

**CONSENT CALENDAR**

**BELVEDERE CITY COUNCIL  
November 14, 2022**

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**To:** Mayor and City Council  
**From:** Harrison Tregenza, Interim City Clerk.  
**Subject:** Approve minutes of the October 10, 2022 regular City Council meeting

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**Recommended Motion/Item Description**

That the City Council approve the minutes as part of the Consent Calendar.

**Attachments**

Minutes.

**REGULAR MEETING  
BELVEDERE CITY COUNCIL  
OCTOBER 10, 2022, 6:30 PM  
REMOTE VIA ZOOM**

**MINUTES**

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**COUNCIL PRESENT:** James Campbell, Nancy Kemnitzer, James Lynch, Peter Mark, and Sally Wilkinson

**COUNCIL ABSENT:** None

**STAFF PRESENT:** City Manager Robert Zadnik, Director of Planning and Building Irene Borba, Police Chief Jason Wu, Administrative Services Director Helga Cotter, City Attorney Amy Ackerman, Planner Samie Malakiman, Building Official Brian Van Son, and Director of Public Works Antony Boyd

*These minutes are intended to reflect the general content of the regular meeting. An audio file of the meeting is available: <https://www.cityofbelvedere.org/agendacenter>.*

**CALL TO ORDER IN REMOTE OPEN SESSION**

The meeting was called to order by Mayor Wilkinson at 6:30 PM via remote Zoom meeting.

City Manager Zadnik took roll call.

City Manager Zadnik read the COVID-19 notice and public participation instructions.

**OPEN FORUM**

Belvedere resident William Rothman spoke in opposition of Measure D.

Seeing no one else wishing to speak, Mayor Wilkinson closed the open forum.

**REPORTS AND PRESENTATIONS**

**1. City Council Reports**

Councilmember Mark reported that the Oversight Committee for the draft Environmental Impact Report (EIR) is scheduled to meet over Zoom on October 12, 2022, at 1:00 P.M.

Mayor Wilkinson called for public comment, and seeing none, closed public comment.

**2. City Manager Report**

City Manager Zadnik reported that on October 16, 2022, Belvedere and Tiburon are hosting a “Get Out and Go 94920” event to familiarize residents with evacuation protocol.

City Manager Zadnik reported that there will be a joint City Council and Planning Commission meeting on October 20, 2022, at 6:00 P.M. on Zoom to discuss the City’s draft housing element.

City Manager Zadnik reported that City staff has been receiving reports of coyote sightings in Belvedere and staff has disseminated educational documents on the subject.

City Manager Zadnik reported that Tony Boyd started as the Director of Public Works last month and that he is already quite busy working on capital projects.

Mr. Boyd thanked City Manager Zadnik and shared that he is excited to collaborate with the staff and the community on the City's current and upcoming projects.

City Manager Zadnik reported City Clerk Beth Haener will be resigning from her position and that the City will be beginning the interview and selection process for a new City Clerk soon. City Manager Zadnik added that the City will be contracting with Regional Government Services (RGS) for interim clerk services while the City is recruiting.

Mayor Wilkinson called for public comment.

Belvedere resident William Rothman shared his objections with regard to the scheduled time of the Oversight Committee meeting on the draft EIR.

Councilmember Mark responded to Dr. Rothman's comments, sharing that the Oversight Committee meeting on October 12, 2022, is the first of multiple meetings on this issue and that those attending are not expected to have read the entire report prior to the meeting.

### **3. Police Chief Quarterly Report**

Police Chief Wu presented the Belvedere Police Department Quarterly Report, going over the department's service, the 3<sup>rd</sup> Quarter Racial and Identity Profiling Act (RIPA) data, the 3<sup>rd</sup> quarter uniform crime reporting (UCR) data, staff training, policy manual updates, and community engagement.

Councilmember Lynch asked if details regarding the one citizen complaint received could be publicly shared.

Police Chief Wu respond that the complaint was regarding the way a specific situation was handled and that the situation has been resolved.

Mayor Wilkinson asked Police Chief Wu to explain why the interface of the RIPA data changed.

Police Chief Wu responded that the Police Department wanted to increase the transparency of the RIPA data but found that the initial data interface was not able to share the data with the United States Department of Justice (DOJ) easily. Police Chief Wu added that staff then located a vendor to help his department identify an interface that would share the data on the website and make it easily shareable with the DOJ.

There was no public comment.

### **4. Presentation from Resilient Neighborhoods Executive Director Tamra Peters**

Resilient Neighborhoods Executive Director Tamra Peters gave a presentation on Resilient Neighborhoods, going over the organization's background, goals, main activities, online workshops, the organization's results so far, their online toolkit, and information on how people can get involved.

Councilmember Kemnitzer encouraged those present to participate in the program and to email her with any questions.

Councilmember Campbell thanked Ms. Peters for providing Marin County residents with tools to reduce their carbon footprint and commented that he will take a class with Resilient Neighborhoods.

Mayor Wilkinson shared that she will also take a class with Resilient Neighborhoods.

### **CONSENT CALENDAR**

Mayor Wilkinson called for public comment. There was none.

**MOTION:** Move to adopt the Consent Calendar with one motion.

**MOVED:** By Campbell, seconded by Lynch. Approval was unanimous

The Consent Calendar consisted of the following Items:

5. **Approve minutes of the August 8, 2022, regular meeting.**
6. **Approve minutes of the September 12, 2022, regular meeting.**
7. **Approve letter to the California Department of Transportation (Caltrans) and the Metropolitan Transportation Commission (MTC) for Highway 37 interim improvements.**
8. **Approve Award of Contract for 2022 Road Maintenance Project to Pavement Coatings Company, the lowest responsive bidder.**
9. **Approve Revocable License for 25 Peninsula Road for improvements in the Peninsula Road right-of-way**
10. **Approve Revocable License for 28 Windward Road for improvements in the Windward Road right-of-way.**
11. **Approve Revocable License for 68 Lagoon Road for improvements in the Lagoon Road right-of-way.**
12. **Adopt Resolution 2022-50 Accepting the recent update(s) to the Belvedere Police Department Policy Manual (Lexipol).**
13. **Adopt Resolution 2022-51 Authorizing the Continuation of Teleconference Public Meetings Pursuant to Government Code section 54953(e) (Assembly Bill 361).**
14. **Waive Further Reading and Authorize Introduction and/or Adoption of Resolutions and Ordinances by Title Only (Standard procedural item – no backup information provided).**

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**PUBLIC HEARING**

15. **Council consideration of an appeal for the assessment of construction time limit penalties for 1 Belvedere Avenue, Belvedere CA 94920. Applicant & Owners: Justin and Susan Kelly**

Building Official Van Son gave a verbal report on the construction project at 1 Belvedere Avenue, going over the timeline of the permit issuance and appeal requests, including the staff recommendation to City Council.

Councilmember Lynch commented that Attachment 1 for this item's staff report refers to a \$100,000 penalty, not a \$200,000 penalty and asked if attachment listed the correct amount.

Building Official Van Son confirmed that the incorrect ordinance was attached to the staff report, and that ordinance 2009-02 has the current \$200,000 penalty maximum.

Councilmember Lynch commented that the staff report lists both December 14, 2019, and June 28, 2019, as the completion date and asked for a clarification on the discrepancy.

Building Official Van Son replied that the June 28, 2019, date was a typo and that December 14, 2019, is the correct date.

Councilmember Lynch asked if staff has considered adding an additional 60 days to the deadline due to the Santa Rosa fire.

Building Official Van Son replied that the City Council did not provide a 60-day extension for CTLs due to the Santa Rosa Fire.

Councilmember Mark asked if the Tubbs Fire had any impact on project timelines in Belvedere.

Building Official Van Son replied that the Tubbs Fire resulted in contractors spending considerable time on re-building of homes and structures, which could have had a conceivable impact on the 1 Belvedere Avenue project.

Councilmember Mark asked if the owners of 1 Belvedere Avenue were allowed to apply for a CTL extension at any time after the building permit had been issued.

Building Official Van Son replied in the negative, adding that their project was dictated by a previous municipal code that prevents owners from applying for a CTL extension after a building permit has been issued.

Councilmember Mark asked if Assembly Bill (AB) 1561 provides timeline stipulations for which projects would apply under the bill.

Building Official Van Son replied that projects need to have started before March 4, 2020, and be concluded prior to December 30, 2021, in order to qualify under AB 1561.

Mayor Wilkinson opened the public hearing and invited Justin and Susan Kelly and their legal team to speak on the project.

Justin Kelly shared comments on his view of the CTL penalties and asked that the City Council do what is “right” for their neighbors.

Fennemore Wendel, P.C. Director Amara Morrison, attorney for Mr. Kelly, shared arguments for why the CTL penalty should not be levied on Mr. Kelly’s project at 1 Belvedere Avenue. Ms. Morrison commented that the staff report did not factor in Ms. Morrison’s letter to City Council or their conversation with the CTL Appeals Committee. Ms. Morrison also added that the staff report did not consider the unforeseen circumstances due to the COVID-19 pandemic or the recent wildfires that had occurred.

Councilmember Lynch commented that Council had received a June 17, 2022, and October 4, 2022, letter from Ms. Morrison and her asked her if there were any others in addition to those two.

Ms. Morrison replied in the affirmative, adding that she also shared with staff a Dropbox file of the materials that she presented at the CTL Appeal Committee meeting, including a construction timeline document.

Councilmember Lynch asked if Attachment 1 to Ms. Morrison’s October 4, 2022, letter is the construction timeline document she is referring to.

Ms. Morrison replied in the affirmative and added that the link to the Dropbox of presentation materials is included as a footnote in that attachment.

Councilmember Lynch asked if the materials in the Dropbox provide detail on any construction delays due supply chain issues caused by the COVID-19 pandemic.

Ms. Morrison replied in the negative and offered to develop this information.

Councilmember Mark commented that with all of the possible CTL extensions that could be applied, he calculates that the project would still be over the deadline by more than 300 days. He asked if Ms. Morrison agreed with his analysis.

Ms. Morrison replied that it is up the City Council to decide whether (and how much) to levy or to waive the proposed penalty.

Building Official Van Son added that AB 1561 adds an 18-month extension that is in-lieu of all other extensions. It cannot be added to other extensions, such as the natural disaster extension.

Mr. Kelly commented that it is a very complicated project, and that the natural disaster extension should be considered in addition to the COVID-19 extension.

Councilmember Kemnitzer asked if Ms. Morrison could provide more details on the reasoning for the 115-day delay.

Ms. Morrison replied that the 115-day delay consisted of a 49-day delay due to the evaluation and redesign of foundational elements, a 27-day delay due to additional shoring, and a 39-day delay to evaluate the redesign.

Jeff Jungsten, contractor for Mr. Kelly, shared his comments on the timeline of the construction project.

Seeing no public comment, Mayor Wilkinson closed the Public Hearing and asked for the City Council to deliberate on the item.

Mayor Wilkinson asked Mr. Van Son to confirm that AB 1561 excludes all other extensions if applied, and only allows one 18-month extension.

Building Official Van Son replied in the affirmative, adding that all extensions are included in the 18-month extension.

Councilmember Mark commented that the CTL is to prevent undue impact on the community from construction projects, not to raise money. Councilmember Mark added that he is sympathetic to the appellants because they could not apply for a CTL extension, the complexity of the project, and the supply chain and labor impacts of the pandemic. Councilmember Mark added that he would be supportive of a reduction in the fine, but not waiving it outright.

Councilmember Lynch commented that the City Council's job is to uphold the laws, not apply moral analysis to them. Councilmember commented that even if the City Council took the 115-day delay into account, it would still not impact the potential fine of \$200,000. Councilmember Lynch then commented that he does not see a way in which a principal reduction of the fine could be applied that could be easily explained to any future appellants and that he is inclined to uphold the full \$200,000 fine.

Councilmember Kemnitzer commented that the CTL laws are put in place to balance out the needs of the applicant and the applicant's neighbors and added that it is difficult to determine what conditions were unpreventable and which were not. Councilmember Kemnitzer added that she tried giving Mr. Kelly the benefit of the doubt but believes that the fine should be applied because fines must be applied fairly and equally to all residents.

Councilmember Campbell commented that the City Council is tasked with following a set of laws and that the CTL is in place to provide a balance between the applicants and the applicant's neighbors. Councilmember Campbell added that he is inclined to uphold the proposed CTL fine.

Mayor Wilkinson commented that the project did impact the neighbors significantly and that it is important that the City Council apply these laws equally. Mayor Wilkinson then commented that she believes the CTL fine should be upheld.

Mr. Kelly commented that the project was delayed an extra four months because the contractors were waiting for Pacific Gas & Electric (PG&E) to come do certain inspections and asked that the City Council look at the CTL timeline in the view of what's done in practice, not what is done on paper. Mr. Kelly then asked that the City Council reduce the fine by half to \$100,000.

Mr. Jungsten added that the house could not be finalized until PG&E technicians inspected the property and hooked up the utilities and that the house was finished long before the project was finalized.

Mayor Wilkinson shared that she has previously worked with Mr. Jungsten on a complicated project and that she paid a CTL fine for the project.

Councilmember Campbell asked Mr. Van Son if issues with utility providers factor into the levying of a CTL fine.

Building Inspector Van Son replied in the negative.

Councilmember Lynch asked Ms. Morrison if there is information on the PG&E delays in the appeal letter or Dropbox file shared with the City Council.

Ms. Morrison replied that she did not specifically identify PG&E inspections as a reason for the delay.

Councilmember Lynch commented that the City Council does understand the practical issues of building in Belvedere, sharing that he himself has built two homes in Belvedere and has dealt with CTL deadlines and appeals in the past. Councilmember Lynch then stated that the City Council is sensitive to Mr. Kelly's concerns but that it must apply the law equally.

Mayor Wilkinson asked Ms. Ackerman what the next steps are in this process.

City Attorney Amy Ackerman replied that the City Council needs to make a determination to uphold, reduce, or reject the staff recommendation for the CTL fine.

Councilmember Mark amended his position to reject the staff recommendation of a CTL fine based on the status of the building industry in the last two years and the good faith of the applicant.

MOTION: Move to adopt Resolution of the City Council of the City of Belvedere affirming the Construction Time Limit Subcommittee penalty recommendation for 1 Belvedere Avenue.

MOVED: By Lynch, seconded by Kemnitzer. Motion passed.

VOTE: AYES: Campbell, Kemnitzer, Lynch, and Wilkinson

NOES: Mark

ABSENT: None

RECUSED: None

### **OTHER SCHEDULED ITEMS**

#### **16. Progress Report from Staff on Construction Impacts Committee recommendations: Consider the report and provide staff with comments and direction.**

City Manager Zadnik gave a verbal report on the item and shared that he can go into detail on the staff report or just take questions.

Councilmember Lynch asked if the City could make changes to the permit fee before engaging with a rate study consultant.

City Manager Zadnik replied that it may be possible to change permit fees without a rate study.

Councilmember Lynch asked if requiring construction sites to have signage with City Hall contact information is something that is reflected in the staff report.

City Manager Zadnik replied in the affirmative.

Councilmember Kemnitzer commented that she would like staff to see what else they can learn from other cities before hiring a rate study consultant. Councilmember Kemnitzer asked if Mr. Van Son records his time in order to manage a cost recovery effort with regard to these fees.

Building Official Van Son replied in the negative.

Councilmember Kemnitzer commented that this City Council is working to reduce the construction timelines.

Councilmember Kemnitzer commented that work-site parking is a big issue with Belvedere residents and that it is currently not being enforced. Councilmember Kemnitzer added that she would like the Police Department to explore having part-time staff lead the enforcement effort.

Councilmember Mark asked if the 4<sup>th</sup> violation of the work-site parking policy would result in a stop work order.

City Manager Zadnik replied in the affirmative.

Councilmember Mark replied that as changes are made to the recommendations document, he would like the stop work order violation left in and encouraged a more active approach to enforcement of this issue.

Mayor Wilkinson asked if staff's intent is to have these fee and policy changes finalized by the next fiscal year.

City Manager Zadnik replied in the affirmative.

Mayor Wilkinson asked if any of these proposed changes have resulted in shorter construction times in Tiburon.

Councilmember Mark replied that that data is not something the City has access to at this time.

**ADJOURN**

The meeting was adjourned at 8:42 P.M.

**THE FOREGOING MINUTES** were approved at a regular meeting of the Belvedere City Council on November 14, 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**RECUSED:**

**Approve:** \_\_\_\_\_  
Sally Wilkinson, Mayor

**Attest:** \_\_\_\_\_  
Harrison Tregenza, Interim City Clerk

DRAFT



**CONSENT CALENDAR**

**BELVEDERE CITY COUNCIL  
NOVEMBER 14, 2022**

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To: Mayor and City Council  
From: Helga Cotter, Administrative Services Director  
Subject: **Approve Warrants of September 2022**

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**Recommended Motion/Item Description**

That the City Council approve the September 2022 warrants as part of the Consent Calendar.

**Attachments**

Warrants.

CITY OF BELVEDERE  
WARRANTS REPORT  
SEPTEMBER 2022  
BANK ACCOUNT 1000  
OPERATING CHECKING ACCOUNT

Check Number	Check Date	Vendor # (Name)	Net Amount	Check Description
27667	9/22/2022	ADAM & CHRISTINA ZBAR	7,189.61	Automatic Generated Check
27668	9/22/2022	ADAM GAVZER	4,462.80	Automatic Generated Check
27669	9/22/2022	BLASEN LANDSCAPE ARCHITECTURE	3,297.50	Automatic Generated Check
27670	9/22/2022	CINTAS CORPORATION #626	252.29	Automatic Generated Check
27671	9/22/2022	CODE PUBLISHING LLC	540.75	Automatic Generated Check
27672	9/22/2022	CODE SOURCE	4,270.00	Automatic Generated Check
27673	9/22/2022	DIGITECH REPROGRAPHICS	1,907.78	Automatic Generated Check
27674	9/22/2022	FLYERS ENERGY, LLC	1,533.23	Automatic Generated Check
27675	9/22/2022	G. ROGER FELTON	14.03	Automatic Generated Check
27676	9/22/2022	JERRY BUTLER	101.96	Automatic Generated Check
27677	9/22/2022	LIEBERT CASSIDY WHITMORE	150.00	Automatic Generated Check
27678	9/22/2022	MARIN INDEPENDENT JOURNAL	215.02	Automatic Generated Check
27679	9/22/2022	MIG	4,380.00	Automatic Generated Check
27680	9/22/2022	OLD BELVEDERE SCHOOL TOWN	1,275.00	Automatic Generated Check
27681	9/22/2022	OSTAGGI PLUMBING	1,346.00	Automatic Generated Check
27682	9/22/2022	PEYTON STEIN	146.16	Automatic Generated Check
27683	9/22/2022	RIPA LOG, LLC	1,800.00	Automatic Generated Check
27684	9/22/2022	STERICYCLE INC	291.89	Automatic Generated Check
27685	9/22/2022	TOWN OF TIBURON	12,775.27	Automatic Generated Check
27686	9/22/2022	TPX COMMUNICATIONS	906.59	Automatic Generated Check
27687	9/22/2022	UNICORN GROUP	311.97	Automatic Generated Check
27688	9/22/2022	US BANK	2,265.00	Automatic Generated Check
27689	9/22/2022	U.S. BANK COPIER	916.23	Automatic Generated Check
27690	9/22/2022	U.S. BANK CORPORATE PAYME	3,674.13	Automatic Generated Check
27691	9/22/2022	VERIZON	132.78	Automatic Generated Check
27692	9/22/2022	WAGeworks INC.	200.00	Automatic Generated Check
A-1190	9/1/2022	GLOBAL PAYMENTS	427.66	Electronic Payment
A-1191	9/6/2022	CALPERS	38,343.96	Electronic Payment
A-1192	9/7/2022	CALPERS	17,159.40	Electronic Payment
A-1193	9/13/2022	PACIFIC GAS & ELECTRIC	3,234.03	Electronic Payment
A-1194	9/8/2022	EFTPS	13,252.50	Electronic Payment
A-1195	9/8/2022	CA EDD	4,248.21	Electronic Payment
A-1196	9/9/2022	CALPERS	17,145.60	Electronic Payment
A-1197	9/16/2022	WESTAMERICA BANK	320.64	Electronic Payment
A-1198	9/16/2022	TAKE CARE/WAGE WORKS	24.96	Electronic Payment
A-1199	9/16/2022	CONNECT YOUR CARE	13.32	Electronic Payment
A-1200	9/19/2022	COMCAST	48.85	Electronic Payment
A-1201	9/20/2022	TAKE CARE/WAGE WORKS	29.80	Electronic Payment
A-1202	9/17/2022	CALPERS	18,072.18	Electronic Payment
A-1203	9/21/2022	AT&T	69.72	Electronic Payment
A-1204	9/22/2022	EFTPS	14,079.09	Electronic Payment
A-1205	9/22/2022	CA EDD	4,620.70	Electronic Payment
A-1206	9/22/2022	TAKE CARE/WAGE WORKS	459.93	Electronic Payment
A-1207	9/29/2022	DELTA DENTAL	2,758.28	Electronic Payment
A-1208	9/30/2022	LINCOLN LTD	675.89	Electronic Payment
A-1209	9/30/2022	RELIANT STANDARD LIFE/ADD	356.52	Electronic Payment
A-1210	9/30/2022	AFLAC INSURANCE CO	181.42	Electronic Payment
AP092222-01	9/22/2022	ALHAMBRA & SIERRA SPRINGS	86.39	Electronic Payment

CITY OF BELVEDERE  
WARRANTS REPORT  
SEPTEMBER 2022  
BANK ACCOUNT 1000  
OPERATING CHECKING ACCOUNT

Check Number	Check Date	Vendor # (Name)	Net Amount	Check Description
AP092222-02	9/22/2022	AMY O SKEWES-COX	10,765.00	Electronic Payment
AP092222-03	9/22/2022	ARBORSCIENCE	300.00	Electronic Payment
AP092222-04	9/22/2022	BASELINE ENVIRONMENTAL CONSULTING	15,240.00	Electronic Payment
AP092222-05	9/22/2022	BAY ALARM COMPANY	395.00	Electronic Payment
AP092222-06	9/22/2022	BELVEDERE-TIBURON LIBRARY	17,149.29	Electronic Payment
AP092222-07	9/22/2022	BELVEDERE-TIBURON LIBRARY	361.15	Electronic Payment
AP092222-08	9/22/2022	BELVEDERE-TIBURON LIBRARY	1,041.07	Electronic Payment
AP092222-09	9/22/2022	DIEGO TRUCK REPAIR	30,336.75	Electronic Payment
AP092222-10	9/22/2022	DIEGO TRUCK REPAIR	1,155.47	Electronic Payment
AP092222-11	9/22/2022	DIEGO TRUCK REPAIR	595.20	Electronic Payment
AP092222-12	9/22/2022	ENVIRONMENTAL COLLABORATIVE	6,687.90	Electronic Payment
AP092222-13	9/22/2022	HERC RENTALS INC.	766.22	Electronic Payment
AP092222-14	9/22/2022	HERC RENTALS INC.	795.97	Electronic Payment
AP092222-15	9/22/2022	JESUS ARGUELLES	639.21	Electronic Payment
AP092222-16	9/22/2022	JESUS ARGUELLES	667.18	Electronic Payment
AP092222-17	9/22/2022	KYOCERA DOCUMENT SOLUIONS NO. CAL	2,401.00	Electronic Payment
AP092222-18	9/22/2022	KYOCERA DOCUMENT SOLUIONS NO. CAL	662.75	Electronic Payment
AP092222-19	9/22/2022	KYOCERA DOCUMENT SOLUIONS NO. CAL	143.50	Electronic Payment
AP092222-20	9/22/2022	MARIN IT, INC.	559.50	Electronic Payment
AP092222-21	9/22/2022	MOE ENGINEERING, INC.	4,012.50	Electronic Payment
AP092222-22	9/22/2022	MOE ENGINEERING, INC.	947.50	Electronic Payment
AP092222-23	9/22/2022	MOE ENGINEERING, INC.	790.00	Electronic Payment
AP092222-24	9/22/2022	MOE ENGINEERING, INC.	3,532.50	Electronic Payment
AP092222-25	9/22/2022	MOE ENGINEERING, INC.	180.00	Electronic Payment
AP092222-26	9/22/2022	PARISI TRANSPORTATION CONSULTING INC.	817.38	Electronic Payment
AP092222-27	9/22/2022	PARS	600.00	Electronic Payment
AP092222-28	9/22/2022	RENNE PUBLIC LAW GROUP, LLP	15,938.86	Electronic Payment
AP092222-29	9/22/2022	RENNE PUBLIC LAW GROUP, LLP	3,115.50	Electronic Payment
AP092222-30	9/22/2022	RENNE PUBLIC LAW GROUP, LLP	715.00	Electronic Payment
AP092222-31	9/22/2022	SPTJ CONSULTING	3,900.00	Electronic Payment
AP092222-32	9/22/2022	SPTJ CONSULTING	18,048.19	Electronic Payment
AP092222-33	9/22/2022	TIBURON FIRE PROTECTION	166,575.92	Electronic Payment
AP092722-01	9/27/2022	EDMUND H. SAN DIEGO	614.88	Electronic Payment
AP092722-02	9/27/2022	MARY NEILAN	614.88	Electronic Payment
Total for Bank Account 1000 ----->			501,030.31	

CITY OF BELVEDERE  
WARRANTS REPORT  
SEPTEMBER 2022  
**BANK ACCOUNT 1010**  
**PAYROLL CHECKING ACCOUNT**

Check Number	Check Date	Vendor # (Name)	Net Amount	Check Description
145	9/6/2022	DIRECT DEPOSIT	60,921.90	Electronic Payment
146	9/20/2022	DIRECT DEPOSIT	63,057.72	Electronic Payment
P-208	9/6/2022	MASS MUTUAL	527.21	Electronic Payment
P-209	9/22/2022	MASS MUTUAL	527.21	Electronic Payment
PR090822-01	9/6/2022	BPOA	92.30	Electronic Payment
PR090822-02	9/6/2022	ICMA-RC	4,683.17	Electronic Payment
PR090822-03	9/6/2022	GARNISHMENT	692.31	Electronic Payment
PR092222-01	9/20/2022	BPOA	92.30	Electronic Payment
PR092222-02	9/20/2022	ICMA-RC	4,683.17	Electronic Payment
PR092222-03	9/20/2022	GARNISHMENT	<u>692.31</u>	Electronic Payment
Total for Bank Account 1010 ----->			<u>135,969.60</u>	
<b>Grand Total of all Bank Accounts -----&gt;</b>			<b><u>636,999.91</u></b>	

To: Mayor and City Council

From: Robert Zadnik, City Manager

Subject: A Resolution Authorizing the Continuation of Teleconference Public Meetings Pursuant to Government Code section 54953(e) (Assembly Bill 361)

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**RECOMMENDATION**

That the City Council adopt a Resolution authorizing the continued use of teleconference meetings pursuant to Assembly Bill 361 and give direction to staff as necessary.

**BACKGROUND**

In September 2021, the Ralph M. Brown Act (Brown Act) was amended by Assembly Bill 361 to allow teleconference meetings during a state of emergency. AB 361 amends Government Code section 54953 to allow virtual board meetings through December 31, 2023 in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

To continue to hold virtual meetings while California’s state of emergency remains active, the body must make findings every 30 days that: 1) the body has reconsidered the circumstances of the state of emergency and 2) that the state of emergency continues to directly impact the ability of the members to meet safely in person or state and state or local officials continue to impose or recommend measures to promote social distancing.

The attached resolution makes the findings to confirm the conditions still exist to allow the continuation of teleconference public meetings pursuant to AB 361 for the City Council and on behalf all lower legislative bodies in the City.

**ENVIRONMENTAL DETERMINATION**

A meeting format determination under AB 361 is not a “project” under the California Environmental Quality Act, because it does not involve an activity that has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code § 21065)

**CORRESPONDENCE**

As of the writing of this report, no correspondence has been received regarding this agenda item.

**RECOMMENDED ACTIONs**

That the City Council adopt the Resolution authorizing the continued use of teleconference meetings pursuant to Assembly Bill 361 and give direction to staff as necessary.

**ATTACHMENT**

1. Resolution.

**CITY OF BELVEDERE**

**RESOLUTION NO. 2022-53**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE AUTHORIZING TELECONFERENCE MEETINGS PURSUANT TO GOVERNMENT CODE SECTION 5953(e) (ASSEMBLY BILL 361)**

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**WHEREAS**, the City of Belvedere is committed to preserving public access and participation in the meetings of the City Council; and

**WHEREAS**, all meetings of the City of Belvedere's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code §§ 54950 – 54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

**WHEREAS**, on March 4, 2020 Governor Newsom declared a State of Emergency pursuant to Government Code section 8625 due to the COVID-19 pandemic, which State of Emergency remains in effect; and

**WHEREAS**, State Executive Orders N-25-20 and N-29-20, suspended certain provisions of the Brown Act (Gov. Code, §§ 54950 *et seq.*) to allow public meetings to be held virtually without opening a physical space to the public, which provisions expired September 30, 2021; and

**WHEREAS**, effective September 16, 2021, Assembly Bill 361 allows local agencies to continue to hold remote public meetings through December 31, 2023 when there is a State-declared emergency, and when state or local officials have imposed or recommended measures to promote social distancing or as a result of the declared emergency, meeting in-person would result in an imminent risk to the health or safety of attendees; and

**WHEREAS**, the Government Code section 8625 State of Emergency remains in effect; and

**WHEREAS**, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19

variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

**WHEREAS**, on January 5, 2022, the California Department of Public Health issued guidance again requiring universal masking indoors and stating that the Omicron Variant is more contagious than early COVID-19 variants and the Delta Variant, and has increased the seven-day average case rate more than sixfold and doubled COVID-19 hospitalization rates; and

**WHEREAS**, the universal masking requirements in all indoor public settings, social distancing guidance, vaccination availabilities and the increase in knowledge about protections against COVID-19 variant exposure or transmission led the CDPH to amend their masking guidance to allow the universal indoor masking requirement to expire on February 15, 2022; and

**WHEREAS**, the requirement for unvaccinated persons to mask in indoor public settings and businesses was replaced on March 1, 2022 by a strong recommendation that all persons, regardless of vaccine status, mask in indoor public settings and businesses; and

**WHEREAS**, the Delta and Omicron Variants have caused, and will continue to cause, conditions of imminent peril to the health safety of persons within the City; and

**WHEREAS**, public meetings involve many people in shared indoor spaces, in close proximity for hours, and City meetings rooms have limited mechanical and natural ventilation, creating a health risk for members of the public at this time;

**WHEREAS**, as a result of the continuing declared emergency, public meetings in-person would result in an imminent risk to the health or safety of attendees; and

**WHEREAS**, the City provides in the public notices and agendas for all public meetings the online and telephone options for participation in public meetings, protecting the right of the public to address their local officials and to participate in public meetings, and posts this information on the City's website, including instructions on how to access the public meeting remotely; now, therefore be it; and

**WHEREAS**, a meeting format determination under AB 361 is not a "project" under the California Environmental Quality Act, because it does not involve an activity that has the potential to cause a direct



or reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code § 21065.)

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Belvedere, based on the findings set forth above and incorporated herein, that public meetings of the City’s legislative bodies shall be held using remote technology in compliance with the requirements of Government Code section 54953(e) and all other applicable laws for thirty (30) days following the date of adoption of this Resolution.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Belvedere on November 14, 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**RECUSED:**

**APPROVED:** \_\_\_\_\_

Sally Wilkinson, Mayor

**ATTEST:** \_\_\_\_\_

, City Clerk

To: Mayor and City Council

From: Helga Cotter, Director of Administrative Services

Reviewed by: Robert Zadnik, City Manager

**Subject: Fiscal Year 2021-22 Year-End Budget Review**

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**Recommended Motion/Item Description**

Receive the FY2021-22 unaudited financial report summary and approve the roll forward of unspent capital budget from FY2021-22 to FY2022-23.

**Background**

The FY2021-22 Budget was adopted by the City Council on June 14, 2021, and revised on October 11, 2021. An important accountability feature of the budget process is the periodic reporting of actual revenues and expenses as compared to the budget, focusing primarily on the General Fund. This report provides an opportunity for the Council to review the City’s financial status and it enhances fiscal accountability and transparency. Preliminary year-end results are provided since the annual audit has not been finalized. Further adjusting entries may be necessary as a result of the City’s year-end audit process, but significant adjustments are not anticipated.

***Beginning Fund Balance July 1, 2021***

As reported in the mid-year budget report, actual fund balance on June 30, 2021, was \$4,418,991.

***Pension and OPEB-Related Liabilities***

When considering the finances of the City, it is important to keep in mind the entire fiscal health of the City, which includes its liabilities. The City’s only significant liabilities are related to pensions and other post-employment benefits (OPEBs). Council has continued to be concerned about the impact of rising pension cost on the City’s budgets, and its potential for creating shortfalls in budgetary resources needed to fund city services and important capital projects. Recognizing that Belvedere needed a more comprehensive proactive strategy for dealing with the pension challenge, the City created in 2020 an ad hoc Taskforce on Pensions and OPEB. The Taskforce developed and proposed a strategy that would establish a City commitment to plan for and fund pension costs based on realistic assumptions, and to develop a mechanism by which future adjustments to the funding formula could be made in 3–5-year increments. The City Council approved this strategy at its April 2021 meeting<sup>1</sup>, and staff implemented the strategy right away.

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<sup>1</sup> [Staff Report from April 12, 2021](#)

As a result, the City has begun accumulating restricted funds in their Section 115 Trust that can only be used for pension liabilities which has a balance of \$1.59 million as of June 30, 2022 which helps the City be well positioned to meet its pension commitments to past, present, and future City employees.

The CalPERS valuation report as of 6/30/21 reflects a significant change in the unfunded accrued liability with a total reported surplus of .45 million across all plans. This is primarily due to CalPERS investment return for that period of 21.3%. This results in the CalPERS plans being almost completely funded for the upcoming FY2023-24 period; however, CalPERS is expecting a loss of 6-7% in investment return with the valuation report ending 6/30/22 which will result in an unfunded accrued liability for the City.

*Table 1: Summary of Pension and OPEB Liability*

**City of Belvedere**  
**Summary of Pension and OPEB Liability**  
**as of June 30, 2022**  
**(In Millions)**

Description of Liability	Valuation Date	Amount
Pension-related Debt Restructuring	6/30/2022	\$ 2.0
CalPERS Pension (as reported by CalPERS)	6/30/2021	(0.5)
PARS Defined Benefit	6/30/2022	0.1
OPEB Health Benefit	6/30/2021	1.6
<b>Total Liability</b>		<b>\$ 3.3</b>

Description of Asset	As of Date	Amount
Pension 115 Trust Funds	6/30/2022	\$ 1.6
<b>Total Assets</b>		<b>\$ 1.6</b>

<b>Net Liability</b>		<b>\$ 1.7</b>
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**Financial Analysis Summary – Full Year Actuals**

***Revenues***

General Fund revenues for the year are \$8,490,070, which exceeds general fund budgeted revenues of \$7,619,898 by \$870,172 (Table 2).

All general fund revenue categories met or exceeded budget projections, except for investment and property which reflects the loss on investment for the Section 115 trust of \$202,413 for the fiscal year.

The City’s most significant revenue source is property taxes, which came in \$431,926 above projections. A detailed breakdown of property tax types can be found on Table 3. All property tax types exceeded the budgeted amount. Of particular interest are real property transfer taxes, which were more than double the budget projections. This reflects real property turnover in the City that will have a positive impact on baseline parcel tax values next year.

Over-the-counter revenues (such as business licenses, construction permits, planning fees and road impact fees) are accounted for as licenses and permits, and service charges. Both categories also exceeded budgeted projections. Table 4 provides a year-to-year summary of Building, Planning, and Public Works activities for the years ended June 30, 2021, and June 30, 2022.

It is important to note that the City’s Master Fee Schedule was overhauled in March of 2021 and became effective in May 2021. As part of this current Master Fee Schedule, staff time is billed as a time and materials system for most planning service fees. The cost recovery rate for the Planning and Building Department as of June 30, 2022, was 70%. The Master Schedule fees and hourly billing rates target a 90% cost recovery.

Table 2: City-Wide Revenues by Category

**City of Belvedere  
Statement of Revenues by Category**

REVENUES	Total Budget - Revised	Current Period	Percent Budget Received	Prior Year Current Period Actual
General Fund				
Property Taxes	6,272,254	6,704,180	107%	6,332,809
Local Non-Property Taxes	318,879	389,025	122%	345,177
Licenses and Permits	469,935	571,146	122%	483,331
Fines and Forfeitures	1,057	2,663	252%	864
Investment and Property	70,171	(129,536)	-185%	100,737
Revenue/Other Agencies	172,485	459,662	266%	242,703
Service Charges	278,117	432,336	155%	331,071
Miscellaneous Other Revenue	37,000	60,594	164%	33,997
<b>Total General Fund</b>	<b>7,619,898</b>	<b>8,490,070</b>	<b>111%</b>	<b>7,870,689</b>
		<i>870,172</i>	<i>= variance over Budget</i>	
Fire Fund	997,888	996,361	100%	946,944
Capital Improvement Fund	463,000	472,418	102%	508,858
Equipment Replacement Fund	1,000	382	38%	45,092
<b>Total REVENUES</b>	<b>9,081,786</b>	<b>9,959,231</b>	<b>110%</b>	<b>9,371,583</b>
		<i>877,445</i>	<i>= variance over Budget</i>	

Table 3: Property Tax Revenues by Type

City of Belvedere  
Property Tax Revenue by Type

PROPERTY TAX TYPE	Total Budget - Revised	Current Period	Percent Budget Received	Prior Year Current Period Actual
Current Secured	5,210,242	5,318,104	102%	5,085,230
Supplemental Assessments	99,000	181,196	183%	103,627
Unsecured	105,981	105,811	100%	101,749
Real Property Transfer	82,650	183,061	221%	184,182
VLf Swap	284,380	300,982	106%	288,627
ERAF	490,000	615,026	126%	569,394
<b>Total Property Taxes</b>	<b>6,272,253</b>	<b>6,704,180</b>	<b>107%</b>	<b>6,332,809</b>
		<i>431,927</i>	<i>= variance over Budget</i>	

Table 4: Summary of Activities

City of Belvedere  
Summary Comparison  
Building, Planning, Public Work Activities

Category	6/30/2022	6/30/2021
Building		
Commercial	3	3
Mixed Use	1	1
Residential	276	363
Building Other		
Inspections	2,573	1,121
Code Enforcement	-	-
Planning		
Applications	333	316
Public Works		
Encroachment	692	608
Road Closure	97	75
<b>TOTAL</b>	<b>3,975</b>	<b>2,487</b>

**Operating Expenditures**

General fund expenditures totaled \$5,986,552 or 98% of the general fund expenditure budget of \$6,120,934 (Table 5). Budget overages in certain departments were offset by underspending in other departments, and overall expenditures came in under budget by \$134,382.

Table 5: General Fund Expenditures by Department

City of Belvedere  
Statement of General Fund Expenditures by Department

EXPENDITURES	Total Budget	Current Period	Remaining Balance	Percent Budget Used
General Fund				
Administration	1,055,484	1,267,326	(211,842)	120%
Planning & Building	1,410,330	1,306,190	104,140	93%
Police	1,706,704	1,573,346	133,358	92%
Public Works	1,307,467	1,087,852	219,615	83%
Community Center	63,450	53,467	9,983	84%
Non-Departmental	577,499	698,371	(120,872)	121%
<b>Total General Fund Expenditures</b>	<b>6,120,934</b>	<b>5,986,552</b>	<b>134,382</b>	<b>98%</b>

*Capital Expenditures*

Capital Fund expenditures during the fiscal year amounted to \$1,417,814 (Table 6). Many of the projects that were budgeted for in the year-ended June 30, 2022, were still in progress at year-end, and \$1,129,600 of the budgeted funds are being carried forward to the current budget year. A budget amendment to FY2022-23 Operating and Capital budget is needed to roll forward these funds.

Table 6: Capital Fund Expenditures by Category

City of Belvedere  
Statement of Capital Fund Expenditures by Category

EXPENDITURES	Total Budget - Revised	Current Period	Remaining Balance	Percent Budget Used
Capital Improvement Fund				
Streets	649,622	472,159	177,463	73%
Infrastructure	739,002	525,796	213,206	71%
Lanes	70,000	29,484	40,516	42%
Parks and Open Space	518,510	248,245	270,265	48%
Community Buildings	300,460	58,336	242,124	19%
Miscellaneous Other	131,747	24,249	107,498	18%
Utility Undergrounding Districts	143,490	59,545	83,945	41%
<b>Total Capital Improvement Fund</b>	<b>2,552,831</b>	<b>1,417,814</b>	<b>1,135,017</b>	<b>56%</b>

*City-Wide Revenues and Expenditures*

In summary, the City ended the FY2021-22 on strong financial footing, with revenues exceeding projections and expenditures coming in lower than anticipated (Table 7).

*Table 7: City-Wide Revenues and Expenditures*

**City of Belvedere**  
**Statement of Revenues and Expenditures**  
**Year-ended 6/30/22**

	<b>Total Budget - Revised</b>	<b>Current Period</b>	<b>Percent Budget Rec'd/Used</b>
<b>REVENUES</b>			
<b>General Fund</b>	<b>7,619,898</b>	<b>8,490,070</b>	<b>111%</b>
Fire Fund	997,888	996,361	100%
Capital Improvement Fund	463,000	472,418	102%
Equipment Replacement Fund	<u>1,000</u>	382	<u>38%</u>
Total REVENUES	<u>9,081,786</u>	<u>9,959,231</u>	<u>110%</u>
<b>EXPENDITURES</b>			
<b>General Fund</b>	<b>6,120,935</b>	<b>5,986,552</b>	<b>98%</b>
Capital Improvement Funds	2,190,991	1,417,814	65%
Fire Fund	1,852,454	1,854,651	100%
Debt Service	249,602	249,853	100%
Insurance Reserve Fund	0	0	0%
Equipment Replacement Fund	<u>80,000</u>	<u>2,454</u>	<u>3%</u>
Total EXPENDITURES	<u>10,493,982</u>	<u>9,511,324</u>	<u>91%</u>

***General Fund Summary***

The FY2021-22 Revised Budget anticipated that expenditures and transfers out would exceed revenues by \$682,898, resulting in a General Fund balance of \$3,736,090. The City ended the fiscal year with revenues exceeding expenditures and transfers out by \$154,199. While revenues were higher than anticipated and expenditures were lower than anticipated, transfers out were slightly higher than anticipated mainly due to an increase in capital project expenditures.

The new projected General Fund balance after accounting for all actual revenue, expenditures and transfers is \$4,573,187, which continues to exceed the Council’s reserve policy which is to be calculated based on forecasted expenditures rather than current year expenditures. In the table below, under the new policy the reserve is equal to 50% of FY2022-23 projected General Fund expenditures, plus Fire Transfer, plus Debt Service (Table 8).

Also, as part of the updates to the Reserve Policy the Council approved in December 2021, at the end of each fiscal year, any unassigned funds that remain in the City’s General Fund after all other funds have been classified in accordance with Generally Accepted Accounting Principles (GAAP) and City Policy, will be transferred to the Critical Infrastructure Reserve and classified as assigned.

Table 8: General Fund Summary

City of Belvedere General Fund Summary		
	Revised Budget	Actuals
<b>Beginning Balance 7/1/21</b>	<b>4,418,988</b>	<b>4,418,988</b>
Revenue	7,619,898	8,490,070
Expenditures	(6,120,934)	(5,986,552)
Transfers:		
<i>Fire Fund</i>	(854,566)	(858,290)
<i>Capital Improvement</i>	(338,500)	(540,859)
<i>Debt Service</i>	(249,603)	(250,170)
<i>Equipment Replacement</i>	(39,193)	-
<i>Critical Infrastructure Fund</i>	(400,000)	(400,000)
<i>Pension Reserve*</i>	(300,000)	(300,000)
	(2,181,862)	(2,349,319)
Surplus/(Deficit)	(682,898)	154,199
<b>Estimated Ending Balance 6/30/22</b>	<b>3,736,090</b>	<b>4,573,187</b>
Reserve Calculations:		
FY23 Projected General Fund Expenses + Fire Transfer + Debt Service	7,135,700	7,135,700
General Fund Reserve Policy 50%	3,567,850	3,567,850
Projected General Fund Balance 6/30/22	3,736,090	4,573,187
Over (Under) Policy in Dollars	168,240	1,005,337
Over (Under) Policy as percentage	52%	64%

**End of Year Accomplishments**

The City continued to devote a significant amount of attention during the past fiscal year towards developing processes for delivering city services while also protecting residents, businesses, and City employees from COVID-19. City staff also focused on the implementation of new regulatory requirements, critical infrastructure projects and funding sources, as well as maintaining City services at a high level considering the turnover of staff in each department throughout this fiscal year.

Despite the challenge of operating in a pandemic environment and reopening part way through the fiscal year, each City department accomplished the following important projects during the year-ending June 30, 2022:

*Administration*

- Applied for numerous grants and sought other outside funding opportunities to support critical infrastructure project needs (pending).
- Continued to manage the City through the COVID-19 emergency – implemented County and State Health orders and guidance, ensured compliance with employer regulations while



managing continuity of operations; enforced health safety regulations on contractors working in the City.

- Recruiting and onboarding of a new Director of Administrative Services, Public Works Maintenance Worker, and Associate Planner.
- Began recruitment for new Director of Public Works.
- Termination/Retirement processing of one Police Officer, Public Works Maintenance worker, Senior Planner, Director of Administrative Services, and City Manager.
- Supported Police Department efforts in recruiting and onboarding a Police Officer.
- Stayed abreast of State and Federal grant revenue opportunities related to COVID-19 funding and ensured the City met eligibility requirements for each available program and related funding.
- Continued working with the new Information Technology (IT) consultant to better address the City's IT needs and planning for future upgrades and improvements.
- Transitioned business license and encroachment permit processing to an online platform through the City's website.

#### *Planning & Building*

- Adopted an Ordinance amending Title 19.29 Accessory Dwelling Units & Junior Accessory Dwelling units to comply with State requirements.
- Adopted an Urgency Ordinance Amending Belvedere Municipal Code Title 18 Subdivisions establishing regulations for the subdivision and development of qualified Senate Bill 9 (SB9) properties and amending Title 19 Zoning to comply with Senate Bill.
- Adopted an Urgency Ordinance of the City of Belvedere Adopting Title 22 Objective Design & Development Standards (ODDS) for qualifying Multi-Family and Mixed-Use Projects.
- Adopted a Resolution approving a Construction Impacts Committee.
- Hired an Associate Planner to replace the former Senior Planner.
- Adopted Resolutions and Ordinances to better define the roles and responsibilities of the Planning Commission and the Historic Preservation Committee.
- Formal Adoption of the City of Belvedere Adopting Title 22 Objective Design & Development Standards (ODDS) for qualifying Multi-Family and Mixed-Use Projects.
- Formal Adoption of the City of Belvedere Adopting Title 22 Objective Design & Development Standards (ODDS) for qualifying Multi-Family and Mixed-Use Projects.
- Embarked on the task/process of updating the City's Housing Element and Safety Element.

#### *Police*

- Hired a new police officer.
- Enhanced community outreach both within and outside our community; engaged in programming with civic groups in neighboring jurisdictions, such as Marin County Cooperation Team and Frederick Leon Marcus Youth Academy.
- Continue to collaborate with RBRA to address concerns in Belvedere's portion of the Richardson Bay.
- Internal promotion of a police sergeant.

#### *Public Works & Engineering*

- Installed new landscape at Tennis Court Parking Lot and Lagoon Road

- Reorganized City Hall office space and recarpeting.
- Removed 8 dead and/or hazardous trees from public right-of-way/private land.
- Began the Community Park Playground renovation project which was completed in October 2022.
- Completed Phase II of the Sidewalk Repair Program.
- Removed silt material from stormwater detention pond.
- Substantially completed construction of Belvedere-Bella Vista-Golden Gate Underground District.
- Engineered and Permitted the construction of electric vehicle charging station at City Hall.
- Implemented the annual Curbside Vegetation Program.
- Oversaw roadway management of private contractors, utility agencies and public work projects in Belvedere.

**Fiscal Impact**

Staff recommends a budget revision to the FY2022-23 budget to recognize the roll forward of \$1,129,600 in Capital Improvement Funds. There is no net fiscal impact to this budget revision, since the respective fund balances on June 30, 2022 are sufficient to accommodate the roll forward.

Fully audited financial statements will be reviewed by the Finance Committee in November and will be brought to Council for approval at their December 12, 2022 meeting.

**Recommended Motion/Item Description**

Staff recommends that Council receive the FY2021-22 unaudited financial report summary and approve the roll-forward of unspent capital budget from FY2021-22 to FY2022-23.

**Attachments**

Attachment 1: Resolution

**CITY OF BELVEDERE**

**RESOLUTION NO. 2022-54**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE  
AUTHORIZING A BUDGET AMENDMENT TO ROLL FORWARD UNSPENT  
CAPITAL BUDGET FUNDS**

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**WHEREAS**, the City Council of the City of Belvedere adopted a resolution approving the Annual Operating and Capital Budget for Fiscal Year 2022/2023 on June 13, 2022; and

**WHEREAS**, at this time the City recognizes that there was \$1,129,600 in unspent Capital Improvement Funds in the prior budget year ended June 30, 2022; and

**WHEREAS**, at this time the City wishes to roll forward these same amounts to the Fiscal Year 2022/2023 expenditure budget; and

**WHEREAS**, the effect of this transfer will increase the overall Operating and Capital budget expenditure authorization from \$9,792,500 to \$10,922,100.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Belvedere that the Fiscal Year 2022/2023 Annual Operating and Capital Budget shall be amended to include the above adjustments, resulting in a total expenditure authorization of \$10,922,100.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Belvedere on November 14, 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED:** \_\_\_\_\_  
Sally Wilkinson, Mayor

**ATTEST:** \_\_\_\_\_  
Acting City Clerk

To: Mayor and City Council  
From: Helga Cotter, Director of Administrative Services  
Subject: **Investment Report as of September 30, 2022**

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**Recommended Motion/Item Description**

That the City Council receive the City’s Investment Report for the quarter-ending September 30, 2022, as part of the Consent Calendar.

**Background**

This report is provided as required by the City’s investment policy. Current investments are consistent with the investment policy and are allowable under current California law. Investments are selected to meet the priority principals of the policy: safety, liquidity, and yield in respective order.

The balance in the CEPPT 115 Trust as of September 30, 2022, was as follows:

Beginning Balance 7/1/22	\$1,597,000
Annual Investment – FY23	300,000
Investment Earnings	(105,457)
<u>Less: Investment/Admin Fees</u>	<u>(953)</u>
Ending Balance	\$1,790,590

**Attachments**

1. Investment Summary Report
2. LAIF Remittance Advice on September 30, 2022
3. CEPPT Account Update on September 30, 2022

CITY OF BELVEDERE  
 REPORT ON INVESTMENTS  
 FISCAL YEAR 2022/23

QUARTER-ENDED 9/30/22

Investment	Balance	Interest Earned	Investment Yield	Maturity
Local Agency Investment Fund (LAIF)	\$ 4,326,759.44	\$ 20,709.30	1.35%	Liquid
CalPERS CEPPT 115 Pension Trust	1,790,590.00	\$ (105,457.24)	-6.06%	Liquid - with restrictions on use



**BETTY T. YEE**  
**California State Controller**

**LOCAL AGENCY INVESTMENT FUND  
 REMITTANCE ADVICE**

Agency Name	BELVEDERE
Account Number	98-21-071

As of 10/14/2022, your Local Agency Investment Fund account has been directly credited with the interest earned on your deposits for the quarter ending 09/30/2022.

Earnings Ratio		.00003699565555327
Interest Rate		1.35%
Dollar Day Total	\$	559,776,567.14
Quarter End Principal Balance	\$	4,326,759.44
Quarterly Interest Earned	\$	20,709.30

# CEPPT Account Update Summary

City of Belvedere

as of September 30, 2022

# CEPPT Account Summary

As of September 30, 2022	Strategy 1	Strategy 2	Total
Initial contribution (05/25/2021)	\$100,000	\$0	\$100,000
Additional contributions	\$2,000,000	\$0	\$2,000,000
Disbursements	\$0	\$0	\$0
CEPPT expenses	(\$3,493)	\$0	(\$3,493)
Investment earnings	(\$305,918)	\$0	(\$305,918)
Total assets (05/25/2021-09/30/2022 = 1.35 years)	\$1,790,590	\$0	\$1,790,590



# CEPPT/CERBT Investment Returns Outperform Benchmarks

Periods ended August 31, 2022

Fund	Assets	1 Month	3 Months	FYTD	1 Year	3 Years	5 Years	10 Years	ITD
CERBT Strategy 1 (Inception June 1, 2007)	\$13,297,533,144	-3.80%	-4.84%	1.94%	-14.03%	5.21%	5.45%	6.67%	4.94%
Benchmark		-3.80%	-4.93%	1.91%	-14.24%	4.94%	5.17%	6.31%	4.53%
CERBT Strategy 2 (Inception October 1, 2011)	\$1,735,829,562	-3.86%	-4.43%	1.16%	-13.66%	3.25%	4.40%	5.45%	6.30%
Benchmark		-3.84%	-4.48%	1.15%	-13.77%	3.06%	4.17%	5.13%	6.03%
CERBT Strategy 3 (Inception January 1, 2012)	\$759,883,383	-3.77%	-3.90%	0.69%	-12.13%	1.98%	3.60%	4.29%	4.80%
Benchmark		-3.76%	-3.95%	0.66%	-12.19%	1.84%	3.42%	3.97%	4.52%
<b>CERBT Total</b>	<b>\$15,793,246,089</b>								
CEPPT Strategy 1 (Inception October 1, 2019)	\$65,054,989	-3.41%	-3.66%	1.25%	-13.20%	-	-	-	2.78%
Benchmark		-3.42%	-3.73%	1.28%	-13.38%	-	-	-	2.72%
CEPPT Strategy 2 (Inception January 1, 2020)	\$26,044,786	-3.22%	-2.83%	0.30%	-12.11%	-	-	-	-0.34%
Benchmark		-3.23%	-2.86%	0.29%	-12.19%	-	-	-	-0.47%
<b>CEPPT Total</b>	<b>\$91,099,775</b>								

## CEPPT Portfolios

2022 Capital Market Assumptions	CEPPT Strategy 1	CEPPT Strategy 2
Expected Return	4.5%	3.5%
Risk	8.8%	6.1%

## CEPPT Portfolio Details

Asset Classification	Benchmark	CEPPT Strategy 1	CEPPT Strategy 2
Global Equity	MSCI All Country World Index	37% ±5%	21% ±5%
Fixed Income	Bloomberg Barclays U.S. Aggregate Bond Index	44% ±5%	61% ±5%
Global Real Estate (REITs)	FTSE EPRA/NAREIT Developed Liquid Index	14% ±5%	19% ±5%
Treasury Inflation Protected Securities (TIPS)	Barclays Capital Global Real: US TIPS Index	5% ±3%	5% ±3%
Cash	3-Month Treasury Bill	0% +2%	0% +2%

## Total Participation Cost Fee Rate

- Total all-inclusive cost of participation
  - Combines administrative, custodial, and investment fees
  - Separate trust funds
  - Self-funded, fee rate may change in the future
  - Fee is applied daily to assets under management
    - 10 basis points - CERBT
    - 25 basis points - CEPPT

# CEPPT/CERBT Consistently Low Fee Rate History

Fiscal Year	CERBT	CEPPT
2007-2008	2.00 basis points	-
2008-2009	6.00 basis points	-
2009-2010	9.00 basis points	-
2010-2011	12.00 basis points	-
2011-2012	12.00 basis points	-
2012-2013	15.00 basis points	-
2013-2014	14.00 basis points	-
2014-2015	10.00 basis points	-
2015-2016	10.00 basis points	-
2016-2017	10.00 basis points	-
2017-2018	10.00 basis points	-
2018-2019	10.00 basis points	-
2019-2020	10.00 basis points	25.00 basis points
2020-2021	10.00 basis points	25.00 basis points
2021-2022	10.00 basis points	25.00 basis points
2022-2023	10.00 basis points	25.00 basis points

## 619 Prefunding Program Employers

597 CERBT and 77 CEPPT

- State of California
- 156 Cities or Towns
- 10 Counties
- 81 School Employers
- 32 Courts
- 339 Special Districts and other Public Agencies
  - (103 Water, 37 Sanitation, 34 Fire, 25 Transportation)

## Questions? Where to Get Trust Fund Information?

Name	Title	E-mail	Desk	Mobile
Matt Goss	Outreach & Support Program Manager	<a href="mailto:Matthew.Goss@calpers.ca.gov">Matthew.Goss@calpers.ca.gov</a>	(916) 795-9071	(916) 382-6487
Karen Lookingbill	Outreach & Support Manager	<a href="mailto:Karen.Lookingbill@calpers.ca.gov">Karen.Lookingbill@calpers.ca.gov</a>	(916) 795-1387	(916) 501-2219
Colleen Cain-Herrback	Administration & Reporting Program Manager	<a href="mailto:Colleen.Cain-Herrback@calpers.ca.gov">Colleen.Cain-Herrback@calpers.ca.gov</a>	(916) 795-2474	(916) 505-2506
Vic Anderson	Administration & Reporting Manager	<a href="mailto:Victor.Anderson@calpers.ca.gov">Victor.Anderson@calpers.ca.gov</a>	(916) 795-3739	(916) 281-8214
Robert Sharp	Assistant Division Chief	<a href="mailto:Robert.Sharp@calpers.ca.gov">Robert.Sharp@calpers.ca.gov</a>	(916) 795-3878	(916) 397-0756

Program E-mail Addresses	Prefunding Programs Webpages
<a href="mailto:CEPPT4U@calpers.ca.gov">CEPPT4U@calpers.ca.gov</a> – Questions & Document Submittal	<a href="http://www.calpers.ca.gov/CEPPT">www.calpers.ca.gov/CEPPT</a>
<a href="mailto:CERBT4U@calpers.ca.gov">CERBT4U@calpers.ca.gov</a> – Questions & Document Submittal	<a href="http://www.calpers.ca.gov/CERBT">www.calpers.ca.gov/CERBT</a>
<a href="mailto:CERBTACCOUNT@calpers.ca.gov">CERBTACCOUNT@calpers.ca.gov</a> – Online Record Keeping System	

# CEPPT Strategy 1



September 30, 2022

## Objective

The CEPPT Strategy 1 portfolio seeks to provide capital appreciation and income consistent with its strategic asset allocation. There is no guarantee that the portfolio will achieve its investment objective.

## Strategy

The CEPPT Strategy 1 portfolio is invested in various asset classes that are passively managed to an index. CalPERS periodically adjusts the composition of the portfolio in order to match the target allocations. Generally, equities are intended to help build the value of the employer's portfolio over the long term while bonds are intended to help provide income and stability of principal. Also, strategies invested in a higher percentage of equities seek higher investment returns (but assume more risk) compared with strategies invested in a higher percentage of bonds.

Compared with CEPPT Strategy 2, this portfolio has a higher allocation to equities than bonds. Historically, equities have displayed greater price volatility and, therefore, this portfolio may experience greater fluctuation of value. Employers that seek higher investment returns, and are able to accept greater risk and tolerate more fluctuation in returns, may wish to consider this portfolio.

CalPERS Board may change the list of approved asset classes in composition as well as targeted allocation percentages and ranges at any time.

## Assets Under Management

As of the specified reporting month-end:

CEPPT Strategy 1	Annual Expense Ratio
\$62,888,273	0.25%

Note: Target allocations are as of 10/1/2022 and approved by the Board of Administration at the March 2022 Investment Committee meeting.

## Composition

### Asset Class Allocations and Benchmarks

The CEPPT Strategy 1 portfolio consists of the following asset classes and corresponding benchmarks:

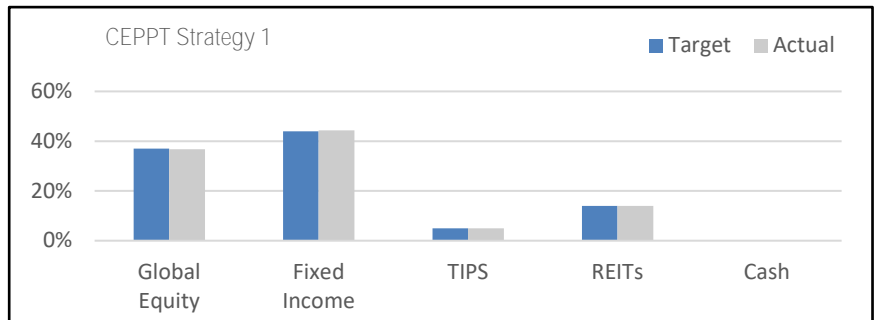
Asset Class	Target Allocation	Target Range	Benchmark
Global Equity	37%	± 5%	MSCI All Country World Index IMI (Net)
Fixed Income	44%	± 5%	Bloomberg US Aggregate Bond Index
Treasury Inflation-Protected Securities ("TIPS")	5%	± 3%	Bloomberg US TIPS Index, Series L
Real Estate Investment Trusts ("REITs")	14%	± 5%	FTSE EPRA/NAREIT Developed Index (Net)
Cash	-	+ 2%	91-Day Treasury Bill

## Portfolio Benchmark

The CEPPT Strategy 1 benchmark is a composite of underlying asset class market indices, each assigned the target weight for the asset class it represents.

## Target vs. Actual Asset Class Allocations

The following chart shows policy target allocations compared with actual asset allocations as of the specified reporting month-end. CalPERS may temporarily deviate from the target allocation for a particular asset class based on market, economic, or other considerations.



## CEPPT Strategy 1 Performance as of September 30, 2022

	1 Month	3 Months	Fiscal YTD	1 Year	3 Years*	5 Years*	10 Years*	Since Inception* (October 1, 2019)
Gross Return <sup>1,3</sup>	-7.23%	-6.06%	-6.06%	-17.40%	0.17%	-	-	0.17%
Net Return <sup>2,3</sup>	-7.25%	-6.12%	-6.12%	-17.60%	-0.07%	-	-	-0.07%
Benchmark Return	-7.26%	-6.07%	-6.07%	-17.59%	0.10%	-	-	0.10%
Standard Deviation <sup>4</sup>	-	-	-	-	11.30%	-	-	11.30%

\* Returns for periods greater than one year are annualized.

<sup>1</sup> Gross returns are net of SSGA operating expenses.

<sup>2</sup> Net returns are net of SSGA operating expenses, investment management, administrative and recordkeeping fees.

<sup>3</sup> Expenses are described in more detail on page 2 of this document.

<sup>4</sup> Standard deviation is based on gross returns and is reported for periods greater than 3 years.

September 30, 2022

## General Information

### Information Accessibility

The CEPPT Strategy 1 portfolio consists of assets managed internally by CalPERS and/or by external managers. Since it is not a mutual fund, a prospectus is not available and daily holdings are not published. CalPERS provides a quarterly statement of the employer's account and other information about the CEPPT. For total market value, detailed asset allocation, investment policy and performance information, please visit our website at [www.calpers.ca.gov](http://www.calpers.ca.gov).

### Portfolio Manager Information

The CalPERS Board, through its Investment Committee, directs the CEPPT investment strategy based on policies approved by the Board of Administration. State Street Global Advisors (SSGA) manages all underlying investments for CEPPT, which include: Global Equity, Fixed Income, Real Estate Investment Trusts, and Treasury Inflation-Protected Securities.

### Custodian and Record Keeper

State Street Bank serves as custodian for the CEPPT. Northeast Retirement Services serves as recordkeeper.

### Expenses

CEPPT is a self-funded trust in which participating employers pay for all administrative and investment expenses. Expenses reduce the gross investment return by the fee amount. The larger the expenses, the greater reduction of investment return. Currently, CEPPT expense ratios are 0.25%. This equates to \$2.50 per \$1,000 invested. The expenses consist of administrative expenses borne by CalPERS to administer and oversee the Trust assets, investment management and administrative fees paid to SSGA to manage all asset classes, and recordkeeping fees paid to Northeast Retirement Services to administer individual employer accounts. The expenses described herein are reflected in the net asset value per unit. The expense ratio is subject to change at any time and without prior notification due to factors such as changes to average fund assets or market conditions. CalPERS reviews the operating expenses annually and changes may be made as appropriate. Even if the portfolio loses money during a period, the expenses will still be charged.

## What Employers Own

Each employer invested in CEPPT Strategy 1 owns units of this portfolio, which invests in pooled asset classes managed by CalPERS and/or external advisors. Employers do not have direct ownership of the securities in the portfolio.

### Price

The value of the portfolio changes daily based upon the market value of the underlying securities. Just as prices of individual securities fluctuate, the portfolio's value also changes with market conditions.

## Principal Risks of the Portfolio

The CEPPT fund is a trust fund dedicated to prefunding employer contributions to defined benefit pension plans for eligible state and local agencies. CEPPT is not, however, a defined benefit plan. There is no guarantee that the portfolio will achieve its investment objectives or provide sufficient funding to meet employer obligations.

An investment in the portfolio is not a bank deposit, nor is it insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC), CalPERS, the State of California or any other government agency.

There are risks associated with investing, including possible loss of principal. The portfolio's risk depends in part on the portfolio's asset class allocations and the selection, weighting and risks of the underlying investments. For more information about investment risks, please see the document entitled "CEPPT Principal Investment Risks" located at [www.calpers.ca.gov](http://www.calpers.ca.gov).

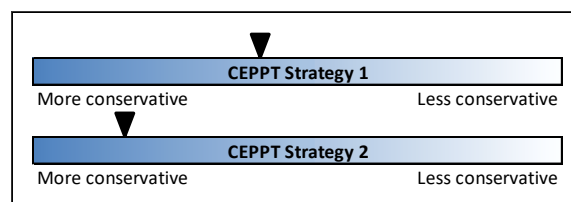
## Fund Performance

Performance data shown on page 1 represents past performance and is no guarantee of future results. The investment return and principal value of an investment will fluctuate so that an employer's units, when redeemed, may be worth more or less than their original cost. Current performance may be higher or lower than historical performance data shown. For current performance information, please visit [www.calpers.ca.gov](http://www.calpers.ca.gov) and follow the links to California Employers' Pension Prefunding Trust.

## CEPPT Strategy Risk Levels

CalPERS offers employers the choice of one of two investment strategies. Projected risk levels among risk strategies vary, depending upon the target asset class allocations. Generally, equities carry more risk than fixed income securities.

Asset Class Target Allocations	Strategy 1	Strategy 2
Global Equity	37%	21%
Fixed Income	44%	61%
Treasury-Inflation Protected Securities	5%	9%
Real Estate Investment Trusts	14%	9%



# CEPPT Strategy 2



September 30, 2022

## Objective

The CEPPT Strategy 2 portfolio seeks to provide capital appreciation and income consistent with its strategic asset allocation. There is no guarantee that the portfolio will achieve its investment objective.

## Strategy

The CEPPT Strategy 2 portfolio is invested in various asset classes that are passively managed to an index. CalPERS periodically adjusts the composition of the portfolio in order to match the target allocations. Generally, equities are intended to help build the value of the employer's portfolio over the long term while bonds are intended to help provide income and stability of principal. Also, strategies invested in a higher percentage of equities seek higher investment returns (but assume more risk) compared with strategies invested in a higher percentage of bonds.

Compared with CEPPT Strategy 1, this portfolio has a lower allocation to equities and a higher allocation to bonds. Historically, funds with a lower percentage of equities have displayed less price volatility and, therefore, this portfolio may experience comparatively less fluctuation of value. Employers that seek greater stability of value, in exchange for possible lower investment returns, may wish to consider this portfolio.

CalPERS Board may change the list of approved asset classes in composition as well as targeted allocation percentages and ranges at any time.

## Assets Under Management

As of the specified reporting month-end:

CEPPT Strategy 2	Annual Expense Ratio
\$25,424,329	0.25%

Note: Target allocations are as of 10/1/2022 and approved by the Board of Administration at the March 2022 Investment Committee meeting.

## Composition

### Asset Class Allocations and Benchmarks

The CEPPT Strategy 2 portfolio consists of the following asset classes and corresponding benchmarks:

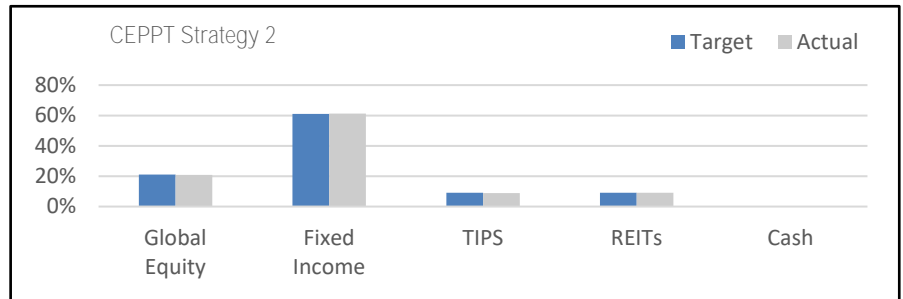
Asset Class	Target Allocation	Target Range	Benchmark
Global Equity	21%	± 5%	MSCI All Country World Index IMI (Net)
Fixed Income	61%	± 5%	Bloomberg US Aggregate Bond Index
Treasury Inflation-Protected Securities ("TIPS")	9%	± 3%	Bloomberg US TIPS Index, Series L
Real Estate Investment Trusts ("REITs")	9%	± 5%	FTSE EPRA/NAREIT Developed Index (Net)
Cash	-	+ 2%	91-Day Treasury Bill

## Portfolio Benchmark

The CEPPT Strategy 2 benchmark is a composite of underlying asset class market indices, each assigned the target weight for the asset class it represents.

### Target vs. Actual Asset Class Allocations

The following chart shows policy target allocations compared with actual asset allocations as of the specified reporting month-end. CalPERS may temporarily deviate from the target allocation for a particular asset class based on market, economic, or other considerations.



## CEPPT Strategy 2 Performance as of September 30, 2022

	1 Month	3 Months	Fiscal YTD	1 Year	3 Years*	5 Years*	10 Years*	Since Inception* (January 1, 2020)
Gross Return <sup>1,3</sup>	-5.81%	-5.53%	-5.53%	-15.80%	-	-	-	-2.48%
Net Return <sup>2,3</sup>	-5.84%	-5.59%	-5.59%	-16.00%	-	-	-	-2.71%
Benchmark Return	-5.86%	-5.58%	-5.58%	-15.90%	-	-	-	-2.62%
Standard Deviation <sup>4</sup>	-	-	-	-	-	-	-	-

\* Returns for periods greater than one year are annualized.

<sup>1</sup> Gross returns are net of SSGA operating expenses.

<sup>2</sup> Net returns are net of SSGA operating expenses, investment management, administrative and recordkeeping fees.

<sup>3</sup> Expenses are described in more detail on page 2 of this document.

<sup>4</sup> Standard deviation is based on gross returns and is reported for periods greater than 3 years.

# CEPPT Strategy 2



September 30, 2022

## General Information

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## What Employers Own

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## Price

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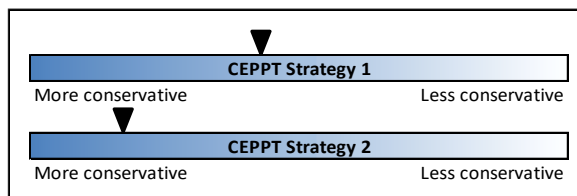
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Asset Class Target Allocations	Strategy 1	Strategy 2
Global Equity	37%	21%
Fixed Income	44%	61%
Treasury-Inflation Protected Securities	5%	9%
Real Estate Investment Trusts	14%	9%





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To: Mayor and City Council

From: Robert Zadnik, City Manager

Subject: Approve Revised Response to Marin County Grand Jury report titled “Electrifying Marin’s Buildings: A Countywide Approach”

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**Recommended Motion/Item Description**

Approve revised response to Marin County Civil Grand Jury Report: “Electrifying Marin's Buildings: A Countywide Approach.”

**Background**

On June 6, 2022, the 2021-2022 Marin Civil Grand Jury published a report entitled “Electrifying Marin’s Buildings: A Countywide Approach” which lays out findings and recommendations for local jurisdictions to reduce greenhouse gas emissions in the building sector through the Green Building “reach code” process.

The City of Belvedere was asked to respond to Findings F1-F6 and Recommendations R1-R3 of that Grand Jury Report. At the September 12, 2022 City Council Meeting, Council reviewed and approved the proposed response provided by staff for Findings F1-F6 and Recommendations R1-R3 (**Attachment 1**). This response was developed through a joint effort with Building Officials in Marin County and technical experts in the field of environmental sustainability. Staff submitted the response approved by Council to the Grand Jury and on September 21, 2022, staff received notification that the response to Recommendations R1- R3 were not accepted by the Grand Jury as they required timeframe information as specified by California Penal Code Section 933.05.

**Discussion**

Staff reviewed the submitted responses of the City’s initial Response to the Grand Jury Report and made the necessary corrections to Recommendations R1, R2 and R3 so that the revised responses comply with the requirements of California Penal Code Section 933.05. The revised responses to the recommendations are as follows:

- R1. On or before January 1, 2023, Marin County and each of its cities and towns that have not already done so should adopt a reach code banning natural gas connections in newly constructed buildings.**

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Response: This recommendation requires further analysis. Staff will first need to consider the feasibility of implementing reach codes by the R1 January 1, 2023, deadline. This work is currently underway, and a determination is anticipated by December 2022.

Although the City of Belvedere agrees that all-electric buildings are critically important to a holistic response to climate change, The City, along with several other Marin jurisdictions and the Marin County Code Advisory Board (MCCCAB) are actively meeting to analyze reach codes related to electrification. Further research is needed at the statewide level to determine how best to assist the utility providers in offering more affordable, dependable, electric power and options for cost-efficient methods of electrifying new homes.

**R2. On or before January 1, 2023, Marin County and each of its cities and towns that have not already done so should adopt a reach code requiring energy efficiency measures in connection with renovations of existing residential buildings. The reach code should specify the size of the renovation that will trigger the requirement and provide flexibility by allowing the applicant to choose from a list of energy efficiency measures, including electrification of gas appliances.**

Response: This recommendation requires further analysis. Similar to Recommendation R1, staff is currently investigating the feasibility of implementing reach codes by the prosed deadline of January 1, 2023. A determination is anticipated by December 2022.

This topic has been discussed in numerous County-wide working groups. It has been difficult to reach a consensus regarding the size of the project that would trigger reach codes and a consistent list of energy efficiency measures to be taken by the applicant. Each jurisdiction has unique factors concerning which method(s) of energy efficiency would best fit their municipality.

**R3. Marin County and each of its cities and towns, collaborating through the Marin Climate and Energy Partnership or otherwise, should develop a comprehensive Countywide Building Electrification Plan to be completed on or before January 1, 2024. The Plan should identify those strategies, programs, and concrete actions necessary to bring about an equitable, prompt, and material acceleration of building electrification throughout the county.**

Response: This recommendation requires further analysis. This work is currently underway. Our intent is to participate in the completion of this plan to meet the recommended deadline of January 1, 2024.

This must be a County-wide response. To achieve this recommendation, representatives from each County jurisdiction will need to conduct meetings in order to come to a mutual and comprehensive County-wide plan that best fits the needs of all Marin County municipalities. Further analysis and collaboration are needed to ensure a comprehensive plan is generated to address the needs of all Marin County jurisdictions.

### **Fiscal Impact**

There is no fiscal impact associated with this action.

**Attachments**

1. September 12<sup>th</sup> response to Grand Jury

**RESPONSE TO GRAND JURY REPORT FORM  
City of Belvedere**

**Report Title:** Electrifying Marin's Buildings: A Countywide Approach  
**Report Date:** June 6, 2022  
**Public Release:** September 12, 2022  
**Response By:** Sally Wilkinson, Mayor of City of Belvedere,  
& Irene Borba, Belvedere Director of Planning & Building

**FINDINGS:**

We agree with the findings numbered **F2, F4-F5**

We disagree wholly or partially with the findings numbered **F1, F3, F6**

(See Attachment A)

**RECOMMENDATIONS:**

- Recommendations numbered \_\_\_\_\_ have been implemented.
- Recommendations numbered \_\_\_\_\_ have not yet been implemented but will be implemented in the future.
- Recommendations numbered **R1, R2 and R3** require further analysis. (Attachment A)
- Recommendations numbered \_\_\_\_\_ will not be implemented because they are not warranted or are not feasible.

Date: 09/12/2022

Signed: \_\_\_\_\_  
Sally Wilkinson, Mayor

Date: 09/12/2022

Signed: \_\_\_\_\_  
Irene Borba, Director of Planning & Building

Number of pages attached: 4

**Attachment A: Response of the City of Belvedere to Grand Jury Report “Electrifying Marin’s Buildings: A Countywide Approach”**

**Findings and Responses**

**F1. With the building sector accounting for approximately 34 percent of greenhouse gas emissions in Marin County, it will be necessary to substantially reduce emissions from that sector if the county and its cities and towns are to meet their 2030 greenhouse gas reduction goals.**

Response: Partially Disagree

It is reasonable to believe that the City of Belvedere is on pace to meet its energy goals, as defined in the City’s Climate Action Plan and by the State of California Energy Commission, that all new residential and commercial construction be zero net energy by 2030. The City, and other neighboring Marin County municipalities met or exceeded their 2020 energy goals and are on pace to do the same with their 2030 goals. The State Building Codes continue to increase energy efficiency and Green Building requirements each Code cycle with an intent to meet this goal.

The grand jury targeted the building industry which accounts for 34% of GHG emissions, with 27% of GHG emissions produced by natural gas. However, the report ignores the transportation industry which accounts for 52%. Unfortunately, this is a missed opportunity as the combined sectors make up 86% of GHG emissions. There are also several shared building elements or public improvements that will be necessary to reduce transportation related GHG emissions. A reduction to the 27% level of GHG emission from natural gas in the building sector will only have an incremental effect on GHG overall and should not be thought of as the sole solution.

Additionally, the report utilizes information for residential gas usage, produced in a 2007 study. Since that time, the State Building Code and the California Energy Commission have implemented a number of new codes and regulations aimed at reducing GHG emissions.

**F2. Reducing or eliminating natural gas as a fuel source in buildings will dramatically reduce greenhouse gas emissions from Marin County’s building sector.**

Response: Agree

The grand jury’s proposed elimination of natural gas will reduce GHG emissions. While this may be true, it will also cause the public to look for other alternatives. As an example, when the PG&E public safety power shutoffs (PSPS) were implemented to reduce the risk of wildfires, the public turned to alternatives like portable generators or permanent generators. When this happened, many jurisdictions and their associated noise ordinances reduced the possibility for installing generator in many locations. This led to numerous installations of generators without permits. With the elimination of natural gas, having the flexibility to find cost-effective energy solutions becomes

more difficult, as options become more limited. This creates an imbalance in finding equitable solutions.

This approach needs to be evaluated further to understand some of the unintended consequences that will need mitigation to effectively implement natural gas restrictions. It is also important to note that the cost of an equivalent unit of gas and electric charge plays into these issues as consumers often look toward the most cost-effective solution. However, due to electricity being treated as a commodity, industries are looking for ways to maintain profitability, which is why companies like PG&E will still rely on natural gas to produce electric power which is 7% of the GHG emissions associated with the building sector.

**F3. The use of natural gas in buildings gives rise to health and safety risks, including adverse health effects attributed to exposure to natural gas, and safety risks posed by pipeline leaks, ruptures, and explosions. These health and safety risks serve as additional reasons to eliminate natural gas as a fuel source in new and existing buildings.**

Response: Partially Disagree

Indoor air quality continues to be an ongoing problem in the building industry. As buildings have become more efficient, they have lost communication with the exterior environment. This has led to respiratory and other health issues. Fossil fuel burning such as gas stoves, particularly when unvented, can be a primary source of indoor air pollution. For this reason, building code now requires whole home fans and mandatory venting requirements for all fossil fuel burning appliances. While natural gas can be hazardous if improperly installed, the same is true of all power sources. Alternative fuel appliances for cooking can also be dangerous. As an example, induction cooking cannot be used by people with pacemakers as the electromagnetic field (EMF) produced by induction cooking can cause interference with the operation of pacemakers. In addition, induction cooking ranges are also subject to labeling as cancer causing because of EMFs. While induction cooking can be seen as producing fewer overall GHG emissions, it is not a solution that can be uniformly applied. This further supports the need to study alternatives to eliminating natural gas specifically for cooking.

Furthermore, the report speaks of safety risks posed by gas pipeline leaks, ruptures, and explosions. The report omits the risks caused by poorly maintained, or not maintained, electrical infrastructure. It is believed that PG&E electrical infrastructure has had a hand in over 1000 California wildfires in just the last eight years—these include the wildfires that destroyed neighborhoods in Napa/Sonoma County, and the nearly complete destruction of the City of Paradise, in Butte County California.

**F4. The timely reduction of greenhouse gas emissions from Marin County’s building sector will require in-depth, comprehensive, and coordinated planning. A countywide planning process, coordinated by Marin Climate and Energy Partnership or the county’s Sustainability Team, would be an effective and efficient means of sustaining focus and leveraging the resources needed for developing a Countywide Building Electrification Plan.**

Response: Agree

**F5. Underserved communities and lower income households have greater vulnerability to rising energy costs and will likely require extra financial support to mitigate those costs and reduce household greenhouse gas emissions through measures that require significant up-front investment.**

Response: Agree

However, some of the proposals in the report are not cost-effective and may impact consumers negatively; the report recommendations need to be tied to housing affordability. The costs to transition to all-electric energy solutions have been studied by the California Energy Commission

**F6. The timely electrification of existing buildings will likely require one or more mandatory measures, supported where necessary by financial subsidies and rebates.**

Response: Partially Disagree

The City of Belvedere agrees that the near-term electrification of existing buildings will likely require one or more mandatory measures. However, financial subsidies cannot always not be seen as a mitigation, as often those programs do not uniformly incentivize the public and can be exhausted of funds.

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**RECOMMENDATIONS AND RESPONSES:**

**R1. On or before January 1, 2023, Marin County and each of its cities and towns that have not already done so should adopt a reach code banning natural gas connections in newly constructed buildings.**

Response: This recommendation requires further analysis.

Although the City of Belvedere agrees that all-electric buildings are critically important to a holistic response to climate change, the adoption date of January 1, 2023, leaves too little time for jurisdictions to implement the needed policies, procedures, and staff training. The City, along with several other Marin jurisdictions and the Marin County Code Advisory Board (MCCCAB) are actively meeting to analyze reach codes related to electrification. Further research is needed at the statewide level to determine how best to assist the utility providers in offering more affordable, dependable, electric power and options for cost-efficient methods of electrifying new homes.

- R2. On or before January 1, 2023, Marin County and each of its cities and towns that have not already done so should adopt a reach code requiring energy efficiency measures in connection with renovations of existing residential buildings. The reach code should specify the size of the renovation that will trigger the requirement and provide flexibility by allowing the applicant to choose from a list of energy efficiency measures, including electrification of gas appliances.**

Response: This recommendation requires further analysis.

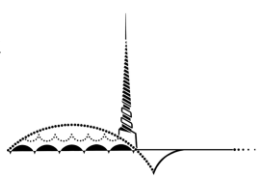
This topic has been discussed in numerous County-wide working groups. It has been difficult to reach a consensus regarding the size of the project that would trigger reach codes and a consistent list of energy efficiency measures to be taken by the applicant. Each jurisdiction has unique factors concerning which method(s) of energy efficiency would best fit their municipality. Similar to Recommendation R1, a deadline of January 1, 2023, leaves insufficient time to engage those stakeholders.

- R3. Marin County and each of its cities and towns, collaborating through the Marin Climate and Energy Partnership or otherwise, should develop a comprehensive Countywide Building Electrification Plan to be completed on or before January 1, 2024. The Plan should identify those strategies, programs, and concrete actions necessary to bring about an equitable, prompt, and material acceleration of building electrification throughout the county.**

Response: This recommendation requires further analysis.

This must be a County-wide response. To achieve this recommendation, representatives from each County jurisdiction will need to conduct meetings in order to come to a mutual and comprehensive County-wide plan that best fits the needs of all Marin County municipalities. Further research and collaboration are needed to ensure a comprehensive plan is generated to address the needs of all Marin County jurisdictions. The City will participate in these efforts prior to pursuing recommendations one and two.





## 2021–2022 MARIN COUNTY CIVIL GRAND JURY

# ELECTRIFYING MARIN'S BUILDINGS: A COUNTYWIDE APPROACH

June 6, 2022

## SUMMARY

Marin County's electricity supplies are becoming cleaner due to the expanding role played by solar and other renewable sources. As this trend continues, local governments have become increasingly engaged in reducing greenhouse gas emissions by electrifying the county's transportation and building sectors. "Building electrification" refers to the elimination of natural gas-fueled appliances in households and businesses. It aims for adoption of four electric appliances: heat pump space heaters, heat pump water heaters, induction cooktops/ranges, and upgraded service panels. Because the life cycles of appliances are long—often 10 to 20 years or more—decisions made today can have long-term impacts. By one estimate, in order to fully electrify U.S. households before 2050, more than 80 million of these appliances in more than 50 million households would have to be replaced over the next decade.<sup>1</sup> While policy-makers in Washington and Sacramento have an important role to play, change on this scale will be very difficult without robust engagement at the local level. The timely pursuit of building electrification will depend in no small measure on local regulations and consumer decisions that are shaped and supported by local communities.

Initial steps are currently being taken by the county and its cities to pave the way toward building electrification. But as the stakes grow higher with each passing year, the time has come for Marin to pursue an integrated and comprehensive countywide building electrification planning process that will strengthen and accelerate decision-making by public officials throughout the county.

In the discussion that follows, the Grand Jury addresses:

- The critical role building electrification plays in advancing Marin County's greenhouse gas reduction targets and in improving the health and safety of its residents
- Proposed "reach" codes for adoption by local jurisdictions that would bring an end to natural gas connections in newly constructed buildings and enhance energy efficiency in homes undergoing renovation

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<sup>1</sup> Trevor Higgens, Bianca Majumder, Debbie Lai, Ari Matusiak, and Sam Calisch, *To Decarbonize Households, electrifying all of Marin County's buildings within a specified time period* *America Needs Incentives for Electric Appliances*, June 3, 2021, <https://www.americanprogress.org/article/decarbonize-households-america-needs-incentives-electric-appliances/>.

- A comprehensive countywide building electrification planning process aimed at potential building electrification strategies that should be addressed as part of a countywide planning process.
- The importance of equity as a guiding principle in planning.

## **APPROACH**

The Marin County Civil Grand Jury investigated the actions taken by Marin's county, city, and town governments to reduce greenhouse gas emissions, including their identification of the sources of these emissions and their strategies to meet emission reduction goals established by state law and otherwise. The Grand Jury focused on the building sector as a primary contributor of greenhouse gas emissions and assessed existing and proposed programs and strategies to bring about the effective and equitable electrification of buildings in Marin.

In carrying out this investigation, the Grand Jury interviewed elected officials, department heads, and staff in the Marin County government and in Marin's city and town governments; interviewed agency officials and non-profit advocacy groups engaged in climate change mitigation; and reviewed reports, studies, plans, and state and local laws dealing directly or indirectly with climate change mitigation.

In the course of its investigation, the Grand Jury repeatedly encountered individuals throughout county and local government who are passionate about their work and extremely well-informed about climate change impacts and mitigation measures. The findings and recommendations presented here are intended to offer a unique perspective afforded by the investigation and help promote an ongoing dialog among county staff, local jurisdictions, and the public on an important component of greenhouse gas reduction efforts.

## **BACKGROUND: WHY BUILDING ELECTRIFICATION MATTERS**

### **The Increasing Urgency of Marin's Efforts to Mitigate Climate Change**

This past year our nation has seen a variety of extreme weather-related impacts including off-season tornados, dramatic flooding, and wildfires at times and locations previously thought immune from such disasters. The hottest annual temperatures ever recorded worldwide have all occurred between 2016 and 2021.<sup>2</sup> More intense and frequent heat waves, droughts, wildfires, and severe weather events are all results of climate change which are now manifesting throughout the country and the world. Marin County has recently experienced severe drought, ongoing heightened wildfire risk, and the slow creep of sea level rise along our shorelines. Given these developments, scientists and government leaders across the globe agree there is an increasing urgency to reduce greenhouse gas emissions if the worst impacts of climate change are to be avoided.

California has helped lead the way in framing the urgent need for prompt action. Legislation passed in 2016 requires state agencies to enact regulations and implement programs that will result in a statewide reduction in greenhouse gas emissions to 40 percent below 1990 levels by

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<sup>2</sup> United Nations, UN News Global Perspective Human Stories, *2021 joins top 7 warmest years on record: WMO*, January 19, 2022, <https://news.un.org/en/story/2022/01/1110022#:~:text=The%20warmest%20seven%20years%20have,to%20record%20global%20average%20warming.>

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To: Mayor and City Council

From: Irene Borba, Director of Planning & Building

Reviewed by: Amy Ackerman, City Attorney  
Robert Zadnik, City Manager

**Subject: Approve revocable license for proposed private improvements in the City street right-of-way along the frontage of the property at 312 Beach Road and for improvements on City Property, commonly referred to as “The Strip”**

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**Recommended Motion/Item Description**

That the City Council approve a revocable license agreement for 312 Beach Road for improvements in the Beach Road Street right-of-way for a driveway apron/new stone paving and for landscaping on city property at the rear of the existing residence on property commonly referred to as “The Strip.”

**Background and Planning Commission Findings**

The proposed project was originally heard at the September Planning Commission meeting. The Commission continued the item to allow the applicant time to address the Commission's questions and concerns regarding the project. The Commission wanted the applicant to provide a landscaping proposal that included the entire private property of 312 Beach as well as a landscape plan for the city property. The Commissioners also wanted confirmation/approval from MMWD regarding the proposed planting plan. The staff report and plans from the September 2022 Planning Commission meeting can be found here:

[https://www.cityofbelvedere.org/AgendaCenter/ViewFile/Agenda/\\_09202022-674?html=true](https://www.cityofbelvedere.org/AgendaCenter/ViewFile/Agenda/_09202022-674?html=true)

The item was considered again and approved at the October Planning Commission meeting. The project consisted of the following:

*City Property* – The applicant provided a complete landscaping plan for the city property at the rear of 312 Beach Road. The landscaping plan includes a variety of low-growing shrubs and grasses. There are no stairs or lighting proposed on the city property.

*Private Property (312 Beach Road)* – The landscaping plan was revised to add landscaping at the rear of the residence. Additionally, the applicants modified the landscaping along the property boundary (between 312 Beach and the Wisenbaker property) to include English laurels and strawberry trees. Also, the plan as proposed indicated that the existing eugenia shrubs will remain; these should eventually grow to screen a portion of the existing garage structure from the

neighbor's property. A new tree (magnolia) is also proposed at the corner of the garage. A new 42" guard rail is also proposed in this area.

The applicants changed their proposal for the street frontage of the property. Originally, the applicant proposed a low wall and fence along the property frontage (Beach Road). The amended proposal includes a low curb (8' wide & 12" high) with a hedge; no fencing is proposed. Also, per the plans, the applicant requests removal of the existing magnolia tree. The applicant proposes three magnolia trees at the front of the property behind the proposed hedge to replace the one that is requested to be removed. New slate pavers are proposed along the property frontage.

The applicant proposed six landscape lights at the front of the property. The light fixture was changed from the previous proposal so that the fixture does not have an adjustable head and will only point downward.

The Marin Municipal Water District ("MMWD") has reviewed and approved the landscaping plan (approval attached). According to an email communication with MMWD, the plan approved by MMWD includes the removal of some miscanthus in favor of deer grass, which is more suitable for this area. The staff report and plans from the October 2022 Planning Commission meeting can be found here:

<https://www.cityofbelvedere.org/AgendaCenter/ViewFile/Agenda/10182022-680?html=true>

The Commission approved the project and recommended Council approval of the requested revocable licenses for the improvements in the city right-of-way and on city property.

### **REVOCABLE LICENSE**

In accordance with Section 11.7 of the City's Administrative Policy Manual, a revocable license for private use of excess street right-of-way may be granted at the discretion of the City Council when there is some benefit to the public, provided any proposed encroachment into the right-of-way complies with the Design Review requirements of Title 20 of the Belvedere Municipal Code.

A review of city records indicates the following revocable licenses regarding 312 Beach Road:

1. The City Council approved a revocable license on June 5, 1978, for one dock shared by both 310 and 312 Beach. The revocable license was later replaced with a dock lease in 1989.
2. On July 17, 2018, the City of Belvedere Planning Commission approved application requests for Demolition, Design Review, Exception to Total Floor Area, Variance and revocable license applications to build a new single-family home, detached garage and other associated site improvements and recommended approval for the proposed encroachments into the public right-of-way. The Commission/staff found at that time that the encroachments were necessary to provide pedestrian and vehicular access from private property to the adjacent public street and that the encroachment will provide access to the water and the dock.
3. In September of 2018, Council approved two revocable licenses for the following improvements:

- a. Driveway and plantings in the Beach Road right-of-way at the front of 312 Beach Road.
- b. New on-grade steps, a small terrace with metal trellis, hillavator and plantings in the City-owned tide lot at the rear of 312 Beach Road.

Staff notes these revocable licenses from 2018 were *never* executed and the applicant never built the associated improvements. The 2018 approvals were for a previous project that was not built and the approvals for that project expired. Therefore, new revocable licenses are required.

The *current* application(s) for Revocable License for consideration include the following

- City right-of-way along Beach Road – Driveway apron/new stone paving.
- Affected City Property – Landscaping

Factors the City Council considers when determining whether to grant a revocable license for the private use of excess street right-of-way include, but are not limited to, the following listed below. Staff concludes the factors are satisfied, as explained in the italicized language, and that a revocable license is appropriate. Staff also concludes that the revocable license is for the public benefit.

- a. Where necessary to provide pedestrian or vehicular access from private property to the adjacent public street;

*There is an existing driveway apron that provides vehicle access over city property to the residence. The new driveway will also provide for necessary access over city property to the residence.*

- b. Where use of the public right-of-way will permit landscaping and/or related improvements to be installed that the City Council determines will enhance the aesthetic qualities of the streetscape. Any such landscaping and/or related improvements should not significantly impede public views or views from neighboring properties, or infringe on the privacy of neighboring properties;

*There is no new vegetation proposed in the city right-of-way along Beach Road.*

*New vegetation however is proposed on the affected city property at the rear of the residence. The new vegetation will replace existing vegetation/brush removed from the property without proper approvals by the property owner. The proposed new vegetation will help to soften and screen the hillside and replaces the vegetation that was removed, improving the aesthetics of the surrounding area. Said landscaping will not significantly impede public views from what currently exists or infringe on the privacy of neighboring properties. The proposed landscaping is a combination of low ground cover and shrubs which appear to be drought tolerant. The additional plantings will aid with erosion control along with the other erosion control measures (coconut netting and wattles) currently in place in place.*

- c. Where use of the public right-of-way will permit the creation of an off-street parking area, and will thereby relieve parking or traffic congestion on the adjacent City street;

*Not applicable.*

- d. Where the public right-of-way will be used to construct retaining walls, drainage structures or other facilities that the City considers necessary to protect or maintain the public infrastructure;

*There are no retaining walls proposed in the right-of-way.*

- e. Where appropriate to validate already existing private improvements in the public right-of-way for the purpose of shifting the City’s potential liability for injuries and damages to the private property owners using the right-of-way for private purposes;

*A revocable license confirms that potential liability for injury and damages shifts to the private property owner.*

- f. Where necessary to protect or enhance public safety;

*The additional plantings on the affected City Property will aid with erosion control along with the other erosion control measures (coconut netting and waddles) currently in place in place, which will enhance public safety for residents that use the Strip.*

- g. Where use of the public right-of-way will provide an area for street-level refuse and recycling containers on property that would otherwise not have an area for such improvements.

*Not applicable as no street-level refuse area is proposed with this project.*

Additionally, the Administrative Policy further states: “Where fencing is proposed on City property, except for where said fencing would be located on a very steep slope and would serve as a safety measure for vehicles and pedestrians, said fencing should normally be avoided as this effectively turns public property into private property and potentially creates the unwanted image of a ‘tunnel effect’ along our city streets. Fences and other similar barriers, including landscaping, that enclose public property for private use should be avoided.”

*No fencing is proposed in the public right-of-way.*

***Public Benefit***

The project benefits the public. The proposed landscaping on the affected City Property will soften the hillside from the water. The additional plantings will aide with erosion control along with the other erosion control measures (coconut netting and waddles) currently in place in place.

Staff recommends that the City Council review the Revocable License application for consistency with Administrative Policy section 11.7 and approve the Revocable Licenses.

***Future improvements***

The license covers any future improvements within the revocable license area which receive staff or Planning Commission design review approval, and which meet one or more of the criteria for approval of revocable license listed in the City’s Administrative Policy Manual, Policy 11.7, as adopted by City Council resolution. Applications for substantial, potentially permanent and/or obstructive structures within the City right-of-way, which fall outside the criteria, will still be required to go to the City Council for consideration and approval/denial. Detailed records at City Hall, maintained in the Planning Department file for this address, will always be available to show exactly what structures have been approved within the license area. This will save considerable

staff time that would otherwise be devoted to bringing a revised license and staff report to the City Council, along with issuing, recording, and archiving a new license agreement.

**Recommended Action**

That the City Council approve a revocable license agreement for improvements for 312 Beach Road as part of the Consent Calendar for improvements in the Beach Road Street right-of-way for a driveway apron/new stone paving, and for landscaping on city property at the rear of the existing residence on city property commonly referred to as “The Strip”.

**Attachments**

1. Draft license agreement with attached exhibit.

RECORDING REQUESTED BY:  
City Clerk, City of Belvedere  
RECORD WITHOUT FEE PER G.C. 27383

AND WHEN RECORDED MAIL TO:

City Clerk  
City of Belvedere  
450 San Rafael Avenue  
Belvedere, CA 94920-2336

**CITY OF BELVEDERE**

**REVOCABLE LICENSE NO. 2022-07**

ASSESSOR'S PARCEL NO.: **060-233-08**  
ADDRESS: **312 Beach Road, Belvedere, California 94920**  
OWNER: **Scott Robertson**  
DATE ISSUED: **November 14, 2022**

The City of Belvedere, California, a municipal corporation (hereinafter referred to as "City"), hereby authorizes and licenses the owner of the land described above and in Exhibit "A" (hereinafter referred to as "Licensee"), at its own cost and expense, to encroach upon the adjoining land owned by the City of Belvedere (hereinafter referred to as "Premises") for the following purpose:

driveway apron & stone paving on the Beach Road property frontage, and landscaping on city property, commonly known as "The Strip" at the rear of the property.

The above-described improvements received City design review approval. This license shall cover any future improvements within the revocable license area which receive design review approval, and which meet one or more of the criteria adopted by City Council resolution for the granting of revocable licenses. Any future revocable license application which does not meet the criteria must be approved by the City Council.

This revocable license is granted subject to the following terms and conditions:

1. Licensee shall save and hold harmless the City of Belvedere from any loss, damage, or injury of any kind or character whatsoever that may arise from anything done, or omitted to be done, by Licensee, its agents, employees or contractors in connection with or in any way related to the matters authorized by this License. Licensee agrees to hold City harmless and indemnify City (including, but not limited to, attorney fees, expert witness costs and court costs), without limitation, from and against any and all claims, injuries, damage, liability and/or cause of action which may ever arise as a result of injury and/or damage to property claimed to be the result of construction and/or failure to maintain said property or improvements by Licensee in, on, under, or above City property which is the subject of the revocable license granted Licensee by City.
2. To the extent this License authorizes the erection or installation of any building, fence, wall, or other structure or facility in or upon land owned by City, Licensee agrees to erect and install the same in accordance with plans and specifications approved by the Planning Commission of the City of Belvedere and further agrees to maintain the same at all times in good condition and repair, all at Licensee's sole cost and expense.
3. To the extent this License authorizes the erection or installation of any infrastructure improvements which are subject to the Americans With Disabilities Act ("the Act"), Licensee agrees to construct and maintain those improvements in full compliance with the requirements of the Act.



4. If Licensee shall fail to comply with the terms and conditions of this License, the City, at its option may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated. Licensee shall not restrict access by the public and/or by adjacent property owners to the licensed area.
5. Licensee shall execute this License by: signing the License; making an acknowledgement of the License before a notary public or an officer specified by the State to take the acknowledgement of instruments of writing; and delivering the signed License and certificate of acknowledgement to the City. If Licensee shall fail to execute this License within thirty days of the date issued, the City may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated.
6. Anything herein to the contrary notwithstanding, this License shall be revocable at the pleasure of the City Council of the City of Belvedere. The election to revoke this License may be exercised at any time by mailing or delivering to Licensee at the address hereinabove stated a notice of revocation and termination. Within the time specified in said notice, Licensee shall, at its own cost and expense, remove from the Premises the encroachment and all structures and facilities placed thereon or therein by Licensee.
7. That upon the failure of Licensee to comply with any of the agreements contained herein, City may declare said improvements to be a public nuisance and may take such action as may be authorized by law to abate said nuisance. The City shall be entitled to recover from Licensee costs of suit and reasonable attorney's fees, to be determined by the court. The remedy of City as contained in this paragraph shall not be exclusive.
8. The Licensee acknowledges that the property interest created hereunder by issuance of this license may be subject to possessory interest taxation and said Licensee in whom such possessory interest is vested recognizes and agrees that it/they shall be solely responsible for payment of all such taxes levied upon said possessory interest.
9. The Licensee shall deliver this license to any successor in interest to the above-described land.
10. The agreements contained herein are covenants and servitudes running with the land and shall be binding upon Licensee and its successors, assignors, executors, administrators, and personal representatives.
11. The Licensee shall obtain an encroachment permit from the City prior to the commencement of any work on City property.
12. Any previous revocable licenses issued to this property are now null and void.

Issued by direction of the City Council of the City of Belvedere pursuant to action taken at its meeting of November 14, 2022.

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Robert Zadnik, City Manager

The foregoing License is accepted and its terms and conditions are agreed to:

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Scott Robertson

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To: Mayor and City Council

From: Samie Malakiman, Associate Planner

Reviewed By: Irene Borba, Director of Planning and Building  
Robert Zadnik, City Manager  
Amy Ackerman, City Attorney

**Subject: Revocable license for private improvements in the City street right-of-way along San Rafael Avenue for the property at 220 San Rafael Avenue**

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**Recommended Motion/Item Description**

That the City Council review and approve a revocable license agreement for 220 San Rafael Avenue for existing improvements in the 220 San Rafael Avenue right-of-way for: existing Landscaping, Walkway, and Driveway.

**Background and Findings**

*Proposed encroachment on City property – 220 San Rafael Avenue – APN 060-031-35.* The attached license agreement requires the property owner to assume liability and maintenance responsibilities for:

Existing Landscaping, Walkway, and Driveway

***Background of current application***

On July 20, 2022, a Design Review Exception was approved for exterior and interior renovations to the residence at 220 San Rafael Avenue. During the initial application review, Staff identified private improvements within San Rafael Avenue public right-of-way that had not yet been validated by a revocable license. As a condition of approval, the applicant is required to obtain a revocable license to validate the existing private improvements on the San Rafael Avenue right-of-way.

A review of city records indicates that there is no existing Revocable License for the property.

*Existing Improvements*

- Landscape
- Walkway
- Driveway

*No new improvements are proposed in the San Rafael Avenue right-of-way. Existing improvements are noted above.*

***Compliance with Administrative Policy Manual Section 11.7, Revocable Licenses***

In accordance with Section 11.7 of the City's Administrative Policy Manual, a revocable license for private use of excess street right-of-way may be granted at the discretion of the City Council when there is public benefit and the proposed encroachment into the right-of-way complies with the design review requirements of Title 20 of the Belvedere Municipal Code. The existing and proposed improvements conform to the Administrative Policy Manual for revocable licenses.

The Belvedere Administrative Policy Manual provides that the City Council may grant a revocable license for the private use of excess right-of-way if there is public benefit and is consistent with the factors set forth in the Administrative Policy Manual. (Administrative Policy No. 11.7.) Here, staff recommends that the Council approve a revocable license for the existing improvements, as indicated in italics below.

- a. Where necessary to provide pedestrian or vehicular access from private property to the adjacent public street;

*The existing driveway and walkway provide pedestrian and vehicular access from the property to San Rafael Avenue. No modifications are proposed to existing conditions.*

- b. Where use of the public right-of-way will permit landscaping and/or related improvements to be installed that the City Council determines will enhance the aesthetic qualities of the streetscape. Any such landscaping and/or related improvements should not significantly impede public views or views from neighboring properties, or infringe on the privacy of neighboring properties;

*Landscape rocks and plantings currently exist along the public right-of-way to help soften and enhance the aesthetic qualities of the streetscape. No modifications to the existing conditions are proposed. The existing landscaping does not impede public views or infringe on the privacy of neighboring properties.*

- c. Where use of the public right-of-way will permit the creation of an off-street parking area, and will thereby relieve parking or traffic congestion on the adjacent City street;

*The existing driveway provides two off-street parking spaces to relieve parking and traffic congestion while providing parking for the homeowners. No modifications are being proposed to the existing conditions.*

- d. Where the public right-of-way will be used to construct retaining walls, drainage structures or other facilities that the City considers necessary to protect or maintain the public infrastructure;

*There are no new retaining walls proposed in the right-of-way.*

- e. Where appropriate to validate already existing private improvements in the public right-of-way for the purpose of shifting the City’s potential liability for injuries and damages to the private property owners using the right-of-way for private purposes;

*The existing improvements include: concrete driveway, walkway, and landscaping. This application does not intend to modify the existing public right-of-way conditions; a revocable license confirms that potential liability for injury and damages shifts to the private property owner.*

- f. Where necessary to protect or enhance public safety;

*Not applicable as the existing sidewalk and improvements provide a public safety.*

- g. Where use of the public right-of-way will provide an area for street-level refuse and recycling containers on property that would otherwise not have an area for such improvements.

*Not applicable as no street-level refuse area is proposed with this project.*

Additionally, the Administrative Policy states: “Where fencing is proposed on City property, with the exception of where said fencing would be located on a very steep slope and would serve as a safety measure for vehicles and pedestrians, said fencing should normally be avoided as this effectively turns public property into private property and potentially creates the unwanted image of a ‘tunnel effect’ along our city streets. Fences and other similar barriers, including landscaping, that enclose public property for private use should be avoided.”

*Not applicable as no fencing is proposed within the public right-of-way.*

***Public Benefit***

The project benefits the public, as the existing improvements provide an aesthetic appeal to the property frontage and will continue to provide safe pedestrian access. Validating the existing improvements with a revocable license ensures that the existing improvements are consistent with the Belvedere Administrative Policy Manual as described above.

***Future improvements***

The license covers any future improvements within the revocable license area that receive staff or Planning Commission design review approval, and which meet one or more of the criteria for approval of revocable license listed in the City’s Administrative Policy Manual, Policy 11.7, as adopted by City Council resolution. Applications for substantial, potentially permanent and/or obstructive structures within the City right-of-way, which fall outside the criteria, will still be required to go to the City Council for consideration and approval/denial. Detailed records at City Hall, maintained in the Planning Department file for this address, will be retained in perpetuity to memorialize the exact structures approved by the city within the license area. This will save considerable staff time that would be devoted to bringing a revised license and staff report to the City Council and in issuing, recording, and archiving a new license agreement.

**Recommended Action**

That the City Council approve a revocable license agreement for existing improvements for 220 San Rafael Avenue as part of the Consent Calendar.

**Attachments**

- a. Draft license agreement with attached exhibit.
- b. Revocable License Application.
- c. Google Street View.

RECORDING REQUESTED BY:  
City Clerk, City of Belvedere  
RECORD WITHOUT FEE PER G.C. 27383

AND WHEN RECORDED MAIL TO:

City Clerk  
City of Belvedere  
450 San Rafael Avenue  
Belvedere, CA 94920-2336

**CITY OF BELVEDERE**

**REVOCABLE LICENSE NO. 2022-08**

ASSESSOR'S PARCEL NO.: **060-031-35**  
ADDRESS: **220 San Rafael Avenue, Belvedere, California 94920**  
OWNER: **Pai Family Trust**  
DATE ISSUED: **November 14, 2022**

The City of Belvedere, California, a municipal corporation (hereinafter referred to as "City"), hereby authorizes and licenses the owner of the land described above and in Exhibit "A" (hereinafter referred to as "Licensee"), at Licensee's own cost and expense, to encroach temporarily upon the adjoining land owned by the City of Belvedere (hereinafter referred to as "Premises") for the following purpose:

Validate Existing Landscaping, Walkway, and Driveway improvements.

The City does not have a current record for when the existing public right-of-way improvements were made. On July 20, 2022, a Design Review Exception was granted for exterior improvements at which time Staff required the applicant to apply for a Revocable License to validate existing improvements. This license shall cover any future improvements within the revocable license area which receive design review approval from the Planning Commission or Planning staff and which meet one or more of the criteria adopted by City Council resolution for the granting of revocable licenses.

A legal description of the Premises is attached hereto as Exhibit A and incorporated herein by reference.

This revocable license is granted subject to the following terms and conditions:

1. Licensee shall save and hold the City harmless from any loss, damage, or injury of any kind or character whatsoever that may arise from anything done, or omitted to be done, by Licensee, its agents, employees or contractors in connection with or in any way related to the matters authorized by this License. Licensee agrees to hold City harmless and indemnify City (including, but not limited to, attorney fees, expert witness costs and court costs), without limitation, from and against any and all claims, injuries, damage, liability and/or cause of action which may ever arise as a result of injury and/or damage to property claimed to be the result of construction and/or failure to maintain said property or improvements by Licensee in, on, under, or above City property which is the subject of the revocable license granted Licensee by City.
2. All work performed pursuant to this License shall comply with the City of Belvedere Municipal Code, including, without limitation, Title 13.
3. To the extent this License authorizes the erection or installation of any building, fence, wall, or other structure or facility in or upon land owned by City, Licensee agrees to erect and install the same in accordance with plans and specifications approved by the Planning Commission or Planning staff and further agrees to maintain the same at all times in good condition and repair, all at Licensee's sole cost and expense.

4. To the extent this License authorizes the erection or installation of any infrastructure improvements that are subject to the Americans With Disabilities Act (“the Act”), Licensee agrees to construct and maintain those improvements in full compliance with the requirements of the Act.
5. If Licensee shall fail to comply with the terms and conditions of this License, the City Manager at his sole discretion may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated.
6. This License does not convey an exclusive right to use the Premises. Licensee shall not restrict access by the public and/or by adjacent property owners to the licensed area.
7. Licensee shall execute this License by: signing the License; making an acknowledgment of the License before a notary public or an officer specified by the State to take the acknowledgment of instruments of writing; and delivering the signed License and certificate of acknowledgment to the City. If Licensee shall fail to execute this License within thirty days of the date issued, the City may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated.
8. ***Notwithstanding any other provision herein, this License shall be revocable at the pleasure of the City Council of the City of Belvedere.*** The election to revoke this License may be exercised at any time by mailing or delivering to Licensee at the address hereinabove stated a notice of revocation and termination. Within the time specified in said notice, Licensee shall, at its own cost and expense, remove from the Premises the encroachment and all structures and facilities placed thereon or therein by Licensee.
9. Upon the failure of Licensee to comply with any of the agreements contained herein, City may declare said improvements to be a public nuisance and may take such action as may be authorized by law to abate said nuisance. The City shall be entitled to recover from Licensee costs of suit and reasonable attorney's fees, to be determined by the court. The remedy of City as contained in this paragraph shall not be exclusive.
10. The Licensee acknowledges that the property interest created hereunder by issuance of this license may be subject to possessory interest taxation and said Licensee in whom such possessory interest is vested recognizes and agrees that it/they shall be solely responsible for payment of all such taxes levied upon said possessory interest.
11. The Licensee shall deliver this license to any successor in interest to the above-described land.
12. The agreements contained herein are covenants and servitudes running with the land and shall be binding upon Licensee and its successors, assignors, executors, administrators, and personal representatives unless or until revoked by the City.
13. The Licensee shall obtain an encroachment permit from the City prior to the commencement of any work on City property.
14. Any previous revocable licenses issued to this property are now null and void.

Issued by direction of the City Council of the City of Belvedere pursuant to action taken at its meeting of November 14, 2022.

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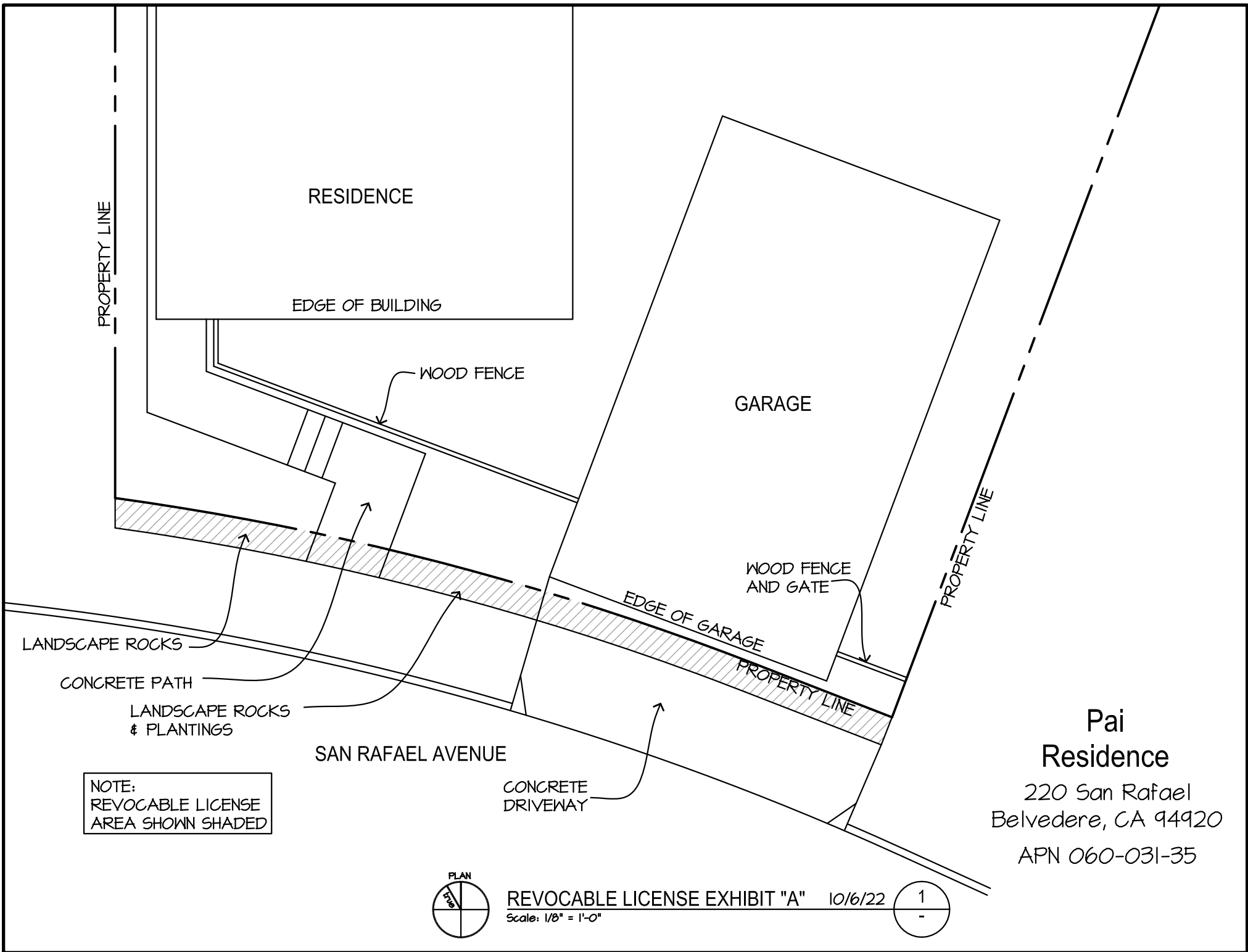
Robert Zadnik, City Manager

The foregoing License is accepted and its terms and conditions are agreed to:

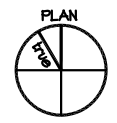
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Pai Family Trust, Licensee

(Attach acknowledgment from certified notary public for all Licensees)

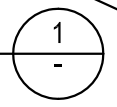


Pai  
Residence  
220 San Rafael  
Belvedere, CA 94920  
APN 060-031-35



REVOCABLE LICENSE EXHIBIT "A" 10/6/22

Scale: 1/8" = 1'-0"





**To:** Mayor and City Council

**From:** Brian Van Son, Building Official

**Reviewed By:** Irene Borba, Director of Planning & Building  
Robert Zadnik, City Manager  
Amy Ackerman, City Attorney

**Subject: Introduction and first reading of an ordinance adopting by reference the latest editions of the State Building Code and modifying the building standards in the Code based on local climatic, geologic, or topographic conditions.**

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**Recommended Motion/Item Description**

1. Adopt Motion to approve the first reading of the Ordinance.
2. Adopt a motion to schedule a public hearing, second reading, and final adoption of the ordinance at the December 12, 2022, City Council meeting.

**Background**

Every three years, the State of California updates its Building Standards Code, which municipalities routinely adopt as part of their own codes by reference. As a preliminary procedural note, the City Council conducts the public hearing on a proposed ordinance at the time of introduction and first reading. Here, Government Code Sections 50022.1 *et seq.* require a slightly different procedure for an ordinance that is adopting another code by reference. When a code is adopted by reference, the public hearing must be scheduled after the first reading, i.e., at the time of the second reading and adoption. Tonight, the Council should, however, take public comment at the first meeting.

On July 1 of this year the California Building Standards Commission published the 2022 Edition of the California Building Standards Code, known collectively as the California Code of Regulations, Title 24; Parts 1 through 12. Each Part of Title 24 represents a specific technical area of construction regulation. For example: Part 2, the “California Building Code”; Part 3, the “California Electrical Code”; Part 4, the “California Mechanical Code”; culminating with Part 12.

The ordinance presented to the Council at tonight’s meeting repeals Municipal Code Chapter 16.04, “Construction Codes,” and replaces it with new Chapter 16.04 containing the updated state mandated Title 24 Codes (excluding Part 9), while also incorporating the Belvedere specific local amendments to Part 2, the “California Building Code,” and Part 2.5, the “California Residential

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Code” as deemed necessary. Local amendments to Title 24 are allowed only if the amendments are more restrictive than the base code and if the governing body makes findings that justify the more restrictive construction provisions. Per state requirements, the findings included in the ordinance are based on local climatic, geological and/or topographical conditions within the City.

Title 24 Part 9, “the California Fire Code”, is adopted and amended under a separate ordinance and incorporated in Municipal Code Chapter 16.12. The Tiburon Fire Protection District administers this adoption and amendment process.

Belvedere’s local amendments to Part 2 and Part 2.5 are all carried forward from the prior 2019 Title 24 cycle, with minor editing for clarity and proper reference numbering. The items addressed by these amendments are:

1. Establishing the limited work items in Belvedere that are exempt from requiring a building permit.
2. Establishing the hours that work under a building permit is allowed in the City; 8:00 AM to 5:00 PM Monday through Friday, except recognized City holidays.
3. Requiring that existing garages and carports have non-combustible floor surfaces, and meet minimum engineering standards when they are remodeled or repaired 50% or more.
4. Amending when automatic fire sprinkler systems are required so that the Building Code and Residential Code are consistent with the Tiburon Fire Protection District’s amended California Fire Code. Wording included for consistency with CA Government Code Section 65852.22, addressing Junior Accessory Dwelling Units and limitations on when fire sprinkler systems can be required locally.
5. Belvedere’s specific requirements for the proper conveyance of roof drainage.
6. Requirements for Fire Class A roof coverings for all new roofs and reroofing that replaces 50% or more of existing roofs.

The 2022 California Building Standards Code, along with these amendments will become effective for building permit applications received on or after January 1, 2023. The changes in Belvedere’s specific Building Code ordinances between the previous 2019 version and the proposed 2022 version do not significantly affect or alter any current requirements or administrative process. Additionally, the adoption of the new Codes brings the City into greater conformance with additional regulations, such as the Climate Action Plan. An example of this would be the new requirement to install a solar P.V. system for all newly constructed residences.

### **Findings**

The City Council finds that adoption of this ordinance does not require review under the California Environmental Quality Act (CEQA) since it does not constitute a “project” pursuant to CEQA guidelines section 15378, and the common-sense exemption, CEQA Guideline section 15061(b)(3), because there is no possibility that the ordinance would have a significant environmental effect.

**Recommendation**

1. Adopt a Motion to approve the first reading of the Ordinance.
2. Adopt a motion to schedule a public hearing, second reading, and final adoption of the ordinance at the December 12, 2022, City Council meeting

**Attachments**

Draft ordinance.

**CITY OF BELVEDERE**

**ORDINANCE NO. 2022-07**

**AN ORDINANCE OF THE CITY OF BELVEDERE  
REPEALING THE CONTENTS OF CHAPTER 16.04, “CONSTRUCTION CODES,”  
OF THE BELVEDERE MUNICIPAL CODE; ADOPTING BY REFERENCE, WITH  
CERTAIN AMENDMENTS, PARTS 1 THROUGH 6, 8, 10, 11, AND 12 OF TITLE 24  
OF THE CALIFORNIA CODE OF REGULATIONS, 2022 EDITION, ENTITLED  
RESPECTIVELY “CALIFORNIA ADMINISTRATIVE CODE,” “CALIFORNIA  
BUILDING CODE,” “CALIFORNIA RESIDENTIAL CODE” “CALIFORNIA  
ELECTRICAL CODE,” “CALIFORNIA MECHANICAL CODE,” “CALIFORNIA  
PLUMBING CODE,” “CALIFORNIA ENERGY CODE,” CALIFORNIA  
HISTORICAL BUILDING CODE,” “CALIFORNIA EXISTING BUILDING CODE,”  
“CALIFORNIA GREEN BUILDING CODE” AND “CALIFORNIA  
REFERENCED STANDARDS CODE”; AND ADOPTING  
BY REFERENCE PARTS 5.3 AND 5.4 OF THE 2007 EDITION OF THE  
SAFETY CODE FOR ELEVATORS AND ESCALATORS (ASME A17.1) AND FINDING  
THAT ADOPTION OF THE ORINANCE IS EXEMPT PURSUANT TO CEQA  
GUIDELINES.**

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**THE CITY COUNCIL OF THE CITY OF BELVEDERE DOES HEREBY FIND AS  
FOLLOWS:**

**SECTION 1. Findings.**

- A. On July 1, 2022, the California Building Standards Commission completed and adopted the 2022 California Building Standards Code to reflect the most recent triennial amendments to the model Code.
- B. Pursuant to Section 17958.5, 17958.7 and 18941.4 of the California Health and Safety Code, the City of Belvedere determines and that the modifications to the 2022 California Construction Standards are reasonably necessary because of local climatic, geological or topographical conditions that are unique to the City of Belvedere as set forth in Section 3 of this ordinance.
- C. Pursuant to 14 C.C.R. section 15378(b)(5), the City Council finds adoption of this ordinance is not project subject to CEQA because it is an administrative governmental activity that will not cause a direct or indirect physical change in the environment. The City Council also finds that, pursuant to 14 C.C.R. section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from CEQA because it can be seen with certainty that the provisions contained in the Ordinance would have no significant on the environment. The City Council further finds that the Ordinance is categorically exempt from CEQA

under 14 C.C.R. sections 15307 and 15308 as action taken by a regulatory agency to protect the environment and natural resources.

**SECTION 2. Repeal.** Chapter 16.04 of the Belvedere Municipal Code is hereby repealed in its entirety.

**SECTION 3. Addition.** Chapter 16.04 is hereby reenacted to the Belvedere Municipal Code to read in its entirety as follows:

Chapter 16.04

CONSTRUCTION CODES

Sections:

- 16.04.010 Construction codes—Adoption by reference.
- 16.04.020 Changes to California Building Code and California Residential Code—Findings for.
- 16.04.030 California Building Code and California Residential Code—Amendments.
- 16.04.040 Violation—Penalty—Nuisance.
- 16.04.050 Prior acts.

16.04.010 Construction codes—Adoption by reference.

A. The following parts of Title 24, “California Building Standards Code,” 2022 Edition, of the California Code of Regulations are adopted by reference as construction codes for the City, including the amendments listed in this Chapter, which are made pursuant to the findings of fact set forth in Section 16.04.020 of this Chapter: Part 1 California Administrative Code; Part 2 California Building Code and its Appendices I and J; Part 2.5 California Residential Code and its Appendices H; Part 3 California Electrical Code; Part 4 California Mechanical Code; Part 5 California Plumbing Code and its Appendices A, D, G, and I; Part 6 California Energy Code; Part 8 California Historical Building Code; Part 10 California Existing Building Code; Part 11 California Green Building Code; and Part 12 California Referenced Standards Code.

B. Part 5.3, “Private Residence Elevators,” and Part 5.4, “Private Residence Inclined Elevators,” of Safety Code for Elevators and Escalators (ASME A17.1), 2007 Edition, published by the American Society of Mechanical Engineers, is adopted by reference as a construction code for the City.

C. A copy of each of these documents is maintained in the office of the Building Official, and reference is made to them with like effect as if all the provisions and printed matter therein were herein set forth in full.

16.04.020 Changes to California Building Code and California Residential Code—Findings.

A. Pursuant to Sections 17958.5 and 17958.7(a) of the State of California Health and Safety Code, the City Council of the City of Belvedere hereby determines and finds that all the changes or modifications in this Chapter to Part 2, “California Building Code,” and Chapter 2.5, “California Residential Code,” of Title 24, 2022 Edition of the California Code of Regulations are reasonably necessary because of the local climatic, geological and/or topographical conditions within the City of Belvedere as discussed below.

B The City is densely populated with most structures being of wood frame construction, most having combustible exterior materials.

C. Many buildings were erected prior to the enforcement of zoning and building laws, with the result that many are located extremely close to each other with no provisions for fire protection.

D. The hilly topography of much of the City, often combined with narrow roads, reduces the fire department's ability to respond to emergency situations.

E. Much of the City contains heavy vegetation, including groves of eucalyptus and pine trees with interconnecting canopies.

F. The City is located in an area of high seismic activities as indicated by the U.S. Geological Survey and California Divisions of Mines and Geology.

G. The general marine environment within the City is conducive to organisms which produce dry rot conditions in wood structures.

H. The hillside topography in much of the City results in the susceptibility to earth sliding due to uncontrolled storm water drainage.

16.04.030 California Building Code and California Residential Code--Amendments.

The following changes and modifications are made to the 2022 edition of the California Code of Regulations, Parts 2 and/or 2.5, as indicated.

A. 1. Subsection 105.2 is amended so as to read as follows:

**“105.2 Work exempt from permit.** Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances

of the City of Belvedere. Permits shall be required, except for the following work: or the following.

**Building:**

1. Conventionally constructed one-story detached structures accessory to a dwelling, used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet and the structure complies with Zoning regulations. A building permit is required for any associated electrical, plumbing or mechanical work.
2. Fences 7 feet high or lower.
3. Private residential sidewalks and driveways not more than 30 inches above adjacent grade and supported directly on existing grade, that are not part of a required accessible route.
4. Painting, papering, tiling carpeting, cabinets, counter tops and similar work, except for the purposes of project valuation when a component of a larger project which requires a permit.
5. Swings and other playground equipment.
6. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
7. Decks not exceeding 100 square feet in area, that are not more than 30 inches above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

B. 1. Subsection 105.7.1 is hereby added to Parts 2 and 2.5 to read as follows:

**“105.7.1 Hours when work is permitted.** Work covered by any permit issued under this Code shall be performed only between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Work may not be performed any time on weekends or on holidays recognized by the City: New Year's Day (January 1), Martin Luther King, Jr. Day (third Monday in January), Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veteran's Day (November 11), Thanksgiving Day and the day following (fourth Thursday and Friday in November), and Christmas Day (December 25). Delivery of construction material such as lumber and cement may be made to the work site only between these hours. Only work on the interior of a building or structure, the performance of which creates no noise

which is audible from the exterior of the building, may be performed outside these prescribed hours. The City Manager may, upon his discretion, grant written exceptions to this condition whenever such work can be demonstrated to his satisfaction to be necessary to protect the public's health and safety; the City Manager's written permission must be obtained prior to any work being undertaken outside these prescribed hours.”

C 1. The Exceptions in Subsections R313.1 and R313.2 of Part 2.5 are hereby amended to read as follows:

“**Exception:** Deleted, refer to Section 903.2 of Part 2 as amended in Belvedere Municipal Code Section 16.04.030(E).”

D. 1. Subsections 406.3.3 and 406.3.5 of Part 2 and Subsections R309.1 and R309.2 of Part 2.5 are hereby amended to add the following:

“Where existing carport or garage structures are remodeled or repaired to the extent that fifty percent (50%) or more of the structure is involved, using criteria established by the Building Official, the floor surface must comply with this Section and the structure shall be redesigned to support all vertical and horizontal loads of current code.”

E. 1. Subsection 903.2 of Part 2 is hereby amended to read as follows:

“**903.2 Where required.** All occupancies and facilities. An automatic fire sprinkler system shall be installed in all of the following:

1. Every newly constructed building and facility.

“**Exceptions:**

- a. Free standing Group U occupancies not more than 1,000 square feet and provided with exterior wall and opening protection as per Table 602 of the Building Code.
- b. Agricultural buildings as defined in Appendix C of the Building Code and not exceeding 2,000 square feet, having clear unobstructed side yard of combustible materials, exceeding 60 feet in all directions and not exceeding 25 feet



in height, and located within an Agricultural zoned district as defined in the Marin County Planning Code.

2. In newly created second units.

**Exception:** New Second units classified as a Junior Accessory Dwelling Unit as defined in Municipal Code Chapter 16.12, and California Government Code Section 65852.22, that do not result in the Junior Accessory Dwelling Unit creation being classified as a “substantial remodel” per item 3.

3. In all buildings which have more than fifty percent (50%) floor area added or any “substantial remodel,” as defined in Municipal Code Chapter 16.12, within any 36-month period. Exceptions may be granted by the Fire Code Official when alternate means of protection are installed as approved by the Fire Code Official.
4. In all buildings except R-3 occupancies, in excess of 3,000 sq. ft. which have more than 10 percent floor area added within any 36-month period. Exceptions may be granted by the Chief when alternate means of protection are installed as approved by the Chief.
5. A change in the use of a structure that results in a higher fire or life safety exposure when the square footage of the area changing use is more than 50% of the square footage of the building.”

- F. 1. Subsection 903.3 of Part 2 is hereby amended by adding the following thereto:

“The requirements for fire sprinklers in this code section are not meant to disallow the provisions for area increase, height increase or Fire Resistive substation if otherwise allowed by Section 504 and 506 of the Building Code. All automatic fire sprinkler systems shall be installed in accordance with the written standards of the Fire Code Official and the following:

- a. In all residential buildings where fire sprinklers are required any attached garages shall also require fire sprinklers, and except for single family dwellings, in all residential occupancies the attics shall require fire sprinklers.
- b. In all existing buildings, where fire sprinklers are required by provisions of this Code, they shall be extended into all unprotected areas of the building.

c. All single family dwellings in excess of 5,000 square feet shall have automatic fire sprinkler systems designed in accordance with NFPA Standard 13 or 13R.”

G. 1. Subsection 1503.4.4 of Part 2 and Subsection 903.4.2 of Part 2.5 are hereby added to read as follows:

“**Drainage system.** Roof and deck drainage shall be directed to an approved on-site drainage system which terminates at a City drainage facility, gutter, the Belvedere Lagoon or San Francisco Bay.

**Exceptions:**

1. New roof or deck construction less than two hundred square feet in area may discharge at splash blocks, driveways or other appropriate paved surfaces.
2. When topographic features, NPDES requirements, or other constraints preclude conformance, the City may grant an exception pursuant to approval of an alternate drainage plan approved by the City Engineer.”

H. 1. Subsection 1505.1.3 of Part 2 and Subsection 902.1.3 of Part 2.5 are hereby amended to read as follows:

“**Roof coverings within all other areas.** The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering, or assembly, that is at least Class A.”

16.04.040 Violation—Penalty—Nuisance.

A. Any person, firm or corporation violating any of the provisions of this Chapter shall be punishable by any of the remedies provided in Chapters 1.12 and 1.14 of the Belvedere Municipal Code, in the code adopted by Section 16.04.010 of this Chapter, or by any other remedy provided by law.

B. Any work commenced or continued in violation of this Chapter shall be, and is declared unlawful and a public nuisance.

C. No new permits shall be issued for work on a property unless all existing violations and expired permits issued for work on such property are cleared by abatement or reinstatement

16.04.050 Prior acts.

The amendments provided for in the preceding Sections of this Chapter shall not affect any offense or act committed or done or any penalty or forfeiture before the effective date of the ordinance codified in this Chapter, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to such effective date

**SECTION 4. Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 4. Effective Date.** This ordinance shall take effect and be in force thirty (30) days after the date of its passage. Within fifteen (15) days following its passage, a summary of the ordinance shall be published with the names of those city council members voting for and against the ordinance and the city clerk shall post in the office of the city clerk a certified copy of the full text of the adopted ordinance along with the names of the members voting for and against the ordinance.

**INTRODUCED AT A REGULAR MEETING** on November 8, 2022, and adopted at a public hearing of the Belvedere City Council of the City of Belvedere on December 12, 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED:** \_\_\_\_\_  
Sally Wilkinson, Mayor

**ATTEST:** \_\_\_\_\_  
City Clerk

**PUBLIC HEARING**

**BELVEDERE CITY COUNCIL  
NOVEMBER 14, 2022**

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**To:** Mayor and City Council

**From:** Brian Van Son, Building Official

**Reviewed By:** Irene Borba, Director of Planning & Building  
Robert Zadnik, City Manager  
Amy Ackerman, City Attorney

**Subject: Introduction and first reading of Ordinance No. 2022-08 adopting by reference the 2022 State Fire Codes as modified by Tiburon Fire District Ordinance No. 131 and adoption of Resolution No. 2022-55 Ratifying Tiburon Fire Protection District Ordinance No. 131.**

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**Recommended Motion/Item Description**

Following the staff presentation and discussion:

1. Motion to introduce and approve first reading of the ordinance and schedule public hearing for final reading of ordinance pursuant to State law on December 12, 2022.
2. Adopt resolution ratifying fire codes of the Tiburon Fire Protection District.

**Background and Discussion**

On July 1, 2022, the California Building Standards Commission completed the triennial update and adoption of the 2022 California Fire Code, the 2021 International Fire Code, and Appendix A of the 2020 International Wildland-Urban Interface Code. Health and Safety Code section 13869.7 permits a fire protection district to adopt building standards relating to fire and panic safety that are more stringent than those building standards adopted by the State Fire Marshal and contained in the California Building Standards Code when such modified standards are reasonably necessary because of local climatic, geological or topographical conditions. The Tiburon Fire Protection District has done so, by adopting Ordinance No. 131, attached herein, Adopting and Modifying the California Fire Code and Appendix A of the International Wildland-Urban Interface Code with Amendments Supported by Local Findings.

Health and Safety Code section 13869.7(c) requires the Tiburon Fire Protection District to transmit the ordinance to the City of Belvedere, a city in which the ordinance will apply and the

City Council to ratify, modify, or deny the adopted ordinance and transmit its determination to the Fire District within 15 days of the determination.

The proposed Ordinance before you would repeal Chapter 16.12 – Fire Code and replace it with a new Chapter 16.12 adopting the updated Fire Code with the amendments adopted by the Tiburon Fire District as reflected in Tiburon Ordinance No. 131.

The proposed Resolution would formally ratify the specific and more stringent requirements recently adopted by the Tiburon Fire Protection District, as required under Health and Safety Code section 13869.7(c). Upon adoption of the Resolution, the City is required to Tiburon Ordinance No. 131 and this Resolution with the state Department of Housing and Community Development.

***Procedural Notes***

Belvedere’s usual custom is to conduct a public hearing at the first reading of an ordinance and to adopt the ordinance at the following meeting as a part of the Consent Calendar. However, when adopting other codes by reference, such as the Fire Codes, State law requires that the public hearing be held at the second reading and adoption. Here, the public hearing and final read of the ordinance will occur at the Council’s January meeting.

**Recommendation**

Following the staff presentation and discussion:

1. Motion to approve first reading of the ordinance and schedule public hearing for final reading of ordinance pursuant to State law on December 12, 2022.
2. Adopt resolution ratifying fire codes of the Tiburon Fire Protection District.

**Attachments**

Attachment 1: Proposed Ordinance

Attachment 2: Draft Resolution

Attachment 3: Tiburon Fire Protection District Ordinance No. 131.

**CITY OF BELVEDERE**

**ORDINANCE NO. 2022-08**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELVEDERE  
REPEALING THE EXISTING CHAPTER 16.12 - FIRE CODE – OF TITLE 16 OF THE  
BELVEDERE MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 16.12  
ADOPTING THE 2022 FIRE CODE AS MODIFIED BY THE TIBURON FIRE  
DISTRICT IN ORDINANCE NO. 131, WHICH COUNCIL HAS RATIFIED, AND  
FINDING THAT ADOPTION OF THE ORDINANCE IS EXEMPT PURSUANT TO  
CEQA GUIDELINES.**

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**WHEREAS**, on July 1, 2022, the California Building Standards Commission completed and adopted the 2022 California Fire Code to reflect the most recent triennial amendments to the Code.

**WHEREAS**, Health and Safety Code section 13869.7 permits a fire protection district to adopt building standards relating to fire and panic safety that are more stringent than those building standards adopted by the State Fire Marshal and contained in the California Building Standards Code when such modified standards are reasonably necessary because of local climatic, geological or topographical conditions.

**WHEREAS**, on November 9, 2022, the Tiburon Fire Protection District adopted Ordinance No. 131, attached herein as Exhibit A of this Ordinance, which adopts and Modifies the California Fire Code and Appendix A of the International Wildland-Urban Interface Code with modified standards that are reasonably necessary because of local climatic, geological or topographical conditions.

**WHEREAS**, Health and Safety Code section 13869.7(c) requires the Tiburon Fire Protection District to transmit the ordinance to the City of Belvedere, a city in which the ordinance will apply.

**WHEREAS**, on November 10, 2022, the Tiburon Fire Protection District transmitted the adopted ordinance to the City of Belvedere.

**WHEREAS**, on November 14, 2022, the Belvedere City Council ratified the Tiburon Fire Protection District Ordinance No. 131, thereby adopting the Fire Code with the amendments and modifications made in Tiburon Fire District Ordinance 131 and the findings of necessity that the modified standards contained in Tiburon Fire District Ordinance No. 131 are reasonably necessary because of local climatic, geological or topographical conditions.

**WHEREAS**, the City Council is repealing Chapter 16.12 in its entirety, and replacing it with a new Chapter 16.12.

**WHEREAS**, the City Council hereby finds that adoption of this ordinance is not project subject to CEQA because: (1) it is an administrative governmental activity that will not cause a direct or indirect physical change in the environment; (2) pursuant to 14 C.C.R. section 15061(b)(3) it can

be seen with certainty that the provisions contained herein would have no significant on the environment; and (3) this Resolution is categorically exempt from CEQA under 14 C.C.R. sections 15307 and 15308 as action taken by a regulatory agency to protect the environment and natural resources.

**NOW, THEREFORE,** the City Council of the City of Belvedere does ordain as follows:

**SECTION 1. Findings.** The above recitals are true and correct and are incorporated as findings herein.

**SECTION 2.** Chapter 16.12 – California Fire Code – is repealed in its entirety and replace with a new Chapter 16.12 as follows:

#### Chapter 16.12 – FIRE CODE

##### 16.12.010 Adoption of Fire Code

The Fire Code of the City of Belvedere is the 2022 California Fire Code (California Code of Regulations, Title 24, Part 9 (based on the 2021 International Fire Code) and Appendix A of the 2021 International Wildland-Urban Interface Code, as amended by the changes, additions, and deletions set forth in the Moraga-Orinda Fire District's Ordinance No. 131.

##### 16.12.020 Definitions

Wherever they appear in the California Fire Code, the International Fire Code, and International Wildland-Urban Interface Codes, unless otherwise provided, the following words shall have the meanings ascribed to them in this section:

A. Whenever the words “Fire Code” are used they shall mean those Codes and Standards adopted in Section 16.12.010 of this Chapter.

B. Wherever the word “jurisdiction” is used in the Fire Code, it shall mean the City of Belvedere.

##### 16.12.030 Enforcement

The City of Belvedere's Fire Code shall be enforced by the Tiburon Fire Protection District.

**SECTION 3. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Ordinance are declared to be severable.

**SECTION 5. Effective Date, Permanent Ordinance.** This Ordinance shall take effect and be in force thirty (30) days after the date of its passage. Within fifteen (15) days following its passage, a summary of the Ordinance shall be published with the names of those City Council members voting for and against the Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of the members voting for and against the Ordinance.

**ADOPTED AT A PUBLIC HEARING** at a regular meeting of the Belvedere City Council on November 14, 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED:** \_\_\_\_\_

Sally Wilkinson, Mayor

**ATTEST:** \_\_\_\_\_

Acting City Clerk



**CITY OF BELVEDERE**

**RESOLUTION NO. 2022-55**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE  
RATIFYING THE TIBURON FIRE PROTECTION DISTRICT ORDINANCE NUMBER  
131, ADOPTING AND MODIFYING THE CALIFORNIA FIRE CODE AND APPENDIX  
A OF THE INTERNATIONAL WILDLAND-URBAN INTERFACE CODE WITH  
AMENDMENTS SUPPORTED BY LOCAL FINDINGS, AND FINDING THAT  
ADOPTION OF THE RESOLUTION IS EXEMPT PURSUANT TO CEQA  
GUIDELINES.**

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**WHEREAS**, on July 1, 2022, the California Building Standards Commission completed and adopted the 2022 California Fire Code to reflect the most recent triennial amendments to the Code.

**WHEREAS**, Health and Safety Code section 13869.7 permits a fire protection district to adopt building standards relating to fire and panic safety that are more stringent than those building standards adopted by the State Fire Marshal and contained in the California Building Standards Code when such modified standards are reasonably necessary because of local climatic, geological or topographical conditions.

**WHEREAS**, the Tiburon Fire Protection District has adopted Ordinance No. 131, attached herein as Exhibit A of this Resolution, which Adopts and Modifies the California Fire Code and Appendix A of the International Wildland-Urban Interface Code with modified standards that are reasonably necessary because of local climatic, geological or topographical conditions.

**WHEREAS**, Health and Safety Code section 13869.7(c) requires the Tiburon Fire Protection District to transmit the ordinance to the City of Belvedere, a city in which the ordinance will apply.

**WHEREAS**, Health and Safety Code section 13869.7(c) requires the City of Belvedere to ratify, modify, or deny the adopted ordinance and transmit its determination to the Fire District within 15 days of the determination.

**WHEREAS**, on November 10, 2022, the Tiburon Fire Protection District transmitted the adopted ordinance to the City of Belvedere.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Belvedere:

1. The City Council finds that ratification of the Tiburon Fire Protection District Ordinance No. 131, Adopting and Modifying the California Fire Code and Appendix A of the International Wildland-Urban Interface Code, is not a project subject to CEQA because: (1) it is an administrative governmental activity that will not cause a direct or indirect physical change in the environment; (2) pursuant to 14 C.C.R. section 15061(b)(3) it can be seen with certainty that the provisions contained herein would have no significant on the environment; and (3) this

Resolution is categorically exempt from CEQA under 14 C.C.R. sections 15307 and 15308 as action taken by a regulatory agency to protect the environment and natural resources.

2. The City Council hereby ratifies the findings of necessity that the modified standards contained in Tiburon Fire District Ordinance No. 131 are reasonably necessary because of local climatic, geological or topographical conditions.
3. The City Council hereby ratifies Tiburon Fire Protection District Ordinance No. 131 Adopting and Modifying the California Fire Code and Appendix A of the International Wildland-Urban Interface Code.
4. Upon adoption of this Resolution, the City Council hereby directs the Clerk to transmit this Resolution and Tiburon Ordinance No. 131 to the state Department of Housing and Community Development, as required by Health and Safety Code section 13869.7(c).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Belvedere on November 14, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: \_\_\_\_\_

Sally Wilkinson, Mayor

ATTEST: \_\_\_\_\_

Acting City Clerk

**PUBLIC HEARING**

**BELVEDERE CITY COUNCIL  
NOVEMBER 14, 2022**

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**To:** Mayor and City Council

**From:** Brian Van Son, Building Official

**Subject:** Refer to Item 14 of the November 14, 2022 Agenda.

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## PUBLIC HEARING

**BELVEDERE CITY COUNCIL**  
**November 14, 2022**

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To: Mayor and City Council

From: Robert Zadnik, City Manager

Reviewed By: Amy Ackerman, City Attorney

**Subject: Introduction and First Reading of Ordinance No. 2022-09 of the City of Belvedere amending Chapter 2.08 - City Council - of Title 2 of the Belvedere Municipal Code by amending sections 2.08.010 and 2.08, repealing sections 2.08.020 and 2.08.050, and renumbering existing sections consistent with the amendments.**

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### **Recommendation**

1. Conduct the public hearing.
2. Introduce and approve first reading of Ordinance No. 2022-09.

### **Discussion**

Removing state law provision from Belvedere's Municipal Code is necessary to improve the efficiency of City operations by ensuring City Council meetings operate according to the state law, as required, and alleviates the City's need to amend its Municipal Code each time the Legislature amends the Brown Act. To accomplish this, the attached Ordinance amends certain parts of Title 2 Chapter 2.08 of the Belvedere Municipal Code, specifically:

- Section 2.08.010 - Time and Place of Meetings.
- Section 2.08.030 - Cancellation.
- Section 2.08.040 - Mayor.
- Section 2.08.040 - Conduct of Meetings.

### **Fiscal Impact**

These revisions are procedural and will not generate an increase in the city's long-term budget.

### **Environmental Review**

The proposed Ordinance does not constitute a "project" under the California Environmental Quality Act because it does not involve an activity that has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment.

**Recommendation**

1. Conduct the Hearing
2. Introduce and approve first reading of Ordinance No. 2022-09.

**Attachments**

Proposed Ordinance

**CITY OF BELVEDERE**  
**ORDINANCE NO. 2022-09**

**AN ORDINANCE OF THE CITY OF BELVEDERE AMENDING CHAPTER 2.08 -  
CITY COUNCIL- OF TITLE 2 OF THE BELVEDERE MUNICIPAL CODE BY  
AMENDING SECTIONS 2.08.010 AND 2.08, REPEALING SECTIONS 2.08.020 AND  
2.08.050, AND RENUMBERING EXISTING SECTIONS CONSISTENT WITH THE  
AMENDMENTS.**

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Note: Additions to Code are underlined.  
Deletions to Code are in strike-through text.

WHEREAS, the meetings of the Belvedere City Council are governed by the Ralph M. Brown Act (Government Code section 54950 et. seq.)

WHEREAS, Chapter 2.08 of Belvedere’s Municipal Code contains provisions relating to meetings that are duplicative of the Brown Act.

WHEREAS, the Brown Act is amended frequently by the State Legislature.

WHEREAS, removing state law provisions from Belvedere’s Municipal Code improves the efficiency of City operations by ensuring City Council meetings operate according to the state law, as required, and alleviates the City of the need to amend its Municipal Code each time the Legislature amends the Brown Act.

Now, therefore, the City Council of the City of Belvedere does ordain as follows:

**SECTION 1. Findings.** The above recitals are true and correct and are incorporated as findings herein.

**SECTION 2. Amendment.** Belvedere Municipal Code Chapter 2.08 is hereby amended as follows:

**Title 2 Chapter 2.08 City Council**

**Section 2.08.010 - Time and Place of Meetings.**

**Section 2.08.030 - Cancellation.**

**Section 2.08.040 - Mayor.**

**Section 2.08.040 - Conduct of Meetings.**

**Section 2.08.010 - Time and Place of Meetings.**

The City Council shall hold one regular meeting each calendar month. These meetings shall be held on the dates, at the times, and in such locations as specified by the City Council by resolution in accordance with California Government Code Section 36805. When the day for any

regular meeting of the City Council falls on a legal holiday, no meeting shall be held on such holiday, but such meeting shall be held at the same hour on the next succeeding day which is not a holiday, or at such time and date agreed to by a majority of the City Council. The City Council may hold other meetings as necessary, consistent with the provisions of the Ralph M. Brown Act (Government Code section 54950 et seq.)

**~~Section 2.08.020 Other Meetings:~~**

~~A. Special meetings may be called at any time by the Mayor or by determination of the majority of the City Council. Written notice of any such meeting must be given to all members of the City Council and to all newspapers, radio stations, television stations, or other media who have previously requested same in accordance with applicable provisions of the Government Code. Such notice may be given either personally or by mail, but must be received at least twenty-four (24) hours before the time set for the special meeting. Such notice is not necessary for any member who submits a written waiver of notice to the City Clerk at or before the time set for the meeting, or for any member who is actually present at the special meeting~~

~~B. *Adjournment—adjourned meetings.* The Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all members are absent from any regular or adjourned regular meeting, the City Clerk may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered personally to each Council member at least three hours before the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided in this rule, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.~~

~~C. A special emergency meeting may be called by the Mayor or by a majority of the City Council where there exists:~~

- ~~1. A work stoppage, crippling disaster or other activity which severely impairs public health or safety; or~~
- ~~2. Such other circumstance specified by State law as authorizing the conduct of an emergency meeting.~~

~~Any special emergency meeting shall be called, noticed and conducted only in accordance with the procedures set forth in State law.~~

~~D. *Closed sessions.* The Council may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by State law to hear or consider in closed session. If a closed session is included on the agenda, the description of the item shall be in substantial compliance with applicable State law. During closed session, the City Council may exclude any person or persons which it is authorized by State law to exclude from closed sessions. No minutes of the proceedings of the City Council during a closed session are required. There shall be no closed session during any special emergency meeting. (Ord. 2006-5 § 2, 2006; Ord. 92-5 § 1, 1992.)~~

**Section ~~2.08.020~~ ~~2.08.030~~ Cancellation.**

Any meeting of the Council may be cancelled in advance by a majority vote of the Council. The Mayor may cancel a meeting in the case of an emergency or when a majority of members have confirmed in writing their unavailability to attend a meeting.

**Section ~~2.08.030~~ ~~2.08.040~~ – Mayor.**

The Mayor shall preside over all Council meetings. In his/her absence, the Vice-Mayor shall serve as presiding officer.

**Section ~~2.08.050~~ Attendance by the Public.**

~~Except as specifically provided by law for closed sessions, all meetings of the Council shall be open and public. All persons desiring to attend shall be permitted to attend any meeting. In the event any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of the meeting unfeasible, and order cannot be restored by removal of the offending individual or individuals, the Council may order the meeting room cleared and continue in session. In such event, only matters appearing on the agenda may be considered during such session. Representatives of the press, unless participants in the disturbance, shall be allowed to attend such session, and nothing shall prohibit the Council from readmitting individuals not responsible for the disturbance.~~

**Section ~~2.08.040~~ ~~2.08.060~~ – Conduct of Meetings. ~~Order of business and rules of conduct.~~**

The meetings conducted by the City Council of the City shall be in accordance with the Raplh M. Brown Act (Government Code section 54950 et seq.) and Council rules and procedures as established by resolution. ~~with Robert's Rules of Order as modified by the City Council by resolution relating to order of business and rules of conduct.~~

**SECTION 3. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Ordinance are declared to be severable.

**SECTION 4. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after the date of its passage. Within fifteen (15) days following its passage, a summary of the Ordinance shall be published with the names of those City Council members voting for and against the Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of the members voting for and against the Ordinance.



**INTRODUCED AT A PUBLIC HEARING** at a regular meeting of the Belvedere City Council on \_\_\_\_\_, 2022 and adopted at a regular meeting of the Belvedere City Council on \_\_\_\_\_, 2022 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED:** \_\_\_\_\_

\_\_\_\_\_, Mayor

**ATTEST:** \_\_\_\_\_

\_\_\_\_\_, City Clerk

## PUBLIC HEARING

**BELVEDERE CITY COUNCIL**  
**November 14, 2022**

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To: Mayor and City Council

From: Robert Zadnik, City Manager

Reviewed by: Amy Ackerman, City Attorney

**Subject: Adopt Resolution Amending the City’s Master Schedule of Fees, Charges & Application Fees**

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### **Recommendation**

1. Conduct the public hearing.
2. Adopt the attached resolution approving changes to the City’s Master Schedule of Fees, Charges and Application Fees.

### **Background**

City Council, through the recommendation of the Construction Impacts Committee, directed staff to modify the City’s Master Schedule of Fees related to encroachment permits and road closures. These changes were based on the Committee’s findings and are intended to better align Belvedere’s fee structure with neighboring jurisdictions, while at the same time encouraging more efficient use of public resources. The following recommendations were developed through a collaborative public process involving residents, City Council, and private construction firms.

Additional fee changes including a “grading” fee, short duration roadway encroachment fee, inflation-based annual escalator, and modification to the Road Impact Fee calculation require fee studies or further analysis.

*The City’s Master Fee Schedule reflects fees charged by all City departments. Council last approved an adjustment to the City’s fee schedule in August 2022.*

### **Findings**

The City may impose a fee for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, and enforcement. (Cal. Const. Art. 13C, § 1.) The California Mitigation Fee Act allows the City to impose fees as a condition of approval of a development project, provided there is a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed. (See Govt. Code § 66000 *et seq.*) The Constitution also authorizes a city to impose a charge for entrance to or use of local government property, or the purchase, rental, or lease of local

government property, without imposing conditions on calculating the charges. (Cal. Const. Art. 13C, § 1.) Encroachment permits and road closures authorize the permittee to use City property in a way that prevents, alters, or interferes with its normal use. (See Belvedere Muni. Code § 13.04.010.) Accordingly, the City may increase fees for encroachment permits and road closures.

The City maintains and publishes a Master Fee Schedule that provides for such fees to be charged for various local government services. The following amendments are recommended for Council consideration, and the proposed updated Master Schedule is attached. If approved, these changes would be effective on January 13, 2023.

*Public Works Fees:*

	Current	Proposed
• <u>Encroachment Permit Fee (Full Day).</u>	\$53.00	\$260.00
• <u>Encroachment Permit Fee (Weeklong)</u>	\$105.00	\$650.00
• <u>Road Closure Fee (Half Day)</u>	\$245.00	\$490.00
• <u>Road Closure Fee (Full Day)</u>	\$489.00	\$990.00

**Fiscal Impact**

Since the proposed fee changes are anticipated to reduce the overall number of road closes and full-day encroachment permit requests, it is difficult to estimate the amount of additional fees, if any, that will be generated from this change. Staff will return to Council with an analysis of the fiscal impact once six months has elapsed from the effective date of the new fees.

**Environmental Review**

The fees authorized by the resolution are statutorily exempt from the California Environmental Review Act (“CEQA”) per CEQA Guideline section 15273 as they are for the purposes of meeting operating expenses; and categorically exempt under the “common sense” exemption, CEQA Guideline section 14061 because it can be seen with certainty that it will not have a significant adverse effect on the environment.

**Recommendation**

Staff recommends that the Council Amend the Master Schedule of Fees, Charges and Application Fees by conducting a Public Hearing and adopting the attached resolution.

**Attachments**

Attachment 1: Resolution

Attachment 2: Master Schedule of Fees – Proposed Amendments

**Resolution No. 2022-56**  
**Master Schedule of Fees, Charges & Application Fees**  
**Proposed for FY2022-23**

Only Public Works Departments fees are shown, as no other fees are affected by this change.

Current as of October 2022

Proposed  
N/C = No Change

Item/Purpose	Fee	Fee
<b>Building Department</b>		
Building Permits based on project valuation and two (2) times the following fee schedule:		N/C
\$1 to \$500 valuation	\$23.50	N/C
\$501 to \$2,000 valuation	\$23.50 for 1st \$500 plus \$3.05 for each add'l \$100 or fraction thereof, to and including \$2,000	N/C
\$2,001 to \$25,000 valuation	\$69.25 for 1st \$2,000 plus \$14 for each add'l \$1,000 or fraction thereof, to and including \$25,000	N/C
\$25,001 to \$50,000 valuation	\$391.75 for 1st \$25,000 plus \$10.10 for each add'l \$1,000 or fraction thereof, to and including \$50,000	N/C
\$50,001 to \$100,000 valuation	\$643.75 for 1st \$50,000 plus \$7 for each add'l \$1,000 or fraction thereof, to and including \$100,000	N/C
\$100,001 to \$500,000 valuation	\$993.75 for 1st \$100,000 plus \$5.60 for each add'l \$1,000 or fraction thereof, to and including \$500,000	N/C
\$500,001 to \$1,000,000 valuation	\$3,233.75 for 1st \$500,000 plus \$4.75 for each add'l \$1,000 or fraction thereof, to and including \$1,000,000	N/C
\$1,000,001 and up valuation	\$5,608.75 for 1st \$1,000,000 plus \$3.65 for each add'l \$1,000 or fraction thereof	N/C
Building Permit - Plan Check	65% of permit cost	N/C
Retroactive - Building Permit	Up to 5X total permit cost	N/C
Building Permit - Reinstatement (expired 1-180 days)	1/2 building permit fee	N/C
Building Permit - Final Approval Only (expired 1-180 days)	\$150	N/C
Hourly Rates for Inspections, Plan Reviews, Re-Inspections Not Listed	\$85	N/C
Administrative Charge for Outside Services, including plan review charges not covered under normal plan review fee	Cost + 25%	N/C
Building Permit Tracking/Technology Fee - Valuation => \$5,000	\$25	N/C
Building Permit Tracking/Technology Fee - Valuation < \$5,000	\$15	N/C
<b>Building Department (continued)</b>		
<b>Plumbing Permits</b>		
Plumbing Permit	\$55	N/C
Water Heater	\$85	N/C
Each Fixture & Vent	\$25	N/C
Building Internal Rain Water Systems	\$85	N/C
Site Drainage System, including 2 retaining wall back drains	\$45	N/C
Site Drainage System, including more than 2 retaining wall back drains	\$85	N/C
Potable Water Piping System, System Repairs & Additions <500 SF	\$45	N/C
Potable Water Piping System, Additions =>500 SF	\$90	N/C
Potable Water Piping System, New Residential Structures	\$170	N/C
Gas Piping Systems, each internal branch or outlet	\$25	N/C
Backflow Protection Device or Landscape Irrigation System	\$85	N/C
Swimming Pools	\$170	N/C
Site Built Spas	\$85	N/C
Retroactive Plumbing Permit	Up to 5X total permit cost	N/C
Hourly Rates for Inspections, Plan Reviews, Re-Inspections Not Listed	\$85	N/C
Plumbing Permit Tracking/Technology Fee	\$15	N/C
<b>Mechanical Permits</b>		
Mechanical Permit	\$55	N/C
Furnace	\$85	N/C
Miscellaneous heating appliance, including internal gas fireplace	\$45	N/C
Exterior site built gas barbecue or fireplace	\$45	N/C
Residential boiler	\$85	N/C
Air conditioning unit	\$45	N/C
Residential kitchen hood	\$45	N/C
Each ventilation and/or exhaust fan	\$15	N/C
Duct Work	\$45	N/C
Retroactive mechanical permit	Up to 5X total permit cost	N/C
Hourly rates for inspections, plan reviews, reinspections not listed	\$85	N/C
Mechanical Permit Tracking/Technology Fee	\$15	N/C
<b>Elevator Permits (Interior or Hillside)</b>		
Elevator Permit Issuance	\$170	N/C
Elevator Permit Tracking/Technology Fee	\$15	N/C
<b>Electrical Permits</b>		
Electrical Permit Issuance	\$55	N/C
Fixtures, switches or receptacles, when counted individually for repairs or addition <500 SF	\$3.50 each	N/C
Fixtures, switches or receptacles or additions =>500 SF and new structures, when calculated by floor area	\$0.12 per SF	N/C
New services and/or main panel	\$85	N/C
Each sub-panel	\$45	N/C
Swimming Pool Electrical	\$130	N/C
Saunas, including heater	\$85	N/C
Appliances, non-cord connected	\$45	N/C

**Resolution No. 2022-xx**  
**Master Schedule of Fees, Charges & Application Fees**  
Proposed for FY2022-23

Only Building and Public Works Departments fees are shown, as no other fees are affected by this change.

Current as of October 2022

Proposed  
N/C = No Change

Item/Purpose	Fee	Fee
Signs	\$45	N/C
Motors, when counted individually	\$15	N/C
Miscellaneous apparatus, conduits & conductors, when counted individually	\$25	N/C
Temporary Power	\$85	N/C
Solar Photovoltaic Systems <5 kw	\$85	N/C
Solar Photovoltaic Systems =>5 kw	\$170	N/C
Permanent auxiliary generator	\$170	N/C
Retroactive Electrical Permit	Up to 5x total permit cost	N/C
Hourly rates for inspections, plan reviews, re-inspections not listed	\$85	N/C
Electrical Permit Tracking/Technology Fee	\$15	N/C
<b>Building Department (continued)</b>		
<b>Other Miscellaneous Building Fees</b>		
Road Impact Fee	.0075 of total valuation	N/C
Construction Timeline Extension Application	\$1,000	N/C
Deposit for extension of landscaping completion time limit by 90 days.	1% of total project valuation, not to exceed \$200,000	N/C
Partial fee waiver for building permits, electrical permits, plumbing permits and mechanical permits for buildings holding historic preservation status	50% to max of \$10,000	N/C
Construction Timeline Penalty Appeal	\$400	N/C
Appeal of decisions made by the Building Official regarding the City's construction and demolition debris diversion ordinance.	\$400	N/C
Residential Building Report	\$300	N/C
Charge RUSD for referrals of addition to residential square footage	\$30/referral	N/C
Dredging Permit	Application fee: \$1,000. Permit insurance fee: 2X Building Permit fee schedule, based	N/C
Appeal of Building Official determination to Local Appeals Board	\$400	N/C
Strong Motion Instrumentation & Seismic Hazard Mapping (SMIP) Fee	Project valuation x 0.00013	N/C
California Building Standards Administration (CABSA) Fee		N/C
Up to \$25,000	\$1	N/C
\$25,001 - \$50,000	\$2	N/C
\$50,001 - \$75,000	\$3	N/C
\$75,001 - \$100,000	\$4	N/C
\$100,000 and up	Add \$1 for every \$25,000	N/C
Change of Contractor, Engineer, Property Owner, or other permit changes requiring additional administrative staff time	\$50	N/C
Re-issuance of Construction related parking permits	\$50	N/C
<b>Public Works Department</b>		
Encroachment permit - 1 day	\$53	\$260
Encroachment permit - 1 week	\$105	\$650
Encroachment permit penalty	\$105	N/C
Road Closure - 4 hours maximum	\$245	\$490
Road Closure - 8 hours maximum	\$489	\$990
Road Closure - Signs (per sign)	\$25	N/C
Road Closure - Re-Noticing Fee	\$53	N/C
Road Closure - Sign Removal Deposit (per sign)	\$26	N/C
No Parking Signs (per sign)	\$2	N/C
Hazardous Tree Evaluation (plus costs)	\$105	N/C
Public Works Inspection (per hour)	\$49	N/C
Lane Abandonment (Lane Vacation)	\$1,313	N/C
Parcel Map	\$788	N/C
Boundary Line Adjustment (fee waived if requested by City)	\$525	N/C
Slurry Seal Fee	\$0.65/sq. ft.	N/C
Electric Vehicle Charging Station Fee	\$0.25/kWh	N/C
Electric Vehicle Idling Fee	\$1.00 per 15 minutes; \$50 maximum fee	N/C

**CITY OF BELVEDERE**

**RESOLUTION NO. 2022-56**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE  
AMENDING THE CITY'S MASTER SCHEDULE OF  
FEES, CHARGES, AND APPLICATION FEES**

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**WHEREAS**, City of Belvedere staff have recommended amendments to the City's Master Schedule of Fees, Charges and Application fees, as set forth in Exhibit A attached hereto (the "Fee Schedule"); and

**WHEREAS**, on November 14, 2022, the Belvedere City Council held a duly-noticed public hearing on the proposed changes to its Fee Schedule; and

**WHEREAS**, the City Council finds that the Fee Schedule changes are categorically exempt from the California Environmental Quality Act ("CEQA") under CEQA Guideline section 15061(b)(3) (the "common sense exemption") as it can be seen with certainty that there is no possibility of a significant adverse environmental effect.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Belvedere as follows:

1. The City's Master Schedule of Fees, Charges and Application Fees, as amended (Attachment 2), is adopted.
2. In accordance with the California Government Code, this resolution shall become effective sixty days after the date of its adoption.

**PASSED AND ADOPTED** at a regular meeting of the Belvedere City Council on March 8, 2021, by the following vote:

**AYES:**            —  
**NOES:**           —  
**ABSENT:**       —  
**ABSTAIN:**      —

**APPROVED:** \_\_\_\_\_  
Sally Wilkinson, Mayor

**ATTEST:** \_\_\_\_\_  
Acting City Clerk

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**To:** Mayor and City Council

**From:** Antony Boyd – Public Works Director  
Jena Watson – Parks, Open Space, and Lanes Committee Chair

**Subject:** **Annual Report on Status and Progress of the City’s Measures to Protect and Improve Belvedere’s Parks, Open Spaces and Lanes**

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**Recommendation**

Receive the report and consider providing comments for the Committee and Staff.

**Background**

In March 2022, the City Council adopted a new Charter for the Parks, Open Spaces and Lanes Committee (POSLC), which outlined the duties of the POSLC, including periodic reporting and providing recommendations to the City Council.

The attached document is the first of two annual reports to be submitted by the POSLC. Its purpose is to provide an update on the status and progress of the City’s measures to protect and improve Belvedere’s Parks, Open Spaces and Lanes in the current calendar year. The following report, to be submitted at the conclusion of the calendar year, is intended to aid Staff, the Finance Committee and City Council in the development of the coming Fiscal-Year budget.

**Discussion**

The POSLC report discusses the following twelve priority items:

- |                 |   |
|-----------------|---|
| High Priority:  | Lane Handrail Installation and Other Lane Repairs<br>Dead and Dying Trees on Public and Private Land<br>Scenic View Obstructions on Private and Public Lands<br>Effects of Private Projects on Public Lands<br>Lanes Initiative |
| Medium Priority | Vegetation and Tree Management<br>Park Lane Stair Rebuild and Seating Area<br>Lower Hawthorn Stairs/Centennial Park<br>Artist View Project  |
| Low Priority    | Lagoon Road Planting  |

Community Playground  
Code Enforcement

Given that this is the first of many reports under the newly adopted committee charter, staff and the committee are seeking feedback from Council on the report format and content.

**Attachments**

1. Committee report on status and progress of the City's measures to protect and improve Belvedere's Parks, Open Spaces and Lanes.



REPORT ON STATUS OF MEASURES TAKEN  
BY THE PARKS, OPEN SPACES AND LANES COMMITTEE  
TO ADDRESS PRIORITIES  
DURING THE PRECEDING FISCAL YEAR  
AS REQUIRED BY ADMINISTRATIVE POLICY MANUAL  
SECTIONS 6.2.2(2) AND 6.2.3

AUGUST 30, 2022

TO:

MAYOR AND MEMBERS OF THE CITY COUNCIL  
CITY MANAGER  
DIRECTOR OF DEPARTMENT OF PUBLIC WORKS  
DIRECTOR OF PLANNING DEPARTMENT

FROM:

PARKS, OPEN SPACES AND LANES COMMITTEE

## **INTRODUCTION**

A new Charter for the Parks, Open Spaces, and Lanes Committee (the “POSLC”) was adopted by the City Council on March 22, 2022. It provides that one of the duties of the POSLC is to “Provide a report to staff and to the Belvedere City Council regarding the status of measures taken to address the priorities ... during the preceding fiscal year.” (APM section 6.2.2(2)) “The Committee shall make its annual report on the status and progress of the City’s measures to protect and improve Belvedere’s Parks, Open Spaces and Lanes not later than August 30 of each year.” (APM section 6.2.3)

This Report is submitted in accordance with these new provisions.

In accordance with APM section 6.2.11, the Mayor has authorized a Subcommittee for preparation of the Annual August 30 Report on the Status of Priorities. The following are considered as priorities of the POSLC (our “Priorities”) for discussion in this Report:

**Lane Hand Railing Installation and Repairs and Other Lane Repairs**

**Dead and Dying Trees on Public and Private Land**

**Scenic View Obstructions**

**Private Projects on Public Lands  
Lanes Initiative**

**Vegetation and Tree Management**

**Park Lane Stair Rebuild, Seating Area**

**Lower Hawthorn Stairs/Centennial Park**

**Artist View Project**

**Lagoon Road Planting**

**Playground**

**Code Enforcement**

The POSLC has compiled studies and reports, and in collaboration with City Staff, the POSLC has and continues to see progress in all these areas. Where progress has been limited, this has been largely due to inadequate funding, insufficient available staff time, vacancies in staff positions, and the absence of a specifically designated Code Officer. In particular, we note that in fiscal year 2022/2023, the City Council has not allocated any funds from the General Fund for Hawthorn Lane Stair Rebuild, Park Lane Stair and Seating Area, Lane Maintenance/Minor Repairs and Lane Design & Engineering. (FY 22/23 Budget, p.47). As indicated in the

discussion below, additional funds may be needed during this current fiscal year for these and other Priorities.

## **PRIORITIES**

### **High Priority Items:**

#### **1. Lane Hand Railing Installation and Repairs and Other Lane Repairs – POSLC Reports, Referred for Cost Analysis**

Many of Belvedere’s lanes have missing or broken hand railings and unstable or broken steps. The installation and repair of hand railings and the repair of unstable steps for safety and accessibility in general is a **high priority** of the POLSC.

The January 18, 2022 report of former Chair Jean Bordon included the following priority categories for lanes:

- **HIGH PRIORITY:** Park Lane and Centennial Park/ Hawthorn Lane (wood stairs replacement), Upper Cedar Lane, Lower Woodland Lane, Lower Cedar Lane, Upper McLean Lane, Pagoda Lane, and Corinthian Lane.
  
- **MEDIUM PRIORITY:** Lower McLean Lane, Transpac Lane, Holly Lane, and Upper Cedar Lane.

A number of the Lanes on this list were identified by the Committee as in need of repairs as long ago as 2015.

The Public Works Department has referred certain lanes to Moe Engineering for cost analysis, including any cost savings by performing work at multiple lane sites together (i.e. concrete work at multiple lanes). POLSC is awaiting the report from Public Works.

*POLSC recommends performing at least the High Priority repairs on the Lane stairs and railings in 2023.*

#### **2. Dead and Dying Trees on Public and Private Land**

The removal of dead and dying trees on public and private land is a high priority of the POSLC. Dead and dying trees are more than an eyesore. These are a danger to the community, including as a fire hazard. Diseases can spread from one tree to another. These trees cease to provide the benefit of carbon sequestration.

In June of 2020, the POSLC established a Task Force on Trees, Vegetation and Views (TVV). Under the leadership of member Anne-Marie Walker, a survey was conducted by volunteer residents in August/September of 2020. A full review of the TVV findings was made to the POSLC at its January 2021 meeting. The survey found 37 dead/dying trees on public and private land. The TVV recommended increased funding for removal of dead trees and highly inflammable invasive plants.

The POSLC and its members have continued to apprise the Director of Public Works of dead and dying trees. Dead and dying trees have been removed from public property as the budget allows. The Fire Marshal has been contacted when needed to assist in obtaining removal from private property.

Several trees were recently removed from Bella Vista Avenue. These trees were located near to where a tree on private property had fallen; these trees presented a similar safety issue. Plans are underway to remove a dead pine tree on City property on the shoreline below 288 Beach Road. A barge will likely be necessary to complete the work.

As indicated above, it should be anticipated that the funds allocated for trees in public spaces will be insufficient to cover necessary work to remove dying and dangerous trees. The Director of Public Works indicated that the tree budget request for 2022/2023 would be increased to \$85,000. Unfortunately, the budget as passed by the City Council does not contain an increase from the prior amount of \$70,000. (FY 22/23 Budget, Item 5350, p.39).

*POLSC recommends (i) continuing to remove dead and dying trees from public land, and facilitating removal on private land as the tree budget permits and (ii) encouraging the removal of dead and dying trees on private land by Belvedere residents with streamlined permitting and approvals.*

### **3. Scenic View Obstructions on Private and Public Lands**

Preserving and enhancing views from Public Streets and Public Lanes and Parks is a high priority of the POSLC. Preserving and enhancing views is also high priority of the General Plan.

As related above, in June of 2020, the full report of the TVV findings by Kathy Pearson and Jean Bordon on Scenic View Obstructions was submitted to Irene Borba and Robert Zadnik.

Public Works has been continually working on eliminating view obstructions on public lanes, as budget allows. As discussed in the section on Centennial Park, Public Works is proceeding with the necessary steps to eliminate the significant view obstruction posed by a dangerous bay tree. It continues to be a high priority of POSLC to eliminate the view obstruction posed by a 30-foot pittosporum “hedge” on the City owned west side of Centennial Park.

Views from Centennial Park are also blocked by redwood trees growing on private property. The Public Works Director has referred this to the City Attorney, but the matter is on hold pending a determination on hiring a Code Enforcement Officer.

The Planning Department verified to POLSC that there are six lots on West Shore Road which are subject to view easements, as prescribed by the subdivision approval. At the present, there is only one lot in full compliance (37 West Shore Road), and another in partial compliance (81 West Shore Road),. At the remaining view easements, vegetation continues to grow higher than 3.5 feet, and other obstructions remain.

On Belvedere Island, the Code requires that hedges fronting the road be maintained at 6 feet. Lack of enforcement of this requirement causes a great deal of neighbor conflict. The lack of enforcement appears to be largely due to a lack of resources in the Planning Department and the absence of a specifically dedicated Code Enforcement Officer for the City. The default Code Officer appears to be the City Manager, who has a myriad of other duties. Remediating this situation by establishing a dedicated Code Enforcement Officer is a Priority of the POSCL.

There also appears to be a belief by some officials that the 6-foot limit does not apply to hedges which were growing at the time the Code sections were adopted. The most directly applicable Code sections are: 8.28.020(C), 8.28.090 (A), and 19.48.190. These do not contain an express direction that that the 6-foot limit does not apply to hedges which were growing at the time the Sections were adopted. The POSCL would suggest that an opinion of the City Attorney be obtained on this matter.

*POLSC recommends (i) pruning the 30-foot pittosporum “hedge” in Centennial Park, (ii) pruning or eliminating other view obstructions on public land as the budget permits and (iii) obtaining the opinion of the City Attorney with respect to (a) enforcement actions which can be taken by the City for view easements and (b) the applicability of Code sections relating to Fences to Hedges in on private property in Belvedere.*

#### **4. Effects of Private Projects on Public Lands**

As stated in the new Charter, the mission of the POSLC is “... to protect Belvedere’s Parks, Open Spaces and Lanes and to develop Belvedere’s Parks, Open Spaces, and Lanes in a manner consistent with Belvedere’s General Plan and the best interests of the citizens of Belvedere.” (APM section 6.2.1) It is a Policy of the General Plan to “Continue to control private use of public property.” (General Plan, Policy REC 2.5) It is also a Policy of the General Plan that “The City shall not sell or release its interest in any lane.” (General Plan, Policy REC-1.1)

The City Council adopted new procedures in the new Charters for the POSLC and the Planning Commission. (APM Sections 6.2 and 6.3) whereby planning staff notifies the Chair of POSLC of any Application affecting Public Lands not less than two weeks prior to the time of the Planning Commission hearing. This procedure is already working well, with Chairs Jean Borden and Jena Watson being informed of construction affecting the public access along the shoreline of two houses on Beach Rd. and of the replacement of benches at the Lagoon Rd. tennis courts. These

matters were reviewed by the POLSC Chairs in a timely manner to ensure no negative impact on our public spaces.

*POLSC recommends that the City and the Planning Commission continue to advise the POLSC as to private construction projects affecting public spaces.*

## **5. Lanes Initiative**

The Lanes Initiative remains a High Priority of the POSLC. As requested by POLSC, the Public Works Department retained the Lanes Initiative as Budget Item 9201 and as an Item in the Five-Year Plan, even though no funds were approved. In January 2022, the City Council approved the transfer of a Lanes Initiative Carryover of \$87,000 to the Critical Infrastructure Plan. In the Budget for 2022/2023, the City Council did not approve any funds for the Lanes Initiative in any year of the Five-Year Plan. (FY 22/23 Budget, p. 81).

While the Committee appreciates that the Lane Initiative is still listed in the Five-Year Plan, the absence of any funding for this item results in the loss of opportunities to complete lane infrastructures at the same time as private parties are obtaining approval from the Planning Department to partially construct stairs on public lanes. One solution is to condition the approval of private construction on public lanes and require the homeowner to perform maintenance or construction on such Lane in conjunction with the private construction.

*POLSC recommends (i) working with the Planning Commission to find opportunities to have construction projects affecting or on public property benefit the Lanes' creation, maintenance and repair, and (ii) seeking funding (from the City budget or otherwise) for Lane creation, repair and maintenance.*

## **Medium Priority Items:**

### **6. Vegetation and Tree Management**

The maintenance of the plantings in all of the City's public spaces, and replacement, when necessary, is a priority of the POSLC. This includes clearing view obstructions from the City's Lanes and removal and/or eradication of invasive species. The Survey conducted by the TVV found 88 occurrences of broom, 21 star thistles, 17 fennel areas, 21 papas grass clumps, 38 blackberry areas, and 27 Acacia trees.

The Committee and its members have made periodic updates to the Director of Public Works on outstanding work which has not been completed. It is the Committee's understanding that the failure to complete these needed tasks is due to insufficient staff time and insufficient funds. The Director of Public Works indicated that the tree budget request for 2022/2023 would be increased to \$85,000. Unfortunately, the budget as passed by the City Council does not

contain an increase from the prior amount of \$70,000, which has proven insufficient. (FY 22/23 Budget, Item 5350, p.39)

Public Works has continued to maintain vegetation, restore views on public lanes and remove invasive species as budget allows.

*POLSC recommends that (i) the Planning Department require the removal of all invasive species as a requirement for approval of landscaping plans on private property and (ii) the hosting of additional “clean up” or “broom buster” days to aid the removal of invasive species from public property.*

## **7. Park Lane Stair Rebuild and Seating Area**

A small triangle of land abutting lower Park Lane was given to the City by the neighbors in exchange for a portion of City right of way on Golden Gate Ave. It has been proposed that a seating area be created on a triangle of land, with view enhancement and landscaping will also be considered.

The Director of Public Works and Subcommittee Members met with Gary Rasmussen of Blasen Landscape on site, and Moe Engineering completed a topographical survey report on February 18, 2022. Five different renderings for the project were prepared by Gary Rasmussen and were considered by the Committee at its March 10, 2022 meeting. At the POSLC meeting on July 14, 2022, POSLC recommended the proposal with a curved stairway. The Acting Public Works Director directed Gary Rasmussen to obtain cost estimates for the recommended proposal. Gary Rasmussen has contacted two contractors and it is anticipated that preliminary cost estimates will be provided to Public Works.

The Public Works Director and the Chair of the Committee made requests for additional funds in 2022/2023 budget for this project and these were denied. We note that no General Fund money is allocated for Park Lane, or for Hawthorn Lane (Centennial Park), Lane Maintenance/Minor Repairs and Lane Design & Engineering. (FY 22/22 Budget, p.47).

*POLSC recommends (i) repairing/replacing the wooden steps as described above, (ii) keeping the Park Lane Project on the 5 Year Plan, (iii) revisiting the need for funding for the Project for the Budget in fiscal year 2023-2024 and (iv) seeking private funding (from the City budget or otherwise) for the project.*

## **8. Lower Hawthorn Stairs/Centennial Park**

In addition to the replacement / repair of the wood stairs on Lower Hawthorn Lane/Centennial Park described above, additional restorative work, including public view recovery and enhancement by trimming or eliminating a 30-foot pittosporum hedge and a dangerous bay tree, amelioration for trees killed and injured by unauthorized private cutting and

for the placement of an unauthorized wire fence on the western boundary, as well as landscaping and irrigation are included in this project.

A topographical survey report by Moe Engineering was completed on June 30, 2021. The Planning Department is aware of the unauthorized fence (which is being replaced by the homeowner) and unauthorized tree cutting. The Department of Public Works is in the process of obtaining the necessary authorization from the Planning Department for the removal of the Bay tree and of obtaining estimates for the removal.

The Public Works Director and the Chair of the Committee made requests for additional funds in the 2022/2023 budget for this project. In the Budget as approved by the City Council, these increases were not included, and the prior allotment was reduced by \$5000. (Item 9217, Preliminary FY 22/23 Budget, p.31; FY 22/23 Budget, p. 48) It is anticipated that additional funds will be needed to complete this project in this fiscal year.

*POLSC recommends (i) repairing/replacing the wooden steps as described above, (ii) keeping the Centennial Park Project on the 5 Year Plan, (iii) revisiting the need for funding for the Project for the Budget in fiscal year 2023-2024 and (iv) seeking private funding (from the City budget or otherwise) for the project.*

#### **9. Artist View Project – Remains a High Priority, Ongoing Vegetation Management, Code Violations, POSLC Not a Party to Ongoing Discussions**

The Artist View Project continues to be a priority of the POSLC. It was listed as “High Priority” in a priority list by former Chair Jean Bordon, dated January 18, 2022. As was requested by the Committee, the Public Works Department retained this project in the Five-Year Plan, with \$150,000 specified for FY26/27. The Committee will continue to urge that the Artist View Project be reinstated as a currently funded project in the Budget.

The Committee continues to monitor the Artist View Site for control of vegetation and dead trees. Public Works has recently completed work on the site.

Unauthorized wire fences have been installed on both boundaries of the Artist View site by the adjacent property owners. Neither wire fence has been abated. There are ongoing negotiations between the City and property owners, which include property line issues along the shoreline. The POSLC has not been asked to make any recommendations as to these negotiations.

*POLSC recommends (i) continuing to control vegetation on the Artist View site, (ii) having the Planning Commission / City staff keep POLSC apprised of the negotiations with the neighbors regarding the fencing and (iv) seeking private funding (from the City budget or otherwise) for the project.*



## **Low Priority Items:**

### **10. Lagoon Road Planting**

This project is located adjacent to the Lagoon Road parking area. A new landscaping plan was prepared by Gary Rasmussen of Blasen Landscaping. After some modification, the plan was submitted to the POSLC. The POSLC recommended approval and the landscaping has been installed. This project could not have occurred without the fundraising efforts of former member Bryan Kemnitzer.

*No further recommendations action (other than maintenance of the new plantings) is required for this item.*

### **11. Playground**

After years of planning and construction, the renovation of the Belvedere Playground is nearing completion. Ribbon Cutting is scheduled for October 15<sup>th</sup>. This project could not have been accomplished without the tireless fundraising efforts of former member Bryan Kemnitzer and the enthusiastic support of young parents, including member Mario Valente and the Playground Taskforce.

The original plans for the renovation of the playground, as approved by the City Council and as distributed by fund raisers, included a bench in the new toddler area. For budgetary reasons, the bench was omitted from the contract as approved. Funds are now available for the bench originally proposed in the new toddler area to be reinserted into the project.

The Mayor has approved a subcommittee of new Chair Jena Watson and member Kathy Pearson to organize donor recognition. Former member Bryan Kemnitzer and citizen volunteer Petey Stein are also assisting in these efforts.

*POLSC recommends (i) working with the City staff to purchase and install the new bench in the toddler area of the playground and (ii) to continue to work with the subcommittee and volunteers for recognition of Playground donors.*

### **12. Code Enforcement / Code Enforcement Officer Recommended.**

As described above and to City staff over the years by POLSC members, there have been and currently are a number of Code Violations affecting public lands and views from public lands. As discussed above, the Planning Department is aware of the violations at Centennial Park (illegal pruning of trees) and Artists View (unpermitted fence).

POSLC has discussed Public Works hiring a half-time or full-time Code Enforcement Officer. Public Works has been receptive to this idea. It is understood that the recently appointed

Citizen's Committee on Construction Impacts has also indicated a need for a Code Enforcement Officer.

*POSLC recommends hiring a Code Enforcement Officer when and if budget allows.*

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