

**REGULAR MEETING  
BELVEDERE CITY COUNCIL  
JUNE 10, 2019, 5:30 P.M.  
CITY HALL 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

**CALL TO ORDER OF REGULAR MEETING**

The meeting was called to order in Conference Room I of City Hall at 5:30 P.M.

**ADJOURN TO CLOSED SESSION**

- 1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Sec. 54957)  
Title: City Manager**

**RECONVENE IN OPEN SESSION**

After a short recess, the meeting reconvened in open session in the Council Chambers at 6:32 P.M. The following staff members joined the meeting: Director of Planning & Building Irene Borba, City Clerk Alison Foulis, Administrative Services Manager Amber Johnson, City Attorney Emily Longfellow, Associate Planner Rebecca Markwick, City Manager Craig Middleton, Police Chief Jason Wu, and Public Works Manager Robert Zadnik

Mayor McCaskill announced that no reportable actions were taken in the closed session.

Mayor McCaskill led the Pledge of Allegiance.

- 2. Interview applicants for open positions on various City committees.**

The Council interviewed John Sheehy for the open position on the Historic Preservation Committee, Larry Binkley for the open positions on the Historic Preservation Committee and Planning Commission, and John Carapiet for the open position on the Belvedere Block Captains Committee.

**OPEN FORUM**

William Rothman, 14 Cliff Road, thanked the Council Members for their service to the community.

## **REPORTS**

### **3. City Council reports**

Vice Mayor Kemnitzer reported on the MCCMC Legislative Committee's review of recent housing bills. Council Member Winter reported on the ABAG General Assembly 2019. Council Member McAuliffe reported on the Belvedere Block Captains Program Committee's first meeting.

### **4. City Manager report**

City Manager Middleton reported that chipper days would be scheduled and publicized in the upcoming months. Mr. Middleton also discussed the progress of the City's undergrounding, roof replacement, and lane development projects. Lastly, Mr. Middleton thanked the Committee to Protect Belvedere's Seawalls, Levees, and Utilities for the work over the past month reviewing the relevant material.

Mayor McCaskill announced that the report from the Committee to Protect Belvedere's Seawalls, Levees, and Utilities would be moved up on the agenda and heard next.

### **17. Receive and discuss the recommendation of the Committee to Protect Belvedere's Seawalls, Levees, and Utilities regarding the proposed design alternatives to protect the City from flooding and sea level rise and provide direction to staff on which design alternatives to study further.**

Jim Lynch, Chair of the Committee to Protect Belvedere's Seawalls, Levees, and Utilities, reported that the Committee met four times over the past month and reviewed a substantial amount of reports and materials. Mr. Lynch stated that the Committee unanimously concluded there were six issues (two high-level concerns and four specific geographic areas of concern) which they felt the Council should address:

#### **High-Level Areas of Concern**

1. The risks of sheetflow of water over one or both the Beach Road and San Rafael Avenue levees is sufficient to warrant the City Council to move forward and obtain more refined soils testing and engineering costs to address this issue.
2. The risk of earthquake damage to one or both of the Beach Road and San Rafael Avenue levees roadways, and the attendant risk to the utilities buried in those roadways, is sufficient to warrant the City Council to move forward with more refined soils testing and engineering costs to address this issue.

#### **Specific Geographic Areas of Concern**

1. *San Rafael Avenue* – The optimal design alternative to pursue is a raised seawall on the waterside of the path (Alternative 2). Sheetpiling is important for mitigating seismic risk and protecting the conduits which allow the Belvedere Lagoon Property Owners Association to raise and lower the water level in the Lagoon in anticipation of a storm event. The preferred arrangement is a raised seawall set atop the sheetpiling if feasible.
2. *West Shore Road* – The optimal design alternative to pursue is a continuation of the San Rafael Avenue seawall behind the first six homes along West Shore Road on the waterside (Alternative 4).
3. *Beach Road* – Completing the sheetpiling along Beach Road to shore up the roadway is critical and should be the top concern of the Council. The optimal design alternative is a seawall along the median of Beach Road (Alternative 2A/2B).

4. *Tiburon Barrier* – This area is of lower risk than the other three areas of concern, so a design could be delayed until further discussions are held with the Town of Tiburon on the studies and reports prepared by Stetson Engineers.

Mr. Lynch answered questions from the Council. The Council thanked Mr. Lynch for his leadership in chairing the Committee and recognized the Committee Members for their dedication to this issue.

Mayor McCaskill called for public comment.

William Rothman, 14 Cliff Road, discussed the committee's deliberations and stated that sheetpiling along Beach Road is critical and the Council should consider separating Beach Road sheetpiling from the whole of the seawall project.

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

#### **CONSENT CALENDAR**

**MOTION:** To adopt the Consent Calendar.

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

The Consent Calendar consisted of the following items:

5. **Approve minutes of the May 13, 2019, regular meeting.**
6. **Approve warrants of May 2019.**
7. **Adopt resolution adopting the 2019-20 Fiscal Year Gann Appropriations Limit for the City of Belvedere.**
8. **Approve recommendation from the Historic Preservation Committee for the City to enter into a Mills Act Agreement for the property at 260 Bayview Avenue. The Mills Act is a tax abatement program for the purposes of historic preservation. CEQA status: categorically exempt pursuant to Section 15331. Property Owner: David Forster and Lucy Alexander.**
9. **Approve revocable license for private improvements in the public right-of-way in front of 6 West Shore Road. Property Owner: The Holland-Jaeger Family Trust.**
- 10A. **Accept completion of the Beach Road Seawall Stabilization Project.**
- 10B. **Adopt a resolution expressing intent to consider a right-of-way vacation of an unimproved portion Beach Road immediately adjacent to the San Francisco Yacht Club (SFYC) and authorize City Manager to enter into an agreement transferring said property to SFYC in exchange for certain property of SFYC, in order to clarify property boundaries and align with improvements.**

#### **PUBLIC HEARING ITEMS**

11. **Appeal of a Planning Commission decision made on April 16, 2019, to deny a Use Permit and Design Review to construct a new private pier, dock, boat lift, and platform lift for the property located at 121 Belvedere Avenue. Appellant: Sean Kennings, LAK Associates, representing Property Owner: David McCloskey.**
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Associate Planner Markwick presented the staff report and answered questions from the Council. Associate Planner Markwick stated that staff recommends remanding the project to the Planning Commission so they may work with their neighbor on revising the design to an agreeable location.

Mayor McCaskill opened the public hearing.

David McCloskey, Appellant/Property Owner, stated that he prefers the original location proposed for his dock and that he feels he can work with the neighbor at 111/117 Belvedere Avenue to come to an agreement on the placement. Mr. McCloskey asked the Council to remand the project to the Planning Commission. The Council asked questions of Mr. McCloskey regarding the original proposed dock location and its relationship to the other properties and docks in the vicinity.

Christopher Johns, Attorney representing 125 Belvedere Avenue, stated that the appeal should not be remanded and should be denied. Mr. John's discussed the Planning Commission's latest deliberation on the project and requested the property owner submit a design acceptable to all neighbors.

Elizabeth Brekhus, Attorney representing 111/117 Belvedere Avenue, stated that her client support's Mr. McCloskey's request to have a pier off his property, but would like to see compromise on the location to avoid crowding of all the piers in the neighborhood. Ms. Brekhus requested the Council remand the project to the Planning Commission.

Attorney Christopher Johns again spoke against the Council remanding the project to the Planning Commission.

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

The Council discussed the appeal and Vice Mayor Kemnitzer stated that it was unusual to approve the landside improvements of the project, including a hillavator to the shoreline, while also denying the waterside improvements. Mayor McCaskill stated that, after reviewing the materials, he reached the conclusion that the original pier location was the preferred location to appease two out of three of the neighbors and supported staff's recommendation to the remand the project. The Council concurred with Mayor McCaskill's comments and agreed that the original pier location was the preferable arrangement for the neighborhood.

**MOTION:** To remand the project to the Planning Commission for further consideration given the comments made by the Council this evening.  
**MOVED:** By Kemnitzer, seconded by Winter; approval unanimous

**12. Consider Collection Rate Application submitted by Mill Valley Refuse Service, Inc. (MVRS) for the collection of trash, recycling, and compostable materials; and adopt a resolution approving the proposed 3.93% rate increase associated with the dual stream recycling application.**

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City Manager Middleton presented the staff report and introduced MVRS representative Jim Iavarone to answer questions of Council and the public. The Council asked questions about the dual stream pilot program and Tiburon's approval to move to dual stream.

Mayor McCaskill opened the public hearing.

William Rothman, 14 Cliff Road, spoke about the benefits of dual stream recycling.

Harry Somerfield, 339 San Rafael Avenue, requested clarity from MVRS on which recyclables can be put in each bin.

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

**MOTION:** To adopt a resolution approving the proposed 3.93% rate increase associated with the dual stream recycling application.

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

**13. Introduction and first reading of ordinance amendments to Belvedere Municipal Code Title 20, “Architectural and Environmental Design Review,” regarding removing the Construction Time Limit penalty cap and clarifying Retroactive Design Review fines and enforcement mechanisms.**

City Attorney Longfellow presented the staff report and answered questions of the Council. The Council discussed the late correspondence received from resident Wendy Miller. Vice Mayor Kemnitzer shared her concerns regarding the language in the Construction Time Limit appeal criteria section of the Code and City Attorney Longfellow stated that her comments will be taken into consideration for future ordinance amendments.

Mayor McCaskill opened the public hearing.

Harry Somerfield discussed the Construction Time Limit appeal criteria.

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

**MOTION:** To read the ordinance by title only.

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

City Clerk Foulis read aloud the full title of the ordinance.

**MOTION:** To approve the first reading of the ordinance and to waive future reading of the ordinance in its entirety.

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

**14. Introduction and first reading of an ordinance amending Chapter 2.10, “Municipal Elections,” of the Belvedere Municipal Code to change the regularly scheduled Council election date from the statewide primary to the first Tuesday after the first Monday in November of each even-numbered year as specified in California Elections Code Section 1301.**

City Clerk Foulis presented the staff report. Mayor McCaskill clarified that, in addition to the greater voter turnout in November, the Council also wishes to move the election because the statewide direct primary was moved up from June to March of this year. Mayor McCaskill also stated that, under the various proposed mayoral rotation schedules, his preference was not to elongate his current term as Mayor.

Mayor McCaskill opened the public hearing and, seeing no one wishing to speak, closed it again.

**MOTION:** To read the ordinance by title only.  
**MOVED:** By Campbell, seconded by Winter; approval unanimous

City Clerk Foulis read aloud the full title of the ordinance.

**MOTION:** To approve the first reading of the ordinance and to waive future reading of the ordinance in its entirety.  
**MOVED:** By Campbell, seconded by Winter; approval unanimous

**15. Consider resolution levying a special tax for fire and emergency medical services and fixing the rates thereof for Fiscal Year 2019-2020.**

Administrative Services Manager Johnson presented the staff report. There were no questions from the Council.

Mayor McCaskill opened the public hearing and, seeing no one wishing to speak, closed it again.

**MOTION:** To adopt the resolution establishing the Fiscal Year 2019/2020 Fire Protection & Emergency Medical Services assessment for the City.  
**MOVED:** By McAuliffe, seconded by Kemnitzer; approval unanimous

**16. Consider resolution approving the City of Belvedere Annual Operating and Capital Budget for Fiscal Year 2019-2020 and the Five-Year Capital Plan.**

City Manager Middleton and Administrative Services Manager Johnson presented the staff report and discussed the changes made to the budget following the Council's initial review at the May meeting. There were no questions from the Council.

Mayor McCaskill opened the public hearing and, seeing no one wishing to speak, closed it again.

**MOTION:** To adopt the resolution appropriating funds necessary for Fiscal Year 2019/2020.  
**MOVED:** By McAuliffe, seconded by Campbell; approval unanimous

**OTHER SCHEDULED ITEMS**

**17. Receive and discuss the recommendation of the Committee to Protect Belvedere's Seawalls, Levees, and Utilities regarding the proposed design alternatives to protect the City from flooding and sea level rise and provide direction to staff on which design alternatives to study further.**

The report for this item was heard earlier on the agenda, following Item 4.

City Manager Middleton requested direction to staff based on the report provided by Committee Chair Jim Lynch. The Council again discussed the work of the Committee and the importance of community education on these issues and the solutions the Council are currently pursuing. The Council directed staff to continue further analysis and cost refinements on the alternatives recommended by the Committee, to discuss with utility providers the replacement of older supply lines with more robust and resilient options,

and to initiate discussion with the Town of Tiburon regarding the best solutions for providing flood protection at the Belvedere/Tiburon border.

**18. Appoint members to various City committees and commissions.**

The Council discussed the applicants to the various City committees and commissions and continued the appointment of a Belvedere Representative to the Belvedere-Tiburon Library Agency Board of Trustees until an application was received.

**MOTION:** To appoint John Sheehy to a four-year term on the Historic Preservation Committee from July 1, 2019, through June 30, 2023.

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

**MOTION:** To reappoint Patricia Carapiet and Larry Stoehr to another four-year term on the Planning Commission from July 1, 2019, through June 30, 2023.

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

**MOTION:** To appoint John Carapiet to a new seat on the Belvedere Block Captains Program Committee for an initial two-year term expiring June 30, 2021.

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

The Council thanked applicant Larry Binkley for his interest in joining a Committee and recommended he stay involved in future activities of the City.

**ADJOURN**

The meeting was adjourned at 8:17 P.M.

**THE FOREGOING MINUTES** were approved at a regular meeting of the Belvedere City Council on July 8, 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