



MINUTES

Tuesday, August 17, 2021

6:25-6:30 PM. 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, David Burnett, Lisa Berkley, Mayor Pro-Tem/Vice Chair Kathy Biala, 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) of subdivision (d) of CA Govt. Code sec. 54956.9 – one potential case.

6:45 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION

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

5. SPECIAL PRESENTATIONS:

a Cal-State University Monterey Bay Update

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.*

- Pat Grant – Here on behalf of our community of Marina and the neighboring communities that enjoy our Marina. Commented on the Marina Equestrian Center uses; private boarding; long-term boarding; Program Of Utilization; the current Request For Proposals for Concessionaires. The RFP, and states on page two equestrian facilities on the site will be available for public use horse rentals lessons, guided trail rides, Both temporary and some private long term boarding the multiple disciplines that equine therapy. The city has been warned several times that the horse party facility is not allowed on the property. On page 65 of the city's RFP Exhibit B is a letter from the National Park Service to city staff, it states in part, as we have stated in previous communications boarding horses is not precluded as a legitimate public recreationally. I request that all possible concessionaires be asked to submit proposals that include the use of boarding as outlined in the approved 2013 program of utilization, which includes both temporary and private long-term body. Please ensure that whatever concessionaire or concessionaires are selected to go forward with our park they include long term boarding as part of the plan. Thank you
- Liesbeth Visscher – Chair of Citizens for Just Water. Provided Council and the public with an update on the proposed Cal-Am Desalination project. The best way to stay informed by visiting our website and signing up for our email list www.Citizensforjustwater.org . Invited Council and the public to listen to the public comment that I gave this Friday at the Coastal Commission meeting on behalf of Citizens for Just Water.
- Kathy Biala – Speaking as a private citizen – Read one of the public comments to the Coastal Commission and why we address the Groundwater Dependent Ecosystems as it relates to the Cal-Am project in Marina; 1) it expressly Coastal Act requirement to protect the wetlands of a coastal zone, which includes Vernal ponds. 2) although Cal-Am has always asserted that they're Desal project extracts primarily from the ocean we know this, not to be true. And the majority of water will come from groundwater aquifers, Marinas sole source of potable water. (3) Cal-Am asserts that our Vernal ponds don't depend on groundwater from the dunes sand aquifer, but the City and Marina Coast Water District have demonstrated that the vernal pools are interconnected with the aquifer and will be affected by the project. There are now two studies one from Cal-Am that study three Vernal ponds and one from the City of Marina that studied six Vernal ponds located in the coastal zone using Cal-Am's own latest data, Marina and MCWD hydrologists have both proven, the ponds have hydro logic connectedness to the dunes sand aquifer subsurface water that Cal-Am

is proposing to us for desalination. this was one of the messages that was delivered and just for the residents of Marina to know that we are still not out of the woods. So, thank you

- Joshua Banks – Been following the situation over at the Marina Equestrian Center since early August. The last time I attempted to call attention to the bullying, harassment and criminal delinquency I was ignored by the Mayor and Police Chief. As a fellow public servant, I am aware that I cannot hide behind *“I did not see that email or lack of response”* as a method of ignoring issues. It is clear to me that these problems continue to this day was the spreading of lies and false narratives to hold members of the public emotionally hostage. Visiting the supposedly public equestrian park prior to when they were put on notice felt more similar to trespassing on private property. Due to the treatment that I received on multiple occasions seeing members in a sense of community after being forced to clean up their act by the city while simultaneously lying and manipulating the public assures me that they will gradually slip back into the entitled behavior if allowed to keep control of the park. Thank you
- Karen Hassan – Commented on public trust in our government and low anxiety over misinformation. Citizens are being misled in social media and the digital communication environments, across all forms of media and expressed concern over the creation spread of made-up news. What happens when the made-up news is the only story that's being told, and if it's being echoed by the local government? One story being told about the Marina Equestrian Center Park, and it is the MEAs. It was Mayor Delgado who first informed us at the end of the summer in 2019 that long term boarding is not permitted at the public park and what needed to happen was a new concessionaire needed to come through an RFP. For 23 years the MEA, who has never received the required vendor approval for the from the Park Service has operated a boarding facility, allowing for exclusive use by a very small group of Monterey County residents, a program in violation of the land deed, and its subsequently has been repeatedly cited. Please reflect on who you represent those who voted for you and those who did not. Is today a good day to tell the truth, regarding Marina's largest public park? Does the city council and staff have an obligation to his constituents to make sure they're fully informed? If one member of the Council is clouding, distorting and or lying do staff and other council members have any legal and moral obligation to call them out or to address it publicly? If your constituents don't know that they've been wronged doesn't matter to you? Thank you
- Tommy Bolea – 3.06.21 We have a lot of projects going, the city's growing, just I hope we have water under control here and water is in your budget. You guys want to continue to build more hotels, and that's great, but we must work on the water issue somewhere. Growth is good, but at the same time growing too fast is not great. Noticed that some of the budgets that you mentioned it would be nice to have more in road repairs.
- Elizabeth Plante – Asked City Council and everyone to identified themselves. Wondering if speakers are residents, if they are a business owner or if they work in Marina and what their interest in Marina is. Wondering if we must identify ourselves and our interests. Thank you
- Council Member Medina Dirksen – thank you to our fire department who, in conjunction with the Monterey Fire Department put on a vaccine clinic at Los Arboles, they were giving vaccines to 12 and over so I greatly appreciate the collaboration and just a little bit of peace of mind that you can get yourself, or your child over 12 vaccinated here in Marina. Would like to see some rapid testing, if we can, as again as kids are going back to school, there's a lot of germs out there and what the Delta variant it's very concerning to me it's concerning to our community. So, if we can just continue to push out the information where the vaccine clinics are and where the testing sites are.

- Mayor Delgado – Rode the Railroad Handcar with some friends over the weekend, it was a wonderful experience a lot of fun. Thanked the 8-9 volunteers that showed up to pick up litter along Del Monte Boulevard, and Lapis Road. They collected a lot of garbage. The next such litter pickup is Saturday, September 18th meeting at the southern junction of Lapis Road and Del Monte Boulevard, all supplies and lunch, are provided by the Citizens for Sustainable Marina and Marina Subway provides the sandwiches. thank the volunteers that are collecting seeds and growing plants for Hilltop Park. We estimate we're going to need about 48,000 plants and so far, we have 400 healthy seedlings growing. On August 28th Cool August Day's by Marina Kiwanis Club in conjunction with Crumpton elementary school are having Cool August Days Car Show August 28th starts at 9:00am and ends it 2:30pm with an award ceremony; It's a fundraiser for homeless youth and other youth programs here in Marina. On September 25th Marina Music Event at Vince DiMaggio Park honoring Dread a homeless person who passed away. Dread filmed a lot of events and was very active in Marina community goings-on. This is a fundraiser for homeless needs.
- Council Member Burnett – Wanted to give a reminder to everyone, they should have received in the mail their ballot for the recall of the California Governor, and I want to urge everyone to vote no on the recall, especially if you are a renter or you have or an urgent need of affordable housing. The programs that the democratic legislation is put forward and that our governor has sponsored have been targeted to try to alleviate and, you know, build as much housing as possible so I, again I want to encourage everyone to vote no on the recall. Thank you very much
- Council Member Berkley – Asked the Assistant City Attorney “If by mistake or intentionally, if a council member or the mayor or member of the public has misinformation or misrepresented the city or shown misrepresented of fact is it not incumbent on us as the city to clarify that in the public realm? So, if I say something that's not true on behalf of the city, is it not your responsibility or the city managers responsibility to correct me even publicly?

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 98165-98267, totaling \$330,758.89
Successor Agency Accounts Payable EFT, totaling \$237.50

b. MINUTES:

- (1) July 20, 2021, Regular City Council Meeting

- c. CLAIMS AGAINST THE CITY: None
- d. AWARD OF BID: None
- e. CALL FOR BIDS: None
- f. ADOPTION OF RESOLUTIONS:
- g. APPROVAL OF AGREEMENTS:
 - (1) City Council consider adopting **Resolution No. 2021-92**, approving an agreement between the City of Marina and Shea Homes, LP, for the Landscape Maintenance of City Parcels N, OS-2.4 and OS-2.5 as shown on the Phase 2 East/Residential Final Map; and approving an agreement between the City of Marina and the Dunes on Monterey Bay Association, a California nonprofit mutual benefit corporation, for the Landscape Maintenance of City Parcels L and M as shown on the Phase 1C Residential 3rd Final Map; and authorizing the City Manager to execute the agreements on behalf of the City subject to final review and approval by the City Attorney.
 - (2) City Council consider adopting **Resolution No. 2021-93**, approving a Memorandum of Understanding (MOU) regarding cooperative assistance to comply with Senate Bill 1383, Food Waste Reduction and Organics Recycling Regulations.
- h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None
- i. MAPS: None
- j. REPORTS: (RECEIVE AND FILE):
 - (1) City consider receiving Investment Reports for the City of Marina and City of Marina as Successor Agency to the Marina Redevelopment Agency for the quarter ended June 30, 2021.
- k. FUNDING & BUDGET MATTERS: None
- l. APPROVE ORDINANCES (WAIVE SECOND READING): None
- m. APPROVE APPOINTMENTS: None

BERKLEY/DELGADO: TO APPROVED THE CONSENT AGENDA. 5-0-0-0 Motion Passes by Roll Call Vote

9. PUBLIC HEARINGS:

- a. City Council open a public hearing and take any testimony from the public; consider adopting **Resolution No. 2021-94**, to approve an appeal *de novo* of the March 11, 2021 Planning Commission decision to deny an application from Starbucks for Conditional Use Permit UP 2020-01 to Convert an Existing Fast-Food Restaurant with a Drive-thru (Burger King) to a more Intensified Take-Out Establishment with a Drive-Thru (Starbucks) at 200 Reservation Road (APN: 032-181-019).

Mayor Pro-Tem Biala recused herself from this item

Council Member Medina Dirksen disclosed the conversation that I had with property owner at Walmart, and Mr. Terry Tallen in the regular course of speaking with business owners and mentioned possible ideas that might include a Starbucks for that location or some other business.

Mayor Delgado disclosed he spoke last night for about a half hour or so with Starbucks team Doug Murphy and Tim. We went over the staff report and over the sketches that are in the staff report. I got questions answered about how the cars are going to queue up and how the Burger King is going to connect with the Starbucks. We did talk about several aspects of the project, all of which were included in this report we were just reviewing the staff report.

Council Questions on staff presentation: The staff report staff indicates all concerns have been addressed so are their concerns that haven't been addressed? Is it just that we want to be loyal to the Planning Commission and start with a recommendation to support their conclusion, or is there some other reason that we recommend denial, even though all concerns have been addressed? Are there any residual remaining concerns that have not been addressed? Is there any benefit to sending this back to the Planning Commission for reviewing the last-minute changes that have been made? For the efficiency of the running of the operation of the Community Development Department is it in the city's best interest to, to, to make a decision tonight or is it better to send it back to planning? How will the affect the workload of the Planning staff and commission if we sent this back? Do we have a practice or a custom for dealing with future designations in the context here as we have an applicant who will be nonconforming when and if the downtown revitalization passes? Is the new information that was presented enough to change the outcome and the position of the Planning Commission? So the franchisees of the current Starbucks would move to this new location and the existing Starbucks would close and would be available for releasing? Is the site actually the Burger King site, and the adjacent lot, is that the entire site footprint or two lots? The current Starbucks, it was envisioned as a live work unit, do you know is that apartment above them still being used for them? Will the easement go with the land or the tenant? If Starbucks decided to leave and burger king wanted to go back, they could still do that, is that correct? What's the result of 95th percentile? What's does it refer too? so does that mean that 5% of the time, it might spill out onto Del Monte? Would you like to see 100%, or is 95% normally good compared to the industry standard?

Council Questions to Developer presentation: What new information really will change or has the potential to change minds of the Planning Commission or is it material information that is changing that you're bringing to the table? Do you feel you were denied on a basis that was not factual and not applying certain standards? Seems unsafe that pedestrians would be crossing a pickup borderline and unusual to see people walking across a line of cars that are there to order fast food, that's not safe but it's been grandfathered in, is that why you think we shouldn't deny it?

Mayor Opened the public hearing for public comments:

- Liesbeth Visscher – Is the exterior design part of the review, since this will be the the first commercial building this you see when you enter downtown? Will you or also the public, have the ability to make recommendations on how the building will be designed? It is a very permanent location, and I think these are a beautiful strong design. Thank you.
- Tommy Bolea – Noted some of the most traffic congested places are Starbucks. Since it's more morning driven, it's crucial that there's plenty of parking it looks like this has been well planned out. Too much pollution, too much smog, cars idling. It's a focal point of Marina and it's going to have a lot of congestion. The people coming down Reservation and then making a left on Del Monte, they're going to end up making a U turn at some location and that's going to be the weak point. But as far as the plan, what I saw tonight, wow, it's light years ahead of every other Starbucks location so congratulations to the architects in the design it looks like they worked overtime on this one. Thank you
- Denise Turley – Asked if Reservation Road use is for egress or ingress only? Are you going to tap through the medium there so you can get directly into the parking lot or are you going to count on

the U turn? You talked about making the driveway between the two buildings wider and the question I have on that is, will that promote people cutting through there to miss that whole signal at Del Monte & Reservation to try to cut through the parking lot? Have you considered the ability for the cars parked in the parking lot to get in and out as they have to cross the drive thru line at any point?

- Juli Hofmann – Who owns the existing Starbuck’s property? How close are we to ratifying or approving the final Downtown Revitalization Plan?

Mayor Delgado closed the public hearing.

Council Member Berkley, I’d like to make the motion that we go ahead and approve this project

Mayor Delgado – does that include the resolution on page 113 that gives whereas and findings or conditions of approval.

Council Member Berkley, Yes.

Council Member Medina Dirksen, I would like to second with the adding addition that staff approved the traffic study, or the final, there was that one caveat about staffing

Robert Rathie, Assistant City Attorney, Traffic Management Program Conditions.

Council Member Medina Dirksen, Yes, that's right.

Council Member Berkley, amendment accepted.

BERKLEY/MEDINA DIRKSEN: TO WE GO AHEAD AND APPROVE THIS PROJECT, WHICH INCLUDE THE RESOLUTION ON PAGE 113, THAT GIVES WHEREAS AND FINDINGS OR CONDITIONS OF APPROVAL; AND TO INCLUDE TRAFFIC MANAGEMENT PROGRAM CONDITIONS. 3-0-1(Burnett)-0. Motion Passes by Roll Call Vote

- b. City Council open a public hearing, take any testimony from the public, and consider adopting **Resolution No. 2021-95**, approving a 120-day extension of a Cannabis Conditional Use Permit allowing a Medical/Adult Use Cannabis Dispensary at 3100 Del Monte Boulevard (City Council Resolution 2020-65) beyond the approved administrative 90-day extension (Expiring on September 8, 2021) for a new Substantial Action Time Limit Expiration date of January 6, 2022.

Council Member Medina Dirksen disclosed she had meetings with Tony Rebel who is with the element, and with Brandon Kiyosaki as check-ins as to where we were with cannabis dispensary so I just wanted to make everybody aware of that.

Council Questions: We know the planning department is could use more staffing, has there been any delays on our part that have held up the process a little bit? How come it's coming back for a request for an extension? Is it safe to ay that this site had more work to be done? If, after the 30-day period of time, they're not ready to open do we have the ability to provide another extension? What is the process if we decide that we are not going to execute another extension and how long will that take?

Mayor Delgado opened the public hearing for public comments:

- Tommy Bolea – Suggested that that all these businesses should operate by appointments. This would balance their business. Supports the extension of the project.

Mayor Delgado closed the public hearing.

BERKLEY/BURNETT: TO APPROVE RESOLUTION NO. 2021-95, APPROVING A 120-DAY EXTENSION OF A CANNABIS CONDITIONAL USE PERMIT ALLOWING A MEDICAL/ADULT USE CANNABIS DISPENSARY AT 3100 DEL MONTE BOULEVARD (CITY COUNCIL RESOLUTION 2020-65) BEYOND THE APPROVED ADMINISTRATIVE 90-DAY EXTENSION (EXPIRING ON SEPTEMBER 8, 2021) FOR A NEW SUBSTANTIAL ACTION TIME LIMIT EXPIRATION DATE OF JANUARY 6, 2022. 5-0-0-0 Motion Passes by Roll Call Vote

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 the City Council Redistricting Public Outreach Plan and consider possible alternatives for expanding the outreach plan activities.
12. COUNCIL & STAFF INFORMATIONAL REPORTS:
 - a. Monterey County Mayor's Association [Mayor Bruce Delgado]
 - b. Council and staff opportunity to ask a question for clarification or make a brief report on his or her own activities as permitted by Government Code Section 54954.2.
13. ADJOURNMENT: The meeting adjourned at 10:20 PM

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor