Gautho, Julia

From: Bob Hickman <bobster1263@yahoo.com>
Sent: Sunday, September 6, 2026 5:54 PM
To: City Clerk; City Council; Goldstein, Jamie; mtran@bwslaw.com; Woodmansee, Chloe
Subject: 9/10 city council meeting

Please add this to the City Council meeting Item 8a
Before you approve Item 8a From the 8/27 city Council meeting minutes I need you to look at the following Information. Perhaps you should pull this from Consent and discuss it further.

Subject: Request to Pause Proposition 43 Advocacy and Clarify Authority for Staff Work

Dear City Manager, City Attorney, City Clerk, and Councilmembers,

In response to an email from Chloe Woodmansee on 9/2

Thank you for your email. As requested by two City Council members, staff is preparing a report and draft letter opposing Proposition 43, which will return to City Council at a future meeting for their review, discussion, and vote. We have double-checked with our City Attorney, who confirmed staff is permitted to spend time on this preliminary work, and the topic will return to City Council as a properly noticed agenda item.

Thank you for confirming that no official City position on Proposition 43 has yet been adopted and that the matter will return to the full Council at a properly noticed public meeting.

That confirmation raises an important procedural question:

On what authority did City staff begin preparing a staff report and draft opposition letter before the Council had publicly considered Proposition 43 or voted to direct that work?

The request appears to have arisen during Council comments, not through a noticed agenda item. No vote was taken. The City Manager did not publicly state at that time that staff was being directed to prepare an opposition letter, nor was there a public discussion establishing the scope, priority, or expenditure of City resources for that work.

Capitola's own Council policies contemplate that requests for staff work are made through the City Manager and caution individual Councilmembers against influencing staff workloads and priorities without appropriate Council authorization. I therefore respectfully request that the staff report identify the precise authority under which this work began, including any City Manager authorization given after the meeting.

I also ask the City to **pause preparation or distribution of advocacy materials** and instead provide the Council with a neutral report giving equal and meaningful consideration to:

1. Support Proposition 43
2. Oppose Proposition 43
3. Take no official City position

That approach is especially appropriate given the additional METRO context now in the public record.

METRO's November 2025 committee records show the agency itself discussing election procedures and **"conducting a citizens initiative in parallel"** with a Board-sponsored tax option. Friends of Santa Cruz METRO subsequently organized as a ballot-measure committee, with METRO Chair Manu Koenig identified as a principal officer. METRO Vice Chair Melinda Orbach has publicly promoted the initiative, including bringing petitions to a Capitola Council meeting and encouraging residents to sign them.

METRO then sponsored and supported **AB 1919**, legislation specifically addressing the authority and election procedures necessary for a qualified voter initiative to impose a METRO transactions-and-use tax. That history creates a legitimate public question about the relationship between METRO's governmental activity and the private citizen-initiative campaign.

Proposition 43 directly affects the voter-threshold distinction central to that strategy: voter-proposed local special taxes can currently pass by majority vote, while government-proposed special taxes generally require two-thirds approval. Proposition 43 would require two-thirds approval for voter-proposed local special taxes beginning in 2027.

Councilmember Orbach subsequently asked Capitola to oppose Proposition 43 specifically because of its effect on the METRO initiative.

I am not asserting in this correspondence that these overlapping activities establish a legal violation. I am saying that **Capitola should not begin from a predetermined advocacy position before the full Council and public have examined those facts.**

There is also an important legal distinction between preparing factual information for Council consideration and using public resources for campaign advocacy. The FPPC explains that government-funded communications can become campaign activity when they expressly advocate an election result or, considering their style, tenor, timing, and context, unambiguously urge a particular outcome. It also specifically identifies staff salaries, research, consultants, and production costs as potentially relevant public expenditures.

The FPPC further states that public entities may provide impartial information, but public money used for communications intended to persuade voters can create campaign-reporting obligations, while the underlying prohibition on publicly funded express advocacy is enforced under laws outside the Political Reform Act.

Accordingly, before further City resources are committed, please have the forthcoming staff report publicly address:

1. **Who authorized the Proposition 43 work, when, and under what Council policy or City Manager authority;**
2. Whether staff was directed to prepare neutral information or specifically instructed to draft an opposition letter;
3. Why an opposition draft was initiated before the Council considered support, opposition, and neutrality;

4. What staff, City Attorney, consultant, and other City resources have already been expended;
5. The specific and independent **City of Capitola public purpose** served by taking a position on Proposition 43;
6. The relationship, if any, between Capitola's proposed position and the METRO citizen initiative;
7. The relevant overlapping roles of Councilmember Orbach as Capitola Councilmember, Capitola's METRO representative, METRO Vice Chair, and public supporter of the initiative;
8. The safeguards being applied under **Stanson, Vargas, FPPC Regulation 18420.1, Government Code section 8314, and other applicable law**;
9. Whether any City-funded communication would be limited to communicating a duly adopted governmental position rather than attempting to persuade voters; and
10. Whether the City Attorney has evaluated any disclosure, recusal, common-law conflict, or other participation issues arising from these overlapping roles.

Until those questions are answered publicly, I respectfully request that the City **not issue, publish, distribute, or otherwise disseminate any Proposition 43 advocacy communication.**

The full Council should first receive a neutral record, hear from the public, and decide whether Capitola should support Proposition 43, oppose it, or remain neutral.

This is not an attempt to prevent the Council from exercising its lawful authority. It is a request that Capitola's institutional voice and public resources be used only after a transparent, properly authorized public process.

Please include this correspondence and the previously provided FPPC filings in the public record for the forthcoming Proposition 43 agenda item.

Thank you,

Bob Hickman Capitola Resident