

**CAPITOLA CITY COUNCIL
REGULAR MEETING ACTION MINUTES
THURSDAY, JULY 26, 2018**

CALL TO ORDER

Mayor Termini called the meeting to order at 6 p.m. with the following items to be discussed in Closed Session:

CONFERENCE WITH LABOR NEGOTIATOR [Govt. Code § 54957.6]

Negotiator: Dania Torres Wong

Employee Organizations: (1) Capitola Police Captains, (2) Capitola Police Officers Association

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
[Govt. Code § 54956.9(d)(4)]**

1 potential case

LIABILITY CLAIMS [Gov't Code § 54956.95]

Claimant: Carol Camnitz

Agency claimed against: City of Capitola

There was no public comment; therefore, the City Council recessed to Closed Session in the City Manager's Office.

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7 PM**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council Member Stephanie Harlan: Present, Council Member Ed Bottorff: Present, Mayor Michael Termini: Present, Vice Mayor Jacques Bertrand: Present, Council Member Kristen Petersen: Present.

2. PRESENTATIONS**A. Introduce New Parking Enforcement Officer**

Police Chief Terry McManus introduced recently sworn-in Parking Enforcement Officer Gabe Rankin, who came up through the department's Explorer program.

B. Introduce New Assistant Planner

Community Development Director Katie Herlihy introduced Assistant Planner Sascha Landry, a County resident who recently received her master's degree in planning.

3. REPORT ON CLOSED SESSION

Attorney John Barisone said that for the ongoing labor negotiations Council received a report and provided direction. The claim was discussed and action is on the consent calendar. Regarding initiating litigation, the Council voted 5-0 to file legal action regarding the legal validity of the Greenway ballot initiative.

4. ADDITIONAL MATERIALS

A. Item 9.A – Corrected attachment and two public comments

B. Item 9.C – Revised language for the resolution and two public comments

C. Item 9.D -- Revised language for the resolution

5. ADDITIONS AND DELETIONS TO AGENDA - None

6. PUBLIC COMMENTS

Devorah White followed up on a zoning code complaint she filed with the City earlier this week regarding rat infestation and a neighbor's practice of feeding birds.

7. CITY COUNCIL / CITY TREASURER / STAFF COMMENTS

City Clerk Linda Fridy reported on candidate filing status.

Council Member Harlan reported on the successful party last weekend at the Historical Museum book signing of the new Frank Hill-illustrated coloring book.

Mayor Termini noted there was a packed house for Wednesday's Extra Large concert.

8. CONSENT CALENDAR

MOTION:	APPROVE OR DENY AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Vice Mayor
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

A. Consider the June 28, 2018, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.

B. Liability Claim of Carol Camnitz [Claims Binder]
RECOMMENDED ACTION: Reject liability claim.

C. Consider Approval of Memoranda of Understanding with Police Captains and Adopt Amended Salary Schedule for Fiscal Year 2018/19
RECOMMENDED ACTION:

1. Authorize the City Manager to execute the successor agreements to existing Memoranda of Understanding (MOU) with negotiated changes from July 1, 2018, through June 30, 2020, for the following:
 - a. Police Captains
2. Adopt **Resolution No. 4120** approving the updated salary schedule.

D. Consider a New City Attorney Contract
RECOMMENDED ACTION: Consider the updated agreement for City Attorney Services with Atchison, Barisone, & Condotti in the amount of \$133,560 for Fiscal Year 2018/19 and authorize the City Manager to execute the agreement.

E. Second Reading of an Ordinance Adding Chapter 5.36 of the Capitola Municipal Code Pertaining to Cannabis Retail Licenses and Amending Chapter 17.24 of the Regional Commercial Zoning District Pertaining to Conditional Land Uses to Authorize Commercial Retail Cannabis Uses in the Regional Commercial Zoning District
RECOMMENDED ACTION: Adopt **Ordinance No. 1021** adding Chapter 5.36 "Retail Cannabis Licenses" and amending Municipal Code Chapter 17.24 to authorize retail cannabis as a conditionally permitted use in the Regional

Commercial zone.

F. Award 2018 Slurry Seal Project Contract

RECOMMENDED ACTION: Award a contract to Graham Contractors, Inc., in the amount of \$322,991 for the construction of the 2018 Slurry Seal project. Further authorize the Public Works Director to issue change orders for paving repairs at the Community Center Parking Lot at a cost not to exceed \$60,000 and to restripe 41st Avenue at a cost not to exceed \$30,000.

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

A. Consider Options for Awarding a Construction Contract for the Capitola Branch Library

RECOMMENDED ACTION: Either:

1. Award a contract to Otto Construction to build the Capitola Branch Library, or
2. Reject all bids and authorize staff to amend the Project Manager contract with Bogard Construction to include the preparation of documents necessary to bid the project as a design-build project.

Public Works Director Steve Jesberg presented the staff report of options to address the over-budget lowest bid for the project.

Option 1 includes accepting the bid based on a combination of reduced costs and additional income. City Manager Jamie Goldstein reported that with both higher income and lower costs for the system-wide Measure S, an estimated \$10 million to \$15 million will be received, of which under the initial distribution formula Capitola would receive \$1.3 million to \$2 million. The additional distribution must be approved through the Joint Powers Agreement. On the reduction side, staff identified just over \$1 million in likely savings. Of those, \$757,000 would be made regardless of the extra funding level. If either the value engineering savings or additional income do not materialize, contract termination costs are about \$100,000. Under this option, work could begin in October.

Option two is a design-build approach in which a team of architects and contractors work together to meet described needs. The building design would be up to the winning bidder. Mayor Termini clarified that without the new funding the building size would decrease to 7,000 square feet. Staff estimates that work would begin in nine to 12 months.

A third option to redesign based on the identified value engineering and rebid is not recommended.

Council Member Bottorff confirmed that option three may not lose the design costs already incurred.

In public comment, Barbara Gorson, resident and City library representative, supported option one that provides a flexible building for a 50-year life. She said option two is more uncertain, smaller, and costly.

Christine McBroom, resident, local business owner, and parent of young children, asked Council to invest in the community and supports option one.

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Sam Storey, resident, noted the City does not have a library currently and option one is more timely. He is also concerned about the loss of \$1.5 million already incurred with option two.

Linda Smith, resident and honorary campaign chair, emphasized the community support for the design of option one, which has been shown to donors with pledges and payments already in place. She also said this type of project is not comparable to a residential, personal project.

Council Member Petersen reiterated her concern that extra time will mean extra money and said option one appears to be the best.

Council Member Bottorff said there are a lot of uncertainties with option one, including no guarantee for additional funds. He likes option three.

Council Member Bertrand said this library is an aspirational project and means a lot to the community. He added that investment in children comes back.

Council Member Harlan said she is happy to support option one. She knows the library is important to the community and recognizes the design has been shown to many donors. She acknowledged it is a leap of faith, but she is willing to take it.

Mayor Termini said based on his construction experience, rebids are not successful and often despite cuts, bids still come in higher. He sees option one as the least risky and most responsible.

MOTION:	AWARD THE CONTRACT TO OTTO CONSTRUCTION IN THE AMOUNT BID AND DIRECT STAFF TO NEGOTIATE A DEDUCTIVE CHANGE ORDER AND ADD THE BID ALTERNATE FOR CONCRETE PAVERS
RESULT:	ADOPTED [4 TO 1]
MOVER:	Kristen Petersen, Council Member
SECONDER:	Stephanie Harlan, Council Member
AYES:	Stephanie Harlan, Michael Termini, Jacques Bertrand, Kristen Petersen
NAYS:	Ed Bottorff

B. Report on Citizen Initiative Petition Qualification

RECOMMENDED ACTION: Receive report on the certification of a petition to amend Title 8 of the Capitola Municipal Code pertaining to Health and Safety as related to the Santa Cruz Branch Line Rail Corridor and order a report pursuant to Elections Code Section 9212 for presentation at the August 9 City Council meeting.

Clerk Fridy presented the staff report with timeline and elections code procedures. Attorney Barisone recommended that a report address fiscal impact; consistency with general and specific plans such as the Local Coastal Plan, the Monterey Bay Sanctuary Scenic Trail, and Transportation Plan; transportation, traffic congestion, and legal viability.

Council Member Bertrand asked if voters approve this ordinance, how does it reflect on conflicting approved plans. Attorney Barisone responded that if they do not agree, the plans should be amended, but the measure says that is not its intent.

In public comment, Juan Escamilla, initiative proponent, noted he received a lot of

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support through the signature gathering. In response to Council Member Harlan's question of how the ordinance was described to signers, Mr. Escamilla said it was presented as a way to make a trail and bike path not only in Capitola but through the County.

Linda Larsen, resident, said she was inspired by the petition. She heard a community voice to maintain what exists and said the primary resistance to a train is noise.

David van Brink said he is unclear on the intent, and supports a report with the impact on the contiguous trail.

Linda Wilshusen, former Regional Transportation (RTC) executive director, asked that a report address fiscal impact, transportation and accessibility, and safety. (Full statement on file.)

George Dondero, current RTC executive director and Capitola resident, said the corridor is an important link for both rail and scenic trail network. He noted the RTC funded a feasibility study in June to explore full replacement of the trestle for a train and trail.

Mark Mestizi-Miller, Friends of the Rail Trail and civil engineer, supports a report on the fiscal impact including a delay and loss of \$18 million for rail trail.

Dennis Norton, resident, does not feel an initiative is needed and questions its effectiveness, saying it is poorly written and unclear. Based on his time on the RTC board he thinks the trestle is too expensive to rebuild without railroad money. He questioned whether the federal Secretary of the Interior would support ending the rail use of a historic structure and asked if the ordinance impacts the votes of City RTC representatives.

Council Member Harlan said she is uncertain what the initiative is about. She noted the Scenic Trail has been planned for many years and needs to go to the coast. She wants people to be able to get to the beach as outlined in the City's many other plans.

Council Members Bertrand and Petersen also support a report to identify impacts.

Council Member Bottorff agrees with the list of potential impacts as outlined by the attorney and the speakers.

Attorney Barisone noted that members of the public can email his office and the City Manager with questions they would like to see addressed in the study.

MOTION:	REQUEST A REPORT ON POTENTIAL BALLOT INITIATIVE IMPACTS AS PERMITTED BY ELECTIONS CODE 9212 (1), (2), (4), (7) AND (8) AS DISCUSSED TO BE PRESENTED AT THE AUGUST 9, 2018, REGULAR CITY COUNCIL MEETING.
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Vice Mayor
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

- C. Consider a Resolution Placing a Special Transient Occupancy Tax Measure on the November 6, 2018, Election Ballot

RECOMMENDED ACTION: Adopt a resolution placing a measure on the November ballot to approve a special 2 percent increase to the Transient Occupancy Tax that would in part fund youth programs and support local businesses.

City Manager Goldstein presented the staff report.

In public comment, Ted Burke, owner of Shadowbrook Restaurant, thanked Council, staff, and hospitality industry members who worked to craft a win-win option.

Council Member Bottorff said that while complete agreement is difficult, everyone worked together to support tourism and important youth programs.

Both Council Members Petersen and Harlan agree the measure is a good step forward.

Council Member Bertrand said he is particularly pleased with the potential for a permanent funding stream for children's programs.

Mayor Termini said Capitola provides visitors with an experience worth a small increase, and noted that the measure would create permanent and stable funding.

MOTION:	ADOPT THE RESOLUTION AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

- D. Consider a Resolution Placing a Local Cannabis Tax Measure on the November 6, 2018, Election Ballot

RECOMMENDED ACTION: Adopt a resolution placing a measure on the November ballot to approve a not-to-exceed 7 percent Cannabis Business Tax.

City Manager Goldstein presented the staff report. He noted that the ordinance adopted earlier this evening requires passage of this measure to take effect.

There was no public or Council comment.

MOTION:	ADOPT THE RESOLUTION AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Vice Mayor
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

- E. Consider a Resolution Placing a Measure on the November 2018 Ballot Asking Voters to Change the Treasurer from an Elected to an Appointed Position
RECOMMENDED ACTION: With unanimous Council support, approve the resolution.

City Manager Goldstein presented the staff report, emphasizing the desire for a unanimous vote to provide education and support.

In public comment, Christine McBroom, former appointed treasurer and local business owner, reviewed the job. She said an election may not result in someone with experience and education in Capitola finance. She believes the citizen oversight by the Finance Advisory Committee (FAC) is invaluable.

Council Member Harlan recalled the process to change the city clerk to an appointed position and earlier discussions to do same with the treasurer. In both positions it is valuable to have someone appointed with the appropriate skills. Council Member Petersen agreed.

Council Member Bottorff agrees that municipal finance has become more specialized and this is the direction cities are moving. He added the FAC needs to remain and provide vital recommendations.

Mayor Termini confirmed that the ongoing use of the FAC to provide citizen oversight can be included in arguments in favor of the change.

Council Member Bertrand, a former elected treasurer, acknowledged a learning curve when he became treasurer. He appreciated the opportunity to ask questions and represent the citizens, but he is willing to see if the citizens value having the position elected.

MOTION:	ADOPT THE RESOLUTION AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Stephanie Harlan, Council Member
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

- F. Introduce an Ordinance Adding Chapter 1.50 of the Capitola Municipal Code Pertaining to Electronic Filing of Campaign Statements
RECOMMENDED ACTION: Approve the first reading of an ordinance adding Municipal Code Chapter 1.50.

Clerk Fridy presented the staff report.

There was no public comment. Council Member Petersen expressed enthusiasm for an electronic option.

MOTION:	APPROVE FIRST READING AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jacques Bertrand, Vice Mayor
SECONDER:	Stephanie Harlan, Council Member
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

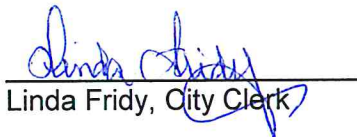
10. ADJOURNMENT

The meeting adjourned at 8:53 p.m.



Michael Termini, Mayor

ATTEST:



Linda Fridy, City Clerk

MINUTES APPROVED AUGUST 9, 2018