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CITY OF EMERYVILLE

ACTION MINUTES

City Council

Members:

Mayor Ally Medina
Vice Mayor Christian R. Patz
Council Member John J. Bauters
Council Member Scott Donahue
Council Member Dianne Martinez

Tuesday, March 19, 2019

7:16 PM

Council Chambers

1. CALL TO ORDER

The meeting was called to order at 7:18 p.m.

2. ROLL CALL

Present: 5 - Mayor Ally Medina
Vice Mayor Christian R. Patz
Council Member John J. Bauters
Council Member Scott Donahue
Council Member Dianne Martinez

3. APPROVAL OF FINAL AGENDA

A motion was made by Vice Mayor Patz, seconded by Council Member Donahue, to approve the Final Agenda, with the City Manager requesting that Item 10.5 be pulled for separate consideration. The motion carried by the following vote:

Ayes: 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

4. SPECIAL ORDERS OF THE DAY

No Special Orders were listed.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

The City Clerk announced that appointments would be made to fill unexpected vacancies on the Commission on Aging at the April 2, 2019 meeting.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Mayor Medina announced the Block Party that would be held on Saturday, August 24, 2019 along Park Avenue.

Council Member Bauters announced the upcoming CalTrans meeting regarding the future MacArthur maze construction project, stating that two additional meetings had been scheduled for public information and input, with the Emeryville meeting occurring on April 10th. He also reported on his attendance of the BAAQMD meeting, stating that Alameda County would be funding 105% of the budget requirement, and that the plan was to reach 90% on OPEB in next two years. He concluded by reporting that the Emeryville Housing Association had won a local housing campaign championship.

Vice Mayor Patz reported on his attendance of the Planning Commissioners academy, where a session on the Better Block Initiative had been given, and stated that it good way to improve safety and livability in cities. He also reported that he had attended the HACA meeting.

City Manager Daniel, regarding the April 10th MacArthur maze meeting, mentioned that public comments would be accepted up until April 24th.

7. CITY MANAGER'S REPORT

There was no report given.

8. EX PARTE COMMUNICATIONS

Each of the Council Members disclosed having had contact with several of the scooter companies, as well as from a representative from Wareham related to Item 12.1.

9. PUBLIC COMMENT FOR CONSENT AGENDA / ITEMS NOT ON THE AGENDA

There were no comments made.

10. CONSENT ITEMS

Approval of the Consent Agenda

A motion was made by Vice Mayor Patz, seconded by Council Member Donahue, to approve the Consent Agenda, removing Item 10.5 from the Consent Agenda for separate consideration. The motion carried by the following vote:

Ayes: 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

10.1. [ID-2019-098](#) Warrants. (Susan Hsieh)

Attachments: [Staff Report](#)
[Wire Transfers](#)
[City Check Register](#)

A motion was made to accept this Informational Report.

- 10.2. [ID-2019-082](#) Action Minutes of the March 5, 2019 Emeryville City Council Special Meeting - Committee Reports. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.3. [ID-2019-083](#) Action Minutes of the March 5, 2019 Emeryville City Council Special Meeting - Legislative Review. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.4. [ID-2019-085](#) Action Minutes of the March 5, 2019 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.6. [ID-2019-075](#) Resolution Of The City Council Of The City Of Emeryville Accepting The Donation Of *Cosmology 4*, An Art Work By Emeryville Artist Ann Holsberry. (Charles S. Bryant / Chadrick Smalley / Amber Evans)

Attachments: [Staff Report](#)

[Attachment 1 - Cosmology 4](#)

[Draft Resolution](#)

[APPROVED Resolution No. 19-23](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 19-23

- 10.7. [ID-2019-077](#) Resolution Of The City Council Of The City Of Emeryville Approving The 2018 General Plan Annual Progress Report And Authorizing Submittal To The Governor's Office Of Planning And Research And To The California Department Of Housing And Community Development. (Charles S. Bryant / Diana Keena / Catherine Firpo)

Attachments: [Staff Report](#)

[Residential Site Inventory Update](#)

[Draft Resolution](#)

[2018 General Plan Annual Progress Report](#)

[APPROVED Resolution No. 19-24](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 19-24

- 10.8.** [ID-2019-081](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A First Amendment To The Professional Services Agreement With CTC, Inc., For An Additional Amount Not To Exceed \$128,870.50 For Quiet Zone Safety Engineering Measures, For A Total Contract Amount Not To Exceed \$419,611.49 And Appropriating \$128,870.50 From The General Capital Fund (Fund 475) To CIP Project No. T-04 (Account 19475008-91900). (Andrew Clough / Ryan O'Connell)

Attachments: [Staff Report](#)[Draft Resolution](#)[First Contract Amendment \(CTC Inc\)](#)[Exhibit A-1 Scope of Work Amendments.pdf](#)[Exhibit B - Original Contract.pdf](#)[APPROVED Resolution No. 19-25](#)**A motion was made to approve this Resolution.**

Enactment No: Reso No. 19-25

- 10.9.** [ID-2019-092](#) Resolution Of The City Council Of The City Of Emeryville Accepting The Video Detection Traffic Signal Enhancement Project, EPW 17-101 (CIP No. 15475006), As Complete And Authorizing The City Engineer To File A Notice Of Completion With The Alameda County Clerk. (Andrew Clough / Ryan O'Connell)

Attachments: [Staff Report](#)[Draft Resolution](#)[APPROVED Resolution No. 19-26](#)**A motion was made to approve this Resolution.**

Enactment No: Reso No. 19-26

- 10.10.** [ID-2019-043](#) Resolution Of The City Council Of The City Of Emeryville Approving The Scope Of Work For And Authorizing The City Engineer To Advertise For Public Bids For The Construction Of Active Transportation Program ("ATP") Greenway Crossing Improvements At 65th, 66th, And 67th Streets, Project No. EPW-18106, CIP No. 19254005; CEQA Determination: Exempt Pursuant To 15301(c). (Andrew Clough / Ryan O'Connell)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Exhibit A - Project Overview Map](#)
[APPROVED Resolution No. 19-27](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 19-27

- 10.11.** [ID-2019-091](#) Resolution Of The City Council Of The City of Emeryville Appropriating In Fiscal Year 2018/2019 Amounts Of \$44,000 From Measure B - VLF (Fund #238) And \$32,000 From Measure BB - Bicycle and Pedestrian (Fund #264); Re-Allocating In Fiscal Year 2018/2019 An Amount Of \$64,995 From CIP No. 15240017; Increasing Appropriations In Fiscal Year 2018/2019 By \$20,455 From 1999 Bond Funds (Fund #444); And Authorizing The City Manager To Enter Into A Contract With Ray's Electric In An Amount Not To Exceed \$719,500 For The Construction Of Traffic Signals At 40th Street - Harlan Street And Powell Street - Doyle Street, Project No. EPW 17-113, CIP No. 03444125 And 16475001. (Andrew Clough / Ryan O'Connell)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Exhibit A - Contract](#)
[Exhibit B - Project Map](#)
[APPROVED Resolution No. 19-28](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 19-28

- 10.12.** [ID-2019-102](#) Ordinance Of The City Council Of The City Of Emeryville Amending Chapter 24 Of Title 5 Of The Emeryville Municipal Code, "Parks"; CEQA Determination Exempt Pursuant to CEQA Guideline 15061(b)(3). (Pedro Jimenez)

Attachments: [Staff Report](#)
[Draft Ordinance](#)
[APPROVED Ordinance No. 19-003](#)

A motion was made to approve the second reading and adoption of this Ordinance.

Enactment No: Ord No. 19-003

- 10.13.** [ID-2019-095](#) Ordinance To Repeal Section 5-28.10(d) Of The Emeryville Municipal Code, "Cannabis"; CEQA Determination Exempt Pursuant to CEQA Guideline 15061(b)(3). (Michael Guina /

Andrea Visveshwara)

Attachments: [Staff Report](#)

[Draft Ordinance](#)

[APPROVED Ordinance No. 19-004](#)

A motion was made to approve the second reading and adoption of this Ordinance.

Enactment No: Ord No. 19-004

- 10.5.** [ID-2019-074](#) Resolution Of The City Council Of The City Of Emeryville Approving The Installation Of Jeppe Hein's Artwork *Your Way* In The Public Park To Be Developed At The Former Sherwin Williams Site At 1450 Sherwin Avenue. (Charles S. Bryant / Chadrick Smalley / Amber Evans)

Attachments: [Staff Report](#)

[Attachment 1 - Public Art Imagery and Maintenance](#)

[Draft Resolution](#)

[APPROVED Resolution No. 19-22](#)

Director Bryant gave a brief presentation regarding revisions to the recommended action and responded to Council questions.

A motion was made by Council Member Martinez, seconded by Vice Mayor Patz, to approve this Resolution, with Council Member Bauters recusing himself from consideration of the item due to the proximity of his residence to the project site.

Ayes: 4 - Mayor Ally Medina, Vice Mayor Patz, Council Member Donahue, and Council Member Martinez

Recused: 1 - Council Member Bauters

Enactment No: Reso No. 19-22

11. PUBLIC HEARINGS

- 11.1.** [ID-2019-079](#) Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To King Crane Service For Saturday Work On March 23, 2019, With A Backup Date Of March 30, 2019, Between The Hours Of 9:00 A.M. And 9:00 P.M. For Two Cranes To Remove And Replace 18 Rooftop Air Handling Units At 1400 65th Street (APN: 49-1510-3-1) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3)). (Charles S. Bryant / Navarre Oaks)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Exhibit A - Applicant Request Letter](#)

Assistant Planner Navarre Oaks gave the staff report, stating that a late request had been received from the applicant for the work dates to be changed to April 13th and April 20th due to construction delays.

PUBLIC HEARING OPENED: 7:36 p.m.

No testimony was given.

PUBLIC HEARING CLOSED: 7:36 p.m.

Given the fact that the noticing for the waiver request had included the previously requested dates of March 23rd and March 30th, Council Member Bauters felt that the item should be continued and re-noticed.

A motion was made by Council Member Bauters, seconded by Council Member Martinez, to continue this item to the meeting of April 2, 2019 and re-notice it. The motion carried by the following vote:

Ayes: 4 - Mayor Ally Medina, Council Member Bauters, Council Member Donahue, and Council Member Martinez

Noes: 1 - Vice Mayor Patz

12. ACTION ITEMS

- 12.1. [ID-2019-076](#) Resolution Of The City Council Of The City Of Emeryville Setting A Public Hearing Date Of April 16, 2019 To Consider The Appeal Of Wareham Development Of The Planning Commission's January 24, 2019 Approval Of A New Final Development Plan (FDP) For "Parcel B" Of The Marketplace Redevelopment Project Planned Unit Development (PUD04-12) To Replace And Rescind Final Development Plan FDP15-001 That Was Approved By The Planning Commission On June 23, 2016 (APN: 49-1556-16). (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)

[Attachment 1 - Appeal Letter](#)

[Draft Resolution](#)

[Administrative Item - Planning Commission Staff Report - Marketplace Parcel B \(Office and Garage\)](#)

[Administrative Item - Marketplace Parcel B Planning Commission Correspondences](#)

[Administrative Item - 01/24/2019 Planning Commission Action Minutes FINAL](#)

[Administrative Item - Planning Commission Resolution No. FDP18-001](#)

[Administrative Item - Marketplace Parcel B Office Conditions of Approval](#)

[APPROVED Resolution No. 19-29](#)

Council waived the staff presentation on this item.

PUBLIC COMMENT:

1. Mark Stephan addressed several issues regarding the appeal, especially concerning wind and traffic studies.
2. Geoff Sears, Wareham Development, stated that they had a number of reasons for putting forth the appeal.

A motion was made by Council Member Bauters, seconded by Council Member Donahue, to adopt a Resolution to remand the Final Development Plan for Parcel B of the Marketplace Redevelopment Project Planned Unit Development (PUD 04-12), Planning Commission Resolution No. FDP 18-001, to the Planning Commission for Reconsideration, and Directing the Planning Commission to hold a new public hearing, and to refund the appellant's appeal fee. The motion carried by the following vote:

Ayes: 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

Enactment No: 19-29

- 12.2.** [ID-2019-078](#) Introduction and First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 13, "Dockless Shared Mobility Systems," to Title 4 Of The Emeryville Municipal Code To Establish Regulations And New Permits To Operate Dockless Shared Mobility Systems In The Public Right Of Way. (Nancy Humphrey / Andrew Clough)

Attachments: [Staff Report](#)
[Draft Ordinance \(Red-Lined\)](#)
[Coordination Agreement](#)
[Attachment A - Draft Fee Proposal](#)
[Late Correspondence - BIRD](#)

Environmental Programs Supervisor Nancy Humphrey gave the updated presentation and responded to Council questions.

PUBLIC COMMENT

1. Marty Fatooh, Community Manager - Bird, shared a few requested modifications to the proposed ordinance.
2. Megan Colford, Lime, highlighted a couple of requests contained in their written comments, stating that they had significant concerns regarding the indemnification language, and suggested lower insurance coverage amounts.

3. Geoff Sears, speaking on behalf of Emery Go Round, encouraged passage of the ordinance.

4. Andre Carpiaux spoke regarding the use of electricity associated with scooter use, stating it was a waste of energy.

A motion was made by Vice Mayor Patz, seconded by Council Member Bauters, to read the Ordinance by title only. The motion carried by the following vote:

Ayes: 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

A motion was made by Vice Mayor Patz, seconded by Council Member Donahue, to approve the first reading and introduction of the Ordinance as amended. The motion carried by the following vote:

Ayes: 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

- 12.3.** [ID-2019-087](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The Extension Of The Term Of The Collection Service Agreement Between The City Of Emeryville and Waste Management of Alameda County, Inc. For An Additional Five (5) Years From January 1, 2021 To December 31, 2025. (Susan Kattchee / Andrew Clough)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Attachment A - Collection Agreement 2010-2020](#)

[Attachment B - Performance and Billing Review](#)

[APPROVED Resolution No. 19-30](#)

Public Works Director Andrew Clough gave the staff presentation and responded to Council questions.

PUBLIC COMMENT

1. Andre Carpiaux asked about disposal of food that is meant to be composted and if it was being reused.

A motion was made by Council Member Martinez, seconded by Vice Mayor Patz, to approve this Resolution. The motion carried by the following vote:

Ayes: 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

Enactment No: 19-30

13. CITY COUNCIL OF THE CITY OF EMERYVILLE AS DISASTER COUNCIL

- 13.1.** [ID-2019-101](#) Approval by The City Council Of The City Of Emeryville As Disaster

Council Of The City Of Emeryville Adopting The Community Emergency Response Team (CERT) Program Guidelines and Code of Conduct and Authorizing the March 26, 2019 through April 11, 2019 CERT Academy Training. (Lisa Lopez / Lori Elefant)

Attachments: [Staff Report](#)
[City of Emeryville CERT Program Guidelines](#)
[CERT Code of Conduct](#)
[CERT Emeryville Flyer 2019](#)

The Council waived staff's presentation.

A motion was made by Vice Mayor Patz, seconded by Council Member Bauters, to approve this Other Item. The motion carried by the following vote:

Ayes: 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

14. DEPARTMENT HEAD REPORTS

There were no reports given.

15. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

Council Member Donahue requested that a study session be scheduled to discuss the feasibility of implementing construction of mid-rise wooden buildings, as was the practice in Canada, and which would require an amendment to the State Building Code. Council reached consensus that the matter should be referred to the Housing Committee for initial consideration.

Council Member Bauters requested and received majority support for a letter of support from Council to be added to the April 2, 2019 agenda related to an Emery Go Round/TMA opportunity to lease land under Caltrans' right of way.

16. ADJOURNMENT

The meeting was adjourned at 8:53 p.m. in memory of Oakland Council Member Lynette McElhaney's son, Victor, who had been a recent victim of gun violence in Los Angeles, and also in memory of Rob Browning, husband of former Berkeley Council Member Linda Maio.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Emeryville City Council.

**/Sheri Hartz/
Sheri Hartz, City Clerk**

