



MINUTES

Tuesday, April 2, 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)

MEMBERS PRESENT: 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, one case of existing litigation pursuant to paragraph (1) of subdivision (d) of CA Govt. Code Section 54956.9: (1) Marina Community Partners LLC v. Fort Ord Reuse Authority, Monterey Superior Court Case 18CV000871.
 - b. Conference with Legal Counsel-anticipated litigation - initiation of litigation pursuant to paragraph(4) of subdivision (d) of Section 54956.9 – one potential case
 - c. Conference with Legal Counsel – anticipated litigation – significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9 – one potential case.
 - d. Labor Negotiations
 - i. Marina Employee Association
 - ii. Marina Public Safety Officers Association
 - e. Real Property Negotiations
 - i. Property: Imjin Parkway/Landfill Site APNs 031-101-039,031-101-040, 031-101-041 and 031-101-042
Negotiating Party: County of Monterey and Successor to the Redevelopment Agency of the County of Monterey

Property Negotiator: City Manager
Terms: Price and Terms

- ii. Property: 2800 Second Avenue, Marina, CA
Negotiating Party: Mark Tanous
Property Negotiator: City Manager
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: Council met at 5:30 as indicated with regard to items 3a, 3b and 3c having to do with Conference with Legal Counsel on various aspects of litigation. In all three matters Council received information, gave direction and no reportable action was taken. Council has reserved the option to return to Closed Session to complete the other matters at the conclusion of the Open Session.

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

5. **SPECIAL PRESENTATIONS:**

- a **Rachel Maldonado, 2018 Officer of the Year**
- b **Community Human Services, Robin McCrae, Executive 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.*

- Janna Faulk – Here to request that the Council take action on plastic pollution locally. Plastic pollution is a huge problem for our ocean and environment. We have a great opportunity because the City of Monterey has already taken drastic steps to reduce single-use plastics. They've adopted Chapter 14, Article III to reduce single-use plastic or eliminate single-use plastics in food service. We are urging Council to plastic reduction seriously and to consider taking action.
- Police Chief Nieto – wanted to report back that two weeks ago when we presented our annual report during public comments it was brought to our attention that CrimeReports that show the current crimes that are occurring in the city was not working properly. Since that time, we've took that information and contacted CrimeReports and it's now working properly. Hopefully it will continue to work properly, and citizens can go there and take a look to see what crimes are happening. Wanted to thank the community for making us aware that there was an issue with that website.
- Mike Owen – Indicated that Greg Simmons submitted his application for the Tree Committee but to date has not been contacted. Was told that by the CD Director at the March 19th meeting that his application was with the Planning Commission. Concerned that if the Planning Commission does not hold a vote on the application at their next meeting on April 11th the whole process slides into

May before Council can act. Does not think it should take four months or more to process an application for a one-year term Tree Committee member. Staff and Planning Commission have expressed concerns about streamlining the process and doing away with the DRB and Tree Committee would certainly speed things up. Is there any reason why such an item could not be on the April 11th Planning Commission agenda?

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 91919-92021, totaling \$509,645.62

 - b. **MINUTES:**
 - (1) March 19, 2019, Regular City Council Meeting
 - (2) March 26, 2019, Special Joint Council-Planning Commission Meeting

 - c. **CLAIMS AGAINST THE CITY:** None

 - d. **AWARD OF BID:** None

 - e. **CALL FOR BIDS:** None

 - f. **ADOPTION OF RESOLUTIONS:** None

 - g. **APPROVAL OF AGREEMENT:** None

 - h. **ACCEPTANCE OF PUBLIC IMPROVEMENTS:** None

 - i. **MAPS:** None

 - j. **REPORTS: (RECEIVE AND FILE):**
 - (1) City to receive 2018 Jr. Giants Marina League Report.
 - (2) City Council receive Transportation Agency of Monterey County Update.

 - k. **FUNDING & BUDGET MATTERS:** None

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

 - m. **APPROVE APPOINTMENTS:** None

Council Member Berkley had questions for 8j(1) – Water consumption, are they saying parents had an increase in water consumption as well or was it the parents observation of their children? Reading Program, are critical thinking skills being taught with the reading or is it just learning how to read and reading as a group? Cal-Poly Research, on page 12 the report states that 51% of coaches completed the survey and 49% of the team parents completed, in the percentages of data if each of that was factored into the results of each question? What percentage of the Recreation budget goes towards this program?

DELGADO/URRUTIA: TO APPROVE THE CONSENT AGENDA. 5-0-0-0 Motion Passes

9. **PUBLIC HEARINGS:**

- a. City Council to open a public hearing, take any testimony from the public, and consider recommendation by the Planning Commission to introduce and read by title only Ordinance 2019- amending Chapter 17.06, General Zoning Regulations, of the Zoning Ordinance to establish a permitting process and appropriate standards for the short-term rental of a whole dwelling unit or portion of the same for a period of 29 consecutive days or less, along with associated regulations to mitigate negative impacts, such as noise and over-parking. *Continued from March 19, 2019*

Presented by Alec Barton, Assistant Planner

Council Questions: How many complaints have we had in the last year on Short Term Rental? Are Short Term Rentals required to pay Transient Occupancy Tax now? Page 8 Revocation of STR Permit, fifth line from the bottom. Does this sentence mean that the holder of the permit had to almost act like a parent to watch the persons occupying the premises to make sure they do not violate things in public? Page 9, STR Floor Plan, does the owner need to supply a floor plan to the city? If a homeowner only does STR for 3-weeks out of the year as they go on vacation, are they required to go through the permit process? What would be the function of the responsible person if the host is required to be on site? Would the host not be the responsible person? Projected TOT revenue, do you or anybody on staff know what's a typical occupancy rate for a Marina hotel throughout the year? Do you know what would be considered a typical price of a hotel room in Marina throughout the year? Penalties, do we have any notion of a penalty for operating a non-permitted STR? Do any current STR owners currently pay TOT to the city? What would be the mean of enforcement? Would this be completely complaint driven or would we actually envision having the staff capacity to go out and do inspections? Page 4, Group Event/Parking, how many spaces are provided per guest? How does this impact the city? Is it appropriate to have group events in STR? Asked for better clarification for Page 9, Item #8 Quantity Limitations, Second sentence? If doing a STR is must be hosted, correct? What does hosted mean? Does is mean the owner is sleeping in one of the bedrooms or in an outside unit on the property? How are we designating other people to be these in place of the owner? What is the duration of the STR permit? If your home has to be ADA compliant, is it stated in the permit application requirement? What is the cost that we're paying out of this TOT for enforcement or implementation? What type of restriction can do we have in the future to reduce maximum limit of STR if the 233 is too much? If we amend the ordinance and everybody has a permit is that a taking? Density, can apartments become STR, if so, how many? Ratio for parking per bedroom? Block Definition? Can a block having less than 10 units have a STR? Can we combine blocks with less than 10 units on it together to allow for STR? 75% Estimated occupancy, what is the origin of the 75%? Are we planning on coming back to Council to ask for an increase in time for Code Enforcement Officer? Page 10, paragraph 10 – if the owner has to call the police because his “occupant” is acting unrulily aren't we running into a situation where we now have an occupant who is rather upset with the operator and that it could run into problems? Page 10, paragraph 7 – Occupancy Period, does this

section mean that an occupant can leave for a day and then come back and restart their 29-days. Page 3, item 8, how does the recitation of this objective affect to goal of this objective? How does the language of the ordinance enforce that thinking? What was the source of the \$110/night? Is that cost for a room in a house? Is it true that the last time Council had this we brought up our number of concern and you and the Planning Commission tried to address those? Are you aware of the process that Pacific Grove has gone through including their citizen initiative etc.? Can you confirm is Pacific Grove went to hosted only? Does their Measure now allow for un-hosted accommodations? Do you know if hosted limitations are common or would we be a unique city to say you have to be hosted? Discussion that with AirBandB there was a possibility of having an agreement not just with them but with that type of group where they would work out a TOT payment to the city if we have an agreement with them as far as the rentals of the property, correct? Did we consider issuing more permits but restricting the number of days that you are able to rent your unit? How do we know to collect TOT? how do we keep track of who rents and for how many days of the year?

Public Comments:

- Richard Mathews, Monterey County Vacation Alliance – We advocate for regulations and enforcement for STR throughout the County and local cities. What we see works best is having a simple ordinance that people can understand what they need to do and if they're qualified to get a permit or a license. Simple case is a license once a year, an annual license, easy to revoke and it also doesn't pass on. Nobody gets it when they sell to someone else. Get everybody to agree that this is a good ordinance and they'll want to get permitted or licensed. They come in, they're part of the tent group, they're not outside violating the rules. You know who they are and collect the TOT from them. What you have now is an ordinance that invites non-compliance. There are two major issues that invite non-compliance. One is the non-hosted and Second is the density you have. 10% is the tightest density I've seen in any of the ordinances throughout the Counties nearby. 15% is more typical with rounding to the nearest whole number. Keep it simple.
- Shaun MacDonald – Educator in Marina school and rent out home during school breaks to supplement income. One of the key reasons we chose Marina to buy our home was the openness to STR. Appreciates the city considering some common-sense legislation regarding the STR to benefit the citizens of Marina. Here to day to address the non-hosted accommodation condition of the proposed ordinance. The proposed ordinance in the AirBandB system already includes other measures to promote positive STR experiences. AirBandB operates on a review system. The ordinance includes other provisions that would allow to revoke STR permits. For these reasons I don't think its necessary that we not allow non-hosted rentals. We ask that the City of Marina remove the non-hosted accommodation condition form the ordinance and allow those of us who are doing a really good job of already being a host to continue to do so.
- Anju Wong – appreciates the efforts regulating STR but please don't ban non-hosted rentals. I was a long-term rental owner but spent over \$20,000 for damages from the long-term tenant. So that is why I chose short-term rentals. We don't have any complaints from neighbors. Our guests go out during the day and came back at night to sleep. As mentioned by pervious speaker, AirBandB has a serious screening system and we have the right to decline any kind of service and so far, we don't have any issues. As a non-hosted short-term rental, we don't live there so we don't have a parking problem. They can park in the driveway and at the curb. Our guests are polite, and we have a system to monitoring our side of the property. Is there is an issue we drive here right a way from Monterey. Please keep the non-hosted condition and help us to keep the house.
- Nancy Amadeo – The Planning Commission tried to address to many issues in this ordinance and kind of muddied the waters. It's important that you look at the benefits and any of the difficulties of short-term rentals. TOT is a huge benefit. There are difficulties such as parking. Noted that some guests are here for business and not to party. Thinks that if your trying to gather information

to determine how many STR we have and what we will collect and the impacts you can't do that without an ordinance. Simplifying the ordinance will make it easier for enforcement, and easier for those who wish to have a STR and would make it easier for you to gather information and see the benefits. You can always update an ordinance in the future. Passing an ordinance, a simplified ordinance that gives you the opportunity to have real information will not only benefit the council but would benefit to community and benefit those who are doing STR.

- Kathy Biala – As many opinions as there are up here we as planning commissioners had the same thing. Speaking as an average person, STR is not new. Monterey and Carmel have banned STR. They have had decades of experience with this. We are basically allowing commercial enterprise in a residential neighborhood. I have a neighbor who does AirBandB and there are lots of people I don't know coming in and out. But my neighbor lives there, and I know that at any time I can contact my neighbor directly if there are any problems. What about our neighborhoods? It is so critical, that we support our neighborhoods. Yes, we want affordable housing but what we've done, we can't stop STR. It's all over the place. I hope you see that we have to have a permit process and it doesn't have to be perfect. If you think you all are going to have a consensus over a policy, we can go on for another two-years and we'll never get consensus. I hope that you consider this as not perfect and support it and then allow yourselves to have some input later to revise it or to change it. It's time to make some action.
- Narro Thyng – Attended multiple meetings on the STR with the Planning Commission and wanted to reiterate what was said at those meetings. Saw a lot of numbers in this report. Where did the cost of \$110/night and the projection of \$325,000 come from? What was it based on? Checked AirBandB website and keyed in Marina, CA area and about 78 properties popped up. I then keyed in each property to make sure the address was Marina. Only 22 of the 78 properties belong to Marina city. Commented that the 75% occupancy number is not a reality.
- Kevin Young – Has run a STR and listings on AirBandB for eight years and the last six years were supper strong. Everything they wrote in the report is not evidence based. When asked to provide a police report or a police record of any neighborhood complaints, they couldn't. For such a stricter law or ordinance, I would really appreciate if you folks be very cautious and do more research and make sure all the backup is there before you enforce. Believes you are creating laws that are difficult to enforce and that will cost the city extra money to hire third party or your own staff to go door-to-door to check if someone is a host for the home and how many rooms you're renting. Noted that 90% of his guests are 50 years old or more. Parking spaces, this idea I found to be ridiculous. We have plenty of parking spaces. My guests use the parking spaces in from of the garage and very seldomly use street parking. Believes putting this ordinance in place by June 30th of this year is to soon. The problem is that my calendars are posted online are already booked up to September. I need that grace time. If you're only allowing 10% I might not be one to get a permit. If I don't have a permit what happens to my bookings?
- Glen Gurries – Agrees with most of the speakers that came up to the podium stating to keep it simple. You can always change the ordinance. In the real estate business and have been monitoring what's been going on in Carmel. Has a lot of friends in the STR business and it worked really well for them. With what's happened in Carmel and Pacific Grove there is an opportunity for Marina to actually help with the economy through the tax revenue to the city. Disagrees with the one point of hosted, requiring that they be hosted because I wouldn't want to go to a hosted place with my family. I'd like to have the facility to our self. When you're talking about the responsible person/responsible party it still should land on the property owner and that's where higher security deposits are for.
- Paula Pelot – It's a complexed ordinance. You're trying to answer the questions of "why are we here? Why is this important? Where do we want to go with it? And how do we get there?" and

that’s why this ordinance is so complexed. If you have non-hosted your numbers will go up there’s no doubt about that. You’re trying to serve multiple things. You’re obviously trying to bring revenue that’s leaking from the city is. You’re trying to make this work for people who are operating STR’s and you’re trying to balance that in a community that does not all have STR’s. Does this impact affordable housing over the long run, probably? STR’s tend to drive up other rentals, long-term rentals. The reason why it was designated the way it was is because we were trying to not impose and make one area or allow one area to just become a business community inside a residence. There are some very valuable things in this ordinance. It is tough to balance it all out. I spent over 100 hours examining every listing on AirBandB, not just the ones that said they were in Marina. I tested each one. I went to parcel maps and went to the properties. I looked at the photographs and read the comments. Determined who the owners were and, in the end, out of a larger group there were still 51 STR’s in the city at that time. My introduction to this was not to get an STR ordinance, it was for the city to get the money that it was leaking, which is why I suggested AirBandB. There is a lot to consider here but there’s a reason why it’s so complicated.

O’Connell/Morton: to Continue this matter 120 days and bring it back to the council with a staff report setting forth the minimum government involvement or actions necessary to permit the city to collect transient occupancy tax while allowing host and non-host short term rentals.

Amendment: with additional text where staff finds appropriate to reasonably meet the intent expressed by council. Bare minimum, whatever staff believes is reasonable to include knowing that we’re looking at keeping it simple as reasonable.

Final Motion

O’CONNELL/MORTON: TO CONTINUE THIS MATTER 120 DAYS AND BRING IT BACK TO THE CITY COUNCIL WITH A STAFF REPORT SETTING FORTH THE MINIMUM GOVERNMENT INVOLVEMENT OR ACTIONS NECESSARY TO PERMIT THE CITY TO COLLECT TRANSIENT OCCUPANCY TAX WHILE ALLOWING HOST AND NON-HOST SHORT TERM RENTALS; AND WITH ADDITIONAL TEXT WHERE STAFF FINDS APPROPRIATE TO REASONABLY MEET THE INTENT EXPRESSED BY COUNCIL. BARE MINIMUM, WHATEVER STAFF BELIEVES IS REASONABLE TO INCLUDE KNOWING THAT WE’RE LOOKING AT KEEPING IT SIMPLE AS REASONABLE. 5-0-0-0

Motion Passes

- b. City Council open public hearing and consider adopting **Resolution No. 2019-34**, approving a 5-percent Cannabis Business Operations Tax for Cannabis Retailers and Non-Retail Cannabis Uses consistent with the 2018 voter approved City of Marina Commercial Cannabis Business Activities Ordinance; and authorizing Finance Director to update the City-wide fee schedule accordingly.

Presented by Matthew Mogensen, Assistant City Manager

Council Member O’Connell requested the following quotes to be included in the minutes:
The definitions in Section 19.01.040 of the proposed ordinance provide confusing and conflicting language regarding dispensaries, retailers and cannabis deliveries. Subsection GG defines “dispensary” in a way which suggests that only medical cannabis is allowed to be delivered.
Subsection FF defines “delivery” as applying to both medical or adult-use cannabis. However, it goes on to include transfer of cannabis to a testing laboratory within the definition of “delivery”.

Subsection HH directly contradicts Subsection FF (which contradicts subsection GG) by defining the transportation of cannabis goods between licensees as “distribution” instead of “delivery”.

As to these inconsistencies and contradictions, would this ordinance have to go back to the public to be voted on to change the ordinance? Are there any minor changes that the City Council could make?

Page 7 Foot Note 2 Here and throughout the ordinance, the text contains numerous spelling and punctuation errors that make strict interpretation difficult.

Page 13

The proposed ordinance does not provide for a tax on cannabis cultivation. However, the language of the ordinance creates some confusion regarding cannabis processors.

It is unclear whether the ordinance intends that licensed processors should be subject to the tax provisions of the ordinance. Trimming, drying, curing, grading, packaging or labeling of cannabis are activities that may commonly be carried out by cannabis cultivators, but they may also be done by a separately licensed processor. These licensed activities would fall under the authority of CalCannabis, which regulates cultivation”.

Page 27 Foot Note 5 “This immunity is as to State and Local law. The Supremacy Clause of the U.S. Constitution (Article VI, Clause 2) supports the preemptive force of federal law where Congress is empowered to regulate. Congress, as courts have determined, is a legitimate regulator of controlled substances, including marijuana, and may enforce despite conflicting state and local law. Given established principles of federalism, however, the United States may not require state and local government to assist in federal criminal investigation and enforcement, though some do cooperate voluntarily.”

It’s my understanding that this ordinance is in violation of federal law. Are you aware of anything that makes that understanding wrong?

Council Questions: Ordinance states that “all establishments shall pay a business operation tax equal to a minimum of 2.5%”. Does that give us discretion to go above the minimum? Does manufacturing include growing? Is cultivation included in this? Was water factored into this ordinance for cultivation? Has staff looked at the inconsistencies in HdL report that Council Member O’Connell was reviewing? If we were to go ahead with this tonight would it be possible for staff to come back with an informational report to tell us how the city is going to address these inconsistencies? Given that HdL has already threaded the needle, would it be difficult for staff to comeback at a later date with an informational report oh how we’re threading the needle for each inconsistency?

MORTON/BERKLEY: TO ADOPT RESOLUTION NO. 2019-34, APPROVING A 5-PERCENT CANNABIS BUSINESS OPERATIONS TAX FOR CANNABIS RETAILERS AND NON-RETAIL CANNABIS USES CONSISTENT WITH THE 2018 VOTER APPROVED CITY OF MARINA COMMERCIAL CANNABIS BUSINESS ACTIVITIES ORDINANCE; AND AUTHORIZING FINANCE DIRECTOR TO UPDATE THE CITY-WIDE FEE SCHEDULE ACCORDINGLY. 4-1(O’Connell)-0-0 Motion Passes

Public Comments:

- Sal Palma, Higher Level Seaside – Noted that the correct active tax rates are: Monterey County is 4% for retail, Seaside is 6% for retail, Del Rey Oaks is 5% for retail. On the non-retail portion Monterey County is 2.5%, Del Rey Oaks is 5% and Seaside is 2%. As far as the tax structure for non-retail operations, the deciding factor should really be the operators that you’re going to attract because that tax rate is an operating expense on the non-retail side of things. With lower tax rates you will be able to bring better and more qualified operators into the city because they meet those qualifications and obviously they’re going to be searching the lowest tax rates. On the retail side of

things those tax rates are passed along to the consumer just like a sales tax is. Essentially, you're going to be competing with neighboring cities and the county for the business of those consumers.

- Seth Smith, Santa Cruz Veterans Alliance – Agrees with previous speaker in that the number we're seeing here are not accurate. We're seeing across the state and across the country is that local jurisdictions, counties and cities and at the state level as well are lowering cannabis taxes. They are basically imposing an extra tax on an item that with no rhyme or reason to that. It's going to have sales tax associated with it, it's going to have energy tax associated with it, it's got water tax associated with it and even workers compensation tax associated with it. You'll want to start low and work your way up, potentially because we're seeing everyone who started high is now working their way back down. If you start high you risk alienating the customers who you already aren't capturing and who are already going to other places and jurisdictions to purchase their cannabis. They've already got loyalty to those areas and you're going to be trying to bring back to Marina and you're not going to do that if you have higher prices here is Marina. Wanted to also thank Council and mentioned that he has been coming to here for the past couple of years and this is very big step in that process. Hopeful that you will pass this tonight, whatever agreement you come to on what that level should be for the taxes.

10:00

Delgado/Urrutia: to continue to 10:15 pm. 4-1(O'Connell)-0-0 Motion Passes

- Joey Espinoza – Support most of what the previous two speakers said. Monterey County was one of those groups that lowered their tax rate significantly. They started at square footage tax for cultivation at \$15/sqft. and now they are at \$5/sqft. In the first fiscal year they did about \$13 million in tax revenue for cultivation. Now that they're on track at \$5/sqft they're on track to do \$15 million. I think less is more when you consider your taxes. These businesses are paying for retail pay 15% to the state and pay 2.5% to Marina, basically 10% in sales tax so a lot of consumers are going to be paying almost 25-30% tax by the time they walk out of that store. We also want to keep in mind that we want to create good opportunities for the residents of Marina and good opportunities for the community. But we also want to give consumers an opportunity to get a safe product that they otherwise can't get if they are not in an area that has retail dispensary or they have to go to an illegal delivery service, which you probably know is all over Marina and all over Monterey County. You are essentially competing with those people who are not paying any taxes. Understands what HdL is trying to do and did support them a month ago mostly for their application process because they do a great job.

Substitute Motion

Urrutia/Delgado: to approve a 5% cannabis business operating tax for cannabis retailers and a 2% tax for non-retail cannabis uses. 2-3(Berkley, O'Connell, Morton)-0-0 Substitute Motion Fails

- c. City Council consider adopting **Resolution No. 2019-35**, approving Cannabis Business fees in accordance with the 2018 Voter Approved City of Marina Commercial Cannabis Business Activities Ordinance; and Authorizing Finance Director to update the City-wide fee schedule accordingly.

Presented by Matthew Mogensen, Assistant City Manager

Council Questions: What protection does the city have relating to insurance coverage? Are we going to have the permittee provide us with a policy that protects the city either in the form of insurance or bonds of some sort in case we get sued? Are they going to sign some type of agreement with the city relating to what the law is relating to this? Will the funds that are collected from fees and from taxes

be put in a separate account so that should the federal government on the off chance they decide to penalize us and froze out accounts related to cannabis? Artisanal boutiques owned by woman or minorities, will be provide any kind of preference, incentive or discounts on some of these fees? The maximum we are recoup is \$8,000 per applicant even though our estimated cost exceeds that, correct? So, tonight action by council would be limited to what was allowed under the ordinance, which is the \$8,000, correct? Indemnification – wouldn't indemnification came from both, either assets of the company or insurance? Inconsistencies and Segregated Accounts – when would those kinds of issues be before the council that we might be able to address and correct those things prior to a selection process?

10:15 pm

Delgado/Urrutia: to continue to 10:20 pm 4-2(O'Connell)-0-0 Motion Passes

URRUTIA/BERKLEY: TO ADOPT RESOLUTION NO. 2019-35, APPROVING CANNABIS BUSINESS FEES IN ACCORDANCE WITH THE 2018 VOTER APPROVED CITY OF MARINA COMMERCIAL CANNABIS BUSINESS ACTIVITIES ORDINANCE; AND AUTHORIZING FINANCE DIRECTOR TO UPDATE THE CITY-WIDE FEE SCHEDULE ACCORDINGLY. 4-1(O'Connell)-0-0 Motion Passes

Public Comments:

- Seth Smith – Noted that the City of Watsonville and County of Santa Cruz recently passed Emergency Ordinances last month to establish Equity Programs for their cannabis licensing in their areas. This would allow those jurisdictions to apply for equity funds that are grant funds available from the State in the number of \$10,000,000 with a minimum of \$100,000 to each jurisdiction that applies and has equity language on the books. This is something the City Council may want to ask the staff to bring to them. The deadline to apply as a local jurisdiction to the State for this Equity Grant funds was April 1st but the State has since removed that deadline and pushed it back a several of months, so the city staff actually has plenty of time to do this. Noted that all cannabis businesses are required to sign an indemnification agreement as part of application. All cannabis license holders are required to have surety bonds and liability insurance. We are required to maintain for our State license.

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).

10:20 PM

Urrutia/Delgado: to extend the meeting until 10:30 to address the Lime Scooter item 11a. 3-2(O'Connell, Morton)-0-0 Motion Passes

- a. City Council receiving an update on the status of an agreement with LimeBike, Inc to allow shared mobility devices to be parked in the City's rights-of-way.

Presented by Matthew Mogensen, Assistant City Manager

Council Questions: Why does LimeBike insurance work for the State agency and not ours? Why do we require such a high level of coverage compared to the other cities Lime deals with? Did you get numbers of the cost differential between what we're asking and what is arranged with CSUMB?

Delgado/Urrutia: approve the item before us and give staff and lime up to 30-days to try and work out these disagreements over insurance. Motion withdrawn by maker due to time.

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: The meeting adjourned at 10:30 pm

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor