



AGENDA

Tuesday, September 17, 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 SUCCESSOR AGENCY OF THE FORMER
MARINA REDEVELOPMENT AGENCY AND MARINA GROUNDWATER
SUSTAINABILITY 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, Adam Urrutia, Frank O'Connell, Mayor Pro-Tem/Vice Chair, Gail Morton, 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, 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, anticipated litigation – initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9 – Three potential cases
 - b. 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 – One potential case
 - c. Labor Negotiations
 - i. Marina Employee Association

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

6:30 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 on the some of the matters listed on the agenda. There were three potential cases of litigation and Council received information and provided direction and no reportable action was taken.

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

5. SPECIAL PRESENTATIONS:

a Update Council Chambers Remodel

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.*

- Mike Owen – Announced on October 19th the 7th Annual Honor Our Fallen Run, 5K and 10K run will take place. Starting point will be at the VA/DoD Center. On October 5th at 2:00 pm is the Festival of Sound Organ Recital at the Epiphany Lutheran and Episcopal Church.
- Grace Silva-Santella – Friends of the Marina Library hosting Movie Night on September 21st starting at 2:00pm. Featured movie is a documentary titled Biggest Little Farm.
- Wes Clark, Marina Trading Company – Thanked city staff and mainly Matt Mogensen for his hard work on what the city is doing to keep the ball moving with everything that is cannabis. We have tried hard to become a part of this community holistically. After next Wednesday the cannabis process will fall on the shoulders of the Planning Commission, HdL and Council. Through our partnerships with community organizations we feel we deserve a shot at one of those three licenses. No matter the event (park cleanups, earth day, fundraisers) we have done everything in our power to show that this is more than a license, this is a future. Wished that all business owners were held to the same standards that the cannabis business owners that would truly be amazing. Thank you for your time and please consider Marina Trading Company partnered with Juicy Corporation for one of the three licenses.
- Nathan Wang, Jushi Company. – We are working in partnership with Wes and Tyson of Marina Trading Company for one of the City's cannabis licenses. Thanked everyone for their hard work and the community for welcoming us with open arms. Jushi is a team made up of large group of very diverse and experienced professionals and business leaders in the legal cannabis base. Many of whom have hand in founding the legal cannabis industry throughout the US. A big reason why we've been successful and been around for so long is because we truly believe that the number one key to success in this industry is having a close relationship with communities in which we operate. We want to make sure that we have a positive, collaborative and empowering impact for this community. Our Colorado company helped raise over \$750,000 for the National MS Society through local community events.
- Mayor Pro-Tem Morton – Announced on October 7th at 3:00pm will be a FORA meeting where the discussion will be on Bonds to secure about \$35 million that will be allocated among multiple jurisdictions for removal of dilapidated buildings.
- Mayor Delgado – September 21st from 2:00-5:00pm will be a fundraiser at the Community Gardens on Imjin Parkway to invest in a nonprofit called Everyone's Harvest that puts on the Marina Farmers Market PG Farmers Market, Seaside Farmers Market and several other locations. Also announced on October 5th from 5:00-8:00pm is the Marina Youth Arts is hosting a Duets

Wine Tasting and Food Pairing at Vince DiMaggio Park. On October 20th from 12:00-2:00pm is the next Lapis Road Community Cleanup. On November 14th in Half Moon Bay is the next California Coastal Commission Hearing. Every Wednesday from 5:30-7:30pm is the Oak Woodland Restoration Project in front of the Library and every Sunday we do the same at Marina High School from 5:30-7:30pm.

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 93294-93381, totaling \$307,063.27
Wire transfers from Checking and Payroll for July 2019 totaling: \$1,955,767.30
 - b. MINUTES: None
 - c. CLAIMS AGAINST THE CITY: None
 - 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):
 - (1) City Council receive Monterey-Salinas Transit September 2019 Highlights
 - k. FUNDING & BUDGET MATTERS: None
 - l. APPROVE ORDINANCES (WAIVE SECOND READING): None
 - m. APPROVE APPOINTMENTS: None

DELGADO/BERKLEY: TO APPROVE THE CONSENT AGENDA. 5-0-0-0 Motion Passes

9. PUBLIC HEARINGS:

- a. City Council consider adopting Resolution No. 2019-, Holding a public hearing to receive input from the community regarding the creation of a district-based election system.

Presentation by Dr. Jeff Tilton, of National Demographic Corporation

Council Questions: You said *must be* equal population, does it have to be equal populations or equal voters? So, it doesn't matter if they are a registered voter or not even a citizen? Why would we not want to do this, pass it but have it start in 2022 so we could use the 2020 Census? How much would it cost to revamp under the 2020 Census? You referenced the city has roughly 18,000 citizens, have you been able to confirm that they are in fact citizen? Do the districts need to be based on equal share of the population or equal share of the voting age population? How is polarized voting determined/proven? If we did this once in the 2021 year, we annex the additional population that we are expecting, the homes that are in our community that will have a significant impact both geographically and demographically is we'll all be in place or closer in place. Is this law, the California Voting Act being challenged as being unconstitutional? Do we know when a decision will be made? Is a "protected class" anyone other than a Caucasian? Is it possible that what we're doing is trying to save a few tens of thousands of dollars but then we'll be stuck with doing this twice? Is it true that no matter which of the two options we do we will be out of pocket \$15,000-\$60,000? Why don't we focus on the best way to do this, aside from money because both options are going to cost us? Is there a reason to forget about money knowing that we're in this range and discuss the best way to do it? Status of annexation? Is there any way we can use data that's more current than 2010? Are you familiar with any communities going through this process that have used combined voting districts? Using this system of just the humans instead of the registered voters, isn't it possible that you would have a situation where you set up a district that would have a minimum number of registered voters electing a person to be sitting up here with an equal say to someone who had been elected with a substantial number of voters?

Mayor Pro-Tem Morton - So, if we wait, we pay \$30,000 to the plaintiff and we pay \$30,000 for one-time demography or at least even if we're under this contract that we're going to get a better result from your company because it will be more reflective of significant changes that have happened in our community in 2010. There were no homes on the former Fort Ord previously, so all of that is a change since that 2010 Census so how in your current boundary would you even factor in when you're asked to be blind to that fact? How will you handle the new growth on the former Fort Ord?

Mayor opened public hearing

- Paula Pelot – Asked for clarification of the use of the 18,000-population number from the 2010. In 2010 there was only rental housing out on the former Fort Ord. We didn't have the home ownership. Been involved in the redistricting of the Monterey Peninsula College, the online tool is worth its weight in gold and very helpful when doing this. Wishes we could find a way to push this out so that we can get more reasonable data to draw more reasonable lines. Our community is extremely diverse and spread out. The divides tend to be age and the other divide tends to be rentals versus home ownership. Doesn't see where we can address this properly now with the data we have. My experience is that it has to be compacted and continuous and it's not and it's not going to be for some time. Hoping council will find a way to push this out so we can do a better job and get it done properly. Registrar of Voters say you can't do this within 180-days of a primary and you cant do any districting in between a primary and a general election and even if we

do produce a plan it's going to have to go to the Department of Justice for review and approval. So, are we going to land in a spot where we can't do this in that timeframe?

- Grace Silva-Santella – In our last election we have two people who ran unopposed. Biggest concern is that we create these districts and nobody's going to run in the districts. Do the maps on the screen show the Dunes or Sea Haven? I know a couple of very involved individuals who live in the Dunes and are in this audience and I would be really perturbed if something was about to happen this major in this community and in my area that I live in is not part of the decision process. There has to be a way to push this out. There seems to be two components here 1) what this going to cost relative to what we're going to get sued; and 2) how do we fairly represent our population here in Marina far beyond what was going on in 2010?
- Brian McCarthy – Shocked at the direction this presentation went this evening. At the last meeting there were some council members that wanted to know more about why district base elections were important. Curious if district-based elections could possible even further disenfranchise those folds that its supposed to protect? If after carefully reviewing all the data that you believe were an exception to this racially polarized voting what do you think you plan to do? Maybe you should be asking yourselves before the data comes in are, we going to bend to the lawsuits or are we going to take some other action? Are there national advocacy groups or statewide advocacy groups that can come and speak to the city as to why we should move forward?

Delgado/Urrutia: that we approve the resolution before us.

- Paula Pelot – hopes that in this motion or whatever action you're taking you would consider the Department of Justice review. That once you have this my understanding is it has to go to the Department of Justice so are you taking that into account in this? Is it able to be implemented?

Mayor Delgado withdrew his motion as the resolution is more than just to receive.

DELGADO/URRUTIA: THAT WE RECEIVE THE REPORT AND WE WILL CONTINUE WITH THE PROCESS GIVEN THE DISCUSSIONS TAKEN PLACE HERE TONIGHT. 5-0-0-0 Motion Passes

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 discussion/direction regarding reconsideration of the Short-Term Rental Ordinance in accordance with a motion made by Council Member Berkley approved by the City Council at its meeting of September 4, 2019.

Council Member Berkley – Explained reasoning for reconsideration of her vote. Goal was for Marina residents to preserve and build good community and neighborhoods to prevent the loss of long-term housing stock, to be able to maintain good upkeep on homes and properties and continue for Marina residents to remain Marina residents and afford to live here and to economically thrive. Good

neighborhood brochure to remain on premises, the number of STR guests limit. Need to figure out how to change the terms so that we're not using hosted or non-hosted but we change it to a term called "shared homes", which is a blend of hosted and non-hosted STR's.

- Good Neighborhood Brochure needs to be required on the STR premise
- Need to limit the STR guests
- Change of terms to "Shared Homes"

O'Connell/Morton: that the motion of reconsideration be denied; that the present motion of September 4, 2019 not come back for a second reading and that we continue short-term rentals being banned in the City of Marina.

Substitute Motion

BERKLEY/URRUTIA: THAT WE ADOPT THESE CHANGES AND WE BRING IT BACK FOR A FIRST READING WITH TIME FOR DISCUSSION 3-2(O'CONNELL, MORTON)-0-0

Motion Passes

Public Comments:

- Brian McCarthy – Does legal counsel agree that there is currently a ban on Short-Term Rentals in the City of Marina? The "district" that I'm likely to live in is full of members of the public that live apartments and small housing units and are renters and really disfavor disenfranchising those. Those are the folks that can best benefit from this activity.
- Sean MacDonald – Operates Airbanb rental. We are currently taking on extra debt to allow us to live in a small guest house to allow us to rent it out more to allow me to pursue my graduate education. I agree for the most part with the recommendation from Council Member Berkley, these work out well for our community. Multi-family units are not owned by individuals, trusts or trustees/trustor, they're set up in a different structure to protect them from loss and lawsuits. As for enforcement and the business license issue having that have to be in the advertisement that would allow for the city to track them and make sure that the people with the appropriate licenses are being tracked. By putting this into effect with this extra language and allowing for renters to operate STR's would bring in revenue to the city, would benefit our residents and allow us to stay here and would be a really good solution for us.
- Audra – Confused about this ordinance. With respect to ownership of the homes do people have to live in the homes in order to be able offer or make available their home for an STR or can they live outside of the area and own the home and make that home available for the STR? When outsider start buying up property it makes it more difficult for someone like me to actually purchase my first home. With respect to tourist coming to area, didn't we build hotels for that? why are we interested in giving or offering residential homes to the tourist to come in and be in our neighborhoods. Not sure she would want tourist up and down the neighborhood streets.
- Kathy Biala – Appreciates Council Member Berkley's comments. Concerned about what passed at the last meeting. Main concerns are: Purpose Section, what was eliminate by Council was "*Prioritize affordable housing, mitigate negative secondary effects and preserve residential character*" that is alarming that that language was taken out. Under "*Definitions*" *Hosted accommodation versus non-hosted accommodations*, was very concerned that Council eliminated all those actions and sounds like Council Member O'Connell had originally wanted to basically allow all STR's whether it was hosted or non-hosted. Now, I'm hearing that he wants to ban all STR's. As a Planning Commissioner I was in favor of banning non-hosted accommodations and allowing our residents to have hosted accommodations. Council woman Berkley's suggestion of

calling this hosted accommodation *home sharing* is exactly the hosted accommodation with the exception that you could leave for short periods of time and still be considered hosted. So, I'm happy you want to change that language. Concerns about Council taking out all of the items under *STR Permit Per Residents, Non use of STR Permit Quantity Limitations, Density Limitations 10% per block*. Of all those different details that we had to struggle with those none things are the things that I think we have to be able to come fundamentally with some agreement on.

- Grace Silva-Santella – thanks for bring this back for reconsideration. Appreciates the two council members for the action they took at the last meeting. Appreciates the inclusion of the language that any corporation, LLC from buying up homes but especially appreciates the language that's being talked about tonight and adding that in. not hearing any limits on the number of the STR's on one given block.

Substitute Motion #2

Morton/O'Connell: that reaffirms the September 4, 2019 version and to be brought back for the second reading. 2-3(Berkley, Urrutia, Delgado) Substitute Motion Fails

9:58 PM

Delgado/Urrutia: to extend meeting until 10:10 PM. 5-0-0-0 Motion Passes

- b. City Council authorizing City Manager to write letter to California Coastal Commission requesting moving the California Coast Commission hearing to a location in close proximity to Marina.

DELGADO/URRUTIA: TO AUTHORIZE THE CITY MANAGER TO WRITE LETTER TO CALIFORNIA COASTAL COMMISSION. 5-0-0-0 Motion Passes

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.

Mayor Pro-Tem Morton – We're going to the Coastal Commission with regard to our environmental justice and the people that we want to have reached out are those individuals that have been historically deprived of the opportunity for representation and access to our coast and what we're trying to achieve. These venues that are now happening thanks to our Recreation & Cultural Services are terrific venues that we can message and invite people and inform people.

13. ADJOURNMENT: The meeting adjourned at 10:05 PM

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor