

**CAPITOLA CITY COUNCIL
REGULAR MEETING MINUTES
THURSDAY, JUNE 28, 2018**

CALL TO ORDER

Mayor Termini called the meeting to order at 6:15 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) Association of Capitola Employees; (2) Capitola Police Captains, (3) Capitola Police Officers Association, (4) Confidential Employees; (5) Mid-Management Group; and (6) Department Heads

CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION

[Govt. Code § 54956.9 (d)(1)]

City of Capitola v. Water Rock Construction, Inc.
Santa Clara Superior Court Case No. 16CV295795

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

[Govt. Code § 54956.9(d)(4)]

1 potential case

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.

Treasurer Peter Wilk was present.

2. PRESENTATIONS**A. Introduce New Sergeant**

Police Chief Terry McManus presented recently promoted Sergeant Sarah Ryan, a 12-year veteran of the department. She was officially sworn in earlier today. She noted she began her career in Capitola as a community service officer and then attended the academy. She expressed her pride and gratitude for the chance to continue serving the City.

B. Community Action Board Update

Helen Ewan-Storey, assistant director of the Community Action Board (CAB), provided an overview of the mission of the nonprofit to eliminate poverty and provide related essential services. These include community building and youth services, employment, immigration assistance, and homelessness prevention.

CAB partners with Capitola to provide emergency rental assistance and help avoiding eviction. Staff members shared examples of a single father construction

worker and a senior citizen facing breast cancer who both fell behind on rent and who were able to remain in their homes through the program.

3. REPORT ON CLOSED SESSION

Assistant City Attorney John Barisone reported that action on labor negotiation will be taken on item 10.E for most groups, and Council provided direction for ongoing negotiations with the Police Officers Association and Police Captain. For initiation of litigation, Council received information and provided direction. The Water Rock case is in arbitration and a decision is expected the end of July.

4. ADDITIONAL MATERIALS

A. Item 10.D – one public comment

B. Item 10.E – Strike-through versions of the proposed memoranda of understanding

5. ADDITIONS AND DELETIONS TO AGENDA - None

6. PUBLIC COMMENTS

John Lieberum, Brookvale Terrace resident, expressed concern about global warming and support for a carbon fee and dividend program.

Linda Marin, Citizens Climate Action, discussed carbon fees and requested endorsement for a bipartisan solution.

Ray Cancino, Community Bridges, invited the community to "Families Belong Together" marches in Watsonville and Santa Cruz this weekend.

Dennis Norton expressed concern about the increase of often unoccupied second homes. He would also like the City to allow more accessory dwelling units and challenge the cost of water hookups.

7. CITY COUNCIL / CITY TREASURER / STAFF COMMENTS

Treasurer Wilk noted the City purchased a new beach loader for about \$190,000.

City Manager Jamie Goldstein said that Monterey Bay Community Power celebrated the July 1 start of residential service with a ceremony earlier today. He also reported that the two-thirds tax passage state ballot initiative has been removed from the November ballot by a compromise to eliminate new soda taxes.

City Clerk Linda Fridy said that the recent Candidate Information Night in conjunction with County Elections was well attended. She also reported that the County Registrar of Voters has certified the number of signatures on the local ballot initiative, and a report will be presented at the July 26 Council meeting.

Council Member Bertrand praised the recent Jewel Box traffic workshop and expressed support for expanded accessory dwelling units.

Council Member Petersen attended this week's League of California Cities executive forums including a session on "Cannabis and Your City" that she found helpful ahead of tonight's discussion.

8. **BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS**

- A. Review Regional Transportation Commission Bicycle Advisory Committee Appointment

RECOMMENDED ACTION: Recommend to the RTC Board that it approve appointment of Capitola's representative to the Bicycle Advisory Committee.

MOTION:	RECOMMEND THE APPOINTMENT OF MICHAEL MOORE AS CAPITOLA'S REPRESENTATIVE ON THE REGIONAL TRANSPORTATION COMMISSION'S BICYCLE ADVISORY COMMITTEE.
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jacques Bertrand, Vice Mayor
SECONDER:	Kristen Petersen, Council Member
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

9. **CONSENT CALENDAR**

MOTION:	APPROVE AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Stephanie Harlan, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

- A. Consider the May 30, 2018, Joint Budget Workshop Minutes
RECOMMENDED ACTION: Approve minutes.
- B. Consider the June 14, 2018, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.
- C. Planning Commission Action Minutes
RECOMMENDED ACTION: Receive minutes.
- D. Approval of City Check Registers Dated May 4, May 11, May 18 and May 25, 2018
RECOMMENDED ACTION: Approve check registers.
- E. Schedule Appeal of the Planning Commission Denial of Application 17-019, 4015 Capitola Road
RECOMMENDED ACTION: Schedule the appeal hearing for the regular City Council meeting of October 25, 2018.
- F. Approval of Project Plans, Specifications, and Construction Estimate and Authorization of Advertising for Bids for 38th Avenue Sidewalk
RECOMMENDED ACTION: Approve the plans, specifications, and construction estimate for the 38th Avenue Sidewalk project; authorize the Department of Public Works to advertise for construction bids; and authorize the Public Works Director to award a contract to the lowest responsive bidder in an amount not to exceed the construction estimate.
- G. Consider a Resolution Calling the Election for November 6, 2018 [560-10]
RECOMMENDED ACTION: Adopt **Resolution No. 4115** ordering an election, requesting Santa Cruz County Elections to conduct the election, and requesting consolidation of the Presidential General Election in the City of Capitola on Tuesday, November 6, 2018.

- H. Second Reading of an Ordinance Amending Chapter 5.24 of the Capitola Municipal Code Pertaining to Entertainment Permits
RECOMMENDED ACTION: Adopt an ordinance amending Municipal Code Chapter 5.24.

10. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Consider the Fiscal Year 2018/2019 Budget and Capital Improvement Program for the City of Capitola [330-05/780-30]
RECOMMENDED ACTION: Approve **Resolution No. 4116** adopting the Fiscal Year 2018/19 City Budget and Capital Improvement Program.

Finance Director Jim Malberg reviewed the budget process to date. The proposed budget for Fiscal Year 2018-19 is balanced and carrying a fund balance forward of about \$970,000.

Priorities for the year are:

- Develop options for Council consideration to address rising pension costs
- Complete the cannabis regulatory framework
- Implement a new Neighborhood Watch Program
- Work toward Coastal Commission certification of zoning code update
- Continue working with Capitola Mall ownership group to redevelop the mall

In public comment, Ray Cancino of Community Bridges supported looking for options to pension costs.

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

- B. Review Options for Potential Ballot Measures for November 2018 General Election
RECOMMENDED ACTION: Provide direction to staff regarding items for potential placement on the November 2018 General Election ballot.

City Manager Goldstein reviewed previous topics identified as potential ballot measures: a cannabis tax (with related regulatory elements to be discussed under a different agenda item); an increased transient occupancy tax (TOT), and removal of the treasurer as an elected position.

Council Member Bottorff noted a 2014 effort to increase the TOT polled well but faced opposition and failed. He met with business members, including lodging and restaurant owners, to reach an agreement that would garner their support. The framework is as follows:

- 2 percent increase to TOT: 10 percent to 12 percent
- Restricted measure requiring 66 percent voter approval
- 0.4 percent of TOT increase dedicated to local business groups
- Split evenly between the Business Improvement Association (BIA) and Chamber

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of Commerce

- Chamber funding of \$30,000 removed from General Fund
- BIA to use funding for marketing and Village enhancements
- Chamber to increase City marketing efforts
- 0.35 percent of TOT increase dedicated to youth/early childhood education, replacing Community Grant youth program funding
- 1.25 percent to General Fund

Treasurer Wilk presented the arguments in favor of eliminating the treasurer as an elected position, noting it is unnecessary and potentially dangerous because of confusing language in state code. Two elected officials already serve on the Finance Advisory Commission along with members of public and the city has several independent checks. He asked for full council support to assure and educate the public.

Council members clarified that a treasurer could be appointed by either the city manager or Council, or use language allowing for both. The treasurer can be the finance director and is in many cities.

During public comment, Ray Cansino spoke to the TOT proposal and said he was concerned about subsidizing private business over early childhood education.

Khalil Moutawakkil of Kind Peoples supports a cannabis industry within the city. As a retailer he asked the City to consider upstream costs to allow his business to compete with the black market by setting an appropriate tax level. He said the state level is already quite high, and asked if a tax could be written to pass through to the consumer.

The Council decided to discuss each item separately and vote on whether to ask staff to bring a measure forth at the next meeting.

Regarding the treasurer's position, Council Member Bottorff thanked Treasurer Wilk for serving well and making this recommendation, which he supports.

Council Member Bertand formerly served as treasurer and opposes the plan. He said he feels that the public likes having another position that oversees finance.

Mayor Termini said he supports the effort and noted that the position often draws only one candidate.

MOTION:	DIRECT STAFF TO PREPARE A MEASURE TO PLACE ON THE NOVEMBER BALLOT ASKING VOTERS TO CHANGE THE TREASURER POSITION FROM ELECTED TO APPOINTED
RESULT:	ADOPTED [4-1]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Harlan, Bottorff, Termini, Petersen
NOES:	Bertrand

Regarding the TOT increase, Council Member Harlan said while she appreciates Mr. Cancino's concern about business support, she thinks this is a good proposal and she supports the 12 percent level.

Council Member Bottorff said if a measure fails again, there will be no new money for

any of the identified areas. He also said he does not view the agreement as giving money to businesses, but rather as investing in the local tourism economy, which in turn would generate increased occupancy and TOT revenue.

MOTION:	DIRECT STAFF TO PREPARE A MEASURE TO PLACE ON THE NOVEMBER BALLOT ASKING VOTERS TO APPROVE A SPECIAL TAX INCREASE OF THE TRANSIENT OCCUPANCY TAX AS OUTLINED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Stephanie Harlan, Council Member
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

Regarding the proposed cannabis tax, there was Council consensus for a lower ceiling and a recognition that similar local taxes are trending lower. In a desire to avoid any type of "bidding war" with neighboring jurisdictions regarding rates, Council Member Bottorff suggested an initial level of 7 percent. Council also supported 7 percent as the cap.

MOTION:	DIRECT STAFF TO PREPARE A MEASURE TO PLACE ON THE NOVEMBER BALLOT ASKING VOTERS TO APPROVE A NOT-TO-EXCEED 7 PERCENT TAX ON RETAIL CANNABIS WITH AN INITIAL 7 PERCENT RATE
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Harlan, Bottorff, Termini, Bertrand, Petersen

C. Update on the Capitola Branch Library Project Construction Bids

RECOMMENDED ACTION: Receive report.

Public Works Director Steve Jesberg presented the brief staff report and said that value engineering identified potential cost reductions estimated at \$1.5 million. On the funding side, the Joint Powers Authority is now anticipating excess Measure S revenues because the interest on the bond is lower than projected and revenue for the first round came in higher.

Joe Palandrani, resident and business owner, asked why the City is building such a large library.

TJ Welch, resident, expressed concerns about costs and size, and advocated for redesigning a more affordable option.

Mark Cane, resident, echoed previous concerns and said construction costs are only rising.

Mayor Termini noted Measure S is only allowed to be used for building library and that money cannot be redirected. He said the current plan reflects a reduced size from the original recommendation and it could be reduced again.

Council Member Bottorff noted the excitement for the library, but said that from the start he did not approve of the lack of full funding. He said the building is too big and

advocated for redesigning the size now.

Council Member Petersen said she is concerned that even with a redesign, bids may once again come in too high.

Staff said the bids are valid for 90 days. The item will return at the next meeting.

RESULT:	RECEIVED REPORT
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D. Introduce 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 and Adopt a Resolution to Authorize Criminal History Information for Licensing Purposes
RECOMMENDED ACTION:

1. Direct staff on the maximum number of Cannabis Licenses to be permitted within the Regional Commercial Zoning district;
2. Approve first reading of an Ordinance 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; and
3. Adopt **Resolution No. 4117** approving an application for authorization to access State- and Federal-level summary criminal history information for licensing purposes.

Council Member Harlan noted that she lives within 500 feet of the Regional Commercial Zone and recused herself. She left the dais and did not return to the meeting.

Community Development Director Katie Herlihy presented the staff report. She noted that during its recommendation hearing the Planning Commission asked the Council to discuss a 100-foot residential buffer, and she displayed a map showing it would greatly reduce the eligible area. She identified three areas for locations based on the recommended restrictions.

The ordinance also creates a Cannabis Sales Permit and planning staff worked closely with the Police Chief on this portion of the ordinance. Keeping specific standards and regulations out of the ordinance allows them to be adjusted as best practices evolve. Staff met with local representatives concerned about marketing impacts on youth and is recommending additional language including an age portal requirement as requested.

Mayor Termini confirmed liquor stores do not have separate sign standards.

In public comment, Tara Leonard said studies have shown that tobacco advertising is particularly likely to influence youth and there have been similar results with medical marijuana. She supports restrictions as discussed with staff.

Jenna Shankman, Community Prevention Partners, echoed concerns about advertising targeting youth.

Les Forster, resident, urged consideration of the target market when setting standards.

Mary Gaukel Forster, resident, urged proactive action regarding advertising and signage as it would impact youth.

Khalil Moutawakkil of Kind Peoples praised the proposed ordinance. He noted the state just mandated the same advertising restrictions for marijuana as alcohol, and said Colorado shows a decline of youth use. He asked if there could be exceptions to a 100-foot residential setback.

Vic Marani, former County School Board member, recommended talking with other elected officials such as local school boards. He suggested that allowing only one location can be perceived as granting a monopoly and recommended the Council support two or three. He does not feel a residential boundary is necessarily helpful.

Mayor Termini expressed concern about different sign standards for a type of business.

Council Member Petersen said she has changed her mind about allowing a green cross and can support it. At today's League of Cities panel, specialists said regulations will continue to change so any municipal action should expect to make future adjustments.

Council Member Bottorff favors two locations and could support a residential buffer. He made a motion to that effect but it died for lack of a second. Council agreed to discuss each amendment separately. He then proposed setting the limit at two locations.

MOTION:	AMEND THE PROPOSED ORDINANCE TO ALLOW TWO RETAIL CANNABIS LOCATIONS IN THE REGIONAL COMMERCIAL ZONE.
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Bottorff, Termini, Bertrand, Petersen
RECUSED:	Harlan

Seeing Planning Commission members in the audience, the Council asked for information behind the split vote.

Planning Commission Chair Sam Storey explained the majority wanted a minimal size for signs and supported a discussion of a residential buffer.

TJ Welch provided a bit more background on reaching a 100-foot buffer suggestion and said he vote against recommendation was due to the number of cannabis businesses already operating in the County.

A motion by Council Member Bottorff to include a 100-foot buffer from residential zones died for lack of a second.

There was significant discussion about the size of signage and whether it would be reviewed by the Planning Commission. After reviewing the recently adopted standards and the Planning Commission recommendation, council members favored a slight increase in size from 15 to 20 square feet but otherwise supported the Planning Commission recommendation.

MOTION:	AMEND THE PROPOSED ORDINANCE TO ALLOW 20 SQUARE FEET OF SIGNAGE AND A GREEN CROSS ONLY.
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jacques Bertrand, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Bottorff, Termini, Bertrand, Petersen
RECUSED:	Harlan

There was Council consensus to add the recommended language to discourage advertising targeting youth.

MOTION:	AMEND THE PROPOSED ORDINANCE TO INCORPORATE LANGUAGE LIMITING YOUTH ACCESS TO ADVERTISING.
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristen Petersen, Council Member
SECONDER:	Ed Bottorff, Council Member
AYES:	Bottorff, Termini, Bertrand, Petersen
RECUSED:	Harlan

MOTION:	APPROVE THE RESOLUTION AS PROPOSED AND PASS THE FIRST READING OF THE ORDINANCE AS AMENDED.
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jacques Bertrand, Council Member
SECONDER:	Ed Bottorff, Council Member
AYES:	Bottorff, Termini, Bertrand, Petersen
RECUSED:	Harlan

E. Consider Approval of Memoranda of Understanding with Labor Groups and Adopt Salary Schedule for FY 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. Association of Capitola Employees (ACE);
 - b. Mid-Management Employees' Bargaining Unit;
 - c. Confidential Employees' Bargaining Unit;
2. Approve changes to the Management Compensation Plan.
3. Approve changes to City Manager Employee Contract.
4. Adopt **Resolution No. 4119** approving the new salary schedule.

Mayor Termini read a statement that at-will management employees and the city manager are among the parties receiving the negotiated cost of living adjustment and healthcare changes, which he listed. The city manager declined the \$1,500 bonus.

Assistant to the City Manager Larry Laurent presented the staff report.

In public comment, TJ Welch noted public safety has not completed negotiations and is concerned about cannabis retail's impact on the officers.

MOTION:	APPROVE THE MEMORANDA OF UNDERSTANDING
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Vice Mayor
AYES:	Ed Bottorff, Michael Termini, Jacques Bertrand, Kristen Petersen
ABSENT:	Stephanie Harlan

F. Consider Fee Schedule for Fiscal Year 2018/19 [390-40]

RECOMMENDED ACTION: Conduct the noticed public hearing on the proposed City Fee Schedule for Fiscal Year 2018/2019 and adopt **Resolution No. 4119** repealing Resolution No. 4077 and adopting the new fee schedule.

Finance Director Malberg presented the staff report, noting most changes are due to the 3.1 percent Consumer Price Index increase with a few exceptions for state-mandated fees.

There was no public comment.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Ed Bottorff, Michael Termini, Jacques Bertrand, Kristen Petersen
ABSENT:	Stephanie Harlan

11. **ADJOURNMENT**

The meeting adjourned at 10:10 p.m.



Michael Termini, Mayor

ATTEST:



Linda Fridy, City Clerk

MINUTES APPROVED JULY 26, 2018