



MINUTES

Tuesday, August 15, 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

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

MEMBERS ABSENT: 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 Anticipated Litigation - Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: Two potential cases.

Robert Rathie, Assistant City Attorney reported out closed session: Council met at 5:30 pm with the item listed above involving two case. Council received information, provided direction and no reportable action was taken.

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

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

5. SPECIAL PRESENTATIONS:a Recreation Announcements6. 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.*

- Bill Kempe, Mayor Pacific Grove – Monterey Peninsula Regional Water Authority – Requested the engagement of the Council and community of mutual interests in future water supply. Thanks Mayor Delgado for meeting with him to help understand the perspective from Marina. Thanked City Manager for his participation in the meetings from a peninsula perspective and hopes to expand that to include more people from Marina. At some point the Marina Council may be involved in permitting for project that are important to the Monterey Peninsula. 80,000 residents on the peninsula who will be affected by the current contention we have between the Marina community and the peninsula community due to water rates and/or water rationing if reasonable progress is not met. Urged to find a way to have a mutual dialog for understanding. Peninsula is exploring responses to many of the concerns raised from Marina and other parties on the MPWSP.
- Kevin McCallon – Commented on Lapis Road and the proposed location. The parking lot that is proposed only has 82 spots designed for cars not RV's or trailers. Is this going to be for long-term/short-term? If it's for short-term what does the timeline look like? Who will this affect our police and fire? Are they going to allow tents and makeshift housing? Should an EIR be done being this looks like and RV Park or Campground? Does the coastal commission of FORA have any say? Is this going to bring a big influx from all over the area? if this is what we're doing, should the city residents have a say in what's allowed or not?
- Mike Owen – Attended the town hall meeting, packed house and was very professional. At the end of the meeting there were about 8 people lined up to talk to the Hispanic immigration attorney, real working being done to help people. Commented County having proclamation as a Welcoming County, does not think there is any other proclamation in the pipeline for the homeless. Hoping that some kind of forum for discussion of questions and other issues like this where there could be persons from Jane Parker's office, Council Members and city staff. Commented on an article in the Herald newspaper on the 2017 Homeless Census, 83% of homeless people lived here before losing their housing.
- Paula Pelot – Provided a brief statement about the Abrams Park shooting that occurred over the weekend. There has been a lot of commentary in the housing area and on Next Door and a lot of guessing as to what happened and why it happened. The Police Department, City Manager, Management and the Tenants Association are all working together to determine what the factors were that contributed to it and how to remedy it. This is not going unaddressed. Found one comment on Nextdoor to be very troubling in point to the fact that there are below-market units there and that somehow indicates that low-income means low-life and that is not the case.
- Council Member Amadeo – Marina Youth Arts Semi-Annual Tea Party raised over \$3,000. Marina Youth Arts is taking their Musical Theater Program into Marina High School. The District is helping to fund the program at the high School.

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 82591-82713, totaling \$565,356.47
Wire transfers from Checking and Payroll for June 2017 totaling: \$567,372.90

 - b. MINUTES:
 - (1) August 2, 2017, Regular City Council Meeting
 - (2) August 3, 2017, Adjourned Regular City Council Meeting

 - c. CLAIMS AGAINST THE CITY: None

 - d. AWARD OF BID:

 - e. CALL FOR BIDS: None

 - f. ADOPTION OF RESOLUTIONS:
 - (1) City Council consider accepting responses to the 2016-17 Final Report – Monterey County Grand Jury for the City of Marina, and; direct that the responses be forwarded to the Presiding Judge of the Superior Court

 - g. APPROVAL OF AGREEMENTS: None

 - h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

 - i. MAPS: None

 - j. REPORTS: (RECEIVE AND FILE): None

 - k. FUNDING & BUDGET MATTERS: None

 - l. APPROVE ORDINANCES (WAIVE SECOND READING):
 - (1) City Council approve **Ordinance No. 2017-04**, (read by title only) of the City of Marina Amending Title 15 of the Municipal Code by Adding Chapter 15.39 to Provide an Expedited Permit Process for Electric Vehicle Charging Stations.

 - m. APPROVE APPOINTMENTS: None

DELGADO/AMADEO: TO APPROVE THE CONSENT AGENDA MINUS 8I(1) FOR A ROLL CALL VOTE. 4-0-1(Brown)-0 Motion Passes

DELGADO/AMADEO: TO APPROVE AGENDA ITEM 8I(1). 4-0-1(Brown)-0 Motion Passes by Roll Call Vote.

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.*
 - a. Agency Board consider adopting Resolution No. 2017- (SA-MRA), that approves certain documents for a property tax increment bond issue for the Marina Dunes project, pursuant to pre-existing enforceable obligations, and take various other actions related thereto, and direct the City Manager to return to the Board with the balance of the documents required to complete this transaction, including a preliminary official statement and a bond purchase agreement.

Staff report presented by Karen Teidemann, Goldfarb & Lipman

Council Questions: what's the significance of taxable vs. non-taxable and what could be done to make it non-taxable; could be provisions be changed, if so what is the detrimental effect to the city; are there any other issues exist; Successor Agency consent to change tax exempt bonds, would that also have to be approved by the Oversight Board or Department of Finance; \$17.5 million max but could be lower, when would we know what that bond issuance is going to be; is interest rate impacted by the Feds; interest rate moving target, would tax rolls be made available to us shortly; confirmation of fiscal impacts; is the proposed scheduled of performance a public documents; how is it related to the bonds; will the city have any say in the new schedule of performance; tax increment and financing plan and agreement; does the city have any risk in moving ahead tonight but them finding out whatever outstanding information we need to collect; do we lose any rights if we take any action tonight and then reconsider where we are in the preliminary offering statement is before us; are we committing to future bond approvals tonight; tax increment specific uses;

Don Hoffer, Marina Community Partnership – thanks for the opportunity to be here and for consideration of the agenda item this evening. Would like to look at the bonds be non-taxable. Noted that this item would require the Oversight Board and Department of Finance approval and look at the feasibility of that in more detail before we make a decision. We have submitted a new schedule of performance that take into consideration the force majored that as we see it and we're open to discussions but request they be separate from the actions being considered this evening. This is a mechanism that we have relied upon to fund infrastructure. While bond limit is important aspect, that was part of the original discussion when those agreements were entered into. What's most important to us is to be able to offset the cost of infrastructure. A second priority in terms of financial performance and those aspects of our project that are critical to the bond financing. We would really like to move forward with as quickly as possible.

MORTON/O'CONNELL: THAT THIS MATTER COMEBACK NO SOONER THAT THE FIRST MEETING IN SEPTEMBER WITH THE ADDITIONAL INFORMATION. 4-0-1(Brown)-0 Motion Passes

Public Comments:

- Don Hoffer – understand the concerns of the bigger financial picture; there are many good things happening on The Dunes Project that haven’t been shared yet. Our position is that while development is critically important that’s not necessarily drimane to moving forward with bond issuance, which is an obligation that goes back to entering the agreements and is really important to the financial viability of the project on a go-forward basis. We have to move forward with the bond issuance. This is critical to our project, it’s an important step in our partnership with the city that we move forward with obligations that were set in place many years ago, the decision tonight is not about entering into bond debt, the decision is to move forward with the next step. I request that you move forward.
- Paula Pelot – Supports the motion

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 introducing Ordinance No. 2017-, amending Article I of Title 5 of the Marina Municipal Code relating to the business license tax.

Business License Implementation Summary = June 20, 2017 – Council update; July 18, 2017 – Follow-up Q&A; August 2, 2017 – Proposed Amendments

Business License Measure U Recap of Council Deliberation & Decisions = New Option to fund City Services; 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)*

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 - 0.2% of gross receipts, 100 minimum

Business License Ordinance = residential rentals; real estate salespeople; branch establishment & separate business; participation in public proceedings; effective date of amendment; delay of penalties

5.12.070 Residential Rentals = **A.** For the purposes of this Article, the following activity shall not be deemed to constitute “engaging in business”, and no business license shall be required for such activity: *(The rental by an occupant to tenant(s) of one or more rooms of the occupant’s primary residence or of shared use with the occupant of his or her primary residence);* **B.** This Section shall not apply to any residential rental that is offered for tenancies that are shorter than thirty days.

5.12.080 Real Estate Salespeople = A real estate salesperson shall not be required to obtain a license under this Article or pay a tax under this Article with respect to his or her activity as a real estate salesperson, so long as he or she is employed (as that term is used in Business & Professions Code Section 10132) by a licensed real estate broker who (i) has obtained a license under this Article and (ii) treats the salesperson’s activities as the broker’s own activities for purposes calculating taxes owed by the Broker pursuant to this Article.

5.08.020 Branch Establishment & Separate Business = **A. General Rule:** A separate license must be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; **B. Special Rule for Certain Lessors:** A person in the business of leasing detached single-family residential dwelling units may include all such units in the City on a single license and pay a tax based on the combined gross receipts from all such leasing activities.

5.12.090 Participation in Public Proceedings = For the purposes of this Article, a person **shall not** be deemed to be engaging in business in the City if the person, in the course of business, is present in the City solely to appear at, present testimony at, or attend a session or meeting of any court, administrative agency, or local government legislative body located in the City. This exemption shall not apply if the person is appearing, testifying, or attending on the City’s behalf or in fulfillment of a contract with the City.

Effect on 2017 Licenses = The provisions of this Ordinance shall govern all licenses issued for the licensing period beginning July 1, 2017 and all subsequent periods. In the event a business license tax for the licensing period beginning July 1, 2017 has been collected that would no longer be required as a result of this Ordinance, the Finance Director is authorized to refund such tax.

Delay of Penalties = With respect only to taxes due on July 1, 2017, the following shall apply instead of the provisions of Section 5.16.110 of the City of Marina Municipal Code: *(For failure to pay a license tax when due, the finance officer shall add a penalty of ten percent of said license tax to delinquent licenses on October 1, 2017, and an additional penalty of twenty-five percent shall be added thereto on the first day of each succeeding month thereafter; provided, that the total amount of penalties imposed pursuant to this sentence shall not exceed fifty percent of the license tax due.)*

Conclusion = City Council Approving introduction of this Ordinance relating to Business License Tax; Consider Adoption on Sept. 6th; Council & Public Questions?

Council Questions: None

O’Connell/Morton: to table this item until June 2018. 2-2(Amadeo, Delgado)-1(Brown)-0 Motion Fails

Amadeo/Delgado: that the council approve these changes as presented by staff. 2-2(Morton, O’Connell)-1(Brown)-0 Motion Fails

Public Comments:

- Rebecca McCallon – Commented that prior business license code states that “*Real Estate Agents must work under a real estate broker and we cannot conduct business on our own*”. If I were to get a business license I cannot use it because I can’t operate under a business license on my own. I have to work under the Broker’s license. The Broker is the only one that can take a commission and then they can dish out my portion to me. I cannot submit to escrow my commission, but yet you’re going to have me pay a business license. I don’t think it’s fair.
- Kevin McCallon – commented on the need to have a business license to rent a room, that is just over and beyond, let gouge our residents. There are a lot of CSUMB students sharing a home. Noted that there are seniors here that have a rental and use it as income for themselves and rely on. To tax people for renting our rooms or a home is wrong.

O’CONNELL/AMADEO: TO CONTINUE THIS ITEM TO THE NEXT COUNCIL MEETING WHERE WE HAVE FIVE (5) MEMBERS. 4-0-1(Brown)-0 Motion Passes

- b. City Council consider adopting **Resolution No. 2017-80** and **Resolution No. 2017-03 (NPC)**, approving the Abrams B Housing Area Budget for FY 2017-18, and; authorizing Finance Director to make appropriate accounting and budgetary entries.

Council Questions: Pets no longer being allowed; how long is the temporary ban on pets; current 50%-60% affordable qualifications if someone hits a small lottery; requirements of regulatory agreement for low and very low income units; why is there a delay in using more money to make the repairs knowing the extra money is there; what percentage of work has been completed; is it typical that the estimated revenues are higher than what is usually adopted; under “reserves”, Revised Physical Needs Assessment, are these the main reserves or replacement reserves; will 5-year projection reserve fund remain the same; replacement reserve fund balance, what is the relationship between this fund and reserve fund; where would we find the capital to meet increasing expenses; do we increase rent annually under the current formula of CPI not to exceed 3%; where does the budget show the 5-year projection of the distribution to the city; parking issues related to number of tenants in housing unit; security for current tenants; has level of patrol been adequate; capital reserve and rent increase cap – how do we balance that need for reserve against the rent that we charge not exceeding the 3% gap; why isn’t policy isn’t a rent increase every year not to exceed the 3%; what is the percentage of the long-term rentals; what is the average rent term for tenants.

AMADEO/DELGADO: TO ADOPT RESOLUTION NO. 2017-80 AND RESOLUTION NO. 2017-03 (NPC), APPROVING THE ABRAMS B HOUSING AREA BUDGET FOR FY 2017-18, AND; AUTHORIZING FINANCE DIRECTOR TO MAKE APPROPRIATE ACCOUNTING AND BUDGETARY ENTRIES; AND BRING BACK THE REGULATORY AGREEMENT FOR ABRAMS. 4-0-1(Brown)

Council Member O’Connell asked for a friendly amendment, to bring to the council by the end of October the regulatory agreement on this property so that we can look at the 80%, 50%, 60% questions.

Council Member Amadeo accepted the friendly amendment.

Public Comments:

- Paula Pelot – Noted that the regulatory agreement needs to be amended. Pointed out that even though it says you have to have 136 units some of those below market units tried to be fulfilled at Preston for some period of time, not permanent but so once again we can rent out more of the Abrams units at a higher market rate and thereby raise the revenues to be able to fund the capital improvements that are needed. The agreement itself requires certain numbers and when you go to HUD and look at what’s low income and very low and extremely low 50% is very low, 80% is low and never understood where the 60% came from. Support motion.
- Denise Turley – Currently there are no Section 8 2-bedroom units in Abrams. Would like to reinstate the management advisory council meeting that we use dot have; continuing issues are parking, lighting, pet policy, landscaping and additional un-documents residents; encourage some kind of “tip-line”; resident input into policy and procedures; would like to see procedures for vendor completion of work orders; requested a copy of the powerpoint from management be added to the binder and available to Paula and myself; would like an updated listed of employees working for Alliance in Preston and Abrams;

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

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

Mayor Delgado – did not attend the Mayor Association meeting

- 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 O’Connell – Like the City Manager to consider looking into buying iPads that are city property and could be used by the Council Member and commissioners. It would save a lot of trees and time on staff. If it’s a reasonable cost, we could keep control of them in the city.

Council Member Amadeo – noted that there may be the ability to do that through our AMP budget because some of that is about operation and that AMP executive Director would like to talk to our City Manager about further improvements in the Chambers.

City Manager Long – On Monday, August 21st the total solar eclipse staff will shut down power to our buildings, except the Police Department at the request of PG&E from 9:00-11:00am and staff will spend that time at Wendy Hill Park and do a service project cleaning up the park and fix some of the problem there.

Mayor Delgado – Commented on the removal of the dead tree at the new roundabout; ribbon cutting ceremony at Springhill Suite Hotel/Marriott last week which was very well attended and noted the TOT that was generated in the two months that it had been opened. VA Clinic opened yesterday.

13. ADJOURNMENT: The meeting adjourned at 10:00 PM

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor