

**REGULAR MEETING  
BELVEDERE CITY COUNCIL  
FEBRUARY 11, 2019, 6:00 P.M.  
CONFERENCE ROOM I & COUNCIL CHAMBERS  
450 SAN RAFAEL AVENUE, BELVEDERE, CA**

**MINUTES**

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**COUNCIL PRESENT:** James Campbell, Nancy Kemnitzer, Claire McAuliffe, Marty Winter, and Mayor Robert McCaskill

**STAFF PRESENT:** City Attorney Emily Longfellow and City Manager Craig Middleton

**CALL TO ORDER OF REGULAR MEETING**

The meeting was called to order in Conference Room I of City Hall at 6:00 P.M.

**ADJOURN TO CLOSED SESSION**

1. **Conference with Legal Counsel – Anticipated Litigation.  
Significant exposure to litigation pursuant to California Government Code Section 54956.9(d)(2).  
Number of Cases: One (1)**
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**RECONVENE IN OPEN SESSION**

After a short recess, the meeting reconvened in open session in the Council Chambers at 6:39 P.M. The following staff members joined the meeting: Police Chief Pierre Ahuncain, Director of Planning & Building Irene Borba, City Clerk Alison Foulis, Administrative Services Manager Amber Johnson, Associate Planner Rebecca Markwick, and Public Works Manager Robert Zadnik

City Attorney Longfellow announced that no reportable actions were taken in the closed session.

Mayor McCaskill led the Pledge of Allegiance.

**OPEN FORUM**

William Rothman discussed crime in Belvedere and the City's franchise fee with Mill Valley Refuse Services, Inc.

## **REPORTS**

### **2. City Council reports**

Vice Mayor Kemnitzer reported on the recent King Tide photographing event on Beach Road and San Rafael Avenue and thanked the participants. Council Member Campbell reported on a recent Transportation Authority of Marin (TAM) meeting. Council Member McAuliffe reported that she attended recent Marin Clean Energy (MCE) and Community Development Block Grant (CDBG) meetings.

### **3. City Manager report**

City Manager Middleton reported on staffing levels of the Police Department, the status of the seawall stabilization project, utility undergrounding progress, and the mid-year budget analysis.

## **CONSENT CALENDAR**

Mayor McCaskill called for public comment and William Rothman requested that Item 8 be removed from the Consent Calendar.

**MOTION:** To adopt the Consent Calendar, with the exception of Item 8.

**MOVED:** By McAuliffe, seconded by Campbell; approval unanimous

The Consent Calendar consisted of the following items:

- 4. Approve minutes of the January 14, 2019, regular meeting.**
  - 5. Approve warrants of January 2019.**
  - 6. Fiscal Year 2018-2019 mid-year budget review.**
  - 7. Approve amendments to Belvedere Administrative Policy 9.27, "Vacation Leave."**
  - 9. Adoption of an ordinance amending Title 3, "Revenue and Finance," of the Belvedere Municipal Code regarding purchasing, claims, and warrants.**
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- 8. Adopt a resolution approving a City staff reorganization plan including the elimination of the Administrative Clerk, Department Secretary I, Department Secretary II, and Police Secretary position classifications and the establishment of the Project Manager, Office Coordinator, and Planning & Building Technician position classifications; and setting the monthly salary rates for those new positions. (Continued from January 14, 2019)**

City Manager Middleton presented the staff report and answered questions from the City Council.

Mayor McCaskill called for public comment and William Rothman spoke against the reorganization plan due to concern about losing a human element when contacting City Hall.

**MOTION:** To adopt a resolution approving a City staff reorganization plan.

**MOVED:** By Winter, seconded by Campbell; approval unanimous

**INDIVIDUAL CONSENT CALENDAR ITEMS**

**10. Approve revocable license for private improvements in the public right-of-way in front of 270 Beach Road. Property Owner: James Haynes and Hollie Moore Haynes. (Continued from July 9, 2018)**

Council Member McAuliffe stated that she must recuse herself because her residence is within 500' of the subject property.

**MOTION:** To approve the revocable license at 270 Beach Road  
**MOVED:** By Kemnitzer, seconded by Campbell; approval unanimous (McAuliffe recused)

**11. Approve revocable license for private improvements in the public right-of-way in front of 101 Bella Vista Avenue. Property Owner: The Denniston Living Trust et al.**

Council Members McCaskill, Kemnitzer, and Campbell stated that they must recuse themselves because their residences are within 500' of the subject property. Pursuant to the Political Reform Act, City Clerk Foulis placed the three recused Council Members' names in a hat and drew Vice Mayor Kemnitzer's name. City Clerk Foulis announced Vice Mayor Kemnitzer would participate during the item in order to establish a quorum.

**MOTION:** To approve the revocable license at 101 Bella Vista Avenue.  
**MOVED:** By Winter, seconded by McAuliffe; approval unanimous (McCaskill & Campbell recused)

**PUBLIC HEARING ITEMS**

**12. Appeal of a Planning Commission decision made on January 15, 2019, granting Design Review and Conditional Use Permit for the property located 121 Belvedere Avenue. Appellant: Attorney Christopher Johns representing INJ LLC and its Managing Agent, Anthony Piazza, of 125 Belvedere Avenue. Property Owner: David McClosky.**

City Attorney Longfellow discussed the Appellant's request for a continuance. Mayor McCaskill called for public comment, and Attorney Christopher Johns, representing the Appellant, detailed his request.

**MOTION:** To deny the request for a continuance of the appeal.  
**MOVED:** By Winter, seconded by Kemnitzer; approval unanimous

Associate Planner Markwick presented the staff report and City Attorney Longfellow discussed elements of the appeal as well as new objections raised by the neighboring property owner at 111/117 Belvedere Avenue regarding the story poles installed during Planning Commission review. Staff recommended remanding the project back to the Planning Commission for further consideration.

Mayor McCaskill opened the public hearing.

Attorney Johns summarized the Appellant's primary points of appeal as: (1) there are no standards for maritime improvements for Belvedere Avenue on Richardson's Bay, so the Planning Commission relied erroneously on the standards set for West Shore Road; (2) the approved Use Permit made improper findings that the property at 125 Belvedere Avenue does not constitute a "neighborhood" per the

Belvedere Municipal Code; and (3) there were substantive due process violations. The Council had no questions for Mr. Johns.

David McClosky, property owner of 121 Belvedere Avenue, described the timeline of his application and his efforts to cooperate with his neighbors while developing the project as well as delays caused due to a lack of a quorum at certain Planning Commission meetings. Mr. McClosky introduced Sean Kennings, project manager, who described the proposed project. The Council had no questions for the Applicant.

Attorney Johns presented his rebuttal to the statements made by the Applicant including stating that no agreements were made between his client and Applicant during the preliminary design phase, that 125 Belvedere Avenue had the only active pier in the area when the owner purchased the property, and that a design that the Appellant would agree to was provided to the Planning Commission and staff.

Mayor McCaskill called for public comment.

Elizabeth Brekhus, attorney representing the Safiri property at 111/117 Belvedere Avenue, stated her objections to the project and the negative impact the dock location has on her client's property. Attorney Brekhus requested new plans be drawn which show the property lines and existing dock at 111/117 Belvedere Avenue and that the three neighboring properties meet to discuss an amicable solution.

William Rothman questioned who owned the land on which the dock is proposed and whether a revocable license is needed.

David McClosky shared an initial plan submittal with the Council.

Seeing no one else wishing to speak, Mayor McCaskill closed the public hearing.

The Council discussed the appeal and generally felt that there were enough questions raised that evening to warrant remanding the project back to the Planning Commission to protect all parties involved.

**MOTION:** To remand the project to the Planning Commission for further consideration and to direct the applicant to install story poles that more accurately show the project to the extent reasonable and feasible, subject to the approval of the Planning staff.

**MOVED:** By Kemnitzer, seconded by Campbell; approval unanimous

### **OTHER SCHEDULED ITEMS**

#### **13. Update from Mill Valley Refuse Service on a status report of the dual-stream recycling pilot program in the City of Belvedere.**

City Manager Middleton introduced Jim Iavarone of Mill Valley Refuse Service (MVRS). Mr. Iavarone discussed feedback received from the dual-stream recycling pilot program, during which MVRS trucks picked up different types of recyclables on alternating weeks for a sample of households in Belvedere, Tiburon, Mill Valley, and Marin County. Mr. Iavarone stated that there was mixed success with the pilot program. The challenges included household difficulty following the alternating week schedule and storing materials for a longer time between pick-ups and the accomplishments included a better quality of recyclable material which was accepted at a higher rate at Marin Sanitary, a local recycling operator.

The Council asked questions of Mr. Iavarone regarding savings to be realized by sending recyclables to a collector in Marin rather than out of County, how feedback was solicited from residents in the pilot program, and whether City-wide dual stream recycling would lead to reduced garbage costs for residents. Mr. Iavarone stated that he anticipates bringing two new rate applications to MVRS cities and towns in April 2019 with the costs of single-stream compared to dual-stream recycling.

Mayor McCaskill called for public comment.

Harry Somerfield requested MVRS make clear on their website what goes in the garbage v. recycling.

William Rothman, spoke in support of the environmental benefits of dual stream recycling.

Seeing no one else wishing to speak, Mayor McCaskill closed the public forum. No action was taken.

**14. Consider a request from the Richardson's Bay Regional Agency (RBRA) for a contribution of \$7,000 to fund 2019 Bathymetric and Eelgrass surveys in Richardson's Bay to inform the RBRA's Mooring Feasibility and Planning study.**

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Beth Pollard, Executive Director of RBRA, presented the Agency's request for funding a study on potential mooring locations, the capacity of the bay, and equipment preferences. Ms. Pollard answered questions from the City Council.

Mayor McCaskill called for public comment and no one from the audience wished to speak.

**MOTION:** To authorize a contribution of \$7,000 towards funding 2019 Bathymetric and Eelgrass Surveys in Richardson's Bay to inform the RBRA's Mooring Feasibility and Planning Study.

**MOVED:** By Winter, seconded by McAuliffe; approval unanimous

**ADJOURN**

The meeting was adjourned at 8:21 P.M.

**THE FOREGOING MINUTES** were approved at a regular meeting of the Belvedere City Council on March 11, 2019, by the following vote:

**AYES:** James Campbell, Nancy Kemnitzer, Claire McAuliffe, Marty Winter, and Mayor Robert McCaskill

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

**APPROVED:** /s/Robert McCaskill, Mayor

**ATTEST:** /s/Alison Foulis, City Clerk