

**CAPITOLA CITY COUNCIL
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 26, 2019**

Mayor Bertrand called the meeting to order at 6 p.m. There was no public comment and the Council adjourned to City Manager's office to discuss the following closed session items:

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 Gov't Code § 54956.9(d)(4).

(One potential case)

LIABILITY CLAIMS [Govt. Code § 54956.95]

(Two claims)

Claimant: Bruce Stamps

Agency claimed against: City of Capitola

Claimant: Madeline Chiavetta

Agency claimed against: City of Capitola

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL – 7 PM

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

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

2. PRESENTATIONS

A. Junior Guards Recognition

Recreation Supervisor Nikki Bryant LeBlond joined Mayor Bertrand in honoring Junior Guards award winners.

B. Introduce New Building Inspector

Community Development Director Katie Herlihy introduced new Building Inspector Cat Thrasher. Ms. Thrasher thanked the Council and said she was pleased to be working in her community.

3. REPORT ON CLOSED SESSION

City Attorney Samantha Zutler said the Council received reports on the items listed.

4. ADDITIONAL MATERIALS

A. Item 9.A – Four communications.

5. ADDITIONS AND DELETIONS TO AGENDA - None

6. PUBLIC COMMENTS

Gary David Arnold spoke about various public figures.

7. CITY COUNCIL / STAFF COMMENTS

Council Member Petersen noted that with the approaching 2020 census count, children under five and seniors are most likely not to be counted. She encouraged everyone to participate as an accurate count is vital to districting and state and federal funding. She also said the annual Silicon Valley Leadership Group Turkey Trot supports nonprofits including Second Harvest Food Bank and encouraged local participation.

Council Member Brooks attended a September 20 criminal justice gang violence symposium. She also reported that Project Pajamas is seeking partners to distribute pajamas to those in need. The Sheriff’s Office will hold its annual Trunk or Treat festival October 25. She encouraged the community to look into the City of Santa Cruz’s online health policy survey. Finally, she congratulated Nick Brown, Capitola resident and the City’s representative to the Hazardous Materials Commission, who will be honored at the Volunteer Center’s “Be the Difference” awards on October 10.

Council Member Bottorff provided a brief jet plane noise update in response to recent letters. The route has not been moved as recommended but the Federal Aviation Administration is studying feasibility, which should take 18 to 24 months. He also asked that the Finance Advisory Committee review compensation for the Planning Commission and Architecture and Site Review Committee and bring a recommendation to Council.

Mayor Bertrand reminded the community that the Capitola Beach Festival is this weekend and the Plein Air outdoor painting event and sale is the end of October.

8. CONSENT CALENDAR

MOTION:	APPROVE OR REJECT AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Ed Bottorff, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

A. Consider the September 12, 2019, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.

B. Planning Commission Action Minutes
RECOMMENDED ACTION: Receive minutes.

C. Liability Claim of Bruce Stamps [Claims Binder]
RECOMMENDED ACTION: Reject liability claim.

D. Liability Claim of Madeline Chiavetta [Claims Binder]
RECOMMENDED ACTION: Reject liability claim.

- E. Approval of City Check Registers Dated August 2, August 7, August 16, August 23 and August 30, 2019
RECOMMENDED ACTION: Approve check registers.
- F. Adopt an Ordinance Amending Capitola Municipal Code Section 2.04.275
RECOMMENDED ACTION: Approve the second reading of **Ordinance No. 1032** amending Capitola Municipal Code Section 2.04.275 pertaining to City Council Member salary to provide an adjusted salary of \$600 per month for members of the City Council, to be effective upon the start of new terms of office following the November 2020 General Municipal Election.
- G. Adopt an Ordinance Adding Chapter 18.04 to the Capitola Municipal Code Pertaining to Development Agreements
RECOMMENDED ACTION: Approve the second reading of **Ordinance No. 1033**.

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Consider a Report Regarding Residency Requirements for Planning Commission and City Advisory Board Membership
RECOMMENDED ACTION: Receive report and provide direction regarding residency requirements for Planning Commission and City advisory bodies.

City Clerk Linda Fridy presented the staff report, noting that there is significant variation among the state's 482 cities in their approaches to Planning Commission membership.

Council Member Petersen confirmed that the nonresident status of a Capitola Planning Commissioner was made public prior to appointment.

In public comment, Planning Commissioner Mick Routh said his concerns are not personal about a nonresident member but a concern about residency. He said there is a universal impression that commission members must be residents.

Peter Wilk, planning commissioner, said he opposes a strict residency requirement. He trusts Council judgement and said business owners are also stakeholders.

Mark Hatcher, resident, appreciates concerns about finding five well-qualified Planning Commission members. He supports a balance for legacy projects such as the wharf, mall, and Village hotel.

Stephanie Harlan, resident and former mayor, recalled that nonresidents have been allowed on other advisory boards, but does not think it is appropriate for nonresidents to serve on the Planning Commission.

Kathi Howard, resident and former business owner, does not recall any nonresidents serving on the Planning Commission but would support a business owner option.

Council Member Storey said he has no concern that errors were made in the appointment of a nonresident, but he does believe there has been a practice of residency for the Planning Commission and the Council expressed interest in 2000 to codify that requirement. He does not see a reason for requiring residency for the Finance Advisory Committee and not the Planning Commission. He would consider an exception for some business members. He would not support a residency requirement for all other advisory bodies.

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Council Member Brooks expressed concern about misinformation seen in letters and in social media posts regarding this issue. She said she did a lot of research prior to her appointment of a nonresident and praised the qualifications of her appointee. Her motion to require residency starting after the 2020 election along with future discussion of an ethics policy, standards for termination of a planning commission member, and development of a robust onboarding process for all new appointees died for lack of a second.

Council Member Bottorff expressed displeasure with how concerns have been expressed and feels that the City's practices must reflect the current times. He does not want to discriminate between property owners versus renters, or owners versus employees.

Council Member Petersen said she appreciates the attempt to identify a commitment to the City by applicants. She emphasized that the City Council should be held responsible for any concerns about the Planning Commission.

Mayor Bertrand noted the challenge of addressing tradition and including newer approaches.

There was Council support for future discussion of a code of ethics/conduct and options to discipline or remove commissioners.

MOTION:	DIRECT STAFF TO COME BACK WITH AN ORDINANCE REQUIRING PLANNING COMMISSION MEMBERS TO BE REGISTERED VOTERS OF THE CITY, OR WORK AT LEAST 20 HOURS A WEEK IN THE CITY, OR RESIDE IN THE SPHERE OF INFLUENCE AS DEFINED BY THE LOCAL AREA FORMATION COMMISSION
RESULT:	DEFEATED [2 TO 3]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Ed Bottorff, Kristen Petersen
NAYS:	Yvette Brooks, Sam Storey, Jacques Bertrand

MOTION:	DIRECT STAFF TO COME BACK WITH AN ORDINANCE REQUIRING PLANNING COMMISSION MEMBERS TO RESIDE IN THE CITY OR IN THE SPHERE OF INFLUENCE AS DEFINED BY THE LOCAL AREA FORMATION COMMISSION
RESULT:	ADOPTED [4-1]
MOVER:	Yvette Brooks, Council Member
SECONDER:	Ed Bottorff, Council Member
AYES:	Yvette Brooks, Ed Bottorff, Kristen Petersen, Jacques Bertrand
NAYS:	Sam Storey

- B. Receive a Presentation from the Monterey Regional Waste Management District to Begin Negotiations for a Long-Term Agreement for Disposal and Recycling Processing

RECOMMENDED ACTION: Direct staff to negotiate a new Waste Disposal Agreement with Monterey Regional Waste Management District for solid waste disposal and recycling processing and to reopen the Refuse, Recycling and Yard Waste Services Franchise Agreement with Green Waste Recovery, Inc., to account for the new disposal rates.

Public Works Director Steve Jesberg introduced the report with an overview of current services along with changes in regulation and recycling demand. Tim Flanagan, general manager of Monterey Regional Waste Management District, said the district offers the most diversion and best rates within 100 miles. It opened a new facility last year. The district was an early adopter of liners for the landfill and methane collection. It runs its collection fleet on carbon negative fuel from organic waste. Rate increases are due to unfunded state mandates for waste management and tightening recycling markets.

Council Member Storey asked what citizens can do to help to reduce the waste stream, and Mr. Flanagan responded to take care to put waste in the correct bin. He is also open to partnering on more public education and considering expanding the phone application "Where does it go?"

There was no public comment.

MOTION:	DIRECT STAFF TO OPEN NEGOTIATIONS AND THE FRANCHISE AGREEMENT AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

C. Update on the Capitola Branch Library Project
RECOMMENDED ACTION: Receive report.

Director Jesberg presented the staff report. A change order adding conduit construction for utility undergrounding will be brought forward once PG&E finishes the design, which began ahead of schedule. Negotiations to recover related costs through errors and omissions will resume once that work is complete.

He presented the contingency expenses to date, the largest of which was the redesign to bring construction costs down. There is \$651,700 remaining from the original \$1.1 million.

RESULT:	RECEIVE REPORT
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D. Consider Elimination of Art and Cultural Commission Term Limits
RECOMMENDED ACTION: Approve **Resolution No. 4158** accepting the Capitola Art and Cultural Commission's recommended changes to the bylaws to remove term limits of the commissioners.

Assistant to the City Manager Larry Laurent presented the staff report. He explained the commission does not want to lose active, experienced members who oversee key projects.

There was no public comment.

MOTION:	APPROVE THE RESOLUTION AND AMENDED BYLAWS AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvette Brooks, Council Member
SECONDER:	Sam Storey, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

10. **ADJOURNMENT**

The meeting adjourned at 9:28 p.m.



Jacques Bertrand, Mayor

ATTEST:



Linda Fridy, City Clerk

MINUTES APPROVED OCTOBER 24, 2019