



MINUTES

Tuesday, June 20, 2017

5:30 P.M. Closed Session

6:30 P.M. Open Session

**REGULAR MEETING
CITY COUNCIL, AIRPORT COMMISSION,
MARINA ABRAMS B NON-PROFIT CORPORATION, PRESTON PARK SUSTAINABLE
COMMUNITY NON-PROFIT CORPORATION AND SUCCESSOR AGENCY OF THE
FORMER MARINA REDEVELOPMENT AGENCY**

Council Chambers
211 Hillcrest Avenue
Marina, California

TELECONFERENCE LOCATIONS:¹

131 Upshire,
Gaithersburg, Maryland

1. **CALL TO ORDER**
2. **ROLL CALL & ESTABLISHMENT OF QUORUM:** (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Successor Agency of the Former Redevelopment Agency Members)

MEMBERS PRESENT: Nancy Amadeo, Gail Morton, Frank O'Connell, Mayor/Chair Bruce C. Delgado

MEMBERS ABSENT: Frank O'Connell (Open Session Only) Excused); David W. Brown Excused
3. **CLOSED SESSION:** *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency Members) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City's Meyers-Milias-Brown Act representative.*
 - a. Conference with Legal Counsel - Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Govt. Code Section 54956.9 – one potential case
 - b. Conference with Legal Counsel - Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Govt. Code Section 54956.9 – two potential cases

¹ Note: Pursuant to Government Code Section 54953(b), this meeting will include teleconference participation by Council Member Frank O'Connell from the address above. This Notice and Agenda will be posted at the teleconference location

7:10 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION

Robert Rathie, Assistant City Attorney reported out closed session: Council met at 5:30 pm and discussed one of the two items. Council received information, gave direction and no reportable action was taken. Council will adjourn tonight meeting over to Wednesday, June 21, 2017 at 5:30 pm to discuss the other closed session items.

4. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)

5. SPECIAL PRESENTATIONS:

a Recreation Announcements

6. SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR: *Any member of the Public or the City Council may make an announcement of special events or meetings of interest as information to Council and Public. Any member of the public may comment on any matter within the City Council's jurisdiction which is not on the agenda. Please state your name for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda. City Council members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of four (4) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the City Council.*

- Jack Stewart – Announced that the California Central Coast Veterans Cemetery is seeking volunteers on Monday's, & Friday's from 9:00am-3:00pm to help with phones, assisting the administrative staff to host families coming in for the burial services. There have been some very hash personnel situation occur. If you're interested in volunteering call 393-9378 and ask for Christy or Kelly.
- Sid Williams – Spoke about the Veterans cemetery only being able to accept cremated remains, there are no opportunities for any kind of in-ground services. That will be remedied in Phase II, which is currently under consideration by the state. They are submitting a pre-application to the US Dept. of Veterans Affairs to tell them what they want to do and get their ideas back. Once that happens they will submit an actual application for the US DVA Grant to build a cemetery. Phase II is estimated to cost \$9.5 million. There is a 10% local match that must be paid by the state to get the grant from the US DVA. We need to raise about \$3 million and currently we have \$1.5 million in the bank. We have until the end of August to raise the funds. Seeking donations from all, which can be sent to the California Central Coast Veterans Cemetery Foundation.
- Kevin McCallon – Commented about condition of Lapis Road with all the vehicles and trash. Has the City worked with the County Supervisors or the Sheriff's department to get this area cleaned up? Has the city considered using the old campgrounds at Fort Ord?
- Council Member Amadeo and Council Member O'Connell – MST & CHS is partnering, the MST Buses are now a "mobile safe place" to assist youths in crisis in accessing help immediately. Safe Place is Monterey County only comprehensive program for runaway and homeless youths. For more information visit Community Human Services website: www.chservices.org or MST's website: www.mst.org or you can call MST at (888) MSTBUS1 or look on the Facebook page for Community Human Services: www.facebook.com/chssaeface.

- Mayor Delgado – Thanked the 19 volunteers who came out on June 10th to service volunteer day at the Oak Woodland Restoration program at the Marina Library; commented on Sober-Grad Night, which is a great place for graduating high school seniors to have an all-night place to be without alcohol or drugs. Kudos to Terry Siegrist who works with the High School to help them get what they need. This event was held at the Water City Roller Hockey building on Second Ave. Volunteers are always needed for this event.

7. CONSENT AGENDA FOR THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Background information has been provided to the Successor Agency of the former Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda for Successor Agency to the former Marina Redevelopment Agency and placed at the end of Other Action Items Successor Agency to the former Marina Redevelopment Agency.*

8. CONSENT AGENDA: *Background information has been provided to the City Council, Airport Commission, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.*

a. ACCOUNTS PAYABLE:

- (1) Accounts Payable Check Numbers 82046-82216, totaling \$784,555.91

b. MINUTES:

- (1) May 24, 2017, Special City Council Meeting
- (2) June 6, 2017, Regular City Council Meeting
- (3) June 13, 2017, Special City Council Meeting

c. CLAIMS AGAINST THE CITY: None

d. AWARD OF BID: None

e. CALL FOR BIDS: None

f. ADOPTION OF RESOLUTIONS:

- (1) City Council consider adopting **Resolution No. 2017-59**, approving increase in City parking bail schedule to compensate for increased operational costs associated with parking enforcement, institute late payment penalty fines for delinquent payment of parking citations, and; authorize Finance Director to make any necessary budgetary and accounting entries.
- (2) City Council consider adopting **Resolution No. 2017-60**, establishing appropriations limit for FY 2016-17 and FY 2017-18.

g. APPROVAL OF AGREEMENTS:

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

- j. REPORTS: (RECEIVE AND FILE):
 - (1) City Council consider adopting **Resolution No. 2017-61**, reviewing and accepting the Economic Development Commission FY 2016-17 Annual Report.
- k. FUNDING & BUDGET MATTERS: None
- l. APPROVE ORDINANCES (WAIVE SECOND READING): None
- m. APPROVE APPOINTMENTS: None

AMADEO/MORTON: TO APPROVE THE CONSENT AGENDA AS PRESENTED. 3-0-2(O’Connell, Brown)-0 Motion Passes

- 9. PUBLIC HEARINGS: None
- 10. OTHER ACTIONS ITEMS OF THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Action listed for each Agenda item is that which is requested by staff. The Successor Agency may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*
- 11. OTHER ACTION ITEMS: *Action listed for each Agenda item is that which is requested by staff. The City Council may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

Note: No additional major projects or programs should be undertaken without review of the impacts on existing priorities (Resolution No. 2006-79 – April 4, 2006).

- a. ~~City Council, Successor Agency to Marina Redevelopment Agency Board, Abrams B NPC Board, Preston Park Sustainable Community NPC Board, and Airport Commission: consider adopting Resolution No. 2017 , 2017 (S/A MRA), 2017 (NPC), 2017 (PPSC NPC) and 2017 (MAC) adopting Fiscal Year 2017-18 Budget, establishing procedures for amending budget, and authorizing the Finance Director to make necessary accounting and budgetary entries; and consider adopting Resolution No. 2017-62, 2017-04 (S/A MRA), 2017-01 (NPC), 2017-01 (PPSC-NPC) and 2017-01 (MAC) authorizing Finance Director to make certain post year-end accounting adjustments to FY 2016-17 and FY 2017-18 Budgets. **Continued to Wednesday, June 21, 2017**~~

Lauren Lai, Finance Director provided background on staff report

Summary = May 24th -- General Fund Budget; June 13th – All City Funds; Special Thanks; Follow-up on Council questions; Receive Successor Agency budgets; Receive final Council questions/direction; Request Council adopt budget FY17-18

Follow-up = Q and A from Council Member O’Connell; National Parks Service (NPS) Fund - General Fund Support Services - Total \$40,600 (Sports \$17,100 (Recr \$12k, PD \$3.5k, Fire \$1k, PW \$600)-Equestrian \$23,500 -(Recr \$12k, PD \$5.5k, Fire \$1k, PW \$5k) -Revised Revenue - Sports Dept to \$27k/yr - Est. Fund Bal 6/30/18 = \$506,600 - Sports \$50k, Equestrian \$456k)

FY17-18 Budget – Balanced Budget = Unmet Needs – due to lack of funding: Community improvement projects for quality of life (i.e. downtown, parks and trails); Health & safety needs; Police & Fire staffing for growth service demands; Street and facility maintenance (*Measure U & X to partially repair pavement, \$2.5 million for City streets to reach a PCI of 70 in 10 years.*)

Council Questions: \$2.5 million for streets is annual, correct; what does this budget put towards that \$2.5 million; if budget is approved we'll spend \$750,000 on streets but really need to spend \$2.5 million on streets to prevent that number growing exponentially; NPS Fund, right now the way it's in the budget it's not listed as \$40,600 it was listed as something else but was amended to be \$40,600 coming out of the General fund to support NPS services; so tonight as you asking us if we want to reimburse the general fund for the \$40,600, correct; difference between the two resolutions; are we anticipating in this year's budget purchasing 6 vehicles from the vehicle reserve account; do we anticipate putting money into the vehicle reserve account for the purchase of vehicles from previous years; CDBG Liability payment; are we allocating any funds of revenue towards Compensative Absences; has the liabilities gone down; last year's budget we allocated \$500,000 for Facilities Repairs and Reserve – is this something that is additional funds going into the Facilities Repair in this 17-18 budget; would it be advisable for us to put additional funds into this account; Emergency Reserve fund balance-how did the funds get characterized as Community Improvements; how do we pay for unexpected expenses/liabilities if all our money is earmarked in other categories; Does FORA owe us money and if so when do we expect to receive it and where in the budget will it go; NPS Fund-reimbursement to General Fund or direct charges; can council make changes to the undesignated funds; does council wish to donate up to \$15,000 to CSUMB Economic Development Grant; PEG Funds - Council Chambers remodeling status?

Public Comments:

- Paula Pelot – GSA & MCWD, there was a JPA formed with an 11-member board and that is who is overlapping and vying for control of being the Groundwater Sustainability Agency for Fort Ord. that has a great impact on our community and people should be concerned about that. MCWD will continue but it's sort of the finger in the eye to the Marina community because we need to have control over that even though we have the assets. They can limit our pumping and create unusual situations for us. The growth of Marina is going to happen on the Fort and we cannot afford to have that limited and impact our budget and anything else the quality of life here. We need to make sure that we are supporting MCWD and CSUMB did not support us at all.

AMADEO/DELGADO: TO APPROVE THE Resolution No. 2017-, 2017- (S/A MRA), 2017- (NPC), 2017- (PPSC-NPC) and 2017- (MAC), adopting Fiscal Year 2017-18 Budget, establishing procedures for amending budget, and authorizing the Finance Director to make necessary accounting and budgetary entries as well as making the change of applying the NPS \$40,600 to the General Fund. 2-1(Morton)-2 (O'Connell, Brown). Motion Fails due to not have 3 affirmative votes as required

Assistant City Attorney Rathie indicated that because the Council has a three (3) member quorum the resolution that was adopted regarding establishing rules and procedures for meeting and specifically as to voting require that 3 affirmative votes would be required to enact or adopt a resolution authorizing the payment or expenditures of money.

Council Member Morton stated that Council Member O'Connell's questions pointed out that it's not a balanced budget that's being presented. That what happened is some of the expenditures are merged and now characterized in this General Fund as opposed to being in the annual revenue of what we absorb. Understand how the budget is presented to us but we are ignoring some of what our true costs of operating the city. We are not putting any additional money into some of our other obligations. In favor of have the five (5) council members being able to weigh in on this important budget.

Finance Director Lai, before we can proceed to spend money on July 1st the Council need to adopt what's called a continuing resolution and that would mean we have to come back before June 30th. staff didn't anticipate this so we didn't draft a continuing resolution but we would need to hold a council meeting before June 30th for council to adopt that governing document.

Mayor Delgado, we were going to continue this meeting to tomorrow for other items but can also do it for this item as well. Let's have staff continue this meeting to tomorrow. We have a closed session item, this might be a brief open session item but how about I make a motion to the second request from staff:

DELGADO/AMADEO: TO ADOPT RESOLUTION NO. 2017-62, 2017-04 (S/A MRA), 2017-01 (NPC), 2017-01 (PPSC-NPC) AND 2017-01 (MAC), AUTHORIZING FINANCE DIRECTOR TO MAKE CERTAIN POST YEAR-END ACCOUNTING ADJUSTMENTS TO FY 2016-17 AND FY 2017-18 BUDGETS. 3-0-2(Brown, O'Connell)-0 Motion Passes

- b. City Council consider adopting Resolution No. 2017-, receiving business license implementation update and providing staff with further direction.

Business License Implementation – Summary = Background, Voter Results, Reason for tonight's discussion, Recap of Council deliberations & decisions, New business license ordinance, Council authority to amend, Current statistical information, Fiscal Impact

Council Strategic Planning Retreat - March 2017 Summary = *Ways to provide high quality of life, level of services and infrastructure, and address unmet needs: Maintain & repair streets, roads, sidewalks, ped paths, parks, facilities, Provide effective & sustainable levels of health & public safety, Improve long-term financial sustainability, Vitalize downtown & central Marina, Moved forward with new funding options*

Council Meetings – New Funding Options = April – July 2016, held nine (9) meetings, For Nov. 2016 election, evaluated a sales tax, utility users tax, or bus lic., July 26, 2016, Council adopted reso. 2016-118 placing the BLT measure before the voters on Nov. 2016

Business License Measure U - Voter Approval = Passed, Voters Approved by 83%, Enacting Ordinance No. 2016-06, Effective July 1, 2017, Four parts: **Section 1. Tax Rate For All Businesses**- - *“The tax rate shall be 0.2% of gross receipts for any person engaging in any business. The minimum annual tax for this category shall be \$100.”* **Section 2 – Amendments** – *“Any provision added to the Municipal code by this Ordinance may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required in order to further increase the rate of any tax with respect to any taxpayer.”* **Section 3. Use of Proceeds** - *“Proceeds of the tax imposed by this chapter shall be deposited in the General Fund of the City and be available for any municipal purpose”* **Section 4. Intent** – *“It is the intent of the People that, except to the extent exempted by applicable ordinance, law or constitutional provision, the business license tax apply to all persons who engage in any business of any kind in the City. This includes, but is not limited to, the business of renting, leasing, subleasing, licensing or having available for rent, lease, sublease or license, (i) any single family home, dwelling unit, room, or other accommodation or (ii) any space for commercial, institutional or industrial use.”*

Reason for tonight's discussion, Questions about new ordinance especially as it applies to rentals of single residential homes and/or rooms.

Business License Measure U - Recap of Council deliberation & decisions: Objective: To simplify the existing Ordinance which had sixteen (16) different categories and different rate structures; Direction to develop a new ordinance: *Fair and equitable, Consistent, Easy to understand, Simple to Implement*

July 26, 2016, Staff Report and Council specifically considered these three alternatives: **Schedule A:** Four (4) categories: prof (0.2%), rentals (0.2%), contractors (0.15%) and retail/others (0.1%); **Schedule B:** Three (3) categories: prof (0.2%), rentals (0.2%), others (0.15%); **Schedule C** – One tax rate of 0.2% for all businesses, combining prof, rentals, contractors, retails and others; Reso. 2016-118, Council approved Schedule C and the Ordinance to submit to voters.

Business License Measure U – Amendments: Enacting Ordinance No. 2016-06 = *Section 2 – Amendments* – “Any provision added to the Municipal code by this Ordinance may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required in order to further increase the rate of any tax with respect to any taxpayer.”; *Council may approve exemptions and/or lower the rate without voter approval.; Council approval of Ordinance introduction & second reading.*

Business License Measure U - Statistical Data: *May 2017, Mailers sent to 1,400 property owners most likely renting the property to inform them about the new BL; Monterey County tax records: Residential Property: Did not elect homeowner exemption, Owner mailing address is different than property address, Ownership of multiple properties within the City, Commercial Property.*

Business License Measure U - Statistical Data & Fiscal Impact: 540 Responses confirming a BL will be filed, Actual Registration Count: *(210 for residential property rentals, 25 for commercial property rentals);* HDL estimates 1,200 rental homes or dwelling units less than 10 units, estimated to generate \$50,000 - \$120,000 per year to General Fund.

Council Questions: is the 300 single family parcel number inclusive of rooms for rent or are rooms for rent uncounted and in addition to that; do we have an estimate of homes that rent rooms; cost of business license tax for those who rent rooms; does a single family home owner need a business license if they are using a property manager and does the property manager require a business license too; are persons receiving a negative net flow required to have a business license; how do you track single rooms for rent; is it financially feasible to track the single room occupants; HdL contingency fees; which other cities on the Peninsula charge business tax on landlords with less than 10 units or rooms for rent; affordable housing – are rooms for rent considered one type of affordable housing; could affordable housing stock be harmed by this tax; does a realtor have to obtain a business license if they work under a broker and does that broker have to obtain a license as well; was HdL asked by the city to send out letters; did we have say in the contents of those letters and forms; is it required by law to ask on those forms persons personal information such as SSN, drivers license etc.; making an exemption for negative effect;

Public Comments:

- Joe Worley – Thanked council for addressing this matter. Indicated that she will not provide her SSN or other personal information, this is not worth the hassle to rent a room to a college student.
- Rebecca McCallon – Realized that we’re going to do the budget and that would explain why we need this tax; Salinas is 4+ units, PG is 3 or more units Seaside is 3+ units there is no room anywhere in our county; talked to governing board of MCAR in depth about this and this will have an impact on our housing in our community. We already have a problem, Lapis Road. Tax is not just \$100. Once you have a business now you have to pay State and Federal tax, so it’s not just the \$100. Asked if council had the old ordinance in front of them when they approved taking this to the voters.
- Virginia Meachum – Voted for this tax because we needed it. There were two times that this revenue grab was attempted. Last year Muni-Services did this and sent out letters to everybody that was either no on the exempt or listed as a different address. At the time our Municipal Code said 10 or more units pay tax. Now you changed the ordinance whether you knew you were

changing it or not. Residential insurance is not the same as commercial insurance. If have a business license we then have to provide commercial insurance on our property. Is a separate license needed for each property?

10:00PM – DELGADO/AMADEO: TO EXTEND THE MEETING TO 10:10 PM. 3-0-2(O’Connell, Brown)-0 Motion Passes

- Kevin McCallon – commented that this tax is for Profit and Nonprofit, which means all the nonprofits (Girl Scouts, Marina Pony Baseball etc...) it doesn’t matter what you do you’re going to need a business license. This whole thing needs to be looked at and re-evaluated.
- Paula Pelot – the manner in which you derive income doesn’t change that it is taxable income that has been derived. You have to pay the Feds, you have to pay the State. Whether you’re renting out a whole house or rooms in your house you have to pay taxes on that income. The contract with HdL, how much of that, if it’s known is accounted for is for the Business Tax? Any public records act requests, information what kind of staff time has been put into this? How much did it cost us to put this on the ballot? We have put a lot into this. We held several council meetings and doesn’t buy that the council members didn’t know what they were voting for. Does not support any change and thinks it’s a fair and valid item and hopes council does not make any changes to it. The City needs these funds and everybody has to pay taxes on their income.

Mayor Delgado – thinks we should close tonight with direction to staff that we have some questions answered. Was City Council made aware of this? Is a Fictitious Name required? Is there any potential for double taxation? Does a room rental landlord need to get commercial insurance? Does a person renting a single-family home need to get commercial insurance on top of their residential insurance? Is there a separate application needed for each property owned by the same person? How does this apply to nonprofits such as Girl Scouts and Marina Pony Baseball/Softball? Can we get confirmation on what other cities do? What are the HdL related costs and what are the Public Records Requests costs and what was the cost for putting this on the ballot?

Thinks we can’t cover this all tonight but maybe we could have on a consent item agenda an information sheet that answers the questions that staff thinks are relevant that came up tonight and the questions I just noted. Then we’ll go from there whether we want to have another such meeting and potentially amend this.

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

- a. Monterey County Mayor’s Association [Mayor Bruce Delgado]
- b. Council and staff opportunity to ask a question for clarification or make a brief report on his or her own activities as permitted by Government Code Section 54954.2.

13. ADJOURNMENT: 10:15 PM - The meeting adjourned to Wednesday, June 21, 2017 at 5:30 pm continue closed session items and open session agenda item 11a.

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor