



## MINUTES

Wednesday, July 5, 2017

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:**<sup>1</sup>

2707 Second Ave South  
Arlington VA.

<sup>1</sup> Note: Pursuant to Government Code Section 54953(b), this meeting will include teleconference participation by Mayor Bruce C. Delgado from the address above. This Notice and Agenda will be posted at the teleconference location

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 Pro-Tem/Vice Chair, David W. Brown, Mayor/Chair Bruce C. Delgado
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.*

**6:30 PM CONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN  
CLOSED SESSION**

4. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)
5. SPECIAL PRESENTATIONS:
  - a Pueblo Del Mar Presentation
  - b Cemex/Lapis Sand Mining Operation Update

Public Comments on Cemex Update

- Elizabeth Billingsley – Thanked council for their attention in the Cemex matter as it relates to our water. That’s what united the people in this city.
- Carol Roberts – thanked council for devoting so much time and effort to ending the Cemex Sand Mining. Nice that Marina played a significant role over the past years much of it was unknown to the general public. Appreciates council was responsive to the citizens voicing concerns. Impressed at the June 6<sup>th</sup> meeting with all the questions asked.
- Lee Shahrenion – thanked council for its strong leadership on the Cemex project and working on behalf of the whole Monterey Peninsula. The Sand Matters Group are concerned about the future use of the Cemex property. The experimental desal plant seems incompatible with the low impact public recreational use envision for the pending Coastal Commission/Cemex agreement. Hopes there will be a continued effort to protect the Cemex property for the public over the interest of yet another private for-profit company.
- Harvey Biala – thanked the council, city manager and city attorney for their incredible wisdom and hard work over the last two years resulting in the Cemex settlement. Proud of our city that you had the will and intelligence to respond in the assertive matter that you did when other jurisdictions remained silent. Our next major challenge is the Cal-Am slant well project and hopes the Marina community and peninsula friends can prevail, our future depends upon this united effort.
- Kathy Biala – read a letter from Katherine O’Dea, Save Our Shores expressing their gratitude to the City of Marina for addressing the Cemex issue and responsibly aligning with Coastal Commission on jurisdiction issues. Applaud your efforts and good governance on this matter. Recognize that while the Cemex settlement is a major win in protecting the integrity of Monterey Bay National Marine Sanctuary Shoreline from Marina to Monterey there may be complications relating to existing easements Cal-Am has secured related to the future use of the Cemex property.

c 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.*

- Alfredia Wilson, Learning for Life Charter School – Announced that Learning for Life Charter School has moved to the UCMBEST Center and are having an Open House on July 27, 2017 from 4:00-6:00pm.
- Kim Stemler – Spoke about the illegal fireworks going off in Marina and the effects they had on her dog. Asked council to consider Safe, Sane and Silent fireworks next year. Even Safe and Sane make noises and those noises affect all the animals.
- Paula Pelot – Commented about the illegal fireworks in the Preston and Abrams Park housing area and noted there was no enforcement; also, commented on the upsurge of rodent/rats in the area and that there are safer ways to eradicate them by constructing Hawk Perches.

- Mike Owen – Commented on the new contract for landscaping for Monterey Bay Estates came into effect on July 1<sup>st</sup> and that there was a walkthrough held on June 27<sup>th</sup> with 3 residents of the three assessment districts and the new contractor. There was mention of Prop 218 scheduled to happen in 2018 to raise the rates above the maximum as provided by law. Asked if it was allowed to have arguments of the Pros and Cons on the 218 ballots for the assessment districts.
- Dawn Alva – Made comments on the new Business License Tax, what are the steps of the process? How are they calculated? What is the council doing? What timeline do we anticipate?
- Council Member Amadeo – Marina Youth Arts August 5<sup>th</sup> Tea Party Fundraiser. Hosting a table and are interested in attending send me an email. Children will be performing in the Neverland Musical.
- Mayor Delgado – September 2<sup>nd</sup> Annual Labor Day Parade and Festival. Application are now being accepted for both the parade and festival booths.

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 82217-82326, totaling \$320,983.90

b. MINUTES:

- (1) June 20, 2017, Regular City Council Meeting
- (2) June 21, 2017, Adjourned Regular 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. 2017-64**, releasing the warranty bond for the first phase of the Dunes Phase 1C (Formerly University Village) Improvement Plans and Final Map, and; authorize City Clerk to release the bond security.

- (2) City Council consider adopting **Resolution No. 2017-65**, approving purchase of a 2017 LEKTRO Model AP8750CX-AL Aircraft Tug from Advantage GSE, Inc. of Tustin, California; and waiving City’s formal bid process finding that competitive bidding would be unavailing, would not produce an advantage, would not be in the public interest and that the commodity or product can only be obtained from one vendor; and authorizing Finance Director to make necessary accounting and budgetary entries; and authorizing City Manager to execute purchase agreement on behalf of the City subject to final review and approval by the City Attorney.
- (3) ~~City Council consider adopting Resolution No. 2017-, confirming levy of a special tax for the City of Marina Community Facilities District No. 2007-2 for Fiscal Year 2017-2018 as authorized by Ordinance No. 2007-09, and; consider adopting Resolution No. 2017-, certifying City of Marina compliance with State law (Proposition 218) with respect to levying of special taxes for the City of Marina Community Facilities District No. 2007-2 for Fiscal Year 2017-2018 as authorized by Ordinance No. 2007-09. ***Pulled by Council Member O’Connell, becomes agenda item 11b***~~

g. APPROVAL OF AGREEMENTS:

- (1) ~~City Council consider adopting Resolution No. 2017-, approving a Facilities Memorandum of Understanding between the City of Marina and the Monterey Peninsula Unified School District (MPUSD). ***Pulled by Council Member Morton, becomes agenda item 11c***~~
- (2) City Council consider adopting **Resolution No. 2017-66**, approving the Master Programs Funding Agreement with the Transportation Agency for Monterey County (TAMC) for the local allocation and expenditure of Measure X Transportation and Safety Investment Plan funds, and; authorize the Finance Director to make the necessary accounting and budgetary entries, and; authorize the City Manager to execute the agreement on behalf of the City Council subject to final review and approval by the City Attorney, and; authorize the City Manager to submit reports to TAMC as required by the Agreement.
- (3) ~~City Council consider adopting Resolution No. 2017-, consenting to the Partial Assignment and Assumption Agreement for the Marina Heights Development Agreement from Cypress Marina Heights, LLC to Valley Coastal Development, LLC and Partial Assignment and Assumption Agreement for the Marina Heights Option Agreement from Cypress Marina Heights LLC to Valley Coastal Development, LLC.; and consider adopting Successor Agency Resolution No. 2017 (SA MRA), consenting to a Partial Assignment and Assumption Agreement of the Option Agreement for the Marina Heights Project from Cypress Marina Heights LLC to Valley Coastal Development, LLC. ***Pulled by Council Member Morton, becomes agenda item 11a***~~

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

k. FUNDING & BUDGET MATTERS: None

- l. APPROVE ORDINANCES (WAIVE SECOND READING): None
- m. APPROVE APPOINTMENTS: None

Council Member Morton had questions for agenda item 8f(2) and 8g(1) and requested to pull agenda item 8g(3) – 8f(2) How many times do we have a need for this piece of equipment in 2016-2017? Does this require specialized staff to operate it or do we have staff that’s fully trained? If used by a tenant do they pay for the use, or do they rent it? Is this best use of our fund balance in the 17-18 budget or is this something that the fund balance could be applied to other airport improvements or needs? 8g(1) Indemnification clause and limited liability and works comp insurance in old agreement, did we increase those to make sure the liability insurance would cover 2017 actions? Is it appropriate that we have some minimum liability? This item was removed from the consent agenda and placed under Other Action for separate action, becomes agenda item 11c

Council Member O’Connell requested to pull agenda item 8f(3)

Mayor Delgado requested to pull agenda item 8g(1)

**AMADEO/MORTON: TO APPROVE THE CONSENT AGENDA MINUS 8f(3), 8g(1) and 8g(3) AND WITH THE CORRECTION MADE TO AGENDA ITEM 8b(1) AS PROVIDED BY STAFF. 5-0-0-0 Motion Passes by Roll Call Vote.**

- 9. PUBLIC HEARINGS:
- 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 consider adopting **Resolution No. 2017-67**, consenting to the Partial Assignment and Assumption Agreement for the Marina Heights Development Agreement from Cypress Marina Heights, LLC to Valley Coastal Development, LLC and Partial Assignment and Assumption Agreement for the Marina Heights Option Agreement from Cypress Marina Heights LLC to Valley Coastal Development, LLC.; and consider adopting Successor Agency **Resolution No. 2017-06 (SA-MRA)**, consenting to a Partial Assignment and Assumption Agreement of the Option Agreement for the Marina Heights Project from Cypress Marina Heights LLC to Valley Coastal Development, LLC. ***Pulled by Council Member Morton, was agenda item 8g(3)***

Council Member Morton noted that in both the resolutions for this item the is a “Whereas” right before the Now, Therefore it Be Resolved: “*the staff report accompanying this resolution provides additional information on the assignments of rights and obligations to the Valley Coastal Development LLC under the Development Agreement and the Option Agreement*”. would like this stricken from both the resolutions.

Council Member Amadeo asked if removing this language from the resolution has any impact on the agreement?

**MORTON/O'CONNELL: TO ADOPT RESOLUTION NO. 2017-.67, CONSENTING TO THE PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT FOR THE MARINA HEIGHTS DEVELOPMENT AGREEMENT FROM CYPRESS MARINA HEIGHTS, LLC TO VALLEY COASTAL DEVELOPMENT, LLC AND PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT FOR THE MARINA HEIGHTS OPTION AGREEMENT FROM CYPRESS MARINA HEIGHTS LLC TO VALLEY COASTAL DEVELOPMENT, LLC; WITH SPECIFICITY TO THE RESOLUTION THAT THE PARAGRAPH ABOVE NOW, THEREFORE IT BE RESOLVED ("THE STAFF REPORT ACCOMPANYING THIS RESOLUTION PROVIDES ADDITIONAL INFORMATION ON THE ASSIGNMENTS OF RIGHTS AND OBLIGATIONS TO THE VALLEY COASTAL DEVELOPMENT LLC UNDER THE DEVELOPMENT AGREEMENT AND THE OPTION AGREEMENT") BE STRUCK. 5-0-0 Motion Passes by Roll Call Vote**

**MORTON/AMADEO: TO ADOPT RESOLUTION NO. 2017-06 (SA-MRA), CONSENTING TO A PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT OF THE OPTION AGREEMENT FOR THE MARINA HEIGHTS PROJECT FROM CYPRESS MARINA HEIGHTS LLC TO VALLEY COASTAL DEVELOPMENT, LLC; WITH SPECIFICITY TO THE RESOLUTION THAT THE PARAGRAPH ABOVE NOW, THEREFORE IT BE RESOLVED ("THE STAFF REPORT ACCOMPANYING THIS RESOLUTION PROVIDES ADDITIONAL INFORMATION ON THE ASSIGNMENTS OF RIGHTS AND OBLIGATIONS TO THE VALLEY COASTAL DEVELOPMENT LLC UNDER THE DEVELOPMENT AGREEMENT AND THE OPTION AGREEMENT") BE STRUCK. 5-0-0-0 Motion Passes by Roll Call Vote**

Public Comments: None received

- b. City Council consider adopting **Resolution No. 2017-68**, confirming levy of a special tax for the City of Marina Community Facilities District No. 2007-2 for Fiscal Year 2017-2018 as authorized by Ordinance No. 2007-09, and; consider adopting **Resolution No. 2017-69**, certifying City of Marina compliance with State law (Proposition 218) with respect to levying of special taxes for the City of Marina Community Facilities District No. 2007-2 for Fiscal Year 2017-2018 as authorized by Ordinance No. 2007-09. *Pulled by Council Member O'Connell, was agenda item 8f(3)*

Council Member O'Connell, based on the amount we were to charge, \$420 why do we not have \$6300 in the estimate for FY 16-17? When you say, the Administration including the engineers report for 16-17 of \$2600 and estimated \$2000 for each year after, what exactly does that involve that is comes to \$2600? What is the difference between monthly inspections and the supervision that you have for \$1500? The \$420 that has not been received, is there an interest rate on that? How difficult would it be if the supervision was reduced to \$1000 and the administration was reduced to \$1500? FY 16-17 administrative engineers report of \$2000 and this staff report it makes reference to \$2600, is that \$600 because it went out to bid? Do you feel comfortable with...based on what experience has been for 17-18 we're looking at a positive balance if in fact we went up to the \$502.66 or approximately \$2434?

Council Member Amadeo, in terms of the maximum assessment, the 2% that it could go up is not the 2% of where it is today but 2% every year of the original base amount, correct?

**O'CONNELL/MORTON: TO ADOPT RESOLUTION NO. 2017-68, CONFIRMING LEVY OF A SPECIAL TAX FOR THE CITY OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2007-2 FOR FISCAL YEAR 2017-2018 AS AUTHORIZED BY ORDINANCE NO. 2007-09, HOWEVER AS TO THE \$502.66 PER PARCEL I WOULD CHANGE THAT AMOUNT TO \$475 PER PARCEL AND THAT THE ADMINISTRATION COSTS BE REDUCED TO \$1500.00, WITH SUPERVISION STAYING THE SAME ESTIMATE OF \$1500.00. 4-1(Amadeo)-0-0 Motion Passes by Roll Call Vote**

**O'CONNELL/AMADEO: TO ADOPT RESOLUTION NO. 2017-69, CERTIFYING CITY OF MARINA COMPLIANCE WITH STATE LAW (PROPOSITION 218) WITH RESPECT TO LEVYING OF SPECIAL TAXES FOR THE CITY OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2007-2 FOR FISCAL YEAR 2017-2018 AS AUTHORIZED BY ORDINANCE NO. 2007-09. 5-0-0-0 Motion Passes by Roll Call Vote**

Public Comments: None received

- c. City Council consider adopting **Resolution No. 2017-70**, approving a Facilities Memorandum of Understanding between the City of Marina and the Monterey Peninsula Unified School District (MPUSD). *Pulled by Council Member Morton, was agenda item 8g(1)*

**MORTON/AMADEO: TO APPROVE Resolution No. 2017-70, APPROVING A FACILITIES MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MARINA AND THE MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT (MPUSD); WITH THE DIRECTION TO AUTHORIZE OUR CITY ATTORNEY TO CONFIRM THE AGGREGATE LIMIT FOR BOTH PARTIES ARE AND WILL REMAIN IN ACCORDANCE WITH THE CITY'S INSURANCE REQUIREMENTS AS DETERMINED BY MBASIA. 5-0-0-0 Motion Passes by Roll Call Vote**

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

- a. Monterey County Mayor's Association [Mayor Bruce Delgado]

Next meeting is this Friday and Mayor Pro-Temp Brown will be attending, thank you

- 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.

Council Member Amadeo announced that on July 3<sup>rd</sup> there was 150 new citizens naturalized at CSUMB. 19 different countries were represented in our new citizens.

13. ADJOURNMENT: The meeting adjourned at 8:50 PM

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Anita Sharp, Deputy City Clerk

ATTEST:

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David W. Brown, Mayor Pro-Temp