MINUTES

Wednesday, June 2, 2021 **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

In response to Governor Newsom's Executive Order N.29-20 and City Council Resolution 2020-29 ratifying the Proclamation of a Local Emergency by the City Manager/Director of Emergency Services related to the COVID-19 (coronavirus) pandemic, public participation in the City of Marina City Council and other public meetings shall be electronic only and without a physical location for public participation, until further notice in compliance with California state guidelines on social distancing. This meeting is being broadcast "live" on Access Media Productions (AMP) Community Television Cable 25 and on the City of Marina Channel and on the internet at https://accessmediaproductions.org/

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: Cristina Medina Dirksen, Mayor Pro-Tem/Vice Chair Kathy Biala, Mayor/Chair Bruce C. Delgado

   MEMBERS ABSENT: David Burnett (Excused); Lisa Berkley (Excused)

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, four case of existing litigation pursuant to paragraph (1) of subdivision (d) of CA Govt. Code Section 54956.9: (1) Appeal No. A-3-MRA-19-0034 by California American Water Company, et. al., to the

California Coastal Commission over Denial by the City of Marina for a Coastal Development Permit for Construction of Slant Intake Wells for the Monterey Peninsula Water Supply Project; (2) City of Marina and Marina Groundwater Sustainability Agency v. County of Monterey; Monterey County Board of Supervisors; County of Monterey Groundwater Sustainability Agency; California Department of Water Resources (DWR); and Director Karla Nemeth in her official capacity, Monterey County Superior Court Case No. 19CV005270; (3) City of Marina v. RMC Lonestar, RMC Pacific Materials LLC, California-American Water Company, Marina Coast Water District, and Monterey County Water Resources Agency, Monterey County Superior Court Case No. 20CV001387; and (4) California-American Water Company v. All Persons Interested in the Validity of the City of Marina Groundwater Sustainability Agency's Sustainability Plan for the Marina GSA Area of the 180-/400-foot Aquifer Subbasin; City of Marina; City of Marina Groundwater Sustainability Agency and does 1-50.

b. Conference with Legal Counsel – Potential litigation, exposure to litigation per: "Conference with Legal Counsel – anticipated litigation, significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of CA Govt. Code sec. 54956.9 – Two potential cases.

c. Labor Negotiations
   i. Marina Employee Association
   ii. Marina Professional Fire Fighters Association
   iii. Marina Public Safety Managers Association
   iv. Marina Middle Manager Association
   v. Directors
      i. Community Development Director
      ii. Finance Director
      iii. Fire Chief
      iv. Police Chief
      v. Public Works Director
      vi. Recreation & Cultural Services Director
      vii. Assistant City Manager

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

6:35 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION

Robert Rathie, Assistant City Attorney reported out Closed Session: Council met in Closed Session this evening on two of the items listed on your agenda and those items were four instances of existing litigation on which Council received information; and also two instances of potential litigation, including exposure to litigation one of which involved Wathens Castanos Peterson and the other one was also discussed, information was provided and direction was given and no reportable action was taken on either 3a or 3b. The Council did not discuss 3c, Labor Negotiations however, they did reserve the right to return to closed session after the open session this evening.

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

5. SPECIAL PRESENTATIONS:

a Recreation Announcements

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

- Mike Owen – Commented on the Zoom Ad-hoc Committee meeting last week on the Hilltop Park and the minimum for replacement trees at 15gal. wanted to confirm the 15gal. Asked if the 15gal. minimum size for the specific plans for the Dunes is sunk in concrete of if there was mutual agreement between the city and developer could there be a modification and reduction in that 15gal. size to actually allow more trees to adapt and survive in those severely wind burn conditions on the south and west side? Also, asked about taking in public comment before a motion is made. The Brown Act says that public comments should happen before a motion is made or before council action. I'm sure is to allow the public to provide information to the council before they make a motion. What are the reasons for the council still having comment after the motion? Thank you
- Scott Waltz – Announced on Thursday, June 17 at 6pm there will be a virtual community workshop, sponsored by TAMC on the final design for the first segment of FORATG which they're also calling the phase one project. There will be details on the TAMC website. Folks are also welcomed to go to www.fortag.org. This is an important event, because this is the first segment of the trail that will come into final design and then be constructed over probably the next couple of years so soon, and all the other segments. This will set the bar for future segments. We want this first segment to be excellent. So again, just for reference, that's Thursday, June 17 at 6pm. That will be a virtual meeting, and details are on the TAMC website. Thank you very much
- Grace Silva-Santella – Wanted to confirm if there is a Downtown Vitalization Scoping Meeting on June 9th at 6:00pm?
- Council Member Medina Dirksen – Congratulated all the student who graduated over the weekend; toured the Surf line route with TAMC and MST officials; shout out to the volunteers who put out the flags on memorial day weekend; attended a rally at Water City Roller Hockey; Pride Month; sitting on non-city commission on absenteeism of student in our schools;
- Mayor Pro-Tem Biala – commented on recent events involving hate and violence and racism; sensitizing the community to ongoing issues of racism.
- Mayor Delgado – Shoutout to Riley Spidel; shoutout to Marina Youth Soccer Association; June 6th 10:00am -2:00 PM Los Arboles cleanup; June 12th from 10:00am – Noon litter pickup at Del Monte and Beach Road to Lapis Road; June 27th expansion of the Marina Community Garden which is an Eagle Scout project by Antony…; Every Wednesday from 6:00pm to Oak

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 97683-97758, totaling $662,779.14
Successor Agency Accounts Payable Check Number 64, totaling $1,675.00

b. MINUTES:

(1) May 18, 2021, Regular City Council Meeting

c. CLAIMS AGAINST THE CITY: None

d. AWARD OF BID:

(1) City Council consider adopting **Resolution No. 2021-57**, awarding the City of Marina Genera Building Improvements On-Call Contract to William A. Thayer Construction Inc. of Salinas, California for an annual contract amount not to exceed $1,000,000, and an option for an additional one (1) year extension with a not to exceed annual funding limit of $1,000,000; and, authorizing the City Manager or his designee to execute contract documents and all work and change orders on behalf of the City subject to final review and approval by the City Attorney.

e. CALL FOR BIDS:

f. ADOPTION OF RESOLUTIONS:

(1) City Council consider adopting **Resolution No. 2021-58**, setting administrative fines and a fee for violation of provisions of Title 5, Chapter 9.16, of the Marina Municipal Code and directing certain other actions with reference to "Fireworks Violations.".

g. APPROVAL OF AGREEMENTS: None

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

k. FUNDING & BUDGET MATTERS: None

l. APPROVE ORDINANCES (WAIVE SECOND READING):

(1) City Council reading by title only and adopting **Ordinance No. 2021-03**, approving text amendment to Marina Municipal Code, Title 5, Chapter 5.28 "Bingo" repealing and replacing Sections 5.28.260 "Hours of operations" and 5.28.310 "Award of prizes.".

m. APPROVE APPOINTMENTS: None

DELGADO/BIALA: TO APPROVE THE CONSENT AGENDA MINUS 8l(1). 3-0-2(Burnett, Berkley)-0 Motion Passes by Roll Call Vote

DELGADO/MEDIAN DIRKSEN: TO APPROVE AGENDA ITEM 8l(1). 3-0-2(Burnett, Berkley)-0-0 Motion Passe by Roll Call Vote

9. PUBLIC HEARINGS: None

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. 2021-59, consider and provide direction regarding options for the City's Campaign Finance Ordinance. ***Continued to June 2, 2021***

Public Comments:

- Harvey Biala – Treasurer of the Kathy Yaeko Biala City Council 2020 Campaign committee. The ordinance had some 16 pages of rules… and do's and don'ts…that I found onerous to get through. Explained what had transpired in the two campaign violations and how it was handled. It is my opinion, the campaign ordinance was poorly conceived and written, unnecessary and probably unconstitutional in 3 different areas, and should be rescinded outright. Thank you.
- Karen Andersen – I have a number of questions and comments, as, as we've heard that the candidate, treasurer, assistant treasurer and the contributor could all be fined or have misdemeanor charges filed against them, even if something like this contribution was relatively accidental, correct? How much money went into the city's general fund from each campaign since the CFO went into effect question? Does the council agree that repealing the CFO make sense? Does the $4900 limit from AB571 seem to be too large for an individual or too small for a full campaign? I just don't understand that number. The $4900, is that for the full campaign spending limit or a contribution limit? What is adapting AB571 with decreases in this $4900 contribution limit, allow it to be applicable for Marina? Thank you.
- Mike Owen – Impressed with the city attorney's analysis of issues of the weaknesses of the ordinance. Appreciate council members Medina Dirksen expression of trying to be objective, which I think is really hard when you've been on the healthy side of the ordinance, but I appreciate her efforts. First of all, I just like to correct a couple of things I believe when council member Medina Dirksen was asking about the cost of doing this my impression is that this was all done by Frank O'Connell as far as the legwork. Second, the mayor's charge that this benefits the rich people because there's no limits. Well one, there were no limits before this ordinance was ever passed. Now, with the ordinance in effect, there will be no limits on individual self-contributions under state law because of the constitutional issue. So, I think that's a false argument to throw out

there. Does the State law cover ballot measures? How would the state know if there were any violations and they don't have people come out to investigate? Is there any cost for the state enforcing this, or if we come under state law? My impression is that there's no cost to the city at all for doing this. Thank you.

- Audra Walton – Appreciates this conversation this evening but confused as to why or how it took $49,000 to pull this apart to understand it a little better. With respect to the new members of the new council being women that have historically oppressed peoples I personally feel like they've been attacked using this new ordinance. Would like to know what message this sends or could be sending to other members of the public that may be considering running in the future. Would like to know if it's possible to overturn or appeal this ordinance or can we rewrite it? Is it possible to rethink the way that this wording? I think this ordinance should be overturned. I don't know why the city should have to burden $49,000 worth of fees and fines for somebody's complaints. Thank you for your time.
- Paula Pelot Agrees that this is a lot of information to process and you need the full council, there's definitely room for change in here. Disagrees with some of the comments from Audra Walton. As far as FPPC violations, yes Councilmember Medina, there have been all kinds of FPPC violations that this ordinance wasn't in place so you can't say they were violations of this ordinance. As for the $49,000, this is why we need to look at other jurisdictions, we didn't just pull this out of the air. Over 140 other cities and jurisdictions have similar ordinances. Noted that the city of Monterey past one and there are some really important things in there that I think should be looked at. There's a number of things that really do need to be changed in this ordinance, but it shouldn't be thrown out. There was a lot of good intention. I have a long list of things that I would like to see changed in this ordinance, and I do hope that you don't take any action other than just receiving the information about this, and then bring it back to another council meeting. Thank you.
- Dennis Dyrud – Agrees that what Paula said a lot of that made sense and appreciates what Michael Owen said but there were some comments made that really irritated me that I think we're fudging the truth and that was from Kathy Biala and Christina Dirksen; and then Audra Walton came up and made that statement that we as voters by doing this particular piece of legislation, were attacking minority women, and as a white male I'm really offended by that. The instigator of this is Frank O'Connell, and no one in his right mind who doesn't know him can accuse him of being prejudice. Frank O'Connell is what my father would say salt of the earth. And that's all I have to say.
- Brian McCarthy – Thinks the spirit of this ordinance is and was maybe the right ordinance at the wrong time and maybe for the wrong reasons. Noted that there was very little public participation on this when it was approved. Thank those that were found in violation for not litigating whether they felt that it was appropriate for the city to take the action that they did or not and costing the city more money. When this ordinance was passed it was a really robust discussion about the constitutional reason for enacting it which is to avoid corruption or its appearance. Why was the ordinance really was enacted? As a city we need to do more to educate the voter on where money is coming from in the campaigns versus trying to restrict folks from trying to raise that money. Would like to see more discussion on the Form 460 disclosures. In favor of repealing and restarting this discussion. Keep in mind that there may be people that want to start a campaign now and by keeping this on the books you are affecting their actions or their ability to raise money or their ability to run a campaign, it's your decision to make. Thanks for your time.
- Grace Silva-Santella – I don't have a strong opinion, one way or the other, in regard to this campaign finance ordinance, but I would like to urge you to wait until you have all five members sitting on the dais. There's no upcoming election, it doesn't seem to be a time sensitive issue. I appreciate the discussion that's happened this evening. I appreciate that three of the five council

members have had an opportunity to speak from the dais and the two that are not there at tonight's meeting or not absent because they're off having some fabulous vacation somewhere. They are dealing with family emergency or medical issues, and I strongly urge that you wait until you have a full five member sitting on the dais. Thank you.

- Liesbeth Visscher – having been involved with the campaigns of both recently elected council members I am asking you to resign this poorly written unnecessary ordinance. If it is decided to keep it please make it very clear on what day you start counting the start of an ordinance, or on well day candidates are allowed to post their campaign signs, it seems that my counting is different than that of the city council or the lawyer. And please avoid any confusion for candidates who are willing to volunteer so much of their time and enmity to our city. The easiest solution is to resign it. Thank you
- David Brown – Unfortunately, this ordinance is a bad ordinance it was passed in haste. Commented that multiple council members and candidates went out of their way to try to evade it before it took effect apparently knowing how bad it was. This ordinance has numerous problems, including some of a constitutional dimension. Then there's the issue of confiscation by the city so as to require the placing of leftover funds into the city general fund when they can be used for other purposes. Noted that if you don't repeal this, what you will be doing is you will be beating this to death with amendments and discussing it forever. This was passed in haste, it's bad, and you should repeal the thing. And if you want a good campaign finance ordinance, please pass it later, not in haste like it was passed previously. Thank you
- Denise Turley – Thank you. I'm pretty it's pretty clear that it's muddy and pretty clear that needs to come back for discussion I hope that that part of that discussion would be either a written paragraph from persons, telling their story and learning from the mistakes that they made, whether they want to admit them or not. And using that information to crack the better ordinance Come back to a full council folks Thank you and good night
- Kenia – I'm an attorney and I found the ordinance to be quite complexed and time consuming. Section 2.54.160 favors the wealthy and it just makes it much more difficult for new and diverse candidates to enter the field and compete. Section is 2.54.180 which was written poorly, has to subsection C's. Section A prevents candidates from accepting contributions before January 1st, and I don't see the necessity for this. Section D exempts wealthy candidates from making contributions prior to January 1st. Section 2.54, which prohibits contributions from organizations, it doesn't define what organizations are and I read this to mean that corporations would not be precluded, which supposedly is the intent. Why would a nonprofit be not able to contribute but a corporation would? I get the impression that this ordinance was drafted to make it more difficult for grassroots fundraising, which are nontraditional candidates and we live in a very diverse city, and I would like a candidate that represents the interest and experience of working class people, not just very affluent that could fund their own campaign. In favor repealing and starting a new discussion. This will permit the two missing members to participate as well. Thank you.

DELGADO/MEDINA DIRKSEN: TO REPEAL WITHOUT ENACTING A SUBSTITUTE AND RELY INSTEAD ON THE STATE LAW, PURSUANT TO AB 571. 3-0-2(Burnett, Berkley)-0 Motion Passe by Roll Call Vote

b. City Council consider adopting **Resolution No. 2021-60**, receiving a staff presentation of the proposed 2021-23 Capital Improvement Program (CIP) and Airport Capital Improvement Program (ACIP) budget; and providing direction towards the CIP and ACIP budget adoption.

City Council discusses the various scenarios in the presentation by staff.

9:44 PM

DELGADO/MEDINA DIRKSEN; THAT WE TAKE A FIVE-MINUTE BREAK AND EXTEND THE MEETING TO FINISH THE AGENDA. 3-0-2(Burnett, Berkley)-0 Motion Passes by Roll Call Vote

DELGADO/ MOTION TO ADOPT RESOLUTION AND PROVIDE STAFF FOLLOWING DIRECTION:

1. **CONSIDER REPAIRING LASC SPORTS DECK ($50K) ASAP AND BRINGING THIS BACK TO COUNCIL FOR APPROVAL; AND**
2. **CONSIDER MOVING $400K FOR SPORTS CENTER TO FY21/22 FROM FY22\23; AND**
3. **CONSIDER DEFERRING POOL $500K FY 22/23 TO NOV. 2022 BOND MEASURE TO SAVE CIP MONEY; AND**
4. **CONSIDER MOVING $200K FOR DESIGN/ENGINEERING NON-PUMP TRACK COMPONENTS FOR GLORIA JEAN TATE PARK TO FY21/22 FROM FY22/33; AND**
5. **CONSIDER PRIORITIZING LIBRARY AV $40K UPGRADE FOR FY21/22**

3-0-2(Burnett, Berkley)-0-0 Motion Passes by Roll Call Vote

Public Comments:

- Paula Pelot – On the building improvements for the properties that are leased at the airport, you know there's a distinction between building improvements which the city would pay for which are things that either change the function or extend the life of the property versus a leasehold improvements, which is something that's made for the use of the tenant to improve that. So, I just want to be sure that none of those funds that are in there that are designated for the building improvements that we saw are actually leasehold improvements that the tenant should be funding rather than the city.
- Liesbeth Visscher – Asked if there is a long-term maintenance plan for the airport? And if so, or if not, why were the buildings not painted since 2010? Thank you.

c. City Council consider receiving additional information regarding the Community Priorities Survey responses presented at the City Council Strategic Priorities Retreat April 15-17.

DELGADO/MEDINA DIRKSEN: THAT WE ACCEPT THIS REPORTING AND HAVE HAVE DANIELLE AND STAFF TALK ABOUT BRINGING BACK TO US WHAT THEY MIGHT CONSIDER TO BE APPROPRIATE NEXT STEPS, IF ANY. 3-0-2(Burnett, Berkley)-0 Motion Passes by Roll Call Vote

Public Comments:

- Paula Pelot – I just want to know if this if this presentation is going to be posted on the city website because it is interesting material is it already been posted on the website or will it be posted on the website, and if not, can somebody to send it to me, I'd like to see it.
- Pat Clark Gray – thanks the opportunity to give a voice to the strong showing a support for the marina Equestrian Center in this community survey and addressing specifically what Mayor Pro Tem be our mentioned about looking at significance of response. Of course this park provides everything from casual strolling in a classic coastal California setting private and group picnicking socializing with people and animals therapeutic activities, active care pets and working courses community events of the public who doesn't already know by word of mouth, that it exists, wouldn't otherwise know about it. And its activities, and then it can be portions of it can be rented for private events, unless they unless they know to go look for the current managers website. The public is left in the dark about many activities' opportunities available to them. Despite the significant limitations in this survey, in which parks, is the number two. Listed item of desired city service improvements. The MEC was the fourth highest ranked existing Park listed for improvement. And so, you could take statistic and say well it's not statistically higher or lower. But if we compare awareness and the opportunity for things to be aware of. There's many ways to look at how, how to look at this survey, and I would like to make the point that it's amazing how many people voluntarily come forward and list. This is an important part. Unfortunately, the roofs on the historical buildings have been replaced the park needs to have those buildings, however, upgraded brought the current building codes. So, the public who does choose to go out there, gets a healthy experience. This kind of existing part can be lost and men have nothing of this magnitude can ever be recreated as we the citizens and Marina need the city council and staff to embrace a green a question center and keep it available for our community, and those around us. Thank you.
- Audra Walton - I really just raised my hand to say a big thank you to Dr. PICHETTE for this amazing work at that analysis was comprehensive and quite exciting. I sure appreciate it. I do hope that the city will consider having another survey in the fall, and then Dr Porsche, and Matt also thank you for this, for working on this, I'm just big thank you and shout out to the city, just all together for this work, and I sure appreciate you so thanks again.

d. Covid-19 Update

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 11:45 PM

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Anita Sharp, Deputy City Clerk

ATTEST:

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Bruce C. Delgado, Mayor