



MINUTES

Tuesday, May 17, 2016

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, David W. Brown, Gail Morton, Mayor/Chair Bruce C. Delgado

MEMBERS ABSENT: Mayor Pro-Tem/Vice Chair Frank O'Connell (excused)
3. CLOSED SESSION: *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency Members) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City's Meyers-Milias-Brown Act representative.*
4. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)
5. SPECIAL PRESENTATIONS:
 - a Northern Salinas Valley Mosquito Abatement District Presentation
 - b 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.*

- Mike Owen – Commented on the affordable housing at the University Village Apartment, the long waiting list and MCWD increase in water billing for this area. Tenants unable to pay higher water bills.
- Carla – Commented on an incident that took place over the weekend involving a drone flying over her property. Asked what rights does a homeowner have against drones?
- Kevin P. Saunders – Commented on the 2007 Medical Marijuana ban in Marina. Spoke about the news article in the Herald paper on “Marina Divided”.
- Margaret Davis – Commented on the removal of the line of Cypress trees along Highway One between Imjin Parkway and Del Monte exit. Does the city know these trees were being removed?
- Nancy Amadeo – speaking as a member of the public. Commented on the theft of political signs. Asked the public to be courteous and not remove the signs. Reminded whomever is taking the signs that this is considered theft and can be prosecuted.
- Council Member Morton – Fort Ord Reuse Authority Regional Urban Design Guidelines final document is now on FORA’s website: www.fora.org. Public comment period is from May 16-30, 2016; FORA Transition Committee meeting on May 25, 2016 at 3:30 at the FORA offices, discussion on FORA’s sunset date of 2020. Public invited to attend. Thanked the Friends of the Fort Ord Warhorse and all who participated in the Fort Ord Warhorse Day Event at the Marina Equestrian Center Park, it was well attended.

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 78631-78746, totaling \$431,824.72

b. **MINUTES:**

- (1) May 3, 2016, 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. 2016-66**, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for Cypress Cove II Landscape Maintenance Assessment District for FY 2016-17.
- (2) City Council consider adopting **Resolution No. 2016-67**, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for Seabreeze Landscape Maintenance Assessment District for FY 2016-17.
- (3) City Council consider adopting **Resolution No. 2016-68**, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for Monterey Bay Estates Landscape Maintenance Assessment District for FY 2016-17.
- (4) ~~City Council consider adopting Resolution No. 2016-, authorizing Police Department request to acquire excess federal property through the State of California Public Safety Procurement Program (CPSPP), which authorizes procurement of aircraft, watercraft, armored vehicles, firearms and firearms attachments, night vision goggles and scopes and other tactical equipment and non-tactical/non-combat equipment with the initial intent of acquiring an armored tactical vehicle for the sole use of the Regional Police Response Unit (SRU); and, authorize the Chief of Police to administer the State of California Public Safety Procurement Program (CPSPP) on behalf of the City.~~
- (5) City Council consider adopting **Resolution No. 2016-69**, approving estimated cost for service for calendar year 2016, Fourth of July activities and; setting cost recovery surcharge at seven (7) percent for calendar year 2016 pursuant to Marina Municipal Code Section 15.32.091.
- (6) City Council consider adopting **Resolution No. 2016-70**, accepting the construction contract documents and authorizing staff to proceed with the public bidding process, and; authorizing preparation and submission of a revised grant application to the Federal Aviation Administration (FAA) based on bids received, and; authorizing preparation and submission of a State of California (Caltrans) match grant based on a proportional amount of the federal grant application, and; authorizing the City Manager to execute the referenced grant applications for the 2016 designated project – Airport Beacon and Pavement Maintenance Management Plan (PMMP), at Marina Municipal Airport.
- (7) City Council consider adopting **Resolution No. 2016-71**, calling for a general municipal election in the City of Marina on Tuesday, November 8, 2016, for the election of certain city officers; requesting the County of Monterey agree to the consolidation of the election with the statewide general election and requesting the County Elections Department to render any and all services required to conduct the election; authorizing the Finance Director to appropriate funds and the City Manager to execute a service agreement for the provision of election services between the City of Marina and Monterey County Elections Department/Registrar of Voters subject to final review and approval by City Attorney.

g. APPROVAL OF AGREEMENTS:

- (1) City Council consider adopting **Resolution No. 2016-72**, authorizing the agreement between the City of Marina and Taygeta Network Security Inc. for cybersecurity professional services, authorizing the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney; and authorize the Finance Director to make the necessary accounting and budgetary entries.
- (2) City Council consider adopting **Resolution No. 2016-73**, authorizing the City Manager to execute a side letter agreement between the City of Marina and the Marina Management Employees Association, and; authorizing adjustments to City Compensation Plan including adjustments to the salary schedule, health benefit allowance and other specified terms and conditions of employment specified in the Side Letter, and; authorizing Finance Director to make appropriate accounting and budgetary entries.

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

- (1) City Council receive information on Regional Communications Grant Update.

k. FUNDING & BUDGET MATTERS: None

l. APPROVE ORDINANCES (WAIVE SECOND READING): None

m. APPROVE APPOINTMENTS: None

Agenda Item 8f(4) pulled by public. Item to be heard and voted on prior to the Public Hearing Items.

MORTON/DELGADO: TO APPROVE THE CONSENT AGENDA WITH AMENDED REPLACEMENT PAGE TO AGENDA ITEM 8b(1) AND MINUS 8f(4). 4-0-1(O'Connell)-0 Motion Passes

Agenda Item 8f(4)

8f(4) City Council consider adopting **Resolution No. 2016-74**, authorizing Police Department request to acquire excess federal property through the State of California Public Safety Procurement Program (CPSPP), which authorizes procurement of aircraft, watercraft, armored vehicles, firearms and firearms attachments, night vision goggles and scopes and other tactical equipment and non-tactical/non-combat equipment with the initial intent of acquiring an armored tactical vehicle for the sole use of the Regional Police Response Unit (SRU); and, authorize the Chief of Police to administer the State of California Public Safety Procurement Program (CPSPP) on behalf of the City

Police Chief Rodriguez gave a brief presentation outlining the purpose/reasoning for this item.

MORTON/AMADEO: TO APPROVE ADOPTING RESOLUTION NO. 2016-74 AUTHORIZING POLICE DEPARTMENT REQUEST TO ACQUIRE EXCESS FEDERAL PROPERTY THROUGH THE STATE OF CALIFORNIA PUBLIC SAFETY PROCUREMENT PROGRAM (CPSPP), WHICH AUTHORIZES PROCUREMENT OF AIRCRAFT, WATERCRAFT, ARMORED VEHICLES, FIREARMS AND FIREARMS ATTACHMENTS, NIGHT VISION GOGGLES AND SCOPES AND OTHER TACTICAL EQUIPMENT AND NON-TACTICAL/NON-COMBAT EQUIPMENT WITH THE INITIAL INTENT OF ACQUIRING AN ARMORED TACTICAL VEHICLE FOR THE SOLE USE OF THE REGIONAL POLICE RESPONSE UNIT (SRU); AND TO REQUIRE THAT EACH PROCUREMENT REQUEST MUST COME TO COUNCIL FOR PRIOR APPROVAL BEFORE THE REQUEST IS MADE AND BE APPROVED BY COUNCIL; THAT THIS WOULD ALSO BE CONDITIONED UPON THE SRU CONTROLLING BOARD MAKE THE DECISION TO RETURN THE PRIOR TACTICAL VEHICLE OR REMOVE THAT VEHICLE FROM SERVICE BY APPROPRIATE ACTION UPON THE ATTAINMENT OF THE NEW PIECE OF EQUIPMENT AND AUTHORIZE THE CHIEF OF POLICE TO ADMINISTER THE STATE OF CALIFORNIA PUBLIC SAFETY PROCUREMENT PROGRAM (CPSPP) ON BEHALF OF THE CITY. 4-0-1(O'Connell)-0 Motion Passes

Public Comments:

- Margaret Davis – Does this vehicle have offensive capabilities? Can we share a vehicle with another jurisdiction or partner with them such that our officers are trained to use this vehicle? How many such vehicles are considered necessary at any given scene? Was Marina's vehicle deployed the 27 times since 2010 or all together all the local SRU's were deployed that many times? Is there with this governing body discussion of issues of public perception and issues of legitimacy?
- Mike Owen – Opposes motion. Main purpose of the vehicle was never served. No one ever fire a shot at it. All item of possible procurement, if those item were not needed then why were they included in the staff report? Segment of population out there that look at this as "big toys for big boys". Image for the city is being energy efficient. Why don't these other cities become the lead agency on this instead of Marina?
- Joann – Commented on the news channel 8 that waited outside half the day on this subject. Noted at first was against this item but after hearing the presentation from the Police Chief and the questions asked by council has changed her mind and supports motion. Commented that she would like to see more bicycle officer on the streets as she observes many suspicious things taking place. Offered to hold fundraisers for the police department for bicycles. Wants Marina to be known as a peaceful city.
- Kevin P. Saunders – Opposes motion
- John Worthey – This issue of the armored vehicle hasn't been given a proper insight. Dangerous and evil world. Look at the investment that we've give our police force. Continual training, upgrade to equipment, ongoing resources and they deserve our very best. Bad guys are looking for every material, technological advantage in order to do the greatest amount of harm in the least amount of time. Support motion. Can we really place a value on lives?

9. **PUBLIC HEARINGS:**

- a. City Council open the public hearing and take any testimony from the public, and; consider introducing Ordinance No. 2016-, amending chapter 3.26 of the Marina Municipal Code regarding mitigation fees for new development within the City of Marina.

Presentation by Nourdin Khayata, CSG Consulting/Acting Engineer and Alex Zabyshny, Kimley-Horn Development Impact Fee Study (2016 Update) - Cypress Knolls

Development Impact Fees (2016 Update) = Purpose - Update 2011 Fee; Update Land Use Development Projects; Update Capital Improvement Projects = **Fee Programs** - Public Buildings; Public Safety; Transportation (Roadways and Intersections); Parks

Development Impact Fees (2016 Update) - Development Entitlements
Entitlements between 2011 and 2016 - Land Use Assumptions; Residential; Commercial/retail; Office; Industrial.

Development Impact Fees (2016 Update) – Development Agreements
Projects with Development Agreements are excluded – Dunes; Marina Heights; CSUMB; Cypress Knolls / two options presented (one with DA in place and one without DA)

Development Impact Fees (2016 Update) – Cypress Knolls

May 3, 2016 Council Meeting

Evaluate No Cypress Knolls; Increase in Impact Fees

Assumptions - No Cypress Knolls Development; No Land Use Replacing Cypress Knolls; New development in Cypress Knolls area will require a change in the DIF and they will pay the updated fees.

Land Use	Cypress Knolls DA	No Cypress Knolls DA
Residential		
Single Family Dwelling Units	\$ 18,474	\$ 21,189
Senior Homes	\$ 9,967	\$ 11,697
Assisted Living - Senior	\$ 6,062	\$ 7,041
Multi-Family Dwellings	\$ 15,199	\$ 17,647
Mobile Home Park	\$ 13,737	\$ 16,135
Campground/RV Park	\$ 11,720	\$ 14,049
Non-residential		
Office/Research	\$ 10,228	\$ 10,803
Retail/Service	\$ 16,634	\$ 17,340
Industrial	\$ 6,241	\$ 6,501
Hotel	\$ 7,334	\$ 7,647
Church	\$ 8,126	\$ 8,450
Day Care Center	\$ 65,636	\$ 68,072
Animal Hospital/Veterinary Clinic	\$ 42,186	\$ 43,905
Medical/Dental Office Building	\$ 32,437	\$ 33,820
Casino/Video Lottery	\$ *	\$ *
Casino	\$ *	\$ *
Notes: * Depends on gaming area and gross building space square footage. Must be calculated separately for Public Buildings, Public Safety, Parks, Roadways, and Intersections.		

Council questions: Why is Marina Station not included in the fee study map? What is the legal logic behind the status quo if we were not to change this to reflect the exclusion of Cypress Knolls? Why would we treat Cypress Knolls as if it had a DA if it doesn't? Is there any logic behind the status quo option of keeping Cypress Knolls in our development impact fee formula? If we were to stay with the status quo wouldn't we be potentially losing impact fees and the ability to fund our capital improvement program were Cypress Knolls to not happen or take longer than expected or not happen at all? Wouldn't we irreversibly lose the opportunity to collect the appropriate fees that we are due if Cypress Knolls were not to be developed? Should Cypress Knolls or Marina Station have a developer does the whole impact fee study have to be updated to include either one of those projects or any other new economic development project because they're not included in this?

Mayor opened public hearing for public comments:

- Mike Owen – when Marina Heights impact fee agreement expires in 2017 and the new impact fees are open for negotiation, that’s already going to be determined by this agreement you have before you right now? Isn’t Marina Heights significant large enough development to justify looking at making appropriate neutral income impact analysis of what the impact fees should be for Marina Heights? It’s the largest one. Noted that when Marina Heights impact fees were first going through planning commission and did some research on it and found that in the building department the basis for the codes were actually outdated by five years. How recent is the basis for these fees?

Morton/Delgado: that we amend chapter 3.26 in the Marina Municipal Code regarding mitigation fees for new development within the City of Marina, and specifically adopt at page 134 of the staff report the schedule of fees based on an accurate reflection of No Cypress Knolls DA.

Assistant City Attorney Rathie – pointed out that these fees with the “no Cypress Knolls DA” were not part of the original update for the fee in the notice that was made. So by adopting tonight we’re not following our own regulation, which is that they be made available to the public at least 10 days prior to a public meeting which was held on May 3rd and then subsequent to that there is a public hearing and an introduction of the ordinance with these new fees. We haven’t made these numbers available to public in that statutory period that is provided by our own code.

Council Member Morton – Because of the procedural defect I will withdraw my motion. When is the 10 days and do we set a special hearing, do we have to bring it at a routine meeting?

Assistant City Attorney Rathie – according to the provisions Chapter 3.26 we have to make them available, mail out to those who requested 14 days before the public meeting and the fee study has to be available to the public 10 days prior to the public meeting and has to be noticed in the paper.

AMADEO/DELGADO: TO BRING THIS BACK AND FOLLOW THE PROCESS THAT’S ESTABLISHED IN CHAPTER 3.26 AT THE FIRST AVAILABLE DATE. 4-0-1(O’Connell)-0 Motion Passes

- b. City Council opening a public hearing, and; consider introducing ordinance text amendment deleting Municipal Code, Title 5, Chapter 5.36 “Massage Businesses,” and adding a new Chapter 5.36 to redefine “Massage,” “Massage Practitioners,” “Massage Therapists,” “Massage Establishments,” and require licensing in compliance with the laws of the State of California.

Council Questions: So you took the state law and adopted the same language for our city ordinance, so our city ordinance mirrors the state law is to enable the police to enforce? Will you be notifying business in Marina that provide massage that this new ordinance has gone in to effect and letting them know what the ordinance is to ensure that they are compliant?

Mayor opened the public hearing for public comments:

- Mike Owen – reports talks about required licensing and compliance, is there any connections with item 11b?

MORTON/BROWN: APPROVE INTRODUCTION OF INTRODUCING ORDINANCE TEXT AMENDMENT DELETING MUNICIPAL CODE, TITLE 5, CHAPTER 5.36 “MASSAGE BUSINESSES,” AND ADDING A NEW CHAPTER 5.36 TO REDEFINE “MASSAGE,” “MASSAGE PRACTITIONERS,” “MASSAGE THERAPISTS,” “MASSAGE ESTABLISHMENTS,” AND REQUIRE LICENSING IN COMPLIANCE WITH THE LAWS OF THE STATE OF CALIFORNIA. 4-0-1(O’Connell)-0 Motion Passes

Roll Call Vote: Amadeo, Yes; Brown, Yes; Morton, Yes; Delgado, Yes

Public Comment on Motion:

- John Worthey – seems to be a change in wording by definition to hopefully start to eradicate those establishments that conduct nefarious businesses. Thinks a high license fee is good. All for anything that can increase the moral and spiritual character of the citizens of Marina. Believes conditions could be set regarding the type of business in the license so that medical establishments could be exempt or a zoning ordinance could be exempt. Surprise inspections should be considered in order to maintain a high level of standard in this community.

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 Council receive Utility Users Tax (“UUT”) information and provide staff with any further direction in the matter.

City Manager Long provided council with an overview of the April 19th and May 3rd meetings; the purpose for a Utility Users Tax; the unmet needs, especially roads and information on Residential vs. Commercial Utility.

Estimated UUT per Household

Utility	Estimated Monthly Per Household	Estimated UUT 1% Household Per Month	Estimated UUT 3% Household Per Month	Estimated UUT 5% Household Per Month	% of Total
Telecom & TV	\$ 175	\$ 2	\$ 5	\$ 9	42%
Gas & Electricity	\$ 145	\$ 1	\$ 4	\$ 7	35%
Water	\$ 80	\$ 1	\$ 2	\$ 4	19%
Solid Waste	\$ 20	\$ 0	\$ 1	\$ 1	5%
Monthly Per Household (2.83 persons per household)	\$ 420	\$ 4	\$ 13	\$ 21	100%

Monterey County UUT

City	UUT
Seaside	6%
Sand City	5%
Pacific Grove	5%
Salinas	5%
Soledad.	5%
Gonzales	4%
Greenfield	3%
Monterey	2% & 5%
King City	2%

Consideration: Fair and equitable tax distribution; Residential at 3%; Commercial at 6%; Low-income exemption (for PG&E); 15 Year duration.

Council Questions: How do we guarantee to the public, if we put a sunset on it that we're not going to turn around in 15 years and extend it? How do you plan for being conservative and explaining to the public why we're not spending reserve monies? How do we balance this and try to sell this to the public. Are there any cities that simply have a business utility use tax structure, where the residents are not paying anything? In structuring, is it feasible to fashion this where we would shift the responsibility, that we put 1% perhaps on our residential and 9% or 10% on our commercial? How are the small "mom & pop" businesses impacted by this tax?

Morton/Amadeo: that we bring back additional information at our next meeting something that, what would we generate if we put 9% for example on commercial and a lesser percentage of 1% on our residential; and what is the impact on the small user and a case study on the residential.
4-0-1(O'Connell)-0 Motion Passes

Public Comments:

- Margaret Davis – Supports motion. Looking at the estimated UUT per household and even at 3% people coming up with an additional \$156 a year of utility tax is hard for a lot of people. Even if PG&E is excluded those who are receiving subsidies that's \$108 per year, going to 1% seems more palatable. Would like to see how it would affect the businesses and be able to shift that there if the city is looking for target revenue.
- Mike Owen – Appreciates council's efforts to gather more information and become more knowledgeable on what they're doing. The University Village apartment renters will pay the same utility tax rate, especially water as the neighbors just across Second Avenue. This is a regressive tax, one that follows this proportionately on low-income individuals and takes a larger percentage of income from them than from upper income tax people. It's not a luxury tax, it's a tax on basic services we all need. The tax burden is not fair. Placing an even bigger burden on the back of those already staggering along just to make ends meet. These residents are the most vulnerable.

10:00PM

BROWN/MORTON: TO CONCLUDE THE CURRENT ITEM AND ADJOURN THE MEETING TO NEXT TUESDAY TO FINISH THE REST OF THE AGENDA. 4-0-1(O'Connell)-0 Motion Passes

Council Member Brown called to question. 2-1(Delgado)-1(O'Connell)-0

- ~~b. City Council receive Business License Tax information and provide staff with any further direction in the matter. *Continued to May 24, 2016*~~
- ~~c. City Council consider adopting **Resolution No. 2016-75**, amending the rate adjustment calculation of the Franchise Agreement with GreenWaste Recovery utilizing a sector specific uniform percentage adjustment in lieu of the multi index calculation. *Continued to May 24, 2016*~~
- ~~d. City Council hold discussion on 9th Street Design between 2ND Avenue and Imjin Road. *Continued to June 7, 2016*~~

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: Meeting adjourned at 10:17 pm to Special Meeting of Tuesday, May 24, 2016 at 5:30 PM

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor