



MINUTES

Wednesday, August 7, 2019

5:30 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 AND SUCCESSOR AGENCY OF THE
FORMER MARINA REDEVELOPMENT AGENCY**

Council Chambers
211 Hillcrest Avenue
Marina, California

1. CALL TO ORDER
2. ROLL CALL & ESTABLISHMENT OF QUORUM: (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Successor Agency of the Former Redevelopment Agency Members)

MEMBERS PRESENT: Lisa Berkley, Frank O'Connell, Mayor Pro-Tem/Vice Chair, Gail Morton, Mayor/Chair Bruce C. Delgado

MEMBERS ABSENT: Adam Urrutia (Excused)
3. CLOSED SESSION: *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency Members) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City's Meyers-Milias-Brown Act representative.*
 - a. Conference with Legal Counsel, one case of existing litigation pursuant to paragraph (1) of subdivision (d) of CA Govt. Code Section 54956.9: (1) Marina Community Partners LLC v. Fort Ord Reuse Authority, Monterey Superior Court Case 18CV000871"
 - b. Conference with legal Counsel, anticipated litigation – initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9 – two potential cases.
 - c. Conference with Legal Counsel- anticipated litigation – significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Govt. Code Section 54956.9 – two potential cases
 - d. 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

- e. Real Property Negotiations
 - i. Property: Marina Municipal Airport – South Tarmac
 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

Deborah Mall, Assistant City Attorney reported out Closed Session: Council was in Closed Session from 5:35pm-6:40pm. The matters discussed, the first was Conference with Legal Counsel 1-case of existing litigation, Marina Community Partners vs. Fort Ord and direction was given to legal counsel and no reportable action was taken. Second thing discussed was Conference with Legal Counsel, Anticipated Litigation 2-potential cases and in both cases, direction was given to legal counsel and no reportable action was taken. The City Council is going to return for item 3c on the agenda or if there is not time tonight will be heard at a different time period. 3d Labor Negotiations and 3e Real Property Negotiations were not discussed.

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

5. **SPECIAL PRESENTATIONS:**

- a **Pacific Gas & Electric Del Monte Blvd. Pipeline Presentation**
- b **Monterey County's 2020 Census Complete Count Committee Presentation**
- c **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 – At the Joint Recreation and City Council meeting there was a professional presentation on the Aquatic Center, and I asked how did this have any effect on the proposed Tatum's Treehouse Garden Project? Public Works Director indicated that both projects would proceed equally. Concerned that the residents in University Village Apartment wouldn't be able to

afford proposed \$40 a month participation fee. Showed Council an article from the Monterey Herald that had a story on Tatum's Garden going into Carmel and where it also stated that Tatum's Garden was in talks with an un-named city on the peninsula. Anxious as to why all this publicity is going to this Carmel Agreement and hasn't heard anything about proposals for Tatum's Garden for Marina. Is the un-named city Marina and if so, is there some reason that the talks are not to the stage where it can be publicized? When will public works or recreation be able to present some information to the council so you would be able to compare timelines on Tatum's Garden and the Aquatic Center?

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 92880-93057, totaling \$949,929.79
Accounts Payable Successor Agency Check Number 36-37, totaling \$2,165.63
 - b. MINUTES:
 - (1) July 16, 2019, Regular City Council Meeting
 - (2) July 30, 2019, Special 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. 2019~~, setting return check fees.
Pulled by member of the public, becomes agenda item 11c
 - (2) City Council consider adopting **Resolution No. 2019-75**, supporting Monterey County's 2020 Census Complete Count Committee.
 - (3) City Council consider adopting **Resolution No. 2019-76**, approving the submittal of letters supporting SB 54 (Allen) and AB 1080 (Gonzalez) to Senator Ben Allen and Assemblywoman Lauren Gonzalez with copies to Senator Skinner and Governor Gavin Newsom.

- (4) City Council consider adopting **Resolution No. 2019-77**, accepting the 2018-2019 Monterey County Civil Grand Jury Final Report – “Rape Kit Processing in Monterey County; and directing That the Responses Be Forwarded to the Honorable, Lydia M. Villarreal, Judge of The Superior Court

g. APPROVAL OF AGREEMENTS

- (1) City Council consider adopting **Resolution No. 2019-78**, approving a Public Improvement Agreement for Sea Haven Phase 5a between the City of Marina and the Contracting Parties of Wathen Castanos Peterson Homes, Inc., Grantor Fresno Clovis Investments, LLC, Wathen Castanos Peterson Coastal, LP, and Marina Developers, Inc, and; consider authorizing the City Manager to execute the Public Improvement Agreement on behalf of the City subject to final review and approval by the City Attorney.
- (2) ~~City Council consider adopting Resolution No. 2019 , approving Amendment No. 1 to the Agreement between City of Marina and New Image Landscape Company of Fremont, California, to extend the amended contract one year and increase the compensation payable to the Contractor by \$960.00 annually, and; authorize the City Manager to execute Amendment No. 1 on behalf of the City subject to final review and approval by City Attorney.~~ ***Pulled by member of the public, becomes agenda item 11d***

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS:

- (1) ~~City Council consider adopting Resolution No. 2019 , approving the Phase 5a Final Map for the Sea Haven Development Project Subdivision (formerly Marina Heights), and authorizing the City Manager to execute the Final Map on behalf of city subject to final review and approval by the City Attorney.~~ ***Pulled by Mayor Pro-Tem Morton, becomes agenda item 11b***

j. REPORTS: (RECEIVE AND FILE):

- (1) City Council receive Monterey-Salinas Transit July 2019 Highlights
- (2) City Council consider adopting **Resolution No. 2019-79**, receiving Marina Recreation & Cultural Services Commission 2017/2018 Annual Report and 2019 Goals.

k. FUNDING & BUDGET MATTERS: None

l. APPROVE ORDINANCES (WAIVE SECOND READING): None

m. APPROVE APPOINTMENTS: None

Paula Pelot requested to pull agenda item 8f(1)

Nancy Amadeo requested to pull agenda item 8g(2)

Mayor Pro-Tem Morton requested to pull agenda item 8i(1)

DELGADO/O’CONNELL: TO APPROVE THE CONSENT AGENDA MINUS 8f(1), 8g(2) AND 8i(1) WITH CORRECTIONS TO 8F(3) LETTERS OF SUPPORT. 4-0-1(Urrutia)-0 Motion Passes

9. PUBLIC HEARINGS:

- a. City Council consider to open a public hearing, take any testimony from the public, and consider recommendation by the Planning Commission to introduce and read by title only Ordinance 2019- amending Chapter 17.06, General Zoning Regulations, of the Zoning Ordinance to establish a permitting process and appropriate standards for the short-term rental of a dwelling unit, for a period of 29 consecutive days or less, along with associated regulations to mitigate negative impacts, such as noise and over-parking. Exempt from CEQA per Section 15301, Class 1, Existing Facilities.

Council Questions: Why are hosted and non-hosted not included in the definitions? What does hosting/non-hosting mean? What does b(4) of the draft ordinance mean exactly? Does a STR permit fee of \$900 currently exist? How do we really protect our city from people outside of the city looking to buy a second home to have as a vacation home and turning a profit and disrupting the quality of neighborhoods? Are business license fees based on receipts? If the ordinance is shorter with less enforcement matters would the decrease the permit fee? Monitoring Impact? Paragraph 7, if you fail to pay your TOT timely is there a penalty such as interest accruing on the unpaid balance? Appeal Process, MMC 17.48.050, is that a City Council appeal for denial? E-3, What is the City's Registry? What is the intension of the registry? Enforcement of E-3? Can we legally require that you have to be a resident of Marina to own a short-term rental?

Public Comment:

- Paula Pelot – Does not think city should allow short-term rentals in a small community. Council and staff stripped out some very important provisions in this version of the ordinance. Stated in staff report that this is addressing affordability and the importance of maintaining affordable housing stock in the city but does not see it anywhere in the documents. Enforcement of this ordinance, you need to build something in your TOT ordinance as well, because they have collected funds that they perhaps have not collected from their client. Most TOT ordinance have a penalty for that. Thinks that the Good Neighbor Brochure is important. Thinks limiting to blocks is important. As far as vacations, a time limit should be established, someone could be on vacation for 9-months out of the year. Is the City going to enter into contract with AirBandB, Home-A-Way, BRBO that outlines some of this or are we going to leave it up to them to comply with this?
- Nancy Amadeo – Noted that she has a short-term rental down the street from her and has had no issues. Believes that it's appropriate to have Host and Non-Host availability and that you control how many rentals you have per block as to opposed as to whether or not that home is used regularly for short-term rental or use it's used only 3-weeks out of the year. There's a lot of different reasons why people do short-term rentals. You need to think about how many hotels rooms do we have in Marina and what will short-term rentals, what's the number likely to be and suspects it the equivalent to a hotel. That's a lot of income for the city. think about these things as you are deciding what may need to be added or eliminated. Continue to keep it simple.
- Mike Mueller – Property owner of small 8-unit complex in Marina. You talk about impact. You're going to have someone live there 365 of the year. One of my units rented for 163-days so my neighbors don't have someone they don't like living next door to them all year long. I've had no complaints. They have my number and I have the renter's numbers. I rent through an organization BRBO. I have insurance and keep the place up nice. I come here 11-days last year for maintenance. Short-term rentals provide good impact to the city by way of less daily road use, one vehicle parking vs. multiple vehicles on long-term rental. More people to visit our restaurants. These are good impacts to our city. We inform our guests that this is not a party place and if they want to party then they must look elsewhere. We get good reviews on our city as well as the restaurants.

- Sean MacDonald – Operate an AirBandB from home. Wanted to support primarily how the ordinance was written. Now, it's simplified, it's enforceable. As it's written now, we project being able to provide over \$10,000 in TOT next year in 2020. We support the community through by asking our guests to go to local businesses. Thinks it's a positive impact on our community. We employ our neighbor to do cleaning, so they get additional income. We have a good relationship with our neighbors. The positive impacts far outweigh the negative ones.
- Kevin Yeoung – Staff did a wonderful job incorporating our opinions in this document. Noted that he had a long-term rental operation and hated it. Don't let people tell you that long-term rentals are safer. My experience is they make damages to the house and that is why I quite long-term rentals and turned to short-term. Guests stay 1-2 nights and then we rate them. The rating can be helpful for next rental or could be harmful for the next host.
- Anju Wong – A year ago this time I was a long-term renter. I was sued, went to court and spent over \$30,000 fixing my home. That is why I decided that I need to try something different. That is why I came to short-term rentals. The Host Platform has a screening process and if a guest causes trouble for the neighborhood people will write a bad review and you won't be able to rent my house. That is the first step to guarantee a good neighborhood. Attended several meetings with the Planning Commission and once the Police Department told the commission that they were not aware of any complaints from short-term rentals. In my experience when I had long-term rentals the police would come all the time but after we started short-term rental my neighbor was very happy. Host or Non-hosted we need to be treated fair. Pointed out that Host/Non-Hosted short-term rentals will be able to generate more TOT for the city.
- Brian McCarthy, Planning Commission who recurred himself from voting on this Matter - Decided to participate during the US Open week, a week that is a once in a decade opportunity for Marina to show the world how great it is and to also prosper amongst the economic activity. Short-term rentals are profitable and there is demand. For the week alone, had the ordinance been approved my family's estimated tax burden was at approximately \$300. Multiply this by a reasonable number and you'll quickly see that the city has missed out on tens if not one-hundred thousand dollars or more in tax revenue this year alone. Hopes the city will not implement an ordinance that will primarily benefit those who choose not to follow it at the expense of the residents who do. Other Cities and the County have relied on a short-term rental enforcement contractor names Host Compliance. They aim to be revenue neutral to the city generating income through increase TOT reporting and penalty collection. Glad current ordinance does not favor one Platform of another. Hopes this will pass tonight and that the city can be on its way to generating the revenue lost.
- Christine Laquine – Owns home in Marina and long-term rentals has become extremely difficult to operate and if short-term rentals is not allowed will be forced to sell home. Hopes council will consider both Hosted and Non-Hosted in the ordinance.

Morton/O'Connell: that we approve this with the clarifications being added:

1. that the city is reserving the right to deny renewals within 100% of their discretion and that any denial of renewal would not be a taking; and
2. that the cleanup in the language that we discussed happen
 - E-3 = Proof of timely payment of transient occupancy tax – add a section there about the expiration, that it's not a vested right or would be a taking if it doesn't reissue
 - E-3 = the city has the right not to renew based on neighborhood impacts or impact to city services; and
 - E-7 = that it specifies that the STR Owner are solely responsible for the collection

Council Member O'Connell asked for a friendly amendment: that this matter be reviewed by the city council by no later than October 2021.

Mayor Pro-Tem Morton accepted the friendly amendment by Council Member O'Connell

Amended Motion

Morton/O'Connell: that we approve this with the clarifications being added:

1. that the city is reserving the right to deny renewals within 100% of their discretion and that any denial of renewal would not be a taking; and
2. that the cleanup in the language that we discussed happen
 - E-3 = Proof of timely payment of transient occupancy tax – add a section there about the expiration, that it's not a vested right or would be a taking if it doesn't reissue
 - E-3 = the city has the right not to renew based on neighborhood impacts or impact to city services; and
 - E-7 = that it specifies that the STR Owner are solely responsible for the collection
3. that this matter be reviewed by the city council by no later than October 2021; and
4. to direct staff to look in monitoring impact through Host Compliance.

2-2(Berkley, Delgado)-1(Urrutia)-0 *Motion Fails.*

Substitute Motion

Delgado/Berkley: same as Mayor Pro-Tem Morton's motion but change STR Property Owner must be a primary resident of Marina. 2-2(O'Connell, Morton)-1(Urrutia)-0 *Substitute Motion Fails*

New Motion

MORTON/O'CONNELL: THAT WE ADOPT THE RESOLUTION WITH THE ADDITIONS THAT:

1. **THE CITY IS RESERVING THEIR RIGHT TO DENY RENEWAL THE PERMIT; AND THE ADDITION LANGUAGE TO BE ENSURED THAT IT IS NOT CONSIDERED TAKING; AND**
2. **THAT PARAGRAPH 3 INSERTS THE WORD "PROOF OF TIMELY PAYMENT OF YOUR TOT MUST BE PROVIDED; AND**
3. **THE CHANGE IN PARAGRAPH C-7 TO ELIMINATE FROM THE SECOND SENTENCE "IF A HOSTING PLATFORM DOES NOT COLLECT PAYMENT FOR THE RENTAL", AND MAKE IT CONSISTENT THROUGHOUT THE ORDINANCE THAT THE STR OWNER IS PRIMARILY RESPONSIBLE FOR THE COLLECTION AND PAYMENT OF THE TOT TO THE CITY AND ANY PLATFORM USED IS ALSO RESPONSIBLE FOR PAYMENT TO THE CITY OF THE TOT, WHICH IT MUST COLLECT; AND**
4. **THAT WE HAVE A MONITORING OF IMPACTS TAKE PLACE AND THAT THAT COMES BACK TO COUNCIL AT THE SAME TIME AS THE PERMITTING FEE; AND**
5. **THAT REVIEW BE WITHIN ONE-YEAR OF THE FIRST PERMIT ISSUED.**

2-1(DELGADO)-1(URRUTIA)-1(BERKLEY). **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 adopting **Resolution No. 2019-80**, receiving a presentation and provide comments and direction on the preparation of a Groundwater Sustainability Plan for a portion of the 180/400 Foot Aquifer Subbasin.

Council Questions:

DELGADO/BERKLEY: TO ADOPT RESOLUTION NO. 2019-80, RECEIVING A PRESENTATION ON THE PREPARATION OF A GROUNDWATER SUSTAINABILITY PLAN FOR A PORTION OF THE 180/400 FOOT AQUIFER SUBBASIN. 4-0-1(Urrutia)-0
Motion Passes

Public Comments: None received

- Anthony Lombardo, on behalf of California American Water Company – We object to you proceeding with this project. The formation of a groundwater sustainability agency is relevant to only an agency that is responsible for providing water service or ensuring that something within their jurisdiction receives water service. That's the charge of MCWD because as we all know there will be nothing that occurs on this property because you're only talking about the Cemex property, which you have ensured that nothing will ever be developed for any use as a result of the settlement agreement entered into by the Coastal Commission and your city with Cemex. So, there is no legitimate reason for you to form a groundwater sustainability agency. The city has no management capability over the water supply because that's done by the MCWD. We've been down this road a few times already including the numerous lawsuits that have been filed by the MCWD in trying to stop the project with the objections that have been filed by both MCWD and the City to the PUC decision and with the County of Monterey. Both the PUC and its environmental consultant as well as the Monterey County Water Resources Agency have reviewed the same data and found that that data is not scientifically valid. There is no production well for the MCWD providing water to the City of Marina in proximity to this location. In addition, this presumption is inconsistent with two years of test well data. Everything that your consultant described is already being considered and has been considered by both the County and the California Coastal Commission and the hydrologic working group which has already established a monitoring framework, a trigger to preclude further saltwater intrusion which was tested during the two year operation of the slant test wells on the Cemex property, which concluded and unfortunately for the data produced by the Stanford Graduate student was inconsistent with our hypothesis that this would have some effect on freshwater supplies or cause saltwater intrusion. The data showed neither occurred. We believe that this is an unnecessary and untimely attempt to interfere with the Monterey Peninsula Water Supply Project.

9:58 PM

Delgado/Morton: to continue meeting to 10:10pm

Public Comments:

- Nancy Amadeo – There had been a suggestion earlier in the evening that for people like myself came for a very small item that we would have the opportunity to speak earlier and it was decided No and now I'm being told after sitting here all evening that I won't have the opportunity to speak to the one item and I have to come back another night. Thinks it's very rude to the public when you don't give them advanced warning that it may not occur, that you let them sit all night and then you don't hear their issue.

Substitute Motion

O'Connell/Morton: to continue to 10:30 pm. 4-0-1(Urrutia)-0

- b. City Council consider adopting **Resolution No. 2019-81**, approving the Phase 5a Final Map for the Sea Haven Development Project Subdivision (formerly Marina Heights), and authorizing the City Manager to execute the Final Map on behalf of city subject to final review and approval by the City Attorney. ***Pulled by Mayor Pro-Tem Morton, was agenda item 8i(1)***

Brian McMinn – Mayor Pro-Tem Morton brought up the language of discussion during the meeting and apologize probably not the best choice of wording for that. What we were trying to point out is that there were two items related to the map on this consent agenda. The one that was approved by Council earlier was the public improvement agreement and that with a condition of a tentative map that had to be met before the final map for Phase 5A could be approved. So, it was meant to call attention to Council that there was another item on the agenda related to this.

DELGADO/BERKLEY: TO APPROVE RESOLUTION NO. 2019-81, APPROVING THE PHASE 5A FINAL MAP FOR THE SEA HAVEN DEVELOPMENT PROJECT SUBDIVISION (FORMERLY MARINA HEIGHTS), AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FINAL MAP ON BEHALF OF CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY. 4-0-1(Urrutia)-0 Motion Passes

Public Comments: None received

- c. City Council consider adopting **Resolution No. 2019-82**, setting return check fees. ***Pulled by member of the public, was agenda item 8f(1)***

Paula Pelot – spent 10-years in the DA's office running an In Sufficient Funds (ISF) program and spent 15 more years in Santa Cruz County, Treasurer Tax Collector's office and the Auditor Controllers office where we had to do analysis just for this reason. Some departments had their own fee because it's not just the ISF Fund checks and it's not just the bank charge. It's the unwinding and the payment and the outfall of that depending on what the payment was for. You have a huge band of costs involved. When I read this, I was shocked to hear that is was \$135 that was set the last time. you have to average it out where you can actually set the return check fees for different departments. Recommends giving the Finance Director some latitude rather than lowering to \$35.00. one of the reasons for that is because your bank fees could change at any time. You should have it be the bank fee plus an averaged of labor cost and considering it may cause some other outfalls and consequences.

MORTON/BERKLEY: TO ADOPT RESOLUTION NO. 2019-82, THAT THE CITY RETURN CHECK FEE SHALL BE WHAT EVER IS THE BANK CHARGE PLUS \$15.00 PROVIDED IT IS PAID WITHIN 30-DAYS FROM THE NOTICE OF DEFICIENCY; IF NOT THE RETURN CHECK FEE IS \$135.00.

4-0-1(Urrutia)-0 Motion Passes

Public Comment on Motion

- Paula Pelot – 30-days should be from the date the check was written.

- d. City Council consider adopting **Resolution No. 2019-83**, approving Amendment No. 1 to the Agreement between City of Marina and New Image Landscape Company of Fremont, California, to extend the amended contract one year and increase the compensation payable to the Contractor by \$960.00 annually, and; authorize the City Manager to execute Amendment No. 1 on behalf of the City subject to final review and approval by City Attorney. ***Pulled by member of the public, was agenda item 8g(2)***

Nancy Amadeo – New Image provide excellent work for Cypress Cove II for a year 3-years ago. They worked with the homeowners to ensure that our major concerns were addressed. This time we've had no contact. This time we've had very little work that we've seen done by them. We saw them come out once when the grass was very tall and dried, and they whacked it down. We seen recently as in the last week they removed all of the grass along the corner Cardoza and Reservation, unfortunately that's the steepest part of our landscaped area and now if the rains came there's nothing to hold the dirt in. We've had no work done along Abdy Way except weed whacking one time, in a year. Now we hear that there should be a fee escalation and wonder if the other District have received the same kind of service that we have received. Would like to know where the money is coming from because these are 218 Districts? If they're going to raise their fee about \$1,000 a year it has to come from somewhere and we don't believe it should come our fees because we've have gotten almost nothing for what we paid in the last year. This is a big concern to us. We have lacked service, plants have died, there's no water. They put in plants 3-years ago and there's nothing left on the corner of Dolphin Circle and Cardoza. They've all died, the water system was never fixed. These are things we expected to be done and they haven't been done. We don't believe they are deserving of more money. Don't know how they have spent the money they received.

O'CONNELL/BERKLEY: TO ADOPT RESOLUTION NO. 2019-83, APPROVING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN CITY OF MARINA AND NEW IMAGE LANDSCAPE COMPANY OF FREMONT, CALIFORNIA, TO EXTEND THE AMENDED CONTRACT ONE YEAR AND INCREASE THE COMPENSATION PAYABLE TO THE CONTRACTOR BY \$960.00 ANNUALLY, AND; AUTHORIZE THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY. 3-0-2(Urrutia, Delgado)-0 Motion Passes

Public Comment on Motion:

- Nancy Amadeo – I will get with Brian. I have pictures of what's happened with the landscaping. I didn't mention that under the lower retaining wall along Abdy we have a nest of ground squirrels undermining the retaining wall. It's now about a 10x12 foot area and this has been a concern for quite some time.

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.

Layne Long, City Manager – We had scheduled a tentatively a meeting to talk about a study session to talk about Abrams and Preston. Council Member Berkley is not available on the 27th and therefore staff will coordinate a future date.

13. ADJOURNMENT: The meeting adjourned at 10:27 PM

Deborah Mall, Assistant City Attorney reported out the second part of the Closed Session: The City Council went into Closed Session upon conclusion of Open Session. Two potential cases were discussed related to Agenda Item 3c Conference with Legal Counsel, anticipated litigation. No reportable action was taken on either case. Closed Session concluded at 10:45.

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor