



MINUTES

Wednesday, January 17, 2018

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
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 – initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9 – two potential cases.
 - b. Labor Negotiations
 - i. Marina Employee Association
 - ii. Marina Public Safety Officers Association

City Negotiators: Layne P. Long, City Manager and Employee Relations Officer

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

Assistant City Attorney Robert Rathie reported out Closed Session: Council met at 5:30 as indicated and discussed one item relating to Labor Negotiations. With regard to that item, Council received information, gave direction, no reportable action was taken.

At the end of the meeting Council will continue closed session items.

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

5. SPECIAL PRESENTATIONS:

a Certificate of Commendation – Kelly Hammond

b Proclamations

i. James Fellini

ii. Marina School Choice Week

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.*

- Adam Urrutia – Announced Friends of the Marina Parks monthly park clean up scheduled for this Saturday has been rescheduled to January 27th from 9:00-Noon at Vince Di Maggio Park.
- Mike Owen – Comments about falsely accused the Fire and Police Chiefs for exceeding their authority and harassing the homeless out on Lapis Road. Didn't do it on purpose, but overreacted. Turns out the actual authorities that were out there were within their authority as code enforcement officers of the County. Happy that Marina's Police and Fire Chiefs are exceeding in is view what they are supposed to be doing, they are being very responsible to the public. Asked when the Safe Parking Ad-Hoc Committee would be holding their first meeting? What is the main purpose for the Safe Parking Ad-Hoc Committee? When reports are given to commissions, is there some sort of procedural prohibition against commissions making recommendations in addition to just receiving reports? Commented about Herald article related to the Safe Parking Program.
- Paula Pelot – Had questions related to Springhill Suites: (1) what is the status of the hotel agreement with the developer; (2) Has the City been receiving the TOT and if so, approximately how much; (3) is the City still required to take 50% of the remitted TOT to satisfy the impact fees that the developer would be obligated to pay is the City had not entered into the initial agreement with the developer with that as an incentive; (4) Have there been any payments to the City on the \$100,000 owed by the developer, what security does the city have to enforce the full payment; (5) Have any agreements and/or documents been recorded relative to the monies owed to the city, what position in the city in on those documents; (6) Has the developer removed the mechanics' lien from the property; (7) Any likelihood the City will recover the impact fees from developer and not have to share the TOT 50-50?
- Council Member Amadeo – Announced that Marina in Motion Staff Forum scheduled for January 23rd has been rescheduled to February 27th due to the flu. Also wanted to thank Mike Owen for stepping up and making a public apology to the Police and Fire Chiefs.
- City Manager Long – Stated that there is now a conflict with the February 27th date and will have to reschedule again.
- Council Member Morton – Reported out the activity of the FORA Board meeting of January 12th. Thanked those members of Marina public and other individuals for being there and asserting

Marina’s position that we need to have a transition plan prepared for us to weigh and consider as an option for FORA to go away, consistent with state legislation. Encouraging that Senator Monning came in person and confirmed Marina’s position that we’ve been discussing here at council for 16-months. That means looking at transition of the responsibilities to existing agencies and not transfer to a new form of FORA. There was also consideration of Eastside Parkway, which is a roadway that goes through the woodlands of the former Fort Ord.

- Council Member O’Connell – Thanked the panel who helped with the last Town Hall meeting relating to the School Resource Officer. There was a great presentation. Very active and a lot of questions were asked and information was provided. Also thanked his wife for providing the cookies and putting up with the stress for getting ready for a meeting.
- Mayor Delgado – Attended a meeting at Moss Landing Marine Lab discussing the disposition of the Cemex Property, hosted by the Big Sur Land Trust, Nature Conservancy, Monterey Peninsula Regional Park District who wanted input from various leaders and biologists regarding what kind of public access, what kind of restoration, research needed to happen on that piece of property. Everyone in the room seemed to be in agreement that the North half of this 500-acre property not have public access since it has not been disturbed. Public access should be focused on those portions of the property that have been disturbed historical use, such as mining. Announced that the Council Retreat will be held on Friday, February 2nd from 6:00-9:00pm and Saturday, February 3rd from 9:00-Noon at the Marina Municipal Airport Conference Room; Thanks to all the volunteers who showed up over the weekend, we had a total of 274 volunteer hours toward painting three of the buildings at Los Arboles Sports Complex. Carmel Valley Troop 127 committed to doing three Eagle Scout Projects this year. Shout-out to Doug Schwartz from Washington State for coming to Marina three years in a row to help out with the Oak Woodland Restoration Project.

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.*

- a. City Council of the City of Marina acting as the Governing Board of the Successor Agency of the Marina Redevelopment Agency Board consider adopting **Resolution No. 2018-01 (SA-MRA)**, receiving and filing the Successor Agency to the former Marina Redevelopment Agency audited statement of net position as of June 30, 2017 and the related statement of changes in net position for the year ended June 30, 2017.

