

**CAPITOLA CITY COUNCIL  
REGULAR MEETING MINUTES  
THURSDAY, JUNE 27, 2019**

**CALL TO ORDER**

Vice Mayor Petersen called the meeting to order at 6:30 p.m.

No members of the public were present and the Council adjourned to the City Manager's Office with the following items to be discussed in Closed Session:

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Gov't. Code § 54956.9(d)(2).  
(One potential case)

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

**[Govt. Code § 54956.9 (d)(1)]**

(one case)

City of Capitola v. Water Rock Construction, Inc.

Santa Clara Superior Court Case No. 16CV295795

**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: Absent, Vice Mayor Kristen Petersen: Present, Mayor Jacques Bertrand: Absent.

**2. PRESENTATIONS**

A. Recognition of Outgoing Board Historical Museum Members

B. Proclamation Honoring Roberta Bristol on Her 95th Birthday

Vice Mayor Petersen presented the proclamation, and Ms. Bristol said she has been blessed to come to Capitola and work at Cabrillo College. Tandy Beal read poem by Ms. Bristol entitled "I Didn't Know I'd Fall in Love Again."

**3. REPORT ON CLOSED SESSION**

Deputy City Attorney Reed Gallogly said no reportable action was taken.

**4. ADDITIONAL MATERIALS**

A. Item 10.A – Two public comment emails

B. Item 10.B – One email protesting the proposed fees

C. Item 10.C – Staff memo with two additional attachments

D. Item 10.D – Staff memo with revised policy

E. Item 10.E -- Staff memo with corrected salary schedule

**5. ADDITIONS AND DELETIONS TO AGENDA**

There were no changes to the agenda, but staff noted that due to an error on the notice letter mailed to members of the Capitola Village Wharf and Business Association, it recommends continuing the hearing until the July 25 meeting.

<b>MOTION:</b>	<b>CONTINUE ITEM 10.B TO THE REGULAR MEETING OF JULY 25, 2019</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Yvette Brooks, Council Member
<b>SECONDER:</b>	Ed Bottorff, Council Member
<b>AYES:</b>	Yvette Brooks, Ed Bottorff, Kristen Petersen
<b>ABSENT:</b>	Sam Storey, Jacques Bertrand

**6. PUBLIC COMMENTS**

Susan Westman, Riverview resident, asked that the entire historic district be noticed when a project in the district comes forward.

Pam Greeninger, resident, noted the death of Noel Smith of the *Capitola-Soquel Times* and asked that the meeting be adjourned in his memory.

**7. CITY COUNCIL / STAFF COMMENTS**

Council Member Brooks requested that the Commission on the Environment review the City's plastics policy to see if additional actions are recommended.

City Manager Jamie Goldstein thanked State Senator Mark Stone and Governor Gavin Newsom for the \$2 million wharf funding in the state's next fiscal year budget.

**8. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS****A. Historical Museum Board Appointments**

RECOMMENDED ACTION: Appoint Emmy Mitchell-Lynn to a three-year term on the Capitola Historical Museum Board as recommended by its trustees and reappoint Niels Kisling and Gordon van Zuidan for three-year terms.

<b>MOTION:</b>	<b>MAKE APPOINTMENTS AS RECOMMENDED</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Bottorff, Council Member
<b>SECONDER:</b>	Yvette Brooks, Council Member
<b>AYES:</b>	Yvette Brooks, Ed Bottorff, Kristen Petersen
<b>ABSENT:</b>	Sam Storey, Jacques Bertrand

**9. CONSENT CALENDAR**

<b>MOTION:</b>	<b>APPROVE AS RECOMMENDED</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Yvette Brooks, Council Member
<b>SECONDER:</b>	Ed Bottorff, Council Member
<b>AYES:</b>	Yvette Brooks, Ed Bottorff, Kristen Petersen
<b>ABSENT:</b>	Sam Storey, Jacques Bertrand



- A. Approval of City Check Registers Dated May 3, May 10, May 17, May 24, and May 31, 2019  
RECOMMENDED ACTION: Approve check registers.
- B. Consider a Funding Agreement with the Capitola Chamber of Commerce  
RECOMMENDED ACTION: Authorize the City Manager to enter into a Funding Agreement with the Capitola Soquel Chamber of Commerce.
- C. Schedule an Appeal of Selection Committee's Decision to Not Issue a Cannabis License to Embarc Capitola, LLC  
RECOMMENDED ACTION: Schedule the appeal for the regular meeting of July 25, 2019.
- D. Consider an Agreement between the City of Capitola, the County of Santa Cruz and Zone 5 of the Santa Cruz County Flood Control and Water Conservation District Regarding Repairs and Maintenance of Various Storm Drain Systems  
RECOMMENDED ACTION: Approve the proposed agreement between the City of Capitola, County of Santa Cruz, and Zone 5 of the Santa Cruz County Flood Control and Water Conservation District regarding drainage facilities.
- E. Consider Authorizing the City Manager to Sign a Letter Regarding Traffic Studies for a Proposed Medical Office Building on Soquel Avenue  
RECOMMENDED ACTION: Authorize and direct the City Manager to sign a letter regarding the traffic studies underway for the proposed medical office building at 5940 Soquel Avenue in the County of Santa Cruz.
- F. Consider Awarding a Contract to Anderson Pacific for the Park Avenue Sidewalk Project  
RECOMMENDED ACTION: Award a contract to Anderson Pacific Engineering Construction, Inc., in the amount of \$907,600 for construction of the Park Avenue Sidewalk Project.

## 10. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Introduce an Ordinance Amending Title 5, Business Taxes, Licenses and Regulations, and Title 8, Health and Safety, of the Capitola Municipal Code Pertaining to Prohibiting Sales of Flavored Tobacco Products  
RECOMMENDED ACTION: Approve the first reading of an Ordinance adding Municipal Code Chapter 5.38 Tobacco Retailer License Required, amending 8.38.120, and relocating 8.38.130 Regulating the Sale of Tobacco Products.

Police Chief Terry McManus introduced the item and Captain Andrew Dally. Captain Dally reviewed the health concerns, particularly for youth, that led to the Council's direction to pursue the ordinance. All 16 current tobacco retailers were delivered information about this hearing and ordinance. Staff will research and present a fee for the Tobacco Retail License later this year, but it is expected to be between \$100 and \$200. The recommended start date of January 1 allows retailers to sell or relocate any product ahead of the change.

Council Member Brooks confirmed that the flavored tobacco products definition does include menthol products.

In public comment, Jackson Laughlin said he understands the flavor ban, but it does not keep the products out of the hands of minors since they can still be purchased online. He also noted the potential for lost tax revenue.

Rachel Kippen, Santa Cruz County Tobacco Education Coalition, thanked the Council for addressing the concerns of candy-flavored nicotine products and supports the ordinance.

Terra Leonard, health educator, countered the impression that e-cigarettes are a valuable quit device. She said they are not endorsed by the Federal Drug Administration and new studies show increased cardiovascular risks. She supports this effort to prevent youth from ever beginning to smoke.

Maria Maze, environmental educator, supports the ordinance to protect youth.

Martin Valle shared his journey with tobacco, which began as a teenager, and his concerns that less reliable products will replace safer products. He would prefer more regulation rather than a ban.

Council Member Bottorff acknowledged the loss of revenue and balancing it with the will of the people. He believes it is worth banning certain products to protect the community.

Council Member Brooks echoed that safety of children is more important than revenue.

Vice Mayor Petersen addressed matters of personal liberty regarding risks but said in this instance as a City leader she does not wish to offer that risk.

<b>MOTION:</b>	<b>PASS FIRST READING</b>
<b>RESULT:</b>	<b>FIRST READING APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Yvette Brooks, Council Member
<b>SECONDER:</b>	Ed Bottorff, Council Member
<b>AYES:</b>	Yvette Brooks, Ed Bottorff, Kristen Petersen
<b>ABSENT:</b>	Sam Storey, Jacques Bertrand

B. Consider a Resolution for the Levy of Capitola Village and Wharf Business Improvement Area Assessments for Fiscal Year 2019/2020 [140-05]

RECOMMENDED ACTION: Conduct the public hearing and adopt the proposed Resolution levying the Fiscal Year 2019-2020 Capitola Village and Wharf Business Improvement Area (CVWBIA) Assessments and accepting the CVWBIA Annual Plan and budget.

<b>RESULT:</b>	<b>CONTINUED UNDER AGENDA ITEM 5 TO JULY 25 [UNANIMOUS]</b>
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C. Continue Discussion of the Revised Zoning Code for Coastal Commission Certification - City Attorney Review

RECOMMENDED ACTION: Accept staff presentation and continue the discussion to the meeting of August 22, 2019.

Deputy City Attorney Gallogly reviewed specific suggestions by California Coastal Commission staff for changes to the Local Coastal Plan under the recent Zoning Code Update. He focused on recommendations that may be inconsistent with Coastal Act



language and proposed language that undermines or makes ambiguous local authority. His specific comments were distributed as additional materials and were discussed individually. These code section changes were not recommended for adoption by the Planning Commission, and Attorney Gallogly said he believes the City should continue to negotiate with Coastal Commission staff.

In public comment, Susan Westman encouraged the Council to adopt an ordinance that suits the City and not Coastal Commission staff.

Planning Commissioner and resident TJ Welch expressed appreciation for the legal review and echoed support for the City to stick to its guns.

Council Member Brooks encouraged continued discussions with the Coastal Commission. Council Member Bottorff said he supports and shares the concerns identified by the City Attorney.

Staff noted that since the agenda was published the August meeting agenda has grown and it recommends continuing the discussion to the September 12 meeting. The Council concurred.

<b>RESULT:</b>	<b>CONTINUED TO SEPTEMBER 12 [UNANIMOUS]</b>
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D. Consider an Administrative Policy on Social Media Use By City Council and Advisory Body Members

RECOMMENDED ACTION: Approve draft policy I-18 Elected and Appointed Official's Use of Social Media Policy and revoke current administrative policy V-8 Councilmember Online Forums/Web Logs ("Blogs").

Records coordinator Chloe Woodmansee presented the staff report, noting the policy format, but not content, was amended and distributed as additional materials. The policy is intended to promote online behavior that allows officials to continue to participate in the City's decision-making process. She offered examples of positive engagement and more problematic postings.

There was no public comment.

Council members praised the effort, noting that many cities have yet to create policies and they are pleased to put one in place.

<b>MOTION:</b>	<b>APPROVE THE AMENDED POLICY AND REVOKE V-8 AS RECOMMENDED</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Bottorff, Council Member
<b>SECONDER:</b>	Yvette Brooks, Council Member
<b>AYES:</b>	Yvette Brooks, Ed Bottorff, Kristen Petersen
<b>ABSENT:</b>	Sam Storey, Jacques Bertrand

E. Consider the 2019/2020 Salary Schedule [600-10]

RECOMMENDED ACTION: Approve **Resolution No. 4154** authorizing the Fiscal Year 2019/2020 annual salary adjustment consistent with existing employee labor agreements.

Vice Mayor Petersen read the required statement explaining who is covered by the Salary Schedule prior to the hearing. Assistant to the City Manager Larry Laurent presented the staff report, noting the schedule was based on the Memoranda of Understanding entered in 2018. A corrected schedule was distributed as additional materials.

There was no public comment.

<b>MOTION:</b>	<b>APPROVE THE RESOLUTION AND CORRECTED SCHEDULE AS RECOMMENDED</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Bottorff, Council Member
<b>SECONDER:</b>	Yvette Brooks, Council Member
<b>AYES:</b>	Yvette Brooks, Ed Bottorff, Kristen Petersen
<b>ABSENT:</b>	Sam Storey, Jacques Bertrand

11. **ADJOURNMENT**

The meeting adjourned in memory of Noel Smith at 8:35 p.m.

  
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 Kristen Petersen, Vice Mayor

ATTEST:

  
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 Linda Fridy, City Clerk

**MINUTES APPROVED JULY 25, 2019**