

**CAPITOLA CITY COUNCIL  
REGULAR MEETING ACTION MINUTES  
THURSDAY, JUNE 23, 2016**

**CLOSED SESSION – 6:00 PM  
CITY MANAGER’S OFFICE**

Mayor Bottorff called the meeting to order at 6:00 PM. He announced the item to be discussed in Closed Session, as follows:

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

**[Govt. Code §54956.9(d)(1)]**

(Two cases)

1. Friends of Monterey Park v. the City of Capitola  
[Santa Cruz Superior Court Case No. CV 16CV01091]
2. City of Capitola v. D'Angelo  
[Santa Cruz County Superior Court Case No. CV 181659]

**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

Mayor Bottorff noted that there was no one in the audience; therefore, the City Council recessed at 6:00 p.m. to the Closed Session

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

**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Councilmember Dennis Norton: Present, Mayor Ed Bottorff: Present, Council Member Jacques Bertrand: Present, Vice Mayor Stephanie Harlan: Present, Council Member Michael Termini: Present.

City Treasurer McBroom was absent.

**2. PRESENTATIONS**

**A. Proclamation honoring Amateur Radio Week - June 20 thru June 26, 2016 [120-40]**

Recipients of proclamation: (1) Suellene Peterson – American Radio Relay League Public Information Coordinator for the Pacific Division, Santa Clara Valley Section; and (2) Sam Sjogren (pronounced "Showgren") – Amateur Radio Emergency Services Coordinator for San Lorenzo Valley.

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### 3. REPORT ON CLOSED SESSION

City Attorney Condotti stated that the Council discussed the following case of existing litigation: City of Capitola v. D'Angelo; the City Council approved with a vote of five to zero regarding a stipulated judgement which requires the abatement of several uses; provides a time table of correcting violations by August 31, 2016, with various remedies available to the City if the property owners fail to meet the stipulated deadline. Copies of the stipulated judgement will be made available to the public upon request. Mr. Condotti stated that the Council held a conference with City Manager Goldstein, Real Property Negotiator, regarding property located at 2091 Wharf Road, APN 034-241-05, Capitola (Negotiating Parties: Joseph K. and Debbie A. Genge); there was no reportable action. Mr. Condotti stated that due to conflicts of interest Council Members Termini and Bertrand recused themselves and left the room regarding discussions of the Friends of Monterey Park v. the City of Capitola existing litigation. City Attorney Condotti stated that the remaining City Council discussed the Friends of Monterey Park v. the City of Capitola existing litigation; there was no reportable action.<sup>1</sup>

### 4. ADDITIONAL MATERIALS

City Clerk Sneddon stated that 160 additional materials were received regarding Item 9.A.: Proposed skate park at Monterey Park. In addition, one additional material regarding Item 8.E.: Consider Proposals to Repair the Tennis Courts at Jade Street Park.

### 5. ADDITIONS AND DELETIONS TO AGENDA (None provided)

### 6. PUBLIC COMMENTS (None provided)

### 7. CITY COUNCIL / CITY TREASURER / STAFF COMMENTS

Council Member Termini stated there were approximately 3,000 young people that attended the June 22<sup>nd</sup> Twilight Concert and there were no police issues.

Council Member Bertrand requested that staff agendize a Council discussion regarding mini-parks ("parklets") in the Village; (City Manager Goldstein stated that this discussion will be included in the Zoning Code Update later this summer). In addition, he provided positive comments regarding the McGregor Multi-Use Park.

City Clerk Sneddon announced that there are openings on various City board and commissions.

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<sup>1</sup> Council Member Bertrand recused himself from discussing the Friends of Monterey Park v. the City of Capitola existing litigation because he resides within 300 feet of the subject property. Council Member Termini recused himself from discussing the Friends of Monterey Park v. the City of Capitola existing litigation because his company has done work for Richard Novak, owner of Santa Cruz Skateboards (Mr. Novak is the financial sponsor the proposed Monterey Skate Park).

8. CONSENT CALENDAR

<b>RESULT:</b>	<b>ADOPTED <i>ITEMS 8.A., 8.B., 8.C., 8.D., AND 8.E.</i> [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Termini, Council Member
<b>SECONDER:</b>	Dennis Norton, Councilmember
<b>AYES:</b>	Norton, Bottorff, Bertrand, Harlan, Termini

- A. Consider the June 9, 2016, Regular City Council Minutes  
RECOMMENDED ACTION: Approve Minutes.
- B. Approval of City Check Registers dated May 6, May 13, May 20 and May 27, 2016[300-10]  
RECOMMENDED ACTION: Approve Check Register Reports.
- C. Adoption of ***Resolution No. 4056*** Ordering an Election, Requesting County Elections to Conduct the Election, and Requesting Consolidation of the Presidential General Election in the City of Capitola on Tuesday, November 8, 2016 [560-10]  
RECOMMENDED ACTION: Adopt Resolution.
- D. Approval of the 38th Avenue Paving Project Notice of Completion [940-40/500-10 A/C: Don Chapin Company Inc.]  
RECOMMENDED ACTION: Approve a contract change order for the 38<sup>th</sup> Avenue Paving Project in the amount of \$53,506 to correct two pay items in the contract that had incorrect quantity amounts and accept the 38<sup>th</sup> Avenue Paving Project as constructed by the Don Chapin Company as complete at a final cost of \$298,111.58; and authorize the Public Works Department to release the contract retention of \$14,905.58 in 35 days following the recordation of the Notice of Completion.
- E. Consider Proposals to Repair the Tennis Courts at Jade Street Park [1040-20]  
RECOMMENDED ACTION: Receive report on proposals to repair or reconstruct the tennis courts at Jade Street Park; and based on staff review of the proposals, award a contract to the recommended contractor.

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Appeal of the Planning Commission’s Decision to Certify an Environmental Impact Report and Approve a Conditional Use Permit, Design Permit, and Coastal Development Permit for the Monterey Avenue Skate Park [1040-20]  
RECOMMENDED ACTION: Staff recommends the City Council uphold the Planning Commission’s decisions by taking the following actions:
  - 1. Adopt a Resolution certifying the Environmental Impact Report (EIR) and adopting the Mitigation, Monitoring, and Reporting Program (MMRP);
  - 2. Adopt a Resolution approving a Conditional Use Permit, Design Permit, and Coastal Development Permit for a modified project as described as Alternative 1 of the EIR;

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3. Approve related agreements for access and indemnity and authorize the City Manager to execute said agreements.

Council Member Bertrand stated that, due to a conflict of interest, he will recuse himself from participating on Item 9.A. regarding appeal of the Planning Commission's decision to certify an Environmental Impact Report and approve a Conditional Use Permit, Design Permit, and Coastal Development Permit for the Monterey Avenue Skate Park because he resides within 300 feet of the subject property. He left the dais.

Council Member Termini stated that, due to a conflict of interest, he will recuse himself from participating on Item 9.A. regarding appeal of the Planning Commission's decision to certify an Environmental Impact Report and approve a Conditional Use Permit, Design Permit, and Coastal Development Permit for the Monterey Avenue Skate Park because his company has done work for Richard Novak, owner of Santa Cruz Skateboards (Mr. Novak is the financial sponsor the proposed Monterey Skate Park). He left the dais.

Marie Martorella and Trica Proctor, proponents for the proposed skate park at Monterey Park, provided a presentation regarding the proposed skate park.

Richard Lippi, appellant for the proposed skate park at Monterey Park, provided a presentation regarding the proposed skate park.

Pearl Kan, Wittwer Parkin LLP Attorney, appellant for Friends of Monterey Park representative, stated that there exist legal inadequacies of the proposed project, specifically the draft Environmental Impact Report (EIR) associated with the proposed skate park location alternatives.

Henry Castinada, stated that he provided a letter to Community Development Director Grunow on January 5, 2016, regarding the original design of the proposed skate park; he listed many of the students concerns that have not been addressed because the concerns were not the focus of the EIR. He stated that he is hoping that before Council makes a decision on this item they will review the traffic study that was conducted regarding the congestion that exists between 2:10 PM and 2:50 PM four days per week.

Judy McGooden, Soquel Union Elementary School District (District) Board of Trustees (Board) President, clarified a misleading two-page flyer circulating regarding this item. She stated that the District is not considering moving the District Offices to Jade Street Park, as stated in the flyer; there are no funds to make such a move and it would never be considered. The Board did not take a stand on this issue and it is not because the Board has a policy that does not allow the Board to participate in land-use discussions pertaining to land owned by another entity; they decided to stay neutral. She stated that this is the City's property and gets to decide what is best use for the property.

Unidentified speaker, stated that he built Monterey Park and supports the proposed skate park.

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The following provided local residents comments in opposition to the proposed skate park:

- Chris Bowman
- Marilyn Warder
- Stephanie Tetter
- Kerry Tetter
- John
- Keith
- Don Sanders
- Harry Gai
- Andy Forget
- Dawn Morrow
- Brian Stow
- Julian Greenside
- Lisa Steingrube
- Neal Goldstein
- David Stow
- Charlie Thomas
- Nancy Stucker
- Ann Stow
- Heidi Wagner
- Shana McDougall
- Lois Robin
- Mr. Garcia
- Dan
- Al Globus
- Elizabeth Russell
- Dan Steingrube
- Paula Malet
- Barrett
- Helen Bryce
- Two unidentified speakers

The following provided local residents comments in support of the proposed skate park:

- Brad
- Paul
- Joey and Benjamin Miller
- Shawn
- Tessa Tutman
- Nicole Connolly
- Brett
- Mary
- Chris Hatlan

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- Judy
- David
- Maureen
- Unidentified Speaker
- Diana Peters
- Penny
- Maria
- Amy
- Jason
- John
- Molly Turner
- Five unidentified speakers

Greg Hertz, local resident, provided various comments regarding the proposed skate park.

Danyel Scott, Dreamland Skateparks, provided options to modify the design of the proposed skate park to reduce noise.

Marie Martorella and Trica Proctor, proponents for the proposed skate park at Monterey Park, provided final statements regarding the proposed skate park.

Richard Lippi, appellant for the proposed skate park at Monterey Park, provided final statements regarding the proposed skate park.

Pearl Kan, Wittwer Parkin LLP Attorney, stated that the EIR process is the core planning document which was disclosed after a decision had been made. She stated that the recirculation of the EIR is necessary.

The City Council took a five minute break.

<b>RESULT:</b>	<b>UPHOLD THE PLANNING COMMISSION DECISION TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT (EIR) AND ADOPT THE MITIGATION, MONITORING, AND REPORT PROGRAM (MMRP); [3 TO 0 VOTE] WITH THE FOLLOWING ROLL CALL VOTE:</b>
<b>MOVER:</b>	Dennis Norton, Councilmember
<b>SECONDER:</b>	Ed Bottorff, Mayor
<b>AYES:</b>	Dennis Norton, Ed Bottorff, Stephanie Harlan
<b>DISQUALIFIED:</b>	Jacques Bertrand, Michael Termini

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**RESULT:** UPHOLD THE PLANNING COMMISSION'S DECISION TO APPROVE A MODIFIED PROJECT AS DESCRIBED IN ALTERNATIVE 1 OF THE ENVIRONMENT IMPACT REPORT (EIR) KNOWN AS OPTION 3; REDUCE THE FOOTPRINT OF THE SKATE PARK TO 6,000 FEET WITHIN THE FENCE; REDUCE MAXIMUM DROP FROM ANY POINT IN THE SKATE PARK TO FOUR FEET; TO NOT INCLUDE ANY METAL PRODUCTS WITHIN THE SKATE PARK AND ANY NOISE FEATURES THAT CAN BE ELIMINATED; USE NOISE INSULATION FEATURES AS ADVISED; TO AMEND THE NOISE CONDITION TO ALLOW FOR ALTERNATIVE EQUIVALENT MEASURES TO PROVIDE THE NECESSARY SOUND REDUCTION; HOURS OF THE PARK TO BE ESTABLISHED FROM 9 AM TO SUNSET; SKATE PARK TO BE REASSESSED BY THE PLANNING COMMISSION IN SIX MONTHS; [2 TO 1 VOTE] WITH THE FOLLOWING ROLL CALL VOTE:

**MOVER:** Dennis Norton, Councilmember  
**SECONDER:** Ed Bottorff, Mayor  
**AYES:** Dennis Norton, Ed Bottorff  
**NOES:** Stephanie Harlan  
**DISQUALIFIED:** Jacques Bertrand, Michael Termini

**RESULT:** AUTHORIZE THE CITY MANAGER TO EXECUTE A RIGHT-TO-ENTRY AGREEMENT AND THE DEFENSE AND INDEMNIFICATION AGREEMENT; [2 TO 1 VOTE] WITH THE FOLLOWING ROLL CALL VOTE:

**MOVER:** Dennis Norton, Councilmember  
**SECONDER:** Ed Bottorff, Mayor  
**AYES:** Dennis Norton, Ed Bottorff  
**NOES:** Stephanie Harlan  
**DISQUALIFIED:** Jacques Bertrand, Michael Termini

10. ADJOURNMENT

The meeting was closed at 11:00 PM.

  
Ed Bottorff, Mayor

ATTEST:

  
Susan Sneddon, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED ON JULY 28, 2016