MINUTES

Tuesday, July 21, 2020 **5:00 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, SUCCESSOR AGENCY OF THE FORMER MARINA REDEVELOPMENT AGENCY AND MARINA GROUNDWATER SUSTAINABILITY AGENCY

Council Chambers
211 Hillcrest Avenue
Marina, California

Zoom Meeting URL: https://zoom.us/j/730251556
Zoom Meeting Telephone Only Participation: 1-669-900-9128 - Webinar ID: 730 251 556

1. CALL TO ORDER

2. ROLL CALL & ESTABLISHMENT OF QUORUM: (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, Preston Park Sustainable Communities Nonprofit Corporation, Successor Agency of the Former Redevelopment Agency Members and Marina Groundwater Sustainability Agency)

   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, Preston Park Sustainable Communities Nonprofit Corporation, Successor Agency of the Former Redevelopment Agency Members and Marina Groundwater Sustainability Agency) 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 – significant exposure to litigation pursuant to paragraph (2) or (3) or subdivision (d) of CA Govt. Code Section 54956.9 – one potential case.

   b. Labor Negotiations
      i. Marina Employee Association
      ii. Marina Police Officer Association
      iii. Marina Public Safety Managers Association
      iv. Marina Middle Manager Association

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

c. 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: T-Hangar Building, 727 Neeson Road, Marina, CA Bldg 528
Negotiating Party: Phil Lewis dba Marina Aviation, LLC
Property Negotiator: City Manager
Terms: Price and Terms

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

Robert Wellington, City Attorney reported out Closed Session: Council went into Closed Session at 5:00 with regard to each of the agenda items listed on the Closed Session. With regard to the first matter, a matter of Conference with Legal Counsel relative to potential litigation. Council received information and gave general direction to council involved and no reportable action was taken. With regard to Labor Negotiations, Council received information, gave general direction and no reportable action was taken. With regard to the last two matters having to do with Real Property Negotiations, information was received, direction given, and no reportable action was taken.

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

5. SPECIAL PRESENTATIONS:

a Marina Coast Water District Recycled Water Distribution Project Presentation

- Mike Owen – What triggers the process as far a s a tree removal permit is damage to a tree. In the ordinance the language is very clear "damage"; it doesn't talk about a percentage of damage. That is what the context for a tree removal permit hearing that would be at a Planning Commission. The arborist could be on Zoom to respond to questions. As far as mitigation, that's a normal thing that's talked about during the tree removal permit. Because of OSHA requirements these trenching's so the sand doesn't cave in on people are 7-feet wide and 6-feet deep. So, whether you move it out a little bit further or not these root systems don't extend just to the edge of the canopy. Because they're shallowed rooted, they spread out a lot wider up to 100-feet for Blue gum Eucalyptus. The arborist report, nobody has asked them to survey the north side of the eucalyptus. That need to be done because both arborists expressed concerns about the rototilling that happened the last few months for the first time ever in Armstrong history. Generally, the root systems are 90% within the first 12 inches and that can be severely compromised. Since MCWD has a 30-foot easement over there anyway they need to have that other side checked for a full picture of what the possible damage to these trees are. It's not just damage to the tree but damage to the residents. The highest eucalyptus is over 70-feet tall. The edges of the roofs of the houses on the other side of Beach is 60-feet. The cars in the driveways are 50-feet and cars parked at the edge of the street is 30-feet. It's not just when it's over 30% and there's a question of how damage is on the other side; we can't tell if anybody does anything until the winter storms come. Do you want to wait until the winter storms come? This discussion really belongs in the context of Planning Commission for a full and thorough review.
- Denise Turley – Will there be any root pruning done on these trees?

- Grace Silva-Santella – Thanked Mike Owen. Those trees are landmark trees because of Mike's commitment and passion in the protection of those trees. Thanked MCWD board for the action and vote they took last night and glad to hear that there's alternatives that can be explored including the pipeline that's in the works and plans for Marina Station development. Have live in Marina for 31-years and live just a few blocks from these trees and they are critical to how we enjoy Marina; they're critical to Marina's urban forest; they provide rapture habitat and they enhance our lives beyond any monetary value. I want every measure to be taken that these trees are protected and if the means they go to the Planning Commission so they can have an in-depth consideration about this I think that's critical. Thanked the Council for hearing this presentation and asking the questions you asked this evening. Thank you
- Cat Bare – Not sure why this can be done on the Armstrong Ranch side since they've already been doing a lot of work over there. Seems like it would be easier to put the pipes on that side where there's not a road they would have to repave afterwards. It's a historical line of trees and I don't know what goes into making something a historical part of a city but I would think that you would have to take into account that it means a lot to some people and so we should put a lot of effort into keeping it.
- Margaret Davis – Thanked the Council and MCWD Board for taking this seriously. Agrees with Mike Owen and Grace that these are landmark trees, which is all the more reason they should go through the normal tree removal inquiry and process and that the north side that got all torn up by the rototilling also needs to be surveyed. It may be that these trees because of that action are doomed and if so, we need to know it now. It should be thoroughly investigated. The cost of removing the tress would be substantial and the value of the trees is there some way to weigh that when considering if we had delays or we had to reroute or rethink a little bit would cost us a lot more, that should be weighed in the scales also; the benefit of the trees and the cost of removing them if need be. I love the trees thank you for treating this with due consideration.

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 – Apologized to Mayor and MCWD for doubting their sagacity, wisdom and knowledge of what is available and open to public comment on the agenda. Didn't believe the previous MCWD was going to be open for public comments but totally 100% wrong and I bough to the sagacity of the Mayor and the Chair of the MCWD. Thinking that because of the pandemic trimlines and how everything is seemingly getting worse that the County may not be open to lifting the suspensions of our committees and commissions for maybe quite some time. Suggested that maybe the council can sort of be a little bit more flexible in looking at ways to do things maybe without the Recreation and Cultural Services Commission being activated regarding Martin Luther King. So, Planning Commission is still active and they can create and ad-hoc subcommittee and possibly with some flexibility involved, they're used to looking at areas of the city; maybe David

Burnett might part of the ad-hoc committee and then it could have an advisory committee or members from the public at-large to maybe assist. If the city gets no response from the County as far as lifting the suspension on the Recreation Commission. This was just an idea how we might be able to adjust if these suspensions continue to last a lot longer than everybody would like. Thank you

- Kathy Biala – Applaud councils vote to proceed with the $45,000 budget allocation for studying the issues of systemic racism in Marina particularly in the times of Black Lives Matter. I believe this to be an act pursuit not only because Marina's population is 64% non-white but even more important our city's recent decision to go to electoral districting. resulted from a potential lawsuit against Marina for Racially Polarized Voting in the City of Marina. Since such a city study regarding systemic racism requires careful planning, I want to keep the project in the forefront of this council otherwise the multitude of other priorities would surely take precedence. As a first step the process to identify what we want of our survey is essential, even before soliciting appropriate consultants. However, you can't begin to identify the scope of work unless you have under-represented community members at the table in the decision-making group. I would like to see a timeline of tasks that outline the eventual completion of such a study. In this way it will keep this project always moving forward to its end goal. Completion of the study is only the first step. What to do with the information that is gathered is the most critical piece and this part will take a much longer time and will have many long-term ramifications if we are truly to reach reap some benefits from the study. I would like to add that the public and the City should continue to engage in ongoing discussions about systemic racism. We can ill-afford simply wait for the initiation and eventual completion of a study that would otherwise deprive us of valuable time to learn and address issues related to systemic racism. What has been done thus far with getting this study off to a good start? Thank you
- Tina Walsh – Marina's water remains in jeopardy of being stolen by Cal-Am, a private for-profit company that delivers water to their own customers on the Monterey Peninsula and not us. On Thursday, September 17th the California Coastal Commission will have a special meeting to decide whether or not to approve CalAm's request to install a well-field on the Cemex dunes. This date replaces the previous scheduled August meeting date. Citizens for Just Water is a group of residents who continue to fight to stop this CalAm project because of the harm it would bring to our community and to the habitat of our sensitive Western Snowy Plovers. The proposed slant well will take most of their water not from the bay but from the aquifers below our city; this groundwater is the only water source for Marina and the Ord Communities. What you can do to help is to download a free window poster at www.citizensforjustwater.org featuring our friend Grover the Plover pleading for help in several languages. We are asking everyone to print out this 8 ½ x11 mini poster and to display it in your front window, then take a photo of yourself and household members in front of the posted and email it to us at www.citizensforjustwater.org . The photos will be used to demonstrate to the Coastal Commissioners that the Marina community is united in their request for a denial of CalAm's proposed slant wells. While you're there please click on "sign up for updates" to be added to the email list to keep being informed about the threat to our drinking water. Soon we hope to see these posters with the Snowy Plover and the words Stop CalAm popping up in windows all over town. Thank you.
- Grace Silva-Santella – A few meetings back, it may have been your budget meeting a council member had asked that your Workplan Priority list come back to you to be, I think that it was actually a request for some additional information on it for FY 2019-2020 and FY 2020-2021 Workplan Priorities list and I think it came up at the time when requests are binging made of the council and staff for expenditures and there was a desire that you stayed on track with your projects; what still needed to be completed and what the budget links were for each one of those

projects. Asked if that was still going to happen, the Workplan Priorities List come back to you? Thank you.

- Carissa Mann – Was told that there might be a discussion on RV Parking ordinance but didn't see it on the agenda. If this is something that will be coming up in the next couple of council meetings considering the state of the economy. I went to Robert's Lake and met a few people there to try and understand what the situation was there in Seaside at the encampment that's currently there and a few people told me about what they've been experiencing. One was a family with an 8-month old baby and what she was telling was that she's been on a wait list for Section 8 Housing for 3-years. They ended up buying a used RV because they couldn't afford an apartment here; she's working at the moment. It opened my eyes to what's going on. I had a conversation with Emergency Services with the County, and they let me know there is only 150 hotel rooms for the medically frail homeless people in our county and we have more than 3000 homeless people in our county. I called the Coalition of Homeless Services and the woman who answered the phone almost immediately said all the shelters are full. There are essentially no resources and even a lot of outreach programs are not going out to encampments like they normally would because of the virus. I just wanted to put that out there because the drastic nature of it was not something, I was fully aware of until I actually had a conversation with people and made some phone calls. So, if we do end up discussing the RV parking situation please have some compassion when you're having that conversation and try to help figure out a place where people can park and not be kicked out or at least during this virus. We should be discussing some more permanent options for people if our shelters are full. Asked if there was an update on the MLK statue and if not, perhaps we could start polling in on where a location where it could be placed.
- Denise Turley – Covid-19 information, when do we expect the county to make major changes? County website on covid-19 is not working properly.
- Nancy Amadeo – Commented on the July 7th council meeting comments she made. Ran into the Mayor at a local restaurant where he introduced me to someone as the "person who tried to make him look bad for sitting on a piece of cement, but it didn't work". Mr. Mayor I didn't try to make you look bad. In my eyes that picture looked bad, you did that to yourself. I was looking to you to make a change. Simply saying "I didn't intend to offend anybody, but if I did and it sound as if I did then I'm sorry for that offence". It would have been simple, but instead you had to call it a piece of cement, a crumbling piece of cement. I found your language very disturbing, very offensive. Spoke about her great-great grandfather's incarceration in a Texas POW camp and his along with four others escape with the help of slaves and black and white women along the underground railroad and how he later became an attorney, a postmaster and elected as a Senator for California. He pasted on his legacy of gratefulness to his family. Martin Luther King was a descendant of slaves who made a huge impact during the Civil Rights movement and continues to make that impact today; and we put him there. Still believes the Mayor owes those that were offended an apology.
- Carmen Lombardino – Spoke about the RV Street Parking ordinance and asked if the council could consider amending it to include a waiver for residents who own RV's or trailers to allow residents to park in front of their homes or within their city block for no more than 48-hours for loading and unloading for trips. Many people who own RV's park them in storage mostly outside city limits and it's extremely difficult to pack and unpack them. We came to the idea of 48-hours because of working schedules and the time it takes to prepare. Possibly having Parking permits for RV owners that can be applied for online, taking no staff time and the owners can print and post the permit in the location of the RV so any police driving by can see the dates it's allowed to be parked there; and maybe an active permit list can be given so that police would know where RV's are currently allowed for that day. A $5.00-$10.00 fee for the permit would be reasonable and limit on the number of permits that would be allowed per month. We would think this ordinance would

include all recreational vehicles including RV's, trailers and possibly boats. The current ordinance restricts all three. Asking for consideration of this amendment for the convenience of residents of Marina. Thank you for all you do for our city.

- Cristina Median Dirksen – Thank you Carissa for reminding us about compassion. Agrees with Kathy Biala and her thoughts on the study for systemic racism. Thank you, Lisa Berkley, for taking my calls, I put her in touch with a few people in our community looking at the County Office of Civil Rights. We have to do this very carefully with an eye on our special nuances of our community and its diversity. Gave a shout-out to Jeff Uchida and the team that's feeding our community. Covid has not got us beat but it really has us worried; there are many people within our community needing assistance and worrying about what next. As our community comes together, we really need to help. I thank the people at Marina Grocery Outlet for collecting well over $3,000 that we distributed to needy families in Marina. This has got to continue. As we look forward to assess the needs of what's going on we definitely need to maintain services to people in need whether it's the continuation of our moratorium on the rent increases or something else that is beneficial to help those who are struggling. Hats off and thanks to the Marina Foundation and all the volunteers in our faith community. Thanked the Council for all the time and dedication to our town. It's a difficult time and you have difficult decisions in front of you and pray that you continue doing what you do with an eye on what's best for the community.
- Karen Andersen – No one want's to be called a racist. Things like that have happened in our social media lately and the term is offensive to us and puts us in a defensive mode. Who are we? For the most part we are white people. Member of the dominant race of the United States. For this reason, I'm now calling myself out as a white person. If I do not identify myself as a white person, it can seem to people of other races that I'm making the statement that I'm a member of the normal group of people residing in America and people of other races or of some group which must identify itself with a hyphen. I think this is one of the steps white people can take to move away from the racist foundations upon which America was built and move towards being antiracists. For being antiracist is about taking action; it is about discovering more about American history then there was time or inclination to be taught to us. It means diving deeper to learn what happened after the Emancipation Proclamation and after the Civil War to understanding what the confederate flag stood for then and stands for still; toward what happened to the formally enslaved people during reconstruction; toward learning the mirid ways white people used blatant or subtle ways to continue to oppress black people. There's a lot of uncomfortable history in race relations to discover between the end of the Civil War and the signing of the Civil Rights Act in 1965; and between the assignation of Abraham Lincoln and the assignation of Rev. Martin Luther King Jr.
- Margaret Davis – Commented on Kathy Biala's remarks about Marina being singled out on racism for district elections; it was a general legal requirement that all California cities move the district elections. The disparaging comments about Marina's alleged social climate that Ms. Biala read was boilerplate text used by a lawyer who went up and down the state suing the cities who had not implemented voting by district. I think that's important context to bear in mind. Thank you
- Cat Bare – In agreement to making amendments to our RV Ordinance; As for the Beach Road trees, wondered if the tress get sick after they build pipelines who would be responsible for damages to the houses that might have tree limbs fall on them?
- Council Member O'Connell – Read into the record of minutes: *It is understood by all elected officials that the public has a First Amendment right to speak to their elected officials in a less than flattering manner.*

  On June 23, 2020, some members of the public expressed anger, and disappointment relating to the vote by their council members to defer the decision on the Martin Luther King, Jr. statue. Much of the frustration, disappointment and anger was based solely on the strong beliefs of the speakers.

Some, however, were based on the NextDoor Marina comments that not only misled some members of the public but created a political division in this city. Add to that the personal, negative and error-filled attack on a councilman by a former councilman, and you see the political division in this city.

This city is estimated to lose approximately 4 million dollars in revenue. We have over 60 projects and mandatory decisions outstanding and now, a pandemic. To imply that the city council majority that voted to defer the decision on the statue is not supportive of Black Lives Matter Too is absolutely unjustified. To express that if the council does not get its stuff together there will be a mass protest of 1,000 people is, in the eyes of some, counterproductive.

The finance director provided us with his recommendations as to the potential shortfalls of the revenue in the coming months, and how to address them. The council exceeded his recommendations by donating $10,000.00 for the less fortunate, $10,000.00 for the food pantries, and earmarked at least $45,000.00 toward a study on racism in city government. Many may think that donations to the less fortunate, food pantries and racism in city government is not as important as a statue of Martin Luther King, Jr., but I honestly believe that Martin Luther King, Jr. would disagree with you if he were alive today.

To be painted by others as being unreasonable, prejudice or racists, is certainly disheartening, but to have the council's decision used on social media for political purposes is a tremendous disservice to all of the residents of Marina.

On April 4, 1968, in Indianapolis, Indiana, Robert F. Kennedy informed a campaign crowd of Martin Luther King, Jr's assassination. In part, he said: "What we need in the United States is not division; what we need in the United States is not hatred; what we need in the United States is not violence or lawlessness; but love and wisdom, and compassion toward one another, and a feeling of justice toward those who still suffer within our country, whether they be white or they be black."

We need to address all wrongs by working together to try and right them. This cannot be achieved with the "you against me mentality" that appears to exist in this city.

- Lisa Berkley – Part 2 of Policing: Building Trust in Communities of Color – we will be looking at The Application of Civilian Oversight in Marina and on July 24th at 6:00pm will be Part 3 Understanding the Role of Civilian Oversight. For more information you can email: www.info.from.marina.dems@gmail.com or you can go to: www.marinadems.org and view Part 1 – Overview of Marina Police Department and Part 2 discussing the types of Civilian Oversight. Provided update on Compassionate Marina, held first meeting last Saturday and it was a good beginning and we hope you will be joining us. If you are interested in continuing the conversation with us or seeing the video of what transpired you can reach out to us at compassionatemarina@gmail.com and then we will be scheduling a follow up meeting in about a week or so. Highlighted the Veterans Transition Center Event on Friday from 2:00-6:00 where there will be all kinds of food and services for veterans, services members and their families but also open to the general public. Spoke on comments she received from a couple constituents contact her relating to the Weekly news article and how they felt they weren't comfortable giving comment in public forum on inclusion and diversity issues. What they said was they were further uncomfortable not only by the phone but the way in which you responded in the last council meeting and they felt really offended. Both people asked that I bring this out and encourage you to look at your own systemic racism because you're working to be a leader in this field.
- Mayor Delgado – Thanked Lisa for all the work that she's doing on 3-Part Forum and look forward to catching up on the rest. On the systemic racism, racism, bigotry, predigest I have a lot of work to do within myself and one thing good for me on Black Lives Matter is that it got me thinking a lot long those lines so hopefully I'll become a better person than I was before George Floyd was

killed the way he was. I'll keep working on my weaknesses. Also thanked the Marina Foundation and all the volunteers for week 18 of food distribution on Tuesdays from 2:00-4:00 for seniors. and on Fridays from 1:00-3:00 for families at Los Arboles Middle School. Thanked all the volunteers who should up to help with the litter cleanup at the Wal-Mart site large dirt filed. It took 28 people and we gathered 16 large trash bags most of which had hand wipe dispensers at Wal-Mart and receipts from purchases.

- Mayor Pro-Tem Morton – Asked for confirmation as to whether or not the Recreation Commission would be able to meet to discuss the MLK statue placement? Do we have a definitive answer? Asked if the lot parking behind the County Supervisor's office still operational and a place for people to park safely? Who would the public contact regarding parking in that lot, is it the City or the County?
- Council Member O'Connell – Didn't we direct that the RFP for the systemic racism consultant come back to Council for review and public comment to make sure we covered what we considered relevant in the RFP?

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 95428-95551, totaling $1,343,381.47
      Accounts Payable Successor Agency Check Number 50-51, totaling $4,115.62

   b. MINUTES:

      ~~(1) June 10, 2020, Adjourned 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. 2020-92**, creating a Post-Employment Health Plan (PEHP) for City of Marina Employees.

      (2) City Council consider adopting **Resolution No. 2020-93**, approving the destruction of payroll records according to the City's Records Retention Policy covering the calendar years of 2009 to 2011.

(3) City Council to consider adopting **Resolution No. 2020-94**, confirming levy of the special tax for the City of Marina Community Facilities District No. 2015-1 (The Dunes) for Fiscal Year 2020-21 as authorized by Ordinance No. 2015-03; and **Resolution No. 2020-95**, certifying City of Marina compliance with state law (Proposition 218) with respect to a special tax for the City of Marina Community Facilities District No. 2015-1 as authorized by Ordinance No. 2015-03 for Fiscal Year 2020-21.

(4) City Council consider adopting **Resolution No. 2020-96**, approving response to the Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance".

g. APPROVAL OF AGREEMENTS: None

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

(1) City Council receive Monterey-Salinas Transit Contactless Fare Payment Announcement.

k. FUNDING & BUDGET MATTERS: None

l. APPROVE ORDINANCES (WAIVE SECOND READING): None

m. APPROVE APPOINTMENTS: None

Mike Owen – notice that agenda item 8b(1) was not included in the electronic version of the packet on line and if council were to approve the consent agenda it would be without 8b(1)

DELGADO/BERKLEY: TO APPROVE THE CONSENT AGENDA MINUS 8b(1). 5-0-0-0 Motion Passes by Roll Call Vote.

9. PUBLIC HEARINGS:

a. City Council open a public hearing and take testimony from the public and consider adopting Resolution 2020-, submitting to the voters at the November 3, 2020, General Municipal Election a Measure amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses which would repeal Title 19 "Commercial Cannabis Activities," repeal Chapter 5.76 "Cannabis Retailer," add Chapter 5.80 "Commercial Cannabis Business Regulations" and add Chapter 17.47 "Commercial Cannabis Uses."

Council Questions: Educational programs for youths? Nonconforming use for new store moving into a location that was previously held by another cannabis store? Can we change the total of cannabis stores? It was mentioned that the currently permitted businesses would become nonconforming uses or if they didn't conform to standards in the new ordinance, does anyone on staff know if that would in fact create nonconforming uses for the current three permit holders? What are some of the worst-case scenarios for the Diva site if they had a legal nonconforming status? Would a change in ownership or changes to their building imperil their license? Is the Mortimer's site within the 600-foot buffer? In the proposed ordinance what other typical changes that any kind of retail business might undergo would cause them to potentially lose their cannabis permit? When does this ordinance go into effect? Is there any consideration for people who already have permits in progress under the existing

ordinance? Did the original ordinance give the council some leeway to move the tax between two and one-half percent (2.5%) and five percent (5%)? If we're trying to get something passed that improves our deficiencies with state law etcetera but if in fact we found out in the future after businesses have operated in the City we could put it back on the ballot at a later date if we found that it's costing more to the city than tax rage is generating, correct? The buffer zone set by the voters is the set buffer zone, that's not something within council's discretion to adjust. Can the buffer zone be change by Council without going back to the voters? Signage – the San Diego ordinance suggested where is was limited to be one sign to only contain the name of the business, contain only alphabetic characters, limited to two colors and there is no secondary signs, advertising or displays viewable on the building. Would that be something that could be amended into this tonight? Quarterly tax collection timing? Should we have something in our ordinance about the prohibiting cannabis product vending machines? If any approved permit holders can't make it work at that location would they just be able to pick a new location and move to it because they were already approved by us or would they have to go back in the lottery hopper with the other two that didn't get accepted and they would get the next choice? Can cannabis permits be sold to another entity? Can we put provisions in our ordinance that prohibits the sale of their business or the sale of cannabis permits? What affects does the language for signage have on other businesses? Do we know if the state is reimbursing taxes to cities for youth education on cannabis? Can we expand the buffer zones to 2000 feet? Can we expand it so far that it's sort of a way killing cannabis? Is there a limit to expansion of the buffer zone after voter approval?

9:59 PM

BERKLEY/URRUTIA: TO EXTEND THE MEETING TO 10:30 PM. 4-1(O'Connell)-0-0 Motion Passes by Roll Call Vote

Berkley/Morton: that we opened a public hearing and taken testimony from the public and consider adopting Resolution No. 2020-, submitting to the voters at the November 3, 2020, General Municipal Election a Measure amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses which would repeal Title 19 "Commercial Cannabis Activities," repeal Chapter 5.76 "Cannabis Retailer," add Chapter 5.80 "Commercial Cannabis Business Regulations" and add Chapter 17.47 "Commercial Cannabis Uses."; and

1. To include the new proposed ordinance regarding the signage to also include *"that signs must contain only alpha-numeric or the linguistic equivalent symbols and it not portray any graphic images related to cannabis or cannabis related products":*
2. ~~That the retail businesses will not be any less than 600 feet from playgrounds, parks, childcare, youth care etc. as it is written; and~~
3. That a percentage or fixed amount of the business's revenue of no more than 10% must be donated to a partnership with MPUSD and relevant cannabis educational organizations for the purpose of youth education; and
4. An additional business transfer tax of 10% of any sale of the business license would go to the city which would be reviewed approximately one-year after the acceptance and implementation of this ordinance.

10:30pm

URRUTIA/BERKLEY: TO CONTINUE TO 10:45 PM. 3-2(O'Connell, Delgado)-0 Motion Passes

Revised Motion

Berkley/Morton: that we opened a public hearing and taken testimony from the public and consider adopting Resolution No. 2020-, submitting to the voters at the November 3, 2020, General Municipal Election a Measure amending provisions of the Municipal Code relating to the regulation, permitting

and taxation of commercial cannabis businesses, activities and land uses which would repeal Title 19 "Commercial Cannabis Activities," repeal Chapter 5.76 "Cannabis Retailer," add Chapter 5.80 "Commercial Cannabis Business Regulations" and add Chapter 17.47 "Commercial Cannabis Uses."; and

1. To include the new proposed ordinance regarding the signage to also include: *that signs must contain only alpha-numeric or the linguistic equivalent symbols and it not portray any graphic images related to cannabis or cannabis related products, and no more than three (3) signs be permitted:*
2. An additional business transfer tax of 10% of any sale of the business license would go to the city which would be reviewed approximately one-year after the acceptance and implementation of this ordinance; and
3. Direct staff to come back at a future meeting with a resolution and ordinance that does in order to get this to the County Elections Department by August 7th

Public Comments:

- Brian McCarthy – Shared what he learned with the effects of advertising cannabis. This is about prevention not prohibition. People in Marina clearly want cannabis and believes the Council has that responsibility to carry out that wish responsibly while protection our youth from access and misinformation. There is a lot we don't know about cannabis use and we tend to argue that there's not at least some parallels to tobacco. We've learned a lot in the last 50 years or research, science, regulation etc. on tobacco and for whatever reason that largely doesn't legally apply to cannabis. For example tobacco billboards have been banned nationwide since the 90's, yet today just 10 miles from where most of us are sitting you might have previously notices ads describing housing projects in the city of Marina and now more than likely notice cannabis advertisements. A lot of time it's not easy to understand what's being advertised. Our schools have a serious problem with cannabis use as we've seen in a letter provided to you. Over 40% of MPUSD 11th graders have reported using cannabis with a quarter of those reporting use over 7 times. I hope that you consider that not only in a motion today but as we go forward. Pointed out that a lot of the uses in our city has been approved the disadvantaged community is going to be affected most. We know this based on the Census data that disadvantage communities are going to be exposed to not only not one location, but all three locations chosen. An extra incentive to regulate signage because youths are heavily influenced by physical store advertising. A study from last year shows that retail establishments are the single most characteristic of exposure to advertising followed by digital advertising. I think you have a long road ahead. Glad the motion as presented includes the model language that Mr. Mandell has offered and thinks it's the right way to go and hopes it get approved.
- Rene Kausin, Director of Family Services-Sunset Centers – Sunset Center focuses on youth education and like stated by Brian prevention not prohibition is what we're striving for as well. Besides tobacco as you know Juul advertising did a real terrible job at preventing youth use, tobacco use with Juul and moving on to cigarettes was an all time high, which then lead to increase of supply and demand. They started getting lung diseases called Evaly due to a vitamin-acetate that was added as an additive. As you can see the lack of threat around the marijuana is present. We talk to kids constantly and 30% of high schoolers have reported use in the last 30-days with marijuana via smoking, edible's or a bong or a vape. When it comes to those Evaly lung disease I was talking about a majority of those were THC products unfortunately with those we do have really high concentration of THC which can lead to a withdraw from marijuana. The kids are aware where these dispensaries are. In Seaside, when we talk to these kids they know exactly where they are. When we talk our kids in Marina they're going to know exactly where they are.

As you guys know the Marina youths are really active in the community, they're constantly walking around; they're aware of exactly what's going on there and as I mentioned before the threat around marijuana for them is not very apparent. When we ask them whether a Juul is better than a wax pen they say the wax pen is better because it comes from a plant. When we ask them why they're using marijuana it can be anything from "to look cool to I'm stressed out about family things". A lot of kids are addicted right not to marijuana. So, whenever you guys do come to approve language, signage, youth education; and I appreciate Ms. Lisa for advocating for that youth education portion of it. We're a small team of three on the peninsula and serve all of MPUSD and we were lucky enough to get to about 4,000 students but we know there are more students that we're not reaching. If we did have the funding to increase our demand or to support other programs that are doing substance youth education that would be a huge deal and working with the dispensaries is also a great option. Wanted to encourage Marina and the Council to take into account some of those data points that I talked about and just know that we really are wanting to work as a community to protect our youth and to let them live and prosper in a positive community.

- Lynn Silver I'm the Director of Getting it Right from the Start Project at the Public Health Institute, which works with jurisdictions around the state trying to bring better cannabis policies that can protect youth and public health and social equity. We were please to see some of the protective measure in your ordinance however, we would encourage you to be even more protective of and proactive in protecting youths and having a legal industry but one that is not promoting increase consumption across the community. In addition to the data that Brian shared, 6.4 % of MPUSD 10th and 11th grader are not just using cannabis but they're using it daily or nearly daily, which is nearly double to the rate in Monterey County as a whole and the statewide rate of heavy use; and those are the kids that are going to get into trouble. As leaders of Marina you would want take action to protect against these issues. Recommends that these permits not be transferable and that that be something that's known to the owner in the beginning so that if there's a need to reduce the number of dispensaries in the future not to eliminated them but to adjust so that's possible. Regarding youth education, the state fund which should have been several Hundred Million dollars has been primarily redirected to childcare; a good goal but not youth substance abuse education, there's about $30 million currently going out this year. Taxing adequately and using a system, for example such as an advisory group that our model ordinance shows how you can design a general tax and yet to some extent direct funds without it being legally earmarked is one way to support youth prevention programs through taxation. We recommend not allowing recreational delivery. We recommend the higher value for buffer zones at least for the high school and middles schools. The cap of six dispensaries in Marina is quite high compared to what is recommended and to the state average for other communities, so we suggest that you not having more than three physical locations in the community. The best way for you to get the funds you need for what Mr. Siegrist was suggesting would to have a higher tax threshold and to use a community advisor process to direct those funds towards youth protection and prevention.

10:45 PM

URRUTIA/BERKLEY: to extend to 11:00PM. 4-1(O'Connell)-0-0 Motion Passes by Roll Call Vote

- Eric Lightman – Was taken a bit by surprise by this change to the ordinance. We were one of the earlier groups that applied, went through the entire process and as you recall the voters of Marina did pass the ordinance and parks were not included in that buffer zone. Relying on that whole process and ordinance we went ahead and found a suitable location and spent lots of money on this and marched all our resources, played by all the rules, partnered with the UFCW, we did

everything right and we fought hard, worked our tails off and managed to get on of the CUP's that were awarded just this last month; and then here we are on the eve of getting this thing started and building out, our architect is working on plans and our builders are sticking by and we're ready to operate a fully compliant business and now the goalposts are moving on us and we're going to be made the only nonconforming business out of all three applicants. So, it seems that part of the provision is kind of targeting us whether by intent or not but what the effect has on us is that we are then a nonconforming business. I don't know if you are aware but it's impossible to get financing, take out a mortgage on a property on this kind of business. It immediately devalues our entire business, our entire license. Our business plan goes out the window and if we want to expand, we can't do that. I'm just pulling up the Marina ordinance a look at nonconforming some of the implications of this are that if our business is damaged, we can't rebuild, were out of luck. We just have to fold up shop and call it a day. Abandonment, during this time of Covid if we're not in continuous business for a period of six months then we're deemed to have abandoned the property. So, after all this time and investment, resources and personnel, we're doing everything right now we're learning that we're going to made nonconforming. It's actually starting at a disadvantage to the other applicants. So, what I suggest is a simple change to the ordinance which would state that that provision to the buffer zone that it's not retroactive. Otherwise, we are totaling in favor of this ordinance. What we don't support is moving the goalposts on an applicant that's already invested substantial sums into the process.

- Greg Furey – Unfortunately this is probably somewhat a terrible lesson about certain people on council wanting to rush through an ordinance before it was vetted properly as other people on council wanted to do. It's kind of catch 22, it's unfortunate for hopefully the process will serve as a template in the future for doing things correctly by crossing the T's and dotting the I's and not having to paint yourselves into corners like this. It's unfortunate especially for an applicant such as the man that just spoke. Good luck with this, thank you.

- Terry Tallon – Owner of the 7-acres on the eastern border of the Marina Landing Shopping Center. We been stakeholder in the City of Marina since 2005 and we purchase the K-Mart property that year, redeveloped that year and then leased it to Walmart in 2006. We came back a year later and reinvested in the land we have now and then the recession hit, and this key parcel of land has lingered ever since. We think for the purposes of this as an approved use that the Marina Landing Shopping Center as an ideal location and there's probably no better site in Marina as it is a commercial property that would generate more sales tax revenue than the Marina Landings Walmart Center. Walmart has stated to us that they do an excess of 8,000 transactions a day and the Dunes has really captured with all the retail and restaurant demand in the market so we would really like to find a manner with which to utilize this property. We've looked at other potential uses for this site, but it will take quite a bit of time. We simply ask that you maintain the state law and do not have any buffer zones for the parks within the 600-feet of the Marina Landing Shopping Center. We absolutely support the 600-feet or up to 1000-feet for schools. We see those as two different areas and this would confirm the state law. I'm not in this business, nor would I be in this business but we believe that the right operator could come in and with this amount of land create a contemporary mixed-use project and something that can benefit the CBD users as well as the other users of this product type. With the limited number of licenses that are allowed that would be the best way to drive revenue for the city. We simply ask that you support the state law and allow us the opportunity to try and create some value in this property and greatly appreciate your efforts, thank you.

- Cristina Medina Dirksen – Been listening to the discussion and listened to Brian McCarthy and agree with a lot of things he said but in listening to the gentleman from Stiiizy he's already through the process and I just feel for where he is as a businessman and where he has invested in our city. I

would hope that this wouldn't have come to such a dead lining place and if you extend the decision for a special meeting, I hope more people would have their opinions heard. It would be interesting to know how many people were on the call waiting to hear. It's almost 11:00pm and all too often our meetings on important decisions go way to late into the night. You had a question earlier about diversity and why people are not paying attention to council, well unfortunately this is why. we have lives and things go late, so if you can delay some more people can weigh in, I think that might be the best option right now. Rushing something through is not going to be conducive for anyone. Thank you.

Mayor Delgado closed the public hearing for comments

11:00PM

Urrutia/Delgado: to extend to 11:05 PM 4-1(O'Connell)-0-0

BERKLEY/MORTON: THAT STAFF RETURN TO US NEXT WEEK WITH A REVISED RESOLUTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 3, 2020, GENERAL MUNICIPAL ELECTION A MEASURE AMENDING PROVISIONS OF THE MUNICIPAL CODE RELATING TO THE REGULATION, PERMITTING AND TAXATION OF COMMERCIAL CANNABIS BUSINESSES, ACTIVITIES AND LAND USES WHICH WOULD REPEAL TITLE 19 "COMMERCIAL CANNABIS ACTIVITIES," REPEAL CHAPTER 5.76 "CANNABIS RETAILER," ADD CHAPTER 5.80 "COMMERCIAL CANNABIS BUSINESS REGULATIONS" AND ADD CHAPTER 17.47 "COMMERCIAL CANNABIS USES." WITH THE ADDITIONAL VERBIAGE:

1. **TO INCLUDE THE NEW PROPOSED ORDINANCE REGARDING THE SIGNAGE TO ALSO INCLUDE: THAT SIGNS MUST CONTAIN ONLY ALPHA-NUMERIC OR THE LINGUISTIC EQUIVALENT SYMBOLS AND IT NOT PORTRAY ANY GRAPHIC IMAGES RELATED TO CANNABIS OR CANNABIS RELATED PRODUCTS, AND NO MORE THAN THREE (3) SIGNS BE PERMITTED (1SIGNED PER STREET FRONTAGE ON THE BUILDING,)**
2. **THAT WE RECEIVE CORRECT VERBIAGE FOR A BUSINESS TRANSFER TAX OF 10% FOR THE SALE OF THE BUSINESS; AND**
3. **DIRECT STAFF TO BRING BACK TWO (2) SET OF DOCUMENTS, THE FIRST BEING WHAT WAS BROUGHT BEFORE US TONIGHT WITH THE ADDED LANGUAGE ABOUT SIGNS AND THE SECOND SET OF DOCUMENTS WHICH WOULD INCLUDE ALL THAT AND ALSO INCLUDE THE TRANSFER TAX**.

Mayor Pro-Tem Morton asked the marker of the motion if she would accept that as a friendly amendment

Council Member Berkley accepted friendly amendment

Motion Vote: 2-3(Urrutia, O'Connell, Delgado)-0 Motion Failed.

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. 2020-98, supporting Proposition 15, Schools and Local Communities Funding Act of 2020~~. ***Continued to August 5, 2020***

~~b. COVID-19 Update and Direction from Council~~

i. ~~City Council consider adopting Resolution No. 2020-99, confirming the City Manager/Director of Emergency Services' issuance of a Third Supplement to the Proclamation of a Local Emergency temporarily suspending until September 30, 2020, the authority of any landlord to commence evictions on any residential (including mobile homes and mobile home lots) or commercial property within the City due to the tenant's nonpayment of rent, or a foreclosure, arising out of a documented substantial decrease in household or business income caused by the COVID-19 pandemic or the governmental response thereto and establishing certain eviction protection requirements~~. ***Continued to August 5, 2020***

ii. ~~California State Guideline~~ ***Continued to August 5, 2020***

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.~~

~~c. Proclamation of Local Emergency Update~~

13. ADJOURNMENT: The meeting adjourned at 11:07 PM

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Anita Sharp, Deputy City Clerk

ATTEST:

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Bruce C. Delgado, Mayor