



MINUTES

Tuesday, April 5, 2022

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 accordance with California Government Code §54953(e)(1)(A) and (C) and the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020, under the provisions of Government Code §8625 related to the COVID-19 (coronavirus) pandemic, consistent with recommendations by State and local health officials regarding social distancing and in order to prevent an imminent risk to the health and safety of attendees as determined in Resolution 2022-34, public participation in City of Marina City Council public meetings shall be electronic only and without a physical location for public participation until the earlier of April 30, 2022, or such time as the City Council may adopt a resolution in accordance with Government Code §54953(e)(3). 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. Property Negotiations
 - i. Property: Storage 210 8Th Street, Marina, CA 93933
Negotiating Party: Joby Aero, Inc
Property Negotiator: City Manager
Terms: Price and Terms

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

Robert Rathie, Legal Counsel reported out Closed Session: Council met in Closed Session with regard to the one item listed under Real Property Negotiations, Council received information, provided direction to its negotiator and no reportable action was taken.

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

5. **SPECIAL PRESENTATIONS:**

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 – Asked if city manager could provide any more information about the plans to bring the committees and commissions back to life. Commented on the trees that were removed recently by Shea Homes. What are the plans to holding Shea accountable? Submitted information about the trees that were removed and wanted to know if the city could verify that he was accurate.
- Liesbeth Visscher – Commented on the recent removal of trees by Shea without approval in Phase 3 which was to go before the Planning Commission on April 14th. Asked to postpone any new tree removal permit requests until the developer has explained what went wrong. Asked about reinstating the Tree Committee. Asked if residents will have a chance to legally visit the area to document existing trees? What is the penalty for illegal tree removal? Will warranties be put in agreements?
- Grace Silva-Santella – Commented on the search efforts to locate the missing child, thanked the gentleman who found the girl. Commented on the removal of the trees without respecting the public process, not permits and not the first time this happened. Tree removal for Phase 3 should be postponed until an arborist report has been made public. Commented on the United Nations Panel on Climate Change report.
- Mariah – Asked how CSUMB East Campus household can receive the food bin/composting buckets.
- Tina Walsh – Agrees with previous speakers related to the tree removal by Shea Homes. Supports postponing Phase 3 tree removal requests until Phase 2 is completed. Noted that there were no residents in this area in 2005 when the development was proposed. Believe the current residents should have a say in the tree removal process.

- Tommy Bolea – Commented on the need to save as many trees as possible and Cypress Knolls has a lot of trees. Commented on poor cell phone coverage in Marina. Commented on the ongoing increase in gas. Commented that police card should have mounted cameras on their license plates.
- Mike Kennedy – Agrees with previous speakers relating to the trees. Questioned the reduction of the Greenbelt for the Shea Development. Asked what did the Marina get out of the reduction?
- Liz Billingsley – Agree with everybody that spoke, no cutting down the trees that gives us oxygen. Developers can build around the trees as done in other places.
- Brian McCarthy – Commented on bringing the commissions and boards back online. Noted other cities brought theirs online within weeks of the pandemic. How have we benefited by essentially disbanding these bodies? What does Staff look like today?
- Council Member Medina Dirksen – Asked about the Rec. Commission and special events such as the Labor Day Parade. Asked for update on who will oversee the Recreation while we search for a director. Announced that on May 21, 2022 from 11:30am-2:00pm will be a Celebration of Life for Terry Siegrist at Vince DiMaggio Park. Announced she attended a 3-day Policymaker conference in Yosemite. Spoke about new scoreboards at some of the ballfields
- Mayor Delgado – Announced Marina Earth Day on Saturday, April 23, 2022 from 9:00am-1:00pm at Locke Paddon Park just outside the front doors of the Marina Library. Thanked the volunteers that came out to Preston Park and Los Arboles Sports Complex to help clean up the parks prior to opening day. Thanked everyone who participated in searching for the missing child who was found around midnight. This Saturday from 10 am until 1230 we'll have our once-a-month community cleanup corner of Lapis Road and Del Monte Boulevard 10:00am.
- Mayor Pro-Tem Biala – Announced May is Asian Pacific Islander Month and on May 14th is the walk of remembrance in Pacific Grove.

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 99523-99665, totaling \$798,552.40
- Accounts Payable for Successor Agency Check Number 83, totaling \$5,436.20

b. MINUTES:

- (1) March 15, 2022, Regular City Council Meeting
- (2) March 22, 2022, Special City Council Meeting

c. CLAIMS AGAINST THE CITY:

- (1) City Council Rejection of Claim - staff recommends that the City Council reject the following claim and direct sending appropriate notice of rejection to claimant: Brook Barclift for a claim received on February 9, 2022.

d. AWARD OF BID: None

e. CALL FOR BIDS: None

f. ADOPTION OF RESOLUTIONS: None

g. APPROVAL OF AGREEMENTS: None

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE): None

k. FUNDING & BUDGET MATTERS: None

l. INTRODUCE ORDINANCE (READ BY TITLE ONLY AND WAIVE FURTHER READING):

- (1) Ordinance 2022-xx, an Ordinance of the City Council of the City of Marina, adopting a Military Equipment Policy and Adding Chapter 9.26 to Title 9 “Public Peace, Morals and Welfare” of the Marina Municipal Code to Adopt a Military Equipment Use Ordinance. [Introduction of the Ordinance to follow Item 9.a., Presentation on AB 481 Compliance and a Public Hearing.]

m. APPROVE APPOINTMENTS: None

Mayor Delgado pulled agenda item 8l(1)

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

9. PUBLIC HEARINGS:

- a. City Council to consider: (1) receiving a presentation on Marina Police Department compliance with AB 481, adding Section 7070 et seq. to the CA Government Code regarding funding, acquisition, and use of military equipment; and (2) opening a public hearing and receive public comment concerning amending Title 9 of the Marina Municipal Code adding Section 9.26 “Military Equipment Use Ordinance.”

Chief Tina Nieto provided a presentation on AB481, which included a list of all equipment used by the Marina Police Department –

Council Questions: It was said that cities are required to list all of the military commit that we have is that list, public or accessible to the public? Will it be posted on the website? Understanding that the policy behind this is probably having more along lines to do with the addressing the militarization of our police departments, what occurs, and is there any what occurs when other jurisdictions may come in and use these types of devices? Is there a need to have any kind of agreements with other organizations to know what they have and what they might bring to the table? With the Bearcat being in our name on title, is there a certain kind of liability that comes with that? When is it balance for what a city of our size and our experience? What are the necessary to types of equipment given that

we can afford it? So when can we understand the balance between what we need, what we can afford and where it might be going over, maybe into an excess for fears of needing, more not actually based on what we actually might, need by some kind of standard? What would occur if you decided to use something we don't currently have, or if you're a successor in the future, decided to use something we don't currently have doesn't need to be come back to council before it's added to our arsenal? What type of training have the officer receive in terms of de-escalation, deconfliction, and other methodologies that you've used to make sure that the use of deadly force?

Mayor opened the public hearing for public comments:

- Liz Billingsley – Presentation was very educational and allowed the public to see what equipment our police department uses.
- Brian McCarthy – Commented on a 2014 event when militarization of Peninsula police departments kind of became controversial. Supports the presentation. AB481 was written when a lot of peaceful protests happened, and the use of military equipment was being deployed. Concerned about how this will all play out in the future. What are the stipulations of how on the use of the equipment by mutual aid?
- Jeffrey Markham – Appreciates the presentation by Chief Nieto and happy that the future equipment purchases will go through the city council. Asked if more information could be provided on exigent circumstances.
- Tommy Bolea – Asked if the Marina Police Department currently has this equipment in it's possession? Agrees to proper training on the use of all equipment. Need to make sure maintenance costs are put into future budgets.
- Nancy Amadeo – Asked staff if the equipment is loaned out to another agency does our staff who operates that particular equipment go with it? What kind of agreement is in place to ensure that the equipment is used properly?
- Denise Turley – Thanked Chief Nieto for the detailed presentation but concerned about giving too much of their tactics away, could be dangerous to officers.

Mayor Delgado closed the public hearing

BIALA/BERKLEY: COUNCIL APPROVES THE INTRODUCTION OF AN ORDINANCE ADOPTING A MILITARY EQUIPMENT POLICY AND ADDING CHAPTER 9.26 TO TITLE 9 “PUBLIC PEACE, MORALS AND WELFARE” OF THE MARINA MUNICIPAL CODE TO ADOPT A MILITARY EQUIPMENT USE ORDINANCE. 5-0-0-0 Motion Passes by Roll Call Vote

- b. City Council open public hearing, take testimony from the public and consider adopting **Resolution No. 2022-45**, confirming diagram, assessment and ordering levy of \$180.78 for FY 2022-23 assessment for Cypress Cove II Landscape Maintenance Assessment District; and authorize City Clerk to file a certified copy of the diagram and assessment with the Monterey County Auditor-Controller prior to August 1, 2022.

Council Questions: Would it be expensive to replace the trees and shrubs that we lost? Can we hold the contractors, or whoever pretty much decimated the trees liable? Can we, or do we have a policy for anybody who comes into our town and decides to cut trees on our behalf that they must follow? As far as engaging neighborhoods, do you not believe maybe homeowners association to explore the 218 options?

Mayor Delgado opened the public hearing

- Nancy Amadeo – Commented on the Landscaping Lighting Act of 1970 and a requirement that the improvements that were required at the time be maintained. Acacia trees are gone and haven't been replaced along Abdy, Cardoza and along Beach. Commented that AT&T come and trim off the top and leave the trees unbalanced. Worried about the trees behind her home coming down due to high winds and the weight of the trees. Noted that the assessment district only has trees left and no plants. Nothing is being maintained and residents shouldn't suffer the consequences.
- Dan Amadeo – Commented on the Prop 218 process. Asked if the assessment is sufficient then why is the property in the condition its in now? Commented on the trees and lack of proper maintenance. Asked councilmembers to come and walk along Abdy Way to see the trees and see that they need to be thinned out and pruned. City facing potential liabilities.

DELGADO/BERKLEY: TO APPROVE RESOLUTION NO. 2022-45, CONFIRMING DIAGRAM, ASSESSMENT AND ORDERING LEVY OF \$180.78 FOR FY 2022-23 ASSESSMENT FOR CYPRESS COVE II LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT; AND AUTHORIZE CITY CLERK TO FILE A CERTIFIED COPY OF THE DIAGRAM AND ASSESSMENT WITH THE MONTEREY COUNTY AUDITOR-CONTROLLER PRIOR TO AUGUST 1, 2022. 5-0-0-0 Motion Passes by Roll Call Vote

- c. City Council open public hearing, take testimony from the public and consider adopting **Resolution No. 2022-46**, confirming diagram, assessment and ordering levy of \$182.42 for FY 2022-23 assessment for Seabreeze Landscape Maintenance Assessment District; and authorize the City Clerk to file a certified copy of the diagram and assessment with the Monterey County Auditor-Controller prior to August 1, 2022.

Council Questions: Did you go through the same process to get homeowners to come to a meeting for goals, assessment or not on this one?

Mayor Delgado opened the public hearing

- Tommy Bolea – Commented on the poorly maintained trees in that area and the liability associated around them.
- Denise Turley – Asked what district had the crumbling walls? What is the tree committee's role in landscape maintenance districts?
- Grace Silva-Santella – Commented about the homeless encampments taking place along Beach siding with the vernal ponds and asked who's responsibility is it to maintain the overgrown plant material?

Mayor Delgado closed the public hearing.

DELGADO/MEDINA DIRKSEN: TO APPROVE RESOLUTION NO. 2022-46, CONFIRMING DIAGRAM, ASSESSMENT AND ORDERING LEVY OF \$182.42 FOR FY 2022-23 ASSESSMENT FOR SEABREEZE LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT; AND AUTHORIZE THE CITY CLERK TO FILE A CERTIFIED COPY OF THE DIAGRAM AND ASSESSMENT WITH THE MONTEREY COUNTY AUDITOR-CONTROLLER PRIOR TO AUGUST 1, 2022. 5-0-0-0 Motion Passes by Roll Call Vote

- d. City Council open public hearing, take testimony from the public and consider adopting **Resolution No. 2022-47**, confirming diagram, assessment and ordering levy of \$77.14 for FY 2022-23 assessment for Monterey Bay Estates Lighting & Landscape Maintenance Assessment District; and authorize the City Clerk to file a certified copy of the diagram and assessment with the Monterey County Auditor-Controller prior to August 1, 2022.

Council Member Burnett recused himself from this item

Council Questions: Trip hazards in sidewalk near perc pond, would the city be responsible for fixing this?

Mayor Delgado opened the public hearing

- Liesbeth Visscher – Asked if PG&E paid for the transformation of lights to LED's?
- Margarita Nguyen – Commented on the lack landscaping and tripping hazards along the pavement near her home, also asked if someone can come out and removed the dead tree there. Asked if the city is getting a new landscaper?

Mayor Delgado closed the public hearing

DELGADO/BIALA: TO APPROVE RESOLUTION NO. 2022-47, CONFIRMING DIAGRAM, ASSESSMENT AND ORDERING LEVY OF \$77.14 FOR FY 2022-23 ASSESSMENT FOR MONTEREY BAY ESTATES LIGHTING & LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT; AND AUTHORIZE THE CITY CLERK TO FILE A CERTIFIED COPY OF THE DIAGRAM AND ASSESSMENT WITH THE MONTEREY COUNTY AUDITOR-CONTROLLER PRIOR TO AUGUST 1, 2022. 4-0-0-0 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).

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

- a. Monterey County Mayor's Association [Mayor Bruce Delgado]

Mayor Delgado – Mayor's Association met a couple of days ago and heard from 3 of the 4 candidates running for district very informative; nothing new to report

- 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.

Layne Long, City Manager: Walked the council and public through the Dunes Phase 3 tree removal that were not permitted, where the Below Market Rate homes (BMR) are to be built. The Dunes did

receive a permit to remove trees from this property, corner of 2nd Ave and 6th Street, which is one part of the BMR development and another part of the BMR homes is on Imjin Road and is in the Phase 2 East development. That's why the permit was issued for this site and it was strictly for only these trees that are on this site. Unfortunately, through a series of system failures, and I've talked with and Hofer and his staff, and he has talked with his staff, and there there just wasn't one mistake that that led to these other trees being removed. but it was a series of problems, the contractor that was removing the trees. he was also removing an asbestos water line that had to be moved in big chunks so his removing it and what he had on his map was with the Phase 3 development which the Dunes has not even included an application in the city. but they are starting their work on what needs to be done for Phase 3 removal and they talked with the Marina Coast water district, this is part of just the system failures, but the water district had indicated that this should Asbestos pipe had to be removed all the way down. Noted that there was nothing going before the Planning Commission on April 14th for Phase 3 tree removal permits. What we have required the Dunes is to immediately stop any type of tree removals which they have agreed to do whether it be for future phases or for even existing, approved Phases. the reason that we've asked them to do that even for trees that have been approved to be removed is we want to step back and look at potential mitigation for these 7 trees, 4 were substantially large trees.

Council Questions: Can we assume there were no bat or raptor surveys or protective fencing around them to let the heavy equipment in the vicinity know that they were to be protected for the time being? Can we clarify is it possible that they've been approved but there's a there's a gentleman's agreement Informal agreement not to proceed with any tree cutting or is it that there's none that's been approved that haven't already been cut it? Do we know if there's been some that have been approved, but not yet cut long first avenue north of Sixth Street? Just to be clear, there are trees that have been approved through the official process to be cut, but they still stand and right now they're going to at least, postpone cutting until further notice. and there, there, of course, there are lots of trees that have not been approved to be cut that are in this vicinity, and of course, those will not be cut, correct? Do we have anything in writing with the developers about postponing removal of trees? The company is the same that does the pipe, removal and tree removal is that correct? Is it possible to remove the pipes without removing the large trees? Why were the pipes being removed? If the pipe were contaminated with asbestos does that meant the trees were contaminated too? Do we know the condition of the roots? Were the trees going to come out anyways? Were they trying to mitigate more asbestos exposure due to concerns about public health? Going back to the trees that were approved to be removed, do we have written documentation that the bat surveys the raptor Surveys were done prior to removal? I what way are we going to hold Shea and their contractor accountable? What's the mitigation or penalty? How are going to prevent this from ever happening again? Are more pipes expected to be removed?

BERKLEY/DELGADO: THAT WE HOLD A STUDY SESSION, WHICH WE CAN EXPLORE HOW WE'RE GOING TO MOVE FORWARD AND INCLUDED IN THAT A DISCUSSION OF HOW WE'RE GOING TO MOVE FORWARD, BOTH IN PARTNERSHIP WITH SHEA (DEVELOPER) AS FAR AS WHAT KIND OF COMPENSATION AND MITIGATION IS GOING TO OCCUR, AND ALSO HOW WE'RE GOING TO BE CHANGING OUR POLICIES WITH REGARDS TO THIS; AND THE STUDY SESSION TO OCCUR AFTER SHEA (DEVELOPER) MEETS WITH RESIDENTS AND OTHER EXPERTS; AND THAT WE HAVE IN WRITING AN AGREEMENT BETWEEN SHEA HOMES IN THE CITY SAYING THAT THERE WILL BE NO MORE TREE REMOVAL UNTIL THIS IS RESOLVED OR WE MAKE A CLEAR DECISION IN OUR STUDY SESSION; AND THAT ALL COUNCIL MEMBERS ARE ABLE TO PROVIDE QUESTIONS OR CONTENT THAT THEY WANT COVERED IN THE SPECIAL SESSION; AND THE STUDY SESSION TO HAPPEN PRIOR TO MAY 31, 2022

Public Comments:

- Tommy Bolea – Commented on the miscommunication between the Developer and their subcontractor on the removal of the trees. Spoke about the contaminants of the buildings being demolished being everywhere. Spoke about the carbon footprint of building more homes and removing trees. Developers should be penalized and trees should be replanted.
- Mike Owen – Indicated that he just sent the Council an email on his comments
- Liesbeth Visscher – Commented on the waterpipes that were removed in segments and asked if photos were taken. Asked what were the diameter of the pipes removed and how long were they? Were there any other solutions to removing the pipes from under the trees? Spoke about the upcoming April 14th Planning Commission meeting for tree removal requests for Phase 3 of the project.
- Grace Silva-Santella – Supports the motion made. Asked that if a community meeting is to take place that well advanced notice be given to the public. Optimistic to hear city manager speak of preservation of trees in the entire project area.

13. ADJOURNMENT: The meeting adjourned at 10:45 P.M.

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor