

# CAPITOLA

## ART & CULTURAL COMMISSION

### MEETING AGENDA

Tuesday, October 13, 2020 6:30 p.m.

#### NOTICE OF REMOTE ACCESS ONLY:

In accordance with the current Shelter in Place Order from Santa Cruz County Health Services and Executive Order N-29-20 from the Executive Department of the State of California, the Capitola Art and Cultural Commission meeting will not be physically open to the public and in person attendance cannot be accommodated.

Remote participation is possible via Zoom Meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/88112059755?pwd=VG8wbUxKUG8ydXZZYVBBMVV5S0tYdz09>

Meeting ID: 881 1205 9755

Passcode: 788599

Dial by your location

+1 669 900 6833 US (San Jose)

+1 408 638 0968 US (San Jose)

#### Commission Members

Roy Johnson - Chair

Laura Alioto

Mary Beth Cahalen

Courtney Christiansen

Laurie Hill

Susan McPeak

Kelly Mozumder

Sam Storey

James Wallace

#### Youth Member

Ayden MacKenzie

#### Staff Representatives

Kelly Barreto &

Larry Laurent

1. Call to Order
2. Approval of Agenda-
3. Oral Communications-
4. Approval of Minutes- September 8, 2020
5. General Business –
  - a. Public Art – Depot Hill Stairs Proposal Review
  - b. Art Contest
  - c. Public Art – Monterey Avenue Railing (Verbal)
  - d. Shared Ideas Storage
  - e. Code of Conduct
6. Commissioner Reports-
7. Staff Report-
8. Communications-
9. Future Agenda Items –
10. Adjournment

*Agenda and Agenda Packet Materials: The Art and Cultural Commission Agenda is available on the City's website: [www.cityofcapitola.org/](http://www.cityofcapitola.org/) on Friday prior to the Tuesday meeting. If you need additional information please contact the City Hall Department at (831) 475-7300.*

*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.*

*Appeals: Any person who believes that a final action of this advisory body has been taken in error may appeal that decision to the City Council. Appeals must be in writing and delivered to the City Clerk's Office within ten (10) working days from the time of the boards' decision. The notice of appeal shall set forth appellant's name, phone number, address to which notices may be sent to the appellant, and the grounds upon which the appeal is made.*

**CAPITOLA**  
**ART & CULTURAL COMMISSION**  
**DRAFT MEETING MINUTES**

**Tuesday, September 8, 2020 6:30 p.m.**

**Remote Meeting via Zoom**

1. **Call to Order-Roll Call:** Present: Johnson, Storey, Alioto, Hill, Cahalen, Mozumder, McPeak, MacKenzie  
Absent: Wallace, Christiansen,
2. **Approval of Agenda-** M/S Cahalen/Johnson Approved Unanimously
3. **Oral Communications-** Commissioner Hill reported that a number of Begonias were taken from the Trestle building on Capitola Avenue.
4. **Approval of August 11 , 2020 Minutes-** M/S Hill/Cahalen Approved unanimously.
5. **General Business-**
  - a. **Public Art – Depot Hill Stairs** – Commissioner Cahalen reported that staff had notified the selected artists and that the proposals will be reviewed at October meeting. Chair Johnson asked how the process went.
  - b. **Public Art – Monterey Avenue Railing** Chair Johnson reported that the project is still moving forward. Would like to have it in person. Commissioner Cahalen commented that the artist selection has been similar to pre-COVID. Commissioner McPeak asked about location. She loves existing wall. Chair Johnson replied that he likes the wall and hopes it will enhance. Commissioner Hill commented that the project was slowed down to look at the opportunity to include the Begonia Festival in the design. Chair Johnson added that the Begonia would fit better on Wharf Road. Could be a separate project. Commissioner Hill add that those involved might like in closer to the creek. Will reach out to people that were part of Begonia Festival. Commissioner McPeak stated that she is very interested in the project.
  - c. **Virtual Twilight Concerts** Staff reported on the Fire Relief Concert. Approximately \$13,000 was raised. Commissioner Hill suggest that Alex be thanked at a City Council meeting.
6. **Commissioner Reports** – Commissioner McPeak reported that she looked at the palm trees discussed at the August meeting. Was concerned that they were not a Commission it.
7. **Staff Report-** Staff reported on the status of the palm tree. Nothing has been agendized at Planning Commission.
8. **Communications-** None
9. **Future Agenda Items** –Railing, Stairs, Virtual Twilight Concerts, Shared Storage for public art. Begonia Festival art project.
10. **Adjournment** –



Item #: 5.a

# ART & CULTURAL COMMISSION AGENDA REPORT

## MEETING OF OCTOBER 13, 2020

FROM: Larry Laurent  
DATE: October 6, 2020  
SUBJECT: Public Art - Depot Hill Stairs Proposal Review

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**Recommended Action:** Receive Proposals and Consider Recommendation to City Council

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**BACKGROUND** At the June Art and Cultural meeting, the Commission approved moving forward with a public art project to create a mural on the risers of the stairs connecting Capitola village to Depot Hill.

A call to artists was issued on June 22, 2020 and closed on August 3, 2020. The call was posted on publicartist.org and The California Arts Council, <https://www.cac.ca.gov/>. There were thirteen submissions which were reviewed by the subcommittee.

At the August Art and Cultural Commission meeting, the subcommittee made recommendations to the full Commission. The full commission recommended proposals from Jolene Russell, Michael Kirby, and Wall and Wall. Staff contacted the selected artists and all expressed interest in submitting a proposal. The deadline for submission is September 21, 2020.

Proposals were received by all three artists for the Depot Hill Stairs Mural Project. The Commission will need to review the proposals and speak with the artists. After reviewing, the Commission will decide if it wants to recommend any of the proposals to the City Council for approval.

### **FISCAL IMPACT**

Project has a \$10,000 budget which will come out of the Public Art fund which has an approximate balance of \$178,000

### **ATTACHMENT**

Jolene Russell Proposal  
Michael Kirby Proposal  
Wall and Wall Proposal

**Report Prepared By:** Larry Laurent

DEPOT HILL STAIRS  
MURAL DESIGN #2

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Jolene Russell &  
Calene Luczo Fletcher

9/2020



# Murals of Baltimore

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Website: [www.muralsofbaltimore.com](http://www.muralsofbaltimore.com) [www.michaelw Kirby.com](http://www.michaelw Kirby.com) e-mail:  
[info@muralsofbaltimore.com](mailto:info@muralsofbaltimore.com)

Murals of Baltimore, LLC

11 South Ann St Baltimore, MD 21231 Tel (410) 522-5515 Fax (410) 522-3098

## Description Capitola Stair Mural

When I approach a new project, my goal has always been to create work that is educational, appreciated, and understandable for the communities and environments that I will be working in. For the Capitola community and area I have a goal of creating a painted mural that will cover the entire 8' x 52' foot stairs. I have dedicated this mural to the various sea life that can be found off the coast in the Pacific Ocean.

Through out my research, interviews, and readings, the theme of the ocean is a very important subject for the people of Capitola. So with this in my mind I began to design my proposal with idea of creating what can be found on the surface and below the surface of the ocean. The top of the stairs will have the name of the town, Capitola, painted in bold letters. Behind the lettering of Capitola is the beautiful sunset that can be seen every day in Capitola. The center of the stairs depicts a humpback whale jumping out of the ocean and creating waves that flow through out the mural, running up and down the stairs. Toward the bottom of the stairs and mural is an octopus. The arms of the octopus entangle within each other and run along the edge of the mural creating a frame for the entire picture. The humpback whale will be painted 3D so that it will seem to viewers as if the whale is jumping out of the stairs.

## Materials

The paints used in the mural are KEIM Silicate Mineral Paints. KEIM is a ready-to-use mineral silicate paint system for use in sub-tropic/tropic conditions. It offers water repellency, high vapor permeability and forms a chemical bond with the substrate. KEIM is made using pure inorganic mineral fillers, absolutely lightfast inorganic pigments, additives and potassium silicate binder. KEIM is a long life exterior silicate-based paint. The pigments (natural earth oxides) used in KEIM are absolutely lightfast, and the paint is not affected by air pollution or acid rain. Murals painted with potassium silicate paint in the late 1800s in Germany and Switzerland have survived handsomely to the present day. See tech sheets.

Please see Outline for further descriptions and time.

Thank you for your time and consideration.

Sincerely,

Michael Kirby

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Murals of Baltimore, LLC

11 South Ann St Baltimore, MD 21231 Tel (410) 522-5515 Fax (410) 522-3098











# Murals of Baltimore

Website: [www.muralsofbaltimore.com](http://www.muralsofbaltimore.com) [www.michaelw Kirby.com](http://www.michaelw Kirby.com) e-mail: [info@muralsofbaltimore.com](mailto:info@muralsofbaltimore.com)

Murals of Baltimore, LLC  
11 South Ann St., Baltimore, MD 21231 Tel (410) 522-5515 Fax (410) 522-3098

## Project Schedule:

1. Modification of Marquette for approval of Client
2. Approximately one month of time will be dedicated to creating detailed renderings of all designs.
3. This approved Marquette will be used in the painting of the wall.

## Concrete Surface:

1. The creation of mural on Concrete Stairs requires that the team from MoB stays on site for the duration of the project. The stairs will be cleaned and scrubbed prior to application of primers and paints.

## Painting:

1. Substrate will be cleaned and primed using Keims Grob.
2. Once the surface of the area has been prepared (such as panels or wall) a grid will be applied to the surface.
3. After grid has been applied, a drawing will be designed over the surface using soft pastels.
4. Paints will be used to paint the substrate in a preapproved style using brushes and rollers. A spray gun may be used as well.
5. Stairs will be painted using Keims Mineral Paints Royalan
6. The pigments (natural earth oxides) used in Keims are absolutely lightfast, and the paint is not affected by air pollution or acid rain. Murals painted with potassium silicate paint in the late 1800s in Germany and Switzerland have survived handsomely to the present day. See tech sheet.
7. KEIMS does supply an anti graffiti solution that can be applied to the mural at the Committee's request. This covering does have long term effects that will yellow the mural.

## Time:

1. PreProduction = one month
2. Stair Preparation = one month
3. Painting = 2 months
4. Total: 2 months to 3 months

## Labor:

1. One Project Manager or Master Muralist
2. Assistant

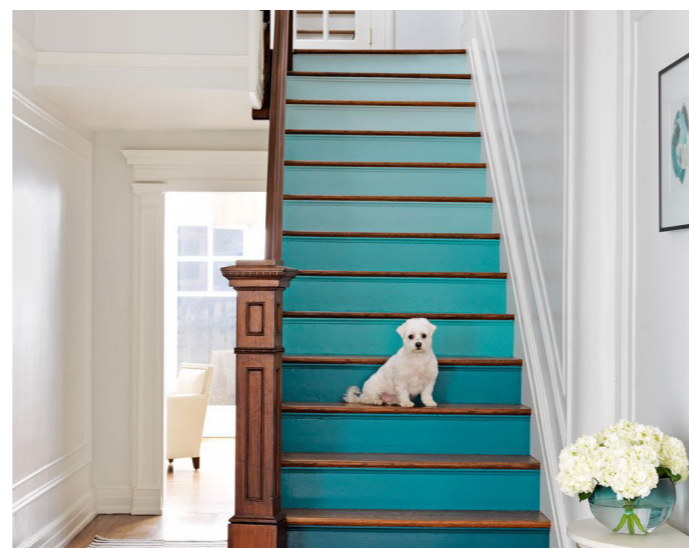
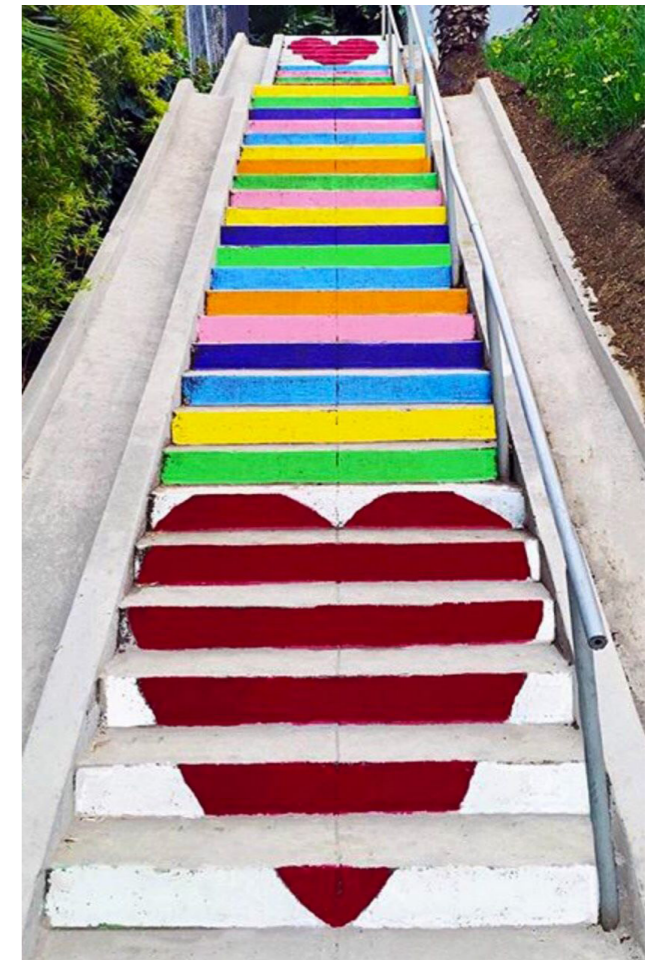
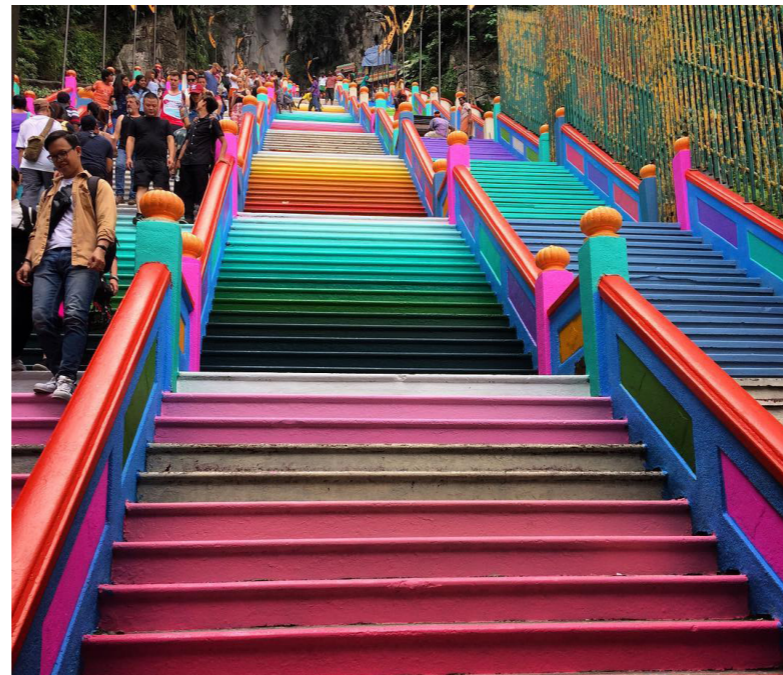
WALL  
-AND-  
WALL

Depot Hill Stairs Mural

## Inspiration

With budget and location in mind, we believe a simple yet impactful mural would be perfect for this staircase.

For this staircase mural, we are inspired by the famous Capitola cottages that bring a playful and colorful charm to California, unlike any other beach town. In both concepts, we took the landscape and interpreted it into a colorful art piece that creates a landmark for the residents and visitors of Capitola.



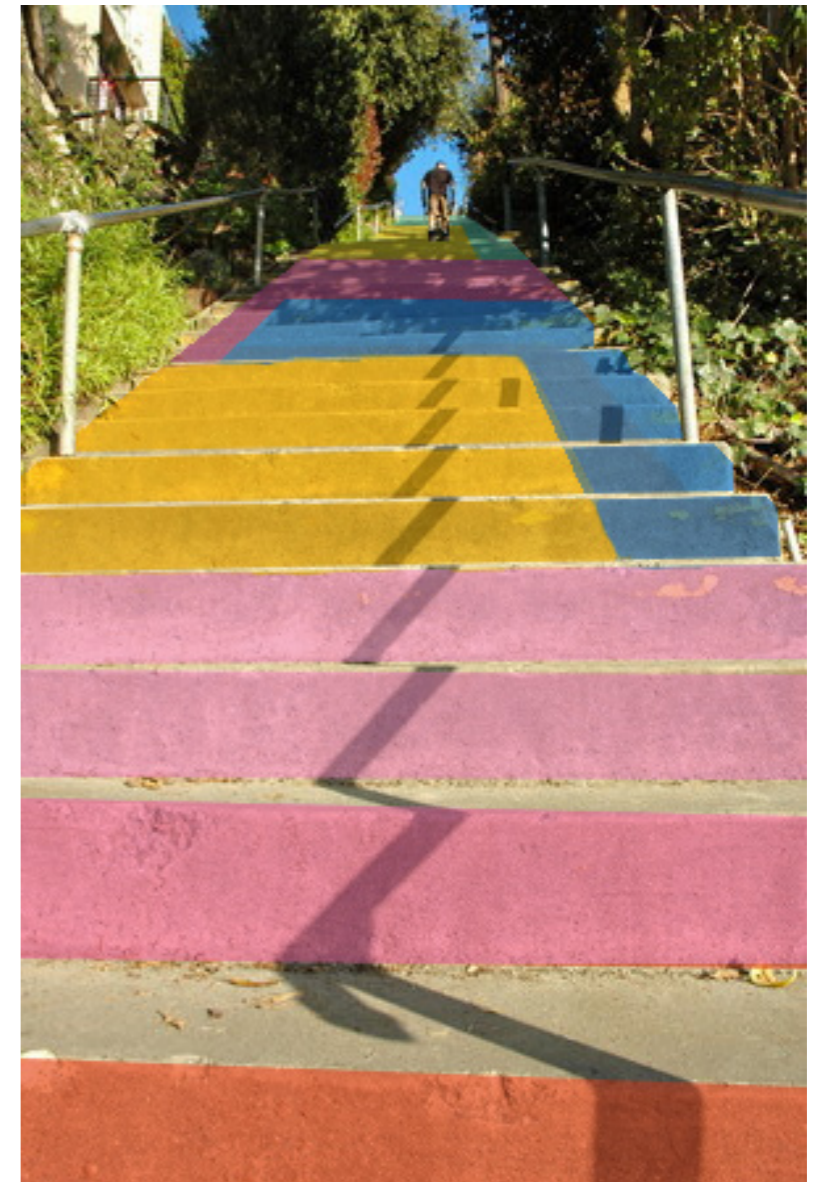
## Capitola Depot Hill Stairs

## Concept A - Color Blocks

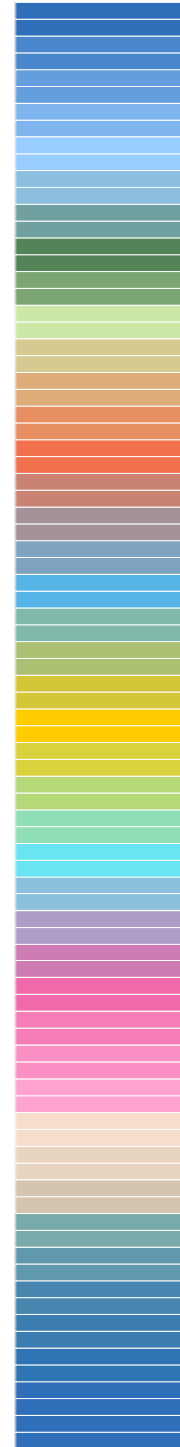


## Capitola Depot Hill Stairs

For the first concept, we chose color blocks to represent the homes that line the beach into the Soquel creek. The simplified artwork conveys the imagery that Capitola is well known for and is sure to make a statement.

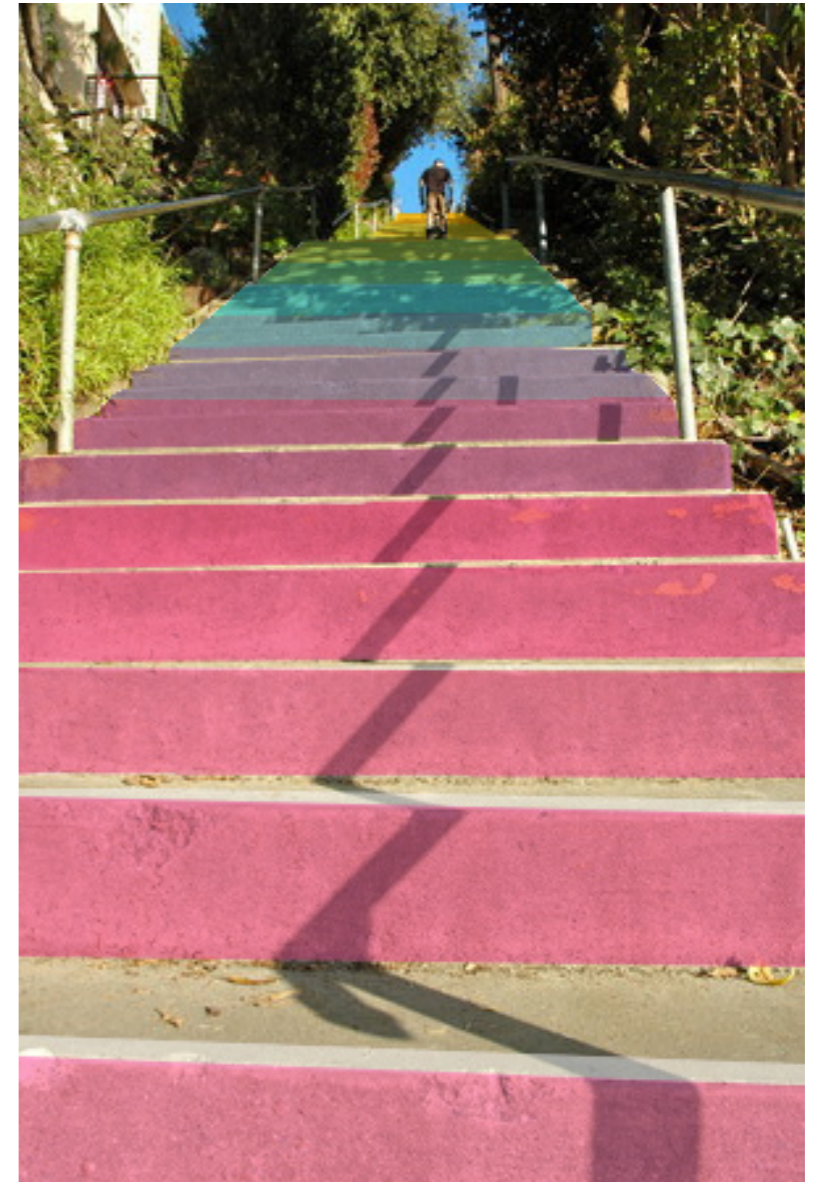


## Concept B - Color Gradient



## Capitola Depot Hill Stairs

For the second concept, we took it a step further and simplified the artwork into a gradient piece. This gradient stair is unique though, as it represents the colors from the ocean, sand, cottages, trees, and sky in its purest form.



**Scope of Work**

Stairs are 6-8 feet wide and have a rise of approximately 52 feet and a run (length) of approximately 90 feet.

There are 86 stair risers and each one is approximately 7 inches in height. The total surface area for the stair risers is approximately 450 square feet. There is no possibility of there being any improvements to the stairs or the handrail. The riser will be where the mural will be painted. The stair construction is concrete. The stair tread needs to have the required contrasting stripe.

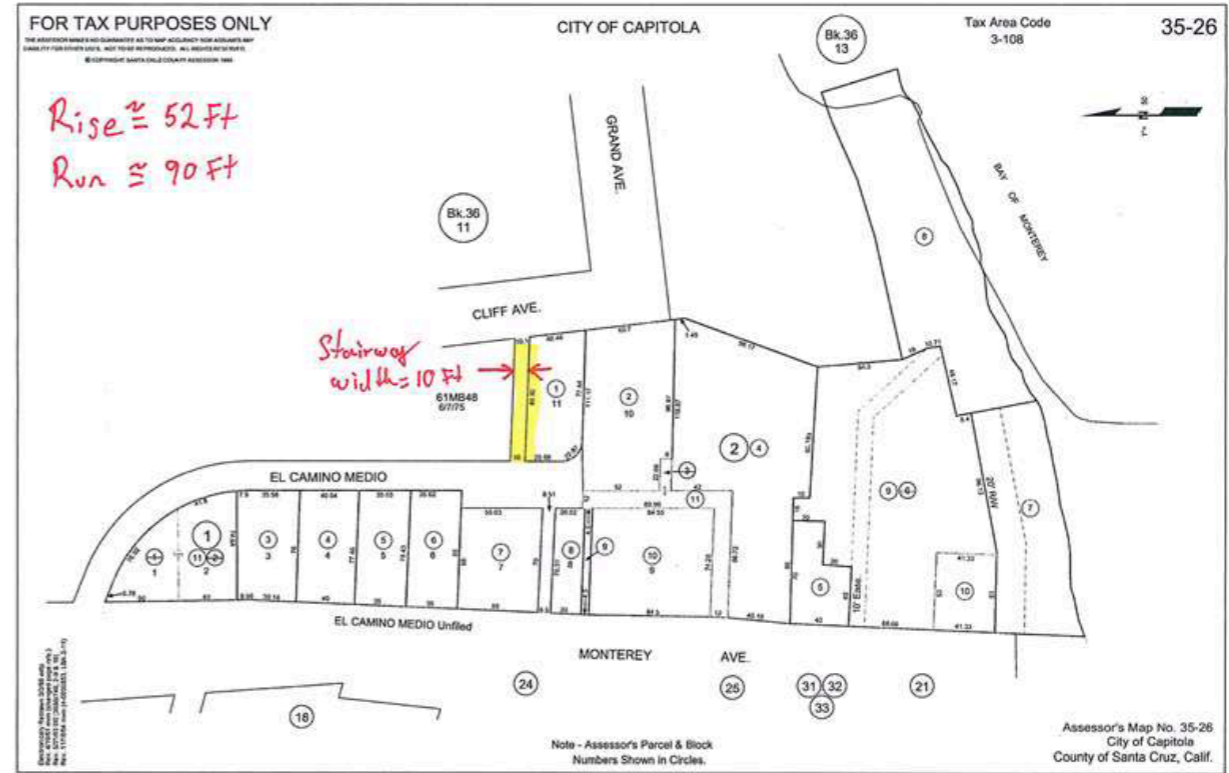
**Project Timeline**

October 2020 - Contract signed; artwork starts

October – November 2020 Artwork completed/Unveiling

**Project Budget**

\$10,000, which shall include all expenses, including but not limited to: design and artist's fee, all applicable fees, priming, materials, labor, required insurance, travel and expenses, scaffolding and graffiti coating.







If You Have Any Questions Feel Free To Reach Out:

Wall and Wall  
[info@wallandwall.com](mailto:info@wallandwall.com)  
415-228-7121  
[www.wallandwall.com](http://www.wallandwall.com)





Item #: 5.b

# ART & CULTURAL COMMISSION AGENDA REPORT

## MEETING OF OCTOBER 13, 2020

FROM: Nikki Bryant LeBlond  
DATE: October 6, 2020  
SUBJECT: Winter Art Show to Memorialize 2020

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**Recommended Action:** Receive Report and Consider partnership with Capitola Recreation

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### **BACKGROUND**

Capitola Recreation would like to partner with the Art & Cultural Commission to host a Winter Art Contest themed to Memorialize the year 2020. The contest would include electronic submission followed by a public viewing.

In the proposed plan, artists would submit entries digitally to an online viewing gallery. The entries would be reviewed by a panel of judges for inclusion in the public viewing. All mediums would be welcome and there would be a separate contest for adult entries and youth entries. Voting could include different theme prizes.

A public display and viewing of the winners would be held on the Esplanade with one-way walking viewing and following all proper social distancing protocol.

The public would be able to vote for the top winner in person and via Instagram during the public viewing phase. The winning piece could be purchased by the City to be included in the City's permanent collection.

Capitola Recreation would like to know if the Commission is interested in partnering on the art show and if a sub-committee could be chosen to work with Capitola Recreation.

### **FISCAL IMPACT**

Use of public Art Fund to purchase winning art piece. Supplies necessary for public viewing on the Esplanade, including the use of existing display panel.

### **ATTACHMENT**

**Report Prepared By:** Nikki Bryant LeBlond, Recreation Supervisor



Item #: 5.d

# ART & CULTURAL COMMISSION AGENDA REPORT

## MEETING OF OCTOBER 13, 2020

FROM: Larry Laurent  
DATE: October 6, 2020  
SUBJECT: Public Art - Depot Hill Stairs Proposal Review

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**Recommended Action:** Receive Report and Give Direction

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**BACKGROUND** At the August Art and Cultural Commission meeting, Commissioner McPeak asked to have the idea of the creation of a shared location to store public art and other relevant Art and Cultural Commission photos and other resources.

Staff can setup a Dropbox or similar site very easily if that is the recommended direction. Would have to look into other options if desired.

**FISCAL IMPACT** No anticipated costs for a Dropbox solution.

### **ATTACHMENT**

**Report Prepared By:** Larry Laurent



# ART & CULTURAL COMMISSION AGENDA REPORT

## MEETING OF OCTOBER 13, 2020

FROM: Larry Laurent  
DATE: October 6, 2020  
SUBJECT: Council and Commission Code of Conduct

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**Recommended Action:** Receive Report

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**BACKGROUND** The Capitola City Council formed an ad-hoc subcommittee to work with staff to create a draft Code of Conduct policy that would then be reviewed by the full Council. City Council appointed Vice-Mayor Brooks and Councilmember Storey to the subcommittee.

The ad-hoc committee met multiple times with the support of staff and the City Attorney to create a City Council and Board member Code of Conduct.

At the September 10, 2020, City Council Meeting, Council unanimously approved Administrative Policy I-42, as recommended by the ad-hoc subcommittee.

**DISCUSSION:** The approved Code of Conduct Policy applies to City Councilmembers and all appointed City Board Members and Commissioners.

The approved Code of Conduct includes;

- Core values for City Council members and Appointed Officials
- Transparency and decision-making standards
- Standards for how City Council and Appointed Officials are expected to interact with City staff
- Standards of relations with other councilmember and decorum at public meetings
- Standards for communications with the public, boards and commissions, other governmental agencies, staff, and media
- Procedures to investigate violations of the set standards, and penalties for violations

The Code of Conduct includes appendices with references and guidelines to assist the City Council and Commissioners in understanding the goals of the Code of Conduct. The Code of Conduct Policy also includes a signature page for Councilmembers and Appointed Officials, indicating that they have read the Handbook and accept its standards. A signature is required from all Board Members and Commissioners.

The Code of Conduct does not supersede any other legal requirements for councilmembers and appointed officials; it is intended to work in conjunction with other requirements and provide a framework to guide how elected and appointed officials should conduct themselves, and a structure in which to consider violations of the Code of Conduct or the law.

**FISCAL IMPACT** None Anticipated

**ATTACHMENT** City Council Administrative Policy I-42

**Report Prepared By:** Larry Laurent



## 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.



- 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 process.

- (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>
<u>California Laws</u>	
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 &amp; Campaigns</i>	Government Code §§ 81000 <i>et seq.</i>
FPPC Regulations <i>Conflicts, Disclosures &amp; 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	

## 2.0 Online Resources

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

## **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

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Board, Commission, Committee Position

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(Print Name)

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Signature

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Date