



MINUTES

Tuesday, January 15, 2019

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)

Lisa Berkley, Adam Urrutia, Frank O'Connell, Mayor Pro-Tem/Vice Chair, Gail Morton, 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 Conference with legal Counsel, initiation of litigation pursuant to paragraph (4) of subdivision (d) of CA Govt. Code Section 54956.9 – 1 potential case; existing litigation pursuant to paragraph (1) of subdivision (d) of CA Govt. Code Section 54956.9 – Marina Community Partners LLC v. Fort Ord Reuse Authority, Monterey Superior Court Case 18CV000871
 - b. Labor Negotiation
 - i. Marina Professional Firefighters Association

City Negotiators: Layne P. Long, City Manager and Employee Relations Officer
 - c. Real Property Negotiations
 - i. Property: Building 535, 711 Neeson Road (APN 031-112-025, a portion).
Negotiating Party: Light in Motion, Daniel Emerson
Property Negotiator: City Manager and Eric Frost, Interim Finance Director
Terms: Price and Terms

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

Robert Rathie, Assistant City Attorney reported out Closed Session: The council met in closed session on the matters listed on the agenda which was one matter of anticipated litigation., one matter of existing litigation with Marina Community Partners vs. FORA which the city is a cross defendant in the action. Council received information, provided direction. Council also met on the matter of Labor Negotiations with the Professional Firefighters Association and received information; and the Real Property Negotiations was not discussed at this evening in closed session and there was no reportable action was taken in either matter.

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

5. **SPECIAL PRESENTATIONS:**

a **Recreation Announcements**

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

- Mayor Delgado – Commented on the well-attended Winter Fest Event which was held on December 23, 2018 at the Marina Teen Center. Announced that there were two volunteer events over the holiday. One was a surface cleaning and one was a deep cleaning of our tennis courts on Reindollar Ave and wanted to thank the volunteers who participated in this event. They removed a lot of ice-plant that was growing into the courts, 100-gallons of dirt and leaves. This was not a well-maintained tennis court. They need a little more maintenance but look better. Shout-out to the volunteers, half of which were from the Teen Center. These was another litter pick up along 6-miles of roads were cleaned up on Sunday; shout-out to the volunteers who help with the graffiti cleanup around town; on February from Noon-2:00pm is the next Del Monte Blvd/Lapis Road cleanup; On Saturday, January 19th from 9:00-12:00pm Friends of the Marina Parks will be at the Preston Park Ball Field cleanup; on April 13th is Earth Day Event at Locke Paddon Park; on Wednesday, January 16th from 5:00-7:00pm (2354 Garden Road) is the Monterey County Community Foundation is having a meeting on Homeless Emergency Aid Program. There is about \$12million that may be spent somewhere in Monterey County. Some of the option to be discussed are the potential of having a homeless shelter at Martinez Hall in Marina as well as a couple of other potential sites. We'll be represented by Council Member Lisa Berkley, City Manager Layne Long and Assistant City Manager Matt Mogensen.

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 91267-91402, totaling \$927,070.07
Accounts Payable Successor Agency Check Number 26 totaling \$1,174.06
Wire transfers from Checking and Payroll for November 2018 totaling: \$677,992.86

 - b. MINUTES:
 - (1) November 8, 2018, Special City Council Meeting
 - (2) November 20, 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. 2019-01**, accepting and authorizing submission of the revised Ten (10) Year Capital Improvement Plan (CIP) for Caltrans Division of Aeronautics grant funded airport improvement projects; 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 2019 designated project – Extend Taxiway B to the Threshold of Runway 29 - Construct, at Marina Municipal Airport.

 - g. APPROVAL OF AGREEMENTS:
 - (1) ~~City Council consider adopting Resolution No. 2019 , approving a recommendation to consider taking the steps necessary to implement Measure N, District Sales Tax, executing agreements with the California Department of Tax and Fee Administration, effective April 1, 2019. *Pulled by Mayor Pro-Tem Morton, becomes agenda item 11c*~~

- (2) ~~City Council consider adopting Resolution No. 2019 , approving an agreement between Adams Ashby Group, Inc., and the City of Marina in the amount of \$100,000 for General Administration Oversight and Labor Standards Compliance contingent upon the City receiving a CDBG grant award and approval from the California Department of Housing and Community Development (HCD) to build a Senior Citizen Community Center; authorizing the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney, and; authorizing the Finance Director to make the necessary budgetary and accounting entries. *Pulled by Mayor Pro-Tem Morton, becomes agenda item 11d*~~

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

- (1) City Council consider adopting **Resolution No. 2019-02**, receiving and filing the 2019 annual report on the collection and use of mitigation fees for new development impacts.
- (2) City consider receiving Investment Reports for the City of Marina and City of Marina as Successor Agency to the Marina Redevelopment Agency for the quarter ended December 31, 2018.

k. FUNDING & BUDGET MATTERS: None

l. APPROVE ORDINANCES (WAIVE SECOND READING): None

m. APPROVE APPOINTMENTS: None

Mayor Pro-Tem Morton requested to pull agenda items 8g(1) and 8g(2) to be heard after 9a.

DELGADO/MORTON: TO APPROVE THE CONSENT AGENDA MINUS 8g(1) AND 8g(2). 5-0-0-0 Motion Passes

9. PUBLIC HEARINGS:

- a. City Council open public hearing taking testimony from public and consider adopting **Resolution No. 2019-03**, approving an application in the amount of \$3,000,000 for funding and the execution of a grant agreement and any amendments thereto from the 2018 funding year of the State Community Development Block Grant (CDBG) program to construct a senior citizen center; if application is funded, approving expenditure of CDBG program income in the amount of approximately \$40,000; solicit citizen input; and authorizing the City Manager to execute document(s) on behalf of the city subject to final review and approval by the City Attorney.

Presented by Marilyn Lidyoff, Economic Development Coordinator

Council Questions: Are we limited in how much funds we are allowed to apply for? Can we apply for multiple projects under this application? Is this the first time we've applied for this grant or a grant for this project? Is there any strategy for applying for a lower amount for this project and applying for another amount for a second project like possibly First Time Home Buyer Assistance or something else in hopes that we would get one of them since rejected/not accepted this grant application in the previous two years? LMC as defined means "senior"? If a senior is not grouped in the LMC does that

mean that they can go into the senior center or it's not open to the public in a sense that we can put kindergartener classes in there or other uses? Is the \$40,000 that you spoke about already in Marina's possession in a restricted fund that was income generated from our prior CDBG grants? Is it feasible or possible to take the full \$3 million and spend the \$40,000 on some other objective? Why do we have to use out interest income to reduce the \$3 million grant? Why can't it be used on a different program? If the \$40,000 can be implemented as a loan, could we be spending the \$40,000 on something like providing a loan for first and last months rent for those who qualify? Is it discretionary with us as opposed to reducing a \$3million grant that might be given to us by \$40,000? To your knowledge and experience is the fact that we have a marijuana ordinance that is in violation of federal law jeopardize us in any way as far as this application or this application being approved or us getting a grant?

Mayor Delgado opened the public hearing for public comments:

- Virgil Piper, Marina resident for 34 years – I think everyone is mirrored with a cycle of life and the parents give you life, you go to school if you're lucky, you get a degree, secure a job, get married, have kids, and down the road you retire and live happily ever after. But there is a second life after retirement and this is what this evening is all about. The object of Marina's Senior Program is to reach out to seniors, that's the whole point, try to get them back into society, give them a reason to get out of bed. I've been a member of the Senior Advisory Board for over 10-years and there was a time a few years back when there was over 400 members in the Senior Program and today there is just a little over 100. So, we just simply got to do something. The 2010 Census revealed there is a bout 3300 seniors over 60 years of age in Marina so the fact that we only have 100 members or a little over is a sign that the program itself is failing. I feel, and I think there's reason to believe that we need this senior center as a priority item. I think I speak for all of the seniors that we're really appreciative of the effort the city staff and council has gone through over the past three years to get this program on the road. I can only hope the third time is the charm.

Morton/Delgado: to approve an application in the amount of \$3,000,000 for funding and an execution of grant agreement and any amendments thereto from the 2018 funding year of the State Community Development Block Grant (CDBG) Program to construct a senior center; and that the city look to expend to \$40,000 of interest income that we currently have as required by the grantor either for in order of priority: a) Alternative Assistance for Housing or getting people in a loan process to get into housing for our citizens or if it's not available then for reducing the \$3,000,000 grant as presented in the slideshow; and authorizing the City Manager to execute document(s) on behalf of the city subject to final review and approval by the City Attorney. **Withdrawn**

Mayor Pro-Tem Morton – just to clarify, I want the senior center. So, my motion was trying to find out and I'm relying on information that's not really clear if it jeopardized the actions. So, I will withdraw my motion and support the alternative motion made my Council Member O'Connell.

Substitute Motion

O'CONNELL/DELGADO: TO APPROVE RESOLUTION NO. 2019-03, APPROVING AN APPLICATION IN THE AMOUNT OF \$3,000,000 FOR FUNDING AND THE EXECUTION OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO FROM THE 2018 FUNDING YEAR OF THE STATE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM TO CONSTRUCT A SENIOR CITIZEN CENTER; IF APPLICATION IS FUNDED, APPROVING EXPENDITURE OF CDBG PROGRAM INCOME IN THE AMOUNT OF APPROXIMATELY \$40,000; SOLICIT CITIZEN INPUT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENT(S) ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY. 5-

0-0-0 Motion Passes

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. 2019-04**, receiving and filing City of Marina audited Annual Financial Reports for the fiscal year ended June 30, 2018.

Presented by Eric Frost, Interim Finance Director

Council Questions: General Fund Balance, is it typical for other cities to have all of those line items in fund balance? Page 22 of the audit, Table 3 I don't see the \$500,000 you mentioned, where is the \$500,000 net revenue over expenses shown in Table 3 or elsewhere in the audit? Page 8 of the audit, should there be a million-dollar figure of revenue over expenditures there as well? Page 15 of the audit, should there be a million dollar there somewhere comparing revenues to expenses? How much higher is \$4.2 million than our planned undesignated fund balance? What does the \$1.6 million represent in the Road Funds? Preston and Abrams, how does these monies represent 25% of our revenue? Land Assets, do you suggest that we sell? \$2.6 million, is this something we'll be discussion at our retreat? Preston Park \$35 million Note that is not fully amortized, we haven't paid any of the \$35 million and it needs to be refinanced at some point in time fully amortized, would we be able to have that information also at our retreat, so we could start addressing that concern? Does the Imjin improvements come from the Impact Fees?

MORTON/O'CONNELL: TO APPROVE RESOLUTION NO. 2019-04, RECEIVING AND FILING CITY OF MARINA AUDITED ANNUAL FINANCIAL REPORTS FOR THE FISCAL YEAR ENDED JUNE 30, 2018. 5-0-0-0 Motion Passes

Public Comment: None

- b. City Council consider adopting **Resolution No. 2019-05**, requesting a cost-based rate adjustment with GreenWaste Recovery, Inc. effective July 1, 2019 for collection of solid waste, recycling, and organics, and; approving a Consulting Services Agreement between HF&H Consultants, LLC (HF&H) and the City of Marina to perform the cost-based rate study for a fee not to exceed \$119,710, and; authorizing the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney, and; authorizing the Finance Director to make the necessary budgetary and accounting entries.

Presented by Brian McMinn, Public Works Director

City Attorney placed on the dais additional language and in Recital B it states *“if other agencies participate that the contractor may realize certain savings in performing particular tasks”*

Council Questions: when the rates were initially set it was based on some assumption, so this truly is the first time that we're looking at the history of the last few years to determine what they should be, correct? New language from City Attorney Paragraph 18(b), can we strengthen this language? To

allow our council to go back to HF&H can this come back at our next city council meeting for approval as to the contract terms?

MORTON/BERKLEY: THAT WE ADOPT RESOLUTION NO. 2019-05, REQUESTING A COST-BASED RATE ADJUSTMENT WITH GREENWASTE RECOVERY, INC. EFFECTIVE JULY 1, 2019 FOR COLLECTION OF SOLID WASTE, RECYCLING, AND ORGANICS, AND; APPROVING A CONSULTING SERVICES AGREEMENT BETWEEN HF&H CONSULTANTS, LLC (HF&H) AND THE CITY OF MARINA TO PERFORM THE COST-BASED RATE STUDY FOR A FEE NOT TO EXCEED \$119,710, AND AUTHORIZE THE CITY ATTORNEY TO REVISE PARAGRAPH 18(b) TO MORE ACCURATELY STATE THE INTENSION OF EQUITABLY DISTRIBUTING THE COST AMONG MEMBER PARTICIPANTS IN THE COST STUDY; AND TO INCORPORATE THE NEW “RECITAL B” LANGUAGE (as noted above); AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY; AND; AUTHORIZING THE FINANCE DIRECTOR TO MAKE THE NECESSARY BUDGETARY AND ACCOUNTING ENTRIES. 5-0-0-0 Motion Passes

Public Comments: None

- c. City Council consider adopting **Resolution No. 2019-06**, approving a recommendation to consider taking the steps necessary to implement Measure N, District Sales Tax, executing agreements with the California Department of Tax and Fee Administration, effective April 1, 2019. *Pulled by Mayor Pro-Tem Morton, was agenda item 8g(1)*

Mayor Pro-Tem Morton & Council Questions – my question regards “*direct staff to maintain these funds in a subfund of the general fund incase individuals wish to have an accounting of the uses of these funds*” – what would be... it’s in that, it’s still be one of the funds in our general fund and subject to expending with the budget? It’s not a restricted use, it was not a restricted use when the measure passed and by putting into a segregated account there’s no representation by the city to the rate payers that is will be a restricted use, correct? By setting up the subfund is does help with transparency, correct so we can be somewhat accountable to the public if we don’t use that money we can explain why? Is there any way to somewhat earmark it? Does council have any interest in setting up an oversight committee?

MORTON/BERKLEY: THAT WE AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENTS TO PREPARE TO ADMINISTER AND OPERATE DISTRICT TRANSACTION AND USE TAXES; PROVIDE STATE ADMINISTRATION OF DISTRICT TRANSACTION AND USE TAXES; ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ABOVE; AND DIRECT STAFF TO MAINTAIN THESE FUNDS IN A SUBFUND OF THE GENERAL FUND SO THAT WE MAY PROVIDE AN ACCOUNTING OF THE USES OF THESE FUNDS WHEN REQUESTED IN THE FUTURE. 5-0-0-0 Motion Passes

- d. City Council consider adopting Resolution No. 2019-, approving an agreement between Adams Ashby Group, Inc., and the City of Marina in the amount of \$100,000 for General Administration Oversight and Labor Standards Compliance contingent upon the City receiving a CDBG grant award and approval from the California Department of Housing and Community Development (HCD) to build a

Senior Citizen Community Center; authorizing the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney, and; authorizing the Finance Director to make the necessary budgetary and accounting entries. *Pulled by Mayor Pro-Tem Morton, was agenda item 8g(2)*

Mayor Pro-Tem Morton – My questions were answered in 9a.

Council Member O’Connell – page 5 of the agreement it makes reference to “if the contractor or the consultant hires a subcontractor and other persons to assist” but it doesn’t make reference in there who is going to be paying for the subcontractor. Is that to be considered to be paid out of the funds that they are going to be receiving from the city or are they going to be billing us for additional funds?

Robert Rathie, we could add to the last line “*Consultant would be fully responsible and liable for payment, administration, completion, presentation, quality of all work performed*”. Would that take care of the concern?

Council Member O’Connell – that’s fine with me. Also, on page 36, it’s requiring a certification and assigning by a person of authority and if you read A and B it does say referencing federal funds in declared ineligible and transaction be any federal government.... My question is: do we in fact have any problems signing these certification since it makes reference in B “*Where the prospective recipient of federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal*” Do we have a potential problem by signing this; and should we attach some type of explanation on this proposal?

Delgado/Urrutia: to adopt Resolution No. 2019-, that authorizes the City Manager, the Finance Director and City Attorney to do their relevant tasks and to ask the City Attorney to do a little additional due diligence on this matter of federal compliance regarding cannabis and potential conflict and to let us know if we ought to proceed or not.

Council Member O’Connell – I would like to make a friendly amendment, requests Council’s attention to page 11 of the agreement, paragraph 24 – Force Majeure – I would like to change the very first sentence and add some wording... I had it typed up to make it a little bit easier. I’m leaving the sentence as it is, I’m just adding the underlined wording *so that the consultant cannot claim, nor can the city claim a Force Majeure based on an economic downturn of any type.*

In the past I think we’ve been bitten by Marina Community Partners when we didn’t have this type of wording in there. I’m asking that after the word “*control*” just add the underlined wording.

Substitute Motion

MORTON/O’CONNELL: THAT THIS MATTER COME BACK AFTER REVIEW BY LEGAL COUNSEL AND CITY STAFF AS TO THE ISSUE PRESENTED BY EXECUTING THE CERTIFICATION PRESENTED IN EXHIBIT 3 AND 4, WHETHER A DISCLOSURE WOULD BE IN THE BEST INTEREST OF THE CITY. 4-1(Delgado)-0-0 Substitute Motion

Passes

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

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

Mayor Delgado did not attend the Mayor’s 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.

City Manager announced that starting February 4th the city offices will be open from 8:00am-5:00pm.

13. ADJOURNMENT: The meeting adjourned at 9:00 PM

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor