

**REGULAR MEETING
BELVEDERE CITY COUNCIL
SEPTEMBER 9, 2019, 6:30 P.M.
COUNCIL CHAMBERS
450 SAN RAFAEL AVENUE, BELVEDERE, CA**

MINUTES

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

STAFF PRESENT: Epstein Holtzapple Attorney Emily Longfellow, City Clerk Christina Cook, Administrative Services Manager Amber Johnson, City Manager Craig Middleton, Police Chief Jason Wu, Public Works Manager Robert Zadnik, Associate Planner Rebecca Markwick, Building Official Brian Van Son

CALL TO ORDER OF REGULAR MEETING

The meeting was called to order at 6:28 P.M. with the Pledge of Allegiance.

OPEN FORUM

Bill Rothman, 14 Cliff Road, spoke about the City Manager and City Council getting back to the levee issue as soon as possible. He mentioned that the June meeting was very comprehensive, informative and raised a lot of questions and he feels that these questions should be addressed.

Jean Bordon, [address] is concerned about the City's lanes, parks and open spaces being used for private benefit. Jean proposed that the Council consider a process whereby any Revocable License applications would go before the Parks and Open Space Commission before being heard by the Planning Commission.

Mayor Kemnitzer called for any additional public comment. Seeing none, she closed the open forum.

REPORTS

1. City Council reports

Council Member Winter reported that Curtis Havel is the Richardson's Bay Regional Agency's new Harbor Administrator. Council Member Winter reviewed Mr. Havel's qualifications and stated that he believed that Mr. Havel will enforce The City's 10-hour restrictions.

Mayor Kemnitzer indicated that the newly-reconstituted Traffic Safety and Circulation Committee will meet frequently in the next few months and is chaired by Michelle Kyrus.

Council Member Campbell mentioned that he had just spent 1 week in our Twin City, Portofino Italy, and met with several City staff. Portofino is urging consideration of a cultural exchange within the next few years.

2. City Manager report

City Manager Middleton introduced Christina Cook as the new City Clerk, replacing Alison Foulis.

City Manager Middleton also reported that the new decorative streetlights in the Acacia/Laurel undergrounding district will be going up tomorrow. Once laterals are completed, the overhead lines will start to come down.

City Manager Middleton referenced Bill Rothman's comments from the Open Forum on the seawalls and levees. The City is now engaged in due diligence for the next phase of design. For example, borings were done on San Rafael Avenue to determine conditions under the existing seawall and provide information needed to place sheet piles if needed. ONE Architecture has been hired to contribute to the design effort. They are currently working on a project in Lower Manhattan.

City Manager Middleton indicated that next month the Council will be asked to consider a countywide fire prevention and suppression proposal and whether to vote to place an associated tax measure on the March 2020 ballot. He introduced Jason Weber, County Fire Chief, for a presentation.

City Manager Middleton then opened to questions.

Mayor Kemnitzer found no further questions so moved on to the presentation.

3. Presentation on County Fire Proposal, Jason Weber, County Fire Chief

Jason Weber, County Fire and Ross Fire Chief and Bill Tyler, City of Novato Fire Chief, gave a high-level informational overview presentation of the proposed initiative.

Council Member Winter commented on the return on investment with the program.

Bill Tyler shared that Marinwildfire.org has all the presentation information plus additional information; he invited all to view the website. Mayor Kemnitzer asked for the presented information and the above link to be added to the City's website.

Mayor Kemnitzer opened the forum for public comment.

William Rothman, 14 Cliff Road, spoke about the Council giving up their authority through the proposed initiative.

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

CONSENT CALENDAR

MOTION: To adopt the Consent Calendar.

MOVED: By McCaskill, seconded by McAuliffe; approval unanimous

The Consent Calendar consisted of the following items:

4. **Approve minutes of the August 12, 2019, regular meeting.**
5. **Approve warrants of August 2019.**
6. **Adoption of an ordinance of the City of Belvedere amending the construction time limit**

ordinance, Belvedere Municipal Code Section 20.04.035 (D), to clarify extension application time frame. The purpose of said ordinance amendments is to clarify that a Construction Time Limit extension may be requested at any time between the design review hearing and prior to building permit final.

7. Approve recommendation from the Historic Preservation Committee for the City to enter into a Mills Act Agreement for the property at 172 Beach Road. The Mills Act is a tax abatement program for the purposes of historic preservation. CEQA status: categorically exempt pursuant to Section 15331. Property Owner: John Stuart and Sarah Wright Ryan Family Trust.

INDIVIDUAL CONSENT CALENDAR

8. Approve two revocable licenses for private improvements in the public right-of-way in front of 10 Fern Avenue and in the public right-of-way at the rear of the property on Bella Vista Avenue.

MOTION: To approve two revocable licenses for private improvements in the public right-of-way in front of 10 Fern Avenue and in the public right-of-way at the rear of the property on Bella Vista Avenue.

MOVED: By McCaskill, seconded by Winter; approval unanimous

VOTE: **AYES:** McAuliffe, McCaskill, Winter, and Mayor Kemnitzer
 NOES: None
 ABSENT: None
 RECUSED: Campbell

9. Approve revocable license for private improvements located at the rear of the property on the Golden Gate public right-of-way for the property located at 12 Crest Road.

MOTION: To approve a revocable license for private improvements located at the rear of the property on the Golden Gate public right-of-way for the property located at 12 Crest Road.

MOVED: By McAuliffe, seconded by Winter; approval unanimous

VOTE: **AYES:** McAuliffe, Winter, and Mayor Kemnitzer
 NOES: None
 ABSENT: None
 RECUSED: McCaskill, Campbell

10. Approve two revocable licenses for private improvements in the City lane (Unnamed) and in the City tide lot "The Strip" for the property located at 242 Beach Road.

Jean Bordon asked that this item be removed from the Individual Consent Calendar. Mayor Kemnitzer asked Ms. Bordon if she would mind having a staff report presented and then comment. Ms. Bordon agreed. Attorney Longfellow presented and suggested a motion to continue the matter and to direct staff to return with a lease agreement for 1 or maybe 2 of the requested licenses.

Mayor Kemnitzer called Ms. Bordon back to the podium to comment on her request for removal of the matter from the agenda. Ms. Bordon returned and discussed and lack of a public benefit of the licenses.

Applicant representative Ed Blankenship, architect for the project, discussed the land survey and property access that the “unnamed” lane allows. The request for the “tide lot” is to correct and bring up to code existing structures. Retaining wall is 2.5’ to stabilize the structure. Mr. Blankenship then asked for questions from the Council. Council Member McCaskill commented that he had visited the property and requested information on the history of the lane in question. Mr. Blankenship had no history to report. Mayor Kemnitzer wanted to know if there is a current lease in good standing for the dock. Associate Planner Markwick stepped to the podium and gave a brief history of the revocable licenses that have been issued for the property and confirmed that there is a dock lease in place and in good standing. Mayor Kemnitzer requested confirmation that the lease is and has been in good standing. Associate Planner Markwick then stated that all current revocable licenses that are now on the property were approved in 2000.

Mayor called for further public comment and, seeing none, she closed the public hearing portion of the item. She then returned to Council for comment.

Council Member McCaskill asked Associate Planner Markwick to provide Council with the history of the property.

MOTION: To adopt a continuation of the item with further staff report.

MOVED: By McCaskill, seconded by Winter; approval unanimous

VOTE: **AYES:** Campbell, McCaskill, Winter, and Mayor Kemnitzer
 NOES: None
 ABSENT: None
 RECUSED: McAuliffe

PUBLIC HEARING ITEMS

- 11. Appeal of a Construction Time Limit Penalty at 147 Beach Road Property owner: Joseph Root**
Staff recommendation: That the City Council conduct the public hearing and consider whether to affirm, reduce, or remove the Construction Time Limit penalties for the project located at 147 Beach Road as recommended by the Construction Time Limit Appeal Committee.
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Building Official Brian Van Son read the Staff Report detailing the timeline of the project. He then welcomed questions from the Council.

Council Member McCaskill asked for clarification as to whether the owner was appealing the \$24,000 fine or the \$6,000 fine. Building Official Brian Van Son confirmed that the \$24,000 fine was being appealed.

Mayor Kemnitzer asked for a history of the construction of the retaining walls, specifically to confirm that the walls are on City property and whether there is a current revocable license for them. Mayor Kemnitzer also wanted to know if the staging platform was part of the construction plan and if a

geotechnical report had been done. Building Official Brian Van Son stated that he believed that a report was done for the entire site but he would need to review the records.

Council Member Winter commented that the condition of the retaining wall came in very late and constituted a change order. He wanted to know if the City's CTL allowed for such change orders. Building Official Brian Van Son stated that it does not.

Mayor Kemnitzer asked for clarification on CTL timelines.

Mayor Kemnitzer opened the Public Hearing to hear from the appellant.

Joe Root, owner 147 Beach Road, stated he was appealing the \$24,000 fine and would accept the CTL Commissions decision of \$6000, but will abide by whatever the Council decides.

Mayor Kemnitzer asked for job costs. Mr. Root commented.

Mayor Kemnitzer called for any other member of public speak. Seeing none, the Mayor closed public comment and returned to Council. Council Member Winter suggested that the fine be dismissed completely. Mayor Kemnitzer stated that she wanted to affirm the CTL Appeal Committee's suggested fine of \$6000.

MOTION: To adopt a resolution affirming construction time limit appeal committee's penalty recommendation of \$6,000.

MOVED: By McCaskill, seconded by Winter

VOTE:
AYES: McCaskill, Winter, and Mayor Kemnitzer
NOES: None
ABSENT: None
RECUSED: McAuliffe, Campbell

12. Introduction and first reading of an ordinance adding Chapter 19.94 "Wireless Telecommunication Facilities to Title 19, "Zoning" of the Belvedere Municipal Code regarding the regulation of wireless telecommunication facilities. Staff recommendation: Approve the introduction of the ordinance and waive future reading of the ordinance.

City Attorney Longfellow presented the staff report and called for questions. Council had none.

Mayor Kemnitzer opened Public Comment. Harry Somerfield, 339 San Rafael Avenue, wanted to know if this was referring to G5 cell towers. Mr. Somerfield stated that, due to frequency, there would be a much greater density of cell towers, especially in Belvedere. Attorney Longfellow stated that, by adopting this ordinance, the City would achieve the most control possible, but the City is restricted.

MOTION: To read the ordinance by title only.

MOVED: By McCaskill, seconded by Kemnitzer; approval unanimous

City Clerk Cook 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

MOVED: in its entirety.
By McCaskill, seconded by Mayor Kemnitzer; approval unanimous

ADJOURN

The meeting was adjourned at 8:07 P.M.

THE FOREGOING MINUTES were approved at a regular meeting of the Belvedere City Council on October 14, 2019, by the following vote:

AYES: Claire McAuliffe, James Campbell, Robert McCaskill, Marty Winter, and Mayor Nancy Kemnitzer
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:

/s/ Nancy Kemnitzer, Mayor

/s/ Christina Cook, City Clerk