



MINUTES

Wednesday, August 8, 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 CA Govt. Code Section 54956.9 – Two potential cases
 - b. Real Property Negotiations
 - i. Property: Marina Municipal Airport Business Park
Negotiating Party: Joby Aviation LLC
Property Negotiator: City Manager
Terms: All terms and conditions

6:40 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION

Assistant City Attorney Deborah Mall reported out closed session: Council met at 5:30 as indicated with regard to two of the three matters listed. Council discussed one item under Anticipated Litigation where Council received information and provided direction; the second item having to do with Real Property Negotiations, Council received information, gave direction to our real property negotiator.

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

5. SPECIAL PRESENTATIONS:

a. Certificate of Achievement

i. Pony West Zone Shetland Regional World Series Champions_Shetland Marina Pony Allstar Team.

b. Proclamations

i. Mike Mills, Mechanic

ii. Lauren Lai, Finance Director

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.*

- Evey Smith – 237 9th Street homeowner and here to request that we place the lack of a hot water recirculation issue on the agenda at a forthcoming city council meeting for discussion. We represent a portion of the estimated 123 homeowners at The Dunes by Shae Homes who do not have a hot water reclamation circulation system in our new homes. The lack of a Recirc. System is in ordinance violation of the MCWD 3.36030 and means that an estimated 123 homes are non-compliant and have a construction defect and given our non-compliant homes we do not have any a valid final inspection on our homes. How could the city inspect and approve 132 homes when the rough inspections, when it would have been easily visible that the second water loop was nowhere to be found? How could you then give us a final inspection and approval. We depend on our public agencies to protect our health and safety and investment. We would like to know why this has happened? What is the root cause of the problem that created this gross oversight? When the construction defect became apparent why weren't the homeowners told of the violation and the resulting non-compliance? Why weren't the homeowners assisted in fixing the construction defect? Did you know prior to the final that we didn't have a complete recirculation system and that's for all 123 homes? We are requesting that the City of Marina investigate this situation of our 123 homes at The Dunes and determine what exactly went wrong and why and how. We would like to have a representative of the homeowner group participate in your investigation and be part of creating the standard process and procedures to ensure that this gross oversight is never repeated. How do we even help make the homeowners whole on their construction defect non-compliant home? Please, be accountable. We request that the city council investigate the problem and place the problem on the agenda for a future city council meeting so that we can discuss the implications and the path forward. Thank you for helping to rectify the significant problem at The Dunes Community.
- Margaret-Anne Coppernoll – would like to recognize the valued courage of Council Member David Brown because his vote was the swing vote that denied the Cal-Am Test Slant Well permit for construction in Marina's sole sacred water supply. The California Coastal Commission

disregarded our city's legal jurisdiction in order to grant Cal-Am a slant well permit. Our City Council later unanimously voted for Marina to become a party to the CPUC's Cal-Am proceedings for its Desal Project that will include an additional 8 slant wells installed in Marina's aquifers. This decision allows Marina to have a voice in the decision-making process. This Cal-Am Slant Test Well has already contaminated and depleted Marina's aquifer water at an alarming rate. We should all salute our City Council for this brave act to defend Marina citizens god given right to protect your vital life sustaining water supply resource, the Salinas Valley Groundwater Basin. We are in a serious battle to preserve our aquifer water and safeguard it from further theft by an outside jurisdiction that is taking our water for free at our expense. Council Member Brown's swing vote to deny Cal-Am the test slant well permit will be significant in any future action Marina needs to take to protect our pression potable water supply. It critically defines Marina's rightful legal jurisdiction and local coastal plan. It supports the aquafer restoration efforts of our cherished MCWD and its Groundwater Sustainability Agency. Prays the community will work together to counteract any CPUC decision to grant Cal-Am its requested permit and certificate of public convenience a necessity. Let's work together to defeat any future California Coast Commission Cal-Am permit. No one should be making groundwater into a political football for-profit commodity, water belongs to all us citizens.

- Kevin P. Saunders – Commented that he was a Mayoral candidate in 2016 and received 1,599 votes running on a visionary medical marijuana platform, body-cam for police and pot taxes for potholes. Announced that he will only file his nomination papers if Mayor Bruce Delgado does not rescind his nomination papers by 12:00 pm tomorrow.
- Nancy Amadeo – Concerned about a phone call received on July 19th from a constituent who said basically “I thought a citizen initiative is put on by the citizens not the City of Marina”. The cannabis initiative seems to be on Facebook page and the Cannadem website and a website for the cannabis initiative, that it was endorsed by the city or being done by the city. Shared with the council what she found on the sites noted. The City logo appears on informational sheets on a Cannadem's website, on another website there is a video calling themselves City or Marina Cannabis 2018”. A citizen initiative I would think would say Citizen Initiative or the name of the organization that's doing the initiative, but it doesn't, it says City of Marina. This tell the citizens that the City of Marina, use sitting up there, our staff has either endorsed or is promoting the passage of this cannabis. Go to their Facebook page, political organization-City of Marina Cannabis 2018. When looking further on their Facebook page it also endorses a candidate for city council. Concerned that the city is being misrepresented.
- Police Chief Tina Nieto and Commander Anderson – wanted to thank everybody to attending the City's National Night Out Event. It was a great community event and received a lot of positive accolades from the public. Thank you for your support for the event and coming out each year to help get out that public safety message and get all the information out to the groups that are doing good work here in the City of Marina. Thanked Lauren for all the work she has done for the city and helping her during her 11-month transition.
- Council Member Morton –Announced on August 10th at 2:00 pm is the FORA Board meeting where they will be addressing a Draft Resolution, A Transition Plan for FORA going away. It has specifically stated finding and yet there has been no hearing for which any of us has made any findings either in the transition task force or at the full FORA Board. The other issue being asked is for the FORA Board to approve Executive Director hiring bond counsel and a financial advisor to issue bonds. \$75,000 is the cap on what would be spent for the issuance of bonds to take down blight.

- Council Member Amadeo – Marina Youth Arts Mini Fundraiser on August 11th from 4:00-8:00pm at Chipotle. If you mention Marina Youth Arts when you order, we get a percentage of all sales between 4:00-8:00pm that day.
- Mayor Delgado – Thanked all the volunteers who participated in the July 28th litter pick-up along the 12-mile stretch of roads along Del Monte Blvd and Beach Round-About and Lapis Road. Also thanked the volunteers who came out to the Marina High school and helped spread 5cubic yards of mulched chips watered hundreds of plants. On July 31st there was a volunteer event at the Coast Live Oak Restoration Project outside of the Marina Library. About 15 people showed up at 5:30pm and worked until dark and spread about 20 cubic yards of mulched chips that were donated by the Monterey Regional Waste Management District. Lapis Road is a continuing problem and if it's not maintained on a weekly basis it starts to look like it used to. If you spot graffiti, please report it right away and it will get taken care of. Commented about the Jr. Giants celebration at the Teen Center last Saturday for the conclusion of the Jr. Giants Baseball Summer Program. On Saturday, September 1, 2018 is the 43rd Annual Labor Day Parade and Festival from 11:00am-3:30pm.

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 Rabobank Check Number 85264-85268, totaling \$4,446.35
Accounts Payable CHASE Check Numbers 90125-90292, totaling \$431,719.21
Accounts Payable Successor Agency Check Numbers 14-17, totaling \$22,452.98
 - b. **MINUTES:**
 - (1) July 3, 2018, Regular City Council Meeting
 - (2) July 17, 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-, accepting responses to the 2017 – 2018 Monterey County Civil Grand Jury Final Report “WHO’S IN CHARGE? Stepping up on homelessness: The need for strategic leadership and comprehensive planning” for the City of Marina, and; Direct that the responses be forwarded to the Honorable, Stephanie E. Hulsey, Judge of the Superior Court. *Pulled by Council Member Morton, becomes agenda item 11d*
- (2) City Council consider adopting **Resolution No. 2018-89 and Resolution No. 2018-06 (NPC)**, approving the Abrams B Housing Area Budget for FY 2018-19, and; authorizing the Finance Director to make appropriate accounting and budgetary entries.
- (3) City Council consider adopting **Resolution No. 2018-90**, and Resolution No. 2018-06 (PPSC-NPC) approving the Preston Park Housing Area Budget for FY 2018-2019, and; authorizing the Finance Director to make the appropriate accounting and budgetary entries.

g. APPROVAL OF AGREEMENTS:

- (1) City Council: Consider adopting **Resolution No. 2018-91**, authorizing the City Manager to execute amendments to the Deed Restriction and Regulatory Agreement with Preston Park Sustainable Nonprofit Community Nonprofit Corporation and the Deed Restriction and Regulatory Agreement with the City of Marina Abrams B Non-Profit Corporation to make the rent calculations for the Low-Income Units consistent with State Law; And, it is recommended that the Board of Directors of the *Preston Park Sustainable Community Nonprofit Corporation*: consider adopting **Resolution No. 2018-07 (PPSC-NPC)**, of the Board of Directors of the Preston Park Sustainable Community Nonprofit Corporation authorizing the Executive Director to execute an amendment to the Deed Restriction and Regulatory Agreement with the City of Marina to make the rent calculations for the Low-Income Units Consistent with State Law; And it is recommended that the Board of Directors of the *City of Marina Abrams B Non-profit Corporation*: consider adopting **Resolution No. 2018-07 (NPC)**, of the Board of Directors of the City of Marina Abrams B Non-Profit Corporation authorizing the Executive Director to execute an amendment to the Deed Restriction and Regulatory Agreement with the City of Marina to make the rent calculations for the Low-Income Units Consistent with State Law.
- (2) City Council consider adopting **Resolution No. 2018-92**, authorizing the City Manager to execute a Memorandum of Understanding between the City of Marina and the Marina Police Officers’ Association, and; authorizing adjustments to the City’s Salary Schedule and Compensation Plan, and; authorizing Finance Director to make appropriate accounting and budgetary entries.
- (3) City Council consider adopting **Resolution No. 2018-93**, approving Lease Agreement between City of Marina and Joby Aero Inc for the building located at 3200 Imjin Road (Building 507) at the Marina Municipal Airport; and authorizing Finance Director to make necessary accounting and budgetary entries; and authorizing City Manager to execute Lease Agreement subject to minor modifications on behalf of the City, subject to final review and approval by City Attorney.

- 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):
 - (1) City Council consider reading by title only and adopting **Ordinance No. 2018-07**, approving the Second Amendment to the Development Agreement between the City and Cypress Marina Heights LLC.
- m. APPROVE APPOINTMENTS: None

Paula Pelot – commented about placeholder pages in agenda items 8f(2) and 8f(3) related to the \$900,000 for Capital Improvements.

Council Member Morton pulled agenda item 8f(1) for questions.

Mayor Pro-Tem Brown had a minor correction to 8b(2), July 17, 2018 minutes, page 8 bottom of page where it says “set” and should be “step”

Council Member O’Connell pulled 8g(2) to vote separately on it.

9. PUBLIC HEARINGS:

- a. City Council to open a Public Hearing to consider adopting Resolutions for: 1) adoption of a Negative Declaration; 2) adoption of a General Plan Amendment (GP 2016-03) to reclassify the property land use designation from “multiple use” to “multi-family residential”; 3) adoption of an Ordinance amending the City of Marina Zoning Map (ZM 2016-04) rezoning the property from “C-1/Retail Business District” to “SP-Shores at Marina”; 4) adoption of a General Plan code text amendment to delete policy 2.63.5 to eliminate the requirement for the provision of childcare; 5) adoption of a Specific Plan; 6) amendment to the Official Plan Line (OPL) to eliminate the cul-de-sac at the end of the De Forest Road extension; and 7) approval of a combined development permit to allow the development of a new five-story, fifty-eight (58) unit apartment complex at 3125 De Forest Road (APN: 032-171-018). CEQA Determination: Negative Declaration.” *Continued from July 17, 2018. Continued to October 2, 2018*

David Mack summarized the staff report

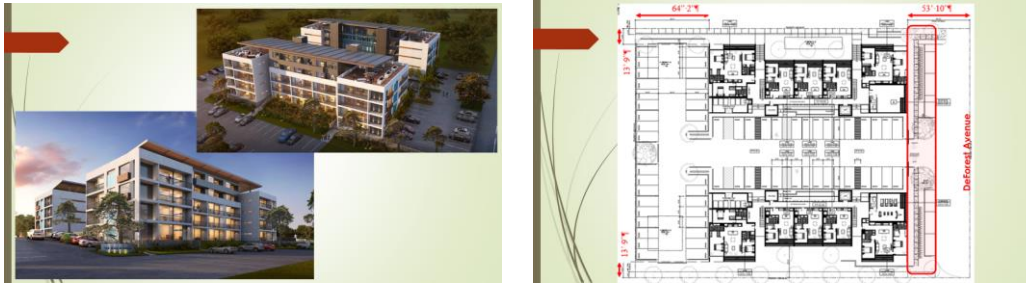
Ocean Point Development – Combined Development Permit

Specific Plan (SP 2016-04);

General Plan Amendments (GP 2016-03); “Multiple Use” → “Multi-Family Residential”; Deletion of Policy 2.63.5

Zoning Map Amendment (ZM 2016-04); “C-1/Retail Business District” → “SP-Shores at Marina”

Official Plan Line Amendment; Conditional Use Permit; Site and Architectural Design Review (DR 2016-11) *Considered by DRB on Dec 20, 2017 (DRB Res No. 2017-07*



Affordable Housing Applicability = 2006 - City Code Chapter 17.45 adopted - 10+ Unit Developments – Provide 20% Affordable Housing - 7% Moderate; 7% Low; and 6% Very Low

2017 (October) – Ocean Point Development submits CDP application.

2017 (November) – Application Deemed “Complete” - Once “Complete” applications are subject to valid/enforceable regulations/policies in place at time; 2006 Ordinance (Chapter 17.45) not enforceable; Ocean Point NOT required to provide Affordable Housing Units

Project voluntarily proposes 11% “Very Low Income” units (6 units) - 35 units/acre x 1.43 acres = 50 base units x .11 = 5.5 or 6 units

Density Bonus / Incentives - Government Code 65915 - Section 65915(b)(1)(B) - Granting of 1 Density Bonus and incentives.... if at least 5 percent of the development is for “very low income” households

Section 65915 (d)(2)(B) - Two incentives or concessions granted for projects that include at least 10 percent for “very low income” households

Section 65915(f)(2) -

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

Section 65915(p)(2) - “if a development includes the maximum percentage of “very low income” units and is located within one-half (0.5) miles of a major transit stop...and there is unobstructed access to the major transit stop from the development, then, upon request of the developer, a city, county, or city and county, shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom”

Section 65915(d)((4) - “The City....shall bear the burden of proof for the denial of a requested concession or incentive.”

Zoning Standard	Requirement	Proposed	Consistency Determination
Building Setback(s)	Front 12'	Front 53'-10"	Consistent
	Rear 10'	Rear 44'-2"	Consistent
Height	30feet 5'	63 feet	Consistent
	42 feet 3 stories	63 feet 5 stories	Consistent due to provision of affordable housing.
Open Space	Common Open Space 350 SF / 1-bed unit plus 5F per additional bedroom (21,200 SF total)	Common Open Space: Ground Level - 17,379 SF Roof Deck - 8,116 SF TOTAL = 25,495 SF	Consistent
	Private Open Space: 17' floor = 80 SF min	Private Open Space = 17' floor units: 1 bed units = 91 SF 2 bed units = 98 SF 3 bed units = 118 SF	Consistent
	2nd floor (and above) = 40 SF min	2nd / 3rd / 4th floor units: 1 bed units = 91 SF 2 bed units = 98 SF	Consistent
Site Coverage	40% of lot area (1,438 acres/62,640 SF)	27% - 16,913 SF proposed	Consistent
Unit Mix	37,583 SF Developments of 10+ units shall provide:	Project proposes the following "unit mix":	Consistent due to provision of affordable housing.
	40% total units shall be 2 bedrooms or more:	42 - 1-bedroom units; 14 - 2-bedroom units; 2 - 3-bedroom units.	
	10% total units shall be at least 3 bedrooms.	NONE. Project requests waiver of the "unit mix" requirement on the record of the project in exchange for providing "very low income" housing.	
	5% requires the following "unit mix":	35 - 1-bedroom units; 17 - 2-bedroom units; 6 - 3-bedroom units.	
Zoning Standard	Requirement	Proposed	Consistency Determination
Parking - Multiple Dwelling Units	88 total units: 42 - 1-bed units 14 - 2-bed units 2 - 3-bed units	84 spaces provided (28 covered) plus 6 public spaces along the street frontage.	Consistent with Government Code 65915 applicable to CDD applications.
	One Bedroom units: 1 space/unit (1 covered) plus 1 shared unit.	NONE. The project qualifies for a parking reduction for Small-Gated Development (SGD).	
	40 units = 21 parking spaces required (21 covered).	Government Code 65915(b)(2)	
	Two Bedroom units: 2 space/unit (1 covered) plus 1 shared unit.	Project provides required "very low income" housing.	
	14 units = 24 parking spaces required (14 covered).	Project is subject to the MIT handling.	
	Three Bedroom units: 3 space/unit (1 covered) plus 1 shared unit.	Parking requirement is 0.5 spaces per bedroom.	
	2 units = 3 parking spaces required (2 covered).	The proposal includes 14 total bedrooms and requires 38 parking spaces.	
	Total Spaces Required - 88 spaces (88 spaces covered)		
	Minimum applicable = 7 x 12'	Spaces measure 8' x 12'	Consistent

General Plan Consistency - Project is consistent with General Plan: Goals: *1.17; 1.18.1, 1.18.5, 1.18.8, and 1.18.15* - Policies: *2.4.5; 2.31.6, 2.31.8; 2.35.1*

Environmental Review (CEQA) - An Initial Study/Negative Declaration prepared. *Circulated March 20 – April 20, 2018 (30 days)*- Comment Letters: *State Clearinghouse and MBARD*

Staff Proposed Modifications = Public Infrastructure Improvements moved in 30' ROW - *Sidewalk, Curb/Gutter, Parking; This provides additional open (common) space in front of building*

Staff Recommends that the City Council:

- 1) Adopt a Resolution to adopt the Negative Declaration;
- 2) Adopt a Resolution to approve a General Plan Amendment (GP 2016-03) to reclassify the land use designation;
- 3) Approve an Ordinance to Amend the Zoning Map (ZM 2016-04) to reclassify the site zoning (First Reading);
- 4) Adopt a Resolution to approve a General Plan Code Text Amendment to delete Policy 2.63.5;
- 5) Adopt a Resolution to approve a Specific Plan (SP 2016-04);
- 6) Adopt a Resolution to amend the Official Plan Line (OPL) to eliminate the cul-de-sac at the end of the De Forest Road Extension; and
- 7) Adopt a Resolution to approve a Combined Development Permit consisting of a Conditional Use Permit for multi-family residential development exceeding 25 units/acre and Site and Architectural Design Review (DR 2016-11) for a new 5-story, 58-unit apartment complex.

Council Questions: as to the 2 incentives, the developers agreed to 11% of the 50% of the very-low which amount to 6 units and one of his incentives is to have 5-stories, which is 2-stories in excess of what the city has and it is presently known that the city does not have a fire ladder truck to go up to the 5th floor? How many units are on the 4th and 5th floors; Are the units on the tops floors 1 or 2-bedroom units; If the percentage were to be 9% or 5-9% very-low income he would only be entitled to 1 incentive, correct; Has there been any discussion relating to just one incentive and that one incentive meaning it stays at 3-floors; How many low-income unit would be calculated at 30% density bonuses; Did the Planning Commission have any discussion about this issue of 4th and 5th floors mutual aid; If POM is the closest ladder truck are we sure it's going to stay where it is currently or is it going to Monterey; Estimated drive time from Palm Ave to project site and drive time from POM to project site; What is the estimated cost of a ladder truck; Are there any other building in Marina that require a ladder truck; Does having a barbeque area on the 5th floor create greater fire hazard than a fire that might occur on lower floors; 53foot setback, is that from DeForest Avenue; is the street parking only for the residents or can anyone use them; how do concessions get calculated or is there a formula; is this the staff recommendation or is this a synopsis; how is it beneficial to this city for changing this property from multi-use to multi-family residential; is this project within the Downtown Revitalization area; when this project was excluded from the moratorium did it include amendments to the General Plan; by zoning this residential does that help us meet Marina's requirements for housing stock; what is the changes that goes from mixed-use to general plan land use; is a 60-foot wide street wider than a typical residential street; does the 60-foot right-of-way include sidewalks, parking, driving on both sides; what do the balcony's look like in terms of protecting young children from climbing over the tops and what is the space below the balcony's; is to lawn areas, pavement; how would someone safely turn around if there is no cul-de-sac; What would this do to our "jobs housing balance"; does it help it or hurt it; is it beneficial to the City to add housing stock when there is abundant amount of housing that go us in our economic trouble; are we going from a commercial retail zoning to a SP that would allow multi-family only; do you think its possible MST might now want to change its zoning to multi-

family instead of mixed-use commercial; is there any pedestrian connection to the south of this project; was there talk about this potential; what the cost of buildout;

Mayor opens public hearing for public comments:

- Paula Pelot – mentioned that the developers might have skipped over that they will be providing maintenance jobs and a possible onsite manager; also noted that she attended the Planning Commission meeting and that there was a concern over the 5th floor from the DRB that there would be no fire equipment to get to get to that 5th floor. One thing that might assist to that is to design a stairwell from the 5th floor down so that people could escape without having to wait for the fire department. Was there any involvement in talking with the Post Office about the possible overflow going into that lot?
- Travis Foster – Accountant for Seaside and the costs assessment of a new ladder truck was spot on, it would cost about \$1 million. With regard to the Post Office we should take into consideration the intersection at Reservation and DeForest is currently a non-controlled intersection and constantly seeing people cautiously trying to make a left hand turn and thinks we should consider the visual impact of vehicles and assess the traffic.
- Margaret-Anne Coppernoll – Commended Council Member Amadeo for bringing up the safety question on balcony’s and children. Commend the concept of affordable housing because some people living in the apartments south of the library were having to move because of increased rents of \$500. Concerned about the price range, do we know an estimate of what the price range will be for the low, moderate and market rents in the apartments?

Mayor closed public hearing.

Amadeo/Brown: to adopt the resolution to adopt the Negative Declaration prepared for the project. 2-3(Morton, O’Connell, Delgado) Motion Fails

DELGADO/BROWN: THAT WE TAKE THESE CONCERNS OF THIS COUNCIL AS THEY RELATE TO NO FIRE ACCESS TO 4TH AND 5TH FLOORS AND HAVE STAFF AND THE DEVELOPER COME BACK TO US AND THAT WE CONTINUE THE PUBLIC HEARING TO THE MEETING OF OCTOBER 2, 2018. 5-0-0-0 Motion Passes

- b. City Council to Open a Public Hearing, Take Testimony from the Public and Consider Adopting a Resolution No. 2018-, Approving a Combined Development Permit consisting of: 1) a Conditional Use Permit (UP 2016-06) for Residential Density over 25 Units Per Acre; 2) a 10% Density Bonus and a Project Incentive to Allow a Reduction in Open Space Requirements 3) an Affordable/Inclusionary Housing Proposal to Provide One Affordable Housing Unit On-site; and, 4) Site and Architectural Design Review (DR 2016-04) for a New Three-Story, 10-Unit Apartment Complex; at 264 Carmel Avenue (APN: 032-291-044). Exempt from CEQA per Article 19, Section 15195. *Continued to August 21, 2018*
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).

City Manager, City Attorney and Mayor discussed rearranging the Other Action portion of the agenda to discuss agenda item 11b prior to other items under Other Action due to the fact that this item needed to be filed with the Elections Department by Friday, August 10, 2018.

- a. City Council consider adopting Resolution No. 2018-, awarding the 2018 Citywide Street Repair Project for Digouts and Chip Seal contract to Granite Construction Company of Watsonville, California, authorizing the Finance Director to make necessary accounting and budgetary entries and authorizing City Manager to execute contract documents and all change orders on behalf of City subject to final review and approval by the City Attorney. ***Continued to Special Council Meeting of August 10, 2018***
- b. City Council receive the report prepared under Section 9212 of the California Elections Code; and adopt **Resolution No. 2018-94**, of the City Council of the City of Marina Submitting to the Voters at the November 6, 2018 General Municipal Election an Initiative Ordinance Relating to Cannabis Businesses, Requesting County Elections Officials to Conduct the Election, and Requesting Consolidation of the Election.

Assistant City Attorney Deborah Mall – An initiative was submitted to the city regarding cannabis businesses, the initiative qualified for the ballot and the initiative proposes a tax. All the election code requirements are filled but Prop 218 required that the city council the tax portion of the ordinance by at least 4-votes. The reason I'm stressing the tax portion because it isn't in your staff report is that it's really an administrative act right now for the city council to approve this ordinance as an initiative, there isn't a lot of case law on what happens if they don't.

Our Prop 218 expert has recommended that if the city council doesn't make the discretionary decision tonight that we go ahead and submit it to the election official to have it put on the ballot. The last day to put this in is Friday. So, there isn't a chance to really come back to the city council again, this is your last shot at it. If you don't vote yes tonight, what you could have is an ordinance that goes into place with the tax initiative part of it that might be subject to challenge. You would be putting the city at risk by not approving it today by 4-votes, which is really a discretionary decision. You're not approving the ordinance, you're not saying the ordinance good; you have the 9212 Report that dose point out some problems, you're not ratifying those problems today you're just saying you're approving this as a potential tax in the City of Marina to go to the voters. Once it goes to the voters I believe it's a general tax, so I think it just requires 50% vote.

Council questions: if the voters approve this then at that time what is the city's ability, not to change the tax part of it but to change the other things that are not in compliance with State law; are there any other choices the council has to change the ordinance other than taking this back to the voters in two years; if the City Council said this is a mess or a couple of things need to be changes, does the city council get to put this on the ballot or does it have to come from the people/voters as an initiative; could a special election be held to fix the ordinance related to non-tax items; is there time for the council to put its own initiative on the ballot; in Section 19.11 Severability it state that "*if for any reason any section of this ordinance is found to be invalid/unconstitutional or void for any reason it's severed*", how could we enforce this even if the people voted for it knowing full well that it is in violation of Federal law; Section 19.11 Severability, the last sentence says "*the City Council hereby*

declares that it would have passed this title” and this council never agreed to this ordinance in any way – how can we vote on this going forward when there are things in this ordinance that are not true of this council; if this council did not get 4-votes, so therefore it leaves us open to someone stepping forward and saying you denied me my rights and takes us to court would the very fact that that is in there be justifiable for us to say no?

9:57 pm

Delgado/Brown: that we go until we finish this matter. 5-0-0-0 Motion Passes

Council Questions cont....

If this is declared void or invalid and it says that marijuana is not recognized being legal by the Federal Government that would not make it unconstitutional would it; just because it’s banned by the Federal Government that would not make this void; can we put into the ordinance language “*passage of this measure would result in a violation of federal law*”;

DELGADO/BROWN: THAT WE RECEIVE THE REPORT PREPARED UNDER SECTION 9212 OF THE CALIFORNIA ELECTIONS CODE; AND ADOPT RESOLUTION NO. 2018-94, OF THE CITY COUNCIL OF THE CITY OF MARINA SUBMITTING TO THE VOTERS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION AN INITIATIVE ORDINANCE RELATING TO CANNABIS BUSINESSES, REQUESTING COUNTY ELECTIONS OFFICIALS TO CONDUCT THE ELECTION, AND REQUESTING CONSOLIDATION OF THE ELECTION. 4-1(O’Connell)-0-0 Motion Passes.

- c. Should the City Council place, on a future agenda for discussion and potential adoption, a city ordinance which addresses campaign reform that limits the monetary amount of contributions that may be made to candidates for citywide elected offices. O’Connell. *Did not get to due to late hour, continued to August 21, 2018*
- d. City Council consider adopting Resolution No. 2018-, accepting responses to the 2017 – 2018 Monterey County Civil Grand Jury Final Report “WHO’S IN CHARGE? Stepping up on homelessness: The need for strategic leadership and comprehensive planning” for the City of Marina, and; Direct that the responses be forwarded to the Honorable, Stephanie E. Hulse, Judge of the Superior Court. *Pulled by Council Member Morton, was agenda item 8f(1). To be placed on the Special Council Meeting agenda of August 10, 2018*

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: 10:25 PM**

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor