

**CAPITOLA CITY COUNCIL
REGULAR MEETING ACTION MINUTES
THURSDAY, JANUARY 12, 2017**

**CLOSED SESSION
CITY MANGER'S OFFICE 5:45 PM**

CALL TO ORDER

Mayor Harlan called the meeting to order at 5:45 p.m. with the following items to be discussed in Closed Session:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR [Govt. Code § 54956.8]

Property: 2091 Wharf Road, APN 034-241-05, Capitola, CA

City Negotiator: Jamie Goldstein, City Manager

Negotiating Parties: Joseph K. and Debbie A. Genge

Under Negotiation: Terms for potential purchase of property by City

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

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

(One potential case)

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

[Govt. Code § 54956.9(d)(1)]

1. City of Capitola v. Water Rock Construction, Inc.
Santa Clara Superior Court Case No. 16CV295795
2. City of Capitola v. D'Angelo
Santa Cruz County Superior Court Case No. CV 181659

There was no one in the audience; therefore, the City Council recessed at 5:50 p.m. to the Closed Session in the City Manager's Office.

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7:00 PM

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

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

City Treasurer Peter Wilk was present.

2. PRESENTATIONS

A. Presentation of Awards Recognizing Lifesaving Efforts [630-20]

Capitola Police Chief Terry McManus presented Officer Kraig Evans and Officer Jackie Yeung with Capitola Police Department Life Saving Awards and pins, and presented Tristan Grell with the Citizen Distinguished Service Commendation. Chief McManus described the situation requiring 10 minutes of CPR, resulting in the victim's successful recovery from a heart attack.

3. REPORT ON CLOSED SESSION

City Attorney Tony Condotti reported that for the real property negotiations for 2091 Wharf Road the Council received a report and gave instructions. For the item of anticipated litigation, the Council received a report. For the existing litigation against Water Rock Construction, the Council authorized the City Attorney's office to seek appellate review, and for the D'Angelo litigation there was no reportable action.

4. ADDITIONAL MATERIALS

- A. Item 8.A Public Communication regarding Appointments to the Planning Commission
- B. Item 9.A Correction to City Council Draft Minutes for December 8, 2016
- C. Item 9.C Revision to Budget Calendar 2017/2018 Fiscal Year
- D. Item 9.D 41st Avenue Adaptive System Plans
- E. Item 10.B Verizon Wireless Communication regarding Introduction of an Ordinance

5. ADDITIONS AND DELETIONS TO AGENDA

Community Development Director Rich Grunow noted that staff recommends continuing item 10.B due to an error on some public notices.

6. PUBLIC COMMENTS

Laurie Hill, president of the Capitola Begonia Festival, and Teresa Green, past president, announced that the festival will return Labor Day weekend for its 65th occurrence. Ms. Hill noted that 38,000 people read the online press release for 2017 announcing that the only remaining source for begonias (Golden State Bulb Growers) will cease growing begonias, and therefore the 2017 festival will be the last Capitola Begonia Festival. Golden State is the last commercial grower in North America and perhaps in the Western Hemisphere. She invited the community to share its memories and become involved in this final event.

Marylin Garrett spoke to concerns about the health impacts on blood circulation by cell phone exposure.

7. CITY COUNCIL / CITY TREASURER / STAFF COMMENTS

Council Member Bottorff announced that earlier today President Obama established the Cotoni-Coast Dairies National Monument.

Council Member Bertrand shared recent actions by a Capitola Police officer to aid a stranded person.

Council Member Termini noted the library design community meeting on January 11 was well attended. He asked to place on a future agenda the possible consolidation of Central and Aptos/La Selva fire districts. He also said he spoke with the Chamber of Commerce about the Begonia Festival, and the chamber is considering continuing the event with flowers of another type on the same weekend as the Art & Wine Festival.

January 12, 2017

Mayor Harlan thanked the utility workers who helped during recent storms to keep power on and roads open. She also offered a tribute to Wayne Fontes, who died recently. He was a city council member in the 1960s, a local school principal in the 1970s, and school board member in the 1980s. She remembered him as a character who truly cared about the community.

At the mayor's request, Police Chief McManus updated the Council on calls for service at 41st Avenue, 47th Avenue, and Monterey Avenue rail crossings regarding failed crossing arms and bells related to the Polar Express. The department worked with Iowa Pacific to address these issues. Council Member Termini noted that the City does not have jurisdiction over the use of the rails.

City Treasurer Peter Wilk addressed questions about Wharf maintenance funding, the continued use of Wells Fargo Bank, and the use of the City credit cards that he has been asked by citizens since taking office.

8. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS

- A. Review City Council Representation on Various County/Multi-County Boards, Commissions, and Committees; and City Council Appointments, Re-Appointments, and Nominations of Members to City Internal Advisory Bodies[110-10]

RECOMMENDED ACTION: Provide appointments.

ACTION: There was Council consensus for the following appointments/reappointments:

ARCHITECTURAL & SITE REVIEW COMMITTEE

Frank Phanton, Architect
Carolyn Swift, Historian
Daniel Townsend, Alternate Architect
Daniel Gomez, Alternate Architect

COMMISSION ON THE ENVIRONMENT

Council Member Representative - deferred
Kristin Sullivan (appointed by Vice Mayor Termini)
Kailash Mozumder (appointed by Mayor Harlan)
Peter Wilk (appointed by Council Member Bottorff)
Cathlin Atchison (appointed by Council Member Petersen)

FINANCE ADVISORY COMMITTEE

Jacques Bertrand (Mayor's Appointee)
Michael Termini (Vice Mayor)
Peter Wilk, City Treasurer
Will OSullivan (appointed by Mayor Harlan)
Brigitte Estey (appointed by Council Member Bottorff)
Marilyn Warter (appointed by Council Member Petersen)
Matt Arthur - Business Representative

LIBRARY ADVISORY COMMITTEE

Michael Termini, Council Member Representative
Toni Campbell (appointed by Mayor Harlan)
Ariel Gray (appointed by Council Member Bottorff)
Gayle Ortiz (appointed by Vice Mayor Termini)
Lisa Steingrube (appointed by Council Member Petersen)
Stephen Walsh (appointed by Council Member Bertrand)

PLANNING COMMISSION

Susan Westman (appointed by Mayor Harlan)
Edward Newman (appointed by Council Member Bertrand)
Linda Smith (appointed by Vice Mayor Termini)
Troy (TJ) Welch (appointed by Council Member Bottorff)
Sam Storey (appointed by Council Member Petersen)

PUBLIC SAFETY & COMMUNITY SERVICE FOUNDATION

Vice Mayor Termini (Representative)
Council Member Petersen (Representative)

TRAFFIC AND PARKING COMMITTEE

Margaret Kinstler (Village Resident)
James Steven Ross (Village Resident)
Carin Hanna (Village Business Owner)
Willie Case (Village Business Owner)
Ron Graves (appointed by Mayor Harlan)
Molly Ording (appointed by Council Member Petersen)
Ron Burke (appointed by Council Member Bertrand)
Doug Thom (appointed by Council Member Bottorff)
Nels Westman (appointed by Vice Mayor Termini)

WHARF WORKING GROUP

Vice Mayor Termini
Council Member Petersen

ARTS COUNCIL SANTA CRUZ COUNTY

Deferred

CRIMINAL JUSTICE COUNCIL OF SANTA CRUZ COUNTY

Vice Mayor Termini (Representative)
Council Member Bertrand (Representative, if allowed to replace City Manager Goldstein)

SANTA CRUZ COUNTY INTEGRATED WASTE MANAGEMENT LOCAL TASK FORCE

Assistant to the City Manager Laurent (Representative)
Mayor Harlan (Alternate)

SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

Council Member Bottorff (for a four-year term expiring December 2020)

The appointment to the Santa Cruz County Regional Transportation Commission was decided by rollcall vote with a motion to appoint Council Member Bertrand to the representative position and Vice Mayor Termini to alternate. Vice Mayor Termini declined the alternate position.

MOTION:	APPOINT COUNCIL MEMBER BERTRAND AS THE REPRESENTATIVE TO THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION.
RESULT:	APPROVED [3-2]
MOVER:	Kristen Petersen, Council Member
SECONDER:	Jacques Bertrand, Council Member
AYES:	Jacques Bertrand, Stephanie Harlan, Kristen Petersen
NOES:	Ed Bottorff, Michael Termini

9. CONSENT CALENDAR

- A. Consider the December 8, 2016, Regular City Council Minutes
RECOMMENDED ACTION: Approve Minutes.
For this item, Council Member Bertrand clarified that his vote on the City Manager's contract extension reflected a procedural concern and in no way a lack of support for the City Manager.
- B. Receive Planning Commission Action Minutes for the Regular Meeting of December 1, 2016
RECOMMENDED ACTION: Receive Minutes.
- C. Approve the Budget Calendar for the 2017/18 Fiscal Year [330-05]
RECOMMENDED ACTION: Approve Budget Calendar for Fiscal Year 2017/18.
- D. 41st Avenue Adaptive Signal Control Project to Bid [490-70]
RECOMMENDED ACTION: Approve the plans, specifications, and estimate for the 41st Avenue Adaptive Signal Control project and authorize advertising the project for bidding.

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

At this point in the meeting, Mayor Harlan said she was feeling ill and turned the gavel over to Vice Mayor Termini before departing.

10. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Appeal of a Planning Commission Approval of a Design Permit, Coastal Development Permit and Variance for a New Two-story, Single-family Residence at 105 Sacramento Avenue [730-10]
RECOMMENDED ACTION: Uphold the Planning Commission's decision to approve the project as conditioned.

Council Member Petersen will recuse herself from this item due to the proximity of her residence and therefore will not vote on the motion to continue. The Council also asked the City Attorney to clarify if Mayor Harlan must recuse herself since she is an appellant. City Attorney Condotti explained the differing situation from case law, in which a council member had taken actions to indicate a predisposition prior to the meeting, while in Mayor Harlan's case she simply asked for further discussion.

RESULT:	TABLED [3 TO 0]	Next: 1/26/2017 7:00 PM
MOVER:	Ed Bottorff, Council Member	
SECONDER:	Jacques Bertrand, Council Member	
AYES:	Ed Bottorff, Jacques Bertrand, Michael Termini	
ABSTAIN:	Kristen Petersen	
ABSENT:	Stephanie Harlan	

B. Introduction of an Ordinance Amending Chapter 17.98 of the Capitola Municipal Code Pertaining to Wireless Telecommunications [730-85/740-40]

RECOMMENDED ACTION: Adopt the Addendum to the General Plan Update Environmental Impact Report and introduce an ordinance to amend Municipal Code Chapter 17.98 Wireless Communications Facilities to update regulations, development standards, and permit procedures in compliance with state and federal law.

Community Development Director Grunow reviewed the history of the ordinance, litigation, and highlights of the updated code to meet state and federal law.

Council Member Bertrand asked if the City has worked with providers. Director Grunow said staff worked closely with Verizon and believes other carriers would also prefer the updated version. Council Member Bertrand also asked if there have been federal efforts to increase citizen input. Attorney Condotti responded he does not see a move toward more oversight and citizen input.

Becky Steinbruner, Aptos resident, expressed concern about the influence of corporations on citizens' ability to participate in these decisions due to limits placed on local governments. She acknowledged the cost of opposing these laws, but asked the Council to deny the changes.

Marylin Garrett echoed concerns about corporate influence to muffle research into the effect of microwave radiation on health.

Keith Otto asked the Council to insure that regulations are the strongest possible to preserve aesthetics such as public and private views. He also asked for robust consideration of alternatives.

Patricia Yard shared a story of brain cancer due to exposure to cell towers in San Diego.

Council Member Bertrand asked if the code could preclude certain areas of assembly such as schools or churches. Director Grunow and Attorney Condotti explained that rather than prohibit locations, which is legally difficult, the update uses preferred locations and aesthetics as the tools to regulate. Deputy Attorney Lenhardt has worked for several months with the League of California Cities attorneys to craft this ordinance.

Council Member Petersen said she is grateful for the effort and supports the proposed ordinance.

January 12, 2017

Vice Mayor Termini clarified that a tower could theoretically be placed in a residential zone. Director Grunow said the application would have to prove that no other site would work.

The Council asked staff to confirm that this update incorporates the most enforceable restrictions and specifically to review the City of Monterey's ordinance if it was not already included in the research.

RESULT:	FIRST READING CONTINUED [UNANIMOUS] Next: 1/26/2017 7:00 PM
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Council Member
AYES:	Ed Bottorff, Jacques Bertrand, Michael Termini, Kristen Petersen
ABSENT:	Stephanie Harlan

C. Adopt a Resolution Setting the Interest Rate for Tenants' Security Deposits for 2017 (Continued from the December 8, 2016, City Council Meeting) [750-10]
RECOMMENDED ACTION: Adopt Resolution.

Finance Director Mark Welch reviewed research into other jurisdictions' rates following the request to continue and found little variation on the interest rate. Council Member Bertrand confirmed that monitoring the rate paid by landlords would be difficult.

RESULT:	ADOPTED [UNANIMOUS] <u>Resolution No. 4070</u>
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Council Member
AYES:	Ed Bottorff, Jacques Bertrand, Michael Termini, Kristen Petersen
ABSENT:	Stephanie Harlan

D. Council Consideration of Standby City Council Members [420-20]
RECOMMENDED ACTION: Council discretion to determine if standby council members remain necessary given improved technology that allows remote contact during emergencies. If Council decides to continue the process, Member Petersen may nominate from one to three people to serve as her standby city council member pursuant to Municipal Code Section 2.04.165, and Council Members Bertrand, Bottorff, Termini, and Mayor Harlan will review their appointments and make any changes desired.

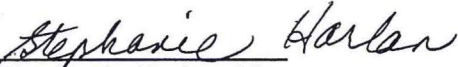
Council members concurred that since four standby members are in place, they are inclined to continue appointments.

Council Member Petersen said she will appoint Marilyn Warter as her standby.

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

11. **ADJOURNMENT**

The meeting was adjourned at 9 p.m.


Stephanie Harlan, Mayor

ATTEST:


Linda Fridy, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED ON JANUARY 26, 2017