MORTON/AMADEO: TO APPROVE RESOLUTION NO. 2018-01 (SA-MRA), RECEIVING AND FILING THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY AUDITED STATEMENT OF NET POSITION AS OF JUNE 30, 2017 AND THE RELATED STATEMENT OF CHANGES IN NET POSITION FOR THE YEAR ENDED JUNE 30, 2017. 5-0-0-0 Motion Passes

City Manager Long announced that staff will be pulling agenda item 8g(1) due to a wrong document being attached and for further discussion and bring this item back at our next council meeting.

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 83739-83916, totaling \$500,762.24
Wire transfers from Checking and Payroll for November totaling: \$504,977.26

b. MINUTES:

- (1) December 19, 2018, 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. 2018-01**, approving a joint Caltrans Congested Corridors grant application, and a Local Partnership Program Grant for funding of the Imjin Parkway Widening Project, to be submitted by the Transportation Agency of Monterey County (TAMC) on behalf of TAMC and the City of Marina.
- (2) City Council consider adopting **Resolution No. 2018-02**, accepting and authorizing submission of the revised Five (5) Year Airport Capital Improvement Plan (ACIP) for Federal Aviation Administration (FAA) grant funded airport improvement projects; and authorizing submission of a grant application to FAA for the 2018 designated project – Extend Taxiway B east to threshold of Runway 29 (Design Only), at Marina Municipal Airport.

g. APPROVAL OF AGREEMENTS

- (1) ~~City Council consider adopting Resolution No. 2018 , approving agreement between City of Marina and Monterey Peninsula Unified School District (MPUSD) for City of Marina Police Department to provide School Resource Officer (SRO) services for Monterey Peninsula Unified School District (MPUSD) schools located in City of Marina; authorize Finance Director to make appropriate accounting and budgetary entries, and; authorize City Manager to execute agreement on behalf of City subject to final review and approval by the City Attorney. *Pulled by Staff for discussion. Becomes agenda item 11a*~~
- (2) City Council consider adopting **Resolution No. 2018-03**, approving the agreement between the City and County of San Francisco and the City of Marina for the distribution of FY 2017 UASI (Urban Areas Securities Initiative) Grant funds to purchase an armored rescue vehicle for the Monterey Peninsula Special Response Unit (SRU), with the City of Marina being the Grantee; consider adopting the 2017 UASI MOU allowing the City of Marina to receive up to Two

Hundred Ninety-Six Thousand Five Hundred Forty-Seven Dollars (\$296,547); and authorize the City Manager these agreements on behalf of the City subject to final review and approval by the City Attorney.

- h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None
- i. MAPS: None
- j. REPORTS: (RECEIVE AND FILE):
 - (1) City Council consider adopting **Resolution No. 2018-04**, receiving and filing the independent accountant's report on applying agreed-upon procedures for the City of Marina appropriations limit calculations as of June 30, 2017.
 - (2) City Council consider adopting **Resolution No. 2018-05**, receiving and filing City of Marina auditor governance letter (SAS 114), and City auditor management letter of comments (SAS 112) for fiscal year ended June 30, 2017.
 - (3) City Council consider adopting **Resolution No. 2018-06**, receiving and filing City of Marina audited Annual Financial Reports for the fiscal year ended June 30, 2017.
 - (4) City consider receiving Investment Reports for the City of Marina and City of Marina as Successor Agency to the Marina Redevelopment Agency for months ended October 31, November 30, and December 31, 2017.
- k. FUNDING & BUDGET MATTERS: None
- l. APPROVE ORDINANCES (WAIVE SECOND READING): None
- m. APPROVE APPOINTMENTS: None

Council Member Brown had a question for agenda item 8g(2) – Regarding the acquisition of an armored rescue vehicle, recalled approximately 2-years ago the city already approved one and suspects that the city already has one or has access to one. Can this be confirmed? And if yes, then why do we need a second one?

Council Member Morton had a questions for agenda items 8g(2) 8j(3) and 8f(1) and correction to 8b(1): 8g(2) – recalls that we previously approved this. The participation in the acquisition of a new vehicle that is shared by multiple agencies, that motion approval required also the disposition of the already existing one that we owned. Thou it's not reflected here; would that still be part of the request? Why are we the lead agency? Does that create a burden on us?

8j(3) – On page 166 of the packet, Preston & Abrams Park Net increase/Net decrease- are we operating at a loss? On page 161, General Fund-Revenues, what is the capital outlay?

8b(1) – noted an error on page 53 of the packet (page 8 of the minutes) where the word NOT should have been. Replacement page has been placed on dais showing the insertion of the word.

8f(1) – Source of Funds, does the Community Development Fees for development on the former Fort Ord properties contribute to this expenditure since this road is through the former Fort Ord?

Council Member O'Connell had questions for 8j(3) and 8j(4) = For 8j(3) on page 206 of packet, why do we not have figures for 2017? Is the 2016 a fiscal year or calendar year? On 8j(4) on pages 235 and 236, how much longer are we going to be involved with Rabobank?

DELGADO/BROWN: TO APPROVE THE CONSENT AGENDA MINUS 8g(1) AND WITH THE NOTED CORRECTION TO 8b(1). 5-0-0-0 Motion Passes

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. 2018-, approving agreement between City of Marina and Monterey Peninsula Unified School District (MPUSD) for City of Marina Police Department to provide School Resource Officer (SRO) services for Monterey Peninsula Unified School District (MPUSD) schools located in City of Marina; authorize Finance Director to make appropriate accounting and budgetary entries, and; authorize City Manager to execute agreement on behalf of City subject to final review and approval by the City Attorney. ***Pulled by staff for discussion, was agenda item 8g(1)***

Chief Nieto – this covers the contract between MPUSD and Marina to provide a School Resource Officer (SRO) for our local schools. Prior contract the school board covered the entire year the officer's salary and benefits, it was a 50/50 split. School board met again early in the year and voted to keep the SRO but voted only to do a 50/50 split for 10 months. School board voted not to exceed \$72,083 of their cost and the City would put up the rest. Council has to decide whether there are going to agree to the split or if they want more information or to talk more with the school board and adopt to keeping the SRO throughout the rest of the calendar school year.

City Manager Long – The Council certainly has an option that if you don't agree with this agreement to send something back to the school district board. This was a decision made by the board and this was a contract that they are proposing. You are certainly not in a position that you necessarily have to agree with this and if you have something else that you want to send back to the board for their consideration that is an alternative.

Council Questions – was this drafted by the district; current offer is from August 2017-June 2018, are we now five months into this contract or the existing contract; did expired contract provide for a 50/50 split; if this contract is approved we would be retroactively modifying the terms upon which we detrimentally relied for the last five months and providing a staff member from our city with the full expectation that 50% of the salary would be paid by MPUSD, correct; when do you anticipate the board will be making a decision as to an SRO for after June 2018; do you know what the draft recommendation is for the next fiscal year regarding SRO; do we presently have on staff former SRO's and if so do you know approximately how many there are; prevention impacts in terms of costs; what happens to the diversion program if we lose our SRO; what are the situations that you can choose to deal with a matter informally as opposed to writing a citation; what is the rough success rate to diversion; what's the funding mechanism that's funded for your school district by attendance; Restorative Justice in the schools is going away, does MPSUD have staff to step up and fulfil that function or fund that; is there a fairness in paying for the SRO when children are on school vacations;

Public Comments:

- Paula Pelot – People see value in this program; metrics are important to build into any agreement; there should be some way at looking at what was the environment and results prior to this program and what are they now. You have to make findings to say this has value and you have to correlate to the dollars and cents. Hoping that something is going to come forward in this contract that’s going to ask for that. If the term had begun August 2nd why has it taken so long for this to come to the council? Asked to see a strikeout version of the agreement when it comes back?

Council suggestion: comeback to us with counter proposal that takes into account the equity piece; if there’s anyway to compare what things were like prior to having an SRO Program and what is it like today?

- b. City Council consider adopting Resolution No. 2018-, authorizing the City Manager to execute a contract with HdL Companies not to exceed \$47,500 to provide subject matter expertise, develop an ordinance and manage the process to select cannabis businesses, conduct a cost recovery, and fiscal analysis for the public relations and advocacy services for development of a cannabis ordinance subject to final review and approval by the City Attorney; authorizing Finance Director to make appropriate accounting and budgetary entries.

Presented by City Manager Long – what we have is a proposal to enter into an agreement with HdL to provide the expertise to help us look at developing a cannabis ordinance for medical dispensaries and the process to go through that and work with us on our land use, identifying sites in the city that are allowable under state law and other requirement that we would want as a community, then help identify the process to through that on how to select the candidates. They would set up the criteria, review the applicants, set up fee process, and would also be involved in the actual fiscal analysis and auditing. Contract is to not exceed \$47,500. This will be 100% cost recoverable through the application fees for the businesses that would apply for the license. Estimated to take about 2-3 months to go through the whole process.

Council Questions: approximately what percentage of this \$47,500 would be for the consultant to develop an ordinance; page 260 gives costs adding up to \$47,500, which objective would be inclusive of the draft ordinance; could the city be held liable in the federal courts if a dispensary here in Marina was raided at some point; is the city at risk if it goes forward with allowing dispensaries within its boundaries; do you think it would be wise to take no action tonight; look up the case of Gonzales vs. Raich decided on March 14, 2007, citation 362 Federal 3rd at 1222 or 542 US 936; asked city attorney to provide a preliminary legal opinion about what our vulnerabilities; if approved could tax monies collected be placed in a segregated account?

MORTON/AMADEO: THAT OUR CITY ATTORNEY ADDRESS THE LEGAL ISSUES RELATED TO THE CONFLICT BETWEEN FEDERAL LAW AND STATE LAW AND IDENTIFY THE RISK IN ADOPTING OR TAKING ANY ACTION WITH REGARD TO A CITY ORDINANCE AND OTHER MEASURES FOR MARIJUANA DISPENSARIES BOTH MEDICAL AND RECREATIONAL. 4-1(Delgado)-0-0 Motion Passes.

Public Comments:

- Harvey Biala – no objections to legalized recreational marijuana and of course, not to medical marijuana, although further controlled research studies are indicated for both uses; concerns are with under-aged users who physiologically still have growing brains and absent further research, we should take heed of what we do know today. 2016 CA Physicians Continuing Education Course states clearly that, collectively, the published clinical research strongly supports medical

marijuana use in alleviating a whole host of clinical conditions, lack of education is a fundamental cause of healthcare professionals' reluctance to prescribe marijuana that ultimately can be addressed by continuing education. The course cautioned that medical use and non-medical use for marijuana are unrelated.

- Kathy Biala – first apologized to the public when asserted awhile back that I was concerned about smoking marijuana affecting the lungs, akin to smoking cigarettes, has since learned from this CEU course that, in fact, marijuana users are unlikely to develop pulmonary harm. Research increasingly suggest that while cognitive impairment from long-term cannabis use in adults is mostly reversible following cessation, the long-term early-onset cannabis use is associated with greatest morphological and functional alterations in the still-developing brain. Also learned that among adolescent-onset heavy cannabis users, there was an average decline in IQ of 8 points from 13 years of age to 38 years of age. So, as we move forward into making decisions for recreational use, please ensure that schools and other educational forums for teens specifically address marijuana use, not just folded into a general no drugs campaign. Our teens and their parents deserve to know, at least, what we know today.
- Sam Rashkin, Economic Consultant – this is the most interesting thing in his career. The biggest question he has received for his line of work is: what is my overall impression of the rollout? My answer is it's been uneventful. The state of California and most local public agencies are very good at monitoring and regulating complexed non-conforming businesses. The end products (cannabis laced) that we're seeing now are much safer for the end user. We would not have manufactured CBD products if there wasn't a state regulated market. There is now a lot more information available to the public, which is positive in terms of medical benefits vs. social costs. Herald article stated Monterey County is shifting public hearings on cannabis businesses to the consent agenda item. There are no issues that require a full commission hearing.
- Seth Smith, Santa Cruz Veterans Alliance – with regard to some of the concerns I've heard around distribution and supply lines that can be alleviated by working with organization that are vertically integrated, which several in the Monterey Bay are already supplying their own products. You have Marina residents already purchasing cannabis it's just not here, so you won't be collecting the revenue for that; you won't be growing or manufacturing it here, so you won't be collecting the revenue for that; and on top of that as a city that hasn't enacted a cannabis policy you won't have any access to state funds that would be remitted back to the cities or counties that have enacted cannabis policy. 5 new dispensaries will be opening in Salinas and 6 in Seaside. We would like you to consider going ahead with the selected consultant as we have dealt with HdL in the past and they are very straight forward, very knowledgeable and very professional.
- Joey Espinoza – Agrees with everything the last two speakers said. In regard to the Federal Government we know that top down is not working and the only reason we've made as much progress as we have in cannabis is because of the bottom up. It has been the cities, counties and states that have led the charge and that's why we have more bills being introduced at the federal level to allow cannabis. We have to look at this as an opportunity for Marina to help push that movement and to help move this along and make that progress happen. In regard to the federal government coming after California cities our California Attorney General has supported this and said he would uphold the will of the voters and do everything in his power to prevent the Trump Administration from coming in and affecting the cities, counties or state in any way. Encourages council to help support the 63% of Marina voters who voted for this and help move this forward. Tax revenue is a one factor in this but another factor is serve the community in job creation. There are many other cities and the County that are moving forward with this. Monterey County being the largest one collecting almost \$10 million in 2017. Seaside collected almost \$100,000 in

application fees alone. Supports bring HdL onboard, the process is much easier when you use someone that has the expertise, template and process in place to do this efficiently.

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

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

Mayor Delgado – Nothing new to report on this item

- 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: The meeting adjourned back into Closed Session at 9:30 PM

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor