

**CAPITOLA CITY COUNCIL
REGULAR MEETING MINUTES
THURSDAY, DECEMBER 19, 2019**

Mayor Bertrand called the meeting to order at 5:15 p.m. with the following in attendance:

Council Member Yvette Brooks: Present, Council Member Ed Bottorff: Present, Council Member Sam Storey: Present, Vice Mayor Kristen Petersen: Present, Mayor Jacques Bertrand: Present.

There were no members of the public present and the Council adjourned to the City Manager's Office to discuss the following items in closed session:

CONFERENCE WITH LABOR NEGOTIATOR [Govt. Code § 54957.6]

Negotiator: Larry Laurent

Employee Organizations: (1) Association of Capitola Employees; (2) Capitola Police Captains, (3) Confidential Employees; (4) Mid-Management Group; and (5) Department Heads

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Govt. Code § 54956.9(d)(4).

(One potential case)

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 6 PM

1. PLEDGE OF ALLEGIANCE

2. REPORT ON CLOSED SESSION

City Attorney Samantha Zutler reported that Council discussed the two listed items and provided direction.

3. ADDITIONAL MATERIALS

A. Item 9.D – corrected staff report

B. Item 10.A – public comment

C. Item 10.B – California Coastal Commission comment

4. ADDITIONS AND DELETIONS TO AGENDA - None

5. PUBLIC COMMENTS

Cherrie McCoy spoke about the Capitola Mall and her desire for a destination site that reflects Capitola's charm.

6. CITY COUNCIL / STAFF COMMENTS

Mayor Bertrand expressed his pleasure with the community dialog he has seen during his tenure as mayor and he encouraged public participation in the many local non-profit organizations. He praised efforts to train police officers in de-escalation, which he recently observed in practice, and thanked Public Works on behalf of residents for the new small park in the McCormick triangle. Vice Mayor Petersen presented him with a plaque thanking him for service as mayor.

7. COUNCIL REORGANIZATION

1. City Council Reorganization for the Selection of Mayor and Vice Mayor [120-37]
RECOMMENDED ACTION: City Council consideration of a new Mayor and Mayor Pro Tempore.

MOTION:	APPOINT KRISTEN PETERSEN AS MAYOR
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Sam Storey, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

Former Mayor Bertrand handed the gavel to incoming Mayor Petersen, who chaired the remainder of the meeting.

MOTION:	APPOINT YVETTE BROOKS AS VICE MAYOR
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Jacques Bertrand, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

8. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS

- A. Appoint Art and Cultural Commission Members
RECOMMENDED ACTION: Reappoint Mary Beth Cahalen, Laurie Hill, and James Wallace as at-large members for terms expiring in December 2021 as recommended by the Art and Cultural Commission.

MOTION:	REAPPOINT MARY BETH CAHALEN, LAURIE HILL, AND JAMES WALLACE AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Ed Bottorff, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- B. Appointment of Youth Member to Art and Cultural Commission
RECOMMENDED ACTION: Appoint Ayden MacKenzie to a one-year term as a youth member as recommended by the Art and Cultural Commission.

MOTION:	APPOINT AYDEN MACKENZIE AS A YOUTH MEMBER AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Sam Storey, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- C. Consider Council Financial Advisory Committee membership
RECOMMENDATION: Determine if the new mayor and vice mayor wish to serve on the Finance Advisory Committee, and provide direction on related appointments and recruitment.

Mayor Petersen and Vice Mayor Brooks both indicated they will serve on the committee. Therefore, no other council members need to serve. Council Member Bertrand will need to make an appointment. The vacancy will be noticed as required.

9. CONSENT CALENDAR

MOTION:	APPROVE OR ADOPT AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jacques Bertrand, Council Member
SECONDER:	Yvette Brooks, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- A. Consider the November 26, 2019, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.
- B. Receive the Planning Commission Action Minutes for the Regular Meeting of December 5, 2019
RECOMMENDED ACTION: Receive minutes.
- C. Approval of City Check Registers Dated November 1, November 8, November 15, November 22, and November 29, 2019
RECOMMENDED ACTION: Approve check registers.
- D. Consider a Resolution Authorizing an Increase in the Residential and Commercial Garbage Collection Rates [930-45]
RECOMMENDED ACTION: Adopt a Resolution approving the Rate Schedule for Residential and Commercial Garbage Collection and Recycling in Capitola, resulting in a 3.03 percent rate increase pursuant to the franchise agreement with GreenWaste Recovery, effective January 1, 2020.
- E. Adopt a Resolution Setting the Interest Rate for Tenants' Security Deposits for 2020 at Zero Percent (0.00%) [750-10]
RECOMMENDED ACTION: Adopt Resolution.
- F. Adopt an Ordinance Amending Capitola Municipal Code Chapter 12.64 Sidewalk Vending Prohibitions
RECOMMENDED ACTION: Approve the second reading of an ordinance to amend Chapter 12.64 to allow sidewalk vending consistent with Senate Bill 946, by title only, waiving further reading.

10. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Consider an Appeal of the Planning Commission's Denial of a Tree Removal Permit for a Coast Redwood at 1600 49th Avenue
RECOMMENDED ACTION: Deny the appeal and support approval of pruning measures established in the arborist report.

Planner Matt Orbach presented the staff report, walking the Council through the process to date and the findings required to grant a permit. Council Member Storey asked about

maintenance to avoid branch failure. Community Development Director Katie Herlihy clarified the City’s arborist recommends branch trimming, not tree removal.

Appellants Michael and Vickie Oliver presented their concerns and why they believe safety concerns cannot be mitigated, leaving removal as the only option. They shared images showing sizable branch failure. Mrs. Oliver shared her fears of future failure.

In public comment, Robert McGanty, adjacent neighbor, said he fears falling large branches could cause injuries.

Council Member Bertrand noted tree appears unbalanced and heavier toward the neighbor’s property, and confirmed that many failures are branches near the area of the trunk that narrows. He believes staff came to the correct conclusion based on the arborist's report; however, previous trimming has made the tree unstable. Council members agreed that the tree is a safety hazard. Council Member Storey acknowledged that the required finding that there are no feasible alternatives is more challenging, but members agreed that since the tree was previously topped, growth will continue on lower branches, making them heavier and more likely to fail even if trimmed.

MOTION:	MAKE THE REQUIRED FINDINGS FOR REMOVAL, GRANT THE REMOVAL PERMIT, AND REFUND THE COUNCIL APPEAL FEE.
RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Jacques Bertrand, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

B. Report on Emergency Declaration from December 3, 2019

RECOMMENDED ACTION: Receive a report on a Proclamation of Existence of a Local Emergency made by the City Director of Emergency Services on December 3, 2019, in response damages to the Grand Avenue Pathway following heavy rains, and authorize associated expenditures from Measure F funding.

Public Works Director Steve Jesberg presented the staff report and images of the damage that began with a storm December 2. The emergency drain installation was done by hand and with workers tied off should further bluff failure occur.

Several council members had questions and concerns about the Coastal Commission communication including safety concerns about removing asphalt, fencing and other elements as requested by Coastal Commission and the feasibility of reclaiming land for the path.

Director Jesberg noted responses will be part of the permit application, will goes to the Planning Commission. Footpath failures are already within a foot of private property so the path cannot be restored without taking private property. An entire new drainage system is required to address full bluff protection and would be very costly. The current drains were identified 10 years ago as the affordable option. Any new expenditures would need Council approval.

MOTION:	AUTHORIZE THE USE OF MEASURE F FUNDS TO PAY FOR EMERGENCY REPAIRS AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- C. Receive Update Report on the Construction of the Capitola Branch Library
RECOMMENDED ACTION: Receive report.

Director Jesberg presented the staff report. He announced PG&E provided the long-awaited undergrounding plans this week, with omissions already identified by staff and now being addressed by PG&E. He noted that revenue is above original projections by more than \$375,000.

Council Member Brooks requested the library staff look into accessible furniture.

RESULT:	RECEIVED REPORT
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- D. Receive Audit Report for Fiscal Year 2018-19
RECOMMENDED ACTION: Receive report.

Finance Director Jim Malberg introduced Ahmad Gharaibeh, CPA, an auditor from Eide Bailly, which recently completed its review of fiscal year 2018/19 finances. The audit confirms that the City has accurately reported its financial statements. He noted many requirement changes in recent years make the reports more complex.

RESULT:	RECEIVED REPORT
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- E. Consider a Consolidated Coastal Development Permit Process for Pure Water Soquel
RECOMMENDED ACTION: Authorize a Consolidated Coastal Development Permit application for California Coastal Commission review of a major public works facility, in lieu of a local Coastal Development Permit.

Council Member Brooks lives within 500 feet of the proposed well site, so she recused herself and left the dais.

Community Development Director Katie Herlihy provided an overview of the consolidated permit process, which Soquel Creek Water District's (SCWD) Pure Water Soquel is seeking. Staff emphasized two mitigation measures in its proposed letter of support.

Ron Duncan and Melanie Schumaker of SCWD gave a brief look at the Capitola portion of the project. The project has received financial support from a \$49 million grant from the Environmental Protection Agency and \$50 million from the state, which is also providing a \$36 million low-interest loan.

Ms. Schumaker offered images of the well site and pledged strong public outreach efforts. It will have very low noise impact once well is up and running, but the district will offer to relocate residents during the 24-hour drilling. The district hopes the permit will be

heard by the Coastal Commission on its March agenda in Scotts Valley.

Mayor Petersen asked the district to investigate options for short-term home rental rather than only hotel rooms, and Council Members encouraged using the project as an ongoing educational opportunity.

MOTION:	AUTHORIZE THE CONSOLIDATED PERMIT AS RECOMMENDED
RESULT:	ADOPTED [4 TO 0]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Sam Storey, Council Member
AYES:	Ed Bottorff, Sam Storey, Kristen Petersen, Jacques Bertrand
RECUSED:	Yvette Brooks


11. ADJOURNMENT

The meeting adjourned at 8:12 p.m.



Kristen Petersen, Mayor

ATTEST:



Linda Fridy, City Clerk