

RESOLUTION NO. 2019-111

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA FINDING THE APPEAL BY CALIFORNIA-AMERICAN WATER COMPANY OF THE PLANNING COMMISSION'S DENIAL OF A COASTAL DEVELOPMENT PERMIT IS A MATTER OF GREAT IMPORTANCE TO THE CITY AND ITS RESIDENTS, APPROVING PROVIDING TRANSPORTATION TO ALLOW MEMBERS OF THE PUBLIC TO ATTEND THE HEARING ON THE APPEAL TO BE HELD IN HALF MOON BAY, CA ON NOVEMBER 14, 2019, AND AUTHORIZING THE CITY MANAGER TO CONTRACT FOR TRANSPORTATION AND TO USE HIS DISCRETION IN ALL MATTERS IN CONNECTION WITH TRANSPORTING MEMBERS OF THE PUBLIC TO ATTEND THE HEARING

WHEREAS, on June 22, 2018, the California-American Water Company (CalAm) submitted its application to the City of Marina requesting issuance of a Coastal Development Permit (CDP) to permit CalAm to install components of its Monterey Peninsula Water Supply Project (MWSP) in the City's defined coastal zone; and

WHEREAS, at the meeting held on March 7, 2019, in its Resolution 2019-06, the City's Planning Commission disapproved CalAm's request for a CDP in accordance with the findings made in Resolution 2019-06; and

WHEREAS, on May 22, 2019, CalAm filed an appeal of the City's decision with the California Coastal Commission; and

WHEREAS, the Coastal Commission has scheduled a hearing on the matter of CalAm's appeal which is to be held on November 14, 2019, at the Oceano Resort located in Half Moon Bay, California, a distance of approximately 90 miles from the City; and

WHEREAS, the matter of the appeal of the City's decision is of great importance to the City due to the potential of the MPWSP to cause lasting and irreversible harm to the City for reasons set forth in Resolution 2019-06; and

WHEREAS, City Council Members and City staff have been approached by numerous members of the public who expressed interest in attending the Coastal Commission hearing on November 14, 2019, but who stated they have no have access to transportation and inquired whether the City intends to provide transportation to Half Moon Bay on November 14, 2019.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Marina finds, determines and directs as follows.

1. That CalAm's appeal of the City's denial of the Coastal Development Permit is a matter of great importance and widespread public interest to the City and its residents.
2. Providing transportation to afford an opportunity to members of the public to attend the Coastal Commission hearing in Half Moon Bay on November 14, 2019, is approved and in furtherance of an important public interest, in that attendance at the hearing on that date supports the receipt of information by the members of the public who otherwise would not have the ability to attend.

3. The City Manager is authorized to contract for transportation and is directed to use his discretion in all matters in connection with transporting members of the public to the hearing, so as to best serve the City's interest in this matter.

PASSED AND ADOPTED by the City Council of the City of Marina at a special meeting duly held on October 29, 2019, by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton

NOES, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: Delgado

Gail Morton, Mayor Pro-Tem

ATTEST:

Anita Sharp, Deputy City Clerk

Honorable Mayor and Members
of the Marina City Council

City Council Special Meeting
of October 29, 2019

**CITY COUNCIL CONSIDERATION AND DIRECTION REGARDING
THE CITY PROVIDING TRANSPORTATION TO ATTEND THE
CALIFORNIA COASTAL COMMISSION HEARING ON NOVEMBER 14,
2019, CONCERNING CALIFORNIA AMERICAN WATER COMPANY'S
APPEAL OF THE PLANNING COMMISSION'S DENIAL OF A
COASTAL DEVELOPMENT PERMIT**

RECOMMENDATION:

It is requested that the City Council consider:

1. Consideration and direction regarding the City providing transportation to attend the California Coastal Commission hearing on November 14, 2019, concerning California American Water Company's appeal of the Planning Commission's Denial of a Coastal Development Permit.

BACKGROUND:

The City has been approached by various people wanting to know if the City could provide transportation to assist people who are interested in attending the California Coastal Commission hearing on November 14th, but did not have access to transportation to attend. We have asked that this special meeting be called to allow the Council to discuss and decide whether and how to proceed regarding the above-referenced subject.

ANALYSIS:

Were the expenditure of funds at issue for the purpose of furthering the City's position regarding a ballot measure or candidate for election, or for lobbying a legislative body, existing California legal authority provides clear instruction. In short, with legislative lobbying and election contests, with only limited statutory exceptions, expenditures are subject to strict tests of neutrality. Our reservation with respect to busing is that payment for it, unless controlled, may fall subject to the limits as applied to lobbying and election activities. Here, however, we are dealing with a public agency, the Coastal Commission, engaged in a quasi-judicial matter. We find no explicit direction in this sphere.

We suggest a neutral approach, first finding that the California Coastal Commission hearing is a matter of great interest to the City and its residents. Thus, the City could provide a finite number of seats on one or more buses. Public notification of access to these seats will take place and anyone interested will be given the opportunity to ride if they individually so advise the City no later than a date and time stated. If the buses are oversubscribed by the expiration of the sign-up date/time, procedures will be established such as a random lottery-like procedure to determine which of the requesting residents will have a seat.

FISCAL IMPACT:

We are advised that the cost of one bus for a twelve-hour period (6:00 a.m. to 6:00 p.m.) would be approximately \$2,200.00.

CONCLUSION:

This request is submitted for City Council consideration and possible direction.

Respectfully submitted,

Robert W. Rathie

Robert Rathie

City Attorney's Office

REVIEWED/CONCUR:

Layne Long

City Manager

City of Marina