 2019). Currently, Capitola's Finance Director is serving as the City Treasurer.

City manager: Under the council-manager form of government used by the City of Capitola, the City Council appoints a city manager to serve as the City's chief administrative officer and to be responsible for ensuring the policies of the City Council are implemented. The city manager is an employee of the City and has an employment agreement that specifies terms of employment including an annual evaluation by the City Council. The city manager is responsible for all other personnel appointments by the City. The city manager provides administrative direction and leadership to all City departments. The city manager acts in several capacities for the City, including but not limited to personnel officer, employee relations officer, emergency services director, executive director of the Successor Agency, and other titles of authority. Furthermore, the city manager sits on several boards as an ex officio member.

Council-City manager relationship: The employment relationship between the City Council and the City manager honors the fact that the city manager is the chief executive officer of the City. The City Council should avoid situations that can result in staff being given direction, intentionally or unintentionally, by one or more members of the City Council. Regular communication between the City Council and the City manager is important in maintaining open communications. The city manager respects and is sensitive to the political responsibility of the City Council and acknowledges that the final responsibility for establishing the policy direction of the City is held by the City Council. The City manager communicates with the City Council in various ways including informal briefing meetings with individual Councilmembers, and informational memoranda and emails.

City Attorney: The city attorney represents the City as primary counsel in all legal matters. To this end, the city attorney provides legal analysis and advice on a variety of matters and assists staff with legal issues, such as interpreting the municipal code, understanding and complying with state and federal laws, drafting various legal documents such as agreements, resolutions, and ordinances; providing counsel on labor matters and employee/employer relations; and acting as General Counsel to the Successor Agency.

APPOINTMENTS AND BOARD SERVICE

The City Council makes appointments to both its own advisory bodies and to those of partner agencies and jurisdictions. In some cases, Councilmembers themselves serve as appointees.

Capitola has seven standing advisory bodies:

- Architecture and Site Review
- Art and Cultural Commission
- Commission on the Environment
- Finance Advisory Committee
- Historical Museum Board
- Planning Commission
- Wharf Advisory Group

A number of these bodies have at least one Councilmember appointed to represent the Council and serve with other community members. Appointment of community members to advisory groups may be by the full Council or individual Councilmembers depending on the guidelines set forth in either the Municipal Code or the founding resolution. Recruitment for community participants is handled by the city clerk as outlined in the Maddy Act (Government Code 54970). The clerk will forward applications to Councilmembers as appropriate upon receipt, and

appointments are made at a City Council meeting. More information about the individual City advisory bodies is found in Section 2.

Councilmembers also serve on the boards of certain agencies and County advisory bodies. Some of these bodies require an elected official to sit on the board while others simply wish to have the City represented. In the latter case, Councilmembers may choose to serve or ask the city clerk to recruit from the community or City staff.

SECTION 2

CITY COUNCIL SUPPORT

INTERACTION WITH CITY STAFF/OFFICIALS

City Council policy is implemented by professional staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so policies and programs may be administered successfully.

Direction to staff: Generally, Councilmembers shall make requests for work when convened in public session as a Council, to be relayed to staff through the City manager. Individual members of the Council shall make no attempt to pressure or influence staff decisions, recommendations, workloads, schedules, and departmental priorities without the prior knowledge and approval of the Council as a whole.

Requests for information: Councilmembers shall make routine requests for information through the appropriate department head or city manager. Complex or comprehensive requests for information shall be made through the city manager. In cases where a staff response to an individual Councilmember request involves written material that may be of interest to other members, the city manager will provide copies of the material to the full Council.

Support provided to the Councilmembers: Administrative support to members of the City Council is provided through the City Manager's Department. Clerical services include arranging for attendance at conferences and preparing Council-directed correspondence.

Office Equipment/Supplies: Councilmembers are authorized to use City copiers, stationery, postage, and other similar equipment and supplies for City purposes. The use should not interfere with the performance of duties by the City's employees.

Mail: City Councilmembers receive a large volume of mail and other materials. The City maintains mailboxes in the City Clerk's Office for each Councilmember and all are encouraged to check these regularly.

The City Hall receptionist is authorized to open the City Council mail and the executive assistant and/or city clerk reviews the contents before it is distributed to the Council. Mail that is department-specific is copied to the appropriate department head. Copies of certain pieces of mail are given to all Councilmembers and the city manager when appropriate.

Email: Each Councilmember may choose to provide his/her personal email address for public contact or may opt to use an email through the City's domain. Email addresses are also included on the Councilmember List, which is provided to members of the public upon request. The City also maintains a full Council "citycouncil@ci.capitola.ca.us" email address, which includes all Councilmembers, City manager, and the City Clerk. A link to this email address is included on the website for public communications.

Councilmember contact information is included on the City's website, Community Channel 8 scroll, lists provided to the public upon request, etc. The city clerk will contact each Councilmember to determine what personal information should be available to the public.

Public Records: The City does not provide office space, computers, or phones for Councilmembers, which means that members will at times receive communication on personal devices related to their work as elected officials. Councilmembers should assume

such communications (including emails and texts) are public records and be aware that the City Clerk's Office may require them to provide any information contained on their personal devices that relates to a public records request.

CITY DEPARTMENTS

The five City departments are: City Manager, Community Development, Finance, Police, and Public Works. These departments provide expertise and service to the public, the business community, other jurisdictions and agencies, and the City Council.

City Manager: The City Manager Department is the administration branch of the City and includes human resources, city clerk/records, information technology, and risk management as well as art and cultural projects, the Historical Museum, and recreation.

Community Development: The Community Development Department (CDD), through its Planning and Building Divisions, advises, administers, and implements policies established by the Planning Commission and the City Council concerning the orderly growth and physical and economic development of the City. CDD oversees current planning, zoning administration, and implementation of the California Environmental Quality Act; advanced planning (the City General Plan, its Housing Element and other adopted plans); reviewing and processing of development applications; affordable housing oversight; and plan checking and building inspection services to assure compliance with the City Zoning Code and California Building Code. In addition, the building official serves as the City of Capitola's Americans with Disabilities Act compliance officer.

Finance: The Finance Department provides assurance and compliance for the City's financial records and provides financial services to internal departments, City Council, and the public. The department administers all the City and Successor Agency funds and accounts. Finance directs accounts payable; payroll; accounts receivable; cash receipts; bank statement reconciliation; business licenses; collection of Transient Occupancy Tax; operating budget; preparation of financial reports; and fiscal analysis.

Police: The Police Department maintains the safety of the City's residents and visitors and enforces both local and state laws. It has four operational areas: law enforcement, parking, animal control (in conjunction with Santa Cruz County Animal Services), and lifeguards (by contract).

Public Works: The Public Works Department is composed of five divisions: engineering and administration, streets, parks, facilities, and fleet maintenance. The department works to operate, maintain, and improve public infrastructure, parks, and facilities to insure they are serving their intended purposes. Infrastructure maintained by the department includes roads, bicycle facilities, and some storm drainage systems. The parks and facilities are those owned and utilized by the City.

BOARDS, COMMISSIONS AND COMMITTEES

The City has seven standing committees, commissions, or boards (advisory bodies). Their purpose is to advise the City Council. Commissions and boards focus on one area of interest (i.e. planning issues, financial issues, art programs), and are given specific duties and powers relating to that area. Advisory bodies are either mandated by law or established by the City Council by adoption of an ordinance or resolution. Ad-hoc committees are generally short-term

bodies, which may be formed by the Council to provide information or assistance on a special task. An ad-hoc committee is dissolved after its specific task is completed.

Architectural and Site Committee: The Architectural and Site Review Committee consists of professional members who help review development projects for design, historical value, and landscaping. It meets twice monthly as needed on Wednesday afternoons.

Art and Cultural Commission: The Capitola Art and Cultural Commission, established by ordinance, advises the City Council about allocation of public funds for the support and encouragement of existing and new programs in the arts; acquires works of art subject to City Council approval; oversees special programs that enhance the cultural climate of the City; and implements the Art and Cultural Master Plan. It identifies locations for public art financed by the Public Art Fund and handles the selection of artists, subject to final City Council approval. The Art and Cultural Commission meets the second Tuesday of the month at 6:30 p.m. and is made up of community members and artists.

Commission on the Environment This five-member commission provides advice and recommendations to the City Council on matters affecting the various environmental assets in the City and efforts to meet environmental goals. It meets quarterly on the fourth Wednesday and was established by resolution.

Finance Advisory Committee The six-member Finance Advisory Committee reviews and advises the City Council on financial matters pertaining to the governing of the City, as well as on the use of fiscal resources. It meets on Tuesday evenings every other month and was established by resolution. All members except the business representative and finance director/treasurer must be City residents.

Historical Museum Board: The Historical Museum Board of Trustees, established by ordinance, oversees the museum's programs and funds. Its seven members promote a better understanding and appreciation of Capitola's history, architecture, culture, technology, and creative and natural environments. Typically, the Historical Museum Board meets the first Tuesday of the month at 5:30 p.m.

Planning Commission: The Planning Commission, which is required by state law and established by ordinance, is a five-member body primarily responsible for granting discretionary land use permits, such as design permits, conditionals use permits, and variances. The Planning Commission also makes recommendations to the City Council regarding General Plan, Zoning Ordinance, and other land-use policy matters. The Planning Commission meets the first Thursday of the month at 7 p.m. in the Council Chambers. Each Planning Commissioner is appointed by a Councilmember, and commissioners must live within City limits or the City's sphere of influence.

Wharf Working Group: The Wharf Working Group's purpose is the discussion of issues relevant to the operation, maintenance, and livelihood of the Capitola Municipal Wharf. Members include the Public Works Director, two Councilmembers and wharf business owners. The group meets on an as-needed basis.

CITY HALL MEETING SPACES

The City Manager Department is responsible for maintaining a calendar and requests for the use of the Council Chambers and Community Room. Use of these rooms for regular meetings by City commissions, committees, and other City needs take precedence over any other group or agency. Use of the rooms is available for other jurisdictions and nonprofit community groups at no charge on a first-come first-serve basis after City, City-affiliated, and other regular uses are scheduled. The city manager approves all outside use requests.

SECTION 3

CITY COUNCIL MEETINGS

CITY COUNCIL MEETING TYPES

Capitola City Council holds a variety of public meetings. All public meetings are open and subject to the Brown Act (more following).

Regular City Council meetings: Regular meetings of the City Council are held in the City Hall Council Chambers on the second and fourth Thursday of each month beginning at 7 p.m., with certain exceptions in the summer and to accommodate holidays.

Emergency and non-agendized items may be added to an agenda only in accordance with State law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda is posted an item arises that requires timely Council action. Non-agendized items may be added to the agenda only if the Council makes findings that (1) the need to consider the item arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a 4/5th vote (pursuant to Government Code § 54954.2); if less than five members of Council are present, the findings require a unanimous vote of those present.

Closed sessions: Closed sessions are the one meeting type not open to the public and topics are regulated pursuant to the Brown Act. Closed sessions are typically held prior to a City Council Meeting. Topics permitted for closed session are:

1. Real Property. The purchase, sale, exchange, or lease of real property with the City's negotiator (Cal Govt. Code Section 54956.8)
2. Pending litigation, a significant exposure to litigation, or the decision to initiate litigation; (Cal Govt. Code Section 54956.9)
3. Labor negotiation and compensation (salaries and benefits) of employees; to review its position and instruct designated representatives (Cal Govt. Section 54957.6).
4. Personnel. The appointment, employment, evaluation of performance or dismissal of a public employee, or to hear complaint against the employee, unless the employee requests a public hearing (Cal Govt. Code Section 54957.6).

No member of the Council, employee of the City, or anyone else present shall disclose to any person the content or substance of any discussion which takes place in a closed session.

Study sessions: Often referred to as "work sessions," the purpose of these meetings is for informal discussions between staff, advisory bodies or consultants, the public and the City Council regarding specific programs, projects or policies.

Special meetings: Special meetings may be called, in consultation with the City Attorney, by the mayor or majority of Councilmembers on 24-hour notice, as set forth in the Government Code Section 54956. Only matters contained in the notice may be considered and no ordinances (other than urgency ordinances) may be adopted.

OPEN MEETING LAW

The Ralph M. Brown Act, which was passed in 1953 and is periodically updated, has become the public meeting law for the State. The opening section of the law states that:

"In enacting this chapter, the California legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."

The act applies to any advisory commission, committee, or body of a local agency. Its requirements include the following: meetings must be open to the public, meetings of advisory bodies must be held within the territory of the local agency, and notice of meetings must be delivered to the press and public 72 hours prior to the meeting.

No action shall be taken on any item not appearing on the posted agenda with certain exceptions.

A "meeting" takes place whenever a quorum of the commission is present, no matter how informal, and business is discussed or transacted. This includes study sessions and other informal gatherings, but will normally not apply to a social gathering. Attendance at general conferences involving discussion of broad issues and which officials attend from a variety of jurisdictions such as the League of California Cities are not generally considered to be "meetings." However, members should take care not to discuss specific City matters at such functions.

Existing law provides that any member of a legislative body who attends a meeting of that body where action is taken in violation of the Brown Act, with knowledge of the fact that a violation occurred, is guilty of a misdemeanor. "Action taken" means a collective decision made by a majority of the members of the legislative body, a collective commitment or promise to make a positive or negative decision, or an actual vote by the majority of the members on a motion, proposal, resolution, order or ordinance.

Any questions concerning the effect of the Brown Act should be directed to the city attorney, city manager, or city clerk.

AGENDAS

Agendas for all regular City Council and advisory board meetings are posted in the City Hall lobby at least 72 hours in advance of the meeting as required by the Brown Act. Meeting agenda materials are delivered on Fridays before Council meetings. Councilmembers may indicate if they will use an electronic packet or prefer a printed version. Most materials are available electronically, although if a meeting includes a closed session claim or legal issue or a development project with plans, hard copies of these materials may be delivered to Councilmembers' homes.

Additionally, agendas and packets are posted on the City website, and the City Council and Planning Commission packets are distributed by email through an electronic agenda management system to a large number of press and interested community members in addition to board members. A printed copy of the full packet is available in the City Hall lobby and will be available in the Capitola Branch Library when it is reconstructed. Hard copies of Council meeting agendas are also available in the Capitola Post Office.

Any correspondence or other information sent to the Council after the distribution of the agenda is considered additional material and must also be made available to the public. It is posted in the lobby with the agenda as soon as received and distributed electronically to email agenda

recipients in one batch, generally at the end of the day Wednesday before a Thursday meeting. It is also made available with the packet at meetings.

Placing an item on the agenda: The mayor or any member of the City Council may request during a public meeting that item be placed on a future agenda. Department heads, the city clerk, board chairs, and the city manager have the authority to place an item on the Council agenda (CMC 2.04.140). All others must direct their agenda request to the City Council, the mayor, or the city manager.

AGENDA ORDER OF BUSINESS

Following is the order of business for the City Council regular meetings. Frequently there are City Council closed sessions scheduled prior to the regular meeting, which are not open to the public. To provide an opportunity for the public to comment on items on the Closed Session Agenda, these sessions begin in the Council Chambers and the mayor will publicly announce that comments may be received prior to the closed session, generally held in the city manager's office.

Roll Call and Pledge of Allegiance

Presentations: Presentations recognize persons or groups, promote events, or provide an update on matters of community interest. These are informational or ceremonial items that do not require any discussion or decision on the part of the Council. The mayor approves all presentation requests. Presentations are limited to eight minutes.

Report on Closed Session: Actions taken by the City Council during closed session, usually reported by the city attorney.

Additions and Deletions to the Agenda: As previously noted, these are rare. Items of business may be added to the agenda upon a motion adopted by a minimum two-third vote that finds there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted. Items may be deleted from the agenda upon request of staff or upon action of the Council.

Public Comments: Oral Communications allows time for members of the public to address the City Council on any item not on the agenda but within its jurisdiction. Comments will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. A maximum of 30 minutes is set aside for public comments.

City Council and Staff Comments: These items are generally short announcements intended to inform the public about upcoming events or brief notes from recent meetings or actions.

Committee Appointments: Depending upon the vacant position, action may be by the whole Council or specific members.

Consent Calendar: Only items that are routine, administrative, or have been addressed by the Council at prior meetings are placed on the Consent Agenda. Any member of Council may pull any item for discussion, and members of the public may ask questions about Consent items during the section's public-comment period. Pulled items are placed after General Government unless the mayor reorders to another place on the agenda. When a Councilmember has a minor question for clarification concerning a consent item that will not involve extended discussion, the item may be discussed prior to action on the consent

calendar; however, Councilmembers are encouraged to seek clarifications from staff prior to the meeting.

General Government/Public Hearings: While for legal purposes matters listed on the agenda shall be considered as public hearings, the City Council conducts public hearings on applications, projects, proposed ordinances, and other matters determined by Council or staff to be of sufficient interest to the public that public comment is desired. General Government items are acted upon individually. The public may address the Council on each individual General Government item.

GENERAL PROCEDURES AND RULES OF ORDER

Parliamentary procedure: In 2007, the City Council adopted Resolution No. 3611 designating *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* as the city's rules of order.

Absences: Members of the City Council shall notify the city manager or city clerk by email or telephone when they are unable to attend a City Council meeting.

Meeting curfew: The City Council meeting curfew is 11:30 p.m. At 11:15 p.m., the City Council will review the remaining agenda items and decide to either continue or terminate the meeting. If the meeting is terminated, the Council shall decide which items will be considered before the 11:30 p.m. curfew, which items will be continued, and to which meeting the items would be continued.

Reordering agenda items: The mayor may, with Council concurrence, reorder items on the agenda to accommodate the public or to address other concerns (2.04.190).

Meeting decorum: While the City Council is in session, all persons shall preserve order and decorum. Every member of the public and every Councilmember desiring to speak shall address the presiding officer, and upon recognition by the presiding officer, shall confine comments to the question under debate, and abiding by the following rules of civil debate:

1. We may disagree, but we will be respectful of one another;
2. All comments will be directed to the issue at hand;
3. Personal attacks should be avoided.

Enforcement: The chief of police (or representative) shall act as ex officio sergeant-at-arms of the Council. The police chief shall carry out all orders and instructions of the presiding officer to maintain order and decorum in the Council Chambers. Upon instruction, the sergeant-at-arms shall eject from the Council Chambers any person in the audience who disrupts the meetings with boisterous or profane language, or any person who interrupts and refuses to keep quiet or take a seat when ordered to do so. Those who refuse to leave or follow orders after being instructed by the presiding officer to leave may be subject to arrest under California Penal Code Section 403.

VOTING PROCEDURES

All Councilmembers present shall vote with an aye, no, or abstain. Once a vote is underway, no member of the Council shall be allowed to explain his/her vote or discuss the question, and no member shall be allowed to change his/her vote after the vote is announced by the presiding officer (CMC 2.04.250). Rules of Order, however, do allow for the reconsideration of a matter at

the same meeting where the item was first voted upon or at the very next meeting of the body. A motion to reconsider must be made by a member who voted in the majority on the original motion. Votes can change during a reconsideration.

California law requires that a vote result be announced so it is clear to those in attendance how each member voted. Simply saying a motion passed unanimously is sufficient. However, when it is likely that there will be a split vote, the mayor can comply with this requirement by requesting a roll call vote. An announcement by either the mayor or city clerk reporting the vote after it has been taken also complies, i.e. "The motion passes 3- 2, with Councilmembers Smith, Garcia and Wong in favor and Councilmembers Freeman and Lopez opposed."

Abstentions and recusals: An abstention is not the same as a recusal or disqualification. The Fair Political Practices Commission (FPPC) has adopted a process for determining when an official must disqualify themselves from participating in a decision. These regulations state that Councilmembers are prohibited from participating in governmental decisions that may have a material financial effect on their economic interests, including the economic interest that every public official has in his or her personal finances including his home.

A member does not have a financial interest in a decision unless it is reasonably foreseeable that the decision of the council, commission or committee will have a material effect on:

1. Any business entity in which the member or the member's spouse has a direct or indirect interest worth more than \$2,000.
2. Any real property in which the member or the member's spouse has a direct or indirect interest worth more than \$2,000.
3. Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$500 or more in value received by or promised to the member or member's spouse within 12 months prior to the time when the decision is made.
4. Any business entity in which the member or member's spouse is a director, officer, partner, trustee, employee ,or holds any position of management.

The rules for determining whether the effect of a decision is material are rather complicated and depend on the dollar amount and the relationship to the business. The rules relating to the effect on real property are also somewhat complex, but current guidelines generally prohibit votes on property development within 500 feet of the Councilmember's home or other real property.

A conflict exists only when the decision would impact the member's financial interest more than it does other members of the public generally.

A conflict of interest shall be declared whenever appropriate and in compliance with State law. In this case a Councilmember must recuse him/herself by briefly explaining the conflict, stepping down from the dais, and leaving the Council Chambers. The Councilmember shall not participate in making or influence the decision. The Councilmember will be listed as recused in the recorded vote.

Each Councilmember in attendance at a Council meeting has a responsibility to vote on each item presented to Council for action. It may be tempting to abstain because of concerns about making an unpopular decision or simply not knowing which decision is best. Attending and being prepared for meetings is a major element of an elected official's responsibilities and therefore, so is voting.

A common reason for an abstention is for the approval of minutes for a meeting that the Councilmember did not attend or review.

If a member of the Council has any legitimate basis for not voting on a particular item other than that set by FPPC the Councilmember may abstain from voting by complying with administrative Policy I-31. This policy directs a Councilmember to announce an intent to abstain at the start of any discussion and to refrain from participating. Examples of reasons to abstain include insufficient background on the item due to a previous absence or a perception of conflict, such as an item involving a family member.

If a Councilmember has reservations regarding potential abstentions it is recommended that he or she contact the city attorney for assistance as early as possible prior to the meeting.

Tie votes: Tie votes are considered a defeat of a motion. However, unless overridden by a majority of present Councilmembers, the mayor may continue the matter to another meeting.

QUORUM

Unless otherwise required by local or state law, a majority of the Council shall be sufficient to do business and motions may be passed 2-1 if only three (3) attend. The following matters, however, require three affirmative votes:

- adoption of ordinances
- resolutions
- orders for payment of money

Legally Required Participation (“Rule of Necessity”): If a majority of the Council shall be disqualified to vote on a matter due to conflict of interest, the Council shall select by lot or other means of random selection enough members to vote to constitute a quorum. The disqualified member(s) selected will then be allowed to participate.

MOTIONS

The City Council adopted *Rosenberg’s Rules* as its guide to conducting meetings, and a full description of the process and options can be found in that guide. Motions are required for a minute order, resolution adoption, and approving first and second readings of an ordinance. Reports can be received without a motion and certain appointments can be made by concurrence. Generally, the making of a motion and its second opens debate on an action.

OFFICIAL ACTIONS

Most actions by the City Council break into three categories: ordinances, resolutions, and minute orders. The adoption process and recording of these actions varies. The meeting agenda will list if an ordinance or resolution is to be considered, and the packet will include a draft of language to be adopted. Minute orders are the least formal recorded action.

MINUTES

The City Clerk prepares the summary action minutes for all regular and special meetings of the City Council and Successor Agency, and submits them for approval and/or correction on the Consent Calendar. The primary purpose of City Council meeting minutes is to record the actions taken by the City Council.

When a Councilmember wishes to correct the minutes, he/she should contact the city clerk in advance of the meeting with the correction. The city clerk will then verify the correction by reviewing the meeting video. Upon verification of the error, the city clerk will provide the corrections to the Council. If time constraints prevent this procedure, the Council should continue the approval of the minutes to the next meeting and direct the city clerk to verify the error.

SUPPLEMENT 1

COVID-19 OPERATIONS

AUTHORITY

The City of Capitola is under the jurisdiction of the Santa Cruz County Health Officer, and any health orders made by them or the California Department of Public Health.

In August 2020, the City of Capitola Issued Emergency Order 5-2020 ordering that any person who violates the Guidance of the Use of Face Coverings released by the California Department of Public Health or the Santa Cruz County Mask Order are subject to either an administrative citation or an infraction, and a fine (\$100, \$200, and \$500 for the first, second, and third violation within a one-year period). Similar Orders are in place in the Cities of Santa Cruz and Scotts Valley, and Santa Cruz County.

CITY OPERATIONS

City Council and other Public Meetings: The Executive Department of the State of California Order N-29-20 allows for public meetings to be held by video/teleconferencing and suspends some other Brown Act requirements in light of the COVID-19 health crisis. For the City of Capitola, all Council and Board/Commission meetings have been physically closed to the public since late March 2020 and remain so currently. The meetings are however still public meetings and are taking place virtually using Zoom. Members of the public can still watch meetings on Charter TV and by streaming over the City Website, and they can also join the meeting as attendees in the Zoom application on a computer or by calling in with a landline or mobile phone. Councilmembers and staff join Council meetings via Zoom as Panelists, with video of the Council or staff member available when they are speaking. For help with virtual meeting participation, please see the city clerk.

City Hall Conduct: As of November 16, 2020, City Hall is open for regular business hours from 8am to 5pm with a closure from noon to 1pm, daily. City Hall's lobby is open to the public, with social distancing protocols in place. One customer may be helped in the lobby at a time, and all visitors to City Hall are required to wear a face covering. Staff must wear a face covering when in a shared space or in the presence of another person at City Hall. All City Hall operations are subject to change as COVID-19 information is available and will always be within the parameters of relevant health guidance.

City Hall Meeting Rooms: The Council chambers and community room are not authorized for use by members of the public at this time.



ADMINISTRATIVE POLICY

Number: I-42
Issued: September 10, 2020
Jurisdiction: City Council

CITY COUNCIL AND COMMISSIONER
CODE OF CONDUCT

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1.0 Preamble

The Capitola City Council declares that citizens of the City of Capitola are entitled to have fair, open, ethical, efficient and accountable local government and that City officials should continually strive to earn the public’s confidence. Toward that end, these Protocols establish higher standards of conduct for members of the City Council and members of City boards and commissions (collectively “Members”) than are currently required under the laws of the State of California.

The Members pledge to hold themselves and other Members responsible for observing the standards set forth in these Protocols, and to enforce these Protocols when necessary to preserve the integrity of City government.

2.0 Core Values

Responsibility

- I conduct myself in a courteous and respectful manner at all times during the performance of my official City duties.
- I will keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit
- I will avoid and discourage conduct which is divisive or harmful to the best interests of Capitola
- I make decisions based on the merits of an issue, including research and facts.
- I am a prudent steward of public resources and actively consider the impact of my decisions on the financial and social stability of the City and its residents.

Integrity

- I am honest with my fellow City officials, City staff, members of the community, and others.
- I promote equity and non-discrimination in public agency decision-making.
- I encourage diverse public engagement in our decision-making processes and support the public’s right to know.
- I do not accept gifts, services or other special considerations for personal benefit because of my public position.
- I excuse myself from participating in decisions when my or my immediate family’s financial interests may be affected by my actions as a City Official

Respect/Value others

- I recognize the worth and dignity of individual members and appreciate their individual talents, perspectives and contributions; value in others.
- I treat my fellow officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.

Attachment: I-42 Council and Board Code of Conduct (Review City Materials)

- I help create an atmosphere of respect and civility where individual members, City staff and the public are free to express their ideas and work to their full potential.
- I understand that I am one of five members of the City Council and will work towards consensus building and gain value from diverse opinions.
- I respect the distinction between the role of office holder and staff.

Accountability

- I am prepared to make decisions when necessary for the public's best interests, whether those decisions are popular or not.
- I do not make promises on behalf of the City without concurrence from the City Council at a duly noticed public meeting.
- I take responsibility for my actions, even when it is uncomfortable to do so.
- I do not use public resources, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
- I refrain from disclosing confidential information concerning litigation, personnel, property, or other affairs of the City, without proper legal authority, nor use such information to advance my financial or other personal interests.

3.0 Setting a Higher Standard within the Existing Framework

By adopting these Protocols, the Council intends to supplement and not to supersede California's existing legal framework applicable to local governments. Similarly, the Council intends that these Protocols will not merely restate existing legal obligations but will establish a higher standard of conduct for Members in the governance of the City. Members are referred to Appendix "A" (Legal Framework & Resources) for pertinent resources. Members are expected to be familiar with and to seek guidance about the applicability of the legal framework.

4.0 Transparency in decision making.

Transparency in decision making is of the utmost importance in maintaining ethical, representative local governance. Toward that end, Members will adhere to the following standards:

4.1 Public Meetings.

Members will hold public meetings in accordance with the Ralph M. Brown Act (the "Brown Act"). Members will seek guidance from the City Attorney as to the Brown Act requirements and will apply those provisions conservatively in favor of the public's right to participate in public decisions.

4.2 Council Communications & Serial Meetings.

Members will not engage in "serial meetings" with colleagues – a discussion of City issues among a majority of Councilmembers or Commissioners either collectively (i.e. all meeting together) or in a sequence (A talks to B who talks to C). Members

will not use other persons as intermediaries to accomplish a serial meeting or to circumvent the Ralph M. Brown Act.

4.3 Closed Session Discussions.

As part of a properly agendized meeting, Members may only hold sessions closed to the public, pursuant to the advice of the City Attorney, in accordance with the commonly accepted interpretation of Brown Act requirements. Discussions held in closed session are to be directly limited to the matter at hand. Such discussions, along with materials reviewed, are confidential and shall not be disclosed except as the City Attorney may advise.

4.4 Closed Session Materials.

Confidential materials provided in preparation for and during closed sessions must be returned to the City Attorney at the conclusion of the closed session.

5.0 Fairness of Process

Members will comply with the meeting and hearing procedures set forth by these protocols, the Brown Act, and Rosenberg's Rules of Order. Additionally, in order to cultivate an environment of fairness and to encourage public confidence in City decisions, Members will adhere to the following standards of conduct:

5.1 Decisions on the Merits.

Members will base their decisions on the facts and merits of each matter, not upon personal or other biases, and will strive to make decisions that are in the best interests of the community as a whole.

5.2 Disclose Information.

Prior to any deliberations on a project or matter at a public meeting, Members shall publicly disclose information about the matter that they have obtained from sources, not presented in the staff report (e.g. their own site visit, from the public, from the applicant, etc.), which may influence their decision or that of Members.

Remain neutral on quasi-judicial hearings. A quasi-judicial hearing occurs when;

- a) a hearing is held to apply a rule or standard to an individual person, project or circumstance;
- b) it involves the taking of evidence;
- c) it results in the rendering of a written decision issued by the hearing officer or tribunal (including adoption of findings); and

d) the written decision is based on the facts and arguments submitted at the hearing.

Elected and appointed officials are obligated to remain neutral and unbiased regarding quasi-judicial matters prior to their vote on the matter.

5.3 Consider All Sides.

Members should consider the various viewpoints related to a project or matter and afford project applicants and interested persons an adequate opportunity to comment upon a project or matter before action is taken.

5.4 Decorum.

To ensure the fairness and integrity of the deliberative process, the presiding officer should preserve decorum and conduct meetings in an orderly manner. Members should remain attentive of the business at hand and conduct themselves in a manner that is civil, polite and respectful. Members should refrain from unnecessarily interrupting speakers and not engage in abusive conduct, personal charges or verbal attacks upon the character or motives of other Members, City staff and/or the public.

5.5 Attentiveness.

Members should remain attentive at meetings. Members should not make or receive phone calls, text messages or e-mails from the dais. Members should place cellphones and other communication devices in “off” or “silent” mode. Members should refrain from side-bar conversations with other Members while at the dais.

6.0 **Ethical Decision Making**

Members should observe the highest standards of ethical conduct in dealing with the community and carrying out their official duties. In every action and decision, Members should avoid even the appearance of impropriety and apply the guidelines for “Making Ethical Decisions” provided below:

6.1 Avoiding the Appearance of Impropriety.

6.1.1 Make Ethical Decisions. Members are referred to Appendix “B” (Guidelines for Making Ethical Decisions) for the process Members are encouraged to utilize in making City related decisions.

6.1.2 You May Need to Refrain from Participating. Conflict-of-interest issues are complex. Some situations are not “legal” conflicts of interest but may nevertheless pose the “appearance of impropriety” to the public. If a Member believes they have a conflict, the Member should contact the City

Attorney or FPPC for advice as soon as possible. The Member should not participate in any matter in which they have a conflict.

6.1.3 Get Help. To assist in making a decision not to participate, Members should consult the guidelines for Making Ethical Decisions (below), the City Attorney or the FPPC helpline, and/or their constituents.

6.2 Ethical Principles to Follow.

6.2.1 **Avoid Personal Interests.**

Members are prohibited from using their official positions to influence decisions in which they have a personal financial interest, are members of an interested organization, or have a personal relationship that would be affected.

6.2.2 **No Personal Gain.**

Members shall not take advantage of, or use, public property and equipment, public services, confidential public information, public resources, or other opportunities afforded by their office, for personal gain.

6.2.3 **City Stationery.**

City letterhead or stationery or other City resources may not be used by Members to promote personal interests.

6.2.4 **Appearing before Council.**

Members shall not appear before the City Council or other City board or commission representing any private interest or community group. Members are permitted to speak as a member of the public on any matter related solely to the Council Member’s personal interest but may not participate in the matter as a Member.

6.2.5 **Gifts.**

Members will refrain from accepting gifts, favors or promises of future benefits that might compromise their independence, or the appearance that they are independent and unbiased.

7.0 Efficiency and Accountability

The City of Capitola operates under a council-manager form of government under which the Council’s role is to provide legislative direction, set City policy and monitor its implementation. The City Manager serves as the City’s administrative head and is

responsible for directing the day-to-day operations of the City and for administering all City business.

7.1 Members Should Not Interfere with Operations.

Implementing this Rule:

- a) City Manager is responsible for City Personnel Members will not interfere with the appointment, evaluation, discipline, or removal by the City Manager of any Department Head or employee of the City.
 - (i) *Exception – City Attorney.* The City Attorney is hired, appointed, evaluated, and removed directly by the Council.
- b) Orders and Direction to Employees. Only the City Manager or applicable Department Head may give orders and direction to City employees. Members may not direct the work or actions of City employees. (CMC Section 2.08.090)
 - (i) *Requests for Information.* All Members should direct requests for information, research, or reports to the City Manager or applicable Department Head. If there is a legal question it should be directed to the City Attorney. Questions regarding elections and disclosure statements may be addressed to the City Clerk.
 - (ii) *Responses.* Substantive responses to Member’s information inquiries will be provided to all Members of the legislative body (e.g. a response to a request by a Councilmember will be provided to all Councilmembers).
 - (iii) *Notifications.* Where the City Manager or Department Head provides general facts or information about the City, a program, or a City event to one Member, the information should be provided to all Members of the legislative body.
- c) Staff Liaisons to City Commissions / Committees and Outside Agencies. Members serving as the City’s representative to a City Commission or Committee or to an outside agency may interact directly with the City employee assigned to that effort by the City Manager.
- d) Operations and Service Levels. Criticisms of City operations and service levels may be made only to the City Manager and not to City employees or Department Heads, unless first cleared through the City Manager or expressed in general during a regular Council, board or commission meeting.

- e) Political Solicitation & Activities. Members will not solicit political support from City employees (e.g., financial contributions, display of posters or lawn signs, name on support list, etc.). Members will not engage in political activities at City Hall or other City facilities. This provision is not intended to impair the free exercise of federal and state constitutional and statutory rights by City employees.

7.2 Interaction of Members.

7.2.1 **Positions of Mayor and Chairperson.**

- a) Honorary Presiding Officer. The positions of Mayor and Mayor Pro Tempore on the City Council and the positions of chairperson and vice chairperson on City boards and commissions are generally considered honorary and ceremonial, but also serve an important procedural role as the presiding officer at meetings of their body. Persons appointed to those positions by a majority of their council, board or commission serve at the pleasure of their appointing body.
- b) Maintain Order, Decorum & Procedure. The Mayor and chairperson are responsible for maintaining order and decorum of their body's meetings and enforcing these policies where necessary. They are responsible for the order of business at meetings, the efficient flow of business during meetings, and for preserving the right of the public to be heard in an orderly fashion.
- c) Ceremonial Head. The Mayor is the ceremonial head of the City and signs all proclamations, officiates at all City functions, and welcomes visiting dignitaries.
- d) Spokesperson. The Mayor is the official spokesperson for the City and has the primary responsibility for communications with the press and public on official City business, with the exception of a state of emergency. During a state of emergency, the Director of Emergency Services may serve as the primary contact for the public, other governing officials and the press. The Mayor will work on press releases and statements to the press with the City Manager and will report the majority position adopted by the Council, and not his or her personal opinion on matters.

7.2.2 **At Public Meetings**

- a) Follow Rules of Order, Decorum and Procedure. Members should adhere to the rules of order, decorum and procedure for the conduct of public meetings adopted by the City Council from time to time. Abiding by these rules will maintain civility and the orderly conduct of business.

- b) Keep Conduct Professional. Members should conduct themselves in an orderly, professional, and business-like manner to ensure that the business of the City shall be attended to efficiently and thoroughly.
- c) Keep Comments On-Topic. Public meetings are to attend to and resolve City business. Members should avoid being overly repetitious and should endeavor to limit their comments to the subject matter at hand. Members are encouraged to fully express their views and to explore the views of others, but Members should also be mindful of avoiding lengthy or unproductive debates.
- d) Ask Questions in Advance. When preparing for public meetings, Members are encouraged to provide their questions far enough in advance to the City Manager or City employee responsible for the meeting so that meaningful information and responses can be shared at the meeting.

7.2.3 Relations with Fellow Members

- a) Civility. Members should always practice civility. By doing so, Members help the City to fulfill its potential by putting the common good ahead of personal rivalries or irritations. Civility is best fostered by a collective commitment to following established rules of procedure.
- b) Different Points of View. Members should exercise tolerance for the different opinions, perspectives, and points of view of their colleagues and recognize their right to express these views on matters of City business within the established rules of decorum and order of business.
- c) Managing Conflict. Members should manage disagreement with civility and professionalism and not allow disagreement to turn into open conflict or hostility. Members should refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Members, City employees and/or members of the public.

7.2.4 Public Communication and Appearance

- a) Personal versus City Positions. It is an important part of each Member's responsibility to communicate with the public. In communications regarding City business, it is important to distinguish a Member's personal views and opinions and the adopted City position. When appearing before another governmental agency or organization, the Member should clearly set forth the City's official position, and then may express their own position.

- (i) *Expressing Dissent.* Each Member has a right under the First Amendment to express their views and opinions, even if contrary to the official position of the City. However, Members should express their dissenting views with tact and civility.
- b) Use of Official Titles. Members may use their official title only when conducting official City business, for informational purposes, or as an indication of background and expertise, after having carefully considered whether they are exceeding or appearing to exceed their authority.
- c) Response to Public Communication. Members are encouraged to respond promptly to letters, telephone calls, electronic communication, and other communications received from member of the Public who have requested a response. Members are not required to respond to commercial solicitations or to anonymous, obnoxious or harassing communications.

8.0 Enforcement

8.1 Member Responsibility.

Upon assuming office each Member shall sign a statement affirming that they have received and reviewed these Protocols. Each Member is responsible for adhering to these Protocols as well as the laws that comprise the basic legal framework for local government.

8.2 Council Authority.

The City Council has authority, but not the legal obligation, to monitor each Member's adherence to these Protocols and to take corrective action for violations, as provided below.

8.2.1 **Training and Education.**

The City Council may sponsor or require periodic training opportunities for Members to become more familiar with the Protocols and the legal framework (See Appendix "A").

8.2.2 **Councilmembers.**

Under California law, the Council does not have the legal authority to remove Members elected or appointed to the City Council or to otherwise deprive them of their office. However, as provided in Section 8.4.3, a majority of the Councilmembers may remove a Councilmember from all Council honorary and/or ceremonial positions and ad-hoc and standing committees, as well as from positions with other governmental agencies or other organizations they hold by virtue of appointment by the City Council.

8.3 Violation of Oath of Office.

8.3.1 **Oath of Office.**

All Members take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State and the Federal government. In addition, Members commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery or other violation of the law.

8.4 Violation of Protocols.

8.4.1 **Complaint.**

Where any Board or Commission Member, Councilmember, City employee, or resident of the City believes that a Member has violated these Protocols or their Oath of Office, they may file a written complaint with the City Clerk who will then provide it to the City Manager and City Attorney. The complaint shall be considered confidential until the City Attorney has determined the appropriate next action.

8.4.2 **Investigation.**

Within thirty (30) days of receipt of a Complaint as provided in Section 7.4.1., the City Manager and City Attorney shall review the complaint. If, in the City Attorney's determination, the complaint alleges a violation of law, the City Attorney shall determine appropriate next steps.

For example, a complaint alleging theft of public funds or bribery, or a complaint from a purported whistle-blower (pursuant to California Labor Code Section 1102.5) may be forwarded to the Office of the District Attorney. Complaints alleging other violations of the law may be forwarded to the City's risk-management pool for a determination. The City Attorney shall have the authority to retain an outside investigator to investigate complaints from employees alleging violations of the Fair Employment and Housing Act.

All complaints, including complaints alleging violations of these protocols and any other City policy or procedure, at the appropriate point in the process as determined by the City Attorney shall be forwarded to the City Council for consideration in open session. The City Council may order an investigation.

8.4.3 **Enforcement.**

The City Council may use any of the following to respond to any and all violations of these protocols: (i) a warning (ii) a written reprimand; or (iii) censure. In addition, the City Council shall have the authority to remove

Board or Commission Members from office as a remedy for violations. (CMC 2.12.020 for Planning Commissioners).

The City Council, Boards and Commissions shall use the following procedure to consider complaints forwarded by the City Attorney:

- a) *Receipt of Complaint.* Upon receipt of the complaint, the Council will hold a public meeting at which it will determine whether the complaint should be dismissed for the reasons stated in section b)(i), below, or added to a future agenda for further discussion and determination. If the complaint is added to a future agenda, the subject Member shall have the opportunity to address the allegations in the complaint at the future meeting.
- b) *Determination.* The Council shall make a determination on the allegations in the complaint based on the following:
 - (i) *Dismissal.* Where the Council determines that no violation occurred or that only a trivial violation occurred, or that the complaint does not have merit for any other reason, the Council may dismiss the complaint.
 - (ii) *Reprimand.* The Council may adopt a verbal or written statement reprimanding the subject Member for their conduct. The subject Member may file a rebuttal to the Reprimand with the City Clerk which will become a matter of public record.
 - (iii) *Censure.* Where the Council, based on the Report, any statement from the subject Member, and other evidence accepted at a public hearing of the matter, determines that there is substantial evidence that the Member has materially violated one or more provisions of these Protocols, and that such violation(s) impugn the integrity or dignity of the City or that such violations are egregious or chronic in nature, then the Council may adopt a resolution censuring the subject member by condemning their actions, removing the Member from all appointive positions representing the City in front of other governments and agencies, demoting them if they hold a position of mayor, mayor pro tempore, chairman or vice chairman, stating that the violations shall cease, and demanding corrective actions. The subject Member may file a rebuttal to the Censure with the City Clerk which will become a matter of public record.
- c) *Commissioner and Board Member Removal from Office.*
 - (i) Planning Commissioner - Notwithstanding any of the provisions in this Section 9.0, the City Council may remove a

Planning Commissioner by following procedure in CMC Section 2.12.020. Nothing in these Protocols affects or diminishes such power nor vests Planning Commissioners with any additional rights, including, without limitation, rights of procedural due procession.

- (ii) Other Commissioners and Board Members - Notwithstanding any of the provisions in this Section 9.0, the City Council may remove any commissioner or board member appointed by the City Council. Nothing in these Protocols affects or diminishes such power nor vests such commissioners or board members with any additional rights, including, without limitation.

APPENDIX A – LEGAL FRAMEWORK & RESOURCES

1.0 Legal Framework

<u>Law or Regulations</u>	<u>Citation</u>
<i>California Laws</i>	
California Constitutions <i>General City Authority</i>	Article XI §§ 2, 5, 7, & 11.
Ralph M. Brown Act <i>Open Meeting Laws</i>	Government Code §§ 54950 <i>et seq.</i>
California Public Records Act <i>Public Records Disclosure</i>	Government Code §§ 6250 <i>et seq.</i>
California Political Reform Act <i>Conflicts, Disclosures & Campaigns</i>	Government Code §§ 81000 <i>et seq.</i>
FPPC Regulations <i>Conflicts, Disclosures & Campaigns</i>	2 Cal. Code Regs. §§ 18109 <i>et seq.</i>
<i>Legally Required Participation</i>	2 Cal. Code Regs. §18708
California Anti-Self Dealing Law <i>Self Interest in Contracts</i>	Government Code §§ 1090 <i>et seq.</i> ,
California Incompatibility of Office Law <i>Holding Two Public Offices</i>	Government Code § 1126 & § 1099
<u>City of Capitola Documents</u>	
City’s Charter	
City Municipal Code	
City Council Rules of Order and Protocols	
Reimbursement Policy	
Social Media Policy	
Handbook	
Anti-Harassment and Ethics Training	

Attachment: I-42 Council and Board Code of Conduct (Review City Materials)

2.0 Online Resources

<u>Resource</u>	<u>Web Address</u>
State of California <i>Portal to State Websites</i>	www.ca.gov/index.asp
Official Cal Legislative Information <i>California Bills & Codes Online</i>	www.leginfo.gov
Cal. Fair Political Practice Commission <i>Conflict of Interest Info</i>	www.ca.fppc
Cal. Attorney General <i>See AG Opinions</i>	www.ag.ca.gov
Cal. Senate <i>Bill Information Online</i>	www.senate.ca.gov
Cal. Secretary of State <i>Election Information</i>	www.sos.ca.gov
League of California Cities <i>Municipal resources</i>	www.cacities.org
Institute for Local Government <i>Municipal resources</i>	www.ca-ilg.org
Cal. Joint Powers Insurance Authority <i>Risk Management & Training</i>	www.cjpia.gov
Marrkula Institute for Applied Ethics <i>Ethical Decision Making</i>	www.scu.edu/ethics/practicing/decision
Institute for Local Self Government <i>Government Ethics</i>	www.ilsg.org

APPENDIX B – GUIDELINES FOR MAKING ETHICAL DECISIONS

[Please visit the Markkula Center for Applied Ethics at the University of Santa Clara]

How to Make an Ethical Decision. When presented with an opportunity to participate in making a decision for the City, the City Official should:

A. Recognize whether an ethical issue is involved.

1. Will the decision result in damage or injury to people?
2. Is there a clear good or bad result?
3. Is the result compelled under the law or does it hinge on budgetary, efficiency, or other community concerns?
4. Ethical decisions are often not the easiest decision nor the most popular.

B. Get the facts.

1. Read the staff report and get questions answered by the City Manager in advance.
2. Are there alternatives that would lead to better or worse results?
3. What are the viewpoints of the stakeholders? Are some more important than others?
4. Are there any unanticipated consequences?

C. Evaluate alternative actions. Which option will:

1. Produce the most good and do the least harm? (See the Markkula Center's Utility Test.)
 - a. Identify the *alternative actions* that are *possible* and the persons and groups (the stakeholders) *who will be affected* by these actions.
 - b. For each of the most promising alternatives, determine the *benefits and costs* to each person or group affected.
 - c. Select the action in the current situation that *produces the greatest benefits over costs for all* affected.
 - d. Ask *what would happen if* the action were a *policy for all similar situations*.
2. Best respect the rights of all who have a stake? (See The Markkula Center's Rights Test.)

- a. *Identify the right* being upheld or violated.
 - b. Explain why it *deserves the status* of a right.
 - c. Ask whether that *right conflicts with the rights* of others.
3. Treat people equally or proportionately? (See The Markkula Center's Justice Test.)
- a. What is the *distribution of benefits and burdens*? Is the distribution *fair*?
 - b. If disagreement persists over which outcome is fair, select a *fair process* to decide the issue.
4. Best serve the community as a whole. (See The Markkula Center's Common Good Test.)
- a. *Identify* what parts of the *common good* are involved.
 - b. Explain obligations to *promote or protect* the common good.
 - c. Discern whether the proposed action *conflicts with* an obligation to promote or protect the *common good*.
5. Lead the City Official to act as the sort of person or official as they want to be? (See The Markkula Center's Virtue Test.)
- a. Will the action help to *make you the kind of person you want to be*?
 - b. Will the action fit the City's reputation or vision of what it would like to be?
 - c. Will the action maintain the right balance between *excellence and success* for the City?

D. Make a decision and test it.

1. Which approach best suits the situation and arrives at the *most ethical decision*?
2. Which option is likely to be *most respected* by the Member's colleagues and constituents?

E. Act and reflect on the outcome.

1. How can the decision be *implemented to best reflect the intention and reasons* for the decision?
2. What was the end result of the decision and what feedback has the City Official received?

APPENDIX C – Receipt of Code of Conduct

I affirm that I have read and that I understand, accept and support the City of Capitola City Council and Commissioner Code of Conduct

Board, Commission, Committee Position

(Print Name)

Signature

Date

Attachment: I-42 Council and Board Code of Conduct (Review City Materials)



ADMINISTRATIVE PROCEDURE

Number: I-31

Issued: March 14, 2013

Jurisdiction: City Council

City Council Abstentions

I. PURPOSE

The purpose of this procedure is to set forth consistent procedures concerning City Council abstentions. The Fair Political Practices Commission (FPPC) has adopted a process for determining when an official must disqualify him or herself from participating in a decision. These regulations state that Council Members are prohibited from participating in governmental decisions that may have a material financial effect on their economic interests, including the economic interest that every public official has in his or her personal finances.

II. POLICY

Each Council Member in attendance at a Council meeting has a responsibility to vote on each item presented to Council for action. It may be tempting to abstain because of concerns about making an unpopular decision or simply not knowing which decision is best. As hard as some decisions are, making decisions is what you were elected to do. Decisions made should reflect the views of every voting elected official who can participate in the decision. Responsibility is a key component of ethical behavior. Attending and being prepared for meetings is a major element of an elected official's responsibilities and hence, ethical behavior. So is voting in general.

III. PROCEDURE

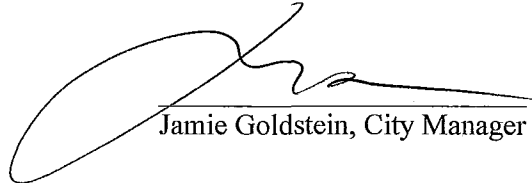
If a member of the Council has any legitimate basis for not voting on a particular item other than that set by FPPC the Council Member may abstain from voting by complying with the following procedures:

- A. It shall be the practice of the Councilmembers to vote on items that are placed on the agenda for consideration if the Councilmember has no conflict of interest. Councilmembers shall not abstain simply to avoid casting a controversial vote.
- B. If a Councilmember has any legitimate basis for not voting on a particular item, the Councilmember may abstain from voting by complying with the following procedures:
 1. During the Council meeting, and prior to the vote on the item being considered, the Councilmember shall announce the intention to abstain from voting on the item, and disclose the basis for abstention in sufficient detail to be understood by the public. Examples of legitimate bases for abstention include:
 - a. The Councilmember does not have sufficient information regarding the item under consideration (for example, the item was previously considered by the Council in the member's absence, and the Councilmember did not have an opportunity to review the record of Council's previous consideration).
 - b. The Councilmember is concerned about the perception of personal or financial conflict even if there is no reasonable good faith belief of a required disqualification (e.g., an effect on the financial interest of a relative [other than a spouse or dependent of the Councilmember]).

- C. It is inappropriate for a Councilmember to participate in a City Council debate, ask questions, express opinions and then abstain from voting.
- D. Any Councilmember who abstains from voting on an item shall be counted as a member of the quorum of the City Council, and the member shall be counted as going along with the vote of the majority of those members voting on the item; provided, however, that Councilmember shall not be entitled to make a motion or make a second on the item, and that Councilmember shall not be entitled to make a motion for reconsideration. (As an example of counting votes of abstention: (a) 2 yes, 2 no, and 1 abstain would fail; (b) 2 yes, 1 no, and 2 abstain would pass; (c) 2 yes, 2 no, and 1 recuse would fail; and (d) 2 yes, 1 no, and 2 recuse would pass).

Note: If a Council Member has reservations regarding potential abstentions it is recommended that he or she contact City Attorney for assistance as early as possible prior to the meeting.

Approved and authorized by the Capitola City Council at its meeting of February 28, 2013.



Jamie Goldstein, City Manager



ADMINISTRATIVE POLICY

Number: I-18
 Issued: June 27, 2019
 Jurisdiction: City Council

ELECTED/APPOINTED OFFICIALS & SOCIAL MEDIA

I. PURPOSE

The purpose of this policy is to provide guidance for the appropriate use of social media by elected and appointed City of Capitola officials, and members of City committees subject to the Brown Act. The policy will also outline the proper response if elected/appointed officials and Brown Act committee members use social media inconsistently with this policy.

The First Amendment of the United States' Constitution defines every citizens' freedom of religion, speech, press, assembly, and petition. Under this amendment, the exercise of free speech, including on social media outlets, is protected. All Capitola Officials are entitled to this right, and this policy does not revoke it.

II. DEFINITIONS

- A. Social Media: an online forum or communication tool that enables individuals to create online communities to share information, messages, images and other content.
- B. Quasi-Judicial/Administrative Decisions: “occurs when a) a hearing is held to apply a rule or standard to an individual person, project or circumstance; c) it involves the taking of evidence; d) it results in the rendering or a written decision issued by the hearing officer or tribunal (including adoption of findings); and e) the written decision is based on the facts and arguments submitted at the hearing”. These types of hearings affect individual properties or parties.
 - 1. *Examples*: Planning Commission decisions on project applications
- C. Legislative Decisions: Actions include “adoption and amendments to municipal codes, general plans, zoning codes, and personnel regulations”. These types of hearings establish public policy and rules that apply to groups of property or people.
 - 1. *Examples*: Zoning Code updates, Ordinance adoption, changes in policy, approval of the budget, etc.
- D. Ex-Parte Communication: any material or substantive oral or written communication with a decisionmaker that is relevant to the merits of an adjudicatory proceeding, and which takes place outside of a noticed proceeding open to all parties to the matter (Gov. Code 11430.10)

III. SOCIAL MEDIA USE

Utilizing social media outlets can be useful for elected/appointed officials to engage with the public and present City information. For the purposes of this policy, a social media post includes the creation of any content; either new or linked to another's, on all social media

platforms. This includes and is not limited to; information posted on your own social media account in picture or text form, commenting on other posts, re-posting or sharing content by other social media users, liking other's posts, etc. Regardless of username, elected and appointed officials are accountable for their online behavior. Social Media Accounts under private names or dissociated from the City could still come under scrutiny if they are run by an elected or appointed official. For example, Facebook accounts with usernames "Jane Doe" and "Mayor Jane Doe" should both be managed in accordance with this policy. This policy will outline the best practices that should be considered so that all Officials use social media expression in positive ways and avoid potential liability for the City or themselves.

IV. BEST PRACTICES WHEN POSTING ON SOCIAL MEDIA

The chart below (section VII) is designed for easy reference to demonstrate the different levels of appropriate and inappropriate social media engagement. Consequences of writing and posting certain types of content are simply stated in the second row, so that Officials understand their responsibilities after engaging in such types of social media engagement. As an elected or appointed official, you will be called upon to render decisions that affect the City of Capitola, and it is important to remain mindful of how online communication regarding these decisions will be perceived. Because the type of decisions (quasi-judicial vs. legislative) varies, their content type should be considered when posting about them on social media.

- A. Keep it Neutral: Use caution when expressing yourself online. This is a permanent, public record that may preserve your thoughts on a subject that ends up coming in front of the City for a decision. Neutrality can be the easiest way to avoid later recusal and preserve your reputation as an impartial, unbiased decision maker.
- B. Keep it Equal: Treat City Business in a similar way online. This is another way to preserve your neutrality for future decisions.

V. ISSUES WHEN POSTING ON SOCIAL MEDIA

Particularly when related to quasi-judicial decisions, social media content posted by elected or appointed officials can be problematic. Online conversation can also easily lead to Brown Act Violations.

- A. Showing Bias on Quasi-Judicial Hearings: Elected and appointed officials are obligated to remain neutral and unbiased regarding quasi-judicial matters prior to their vote on the matter. Officials should use caution when expressing themselves, in all types of communication including on social media outlets, to remain unbiased.
- B. Using Social Media to Gauge Public Opinion: Communicating online about specific upcoming City decisions may result in valuable resources such as public opinion and community input, which then is left out the public record unless action is taken to disclose it. Purposefully gathering information on quasi-judicial decisions prior to their respective public hearings negates the inherent neutrality of a public hearing; where all information is heard at one time and decisions are made based upon the facts and opinions presented in that public forum.
- C. Conversing with Other Officials Online: The Brown Act dictates much of elected and appointed officials' behavior both during and outside of public meetings. Online conversation between multiple elected and appointed officials should not relate to quasi-judicial matters.

1. *Ralph M. Brown Act & Serial Meetings:* The general point of this California State Law is that “California legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly." A serial meeting, expressly prohibited by the Brown Act, is when multiple members of Council or Committee engage in conversation regarding a quasi-judicial matter outside of a duly noticed public meeting. Serial Meetings can occur between elected or appointed officials when two or more comment, post, or engage in online conversation regarding City business. This type of social media use will put officials in violation of the Brown Act.

VI. TYPES OF SOCIAL MEDIA POSTS

	<u>Acceptable</u>	<u>Potentially Acceptable</u>	<u>Discouraged</u>	<u>Against Policy</u>
Action	<ul style="list-style-type: none"> Sharing City-created social media posts Sharing content regarding legislative proceedings, City policy, budget and events Posting self-created content regarding legislative proceedings, City policy, budget and events 	<ul style="list-style-type: none"> Sharing or posting content regarding quasi-judicial City matters in a consistent fashion. 	<ul style="list-style-type: none"> Treating individual quasi-judicial matters differently. For example, only sharing content related to selected development projects and not others. 	<ul style="list-style-type: none"> Expressing personal opinions on quasi-judicial matters, prior to voting Violations of the Brown Act
Remedy	<ul style="list-style-type: none"> No additional action 	<ul style="list-style-type: none"> Ex-parte Communications must be submitted to the City for inclusion in the record 	<ul style="list-style-type: none"> Ex-parte Communications must be submitted to the City for inclusion in the record Official may need to recuse from voting 	<ul style="list-style-type: none"> Ex-parte Communications must be submitted to the City for inclusion in the record Official must recuse from voting

Attachment: I-18 Council & Committee Use of Social Media (Review City Materials)



CAPITOLA CITY COUNCIL WORKSHOP AGENDA REPORT

MEETING OF JANUARY 21, 2021

FROM: City Manager Department

SUBJECT: Discuss Processes Preparing for and Conducting City Council Meetings

RECOMMENDED ACTION: Receive presentation.

BACKGROUND/DISCUSSION: In 2007, the Capitola City Council designated the Rosenberg Rule's of Order as the rules of order governing Council Meetings with Resolution No. 3611. The Municipal Code section 2.04.140: Agenda was revised in April 2020 and outlines the process of placing an item on a future City Council agenda.

This item will include a presentation about selected Municipal Code and State law requirements that pertain to City Council meetings. Topics that will be covered include: how to obtain information from staff, how to place an item on a future agenda, Rosenbeg's Rules, and other topics.

FISCAL IMPACT: None.

Report Prepared By: Jamie Goldstein
City Manager

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 1/15/2021



CAPITOLA CITY COUNCIL WORKSHOP AGENDA REPORT

MEETING OF JANUARY 21, 2021

FROM: City Manager Department

SUBJECT: Review City Council Training Requirements/Options

RECOMMENDED ACTION: Receive presentation regarding required training and provide direction regarding further Council training opportunities.

BACKGROUND/DISCUSSION: All local officials are required by State code to take a training course in both Harassment Prevention (AB 1661) and Public Service Ethics (AB 1234) within six months of their taking office. If service is ongoing, trainings must be taken every two years.

AB 1661, Harassment Prevention training must include the following:

- The definition of sexual harassment under the Fair Employment and Housing Act (and Title VII of the federal Civil Rights Act),
- Types of conduct that could be considered sexual harassment,
- The statutes and case-law principles prohibiting and preventing sexual harassment;
- The remedies available for victims of sexual harassment;
- Strategies to prevent sexual harassment;
- Supervisors' obligation to report harassment;
- Practical examples of harassment;
- The limited confidentiality of the complaint process;
- Resources for victims of sexual harassment, including to whom they should report it;
- How employers must correct harassing behavior;
- What to do if a supervisor is personally accused of harassment;
- The elements of an effective anti-harassment policy and how to use it;
- "Abusive conduct" under Government Code section 12950.1, subdivision (g)(2).

AB 1234, Public Service Ethics training must include the following:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources and prohibitions against gifts of public funds;
- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act);
- Law relating to fair processes, including fair contracting requirements, common law bias requirements and due process

Review Council Training
January 21, 2021

If Council is interested in other training topics and opportunities, staff can research options.

FISCAL IMPACT: None; though costs could incur depending on additional training and program registration fees. Currently, there is \$2,500 allocated for Council training in the FY2020-21 Budget (with an additional \$17,300 allocated for necessary membership fees).

Report Prepared By: Chloe Woodmansee
City Clerk

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

1/15/2021